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Dear Ms Cvijanovic

## **REGULATORY IMPACT STATEMENT – FINAL ASSESSMENT SECOND PASS – INTRODUCING AN INDUSTRY FUNDING MODEL FOR THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

I am writing to you to submit a Regulation Impact Statement (RIS) for the introduction of an industry funding model (IFM) for the Australian Securities and Investments Commission (ASIC) for final review.

On 20 April 2016, the Government announced that it will introduce an IFM for ASIC on 1 July 2017. Industry funding of ASIC has been recommended by both the Senate Economics References Committee and the Financial System Inquiry as an important tool to help stabilise ASIC's funding, improve ASIC's accountability and efficiency, and contribute to a culture of compliance within regulated entities. It will also align ASIC's funding model with the Australian Prudential Regulation Authority's and foreign equivalent regulators such as the United Kingdom's Financial Conduct Authority.

I believe the RIS meets best practice requirements and is consistent with the ten principles for Australian Government policy makers. The RIS reflects broad consultation with the industries regulated by ASIC on the proposed IFM to assess the problem, objectives, options, and regulatory burden of the proposal.

- *The nature of the problem:* ASIC currently receives appropriation funding from the Budget to fund its regulatory and registry activities. However, only a small proportion of ASIC's funding (around 15 per cent of its departmental appropriation) is collected directly from industry participants (through the Financial Institutions Supervisory Levies administered by the Australian Prudential Regulation Authority, fees for market supervision and fees for certain services provided by ASIC).

Accordingly, under ASIC's existing funding model there is a limited relationship between the costs of ASIC's regulatory activities and the fees paid by industry participants who create the need for these activities, especially in relation to the financial services and markets sectors. This can lead to inequitable and inefficient outcomes with stakeholders not recognising the full cost of their actions.

- *Policy options considered:* The first of the three policy options considered is to maintain the status quo. The second option considered is to introduce an IFM that ensures that regulated entities offset the costs of their regulation, coupled with enhanced transparency measures for ASIC. The third option considered is to adopt enhanced transparency measures for ASIC, but not an IFM.
- *The net benefit of each option:* Maintaining ASIC's current funding model will not address the identified problem; however it also has no transitional or ongoing regulatory costs for the community. In contrast, adopting an IFM and enhanced transparency measures for ASIC will make ASIC more accountable to industry, incentivising it to improve its efficiency and effectiveness. The introduction of an IFM will also create price signals that drive improved industry conduct. Adopting enhanced transparency measures for ASIC without adopting an IFM may drive improvements in ASIC's efficiency and effectiveness, however these improvements are likely to be smaller than when these measures are coupled with an IFM.

- *The consultation process:* Consultation on an initial IFM occurred between 28 August 2015 and 9 October 2015. Nine consultation meetings were held in Sydney, Melbourne and Brisbane between 21 and 24 September 2015. Seventy-seven submissions were received.

Consultation on a revised IFM was conducted between 7 November 2016 and 16 December 2016. Six consultation meetings were held in Sydney between 28 November and 3 December 2016. Two hundred and thirty one submissions were received.

Consultation on the draft legislation was conducted between 22 February 2017 and 10 March 2017. Twenty submissions were received. The Government commenced consultation on regulations necessary to implement the IFM in May 2017.

- *The preferred option:* The RIS concludes that the second option should be adopted. Industry funding will best ensure that the costs of regulation are borne by those entities that have created the need for it, rather than the Australian public. It will also establish price signals that will drive economic efficiencies in the way resources are allocated within ASIC and - by charging regulated entities levies in line with the their cost of regulation - encourage better compliance practices within industry.
- *Implementation and evaluation:* Legislation and regulations are required to implement the preferred option. These are planned to be enacted before 1 July 2017. ASIC will also issue relevant guidance for affected businesses. In line with the Government's Charging Framework, Treasury will review the IFM every five years as part of its broader portfolio charging review.

I am satisfied that the RIS addresses the concerns raised in your letter of 12 April 2017. Specifically, the RIS:

- clarifies that:
  - the Government has investigated options to assess the costs of ASIC's regulatory activities *with regard to the charges paid by participants that engage in, and benefit from, these activities;*
  - the Government is not considering changes to the fees and taxes collected from users of ASIC's public registries;
  - under Option 3 in the RIS, ASIC would commit to measures to enhance its transparency and accountability, but would not under Option 1; and
  - that while industry funding may create cost variability between years for different industry subsectors, it is expected to improve the stability of ASIC's overall funding.
- notes that, by creating additional incentives for good conduct, the ASIC Industry Funding Model will complement the Government's and ASIC's existing regulatory agenda;
- acknowledges that the collection of additional data from regulated entities will impose additional costs on industry and ASIC (that must be recouped), but noted that these costs are small and outweighed by the benefits of more accurate levy apportionment; and
- no longer refers to existing requirements under the *Public Governance, Performance and Accountability Act 2013* that implied that these were new obligations.

Accordingly, I am satisfied that the RIS now meets best practice consistent with the Australian Government Guide to Regulation.

I submit the RIS to the Office of Best Practice Regulation for formal assessment.

Yours sincerely



John Lonsdale  
Deputy Secretary  
Markets Group