FINANCIAL ADVICE ASSOCIATION AUSTRALIA

22 May 2026

The Treasury

Email: CSLR@treasury.gov.au

Dear Treasury,

Consultation – Compensation Scheme of Last Resort (CSLR): Reform options to support ongoing sustainability

The Financial Advice Association of Australia[1] (FAAA) welcomes the opportunity to provide feedback to Treasury on the *Compensation Scheme of Last Resort (CSLR): Reform options to support ongoing sustainability*.

The FAAA continues to support the core objective of the CSLR to provide support for those claimants who have received a determination from AFCA that remains unpaid due to the financial firm going into liquidation. We believe that achieving this outcome is fair for consumers and raises confidence in the financial system, which is beneficial for all participants in the industry.

We do however note that the first few years of the scheme have turned out very differently to what was promised or seemed likely when the scheme was originally proposed. Treasury consultation in 2021 suggested an ongoing cost of less than $7m per year for the financial advice sector. What we have seen through the emergence of a series of unexpected large firm failures is a scale of loss that is deeply concerning. This has also served to highlight a long list of issues with the current regulatory and compensation regimes.

The financial advice sector has been placed in the centre of this emerging catastrophe, as we are one of few sectors covered by the scheme and as the one where the pursuit of an AFCA complaint against financial advice is evidently the only realistic way for consumers to obtain compensation. The complete lack of fairness and a level playing field in this regard must be addressed. Other sectors involved, in particular MISs and super funds, should be able to be pursued by impacted clients who have suffered a loss, rather than those sectors being protected by AFCA Rules that exclude complaints relating to the management of a fund or scheme as a whole, which only serve to disadvantage clients and redirect their

[1] The Financial Advice Association of Australia (FAAA) is the largest association representing the financial advice profession in Australia, with over 10,000 members. It was formed in 2023 following the merger of the two leading financial planning/advice bodies in Australia – the Financial Planning Association (FPA) and the Association of Financial Advisers (AFA). With this merger, a united professional association that advocates for the interests of financial advisers and their clients across the country was created.

attention towards the advice sector. Much is wrong with the way that the system currently works that needs to be fixed - and it needs to happen quickly.

We suggest setting out some principles under which these reforms should seek to operate. They are as follows:

- The CSLR is a scheme of last resort, where those who have done nothing wrong are paying for the misconduct of others. For this reason, it is appropriate that the benefits are capped and the methodology for determining the compensation is limited to a capped measure of lost capital.
- The CSLR funding model needs to take into account that small businesses have a reduced capacity to fund the CSLR levy compared with large businesses. Provisions should be put in place to recognise this issue and ensure the outcomes are fair and affordable.
- Those responsible for misconduct should be pursued to the fullest extent of the law, to ensure that the CSLR does not remain an option for wrongdoers to walk away from the collapse of a business with no consequences. These activities should be Government funded, to ensure this pursuit activity is prioritised over value judgements about whether this is in the best interests of other CSLR recipients. It is an essential measure to ensure that risk taking and illegal behaviour has consequences for individuals and businesses that have harmed consumers.

Potential solutions not addressed in the consultation paper

In our view, this consultation excludes some additional actions to improve the operation of the CSLR that ought to be investigated, including the following:

1. Enabling clients to make complaints against super funds and MIS through removing AFCA Rule C1.5 and allowing complaints against the management of a fund or scheme as a whole.
2. Enabling AFCA (and the courts) to apportion client loss to other parties, even where there has been a breach of the core financial advice laws.
3. Including Managed Investment Schemes (MISs) within the scope of the CSLR as a separate primary sub-sector.
4. The development of an early warning system to better detect misconduct in the early stages. In the case of Shield and Fist Guardian, information existed in the financial services industry that there were unusual patterns of behaviour that should have been investigated earlier. This information sat with the super funds and with the advice licensees. It is essential that we look at how information is collected, shared and analysed to enable timely intervention.
5. Better management of the costs of AFCA in processing complaints.
6. Reduced cost for ASIC in processing invoices.
7. Better aligning the period that the levy relates to with the data used to calculate it.
8. Providing greater certainty with respect to the definition of a client (person) for the purposes of the payment of CSLR claims. For example, we are concerned that a person who is both a member of an SMSF and the trustee could receive separate payments.

FAAA CSLR Member Survey

The FAAA conducted a member survey on the impact of the CSLR in March and April 2026, before the CSLR consultation paper was issued. The survey was focused on the actions members expect to take in response to the large and escalating CSLR levy. In total 878 members responded to this survey, a statistically significant sample size. A copy of the questions and the answers are included in the appendix. A summary of those results is as follows:

- 93% believe that financial advice will cost more as a result of the CSLR
- 79% expect that they will need to increase fees to mitigate the increased costs
- 70% believe that the CSLR levy will result in a reduction in adviser numbers
- 53% believe that their recruitment and training plans will be adversely impacted
- 44% are aware of colleagues who are intending to leave the profession as a result
- 32% expect business profits to fall by more than 10%

These results paint a picture of significant impact, which would prove to be highly disadvantageous to Australian consumers in making financial advice less accessible and more unaffordable. This alone is a strong reason to make changes to the design of the scheme.

FAAA Recommendations

The FAAA has five key recommendations:

- **Vigorous pursuit of wrong doers.** We recommend that the Government fund an entity aligned to the CSLR that vigorously pursues all parties who have contributed to the failure of a financial firm that has resulted in unpaid AFCA determinations.
- **Compensate on the basis of capital loss only.** We recommend that the Government legislate to limit CSLR payments to capital loss, without the application of any alternative benchmark.
- **Limit CSLR exposure for small businesses.** We strongly argue that the financial advice profession should pay no more than the base levy of $20m, on the grounds that our sector is composed of predominantly small businesses and do not have the capacity to fund larger levies.
- **Modify the waterfall approach and limit the financial advice exposure to $20m.** The waterfall approach that applies the first $40m of CSLR levies to financial advisers is unfair and unaffordable for our small business sector. This needs to be modified to better share the cost of the scheme and to sensibly limit the exposure of innocent financial advice businesses.
- **Fundamental changes to better capture MISs.** MISs have been a huge contributor to client losses that result in CSLR payments, yet they are protected from the CSLR and have made little contribution to funding via special levies to date. This needs to be addressed.
- **Enable the recovery of losses from corporate groups.** We recommend that the Government introduce changes to allow for recovery from related entities, particularly where assets have been transferred for less than market value or where they have gained benefits from the misconduct

that gave rise to the consumer losses, including where they have avoided liability through corporate restructuring.

FAAA Feedback

We have responded to each of the consultation questions as set out below.

Proposal 1: Enabling CSLR to deduct payments from compensation

1. ***Do you support allowing the CSLR operator to reduce compensation payments by considering all relevant amounts that a claimant may receive in connection with the matters covered by an AFCA determination?***

Yes. Since the CSLR is designed to pay consumers for unpaid AFCA Determinations, it is appropriate that any payment by the CSLR should take into account any other form of compensation that the client might receive.

We have been aware for some time that the law did not allow for the reduction of compensation to account for other payments such as those that relate to class actions and deeds of company arrangement, despite the fact that the power existed in the original legislation to resolve this by the means of a regulation. As we understand it, AFCA sought to address this through the way that determinations were worded. That is not ideal as it creates unnecessary complexity.

We are also very conscious of the complexity created by unknown future recoveries existing at the time that an AFCA determination is issued. This is likely to be the case where the impacted investment is in liquidation and the level of the payout is unknown (i.e. Shield, First Guardian and Australian Fiduciaries Ltd). The unknown recovery of a final payment from the investment is a major complication in finalising the amount of the loss. In some cases, AFCA determinations have required the financial firm to acquire the impacted investment from the client as a means to finalise the case and deliver compensation for the full loss. This approach might be possible for financial firms that are still in operation, however this breaks down when the firm has failed to deliver on the determination and then goes into liquidation. In that context, the client is left holding the impacted asset, when the financial firm is no longer operating and is unable to acquire it from the client. The value of this asset is once again uncertain. Solving for this is going to be difficult. The CSLR needs to either have the client assign the rights to recover or have the legal ability to pursue the client for the difference if the recovery of capital exceeds what was expected.

2. What factors should the Government consider in terms of timing?

2.1. How should the reform balance ensuring timely payment of claims to consumers with ensuring accurate information about other payments?

2.2. Should the CSLR have a clawback mechanism for cases where deductible amounts were not known at the time of payment?

Some might argue that the most appropriate solution is to wait for the finalisation of the residual value of the impacted investment, however this could take a long period of time. If it is not possible to pay compensation until this happens, then these clients could be left without funds for an extended period of time. For those in retirement, this could substantially impact their quality of living, which is unreasonable. It may be necessary to have a financial hardship provision to allow payment to be made before the final loss can be determined, so that such impacted people have some money to live on.

In cases where it is necessary and appropriate to make a CSLR payment prior to the amount of the client loss being fully understood, then it would be appropriate to provide the CSLR with powers to clawback funds, if the actual loss turns out to be less than the amount that was paid.

Proposal 2: Expanding CSLR subrogation rights

The FAAA fully supports stronger subrogation rights for the CSLR operator. We also strongly suggest the establishment of a government funded entity to pursue every avenue for recoveries from parties responsible for the loss. We think that it is appropriate for a separate body, working closely with the CSLR, to undertake this work. Whereas the CSLR might be forced to make value judgements on whether it was appropriate to pursue a relevant party, where the funds may otherwise be needed to make payments to impacted clients, a separate body, with Government funding, could take the perspective of more aggressively pursuing recoveries to ensure that those responsible for misconduct are unable to get away with their wrongdoing.

We would also like to see a model where this body obtained rights of recovery as soon as the entity goes into administration or liquidation. That is the time when the rights of recovery are most important. It could take years for any claim to be assessed and for a CSLR payment to be made. That is much too long a period of time to wait. In proposing this we are appreciative that any recoveries above the level of the CSLR payment should flow to the consumer.

There are other parties who could be held accountable for consumer losses that have not been adequately considered as part of this consultation. Amongst these, we would include research houses and auditors. It is essential that the full range of potential entities should be pursued where they have contributed to the loss or been negligent in their actions to protect the interest of investors.

1. Do you support Option 1 or Option 2 to expand the CSLR operator's subrogation rights?

We do not believe that it is a matter of one option or the other and would suggest that there are further options that are not detailed in this paper. We have set out our preferred model above.

We find it difficult to support option one, where we could envisage a situation which would be disadvantageous to consumers. Seemingly, in this case, a client who has been assessed as having lost $300,000, where the situation of the investment fund turns around and greater recoveries are achieved than what was originally expected, could be negatively impacted. If the client received a $150,000 CSLR payment, and the full $300,000 AFCA determination was recovered and retained by the CSLR, then they would be $150,000 worse off than if they had waited for the liquidation of the investment to be concluded. This is not reasonable or equitable.

Such a situation might lead to clients holding off on submitting complaints whilst the amount of the recovery was unknown, particularly if they had experienced a large loss or defer referring an unpaid determination to the CSLR. They could then find themselves in the situation where they wait too long and the window of opportunity to make a complaint to AFCA closes or they become ineligible for a CSLR claim. This would be a problematic situation.

We support Option 2 and the ability to seek recoveries from professional indemnity insurers and entities that are not Chapter 5 body corporates.

2. Are there sufficient benefits to pursuing legislative reforms in the context of limited recoveries?

We are conscious of the view that recoveries to date have been very minor, however we believe that this is too narrow in the consideration of this matter, as recoveries have not been seriously pursued to date due to legal constraints and lack of funding.

It would be reasonable to take into account the compensation paid by Macquarie and Netwealth in the Shield and First Guardian matters as examples of the potential benefit of the pursuit of recoveries.

We believe that the CSLR could be much more effective if it was adequately empowered and resourced to achieve this outcome. One example of a similar type of body is the Fair Entitlements Guarantee (FEG) Scheme, which has a much higher recovery rate. In the context of clear evidence of phoenixing activity and questionable insolvency actions we believe that consideration of something similar is essential. We further argue that there are other actions that could still be pursued, including against auditors, which might have a material impact on the level of recoveries.

The other key reason to adequately fund a recovery function is to deliver a very strong message to those who might consider undertaking misconduct that leads to unpaid AFCA determinations, that they will be pursued to the full extent of the law. The commitment to hold these people accountable for their misconduct is likely to serve as a strong incentive for people to avoid such misconduct. Such an approach will also have a material positive impact for those who are funding the scheme, who would be able to have confidence that the Government will take every step possible before expecting them to pay for the misconduct of others. The CSLR has generated a lot of anger, particularly with respect to those who have been responsible for huge levels of client loss, yet have walked away and continue to operate in another capacity. We believe that the vigorous pursuit of recoveries is critically important for the

integrity of the financial system as a whole and confidence in the CSLR. We would also support further disclosure of the specifics of each matter, demonstrating what happened, the nature of the misconduct and how the clients were impacted by the misconduct.

Proposal 3: Technical improvements

The FAAA is broadly supportive of these technical improvements, which we understand reflect the input of the CSLR based upon their experience to date and the input of Treasury.

1. Do you support the additional technical improvement proposals?

The FAAA supports the following technical improvements:

- Allowing payments to multiple accounts. The example of a couple who have since separated provides a compelling case for this modification.
- Non participant exemptions for further special levies. It makes sense for the exemption of de-registered companies to be consistent between annual levies and special levies.
- Minimum levy imposition for special levies. Correcting this seems sensible to ensure consistency between the annual levy and the special levy and to avoid collection shortfalls.
- Define entity metrics for market participants. This makes sense, given that it reflects the operations of the ASIC funding levy and better addresses the retail/wholesale split.
- Prevent payments being made for unauthorised conduct and for products/services that fall outside the scope of the CSLR. It is better that this issue is addressed through the primary legislation rather than via the AFCA Rules (Section H). Unauthorised and out of scope components should definitely be excluded.

We understand why the CSLR operator would wish to shorten the disallowance period from 15 days to 5 days. We also note that this is consistent with the treatment of the ASIC Funding levy. The extended delay during 2025, due to the Federal Election meant that the annual levy for 2025/26 was delayed until after the commencement of the year. The special levy for the 2025/26 year has been delayed due to the 15 sitting day period, and as a result, the CSLR has been unable to pay claims for the 2025/26 year since September 2025. The extended delay for 15 sitting days has meant that the invoices are issued at different times during the year. This has caused concern with the recent issue of the 2026/27 base levy invoices, which is much earlier than the 2025/26 base levy, causing some concern and confusion.

We would not want to see this reduction in disallowance period unreasonably reduce the ability of the Parliament to disallow a CSLR levy. An alternative option to balance the different considerations might be to reduce the disallowance period from 15 days to 10 days.

2. Which technical improvements should be prioritised?

In the context of the technical improvements that we have addressed above, we are conscious that some of these can be resolved through changes to the regulations, whilst others will require legislative change. Presumably it will be much quicker to address the matters that can be amended through changes to regulations rather than legislation. This could be the basis for prioritisation.

From a consumer perspective, we have no doubt that a reduction in the disallowance period would have the greatest impact as this will enable those who are reliant on a special levy to be paid much sooner.

Otherwise, we should highlight that we do not think that these technical improvements will have a material impact on the sustainability of the CSLR.

We suggest an additional technical improvement; making changes to improve the efficiency of levy collection in our sector. At present, there can be a very long delay between the determination of the number of licensees and advisers to be levied, and the issue of an invoice by ASIC – at present for a special levy that is nearly two years. In the last two years, the number of advisers has materially reduced, and several corporate changes such as merger and acquisition activities have affected adviser numbers in licensees. This can lead to perverse outcomes such as advisers in shrinking licensees being faced with a larger bill than advisers in growing licensees. We suggest that ASIC investigate the feasibility of extracting data from the FAR as close as possible to the finalisation of each requested levy, and using this data for billing once the disallowance period is complete.

Proposal 4: Revising the treatment of counterfactual loss for CSLR-eligible financial advice complaints

The FAAA strongly supports a change in the approach to counterfactual loss (the “But-For” test), as we believe that a scheme of ‘last resort’ should seek to compensate for lost capital and not lost earnings. A scheme of last resort should seek to provide capped and limited compensation, prioritising restoring consumers’ capital as quickly and widely as possible. It is not consistent with a scheme of last resort to be providing guaranteed positive returns that are funded by innocent parties. We understand from the scheme operator that approximately 80% of claims paid to Dixon Advisory clients so far has been in respect of counterfactual loss - making additional payments to consumers who were in many cases wealthy and had in fact achieved positive returns across their portfolios[2]. This approach makes sense where those funding the compensation are those who gave the flawed advice. It is not appropriate when those funding the compensation had nothing to do with the consumers’ losses.

[2] As an example, AFCA Case 12-00-1008199 involved a couple who were Dixon Advisory clients, with an SMSF. They made $1,062,204 during their time as a client, whereas under the ‘but-for’ test they would have made $1,334,873. They were awarded compensation of $272,669, despite having gained more than $1m.

We also support the calculation of this capital loss on a portfolio basis.

It is important to highlight that not all CSLR cases for financial advice complaints will relate to superannuation or investment. Some could relate to life insurance. A potentially relevant case could be the scenario where a client had lost insurance due to a mistake by their adviser and then had incurred an life insurance event – such as a TPD claim - without insurance. This would result in an actual quantifiable loss. In other cases, the client may have lost insurance that they can no longer recover (due to the emergence of health issues) and might incur a life insurance event in the future. In this case, it is necessary to assess the measure of loss. This would also need to be calculated on a conservative measure of client loss.

1. Do you support Option 1 or Option 2 to support scheme sustainability?

1.1. If not, are there alternative options that would better balance certainty, fairness and sustainability?

It is the firm view of the FAAA that the CSLR should be limited to the payment of capital loss only. The CSLR is a scheme of last resort, where the compensation is paid by parties other than those who are responsible for the client loss. To reflect this, it has a cap and should be sensibly designed as providing basic relief and not provide for lost earnings. The way that AFCA approaches the calculation of client loss incorporates a measure of direct capital loss, that is then adjusted for lost earnings. It would be straightforward for the CSLR to move to a capital loss basis, which would not require the CSLR or AFCA to do any alternative form of calculation as the capital loss is typically already included in the determination.

We would also argue that there is already important precedent in using this approach. The deed of company arrangement for Dixon Advisory was assessed on the basis of clients who had experienced a capital loss, with no allowance for lost earnings.

We are aware of suggestions that counterfactual losses made up a significant proportion of claims in the initial years of the CSLR, particularly with respect to Dixon Advisory cases, as noted above. This helps to suggest that a move away from the counterfactual loss calculation methodology would assist in materially reducing the cost of the CSLR on an ongoing basis.

It is very clear that the CSLR has a sustainability issue, and this is only going to get worse as the full impact of the Shield and First Guardian collapses are confronted. For this reason, it makes very good sense for the payments to be limited to capital losses. Table 2 on page 25 of the Consultation paper suggests that moving to a capital loss only basis will make a material difference in limiting the cost of the scheme. This would make a meaningful impact in addressing the important issue of sustainability.

The FAAA does not see any reason to use an alternative benchmark. Doing this will likely reduce the benefit of reducing the cost of the scheme and will also increase the administration costs as an alternative calculation approach will be needed to work out what the benefit should be.

2. What considerations should the Government have for choosing an implementation pathway (fairness, time to implement, cost saving)?

It is the view of the FAAA that the Government should seek the method that will make the largest contribution to ensuring that the CSLR remains sustainable. The pure capital loss method is most likely to achieve this outcome and is the most appropriate approach to take. We would also prefer to see this change implemented as soon as possible. Two options have been suggested for implementation, including via changes to the AFCA Rules and via legislative change related to the operations of the CSLR.

Considering that what we are proposing is a capital loss approach, without the use of any alternative benchmark, we believe that this is relatively straightforward to implement. Given that AFCA's calculations typically already address what the capital loss is, only limited change would be necessary. We think this should be done by legislative reform, directing the CSLR to only pay compensation on the basis of capital loss. This would need to be applied to new claims for compensation received by the CSLR after the change of law becomes effective. Minor modifications to the AFCA Rules and guidelines may be necessary to ensure that AFCA is always explicitly including the capital loss number in the determination.

Making this change as soon as possible will ensure that the required savings are achieved sooner rather than later. If legislation can happen as soon as possible, then this should enable a timely change, particularly given that the alternative would likely involve consultation with AFCA's members and further deliberation. There will always be an issue with fairness, in that those who have complained beforehand will most likely achieve a better result. This issue of sequential fairness is noted, however it is hard to avoid having a point in time after which this reform will apply.

3. Is CPI or Government Bond rate a more appropriate basis for calculating the counterfactual position?

3.1. What alternative rate could be used?

It is the view of the FAAA, that the client loss should be assessed on the basis of pure capital loss and it is not necessary or appropriate to apply a benchmark adjustment to this, whether in the form of the CPI or Government Bond rate.

Proposal 5: Embedding greater certainty in the special levy framework

The FAAA supports the development and implementation of a framework that more fairly and predictably spreads the cost of the CSLR across a broad range of client facing sectors, and that attributes a greater

load to those sectors that are most directly involved. However, an additional factor needs to be considered to support sustainability of the scheme, and this is capacity to pay, taking into account, in particular, the limitations of small business sectors.

We strongly believe that the starting point in any assessment of the design of the special levy framework is an appreciation of the fundamentally unbalanced starting position. This is categorised by the following core attributes:

- Only four sectors are captured, leaving out MISs which are undoubtedly a very significant contributor to client losses and unpaid determinations. This leads to guidance being provided to consumers that the only means to be compensated is to make a complaint against their financial adviser. Thus, at present the MIS sector makes no contribution to resolving consumer harm that its failures have substantially contributed to. It also unfairly and inaccurately casts financial advice as the sole cause of consumer harm, insulating MISs from scrutiny and increasing the likelihood of further risk taking behaviours in this sector.
- The current AFCA regime prevents complaints against the management of a fund or scheme as a whole (AFCA Rule C1.5), which leads to any complaint against a super fund about the inclusion of a poor investment option on the investment menu being rejected on the grounds that it is outside the AFCA rules. It also means that AFCA is unable to consider many complaints against an MIS. This fact actually leads to AFCA and others explicitly saying that a complaint against the super fund or MIS is unlikely to be considered. Once again, consumers are directed to complain against their adviser,
- The current inability of AFCA to apportion losses across other financial firms where a breach of the core financial advice obligations exists, despite strong evidence of a material contribution to client loss by other parties from other sectors.

It is clear that the current model fails to achieve a fair outcome for the financial advice profession. All these claim costs are currently attributed to the financial advice sector, and advisers are required to pay for consumer harm caused at least in part by medium to large institutions and product issuers.

The proposed waterfall framework has merit, however needs some changes to ensure fair and sustainable outcomes. As proposed, if the level of cost that was incurred for 2025/26 were repeated, it would leave the financial advice profession in a materially worse position.

The proposal that the financial advice sector should pay the first $40m before any other sector is forced to make any contribution is fundamentally unfair. Firstly, this fails to take into account the small business nature of financial advice, where the capacity to bear additional costs is much reduced. The proposal as it stands simply locks in the reality of this lack of a level paying field, particularly where other sectors have been so prevalent in all the major cases from Dixon Advisory to Shield and First Guardian. It is fundamentally unfair and unsustainable that other sectors connected to wrongdoing, such as MISs,

should be allowed to wait until the financial advice profession has paid $40m before they are expected to contribute a single dollar.

The AFCA Datacube for the first nine months of the 2025/26 financial year for Managed Investment Schemes, Super funds and financial advisers in the following table demonstrates how difficult it is to make a complaint against Managed Investment Schemes and Super funds.

Sector	Complaints received	Resolved in favour of complainant	Resolved in favour of financial firm	Discontinued	Outside AFCA rules
Managed Investment Schemes	551	3	6	54	307
Super funds	5,941	54	187	1,143	313
Financial Advisers	2,057	148	11	96	62

Source: AFCA monthly data: July 2025-March 2026

The extent to which cases are decided in favour of the financial firm or treated as outside of the AFCA rules is noticeably different for MISs and super funds as opposed to financial advice. This data highlights the lack of a level playing field for financial advisers and the fact that the AFCA rules operate against the interests of consumers who have legitimate complaints against MISs and Super funds. The data above highlights the need for this to be reviewed and for AFCA Rule C1.5 to be changed.

The financial advice sector would be in a better position under the approach taken for the 2025/26 financial year than it would be under the proposed waterfall approach, if a $47.3m special levy was again required. In fact, as the following table shows, the financial advice profession would be worse off on an ongoing basis for every scenario when total CSLR claims are up to $110m. This is clearly not a fair outcome.

Total Levy	Waterfall	2025/26 Methodology
20	20	20.0
30	30	22.2
40	40	24.4
50	40	26.6
55	40	27.7
60	40	28.8
67.3	40	30.4
75	40	32.1
100	40	37.6
110	40	39.8

We have highlighted the line with a total levy of $67.3m to reflect what would be payable by the financial advice sector under the waterfall approach with what was paid under the 2025/26 methodology, which shows that the financial advice profession would have been nearly $10m worse off.

The financial advice sector, that must pay these costs, is made up primarily of small and micro businesses. There are currently 6,073 advice practices in this country, with an average of 2.5 advisers per practice. It is well-recognised that such small businesses have a very limited capacity to absorb additional costs, which tend to get passed on to consumers (further raising the already very high price of this critical service), deter new entrants, and increase the incentives for advisers to move to less regulated sectors such as general and wholesale client advice, where consumer protections are very limited. We have highlighted our members response to the likely impact of high CSLR costs, through a survey, with the results set out in Appendix 1 and a summary of these highlighted on page 3. The very clear message is that adviser numbers will fall and the cost of financial advice will escalate.

Financial advisers, as a predominantly small business sector, should not need to pay more than the $20m sector cap. To achieve this, there are a range of options that might fix the potential problems with the proposed waterfall framework including:

- Introducing a mechanism to apply reduced funding obligations to small business sectors that have much less capacity to bear the cost of a special levy. The Government could pay any amounts above the sector cap attributable to the financial advice sector as “temporary targeted relief for small business”.
- Levying the connected sectors through a special levy to commence immediately after the primary sector has paid the sector cap of $20m.

We are facing very high levels of special levies for the next several years as AFCA work their way through the Shield and First Guardian collapses. We very strongly make the case that our small business sector, already halved in numbers over the last seven years, cannot and should not be asked to pay amounts above the sector cap.

1. Do you support introducing a rules-based three-tier special levy waterfall to manage funding shortfalls when scheme costs exceed one or more sub-sector caps? Are there alternative tier structures that would better balance certainty, fairness and sustainability?

The FAAA supports a model with some of the attributes of the waterfall proposal. We agree that the primary sector should contribute its share in the first place and that connected sectors should then make a further contribution. We also support the ability to apply larger special levies to all other retail facing sectors, on the basis of capacity to pay. We do not agree to the sequencing of the waterfall proposal. It is simply not fair that the financial advice profession should pay the base levy and then be called upon first to contribute to the special levy. Paying the first $40m, no matter what the total cost is, simply does not

deliver fairness and sustainability. We would go further to suggest what is the point of having a $20m base levy if the next $20m is automatically going to be allocated to that same primary sector.

We strongly argue that a better solution needs to be found. The sequencing and the application of the caps is not fair to the financial advice profession and other alternatives, such as those suggested above, need to be found.

2. Is 'connection' an appropriate basis for allocating costs across tiers in a repeatable framework?

> ***2.1. If not, what alternative approach should be used, and how could it be implemented effectively in a way that is sustainable and facilitates timely payments of compensation to consumers?***

> ***2.2. How should 'connected' sub-sector/s be identified in practice?***

Connection is a reasonable basis to commence the apportionment of a special levy. It takes into account those who have contributed and also recognises the present reality that some sectors (such as MISs) which have contributed to very substantial collapses and client losses, have been very fortunate to be left out of inclusion in the primary sector category.

Inclusion in the connected sector category will need to be done on the basis of an assessment of the matters that are in front of AFCA and the CSLR. This will be easier when there are a number of very large cases, as opposed to a large number of small cases. Previous experience suggests that it will be a small number of very large matters, typically the collapse of an MIS, that will be the key driver of loss. Thus, it may be possible to consider connection as driven by a small number of major collapses.

Connection needs to be assessed on a fair basis, considering all the contributory factors, and not simply on decisions that are made by AFCA, as AFCA cannot apportion losses across sectors at present, where financial advice is involved. The claims against Dixon Advisory were due to the collapse in the value of the US Masters Residential Property Fund (URF). The claims against the advice firms who recommended Shield and First Guardian are predominantly due to the failure and fraud involved in these two schemes and were contributed to by the decision of super funds to include these products with no scale, no performance history and no track record on investment management, on their investment menus. The entire EDR model is designed in a manner that works to the detriment of the financial advice profession. This is then backed up by the CSLR to deliver a model that is highly unfair to the financial advice profession. This needs to be understood in assessing "connection".

3. What evidence or data should be used to establish 'connection' to the losses (recognising the challenges of attributing fault across a value chain)?

> ***3.1. What governance or assurance steps would improve confidence in the classification of a sub-sector as 'connected'?***

We already have regular CSLR reporting that demonstrates the firms that are the largest contributors to payments to clients. The most significant contributor is Dixon Advisory, where the key driver of client loss was the substantial decline in the value of the URF and other funds offered by E&P Financial Group. The evidence in this case is clear. In other matters it will be necessary to have a look at where the money was invested and what drove the losses. If data is collected on which investments contributed to the losses, then this will be a relatively straight forward exercise. There needs to be an assessment of whether the advice would have been considered to have been flawed if the investment had not failed or underperformed, whether it was possible for the financial adviser to identify any flaws in the investment products and the extent to which other parties contributed to the loss.

The financial advice profession has been pleased to see the broad recognition that it was the entire financial services value chain that contributed to the losses from Shield and First Guardian. Regrettably this rationale was not adequately recognised or even investigated in the case of Dixon Advisory. It is important that matters are carefully assessed and contribution to loss is broadly considered.

The CSLR funding arrangement is based upon estimates of expected future claims. This adds an extra layer of complexity. Where these large collapses typically take some time to play out, by the time complaints are sitting with AFCA, the primary causes should be well understood. Therefore, it is likely that the determination of connection will need to be done on the basis of a forward looking estimate, however one where there is already significant information to support such an assessment. Otherwise, it will be necessary to roll these factors into future year considerations.

We suggest that in the next stage of these proposals, Treasury should review all current and pending CSLR matters, and indicate for each matter, which sector/s would be considered to be connected and on what basis.

As part of this exercise, consideration should be given to how connected sectors which are outside the remit of AFCA, should be treated – such as research houses and auditors.

In terms of governance and assurance steps, we would suggest that this should be a decision of either AFCA or the CSLR and the subject of an annual published statement demonstrating the basis for assessing connection. The more transparency the better.

4. Are the proposed special levy caps appropriately calibrated to provide certainty and support sub-sector viability, while enabling timely compensation payments?

> ***4.1. If not, at what level should special levy caps be set for each tier, and how do they produce a better overall outcome for the financial system?***

Whilst the proposed special levy caps of $40m and $30m might be reasonable for large and medium sized businesses, they are not suitable for small business sectors. The difference in the capacity to pay is significant. Small business sectors should not be expected to pay the same as large institutions. There is

sufficient evidence of the application of a progressive scale of contribution in other sectors that should be reflected in the funding of the CSLR. The financial advice sector, which is almost entirely small and micro businesses, should not need to pay more than $20m in any one year.

Proposal 6: Considering responses to the role of SMSF losses in reducing pressure on the CSLR

We recognise that the exclusion of claims by SMSFs would be one way to significantly reduce the cost of the CSLR. However, we do have some material concerns about the equity and fairness of doing this. These concerns include the following:

1. Unlike other sectors, SMSFs are not in the market selling their product. They are in fact a class of client, similar to individuals, trusts and families. It is not evident why this class of consumer should be singled out for either exclusion form the CSLR or to participate alongside other sectors which are product providers in contributing to the costs of the scheme.
2. An apparently large number of people, who have suffered material losses as a result of being invested through an SMSF, have been subject to high pressure sales tactics and may have gone into the structure without an adequate understanding of the consequences of that decision. These might be people who did not seek the SMSF structure and may not have even had any of the normal reasons to pursue an SMSF, such as greater product selection options and investment control. We would be concerned if these consumers are excluded from coverage in the scheme, where they would have been covered if they had received flawed advice recommending that they invest in an APRA regulated product instead.
3. In our view both an opt-in and an opt-out model are deeply flawed. First there is a risk with the opt-out model that it will capture SMSFs that do not have an adviser. Secondly, when trustees need to make this decision to opt-in or opt-out, those who had a financial adviser would be expected to ask their financial adviser for a recommendation. This would be a particularly problematic matter for the adviser to respond to. If they said yes to opting in, then they may appear to lack confidence in their own advice or be compromised in some way. If they say no, then they might be held accountable later if it turned out to be in the interest of the client to opt-in.
4. In the context of an opt-out model, where such a decision was considered to be irrevocable, it would be particularly unfair on a new member joining an existing SMSF that had previously opted-out, as they would have no option to opt back in.
5. It is evident that the cost of managing an opt-in or opt-out model would be very substantial. If this was to be managed by ASIC, as opposed to the ATO (who are the SMSF regulator and manage the SMSF levy), then an entirely new data collection and data management solution would need to be found. It makes little sense in needing to operate such a system if the contribution by SMSFs is only with respect to a special levy, particularly in years when no special levy might be required. Who would pay the cost of running this opt-in or opt-out administration and records management solution?

6. We are also concerned about the risk that the number of SMSFs that remain in the scheme and are responsible for funding any special levy falls very substantially. A small number of SMSFs could face a large claim. There would need to be a hard cap at a dollar amount or percentage of balance for each SMSF, otherwise the scheme would rapidly become unsustainable.
7. Having noted the issue above about the cost of the system to manage these election decisions, we further note that this cost might ultimately rest with a small number of SMSFs, if the vast majority of SMSFs chose to opt-out and it is those who remain part of the scheme who are required to pay for the cost administering the opt-in/opt-out system. This cost could be prohibitive.

As a professional association that represents financial advisers, we have members across the spectrum of SMSF advice – some do not offer this structure, while others do. In the context where advisers are the first sector to be called on and are subject to hard caps, it is essentially irrelevant who pays the levies beyond the cap. Thus, our sector does not have any particular incentives when considering these questions.

1. Do you see merit in levying a subset of SMSFs to support CSLR special levy funding pressures?

Whilst we are willing to consider all options to reduce the cost of the CSLR and broaden the funding sources, we do have reservations about an approach to levying a subset of SMSFs to support the CSLR. We have set out our seven primary concerns in the section above.

2. Two sub-options are provided to define the SMSF cohort subject to the levy (that is, an opt-in or an opt-out mechanism). Which option do you think best balances the need for scheme sustainability with the risk of imposing costs onto SMSFs with no relevant connection to advice-related misconduct? Or is there an alternate option that would best balance these factors?

2.1. What factors should be considered for an opt-in or opt-out model to minimise the regulatory burden for SMSFs?

The answer to this question depends upon whether it is being assessed through the lens of the broadest possible sharing of the cost or an approach that is the fairest. An opt-out solution will most likely result in a much larger number of SMSFs that are covered by the scheme, whereas an opt-in model is likely to result in a much reduced number of SMSFs participating. A larger number enables the broader sharing of costs, however it will also mean that a large number of SMSFs will be contributing to a special levy, even when they are unable to claim against the scheme. This will also substantially increase the cost of collection.

This is very much a judgement call based upon a weighting of these two factors, however in the context that the cost should be relatively low in most years, if this SMSF solution is to proceed on an opt-in/opt-out basis then we would think that there are more reasons to go with an opt-out model. However, as expressed above, there are some very significant issues involved in either an opt-in or opt-out approach.

Option 1

Imposing the levy alongside an opt-out mechanism:

3. Would allowing SMSFs to opt-out from the levy and CSLR compensation eligibility be an appropriate means to target the levy? What benefits and risks might this approach entail?

As stated above, we believe that there are some material complications with both the opt-out and the opt-in proposals. The benefits of the opt-out approach are as follows:

- This will enable the cost to be shared across the largest number of funds.
- It will be administrative simpler as inevitably fewer SMSFs will opt-out, which will reduce the workload in managing this approach.

The risks or negative implications are as follows:

- There would end up being a large number of funds contributing to a special levy which presumably have no ability to claim on the scheme as they do not have a financial adviser.
- The cost of administering the model will still be material.
- Those SMSFs who have a financial adviser and who opt-out will not be eligible to make a claim and will therefore be treated differently to other financial advice clients.
- Those SMSFs who opt-out will not be able to opt back in again, which will disadvantage any new members that might join the SMSF.

4. When should an SMSF be required to opt-out or begin paying?

Should an opt-out option be the outcome, we believe that the opt-out decision should be an irrevocable decision. It would not be reasonable for an SMSF to opt-out until just prior to them deciding that they might have a need for the CSLR. This should not be a matter that can be timed. Under the AFCA rules, a client must make a claim within six years of being aware of experiencing a loss or within two years of having their internal dispute rejected. If they were allowed to reverse an earlier opt-out decision, then they could potentially defer the decision to make a claim whilst they took steps to opt back in and serve any necessary waiting period.

We are conscious that this original decision to opt-out might have negative consequences for new members who join the fund at a later time.

Under this model, it would be reasonable to allow them to make a decision to opt-out at any time, however this might need to align with an annual declaration process for administrative simplicity.

5. Should an SMSF be able to revoke their decision?

It should not be possible for an SMSF to revoke a decision to opt-out and to come back into the scheme and the special levy funding arrangement at a later point when they believe that they are more likely to need to make a claim on the CSLR. We have provided reasons for this above.

Imposing the levy alongside an opt-in mechanism:

6. Would allowing SMSFs to opt-in to the levy in order to maintain CSLR compensation eligibility be an appropriate means to target the levy? What benefits and risks might this approach entail?

An opt-in model is likely to result in far fewer SMSFs being part of the scheme. It is likely that few SMSFs would choose to be charged an extra levy when they might have little awareness of any reason why they might need to make a CSLR claim in the future.

The benefits of this approach are likely to be a significant reduction in the number of CSLR claims by SMSFs, as many fewer will be captured by the scheme.

In terms of risks, a further consequence of this is that the cost of the scheme, for those who remain registered, would likely rise where there are many fewer SMSFs who are required to contribute. This could result in an ongoing downward spiral of more people leaving the scheme as the costs continue to rise. In context, the decision is not about whether they can make a claim on AFCA about financial adviser misconduct, which they can, but instead whether, in the event of receiving a determination from AFCA that is not paid, they can then claim on the CSLR. This is very much a contingent situation.

7. When should an SMSF be required to opt-in?

It is our view that if an opt-in model is to be put in place, then an opt-in decision should be made at the start, and it should not be possible for SMSFs to opt in at a later time as they sense a greater need to be covered by the scheme. The reasons for this are expressed above in terms of situations where an SMSF could choose to reverse a previous decision to opt-out.

8. Should the timing of opting in impact their eligibility for a claim from the CSLR?

Given what we have said above about needing to opt-in at commencement, we can only confirm that we think they should need to be opted in from the beginning. We do not believe that they should be able to opt-in at a later time, even if they needed to serve a waiting period.

9. If SMSFs were included within the CSLR Special Levy Framework, what do you see as a reasonable and sustainable maximum annual levy per SMSF?

This is a question that is best answered by SMSFs. In reality this is an insurance policy that they are unlikely to call upon, so they will naturally be very hesitant about paying for it. If it is a flat levy, then it may be easier to justify for a much larger SMSF fund to pay this levy.

Option 2

10. Excluding SMSFs from CSLR eligibility may help to alleviate funding pressures on the scheme. How do you think this option compares to the sub-options in option 1 above in terms of scheme sustainability and risks for the SMSFs?

Excluding SMSFs from the scheme in totality will have the greatest impact on reducing the cost of the scheme, particularly given the stated fact that 93% of claims paid so far relate to SMSF. This is a reflection of the history of the CSLR and the fact that Dixon Advisory, which was almost entirely an SMSF business, is responsible for over 80% of claims paid so far. The Shield and First Guardian collapses are predominantly not SMSFs, so over time we expect the balance will shift away from a large proportion of SMSF claims.

Cleanly excluding SMSFs from the scheme, as opposed to an opt-in or opt-out model would be a much simpler solution. This would remove the complexity involved in an opt-in or opt-out register and avoid the complexity involved in the collection of a special levy and in working out which funds are eligible to claim and which ones are not eligible.

However, as we have noted above, this would seem to be an unfair outcome for those consumers who may have received flawed advice to invest in an SMSF in the first place. On balance our recommendation is for the current situation to continue – that is, only advised SMSFs have access to the scheme, in so far as losses were caused by poor advice. We believe other measures proposed in this paper will have sufficient impact, if implemented quickly, to offset this.

Proposal 7: Facilitating levying of Managed Investment Scheme (MIS)-related losses

The first point that we would make on this proposal is that it completely fails to address the significant role that MISs play in the losses that consumers suffer and the cost of the CSLR. It is a proposal with respect to exempting some MISs from contributing to the special levy, rather than making a more material and primary contribution as would seem to be warranted by the evidence of their contribution to CSLR claims and in particular, to costs that are currently covered in full by financial advisers.

Whilst this proposal does place some spotlight on the MIS sector, it is peripheral to the very real issues that are being faced. The suggestion that a category of MISs, that demonstrate lower risk attributes,

might be completely excused from the CSLR funding framework is entirely flawed. A similar point could be made by financial advisers who only provide risk advice (as opposed to investment or superannuation advice), whose specialty has clearly not been a contributor to the cost of the CSLR, yet are being forced to fund it under the current framework.

The consultation paper explicitly states that "the Government is not considering bringing MISs into scope of the CSLR annual levy (via inclusion as an in-scope product or service)". This position is particularly disappointing given all that we know about the contribution of MISs to client losses and CSLR payments, particularly with respect to Dixon Advisory, Shield and First Guardian. If further consideration is to be given to how to incorporate MISs, then it should be devoted to how they can in fact pay more, not to how a certain category of MISs could be entirely excluded from any responsibility to help fund the scheme.

We are aware of a Treasury Ministerial Submission from 22 June 2022, which is available under Freedom of Information (Treasury FOI 3586), that sets out the following key reference points:

- An estimate of investments lost as part of MIS failures since 2009 of approximately $3.5Bn.
- As at 1 June 2022, AFCA had 334 complaints related to failed MISs with a total value of $34.5m.
- A statement that the other sectors to be covered by the CSLR had been subject to a number of regulatory reforms which had significantly reduced the risk of misconduct and failure, however there was a need to review the regulatory framework applying to MISs before the same could be said about the adequacy of the regulatory settings for MISs.
- A recommendation to defer a decision about whether the scope of the CSLR should be extended to include MISs.
- A commitment to undertake a comprehensive review of the MIS regulatory framework.

In summary, MISs were excluded from the CSLR at that time, despite their evident impact on consumers and history of failure, due to the probability of future failures. As a consequence of this decision, clients impacted by these failures are incentivised to make a complaint against their adviser instead. This is just one factor that contributes to a CSLR regime that is extremely biased against financial advisers. Even more importantly, since this Ministerial submission nearly four years ago, nothing has happened to the MIS regulatory regime and we are now facing two further very substantial failures in the form of Shield and First Guardian which will both drive substantial unpaid determinations in the direction of the financial advice sector.

We reiterate our strong call for the following changes:

- MISs need to be included in the CSLR as an additional sub-sector.
- AFCA must amend its rule that prevents it considering complaints against the management of a fund or scheme as a whole.
- AFCA must be empowered to apportion losses when more than one party has contributed to a consumer's loss.

1. If proposal 5 were implemented, should the Government identify a 'lower-risk' segment of the MIS sector that would not be subject to the special levy?

1.1. If so, what indicators do you consider should be used to identify a MIS as low risk?

1.2. If additional data were required to be collected to implement risk informed levying, would this option create any additional regulatory burden for the MIS sector?

It is well acknowledged that the CSLR is a scheme built on the basis of the innocent paying for the cost of others who were responsible for misconduct. It is difficult to see any rationale for the exclusion of a sub group of MISs which were considered to be a lower-risk segment. If this was to be entertained, then we have no doubt that each and every sector would argue that they too have a lower-risk segment, including financial advice as noted above.

Developing definitions of high-risk MISs will be tricky, and we also note that some MISs that initially appear to be low risk, can turn out to be high risk – Shield's first PDS is one example.

It is well understood that ASIC currently has very little data on MISs and does not actively monitor them. Although this may change in the future, this is still an exercise where they would need to start from scratch, design, consult on and then build the solution before launching it. We cannot see how this proposal would assist in making the CSLR either fairer or more sustainable.

2. What do you consider the consequences would be of excluding low-risk MISs from the special levy?

It would make a mockery of the scheme and lead to elevated and ongoing debate by other sectors as to why they too have low risk players who should be excluded from any special levy – including our own sector. We would expect the sectors that are even more removed from the client losses would be putting their hands up to ask for a similar exclusion. We are sure that groups like the super funds, general insurers, life insurers and many more would pursue this line. Maintaining confidence in the integrity of the CSLR is particularly important. Further undermining the integrity of the regime would be particularly disadvantageous.

3. How should the Government weigh the trade-off between minimising administrative costs with the benefits of a more targeted approach?

The Government should focus their efforts elsewhere.

Proposal 8: Improving recovery of unpaid AFCA determinations within corporate groups

The FAAA strongly supports efforts to pursue those who are directly responsible for misconduct. Those who are responsible should be forced to pay, before the CSLR looks to innocent parties to contribute. Failing to do this encourages inappropriate risk taking in the sector, sends a signal to bad actors that there is little chance they will be held to account, and ensures that consumer harms and claims will not only remain high but will continually grow. Thus, we believe this proposal has strong merit and is essential in improving the integrity and confidence in the overall CSLR as well as its sustainability.

There is strong evidence of phoenixing activity that has been undertaken by financial firms which have placed advice subsidiaries into administration or liquidation and left the cost of unpaid AFCA determinations to be paid by innocent parties. These entities have been substantial contributors to the costs of the scheme to date. Dixon Advisory is the most substantial example, however there are others including Libertas (a former subsidiary of Sequoia Financial Group) and Wealth Trail.

The background of these three cases is addressed in an article by the IFA publication on 9 July 2025 titled "Betting with other people's money: Jailed adviser's gambling losses to hit CSLR".

E&P Financial Group actually reported, their achievement in getting former Dixon Advisory clients to move to Evans and Partners in their 2022 full year results briefing, noting "strong support from Dixon Advisory clients with just over three quarters choosing to transition to Evans & Partners". This same document further noted "Approximately 8,000 total clients as at 30 June 2022, down from 9,100 due to Dixon Advisory client exits post DASS VA". A further comment "The 7% increase in direct expenses reflects costs incurred in retaining Dixon Advisory clients and staff", suggests that this was not a matter of luck, but instead a deliberate strategy. Further information in this report referred to the net revenue for Dixon Advisory in the first half of the 2022 financial year being $13.9m, suggesting that the annual revenue in a normal year would have been around $28m. Assuming that this is predominantly client income, on a book of clients valuation ratio of around 3 times revenue, this would have resulted in a potential value of around $80m. Yet it is our understanding that Evans & Partners made no payment to Dixon Advisory for the transfer of these advisers and their clients.

In the case of Dixon Advisory, the advisers were salaried and it was Dixon Advisory who had ownership of the client contracts. Thus, these contracts were an asset of the business and could be sold to Evans & Partners or an alternative licensee.

It is also our understanding that the advisers and clients of Libertas were transferred by Sequoia to the related party Interprac Financial Planning for no cost. Likewise, the advisers and clients of Wealth trail appear to have been transferred to the related party Endeavour Asset Management for no cost.

These are just three examples where advisers and client books were transferred from one subsidiary to another without payment, and there is currently nothing to stop this behaviour being repeated.

In addition to these seeming efforts to avoid paying for the transfer of advisers and clients, we are also aware of other issues with respect to the failure to preserve value in these entities that are being placed into administration/liquidation. This includes the cancellation of intercompany loans and the payment of dividends just prior to liquidation.

1. To what extent are AFCA determination liabilities avoided through misuse of corporate and insolvency frameworks, shifting CSLR costs onto the broader sub-sector?

1.1. To what extent does this include transactions between solvent entities? Do transactions which result in the evasion of these liabilities also occur between unrelated entities?

It is our experience that business assets are being transferred from one entity to another within a group both prior to and after a business goes into administration or liquidation. Whilst the transfer of money or physical assets may be noticed by liquidators, the transfer of intangible assets such as employees/advisers and client relationships seems to have happened without sufficient intervention by the liquidators. We are unsure why this is happening, however it may be due to a lack of knowledge of the financial advice sector or a lack of willingness to challenge potentially voidable transactions. This is a matter that needs to be urgently addressed.

There is also evidence of other actions that these companies sought to take to eliminate assets held in companies that are about to be placed into liquidation. In the case of Dixon Advisory, ASIC took legal action against one of the directors of Dixon Advisory with respect to efforts by the company to cancel a $19m intercompany loan owed to Dixon Advisory by another company in the group. That action failed.

In the case of Libertas, an intercompany loan owed to Libertas by Sequoia was cancelled in the final year of operation. It later emerged that this was done on the basis of a dividend being declared in the final year and used to offset the intercompany loan. When this was highlighted to the liquidator and to ASIC, eventually this money was repaid.

The most recent case where there is a risk of creditors being deprived of assets is with respect to Interprac Financial Planning. Through announcements by the parent company Sequoia Financial Group, we are aware of efforts so far that have included seeking to revoke an intercompany guarantee, to sell the company for just $50,000 and to transfer the advisers to a seemingly unrelated entity. The outcome of this matter is still to be confirmed, however with nearly 1,000 complaints according to AFCA and 6,843 clients having invested around $677m into Shield and First Guardian (according to ASIC), it is inevitable that something will happen.

2. Are there any gaps or limitations in the current corporate and insolvency frameworks that may allow assets or value to be shifted away from the respondent firm? How might the existing provisions be enhanced to increase their deterrent effect to help prevent the occurrence of the underlying transactions and conduct?

It is clear that the pursuit of these efforts to transfer value is difficult to identify, and may not be acted upon by the liquidator if the outcome is unclear or the cost is prohibitive. In the case of E&P Financial Group, they employed an insolvency expert as their CEO in the years prior to the placement of Dixon Advisory into administration, which would have given them a substantial advantage in undertaking this process. In other cases, it is typically the former owner who appoints the liquidator, giving them a relationship advantage.

For all of these reasons, we have recommended that a third party, working as a friend of the CSLR, with access to Government funding should be responsible for the pursuit of all possible sources of funding, including with respect to the actions of directors and management. They could develop the specific knowledge and skills to effectively pursue these matters to ensure that all possible recoveries are achieved, that the incentive to phoenix is reduced and the integrity of the CSLR and the financial sector more broadly is retained.

3. If a new related-entity liability mechanism was established (Option 2), how should it be designed to appropriately share responsibility for AFCA liabilities where related entities are benefiting from the respondent firm's business or activities, while ensuring it remains proportionate, builds in appropriate safeguards and preserves long-standing corporate principles?

The FAAA strongly supports measures to enable the recovery of money from related parties in addition to the pursuit of money that might be lost as a result of pheonixing or other corporate restructuring.

In the case of Dixon Advisory, the clients lost money as a result of the destruction of the value of the US Masters Residential Property Fund (URF). Other entities in the group made substantial amounts of fees from the URF over a number of years.

An AFR article on the URF on 17 June 2019 reported that "Since the fund [URF] listed in 2012, a staggering $272 million of fees, costs and expenses have flown from the fund to Dixon". This article and many others repeated the point that entities related to Dixon Advisory generated a very substantial amount of fees from the URF, not only with respect to trustee and investment management fees, but also with respect to the renovation of the properties that the URF purchased in the New York and New Jersey area. The Responsible Entity and the Investment Manager had an incentive to purchase more properties and to do more work on these properties to maximise the income that was generated by the group entities. This contributed to the income and profitability of the broader Dixon group (later becoming E&P Financial Group). The fact that so much money was generated by the group from the URF, even whilst it was drastically declining in value, should mean that it is required to make a material contribution to the cost of claims that landed in the CSLR (which could easily exceed $300m.

The FAAA has previously sought legal advice on the option to change the AFCA Rules to enable parent companies to be joined to complaints against subsidiaries, and for the parent entity to also be held accountable for unpaid determinations.

In addition, related companies could contribute to the CSLR in the form of a proportion of the fees that were generated from the MIS that resulted in the claims made to AFCA and the CSLR.

It would be important to build this solution in a way that did not unnecessarily conflict with insolvency laws and corporate principles. The options would include:

- Building this into the AFCA rules, so that it is part of the contract between the financial firm, AFCA and the complainants. This would quarantine the impact to financial firms with at least one subsidiary offering retail financial advice.
- Building this into the Corporations Act, such that it is a liability under the Act.
- Requiring the use of cross company guarantees to cover the potential exposure should something go wrong in a subsidiary.

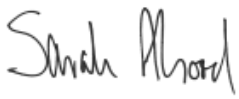
The FAAA strongly supports consideration of options to better enable the recovery of funds from the group that the insolvent firm belongs to. We think that changes in this space are important to ensure greater accountability and to minimise the risk of future misconduct within diversified groups.

Conclusion

The FAAA welcomes the opportunity to provide feedback on *CSLR: Reform options to support ongoing sustainability*. This paper responds to the specific proposals outlined in the consultation paper, and also puts forward some additional proposals that we are confident will help to achieve the goal of making the scheme fairer and more sustainable.

If you have any questions about our submission, please do not hesitate to contact me on (02) 9220 4500 or sarah.abood@faaa.au.

Yours sincerely,

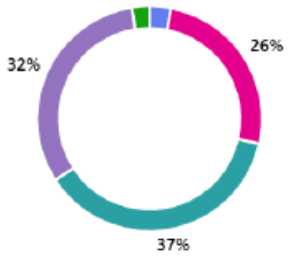


Sarah Abood
Chief Executive Officer
Financial Advice Association Australia (FAAA)

Appendix 1 – FAAA Members CSLR Survey – April 2026

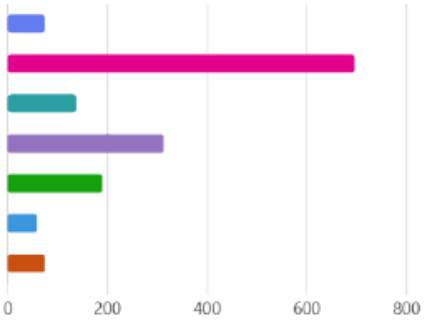
1. If the total CSLR bill (base plus special levy) was as much as $4,000 per adviser for 2026/27, how do you anticipate it will affect your firm's profitability?

No significant impact	27
Minor impact (less than 5%)	224
Moderate impact (5–10%)	327
Major impact (more than 10%)	278
Unsure	22



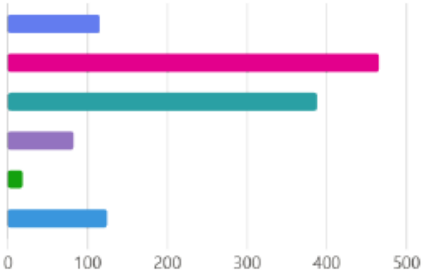
2. What measures are you considering to mitigate the financial impact of the CSLR levy (more than one answer permitted)?

No measures planned	73
Increase client fees	695
Staff Cuts	136
Defer or reduce pipeline of new advisers (PY or others)	312
Reduced investment and training of other staff	188
Unsure	57
Other	73



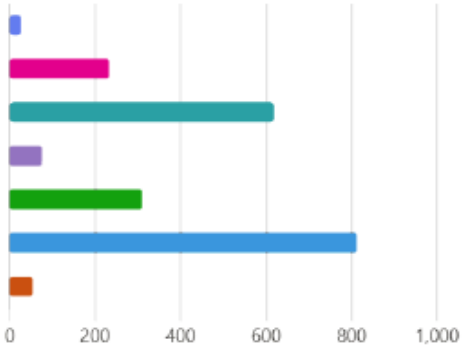
3. Thinking specifically about the impact of the levy on the supply of professional advisers (entry and retention), select the statements below that you feel are most relevant (more than one answer permitted):

The levy will have little material impact on me or the profession	115
My firm's recruitment and training plans will be adversely impacted as a direct result of the levy	465
I am aware of colleagues or other professionals who are intending to leave the profession as ...	387
As a direct result of the levy, I intend to leave the profession	82
It will enhance consumer trust in financial advice	18
Unsure	124



4. How do you think this levy will affect the broader financial advice profession (more than one answer permitted)?

Minimal Impact	25
Increased licensee consolidation (mergers/acquisitions)	232
Reduced number of advisers	617
Greater focus on prevention of investor losses	74
Less investment and innovation	308
Increases in cost of financial advice	811
Other	53



5. How could Government improve the sustainability of the CSLR (more than one answer permitted)?

Law change to prevent phoenixing	584
Cap the total amount paid by the advice sector	561
Spread the cost of any special levy across the financial services sector on a more even basis	699
Change AFCA rules to better allow investors to make complaints against the management of MISs and...	654
Remove the "But for" approach and pay compensation on the basis of capital loss	480