



COST RECOVERY IMPLEMENTATION STATEMENT

For assessing applications for authorisation, and
certain other approvals

1 June 2018

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1. Overview

1.1 Purpose

This Cost Recovery Implementation Statement (CRIS) covers the recovery of specific costs¹ incurred by the Australian Prudential Regulation Authority (APRA) associated with assessing the applications of Authorised Deposit-taking Institutions (ADI), General Insurers (GI) and Life Insurers including Friendly Societies (LI), intending to be authorised or registered under the *Banking Act 1959* (the Banking Act), the *Insurance Act 1973* (the Insurance Act) and the *Life Insurance Act 1995* (the Life Act), Non-Operating Holding Companies [NOHC] and Private Health Insurers (PHI) under the *Private Health Insurance Act 2007* (the Private Health Insurance Act).

In addition, this CRIS covers the recovery of specific costs associated with applications under the *Financial Sector (Shareholdings) Act 1998* (FSSA), transfers of business applications, and friendly society rules and rule amendment applications.

The charges fall within the description of a cost recovery arrangement as defined in the Australian Government Cost Recovery Guidelines July 2014 (CRGs) under the Australian Government Charging Framework.

1.2 Background

In December 2002, the 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 underlying principle of the policy is that charges should be set to recover all the costs of products or services where:

- it is efficient and effective to do so;
- the beneficiaries are a narrow and identifiable group; and
- charging is consistent with Government policy objectives.

Cost recovery policy is administered by the Department of Finance and outlined in the *Australian Government Cost Recovery Guidelines* (Cost Recovery Guidelines).

APRA is a statutory authority established under the *Australian Prudential Regulation Authority Act 1998* (APRA Act) and is subject to the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). The primary purpose of APRA is to regulate bodies in the financial sector (APRA Act, Section 8). APRA is primarily funded by an annual appropriation which is based on industry levies minus a Treasurer's determination for monies collected for the Australian Securities and Investments Commission (ASIC), the Australian Taxation Office (ATO), the Department of Human Services (DHS), the Australian Competition and Consumer Commission (ACCC) and for implementing the *Stronger Super – SuperStream* initiative (APRA Act, Section 50).

In addition, APRA can charge fees for services and recover costs under Section 51 of the APRA Act.

¹ The amended and new charges indicated in this CRIS are an outworking of a recent cost recovery charges review undertaken.

2. Policy and statutory authority for cost recovery

2.1 Policy authority for cost recovery

APRA commenced operations on 1 July 1998. In establishing APRA, the Government determined that APRA's operations would be fully cost recovered through levies on the institutions that it prudentially regulates. Today, this occurs under the Australian Government Charging Framework (incorporating the CRGs), which broadly states that the cost of regulation should be met by those institutions that create the need for it. While the Government also provided authority for APRA to charge for direct services (such as licences), the majority of APRA's supervision costs were to be met through annual financial institutions supervisory levies.

APRA's activities are considered appropriate for cost recovery as they meet the following criteria:

- they are of a regulatory nature;
- there is an identifiable group of institutions, which are not part of the Government sector, that directly use or are the subject of the activities;
- it is practical and efficient to undertake the activities on a cost recovery basis; and
- cost recovery is not inconsistent with the Government's policy objectives outlined above.

2.2 Statutory authority to impose cost recovery charges

Section 51(1)(b) of the APRA Act permits APRA, by legislative instrument, to determine such charges. Section 51(2) of the APRA Act provides that a charge fixed under Section 51(1) must be reasonably related to the costs and expenses incurred or to be incurred in relation to the matters to which the charge relates, and must not be such as to amount to taxation.

2.3 Description of activities that are covered by these charges

Activities covered by these charges are assessing applications to be authorised as an ADI, GI, LI, NOHC or PHI, applications to be authorised as a restricted ADI, the annual monitoring of foreign bank representative offices (FBRO), applications to hold stakes in a financial sector company under the FSSA, transfers of business applications and charges in relation to friendly society rules and rule amendment applications.

2.4 Institutions liable to pay these charges

The relevant institutions are:

- Authorised Deposit-taking Institutions (ADIs), comprising banks, building societies, credit unions, foreign bank representative offices (FBROs) and Restricted ADIs;
- Life Insurers: comprising life insurance companies including friendly societies;
- General Insurers and reinsurance companies;
- Private Health Insurers; and
- Non-Operating Holding Companies.

Restricted Authorised Deposit-taking Institutions charges

APRA has introduced a Restricted ADI licence. The Restricted ADI licence allows eligible applicants to be authorised to conduct limited business at an earlier stage in the licensing assessment process, while they build their resources and capabilities to meet the prudential framework.

A Restricted ADI must be able to meet the prudential framework and progress to an ADI within a maximum of two years. APRA assesses the Restricted ADI's ability to meet the prudential framework ahead of its progression to an ADI licence. There may be instances when a Restricted ADI will not progress to an ADI and its Restricted ADI licence will be revoked.

The charge to be imposed for a Restricted ADI licence application will be \$80,000, with an additional \$30,000 required to be paid at the point of granting an ADI licence.

Registrable Superannuation Entity (RSE) charges

RSE charges were reviewed in 2010/11 and included in the recent cost recovery charges review. These charges are stipulated under Reg. 3A.06 of the *Superannuation Industry (Supervision) Regulations 1994*². Any amendment to RSE charges have to be progressed by Regulations as per the *Superannuation Industry Supervision (SIS) Act 1993* through the machinery of government instead of by legislative instrument, which is the mechanism for amending other industry charges set out in this CRIS.

3. Cost recovery process

The application charges relating to ADIs, FBROs, GIs, LIs and NOHCs were reviewed during 2010/11. As a consequence such charges were amended and relevant legislative instruments completed.

The recent charging review entailed examining all existing resourcing and activities as indicated from the previous 2010/11 review, to ascertain if such detail was still relevant to enable charge activity calculation and that the methodology was consistent with the Cost Recovery Guidelines.

This review included consultation with relevant areas in APRA and approval by APRA's Executive.

The outcome of the review relating to applications of entities, covering ADIs, GIs, LIs (including Friendly Societies), NOHCs and (now) PHIs, was that:

- all licensing application charges should be charged at the same level regardless of the industry type (with the exception of purchase payment facilities);
- all licensing application charges should be increased to better reflect the actual cost incurred; and
- there should be no discount applied to licensing re-application charges.

The review also covered a suite of new and other existing charging activities to:

² The regulation can be located at the following link: <https://www.legislation.gov.au/Details/F2016C00515>

- ascertain if such activities were appropriate to enable charging;
- ascertain the appropriate level of such charges; and
- ensure the review methodology was consistent with the Cost Recovery Guidelines.

The charges reflect current resourcing and task activity. These charges, once established by a fixed instrument, will be reviewed every five years as per the Cost Recovery Guidelines.

In determining whether the cost of an activity would be best recovered by a charge or the supervisory levy, an assessment was made against a number of criteria laid down in the Cost Recovery Guidelines.

Cost recovery by a charge is considered appropriate if the activity and its costs can be linked to a specific individual or organisation.

4. Charges

Schedule of charges

Entity type	Type of charge	Existing charge	Revised charge
Authorised Deposit-taking Institution			
Bank	Authorisation charge	\$80,000	\$110,000
Building society or credit union	Authorisation charge	\$80,000	\$110,000
Providers of Purchase Payment Facility	Authorisation charge	\$40,000	\$55,000
Other ADI under Section 9 of the Banking Act not yet covered.	Authorisation charge	\$80,000	\$110,000
General Insurer	Authorisation charge	\$80,000	\$110,000
Life Insurer including Friendly Societies	Registration charge	\$80,000	\$110,000
Non-Operating Holding companies – ADI (inc. building society and credit unions), GI, LI (inc. Friendly Societies)	Authorisation charge	\$80,000	\$110,000
FBRO consent application charge	Application charge	\$8,500	\$10,000
Annual monitoring of FBRO	Monitoring charge	\$14,000	\$3,000

Schedule of new charges

Type of charge	Charge
Application for authorisation as a Private Health Insurer	\$110,000
Application to authorisation as a Restricted ADI	\$80,000
Application for authorisation to progress from a Restricted ADI to an ADI	\$30,000
Application for Friendly Society rules and rule amendment	\$3,000
Application to hold stakes in a financial sector (FSSA) company - ADI, GI, LI	\$2,500
Application for transfer of business - GI, LI (including Friendly Societies), ADI and PHI	\$11,000

In relation to the schedule of charges above:

- a) each of the charges are GST exempt (see *Note 1* below);
- b) subject to paragraph (c) below, APRA may waive or refund, in whole or in part, any application charge set out in the Schedule of charges and Schedule of new charges if APRA is satisfied that special circumstances apply that would make it unjust or oppressive to impose a part of the charge, or the full amount of the charge. An example of a case where a waiver or refund may be justified is where an applicant applies for the wrong kind of authorisation by mistake, and withdraws the application before APRA has done any substantial amount of work considering the application;
- c) no refund or waiver will be made if the application is unsuccessful or if APRA, in the course of processing the application, informs the applicant that the application will be unsuccessful (see *Note 2* below) or if the application is withdrawn or not proceeded with by the applicant; and
- d) an applicant seeking a refund or waiver of an application charge must apply in writing to APRA setting out details of the special circumstances that apply.

Note 1: As per Division 81 of *A New Tax System (Goods and Services Tax) Act 1999*.

Note 2: For the avoidance of doubt, the charge is payable in respect of every new application, even one that is made after the refusal or withdrawal of an earlier application for which the applicant also paid a fee.

5. Risk Assessment

There is a risk of charging an incorrect amount for the activities prescribed above and not adhering to the Cost Recovery Guidelines.

This is mitigated by the full review of all charges imposed each five years.

6. Stakeholder Engagement

Consultation has not been undertaken as the changes are considered to be of a minor nature and do not substantially alter existing arrangements within the meaning of paragraph 18(2)(a) of the *Legislative Instruments Act 2003*.

7. Cost Recovery Implementation Statement (CRIS) approval

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

[Signed]

Wayne Byres
Chairman
Australian Prudential Regulation Authority
Date: 1 June 2018

