

EXPLANATORY STATEMENT

Issued by authority of the Treasurer

ASIC Supervisory Cost Recovery Levy Act 2017

ASIC Supervisory Cost Recovery Amendment (Levies Relief) Regulations 2021

Section 13 of the *ASIC Supervisory Cost Recovery Levy Act 2017* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *ASIC Supervisory Cost Recovery Amendment (Levies Relief) Regulations 2021* (the Amendment Regulations) temporarily reduce the cost of ASIC levies for the sub-sector that is licensees that provide personal advice on relevant financial products to retail clients (the sub-sector).

Under the ASIC Industry Funding Model, ASIC must set a total levy amount for each sub-sector equal to the costs of regulating that sub-sector. The *ASIC Supervisory Cost Recovery Regulations 2017* split the levy amount for the sub-sector into a fixed minimum fee and a variable graduated levy component for each licensed entity. The levy for the subsector is calculated by a fixed cost of \$1,500 per licensed entity and a graduated levy component contingent on the number of advisers authorised by the licensed entity.

On 30 August 2021 the Australian Government announced temporary and targeted relief for the sub-sector. The Government announced that it would cap the graduated levy component per adviser for two years, in response to significant increases in costs for the sub-sector. The Amendment Regulations set the maximum cost of the graduated levy component per adviser to the level it was at in 2018-19 (i.e. \$1,142).

The Amendment Regulations prescribe an amount that ASIC must not include in its calculation of regulatory costs. The amount to be excluded is any amount that causes the graduated levy component per adviser for the sub-sector to exceed \$1,142. This exclusion creates an effective cap on the graduated levy component at \$1,142 per adviser.

The Amendment Regulations apply to levies payable in relation to ASIC's regulatory costs for 2020-21 and 2021-22. Details of the Amendment Regulations are set out in [Attachment A](#).

Consultation was undertaken with the ASIC. Public consultation was not undertaken in order to implement the levy relief in respect of the 2020-21 financial year. The Office of Best Practice Regulation assessed the amendments as having nil regulatory impacts and as such no regulatory impact analysis was required.

The Amendment Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*. The Amendment Regulations commenced the day after registration. A statement of Compatibility with Human Rights is at [Attachment B](#).

Details of the ASIC Supervisory Cost Recovery Amendment (Levies Relief) Regulations 2021

Section 1 – Name of the Regulations

This section provides that the name of the Regulations is the *ASIC Supervisory Cost Recovery Amendment (Levies Relief) Regulations 2021* (the Amendment Regulations).

Section 2 – Commencement

The Amendment Regulations commence the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The Amendment Regulations are made under the *ASIC Supervisory Cost Recovery Levy Act 2017*.

Section 4 – Schedule

This section provides that each instrument that is specified in the Schedules to this instrument will be amended or repealed as set out in the applicable items in the Schedules, and any other item in the Schedules to this instrument has effect according to its terms.

Schedule 1 – Amendments

This schedule prescribes an amount that ASIC must not include in its calculation of regulatory costs in the years 2020-21 and 2021-22. The amount to be excluded is any amount that causes the ASIC graduated levy component per adviser to exceed \$1,142 for the licensees that provide personal advice on relevant financial products to retail clients sub-sector. This exclusion creates an effective cap on the graduated levy component at \$1,142 per adviser.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

ASIC Supervisory Cost Recovery Amendment (Levies Relief) Regulations 2021

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *ASIC Supervisory Cost Recovery Amendment (Levies Relief) Regulations 2021* (the Amendment Regulations) reduce the cost of ASIC levies for licensees that provide personal advice on relevant financial products to retail clients. The Amendment Regulations set the maximum cost of the ASIC graduated levy component per adviser to the level it was at in 2018-19.

The Amendment Regulations apply to levies payable in relation to ASIC's regulatory costs for the 2020-21 and 2021-22 financial years.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.