



6 October 2026

Compensation Scheme of Last Resort
The Treasury
Langton Crescent Parkes
ACT 2600

BY ELECTRONIC LODGEMENT

Dear Sir/Madam,

SMSF ASSOCIATION SUBMISSION – COMPENSATION SCHEME OF LAST RESORT 2026–27 SPECIAL LEVY

The SMSF Association welcomes the opportunity to provide comments on Treasury’s proposed application of the Compensation Scheme of Last Resort (CSLR) waterfall framework for the 2026-27 special levy.

The Association supports the objective of the CSLR and its important role as a consumer protection mechanism where an eligible AFCA determination remains unpaid. As we stated in our submission¹ on the sustainability of the CSLR², its long-term sustainability cannot be achieved simply by reallocating escalating costs between compliant participants in the financial services system. The more fundamental objective must be to reduce the incidence and scale of the losses that give rise to CSLR claims in the first place.

We acknowledge that this is a targeted consultation on the application of the waterfall framework, rather than a reconsideration of the Government’s decision to adopt that framework. The focus of our submission is therefore on how the framework should operate if implemented. This does not alter our earlier position that a tiered waterfall based on the concept of a connected sub-sector is not our preferred long-term funding model.

We also welcome the proposed exercise of discretion to limit the additional 2026-27 special levy on the personal financial advice sub-sector to \$10 million, on top of its \$20 million annual levy. This is an important recognition of the cumulative financial pressure being placed on advice firms. It is, however, short-term levy relief rather than a solution to the underlying drivers of the scheme’s costs.

¹ SMSF Association, Submission to Treasury, *Compensation Scheme of Last Resort – reform options to support ongoing sustainability* (22 May 2026) < https://www.smsfassociation.com/advocacy/smsf-association-submission-compensation-scheme-of-last-resort-reform-options-to-support-ongoing-sustainability?at_context=49448>.

² The Treasury, *Compensation Scheme of Last Resort – reform options to support ongoing sustainability* (Consultation Paper, April 2026): [c2026-725938].



For the reasons set out below, we recommend that the first application of the waterfall framework be accompanied by materially greater transparency around the:

- meaning of “connection”;
- evidence relied upon;
- mapping of loss cohorts to sub-sectors;
- operation of entity allocation metrics; and
- Treasury’s viability assessment.

We also urge the Government to effect and maintain a strong focus on prevention – including lead generation, digital and social-media promotion, conflicted referral arrangements, product governance and earlier regulatory intervention.

Our detailed responses to the consultation questions are set out below.

If you have any questions about our submission, please do not hesitate to contact Tracey Scotchbrook, Head of Policy and Advocacy via email traceyscotchbrook@smsfassociation.com

Yours sincerely,

Peter Burgess

Peter Burgess
Chief Executive Officer

ABOUT THE SMSF ASSOCIATION

The SMSF Association is the peak body representing the self-managed superannuation fund (SMSF) sector which is comprised of over 1.2 million SMSF members and a diverse range of financial professionals. The SMSF Association continues to build integrity through professional and education standards for practitioners who service the SMSF sector. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial advisers, tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them with access to independent education materials to assist them in the running of their SMSF.



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Executive Summary

The consultation questions asked reinforce, rather than diminish, the need for a more transparent and repeatable methodology. The consultation paper identifies the responsible entities of managed investment schemes as the Tier 2 connected sub-sector for 2026-27, but the published material does not provide enough detail for stakeholders to reproduce the assessment, test all relevant inclusions and exclusions, or assess the distributional and viability impacts of the proposed levies.

In particular, Treasury is asking stakeholders to provide evidence about concentrated entity-level impacts and sub-sector viability while publishing only aggregate sub-sector allocations. That information asymmetry makes it difficult for stakeholders to answer Questions 3 and 4 in a robust way. Treasury and ASIC hold regulatory and industry-funding data that is not available to most stakeholders. A transparent special levy framework should therefore include a distributional and viability analysis prepared by Government.

The consultation paper also demonstrates the limits of using CSLR levy sub-sectors as a proxy for the full pathway to consumer harm. ASIC's public material on Shield and First Guardian identifies a broader chain involving lead generators, advisers and licensees, superannuation trustees, responsible entities and other participants. Some important participants, including lead generators and social-media platforms used as promotion channels, do not fall within the CSLR levy. This strengthens the case for prevention reforms operating alongside, and not merely after, the funding framework.

Key Recommendations

1. Adopt a published, evidence-based connection test with clear criteria, weighting and an evidentiary threshold, rather than relying on an undefined judgement that involvement was "substantive".
2. Publish a connection matrix for every identified loss cohort and every potentially relevant levy sub-sector, showing why each sub-sector was included or excluded and the public evidence supporting that assessment.
3. Introduce an annual reconciliation or post-levy review comparing forecast loss cohorts and connection assessments with actual claims and subsequent factual or legal developments.
4. Publish anonymised distributional modelling for the prescribed entity metrics, including concentration of liability and the relationship between levy amounts and measures of scale or financial capacity.
5. Do not rely on ASIC regulatory effort as a proxy for responsibility, benefit, risk or capacity to pay. Regulatory effort may be reactive and may create a double-cost effect where a sector also bears increased ASIC industry funding costs.
6. Assess viability on a cumulative basis, including annual CSLR levies, special levies, ASIC industry funding and other material regulatory costs, and publish the methodology and evidence used.
7. Maintain prevention as the central sustainability objective, with coordinated action on lead generation, digital and social-media promotion, conflicted business models, product governance and earlier intervention against misconduct.



Responses to Consultation Questions

Question 1

Do you agree with the approach to identifying connection as outlined above? If not, what other factors should be considered?

SMSF Association Position

Qualified support for the proposed test if the waterfall framework is implemented but we don't support "connection" as the preferred long-term funding basis. The current definition requires further objective criteria, transparency and governance safeguards.

Detailed Response

The Association continues to hold the position expressed in its May 2026 submission that a tiered waterfall based on "connected" sectors is not our preferred approach. However, if the Government proceeds with the framework, a test focused on whether a product, service or regulated activity formed a substantive part of the pathway to consumer loss is preferable to a broad concept of association or regulatory proximity.

The important limitation is that "substantive" is not self-defining. A connection finding can expose an entire sub-sector to a levy of up to \$40 million even though Treasury expressly states that connection is not a finding of misconduct or legal liability. The methodology therefore needs more objective criteria than are currently published.

We recommend that Treasury assesses connection against a common set of factors, including:

- causal and practical proximity to the consumer loss - whether the product, service or activity materially enabled the loss rather than merely sitting somewhere in the transaction chain;
- the materiality, scale and duration of the involvement;
- the degree of control or influence the relevant activity had over the creation, distribution, acquisition or continuation of the harmful product or arrangement;
- whether the activity generated a direct commercial benefit or incentive from the pathway that produced the loss; and
- the quality, reliability and public availability of the evidence supporting the connection assessment.

These factors should be incorporated into a published decision framework or scorecard. Treasury should also state the minimum evidentiary threshold required before a whole sub-sector can be classified as connected and explain how competing factors are weighted. A reasoned statement should accompany each connection finding, with an appropriate governance or assurance process before the Minister makes a final determination.

This is particularly important because the practical consequences are sector wide.

Question 2

Does the proposed methodology for mapping connection appropriately identify sub-sectors connected to the underlying losses in FY2026–27?

- a. Are there any sub-sectors which have been incorrectly included or excluded? Is there evidence that would support a different assessment of connection?
- b. Is the methodology sufficiently repeatable for application in future years?

SMSF Association Position

The methodology identifies relevant loss cohorts and uses sensible categories of evidence, but the published application is not sufficiently detailed to allow stakeholders to reproduce the analysis or confidently test all inclusions and exclusions.

Detailed Response

Treasury has mapped connection by reference to the loss events in the CSLR revised estimate - Brite, Shield/First Guardian, UGC/GCPF, Dixon Advisory and other personal financial advice - and states that it has used publicly available firm, product, licensing, regulatory and court information, together with engagement with ASIC, AFCA and the CSLR operator. In principle, that approach is sensible and evidence based.

However, the difficulty is that the paper publishes the conclusion rather than the analysis. Table 1 identifies responsible entities as connected for Dixon Advisory and Shield/First Guardian and not connected for the other cohorts, but it does not set out the factual pathway, the criteria applied, the competing considerations, or why other potentially relevant levy sub-sectors were excluded. It is therefore not possible for a stakeholder to independently reproduce the assessment from the consultation paper.

Question 2(a) - Incorrectly included or excluded sub-sectors

On the material presently published, we do not propose that Treasury remove the responsible entities sub-sector from Tier 2. Public information supports the proposition that managed investment scheme operators were a substantive part of the pathway in at least some of the major loss cohorts. The more important issue is that Treasury should be required to show its workings and reasoning.

Lead generators and digital or social-media promotion may form an important part of the pathway to consumer loss but as unlicensed participants in the supply chain there is no accountability as CSLR levy participants or sub-sectors. Yet ASIC has described consumers being drawn into specific arrangements after responding to social-media advertisements and lead-generation activity. Their exclusion disproportionately impacts financial advisers who ultimately bear the full cost. This also reinforces our consistent call for increased monitoring and earlier intervention by regulators in preventing and reducing the harm to consumers and those that will ultimately bear the cost burden of CSLR levies in the future. Any regulatory response must extend to both licensed and unlicensed operators and service providers connected to the activity and the harm they have caused.

Question 2(b) - Repeatability in future years

The methodology is not yet sufficiently repeatable. The paper states the categories of evidence considered, but not the decision rules by which evidence is translated into a connection finding. Repeatability requires another decision maker, looking at the same material, to be able to reach a reasonably consistent result.

For future levy years, Treasury should publish a standard connection matrix covering every identified loss cohort and every potentially relevant levy sub-sector. For each cell, the matrix should record the relevant activity, the evidence relied upon, whether the connection threshold is met, and a concise reason. This would avoid a perception that only a pre-selected sub-sector is tested against the connection framework.

The methodology should also address the fact that the CSLR estimate is a point-in-time forecast. Where actual claims, insolvencies, court outcomes or remediation materially alter the factual basis after the levy is set, Treasury should publish a post-year reconciliation explaining whether the original connection assessment remains sound and what lessons will be carried into future years. The objective need not be claim-by-claim precision, but there should be accountability for material forecast error or later factual developments.

Question 3

Do stakeholders consider that the application of the prescribed entity metrics gives rise to material adverse outcomes within any sub-sector?

- a. If yes, what evidence supports that assessment, and why would the adverse impacts justify changes that may result in the redistribution of levy liabilities and other unintended consequences elsewhere in the framework?

SMSF Association Position

The consultation paper does not provide enough distributional information to support a robust entity-level assessment. Treasury should publish anonymised modelling before asking stakeholders to demonstrate concentrated or material adverse outcomes.

Detailed Response

This question highlights a significant information gap in the consultation. Table 2 identifies the aggregate levy to be imposed on each sub-sector, while the paper acknowledges that prescribed entity metrics can concentrate liability among a relatively small number of entities. However, it does not publish the expected distribution of liability within those sub-sectors.

Without that information, most stakeholders cannot determine whether a metric will produce a material adverse outcome across a sub-sector or whether a small number of entities will face liabilities disproportionate to their scale or capacity to pay. Treasury and ASIC are better placed to undertake this analysis because they hold the relevant industry funding and regulatory data.

Before the final determination, Treasury should publish, on an anonymised and aggregated basis where necessary:

- the number of leviable entities in each affected sub-sector and the number expected to bear a special levy;
- the mean, median, 75th percentile, 90th percentile and maximum expected entity levy;
- the proportion of the sub-sector levy expected to be borne by the largest 5 per cent and 10 per cent of payers; and

- any identified cases where the prescribed metric materially captures wholesale, institutional or other activity that is not relevant to the retail-facing risk the CSLR is intended to address.

The consultation paper itself recognises a distortion for large securities and futures exchange participants where the industry funding metric can capture wholesale activity and proposes an interim adjustment pending development of a new metric. That example supports a broader principle. Prescribed metrics should be stress-tested to ensure that they do not produce materially distorted outcomes merely because a particular operational characteristic generates a high value against the metric.

We are concerned by the use of ASIC regulatory effort to apportion Tier 3 costs between sub-sectors. Regulatory effort may be reactive. A large failure can cause ASIC to devote substantial resources to a sub-sector after the harm has occurred. Using that same effort as an allocation metric can increase the CSLR levy borne by the sector while the same regulatory activity is also reflected through ASIC industry funding. Regulatory effort should therefore not be treated as a proxy for causation, benefit, risk or capacity to pay.

Question 4

Is the viability or sustainability of any sub-sector(s) threatened by the proposed levy allocations in Table 2?

- a. If yes, do you have any relevant data to support your viability assessment?

SMSF Association Position

The proposed \$10 million special levy for personal financial advice is a welcome and necessary recognition of cost pressure. However, the dichotomy of the financial advice sector is not considered, with all advisers treated equally, including those that do not provide investment and product advice or placement. Further, the consultation does not provide sufficient data to make a definitive viability assessment across all sub-sectors, and Treasury should publish its own cumulative viability analysis.

Detailed Response

The Association welcomes the proposed exercise of ministerial discretion to limit the additional financial advice special levy to \$10 million. Financial advice would nevertheless make a total CSLR contribution of \$30 million for 2026-27 when the \$20 million annual levy is included. That burden should be assessed alongside ASIC industry funding and other material regulatory costs rather than in isolation.

We are not in a position, on the material provided, to conclude that every proposed Table 2 allocation threatens the viability of the relevant sub-sector. Nor would it be appropriate for the Association to make definitive claims about sub-sectors for which we do not hold entity-level financial data. The consultation asks for evidence of significant viability risk without publishing the Government's own modelling of the distribution and capacity-to-pay effects.

However, it is important that we draw your attention to the fact that the financial advice sector is a broad church. While the sector includes corporate entities, most advice firms are small businesses that cannot sustain these levies. Included within this population are accountants who are authorised under the accountants limited advice model. These advisers provide essential SMSF advice services.



The services provided are strictly limited to strategic and class of product advice including advice to establish or wind up an SMSF, contributions and rollovers. The provision of advice or recommendations pertaining to specific retail financial products is expressly prohibited.

This is a population at risk of extinction, with adviser numbers currently 170 in the total advice population of 15,169.³ This is a population of advisers that needs urgent attention to address the growing advice gap. It is a problem that continues to grow exponentially when we look to the growth in the SMSF sector.

Despite the vulnerability of this market segment, and the fact they do not provide discrete product advice or placement, they are fully exposed to the ASIC industry funding model, the CSLR levy and special levy. These levies have rendered this class of licence unviable and uncommercial, with the few accountants remaining doing so in the best interests of their clients. However, without urgent changes, these last few advisers too will exit the system, to the detriment of SMSF trustees who rely on their advice.

Treasury's viability assessment should include, at a minimum:

- the distribution of the levy within each sub-sector, rather than only the aggregate allocation;
- the levy as a proportion of entity revenue, profitability and other appropriate measures of financial capacity;
- the cumulative impact of the annual CSLR levy, special levy, ASIC industry funding and other material regulatory charges;
- the degree to which costs are likely to be passed through to authorised representatives, members, clients or consumers;
- the potential for business exits, consolidation or reduced service availability; and
- flow-on impacts on consumers, including the affordability and accessibility of professional financial advice.

Treasury should also explain what it considers to be a "significant viability risk" for the purposes of deciding whether to reduce a sub-sector allocation and redistribute the shortfall. Without a published threshold or methodology, the viability safeguard remains discretionary and difficult for affected sectors to engage with meaningfully.

Prevention must remain the priority

The four consultation questions are necessarily concerned with how a \$170.262 million shortfall is allocated. That should not allow the policy debate to become confined to who pays after the harm has occurred. The continuing increase in CSLR costs demonstrates why prevention must remain the central sustainability objective.

³ Padua Wealth 'Weekly financial adviser movement' (24 September 2026) < <https://wealthdata.com.au/adviser-movement-fast-facts> >.



The Government itself has recognised that the most important reforms required to strengthen the CSLR are preventative consumer protection reforms rather than reforms within the compensation scheme alone.

The experience of Shield and First Guardian illustrates the point. ASIC's public material describes a pathway involving marketing lead generators, financial advisers and licensees, superannuation trustees and managed investment scheme operators. Consumers were in many cases introduced through lead-generation activity before being advised to move superannuation savings into the relevant investments.

The regulatory response should therefore examine the complete consumer journey. Particular attention should be given to lead generation and referral arrangements, high-pressure sales models, conflicted payments, the role of social-media and digital advertising in initiating consumer contact, product distribution and governance, and the ability of regulators to identify and disrupt emerging harm earlier.

The role of social media is relevant even where a platform is not itself a CSLR levy participant. ASIC has warned that consumers may enter lead-generation processes after clicking social-media advertisements offering purported free superannuation reviews or similar services. The policy objective should be to interrupt harmful funnels at the earliest practical point, rather than waiting until a regulated product or advice relationship has produced an unpaid determination.

A sustainable CSLR therefore requires more than a mechanism for allocating compensation costs after the event. It requires a regulatory framework capable of identifying emerging risks, enforcing existing obligations, addressing business models that facilitate harm and acting before consumer losses reach a scale that generates multi-million-dollar compensation liabilities.

Conclusion

The Association supports a strong and sustainable CSLR that ensures consumers with eligible unpaid AFCA determinations have access to compensation. We also recognise that the Government has decided to proceed with a waterfall framework and that the immediate task is to determine how it should apply to the 2026-27 special levy.

That makes transparency especially important. This first application will establish the practical precedent for future years. Stakeholders need to understand not only which sub-sectors are classified as connected, but why they are connected, why others are not, how the amounts are allocated within and between sub-sectors, and how Treasury has assessed viability before imposing potentially significant liabilities.

Greater certainty cannot be achieved merely by specifying maximum levy caps. It requires a repeatable connection methodology, published reasons, transparent distributional analysis and a credible viability assessment. Most importantly, the success of the CSLR reforms should ultimately be measured by whether the system reduces the incidence and scale of consumer loss, not simply by whether an increasing pool of losses can be redistributed among compliant firms after the event.

Preventing the next large-scale consumer loss remains the most effective way to protect consumers and the long-term sustainability of the CSLR.