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Australian Securities and Investments Commission (ASIC)

Via email: rri.consultation@asic.gov.au

Proposed change to stamp duty disclosure requirements

The Super Members Council thanks ASIC for the opportunity to make a submission to this consultation.

SMC supports ASIC's immediate proposed reform to fix the distortions created when large, one-off stamp duty costs are reported as a single-year spike in Fees and Costs Summaries and comparison tools, like the ATO's YourSuper tool. We note however that this proposed immediate reform does not fully address the fundamental misclassification of stamp duty - which is a Government tax, not a negotiable investment fee, and note the current disclosure rules do not require stamp duty to be reported on indirect property holdings but only on direct property holdings, yet direct holdings typically deliver stronger investment returns to members, creating distortions in capital allocation across the system that may structurally impede the strongest possible long-term risk-adjusted returns for consumers. We therefore urge the fast-tracking of the announced full review of Regulatory Guide 97, which should commence straight away to enable careful and comprehensive consideration of these issues in their wider context.

Stamp Duty

The proposed amendment continues to treat stamp duty as a transaction cost but adjusts the amortisation period from the first year to 7 years.

We welcome this as an initial step forward from the status quo, but note it still represents an accounting fix, not a full solution to the conceptual misclassification of stamp duty.

To maintain strong transparency for consumers without impeding capital flows into assets that can deliver the strongest long-term risk-adjusted investment returns for Australians with super, SMC recommends that stamp duty be removed from "fees and costs" metrics altogether and instead disclosed separately under a clearly defined label as "Government tax". This preserves transparency about the existence and scale of the tax, without letting it distort fee metrics that drive member comparisons, regulatory tests and trustee portfolio construction.

Although ASIC has offered a solution that will average stamp duty over 7 years, it does not resolve the fundamental misclassification of stamp duty as a transaction cost (which is discretionary) and not a government tax (which is non-discretionary). Continuing to report on stamp duty as a fee or cost has the following consequences:

- **Distorts investment decisions:** Counting stamp duty as an ongoing transaction cost inflates reported costs for property and other real assets, making them appear less attractive and pushing trustees away from assets that may deliver better long-term net returns.
- **Misleads members about what a "fee" is:** Stamp duty is an unavoidable government tax, not a fee charged by the fund or investment manager that can be negotiated down or managed away through efficiency. Rolling it into transaction costs blurs this distinction and risks members thinking the fund is expensive or inefficient, when the driver is a one-off state tax on acquiring an asset that has been carefully chosen to deliver the strongest long-term investment returns to members.
- **Erodes competitive neutrality:** Embedding stamp duty in fees and costs treats economically similar exposures differently, favouring listed or offshore structures where the tax is not disclosed and distorting like-for-like comparisons.
- **Undermines comparability:** Higher disclosed transaction costs impact performance outcomes, penalising funds that invest on behalf of their members in assets with upfront stamp duty even when net performance remains strong.

Structural limitations on 7 year - amortisation

It is not clear why ASIC has chosen 7 years. Property holding costs are typically 15 years plus, and infrastructure is much longer.



It is common for listed property trusts to turn over in a matter of weeks and months. This timing makes the suggested 7-year period a relatively blunt smoothing mechanism, albeit one that is far better than the current setting of the first year.

Even amortised over 7 years, it will still distort option level comparisons showing a structurally higher disclosed “transaction cost” than compared with listed REIT exposures, equities and pooled trust vehicles.

Why this matters

For example, on a direct property purchase by a super fund on behalf of its members priced at \$200 million, if the stamp duty is 5% or \$10 million. Amortised over the 7-year period, this will be \$1.43m per year. This equates to 14.3bps per year. Meanwhile, a REIT buys into the same development for \$200 million, it will pay \$10 million in stamp duty. However, stamp duty is instead embedded in the REIT asset cost base, REIT NAV and balance sheet - and is not required to be reported directly under RG97.

Assuming the brokerage fee is around 5bps, all the member sees is a 1bp discount in the disclosed transaction costs (\$100,000 of brokerage fees).

This matters because it is the same identical economic exposure, but the costs are distorted across the two different structures, and it has a flow impact to fee comparison tables, member outcomes assessments, media league switching tables, and ultimately switching decisions.

For consistency and market neutrality, the same approach currently applied to REITs should also apply to property and infrastructure direct holdings - where strong consumer transparency is achieved through clear reporting in other instruments, rather than misclassifying a tax as an investment cost under RG97.

A broader RG97 well overdue

The announced broader review of RG97 will be critical to fix such inconsistencies and market distortions, and to deliver on the objective of the Government’s Economic Roundtable last year to review and remove any impediments to productivity uplift and the efficient flow of capital into the places where it can drive the very strongest growth and prosperity directly for millions of everyday Australians with super.

The broader review announced by ASIC 28 November 2025 for 2026/2027 needs to be started immediately and concluded by the end of this calendar year.

It will also be a welcome opportunity to refine the disclosure regime to help consumers to make clearer apples-for-apples comparisons to ensure they are in the strongest performing super fund and product that is right for them. A central principle of the review needs to be strengthening consumer comparability on net benefits - the true yardstick of super performance - from total investment returns minus all fees, including advice fees. Competitive neutrality can also be strengthened by such a thoughtful wider review.

About the Super Members Council

We are a strong voice advocating for the interests of 12 million Australians with over \$1.6 trillion in retirement savings managed by profit-to-member super funds. Our purpose is to protect and advance the interests of those millions of super fund members throughout their lives, advocating on their behalf to ensure super policy is stable, effective, and equitable. We produce rigorous research and analysis and work with Parliamentarians and policy makers across the full breadth of Parliament.