Australian Government

Australian Securities and Investments Commission

(CONSULTATION DRAFT)

MARKET SUPERVISION

COST RECOVERY IMPACT STATEMENT

1 JULY 2013 TO 30 JUNE 2015

Supervision of Australia's domestic licensed financial markets

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1 OVERVIEW

1.1 Purpose

This Market Supervision Cost Recovery Impact Statement (CRIS) sets out the arrangements for the recovery of costs over the period from 1 July 2013 to 30 June 2015 for the Australian Securities and Investments Commission's (ASIC) market supervision functions.

The arrangements outlined in this CRIS relate to the recovery of ASIC’s costs for:

- undertaking market supervision functions following their transfer from market operators;
- implementing market competition (in ASX listed securities), including the development of a supporting regulatory framework; and
- implementing the Enhanced Market Supervision (EMS) programme of works. The key aims of this programme are to:
    - enhance ASIC's market supervision capabilities, particularly market supervision technology and tools, to a level comparable with international regulatory agency peers, so that ASIC can improve its ability to detect and enforce market misconduct / abuse;
    - better supervise the increased levels of messaging taking place in the Australian market now and for the foreseeable future; and
    - improve interactions and workflow between ASIC and market participants, and within ASIC internally.

The EMS programme is designed to deliver productivity gains to both ASIC and industry. For example, it is anticipated that key elements of EMS will reduce the number of ASIC notices to produce information issued, and that industry will require less time to respond to ASIC notices than is currently the case.

ASIC and Treasury have agreed on the cost recovery model outlined in this Market Supervision CRIS. The consultation draft CRIS has been reviewed by the Department of Finance and Deregulation (DoFD) for compliance with the Australian Government's Cost Recovery Guidelines. ASIC is responsible for preparing this CRIS as it is the agency incurring the costs that are to be recovered to perform its regulatory functions. Treasury's role is to consult on the cost recovery arrangements (jointly with ASIC) and recommend any changes to the Corporations (Fees) Regulations 2001 (Fees Regulations) to the Minister for Financial Services and Superannuation.

1.2 Scope

This CRIS relates to the domestic licensed financial markets that were part of the transfer of market supervision to ASIC on 1 August 2010, to Chi-X Australia Pty Ltd, and to FEX Global Pty Ltd, a new market that was granted a licence by the Government on 4 April 2013 and is expected to commence operations whilst this CRIS is in effect (hereafter, these markets will be collectively referred to as 'domestic licensed financial markets')[1].

[1] This Market Supervision CRIS does not apply to the following domestic licensed financial markets: BGC Partners (Australia) Pty Limited; Bloomberg Tradebook Australia Pty Ltd; Mercari Pty Ltd; and Yieldbroker Pty Ltd, as the transfer of market supervision to ASIC did not apply to these markets under Regulation 10.15.01 of the *Corporations Regulations (Financial Market Supervision) Act 2010*.

The domestic licensed financial markets within the scope of this CRIS include:

- Cash equity markets (ASX-listed securities)
  - ASX Limited (ASX - includes TradeMatch, PureMatch and Centre Point electronic order books)
  - Chi-X Australia Pty Ltd (Chi-X), which launched on 31 October 2011
- Futures markets
  - Australian Securities Exchange Limited (ASX24) (formerly Sydney Futures Exchange)
  - FEX Global Pty Ltd, currently preparing to commence operations
- Small financial markets[2]:
  - National Stock Exchange of Australia Limited (NSX)
  - SIM Venture Securities Exchange Limited (SIM)
  - IMB Ltd (IMB)
  - Asia Pacific Exchange Limited (APX), currently preparing to commence operations.

1.3 Key changes to cost recovery from 1 July 2013

1.3.1 Cash equity markets and their participants

Though aggregate quarterly cost recovery charges are approximately the same for cash equity markets and their participants as those that commenced on 1 January 2012, their underlying composition has changed. The three key differences relative to current cost recovery arrangements are:

Table 1: Three key differences in this CRIS for cash equity markets and their direct participants

Change	Rationale	*Refer to* Section	Page
1. The proportion of ASIC's costs recovered by trading activity only has decreased & 2. The proportion of ASIC's costs recovered by messaging activity has risen	This is driven by the costs associated with the changing nature of trading, in particular algorithmic trading, which has increased the number of order messages in the Australian market. Order message-related supervision activity has become a material part of ASIC's costs since ASIC's last market supervision cost driver analysis was performed to underpin the cost recovery arrangements that commenced on 1 Jan 2012.	3.4.2.1	16
3. A new minimum fee for participants will be introduced	• The minimum fee per Trading PID will be $1,835 per quarter • This is as a result of ASIC's cash equity market participant supervision cost not being wholly variable. All direct market participants have a dedicated pool of resources allocated to supervising them, regardless of their trading and messaging activity. The new fee reflects this.	3.4.2.3	22

1.3.2 Non-cash equity markets

In previous CRISs, ASIC attempted to align individual staff costs directly to each fee applying to non-cash equity markets[3]. This has proven to be impractical. An average staff cost of $135,000 plus an allowance for salary increase over the life of the CRIS (based on a sample size larger than twenty that includes market supervision and similar staff in ASIC's Markets cluster) is consistently used throughout this CRIS to estimate the cost for supervision of non-cash equity markets.

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[2] The Corporations (Fees) Regulations 2001 group small markets into a specific market segment (currently four of these)

[3] Staff costs applying to cash equity markets were allocated according to the difference between the sum of all non-cash equity markets' staff costs and total cost-recoverable staff costs

Though salary and wages expenses for non-cash equity markets are now lower than was the case in the previous CRIS, this change means that ASIC will be able to compare actual vs. expected staff costs more efficiently in future than is currently possible.

1.4 Background

- **Transfer of market supervision to ASIC**

  On 24 August 2009, the Government announced its decision to transfer the responsibility for supervision of domestic licensed financial markets from market operators to ASIC. The *Corporations Amendment (Financial Market Supervision) Act 2010* gave effect to this decision and received Royal Assent on 25 March 2010.

- **Introduction of market competition**

  On 31 March 2010, the Government announced its support for market competition[4]. On 4 May 2011, the Government granted Chi-X an Australian market licence under section 795B(1) of the *Corporations Act 2001* (Corporations Act) to enable it to operate an alternative exchange for trading in ASX listed securities. Chi-X commenced operations on 31 October 2011.

  Over 2012 and into early 2013, market competition in Australia has been growing as demonstrated by Chi-X's increasing market share. Section A.2 in Appendix A contains more information on market competition.

- **Enhanced Market Supervision (EMS)**

  Maintaining the integrity and efficiency of the Australian equity market is essential as Australia has some of the highest levels of share ownership among the general population in the world. This market is the foundation of a majority of Australians' superannuation holdings, and is at the core of Australia's capital markets. It is also important to Australia’s competitiveness as a regional financial centre. At December 2012, the ASX equity market was ranked eighth largest in the world in terms of free float market capitalisation, with a total market capitalisation of approximately $1.4 trillion.

  Appropriate investment in technological capabilities and systems is critical to facilitate effective surveillance in the future. The financial market landscape has rapidly evolved post-competition with changes in technology, trading techniques and regulation.

  Increased adoption of algorithmic trading techniques by both the buy side and the sell side, and the entry of specialist high frequency trading firms to Australia has resulted in average trade size declining and an increase in the number of orders in the Australian market. A recent study by ASIC's high-frequency trading taskforce found evidence of high order to trade ratios (indicative of order proliferation) in the Australian market that was widespread and not limited to high frequency traders[5]. Order proliferation makes the detection of market misconduct more difficult using ASIC's current systems and processes.

[4] http://mfsscl.treasurer.gov.au/DisplayDocs.aspx?doc=pressreleases/2010/032.htm&pageID=003&min=ceba&Year=&DocType=0

[5] ASIC Report 331, Dark liquidity and high-frequency trading, March 2013 available at http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/rep331-published-18-March-2013.pdf/$file/rep331-published-18-March-2013.pdf

Order proliferation increases the data capacity requirements of the entire industry. ASIC, market operators and market participants must all deal with the cost of investing in greater system capacity to store and manage order records for surveillance and compliance purposes.

In response to the Australian market changing and becoming more complex, the Government agreed to provide ASIC with additional funding via the EMS measure in the 2012-13 Budget so that ASIC can enhance its market supervision capabilities, including:

- providing greater surveillance system capacity and capability (including dealing with greater levels of HFT and algorithmic trading);
- developing superior capabilities to search data records and identify suspicious trading, by connecting patterns and relationships – essential for detecting insider trading relationships;
- implementing new and improved post-trade surveillance tools to identify market trends, patterns of trading behaviour and repeated/systematic behaviour; and
- improving ASIC portals and registers, including developing new portals and registers, that are (or will be) accessed by market participants.

1.5 The Market Supervision Cost Recovery Stakeholder Panel

The Minister established the Market Supervision Cost Recovery Stakeholder Panel[6] in late 2011 to provide stakeholder perspectives to the Government on financial market supervision proposals and approaches for cost recovery. Treasury chair this Panel and ASIC also attends Panel meetings.

Representatives from ASX and Chi-X, market participant representative bodies, industry bodies (e.g. the FSC and the ASA), some market participants and a financial markets academic sit on the Market Supervision Cost Recovery Stakeholder Panel. Treasury convened the Panel's first meeting in early 2012 to gather important early feedback for the Government on the overall cost of the EMS programme, and on the general operation of the post-competition cost recovery arrangements.

In response to feedback from the Market Supervision Cost Recovery Stakeholder Panel and industry's comments in general, the Government has taken several steps to ensure that future market supervision cost recovery levels remain reasonable. These steps include:

- extending recovery of EMS costs over a longer period of time (seven years) rather than the forward estimates of the Commonwealth Budget (four years);
- seeking Financial Industry Development Account (FIDA)[7] contributions to partially offset the level of cost recovery revenue required, thus reducing market supervision charges on industry; and
- smoothing / delaying the recovery of EMS operating expenses within the forward estimates of the Commonwealth Budget to 2014-15 and especially 2015-16.

At this relatively early stage in the life of the EMS programme, ASIC has been able to achieve significant savings against the maximum funding approved by the Government for the procurement of the MSS upgrade. ASIC has determined that it will not require approximately $5m of the MSS

6 Not to be confused with the Markets Disciplinary Panel (MDP)

7 Under the Corporations Act and Regulations, the excess funds in the National Guarantee Fund (NGF) can be used to make payments to ASIC in relation to ASIC's responsibilities for market supervision created by the *Corporations Amendment (Financial Market Supervision) Act 2010* via a FIDA contribution. Such payments to ASIC offset industry charges otherwise required for cost recovery. This is discussed further in section 3.4.1 *Contribution from FIDA* on page 18.

upgrade funding (or just over 10% of all EMS funding to 2015-16). This saving will not need to be recovered from industry.

ASIC will make every effort to secure further savings. If the savings are made during 1 July 2013 to 30 June 2015, refunds will be issued to all impacted entities. Page 12 includes two charts showing the expected expenditure and cost recovery profile of all market supervision programmes covered by this CRIS (and expected future CRISs) as of April-May 2013 when this CRIS was prepared.

1.6 Australian Government Cost Recovery Policy

In December 2002, the Australian Government adopted a formal cost recovery policy to improve the consistency, transparency and accountability of its cost recovery arrangements and promote the efficient allocation of resources. The policy applies to all *Financial Management and Accountability Act 1997* agencies and to relevant *Commonwealth Authorities and Companies Act 1997* bodies.

The Government's Cost Recovery Policy requires that cost recovery arrangements must be compliant with the *Australian Government Cost Recovery Guidelines* (Cost Recovery Guidelines) and all significant cost recovery arrangements must be subject to a CRIS. Cost Recovery Policy is administered by the DoFD. Individual portfolio ministers are ultimately responsible for ensuring agencies' implementation and compliance with the Cost Recovery Guidelines.

A core principle of the Cost Recovery Guidelines is that entities should set charges to recover all integral costs of products or services where it is efficient and effective to do so, where the beneficiaries are a narrow and identifiable group and where it would not be inconsistent with Australian Government policy objectives, while undertaking an appropriate level of consultation with stakeholders.

In the case of regulatory activities, the Cost Recovery Guidelines require regulatory agencies to recover the costs they incur (in undertaking their regulatory activities) from the entities that have created the need for regulation.

Cost recovery arrangements must reflect the cost drivers for undertaking regulatory activities. The policy states that *"regulatory agencies may have insufficient information to formulate prices that reflect those cost drivers precisely; therefore, an agency will often need to use a proxy for the costs attributable to a particular industry*". ASIC has used a proxy in allocating some of its costs associated with supervising cash equity markets and their participants. This is discussed in section 3.4.2.1, *Allocation of market supervision costs between market operators and market participants* commencing on page 17.

Cost recovery is different from general taxation in that there is a link between the agency's activity and revenue raised (hypothecation). Importantly, cost recovery should not give rise to an over or under collection during the life of the cost recovery arrangement. By contrast, general taxation represents a compulsory exaction of money by a public authority for public purposes that need not bear any correlation to the costs and is not a payment for services rendered.

For the purposes of the Policy, costs may be recovered by way of a fee for the product or service (including regulation), or a levy, whichever is more efficient.

The Department of Finance and Deregulation (DoFD) is currently conducting a whole-of-government review of the Australian Government Cost Recovery Guidelines. The review will examine existing whole-of-government processes and reporting requirements, including clarifying policy, streamlining processes and increasing transparency in relation to Australian Government cost recovery activities. The review will also assess the best approach for government entities to document and report cost recovery activities. More information on the Review is available at *http://www.finance.gov.au/financial-framework/financial-management-policy-guidance/cost-recovery/review-of-cost-recovery.html.*

2 POLICY REVIEW – ANALYSIS OF ACTIVITIES

2.1 ASIC's market supervision responsibilities prior to the transfer of market supervision

Prior to the transfer of market supervision to ASIC on 1 August 2010, each market operator was responsible for supervising real-time trading on their own markets and the conduct of their participants (for compliance with their market's operating rules, as well as some conduct of their business obligations).

During that period, ASIC's market supervision responsibilities mainly related to:

- assessing and undertaking preliminary reviews of referrals from ASX and other market operators;
- undertaking investigations and taking enforcement actions for cases that were referred by the ASX and other market operators;
- investigating and taking enforcement actions for breaches of the Corporations Act; and
- monitoring participant conduct against their obligations under the Corporations Act (including compliance with the AFSL (Australian Financial Services Licensee) requirements).

ASIC still performs these supervisory activities [8]. The cost of undertaking these activities is Budget funded and does not form part of cost recovery.

2.2 ASIC's additional regulatory functions following the transfer of market supervision

On 1 August 2010, ASIC took over the responsibility of real-time supervision of trading on certain domestic licensed financial markets (in particular, the markets operated by the ASX Group). ASIC's additional responsibilities following the transfer of market supervision include:

- undertaking real-time market surveillance and post-trade analysis to detect market misconduct / abuse (i.e. breaches of the market integrity rules (MIRs) and the Corporations Act[8]);
- monitoring compliance with MIRs by market operators and market participants; and
- administering the disciplinary framework for breaches of the MIRs (which includes the Markets Disciplinary Panel (MDP), enforceable undertakings, and infringement notices).

Before assuming the additional responsibilities above, ASIC had to:

- implement a real-time market surveillance system (MSS);

[8] Pre-transfer, ASX referred potential breaches of the Corporations Act to ASIC. Post-transfer, ASIC undertakes far more of this activity in-house as the scale of ASX referrals has reduced

- develop and implement the MIRs across the different domestic licensed financial markets;
- develop a streamlined markets analysis methodology and relationship management model;
- build a Market and Participant Supervision team (including integration of ASX surveillance staff who transferred their employment to ASIC); and
- establish an independent MDP.

The ongoing costs of these activities are being recovered in this CRIS.

2.3 Implementation of market competition

In order to implement the Government's policy to introduce market competition, ASIC had to:

- develop and settle a regulatory framework to apply on the entry of Chi-X;
- upgrade the capability of its MSS to enable the real-time surveillance of the Chi-X market, and to handle multi-market and whole-of-market surveillance and supervision; and
- increase the number of its supervisory staff to manage the expected increase in market activity and complexity, as well as for the supervision of multiple markets.

ASIC's additional responsibilities following the commencement of market competition include:

- identifying, investigating and taking enforcement action against new forms of market misconduct / abuse arising from the introduction of market competition;
- undertaking ongoing review and analysis of the market micro- and macro- structure and the regulatory framework to respond to new issues and market developments; and
- harmonising and enhancing the MIRs across domestic licensed financial markets (including possible legislative amendments).

Ongoing market competition costs, plus a portion of the implementation cost, will be recovered in this CRIS. On 30 June 2015 the implementation costs of market competition will have been fully recovered.

2.4 Implementation of EMS programme of works in the post-competition market landscape

At the outset of the initial transfer of market supervision, ASIC decided not to commit to a long-term contract for its initial market supervision system (MSS). ASIC's strategy was to initially implement proven, low-risk technology, then go back to the market for a more sophisticated, higher capacity solution that could better handle what ASIC expected would be a rapidly changing trading environment.

ASIC's initial MSS contract will expire shortly, so ASIC is currently replacing its core market surveillance technology. The largest single expense provision in the EMS programme of works is for the replacement and upgrade of the MSS. By 2016-17 the MSS will be established and all other key elements of the EMS programme will be implemented. At that point, ongoing EMS funding is expected to reduce to a maximum of $4.5 million per annum.

The other key EMS deliverables are shown in the table below, along with the total amount ASIC currently expects to spend delivering each to 30 June 2016 (split by capital expenditure vs. operating expenditure and implementation vs. ongoing costs). Whilst MSS costs are adjusted to reflect updated expenditure estimates, costs shown for all other items are according to maximum allowances in the

EMS measure. The total therefore reflects the maximum EMS funding approved by the Government ($43.7 million from 2012-13 to 2015-16) less the locked in savings relating to the MSS upgrade.

Table 2: Expenditure profile of the EMS measure with updated MSS forecast ($m)

EMS Work stream	Implementation Capex	Implementation Opex	Ongoing Opex	Total
Market Surveillance System	0.00	9.81	3.28[9]	**13.09**
Register and Portal	6.26	0.00	0.79	**7.05**
Market Intelligence	5.88	0.00	0.50	**6.38**
Market Integrity Workflow	4.82	0.00	2.15	**6.97**
Other *(incl Programme mgt & governance)*	0.00	1.74	2.74	**4.48**
IT overheads	0.00	0.73	0.00	**0.73**
Total	**16.96**	**12.28**	**9.45**	**38.70**

Approximately one-third of this cost (just over $13 million) is being recovered in this CRIS. The balance will be recovered under future CRISs. Page 12 includes two charts showing the expected expenditure and cost recovery profile of all market supervision programmes covered by this CRIS (and expected future CRISs) as of April-May 2013 when this CRIS was prepared.

3 DESIGN AND IMPLEMENTATION

3.1 Policy authority to cost recover

Sources of policy authority to cost recover ASIC's market supervision functions are shown below:

Table 3: Government decisions on cost recovery of ASIC's market supervision

Measure	When approved	Purpose
Transfer of market supervision	MYEFO 2009-10[10]	For the additional expenditure incurred by ASIC to undertake its new regulatory functions following the transfer of market supervision
Implementing market competition *and developing a framework to support competition*	2011-12 Budget Measures[11]	To recover ASIC's costs for undertaking its new regulatory functions following the introduction of market competition, and for the development of a framework to support competition in exchange market services
Enhanced Market Supervision	2012-13 Budget Measures[12]	• Enhancing ASIC's market supervision capabilities, particularly market supervision technology and tools, to a level comparable with international regulatory agency peers, so that ASIC can improve its ability to detect and enforce market misconduct / abuse; • Supervising the increased levels of messaging taking place in the market now and for the foreseeable future; and • Improving interactions and workflow between ASIC and market participants, and within ASIC internally.

Treasury's '*Reforms to the supervision of Australia's financial markets: Exposure draft and consultation paper*', also stated that[13]:

[9] The first tranche of MSS support costs is met from the budget relating to the initial transfer of market supervision

[10] *Mid-year Economic and Fiscal Outlook 2009-10*, Appendix A: Policy decisions taken since the 2009-10 Budget, Commonwealth of Australia, November 2009, p. 216

[11] *Budget Measures 2011-12*, Budget Paper No. 2 – Part 2: Expense Measures, Commonwealth of Australia, May 2011, p.319

[12] *Budget Measures 2012-13,* Budget Paper No. 2 – Part 2: Expense Measures, Commonwealth of Australia, May 2012, p.277

"The Wallis Inquiry, which reported in 1997, made a recommendation that regulatory agencies should collect enough revenue from the financial entities which they regulate to fund themselves. The principle is that for reasons of equity and efficiency, the costs of financial regulation should be borne by those who benefit from it.

In line with this principle, it is proposed that ASIC have the ability to impose a fee to recover the costs associated with supervision of domestic financial markets."

3.2 Legal Requirements for the Imposition of Charges

The legal authority for the charges is set out in the following:

- Section 6A of the *Corporations (Fees) Act 2001* (Fees Act) states that the Fees Regulations may prescribe a fee or specify the method for calculating the amount of the fee for the performance by ASIC of its functions under Part 7.2A (Supervision of Financial Markets) of the Corporations Act.
- The *Corporations (Fees) Amendment Bill 2011* amended the Fees Act to support the recovery of costs from both market operators and market participants. The Bill was passed by the House of Representatives on 2 November 2011 and the Senate on 24 November 2011.
- The *Corporations (Fees) Amendment Regulations 2013* will prescribe the quarterly fee arrangements that will apply from 1 July 2013 to 30 June 2015.
  - Cash equity markets: the Fees Regulations prescribe the calculation of the quarterly fee to be paid by each cash equity market operator and direct participants of their markets. Direct cash equity market participants are also prescribed a fixed fee per quarter.
  - ASX24, FEX and small financial markets: the Fees Regulations prescribe the fixed quarterly fees to be paid by each market operator.

3.3 Costs to be Included in Charges

Over 1 July 2013 to 30 June 2015, ASIC's cost recovery budget (for undertaking its post-transfer market supervision functions, including the costs associated with implementing market competition[14] and the new EMS systems and processes[15]), is $42.88m (Table 4).

Table 4: Cost of ASIC's market supervision functions from 1 July 2013 to 30 June 2015

$m	1 Jul-13 to 30 Jun-14	1 Jul-14 to 30 Jun-15	Total
Market supervision	10.13	10.13	**20.26**
Market competition[14]	4.82	4.72	**9.55**
Enhanced Market Supervision (EMS)[15]	6.48	6.58	**13.06**
Total	**21.44**	**21.44**	**42.88**

[13] *Reforms to the supervision of Australia's financial markets: Exposure draft and consultation paper*, Commonwealth of Australia, December 2009, p.5

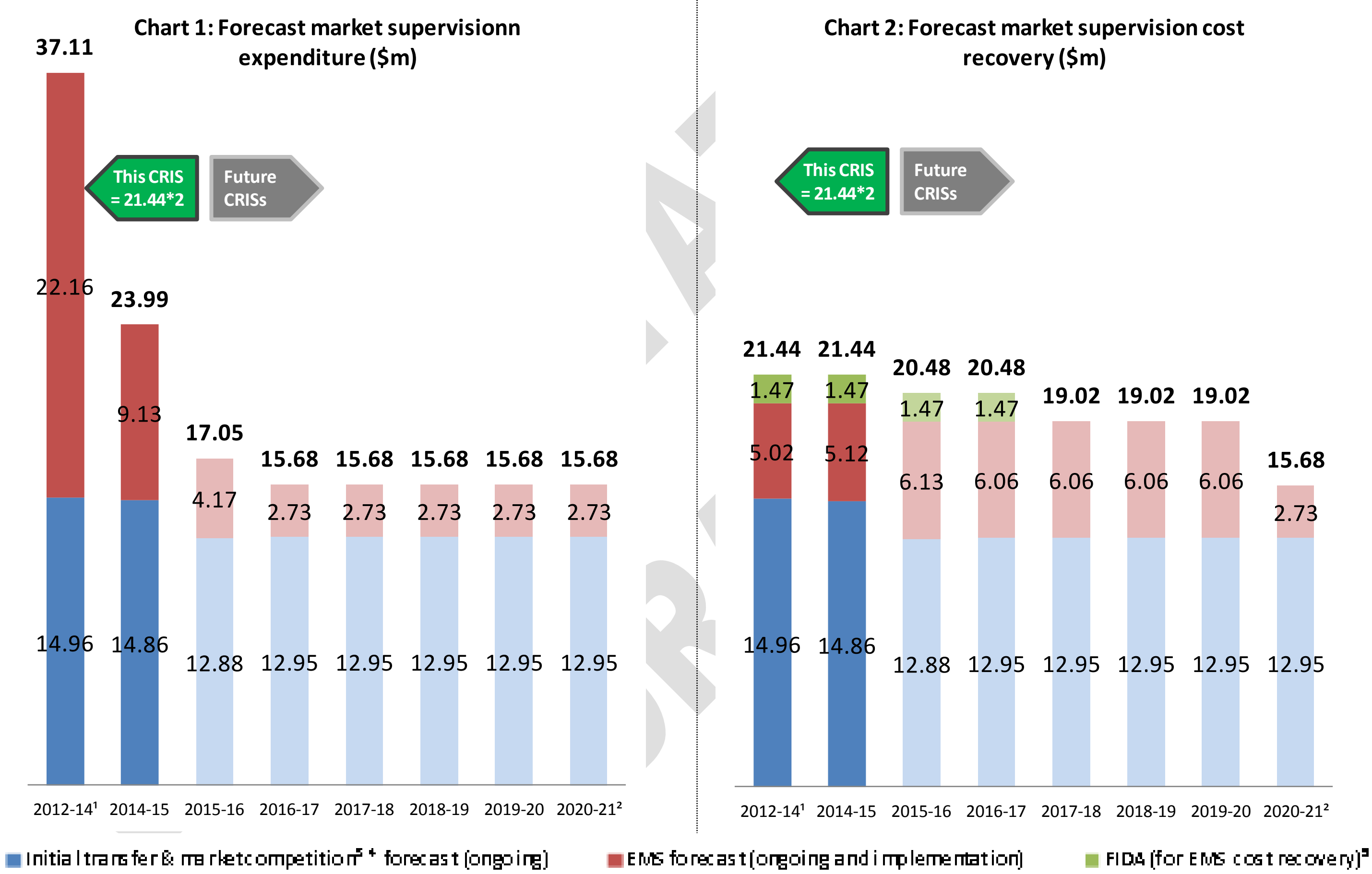
[14] The figures shown are higher than the amounts ASIC is appropriated for in 2013-14 and 2014-15 due to the recovery of the remainder of ASIC's deferred market competition implementation costs. ASIC's total cost for implementing the Government's policy to introduce market competition was $7.593 million; this is $3.043 million lower than the expected cost ($10.635 million was the expected figure stated in the previous CRIS). These deferred competition implementation costs are being recovered progressively over 3.5 years from 1 January 2012 to 30 June 2015. Over 1 January 2012 to 30 June 2013, $4.558 million of the $7.593 million will have been recovered. Thus, over the two year duration of this CRIS, $3.034 million in deferred competition implementation costs will be recovered from industry (IT: $1.084 million; regulatory framework: $1.950 million) to conclude the recovery of these costs.

[15] ASIC's total expected cost of implementing EMS prior to the commencement of this CRIS (i.e. to 30 June 2013) is expected to be $8.41 million. $3.16 million of this will be recovered in this two year CRIS period, and the remainder will be recovered in future CRIS periods.

From 1 July 2012 and for the period covered by this CRIS (2013-14 to 2014-15), actual EMS expenditure is expected to be greater than the cost recovery revenue to be collected with respect to EMS as shown in the tables below[15]. Similar to the deferred project implementation costs for the market competition programme, the recovery of both EMS deferred project implementation costs and some ongoing costs is to be spread over a period of up to seven years (to 30 June 2020) to keep the annual cost recovery charges as close to current levels as possible[16]. Keeping charges as close to current levels as possible means that market supervision fees decrease in relative terms as market turnover increases.

This is illustrated in Charts 1&2 below. Chart 1 (left panel) shows forecast ASIC market supervision expenditure. Chart 2 (right panel) shows forecast cost recovery is almost uniform in contrast to the initially high and uneven EMS expenditure profile. By 1 July 2020 we expect all EMS implementation costs will have been recovered and market supervision cost recovery will roughly match recurrent market supervision expenditure.

Charts 1&2: Forecast- Market Supervision Expenditure vs Cost Recovery ($m)



Notes to Charts 1 & 2 above:

¹ 2012-14 includes estimated EMS deferred project implementation costs incurred during 2012-13
² We expect 2020-21 will be the first year recovering pure ongoings of all three market supervision projects
³ Includes recovery of remaining market competition deferred project implementation costs
⁴ Assumes market competition funding change of status teminating to ongoing post 30 June 2015
⁵ The Government has approved consultation on fees regulations in relation to this CRIS that contemplate the Minister approving the FIDA grant application in due course

[16] The costs shown in the tables below refer to the cost recovery budget rather than expected expenditure

A breakdown of ASIC's market supervision costs by regulatory function is provided in Table 5. Table 6 provides a breakdown of ASIC's market supervision costs by type of cost. Table 7 provides a summary of ASIC's market supervision costs to be recovered from each market segment.

Table 5: ASIC's market supervision cost from 1 July 2013 to 30 June 2015 – by function

Core function	Key activities	$m			%
		2013-14	2014-15	1 Jul-13 to 30 Jun-15	1 Jul-13 to 30 Jun-15
Market Supervision (incl. real-time surveillance) *This includes the ongoing costs for ASIC's MSS*[(a)].	• Supervision of trading activities on domestic licensed financial markets • Undertaking real-time market surveillance and post-trade analysis to detect market misconduct (including breaches of MIRs and the Corporations Act8 on domestic licensed financial markets) • Undertaking whole-of-market monitoring (including cross-market alerts and reports) • Managing the increase in market activity and complexity arising from the entry of Chi-X and the move to a multi-market environment	6.19	6.08	**12.27**	28.6%
Participant Supervision	• Building effective regulatory relationships with market participants, including understanding participant business models • Undertaking surveillances and targeted themed compliance reviews on market participants, including referrals from ASIC Case Management • Undertaking Risk Based Surveillance of market participants • Implementing and monitoring required remediation for participants and their representatives • Assessing, recording and managing applications, notifications, certifications and waivers for market participants under the MIRs • Monitoring compliance with MIRs (e.g. best execution) • Monitoring possible new forms of market misconduct arising from the introduction of competition • Monitoring participant compliance with ongoing capital requirements	2.35	2.32	**4.67**	10.9%
Regulatory Framework (MIRs) and Market Structure and Analysis *This includes ASIC's deferred regulatory framework implementation costs.*	• Developing and implementing ASIC's MIRs, including a regulatory framework to apply on the entry of Chi-X • Harmonizing MIRs across markets • Undertaking ongoing review and analysis of the market micro and macro structure and the regulatory framework to respond to new issues and market developments • Consulting with stakeholders and creating new MIRs to deal with the changing market environment	2.10	2.07	**4.17**	9.7%
Investigations	• Conducting advanced surveillances,	2.37	2.32	**4.69**	10.9%

Core function	Key activities	$m 2013-14	$m 2014-15	$m 1 Jul-13 to 30 Jun-15	% 1 Jul-13 to 30 Jun-15
and Enforcement	investigation and enforcement based on referrals relating to breaches of MIRs and the Corporations Act from the Market Supervision team, including: – preparing and serving draft and final Statement of Reasons to market participants – negotiating appropriate outcomes with market participants for prompt settlement of matters, including infringement notices and/or enforceable undertakings – appearing before the MDP as required • Investigating and taking enforcement actions against new forms of market misconduct arising from competition • Preparing briefs for delegates, DPP				
Markets Disciplinary Panel (MDP)	• The MDP functions as an independent peer review body. Its members largely comprise people who currently hold senior roles in the markets • The MDP is responsible for: – hearing and determining alleged breaches of the ASIC MIRs – exercising ASIC's powers to issue infringement notices and accept enforceable undertakings relating to breaches of the MIRs – making its decisions, as far as practicable, independently of ASIC	0.99	1.04	**2.03**	4.7%
IT [(b)]	• Upgrading the capacity and capability of ASIC's MSS for next generation whole-of-market surveillance and supervision, other EMS deliverables such as improved register and portals • Developing tools to keep pace with market developments • Flexible future market MSS connectivity • Project management and governance to deliver IT projects relating to market competition & EMS	6.70	6.90	**13.60**	31.7%
ASIC Shared Services	• Indirect costs, including IT and Finance overheads and other shared services charges	0.74	0.71	**1.45**	3.4%
Total		**21.44**	**21.44**	**42.88**	**100%**

[(a)] The IT costs relate to the operating lease expenses for the ASIC MSS. The lease payments include monthly fees for physical hosting, gateways, and ongoing maintenance.

[(b)] This includes ASIC's deferred IT implementation costs (market competition and EMS), expected EMS implementation costs over the life of this CRIS and all cash-equity market related ongoing IT management costs, with the exception of the ongoing costs for the ASIC MSS that are included under *"Market Supervision (incl. real-time surveillance)"*

Table 6: ASIC's market supervision cost from 1 July 2013 to 30 June 2015 – by type of cost

Core function	Type of cost	$m 2013-14	2014-15	1 Jul-13 to 30 Jun-15	% 1 Jul-13 to 30 Jun-15
Market Supervision (incl. real-time market surveillance)	Employees	2.87	2.75	**5.62**	13.1%
	Goods and suppliers	0.51	0.56	**1.07**	2.5%
	Ongoing MSS related IT costs	2.68	2.65	**5.33**	12.4%
	Total	**6.07**	**5.96**	**12.03**	**28.1%**
Participant Supervision	Employees	2.12	2.07	**4.19**	9.8%
	Goods and suppliers	0.23	0.25	**0.48**	1.1%
	Total	**2.35**	**2.32**	**4.67**	**10.9%**
Regulatory Framework (MIRs) and Market Structure and Analysis	Employees	0.91	0.80	**1.71**	4.0%
	Goods and suppliers	0.22	0.29	**0.51**	1.2%
	Deferred implementation costs (Competition)	0.98	0.98	**1.95**	4.5%
	Total	**2.10**	**2.07**	**4.17**	**9.7%**
Investigations and Enforcement	Employees	1.91	1.86	**3.77**	8.8%
	Goods and suppliers	0.46	0.46	**0.91**	2.1%
	Total	**2.37**	**2.32**	**4.69**	**10.9%**
Markets Disciplinary Panel (MDP)	Employees	0.57	0.55	**1.12**	2.6%
	Goods and suppliers	0.42	0.49	**0.91**	2.1%
	Total	**0.99**	**1.04**	**2.03**	**4.7%**
IT	Ongoing IT management costs (pre and post EMS)	4.49	4.95	**9.43**	22.0%
	Deferred implementation costs (Competition)	0.54	0.54	**1.08**	2.5%
	Deferred implementation costs (EMS)	1.70	1.45	**3.16**	7.4%
	Total	**6.73**	**6.94**	**13.67**	**31.9%**
ASIC Shared Services	Indirect costs	0.82	0.80	**1.62**	3.8%
	Total	**0.82**	**0.80**	**1.62**	**3.8%**
Total		**21.44**	**21.44**	**42.88**	**100.0%**

Table 7: ASIC's market supervision cost from 1 July 2013 to 30 June 2015 – by market segment

Market segment	$m 2013-14	2014-15	1 Jul-13 to 30 Jun-15
Cash equity markets (for ASX listed securities) i.e. ASX and Chi-X	19.72	19.72	**39.45**
The ASX24 futures market	1.38	1.38	**2.76**
The FEX Derivatives Market operated by FEX Global Pty Ltd	0.20	0.20	**0.40**[17]
Small Financial Markets i.e. NSX; SIM; IMB; and APX	0.14	0.14	**0.28**
Total	**21.44**	**21.44**	**42.88**

[17] FEX has been granted a licence but is yet to commence operating. Although this figure assumes that FEX is operating on 1 July 2013, FEX will most likely commence operating sometime in the second half of 2013

3.4 Outline of Charging Structure

The Government will fund ASIC's market supervision costs from 1 July 2013 to 30 June 2015 by:

(1) imposing charges on:

- the operators of domestic licensed financial markets that are in operation during the period 1 July 2013 to 30 June 2015 (as per section 1.2);
- the market participants of domestic licensed financial markets within the cash equity market segment; and

(2) securing approved contributions from the FIDA fund (discussed in the section immediately below).

The cost recovery arrangements for each market segment are discussed in more detail below, commencing at section 3.4.2 *Cash Equity Markets (for ASX listed securities)* on page 16.

3.4.1 Contribution from FIDA[18]

Under the Corporations Act and Regulations, the excess funds in the National Guarantee Fund (NGF) can be used to make payments to ASIC in relation to ASIC's responsibilities for market supervision created by the *Corporations Amendment (Financial Market Supervision) Act 2010*. Such payments to ASIC offset industry charges otherwise required for cost recovery. Subject to the NGF having sufficient excess funds, these payments are made via the Financial Industry Development Account (FIDA). Such payments must also be approved by the Minister.

In 2013-14 ASIC will seek to obtain $1.465 million per annum from the FIDA fund for each year of the four year period 2013-14 to 2016-17 inclusive to partially offset EMS cost recovery that would otherwise be charged to cash equity market participants. The Government has approved consultation on fees regulations in relation to this CRIS that contemplate the Minister approving the FIDA grant application in due course.

For illustrative purposes in this consultation draft CRIS, draft fees are shown both inclusive and exclusive of the proposed FIDA contribution (cash equity market participants only; see sections 3.4.2.6 and 3.4.2.7 respectively).

3.4.2 Cash Equity Markets (for ASX listed securities)

ASX and Chi-X are the only two markets that are currently expected to be operating within this segment during the period from 1 July 2013 to 30 June 2015.

For the period from 1 July 2013 to 30 June 2015, ASIC's cost recovery budget for the cash equity markets (for ASX listed securities), including the deferred costs associated with implementing (a) market competition, and (b) EMS expenditure in 2012-13 is $39.45 million.

In line with the cost recovery principle that costs should be recovered from those entities that have created the need for regulation, the cash equity market costs will be recovered from both market operators and market participants; this will also ensure that the burden of cost recovery is borne equitably across the industry. The method for allocating these costs is discussed in more detail below.

[18] See http://www.segc.com.au/pdf/segc_annual_report_2012.pdf for more information about FIDA and the NGF

3.4.2.1 Allocation of market supervision costs between market operators and market participants

For the period from 1 July 2013 to 30 June 2015, costs of ASIC's cash equity market supervision of $39.45 million will be allocated between market operators and market participants by reference to categories of ASIC's market supervision functions as follows:

- Costs that are identified as relating to the regulation of market participant activities will be allocated to market participants only (i.e. Participant Supervision, Markets Disciplinary Panel, and Investigations and Enforcement functions).
- Costs that are identified as relating to the regulation of activities of both market operators and market participants will be allocated to both groups based on a proxy that reflects each group's share of overall industry revenue (refer to Table 8 below). These include the ongoing costs for the Market Supervision, the Regulatory Framework, and Market Structure and Analysis functions.
- Costs associated with implementing market competition (i.e. ASIC's IT and regulatory framework deferred implementation costs) will be allocated between market operators and market participants in equal proportion (i.e. 50%:50%). This allocation recognises the need for supervision of multiple markets given that market participants will be able to trade in ASX listed securities on more than one market.

  Over the two year duration of this CRIS, the remaining 40% of ASIC's deferred market competition implementation costs will be recovered from industry. This equates to $3.034m million (IT: $1.084 million; regulatory framework: $1.950 million). This will conclude the recovery of ASIC's deferred implementation costs for market competition (estimated at $10.6345 million in the previous CRIS and actually $7.593 million).
- EMS implementation costs will be allocated similarly to market competition implementation costs (described above). For example, costs associated with implementing the new MSS will be allocated between market operators and market participants in equal proportion (i.e. 50%:50%). However, the cost of implementing new and improved registers and portals is an exception to this and will be allocated 100% to market participants, as the primary purpose of this EMS work stream is to streamline market participants' interactions with ASIC.

Table 8: Allocation of shared ongoing costs between market operators and market participants based on their share of cash equity market revenue

Group	$m[c]	%	Comment
Market operators	57.4	12.8%	This includes cash market revenue, a proportion of information services (cash market) revenue, and market connectivity (cash market) revenue[a],[b]. Other cash market related revenue has been included in the calculation of market operators' total revenue to ensure that it is an appropriate comparable to the revenue figure being used for market participants (i.e. given that it includes other revenue streams in addition to trade execution fees).
Market participants	392.4	87.2%	This figure includes brokerage for cash market products only – cash equities, debt and warrants
Total	**449.8**	**100%**	

[a] ASX has not publicly provided figures regarding the attribution of information and technical services revenue for the cash market c.f. other ASX markets in recent times. ASIC has applied the adjustment used in the previous CRIS to determine 'comparable' ASX revenue to brokerage in respect of cash equities, warrants and debt securities in our analysis. The adjustment is based on information in ASX's 2011 Half Year Report (period ending 31 Dec 2010) on page 16 that states: '*In the first half of 2011, approximately 84% of information services revenue related to*

cash market and equity option data'. In the case of technical services, ASIC has attributed all the recent growth in technical services revenue to cash market revenue.

[b] 84% of ASX's market connectivity revenue was applied to the cash market — this is consistent with the proportional split applied to the information services revenue used in (a)

[c] Based on data from 1 January – 31 March 2012

The overall result of the functional cost allocation approach outlined above is that market operators will pay just under 17% of the cash equity market supervision costs whilst market participants will pay approximately 83% (see Table 9 and Table 10 below).

Table 9: Allocation of cash equity market supervision costs between market operators and market participants – Summary (1 July 2013 to 30 June 2015)

Group	$m			%
	2013-14	2014-15	1 Jul-13 to 30 Jun-15	1 Jul-13 to 30 Jun-15
Market operators	3.29	3.29	**6.57**	16.7%
Market participants	16.44	16.44	**32.88**	83.3%
Total[a]	**19.72**	**19.72**	**39.45**	**100.0%**

[a] This is net of the costs attributed to the ASX24 market ($2.76 million), FEX ($0.40 million), small financial markets ($0.28 million), and inclusive of minimum market participant supervision costs ($1.17 million). These costs are described in turn in the remaining sections in this chapter of the CRIS

Table 10: Allocation of cash equity market supervision costs between market operators and market participants – by function (1 July 2013 to 30 June 2015)

Core function	Cost allocation	% cost allocation	$m			%
			2013-14	2014-15	1 Jul-13 to 30 Jun-15	1 Jul-13 to 30 Jun-15
Market Supervision (incl. real-time surveillance)[a]	Market operators	12.8%	0.57	0.56	**1.13**	2.9%
	Market participants	87.2%	3.90	3.81	**7.71**	19.5%
	Total	**100.0%**	**4.47**	**4.36**	**8.83**	**22.4%**
Participant Supervision	Market operators	0.0%	0.00	0.00	**0.00**	0.0%
	Market participants	100.0%	2.35	2.32	**4.67**	11.8%
	Total	**100.0%**	**2.35**	**2.32**	**4.67**	**11.8%**
Regulatory Framework (MIRs) and Market Structure and Analysis[b]	Market operators	30.0% [c]	0.63	0.63	**1.26**	3.2%
	Market participants	70.0 [c]	1.47	1.44	**2.91**	7.4%
	Total	**100.0%**	**2.10**	**2.07**	**4.17**	**10.6%**
Investigations and Enforcement	Market operators	0.0%	0.00	0.00	**0.00**	0.0%
	Market participants	100.0%	2.37	2.32	**4.69**	11.9%
	Total	**100.0%**	**2.37**	**2.32**	**4.69**	**11.9%**
Markets Disciplinary Panel (MDP)	Market operators	0.0%	0.00	0.00	**0.00**	0.0%
	Market participants	100.0%	0.99	1.04	**2.03**	5.1%
	Total	**100.0%**	**0.99**	**1.04**	**2.03**	**5.1%**
IT[d]	Market operators	29.7 [e]	1.99	2.01	**4.00**	10.1%
	Market participants	70.3 [e]	4.71	4.89	**9.60**	24.3%
	Total	**100.0%**	**6.70**	**6.90**	**13.60**	**34.5%**
ASIC Shared Services	Market operators	12.8%	0.09	0.09	**0.19**	0.5%
	Market participants	87.2%	0.64	0.62	**1.27**	3.2%
	Total	**100.0%**	**0.74**	**0.71**	**1.45**	**3.7%**
	Total Market Operators	**16.7%**	**3.29**	**3.29**	**6.57**	**16.7%**
	Total Market Participants	**83.3%**	**16.44**	**16.44**	**32.88**	**83.3%**
	Total	**100.0%**	**19.72**	**19.72**	**39.45**	**100.0%**

(a) This includes the ongoing IT costs for the ASIC MSS.
(b) This includes ASIC's deferred regulatory framework implementation costs.
(c) The percentages reflect the effect of allocating deferred competition and EMS implementation costs in equal proportion between market operators and market participants and allocating the ongoing IT costs using the revenue proxy i.e. 12.8%:87.2% split between operators and participants.
(d) This includes ASIC's deferred IT implementation costs (market competition and EMS), expected EMS implementation costs to be recovered over the life of this CRIS and all cash-equity market related ongoing IT management costs, with the exception of the ongoing costs for the ASIC MSS included under *"Market Supervision (incl. real-time surveillance)"*
(e) The percentages reflect the effect of allocating the ongoing IT costs (excluding ongoing MSS costs) using the revenue proxy i.e. 12.8%:87.2% split between operators and participants, and of allocating deferred competition and EMS implementation costs in equal proportion between market operators and market participants EXCEPT for the cost of implementing new and improved registers and portals (allocated 100% to market participants)

3.4.2.2 Basis for allocating market supervision costs to each market operator and each market participant

Under the cost recovery arrangements operating during the period 1 January 2012 to 30 June 2013, 100% of non-IT costs were allocated according to entities' market share of trade count and 100% of IT costs were allocated according to entities' share of total market message count. This approach was based on analysis undertaken by ASIC that found approximately 3% of ASIC's people-based supervision costs were attributable to supervising message-related[19] activities in the cash equity market, including managing surveillance alerts relating to message-related activity. This was not considered to be sufficiently material to warrant any apportionment of non-IT costs based on order messages at that time.

This analysis was repeated prior to preparing this draft consultation CRIS. ASIC found that approximately 10% of ASIC's people-based supervisory costs have become attributable to managing surveillance alerts relating to messaging activity. ASIC believes the growth in algorithmic trading is the main reason driving this change. In dealing with this change, ASIC has re-allocated resources and created a team that specifically deals with the supervision of market participants' algorithms to better manage this aspect of market risk. Aspects of investigation and enforcement activity now take much longer than they once did due to order proliferation creating excessive 'noise' around the market activity ASIC is studying. ASIC now undertakes more policy work specifically relating to algorithmic trading and the impact of order proliferation on the Australian market and this trend is expected to continue.

To reflect this material change in the drivers of ASIC's costs, ASIC will recover 10% of ASIC's:

- cash equity market supervision staff costs[20], and
- non-IT goods and supplier costs

by levying fees according to message counts, with the balance of the two amounts above (90%) recovered from fees on transactions.

ASIC's non-IT and IT cash equity market supervision costs will be proportionally allocated to each market operator and each market participant as follows (also refer to Table 11 below):

[19] For cost recovery purposes, ASIC counts five types of order and trade activity as messages: (1) order entry; (2) order amendment; (4) order deletion / cancellation; (4) transaction execution / reporting and (5) trade cancellation / deletion (see http://www.asic.gov.au/asic/asic.nsf/byheadline/Markets+FAQs+-+fee+arrangements?openDocument for more information). Items (4) and (5) only are counted in ASIC's cost recovery transaction counts.
[20] i.e. excluding staff allocated to supervising non-cash equity markets (ASX24, FEX and small financial markets)

- **90% of non-IT costs proportionally allocated based on number of transactions**[21]

  As the number of transactions is the primary driver of ASIC's non-IT cash equity market supervision costs, these costs will be proportionally allocated to each market operator and market participant based on the operator's or participant's share of the total number of transactions in ASX listed securities (as recognised by ASIC's MSS) during each quarter.

  90% of the total non-IT costs to be recovered from market operators and market participants for the period from 1 July 2013 to 30 June 2015 are $1.72 million and $16.87 million respectively (refer to Table 12b; Table 12a shows the figures before the 90% adjustment).

- **100% of IT costs and 10% of non-IT costs proportionally allocated based on number of messages**[22]

  The number of messages, which is the primary driver of ASIC's IT cash equity market supervision costs, will be used as the basis for allocating ASIC's IT costs and 10% of ASIC's non-IT costs. Specifically, these costs will be proportionally allocated to each market operator and each market participant based on the operator's or participant's share of the overall number of messages for ASX listed securities (as recognised by the ASIC MSS) during each quarter.

  The costs to be recovered from market operators and market participants using a message count-based allocation for the period from 1 July 2013 to 30 June 2015 are $4.85 million and $16.00 million respectively (refer to Table 12b; Table 12a shows the figures before the addition of 10% non-IT costs to the message based allocation pool and the corresponding reduction of the costs in the trade allocation pool).

Table 11: Key drivers of ASIC's cash equity market supervision costs (1 July 2013 to 30 June 2015)

Core function	Cost drivers
Market Supervision	90% of non-IT costs: Number of transactions IT costs & 10% of non-IT costs: Number of messages (for both transactions and messages)
Participant Supervision	Of the cost of resources expended: • 90% impacted by number of transactions; and • 10% impacted by number of messages
Investigations and Enforcement	Number of cases reviewed (triggered by transactions and messages using the same proportion as above of 90%:10% transactions: messages)
Markets Disciplinary Panel	Number of cases reviewed (triggered by transactions and messages using the same proportion as above of 90%:10% transactions: messages)
Other	To be allocated by transactions and messages using the same proportion as above of 90%:10% transactions: messages)

[21] Transactions include all transactions that are executed on or reported under the operating rules of the cash equity markets that, after all processing or conversion necessary, are recognised by ASIC's MSS as executed transactions.

[22] Messages include trade, order entry, order amend (price and/or volume), and order deletion/cancellation messages that, after all processing or conversion necessary, are recognised by ASIC's MSS as orders or executed transactions. Some processing and conversion may be necessary in ASIC's MSS because some IT systems generate more than one message for a single order or executed transaction.

Shortly before or soon after this CRIS comes into effect, ASIC expects to transition the source of ASX's cost recovery counts from ASX's OMnet (proprietary) message interface, to one based on the Australian Markets Regulation Feed (AMRF) FIX-based protocol. Standardising all cash equity markets on AMRF will improve transparency and governance with respect to implementation of market innovations, and is a less costly model going forward than the current model that grandfathers arrangements for ASX's message interface. Full AMRF implementation for ASX and Chi-X will reduce the processing and conversion performed by ASIC's MSS as this will then take place directly in each market's AMRF FIX translator. ASIC may continue to determine cost recovery trade and message counts for ASX via OMnet until such time as ASX has fully implemented the AMRF as specified by ASIC. Chi-X already sends real-time data to ASIC in the AMRF format.

Table 12a: IT and non-IT costs relating to the cash equity markets (1 July 2013 to 30 June 2015) – as per previous methodology (no adjustments)

				$m	%
	Cost allocation	2013-14	2014-15	1 Jul-13 to 30 Jun-15	1 Jul-13 to 30 Jun-15
Non-IT costs *(allocated by trade count as per previous methodology)*	Market operators	0.96	0.95	**1.91**	4.8%
	Market participants	9.45	9.30	**18.75**	47.5%
	Total	**10.41**	**10.25**	**20.66**	**52.4%**
IT costs[a] *(allocated by message count as per previous methodology)*	Market operators	2.32	2.34	**4.66**	11.8%
	Market participants	6.99	7.14	**14.13**	35.8%
	Total	**9.31**	**9.48**	**18.79**	**47.6%**
	Total Market Operators	**3.29**	**3.29**	**6.57**	**16.7%**
	Total Market Participants	**16.44**	**16.44**	**32.88**	**83.3%**
	Total	**19.72**	**19.72**	**39.45**	**100.0%**

[a] This reflects all of ASIC's cash equity market IT costs (i.e. it includes deferred IT implementation costs of market competition and EMS, ongoing IT management costs, and the ongoing costs of ASIC'S MSS).

Table 12b: Costs allocated according to share of transaction and message counts relating to the cash equity market (1 July 2013 to 30 June 2015) – Table 12a with % allocation adjustments

			$m		%
	Cost allocation	2013-14	2014-15	1 Jul-13 to 30 Jun-15	1 Jul-13 to 30 Jun-15
Allocated based on market share of transaction counts *(90% of non-IT costs)*	Market operators	0.87	0.85	**1.72**	4.4%
	Market participants	8.51	8.37	**16.87**	42.8%
	Total	**9.37**	**9.22**	**18.59**	**47.1%**
Allocated based on market share of message counts *(100% of IT costs and 10% of non-IT costs)*	Market operators	2.42	2.43	**4.85**	12.3%
	Market participants	7.93	8.07	**16.00**	40.6%
	Total	**10.35**	**10.50**	**20.85**	**52.9%**
	Total Market Operators	**3.29**	**3.29**	**6.57**	**16.7%**
	Total Market Participants	**16.44**	**16.44**	**32.88**	**83.3%**
	Total	**19.72**	**19.72**	**39.45**	**100.0%**

Table 12c below shows the impact of the planned FIDA cost recovery offset of $1.465 million per annum for cash equity market participants (total impact of $2.93[23] million during this CRIS period). The costs to be recovered from market participants using the trade count-based fees reduce to $15.37 million. For the message count-based fees this cost reduces to $14.57 million.

The main advantage of the proportional cost allocation method based on the level of activity, as compared to a fixed fee per transaction and message method, is that it will not result in an over- or under- recovery of ASIC's market supervision costs. The use of an activity-based approach is intended to provide a linkage between the quantum charged and the resources consumed in supervising market operators and market participants.

[23] The $2.93 million ($1.465 million p.a. × 2) has been apportioned over the trade and message count cost pools applying to market participants in the ratio 16.87: 16.00 (approximately 1:1.055) in line with the figures for market participants in Table 12b

Table 12c: Costs allocated according to share of transaction and message counts relating to the cash equity market (1 July 2013 to 30 June 2015) – Table 12a with both % allocation adjustments and FIDA offset

	Cost allocation	$m 2013-14	$m 2014-15	$m 1 Jul-13 to 30 Jun-15	% 1 Jul-13 to 30 Jun-15
Allocated based on market share of transaction counts *(90% of non-IT costs)*	Market operators	0.87	0.85	**1.72**	4.7%
	Market participants[23,24]	7.75	7.62	**15.37**	42.1%
	Total	**8.62**	**8.47**	**17.09**	**46.8%**
Allocated based on market share of message counts *(100% of IT costs and 10% of non-IT costs)*	Market operators	2.42	2.43	**4.85**	13.3%
	Market participants[23,24]	7.22	7.36	**14.57**	39.9%
	Total	**9.64**	**9.79**	**19.43**	**53.2%**
	Total Market Operators	**3.29**	**3.29**	**6.57**	**18.0%**
	Total Market Participants	**14.97**	**14.97**	**29.95**	**82.0%**
	Total	**18.26**	**18.26**	**36.52**	**100.0%**

3.4.2.3 Fixed fee for cash equity market participants

ASIC's Market & Participant Supervision team allocates twenty of its staff to conducting compliance reviews of direct and indirect market participants. The aim is for these staff to spend half their time on non-issue specific, general reviews of participants and the other half on more in-depth follow-up reviews and remediation activities.

The effort spent by ASIC on general supervision activity is relatively constant and does not depend on the level of trading and messaging activity of market participants/Trading PIDs[25]. The aim of general supervision is to conduct on-site compliance reviews and risk-based surveillance with every participant at least once every three and a half years, process applications, notifications and waivers and perform regular reviews of participants' risk-based capital.

Allocation of relevant supervisory costs based on the level of trading and order messaging activity of participants results in highly variable individual charges for what is essentially the same level of supervision received by all participants as a group from year to year. In such circumstances, a fixed fee approach is considered to be a more equitable and administratively efficient method for recovering supervision costs from participants.

The fixed fee will be $1,835 per quarter per Trading PID (all figures are rounded to the nearest hundred dollars), based on the following calculations:

- average fully loaded staff cost p.a. of $139,725[26]
- 60 per cent of the salaries and wages of this team are subject to cost recovery (with the remainder Budget-funded because the rest of their time is spent on ASIC's market supervision activities that are not subject to cost recovery); and
- 70 per cent of the reviews are conducted on direct market participants, with a current regulated population of c. 80 — 90 market participants/unique Trading PIDs.

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24 Net of FIDA contribution
25 Trading PIDs are unique identifiers that tag a market participant's identity to every trade side and order on a market
26 ASIC has moved to charging staff costs based on an average staff cost model in this CRIS. This is explained in section 1.3.2 on page 5.

The workings are as follows:

$$\frac{\$139{,}725 \times 20 \times 50\% \times 60\% \times 70\%}{80} \begin{array}{l} = \$7{,}336 \text{ p.a.} \\ = \$1{,}833.89 \text{ per quarter} \\ = \$1{,}835 \text{ per quarter } \textit{(rounded to the nearest \$5)} \end{array}$$

This fee will be collected quarterly in arrears for every trading PID. No goods and supplier or overhead costs are recovered in this fee; rather, recovery of these is incorporated into other participant supervision costs that get rolled into the variable, activity-based fees imposed on direct cash equity market participants.

Assuming 80 PIDs are subject to the charge, the expected revenue from this fee from 1 July 2013 to 30 June 2015 is $1.17m.

The fixed fee will be payable per trading-enabled PID, regardless of the level of trading and messaging activity on a Trading PID, i.e. even if no activity has occurred during the quarter, the fixed fee will be charged.

3.4.2.4 Variable fees for cash equity market participants

Table 12d below shows how the minimum participant supervision fee impacts the variable fees to be charged to cash equity market participants (total impact of $1.17[27] million during this CRIS period). The amount to be recovered from market participants using trade count-based fees reduces to $14.31 million, and for message count-based fees the amount reduces to $14.46 million.

The overall cost recovered through variable fees with respect to the cash equity market reduces by $1.17 million from $36.52 million to $35.34 million.

Table 12d: Costs allocated according to share of transaction and message counts relating to the cash equity market (1 July 2013 to 30 June 2015) – as per Table 12c (both % allocation adjustments and FIDA offset) and net of minimum participant supervision fees

		$m			%
	Cost allocation	2013-14	2014-15	1 Jul-13 to 30 Jun-15	1 Jul-13 to 30 Jun-15
Allocated based on market share of transaction counts *(90% of non-IT costs)*	Market operators	0.87	0.85	1.72	4.9%
	Market participants[23,28]	7.23	7.09	14.31	40.5%
	Total	**8.09**	**7.94**	**16.03**	**45.4%**
Allocated based on market share of message counts *(100% of IT costs and 10% of non-IT costs)*	Market operators	2.42	2.43	4.85	13.7%
	Market participants[23,28]	7.16	7.30	14.46	40.9%
	Total	**9.58**	**9.73**	**19.31**	**54.6%**
	Total Market Operators	**3.29**	**3.29**	**6.57**	**18.6%**
	Total Market Participants	**14.38**	**14.39**	**28.77**	**81.4%**
	Total	**17.67**	**17.67**	**35.34**	**100.0%**

[27] The reductions to the amounts applying to market participants due to revenue from the minimum participant supervision fees have been applied in the ratio 90:10 to the amount allocated based on market share of transaction counts: amounts allocated based on market share of message counts

[28] Net of FIDA contribution

3.4.2.5 Charging arrangements for market operators 1 Jul 2013 to 30 Jun 2015

The quarterly charges that will apply to each market operator are outlined below. The charges are to be collected quarterly in arrears.

The formula for calculating the activity-based quarterly fee to be paid by each market operator for the period from 1 July 2013 to 30 June 2015 is as follows:

Operator A's overall quarterly fee	=	Fee based on Operator A's share of 90% of ASIC's total market operator related non-IT costs	=	\$1.72 m ÷ 8 quarters	×	No. of transactions executed on or reported under the operating rules of the financial market operated by Operator A during the quarter (as recognised by the ASIC MSS) ÷ Total no. of transactions executed on or reported under the operating rules of all cash equity markets during the quarter (as recognised by the ASIC MSS)
		+				
		Fee based on Operator A's share of ASIC's total market operator related IT costs + share of 10% of ASIC's total market operator related non-IT costs	=	\$4.85 m ÷ 8 quarters	×	No. of messages from the financial market operated by Operator A during the quarter (that are recognised by the ASIC MSS as orders or executed transactions) ÷ Total no. of messages from all cash equity markets during the quarter (that are recognised by the ASIC MSS as orders or executed transactions)

3.4.2.6 Charging arrangements for market participants 1 Jul 2013 to 30 Jun 2015 – with FIDA contribution

Market participants will also pay quarterly charges based on their transaction and message activity during each quarter, plus a fixed fee for minimum participant supervision.

The formula for calculating the charges to be paid by each market participant for the period from 1 July 2013 to 30 June 2015 is as follows:

Amount of Participant A's quarterly fee	=	Fee based on Participant A's share of 90% of ASIC's total market operator related non-IT costs	=	\$14.31 m ÷ 8 quarters	×	No. of transactions executed on or reported to the cash equity markets by Participant A during the quarter (as recognised by the ASIC MSS) ÷ Total no. of transactions executed on or reported to the cash equity markets by all participants during the quarter (as recognised by the ASIC MSS)
		+				
		Fee on Participant A's share of ASIC's total market operator related IT costs + share of 10% of ASIC's total market operator related non-IT costs	=	\$14.46 m ÷ 8 quarters	×	No. of messages by Participant A in the cash equity markets during the quarter (as recognised by the ASIC MSS) ÷ Total no. of messages by all participants in the cash equity markets during the quarter (as recognised by the ASIC MSS)
		+				
		Fixed fee for minimum participant supervision	=	\$1,835		*see section* Fixed fee for cash equity market participants *on page 23*

The figures above assume a FIDA contribution of $2.93 million over the CRIS period that reduces charges on cash equity market participants. The charges are to be calculated on a quarterly basis and collected quarterly in arrears.

3.4.2.7 Charging arrangements for market participants 1 Jul 2013 to 30 Jun 2015 – without FIDA contribution

The figures below are calculated on the same basis as those in section 3.4.2.6 above, however they assume that the FIDA contribution of $2.93 million over the CRIS period is not available to offset cash equity market participants' variable market supervision fees.

Amount of Participant A's quarterly fee	=	Fee based on Participant A's share of 90% of ASIC's total market operator related non-IT costs	=	$15.82 m ÷ 8 quarters	×	No. of transactions executed on or reported to the cash equity markets by Participant A during the quarter (as recognised by the ASIC MSS) ÷ Total no. of transactions executed on or reported to the cash equity markets by all participants during the quarter (as recognised by the ASIC MSS)
		+				
		Fee on Participant A's share of ASIC's total market operator related IT costs + share of 10% of ASIC's total market operator related non-IT costs	=	$15.88 m ÷ 8 quarters	×	No. of messages by Participant A in the cash equity markets during the quarter (as recognised by the ASIC MSS) ÷ Total no. of messages by all participants in the cash equity markets during the quarter (as recognised by the ASIC MSS)
		+				
		Fixed fee for minimum participant supervision	=	$1,835		*see section* Fixed fee for cash equity market participants *on page 23*

3.4.3 The ASX24 futures market

The current interim cost recovery arrangement for the ASX24 market will be extended until ASX24 data is provided to ASIC's MSS in real-time[29]. This involves the imposition of a fixed quarterly fee on the market operator only; participants of futures markets will not pay a direct fee to ASIC in the meantime.

The Government intends to consult further in the next six to nine months with a view to developing an activity-based cost recovery approach that will apply to both ASX24 and its participants, and other futures markets (including FEX). Treasury and ASIC will consult with industry on the principles for the recovery of futures markets' supervision costs to ensure that fair and transparent cost recovery arrangements that appropriately reflect the complex nature of futures markets are implemented. In the case of ASX24, the new cost recovery approach for the futures markets will be reflected in updated fees regulations and a CRIS Addendum that will take effect at an appropriate time.

As outlined in the previous Market Supervision CRIS (for 1 January 2012 to 30 June 2013), ASIC's supervisory effort for the ASX24 market includes seven full-time employees. For the two year period from 1 July 2013 to 30 June 2015, ASIC's total supervisory cost for the ASX24 market is approximately $2.76 million, based on seven full time employees and a share of goods and supplier and shared services costs as applied during the period 1 January 2012 to 30 June 2013. The fixed quarterly fee

[29] Expected in the first half of 2014

for the ASX24 market for the period from 1 July 2013 to 30 June 2015 is therefore $344,670[30] per quarter. This fee is to be collected quarterly in arrears.

Table 13: Total cost of ASX24 market supervision

Type of cost	Cost
Seven ASIC staff members specialising in ASX24 market supervision (including on-costs)[26] p.a.	$978,075
Goods and Suppliers costs (pro-rated share based on seven staff) p.a.	$207,003
ASIC shared services costs (pro-rated share based on seven staff) p.a.	$118,593
Expected cost of MSS variation(s) to support real-time ASX24 data p.a.	$75,000
Total cost p.a.	**$1,378,671**
Total cost 1 July 2013 – 30 June 2015	**$2,757,342**

3.4.4 FEX Global Pty Ltd

Consistent with the cost recovery arrangements currently in place for the ASX24 futures market, FEX Global Pty Ltd (FEX) will be supervised by ASIC on a post-trade basis for the period covered in this CRIS (i.e. no real-time surveillance on ASIC's MSS Surveillance System). ASIC's annual supervisory effort for the FEX market is estimated at $195,725 (see Table 14 below) and includes the cost of one new employee[26] who will be directly engaged in the FEX market supervision and travel costs for two ASIC employees to undertake four compliance reviews on FEX overseas participants. Although the travel costs for both ASIC employees will be included in the cost recovery charge, all other costs of the second ASIC employee will be Budget funded and not recovered from the FEX market. Other than the travel costs specified below, ASIC will not allocate a pro-rated share of goods and supplier and overhead costs to FEX during this CRIS, as this market is new and ASIC will need to assess the actual effort required in its supervision. The appropriateness of this charging approach will be specifically reviewed prior to preparing the next CRIS.

Table 14: Total cost of FEX market supervision

Type of cost	Cost	Rationale for ASIC incurring this cost
One new ASIC staff member specialising in FEX market supervision (including on-costs)[26] p.a.	$139,725	The FEX market will commence trading with unique and highly differentiated contracts based on underlying asset classes that require ASIC to acquire new skills, expertise and knowledge. A new, dedicated ASIC FEX resource is required during the life of this CRIS and beyond. If supervising the FEX market requires more than one additional ASIC supervisory resource due to market activity on FEX exceeding current projections, this additional cost will not be passed onto FEX and will be Budget funded until the end of this CRIS.
Travel costs for two employees to conduct four compliance reviews per annum on FEX's overseas participants	$60,000	FEX's target participants are different entities than those currently supervised by ASIC with respect to trading on ASX, ASX24 and small financial markets, and they are expected to be predominantly located offshore. The salary cost of the one staff member travelling with the allocated FEX staff member will be Budget funded and will not be cost recovered from the FEX market.
Total cost p.a.	**$199,725**	
Total cost 1 July 2013 – 30 June 2015	**$399,450**	

The fixed quarterly fee for the FEX market for the period from 1 July 2013 to 30 June 2015 is therefore $49,930[31] per quarter. This fee is to be collected quarterly in arrears.

[30] Rounded to the nearest $5

[31] Rounded to the nearest $5. This figure was determined assuming FEX commences operations on 1 July 2013, though the date FEX will commence operating is not yet known

FEX market participants will not pay a direct fee to ASIC during the period covered in this CRIS. The imposition of a fixed quarterly fee on the futures market operator (FEX) only is an interim cost recovery arrangement that currently applies to futures markets. Prior to the next CRIS being finalised, Treasury and ASIC will consult with industry on the principles for the recovery of futures markets' (including FEX) supervision costs to ensure that fair and transparent cost recovery arrangements that appropriately reflect the complex nature of futures markets are implemented.

3.4.5 Small financial markets

The current cost recovery arrangement for the small financial markets (i.e. NSX, SIM, IMB and APX) will continue to apply, albeit at slightly lower levels than in the previous CRIS due to ASIC recovering employee costs differently in this CRIS[26]. As ASIC does not currently undertake real-time market surveillance on the small financial markets, it is more appropriate to continue to recover ASIC's costs for supervising these markets based on the supervisory effort expended by ASIC in terms of full-time employees.

ASIC's total cost for supervising the small financial markets (and their direct participants[32]), is based on a supervisory effort required for the small financial markets equivalent to one full time employee. This is based on the risk profile and trading activity on the four markets that comprise the small financial markets segment. Apart from employee costs, ASIC does not incur any other significant costs to supervise the four markets within this segment, and will not allocate a pro-rated share of goods and supplier and overhead costs to the small financial markets to the cost recovery charges during this CRIS. The appropriateness of this charging approach will be reviewed prior to preparing the next CRIS.

The fixed quarterly fee for each small financial market is $8,735[33] per quarter. These fees are to be collected quarterly in arrears. Participants of the four small financial markets will not pay a direct fee to ASIC whilst this CRIS is in effect.

3.4.6 Recovery of unforeseen costs occurring during 1 Jul 2013 – 30 Jun 2015

This CRIS outlines the approach ASIC will take regarding cost recovery of any future additional costs unforeseen at the time of preparing this CRIS that ASIC may need to incur to enhance its market supervision/regulatory capabilities to keep pace with industry innovation, market structure changes, and market developments, assuming that policy authority for ASIC to cost recover falls within one of the three measures subject to cost recovery (Transfer of market supervision, Implementing market competition or Enhanced Market Supervision – see Table 3 on page 10).

Promoters of market innovations are encouraged to discuss such proposals with ASIC at the earliest possible opportunity so that ASIC can:

- Advise as to the proposed structure of recovering such costs in the next fees regulations; and
- Request quotes from both internal and external suppliers as to the likely quantum of the cost.

Wherever possible, ASIC's approach will be to directly charge the promoter of the market innovation for ASIC's additional costs relating to such a change(s). Such charges would commence from the time the next cost recovery arrangement was implemented. If a proposal does not fall within existing policy authority for cost recovery, a new authority will need to be sought from Government.

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[32] E.g. ASIC processes applications, notifications, waivers, etc
[33] Rounded to the nearest $5

3.5 Summary of Charging Arrangements

This section provides a summary of the total fees for each financial market segment for the two years to 30 June 2015.

Table 15: Summary of ASIC's cost recovery charges from 1 July 2013 to 30 June 2015

Market segment	Group	Charging method	Quarterly charges with FIDA contribution *(without FIDA contribution)*	Total with FIDA	Total without FIDA
Cash equity markets (for ASX listed securities) *i.e. ASX and Chi-X*	Market operators	Activity-based fees	\$822,000 per quarter (to be proportionally recovered from all operators)	**6.57**	**6.57**
	Market participants	Activity-based fees	\$3,596,000 per quarter (to be proportionally recovered from all participants)	**28.77**	**31.70**
	Market participants	Fixed fee *(for minimum participant supervision)*	\$1,835 per quarter per direct cash equity market participant Trading PID	**1.17**	**1.17**
ASX24	Market operator	Fixed fee	\$344,670 per quarter	**2.76**	**2.76**
FEX Global Pty Ltd	Market operator	Fixed fee	\$49,930 per quarter	**0.40**[17]	**0.40**[17]
Small Financial Markets *i.e. NSX; SIM; IMB; and APX*	Market operators	Fixed fee	\$8,735 per quarter per small financial market	**0.28**	**0.28**
FIDA contribution	NGF	Fixed contributions	\$1,465,000 per annum for four years from 2013-14 to 2016-17 inclusive; count two years in this CRIS	**2.93**	**0**
Total				**42.88**	**42.88**

4 ONGOING MONITORING

4.1 Monitoring Mechanisms

ASIC closely monitors the costs of undertaking its market supervision functions. To ensure accountability and transparency, ASIC accounts for the expenses relating to its market supervision functions separately by recording them under distinct cost centres that link to ASIC's market supervision funding measures and the ASIC teams incurring the cost (see Table 1 on page 4 for details of ASIC's three sources of funds for market supervision that are subject to cost recovery).

ASIC reports cost recovery revenue in the Financial Statements in accordance with the Minister for Finance and Deregulation's Orders (FMOs).

4.2 Stakeholder Consultation

4.2.1 Consultation with the Market Supervision Cost Recovery Stakeholder Panel

The key role of the Market Supervision Cost Recovery Stakeholder Panel has been previously outlined in section 1.5 on page 6 of this CRIS. Treasury and ASIC regularly meet with the Market Supervision Cost Recovery Stakeholder Panel to discuss their views on financial market supervision proposals and approaches for cost recovery.

Formal consultation with the Market Supervision Cost Recovery Stakeholder Panel first commenced in early 2012, and follow-up meetings were held in May 2012, November 2012, then in January 2013 and (forthcoming) May 2013.

4.2.2 Cost Recovery Discussion Paper

On 11 December 2012, Treasury released a Cost Recovery Discussion Paper to seek industry feedback on the proposed arrangements for the recovery of ASIC's market supervision costs for the period from 1 July 2013 to 30 June 2015. This paper was developed with key input from the Market Supervision Cost Recovery Stakeholder Panel.

Following the release of the Discussion Paper, further stakeholder meetings were conducted by Treasury (in conjunction with ASIC) in Sydney in late January and early February 2013. The meeting attendees included: market operators: ASX and Chi-X; market participants: the Australian Financial Markets Association (AFMA), Morgan Stanley, CBA / CommSec, Optiver, GETCO and Goldman Sachs and the Financial Services Council. All stakeholders had the opportunity to request a meeting with Treasury and / or make a submission to the Discussion Paper.

The consultation period for the Discussion Paper closed on 1 February 2013. Treasury received eighteen submissions, eight of which were confidential, in response to the paper. Copies of the public submissions are available from Treasury’s website at www.treasury.gov.au.

Consultation on the exposure draft Fees Regulations to implement the cost recovery arrangements outlined in this paper is about to commence, in parallel with the exposure of this draft (Consultation) CRIS.

The final Corporations (Fees) Amendment Regulations 2013 are expected to commence on 1 July 2013.

4.3 Periodic Review

The Government intends to propose cost recovery options that extend to participants of the ASX24 and possibly also FEX futures markets within six to nine months of the implementation of this CRIS, and formally review the overarching cost recovery framework outlined in this CRIS after approximately 18 months of implementation. Regular feedback will also be gathered at Market Supervision Cost Recovery Stakeholder Panel meetings.

The review of the overarching framework will assess the impacts of the cost recovery arrangements on industry and Australia's financial markets more generally, and determine whether any changes or adjustments need to be made to the approach. Any adjustments that are required following the review will be incorporated as part of the new cost recovery arrangements, which will be developed with input from industry and documented in a new CRIS that will take effect from 1 July 2015.

5 CERTIFICATION

I certify that this CRIS complies with the Australian Government Cost Recovery Guidelines.

____

Greg Medcraft
ASIC Chairman

Date:__________________

6 COST RECOVERY LINKS

- The Australian Government Cost Recovery Guidelines and the accompanying Finance Circular can be found at:
  http: //www.finance.gov.au/financial-framework/financial-management-policy-guidance/cost-recovery.html

APPENDIX A: Evolution of ASIC's market supervision function

A.1. Initial Transfer of Responsibility for Market Supervision to ASIC

On 24 August 2009, the Government announced its decision to transfer the responsibility for supervision of domestic licensed financial markets from market operators to ASIC. Responsibility for market supervision moved from market operators, including the ASX Group, to ASIC on 1 August 2010.

The Government's decision was designed to create one whole-of-market supervisor and thereby streamline supervision and enforcement by enabling the complete supervision of trading on domestic licensed financial markets. The Government also described this decision as the first step towards considering competition between exchange markets for trading in ASX listed securities (market competition).

The *Corporations Amendment (Financial Market Supervision) Act 2010* gave effect to this decision and received Royal Assent on 25 March 2010.

Notwithstanding the transfer of responsibility for market supervision, each domestic financial market operator continues to be responsible for the operation of their market and the supervision and enforcement of their operating rules (e.g. supervising and enforcing compliance with each market's own operating rules, such as dealing with trading errors). Monitoring, supervision and enforcement of listing rules also continues to be the responsibility of market operators.

Under the initial transfer of market supervision, ASIC was funded to implement its market surveillance function to a level that replicated or was practically equivalent to the function that existed at ASX and other markets prior to the transfer.

A.2. Market Competition

On 31 March 2010, the Government announced its support for market competition[34].

ASIC subsequently made Market Integrity Rules (MIRs) on 29 April 2011 to support the framework for market competition, and specifically for the Chi-X market. These MIRs came into effect on 31 October 2011.

On 4 May 2011, the Government granted Chi-X an Australian market licence under section 795B(1) of the *Corporations Act 2001* (Corporations Act) to enable it to operate an alternative exchange for trading in ASX listed securities. Chi-X commenced operations on 31 October 2011.

Based on analysis of benefits experienced by overseas markets that have introduced market competition, in Australia we expected to observe: increased innovation; maintained or improved

[34] http://mfsscl.treasurer.gov.au/DisplayDocs.aspx?doc=pressreleases/2010/032.htm&pageID=003&min=ceba&Year=&DocType=0

market quality (including market depth, liquidity and price formation); more choice in trading venues; and lower costs (including lower exchange trading fees and reductions in bid-ask spreads)[35]. Competition is growing, with Chi-X's market share of turnover increasing from 0.5 per cent to over 10% during 2012 and into early 2013[36] (figure includes both Chi-X's central limit order book (CLOB) market and the trade reporting facility).

Headline trading costs have decreased. Price is a significant factor in how ASX and Chi-X compete with one another, as are other market innovations (for example, new order types).

In terms of the other anticipated benefits of competition, ASIC has observed[36]:

- a decline in spreads from 23 basis points (at the midpoint price) in 2011 to an average of 20 basis points over August 2012 – January 2013, and less than 19 basis points in January 2013 (based on an 'all-stocks' estimate). This 3 basis point decline in the cost of trading represents a meaningful gain in market efficiency. As an illustration, using an average daily turnover in local markets in 2012 of $4.2 billion, a 3 basis point reduction in the cost of trading represents savings to traders of over $300 million per year.
- a reduction in bid-ask spreads following the introduction of market competition, particularly in small-to-medium capitalisation stocks. Over the past two years:
  - spreads across all stocks declined by 20 per cent; whilst
  - spreads for ASX 200 stocks declined by 8 per cent.

  Note: spreads for many ASX 200 stocks cannot narrow as they are already constrained by the minimum tick size.

[35] A more detailed discussion of the potential benefits from market competition is available in the Treasury Consultation Paper *Proposed Financial Market Supervision Cost Recovery Model*, Commonwealth of Australia, August 2011.

[36] Internal analysis by ASIC's Strategic Intelligence unit to 30 January 2013

APPENDIX B: Summary of previous market supervision cost recovery arrangements

B.1. Initial cost recovery arrangements (1 August 2010 to 30 June 2011)

Initial cost recovery arrangements were implemented by the Government from 1 August 2010 to 30 June 2011 to facilitate the recovery of ASIC's market supervision costs prior to the commencement of market competition.

These cost recovery arrangements were intended to be in place until the move to a competitive multi-market environment, which was expected to occur sometime in the first half of 2011.

During the period from 1 August 2010 to 30 June 2011, ASIC's market supervision costs of $7.74 million were recovered from two sources:

- fixed quarterly fees imposed on the operator of each domestic licensed financial market (as prescribed under the Fees Regulations); and
- a contribution of $4.20 million from the FIDA account (i.e. excess monies in the National Guarantee Fund (NGF)), and the Australian Securities Exchange Fidelity Fund (ASEFF).

A CRIS was published for the eleven month period from 1 August 2010 to 30 June 2011, and amendments were made to the Fees Regulations to prescribe the quarterly market supervision fees for each domestic licensed financial market.

ASIC's actual expenditure over the CRIS period was slightly greater than expected. The excess expenditure was not cost recovered from industry and was met through Budget funding.

B.2. Extension of the initial cost recovery approach (1 July 2011 to 31 December 2011)

As competition had not commenced by 1 July 2011, the initial cost recovery arrangements that were implemented from 1 August 2010 to 30 June 2011 were extended to 31 December 2011.

ASIC's expected market supervision costs of $4.50 million for the period from 1 July 2011 to 31 December 2011 were recovered from two sources:

- fixed quarterly fees imposed on the operator of each domestic licensed financial market (as prescribed under the Fees Regulations); and
- a contribution of $2.25 million from the FIDA account (i.e. excess monies in the NGF), and ASEFF.

A CRIS was published for the six month period from 1 July 2011 to 31 December 2011, and amendments were made to the Fees Regulations to prescribe:

- the fixed quarterly fees for existing markets; and
- the fixed quarterly fee that applied to Chi-X for the short period following the commencement of its operations to 31 December 2011.

As ASIC's actual expenditure was approximately $632,330 less than had been budgeted for, refunds totalling that amount were issued in 2012-13 to ASX and ASX24, both in their own right and also on behalf of the NGF (FIDA) and the ASEFF respectively.

B.3. First post-competition cost recovery arrangements (1 January 2012 to 30 June 2013)

The cost recovery budget in this CRIS specified an amount to be recovered from industry over 1 January 2012 to 30 June 2013 of approximately $29.8 million (annualised equivalent $19.9 million). Approximately $14.7 million of this related to the transfer of supervision from ASX to ASIC and around $15.1 million related to market competition.

The central aspect of the new charging structure that came into effect in this CRIS for each cash equity market operator (ASX and Chi-X) and their participants was a variable, activity-based quarterly levy that was calculated using a proportional / market share calculation according to each entity's share of the total market:

1. trade count and
2. message count

in ASX listed securities during each quarter.

ASX and Chi-X were each also charged a fixed quarterly fee to recover costs incurred by ASIC that were directly attributable to each of these markets (the fixed fees for ASX and Chi-X were not the same, as the costs incurred for each of these markets was different). Market participants of ASX and Chi-X were not charged a fixed quarterly fee.

The small financial markets segment and ASX24 were charged fixed fees for market supervision relating to the level of staffing ASIC maintains to supervise their markets.

The Corporations (Fees) Amendment Bill 2011 amended the *Corporations (Fees) Act 2001* to support the recovery of costs from both market operators and market participants[37]. A CRIS was published for the 18 month period from 1 January 2012 to 30 June 2013, and amendments were made to the Fees Regulations that reflected the new fee arrangements.

[37] This Bill was passed by the House of Representatives on 2 November 2011 and the Senate on 24 November 2011