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28 October 2022

Senior Adviser
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

ASICIFMReview@treasury.gov.au

Dear Sir/Madam

Treasury Consultation – *Australian Securities and Investments Commission Industry Funding Model*
Submission by Australian Finance Group Ltd ACN 066 385 822

Australian Finance Group Ltd (**AFG**) was founded in 1994, was listed on the Australian Securities Exchange in 2015, and has grown to become one of Australia's largest mortgage broking aggregators. Approximately 3,350 finance brokers (of which approximately 1800 are credit representatives of AFG) arrange residential mortgages, personal and asset finance loans, commercial finance, and other loan products through AFG's technology platform and relationships with lenders. AFG also operates a white label and securitised lending division through AFG Home Loans Pty Ltd and AFG Securities Pty Ltd (who hold separate Australian Credit Licences).

AFG welcomes the opportunity to respond to the Discussion Paper *Australian Securities and Investments Commission Industry Funding Model Review* (the **Discussion Paper**) issued by the Treasury on 28 September 2022. For the purposes of this submission, AFG's response is limited to providing some key observations below in relation to the credit intermediaries and credit providers sub-sectors and the relevant questions set out below.

Stakeholder Question 1: Definition of 'credit intermediaries' sub-sector and debt management services

The current calculation of the annual levy Investments Commission (**ASIC**) levy in relation to the sub-sector of 'credit intermediaries' refers to the definition of this sub-sector set out in subsection 25(1) of the ASIC *Supervisory Cost Recovery Levy Regulations 2017* (Cth) (**ASIC Levy Regulations**).

As a credit intermediary, AFG falls within this definition in the ASIC Levy Regulations. However, since the introduction of changes to the *National Consumer Credit Protection Act 2009* (Cth) (**NCCP Act**) that came into effect on 1 July 2021, debt management services are now 'credit activities' and providers of debt management services must hold an Australian Credit Licence.

As debt management services are not credit provision, this new type of credit activity falls under the credit intermediary sub-sector for the purposes of the ASIC Levy Regulations. The addition of this new credit activity to this sub-sector has likely contributed to the ASIC Levy for credit intermediaries almost tripling for the year ending 30 June 2021 versus FY20 (from $61.76 to $184.31 per credit representative). This was not expected or foreshadowed with ASIC indicating credit intermediaries would be charged around $96.55 per credit representative in the ASIC Cost Recovery Implementation Statement for the 2020-21 year released on 23 July 2021. In the majority of cases this is passed on as a direct cost to credit representatives who are mostly small businesses.

The inclusion of debt management services in this sub-sector has distorted the ASIC levies payable by credit intermediaries with ASIC indicating that a portion of the fee relates to *poor debt collection practices and monitoring of debt management firms* and *supervision of the debt sector*. We submit that it is not equitable to include debt management services in the same sub-sector as credit representatives and credit intermediaries as the cost recovery amounts attributed to providers of debt management services appears to be disproportionate to the number of these providers, evidenced by the tripling of the levy for FY21, and is therefore being spread across credit assistance providers.

AFG submits that Treasury should expressly carve out debt management services from the credit intermediaries' sub-sector and apply a separate sub-sector to this group of licensees.

Question 14: Timing of calculation of the ASIC levy

The ASIC levy is calculated as of 30 June in a year and therefore in the credit representatives sub-sector, the amount of the annual levy will depend on the number of credit representatives as at that date.

However, the invoice for the ASIC levy is not issued until January of the following year (with payment by March of the following year). Given credit representatives may have left an Australian Credit Licensee within that 6-to-9-month period, it can be difficult for an Australian Credit Licensee to recover the ASIC Levy from those credit representatives who are no longer contractually bound to the licensee. The licensee has to either estimate the ASIC Levy payable per credit representative (which can lead to over or under estimation as evidenced the last financial year) or pay the ASIC Levy themselves and risk non-recovery.

We submit that a shorter period from the end of the financial year until the ASIC levy notice is issued will mitigate this issue and provide benefits to thousands of small businesses.

Please do not hesitate to contact AFG if you require any further detail about the matters raised in this submission or if AFG can provide any further assistance.

Yours sincerely

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