FINANCIAL ADVICE ASSOCIATION AUSTRALIA

20 November 2026

Banking and Credit Unit
Regulatory Engagement and Powers Unit
Treasury

Submitted online via the Treasury consultation hub

Dear Treasury,

Consultation on implementing parts of the better regulation measures: section 69B of the Banking Act 1959

The Financial Advice Association Australia[1] (FAAA) welcomes the opportunity to provide a submission on the exposure draft amendments to section 69B of the *Banking Act 1959* (the Banking Act), contained in the *Treasury Laws Amendment (Regulatory Reform and Other Measures) Bill 2026* (the Bill).

Our members assist clients with estate and succession planning and often work with surviving family members and executors after a client's death. The section 69B amendments are therefore directly relevant to the clients our members serve.

The FAAA considers the section 69B amendments a practical and overdue improvement that should ease the financial pressure on families following a death. The proposed increase is particularly reasonable given the rising cost of funerals, court and probate fees, and that the existing $15,000 limit has remained unchanged since 1998. However, the design of the measure leaves several matters unaddressed, including the absence of any mechanism to maintain the value of the new limit over time, inconsistency in how Authorised Deposit-Taking Institutions (ADIs) may apply the provision, the operation of the limit where a deceased person held accounts with more than one ADI, and the safeguards that should accompany a higher amount being released before a grant of probate or letters of administration.

Our analysis and recommendations are set out below.

1. Amendments to section 69B of the Banking Act

1.1 Maintaining the value of the increased withdrawal limit

Item 1 of the Bill increases the amount an ADI may apply under subsection 69B(1) from an amount not exceeding $15,000 to amounts not exceeding a total of $30,000. The explanatory materials state that the $15,000 limit has not been increased since 1998 and is often insufficient to cover funeral expenses, court filing fees and other permissible expenses, with the result that these costs fall on the executor or family members while they wait to access the deceased person's assets.

The increase responds directly to this problem and the FAAA is supportive of the change. Allowing a greater proportion of these expenses to be met from the deceased person's funds should reduce the

[1] The Financial Advice Association of Australia (FAAA) is the largest association representing the financial advice profession in Australia, with over 10,000 members. Its members provide advice to Australians on retirement planning, investment, superannuation, insurance and, frequently, the tax and structuring consequences of holding and disposing of property and other capital assets.

need for family members or executors to fund them personally while awaiting probate or administration of the estate. It may also provide reassurance to older Australians that these necessary expenses can be met from their estate, rather than becoming an immediate financial burden on their family or executor.

However, the new limit is again expressed as a fixed dollar amount, with no indexation mechanism or requirement for periodic review. The explanatory materials do not explain how the $30,000 figure was determined or how its adequacy will be maintained. On the Government's own account, the existing limit remained unchanged for close to three decades and required primary legislation to correct. Without a mechanism to preserve its real value, the same erosion is likely to recur, and families will again bear the costs the provision is intended to relieve.

Recommendation 1: Provide for the section 69B limit to be indexed, or to be adjustable by regulation, so that its value is maintained without the need for further amending legislation. At a minimum, the explanatory materials should explain how the $30,000 figure was determined and commit to a periodic review of its adequacy.

1.2 Consistent application by ADIs

While the proposed increase to the section 69B limit provides greater flexibility for ADIs, its practical benefit will depend on how individual ADIs respond to and process requests for the withdrawal of funds. The explanatory materials describe the amendment as increasing the amount that an ADI 'may' apply. However, the amendments do not require an ADI to release funds, nor do they set any expectations about how requests will be assessed, or how quickly they will be processed. The benefit of the higher limit will therefore depend on the policies and processes of each ADI. Where these differ, families and executors may receive inconsistent outcomes for the same type of expense, and advisers supporting them will have limited ability to set expectations.

Recommendation 2: Treasury should work with ADIs to promote consistent, timely and clear processes for requests under section 69B, so that families and executors understand what documentation is required and how payments can be made.

1.3 Application of the limit where accounts are held with multiple ADIs

A deceased person may hold accounts with more than one ADI. However, it is not clear from the exposure draft or explanatory materials how the $30,000 limit operates in these circumstances, including whether the limit applies separately to each ADI or across all accounts held by the deceased.

Section 5(2) refers to "the total that may be applied by the ADI in respect of that depositor", which could suggest that the limit applies separately at each ADI. Greater clarity is needed so that families, executors, advisers and ADIs understand the amount that may be accessed where the deceased held funds with multiple institutions. If the limit applies separately to each ADI, the explanatory materials should also clarify how the same eligible expense is to be treated where funds are sought from more than one ADI, including how the same eligible expense is to be treated across multiple ADIs.

Recommendation 3: The explanatory materials should clarify how the $30,000 limit applies where a deceased depositor holds accounts with more than one ADI, including whether the limit applies separately to each ADI or across all ADIs. If the limit applies separately, the materials should also clarify how the same eligible expense is to be treated across multiple ADIs.

1.4 Safeguards against misuse

Section 69B allows funds to be released without production of probate, the will or letters of administration. Doubling the limit therefore increases the amount that may be released before there is formal evidence establishing who is authorised to deal with the estate. This increases the potential consequences of an erroneous or improper payment and makes the safeguards applying to the release of funds more important, not less. The explanatory materials do not address this increased exposure or explain whether existing ADI verification practices are considered sufficient for the higher limit.

The FAAA has engaged extensively on financial abuse, including through submissions on the joint consultation on approaches to family violence and financial abuse of older people, the National Plan to End the Abuse and Mistreatment of Older People, and combatting financial abuse perpetrated through coerced directorships. Periods of bereavement and estate administration can be a point of particular vulnerability, especially where there is family conflict, competing claims or uncertainty about who is entitled to act. These circumstances reinforce the importance of appropriate safeguards where funds are released without the usual estate documentation, particularly to reduce the risk of improper payment or misuse at a time when an estate and its beneficiaries may be vulnerable.

Increasing the amount that can be released without formal estate documentation should be matched by safeguards proportionate to the increased amount at risk. At a minimum, there should be clear expectations around verification and, where practicable, direct payment to the provider of the relevant service or to the court rather than payment to an individual.

Recommendation 4: The explanatory materials should set out the safeguards expected to apply where funds are released under the higher limit, including appropriate verification of the person seeking access and, where practicable, direct payment to the relevant service provider or court. The safeguards should provide reasonable assurance that the increased limit does not create additional opportunities for misuse or financial abuse and that released funds are applied to the legitimate expenses for which access is permitted.

Conclusion

The FAAA considers the section 69B amendments a practical improvement that should reduce the financial burden on families and executors following a death. Their effectiveness will depend on the limit retaining its real value over time, consistent application by ADIs, clarity on how the limit operates across institutions, and appropriate safeguards.

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

Yours sincerely,



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