

15 December 2017

Manager, Corporations and Schemes Unit
Financial Systems Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: ASICFunding@treasury.gov.au

Dear Sir/Madam

INTRODUCTION OF ASIC'S FEES-FOR-SERVICE UNDER THE INDUSTRY FUNDING MODEL

The Insurance Council of Australia (the Insurance Council) appreciates the opportunity to comment on the consultation paper, *Introduction of Australian Securities and Investment Commission's Fees-for-Service under the Industry Funding Model* (the Consultation Paper).

The Insurance Council considers that the use of weighted costs to reflect actual regulatory effort under the proposed methodology for calculating fees-for-service is appropriate. However, we note that the methodology does not incorporate any incentives for ASIC to improve the efficiency of activities that are funded. As acknowledged in the Consultation Paper, the Australian Government Cost Recovery Guidelines (CRGs) are underpinned by the principle of efficiency; specifically, that cost recovered activities are delivered at least cost.

For example, the methodology for determining fees is partially based on an hourly staff rate, which may minimise incentives for ASIC to introduce technological changes (such as automation) that could enhance regulatory efficiency. There should be sufficient flexibility in the model to allow for developments in technology which may enable existing manual processes to be undertaken on an automated basis. Such technological change will not only have an impact on regulatory efficiency, but could theoretically create an entirely different cost structure.

While we acknowledge that the proposed accountability measures will play an important role in ensuring that fees are transparently determined, they should also play a role in encouraging ongoing improvements to regulatory efficiency. The Insurance Council is supportive of the accountability measures outlined in the Consultation Paper, including ASIC's program of assessment and the Cost Recovery Implementation Statement (CRIS). However, the limited detail around these processes precludes us from providing more detailed feedback.

In relation to the program of assessment, it is unclear how often the process will be undertaken and if the findings of the assessment will be published. While the first CRIS under the industry funding model has not yet been released, we expect that it will provide a

sufficient level of granularity to ensure transparency over how each regulatory activity is costed and how its corresponding fee was determined.

The Insurance Council considers the proposed three year timeframe for reviewing fees to be reasonable, but suggest that an “out of cycle” review should also be conducted if it is found through ASIC’s assessment process, or the CRIS, that fees are materially different from average costs.

The Consultation Paper seeks feedback on whether the *Corporations (Fees) Regulations 2001* (the Regulations) should continue to specify all ASIC fees regardless of whether they are determined on a cost-recovery basis. The Insurance Council does not have a preference over whether cost recovery fees are specified in the Regulations or in a separate instrument. However, if all fees including cost-recovery fees continue to be specified in the Regulations, we suggest that cost recovery fees are clearly distinguished from non-cost recovery fees.

Finally, we suggest that consideration be given to an appropriate transition period for the implementation of fees-for-service funding. The Consultation Paper acknowledges that many of the proposed fees will significantly increase costs, compared to current fees, for regulated entities. A move to a fees-for-service funding model from 1 July 2018 as proposed will exacerbate the already material impact on regulated entities of the recently introduced industry funding of ASIC.

If you have any questions or comments in relation to our submission, please contact John Anning, the Insurance Council’s General Manager Policy, Regulation Directorate, on tel: (02) 9253 5121 or email: janning@insurancecouncil.com.au.

Yours sincerely



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