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Compensation Scheme of Last Resort (CSLR): exceeding sub-sector levy caps

SMC appreciates the opportunity to make a submission on this consultation.

SMC does not support the proposal to extend the Compensation Scheme of Last Resort (CSLR) to sectors that include superannuation trustees operating default MySuper products.

Millions of everyday Australians who are members of well-run, prudentially regulated superannuation funds should not be handed the bill for the collapse of Dixon Advisory. This problem has not arisen in APRA-regulated master trusts such as large profit-to-member super funds, which are subject to stringent liquidity requirements and fund their own operational risk reserves.

We do support the need for a functioning CSLR. If Government determines additional funding is necessary in the current year, this could more fairly be sourced through unclaimed superannuation that has reached its statutory limit.

It is also our view there will be continuing financial pressure on the CSLR if regulatory gaps are not fixed. Treasury should closely examine any regulatory gaps across financial advice, platform product selection, and anti-hawking laws, to stop future consumer harms. Prevention is better than clean-up.

As ASIC Chairman Joe Longo recently *noted*: “We need to ask ourselves whether some of the entities involved in this suspected misconduct are adequately captured by existing laws.” He described “stories of shameless sales tactics designed to convince honest and hard-working Australians to transfer their superannuation savings into complex and risky schemes through an SMSF, or more commonly, a platform product. Stories that end with that nest egg diminished or completely dissipated. Stories that say something needs to change.”

Just as every car sold in Australia is required to be fitted with a seatbelt, key safety features should apply to every part of the system managing Australians’ life savings.

Keeping the scope aligned with the scheme’s original purpose

The CSLR was established to provide compensation to consumers who have suffered losses due financial misconduct, where AFCA has issued a determination for compensation that remains unpaid. As an industry-funded scheme, the CSLR places the financial burden of failed advice firms on compliant financial service providers, raising concerns about fairness and sustainability—particularly given the scale of some losses and the regulatory gaps that have enabled them.

This consultation appears to be driven by a funding shortfall following several high-profile collapses in the wealth management sector. It proposes expanding the CSLR to other consumer-facing sectors, including superannuation trustees, based on their size. But that approach overlooks the fact that these broader sectors are subject to rigorous regulation with strong consumer protections, and have not demonstrated a pattern of uncompensated consumer losses.

In the superannuation sector, prudential regulation ensures financial stability. APRA regulated funds are required to maintain robust operational risk reserves, which can be used to compensate members if required. These funds do not collapse, phoenix, or become unable to comply with a determination requiring the payment of money to a claimant.

Additionally, Part 23 of the *Superannuation Industry (Supervision) Act 1993* enables Commonwealth financial assistance to APRA regulated super funds that have suffered a significant loss as a result of theft or fraud which results in difficulties paying benefits. Under the current Part 23 arrangements, all



financial assistance granted is initially funded from the Consolidated Revenue Fund and the Government subsequently recoups this amount through industry levies imposed on regulated funds and banks that are eligible for financial assistance. This mechanism was used in 2011 and 2012 to compensate victims of fraud following the collapse of Trio Capital Limited.

Recent failures such as First Guardian and Shield underscore that the risks to members' superannuation are concentrated around platforms, management investment schemes (MIS) and advice - and not default funds, MySuper and choice products in a master trust arrangement. These collapses are not isolated incidents. They starkly expose the urgent need for platform and MIS reform to elevate consumer protections or significant calls on the CSLR will continue to occur. However, expanding the CSLR to superannuation trustees would deviate from the scheme's original policy intent. Any reform must balance consumer protection with system stability and the obligation to act in members' best financial interests—particularly in sectors where such losses do not occur.

Additional calls on personal advisers to make up shortfalls triggered by collapses elsewhere in the sector also raise questions about the long-term sustainability of financial advice services and whether such costs align with members' best financial interests. Many super funds operate advice businesses as fully-owned subsidiaries, while others have commercial arrangements with external firms under an authorised representative licencing model. Drawing additional levies from the sector creates tension with the Government's proposed financial advice reforms that are intended to make advice more affordable and accessible for fund members. It is also worth noting that personal advice provided by super funds is mostly on an intrafund basis - limited to topics explicitly relating to their interest in the fund - and does not involve recommendations to switch into high risk externally managed products.

Conclusion

The Government has previously consulted with industry about the scope and funding of the CSLR in both December 2019 and July 2021, so many of the arguments against extending the scheme beyond its current scope are not new. SMC's precursor organisations AIST and Industry Super Australia made detailed submissions¹ highlighting that requiring super trustees to fund the CSLR is inconsistent with the principle that it be targeted at the areas of the financial sector with the greatest evidence of needⁱ. ISA also proposed an alternative funding source drawn from unclaimed moneys that have passed their expiration date and can no longer be claimed or reunited with consumers. SMC supports this approach. It would allow compensation to be funded without compromising the financial interests of current and future members.

SMC urges Treasury to maintain the integrity of the CSLR by keeping its scope aligned with its original purpose and focusing reform efforts where the evidence of consumer harm is clear.

About the Super Members Council

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

¹ Via Archive.org: [Industry Super Australia 12 February 2020](#), [Australian Institute of Superannuation Trustees 7 February 2020](#) & [13 April 2021](#)