

22 May 2026

Mr. Robb Preston
Assistant Secretary
Cross-sector Regulation, Redress and Resilience Branch
Treasury

Email: CSLR@treasury.gov.au

Dear Mr Preston

Compensation Scheme of Last Resort – reform options to support ongoing sustainability

The Customer Owned Banking Association (COBA) welcomes the opportunity to provide feedback on the Compensation Scheme of Last Resort (CSLR) reform options. We support the Government's efforts to ensure the scheme is meeting its intended objectives and remains sustainable for all stakeholders into the future.

COBA supports the existence of a genuine mechanism of last resort for consumers with unpaid Australian Financial Complaints Authority (AFCA) determinations. However, we note that as Authorised Deposit-Taking Institution (ADI) credit providers, our members are subject to prudential regulation, supervision and capital requirements to protect against insolvency, which greatly reduces the likelihood of unpaid AFCA determinations. In effect, the design of the scheme means that responsible, regulated industries are bearing the costs arising from misconduct in other sectors with different risk profiles.

As raised in earlier submissions, the policy decision to retrospectively include failed financial advice businesses, like Dixon Advisory, has also contributed to excessive scheme costs and, absent a government contribution, has put undue pressure on the scheme which has been borne by industry participants.

In this context, a discussion about reform proposals to improve the sustainability of the scheme is timely and much needed.

Proposal 1: Enabling CSLR to deduct payments from compensation

This proposal is a sensible measure which will avoid overcompensation adding to the existing strain on the scheme. Enabling the CSLR to take account of and deduct compensation payments received through other avenues is a fairer, more sustainable approach.

Proposal 4: Revising the treatment of counterfactual loss for CSLR-eligible financial advice complaints

COBA welcomes revising the current counterfactual ('but for') approach to compensation, which in many cases, results in awards of compensation valued at a greater sum than the value of the losses. In the interests of the long-term sustainability of the scheme as a mechanism for redress, COBA supports Option 1. This option would restore a consumer to their original capital position and better reflects the scheme's role as a mechanism of last resort. Providing for a counterfactual benchmark under Option 2 would extend the scheme beyond its original remit and undermine efforts to reduce the escalating costs of the scheme.

Proposal 5: Embedding greater certainty in the special levy framework

COBA believes that the proposed 'waterfall' approach is preferable to the existing approach. This is because the current method is based on ASIC regulatory effort, which risks allocating substantial costs to sub-sectors with minimal connection to the misconduct.

The proposed ‘waterfall’ framework represents an improvement as it more directly links levy allocation to sectors connected to underlying losses, reducing the risk of cross-subsidisation. A more predictable and structured approach should assist industry participants with planning and budgeting. More targeted levy allocations may improve accountability and create behavioural incentives for good conduct in certain sub-sectors.

While this is the intended effect of the model, we note that we will need to consider how the model will operate in practice as this information becomes available.

COBA further makes the following suggestions:

- ‘Repeatability’ should not be a foundational principle for the determination of special levies, as it assumes that the use of special levies will become the norm for funding the scheme. Special levies are, as indicated by the name, intended to be ‘special’ and used to fund non-routine excesses of the sub-sector levy caps. They should not be an embedded and regular form of funding for the CSLR.
- The concept of ‘connection’ should be carefully and narrowly defined. The threshold for establishing connection should be robust, evidence-based and consistently applied.
- Tier 3 backstop sub-sectors should not be included on the basis that a residual funding layer risks departing from a connection-based framework. We encourage Treasury to either remove or reconsider the scope of Tier 3 to ensure that the levy is directed towards parts of the industry connected to the unpaid claims and thereby reduce cross-subsidisation.
- We welcome further clarification on the inclusion and treatment of deposit products and credit providers within the tiered special levy framework.
- The proposed framework should retain important safeguards such as levy caps, to reduce the risk that special levies undermine industry competition or scheme sustainability. In particular, the continued use of the relevant ASIC IFM metric is important to ensure that individual customer-owned banks do not bear unfair and unsustainable costs.
- The proposed approach should continue to recognise prudential supervision arrangements, misconduct risk, and capacity to pay.

Proposal 3: Technical improvements

iii) Minimum levy imposition for special levies

While COBA recognises that this proposed change is expected to have a limited impact on levy outcomes, we are concerned about any levy design features that would create a cliff effect or unfair outcomes for smaller customer-owned banks. The use of the \$100 levy floor creates a concerning precedent, weakening the proportionality of levy settings, which should reflect the principles of fairness and risk-based levy allocation.

We thank Treasury for taking our views into account. Please do not hesitate to contact Rebecca Barlow, Policy Advisor (rbarlow@coba.asn.au) if you have any questions about our submission.

Yours sincerely



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