

**Review of the Superannuation Industry (Supervision) Act 1993  
and Certain Other Superannuation Legislation**



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## COSTS OF COMPLIANCE

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### MIA V SIS

#### **Background**

The costs of compliance for a superannuation fund, regulated under SIS, and an investment fund, regulated under MIA, are compared below.

SIS: Superannuation Industry (Supervision) Act 1993

MIA: Managed Investments Act

Assumptions:

- Each Fund has a base asset size of \$500million.
- The superannuation fund is a non public-offer, accumulation style fund and has unitised and non-unitised investments.
- The investment fund has direct investments (ie. does not use a custodian).

#### **Part One – Audit Costs**

#### **What is the cost of an audit of the superannuation fund v the investment fund?**

##### *SUPERANNUATION FUND*

An auditor of a superannuation fund must issue two audit opinions. They comprise:

1. Financial Statements Audit Opinion
2. SIS Compliance Audit Opinion

Therefore, part of the total fee charged to audit a superannuation fund would include a charge for the audit of the fund's compliance with SIS.

If the total audit fee was \$30,000, for example, approximately 15% (or \$5,000) of that fee would comprise the SIS compliance audit.

\$30,000  
TOTAL AUDIT FEE

\$25,000	\$5,000
FINANCIAL STATEMENTS AUDIT	COMPLIANCE AUDIT

The proportion of the total fee allocated to the audit of SIS compliance will vary from fund to fund depending on the nature of the fund. A defined benefit fund has greater compliance obligations to fulfil than an accumulation fund eg. Actuarial Reviews, Funding & Solvency Certificates, which must be checked by the auditor as part of the annual audit process.

In summary, a general range of between 10% and 20% of the total audit fee would be allocated to SIS compliance.

### *INVESTMENT FUND*

#### *Financial Statements Audit*

The auditor of an investment fund must similarly issue an audit opinion on the financial statements of the fund.

For an investment fund with direct investments, the total audit fee for a financial statements audit can range from between \$30,000-\$35,000.

For investment funds that have indirect investments, ie. use a custodian, the audit fee may be between \$20,000-\$25,000.

#### *Compliance Plan Audit*

The auditor of an investment fund must issue a separate audit opinion on the responsible entities' compliance with MIA, which is a more onerous engagement as compared to the issue of a SIS compliance audit opinion by the auditor of a superannuation fund.

The audit fee charged for issuing compliance plan opinions will vary depending on the number and complexity of investments funds administered by the responsible entity.

For example, if a responsible entity has only one investment fund, the audit fee charged to audit the compliance plan of the manager would be, for example, \$10,000.

The greater the number of funds administered by a responsible entity, the lower the compliance plan audit fee per fund.

## **Part Two – Other Costs of Compliance**

### *SUPERANNUATION FUND*

For a non public-offer superannuation fund, the costs of compliance, apart from audit fees, may comprise:

- Legal fees (1)
- Administration and Consulting fees
- Professional Indemnity insurance

(1) Legal Fees are incurred for issues such as changes to Trust Deed, disputes, interpretation of legislation.

- (2) Administration and Consulting Fees, with respect to compliance, are incurred for the costs of compliance officer/s, administration of member accounts, annual report production, maintenance of the complaints register.

It is very difficult to state an actual dollar amount for the cost of compliance for a superannuation fund in this paper. The costs for of compliance for each fund will vary depending on the nature, size and complexity of the fund.

It will also depend on how pro-active the fund trustees are in monitoring the fund's compliance with SIS. Again, this will vary between funds. Many of the larger funds including industry funds and public offer funds, which have the capacity to pay for compliance monitoring, are pro-active in compliance monitoring. This includes the employment of compliance officers and the completion of compliance checklists on a regular basis.

For other funds, including most corporate funds, compliance monitoring is on an exceptions basis. ie. the fund is considered to be SIS compliant until a breach of the legislation is identified.

It should be noted that a public-offer superannuation fund will incur additional costs of compliance to what is described above. This is because the trustee is required to prepare a Key Features Statement (KFS) and Prospectus. Connected costs include legal and due diligence fees for review of the Prospectus and KFS as well as printing and stationery costs.

#### *INVESTMENT FUND*

For an investment fund, the costs of compliance, apart from audit fees, may comprise:

- Legal fees
- Management Expenses
- Compliance Officer
- Professional Indemnity insurance
- Costs of external compliance committee members

An investment manager must produce "offer documents" for the funds they administer. Legal and due diligence fees would be charged to the manager for review of these documents.

Each fund is also charged a management expense ratio, or MER, which is typically 2% of funds under management.

In certain circumstances, MIA requires a compliance committee to be in place. At least two members of the committee must be external to the responsible entity. The costs of these external committee members can range between \$15,000 - \$25,000 per committee member per annum.

Due to the level of compliance monitoring required, the responsible entity will employ full-time compliance officers to monitor the responsible entities' operations against their compliance plan and with MIA. The salary of a compliance officer may range from \$60,000-\$70,000 per annum.

In addition, when a compliance plan is amended, a copy must be sent to ASIC for review. This is contrasted with a change to a Trust Deed for a superannuation fund. APRA does not require the fund to send changes to the Deed to it. However, Trust Deed amendments must be available upon request during an APRA review.

Overall, the general view is that the costs of compliance with MIA are greater than the costs of compliance with SIS. The introduction of compliance plans has forced investment funds to actively monitor MIA compliance.

It should be kept in mind that MIA is only relatively new to the Australian Financial Services industry and up-front costs will always be greater than on-going monitoring.