

ASIC Industry Funding Model

Grant Thornton Australia



Audit & Assurance



Report



The Australian Government has introduced a new funding system for the Australian Securities and Investments Commission (ASIC), the 'ASIC Industry Funding Model', which will pass on greater compliance costs to Australian businesses.

In Brief

Effective 01 July 2017, this model will allow ASIC to recoup its costs directly from regulated businesses through a combination of approximately 50 different industry subsector levies. Forecast to raise \$240 million in 2017-18, the levy will be based upon a company's activities within the financial year, and is charged on an ex-post basis six months after the end of the year.

For many businesses the true nature of these costs will not be known until the beginning of 2019 when ASIC will release the first levy invoices.

Who will this affect?

Large proprietary companies, public companies both listed and unlisted, credit unions, financial advisers and other professional service sectors regulated by ASIC will face new costs depending on the activities they are licensed to do and their market share.

The levy explained

The Funding Model consists of an array of basic levies for some industry subsectors and variable market-share based levies for others.

In many cases where there is a minimum levy alongside a variable component, ASIC will invoice businesses based on their license conditions rather than their actual activity in a subsector.

ASIC will calculate the levy burden on a business based on:

- ASIC's regulatory costs for the previous financial year, reported as soon as practicable after 31 October of the new financial year in its new Annual Dashboard.
- Regulated businesses' share of the subsector market. Market share is based on individual entity data, submitted to ASIC after the conclusion of the financial year (in most cases, the submission date will be between 31 August and 31 October). ASIC has yet to advise on the form in which data should be submitted by affected businesses for the purposes of levy calculation.

First invoices in January 2019

ASIC will impose the levy on an ex-post basis. For the 2017-18 financial year, ASIC will send invoices in January 2019, payable within 30 days.

For late payment, the legislation allows ASIC to impose a penalty of 20% p.a. of the outstanding levied amount, calculated monthly, for amounts paid after the due date.

ASIC also has the power to deregister companies or suspend the licenses of practitioners if they fail to pay the levy more than 12 months from due date.

The levy explained



Australian Financial Services Licenses

Where a company's AFSL allows them to act in a certain capacity, ASIC will invoice the licensee as if they are part of that subsector. In addition, these companies will face a basic levy on most forms submitted to ASIC.

As such, affected entities should note that they may fall within multiple subsectors subject to a levy, depending on applicable licenses held and activities conducted.



Companies

On top of existing charges for filing forms with ASIC, large proprietary companies, unlisted and listed companies will face new levies:

Large proprietary companies will pay an estimated \$350 extra per year

Unlisted public companies will pay between \$170-\$3,350 extra per year, depending on whether they are disclosing or non-disclosing

Listed companies face an extra levy of \$4,000 as a minimum, followed by a variable levy for market capitalisation over \$5 million at 30 June. This will significantly impact the compliance costs of any listed entity.



New data collection and compliance costs

ASIC now has the ability to mandate submission of revenue and other data for the purposes of determining market share. This will allow ASIC to calculate the size of an industry subsector and the appropriate quantum of levy to impose.

ASIC has indicated that it will use data sources unique to the levied business sector to calculate the payable levy. Some of these data sources are external to a company (e.g. market capitalisation, ASIC license registers).

Other subsectors (e.g. auditors, credit unions, responsible entities, and wholesale trustees) must collect and submit information ASIC deems necessary to calculate market share and the associated levy burden.

The data ASIC requires from each industry subsector will be clearer when ASIC releases this information later in the 2017-18 financial year.



Estimates by subsector

Below is an outline of the calculation method and levy estimate for each industry subsector liable to pay a levy under the Industry Funding Model.

The levy calculation method for each subsector (basic; mixed basic and variable) is taken from the *ASIC Supervisory Cost Recovery Levy Regulations 2017*, registered on 29 June 2017. Minimum levies, as well as thresholds where appropriate, are also taken from the Regulations.

The estimated 'basic levy' and 'amount to raise' quoted for each industry subsector come from ASIC's document *Proposed Industry Funding Model for ASIC: Supporting attachment to the Government's Proposals Paper*, released in November 2016. To date, this is the latest information the Australian Government has provided to assist stakeholders to calculate their levy burden.

The estimates do not include individual compliance costs for collating and submitting individual data ASIC will use to determine market activity and calculate individual entities' levy obligations.

Where the subsectors in ASIC's November 2016 paper are largely identical to those in the Regulations, we include an estimate of the levy charge on a representative company in that subsector, based on ASIC's estimated amount to raise and number of liable entities. However, where the subsector definitions differ significantly between November 2016 and June 2017, we have not included an estimate of the cost to a representative company.

¹https://consult.treasury.gov.au/financial-system-division/asic-industry-funding/supporting_documents/ASIC_Industry_Funding_Supporting_Attachment.pdf

Basic levies by subsector



Basic levies by subsector

Sector and subsector	Estimated basic levy
Companies	
Large Proprietary Companies	\$350
Unlisted Public Companies (disclosing and non-disclosing)	\$170 up to \$3,350 ²
Deposit taking and credit	
Margin lenders (pro-rated)	\$11,100
Investment management, superannuation and related services	
Custodians	\$560
Managed discretionary account providers (pro-rated)	\$3,000
Traditional trustee company service providers (pro-rated)	\$20,500
Financial advice	
Licensees that provide only general advice to retail or wholesale clients	\$920
Licensees that provide personal advice to retail clients on only products that are not relevant financial products (Tier 2 products; pro-rated)	\$1,500
Licensees that provide personal advice to only wholesale clients (pro-rated)	\$170
Market infrastructure and intermediaries	
Australian derivative trade repository licenses (per repository)	\$140,000
Credit rating agencies (pro-rated)	\$34,000
Exempt clearing and settlement facility operators (per facility)	\$45,000
Exempt markets (per market)	\$45,000
Overseas market operators (per market)	\$90,000
Large futures exchange operators (per exchange)	\$1.4 million
Retail over-the-counter derivate issuers (pro-rated)	\$61,400
Small derivatives market operators (per market)	\$50,000

² Treasury has previously advised different estimated basic levels for disclosing and non-disclosing public unlisted companies, but this is not made clear in the *Regulations*

Basic levies by subsector continued

Sector and subsector

Estimated basic levy

Market infrastructure and intermediaries continued

Small securities exchange operators (per exchange)	\$200,000
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Small securities exchange operators with self-listing function only (per exchange)	\$45,000
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Small futures exchange operators (per exchange)	\$200,000
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Tier 1 clearing and settlement facility operators (per facility)	\$436,000
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Tier 2 clearing and settlement facility operators (per facility)	\$200,000
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Tier 3 clearing and settlement facility operators (per facility)	\$80,000
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Tier 4 clearing and settlement facility operators (per facility)	\$45,000
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Wholesale electricity dealers	\$1,600
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Insurance

Insurance product distributors (not applicable to providers)	\$2,400
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Risk management product providers (pro-rated)	\$4,500
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Mixed/variable levies by subsector





Mixed/variable levies by subsector

Companies

Subsector	Amount to raise	Affected entities	Levy metric	Minimum - maximum levy	Additional compliance costs anticipated for submitting levy calculation data to ASIC?	Representative entity's estimated levy
Listed Public Companies	\$48.5 million	2,000	Based on market capitalisation at the end of the financial year. Minimum levy only if market capitalisation under \$5 million. Companies with a market capitalisation between \$5 million-\$20 billion ³ will pay the minimum levy plus an estimated \$0.33 graduated levy per \$10,000 market capitalisation over the minimum threshold.	\$4,000 minimum. Estimated \$662,000 maximum	No	Listed Company A, market capitalisation \$3 million, will pay the minimum \$4,000 levy. Listed Company B, market capitalisation \$200 million, will pay \$4,000 plus an estimated \$6,435 in graduated levy (total \$10,435).

³ Companies with market capitalisation over \$20 billion will be treated as if their market cap is \$20 billion.



Mixed/variable levies by subsector

Corporate

Subsector	Amount to raise	Affected entities	Levy metric	Minimum - maximum levy	Additional compliance costs anticipated for submitting levy calculation data to ASIC?	Representative entity's estimated levy
Auditors	\$0.8 million from RCAs; \$4.3 million from audit firms	4,700 RCAs; 125 audit firms	Basic levy per Registered Company Auditor plus a variable component based on share of all auditors' consolidated listed company audit fees.	Estimated \$170 per RCA	Yes	An audit firm with 50 Registered Company Auditors, earning 10% of all revenue for applicable audits in the Australian market, will pay an estimated total levy of \$8,500 plus \$430,000 (total \$438,500).
Liquidators	\$8.5 million	710	Minimum levy plus a variable component based on each liquidator's share of the total number of notifiable events for the subsector ⁴ .	\$2,500 per registered liquidator	No	A firm with 10 registered liquidators and has 5% of the 'notifiable events' relevant for the levy calculation will pay a minimum levy of \$25,000 plus an estimated \$336,250 (total \$361,250).

⁴ see Regulations s 20(3) 'entity metric' for more details



Mixed/variable levies by subsector

Deposit-taking and credit sector

Subsector	Amount to raise	Affected entities	Levy metric	Minimum - maximum levy	Additional compliance costs anticipated for submitting levy calculation data to ASIC?	Representative entity's estimated levy
Credit intermediaries	\$15.8 million	5,100	Minimum levy plus a variable component based on the share of credit representatives the intermediary has in a financial year.	\$1,000 minimum	Yes	A credit intermediary with 10% of Australia's credit representatives will pay a minimum \$1,000 plus an estimated \$1.07 million (total \$1,071,000).
Credit providers	\$9.3 million	1,271	Minimum levy plus variable component based on credit contracts (actual amounts rather than approvals) made totalling more than \$100 million in a financial year (estimated \$0.15 per \$10,000).	\$2,000 minimum	Yes	A credit provider with \$1 billion in credit contracts will pay \$2,000 plus an estimated \$13,500 (total \$15,500).
Small amount credit providers	\$2.0 million	332	These are part of the credit providers subsector, paying the minimum levy mentioned above. They will also pay a variable component based on their share of the subsector's total value of credit provided under small amount credit contracts in the financial year.	\$2,000 minimum	Yes	A small amount credit provider issuing \$40 million in small amount contracts in a financial year (around 10% of the small amount credit market) will pay \$2,000 plus an estimated \$200,000 in variable levy (total \$202,000)
Deposit product providers	\$3.1 million	258	Minimum levy plus variable component for deposit liabilities above \$10 million (estimated \$0.02 per \$10,000).	\$2,000 minimum	Yes	A deposit provider with deposit liabilities of \$1 billion will pay \$2,000 plus an estimated \$1,980 in variable levy (total \$3,980).
Payment product providers	\$2.4 million	266	Estimated \$9,000 basic levy in 2017-2018. Thereafter, minimum levy plus a variable component based on the provider's share of the subsector's gross revenue related to issued non-cash payment products, less expenses from dealing in non-cash payment facilities.	\$2,000 minimum	Yes	A payment product provider with 1% market share will pay \$2,000 plus an estimated \$18,680 for the 2018-2019 financial year (total \$20,680).



Mixed/variable levies by subsector

Investment management, superannuation and related services sector

Subsector ⁵	Amount to raise	Affected entities	Levy metric	Minimum - maximum levy	Additional compliance costs anticipated for submitting levy calculation data to ASIC?	Representative entity's estimated levy
Operators of investor directed portfolio services	\$1.6 million	35	Minimum levy plus a variable component based on the operator's share of the subsector's gross revenue from IDPS activities in the financial year ⁶ .	\$10,000 minimum	Yes	An IDPS operator with 10% market share will pay \$10,000 plus an estimated \$125,000 in variable levy (total \$135,000).
Responsible entities	\$23.5 million	490	A minimum levy plus a variable component based on the entity's share of the total value of assets in all registered schemes above \$10 million (estimated \$0.24 per \$10,000).	\$7,000 minimum	Yes	A responsible entity with funds under management of \$1 billion will pay \$7,000 plus an estimated \$23,760 in variable levy (total \$30,760).
Superannuation trustees	\$8.5 million	144	Minimum levy plus a variable component based on the trustee's share of the total value of assets in all registrable super schemes greater than \$250 million (estimated \$0.05 per \$10,000).	\$18,000 minimum	Yes	A superannuation trustee with funds under management of \$1 billion will pay \$18,000 plus an estimated \$3,750 in variable levy (total \$21,750).
Wholesale trustees	\$13.8 million	1,749	Estimated \$8,000 basic levy for the 2017-18 financial year. Thereafter, trustees will pay a minimum levy plus a variable component based on their share of the total value of assets issued in unregistered managed investment schemes.	\$1,000 minimum	Yes	A wholesale trustee with a market share of 1% will pay \$1,000 plus an estimated \$120,510 in variable levy (total \$121,510).

⁵ The Explanatory Memorandum to the *Regulations* states that for responsible entities, superannuation trustees and wholesale trustees, the amount of funds they have under management for the purposes of the levy calculation will not include any investments made between each entity to other unregistered managed schemes issued by the entity.

⁶ *Regulations* s34 (4) states that "[r]evenue is to be calculated for the purposes of this section in accordance with accounting standards in force at the relevant time (even if the standard does not otherwise apply to the financial year or some or all of the entities concerned)".



Mixed/variable levies by subsector

Financial advice sector

Subsector	Amount to raise	Affected entities	Levy metric	Minimum - maximum levy	Additional compliance costs anticipated for submitting levy calculation data to ASIC?	Representative entity's estimated levy
Licensees that provide personal advice on relevant financial products to retail clients (Tier 1 products)	\$22 million	2,150 licensees with 23,000 advisers	Minimum levy plus a variable amount based on the licensee's share of registered financial planners authorised to provide advice on the licensee's behalf (estimated \$960 per planner) ⁷ .	\$1,500 minimum	No	A licensee with 20 registered financial planners will pay \$1,500 plus an estimated \$19,200 in variable levy (total \$20,700).

⁷ *Regulations* s43 (4) states that providers who are part of large futures exchange participants, large securities exchange participants, or securities dealers, and only provide 1) advice on financial products that are admitted to quotation; 2) advice on financial products that are traded on a prescribed foreign financial market; or 3) advice on basic banking products, are *not to be counted* for the purposes of the levy.



Mixed/variable levies by subsector

Market infrastructure and intermediaries sector

Subsector	Amount to raise	Affected entities	Levy metric	Minimum - maximum levy	Additional compliance costs anticipated for submitting levy calculation data to ASIC?	Representative entity's estimated levy
Large securities exchange participants	\$19.0 million	133	Minimum levy plus a three-part variable component based on the entity's share of messages and transactions reported and recognised by ASIC's Market Surveillance System. Estimates are \$0.02 per transaction (non-IT first component) and \$0.002 per message (IT levy, and non-IT levy second component).	\$9,000 minimum	No	A cash equities participant with an average 10,000 transactions and 10,000 messages per week will pay \$9,000 plus an estimated \$11,440 in variable levy (total \$20,440).
Corporate advisors	Unknown	Unknown	Minimum levy plus a variable component based on the entity's share of gross corporate advisory revenue above \$100,000.	\$1,000 minimum	Yes	Data for estimation not available.
Large futures exchange participants	Unknown	Unknown	Minimum levy plus a three-part variable component based on the participant's share of the total number of messages sent and transactions reported on a large futures exchange and recognised by ASIC's Market Surveillance System.	\$9,000 minimum	No	Data for estimation not available.



Mixed/variable levies by subsector

Market infrastructure and intermediaries sector continued

Subsector	Amount to raise	Affected entities	Levy metric	Minimum - maximum levy	Additional compliance costs anticipated for submitting levy calculation data to ASIC?	Representative entity's estimated levy
Large securities exchange operators	\$4.8 million	2	Variable levy based on the operator's share of the total value of transactions entered into or reported to markets in the subsector.	N/A	No	A large equity market operator having had 50% of the value of transactions on all large equity markets traded, will pay a levy of \$2.4 million.
Over-the-counter traders	Unknown	Unknown	Minimum levy plus a variable component based on the trader's share of the total number of FTE persons undertaking OTC derivative trading. Responsible entities, superannuation trustees and wholesale trustees do not count as part of this sector.	\$1,000 minimum	Yes	Data for estimation not available.
Securities dealers	\$2.9 million	2,840	Minimum levy plus a variable component based on the entity's share of the total value of transactions in securities in a financial year (estimated \$0.34 per \$10,000).	\$1,000 minimum	No	A securities dealer trading \$1 billion in a financial year will pay a minimum levy of \$1,000 plus an estimated variable levy of \$34,000 (total \$35,000).



Mixed/variable levies by subsector

Insurance sector

Subsector	Amount to raise	Affected entities	Levy metric	Minimum - maximum levy	Additional compliance costs anticipated for submitting levy calculation data to ASIC?	Representative entity's estimated levy
Insurance product providers	\$4.1 million	85	Minimum levy plus variable component based on the provider's market share of insurance product revenue over \$5 million (estimated \$0.59 per \$10,000).	\$20,000 minimum	No	An insurance product provider with \$1 billion in net insurance revenue will pay a minimum levy of \$20,000 plus an estimated graduated levy of \$58,705 (total \$78,705).



Certain form lodgements to have fees removed

In response to the commencement of the Industry Funding Model, ASIC proposes to remove fees for forms including but not limited to the following:

- Payments out of development account (P-719) - \$37
- Credit license changes (P-CL04,CL08,CL20) - \$25
- Credit representative changes (P-CL30-32) - \$25
- Australian credit license annual compliance certificates (P-CL50AA-AI) - \$484-\$22,596
- Trust account statements (P-CL70) - \$108
- Auditor appointment for AFSL holder (P-FS06) - \$37
- Managed investment scheme voluntary deregistration (P-6010A) - \$37
- Identification statement replacement (P-7079) - \$37
- Changes to liquidator details (P-905A) - \$37
- Changes to auditor/audit company details (P-905B,905D) - \$37
- Annual statements by liquidators, auditors, audit companies, SMSF auditors (P-908,912A-B,P-SFANL) - \$50-\$150
- Lodgement of notice on Insolvency Notice Website (NONUM) - \$145

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