



Australian
Shareholders'
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The Director
Corporations and Schemes Unit
Financial System and Services Division
The Treasury
100 Market Street
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By email: asicfunding@treasury.gov.au

AUSTRALIAN SHAREHOLDERS' ASSOCIATION SUBMISSION TO TREASURY ON ASIC INDUSTRY FUNDING

Dear Sir

We comment in summary as regards the proposal to charge industry levies and fees to fund the regulatory functions of the Australian Securities and Investments Commission (ASIC). In essence, we do not agree with the proposal so refrain from commenting on individual questions raised in the consultation paper dated 28 August 2015.

For the 2013/14 financial year, ASIC collected revenue of \$763 million from its registry activities which went straight into Commonwealth revenue. ASICs costs were funded by Commonwealth appropriations totalling \$350 million, so ASIC generated net revenue for government of about \$413 million in 2013/14. The government has proposed to privatise registry functions and so continue to deprive ASIC of this source of funding. If implemented, the proposed industry funding will operate from 2016 to replace appropriations with the industry levies to fund the regulatory element of ASIC's costs – from the proposal, we understand that ASIC is looking to fund about \$200 million of costs through the Industry Funding Model leaving the balance of its costs, probably about \$200 million, to be privatised into the registry process.

Frankly, it is hard to understand why the government wants to go about it this way – the registry function generates more than enough revenue at present to fund all of ASIC's routine operations (leaving aside the need for special funding for prosecuting issues through the court system which might arise in unusual circumstances from time to time). The registry function feeds data into ASIC's surveillance and intelligence operations and is the heart of its database of companies and other business structures, and their officers and auditors. We understand that the registry is using dated software and needs new investment to improve services and response times – will it get the necessary funding through the privatisation process and will ASIC still get the information it needs afterwards in a timely manner and at minimal or no cost?

Initially is \$200 million under the industry funding model sufficient for ASIC to undertake its activities to a high standard and in a timely manner?

It seems more logical to us to establish ASIC as a self-funding statutory corporation with an obligation to pay dividends to government from surpluses and the opportunity to seek ministerial approval for extra funding in special circumstances. ASIC could then be left to determine whether or not to privatise all or part of its registry functions and to develop new systems as needed.

The Industry Funding proposal contains an element of bias against larger companies which would be required to heavily subsidise ASIC's regulatory activities – these larger companies will doubtless complain that they are being asked to subsidise activities undertaken by smaller companies which give rise for the need for the major part of ASIC's regulatory spend. Whilst such arguments can be refuted on the basis that it is not always smaller companies that transgress, there remains substance to this assertion. The current level of filing fees and charges for company annual returns and other registry documents has not been criticised on these grounds so far as we are aware, and hence would seem a more equitable basis for allocating ASIC's costs over its responsibilities than the proposed new taxation by way of industry levies and fees. We have no argument against revision of existing filing fees and charges to better reflect the extent of ASIC staff time needed to regulate activities such as prospectuses, related party transactions, corporate actions (takeovers, mergers etc.) and managed investments.

We would be pleased to discuss the foregoing with you or the responsible minister if considered desirable.

Yours faithfully



Diana D'Ambra
Chairman
Australian Shareholders' Association