



MEDIA RELEASE

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FSC SUBMISSION: COMPENSATION SCHEME OF LAST RESORT

The Financial Services Council (FSC) has today released its submission on a compensation scheme of last resort (CSLR) and is urging the government to work with industry to ensure the CSLR is created to protect consumers and is targeted at the areas where unpaid determinations have historically arisen.

FSC CEO Sally Loane said the FSC has long had concerns about the risk of moral hazard that can arise from a scheme like this and wants to ensure the CSLR that is established is as targeted sustainable and as equitable, as possible.

“This means capping claims at reasonable levels, ensuring sectors which are responsible for the losses self-fund those losses and implementing a scheme without cross-subsidisation across financial services sectors,” Ms Loane said.

Consistent with the Royal Commission Final Report, the FSC agrees that the CSLR should be *“limited and carefully targeted at the areas of the financial sector where there is clear evidence of recurrent problems and uncompensated losses.”*

In its submission the FSC recommends:

- a targeted ‘mid-coverage’ scheme which includes the sectors which have historically had unpaid determinations, namely financial advice, investments and credit;
- Sector Specific Funding, whereby each sector responsible for the unpaid determinations solely funds the losses in its sector. For example, unpaid financial advice determinations are funded by advisers;
- a sustainable CSLR, which includes appropriate scheme caps, without any cross-subsidisation across financial services sectors to fund CSLR losses. Applying a general socialised levy could create a moral hazard, would not achieve the Government’s or the Royal Commission’s objectives of accountability and responsibility and would not address issues such as capital adequacy and robust professional indemnity insurance for advice firms;
- Unpaid determination data should be collected from the outset to enable the CSLR to move to a Financial Services Provider risk-based funding approach as soon as reasonably practical; and
- If the Government decides to establish a cross-subsidised CSLR, then cross-subsidisation should only apply to a broader general levy funded by all Australian Financial Complaints Authority (AFCA) members where it is intended to be a resilience reserve. This General Levy Resilience Reserve would act as a backstop to Sector Specific Funding.

Ms Loane reiterated the FSC’s view that the most important step towards protecting consumers is for the Government to address outstanding regulatory weakness, such as advice licensees being unable to meet their compensation obligations.

“With most of the historical unpaid determinations arising from poorly capitalised financial advice businesses we want to see the introduction of adequate capital requirements and greater oversight of appropriate and strong professional indemnity (PI) insurance requirements for financial advice licensees.

“The introduction of a CSLR without strengthening the regulatory weaknesses in advice will result in an incredibly costly shortcut which won’t address the underlying issues leading to financial advice licensees failing to meet their consumer compensation obligations.

“We know the UK has a very big compensation scheme, which cost more than a billion Australian dollars last year. We must learn from the UK experience and address our regulatory weaknesses upfront otherwise we will have a scheme that will blow out in size and cost.

“Should the Government opt for a cross-subsidised CSLR, then cross-subsidisation should only apply to a broader general levy funded by all Australian Financial Complaints Authority (AFCA) members where it is intended to be a resilience reserve. This General Levy Resilience Reserve would act as a backstop to Sector Specific Funding,” Ms Loane said.

The FSC submission is in response to Recommendation 7.1 of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

Read the submission in full here: <https://fsc.org.au/resources/1935-fsc-submission-compensation-scheme-of-last-resort/file>

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About the Financial Services Council

The Financial Services Council (FSC) has over 100 members representing Australia's retail and wholesale funds management businesses, superannuation funds, life insurers, financial advisory networks and licensed trustee companies. The industry is responsible for investing almost \$3 trillion on behalf of more than 14.8 million Australians. The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange and is the fourth largest pool of managed funds in the world.