13 August 2021

Attention: Sarah Morgan, Adviser, Strategic Policy
Australian Securities & Investments Commission

By email: **policy.submissions@asic.gov.au**

Cost Recovery Implementation Statement: ASIC Industry funding model (2020-21)

Chartered Accountants Australia and New Zealand (CA ANZ welcome the opportunity to comment on ASIC's cost recovery implementation statement (CRIS) for the financial year 2020-21. Noting that ASIC provided Budget estimates for 2020-21 to Parliament in October 2020, we fail to understand why this CRIS was not released in the first few months of 2021. We provide the following comments in good faith that they will be considered in preparing the final CRIS for 2020-21.

The key resource that enables ASIC to meet its obligations as outlined in this CRIS is its regulated population. It is the regulated population that facilitates informed participation of investors and consumers; that provides data for ASIC to store; that provides the information about companies and other bodies ASIC makes available to the public; that enables individuals and business to meet their statutory obligations, giving effect to the law.

Through this submission we refer to a CRIS for comment as a draft CRIS to distinguish comments relating to a final CRIS. Further, our comments reflect the feedback from members that are registered company auditors, registered liquidators or hold a licence to provide personal advice to retail clients. Accordingly, the examples provided throughout this submission draw on the levies imposed on these subsectors.

ASIC process

Timing

There do not appear to be statutory timeframes for any step in ASIC's process and therefore no measure which the regulated population can hold ASIC accountable to in this regard. This appears unreasonable when considered against the statutory burdens placed on the regulated population. For example, the requirement to provide an annual return for the period 2020-21 to ASIC no later than September 2021. If these annual returns are outside the designated timeframe penalties will apply. Yet it appears to be solely at ASIC's discretion when a draft, and a final, CRIS are released.

The lack of timeliness shown by ASIC has seen it fall short of its stated purpose that 'The CRIS will also provide industry with indicative levies for the following year to help them plan.' The regulated population has been left guessing how much to budget from, in many cases, significantly reduced turnover in 2020-21 to meet ASIC's levies. Furthermore, expending levies over relevant clients is impossible when the quantum of the levy is advised at such a late date.

In our opinion, the release of the draft CRIS 2020-21in July 2021 has not met the purpose of the model as stated at paragraph 20 (e) to 'improve our cost transparency and accountability to industry.' We also consider this reflects poorly on ASIC as the corporate regulator given the focus on improving corporate transparency and accountability.

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The CRIS and actual levies

We understand the intent of a draft CRIS is to provide the regulated population with an indication of the levies that will apply for a financial year. However, we do not understand why a final CRIS, which is not released until actual costs are known, continues to provide estimates when the actual levies will have been determined.

While this CRIS provides estimates of levies to be invoiced in January 2022, past experience raises doubt on the figures provided. As outlined in Table 1 in Appendix A, estimates have borne little relation to actual levies in previous years with most actual levies being significantly higher.

We refer to the final CRIS for the financial period 2019-20 released in March 2021. Even nine months after financial year end to which it relates, the figures in the final CRIS (2019-2020) were still estimates. Those estimates, and the report content, also appeared unchanged when compared to the draft CRIS released in June 2020. Further, the estimates in the final CRIS bear little relation to the actual levies published earlier in the summary in November 2020. Refer Appendix A, Table 2. It does raise the question, if the final CRIS is released after levies are determined and does not reflect these actual levies, what is the purpose?

Additionally, in discussions with ASIC it appears explanations must be given to Parliament where actual costs exceed budget by more than $2 million or 10 per cent. Yet no such explanation is provided for activities within a subsector when actual levies exceed estimates by more than 10 per cent.

Without reconciliation of the estimated to actual levies, the regulated population has no transparency over ASIC's actual cost allocations for their subsector and little data with which to hold ASIC accountable that each subsector is only levied for the actual costs of regulating that sector.

This is of particular concern as many subsectors have experienced increases of greater than 20 per cent between the estimate in a draft CRIS and the actual levy. Even budgeting for higher levies than expected, many of the regulated population have been caught short with significant increases only revealed when actual levies are published. Refer Appendix A, Table 3.

Subsector specific comments

Auditors

The estimated levy for 2020-21 is $1127, an increase of 39% from 2019-20 of $811 (in the previous year, the levy increased by 290%).

Following the previous increase, we received a large amount of feedback indicating the levy is disproportionately impacting auditors across regional communities and in smaller and medium sized firms. Many of these auditors have retained their auditor registration to do vital work for community organisations, charities and not-for-profits. Moreover, feedback indicated that auditors did not feel they had received clear messaging regarding why these increases are occurring and what impact the additional funding will provide in terms of regulatory activities, with the delayed timing of the information exacerbating this communication issue.

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This CRIS notes at paragraph 109 ‘A flat levy applies as a relatively small amount of our regulatory effort is expended on registered company auditors.’ This statement appears contrary to the estimated total cost of regulating during 2020-21 of $4.107 million, an increase of 32% from the estimated cost of $3.1 million in final CRIS for 2019-20. Particularly as the focus during 2020-21 appears to have been, reflected in a more than 400% increase in the estimated cost, on enforcement.

The impact of these increases and the lack of timely communication is that many regional, small and medium audit practices are considering reducing their audit work or ceasing work as auditors altogether. Clearly this is a highly problematic outcome – many entities in regional areas, not for profits and SMEs rely on these auditors to be able to meet their statutory or constitutional obligations and continue operating, and to obtain the integrity and assurance of an audit. Regulation of the audit sector should overall strengthen it, not undermine its continuation – a lack of proportionality here appears to be putting at risk the continuation of many small and medium audit practices.

Registered Liquidators

The estimated levy per appointment or notifiable event for 2020-21 is $127, which is an increase of 60% from 2019-20 of $79.16.

To reveal the full impact on a registered liquidator, it is important to multiply this metric figure by the average numbers of appointments and events undertaken in a year. For example, the total levy for the 2019-20 period for one of our members was approximately $18,000. This was made up of the minimum $2,500 plus approx. $15,500 based on the number of reportable events. Based on the CRIS 2020-21 estimate, and assuming a similar workload, the total levy will be around $27,300,

This extraordinary increase does not seem proportionate to the potential risks in 2020-21 given ASIC’s statistics on Companies entering external administration and controller appointments, Series 1, collapsed from 7,362 in 2019-20 to 4,235 in 2020-21. With a 42 per cent drop in insolvencies for 2020-21, the basis for this increase in surveillance and enforcement required over the same regulated population is unclear. It appears that the estimated increase is driven by increases in supervision (27%), policy advice (39%) and property and corporate services (22%).

With a significant decrease in work being undertaken by registered liquidators in 2020-21, we seek transparency over the risks which resulted in increased supervision, a list of the policy advice provided and detail on the additional property and corporate services utilised to regulate registered liquidators during this period of reduced activity.

As raised in our many discussions with ASIC, the various stimulus measures provided by all levels of government have sought to sustain businesses and jobs. The success is evident in the continued decline of companies entering external administration. This declined is mirrored in the revenue of registered liquidators, small business themselves, evidenced by the proportion of registered liquidators in receipt of the Jobkeeper subsidies themselves.

When the economy begins to recover and stimulus measures are withdrawn, Australia will need registered liquidators to ensure those businesses that must close do so in an orderly manner and return the best outcome for creditors and the overall economy,

Accordingly, we seek a waiver of levies for registered liquidators for the period 2020-21.

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Financial advice

The estimated levy for 2020-21 per adviser is $3138, an increase of 29% from 2019-20 of $2426 (for licensees that provide personal advice to retail clients on relevant financial products)

This estimated increase follows dramatic year-on-year increases since inception of the Industry Funding Model. The amount charged per financial planner increased 160 per cent in the two years to 2019-20. These increases are particularly unfair on advisers who practice under a limited AFSL where, in many cases, licensed advice accounts for less than 10% of revenue to the practice, yet the levy is the same as it is for those who are solely financial advice providers.

The impact of such significant increases has resulted in a sustained reduction in the number of financial advisers. Around 26,000 advisers were registered with ASIC in 2017-18, dropping to around 24,000 by 2019-20 and continuing to fall to under 20,000 currently. Simultaneously, the impacts of COVID and Australia's ageing population have seen more and more Australian individuals and small businesses needing affordable advice. We therefore have a growing advice gap, and with continuing escalating regulatory costs, there is widespread speculation that the population of financial advisers will continue to fall over the next few years.

Lastly, we believe it is inappropriate to see fines from remediation activities in the sector go into consolidated revenue, when they should be offset against future levies, particularly when the fines primarily come from action taken against institutions who no longer participate in the sector.

Final CRIS 2020-21

In preparing the final CRIS for 2020-21 we seek that:

- the figures represent the actual cost across each activity in each subsector, not estimates;
- for each sub-sector and across each activity, where there is a variance of more than 10% between the estimate in this draft CRIS and the actual cost and levy, a detailed explanation of the cause for that variance; and
- ASIC to hold themselves accountable to their self-determined timeframes as provided in the table of key events and estimated dates.

For ASIC to maintain, facilitate and improve Australia's financial system it must be transparent with, and accountable to, its regulated population. That regulated population seeks transparency through estimates of levies being provided during the related financial period and actual levies detailed across activities for each subsector in the final CRIS. The regulated population seeks accountability through statutory timeframes being placed on ASIC's key events with compensation provided to the regulated population if these timeframes are not met.

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Should you have any questions about the matters raised or wish to discuss them further, please contact Karen McWilliams in the first instance via phone (612) 8078 5451 or by email at Karen.McWilliams@charteredaccountantsanz.com.

Yours sincerely

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Appendix A

Table 1 Change from estimate to actual

Sub-sector	Metric	2019-20			2018-19		
		Change	Actual	Estimate	Change	Actual	Estimate
Registered company auditors	per auditor	29%	$811	$628	-4%	$208	$217
Registered Liquidators Minimum $2500 plus	per notifiable event and appointment	-22%	$79.16	$101	17%	$97.42	$83
Financial advisers to retail Minimum $1500 plus	per adviser	31%	$2,064	$1,571	26%	$1,142	$907

Table 2 Estimates in Final CRIS

Sub-sector	Metric	Draft CRIS 2019-20 June 2020	Actual 2019-20 November 2020	Final CRIS 2019-20 March 2021
Registered company auditors	per auditor	$628	$811	$628
Registered Liquidators Minimum $2500 plus	per notifiable event and appointment	$101	$79.16	$101
Financial advisers to retail Minimum $1500 plus	per adviser	$1,571	$2,064	$1,571

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Table 3 Levies over time

Sub-sector	Metric	Change Year on Year	Actual 2019-20 Nov 2020	Change Year on Year	Actual 2018-19 Dec 2019	Actual 2017-18 Dec 2018
Registered company auditors	per auditor	290%	$811	0%	$208	$209
Registered Liquidators Minimum $2500 plus	per notifiable event and appointment	-23%	$79.16	27%	$97.42	$77
Financial advisers to retail Minimum $1500 plus	per adviser	81%	$2,064	22%	$1,142	$934

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About Chartered Accountants Australia and New Zealand

Chartered Accountants Australia and New Zealand (CA ANZ) represents more than 130,000 financial professionals, supporting them to build value and make a difference to the businesses, organisations and communities in which they work and live.

Around the world, Chartered Accountants are known for their integrity, financial skills, adaptability and the rigour of their professional education and training.

CA ANZ promotes the Chartered Accountant (CA) designation and high ethical standards, delivers world-class services and life-long education to members and advocates for the public good. We protect the reputation of the designation by ensuring members continue to comply with a code of ethics, backed by a robust discipline process. We also monitor Chartered Accountants who offer services directly to the public.

Our flagship CA Program, the pathway to becoming a Chartered Accountant, combines rigorous education with practical experience. Ongoing professional development helps members shape business decisions and remain relevant in a changing world.

We actively engage with governments, regulators and standard-setters on behalf of members and the profession to advocate in the public interest. Our thought leadership promotes prosperity in Australia and New Zealand.

Our support of the profession extends to affiliations with international accounting organisations.

We are a member of the International Federation of Accountants and are connected globally through Chartered Accountants Worldwide and the Global Accounting Alliance. Chartered Accountants Worldwide brings together members of 13 chartered accounting institutes to create a community of more than 1.8 million Chartered Accountants and students in more than 190 countries. CA ANZ is a founding member of the Global Accounting Alliance which is made up of 10 leading accounting bodies that together promote quality services, share information and collaborate on important international issues.

We also have a strategic alliance with the Association of Chartered Certified Accountants. The alliance represents more than 870,000 current and next generation accounting professionals across 179 countries and is one of the largest accounting alliances in the world providing the full range of accounting qualifications.

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