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Compensation Scheme of Last Resort Reform options to support ongoing sustainability

Thank you for the opportunity to make a submission in response to the exposure draft regulations.

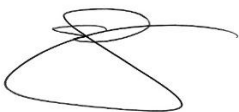
National Seniors Australia (NSA) is the leading advocacy organisation for older Australians. Through our research and advocacy activities, NSA works to improve the wellbeing of all older Australians, including self-funded retirees, pensioners, part-pensioners, veterans, and carers.

We, along with many seniors, are concerned by efforts to expand levies to fund the Compensation Scheme of Last Resort (CSLR) beyond those originally envisioned – particularly onto individual superannuation balances of those who did not choose to take on risky investments.

The fact that there have been enormous increases in the amount of expected compensation should lead to questions about whether there is adequate financial regulation and education of consumers.

NSA believes that stronger regulation combined with education / awareness is critical to reduce investor risk. Investors may be more responsive to risk if they are required to contribute to the CSLR via an insurance style contribution scheme when investing large sums into products (including those on investment platforms) at the behest of a financial advisor. Equally, there should be improved protections to avoid the need for costly compensation after a collapse.

Yours Sincerely



Chris Grice
Chief Executive Officer

How should super collapse safety net be funded?

The collapse of Shield and First Guardian sent shockwaves through the financial system, leaving thousands of Australians facing devastating losses, potentially in excess of \$1 billion in total.¹

These failures have exposed a critical weakness in the Compensation Scheme of Last Resort (CSLR), which was designed to provide a safety net for victims of financial misconduct. The scheme, capped at \$250 million, is now under immense pressure as claims could surge into the billions.

The CSLR was a recommendation of the *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry*, which said it should be “funded by financial firms engaged in the types of financial services it covers (initially, specified types of financial advice)”.²

Until recently, the CSLR was funded by levies on financial advisers and other industry participants. The amount of the levy relates to the losses relating to that sector. For 2023/24 the total levy was \$4.8 million. But by 2025/26 this had risen to over \$75 million, and 2026/27 could be over \$137 million. The vast majority of these levies relate to the personal financial advice sector and don’t even include potential claims for Shield or First Guardian.³

The Federal Government decided late last year that, for the first time, the levy would be extended to larger superannuation funds.⁴

It has also been suggested that self-managed super fund holders contribute to the scheme. The consultation paper says that “Stakeholders have raised concerns that SMSFs do not currently contribute to the funding of CSLR special levies (in contrast to APRA-regulated superannuation funds) despite having been, to date, the primary beneficiaries of the CSLR”. We suggest that the reason for the prevalence of SMSFs in the compensation scheme is not the fault of the SMSF trustees, but because SMSFs are a common way for financial planners to direct the investments of their clients.

Expanding the levy so it applies to both financial planners and SMSFs reflects flawed logic because many SMSFs (who use financial planners and are most at risk of the need for CSLR compensation) are already indirectly paying for the scheme through the fees they pay to financial planners. Moves to push further costs onto SMSFs (or APRA-regulated superannuation funds for that matter) instead

¹ [APRA rejects claim it did not do enough to stop \\$1.2b super scam | AFR](#)

² [Final report volume 1 | The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry](#)

³ [Levies | CSLR](#)

⁴ [Consumer protection and stability in the finance sector | Treasury Ministers](#)

of financial planners could reduce the onus on the financial planning sector to work to actively police their industry.

On the other hand, individual investors may not currently have the correct impetus to question the products being recommended by advisors, believing the sector to be adequately regulated and products to be lower risk than they are in reality. How disclosure works in practice, or more accurately didn't work in several cases involving Shield and First Guardian before the Australian Financial Complaints Authority (AFCA), indicates the requirements and enforcement is inadequate to educate and protect investors from harm. For example, in one determination AFCA found that an individual was advised to establish an SMSF and make particular investments, but instead the financial firm actually invested a large portion of the money in the Shield Master Fund.⁵

While stronger regulations, many of which are outlined in the consultation paper are warranted to avoid a repeat of situations such as the Shield / First Guardian collapse, there is a question as to whether investors are aware of or fully understand the risks of certain investment products and the CSLR as the compensation scheme of last resort.

This raises an important question for consideration.

Rather than target all SMSFs, should individual investors who invest large sums of money into riskier products (including those on investment platforms), be required to make an ongoing contribution to the CSLR (as a form of insurance) to be eligible for compensation?

Not so much to raise significant funds for the scheme, but instead to provide a mechanism to alert investors to the possible risks involved in this kind of action.

Such an obligation might also require a financial advisor to demonstrate they have provided information to an investor about the CSLR and their need to purchase ongoing insurance when seeking to subscribe clients to products when this involves a substantial investment e.g., over the \$150,000 limit set by the CSLR.

This would avoid capturing all SMSFs and instead provide a targeted trigger for those at most risk.

The impetus for this is that we should not be penalising all SMSFs and people in large and prudentially managed superannuation funds who have not entered high-risk investments.

⁵ [AFCA Determination For Case 12-24-154689 - Customer Self-Service | AFCA](#)

People with limited savings in superannuation should not be levied to make up for bad financial advice received by others and people who are advised to shift their savings out of such environments should be more strongly warned of the risks.

The requirement to pay some form of insurance when making large transfers to riskier investment options could provide a trigger to question this decision while also making a small but tangible contribution to the schemes' longer-term viability.

Stronger regulation

Ultimately, National Seniors Australia (NSA) believes the real solution to this issue lies in prevention, not just compensation.

The Federal Government must acknowledge its role in not going far enough to crack down on the misconduct uncovered by the Banking Royal Commission, handed down in 2019.

What should this look like?

- Tougher laws to stop aggressive sales tactics (such as cold calling and other lead generation methods) and misleading promotions.
- Cooling-off periods for switching from conventional super funds to riskier options.
- Stronger product accountability and oversight, including performance testing for all super products (including those on investment platforms).
- Holding wrongdoers accountable, ensuring parent companies pay for harm caused by their subsidiaries.

We therefore welcome progress towards several of these measures in the related consultations *curbing lead generation activity*⁶, *enhancing member protections in the superannuation system*⁷ and *strengthening the superannuation performance test*.⁸

But such action should go further to maintain confidence in the Australian financial system and financial advisers. Such further action would help restore trust and reduce the likelihood of future collapses like Shield and First Guardian.

⁶ [Curbing lead generation activity - Consult hub](#)

⁷ [Enhancing member protections in the superannuation system - Consult hub](#)

⁸ [Strengthening the superannuation performance test - Consult hub](#)