

AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY COST RECOVERY IMPACT STATEMENT

For assessing the applications of entities to be authorised or registered
as Non-operating Holding Companies.

March 2013

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1. OVERVIEW

1.1 Purpose

This Cost Recovery Impact Statement (CRIS) assesses the impact of imposing, by means of a legislative instrument under paragraph 51(1)(b) of the *Australian Prudential Regulation Authority Act 1998* (the APRA Act), charges for the recovery of specific costs associated with assessing the applications of entities, including authorised deposit-taking institutions (ADIs), general insurers and life companies, intending to be authorised or registered as Non-operating Holding Companies (NOHCs) under the *Banking Act 1959* (the Banking Act), the *Insurance Act 1973* (the Insurance Act) and the *Life Insurance Act 1995* (the Life Act), respectively. The proposed charges fall within the description of a cost recovery arrangement as defined in the *Australian Government Cost Recovery Guidelines July 2005* (the Cost Recovery Guidelines).

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 entities should set charges to recover all of the costs of products and services where it is efficient and effective to do so, where the beneficiaries are of a narrow and identifiable group and where charging is consistent with government policy objectives. Cost recovery policy is administered by the Department of Finance and Deregulation and outlined in the Cost Recovery Guidelines.

The policy applies to all *Financial Management and Accountability Act 1997* (FMA Act) agencies. In line with the policy, individual portfolio ministers are ultimately responsible for ensuring agencies implement and comply with the Guidelines.

APRA is a statutory authority set up under the APRA Act and is subject to the FMA Act.

The primary purpose of APRA is the regulation of bodies in the financial sector (APRA Act section 8). APRA is mainly funded by an annual appropriation which is based on industry levies after the deduction of the Treasurer's determination for monies collected for the Australian Securities and Investments Commission (ASIC), the Australian Taxation Office (ATO), and the Department of Human Services (DHS) (section 50 of the APRA Act).

In addition, where an institution requires a specific elective service, APRA has the ability charge under section 51 of the APRA Act. For specific one-off services outside the direct supervision of regulated entities, such as assistance offered to other government agencies or overseas regulators, APRA seeks to recover the associated costs with specific charges (APRA Act subsection 9A(2)). This reduces the levies that institutions pay and is seen by the financial industry as desirable, as it reduces the cross-subsidies for both special services and services unrelated to direct supervision.

By the original charging instrument, APRA fixed various charges relating to applications for authorisation as NOHCs by ADIs, general insurers and registration as NOHCs by life companies and friendly societies.

2. POLICY REVIEW

The recovery of costs associated with assessing applications for authorisation, by way of a fixed price authorisation charge, is supported by the following policy-based analysis.

2.1 Alignment with objectives

The primary objective of APRA is defined within its Outcome Statement, being: “enhanced public confidence in Australia’s financial institutions through a framework of prudential regulation which balances financial safety and efficiency, competition, contestability and competitive neutrality”.

In line with its Outcome Statement, APRA recognises the commercial benefit of a NOHC structure for entities, including ADIs, general insurers and life companies. At the same time, the maintenance of public confidence in Australia’s financial system and institutions through its framework of prudential regulation remains paramount.

For this reason, the process of authorising NOHCs, which are essentially a legal construct through which specific entities seek to quarantine their individual regulated and unregulated business operations, follows a broadly similar review path for all entities seeking authorisation.

Access to the Australian financial system by entities wishing to offer their products to depositors, insurance policyholders and other beneficiaries requires initial minimum standards be met covering, inter alia, capital, ownership, governance and risk management and internal control. In addition, entities seeking authorisation must be able to comply with prudential requirements from the commencement of authorised operations.

2.2 Cost recovery alternatives

In determining whether the cost of an activity would be best recovered via a charge or the normal levy, an assessment was made against a number of criteria laid down in the Commonwealth cost recovery guidelines. In principle, cost recovery via a charge is considered appropriate if an activity is complex in nature, occurs as a one-off, its cost implication is high, and its beneficiary can be identified, provided it is not contrary to the policy goals and it is efficient to implement cost recovery methodology.

3. PROPOSED NOHC AUTHORISATION AND REGISTRATION CHARGES

Table 1 following presents the current and proposed charges.

Item	Entity type	Current charge (GST exempt)	Proposed charge (GST exempt)
	<i>ADIs</i>		
1	Authorisation as a NOHC of an ADI that is a bank.	\$40,000	\$80,000
2	Authorisation as a NOHC of an ADI that is a building society or credit union	\$20,000	\$80,000
3	Authorisation as a NOHC of	\$20,000	\$80,000

	an ADI that is a specialist credit card institution.		
	<i>Other</i>		
4	Authorisation as a NOHC of a general insurer.	\$20,000	\$80,000
5	Registration as a NOHC of a life company (other than a friendly society).	\$20,000	\$80,000
6	Registration as a NOHC of a life company that is a friendly society.	\$20,000	\$80,000

In relation to the schedule of charges above:

- (a) each of the charges is 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 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: By virtue of items 15.56, 15.58 and 15.59 of Part 1 of Schedule 1 to the *A New Tax System (Goods and Services) (Exempt Taxes, Fees and Charges) Determination 2010 (No.2)*, each of the charges above is specified for the purposes of subsection 81-5(2) of the *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.

As for the current general authorisation charges, the proposed NOHC authorisation charges recognise the complexity associated with the differing types of entities regulated by APRA.

In practice, requests for NOHC authorisation are less likely to originate from building societies, credit unions or specialist credit card institutions, reflecting those entities' mutual ownership structure or limited business foci.

4. MONITORING AND REVIEW OF PROPOSED CHARGES

The effort and costs associated with NOHC authorisation reviews of individual applicants are captured in APRA's time management and cost systems, while related licensing charges are reported as Charges for Service in APRA's Financial Management Information Systems.

In addition, the extent of Charges for Services available as a cost offset to reduce general levies is disclosed annually in the levies consultation paper released by APRA/The Treasury.

The NOHC charges were reviewed (along with other entity type charges) during 2011-12 to ascertain whether all of the existing charges are set at appropriate levels and are compliant with the Cost Recovery Guidelines.

The outcome of the review relating to NOHC and other charges was:

- all licensing application charges should be charged at the same level, regardless of the industry type;
- all licensing application charges are to be increased to better reflect the actual cost incurred ; and
- there should be no discount applied to licensing re-application charges.

It is anticipated that these charges, once established via a fixed instrument, would be periodically reviewed in line with APRA's internal review schedules.

5. CERTIFICATION

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

[Signed]

John Laker

Chair

Australian Prudential Regulation Authority

Date: 7 March 2013