ASIC

Australian Securities & Investments Commission

Proposed Industry Funding Model for ASIC: Supporting attachment to the Government's Proposals Paper

November 2016

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (for example, describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Disclaimer

This report does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this report are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements. Actual levies will vary with changes in the underlying estimates.

Contents

A Introduction

About ASIC

1 ASIC is Australia's integrated corporate, markets, financial services and consumer credit regulator.

2 ASIC's vision is to allow markets to fund the economy and, in turn, economic growth. In doing so, ASIC contributes to the financial wellbeing of all Australians. ASIC does this by:

(a) promoting investor and consumer trust and confidence

(b) ensuring fair and efficient markets

(c) providing efficient registration services.

ASIC's long–term challenges and strategic risks

3 The long-term challenges to ASIC's vision shape its risk outlook and strategy.

4 Over the next four years, ASIC anticipates the following key challenges:

(a) aligning conduct in a market-based system with investor and consumer trust and confidence

(b) digital disruption and cyber resilience in Australia's financial services and markets

(c) structural change in the Australian financial system through market-based financing, which is led by the growth in superannuation

(d) complexity in financial markets and products driven by innovation

(e) globalisation of financial markets, products and services.

5 ASIC has identified the key risks flowing from these challenges that it believes will be of particular concern in 2016–17 and that warrant ASIC's attention now.

6 These key risks relate to:

(a) gatekeeper culture and conduct in financial services and credit resulting in poor outcomes for investors and consumers

(b) gatekeeper culture and conduct in markets undermining good governance practices and risk management systems

(c) misalignment of retail product design and distribution with consumer understanding

(d) digital disruption

(e) cyber threats

(f) cross-border businesses, services and transactions.

7 The *ASIC Corporate Plan 2016–17 to 2019–20* (Corporate Plan) was published on 31 August 2016. The Corporate Plan explains how ASIC will achieve its vision and how ASIC will use its resources and powers to respond to the anticipated risks in 2016–17.

ASIC's approach to strategic planning

ASIC's strategic risk identification process

8 ASIC's assessment of the risks that each regulated sector presents is central to the regulatory activities that ASIC plans to undertake in the forthcoming year.

9 ASIC's strategic risks are externally-focused risks that can cause harm to investors, consumers, and the markets and sectors that ASIC regulates. They pose a threat to trust and confidence in the financial system, or markets being fair and efficient.

10 ASIC adopts a 'top down' and 'bottom up' approach to identify and prioritise strategic risks for each financial year. The bottom-up process involves:

(a) Individual teams across ASIC identifying the greatest risks to consumers and their regulated populations

(b) Senior executives in ASIC completing a qualitative risk assessment including a survey. To support this assessment, ASIC's senior executives take account of an environmental scan which outlines underlying risk factors and broader developments in the environment such as economic and market trends and demographic shifts

(c) ASIC developing some 'common language' to describe its regulatory activities. The common language is a key and ongoing foundation-building exercise for the implementation of ASIC's integrated platform, and may continue to evolve over the next three years (see additional information on ASIC's regulatory transformation project in **paragraph 17**). The common language is being operationalised in ASIC's workflow and data repositories to better facilitate strategic risk identification.

11 This 'bottom-up' approach complements a 'top-down' assessment from Commission and internal risk committees on what the priority strategic risks are — that is, those that pose the greatest threat to investors, consumers and the markets ASIC regulates. ASIC has begun a program of consultation with its external advisory panels on key strategic risks. From 2017 onwards, ASIC will consult on strategic risks across its stakeholders more broadly in order to better understand their varying needs and expectations. This is consistent with ASIC's response to the ASIC Capability Review.[1]

1 Recommendation 15 of the ASIC Capability Review was for: *"ASIC to review and introduce a more outcomes focused and dynamic use of advisory panels to ensure these forums input more directly into strategic management, and introduce a broader public consultation element into the strategy setting process"*.

ASIC’s strategic resource prioritisation

12 Based on the risks identified through ASIC’s strategic risk identification process (including the environmental scan), ASIC prioritises its regulatory effort to support its vision and address the key risks.

13 ASIC’s assessment of the likelihood and potential impact of its strategic risks is used to determine and prioritise the key regulatory responses in ASIC’s business plans and how it allocates effort across the different regulatory tools based on ASIC’s ‘detect, understand and respond’ approach.

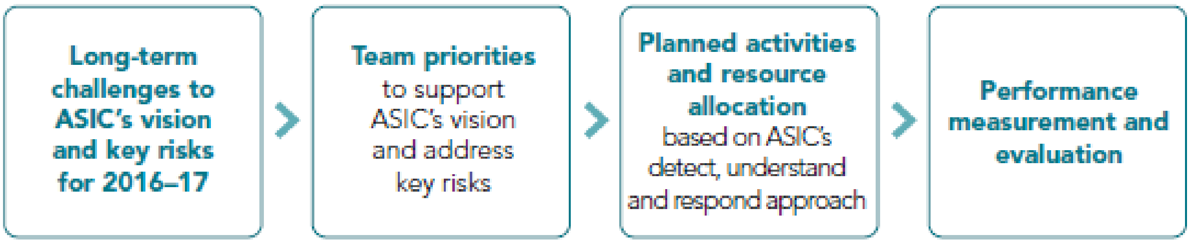
14 As part of the ‘detect, understand and respond’ approach, ASIC will:

(a) detect wrongdoing through surveillance, breach reports, and reports from the public and whistleblowers

(b) understand ASIC’s environment by continually scanning it to identify issues and manage risks

(c) respond to wrongdoing or the risk of wrongdoing using a number of ASIC’s regulatory tools (see **Table 1** below).

Figure 1: ASIC’s strategic planning process



ASIC’s regulatory activities and sub-activities

15 ASIC undertakes a range of regulatory activities to satisfy its statutory functions. These activities can be broadly categorised as being: stakeholder engagement, education, guidance, surveillance, enforcement, and policy advice: see **Table 1**.

Table 1: ASIC's regulatory activities and sub-activities subject to cost recovery

Activity	Activity Description	Sub-activity Overview
Stakeholder engagement	ASIC engages with, and manages the relationships of external stakeholders through liaison meetings, presentations and other interactions. The purpose of ASIC's engagement activity is to set and maintain regulatory standards, to better inform stakeholder practices, to identify issues in the market, to address stakeholder enquiries, and to ensure that ASIC's messages are communicated to industry.	ASIC's sub-activities include: • Attending industry liaison meetings and presentations • Responding to requests for advice in matters where stakeholders have regulatory doubt • Consulting with industry to better understand market issues • Responding to stakeholder enquiries and requests for information
Education	ASIC undertakes a range of educational activities. This includes developing tools and resources for its regulated population and consumers, and its contributions to industry publications.	ASIC's sub-activities include: • Developing tools and resources (for example, online calculators) for consumers • Contributing to industry publications and material on ASIC's MoneySmart website • Facilitating the teaching and learning of financial literacy in schools, further education and workplaces • Giving speeches and presentations to industry and consumers
Guidance	ASIC provides guidance to industry about how ASIC will administer the law. For example, regulatory guides, consultation papers, information sheets and ASIC legislative instruments (class orders).	ASIC's sub-activities include: • Developing and consulting on regulatory proposals • Providing guidance for regulatory topics aimed at enhancing industry's understanding of their legal obligations and how ASIC administers the law • Drafting, consulting and issuing ASIC legislative instruments

Activity	Activity Description	Sub-activity Overview
Surveillance	ASIC conducts surveillances by gathering and analysing information on a specific entity or range of entities, a transaction, a specific product or issue of concern in the market to test compliance with the laws ASIC administers and promote consumer and investor outcomes.	ASIC's sub-activities include: **Initial Regulatory Assessment** • Accepting reports of breach or misconduct • Undertaking initial inquiries and preliminary analysis • Assessing nature and gravity of suspected breach or misconduct • Undertaking initial testing of ASIC's jurisdiction • Deciding whether further action is required and, if so, prepare handover of referral materials **Profiling** • Identifying risks for detailed enquiry for the purpose of singular or thematic surveillances • Undertaking stakeholder interviews and collecting documentary information • Using compulsory information gathering powers (for example, section 912C in the Corporations Act) • Analysing and assessing information • Developing and publishing surveillance reports • Gathering and analysing information and initial evidence which may lead to an investigation and/or litigation **Regulatory Surveillance and Monitoring** • Accepting referrals for suspected, alleged or admitted breaches and misconduct • Gathering and analysing information and initial evidence which may lead to an investigation and/or litigation • Using compulsory information gathering powers (for example, section 912C in the Corporations Act)

<table>
<tr><th>Activity</th><th>Activity Description</th><th>Sub-activity Overview</th></tr>
<tr><td>Enforcement</td><td>An activity is classified as enforcement when ASIC believes there has been a breach of the law. These investigations may lead to enforcement action such as criminal action, civil action and administrative action (for example, banning or disqualifying persons from the financial services industry).</td><td>ASIC’s sub-activities include:
Investigation
• Accepting referrals of alleged or admitted breaches and misconduct
• Assessing preliminary and detailed case theories
• Using formal investigatory powers (for example, issuing notices requiring a person to assist ASIC with an investigation or appear before ASIC for examination)
• Obtaining information and seizing property
• Collaborating and exchanging information with other regulatory partners
• Converting information to admissible evidence
Administrative Decision Making
• Preparing briefs for ASIC Hearing Delegates for administrative actions (for example, banning decisions)
Litigation
• Considering evidence and relevant legal authorities
• Developing/obtaining/assessing legal expert opinion
• Deciding the merit of the case and determining legal remedies to be sought
• Preparing briefs for the Commonwealth DPP and supporting ongoing case development (for criminal matters)
• Drafting/settling pleadings (for civil matters)
• Attending in court
Appeals
• Drafting or receiving an appeal notice
• Considering evidence and legal authorities
• Developing/obtaining/assessing legal expert opinion
• Preparing Appeal briefs and supervising process service
• Attending in court</td></tr>
</table>

Activity	Activity Description	Sub-activity Overview
Policy advice	ASIC provides advice to Government on the operational implications of Government policy initiatives and legislative change, identifying opportunities and risks to inform preferred position and influence law reform matters	ASIC's sub-activities include: • Researching innovation, competition and emerging harms, coupled with identifying and analysing potential policy responses • Providing proposals for and assisting on the development of law reform • Identifying and planning impacts on external stakeholders and internal capabilities • Providing submissions to parliamentary and government inquiries on law reform issues

B ASIC's costs to be recovered and levy methodology

Costs to be recovered

16 ASIC undertakes a range of regulatory activities to satisfy its statutory functions. These activities can be broadly categorised as: stakeholder engagement, education, guidance, surveillance, enforcement, and policy advice (see Table 1). The industry funding model will recover the actual costs ASIC expended during the financial year to undertake these regulatory activities.

17 ASIC tracks its regulatory effort for each subsector at the activity level. In 2016–17, ASIC commenced a regulatory transformation project that will deliver an integrated data platform which over the next three years will progressively include standardised workflows and business processes across ASIC teams. As part of this project, ASIC will progressively refine the activity level information it collects and its management information systems to provide more meaningful data to track ASIC's efficiency and effectiveness and for improved resource allocation. These improvements to ASIC's activity-level information will be reflected in updates to the Cost Recovery Implementation Statement (CRIS).

18 The model outlined in this paper allows for the recovery of costs associated with ASIC's regulatory activities outlined in Table 1 above.

19 The costs in this paper reflect ASIC's forecast for its 2016–17 regulatory costs for operating expenditure (excluding depreciation and fee-for-service activities) plus an allowance for capital expenditure. These costs are a guide only for the anticipated levies to be charged for 2017-18. Levies will include a cost recovery levy component, for activities that are consistent with the Government's Charging Framework, and a statutory industry levy component for other activities. Please refer to the Government's proposal paper for further information on the proposed levy types and ex-post model.

20 Measures approved in the 2016–17 Budget that provide ASIC additional funding in 2016–17 are not included as this funding is not available to ASIC until the passage of the 2016–17 Appropriation Bills through Parliament.

21 ASIC has attributed costs to each subsector based on the amount of effort ASIC spends regulating that subsector. ASIC prioritises its regulatory effort to support ASIC's vision and address the key risks (see paragraphs 3–14).

22 ASIC's operating costs include direct, indirect, IT and property expenses.

(a) direct expenses are those that can be easily traced to a cost object with a high degree of accuracy

(b) indirect expenses are those that cannot be linked to a cost object or for which the costs of tracking this outweigh the benefits

(c) property and other indirect expenses such as governance, leadership and compliance costs are attributed to subsectors based on the FTE resources attributed to those subsectors.

(d) IT costs are attributed to sectors based on ASIC's regulatory effort within each subsector. The cost drivers used to allocate IT costs are based on the users of the underlying systems supported by IT.

23 The allowance for capital expenditure has been calculated based on ASIC's average regulatory budget for business-as-usual asset additions over the forward estimates.

24 The levies charged in January 2019 will be based on ASIC's actual operating expenditure regulating each subsector in 2017–18. This ensures that each industry group is only charged for the actual costs of regulating that group. The costs in this paper reflect ASIC's expected operating expenditure for each subsector in 2016–17 as outlined in paragraph 19. The 2016–17 costs are a guide only for the anticipated levies to be charged for 2017-18.

25 ASIC's Financial Management Information System (FMIS) time records for regulatory activities will be used to verify ASIC's actual expenditure for regulating each subsector. Capital is applied to subsectors in the same proportion as ASIC's actual operating expenditure. The expenditure for each subsector and the outcomes achieved will be detailed through the sector-level dashboard reports published in October each year.

Existing ASIC fees to be removed

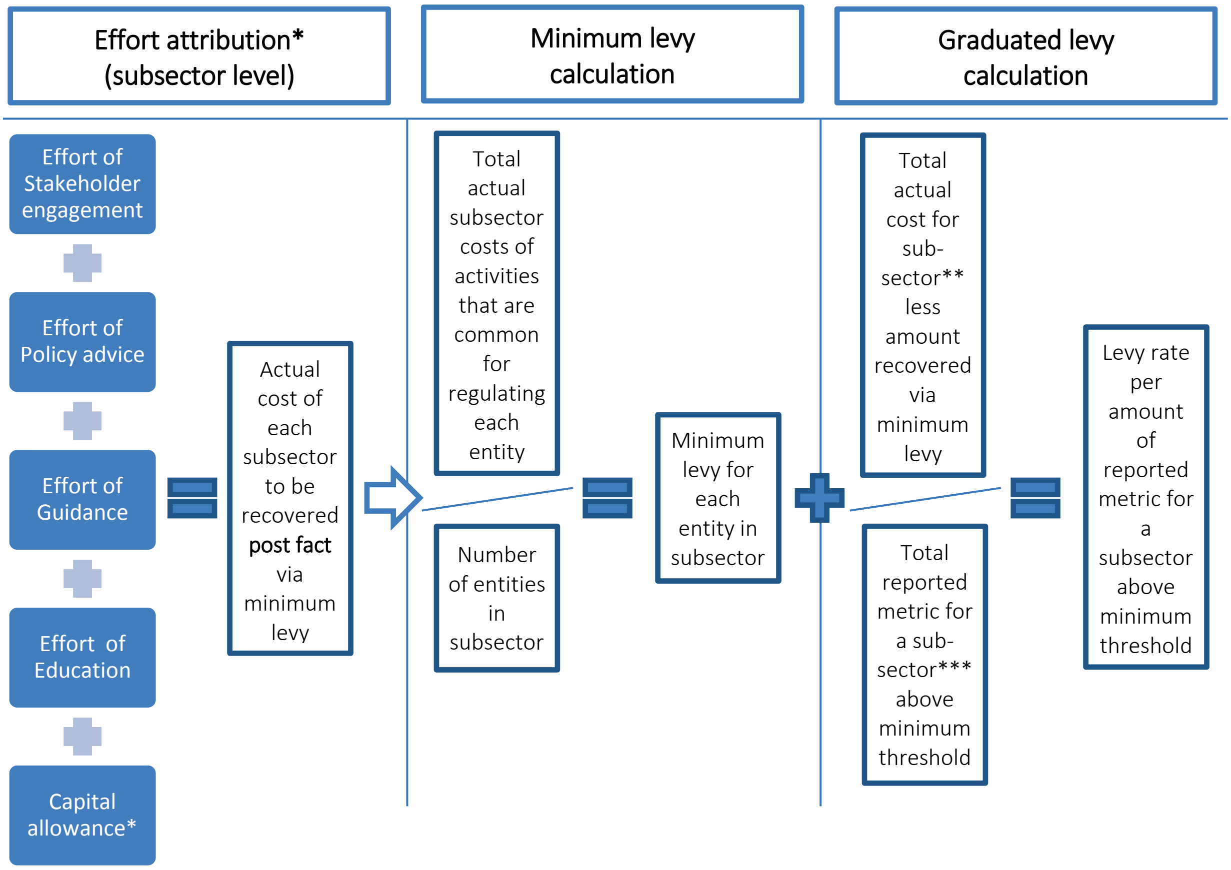
26 ASIC has determined that there are approximately 40 ASIC forms for which lodgement fees are used to support work across an industry, rather than activities undertaken for an individual entity. For example, the lodgement of annual compliance certificates for Australian credit licensees. In these cases, fees will be abolished and these activities funded by ongoing annual levies. Appendix 2 contains a list of fees proposed to be subsumed into annual levies. This is consistent with the proposal in the Government's August 2015 consultation paper.

How ASIC's costs will be recovered

Graduated levies

27 The metric proposed for each subsector is a readily available metric of business activity that most closely aligns to the expected level of regulatory oversight, including the level of anticipated consumer or investor exposure. The quantum of the graduated component of the levy is driven by ASIC's enforcement and surveillance activities for each subsector. The cost to undertake these regulatory activities varies significantly depending on the conduct and behaviour of industry participants which influences ASIC's resulting risk assessment of the subsector and in turn the level of regulatory oversight required by ASIC.

Figure 2: Graduated levy calculation



* Costs are attributed to subsectors based on the effort which results from the outcome of ASIC's strategic resource prioritisation process. Capital costs are attributed to subsectors in the same proportion as ASIC's operating costs.

** The actual costs recovered from each subsector are determined by adding together the cost to undertake ASIC's regulatory activities of stakeholder engagement, education, guidance, surveillance, enforcement and policy advice (these include an allowance for indirect, property and IT costs), and an allocation for ASIC's capital allowance.

*** Examples of the total reported metric for a subsector, such as the total amount of funds under management reported by all responsible entities, or the total amount of credit provided by all credit providers.

28 ASIC is proposing that for a small number of subsectors including companies (publicly listed, disclosing), deposit product providers and responsible entities the minimum levy be lowered compared to the figure derived with this methodology. This was due to stakeholder feedback from the Government's August 2015 consultation paper when considering the impact of the levies on competition and innovation. In particular, there were concerns the minimum levy would have a disproportionally larger impact on small players relative to large players in these subsectors and could negatively impact competition through creating a barrier to entry. For the superannuation trustee and registered liquidator subsectors, the minimum levy now accounts for a base level of surveillance for all entities.

29 For the publicly listed, disclosing companies subsector, a maximum levy is proposed. This maximum levy recognises ASIC's regulatory costs in this subsector for a single entity do not generally rise above an upper threshold due to economies of scale in regulation. For entities with a market capitalisation above $20 billion, a maximum levy of $662,000 is proposed (see paragraphs 59-63).

Levy thresholds

30 The minimum (and maximum for listed, public disclosing companies) levy thresholds are important components for the graduated levy calculation. The proposed thresholds have been set based on an assessment of where staff effort was allocated over the previous financial year and taking into consideration feedback from industry. These thresholds will be reviewed during the three year model review process and may be adjusted based on ASIC's time recording data or other relevant information.

31 ASIC undertakes surveillance on all regulated subsectors, with the overall level of surveillance on a subsector varying from year to year based on ASIC's strategic planning process. Therefore, surveillance is generally recovered through the graduated component of the levy. Enforcement costs are also recovered by the graduated levy and these are determined by the number of matters ASIC pursues in respect of each subsector.

Graduated levy forecast example – Credit providers

ASIC's forecast effort to regulate the credit provider subsector in 2016–17 is expected to cost $9.3 million.

The minimum levy for the credit provider subsector is calculated by adding together the subsector costs for the regulatory activities of stakeholder engagement ($0.34 million), guidance ($0.23 million), policy advice ($0.34 million), education ($1.04 million) and ASIC's capital allowance for the subsector ($0.6 million). This gives a total of $2.55 million. This $2.55 million is divided by the number of credit providers (1,271 credit providers) to give the minimum levy of $2,000.

The graduated levy for credit providers of $0.15 per $10,000 of credit provided greater than $100 million. The graduated levy is calculated by taking the forecast costs of regulating the credit provider subsector of $9.3 million and subtracting the amount recovered through the minimum levy of $2.55 million. The remaining $6.75 million is recovered based on the total amount of industry credit provided above the minimum levy threshold of $100 million. Total credit provided above the minimum threshold in 2014–15 was $445 billion. This results in an indicative graduated levy rate of $0.15 per $10,000 of credit provided above $100 million.

Flat levies

32 A flat levy applies in a number of subsectors. A flat levy shares the total cost (that is, direct, indirect and an allowance for capital) of regulating a subsector equally among the entities operating in that subsector (refer to Figure 3).

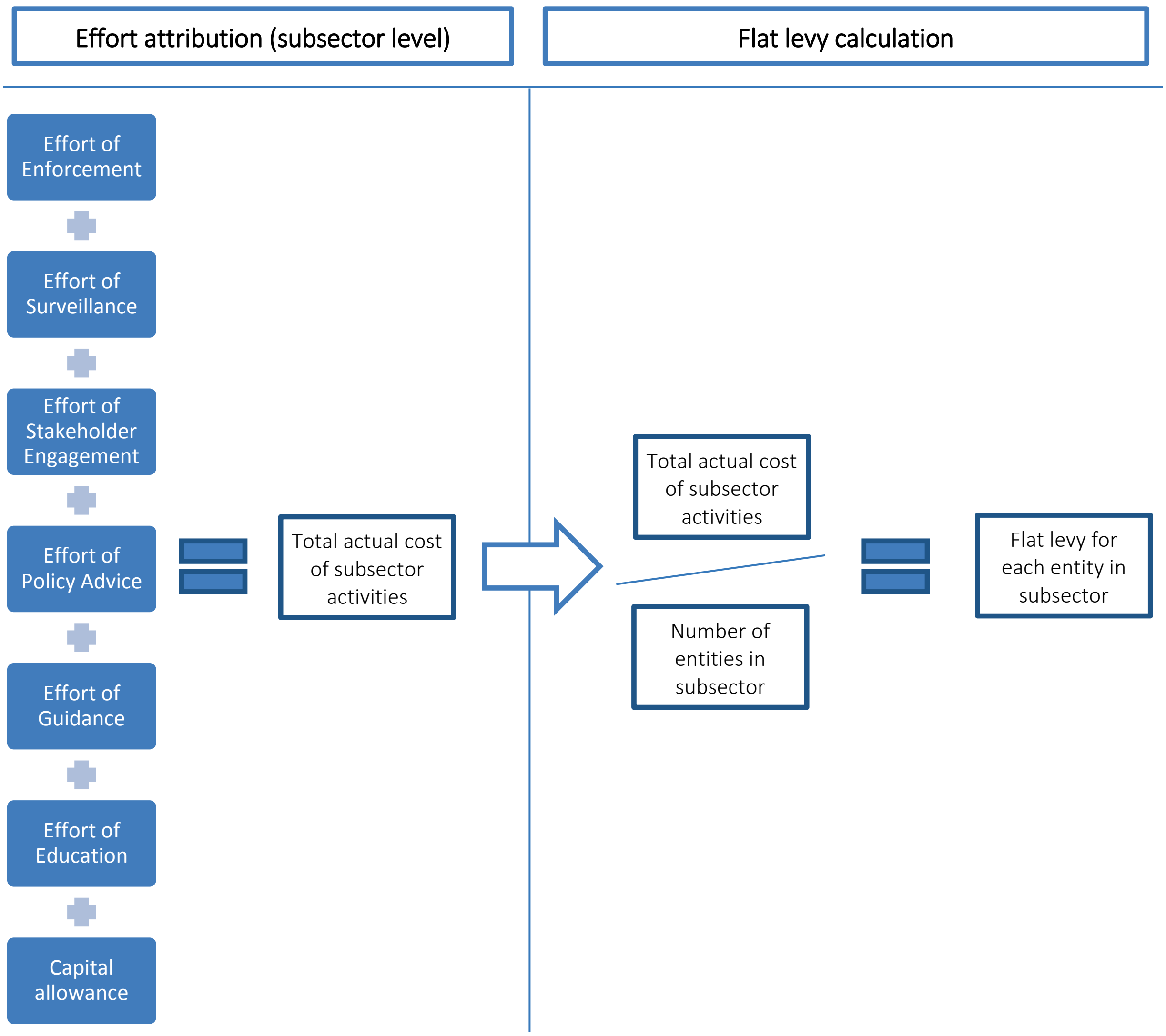
33 Flat levies are used where:

(a) the level of some or all of the regulatory effort is similar for most entities in a subsector, or

(b) the increased compliance costs of imposing new reporting obligations outweighs the benefit of a more complex and accurate graduated levy.

34 A flat levy minimises the reporting burden for industry and provides greater certainty for firms. The total costs to be recovered under these proposed cost recovery arrangements are set out in Table 2.

Figure 3: Flat levy calculation



Flat levy forecast example – large proprietary companies

In 2016–17 ASIC's forecast effort to regulate the large proprietary companies subsector is expected to cost $3 million. ASIC regulates approximately 9,000 large proprietary companies. The flat levy per company is estimated to be $350 ($3 million / 9,000). Due to the large number of entities in this sector and the relatively small amount to be collected a flat levy is proposed for this subsector. A flat levy minimises the reporting burden for large proprietary companies and ensures that the levy is simple and efficient to calculate for each entity.

Table 2: Total ASIC costs to be recovered through ASIC industry levies

Levy type	$m
Graduated levies	$191.8m
Flat levies	$26.1m
Flat levy in year 1 and graduated levy from year 2	$21.9m
Total	**$239.8m**

Key assumptions

35 The figures quoted in this paper are estimates based on ASIC's expected regulatory activity in each subsector in 2016–17, the estimated number of industry participants and where applicable, the estimated total business activity undertaken by industry participants. See **Appendix 1** for detailed information regarding how the indicative levies have been estimated based on ASIC's 2016–17 forecast costs.

36 The actual levies charged in 2017–18 may vary with changes in the underlying estimates.

C Corporate

Description of ASIC's regulatory activities

37 The corporate sector consists of companies and those who provide professional services to companies — that is, company auditors and registered liquidators (see **Table 3**).

38 In 2016–17, ASIC's forecast effort to regulate the corporate sector is expected to cost $80.7 million (see **Figure 4**). This is 34% of ASIC's budget for regulatory activities and is proposed to be recovered through levies on the corporate sector.

39 ASIC will issue invoices to recover its 2017–18 costs in January 2019. Based on forecast 2016–17 costs, levies on the corporate sector would comprise $67.1 million (83%) is proposed to be cost recovered from companies, $8.5 million (11%) from registered liquidators and $5.1 million (6%) from auditors (see **Figure 5**).

Figure 4: Costs to regulate the corporate sector

By activity	**Total $m**
Stakeholder engagement	4.8
Education	1.0
Guidance	2.3
Surveillance	21.4
Enforcement	43.4
Policy advice	2.2
Total operating costs	75.1
Capital allowance	5.1
Historic market supervision costs	0.5
Total costs to be recovered via a levy	**80.7**

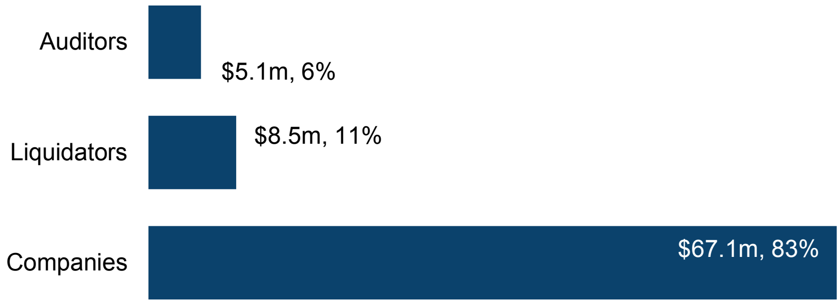
By expense type	**$m**
Direct employee expenses	43.6
Direct supplier expenses	13.5
IT costs	8.0
Indirect expenses	2.5
Property	7.5
Capital allowance	5.1
Historic market supervision costs	0.5
Total	**80.7**

Table 3: Subsectors in the corporate sector

Subsectors	Number of entities
Public (listed, disclosing) companies	2,000
Public (unlisted, disclosing) companies	838
Public (unlisted, non-disclosing) companies	19,000
Large proprietary companies	9,000
Small proprietary companies	2.1 million
Registered liquidators	710
Authorised audit companies and audit firms that audit publicly listed entities	125

Subsectors	Number of entities
Registered company auditors	4,700

Figure 5: Regulatory costs for the corporate sector in 2016–17



Corporations

40 ASIC regulates conduct and disclosure by corporations in Australia with a particular focus on corporate governance and corporate transactions (such as, fundraising, takeovers and schemes of arrangement) and on financial reporting.

41 ASIC promotes confidence in Australia's capital markets by taking enforcement action against directors who have breached their duties.

42 ASIC may take administrative action to disqualify directors, civil penalty action for declarations that constitute breaches of Corporations legislation and seek civil penalties against directors and officers of corporations. In very serious cases, ASIC will prepare briefs of evidence to the Commonwealth Director of Public Prosecutions (CDPP) for criminal charges. ASIC also investigates, and if appropriate, takes civil penalty action in relation to breaches of directors' obligations resulting in foreign bribery and corruption.

43 In 2016–17, ASIC will continue its focus on reviewing fundraising and control transactions to ensure investors receive accurate, complete and timely information so that new investors and existing shareholders can make informed decisions. ASIC will also make interventions as necessary (for example, by requiring changes to disclosure or a restructure of control transactions).

44 ASIC will also:

(a) undertake targeted surveillances on (i) the promotion of initial public offerings by brokers, issuers and advisers, including via social media, and (ii) practices relating to forward looking statements by mining and resource companies

(b) continue to actively participate in proceedings before the Takeovers Panel

(c) promote better corporate governance practices, and the behaviour of companies and their officers

(d) publish a report on the risks arising from the growth in market issuers with substantial assets or operations in emerging economies.

45 ASIC will have a continuing focus on healthy capital markets. This work will include examining retail and institutional investor decision-making in fundraising (utilising behavioural economics insights) and examining the causes of corporate failure. ASIC will incorporate the findings from ASIC's various surveillances as part of this work.

46 ASIC will continue to focus on improving the quality of financial reporting. ASIC's activities will include proactive and reactive surveillances of financial reports of listed and other public entities. ASIC will also encourage entities to work towards addressing the complexity and accessibility of financial reporting information, including by promoting the use of digital financial reporting.

47 In 2016–17, ASIC will also contribute to reforms on crowd-sourced funding, the Government's innovation agenda (directors' duties and insolvency) and employee incentive schemes.

Company auditors

48 The regulation of auditors supports the operation of Australia's financial markets by ensuring that data provided to the market by companies is credible and independently verifiable. This is reflected in ASIC's ongoing focus on improving audit quality and the consistency of audit execution.

49 ASIC also undertakes risk-based reviews of auditors and takes action when the law is breached. Where breaches of accounting and audit standards and Corporations legislation are identified ASIC will investigate and, if appropriate, take action to suspend or cancel the registration of the auditor or suspend them from practising.

50 Auditors who fail in their obligations to give qualified opinions on deficient financial reports and notify ASIC of improper accounts or practices and who otherwise fail to conduct audits in accordance with appropriate standards may be the subject of administrative action through the Company Auditors and Liquidators Disciplinary Board (CALDB).

51 In 2016–17, ASIC will continue to focus on improving audit quality. ASIC's activities will include:

(a) proactive and reactive surveillances of audit quality

(b) monitoring the quality review programmes of the largest four audit firms

(c) working domestically and with other regulators internationally to improve audit quality through discussions with auditors about root causes of audit issues and auditor action plans, education and guidance, and promoting improvements in auditing standards

(d) liaising with other stakeholders such as standard setters, accounting bodies, audit committee chairs and academics

(e) taking appropriate enforcement action.

Registered liquidators

52 Registered liquidators are gatekeepers in the financial system. Regulation works to ensure that liquidators fulfil their role as a fiduciary diligently, independently and with the creditors' interests central to their actions. Consequently, ASIC focuses on independence, competence, and ensuring that liquidators do not improperly gain from their appointments.

53 To achieve this, ASIC will:

(a) undertake proactive risk-based and reactive surveillances and, where they identify breaches of Corporations legislation and/or professional standards, take appropriate action which may result in suspension or cancellation of their registration as liquidators. Administrative action is available in the CALDB, or in a superior court. The courts may make orders for compensation to companies or creditors. In the more egregious cases, criminal conduct will be the subject of a brief to the CDPP

(b) undertake project-based work aimed at improving an aspect of registered liquidator conduct

(c) educate and guide registered liquidators on ASIC's expectations concerning specific issues and behaviours

(d) liaise with stakeholders including other government agencies and industry.

54 In 2016–17, ASIC will continue directing its surveillance activities towards higher risk practitioners and will continue its focus on the areas of independence, competence and improper gain.

55 ASIC will continue with reactive surveillances to respond to reports of misconduct about registered liquidators; focusing on independence and the adequacy of disclosure in declarations of relevant relationships, remuneration disclosure and disrupting the activities of professional facilitators (including pre-insolvency advisers).

56 In 2016–17, ASIC will also:

(a) continue current risk-based projects focused on the independence and remuneration of registered liquidators

(b) continue its project assessing registered liquidator compliance with lodging certain documents with ASIC and publishing various notices on the Published Notices Website (and addressing any systemic non-compliance identified).

Proposed levy methodologies

Companies

57 A company's obligations under the Corporations Act, the activities that ASIC carries out and the intensity of the regulation required, will differ for each type of company.

58 The level of supervision depends on the scale of potential harm to investors or consumers and the impact on the integrity and reputation of Australian financial markets. For example, ASIC dedicates a significantly large amount of regulatory effort to publicly listed, disclosing entities compared with small proprietary companies, as publicly listed, disclosing entities have the potential to cause greater harm to investors and the reputation of Australia's financial markets.

Publicly listed, disclosing companies

59 ASIC proposes that the levy payable by publicly listed, disclosing companies will be based on their market capitalisation as at 30 June of the financial year. The proposed levy will apply to all companies (and stapled entities) listed on domestic exchanges, including foreign companies. Market capitalisation will only include market capitalisation of listed companies (and stapled entities) on domestic exchanges. In future, ASIC may also consider whether to introduce a separate levy for stapled securities and foreign exempt listings.

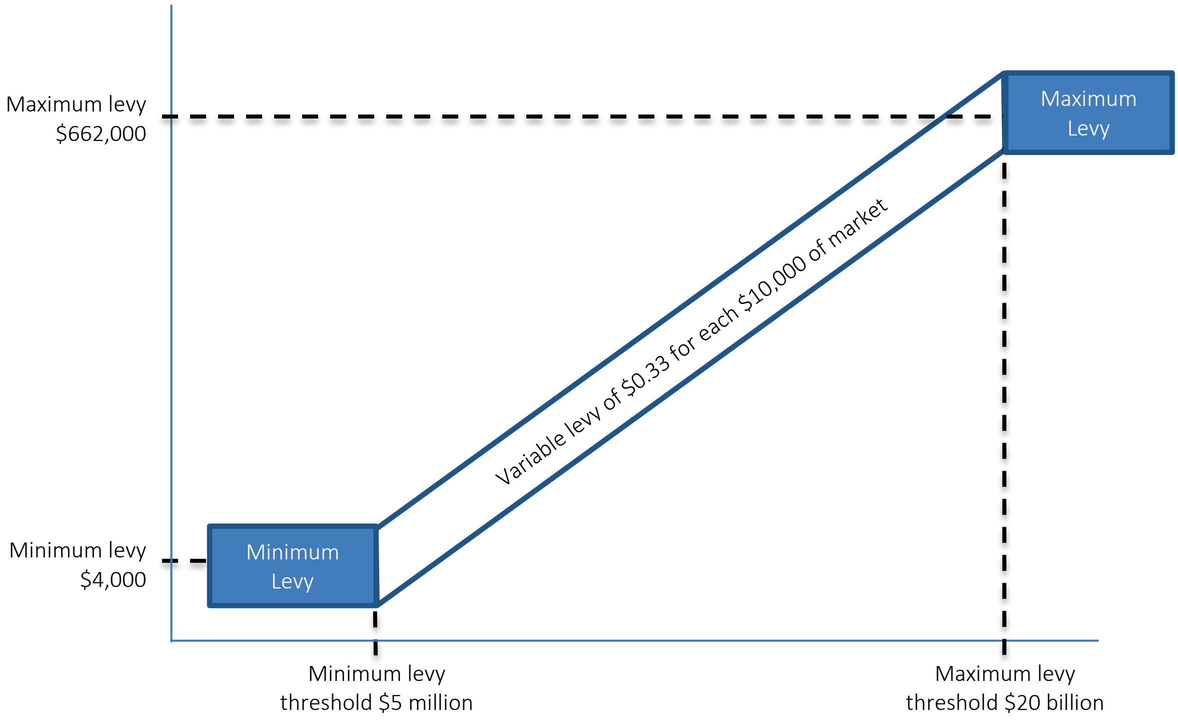
60 Market capitalisation has been proposed as a proxy for ASIC's supervisory intensity because the intensity of ASIC's regulation varies depending on the scale of the company's operation. Larger entities generally pose a higher risk to the Australian economy as the number of investors and the entity's significance to the market are large. However, as ASIC's costs to regulate publicly listed, disclosing companies do not fall below (due to fixed costs) or rise above (due to economies of scale) certain thresholds, their levies are proposed to be subject to a minimum and maximum.

61 It is proposed that a minimum levy of $4,000 will be charged for listed companies with a market capitalisation of less than $5 million. The levy payable by publicly listed disclosing companies is proposed to then increase by $0.33 for each $10,000 of market capitalisation until the maximum levy of $662,000 is reached. Listed companies with a market capitalisation of $20 billion or more are proposed to pay the maximum levy.

Table 4: Proposed levy arrangements – Publicly listed, disclosing companies

Subsector	Number of entities	Proposed minimum levy	Proposed variable levy	Proposed maximum levy	Amount to be recovered
Publicly listed, disclosing companies	2,000	$4,000 for market capitalisation less than $5 million	$4,000 plus $0.33 per $10,000 of market capitalisation above $5 million	$662,000 for market capitalisation greater than $20 billion	$48.5m

Figure 6: Levy arrangements for publicly listed, disclosing companies



62 It is proposed that the minimum levy be lowered by 33%, from $6,000 to $4,000, relative to the August 2015 consultation paper, as submissions raised concerns that the minimum levy would be overly burdensome for small listed entities or act as a disincentive for companies to list.

63 The proposed maximum levy has increased from $320,000 to $662,000. The increase is primarily due to the estimated costs to be funded from the Enforcement Special Account. The maximum levy is proposed to apply for companies with market capitalisation greater than $20 billion which is 33% higher than the maximum threshold of $15 billion in the August 2015 consultation paper. The maximum levy is expected to apply to a small number of companies whose size of operation and number of investors mean they are systemically important to Australian financial markets and the Australian economy and require a significantly higher level of regulatory oversight.

Proposed levy arrangements – other company subsectors

64 Flat annual levies are proposed for public companies (unlisted, disclosing), public companies (unlisted non-disclosing) and small and large proprietary companies. The level of ASIC supervision is generally similar for entities in each of these subsectors. This flat levy approach is consistent with the August 2015 consultation paper proposal.

65 Submissions did not raise concerns regarding the flat levies for entities in the corporate sector.

Table 5: Proposed flat levy arrangements – other company subsectors

Subsector	Number of entities	Proposed annual levy*	Amount to be recovered
Public (unlisted, disclosing) companies	838	$3,350	$2.8m
Public (unlisted, non-disclosing) companies	19,000	$170	$3.1m
Large Pty Ltd companies	9,000	$350	$3.0m
Small Pty Ltd[2] companies	2,100,000	$5	$9.7m

* Annual levy amounts have been rounded.

Company auditors

Authorised audit companies and audit firms that audit publicly listed entities

66 For authorised audit companies and audit firms that audit publicly listed entities, ASIC's regulatory effort is related to the value of work undertaken. This is because entities that are making substantial fee revenue are either auditing more complex companies, a larger number of companies, or a combination of the two, and poor audit practices within these firms present a larger risk to the broader operation of Australia's financial markets.

67 The proposed levy will be based on the firm's audit fee revenue for that firm from audits of publicly listed entities and their controlled entities relative to the total value of audit fee revenue of the subsector.

Table 6: Proposed levy arrangements – Authorised audit companies and audit firms

Subsector	Number of entities	Proposed levy methodology	Amount to be recovered
Authorised audit companies and audit firms that audit publicly listed entities	125	(Entity's Audit Fee Revenue/Total Audit Fee Revenue) x ASIC's Costs for the subsector	$4.3m

68 Submissions raised the concern that some accounting firms may not have systems in place to capture audit fee revenue and it will take time to modify systems to generate this information. The proposed implementation of industry funding from 2017–2018 onwards should provide firms sufficient time to address this concern.

Registered company auditors

69 ASIC proposes that registered company auditors will be charged a flat levy.

2 ASIC is considering the most efficient way to recover these costs from small proprietary companies. A possible option might be to recover costs through an increase in the annual review fee for small proprietary companies.

70 The proposed flat levy recognises that ASIC also undertakes proactive and reactive surveillances of audits of unlisted entities, such as registered schemes, AFS licensees, unlisted non-bank lenders, unlisted public companies and large proprietary companies. These activities may result in referrals of individual registered company auditors to the CALDB, enforceable undertakings or other actions.

71 A flat levy is proposed as a small amount of ASIC's regulatory effort is expended on registered company auditors. In addition, the total amount to be recovered is small relative to the number of registered company auditors from which the costs will be recovered. A graduated levy would impose additional administrative costs and complexity in the model to recover a relatively small amount of ASIC's regulatory costs.

72 The flat levy approach is consistent with the proposal in the August 2015 consultation paper. Submissions did not raise concerns regarding the flat levy for registered company auditors.

Table 7: Proposed levy arrangements – Registered company auditors

Subsector	Number of entities	Proposed annual levy*	Amount to be recovered
Registered company auditors	4,700	$170	$0.8 million

* Annual levy amount has been rounded.

Registered liquidators

73 ASIC proposes that registered liquidators will pay a fixed levy per registered liquidator plus a graduated levy based on the number of external administration appointments accepted during the financial year.

74 Of the levy options set out in the August 2015 consultation paper, this approach is based on a readily available, easily understood metric that most accurately reflects ASIC's regulatory effort spent on registered liquidators. In addition, this approach will provide greater certainty for registered liquidators who wish to better estimate the levy they will pay each year.

Table 8: Proposed levy arrangements – Registered liquidators

Subsector	Number of entities	Proposed annual levy*	Amount to be recovered
Registered liquidators	710	Fixed levy of $5,000 payable by all registered liquidators plus a levy of $550* per appointment of the registered liquidator	$8.5 million

* Based on total appointments during the financial year of 9,000.

75 The August 2015 consultation paper sets out three possible options for a levy to recover ASIC's costs of regulating registered liquidators.

76 The three options were: a flat levy, a levy based on assets realised during insolvency or a levy based on the number of administration appointments (new and ongoing) undertaken each year.

77 Submissions generally preferred the ‘assets realised’ option as this option had the perceived benefit of harmonisation of bankruptcy and corporate insolvency laws, but noted this methodology may increase the reporting burden on industry and be open to avoidance. Further, information about assets realised on a financial year basis is not readily available at present. Therefore, it is difficult to reliably estimate the amount of the levy.

78 ASIC acknowledges the ‘assets realised’ option is worthy of further consideration, and proposes to collect relevant information from registered liquidators to assist Government consideration on whether to implement this option at a later date.

79 ASIC’s current view is that a levy incorporating an element based on the number of external administration appointments accepted during the year is more appropriate because it is objective, simple and best reflects regulatory effort for the subsector. Also, a levy based on assets realised during insolvency may lead to the following unintended consequences:

(a) uncertainty for registered liquidators arising from the need for them to estimate gross realisations (and, hence, their anticipated levy) in advance of a levy calculated at the end of a year (based on actual asset realisations)

(b) providing a financial incentive to reduce assets realised through formal administrations

(c) promoting illegal activity through advisers and registered liquidators ensuring that directors realise company assets outside of a formal administration; thereby avoiding the levy

(d) additional regulatory costs for the subsector because of the need to supervise the matters set out above.

80 Some submissions regarded the flat levy option as anti-competitive; pushing up barriers to entry and disproportionately impacting small operators. Submissions suggested that the quantum of the flat levy would mean some small liquidators paying a levy significantly higher than their cost of regulation which could result in a material number of registered liquidators leaving the industry.

81 Some submissions expressed concerns about a model based on the number of external administration appointments noting there is little correlation between regulatory risk, ASIC oversight and the number of appointments. The consultation feedback also suggested this approach could negatively affect high-volume, lower margin market segments which service small to medium enterprises. However, as stated above, ASIC considers that a levy methodology which proposes a fixed component and a graduated component based on the number of external administration appointments optimises the model design principles outlined by Treasury by using an objective, simple and proportional metric that is readily available.

Examples of proposed levies

Example 1

Company A is a publicly listed, disclosing company with a market capitalisation as at 30 June of $8.75 billion.

Company A's indicative annual levy is:

The minimum levy for public companies (listed, disclosing)	$4,000
A graduated levy of $0.33 per $10,000 of market capitalisation above $5 million	$288,585
	($0.33 x $8.745 billion / $10,000)

Total indicative levy for company A: **$292,585**

Example 2

Company B is a large proprietary company, registered as an authorised audit company. Their audit fee revenue from auditing listed entities was equal to $8 million in 2016–17.

The total audit fee revenue for the sector was $150 million in 2016-17. ASIC's costs to regulate authorised audit companies and audit firms that audit listed entities was $4.3 million.

Company B's indicative annual levy is:

The levy for large proprietary companies	$350
A graduated levy for being an authorised audit company based on audit fee revenue	$229,333
	($8 million/$150 million x $4.3million)

Total indicative levy for Company B: **$229,683**

Example 3

Registered Liquidator A operates as a sole trader and accepted 10 external administration appointments during the financial year.

The indicative annual levy for Registered Liquidator A would be:

The minimum levy for registered liquidators	$5,000
An indicative levy of $550 per 'principal' appointment during the financial year	$5,500
	($550 x 10 appointments in total)

Total indicative levy for Registered Liquidator A: **$10,500**

Example 4

Registered Liquidator B is a partner in a medium-sized practice. Registered Liquidator B accepts all appointments jointly and severally with another registered liquidator in the firm.

Registered Liquidator B has been the principal appointee in five court winding up appointments; 45 creditors voluntary winding up appointments and 14 voluntary administration appointments during the financial year (10 of which resulted in creditors accepting a deed of company arrangement and, for the balance, creditors resolved that the company be wound up and Registered Liquidator B and their co-appointee be appointed as liquidators).

The indicative annual levy for Registered Liquidator B would be:

The minimum levy for registered liquidators	$5,000
An indicative levy of $550 per 'principal' appointment in the financial year	$35,200 ($550 x 64 appointments in total)
Total indicative levy for Registered Liquidator B:	**$40,200**

Note: It is proposed that a levy would not apply to Registered Liquidator B's co-appointee for these external administrations or the external administration appointments that follow on from the voluntary administration appointments.

Example 5*

Company C is a publicly listed, disclosing company with a market capitalisation of $5 billion. Company C also:

- holds an AFS licence and is authorised as a deposit product provider with total deposits of $40 billion, a personal financial advice provider on tier 1 products with 100 advisers listed on the Financial Advisers Register, a responsible entity with funds under management of $2 billion, a securities dealer with no annual turnover for the financial year, a margin lender, a wholesale trustee, an insurance product distributor, a custodian and a payment product provider
- holds a credit licence and provided credit of $8.7 billion and intermediated credit of $2 billion during the previous financial year. No credit was provided under small amount credit contracts
- controls five large proprietary companies, 25 small proprietary companies, three public (unlisted, disclosing) companies and three public (unlisted, non-disclosing) companies

Company C's indicative annual levy is:

The minimum levy for public companies (listed, disclosing)	$4,000
A graduated levy of $0.33 per $10,000 of market capitalisation above $5 million	164,835 ($0.33 x $4.995billion / $10,000)
The minimum levy for being a deposit product provider	$2,000
A graduated levy of $0.02 per $10,000 of total deposits above $10 million	$79,980 ($0.02 x $39.99 billion / $10,000)
A levy of $960 per financial advice provider registered on the financial advisers register	$96,000 (100 x $960)

The minimum levy for being a responsible entity	$7,000
A graduated levy of $0.24 per $10,000 of FUM over $10 million	$47,760
	($0.24 x $1.99 billion / $10,000)
The fixed levy for being a securities dealer	$250
A graduated levy of $0.34 per $10,000 of annual turnover (no annual turnover)	$0
A levy for being a margin lender	$11,100
A levy for being a wholesale trustee	$8,000
A levy for being an insurance product distributor	$2,400
A levy for being a payment product provider	$9,000
A levy for being a custodian	$560
The minimum levy for credit provider:	$2,000
A graduated levy of $0.15 per $10,000 of credit provided above $100 million	$129,000
	($0.15 x $ 8.6 billion / $10,000)
The minimum levy for a credit intermediary:	$1,000
A graduated levy of $1.14 per $10,000 of credit intermediated greater than $100 million	$216,600
	($1.14 x $ 1.9 billion / $10,000)
The levy for large proprietary companies of $350 per company	$1,750
The levy for small proprietary companies of $5 per company	$125
The levy for public (unlisted, disclosing) companies of $3,350 per company	$10,050
The levy of public (unlisted, non-disclosing) companies of $170 per company	$510
Total indicative levy for Company C:	**$793,920**

* Example is for the consolidated group (not individual entities).

D Deposit taking and credit

Description of ASIC's regulatory activities

82 The deposit taking and credit sector consists of credit licensees including credit providers and credit intermediaries and AFS licensees including deposit product providers, payment product providers and margin lenders (see **Table 9**).

83 In 2016–17, ASIC's forecast effort to regulate the deposit taking and credit sector is expected to cost $33.0 million (see **Figure 7**). This is 14% of ASIC's budget for regulatory activities and is proposed to be recovered through levies on the deposit taking and credit sector.

84 ASIC will issue invoices to recover its 2017–18 costs in January 2019. Based on forecast 2016–17 costs, levies on the deposit taking and credit sector would comprise $15.8 million (48%) from credit intermediaries, $9.3 million (28%) from credit providers, $3.1 million (9%) from deposit product providers, $2.4 million (8%) from payment product providers, $2.0 million (6%) from small amount credit providers and $0.2 million (1%) from margin lenders (see **Figure 8** below).

Figure 7: Costs to regulate the deposit taking and credit sector

By activity	**Total $m**
Stakeholder engagement	1.2
Education	3.7
Guidance	0.8
Surveillance	10.7
Enforcement	13.3
Policy advice	1.2
Total operating costs	30.9
Capital allowance	2.1
Historic market supervision costs	-
Total costs to be recovered via a levy	**33.0**

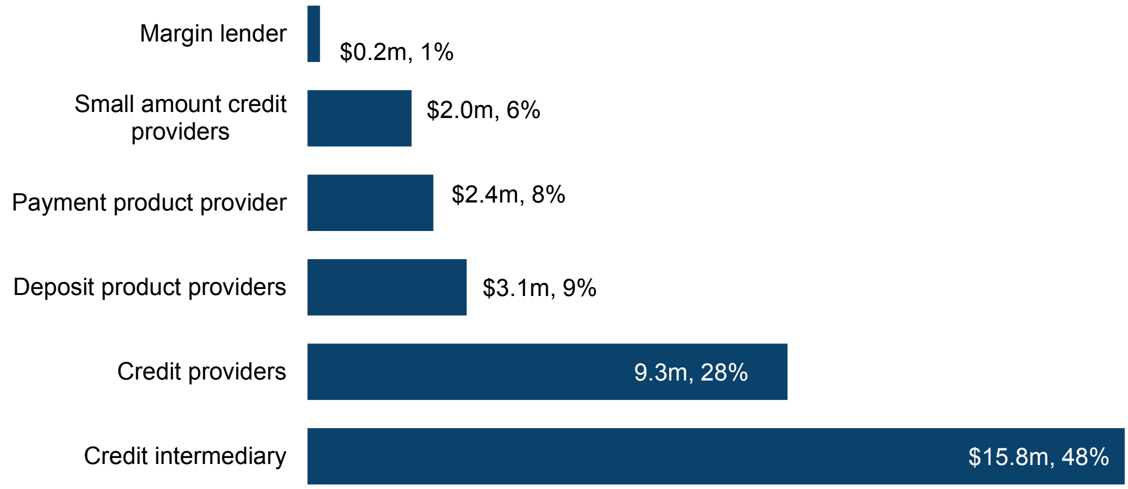
By expense type	**$m**
Direct employee expenses	17.9
Direct supplier expenses	5.6
IT costs	3.3
Indirect expenses	1.0
Property	3.1
Capital allowance	2.1
Historic market supervision costs	-
Total	**33.0**

Table 9: Subsectors in the deposit taking and credit sector

Subsectors	Number of entities
Credit providers (including small amount credit providers)	Up to 1,271
Credit intermediaries	5,100
Small amount credit providers	Estimated to be 332
Deposit product providers	258

Subsectors	Number of entities
Payment product providers	266
Margin lenders	22

Figure 8: Regulatory costs for the deposit taking and credit sector in 2016–17



Credit licensees

85 There are around 5,800 credit licensees with an authorisation to provide credit and/or other credit activities. They include credit providers such as authorised deposit-taking institutions (banks, credit unions and building societies) and credit intermediaries such as mortgage and finance brokers.

86 ASIC administers Australia's consumer credit laws to ensure that the credit industry operates efficiently, honestly and fairly. ASIC's regulatory work includes monitoring of credit licensees' compliance with the *National Consumer Credit Protection Act 2009* (National Credit Act), and enforcement. ASIC also engages with stakeholders to ensure risks are identified and addressed and provides guidance to credit licensees about their legal obligations.

87 Recent areas of focus for ASIC have included reviewing compliance with the responsible lending laws, addressing misleading advertising and taking action in response to the sale of inappropriate products.

88 In 2016–17, ASIC will continue work on responsible lending practices within the credit industry. ASIC's focus will be on the risk of loan payment stress resulting from inappropriate lending and/or changing economic conditions with particular attention paid to non-lender gatekeepers (such as finance brokers) and credit other than home loans (such as, credit cards).

89 ASIC will also conduct follow-up work with lenders in relation to interest only loans to ensure ASIC's concerns about responsible lending practices in that market (specifically relating to requirements and objectives) have been addressed.

90 ASIC will also commence several reviews into specific market practices, including loan fraud across the Australian credit market, credit card marketing practices and issuer obligations and the responsible lending compliance arrangements for large finance brokers with a focus on interest only loans.

91 In 2016–17, ASIC will also contribute to key reforms, including crowd-sourced funding and the Financial System Inquiry recommendations around product and distribution obligations.

Small amount credit providers

92 The small amount lending industry has been a strong area of focus for ASIC since it obtained responsibility for consumer credit in 2010. ASIC has focused on these products because they have particular risks for financially vulnerable consumers (who are often targeted by marketing for these loans).

93 In this area, ASIC has focused on compliance with responsible lending practices, addressing attempts to avoid the laws, as well as misleading advertising. Over the past five years, ASIC has conducted two industry reviews and undertaken enforcement action that has resulted in approximately $3.4 million in refunds to more than 18,000 consumers who were overcharged when taking out a payday loan. ASIC has also provided input to the independent review of the small amount credit laws.

94 In 2016–17, ASIC will continue work on improving responsible lending practices for payday loans and will be assisting the Government with implementation of the recommendations from the review of the small amount credit laws.

Remaining sectors

95 There are around 550 AFS licensees authorised to operate as deposit product providers, payment product providers and/or margin lenders.

96 ASIC monitors these AFS licensees' compliance with their obligations under the Corporations Act through proactive and reactive surveillances and takes disciplinary action where there are breaches of the law. ASIC also provides guidance to industry in response to regulatory reforms, as well as market innovations and structural changes.

97 In 2016–17, ASIC will:

(a) continue its focus on the mis-selling of financial products and also expand this work to include inappropriate outcomes from products

(b) continue to monitor how industry is utilising emerging technologies (to facilitate the delivery of appropriate products with minimal regulatory burden and reduced risk of consumer detriment)

(c) continue to monitor emerging promotional methods, delivery channels and business models (for example, the use of Facebook and Twitter for advertising, group buying sites, comparison websites and peer-to-peer business models)

(d) support Government initiatives in payments regulation, including the proposal to mandate the ePayments Code.

98 In 2016–17 ASIC will also contribute to key reforms around non-cash payment facilities, including the mandating of the ePayments Code, as part of the Government's response to the Financial System Inquiry recommendations.

Proposed levy methodologies

Credit licensees

99 The intensity of ASIC's regulation depends on the services offered by a credit licensee (that is, credit provision or intermediary services), as well as the scale of the licensee's operation. For example, large credit businesses with significant customer bases present a more widespread risk to consumer wellbeing and the market than smaller institutions and therefore require more regulatory attention.

100 To recover ASIC's costs to regulate credit licensees a graduated approach with minimum levies is proposed. Three distinct levies are proposed:

(a) for credit providers who provide loans that are not small amount loans, a graduated levy based on the amount of credit provided under those loans

(b) for credit providers who provide loans under small amount credit contracts (as defined in the National Credit Act), a graduated levy based on the amount of credit provided under small amount credit contracts

(c) for credit intermediaries, a graduated levy based on the amount of credit intermediated.

101 The credit licensee levies are cumulative — for instance, if a credit licensee holds authorisations as a credit provider and a credit intermediary and provides both small amount and regular loans it is proposed that they would be required to pay all three levies. Each levy would be calculated separately and would only relate to the licensee's involvement in that activity or subsector. However, if a credit provider provides both credit (other than under small amount contract credit contracts) and credit under small amount credit contracts, they will only pay one minimum levy of $2,000.

Table 10: Proposed levy arrangements – Credit licensees

Subsector	Number of entities	Proposed minimum levy	Proposed variable levy	Amount to be recovered
Credit providers	Up to 1,271 (including small amount credit providers)	$2,000 for credit provided (other than under a small amount credit contract) less than $100 million	$2,000 plus $0.15* per $10,000 of credit provided (other than under a small amount credit contract) greater than $100 million	$9.3 million
Small amount credit providers	Estimated to be 332	$2,000 minimum levy for being a credit provider	$2,000 plus a graduated levy based on the amount of credit provided (under small amount credit contracts) by the entity compared to the total amount of credit provided (under small amount credit contracts) by the industry.*	$2 million
Credit intermediaries	5,100	$1,000 for credit intermediated less than $100 million	$1,000 plus $1.14 per $10,000 of credit intermediated greater than $100 million	$15.8 million

*Estimated based on the total credit provided data. Under this proposal, credit providers would be required to report to ASIC credit written under small amount credit contracts and credit written under other contracts.

102 The August 2015 consultation paper proposed two options to recover costs from credit licensees:

(a) A tiered approach where credit licensees are categorised as credit providers or credit intermediaries, then have a three tiered levy based on the range of the volume of credit reported in the licensees annual compliance certificate.

(b) A graduated approach where credit licensees are categorised as credit providers or credit intermediaries, then have a graduated levy based on the volume of credit provided or intermediated with a minimum and maximum levy.

103 Submissions opposed the three tier approach as it would lead to large increases in annual levies when entities move between tiers, which could distort decisions in the market. Some submissions also regarded the tiers as not reflecting ASIC's level of regulatory oversight.

104 Submissions supported a graduated approach with a lower minimum threshold and no maximum levy. Submissions regarded this as the most equitable and fair approach that would provide a levy that more closely reflects ASIC's supervisory intensity.

105 A number of submissions regarded a maximum levy as inappropriate as it would impose a higher cost on smaller players relative to large entities who have significant market share. However, submissions acknowledged that a graduated approach would involve a higher administrative burden for data reporting and that there may be issues with the quality of data reported.

106 Submissions noted that a separate subsector should be created for small amount credit providers and a levy should be charged for small amount credit providers as they have required significant regulatory effort from ASIC.

107 It is proposed that a new reporting obligation will be introduced for credit providers to advise ASIC of the amount of credit provided under small amount credit contracts and credit provided under other contracts.

Deposit product providers

108 To recover ASIC's costs to regulate deposit product providers a graduated levy based on total deposits of the entity is proposed. A minimum levy is proposed for all deposit product providers reflecting ASIC's regulatory effort for this subsector.

109 The intensity of ASIC's supervision for deposit product providers is affected by the scale of the entity's operations. Total deposits provide a measure of the entity's scale, customer base and significance to the market.

Table 11: Proposed levy arrangements – Deposit product providers

Subsector	Number of entities	Proposed minimum levy	Proposed variable levy	Amount to be recovered
Deposit product providers	258	$2,000 for total deposits less than $10 million	$2,000 plus $0.02 for each $10,000 of deposit liabilities greater than $10 million	$3.1 million

110 The August 2015 consultation paper sought feedback on two options to recover costs from deposit product providers — a three tiered levy approach or a graduated levy approach with a minimum and maximum levy.

111 Submissions opposed the tiered levy approach for deposit product providers as it would not equitably distribute ASIC's costs and smaller deposit product providers would pay a significantly higher levy per dollar of deposits relative to the levy of large deposit product providers. Stakeholders also considered the maximum levy should be removed given the systemically important nature of larger deposit institutions.

Payment product providers

112 For payment product providers, a flat levy is proposed in 2017–18. In 2018–19, ASIC proposes that this will move to a graduated levy based on revenue from payment product provider activity with a minimum levy for all payment product providers.

113 If a graduated levy is imposed in 2018–19, this would introduce a new reporting requirement on payment product providers to report their revenue from payment product provider activity to ASIC.

Table 12: Proposed levy arrangements – Payment product providers

Financial Year	Subsector	Number of entities	Proposed annual levy	Amount to be recovered
2017–18	Payment product providers	266	$9,000 flat levy*	$2.4 million
2018–19	Payment product providers	N/A	Graduated based on revenue from payment product provider activity with a minimum levy	N/A

* Annual levy amount has been rounded.

114 Submissions showed an interest from stakeholders to have a graduated model apply more broadly in the model. This would ensure levies for entities are closely aligned to the level of supervision, however would increase complexity and the reporting burden in the model. If a graduated levy is imposed in 2018–19, this will give payment product providers an additional year to prepare their systems for collection of information required under the proposed model.

Margin lenders

115 A flat annual levy is proposed for the margin lender subsector. This is consistent with the approach proposed in the August 2015 consultation paper.

116 Submissions did not raise concerns regarding this levy.

Table 13: Proposed flat levy arrangements — Margin lenders

Subsector	Number of entities	Proposed annual levy	Amount to be recovered
Margin lenders	22	$11,100*	$0.2 million

* Annual levy amount has been rounded.

117 The proposed levy for this subsector has increased by around 63% from the levy proposed in the August 2015 consultation paper. This is because ASIC proposes to remove the base levy and levy per authorisation of $250 for AFS licensees. ASIC proposes to incorporate these costs into all the levies for AFS licensees. Submissions strongly opposed the base levy and levy per authorisation. For further information on stakeholder feedback see Chapter 6 of the Government's Proposals Paper.

Examples of proposed levies

Example 6

Company D is a large proprietary company that holds an Australian credit licence and provided $400 million of credit in 2016–17. No credit was provided under small amount credit contracts.

Company D's indicative annual levy is:

The levy for large proprietary limited companies	$350
The minimum levy for a credit provider	$2,000
A graduated levy of $0.15 per $10,000 of credit provided greater than $100 million	$4,500 ($0.15 x $300 million / $10,000)
Total indicative levy for Company D:	**$6,850**

Example 7

Company F is a publicly listed, disclosing company with a market capitalisation of $20 billion. It holds an Australian credit licence and provided credit of $2 billion in 2016–17. It also played a credit intermediary role and intermediated $700 million of credit in that year. No credit was provided under small amount loan contracts.

Company F's indicative annual levy will be equal to:

The maximum levy for public companies (listed, disclosing)	$662,000
The minimum levy for a credit provider	$2,000
A graduated levy of $0.15 per $10,000 of credit provided greater than $100 million	$28,500 ($0.15 x $1.9 billion / $10,000)
The minimum levy for a credit intermediary	$1,000
A graduated levy of $1.14 per $10,000 of credit intermediated greater than $100 million	$68,400 ($1.14 x $0.6 billion / $10,000)
Total indicative levy for Company F:	**$761,900**

Example 8

Company E is a publicly listed, disclosing entity with a market capitalisation of $5 billion. The company also has:

- an Australian credit licence and operates as a credit provider with $2 billion provided in credit and as a credit intermediary with $1 billion credit intermediated. No credit was provided under small amount credit contracts.
- an AFS licence with authorisations as a personal advice provider (advising on Tier 1 products, with 20 financial advisers registered on the Financial Advisers Register) and insurance distributor.

Company E's indicative annual levy is:

The minimum levy for a public company (listed, disclosing)	$4,000
A graduated levy of $0.33 per $10,000 of market capitalisation above $5 million	$164,835 ($0.33 x $4.995 billion / $10,000)
The minimum levy for credit provider	$2,000
A graduated levy of $0.15 per $10,000 of credit provided above $100 million	$28,500 ($0.15 x $ 1.9 billion / $10,000)
The minimum levy for a credit intermediary:	$1,000
A graduated levy of $1.14 per $10,000 of credit intermediated greater than $100 million	$102,600 ($1.14 x $ 0.9 billion / $10,000)
A levy of $960 per financial advice provider registered on the financial advisers register	$19,200 (20 x $960)
The levy for being an insurance product distributor	$2,400
Total indicative levy for Company E:	**$324,535**

E Investment management, superannuation and related services

Description of ASIC regulatory activities

118 The investment management, superannuation and related services sector consists of AFS licensees with authorisations to:

(a) operate as responsible entities (responsible entities) and registrable superannuation entity licensees (superannuation trustees)

(b) issue interests in managed investment schemes limited to own schemes only to wholesale client trustees (wholesale trustees).

(c) operate as custodians, operators of investor director portfolio services (IDPS), managed discretionary account (MDA) operators, traditional trustee company service providers, and registered SMSF auditors (see **Table 14**).

119 In 2016–17, ASIC's forecast effort to regulate the investment management, superannuation and related services sector is expected to cost $48.8 million (see **Figure 9**). This is 20% of ASIC's budget for regulatory activities and is proposed to be recovered through levies on the investment management, superannuation and related services sector.

120 ASIC will issue invoices to recover its 2017–18 costs in January 2019. Based on forecast 2016–17 costs, levies on the investment management, superannuation and related services sector would comprise $23.5 million (48%) from responsible entities, $13.8 million (28%) from wholesale trustees, $8.5 million (17%) from superannuation trustees, $1.6 million (3%) from operators of an IDPS, $0.5 million (1%) from custodians, $0.4 million (1%) from SMSF auditors, $0.2 million (1%) from MDA operators and $0.2 million (1%) from traditional trustee service companies (see **Figure 10** below).

Figure 9: Costs to regulate the investment management, superannuation and related services sector

By activity	**Total $m**
Stakeholder engagement	0.7
Education	2.4
Guidance	2.6
Surveillance	7.1
Enforcement	31.2
Policy advice	1.2
Total operating costs	45.2
Capital allowance	3.1
Historic market supervision costs	0.5
Total costs to be recovered via a levy	**48.8**

By expense type	**$m**
Direct employee expenses	26.2
Direct supplier expenses	8.1
IT costs	4.8
Indirect expenses	1.6
Property	4.5
Capital allowance	3.1
Historic market supervision costs	0.5
Total	**48.8**

121 A large amount of regulatory effort is expended within the investment management, superannuation and related services sector. This is due to the large number of interactions entities in this sector have with retail and institutional investors. ASIC monitors compliance with obligations under the Corporations Act, ASIC Act and *Superannuation Industry (Supervision) Act 1993* through a range of proactive and reactive surveillances and takes disciplinary action where there are breaches of the law.

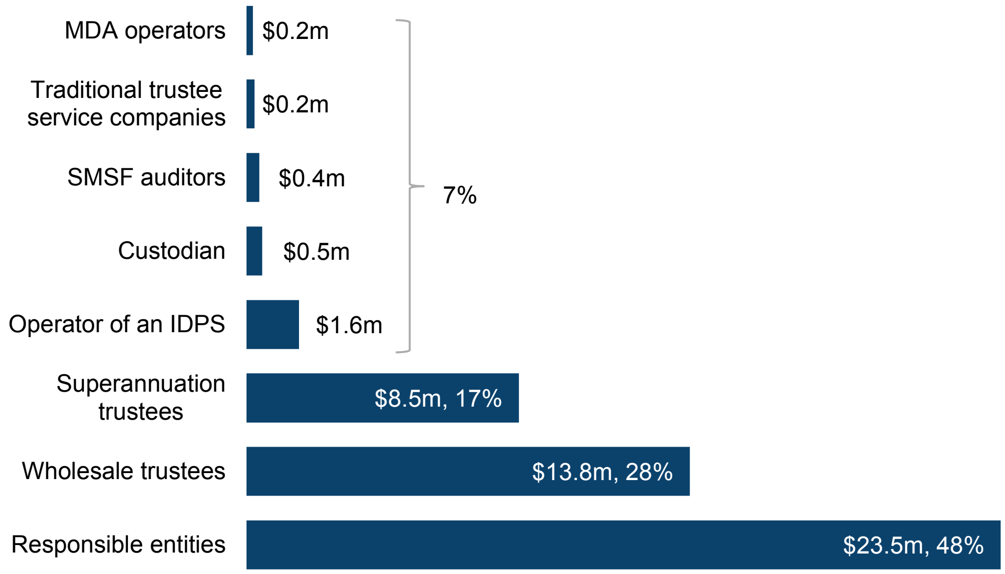
122 ASIC provides assistance to Treasury on matters of law reform and provides education and guidance to industry in response to regulatory reforms, as well as market innovations and structural changes for entities in this sector.

Table 14: Subsectors in the investment management, superannuation and related services sector

Subsectors	Number of entities
Responsible entities	490
Superannuation trustees (excluding SMSF trustees)[3]	144
Wholesale trustees	1,749
Custodians	861
Operators of an IDPS	35
MDA operators	64
Traditional trustee company service providers	12
SMSF auditors	6,500

3 That is, APRA regulated superannuation trustees. SMSF trustees will not be liable to pay a levy.

Figure 10: Regulatory costs for the investment management, superannuation and related services sector in 2016–17



Superannuation trustees and responsible entities

123 Each year, ASIC undertakes proactive surveillances of responsible entities and superannuation trustees that have been identified through risk profiling as being most at risk of non-compliance or exhibiting particular risks.

124 In 2016–17, ASIC's proactive surveillances of risk profiled entities will have a focus on culture, incentives and poor compliance systems that result in misconduct and that may lead to losses, as well as the effective implementation of law reform. ASIC will also continue monitoring higher risk entities it identified in prior years.

125 ASIC will also:

(a) focus on current superannuation practices to identify instances where providers seek to take advantage of the passivity and inertia of disengaged super members, who are generally in the default option

(b) engage and provide guidance to the managed funds sector to promote best practice risk management arrangements, including conflict management, liquidity risk and leverage

(c) monitor and review compliance with revised custody requirements and fees and costs disclosure obligations by superannuation trustees and responsible entities

(d) reviewing industry compliance with the revised fee disclosure requirements

(e) issue guidance associated with law reform initiatives in the coming financial year.

126 In 2016–17, ASIC will also investigate and taking action against licensed and unlicensed entities in the superannuation and managed funds sector identified through our proactive risk-based surveillance programs and in response to reports of misconduct, including in relation to the effectiveness of superannuation disclosure and failures by Responsible Entities to comply with their duties.

127 ASIC will also contribute to key reforms and proposals, including crowd-sourced funding, Collective Investment Vehicles and the Asia Region Funds Passport.

Wholesale trustees

128 In 2016–17, ASIC will conduct risk-based surveillance activities on this sector with a particular focus on entities that may be targeting retail consumers.

Custodians

129 In 2016–17, ASIC will review the compliance of custodians with the revised custody requirements.

Operators of an IDPS and MDA operators

130 In 2016–17, ASIC will review, as part of ASIC's proactive surveillance program, IDPS and MDA operators identified through risk profiling as being most at risk of non-compliance or exhibiting particular risks.

Traditional trustee company service providers

131 In 2016–17, ASIC will review the compliance of traditional trustee company service providers with their obligations under the Corporations Act.

SMSF auditors

132 For SMSF auditors, ASIC's proactive supervision is comparatively lower due to the limited influence these auditors have on financial markets and ASIC's primary activity is enforcement based on referrals from the ATO (which is responsible for the broad regulation of SMSF auditors).

133 ASIC is responsible for the registration and deregistration of SMSF auditors. ASIC conducts a competency exam for applicants and assesses applications for registration of SMSF auditors having regard to qualification, experience and fit and proper person criteria. ASIC's costs to process an application for registration as a SMSF auditor will be subject to fees-for-service arrangements.

134 Where the ATO makes a referral to ASIC for the deregistration or suspension of an SMSF auditor, ASIC sends the auditor a show cause letter and assesses the matter. Matters are considered by an ASIC hearings delegate and ASIC also deals with any appeals of its decisions to the Administrative Appeals Tribunal.

Proposed levy methodologies

Superannuation trustees and responsible entities

135 To recover ASIC's costs to regulate superannuation trustees and responsible entities a graduated levy based on funds under management (FUM) is proposed. ASIC proposes that a minimum levy will apply reflecting ASIC's fixed costs to regulate a superannuation trustee or responsible entity. FUM reflects the value of investor funds managed and the number of investors or members reached, serving as a measure of risk to investors or members and the broader market.

Table 15: Proposed levy arrangements – superannuation trustees and responsible entities

Subsectors	Number of entities	Proposed minimum levy	Proposed variable levy	Amount to be recovered
Superannuation trustees	144	$18,000 for FUM less than $250 million	$18,000 plus $0.05 per $10,000 of FUM greater than $250 million	$8.5 million
Responsible entities	490	$7,000 for FUM less than $10 million	$7,000 plus $0.24 per $10,000 of FUM greater than $10 million	$23.5 million

136 The proposed minimum levy for responsible entities has been lowered relative to the levy presented in the August 2015 consultation paper. This levy reflects stakeholder feedback that a higher minimum levy would disproportionally impact smaller responsible entities and would be a relatively high barrier to entry.

137 The August 2015 consultation paper sought feedback on two options to recover costs from superannuation trustees and responsible entities — a three tiered levy model based on the range of FUM held by the entity, or a graduated levy model based on FUM of the entity with a minimum and maximum levy.

138 Submissions preferred a graduated levy approach as it will spread costs more equitably between small and large entities and a graduated model ensures entities will not be subject to a large increase in their levy if they cross a specific threshold. Submissions note the move from one tier to the next could distort decisions in the market.

139 Submissions also opposed a maximum cap on levies as large institutions that hold the majority of FUM present systemic risk and should not have a maximum cap applied.

Asia Region Funds Passport and Collective Investment Vehicles

140 ASIC proposes that entities operating under the Asia Region Funds Passport or Collective Investment Vehicles proposed initiatives will be subject to the responsible entities levy. In future, a separate levy may be introduced for entities operating under these provisions, if ASIC's regulatory effort is demonstrably different to the effort required to regulate responsible entities.

Wholesale trustees and operators of an IDPS

141 For wholesale trustees, a flat levy is proposed in 2017–18. In 2018–19, it is proposed that a graduated levy will apply based on FUM with a minimum levy payable by all wholesale trustees. If a graduated levy is adopted, this would impose a new reporting requirement on wholesale trustees to report FUM to ASIC.

Table 16: Proposed levy arrangements – Wholesale trustees

Financial year	Subsector	Number of entities	Proposed annual levy	Amount to be recovered
2017–18	Wholesale trustees	1,749	$8,000 flat levy*	$13.8 million
2018–19	Wholesale trustees	N/A	Graduated based on FUM with a minimum levy	N/A

* Annual levy amount has been rounded.

142 For operators of an IDPS, a flat levy is proposed in 2017–18. In 2018–19, it is proposed that a graduated levy will apply based on revenue from IDPS activity with a minimum levy payable by all operators of an IDPS. If a graduated levy is adopted, this would impose a new reporting requirement for operators of an IDPS to report revenue from IDPS activity separately to ASIC.

Table 17: Proposed levy arrangements – Operators of an IDPS

Financial year	Subsector	Number of entities	Proposed annual levy	Amount to be recovered
2017–18	Operators of an IDPS	35	$47,000 flat levy*	$1.6 million
2018–19	Operators of an IDPS	N/A	Graduated based on revenue from IDPS activity with a minimum levy	N/A

* Annual levy amount has been rounded.

143 The August 2015 consultation paper proposed a flat levy of $1,700 for wholesale trustees and a flat levy of $30,000 for operators of an IDPS. The flat levy proposed has increased because the base levy and levy per authorisation of $250 for AFS licensees have been removed and incorporated into the levies for the AFS licensee subsectors under the model. A flat levy would reduce the reporting burden, however could mean some entities pay levies significantly higher or lower levies than the actual cost to regulate them.

144 Submissions showed an interest from stakeholders to have a graduated model apply more broadly in the model. This would ensure levies for entities are closely aligned to the level of supervision, however would increase complexity and the reporting burden in the model.

Remaining subsectors

145 Flat levies are proposed to recover the costs from the remaining subsectors of custodians, SMSF auditors, traditional trustee company service providers and MDA operators. This is consistent with the approach proposed in the August 2015 consultation paper.

146 A flat levy is proposed as a small amount of ASIC's regulatory effort is expended on these subsectors and a graduated levy would impose additional reporting burden and complexity which would exceed the benefits of a graduated model.

147 Submissions did not raise concerns regarding the flat levies for these subsectors.

Table 18: Investment management, superannuation and related services flat levy arrangements

Subsector	Number of entities	Proposed annual levy*	Amount to be recovered
Custodians	861	$560	$0.5 million
SMSF Auditors	6,500	$60	$0.4 million
Traditional trustee company service providers	12	$20,500	$0.2 million
MDA operators	64	$3,000	$0.2 million

*Annual levy amounts have been rounded.

148 The flat levies for these subsectors have been increased by up to 70% from the levies proposed in the August 2015 consultation paper. The flat levy proposed has increased and because ASIC proposes to remove the base levy and levy per authorisation of $250 for AFS licensees and incorporate the costs into the levies for the AFS licensee subsectors under the model. Submissions strongly opposed the base levy and levy per authorisation. For further information on stakeholder feedback see Chapter 6 of the Government's Proposals Paper.

Examples of proposed levies

Example 9

Company G is a public company (unlisted, disclosing). The company holds an AFS licence and is authorised as a Responsible Entity for a registered managed investment scheme, with $250 million of FUM.

Company G's indicative annual levy will equal:

The levy for being a public company (unlisted, disclosing)	$3,350
The minimum levy for being a Responsible Entity	$7,000
A graduated levy of $0.24 per $10,000 of FUM over $10 million	$5,760 ($0.24 x $240million / $10,000)
Total indicative annual levy for company G:	**$16,110**

F Market infrastructure and intermediaries

Description of ASIC's regulatory activities

149 The market infrastructure and intermediaries sector consists of market infrastructure providers (MIPs) and market intermediaries (see **Table 19**).

150 In 2016–17, ASIC's forecast effort to regulate the market infrastructure and intermediaries sector is expected to cost $47.8 million (see **Figure 11**). This is 20% of ASIC's budget for regulatory activities and is proposed to be recovered through levies on the market infrastructure and intermediaries sector.

151 ASIC will issue invoices to recover its 2017–18 costs in January 2019. Based on forecast 2016–17 costs, levies on the market infrastructure and intermediaries sector would comprise $8.1 million (17%) is proposed to be recovered from Australian market licence holders, $2.1 million (5%) from clearing and settlement facility providers, $1.3 million (2%) from exempt markets, $0.4 million (1%) from trade repositories, $0.2 million (1%) from credit rating agencies, $19.0 million (40%) from market participants, $9.7 million (20%) from investment banks, $4.0 million (8%) from retail OTC derivatives issuers, $2.9 million (6%) from securities dealers and $0.1 million (0%) from wholesale electricity dealers (see **Figure 12** below).

Figure 11: Costs to regulate the market infrastructure and intermediaries sector

By activity	**Total $m**
Stakeholder engagement	2.3
Education	0.3
Guidance	1.8
Surveillance	20.2
Enforcement	15.8
Policy advice	2.0
Total operating costs	42.4
Capital allowance	2.9
Historic market supervision costs	2.5
Total costs to be recovered via a levy	**47.8**

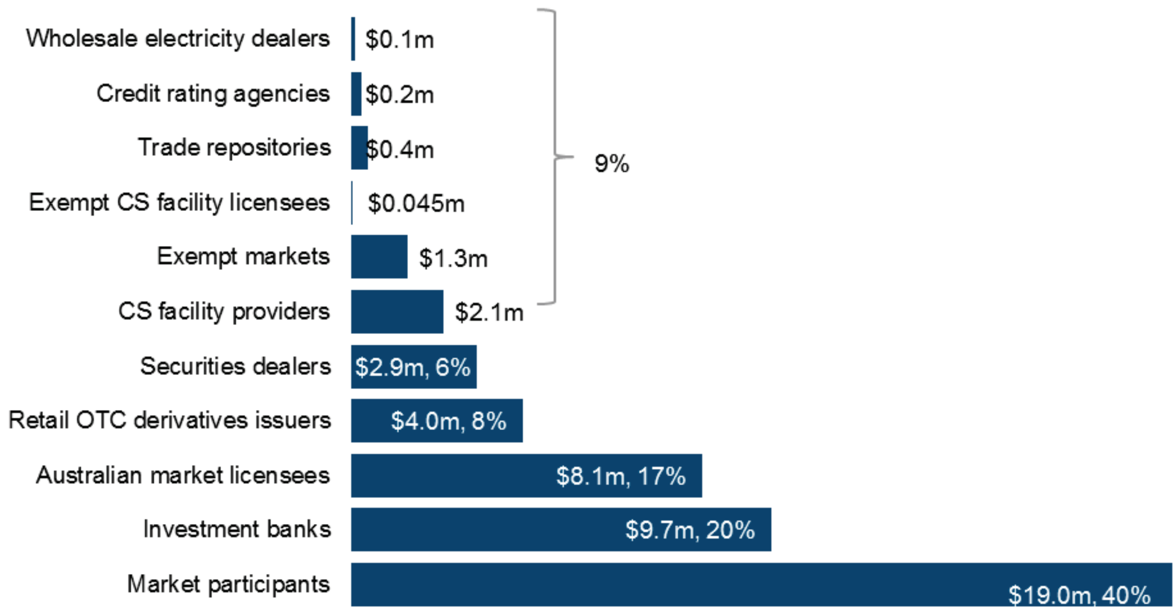
By expense type	**$m**
Direct employee expenses	24.6
Direct supplier expenses	7.6
IT costs	4.5
Indirect expenses	1.5
Property	4.2
Capital allowance	2.9
Historic market supervision costs	2.5
Total	**47.8**

Table 19: Subsectors and entities in the market infrastructure and intermediaries sector

Subsector	Number of entities
Australian market licensees – domestic	12
Australian market licensees – foreign	6
Clearing and settlement (CS) facility licensees	7 (operating 8 facilities)

Subsector	Number of entities
Exempt markets	26
Exempt clearing and settlement facilities	1
Trade repositories	3
Credit rating agencies	7
Market participants	133
Securities dealers	2,840
Investment banks	Estimated to be 570
Retail OTC derivatives issuers	65
Wholesale electricity dealers	59

Figure 12: Regulatory costs for the market infrastructure and intermediaries sector in 2016–17



Market infrastructure providers

152 MIPs are entities that are Australian market licensees, clearing and settlement (CS) facility licensees, Australian derivative trade repository licensees, credit rating agencies and entities that otherwise hold an exemption from the requirement to hold a licence (exempt MIPs).

153 ASIC's supervision of MIPs is critical to the operation of Australia's financial markets. ASIC's role is to oversee MIPs' compliance with their obligations under the financial services laws, the discharge of which plays a central role in ensuring investor trust and confidence in Australia's financial markets .

154 As part of its role, ASIC undertakes routine reviews of the performance and compliance of MIPs, which includes real-time front-line supervision of trading on licensed domestic markets, periodic assessments, strategic market wide and individual entity reviews, ongoing engagement and periodic remediation.

155 ASIC's role also includes the provision of strategic and implementation advice to Government and providing regulatory guidance to industry, including guidance on standards.

156 In 2016–17, ASIC will undertake a range of ongoing and future initiatives in this respect, which include:

(a) continuing work with other Council of Financial Regulators agencies on the proposal to institute a regulatory framework in Australia for benchmark administrators

(b) supporting the implementation of any changes associated with the Government decision on competition in equities clearing

(c) supporting delivery of an effective recovery and resolution regime for Australian CS facility licensees, and trade repositories

(d) continuing to progress the project to consolidate the various ASIC Market Integrity Rules rulebooks

(e) undertaking various reviews and assessments with particular focus on standard setting and compliance on the administration of listings functions and conflict management

(f) finalising the arrangements for conducting surveillance of OTC data from trade repositories – as part of our work on OTC derivatives reform

(g) developing and implementing standards relating to technology changes and technology management

(h) continuing work on standard setting on cyber resilience

(i) undertaking industry consultation on updates to the new financial market licensing framework in Australia. This is important to ensuring Australia's licensing regime continues to be fit for purpose and is able to accommodate new market types and business models that will emerge in the future.

157 In 2016–17, ASIC will review the compliance of credit rating agencies with their obligations under the Corporations Act.

Market intermediaries

158 Market intermediaries (market participants and securities dealers) generally give effect to the trading behaviour that creates demand for market supervision and have a recognised ‘gatekeeper’ role in the Australian regulatory regime. ASIC supervises market intermediaries’ compliance with the Corporations Act and ASIC Market Integrity Rules and ensures intermediaries are meeting their AFS licence conditions. Where potential market misconduct is detected, ASIC conducts investigations and may take enforcement action.

159 In 2016–17, ASIC will continue to promote better conduct by market intermediaries, including through:

(a) real-time surveillance and supervision of activity on Australia’s financial markets

(b) providing guidance on good practices in relation to managing confidential information and conflicts of interest in research and corporate advisory, and identifying and facilitating remediation of inappropriate practices

(c) working to enhance their understanding of the level of market intermediaries’ implementation of conduct risk policies and procedures, and incorporating the insights gathered into future surveillances

(d) continued work on standard setting on cyber resilience.

160 ASIC will also enhance their Market Analysis Intelligence (MAI) system that will enable it to analyse transaction data for patterns and relationships, and incorporate transaction reporting data relating to OTC derivatives. ASIC’s Enhanced Investigative Analysis (EIA) system will help with building evidence for investigations, create event chronologies and enable ASIC’s surveillance and enforcement teams to identify connections across matters. ASIC will provide feedback to entities and industry on the data gathered from surveillances, and highlight critical areas of concern.

161 In 2016–17, ASIC will also developing ASIC's position on capital requirements for market participants in parallel with the ASX Group review (and assistance from the Reserve Bank of Australia).

Investment banks

162 Investment banks act as intermediaries in the equity and debt capital markets, advise on mergers and acquisitions and also issue and trade financial products in over the counter markets. These activities require supervision to support trust and confidence in wholesale markets. ASIC supervises investment banks’ compliance with the Corporations Act and ensures they are meeting their AFS licence conditions or conditions of any exemptions from holding an AFS licence. Where potential misconduct is detected, ASIC conducts investigations and may take enforcement action.

163 In 2016–17, ASIC will continue to promote better conduct by investment banks, including through:

(a) conducting surveillances focused on the appropriate handling of confidential information and conflicts of interest, and facilitating remediation of inappropriate practices through issuing guidance and/or taking enforcement action

(b) encouraging adoption of appropriate conduct risk policies and procedures and conducting surveillances to gain insight into the implementation of such policies and procedures

(c) continuing work on standard setting on cyber resilience

(d) progressing ASIC's Sound Remuneration Policies Model survey of major investment banks, including consideration of how this work can be extended to include other market intermediaries.

Retail OTC derivative issuers

164 ASIC regulates the conduct and disclosure of issuers of retail OTC derivatives in Australia, including products such as margin FX, CFDs and binary options.

165 In 2016–17, ASIC will continue its reactive surveillance of the industry which arises from complaints or intelligence received from investors, industry and other regulators (both Australian and overseas). This reactive surveillance work may also be driven as a consequence of key market events (previous examples of such events include the Swiss Franc event and the Brexit).

166 Other business as usual work that will be undertaken regarding the retail OTC derivative industry includes:

(a) providing input, advice and assistance to other regulators and government bodies both in Australia and overseas

(b) implementing any relevant law reform.

167 In 2016–17, ASIC will also:

(a) undertake a project to collect key metrics about the industry to provide certainty as to the size and potential risks posed by the sector and to drive its risk-based surveillance.

(b) consider any emerging risks which may include counterparty concentration risk and liquidity risk issues that may have arisen since the withdrawal of some liquidity providers in the industry since the Swiss Franc event.

(c) review whether further regulatory guidance and policy is appropriate in relation to binary options or other emerging high-risk financial products, and consider other potential significant risks to investors.

168 ASIC will also continue to liaise with industry to ensure clear expectations are set and to assist in raising standards across the industry.

Wholesale electricity dealers

169 Many participants in the electricity sector deal or make a market in OTC derivatives relating to the wholesale price of electricity. They are therefore required to hold an AFS licence with appropriate authorisations. ASIC has primary responsibility for regulatory oversight of this aspect of their business.

170 Stakeholders in this sector include entities such as electricity generators, retailers, distributors, renewable energy providers, gas providers and commodity traders (including some investment banks). The substantive operational businesses of these stakeholders are also subject to regulation by three other regulators — the Australian Energy Market Commission, the Australian Energy Regulator and the Australian Energy Market Operator.

171 In 2016–2017, ASIC will continue its reactive surveillance work of this industry which primarily arises from breach reports regarding compliance with Australian financial services law. Other business as usual work that will be undertaken includes providing input, advice and assistance to other regulators and government bodies both in Australia and overseas.

Proposed levy methodologies

Market infrastructure providers

172 ASIC currently recovers around $4 million from domestic market licensees through fees charged under the current Market Supervision Cost Recovery Regime. These market licensees have been subject to the cost recovery arrangements for ASIC’s market supervision activities since August 2010.

173 This $4 million recovers ASIC’s costs for:

(a) performing market supervision functions following their transfer from market operators to ASIC

(b) regulating the market after the introduction of market competition for trading in ASX listed securities and maintaining the supporting regulatory framework

(c) continued implementation of ASIC’s Enhanced Market Supervision (EMS) programme of works.

174 Under the proposed cost recovery model, $11.9 million will be recovered from MIPs, including CS facility licensees, trade repository licensees, foreign market licensees in Australia and exempt market and exempt CS facility licensees. This will recover all ASIC’s costs to regulate MIPs, including stakeholder engagement, education, guidance, surveillance, policy advice and capital expenditure.

175 The holders of multiple licences would pay a levy for each category of licence that they hold and for each market they operate or facility they provide.

176 As part of the transition towards a broader industry funding model for ASIC, it is proposed that the Market Supervision Cost Recovery arrangements for ASIC will continue until the proposed industry funding model is in place. Once in place, the amounts currently cost recovered under the Markets Supervision Cost Recovery regime (around $20 million per year), will cease and be replaced with the new levies or fees. (See Chapter 4 of the Government's Proposals Paper for further detail).

Australian market licensees

177 For domestic market licensees ASIC's activities include real-time front-line supervision of trading, market assessments, strategic market reviews, ongoing engagement and periodic remediation reviews.

178 For foreign market licensees, ASIC's work includes reviewing annual reports, monitoring changes in market structure, monitoring regulatory developments and undertaking periodic engagement with regulators in their home jurisdiction to ensure equivalence of regulatory outcomes and advice and guidance on licensing and the scope of activities.

179 For large equity market operators, a levy is proposed based on the number of transactions and messages in proportion to that of all entities in that market (as is the current methodology under ASIC's Market Supervision Cost Recovery).

180 A flat levy is proposed for large futures markets, small equity and futures market operators (including small equity market operators with a self-listing function only), small derivatives operators and foreign market operators. The proposed flat levy is based on the number of entities in the market or the number of markets operated.

181 Definitions of each category of market licensee are set out in the Government's Proposal Paper.

Table 20: Proposed levy arrangements – Australian market licensees

Subsector	Number of entities	Proposed annual levy*	Amount to be recovered
Large equity market operators	2	Graduated based on transactions and messages	$4.8 million
Large futures market operator	1	$1,400,000	$1.4 million
Small equity market operator	3	$200,000	$0.6 million
Small derivatives market operators	4 entities operating 11 markets	$50,000 per market	$0.55 million
Small equity market operator with self-listing function only	1	$45,000	$0.045 million
Small futures market operator	1	$200,000	$0.2 million
Foreign market operator	6	$90,000	$0.54 million

*Annual levy amounts have been rounded.

182 Submissions raised the concern that the August 2015 consultation paper levies will act as a significant barrier to new entry and innovation and could also lead to an exit from the Australian market for market licensees with marginal profitability. Some submissions also noted that market operators perform a function that has benefits for the broader Australian economy and should not bear the full cost of ASIC regulation.

183 Cost recovery principles require those who receive the benefit of regulation to bear to the cost. The main beneficiaries of ASIC's market regulation are MIPs who derive significant value from their licence and the strong internationally recognised regulatory environment under which they operate. Consistent with the Government's cost recovery guidelines, MIPs should be charged for this activity.

Clearing and settlement facility licensees

184 For CS facility licensees, ASIC's work includes assessment of the facility against statutory obligations, reviewing annual reports of overseas licensees, policy development and reform, guidance and advice for licensees and ensuring jurisdictional compliance with international standards.

185 The proposed levies for CS facility licensees are based on categories which reflect guidance of the RBA and ASIC on '*Application of the Regulatory Influence Framework for Cross-border Central Counterparties*'. Definitions of each tier are provided in the Government's Proposals Paper. Flat levies are proposed for entities in each tier as the costs are generally similar for each entity in a category.

Table 21: Proposed levy arrangements – Clearing and settlement facility licensees

Subsector	Number of facilities	Annual levy per facility*	Amount to be recovered
Tier 1: systemically important, strong domestic connection	4	$436,000	$1.7 million
Tier 2: systemically important, not domestically connected	1	$200,000	$0.2 million
Tier 3: entry level	2	$80,000	$0.16 million
Tier 4: clears and settles transactions only in its own ordinary shares only	1	$45,000	$0.045 million

*Annual levy amounts have been rounded.

186 A small number of submissions viewed the levies for CS facility licensees in the August 2015 consultation paper as not supporting small to medium businesses. The proposed division into four tiers for CS facility licensees is designed to address this concern.

Trade repositories

187 For trade repositories, ASIC's work includes surveillance of data integrity and compliance with the derivative trade repository rules, assessment of each entity's annual compliance report, guidance on applicable trade repository rules and oversight of breach reporting, remediation and related enforcement activity.

188 To recover ASIC's costs for regulating trade repositories, a flat levy is proposed as ASIC's regulatory activity and effort is relatively similar for each regulated trade repository. This is consistent with the approach proposed in the August 2015 consultation paper.

189 Submissions did not raise concerns for the proposed flat levies on trade repositories.

Table 22: Proposed levy arrangements – Trade repositories

Subsector	Number of entities	Proposed annual levy*	Amount to be recovered
Trade repositories	3	$140,000	$0.42 million

* Annual levy amount has been rounded.

Exempt MIPs

190 There are currently two types of exempt MIPs: entities that are exempt from holding a market licence and entities that are exempt from holding a CS facility licence.

191 ASIC's work for exempt MIPs includes:

(a) reviewing trading volumes

(b) monitoring changes in market structure, where relevant

(c) monitoring regulatory developments in their home jurisdiction to ensure equivalence of regulatory outcomes

(d) advice and guidance the scope of activities

(e) reviewing periodic reports, and

(f) compliance with conditions of authorisation.

192 For exempt MIPs, a flat levy is proposed based on the number of exempt operators as this is the main driver of ASIC's costs for this subsector. This is consistent with the approach proposed in the August 2015 consultation paper.

193 Submissions did not raise concerns regarding the proposed flat levies for exempt markets.

Table 23: Proposed levy amounts – Exempt MIPs

Subsector	Number of entities	Proposed annual levy*	Amount to be recovered
Exempt market licensee	26 entities (operating 28 exempt markets)	$45,000 per market	$1.3 million
Exempt CS facility licensee	One entity (operating one exempt CS facility)	$45,000 per facility	$0.045 million

*Annual levy amounts have been rounded.

Credit rating agencies

194 Flat levies have been proposed to recover the costs from credit rating agencies.

195 A flat levy is proposed as a small amount of ASIC's regulatory effort is expended on this subsector. It was also considered that a tiered or graduated levy would impose an additional reporting burden and complexity in the model which would offset the benefits of a graduated model.

Table 24: Proposed levy arrangements – Credit rating agencies

Subsector	Number of entities	Proposed annual levy	Amount to be recovered
Credit rating agencies	7	$34,000	$0.2 million

* Annual levy amount has been rounded.

196 The August 2015 consultation paper proposed a model where a two tier levy is based on whether the agency has a condition on its AFS licence to comply with the IOSCO *Code of Conduct Fundamentals for Credit Rating Agencies*. Levies were proposed to be tiered depending on whether a credit rating agency is subject to, or exempt from, IOSCO Supervisory College membership. However, to ensure greater simplicity in the model, a flat annual levy is proposed for this subsector. Submissions from industry did not comment on the proposed funding model for credit rating agencies.

Market intermediaries

197 Market participants are currently paying $16.2 million under ASIC's Market Supervision Cost Recovery regime, which has been in place since 2010. This recovers costs for market supervision functions ASIC undertook from the transfer of market supervision from the ASX.

198 Under industry funding it is proposed the Government will recover $19 million from market participants. The Government will also recover $2.9 million from securities dealers, $9.7 million from investment banks, $4.0 million from retail OTC derivatives issuers and $0.1 million from wholesale electricity dealers. This will recover all of ASIC's costs for these subsectors, including stakeholder engagement, education, guidance, surveillance, enforcement and policy advice.

Market participants

199 Market participant costs are proposed to be recovered through a fixed levy from all market participants and a variable levy (payable only by participants in cash equity and futures markets) scaled relative to the proportion of transaction and message counts each market operator reports to ASIC and is recognised by ASIC's market surveillance system. This is generally consistent with ASIC's Market Supervision Cost Recovery approach, which currently recovers market participant costs only from cash equity market participants, and was the approach in the August 2015 consultation paper.

Table 25: Proposed levy arrangements – Market participants

Subsector	Number of entities	Proposed fixed component	Proposed variable component	Amount to be recovered
Market participants	133	$9,000	$9,000 plus $0.02 per transaction plus $0.002 per message	$19.0 million

200 Submissions generally supported the proposed transaction and message based model for market participants. Some stakeholders regarded the fixed levy of $15,500 in the August 2015 consultation paper as a potential barrier to entry for smaller participants, which could reduce competition in the sector.

201 ASIC proposes to address these concerns by reducing the fixed levy component to $9,000 — a reduction of 43% relative to the August 2015 consultation paper, and only a minor increase on the fixed fee currently paid of $7,620 per annum ($1,905 per quarter) under the Market Supervision Cost Recovery regime.

Securities dealers

202 The Government proposes to recover $2.9 million from securities dealers.

203 It is proposed a graduated levy will apply based on annual transaction value attributable to each securities dealer compared to the total annual transaction value of all securities dealers. ASIC proposes that a minimum levy will apply to all securities dealers reflecting ASIC's fixed cost to regulate an entity with an authorisation to deal in securities. The proposed levy will impose no additional reporting burden on securities dealers as it will be calculated by ASIC using data from its Market Analysis and Intelligence (MAI) surveillance system.

Table 26: Proposed levy arrangements – Securities dealers

Subsector	Number of entities	Proposed fixed component	Proposed variable component	Amount to be recovered
Securities dealer	2,840	$250	$250 plus $0.34 per $10,000 of annual transaction turnover	$2.9 million

204 Submissions did not oppose the flat levy for securities dealers proposed in the August 2015 consultation paper, however noted many financial advisers also hold the authorisation to deal in securities and may cease to hold the authorisation where it is ancillary to their core business. This would reduce the number of entities subject to the securities dealer levy and could increase the quantum of the levy in the second year of the model.

Crowd-sourced equity funding

205 In future, once the proposed crowd-sourced equity funding initiative is implemented, it is proposed that entities facilitating capital raising under these provisions will be required to hold an AFS licence with a new authorisation and therefore may be subject to a separate levy linked to ASIC’s effort in regulating this group.

Investment banks

206 The Government proposes to recover $9.7 million from the investment banking subsector.

207 Submissions showed an interest from stakeholders to have a graduated model apply more broadly. This would ensure levies for entities are more closely aligned to the level of supervision (however would increase complexity in the model and the reporting burden on entities).

208 It is proposed that costs relating to investment banks will be recovered through:

(a) a $1,000 fixed levy on all entities generating Australian sourced revenue from investment banking activities, and

(b) a graduated levy based on the group’s share of total Australian sourced revenue from those activities above $100,000.

209 The proposed minimum fixed levy will reflect ASIC’s fixed cost to regulate an entity undertaking investment banking activity.

Table 27: Proposed levy arrangements – Investment banks

Subsector	Number of entities	Proposed fixed component	Proposed variable component	Amount to be recovered
Investment banks	Estimated to be 570	$1,000	$1,000 plus a graduated levy based on the group’s share of total Australian sourced revenue from investment banking activities above $100,000	$9.7 million

210 The August 2015 consultation paper proposed a three tier levy based on revenue and assets of the AFS licence under which the investment bank operates. Stakeholders opposed the consultation model as revenue and assets reported by the AFS licensee would not reflect investment banking activity and the level of supervision ASIC undertakes for these entities.

Retail OTC derivative issuers

211 ASIC proposes to recover the costs relating to retail OTC derivatives issuers through a flat levy in 2017–18. In the future the model may move to a graduated levy based on transaction reporting data from derivative transaction reporting, however this is not proposed in 2017–18 due to issues with data currently reported.

Table 28: Proposed levy arrangements – Retail OTC derivative issuers

Subsector	Number of entities	Proposed annual levy*	Amount to be recovered
Retail OTC derivative issuers	65	$61,400	$4.0 million

*Annual levy amount has been rounded.

212 The August 2015 consultation paper proposed a two tiered levy for retail OTC derivative issuers based on the amount of net tangible assets (NTA) required to be held by the entity under ASIC Class Order CO [12/752] *Financial requirements for retail OTC derivative issuers*. Feedback from submissions was this model is not correlated to risk or ASIC's level of regulatory oversight and could impact on an entity's decision on the amount of NTA held, and a more appropriate model would be based on transaction data from retail OTC derivative issuers.

Wholesale electricity dealers

213 A flat levy is proposed to recover the costs from wholesale electricity dealers.

214 A flat levy is proposed as a small amount of ASIC's regulatory effort is expended on this subsector. In addition, a tiered or graduated levy would impose an additional reporting burden and complexity in the model which would offset the benefits of a graduated model.

Table 29: Proposed levy arrangements – Wholesale electricity dealers

Subsector	Number of entities	Proposed annual levy*	Amount to be recovered
Wholesale electricity dealers	59	$1,600	$100,000

*Annual levy amount has been rounded.

Australian Market Regulatory Feed (AMRF)

215 The AMRF is a messaging protocol. It allows for order and transaction information to be provided to ASIC in real time. The AMRF is critical to ASIC's regulation of market participants and MIPs.

216 When a new product or systems change is proposed by a MIP, ASIC performs a detailed analysis of the potential impact of that product or change on the AMRF. This can cost up to $200,000.

217 The August 2015 consultation paper sought feedback on two proposals to recover the costs of AMRF changes.

(a) Option 1: AMRF changes will be funded by all MIPs through their annual levies. This shared cost approach would mean first movers are not punished as the MIP that developed the new product would not bear the entire financial burden for the AMRF upgrade while rival MIPs would be able to launch identical products without being charged.

(b) Option 2: AMRF changes will be funded by the market operator that has required the update to be made. This would result in lower levies for all MIPs, but would result in a large fee for the relevant provider when an update to the AMRF is required. The August 2015 consultation paper noted this could discourage product and market innovation through punishing first movers with a high upfront cost.

218 There were a limited number of submissions that commented on the AMRF. Of those that did submissions supported the first approach, where AMRF changes are funded by all MIPs through their annual levies with submissions noting this would lessen the financial impact on innovators or first movers.

219 ASIC’s preference is to implement Option 1.

Interaction with Markets Supervision Cost Recovery

220 It is proposed that the Market Supervision Cost Recovery arrangements for ASIC will continue until the commencement of a new industry funding model for ASIC. Once the industry funding model has commenced, the amounts currently cost recovered from industry will cease to be recovered under those arrangements and be replaced with levies or fees on the appropriate sector.

221 For 2016–17, the amount to be recovered under these arrangements is budgeted to be:

Table 30: Market Supervision Cost Recover – Amounts to be recovered

Cost recovery from sector	Amount to be recovered
Market operators	$4.0m
Market participants	$16.26m
Total	**$20.26m**

222 In addition, there are approximately $15 million of historic market supervision set up costs that will be recovered from 2017–18 to 2019–20.

Market Entity Compliance System (MECS) costs

223 As noted in the ASIC Market Supervision CRIS (2015–16 and as updated at 1 July 2016), no MECS costs will be recovered under those arrangements for the two years from 1 July 2015 to 30 June 2017.

224 With the implementation of industry funding cost recovery arrangements MECS costs will be recovered from 1 July 2017. Under industry funding, it is proposed that 48% of these costs will be recovered from market participants, 15% from both public listed disclosing companies and investment banks, 5% each from domestic Australian market licensees, Responsible Entities, superannuation trustees and wholesale trustees, and 2% from securities dealers.

225 ASIC proposes to share the MECS costs with those sectors driving the need for ASIC's regulation.

Examples of proposed levies

Example 10

Company J is a large proprietary company with an AFS licence and operates as a credit rating agency. Company J is authorised to provide general advice to wholesale and retail clients.

Company J's indicative annual levy is:

The levy for large proprietary companies:	$350
The levy for being an authorised credit ratings agency:	$34,000
The levy for being a general advice provider:	$920
Total indicative levy payable by Company J:	**$35,270**

Example 11

Company H is a large proprietary company that holds an AFS licence and is a market participant and retail OTC derivative issuer. As a market participant, they were responsible for 330,000 messages and 200,000 transactions during the financial year.

Company H's indicative annual levy is:

The levy for large proprietary companies	$350
A levy for being an authorised retail OTC derivatives issuer	$61,400
A fixed levy for being an authorised market participant	$9,000
A variable levy based on messages and transactions ($0.002 per message) ($0.02 per transaction) for being an authorised market participant	$4,660 ($0.002 x 330,000 + $0.02 x 200,000)
Total levy payable by Company H:	**$75,410**

Example 12

Company I is an investment bank with annual investment banking revenue of $1 billion (10% of industry investment banking revenue). ASIC's costs to be recovered from a graduated levy on investment banks are $9.1 million for the year.

The company is public and listed on an Australian financial market with a market capitalisation of $20 billion. The company also has an AFS licence and is a margin lender, wholesale advice provider and payment product provider.

Company I's indicative annual levy is:

The maximum levy for public companies (listed, disclosing)	$662,000
The minimum levy for an investment bank	$1,000
A graduated levy based on investment banking revenue relative to industry revenue	$910,000 (10% x $9.1 million)
The levy for being a margin lender	$11,100
The levy for being a wholesale advice provider:	$170
The levy for being a payment product provider:	$9,000
Total indicative levy payable by Company I:	**$1,593,270**

G Financial advice

Description of ASIC's regulatory activities

226 The financial advice sector consists of AFS licensees with an authorisation to provide financial product advice to retail and/or wholesale clients. This includes:

(a) licensees that provide personal advice to retail clients (personal advice providers)

(b) licensees that provide general advice only to retail and wholesale clients (general advice providers)

(c) licensees that provide personal advice to wholesale clients only (wholesale advice providers) (see **Table 31**).

227 In 2016–17, ASIC's forecast effort to regulate the financial advice sector is expected to cost $24.0 million (see **Figure 13**). This is 10% of ASIC's budget for regulatory activities and is proposed to be recovered through levies on the financial advice sector.

228 ASIC will issue invoices to recover its 2017–18 costs in January 2019. Based on forecast 2016–17 costs, levies on the financial advice sector would comprise $22 million (92%) is proposed to be cost recovered from personal advice providers on Tier 1 products, $0.9 million (4%) from personal advice providers on Tier 2 products, $0.8 million (3%) from general advice providers and $0.2 million (1%) from wholesale advice providers (see **Figure 14**).

Figure 13: Costs to regulate the financial advice sector

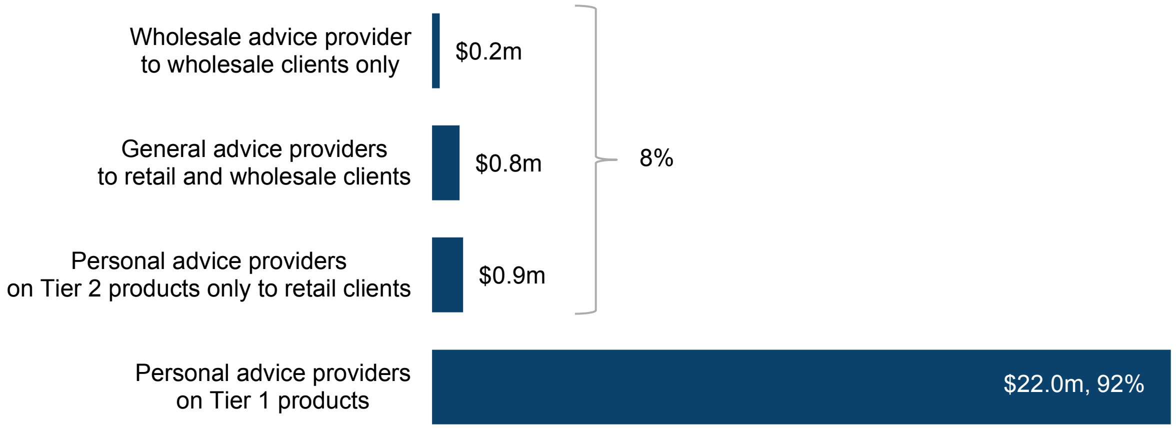
By activity	**Total $m**
Stakeholder engagement	0.5
Education	1.2
Guidance	0.9
Surveillance	6.9
Enforcement	12.2
Policy advice	0.8
Total operating costs	22.5
Capital allowance	1.5
Historic market supervision costs	-
Total costs to be recovered via a levy	**24.0**

By expense type	**$m**
Direct employee expenses	13.1
Direct supplier expenses	4.0
IT costs	2.4
Indirect expenses	0.8
Property	2.2
Capital allowance	1.5
Historic market supervision costs	-
–	**24.0**

Table 31: Subsectors in the financial advice sector

Subsector	Number of entities
Personal advice providers on Tier 1 products to retail clients	2,150 licensees with 23,000 advisers
Personal advice providers on Tier 2 products only to retail clients	614 licensees
General advice provider to retail and wholesale clients	898 licensees
Wholesale advice provider to wholesale clients only	1,370 licensees

Figure 14: Regulatory costs for the financial advice sector in 2016–17



229 ASIC's regulation of the financial advice sector is focused on promoting investor and financial consumer trust and confidence by holding gatekeepers (that is, financial advisers) to account.

230 ASIC's work includes monitoring financial advisers' compliance with their advice conduct obligations under the Corporations Act, identifying breaches of the Corporation and ASIC Acts, and enforcement. ASIC also engages with stakeholders to ensure risks are identified and addressed and provides guidance to financial advisers regarding their legal obligations.

231 In 2016–17, ASIC will focus on:

(a) reviewing conflicted advice and compliance standards, including in vertically integrated advice businesses

(b) improving the quality of advice provided by large financial institutions and promoting fair treatment of their past and present customers. This includes completing a review of fees for no service breaches

(c) promoting better life insurance advice through continuing ASIC's work on reviewing life insurance Statements of Advice (SOAs), and undertaking a surveillance of life insurance advisers reported under exception reporting by life insurers to test whether the advice they have provided to consumers complies with the law

(d) continuing to support the transition to a professional advice industry by commencing a 'shadow shop' to assess the current quality of advice and supporting the Government's initiatives to improve the professional standards of financial advisers.

232 ASIC will also provide guidance to industry about compliance with their obligations and/or to clarify expectations and standards. For example, in 2016–17, ASIC will publish an information sheet explaining how the law applies to accountants offering financial advice.

233 In 2016–17, ASIC finalised its digital advice policy and published Regulatory Guide 255 *Providing digital financial product advice* in August 2016. ASIC will commence surveillance of industry's compliance with the new digital advice policy in 2017–18.

234 In 2016–17, ASIC will also contribute to the Government's proposed reforms to raise advisers' education, training and ethical standards, including updating guidance for Tier 2 and general advice and providing guidance on the Codes of Ethics once the reforms have been implemented.

Proposed levy methodologies

235 For AFS licensees who provide personal advice on Tier 1 products to retail clients, ASIC proposes to charge a levy based on the number of advisers registered on the Financial Advisers Register (FAR). This is because the greater the number of advisers the larger the number of clients able to be serviced and the higher the level of regulatory oversight required by ASIC.

236 There is a subsector of licensees who provide digital or automated financial product advice who are often called robo-advice providers. ASIC considers robo-advice (also known as digital advice) is the provision of automated financial product advice using algorithms and technology and without the direct involvement of a human adviser.

237 Robo-advice is a developing area. ASIC is supportive of innovation and does not propose to charge a separate levy on robo-advice providers under the model at this time. In future, a levy may also be charged for robo-advice providers. In the meantime, ASIC proposes to deem robo-advice licensees who provide personal advice on Tier 1 products (and who do not have an adviser on the FAR because they only provide digital advice) to hold at least one adviser on the FAR to ensure they are captured by the personal advice provider on Tier 1 products levy. Where robo-advice licensees only provide general advice or wholesale advice, they will be required to pay the relevant flat levy for these subsectors.

238 Flat annual levies are proposed for the remaining financial advice subsectors. The level of ASIC regulatory effort required for these entities is generally similar for entities in each subsector. The flat levy approach is consistent with that proposed in the August 2015 consultation paper.

Table 32: Proposed levy arrangements – Financial advice sector

Subsector	Number of entities	Proposed annual levy*	Amount to be recovered
Personal advice providers on Tier 1 products	2,150 licensees (23,000 advisers)	$960 x number of advisers listed on the Financial Advisers Register	$22 million
Personal advice providers on Tier 2 products only to retail clients	614 licensees	$1,500 flat levy	$0.9 million
General advice provider to retail and wholesale clients	898 licensees	$920 flat levy	$0.8 million
Wholesale advice provider to wholesale clients only	1,370 licensees	$170 flat levy	$0.2 million

*Proposed annual levy amounts have been rounded.

239 The August 2015 consultation paper proposed a levy on financial advice providers on Tier 1 products that involved a fixed component of $1,350 and a variable component of $470 per adviser. Submissions strongly opposed this model due to concerns it would place a larger burden on smaller licensees relative to larger licensees due to the fixed component. This concern has been addressed by moving to a fully variable levy.

240 Submissions did not raise concerns regarding the flat levies for other entities in the financial advice sector.

241 It is proposed that the flat levies be increased by around 70-100% from the levies outlined in the August 2015 consultation paper. The proposed levies have increased because ASIC proposes to remove the base levy and levy per authorisation of $250 for AFS licensees and incorporate the costs into the levies for AFS licensees. Submissions opposed the base levy and levy per authorisation. For further information on stakeholder feedback see Chapter 6 of the Government's Proposals Paper.

Examples of proposed levies

Example 13

Company K is a small proprietary company providing financial advice with five employees who are registered financial advisers on the financial adviser register (FAR).

Company K's indicative annual levy is:

The levy for small proprietary companies	$5
A levy for of $960 for each financial advice provider registered on the FAR	$4,800
Total indicative levy payable by Company K:	**$4,805**

H Insurance

Description of ASIC's regulatory activities

242 The insurance sector consists of AFS licensees including life and general insurance product issuers, insurance product distributors (insurance brokers) and risk management product providers (see **Table 33**).

243 In 2016–17, ASIC's forecast effort to regulate the insurance sector is expected to cost $5.5 million (see **Figure 15**). This is 2% of ASIC's budget for regulatory activities and is proposed to be recovered through levies on the insurance sector.

244 ASIC will issue invoices to recover its 2017–18 costs in January 2019. Based on forecast 2016–17 costs, levies on the insurance sector would comprise $4.1 million (75%) is proposed to be recovered from insurance product providers, $1.1 million (20%) from insurance product distributors and $0.2 million (5%) from risk management product providers (see **Figure 16**).

Figure 15: Costs to regulate the insurance sector

By activity	Total $m
Stakeholder engagement	0.3
Education	0.9
Guidance	0.2
Surveillance	2.7
Enforcement	0.7
Policy advice	0.3
Total operating costs	5.1
Capital allowance	0.4
Historic market supervision costs	-
Total costs to be recovered via a levy	**5.5**

By expense type	$m
Direct employee expenses	3.0
Direct supplier expenses	0.9
IT costs	0.5
Indirect expenses	0.2
Property	0.5
Capital allowance	0.4
Historic market supervision costs	-
Total	**5.5**

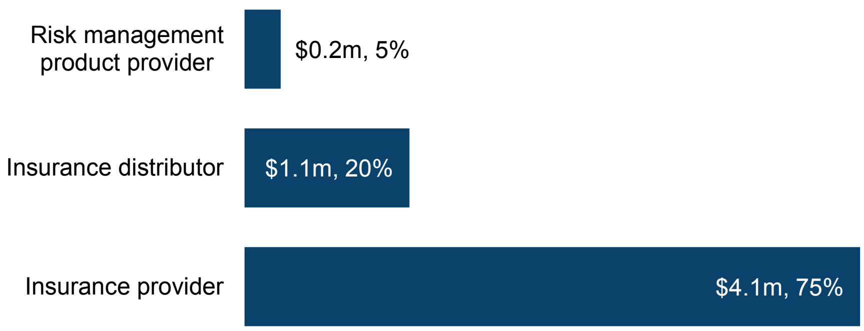
245 In this sector ASIC has focused on the mis-selling of inappropriate products, with a particular focus on products sold to vulnerable consumers. ASIC's work has included publishing market snapshots of some insurance subsectors, such as funeral insurance, and taking action in relation to misleading advertising and other poor practices. ASIC has also published consumer guidance on common insurance products on ASIC's MoneySmart website.

246 In 2016–17, ASIC will review the current practices in the life insurance industry, with a focus on claims handling and consumer outcomes and will also continue to consider other issues that arise, such as the direct sale of life insurance products. ASIC will also focus on the mis-selling of funeral and life insurance products to vulnerable consumers (including Indigenous communities).

Table 33: Subsectors in the insurance sector

Subsectors	Number of entities
Life insurance product issuers and friendly societies	27
General insurance product issuers	58
Insurance product distributors	464
Risk management product providers	55

Figure 16: Regulatory costs for the insurance sector in 2016–17



Proposed levy methodologies

Insurance product issuers

247 The effort required by ASIC to regulate insurance product issuers varies depending on whether the entity is a life insurer (or friendly society) or general insurance product issuer and the scale of operation. For example, a large general insurer, with a significant customer base presents a significantly larger risk to the broader financial system than a small general insurer with a limited number of products and customers.

248 To ensure the levies on insurance product issuers reflect ASIC's costs, ASIC is proposing to introduce:

(a) a graduated levy for general insurance product issuers based the amount of net premium revenue written in the previous financial year

(b) a graduated levy for life insurance product issuers based on the amount of net policy revenue for the previous financial year.

249 ASIC proposes that a minimum levy of $20,000 will apply for both life and general insurance product issuers reflecting ASIC's minimum cost of regulating insurance product issuers.

250 These levies will impose minimal additional reporting requirement as insurers already provide APRA with the information on which the levies will be based.

Table 34: Proposed levy arrangements – Insurance product issuers

Subsectors	Number of entities	Proposed minimum levy	Proposed variable levy	Amount to be recovered
Life insurance product issuers and friendly societies	27	$20,000 for entities with net policy revenue less than $5 million	$20,000 plus $0.59 for each $10,000 of net policy revenue above $5 million	$4.1 million
General insurance product issuers	58	$20,000 for entities with net premium revenue less than $5 million	$20,000 plus $0.59 for each $10,000 of net earned premium revenue above $5 million	

251 The August 2015 consultation paper proposed a flat levy of $31,000 for insurance product issuers. Some stakeholders were comfortable with a flat levy model due to the simplicity of that approach. However, a few submissions suggested that a proxy for scale such as written premiums could be used.

Remaining sectors

252 Flat annual levies are proposed for insurance product distributors and risk management product providers as ASIC's level of supervision is relatively similar for entities with each authorisation. This is consistent with the approach proposed in the August 2015 consultation paper.

Table 35: Proposed flat levy arrangements — remaining sectors

Subsector	Number of entities	Proposed annual levy*	Amount to be recovered
Insurance product distributor	464	$2,400	$1.1 million
Risk management product provider	55	$4,500	$0.2 million

*Proposed annual levy amounts have been rounded.

253 Submissions supported a flat levy for insurance product distributors due to the simplicity in the model and certainty for entities. Submissions did not oppose the levy for risk management product providers.

254 The proposed flat levies for these subsectors have been increased by around 60-74% from the levies proposed in the August 2015 consultation paper. The proposed levies have increased because ASIC proposes to remove the base levy and levy per authorisation of $250 for AFS licensees and incorporate these costs into the levies for AFS licensee subsectors. Submissions opposed the base levy and levy per authorisation. For further information on stakeholder feedback see Chapter 6 of the Government's Proposals Paper.

Examples of proposed levies

Example 14

Company L is a small proprietary company providing with an AFS licence and operates as an insurance broker.

Company L's indicative annual levy is:

The levy for small proprietary companies	$5
A levy for being an insurance product distributor	$2,400
Total indicative levy payable by company L:	**$2,405**

Example 15

Company M is a large proprietary limited company with an AFS licence and is authorised as an insurance product provider. The company issues general insurance products and recorded net premium revenue of $460 million in the previous financial year.

Company M's indicative annual levy is:

The levy for large proprietary companies	$350
The minimum levy for being an insurance product provider	$20,000
A levy of $0.59 per $10,000 of net premium revenue above $5 million	$26,845
Total indicative levy payable by Company M:	**$47,195**

Appendix 1: Industry funding model summary table

Table 36: Industry funding model summary table

Subsectors	Amount to be recovered	Estimated number of entities	Proposed levy metric	Proposed levy metric description	Proposed data source to calculate levies	Data source for indicative levies in ASIC's paper	Proposed levy description and estimated value
Public (listed, disclosing) companies	$48.5m	2,000	Market capitalisation	The value of a company that is traded on a licensed market, calculated by multiplying the total number of shares at close of the market by the share price at 30 June.	New reporting requirement	Bloomberg, MorningStar data as at June 2016	$4,000 minimum levy for all public listed, disclosing entities plus an estimated $0.33 per $10,000 of market capitalisation above $5 million. The maximum levy is estimated to be $662,000 for entities with a market capitalisation greater than $20 billion.
Public (unlisted, disclosing) companies	$2.8m	838	Flat levy	Flat levy	ASIC's company register	ASIC's company register	$3,350 annual levy
Public (unlisted, non-disclosing) companies	$3.1m	19,000	Flat levy	Flat levy	ASIC's company register	ASIC's company register	$170 annual levy
Large Pty Ltd companies	$3.0m	9,000	Flat levy	Flat levy	ASIC's company register	ASIC's company register	$350 annual levy
Small Pty Ltd companies	$9.7m	2.1 million	Flat levy	Flat levy	ASIC's company register	ASIC's company register	$5 annual levy

Subsectors	Amount to be recovered	Estimated number of entities	Proposed levy metric	Proposed levy metric description	Proposed data source to calculate levies	Data source for indicative levies in ASIC's paper	Proposed levy description and estimated value
Registered liquidators	$8.5m	710	Number of external administration appointments	Total number of external administration appointments accepted by the registered liquidator during the relevant financial year.	New reporting requirement (verified against Form 505 *Notification of appointment or cessation of an external administrator* lodgements)	2015–16 external administration appointments per registered liquidator	$5,000 minimum levy for all registered liquidators plus an estimated $550 per appointment
Authorised audit companies and Audit firms that audit publicly listed entities	$4.3m	125	Audit fee revenue	Total fees paid or payable to the appointed audit firm or authorised audit company that are attributable to the audit and review of the full-year and half-year financial reports for the financial year that ended during the relevant financial year of each entity with equity securities listed and any of the controlled entities of such an entity.	New reporting requirement	Data not available to estimate indicative levy	Entity's Audit Fee Revenue/Total Subsector Audit Fee Revenue x ASIC's Costs for the subsector
Registered company auditors	$0.8m	4,700	Flat levy	Flat levy	ASIC's Auditor Register	ASIC's Auditor Register	$170 annual levy

Subsectors	Amount to be recovered	Estimated number of entities	Proposed levy metric	Proposed levy metric description	Proposed data source to calculate levies	Data source for indicative levies in ASIC's paper	Proposed levy description and estimated value
Credit providers	$9.3m	1,271	Credit provided	The total amount of credit provided under credit contracts (other than small amount credit contracts) by the credit provider during the relevant financial year.	New reporting requirement	Credit written during 2014–15	$2,000 minimum levy for all credit providers plus an estimated $0.15 per $10,000 of credit provided (other than under a small amount credit contract) greater than $100 million
Small amount credit providers	$2.0m	Estimated to be 332	Credit provided under small amount credit contracts	The total amount of credit provided under small amount credit contracts by the credit provider during the relevant financial year.	New reporting requirement	Data not available to estimate indicative levy	Small amount credit providers are liable for the $2,000 minimum levy payable by all credit providers. In addition, a graduated levy is proposed based on the entity's relative share of credit provided under small amount credit contracts during the relevant financial year.
Credit intermediaries	$15.8m	5,100	Credit intermediated	The total amount of credit intermediated during the relevant financial year under credit contracts in relation to which the person provided a credit service.	New reporting requirement	Estimated from credit intermediary's Annual Compliance Certificate	$1,000 minimum levy for all credit intermediaries plus an estimated $1.14 per $10,000 of credit intermediated greater than $100 million

Subsectors	Amount to be recovered	Estimated number of entities	Proposed levy metric	Proposed levy metric description	Proposed data source to calculate levies	Data source for indicative levies in ASIC's paper	Proposed levy description and estimated value
Deposit product providers	$3.1m	258	Total deposits	Total deposits comprise transaction deposit accounts, non-transaction deposit accounts, certificates of deposit and foreign currency deposits, but exclude intra-group deposits.	New reporting requirement	APRA, Monthly Banking Statistics	$2,000 minimum levy payable by all deposit product providers plus $0.02 for each $10,000 of deposit liabilities greater than $10 million
Payment product providers	$2.4m	266	**Year 1**: Flat levy **Year 2**: revenue from payment product provider activity	**Year 1**: Flat levy, **Year 2**: Total revenue received less expenses incurred by the licensee from non-cash payment facilities the licensee has dealt in.	**Year 1**: ASIC database **Year 2**: New reporting requirement	**Year 1**: ASIC database **Year 2**: Data not available to estimate indicative levies	**2017-18**: $9,000 flat levy **2018-19**: graduated levy based on payment product provider revenue with a minimum levy payable by all payment product providers
Margin Lenders	$0.2m	22	Flat levy	Flat levy	ASIC database	ASIC database	$11,100 annual levy
Superannuation trustees	$8.5m	144	Funds under management	The total gross assets of an RSE trustee (including acting trustees) reported to APRA, as at 30 June of the relevant financial year.	New reporting requirement	APRA data for total assets (June 2015)	$18,000 minimum levy payable by all superannuation trustees plus an estimated $0.05 per $10,000 of FUM greater than $250 million

Subsectors	Amount to be recovered	Estimated number of entities	Proposed levy metric	Proposed levy metric description	Proposed data source to calculate levies	Data source for indicative levies in ASIC's paper	Proposed levy description and estimated value
Responsible entities	$23.5m	490	Funds under management	The total gross assets of each responsible entity from the entity's financial reports lodged with ASIC under section 319 of the Corporations Act.	Amended reporting requirement (digital format)	Data lodged with ASIC by responsible entities	$7,000 minimum levy payable by all responsible entities plus an estimated $0.24 per $10,000 of FUM greater than $10 million
Wholesale trustees	$13.8m	1,749	**Year 1**: Flat levy **Year 2**: Funds under management	**Year 1**: Flat levy; **Year 2**: The market value as at 30 June of the gross assets in managed investment schemes managed by the wholesale trustee.	**Year 1**: ASIC database **Year 2**: New reporting requirement	**Year 1**: ASIC database **Year 2**: Data not available to estimate indicative levies	**Year 1**: $8,000 flat levy **Year 2**: graduated levy based on FUM with a minimum levy payable by all wholesale trustees
Operators of an Investor Directed Portfolio Service	$1.6m	35	**Year 1**: Flat levy **Year 2**: Revenue from IDPS activity	**Year 1**: Flat levy; **Year 2**: Any revenue, or other amount paid or payable out of IDPS property, for the performance of the obligations imposed on the licensee as an operator of an IDPS, for the relevant financial year.	**Year 1**: ASIC database **Year 2**: New reporting requirement	**Year 1**: ASIC database **Year 2**: Data not available to estimate indicative levies	**Year 1**: $47,000 annual levy **Year 2**: graduated levy based on revenue from IDPS activity with a minimum levy payable by all operators of an IDPS
Custodians	$0.5m	861	Flat levy	Flat levy	ASIC database	ASIC database	$560 annual levy
SMSF auditors	$0.4m	6,500	Flat levy	Flat levy	ASIC database	ASIC database	$60 annual levy

Subsectors	Amount to be recovered	Estimated number of entities	Proposed levy metric	Proposed levy metric description	Proposed data source to calculate levies	Data source for indicative levies in ASIC's paper	Proposed levy description and estimated value
Traditional trustee company service providers	$0.2m	12	Flat levy	Flat levy	ASIC database	ASIC database	$20,500 annual levy
Managed Discretionary Account (MDA) operators	$0.2m	64	Flat levy	Flat levy	ASIC database	ASIC database	$3,000 annual levy
Large equity market operators	$4.8m	2	Volume of transactions and messages	Transactions are the total number of transactions executed or reported under the operating rules of the financial market operator during the relevant financial year. Messages are the total number of messages from the financial market operator during the relevant financial year.	ASIC's real time surveillance system	ASIC's real time surveillance system records of transactions and messages for 2013–14	Graduated based on the number of transactions and messages for the operator relative to the total amount for all operators
Large futures markets operators	$1.4m	1	Flat levy	Flat levy	ASIC database	ASIC database	$1.4m annual levy
Small securities markets operators	$0.6m	3	Flat levy	Flat levy	ASIC database	ASIC database	$200,000 annual levy

Subsectors	Amount to be recovered	Estimated number of entities	Proposed levy metric	Proposed levy metric description	Proposed data source to calculate levies	Data source for indicative levies in ASIC's paper	Proposed levy description and estimated value
Small futures market operators	$0.2m	1	Flat levy	Flat levy	ASIC database	ASIC database	$200,000 annual levy
Small equity market operators with self-listing function only	$0.05m	1	Flat levy	Flat levy	ASIC database	ASIC database	$45,000 annual levy
Small derivatives market operators	$0.6m	4 entities operating 11 markets	Flat levy	Flat levy	ASIC database	ASIC database	$50,000 per market
Foreign market operators	$0.54m	6	Flat levy	Flat levy	ASIC database	ASIC database	$90,000 annual levy
Trade repository licensees	$0.4m	3	Flat levy	Flat levy	ASIC database	ASIC database	$140,000 annual levy
Exempt markets	$1.3m	26 entities operating 28 exempt markets	Flat levy	Flat levy	ASIC database	ASIC database	$45,000 per market
Credit rating agencies	$0.2m	7	Flat levy	Flat levy	ASIC database	ASIC database	$34,000 annual levy

Subsectors	Amount to be recovered	Estimated number of entities	Proposed levy metric	Proposed levy metric description	Proposed data source to calculate levies	Data source for indicative levies in ASIC's paper	Proposed levy description and estimated value
Clearing and Settlement (CS) facility licensees	$2.1m	7 entities providing 8 facilities	Tiered based on systemic importance and domestic connection	Tiered based on systemic importance	ASIC database	ASIC database	**Tier 1**: $436,000 per facility **Tier 2**: $200,000 per facility **Tier 3**: $80,000 per facility **Tier 4**: $45,000 per facility
Exempt CS facility licensees	$0.045m	1	Flat levy	Flat levy	ASIC database	ASIC database	$45,000 per facility
Market participants	$19.0m	133	Volume of transactions and messages	Transactions are the total number of transactions executed on, or reported to, the cash equity markets by a participant during the relevant financial year. Messages are the total number of messages by a participant in the cash equity markets during the billing period.	ASIC's real time surveillance system	ASIC's real time surveillance system records of transactions and messages on ASX, Chi-X and ASX24 markets for 2013–14	$9,000 fixed levy payable by all market participants plus $0.02 per transaction plus $0.002 per message

Subsectors	Amount to be recovered	Estimated number of entities	Proposed levy metric	Proposed levy metric description	Proposed data source to calculate levies	Data source for indicative levies in ASIC's paper	Proposed levy description and estimated value
Securities dealers	$2.9m	2,840	Annual transaction turnover value	Total value of a securities dealer's completed transactions in securities (as measured by the buy price plus the sale price of securities) that are reported to the cash equity markets by a participant during the previous billing period.	ASIC's real time surveillance system	ASIC's real time surveillance system records of transactions and messages on ASX, Chi-X and ASX24 markets for 2015–16	$250 fixed levy payable by all securities dealers plus $0.34 per $10,000 of annual transactions turnover
Investment banks	$9.7m	Estimated to be 570	Revenue from investment banking activity	Total revenue generated from the wholesale financial services that an investment bank provides in Australia, as set out in the definition of 'investment banks'.	New reporting requirement	Data not available to estimate indicative levy	$1,000 fixed levy payable by all investment banks plus a graduated levy based on revenue from investment banking activity above $100,000 relative to total investment banking industry revenue
Retail OTC derivative issuers	$4.0m	65	Flat levy	Flat levy	ASIC database;	ASIC database;	**Year 1**: $61,400 annual levy
Wholesale electricity dealers	$0.1m	59	Flat levy	Flat levy	ASIC database	ASIC database	$1,600 annual levy

Subsectors	Amount to be recovered	Estimated number of entities	Proposed levy metric	Proposed levy metric description	Proposed data source to calculate levies	Data source for indicative levies in ASIC's paper	Proposed levy description and estimated value
Licensees that provide personal advice on Tier 1 products to retail clients	$22m	2,150 licensees with 23,000 advisers	Number of advisers on the Financial Advisers Register	Number of advisers on the Financial Advisers Register (relevant providers), as at 30 June.	ASIC's Financial Advisers Register	ASIC's Financial Advisers Register	Estimated $960 per adviser listed on the financial advisers register (with a minimum levy of $960 payable for entities with no advisers registered on the Financial Advisers Register)
Licensees that provide personal advice to Tier 2 products only to retail clients	$0.9m	614	Flat levy	Flat levy	ASIC database	ASIC database	$1,500 annual levy
Licensees that provide general advice only to retail or wholesale clients	$0.8m	898	Flat levy	Flat levy	ASIC database	ASIC database	$920 annual levy
Licensees that provide personal advice to wholesale clients only	$0.2m	1,370	Flat levy	Flat levy	ASIC database	ASIC database	$170 annual levy

Subsectors	Amount to be recovered	Estimated number of entities	Proposed levy metric	Proposed levy metric description	Proposed data source to calculate levies	Data source for indicative levies in ASIC's paper	Proposed levy description and estimated value
Insurance product issuers	$4.1m	85	General insurers: net premium revenue Life insurers: net policy revenue	General insurance: net premium revenue comprises of total premium revenue less outwards reinsurance expense relating to current and prior years' cover. Life insurance: Net policy revenue comprises policy revenue net of outward reinsurance premiums.	New reporting requirement	APRA, General Insurance Institution-level Statistics, June 2015 APRA, Life Insurance Institution-level Statistics, June 2015	$20,000 minimum levy payable by all insurance product providers plus an estimated $0.59 for each $10,000 of net premium revenue or net policy revenue above $5 million
Insurance product distributors	$1.1m	464	Flat levy	Flat levy	ASIC database	ASIC database	$2,400 annual levy
Risk management product providers	$0.2m	55	Flat levy	Flat levy	ASIC database	ASIC database	$4,500 annual levy

J Appendix 2: Forms that are proposed to have fees removed

Table 37: Forms that are proposed to have fees removed

Form Code	Form Description	Fees charged in 2013–14	Proposed fee
P-719	Statement about payments out of a development account	$37	$0
P-CL04	Change of credit licence name	$25	$0
P-CL08	Request to change credit licence status	$25	$0
P-CL20	Notification of change of credit licence details	$25	$0
P-CL30	Appoint a credit representative	$25	$0
P-CL31	Cease a credit representative	$25	$0
P-CL32	Vary the details of a credit representative	$25	$0
P-CL50AA	Australian credit licence annual compliance certificate - Person/Sole trader, under $100 million	$484	$0
P-CL50AB	Australian credit licence annual compliance certificate - Body corporate, under $100 million	$1,075	$0
P-CL50AC	Australian credit licence annual compliance certificate - All, $100 million - $200 million	$1,075	$0
P-CL50AD	Australian credit licence annual compliance certificate - All, $200 million - $600 million	$4,303	$0
P-CL50AE	Australian credit licence annual compliance certificate - All, $600 million - $1,000 million	$8,608	$0
P-CL50AF	Australian credit licence annual compliance certificate - All, $1,000 million - $1,400 million	$12,911	$0
P-CL50AG	Australian credit licence annual compliance certificate - All, $1,400 million - $1,800 million	$17,215	$0
P-CL50AH	Australian credit licence annual compliance certificate - All, $1,800 million - $2,100 million	$21,519	$0
P-CL50AI	Australian credit licence annual compliance certificate - All, over $2,100 million	$22,596	$0
P-CL70	Australian credit licence - Trust account statement	$108	$0
P-FS06	Appointment of an auditor of an Australian financial services licensee	$37	$0

Form Code	Form Description	Fees charged in 2013–14	Proposed fee
P-FS31	Cease an AFS licensee authorised representative	$37	$0
P-FS32	Vary the details of an AFS licensee authorised representative	$37	$0
P-FS70A	Australian financial services licensee profit and loss statement and balance sheet - Body corporate	$563	$0
P-FS70B	Australian financial services licensee profit and loss statement and balance sheet - Natural person	$231	$0
P-FS70C	Australian financial services licensee profit and loss statement and balance sheet - Superfund trustee / Partnership	$563	$0
P-FS70D	Australian financial services licensee profit and loss statement and balance sheet - Body corporate non-disclosing entity	$563	$0
P-FS72	Application for extension of time to lodge annual accounts	$37	$0
P-FS88	PDS in-use notice	$37	$0
P-FT10	Application for extension of time to provide copy of register of members	$37	$0
P-M06	Report and financial statements under s892H(6)	$366	$0
P-M13	Australian markets licensee annual report to ASIC under s792F(1)	$366	$0
P-M29	Australian clearing and settlements licensee annual report to ASIC under s821E(1)	$366	$0
P-338	Application for approval of unregistered auditor of proprietary company	$37	$0
P-5116	Notice of withdrawal offer regarding registered scheme	$37	$0
P-5131	Application for appointment of scheme auditor by member of a registered scheme	$37	$0
P-5138	Notification of commencement or completion of winding up of a registered scheme	$37	$0
P-5140	Notification of proposed change of name of registered scheme	$37	$0
P-593	Application for extension of time to provide notice of hearing for a scheme	$37	$0

Form Code	Form Description	Fees charged in 2013–14	Proposed fee
P-6010A	Application for voluntary deregistration of a managed investment scheme	$37	$0
P-7079	Supplementary or replacement identification statement	$37	$0
P-905A	Notification of ceasing to act or change to details of a liquidator	$37	$0
P-905B	Notification of ceasing to practise as or change to details of an auditor	$37	$0
P-905D	Notification of ceasing to practise as or change to details of an authorised audit company	$37	$0
P-908	Annual statement by a liquidator	$150	$0
P-912A	Annual statement by an auditor	$72	$0
P-912B	Annual statement by an authorised audit company	$150	$0
P-SFANL	Annual statement by a self-managed superannuation fund auditor	$50	$0
NONUM	Lodgement of notice on Insolvency Notice Website	$145	$0