



13 September 2019

Ms Claire McKay
Senior Advisor
Banking and Access to Finance
Financial Systems Division
The Treasury
Langton Crescent
PARKES ACT 2600
By email: supervisorylevies@treasury.gov.au

Dear Ms McKay

Financial institutions supervisory levy methodology discussion paper submission

With the active participation of its member banks in Australia, the Australian Banking Association (ABA) provides analysis, advice and advocacy for the banking industry and contributes to the development of public policy on banking and other financial services. The ABA works with government, regulators and other stakeholders to improve public awareness and understanding of the industry's contribution to the economy and community. It strives to ensure Australia's banking customers continue to benefit from a stable, competitive and accessible banking industry.

The ABA welcomes the opportunity to make a submission on the design and operation of the Financial Institutions Supervisory Levy. The ABA understands that the outcome of this consultation will inform the future consultation on draft legislation expected before the end of the financial year.

The ABA supports appropriate cost reflective funding of APRA. An adequately resourced regulator will ensure its regulatory mandate is undertaken in a timely and effective way. The ABA is keen to ensure that APRA is funded adequately so it can implement the APRA Capability Review recommendations. As noted by the review:

*"Industry benefits a great deal from a world class regulator and consumers need a regulator that can ensure the system is safe, robust and accountable."*¹

Further, any cost reflective levy should minimise the possibility of cross-subsidisation between entities. How any future draft legislation addresses the issue of cross-subsidisation should be clearly articulated in the associated consultation paper. That said, any final methodology should be administratively simple and low cost.

The ABA considers the review of the levy methodology to be timely. The previous annual review of the levy demonstrated that the statutory maximum cap for some banks, is no longer cost reflective of the actual supervisory costs incurred. The Treasury should address this issue by ensuring that any future legislative requirements will be drafted in a way that continue over time to be cost reflective. Given this, the ABA is questioning the need for a statutory cap. Instead, it would seem more effective to rely on the annual Cost Recovery Impact Statement (CRIS) to inform the quantum of the levy.

The ABA also requests that Treasury undertake adequate consultation when determining the annual levy. This should be a minimum of four weeks which is in accordance with the better regulation

¹ The Australian Government the Treasury, *Australian Prudential Regulation Authority Capability Review*. June 2019 accessed at: https://www.treasury.gov.au/sites/default/files/2019-07/190715_APRA%20Capability%20Review.pdf



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principles. This consultation should follow the publication of the APRA CRIS so there is a clear link between the costs incurred and the levy charged to banks.

This submission considers these issues and provides a response to the consultation questions in more detail in the attachment below.

Yours sincerely

Karen O'Brien
Policy Director



Consultation issues

The consultation paper posed three questions:

1. Is the levy base appropriate for each industry sector?
2. What is the appropriate level for the statutory cap for the restricted component of the levies on ADIs?
3. What changes would stakeholders find useful to the annual levies' consultation process?

Each of these questions is addressed below.

1. Is the levy base appropriate for each industry sector?

The ABA considers that the asset values (as currently used) should continue to be used to determine the proportion of the levy charged to each entity. Using asset values is beneficial because:

- It is relatively simple
- Can be verified independently and easily by entities; and
- Likely to be a reasonable indicator of the regulatory complexity faced by each bank.

2. What is the appropriate level for the statutory cap for the restricted component of the levies on ADIs?

It is unclear to the ABA what policy purpose is served by having a statutory cap to a portion of the levy in the legislation. Inevitably at some point over time, the specified cap will no longer reflect the true cost of regulation as costs and asset bases increase over time. Given this, any legislation with a statutory cap will regularly need to be amended with no obvious benefit from this costly process.² That said, the ABA understands that this is common practice in other cost recovery levies.

However, in the case of this levy, the ABA would like the cap to be removed unless a clear realisable benefit can be identified to justify its requirement. It is our view that any levy should be reflective of actual costs which are reported in the annual CRIS statement.

3. What changes would stakeholders find useful to the annual levies' consultation process?

As noted earlier, the ABA supports the CRIS being published before the annual levy review consultation process. This would further improve transparency and accountability of cost recovered activities.

Further, the annual levies consultation process should follow best practice policy principles and provide an adequate period of consultation. The minimum period of consultation consistent with best practice is four weeks. Without adequate consultation time, a consultation is likely to be ineffective as banks are unable to respond usefully in shorter time frames.

The ABA understands that Treasury considers its consultation period is constrained by Budget and the end of financial year. However, the ABA would question why a determination is constrained by the end of financial year. The consultation only relates to how the levy is split up, so it seems unlikely that delaying a determination until September would put APRA's budget at risk.

² The ABA considers that all regulation should be regularly reviewed in line with best practice policy making. However, the review should be at regular intervals and not solely prompted by the need to change a cap.