

# CORPORATE SUPERANNUATION ASSOCIATION Inc.

## APRA LEVIES: A SUMMARY

### Supervisory levy

APRA's web site contains a statement that all levies collected by APRA from the financial sector are used for supervision of the financial industry. The site also provides information about maximum and minimum levy amounts and the percentage for the current year. APRA's annual report for 2004 provides more detailed information.

Levies are raised from all APRA-regulated institutions. Levies vary based on industry sectors. The actual level of the levy for a particular financial year is set in advance by Ministerial determination, after industry consultation with representative bodies. The determined sum represents the minimum and maximum amounts for the levy and the rate (as a percentage of reported assets or balances) to be applied. However, a new system is to apply from 2005-06 –see below.

Non-operating holding companies are levied at a flat rate.

The levy may be waived in certain circumstances, on application to APRA.

For comparison purposes, the levy rates, maximum and minimum amounts for all types of APRA regulated institution for 2004-05 are as follows. For superannuation funds, the percentage is applied to net assets of the fund as at 30 June 2004 to determine the levy amount, subject to the maximum and minimum levels indicated.

	<b>ADIs (resident)</b>	<b>General Insurers</b>	<b>Life Insurers</b>	<b><i>Superannuation Funds</i></b>
<b>Percentage</b>	0.011%	0.034%	0.022%	<i>0.042%</i>
<b>Maximum</b>	1,182,000	470,000	460,000	<i>99,000</i>
<b>Minimum</b>	500	5,000	500	<i>600</i>

For superannuation funds the levy is

<b>Net Assets @ 30 June 2004</b>	<b>2004/5 Levy</b>
Below \$1,428,571	\$600
\$10m	\$4,200
\$50m	\$21,000
\$100m	\$42,000
\$200m	\$84,000
Above \$235.714m	\$99,000

## **How APRA (or other bodies) spend the levy**

Main source: APRA 2004 Report.

APRA is funded primarily from levies collected from supervised financial institutions, with a contribution from interest on funds invested, fees for services and miscellaneous cost offsets. The levies collected by APRA also cover some costs of the Australian Securities and Investments Commission and the Australian Taxation Office. The total levies and penalties collected by APRA for all three agencies in 2003/04 were \$86.1 million. Of this amount, \$35.5 million came from superannuation funds<sup>1</sup>. Of this \$35.5 million, \$25 million was appropriated to APRA, and \$10.5 million was retained in Consolidated Revenue<sup>2</sup>. The \$10.5 million was allocated for supervisory activities by ASIC and the ATO.

The major part of the levies appropriated to APRA (\$76 million) is used to pay salaries \$47 million, suppliers \$23 million<sup>3</sup>, of which \$14 million was paid to government and external contractors. The former 9 member Board with total remuneration of \$740,000 has been replaced by a 3 member board with total remuneration of \$1.5 million. Officers' salaries were \$9.3 million in 2002-03 and \$10.7 million in 2003-04. Total employment costs rose from \$41 million to \$47 million and employee numbers from 496 to 545.

### **Questions/observations:**

1. The total amount required each year is increasing.
2. More revenue (and at a higher percentage) is raised from superannuation funds than from any other group of bodies (see page 79).
3. A significant portion of the monies raised is for supervision by ASIC and the ATO.
4. The 3 board members' salaries are very high.

### **Forthcoming Changes/ Consultation**

Legislation has been passed (Feb 2005) amending the way the levy will be calculated for 2005-06 and later years. The legislation provides that part of the levy (ranging between 70% and 90%) is to be calculated in a way similar to prior years, with a percentage levy on the fund's net assets subject to maximum and minimum levels. This will be supplemented by an "unrestricted levy component" raised as a percentage of assets, without limit. The restricted levy component is intended to cover the costs incurred by APRA in direct supervision of entities in each sector. The unrestricted levy component is intended to cover the indirect costs associated with analysis of risk by industry rather than

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<sup>1</sup> Page 101 APRA Annual Report 2004

<sup>2</sup> Page 79

<sup>3</sup> Page 60

by institution. (These activities are not new, but they are now to be identified for separate funding). The maximum amounts of restricted levy for each sector are to be CPI indexed for future years.

A discussion paper on the above changes was released by Treasury in April 2005, entitled *Possible impacts of amended levy determination from 2005-06*. The paper indicated the following plans for 2005-06:

- APRA will need \$30 million to supervise the superannuation sector.
- Additional supervisory levy requirements (ATO and ASIC), for the superannuation sector, are estimated at \$13.8 million, of which ASIC will absorb \$10 million.
- Supervision of the superannuation sector is expected to absorb about 36.3% of APRA's time, and the superannuation sector's contribution to APRA's share of the levy is budgeted accordingly. However, ASIC's share of funding levy requirements is superannuation-loaded: it's going to take \$10 million from the superannuation sector out of a total \$16.3 million from all sectors. The result is that the superannuation sector is providing 42.52% of aggregate supervisory levies.

The new levy parameters were proposed as per the following table<sup>4</sup>. Note, however, that after industry consultation it was proposed that these rates would not apply until 2006-07. See later outline of interim rates for 2005-06

**Table 7: Levy parameters from the new framework**

Industry sector	Current Framework			New Framework			
	Min	Max	Rate	Min	Max	Rate 1 *	Rate 2 **
	\$	\$'000	%	\$	\$'000	%	%
ADIs – Local	500	1,182	0.011	470	1,400	0.00602	0.000586
ADIs - Foreign	500	591	0.0055	470	750	0.00301	0.000586
Superannuation (non-SAFs)	600	99	0.042	570	200	0.01548	0.001986
Life insurers/ Friendly socs.	500	460	0.022	470	700	0.00739	0.001095
General insurers	5,000	470	0.034	4,000	700	0.02088	0.006975

\* Rate 1 applies to the first, restricted levy component relating to cost of supervision

\*\* Rate 2 applies to the second, unrestricted levy component relating to potential system impact and vertical equity considerations.

The paper summarises the anticipated effect of the new levy structure as being to reduce the burden on medium sized funds at the expense of the largest funds. This is illustrated in the following table, also drawn from the Treasury/APRA Paper:

<sup>4</sup> From *Financial Sector Levies Review: Discussion paper on possible impacts of amended levy determination framework on levies from 2005-06*, Treasury and APRA paper, April 2005.

**Table 10: Levy amounts on superannuation funds (excluding SAFs) (\$)**

Asset Base	\$1m	\$3m	\$50m	\$250m	\$5b	\$20b
Previous	600	1,260	21,000	99,000	99,000	99,000
New	590	630	8,733	43,664	299,282	597,128

Note that, after industry consultation, transitional arrangements have been put in place for the 2005-06 year. The Ministerial Determination issued in July 2005 indicates the following arrangements for funds, other than SAFs, for 2005-06:

Restricted levy			Unrestricted levy
Minimum	Maximum	%	%
\$	\$		
570	99,000	0.042	0.0010

This produces the following comparative total **2005/6** levy figures:

Asset Base	\$1m	\$3m	\$50m	\$250m	\$5b	\$20b
Previous (2004-05)	600	1,260	21,000	99,000	99,000	99,000
New (2005-06)	580	1,290	21,500	101,500	149,000	299,000

Small APRA Funds (SAFs) are subject to a separate flat levy of \$500. SAFs are small funds with less than 5 members who are regulated by the Australian Prudential Regulation Authority (APRA) and are required to have an Approved Trustee. They are distinct from ATO-regulated Self Managed Superannuation Funds (SMSFs). (In effect, SAFs are DIY funds with an approved trustee.)

According to Treasury's Paper, there are an estimated 7,040 SAFs and 1,978 other APRA-regulated superannuation funds. The Paper states that

*62. In respect of SAFs, supervision is largely through registration and scrutiny of annual returns, with the focus of the process being the approved trustee. The suggested minimum rate for SAFs is to be \$500, which is lower than the 2004-05 minimum rate for the superannuation sector of \$600.*

*63. Supervision of other (non-SAF) superannuation funds is more intensive than for SAFs. Reflecting this, the suggested minimum levy for other superannuation funds should be higher, but not more than is being charged for 2004-05.<sup>5</sup>*

Institutions may feel a little sore about the low rate of the levy on the SAFs, which as indicated below, have had a high rate of failure and have been the biggest takers of

<sup>5</sup> Ibid, paragraphs 62 and 63.

Financial Assistance under the SIS Act. If, as stated in paragraph 62, the regulation focus for SAFs is on the Approved Trustee, why is the cost of supervision not recovered wholly from the Approved Trustee sector? Why is it not weighted, given the historical experience?

From 2006/7 and beyond the situation will be that APRA has partially removed the maximums applied to funds and as a result has re-aligned the supervision levy to ensure income is related to assets rather than number of funds. This is a sensible move by APRA as their income is under threat with the number of funds rapidly declining.

A number of comparison charts are attached as appendices.

### **Financial assistance funding levy**

When a fund has suffered a loss due to fraudulent conduct or theft, and the loss has caused substantial diminution of the fund's assets that has led to the fund having difficulties paying benefits to members, the Minister may determine under Part 23 of the SIS Act that the public interest requires that a grant of financial assistance be made to the fund. The Superannuation (Financial Assistance Funding) Levy Act 1993 provides for a levy to be raised to fund this financial assistance. The total amount of levies imposed in one financial year cannot exceed 0.05% of the total value of all assets in a fund as at the end of the previous financial year.

When the SIS legislation was passed the provisions in Part 23, relating to financial assistance to funds, did not cover excluded superannuation funds (funds with 5 or fewer members). Excluded superannuation funds were exempt from the provisions in Part 23 and other prudential provisions in the SIS Act due to their size and the perceived ability of members to be involved in the day-to-day running of an excluded superannuation fund. It was never expected that the provisions in Part 23 of the SIS Act would cover superannuation funds with less than 5 members. However, with the reclassification of small funds (less than 5 members) between APRA regulated Small APRA Funds (SAFs), or ATO regulated SMSFs, all regulated superannuation funds, other than SMSFs, have been covered by Part 23 of the SIS Act since October 1999, and hence are eligible for financial assistance. This includes all small funds with less than 5 members who are regulated by the Australian Prudential Regulation Authority (APRA) and replaced their trustees with a trustee who had been granted approved trustee status under Part 2 of the SIS Act by APRA: these are the entities referred to as Small APRA Funds (SAFs),.

No levy was called for until 2003. In the wake of the failure of the funds which were managed by Commercial Nominees or invested in trusts related to Commercial Nominees, and of the Australian Independent Superannuation Fund, a levy was first raised in 2003 to recoup financial assistance provided to funds in the 2001-02 year. For the levy rate, see the table overleaf. 95% of the levy was used to bail out some 180 Small APRA funds, previously under the trusteeship of Commercial Nominees of Australia Limited, an APRA-approved trustee. These funds suffered losses in the Enhanced Cash Management Trust (ECMT) controlled by Commercial Nominees or a related entity.

A further levy has been imposed by new regulations in 2005. The regulations seek to recoup the value of financial assistance granted in the course of 2002-03, 2003-04, and the outstanding shortfall in levy collections in 2003 covering assistance in 2001-02 (the original 2003 levy did not raise enough to recover the financial assistance provided in 2001-02).

Total financial assistance levies to date can be tabulated as follows:

	<b>2001-02 original</b>	<b>2001-02 supplementary</b>	<b>2002-2003</b>	<b>2003-2004</b>
<b>Levy percentage</b>	0.0083%	0.0022%	0.0252%	0.0046%
<b>Maximum</b>	33,000	20,000	85,000	30,000
<b>Minimum</b>	100	10	100	100
<b>No of funds assisted</b>	181		543	79
<b>Total amount raised by levy</b>	TBA	3.5 million	22.6 million	6.4 million

The impact of the levy on funds is shown below.

Assets	\$1m	\$410m	\$50m	\$300m	\$1b	\$5b	\$10b
2001/2	100	830	4,150	24,900	33,000	33,000	33,000
2004/5	374	3,200	16,000	96,000	135,000	135,000	135,000

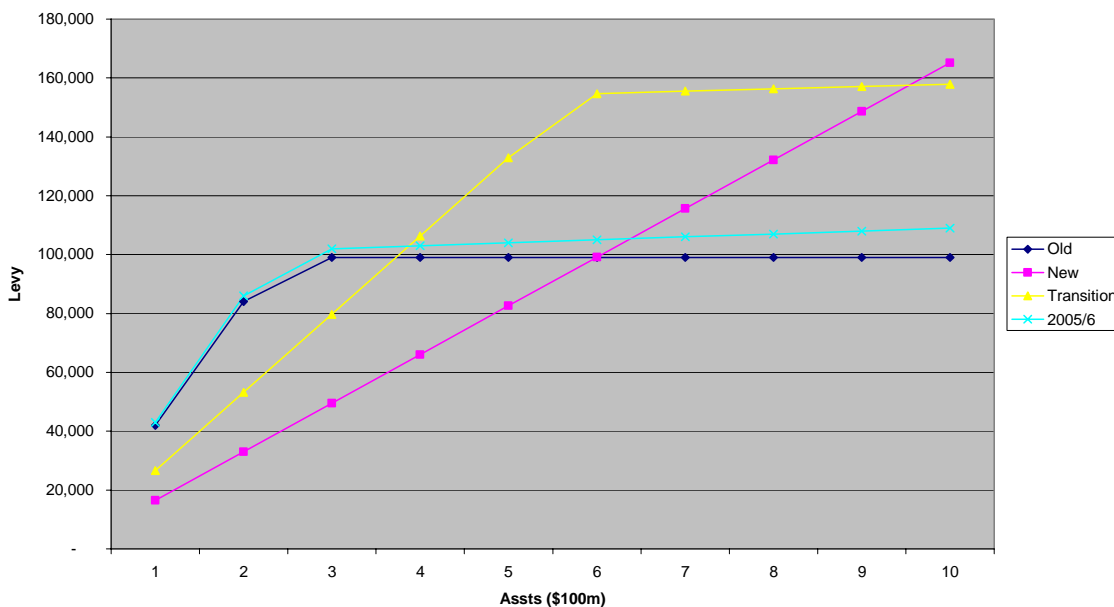
The regulations also set out specific "levy-exempt funds" and their relevant proportion of levy. These levy exempt funds are those which have received financial assistance in the relevant year. The funds which received assistance in 2003-03 are listed in Schedule 2 to the 2005 Financial Assistance Funding Regulations, and those which received assistance in 2003-04 are listed in Schedule 3. The percentage of the levy applied to assist each of the funds named in the regulations, and the names of the funds, suggests that these funds are all or mostly APRA regulated funds with less than 5 members (SAFs).

### **Comment**

The larger funds are subsidising the inappropriate behaviour of the small APRA funds.

John Cann  
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August 2005

APRA LEVY COMPARISON



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