

ASIC Supervisory Cost Recovery Model

Updated April 2018



From 1 July 2017, all ASIC regulated entities have to cover a proportion of ASIC's costs. Regulated entities have been identified in 48 sub-sectors covering Corporations, Auditors, Insolvency Practitioners, AFS licensees and other regulated entities and individuals.

How is this going to work?

ASIC costs will be allocated between the sub-sectors. Entities and individuals will pay a mix of flat and graduated (variable) levies to cover costs for that sub-sectors. No cross subsidiary is permitted under the legislation. The levy calculation methods are unique to each sub-sector.

How much are ASIC's costs?

ASIC will recover their actual costs for each financial year (operating expenditure (excluding depreciation and fee-for-service costs) and capital expenditure). Any over or under spend against budget will be collected from levies in the subsequent year. ASIC consulted on a Cost Recovery Implementation Statement which aims to forecast the costs associated with ASIC's work for each sub-sector in October 2017. They are expected to issue the final version soon.

How much are the levies?

The allocation of levies between entities in each sub-sector will be based on actual activity during the year. Between July and October 2018, each regulated entity will be required to provide a return setting out their relevant activity for the year 30 June 2018. This information will be used for the calculation.

While actual activity will not be known until the end of the financial year, for some sub-sectors it may be possible to estimate based on ranges or previous year's averages. Budgeting for levies payable for the financial year 2018 will involve a level of judgement and estimation uncertainty. ASIC has published Report 570 Indicative levies for ASIC industry funding: 2017-18 (Report 570). The report doesn't include indicative levies for all sub-sectors as ASIC does not have the data to calculate some of the levies. For these sectors, ASIC will begin contacting entities in June 2018 to provide more information.

How will I be charged if I fall into more than one sub-sector?

If an entity holds more than one licence or registration, the levy for each element is payable. For example, if an entity is both a superannuation trustee and holds an ASFL, both levies will be payable.

When do I have to pay?

Each regulated entity will be required to complete an annual return setting out their relevant activity for the financial year. This return needs to be submitted by 31 October. ASIC will calculate levies based on their costs and the data provided in the annual returns. Calculation is based on the formulas set out in the Regulations. Invoices for the 2017/18 financial year will be issued in January 2019.

Background

In August 2015, the Federal Government announced that they intended to move the Australian Securities and Investments Commission (ASIC) to an Industry Funding Model (IFM) so that the costs of regulation are paid by those being regulated and to enhance the transparency of ASIC's costs and funding. Industry funding of financial markets regulators is common in a number of other jurisdictions, including the UK, New Zealand and the United States¹.

CA ANZ has been actively involved in the consultation process in relation to the IFM and raised a number of critical issues. These issues included recommending an IFM is not introduced until ASIC's performance

¹ Information on the industry funding models in the UK, US and NZ can be found here: (UK Financial Conduct Authority fees: <https://www.fca.org.uk/firms/fees>, New Zealand Financial Markets Authority fees: <https://fma.govt.nz/news/releases-from-the-minister-of-commerce/funding-boost-for-fma-and-companies-office/> and US Securities and Exchange Commission fees <https://www.sec.gov/ofm/registration-fee-estimator.html>).

framework review has been completed, that the disproportionate burden on smaller practitioners is considered and that alternative funding models, such as part funding by the government, were explored. During the consultation period some initial proposals changed, in some areas quite significantly. The legislation² was passed in June 2017 without draft regulations. The [*ASIC Supervisory Cost Recovery Levy Regulations 2017*](#) (the Regulations) were eventually issued later in June setting out how the levies would be calculated. Some sub-sectors have both minimum and capped levies. The table overleaf identifies the sub-sectors and the levy calculation method as well as the indicative levies published by ASIC where these are available.

Where can I find more information?

- [**ASIC Report 570 Indicative Levies for ASIC industry funding: 2017-18**](#)
- [**ASIC Summary of indicative levies for 2017-2018**](#)
- [**ASIC Media Release 17-235 dated 14 July 2017**](#)
- [**Report 535 ASIC cost recovery arrangements 2017:18**](#)
- [**ASIC Supervisory Cost Recovery Levy Act 2017\(the Act\)**](#)
- [**ASIC Supervisory Cost Recovery Levy \(Collection\) Act 2017**](#)
- [**ASIC Supervisory Cost Recovery Levy Regulations 2017 \(the Regulations\)**](#)
- [**Explanatory Statement for the Act and the Regulations**](#)
- [**The Government's proposals paper Proposed industry funding model for the Australian Securities and Investments Commission November 2016**](#)
- [**CA ANZ submissions**](#)

² [ASIC Supervisory Cost Recovery Levy Act 2017](#)

LEVY CALCULATION METHODS BASED ON ASIC SUPERVISORY COST RECOVERY LEVY REGULATIONS 2017

This table sets out the levy calculation methods for each sub-sector.

We have included in this table the approximate amount of ASIC cost expected to be recovered from each sub-sector grouping based on information which has been included in various parts of the consultation. These are not the actual ASIC costs that will be allocated and are provided purely for indicative purposes. The indicative levies from Report 570 are included in **BOLD TEXT**. Where ASIC has not provided an indicative levy the budgeted cost recovery amount has been included (also in bold) for information purposes. There are a number of reasons where indicative levies cannot be provided. For example, levies on auditors of disclosing entities are based on the actual audit fees charged for the year to 30 June 2018. This information is not available until after the year end.

The allocation of costs between entities within the sub-sector grouping is not able to be identified from released information. Items marked as N/A are not applicable for the type of entity.

Corporations

Report 570 indicates that ASIC costs are in the region of A\$49m overall		
	Minimum levy	Graduated (variable) levy based on proportion of:
Listed disclosing corporations, market cap under \$5m (Regulation 19)	\$4,000 (\$4,000)	N/A (ASIC's total budgeted costs for recovery for all listed disclosing entities is \$33.959m)
Listed disclosing corporations (Regulation 19)	\$4,000 (\$4,000) plus variable levy	Total market capitalisation of all entities in this bracket up to a maximum graduated levy based on market cap of \$20bn (Minimum levy + \$0.19 per \$10,000 of market capitalization over \$5m (Maximum levy \$396,000 – Market capitalization over \$20bn))
Listed disclosing corporations, market cap over \$20bn (Regulation 19)	\$4,000 (\$4,000) plus variable levy (up to maximum levy based on market cap of \$20bn)	Total market capitalisation of all entities in this bracket up to a maximum graduated levy based on market cap of \$20bn (Minimum levy + \$0.19 per \$10,000 of market capitalization over \$5m (Maximum levy \$396,000 – Market capitalization over \$20bn))
Unlisted public corporations (Regulation 17)	N/A Flat levy \$321	ASIC cost divided by number of entities

Report 570 indicates that ASIC costs are in the region of A\$49m overall		
	Minimum levy	Graduated (variable) levy based on proportion of:
Large proprietary companies (Regulation 16)	N/A Flat levy \$868	ASIC cost divided by number of entities

Small proprietary companies will have a small annual fee which will be recovered through an increase to the annual review fee for proprietary companies in the Corporations (Review Fees) Regulations 2003 rather than the ASIC levy model.

According to Report 570 the increase is expected to be approximately \$4. This should minimise the regulatory burden on small proprietary companies by ensuring that they only have to pay one fee each year.

Registered Company Auditors

Report 570 indicates that ASIC costs are in the region of A\$6m overall		
	Minimum levy	Graduated (variable) levy based on proportion of:
RCAs (Regulation 18)	ASIC's regulatory costs will be shared equally between all RCAs in the financial year. There is no pro-rata provision so if you are an RCA for part of the year, no levy is payable. (Flat levy of \$222)	N/A
RCAs of disclosing entities (Regulation 15)	N/A	Total audit fee revenue for audits & reviews of listed entities. Listed entities are: Disclosing entity with quoted securities PLUS An entity controlled by the above as determined through AASB 10 <i>Consolidated Financial Statements</i> No indicative levy but ASIC budgeted cost to be recovered is \$5.003m

Self-managed Superannuation Fund Auditors are regulated by the ATO and are not subject to the ASIC levy model.

Registered Liquidators

Report 570 indicates that ASIC costs are in the region of A\$10m overall		
	Minimum levy	Graduated (variable) levy based on proportion of:
Registered liquidators (Regulation 20)	\$2,500 (\$2,500) plus variable levy	Total notifiable events (Minimum levy + \$125 per notifiable event)

Notifiable events are:

- Number of appointments under Chapter 5 of Corps Act 2001 that have been accepted in the financial year PLUS
- Number of appointments previously accepted for which the entity is still acting PLUS
- Number of events published under regulation 5.6.75 of the Corps Act 2001 during the financial year PLUS
- Number of specified documents lodged with ASIC in the financial year.

Appointments under Chapter 5 of Corps Act 2001 are:

Controller, Liquidator, Managing controller, Receiver, Receiver and manager, Scheme manager, Voluntary administrator, Administrator of a deed of company arrangement.

Events under regulation 5.6.75 of the Corps Act 2001 are those which are required to be published in the prescribed manner (e.g. on ASIC website) and which are:

- Notice of meetings
- Notice of disclaimer of property
- Notice to submit particulars of debt or claims
- Notice to creditors to submit formal proof
- Notice of intention to declare dividend.

Specified documents are:

- Notice of the outcome of a proposal to pass a resolution without a meeting. More than one resolution on the same day for the same administration counts as a single lodgement.
- An executed deed of company arrangement. More than one company cover in the same deed, counts as a single lodgement.

Australian Financial Services (AFS) Licensees

Report 570 indicates that ASIC costs are in the region of A\$29m overall		
	Minimum levy	Graduated (variable) levy based on proportion of:
AFS licensees authorized to provide personal advice to wholesale clients (Regulation 41)	ASIC cost divided by number of entities (Flat levy \$596)	N/A
AFS licensees authorized to provide general advice only to retail or wholesale clients (Regulation 40)	ASIC cost divided by number of entities (Flat levy \$2,058)	N/A
AFS licensees authorized to provide personal advice to retail clients only on products that are not relevant financial products (Regulation 42)	ASIC cost divided by number of entities (Flat levy \$719)	N/A
AFS licensees authorized to provide personal advice on relevant financial products to retail clients (Regulation 43)	\$1,500 plus variable levy (\$1,500. No indicative levy for variable levy but ASIC budgeted cost for recovery is \$26.152m)	Total number of registered financial planners

Investment management, Superannuation and Related Services, Insurance

Report 570 indicates that ASIC costs are in the region of A\$53m overall		
	Minimum levy	Graduated (variable) levy based on proportion of:
Custodians (Regulation 31)	ASIC cost divided by number of entities (Flat levy \$435)	N/A
Managed discretionary account providers (Regulation 32)	ASIC cost divided by number of entities (Flat levy \$1,346)	N/A
Trustee company service providers (Regulation 33)	ASIC cost divided by number of entities (Flat levy \$27,995)	N/A
Operators of investor directed portfolio services (Regulation 34)	\$10,000 Plus variable levy	Total revenue from investor directed portfolio service activity (No indicative variable levy but ASIC budgeted cost recovery amount is \$1.603m)
Wholesale trustees (Regulation 37)	\$1,000 plus variable levy (Flat levy \$4,300 but will move to variable levy from 1 July 2018)	Gross assets under management
Superannuation Trustees (Regulation 36)	\$18,000 plus variable levy	Total funds under management above \$250m (No indicative variable levy but ASIC budgeted cost recovery amount is \$7.197m)
Responsible entities (Regulation 35)	\$7,000 plus variable levy	Total funds under management above \$10m (No indicative variable levy but ASIC budgeted cost recovery amount is \$22.677m)
Insurance Product distributors (Regulation 70)	ASIC cost divided by number of entities (Flat levy \$790)	N/A
Risk management product providers (Regulation 71)	ASIC cost divided by number of entities (Flat levy \$5,168)	N/A

Report 570 indicates that ASIC costs are in the region of A\$53m overall		
	Minimum levy	Graduated (variable) levy based on proportion of:
Insurance product providers (Regulation 72)	\$20,000 plus variable levy	Total insurance product revenue above \$5m (No indicative variable levy but ASIC budgeted cost recovery amount is \$11.448m)

Other regulated entities

Report 570 indicates that ASIC costs are in the region of A\$92m overall		
	Minimum levy	Graduated (variable) levy based on proportion of:
Margin lenders (Regulation 23)	ASIC cost divided by number of entities (Flat levy \$14,278)	N/A
Credit Intermediaries (Regulation 25)	\$1,000 (\$1,000)	Minimum levy plus number of credit representatives at entity (\$104 per CR)
Credit providers (Regulation 26)	\$2,000 (\$2,000) plus variable levy	Total value of credit contracts over \$100m (No indicative variable levy but ASIC budgeted cost recovery amount is \$17.861m)
Small amount credit providers (Regulation 24)	\$2,000 plus variable levy (No minimum levy in Report 570)	Total amount of credit provided under small amount credit contracts (No indicative variable levy but ASIC budgeted cost recovery amount is \$1.485m)
Deposit product providers (Regulation 27)	\$2,000 (\$2,000) plus variable levy	Total value of deposit products over \$10m (No indicative variable levy but ASIC budgeted cost recovery amount is \$1.911m)
Payment product providers (Regulation 28)	\$2,000 plus variable levy (\$2,354 flat levy for 2017-2018)	Total revenue from payment product activity. (Moves to graduated levy from 2018-2019.)
OTC Traders (Regulation 66)	\$1,000 (\$1,000) plus variable levy	Total number of people undertaking OTC derivative trading (No indicative variable levy but ASIC budgeted cost recovery amount is \$6.005m)
Securities dealers (Regulation 67)	\$1,000 (\$1,000) plus variable levy	Total value of transactions No threshold. Minimum levy plus \$0.14 per \$10,000 of annual transactions turnover.
Large securities exchange participants (Regulation 65)	\$9,000 (\$9,000) plus variable levy	Total number of messages and transactions reported on large equity market (Minimum levy +\$0.18 per transaction and \$0.0018 per message)

Report 570 indicates that ASIC costs are in the region of A\$92m overall		
	Minimum levy	Graduated (variable) levy based on proportion of:
Corporate advisors – takeovers, bids, underwriting (Regulation 63)	\$1,000 (\$1,000) plus variable levy	Total gross revenue from corporate advisory activities above \$100k (No indicative variable levy but ASIC budgeted cost recovery amount is \$5.568m)
Large futures exchange participants (Regulation 64)	\$9,000 plus variable levy	Total number of messages and transactions reported on large futures markets (Minimum levy + \$0.11 per transaction and \$0.006 per message)

Indicative levies for other sub-sectors are available in Report 570 and the summary of indicative levies.

At a glance

When will the IFM commence?

From 1 July 2017 all regulated entities are required to share the costs of ASIC's regulatory services for their sector. The first invoices will be issued in January 2019 and will recover regulatory services costs for the 2017/18 financial year.

How much are ASIC's costs?

ASIC consulted with industry on their estimated regulatory costs for each sub-sector in October 2017. They issued Report 570 which details the indicative levies for each sub-sector (where data is available) in March 2018). They will issue a final Cost Recovery Implementation statement (CRIS) which aims to forecast the costs associated with ASIC's work. The CRIS will be updated each year.

How much are the levies for each sub-sector?

The allocation of levies between entities in each subsector will be based on actual activity during the year. While actual activity will not be known until the end of the financial year, for some sub-sectors it may be possible to estimate based on ranges or previous year's averages. Budgeting for levies payable for the financial year 2018 will involve a level of judgement and estimation uncertainty. There will be a mix of flat and variable levies. ASIC published Report 570, which includes the indicative levies for each sub-sector for the 2017/2018 financial year in March 2018. Report 570 does not include indicative levies for all sub-sectors as ASIC does not have the industry metrics used to allocate costs for all sub-sectors.

What is a flat levy?

The Regulations prescribe flat levies to apportion ASIC's regulatory costs in subsectors where these costs are approximately the same for each entity and the administrative and regulatory burden associated with calculating more tailored levies outweighs the benefits of having additional granularity.

What is a variable levy?

Graduated (variable) levies are prescribed for subsectors where ASIC's regulatory costs vary significantly across its regulated population. Some of the graduated levies will include a fixed minimum component and a variable component to apportion ASIC's regulatory costs. Others are based only on a variable component depending on an entity's share of the total activity in an industry sub-sector. The levy prescribed for listed

corporations also includes a maximum cap. This is because ASIC's regulatory costs in this subsector do not continue to increase as a function of entity size.

When will the levies be payable?

Each regulated entity will be required to complete an annual return setting out their relevant activity for the financial year. This return needs to be submitted by 31 October 2018. ASIC will calculate levies based on their costs and the data provided in the annual returns. Calculation is based on the formulas set out in the Regulations. Invoices for the 2017/18 financial year will be issued in January 2019.

C Copyright

© 2018 Chartered Accountants Australia and New Zealand ABN 50 084 642 571.

Disclaimer

This Guide has been prepared for use by members of Chartered Accountants Australia and New Zealand (**CA ANZ**) in Australia only. It is not intended for use by any person who is not a CA ANZ member and/or does not have appropriate expertise in the subject matter.

This Guide is intended to provide general information and is not intended to provide or substitute legal or professional advice on a specific matter. Laws, practices and regulations may have changed since publication of this Guide. Users should make their own inquiries as to the currency of relevant laws, practices and regulations.

No warranty is given as to the correctness of the information contained in this Guide, or of its suitability for use by you. To the fullest extent permitted by law, CA ANZ is not liable for any statement or opinion, or for any error or omission contained in this Guide and disclaims all warranties with regard to the information contained in it, including, without limitation, all implied warranties of merchantability and fitness for a particular purpose. CA ANZ is not liable for any direct, indirect, special or consequential losses or damages of any kind, or loss of profit, loss or corruption of data, business interruption or indirect costs, arising out of or in connection with the use of this guide or the information contained in it, whether such loss or damage arises in contract, negligence, tort, under statute, or otherwise.