



19 December 2017

Manager, Corporations and Schemes Unit  
Financial Systems Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600  
Email: [ASICFunding@treasury.gov.au](mailto:ASICFunding@treasury.gov.au)

Dear Madam/Sir,

#### **SMSF ASSOCIATION SUBMISSION ON ASIC'S FEES-FOR-SERVICE**

The SMSF Association (SMSFA) welcomes the opportunity to make a submission on the introduction of the Australian Securities and Investments Commission's (ASIC) fees-for-service consultation paper.

We understand that currently the fees associated with certain ASIC regulatory services do not fully reflect the costs incurred by ASIC in undertaking these activities. However, we have concerns that the proposed full fee-for-service recovery model is excessive in particular circumstances.

ASIC has stated that 10 per cent of its regulatory activities will be covered through fees-for-service. The remainder will be recovered through industry cost-recovery funding arrangements. Given that only 10 per cent of funding comes from fee-for-service activities, we believe that the benefits of completely recovering ASIC service fees are outweighed by the potential distortionary effects of substantially increasing costs for certain parts of the financial services sector. We are concerned that the exponential increase in costs of entry, particular for SMSF auditing and providing financial advice, will discourage innovation and competition due to new financial barriers to entry.

We therefore encourage ASIC to take a broader view of the effect of the proposed fees on the financial services industry. ASIC should not be purely focused on a system that results in full cost recovery but one that considers the effects of the increased fees on industry.

We have focused our submission on SMSF auditor registrations and Australian financial service license (AFSL) applications.

#### **SFREG: SMSF-Application for registration as an auditor/authorised audit company**

ASIC has proposed that the current fee of \$107 will rise to \$3,429.

#### **FS01 – Australian financial services license application (electronic)**

ASIC has proposed large increase for the applications of AFSLs. Given that individuals are extremely unlikely to apply for an AFSL we have referred our submission to the retail corporate body fees.



These have increased to \$3,721 for low complexity applications and to \$7,537 for high complexity applications.

- 1. Do you have any comments on whether the Corporations (Fees) Regulations 2001 should continue to specify all ASIC fees regardless of whether they are determined on a cost-recovery basis or whether the cost-recovery fees should be specified in a separate instrument so they can be more clearly differentiated from non-cost recovery fees?***

The SMSFA believes that cost-recovery fees should be specified in a separate instrument. This will clearly differentiate their treatment from non-cost recovery fees and should not be a difficult process to undertake.

- 2. Do you have any feedback regarding the model objectives?***

We do not have objections to the current model objectives. We do propose that one of the objectives must support a constant drive to lower fees through ongoing efficiency improvements. This can be underpinned by the 'efficiency' objective referenced in the Australian Government Cost Recovery Guidelines or the creation of a new objective.

ASIC must strive to ensure that fees-for-service are being reduced over time through improved processes and increased efficiency, especially as the growing use of regulation technology reduces regulation and compliance costs in financial services. When ASIC improves its performance and efficiency in undertaking regulatory fee-for-service tasks, this will result in lower fees for the financial services industry. Without express reference to this principle, ASIC may find they have no incentive to lower fees.

- 3. Is the proposed methodology for calculating fees-for-service appropriate? If not, why not?***
- 4. Are there any other sectors where a tiered approach to setting fees would be appropriate?***
- 5. Do you have any suggestions for how the proposed methodology could be modified? If so, please provide details***

The SMSFA believes the proposed methodologies for calculating fees-for service are appropriate but that ASIC should exercise discretion to reduce fees where applying the methodology results in an excessive increase in a fee.

ASIC should consider discounting certain fees in circumstances where the resulting cost recovery fee is grossly larger than the current fee, the fee is executed often and when the service that the fee pays for is used often. For example, registrations and applications for licenses have greater merit being discounted because they are required and commonly used compared to variations and replacements which are usually needed in specific circumstances and less commonly.

Further, ASIC should have discretion to reduce fees determined by the methodology where a large fee may negatively impact competition and innovation on financial services due to it acting as a barrier to entry or innovation. ASIC could assess fees against a number of competition criteria to assess whether a fee has a negative impact on competition and innovation for the relevant sector.



We also believe a tiered approach regarding level of complexity should be applied for all applications and anywhere it is feasible to be introduced. For example, SMSF Auditor applications would benefit from a tiered approach if applications are determined to be simple.

6. *Are the proposed accountability measures for ASIC appropriate? If not, please provide details.*

We support ASIC reviews and the Cost Recovery Implementation Statement in order to disclose how fees are determined. These reviews should stimulate consultation depending on their outcomes.

7. *Will the proposed fees-for-service model have an effect on competition and innovation? If so, please provide details, including possible ways to mitigate the effect.*

The SMSFA has concerns the proposed fees-for service model will have an effect on competition and innovation. In particular, the increase in fees for SMSF auditors and AFSL applications may provide a significant barrier to entry for new innovators and entrants.

For example, given the 30 fold increase in SMSF application fees, an SMSF auditor will need to conduct at least ten audits to just break even on their SMSF ASIC audit registration. This is a substantial amount of a potential entrant's client base and a significant hurdle to start a new business.

The increase also restricts firms from expanding the number of auditors in their current business structure. An audit firm, which may have benefited from registering its directors as SMSF auditors may no longer be able to justify an increase to their SMSF audit team.

Such a large increase in fee penalises innovation and discourages new entrants into the market. New innovators are essential for competition and efficiency in the system. There is a risk, especially with SMSF auditors, that, without new competition, prices for SMSF audits may rise. This may push SMSF trustees to seek 'cheaper' audits which have sometimes failed to meet minimum standards.

Higher application fees also favour large existing firms and large new entrant firms because they have the capability to absorb these fees. This reduces the ability for smaller (and often innovative or disruptive) start-ups to enter the market and in turn impacts on competition and innovation.

Fees-for-service also may work against the current and proposed regulatory financial sandbox which is designed to encourage new entrants into the market. These policies should work in conjunction and we believe the increased AFSL fees will hamper the sandbox and the potential for new financial sector entrants to impact the market.

Therefore, as mentioned above, we believe that the proposed fees-for-service should be discounted and tiered when appropriate in order to not severely impact the financial services industry.



If you have any questions about our submission please do not hesitate in contacting us.

Yours sincerely,

A handwritten signature in black ink that reads "John L. Maroney".

John Maroney  
Chief Executive Officer  
SMSF Association

#### **ABOUT THE SMSF ASSOCIATION**

The SMSF Association is the peak professional body representing SMSF sector which is comprised of over 1.1 million SMSF members who have \$701 billion of funds under management and a diverse range of financial professionals servicing SMSFs. The SMSF Association continues to build integrity through professional and education standards for advisors and education standards for trustees. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial planners and other professionals such as tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them access to independent education materials to assist them in the running of their SMSF.