know compliance

A division of Beronara Pty. Ltd. ABN 97 006 806 604
PO Box 206 Yarraville Victoria 3013
Telephone 61 3 9689 1186
www.knowcompliance.com.au

Response To The Proposed Industry Funding Model for the Australian Securities and Investments Commission

October 2015

Lodging Party:
Beronara Pty Ltd Trading As Know Compliance
www.knowcompliance.com.au

Contact Names:
Mei Ling Perry and Leon Betheras, Directors

Contact Details:
PO Box 206, Yarraville, Victoria, Australia 3013

Telephone:
(03) 9689 1186

INTRODUCTION

This submission relates to Australian Financial Services Licensees (AFSLs) and Credit Licensees (CLs) in the main, areas in which we have expertise and familiarity as several of our team members are former ASIC senior officers.

Our comments and queries are based on a desire to have fairness in the treatment of different entities and industries, including organisations which are exempt from licensing but which nevertheless are subject to regulation in Australia.

We support the initiative to impose levies to increase funding for ASIC's activities so that it is better resourced to carry out its functions and meet its objectives. At the same time, we suggest that ASIC also considers how it can operate more efficiently, perhaps doing away with the hallowed tradition of flexi time.

We work closely with small to medium sized organisations, providing compliance services at a reasonable cost to many start-up companies. Our business is to assist our clients deliver good services and products in the best interests of their customers and in line with Australia's need to have a sound financial system in which customers can invest with confidence.

If there are queries and issues, we would be pleased to provide further information.

1. Comment: Timing of consultation paper

The timing of this consultation paper and its proposed implementation may be premature as the government is undertaking a Capability review of ASIC. This Capability Review will examine some of the following in ASIC:

- resource prioritisation and responsiveness to emerging issues, including:
- how ASIC allocates its current resources among its regulatory tools, such as supervision, surveillance, education, policy, enforcement and litigation; and
- how ASIC allocates its current resources across its regulated population;
- the skills, capabilities and culture of the Commission and its staff, including in respect of internal review and improvement mechanisms; and
- organisational governance and accountability arrangements.

As this review is yet to be finalised it may have been more appropriate to await the outcomes of the review before releasing the consultation paper.

2. Comment: The proposed methodology for determining the levy mechanisms is inappropriate

We query if Treasury has considered that the proposed levy funding model might restrict the entry of participants who could offer innovative services which might start off relatively small, being less well-resourced in start-up phase. ASIC and the government are providing support and encouragement to fintech start up companies and seem to ignore the fact that there may be other entities which could also benefit from similar assistance and better than that, not have to face high costs in obtaining and maintaining licences when commencing business.

Applying a levy based on industry sectors and sub-sectors is not necessarily fair nor might it achieve the objectives of the ASIC and beyond this, create social good for Australia. On page 18 of the Treasury paper, it is stated that “Where an entity provides multiple regulated services (that is, falls within more than one regulated industry sector), that entity would pay the levy that applies to each category of service it provides. There is no discount for entities that operate across a range of sectors or subsectors….”

However, a small business operator such as an independent financial planner might hold both an AFSL and be captured by multiple industry sub-sectors and also require a CL in order to offer a range of services to its customers. The proposed funding model would quite likely discourage the operation of the smaller, independent financial planner and discriminate in favour of larger financial planning and dealer groups.

It is already well recognised that there are conflicts of interests where product issuers own financial planning groups. The funding model based on industry sectors and sub-sectors do not necessarily provide suitable solutions to conflicts of interest positions and enable ASIC to meet the objective of "maintaining, facilitating and improving the performance of the financial system and entities in it".

To date, the regulator has not revealed the ratio of the compliance, risk management and corporate governance personnel/consultants to the staff and representatives of an organisation regulated by ASIC although it has probably collected this information during its reviews of various industry sectors. Where the ratio is low or if such personnel/consultants are less effective due to management and board attitudes, the entities potentially pose higher risks. The cost of regulating the larger entities with larger numbers of staff and representatives may be greater because the scale of fraud and breaches is potentially significantly larger than smaller entities in the same industry sectors and with licensed activities in the same sub-sectors. This is amply evidenced by the recent enforcement activity with the larger banks.

It would be fairer to impose levies based on revenue as this should then reflect the size and capability of the entity and the potential cost of ASIC regulating that entity in undertaking any surveillance and enforcing the law. If an organisation is in start-up phase or has a smaller number of customers, it may be less costly for ASIC to undertake the same surveillance activities or to enforce the law.

We note that a number of licensees set up separate companies to hold licences and conduct their operations under another entity in the group which is authorised by the licensee. This enables audits to carried out at more reasonable costs. This should be taken into account when

imposing levies on licensees.

3. Comment: Discourages competition and possibly creates opportunities for licensees for hire

It should be noted that paragraph 2.5 of the Explanatory Memorandum to the Financial Services Reform Bill 2001 argued that the simplified procedures for obtaining a licence would increase competition in the financial services sector by encouraging existing participants to broaden the range of products and services offered by them to the public. This funding proposal will have a countervailing impact on small business, some of which might be classified as falling into a range of industry sectors and sub-sectors.

The increase in costs discriminates in favour of large business and is likely drive smaller businesses (which can offer much needed lower cost services to retail customers) away from providing intermediary services to consumers or retail clients. It is anti-competitive which may not be in the national interest of Australia. Small businesses can be more flexible and innovative and small business generates a large proportion of employment in Australia as Treasury should be well aware.

An unintended consequence may be the creation of more “licensees for hire” rather than entities and individuals obtaining their own licences, thus generating greater risk in the financial services industry if licensees are not capable of monitoring their representatives adequately and in a timely manner. ASIC has previously stated that it is monitoring existing licensees for hire, which seems to indicate that ASIC is conscious of the potential for breaches and that such entities may impede its own requirements to promote “confident and informed participation by investors and consumers in the financial system”.

4. Comment: Potential impact on smaller players and the Australian financial services industry

Many small intermediaries utilise the services of advisers to assist with the licensing process as they have neither the skill nor the time to read through the voluminous licence application related regulatory guides in order to prepare the licence application, the range of supporting documentation required to be submitted to ASIC and other compliance documents.

The cost of utilising these advisers ranges from under $10,000 to over $100,000, depending on the type of licence being applied for and the service provider. This does not include other compliance costs, such as PI Insurance and membership of an external dispute resolution scheme.

The complexity of legislation and ASIC policy requires most AFS applicants to utilise the services of compliance advisers or compliance personnel to also meet ongoing compliance with the numerous laws and policies. Larger licensees can afford to employ specialist staff to assist them with ongoing compliance and have no hesitation in seeking legal advice if an issue appears to be beyond the capabilities of those specialist staff.

Smaller licensees may take the risk of not obtaining much needed compliance and risk management assistance if they have to pay substantial levies. This would be counter-productive for Australia and non-compliance will ultimately increase the cost of regulation and lower investor confidence. Australia's reputation as a well-regulated country would suffer and this will impact on our ability to attract capital and investment internally and from overseas.

There is a perception amongst independent compliance advisers that ASIC and the government favour legal firms assisting licensees and applicants, but seem opposed to the use of less costly non-legal compliance advisers. The shift towards high cost legal advisers favours larger licensees and applicants over smaller ones and will lead to reduced competition. Reduced competition does not benefit investors.

5. Comment: Poor quality licence applicants or licensees

The increase in application and other costs may result in applicants attempting to save money by submitting applications without the benefit of professional advice. This will result in ASIC receiving poor quality applications which will lead to additional effort being required by ASIC to process sub-standard applications and hence raising the cost of providing ASIC services.

ASIC will be under pressure from industry bodies to process applications more expeditiously because of the increased funding costs to licence applicants. These industry bodies may seek to influence ASIC's licensing application process in favour of their members and use this as a carrot to attract new members.

One accounting body, the CPA, is applying for its own licence to assist its members to comply with new laws under a Limited Australian Financial Services licence. This may give rise to a similar situation to that which prevailed when the ASX was self-regulatory. This initiative was not even driven by high licensing costs but rather it appears that many accountants seem generally unwilling or unable to obtain their individual Limited AFSLs. If levies are introduced in the manner set out in the Treasury Paper, this may reduce the number of accountants who will be willing to provide advice on setting up and managing self-managed superannuation funds.

The proposed fees may not necessarily result in better quality licensees and representatives in the financial services industry.

6. Comment: Proposed costs do not reflect effort

Previously ASIC's service charter for AFS and Credit Licensing stated that ASIC aimed to make a decision on an application within 20 business days of receipt of an application, with a target of 70%.

A majority of AFS and Credit licence applicants were required to submit most of the supporting documents with the original application, meaning the target of 70% was achievable. Only more risky applicants, such as responsible entities, market makers or small lenders, were requisitioned for additional "proofs" and required more detailed assessment. These more risky applicants would have had some impact on the service charter, though ASIC did not include the time taken for the applicant to respond to these requisitions when calculating whether it met its service charter. It is the "risky" applicants where additional effort in assessment is needed.

The effort required to assess a financial planner or a finance/mortgage broker would not justify costs of $11,000 and $5,700 respectively. A financial planner (or insurance broker) might normally provide all of the supporting documentation with the application and ASIC is able to verify most of the information provided on its internal systems. Assessment generally might take between one and two days. A finance broker only has to submit minimal documentation, such as copies of qualifications, police checks and a short precis of experience. Such an assessment could even take less than a day. These timeframes are based on the assumption that the applicants are well organised and submit the information as set out in the ASIC regulatory guides.

This Consultation Paper proposes a “one size fits all” approach to charging for an AFS Licence application. This is manifestly unfair. For example, the amount of assessment time required for a small financial planner or Limited AFS licence is far less that that required for an OTC derivative issuer or an ADI applicant. This model does not take into account the different regulatory effort required to conduct the licence assessment.

For example, where a credit licensee intends to vary its licence, by amending the conditions of its licence to change a key person, ASIC would be provided with the same basic information about the new key person as was provided for the current or previous responsible manager – summary of experience, copies of qualifications, police and bankruptcy checks and references. The comparison should normally be straight forward. Such an assessment would take less than a day and should not give rise to a regulatory cost of $3,500 unless ASIC values staff time at a daily rate of $3,500.

The process to cancel an AFS Licence requires minimal effort where internal checks are undertaken by administrative staff and an instrument drafted to cancel a licence. This would require less than a few hours of work. The proposed fee of $2,200 is excessive considering the usual amount of time required. Further, the potential negative impact of a high cost to cancel a licence may lead to the sale of the licence and related business. The cancellation fee should encourage the cancellation of licences and not make the process prohibitively expensive, resulting in a creation of a market for trading licences. Similarly, where a licensee requests a suspension of its AFS Licence it is most likely caused by its financial difficulties which may be temporary. Imposing a cost of $2,300 to request the suspension of its licence will result in licensees not approaching ASIC to discuss compliance issues.

Likewise, the notification of change in control is purely a notification and requires minimal, if any, assessment. The proposed cost of $4,400 is excessive for a notification document.

7. Question: What constitutes an AFS Authorisation?

How does Treasury define authorisations?

Does this include each of the financial <u>service</u> authorisations and then each financial <u>product</u> authorisation? If so, this imposes significant cost to small business. See following comments.

8. Comment: Levy for a typical financial planner including costs for authorisations

A majority of small financial planners would have authorisations to provide both financial product advice and deal in financial products. The deal authorisation is sought by a majority of financial planner licence applicants as they assist their clients to complete the necessary paperwork for acquisition and disposal of financial products which, based on the Corporations Act and ASIC Regulatory Guide 36, requires a deal authorisation. If the Consultation Paper intends to charge a levy on each financial service and financial product authorisation which a typical financial planner would require, there would be far more than two authorisations noted in example 5. A typical financial planner may have the following 21 authorisations:

Authorisations	Typical Advice and Deal authorisations for a Financial Planner
1	1. Provide financial product advice for the following classes of financial products:
2	a. deposit and payment products including:
2	i. basic deposit products;
3	ii. deposit products other than basic deposit products; and
4	b. non-basic deposit products;
5	c. debentures, stocks or bonds issued or proposed to be issued by a government;
6	d. life products including:
6	i. investment life insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds; and

7	ii. life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds;
8	e. interests in managed investment schemes including:
8	i. investor directed portfolio services;
9	f. retirement savings accounts ("RSA") products (within the meaning of the Retirement Savings Account Act 1997);
10	g. securities; and
11	h. superannuation
12	2. deal in a financial product by:
12	a. applying for, acquiring, varying or disposing of a financial product on behalf of another person in respect of the following classes of products:
13	i. deposit and payment products including:
13	1. basic deposit products;
14	2. deposit products other than basic deposit products; and
15	ii. debentures, stocks or bonds issued or proposed to be issued by a government;
16	iii. life products including:
16	1. investment life insurance products as well as any products issued by a

	Registered Life Insurance Company that are backed by one or more of its statutory funds; and
17	2. life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds;
18	iv. interests in managed investment schemes including:
18	1. investor directed portfolio services;
19	v. retirement savings accounts ("RSA") products (within the meaning of the Retirement Savings Account Act 1997);
20	vi. securities; and
21	vii. superannuation

On the basis of these authorisations would a typical, small business, financial planner be charged for 21 authorisations?

It should be noted that more than 10% of AFS licensees would be small businesses, such as Example 5, with these type of authorisations. Using Example 5, the levies would be:

- small proprietary companies: $5
- AFS licence and twenty one authorisations: $5,500 (22 x $250)
- Tier 1 Financial Advice Provider (Tier 1): $1350
- each Financial Adviser on the FAR: $2,350 (5 x $470)
- Securities Dealer <u>$1, 600</u>

Total levy payable by Company E: $10,805

This is quite an excessive ongoing cost for a small business. ASIC is potentially increasing red tape and costs.

9. Comment: Deal authorisation where tasks are incidental to advice

Most financial planners **also** have the authorisation to deal in a financial product as they assist their clients to complete a transaction. In a majority of cases, the service provided by financial planners is incidental to the provision of financial advice. However, in light of Regulatory Guide 36 and the broad definition of dealing and arranging, many Financial Planners and Insurance Brokers also have a range of deal authorisations equivalent to the advice authorisations.

The Treasury paper is suggesting that financial planners who provide this incidental service be charged an additional $250 per financial product authorisation which is anti-competitive.

10. Comment: Levy to be imposed on a holder of a Credit Licence

The current annual cost for a finance broker, that is a sole trader (which is a majority of ASIC's credit population), will increase from $484 to $890 for lodgement of the annual compliance certificate, which is again increasing red tape and cost.

11. Comment: Levy to be imposed on a holder of a Limited AFS Licensee

The Limited AFS Licensee regime was developed as a low cost, compliance regime for accountants providing advice to establish self managed super funds. The low cost compliance regime included the removal of the annual audit where a Limited AFS Licensee did not hold clients' monies.

The consultation paper does highlight that these AFS licensees will not be required to pay the $563 lodgement fee for the FS70, however the annual levy for this type of licensee, with two employee representatives, would be as follows:

The levy for small proprietary companies: $5

A levy for holding an AFS licence and 8 authorisations: $2,250 (9 x $250)

A levy for providing Tier 1 Financial Advice Provider (Tier 1):	$1350
A levy for each Financial Adviser on the FAR:	$940 (2 x $470)
Total levy payable by Limited AFS Licensee:	**$4,545**

A Limited AFS Licensee would **fall within the definition of Financial Adviser** as they will be authorised to provide Financial Product advice on SMSF and superannuation.

Again this levy is imposing red tape and significant costs on a type of licensee who provides limited financial services and would most likely pass those costs onto their clients.

12. Comment: Levy to be imposed on fund managers with non-retail investors

The proposed levy on wholesale fund managers will be quite excessive due to the definition of some of the terms in the consultation paper. There are a number of wholesale managers that are small businesses, operating small property funds with few investors. The Corporations Act and ASIC Policy require them to hold a range of authorisations, including providing a custodial or depository service, even though they usually outsource this function. In addition, recent changes to the Regulatory Guide 166 (and relevant class order), has required many wholesale fund managers to increase the level of capital required.

A small wholesale property fund manager that is a small proprietary company will generally hold minimal licence authorisations (approximately 6), including providing general advice in relation to the fund (though some more recent Trustees would rely on the exemption in regulation 7.1.33H). They would be subject to the following levy:

The levy for small proprietary companies:	$5
A levy for holding an AFS licence and 6 authorisations:	$1,750 (7 x $250)
A levy for General Advice Provider:	$520
A levy for Wholesale Trustee:	$1,700
A levy for a Custodian:	$410
Total levy payable by Wholesale Manager:	**$4,385**

Again this is a significant cost for a small business particularly when starting up.

13. Comment: Definition of Security Dealer

As mentioned in the previous comment, Financial Planners are authorised to deal and apply for securities as they typically would assist the client in completing the transaction. This Consultation Paper defines a Securities Dealer as “an AFS licensee with an authorisation to deal, arrange, issue and apply in securities”.

Therefore a financial planner will be classified as a securities dealer and be charged an additional annual levy of $1,600.

We suggest that the definition of securities dealer be removed as securities dealers are not a common licence type post the implementation of the Financial Services Act.

14. Comment: Definition of OCT Derivative Issuer

The definitions in the Consultation Paper appear to be reflected through licence authorisations and are therefore able to be verified through the AFS licence. However the definition of OCT derivative issuer includes the following, which will not be able to be verified through the authorisations or conditions on the licence:

> “promotes that they provide margin Foreign Exchange, CFD, binary option, or other retail OTC derivative services.”

15. Comment: Definition of Custodian

The definition of Custodian in the Consultation Paper simply relates to a licensee with an authorisation to provide a custodial service. ASIC policy requires wholesale managers/trustees to be authorised to provide custodial services even though the licensee outsources this function to another party that meets ASIC’s minimum requirements. In this case the wholesale manager/trustee is an incidental custodian.

As a result of this definition a wholesale manager/trustee is captured not only for this levy but also the levy of being a wholesale manager/trustee.

16. Question: Is it the intention to charge for authorisations that trigger an Industry sub-sector?

Industry sectors will be charged under the industry sub-sector levy and also for the authorisation on the licence. This is not appropriate and is "double dipping", for example:

Margin Lender	$6,400 plus $250 for Issuing Margin Loan Authorisation
MDA Operator	$2,400 plus $250 for Issuing MDA Authorisation
IDPS Operator	$30,000 plus $250 for Issuing IDPS Authorisation
Trustee	$12,000 plus $250 for Traditional Trustee Authorisation
Wholesale Trustee	$1,700 plus $250 for Issuing Managed Investment Authorisation
Superannuation Trustee	$6,400 plus $250 for Issuing Margin Loans
Custodians	$410 plus $250 for Custodian Authorisation even though the licensee may not be holding the property

17. Comment: Levies based on risk assessment

We note that the Paper mentions how ASIC assesses risk posed by regulated sectors from a top down and bottom up approach "to determine the supervisory intensity required for each sector". We suggest that the risk based approach be employed in determining levies for licence applications. A number of authorisations are seen as low risk, even by ASIC, when assessing licence applications and also determining minimum training requirements (EG basic deposit products, non basic deposit products, general insurance). These authorisations were applied for and granted to facilitate business operations (EG basic deposit products) and in some instances, do not generate any revenue for the business. For example, property fund managers are required to have an authorisation to deal in general insurance products as they need to arrange insurance cover for the property assets in the funds but they do not sell any insurance products.

A majority of AFS licences have basic deposit products and non basic deposit products. To impose a levy on licensees with these authorisations may be inappropriate as ASIC, in essence, grants these authorisations with minimal assessment. A financial planner would have authorisations to advise and deal in basic and non basic deposit products. This levy of $1000, for

being licensed to assist clients in relation to relatively simple products, would be seen as a considerable impost on small business.

18. Comment: Transition period is necessary to remove unnecessary authorisations

It is incorrect to assume that licensees are holding onto authorisations they do not use. Many AFS licensees were encouraged by ASIC to transition to the authorisations they have on their current AFS licence based on previous licences / registrations held with ASIC and APRA (see range of ASIC Guidance released 25 November 2002). A number of AFS licensees legally transitioned to licences that included broad authorisations (such as to issue deposit products or non cash payments, but the licensees are not Deposit Product Providers or Payment Product Providers).

In addition, many AFS licensees hold authorisations which may now not be required due to changes to the Corporations Act or the issue of ASIC Class Orders (eg regulation 7.1.33H) after their licence was issued.

If the proposed funding model proceeds, AFS licensees should be given the opportunity to vary their licences to remove unnecessary licence authorisations at the current fee and not the proposed fee of $6,900.

Imposing a fee of $6,900 to remove authorisations cannot be seen as cost recovery as there would not be any need for assessment by ASIC.

19. Comment: Unclear ASIC policy impacting on some small AFS licensees

The Corporations Act and ASIC policy at times requires small licensees to hold authorisations similar to those which this Consultation Paper considers to be of a higher risk.

For example, as the Managed Discretionary Account policy has not been resolved, many small financial planners have applied for, and been granted, authorisations to operate a managed discretionary account.

The financial planners are not presenting the same risk as a large managed discretionary account issuer, with many of them providing services similar to those under ASIC No Action Letter

issued in 2004. There does not seem to be a sound basis for subjecting financial planners to both the Financial Adviser and Managed Discretionary Account Provider levies.

The levy for Managed Discretionary Account providers should be scaled or not introduced until ASIC's policy position is clarified.

Having this type of authorisation may seem high risk because the investors are giving full discretion to their financial advisers. However, this authorisation also enables financial planners to provide a more efficient service for the benefit of their clients because it enables them to conduct transactions on behalf of all clients under the MDA authority at the same time instead of requiring each investor to given written permission for their adviser to manage common investment portfolios.

20. Comment: Example 6 is inaccurate

This example is unrealistic as most OTC Derivative Issuers would have multiple financial services (EG advice, deal issue, deal apply for, make a market) and financial product authorisations (derivatives, foreign exchange and securities).

21. Comment: Example 7 is unrealistic

Example 7 states: "Company G is a large proprietary company. The company holds an AFS licence with one licence authorisation and is a responsible entity for a registered managed investment scheme, with around $250 million funds under management."

To be a responsible entity the company must be a public company (levy of $6,000 not $350).

As a responsible entity a licensee would most likely be authorised to provide a range of financial services in a range of financial products, for example:

- provide advice or provide general advice in a product or range of products;
- operate a scheme; and
- deal in a range of financial products as responsible entity on behalf of the scheme.

The levy will be significantly more than that set out in the example.

22. Comment: Need for improvement and accountability by ASIC

At present, the regulator issues “standard” licence conditions and expects licensees to decipher what they mean. This is a necessary area of improvement which ASIC should address. Will the increase in funding and levies result in better customer service from ASIC?

Lazy regulation imposes costs on the regulated population and the funding model may not provide any incentives for ASIC to improve on its processes and automated systems. ASIC must itself be made accountable for any desired increases to efficiency and innovation.

One means of making ASIC more transparent and accountable is to have its funding and its services audited on a half yearly basis by a government auditor. ASIC seems to have given up on having surveys conducted on its stakeholders. Perhaps this should be revived.

It is difficult to “master” the regulatory requirements because of the array of ASIC regulatory policies, class orders and the complexity of the various laws administered by ASIC which sometimes have required Court interpretation. Compliance is costly and ASIC is to be commended for making the effort to continue with the liaison meetings it has recently commenced to spread regulatory knowledge at less cost than having to attend expensive conferences at which ASIC participates.

One possible means of lifting efficiency is to limit the use of flexitime and to require staff to work during normal business hours to provide services to Australian business.

23. Comment : Anti Australian

Has Treasury considered that raising fees as proposed will mean that this new fee regime will enable well-funded and large overseas corporations to enter the Australian financial services industry, which is a possibility in the light of free trade and the foreign investment passport discussions? Perhaps larger fees should be charged to these large entities who, based on recent reported statistics, are also able to lower the taxes they pay in Australia and thereby possibly deprive our economy of much needed revenue.

The larger fees may be justified on the basis that should regulatory action be required, this may require ASIC to take action across different jurisdictions thus incurring higher costs. ASIC

officers may have to travel overseas and this would be at the expense of the public purse if not levied on the foreign participants in our financial services or credit industries.

24: Comment: Entities exempted from licensing requirements

ASIC has a memorandum of understanding with overseas regulators which enable entities with licences issued by overseas countries with similar regulatory regimes to be exempted from having to hold Australian licences. There is no good reason why these entities should be exempted from having to pay levies if they are offering financial services and products to the Australian populace and subject to financial services, superannuation, insurance or credit laws or a combination of all of these laws.

25 Comment and suggestion: Alternative funding model based on total revenue

The Australian government and populace would enjoy greater benefits from having a sufficiently resourced regulator which obtains levies based on the revenue earned by entities, rather than based on authorisations and classifications by industry sectors and sub-sectors.

For example, there are a number of licensees which issue white label products and services to others, who bypass the licensing system in this manner. There are also very large dealer groups and aggregator firms, with many authorised representatives all of whom still have to be regulated by ASIC but do not hold their own licences. In addition, there are responsible entities and licensees for hire who derive income out of such activities.

That there might not be sufficient data and statistics at this point of time to enable ASIC to estimate the total size of the regulated population or the revenue earned by the regulated population does not mean that Treasury should not consider this alternative.

Perhaps there should be some Commonwealth government funding to assess the total number of entities and individuals who are subject to regulation, whether they are companies, licensees or persons who have been successful in gaining relief.

At least this alternative funding model would enable start up companies to be initially exempt from fees or only be required to pay lower fees until they achieve a certain size.

The aim of regulation is to promote confidence in investment – this is done in a number of ways, including licensing and regulation. The larger the amount of funds under advice or under management, the greater should be the level of scrutiny by ASIC because of the potential risk to the Australian economy. Hence funding should be based on revenue derived by a licensee and the representatives it authorises.

Funding based on industry sectors and sub-sectors and authorisations will inhibit innovation. There is a high cost to developing and implementing new technology, which the government is encouraging and ASIC, itself, has set up a fintech hub to assist newcomers. However, innovation is not always electronic and may take the form of new concepts and new products and services which, at the start, may not require a greater use of technology. Such innovation is also important to the welfare of Australia and its citizens and should be considered as part of the overall framework of imposing levies and passing on costs to new entrants to the financial services and credit industries.

THE END