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ASIC
Australian Securities & Investments Commission

User-pays funding model for ASIC

Summary

1 ASIC contributes to Australia's economic reputation and wellbeing by ensuring we have confident and informed investors and financial consumers who participate in fair and efficient markets.

2 The proposed user-pays funding model is not about increasing ASIC's budget but about providing economic incentives to drive the regulatory outcomes set by Government.

3 The cost of using ASIC's resources has grown significantly out of line with the revenue we collect from the sectors we regulate.

4 Recovering the cost of using ASIC's resources through an outcomes focused user-pays funding model can drive economic efficiencies and:

a encourage self-regulation;

b limit overuse of ASIC's resources;

c create greater visibility and cost accountability for ASIC;

d foster opportunities to better target regulatory outcomes; and

e strengthen ASIC's operational independence.

5 **Figure 1** demonstrates that around twenty years ago, ASIC (or the ASC as it then was) mainly regulated companies. In 1991-92, our costs largely aligned with revenue from companies. Since then, revenue has grown and significantly outstrips our costs.[1]

6 **Figure 2** demonstrates that the proportion of ASIC's costs spent regulating sectors other than proprietary companies – financial services licensees, financial markets, credit providers, public companies and insolvency practitioners – has dramatically increased as we have evolved into a financial services and markets regulator.

7 At the same time, these costs do not align with the revenue collected from these sectors. For example, it costs ASIC about $139.9 million to regulate Australian financial services licensees, although fees collected by ASIC are about 13.4% of this amount (i.e. around $18.7 million in fees).

[1] Figures 1 and 2 are estimates, and not adjusted for inflation. Costs include depreciation. Source: Australian Securities Commission, Annual Report 1991-92 and Australian Securities and Investments Commission, Annual Report 2012-13.

Figure 1: Revenue and costs – companies, business names and searches 1991–2013 (nominal terms)

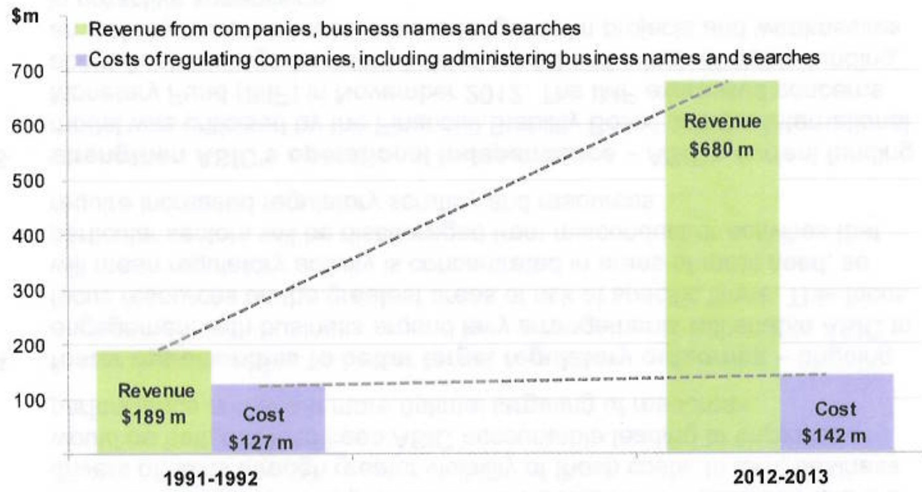
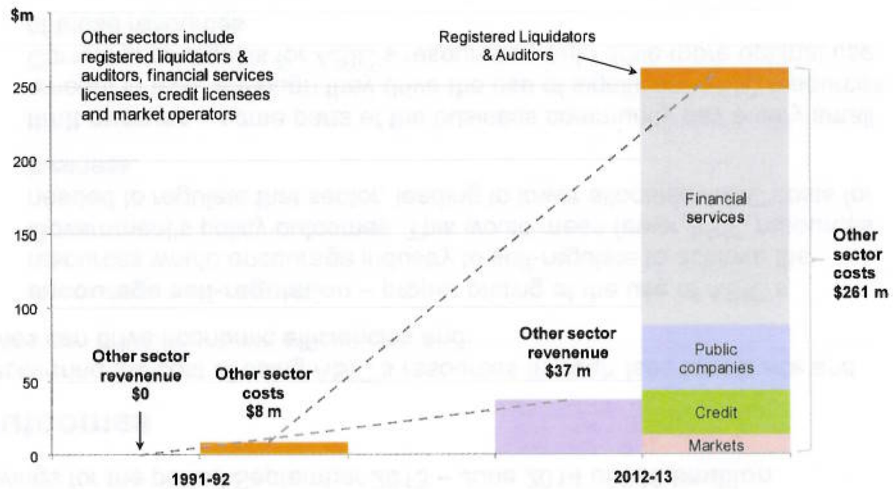


Figure 2: Revenue and costs – all other sectors 1991–2013 (nominal terms)[2]



[2] 1991-92 'other sector costs' are all sectors consolidated and include $0.68 million for statutory bodies. Financial services includes financial advisers, insurers, responsible entities, trustees, deposit-takers, investment banks, market participants, credit rating agencies, retail OTC derivative providers, operators of IDPS and custodians.

Efficient resource allocation

Either ASIC or business must allocate resources to meet the Government's regulatory policy outcomes. By proper pricing (i.e. price signals) of the use of ASIC's resources, business can identify the cost of regulation and have an incentive to reduce the costs allocated them. In some instances this may be achieved through self-regulation. Correct price signals for ASIC's resources will ensure that the desired policy outcomes are delivered in the most economically efficient way.

The Senate Economics References Committee report[3] recommended that ASIC should be primarily funded through a user-pays system of industry levies designed to reflect the cost associated with regulation and to incentivise sectors to minimise the attention the regulator needs to devote to them.

How it would work

In designing the proposed user-pays model, we have allocated the cost of our resources to each of the sectors we regulate. We propose to recover $288.94 million from industry through a combination of:

- **fees for service** of $43.8 million (15%), where charges are directly linked to the cost of ASIC delivering a particular service (e.g. takeover approvals); and
- **sector-based levies** of $245.2 million (85%) where sector participants pay an annual fee based on a cost-driver metric. A cost-recovery model for each of ASIC's industry sectors has been developed and the impact of cost recovery assessed for those sectors.

There will be an adjustment of fees paid now by some sectors, compared with what we propose they pay under the user-pays model. Fees will be tiered to align the cost of ASIC's work with the sectors that drive the cost. As a result, sectors with little interaction with ASIC, or little need for interaction with ASIC, will pay lower fees.

ASIC's deregulatory initiatives

As part of our work to reduce red tape we are currently undertaking initiatives and seeking business and community feedback on:

1 **forms** – we've identified around 10 per cent of our forms for removal, streamlining or consolidation;

2 **legislation and regulation** - specific requirements that impose unnecessary red tape that could be raised with Government; and

3 **process and procedure** - any changes that ASIC can make to reduce the compliance burden on regulated businesses including simplifying and rationalising existing fees.

Across all of ASIC's deregulation initiatives, we have reported compliance cost savings for the period September 2013 – June 2014 of **$48.9million**.

Outcomes

Recovering the cost of using ASIC's resources through fees for service and levies can drive economic efficiencies and:

1 **encourage self-regulation** – proper pricing of the use of ASIC's resources would encourage industry to self-regulate to achieve the Government's policy outcomes. This would mean fewer ASIC resources needed to regulate that sector, leading to lower allocated ASIC costs for business.

2 **limit overuse** – some parts of the business community pay a very small amount in fees, although they drive the use of significant ASIC resources. Correct price signals for ASIC's resources would drive more optimal use of those resources.

3 **create greater visibility and cost accountability** – business would better understand and appreciate ASIC's allocation of resources and the drivers of costs through greater visibility of those costs. In turn, business would be better able to keep ASIC accountable leading to improved performance and again more optimal targeting of resources.

4 **foster opportunities to better target regulatory outcomes** – ongoing engagement with business around levy arrangements will enable ASIC to focus resources on the greatest areas of risk at specific times. This focus will mean regulatory activity is concentrated in areas of most need, so particular sectors will be discouraged from misconduct or activities that require increased regulatory scrutiny and resources.

5 **strengthen ASIC's operational independence** – ASIC's current funding model was criticised by the Financial Stability Board and the International Monetary Fund (IMF) in November 2012. The IMF expressed concerns about Australia's government-funded model and a lack of stable funding, an inability to commit resources to longer-term projects and weaknesses in proactive supervision.

In addition, the 2014 Financial System Inquiry interim report commented that ASIC's current funding model poses limitations in meeting the principles of a best-case funding model and that there is a case for moving to an industry-funded model.

[3] The Senate, Economics References Committee, Performance of ASIC, June 2014