

## EXPLANATORY STATEMENT

### Australian Prudential Regulation Authority (Commonwealth Costs) Determination 2019

Subsection 50(1) of the *Australian Prudential Regulation Authority Act 1998* (APRA Act) requires the Minister, by legislative instrument, to make a determination on the amount of “levy” (as defined under subsection 50(6) of the APRA Act) that is to be available to cover the costs to the Commonwealth of:

- providing market integrity and consumer protection functions for prudentially regulated institutions;
- administering the function of making determinations about the release on compassionate grounds of benefits that are in a superannuation entity or retirement savings account; and
- governing and maintaining the superannuation transaction network.

This can be done either by specifying one retainable amount (under paragraph 50(1)(a) of the APRA Act) or by specifying a retainable amount for each class of levy (under paragraph 50(1)(b) of the APRA Act).

This determination commences on 1 July 2019 and relates to the 2019-20 financial year. The *Australian Prudential Regulation Authority (Commonwealth Costs) Determination 2018* is repealed upon commencement of this determination. Consistent with section 7 of the *Acts Interpretation Act 1901*, any obligation or liability incurred in previous financial years remains valid.

This determination states the amount of levy revenue for the 2019-20 financial year that is allocated under each of the various levy imposition Acts to:

- the Australian Securities and Investments Commission (ASIC);
- the Australian Taxation Office (ATO);
- the Australian Competition and Consumer Commission (ACCC);
- the Gateway Network Governance Body Ltd (GNGB); and
- the Treasury.

These funds are allocated to ASIC and ATO activities in so far as those agencies provide, on behalf of the Commonwealth, relevant market integrity and consumer protection functions for prudentially regulated institutions; to ACCC in investigating specific competition issues in Australia’s financial system; to GNGB in promoting the efficiency and effectiveness of the Superannuation Transaction Network; and to the Treasury to conduct a capability review of APRA. The funds will contribute towards the costs of ASIC, ATO, ACCC, GNGB and the Treasury undertaking those functions.

The following table details the amounts allocated to activities undertaken by ASIC, ATO, ACCC, GNGB and the Treasury under each of the financial sector levy imposition Acts.

Item	Matter	Amount (\$)	Purpose of amount
1	Amount of the levy money payable to the Commonwealth under the <i>Authorised Deposit-taking Institutions Supervisory Levy Imposition Act 1998</i> .	\$4 100 000	\$3 500 000 of the amount is for the ACCC in investigating specific competition issues in Australia's financial system.  \$600 000 of the amount is for the Treasury to conduct a capability review of APRA.
2	Amount of the levy money payable to the Commonwealth under the <i>General Insurance Supervisory Levy Imposition Act 1998</i> .	\$100 000	\$100 000 of the amount is for the Treasury to conduct a capability review of APRA.
3	Amount of the levy money payable to the Commonwealth under the <i>Life Insurance Supervisory Levy Imposition Act 1998</i> .	\$100 000	\$100 000 of the amount is for the Treasury to conduct a capability review of APRA.
4	Amount of the levy money payable to the Commonwealth under the <i>Superannuation Supervisory Levy Imposition Act 1998</i> .	\$45 600 000	\$8 400 000 of the amount is for ASIC, in so far as it provides, on behalf of the Commonwealth, market integrity and consumer protection functions for prudentially regulated institutions.  \$36 300 000 of the amount is for the ATO, in so far as it provides, on behalf of the Commonwealth, market integrity and consumer protection functions for prudentially regulated institutions.  \$700 000 of the amount is for the GNGB measure.  \$200 000 of the amount is for the Treasury to conduct a capability review of APRA.

The determination also states that under subsection 50(1A) of the APRA Act, the proportion of amounts of levy money paid to APRA, on behalf of the Commonwealth for the 2019-20 financial year, that is to be credited to the APRA Special Account on an ongoing basis is 78.9 per cent.

The finance sector has been consulted on the 2019-20 supervisory levies, through a Treasury and APRA discussion paper released on the Treasury website on 4 June 2019. Six submissions were received during the consultation process, none of which related specifically to the methodology for this determination.

The Office of Best Practice Regulation has previously advised that a Regulatory Impact Statement is not required as supervisory levies are considered *machinery-of-government* in nature.

This determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out in [Attachment 1](#).

## Statement of Compatibility with Human Rights

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

### *Australian Prudential Regulation Authority (Commonwealth Costs) Determination 2019*

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

Subsection 50(1) of the *Australian Prudential Regulation Authority Act 1998* requires the Minister to make a determination on the amount of levy (as defined under subsection 50(6)) that is to be available to cover the costs to the Commonwealth of:

- providing market integrity and consumer protection functions for prudentially regulated institutions;
- administering the function of making determinations about the release on compassionate grounds of benefits that are in a superannuation entity or retirement savings account; and
- governing and maintaining the superannuation transactions network.

This can be done either by specifying one retainable amount or by specifying a retainable amount for each class of levy.

### 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.