

25 May 2026

The Treasury
Langton Crescent
PARKES ACT 2600

By email: CSLR@treasury.gov.au

Dear Sirs,

Consultation Paper - Compensation Scheme of Last Resort (CSLR): Reform options to support ongoing sustainability Options Paper (Options +Paper)

Who we are

Governance Institute of Australia is the only fully independent professional association dedicated to the advancement of governance and risk practice in Australia. Our internationally recognised qualifications equip a diverse professional network of business leaders to make good decisions for the benefit of Australia's economy and society. With a history dating over 100 years, Governance Institute is Australia's leading and trusted voice of governance. Our fully accredited education and training is tailored to meet the needs of governance professionals across public listed, unlisted, and private companies, as well as the public sector and not-for-profit organisations.

Governance Institute is committed to independent, evidence-based advocacy that is focused on strengthening the governance capability of Australian organisations. We believe that good governance is the foundation of organisational resilience, productivity, and public trust.

Preliminary comments

Governance Institute's members work in a range of entities potentially impacted by the proposals in the Options Paper. This Submission does not respond to all questions in the Consultation Paper but focuses on the issues of interest and concern to our members.

Our members support the Compensation Scheme of Last Resort (CSLR) meeting its intended objectives and remaining sustainable for industry and consumers into the future. We also acknowledge that claims on the CSLR exceed early expectations placing material pressure on the Scheme's funding arrangements. However, this should not mean that any funding shortfall is met by untargeted measures which use some parts of the financial services sector as a pool to meet liability for misconduct occurring elsewhere in the sector. This reflects our long-standing view that there should be a nexus between liability for misconduct and the costs to regulated entities.

We consider the Targeted reform proposals outlined in Proposals 1 to 3 represent sensible amendments to the CSLR which would improve its operation. We have no comments on the relative merits of Options 1 or 2 in relation to the expansion of the CSLR operator's subrogation rights.

Our chief concern with the proposed funding model is that it introduces a centrally determined cost allocation that is not clearly linked to regulatory effort, risk or entity specific impact. This effectively results in a pooled funding approach which may require lower risk or smaller participants to subsidise

broader system costs. We consider that this represents an unnecessary regulatory burden which risks distorting market dynamics by disproportionately increasing baseline compliance costs. The cumulative impact of these proposals add to the already substantial structural cost burden on ASIC regulated entities. As a recent Study observes the economic cost of compliance with Commonwealth regulation is \$160 billion per year and rising, with some measurable negative outcomes.¹

No information or comments in this Submission relate to Shield or First Guardian.

Key concerns

1. Need for a nexus between the costs to regulated entities and the conduct giving rise to loss

One of our members' key concerns is the absence of a clear nexus between the costs to regulated entities of the current system of levies and the Option's Paper proposals and the conduct giving rise to loss. As far back as 2015 when the ASIC Industry Funding Model was first proposed we expressed the view that the costs of ASIC's regulatory activities should be borne by those who create the need for regulation, and that those costs should be borne in proportion to the different risk profiles of each industry participant and the intensity of supervisory activities required on the part of ASIC.² We have also expressed concerns about the sub-sector approach and the view there is a need for a broader approach as well as pointed out the substantial costs for entities that may be active in more than one sub-sector.³

The absence of a clear nexus between the costs of the current system and the conduct giving rise to the claims potentially undermines the incentives for good governance and risk management, as entities cannot clearly link their conduct to their cost exposure under the Scheme. Under the Option's Paper proposals entities with strong governance frameworks and a low incidence of misconduct will bear a disproportionate share of Scheme costs relative to those driving claims. In addition, entities that operate across multiple sectors may face cumulative or overlapping levies that are not proportionate to their actual risk profile or conduct.

For these reasons our members have concerns about Proposals 5 and 7. The managed investment scheme (MIS) Sector illustrates our concern. As the Consultation Paper notes (paragraph 172) this sector is 'diverse with multiple products, product issuers and investors with different objectives, financial circumstances, time horizons and risk profiles'. The impact of the proposals is that registered MIS and their responsible entities operated in accordance with their legal and regulatory obligations will potentially be subject to levies to support the CSLR simply because an MIS featured at some point in a broader investment pathway, with no clear nexus to the conduct giving rise to loss. In this example, the loss arose from advice related misconduct rather than the MIS itself. As the Options Paper notes the bulk of applications to the CSLR relate to the advice sector.

¹ See [The cost of Commonwealth regulatory complexity](#), Australian Institute of Company Directors, Mandala Partners, November 2025.

² See [Proposed Industry Funding Model for the Australian Securities and Investments Commission](#), Governance Institute of Australia, Submission 9 October 2015.

³ See [Australian Securities and Investments Commission Industry Funding Model Review Discussion Paper](#), Submission Governance Institute of Australia, 28 October 2022.

2. CSLR should be a truly *last-resort* compensation framework

Compensation under the CSLR was always intended to be 'last resort only'.⁴ We consider that the CSLR should continue to operate as intended, to provide compensation to those who have an unpaid determination from the Australian Financial Complaints Authority (AFCA). It should not be expanded into a broad, cross-sector funding mechanism which will be the result of the Structural reform proposals outlined in the Options Paper.

As noted below a retail consumer obtains a determination from AFCA based on the misconduct of a particular provider of credit, financial product advice or securities dealing which for a range of reasons is unpaid. This does not mean that funds to meet the unpaid determination should be provided by unrelated entities not responsible for, and completely unrelated to the misconduct. We consider that this is likely to increase rather than decrease the unnecessary cross-subsidisation referred to at paragraph 5 of the Options Paper.

We also consider there are potential unintended consequences from expanding the CSLR funding base, particularly through additional special levies or broader sector inclusion, as proposed by the Options Paper. These include increasing the costs to consumers and driving unintended shifts in business models and industry participation. For example, entities that are required to contribute to compensation for misconduct they did not cause may seek to reduce their exposure to the Scheme by exiting certain product lines or restructuring their business models. This would potentially reduce market participation and competition because fewer products are available, particularly for retail investors.

3. Expansion of CSLR levy should be evidence based

We consider that any expansion of the sources of funding for the CSLR should be evidence based and recommend broad consultation with industry including appropriate modelling of the impacts of the proposals. This is particularly the case in relation to any special levies. We note the observation in the Explanatory Memorandum when the Scheme was introduced:

*... the Minister's power to impose a special levy for the levy period on one or more specified sub-sectors is only exercised where there is a genuine need to do so, and takes into account any adverse impacts the levy may have on the sustainability and viability of the specified sub-sectors and the Australian financial system more broadly. In this way, the Minister's power to impose a special levy is a necessary intervention to deal with circumstances where the annual levy is insufficient (or likely to be insufficient) to meet the demand for compensation payments in a particular levy period.*⁵

4. Recovery of unpaid AFCA determinations within corporate groups

We have particular concerns about Proposal 8. It is entirely appropriate for Treasury to be concerned about situations where there has been an inappropriate transfer of value from an entity liable for an unpaid AFCA determination. However, we consider that there is significant potential for unintended consequences from the related-entity liability mechanism. We caution against interfering with the existing framework in place for legitimate corporate structuring and risk management practices and long-standing corporate principles absent a thorough investigation of the issues and consultation with industry.

⁴ See [Financial Services Compensation Scheme of Last Resort Levy Bill 2023 Explanatory Memorandum](#) at para 1.37.

⁵ See Footnote 1 at paragraph 1.112.

Please direct any queries regarding this letter to me or Catherine Maxwell, GM, Policy and Advocacy.

Yours sincerely,

(Sgd) Katrina Horrobin

CEO