SUBMISSION TO THE TREASURY OF AUSTRALIA

Option Paper: Compensation Scheme of Last Resort (CSLR): Reform options to support ongoing sustainability

Submitted by: SOS Save Our Super, Investor Advocacy

On behalf of victims of the First Guardian and Shield Master Fund collapses

Submission deadline: 22 May 2026

SOS Save Our Super is an investor advocacy group representing thousands of individuals who have suffered devastating financial losses as a result of the collapse of the First Guardian and Shield Master Funds. Our members are ordinary Australians: teachers, nurses, tradespeople, small business owners, and retirees, many of whom lost the majority, or in some cases all, of their superannuation savings. They were not sophisticated investors who made poorly judged bets. They were everyday people who were cold-called, targeted through social media advertisements, subjected to high-pressure sales tactics, and funnelled by lead generation networks into unsuitable and ultimately catastrophic financial products.

These investors do not fall under what some call a 'moral hazard', there was never an attitude of 'if it goes to crap, the government or the taxpayers will pick up the pieces.' These investors trusted the institution of Superannuation. An institution governed and regulated by the Australian government.

We used licensed advisers, regulated licensees, platforms and APRA regulated trustees. A highly complex structure built to protect the 12 000 Australians caught up in the collapse of the First Guardian and Shield Master Funds.

Families and marriages have been ripped apart. It is not just the regulator, advisors, licenses, and trustees pointing fingers. There are spouses, brothers, sisters, parents and children pointing fingers at one another for what they see as foolishness. Victims are being shamed not just by family members but by also the public, all due to a lack of understanding. On top of dealing with the gut-wrenching loss of their retirement savings, they are subjected to humiliation, delays, finger-pointing and what most see as a government that is more interested in fixing the future than the present.

We welcome this consultation as an overdue and necessary step, as the evidence from our members' experiences makes clear that the existing regulatory framework failed to protect them.

We urge the Government to view this as an opportunity not just to refine the CSLR, but to reset the system so it delivers fair, timely and consistent outcomes for consumers. The focus must be on protecting people, not managing costs. Thank you for the opportunity to provide this submission.

Proposal 1: Enabling CSLR to deduct payments from compensation

Q1. Do you support allowing the CSLR operator to reduce compensation payments by considering all relevant amounts that a claimant may receive in connection with the matters covered by an AFCA determination?

Yes, but not where it delays payment to victims.

The CSLR should remain a true scheme of last resort and avoid double recovery. However, this must not shift complexity or delays onto consumers who have already been failed by the system. Victims should be paid their full compensation promptly following an AFCA determination. Any adjustments for other recoveries should occur afterwards, between institutions, without impacting the timing or certainty of payment to the consumer.

Older Australians with larger super balances are disproportionately disadvantaged with the CSLR $150 000 cap. At this stage we support the CSLR working in tandem with a discretionary fund set up by the government, similar to that drawn upon during natural disasters, to compensate victims who lost more than $150 000. This fund would only be drawn upon in circumstances where the loss was no fault of the investor, rather, a system failure. The government can then take the time to recover funds through liquidation and/or litigation processes, without delaying victim compensation.

Q2. What factors should the Government consider in terms of timing?

Speed, certainty and fairness must be prioritised.
Consumers should not be forced to wait for external processes such as liquidations, ASIC Investigations, insurance disputes or class actions to conclude before receiving compensation. The longer the compensation process takes, the more harm is done, particularly to retirees who rely on this money for their lives.
Reforms should enable quick payments using the best available information, with adjustments made later if needed.
We have all watched people's mental and physical health deteriorate over the last 18 months, whilst they wait in nervous anticipation of an outcome. This is not classified as 'fair' practice. We have many investors who had planned medical procedures and intended to use their superannuation, as well as investors who were drawing a pension. Timing delays cause undue stress and anxiety. The Government's priority should be implementing changes that improve the speed of compensation as its first priority.

Q2.1. How should the reform balance ensuring timely payment of claims to consumers with ensuring accurate information about other payments?

The balance should favour paying consumers first, using the best available information at the time. Delays in pursuit of accuracy related to potential other payments are unacceptable. Any adjustments can be made later. Consumers should not carry the burden of administrative delay.

Q2.2. Should the CSLR have a clawback mechanism for cases where deductible amounts were not known at the time of payment?

Yes, but tightly controlled. A clawback mechanism should be used cautiously, with strong safeguards, clear thresholds, and hardship protections. It should only apply if there is clear overpayment, and:

- never leave a consumer in hardship,
- never be aggressive or punitive,
- never leave consumers worse off,
- not re-traumatise after compensation has been paid.

Any recovery should first be sought from insurers, estates, related entities or other upstream sources before pursuing victims.

Proposal 2: Expanding CSLR subrogation rights

Q1. Do you support Option 1 or Option 2 to expand the CSLR operator's subrogation rights?

We support Option 2. Expanding recovery to insurers and responsible parties is the most reasonable approach, as it shifts the burden back to those connected to the misconduct. This must not delay compensation to consumers. Recovery should happen after payment, not before. If the CSLR is given the ability to recover more than it has paid (Option 1), any excess must go back to the consumer. For example, if CSLR pays $100k and recovers $400k, it should retain its $100k and return the remaining $300k to the consumer.
The CSLR should not be in the business of profiting from people who have already been harmed.

Q2. Are there sufficient benefits to pursuing legislative reforms in the context of limited recoveries?

Yes, provided reforms strengthen recoveries without delaying or reducing compensation outcomes for consumers.
Recovery should never slow down or complicate payments to victims. People come first, process second.
The law should change, even where expected recoveries are small. Any recovery helps reduce pressure on the CSLR and reinforces the principle that the cost of misconduct should fall as far as possible on those responsible, where it belongs, rather than on victims or the industry. The priority is 'fairness'.
It is wise for the government to prepare for future failures, as there will be more collapses that may or may not present potentially stronger recovery options.
In saying this, we acknowledge that expanding recovery powers may increase costs for industry as the funder of the scheme and potentially create delays. For this reason, reforms should be designed so recovery actions are pursued in parallel so that they do not delay consumer compensation, such as the Pay Now Recover Later idea that SOS Save Our Super has been calling for, where discretionary funds can be accessed in exceptional circumstances. We have seen too much suffering and harrowing stories of how this has affected peoples' mental health and will to live. Prevention of human suffering must be at the forefront of decision-making.

Proposal 3: Technical improvements

1. Do you support the additional technical improvement proposals?

Yes

2. Which technical improvements should be prioritised?

The proposal to reduce the disallowance period from 15 sitting days to 5 sitting days should be strongly supported. Right now, the process takes far too long. By the time levy decisions are made, sitting periods pass, levy notices are issued and funds are collected, consumers can be left waiting close to 12 months for compensation to be paid.
For 2026–27, it has already been flagged that some consumers lodging claims from July 2026 may not receive payment until enough special levy funds are collected. That delay is unacceptable for people already suffering financial and emotional harm.
Consumers should not be left sitting in limbo because of administrative timing and funding mechanics. Faster levy approval means faster access to compensation, and that must be the priority.

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

Q1. Do you support Option 1 or Option 2 to support scheme sustainability?

SOS Save Our Super does not support Option 1 or Option 2 as it is currently proposed.

Option 1 strips back the capital loss only and ignores the real damage and suffering that consumers are enduring. Victims did not just lose money, they lost years of retirement growth, financial security and future opportunity, not to mention their dignity along the way. Punishing consumers again after loss is suffered is grossly unfair. They should not lose the benefit of compounding growth over time.

Option 2 is also problematic if CPI or low bond rates are used as a benchmark. CPI is not always a true counterfactual. It signifies declining value of money over time, not a true representation of what a consumer could have reasonably earned if they had remained in a suitable superannuation fund.

One SOS Save Our Super member in her 60's followed licensed financial advice to move into an SMSF structure linked to First Guardian, and lost more than $560,000 of her retirement savings. She had worked her entire life believing her superannuation would provide security and dignity in retirement. Instead, she now faces the possibility of working for the rest of her life and losing her home. Another investor lost over $440,000 and said the loss of years of growth means he may now "work until I die". These are not just capital losses. These are lost retirements, lost futures and devastating human consequences caused by advice misconduct and systemic failure.

The CSLR should not be 'made sustainable' by paying victims less than they would have had if the misconduct never occurred. The paper itself confirms these options materially reduce payouts, and that should not come at the expense of those already harmed

A **third, and fairer alternative option**, would be to use a long-term average MySuper counterfactual benchmark. This would better reflect real-world superannuation outcomes, align with where many consumers would otherwise have remained, and provide a more transparent method for calculating losses.

Q1.1. If not, are there alternative options that would better balance certainty, fairness and sustainability?

Yes. The better balance is to preserve fair compensation while broadening who contributes to the cost. The government should focus on stronger recovery powers, broader connected-sector levies, inclusion of MIS-related losses, and platform and trustee accountability. Sustainability should be achieved by widening responsibility, not shrinking justice.

Q2. What considerations should the Government have for choosing an implementation pathway?

Fairness must come first. Any implementation pathway must avoid creating two classes of victims based on timing. The paper notes that AFCA-based implementation could create differential treatment depending on when a complaint was lodged, whereas CSLR-stage implementation would capture firms that became insolvent later. That risk of uneven treatment is serious. If the Government changes the methodology at all, it should choose the pathway that avoids arbitrary outcomes and preserves consistency for affected consumers and does not create a bottle neck at either AFCA or CSLR.

In the case of the First Guardian and Shield collapses, AFCA has taken 7-11 months to allocate a case manager and up to 18 months for determination, causing serious mental stress and anguish on victims already suffering.
The current system does not consistently adhere to principles of fairness and impartiality. One of the victims submitted her AFCA complaint against InterPrac on 3 December 2024. Seventeen months later she is still awaiting a calculation in the case management phase. Her lawyer submitted all necessary documentation and evidence promptly, with no further requests from AFCA. Meanwhile, another victim submitted their AFCA complaint against InterPrac in September 2025 and has already received a determination. Both are lead cases, both complained against the same entity, both lost their super to the Shield and/or First Guardian collapses, yet their cases appear to have progressed in an inequitable way.

Q3. Is CPI or Government Bond rate a more appropriate basis for calculating the counterfactual position?

On their own, neither CPI or the Government bond rate truly reflects how the value of money declines over time.
CPI simply reflects inflation and a government bond rate reflects low risk returns. Neither reflect the lost retirement growth nor the compounded earnings a consumer would likely have received if they'd remained in an appropriate superannuation investment and not fallen victim to misconduct.
The CSLR has a sustainability measure in place with the $150 000 cap. Reducing compensation further via a low counterfactual benchmark unfairly shirts the costs back onto the victims.
Alternatively a long term average using MySuper returns would better reflect how Australians super should have reasonably grown.
A concrete structured approach must be in place so that it cannot be disputed or negotiated, causing delays and additional financial harm to the consumer.
One investor reported that their calculated loss was referred back to a solvent licensee, InterPrac, resulting in multiple recalculations and a $48 000 reduction in the final 'but for' amount. This process prolonged resolution, created unnecessary distress, and allowed negotiation over what should have been an objective assessment. That approach should have no place in the system. It undermines public confidence and the very purpose of the system, while leaving the door open for rogue firms such as InterPrac to continue financially harming their victims.

Q3.1. What alternative rate could be used?

AFCA should apply a clear and consistent approach. Using the long-term average of MySuper returns would better reflect how Australians' super should have reasonably grown when determining the "but for" position. This would reduce delays, remove back-and-forth negotiations, and stop responsible entities from disputing decisions already made.
We note that AFCA's approach is not limited to investment returns. It is designed to place consumers back in the position they would have been in if the misconduct had not occurred. This includes not only lost earnings, but also fees and costs incurred, loss of insurance, and other real financial consequences.
One investor reported that the process became a bottleneck when their calculated loss was referred back to the licensee, allowing it to be challenged and reduced. This resulted in delays, added stress, and an outcome that was negotiated down, rather than objectively determined.
If an alternative benchmark is used, it should reflect how super actually grows over time, something closer to a balanced fund return, not a low, risk-free rate that understates the real loss.
If the Government pushes the rate too low, CSLR stops being an authentic compensation pathway that it was intended to be.

Proposal 5: Embedding greater certainty in the special levy framework

SOS Save Our Super supports greater certainty in the special levy framework, but the framework must reflect the full chain of harm. The paper acknowledges that large-loss events crystallise through multiple links, including product design, distribution, lead generation, switching, platform governance and MIS settings. Special levies should therefore not fall narrowly on one sector where other connected sectors were clearly part of the pathway to loss. Platforms, trustees, MIS-related entities and other connected sectors should be included where their conduct, design or governance contributed to the collapse or the distribution of harmful products.
A predictable levy framework is important, but predictability cannot become a shield for sectors that profited from risk while consumers carried the loss. If MIS's like Shield and First Guardian are eventually included in levy estimates, the Government should ensure the sectors most closely connected to those losses bear a fair share.

Q1. Do you support introducing a rules-based three-tier special levy waterfall to manage funding shortfalls when scheme costs exceed one or more sub-sector caps?

Save Our Super supports greater certainty and sustainability within the CSLR framework. However, we do not consider the proposed waterfall model to be the best long-term solution.

Recent financial collapses, including First Guardian and Shield, involved multiple participants across the financial system, including advisers, trustees, platforms, research providers and product issuers. Losses often arise from failures across the broader ecosystem rather than one subsector alone.

We support a broader "Financial Ecosystem Contribution Model" where all materially connected sectors contribute proportionally from the outset.

Q2. Is 'connection' an appropriate basis for allocating costs across tiers in a repeatable framework?

Save Our Super does not consider "connection" to be an ideal primary allocation mechanism.

The concept is subjective and may create disputes, inconsistency, and delays. Modern financial failures often involve overlapping responsibilities across multiple sectors.

Q2.1. If not, what alternative approach should be used, and how could it be implemented effectively?

We support a proportional ecosystem-wide contribution model using objective metrics such as:

- sector revenue,
- funds under management,
- retail client exposure, and
- ASIC industry funding metrics.

This would improve certainty, reduce disputes and better reflect shared gatekeeping responsibilities across the financial system.

Q2.2. How should connected sub-sectors be identified in practice?

If retained, connection should be based on objective criteria, including whether a sector:

- distributed the product,
- exercised oversight or governance functions,
- financially benefited from the product, or
- controlled client assets.

Independent oversight and transparency will be essential.

Q3. What evidence or data should be used to establish 'connection' to the losses?

Relevant evidence may include:

- distribution of the product,
- oversight or governance responsibilities,
- financial benefit received,
- control of client assets
- AFCA complaint data, and
- ASIC findings or enforcement outcomes.

The framework should recognise that losses often arise from multiple failures across the value chain.

Q3.1. What governance or assurance steps would improve confidence in the classification of a sub-sector as 'connected'?

Confidence would be improved through:

- clearly defined criteria,
- publication of supporting evidence and reasoning,
- consultation with affected sectors, and
- independent review mechanisms.

Q4. Are the proposed special levy caps appropriately calibrated to provide certainty and support sub-sector viability, while enabling timely compensation payments?

Save Our Super supports levy caps to protect sector viability. However, caps should not concentrate excessive costs on one subsector before broader ecosystem participants contribute.

The framework should recognise that large-scale collapses often involve multiple connected sectors, not just advisers alone. Caps should be flexible enough to respond to significant failures where the scale of harm is substantial and connected sectors have the capacity to contribute more.
This is particularly important for smaller advice businesses with limited capacity to absorb large levies. The priority must still remain on timely compensation and rebuilding trust in the financial system.

Q4.1. If not, at what level should special levy caps be set for each tier?

If a tiered framework is retained, no single subsector should bear a disproportionate share of losses.
We support:

- sector-level caps to limit concentration of costs, and
- entity-level caps based on size and capacity to pay.

A broader ecosystem-wide contribution model would provide a fairer and more sustainable long-term outcome for the financial system.

Proposal 6: Considering responses to the role of SMSF losses in reducing pressure on the CSLR

Q1. Do you see merit in levying a subset of SMSFs to support CSLR special levy funding pressures?

Only in a very limited and fair way. SMSF investors should not be treated as a separate class of consumer. Many in First Guardian and Shield used licensed advisers and went through a regulated licensee. They followed the same path as other investors, just through a different structure. They did not knowingly step outside the system, they were led there mostly by being sold the benefits of combining a husband and wife super.
If SMSFs are included, which we strongly believe they should be, it should be based on connection to advice-related misconduct, not the structure itself. SMSF investors should not be punished for a model they were sold into.
These SMSF investors also fell victim to this very harmful structure through advice misconduct, lead generation and switching models that the Government now openly recognise as part of the problem. They now need to be part of the solution.
We recognise that members of regular super funds already help pay for the CSLR, even though most will never make a claim. If SMSFs continue to receive protection, then a fair contribution may be reasonable. But it must recognise that many SMSF investors were not sophisticated investors making independent decisions. They were led into these structures through licensed advisers and the regulated superannuation system.

Q2. Which option best balances sustainability with the risk of imposing costs onto SMSFs with no relevant connection to advice-related misconduct?

An opt-out model is the fairer and safer approach, however we strongly believe that a fixed contribution should be spread across all sectors with no opt-in or opt-out.
Most people do not actively make decisions unless they are forced to. In an opt-in model, many vulnerable or disengaged consumers would likely miss out on protection simply because they did not complete a form or fully understand the consequences.
An opt-out model keeps protection in place by default, while still allowing SMSFs that do not want coverage to leave the scheme and not pay the levy. This is important because many, if not all, SMSF investors in First Guardian and Shield Master Funds used licensed advisers within the regulated superannuation system; these consumers and others would never expect they could lose protection because of paperwork, low awareness or inaction.
Protection should remain the default position, not something people accidentally miss out on. The model must be simple, highly visible, clearly explained, with strong warnings about what consumers are giving up if they choose to opt out. Education is critical as the majority of Australians are not ‘sophisticated’ investors, they are everyday Australians working towards the dream of a better retirement.

Q2.1. What factors should be considered for an opt-in or opt-out model to minimise the regulatory burden for SMSFs?

The system must be simple, have consistency, be automatic where possible, have no traps, and be easy to understand.
It was poor advice and conflicted practices that led many First Guardian and Shield investors into SMSFs. Consumers did not choose this path with full understanding; they were guided there. It must not rely on fine print or technical assumptions. The real test is simple: would an ordinary person understand what rights they are keeping or giving up?

Trust will never be 100% guaranteed therefore a structure that ensures protection is critical, all SMSF's should contribute to the levy with no opt-in or opt-out.

Option 1
Imposing the levy alongside an opt-out mechanism:

Q3. Would allowing SMSFs to opt-out from the levy and CSLR compensation eligibility be an appropriate means to target the levy? What benefits and risks might this approach entail?

No. This creates a default where people are included without fully understanding, and worse, they can lose protection permanently.
It risks people opting out to avoid cost, not understanding the consequences, and losing access to compensation. Many SMSF investors were led into these structures through licensed advice and may not fully understand what rights they are giving up.
Neither an opt-in nor opt-out model is the real solution, all SMSFs should contribute fairly to reduce pressure on the CSLR and strengthen trust and confidence in the financial system for all consumers.

Q4. When should an SMSF be required to opt-out or begin paying?

Only after clear disclosure, informed acknowledgement, and a reasonable decision period. There should be no deemed loss of rights through inaction or confusion.

Q5. Should an SMSF be able to revoke their decision?

Yes. Consumers should be able to return to protection, subject to clear prospective rules. The system should not lock people out permanently because of an earlier decision.

Q6. Would allowing SMSFs to opt-in to the levy in order to maintain CSLR compensation eligibility be an appropriate means to target the levy? What benefits and risks might this approach entail?

Both opt-in and opt-out create a system where protection depends on awareness and action. Many consumers will miss it, especially those disengaged or misinformed.
Protection should not depend on paperwork. The important thing to consider and recognise here is non-sophisticated investors will always be at risk of ending up in an SMSF and the system must be designed to protect everyone.
An opt-in/opt-out model will weaken the structure and potentially drive up costs triggering more people to pull out.

Q7. When should an SMSF be required to opt-in?

At establishment or through simple annual processes for those who are not using licensed advisors, it must be clear and unavoidable, not buried in forms or fine print. Those using licenced advisors should be compulsory. The levy fees should not form part of the percentage that an advisor takes as fees.

Q8. Should the timing of opting in impact their eligibility for a claim from the CSLR?

Yes, but only prospectively. Consumers should not be allowed to join after the event for a known collapse, but equally they should not lose protection for historical misconduct simply because the Government changed the rules after the harm occurred.

Q9. If SMSFs were included within the CSLR Special Levy Framework, what do you see as a reasonable and sustainable maximum annual levy per SMSF?

Any annual levy must be low, simple and proportionate. It should not be high enough to discourage participation or push consumers out of protection. The principle matters more than the precise number: the levy must preserve access, not price people out of it.
One of our SMSF investors in First Guardian has suggested $150/year could raise up to $100mn annually at full opt-in, and provide for a Shield/FG Event every five years. Realistically, a total annual fee of $250 per SMSF would not materially inhibit its performance and would raise a substantial fund over very few years to meet compensation needs.

Option 2

Q10. Excluding SMSFs from CSLR eligibility may help to alleviate funding pressures on the scheme. How do you think this option compares to the sub-options in option 1 above in terms of scheme sustainability and risks for SMSFs?

SOS Save Our Super strongly opposes excluding SMSFs from CSLR eligibility. Yes, it may reduce costs. But it does that by abandoning the very people who were most harmed.
With First Guardian and Shield, many investors didn't choose SMSFs with full understanding. They were advised, guided and moved there by licensed advisers, through regulated licensees, inside the superannuation system they were told to trust. They walked the same path as every other investor, just under a different structure.
We are talking about people who have lost $600 000, $1 million, even $1.4 million. Their only pathway to compensation is capped at $150 000. That gap is not just financial; it is life-changing. It means lost retirements, lost homes, and years of stress, anxiety and uncertainty.
To now exclude them entirely is unjust. It is shifting the cost of failure onto the victims. These investors are not numbers on a spreadsheet. These are Australians who did what they were told was right, they sought advice, they used licensed professionals, and they stayed within the system. If the system fails at that level, the system must compensate them.
Excluding SMSFs creates a two-tier system where protection depends on structure, not conduct. That is not fair, and it is not what the CSLR was designed to do.
Sustainability must not come at the cost of abandoning those who were harmed.

Proposal 7: Facilitating levying of MIS-related losses

Overview

SOS Save Our Super strongly supports levying MIS-related losses. The paper acknowledges that MIS collapses create major consumer harm and may form part of the pathway to loss, even if the direct CSLR claim arises from advice misconduct. That is precisely why the MIS sector should not be excluded from the levy response when its products were central to the collapse.

A broad-based levy has the advantage of simplicity, however, a risk-informed levy is more suitable if it distinguishes low-risk from high-risk segments, without creating loopholes. The central principle should be that sectors profiting from distributing or operating harmful MIS structures should contribute when those failures create losses that end up in the CSLR.
If a Responsible Entity (RE) is permitted to continue overseeing its own Managed Investment Scheme (MIS), the levy should be even greater to reflect the associated risk. Falcon Capital acted as the RE for First Guardian, and Keystone Asset Management acted as the RE for Shield. There were clear connections and conflicts between those responsible for the entity and those driving the underlying investment strategy, raising questions about governance and the separation between oversight and control. These are not small technical details. They go to the heart of how the system is structured. The greater the risk, the greater the Levy.

Q1. If proposal 5 were implemented, should the Government identify a 'lower-risk' segment of the MIS sector that would not be subject to the special levy?

Yes, but only to support a double levy for high-risk MIS. All MISs should contribute to the CSLR, as they can form part of the pathway to harm. Poorly run MISs have caused significant losses to ordinary Australians, as experienced by First Guardian and Shield investors. These products were central to the damage, and it is therefore fair they are included in the solution.
That said, not all MISs carry the same risk. A lower-risk segment may be appropriate, but it must not become a loophole that allows higher-risk products to avoid responsibility through available loopholes and technicalities.
High risk MIS would include those where the RE directly oversees the scheme, or where the product is poorly governed, illiquid, heavily promoted to retail investors, or distributed through advice or switching models.

Q1.1. If so, what indicators do you consider should be used to identify a MIS as low risk?

A low-risk MIS could be identified if there is evidence of:

- simple and transparent investments,
- strong liquidity,
- independent RE/oversight,

- experienced management,
- low leverage,
- no history of complaints, collapses or regulatory concerns,
- no aggressive lead generation or high-pressure sales channels,
- no heavy reliance on conflicted advisers or super switching models.

The test should not just be what the PDS says on paper. It should be how it is governed and how it is marketed to consumers.
There was no such identification of First Guardian and Shield. Investors did not just 'choose a product'. They were led there through licensed advisers, regulated licensees and superannuation pathways they trusted, some through negative consent. They invested what their adviser determined as suitable for them. Most until the collapse had not heard of First Guardian or Shield.
If you were to create 'low risk' and 'high risk' categories this may create new problems. Risky MISs could potentially restructure their marketing to appear safer than they actually are. It would be more simple and less risky to have consistency across all MIS's where safer protection is provided to consumers, and they have the same rules and obligations.

Q1.2. If additional data were required to be collected to implement risk informed levying, would this option create any additional regulatory burden for the MIS sector?

Possibly, but that is not a reason to avoid it. If MISs are taking money from ordinary Australians, particularly retirement savings, they should expect to be subjected to additional data requirements, appropriate reporting and transparency. The 'burden' of additional data is minimal compared to the burden victims carry after a collapse.

Consumers should not remain exposed simply because better oversight is inconvenient for the MIS sector. Additional reporting should be introduced. For this to happen, ASIC must be properly rescoured to collect information, monitor risks, analyse and act on the data, and enforce penalties.

Please see Annexure 1. Transparency, through additional data, supports stronger due diligence and more effective regulatory oversight.

Q2. What do you consider the consequences would be of excluding low-risk MISs from the special levy?

No MIS should be excluded from the special levy excluding genuinely low-risk MISs does not make the levy fairer, rather, increasing the levy on a high-risk MIS is fairer as they carry a higher risk with the CSLR. Consumers should also be made aware of why an MIS has been identified as low- or high-risk.
From the investor's view, the priority is clear: the CSLR must have enough funding to pay victims, and the sectors connected to the harm must contribute. MISs cannot sit outside the solution when MIS failures are a major contributor to the harm.

Q3. How should the Government weigh the trade-off between minimising administrative costs with the benefits of a more targeted approach?

Consumer protection must come before administrative convenience.
A more targeted approach may cost more to administer, but large-scale collapses like First Guardian and Shield have shown the cost of poor oversight is far greater. The financial, emotional and personal damage suffered by victims cannot be measured against the inconvenience of additional reporting or compliance. A father of 2 who committed suicide due to the collapse of First Guardian. We don't believe his family would agree with 'minimising administrative costs' at the expense of filling the pot holds left in the road. If a targeted approach better identifies high-risk behaviour, poor governance and harmful distribution models, then the extra effort is justified, it is not a trade-off.
The ultimate focus of CSLR reform should be preventing harm and sustainability with funding compensation, not 'trade offs' for a cheaper system to run. Ask yourself, would you cut costs as a trade off for your fathers life?

Proposal 8: Improving recovery of unpaid AFCA determinations within corporate groups

Overview

SOS Save Our Super supports stronger recovery powers within corporate groups, including reforms that deter asset shifting and, where appropriate, a related-entity liability mechanism. Consumers should not lose compensation because firms restructure, fragment liabilities, remove cross-guarantees, or move assets beyond reach. If related entities benefited from the business model, revenue flow or distribution chain that caused the loss, they should not be immune when the bill arrives. This is a basic fairness issue and would strengthen both accountability and scheme sustainability.

Q1. To what extent are AFCA determination liabilities avoided through misuse of corporate and insolvency frameworks, shifting CSLR costs onto the broader sub-sector?

There is a strong concern with consumers and the industry about licencees phoenixing or breaking away from their parent company to intentionally avoid financial responsibility, such as the attempts made by Sequoia/InterPrac, and in the past, Libertas (related to Sequoia) and Dixon. Liabilities should not be left behind while the value and revenue stream continue to flow elsewhere. When this occurs, the remaining debts get shifted unfairly from those who played a part in the misconduct to the broader industry and the CSLR framework.

Recently with InterPrac, a solvent entity, consumers have seen AFCA determinations only on paper since the licensee is refusing to pay. Consumers have already suffered loss and stress, they complete the AFCA process, have a ruling in their favour, then get let down by the system yet again. Businesses should not be allowed to continue to operate in this manner. Misuse of corporate and insolvency frameworks, as well as legal loopholes and weaknesses in AFCA rules, undermine trust and confidence in both the AFCA process as well as the whole compensation system.

The system must ensure that accountability to the consumer is fulfilled and have stronger powers to ensure entities are prohibited from restructuring and misusing frameworks to avoid responsibility.

Q1.1. To what extent does this include transactions between solvent entities? Do transactions which result in the evasion of these liabilities also occur between unrelated entities?

Nil response.

Q2. Are there any gaps or limitations in the current corporate and insolvency frameworks that may allow assets or value to be shifted away from the respondent firm? How might the existing provisions be enhanced to increase their deterrent effect to help prevent the occurrence of the underlying transactions and conduct?

There are significant gaps where an entity with liabilities can restructure and shift its income stream and operations elsewhere to avoid liability. This creates the perception that obligations to consumers can be broken down and abandoned with the support of the government. We saw this recently with InterPrac moving all their advisors to AvalonFS. Existing laws should be strengthened to improve transparency, increase scrutiny of related party transactions to allow early intervention to avoid consumer harm.

The financial framework needs to send a clear message that financial firms cannot continue to profit and benefit from further business activities whilst consumers remain unpaid and left in distress with unpaid determinations the CSLR will absorb.

Q3. If a new related-entity liability mechanism was established (Option 2), how should it be designed to appropriately share responsibility for AFCA liabilities where related entities are benefiting from the respondent firm's business or activities, while ensuring it remains proportionate, builds in appropriate safeguards and preserves long-standing corporate Principles?

Nil response.

CLOSING

SOS Save Our Super maintains the position that CSLR sustainability must not be achieved by reducing compensation for victims or excluding classes of consumers from protection. The better path is to preserve fair compensation, strengthen recovery powers, and expand the contribution of sectors connected to the pathway of harm, including platforms, trustees, MIS-related entities and other linked participants. Victims should be paid promptly. Recovery should come later.

The current experience of consumers dealing with unpaid AFCA determinations has exposed deeply disturbing gaps in the system that Treasury now has a responsibility to close.

As publicly reported in The Australian, one lead AFCA determination involving InterPrac has left a victim trapped in a legal and procedural stalemate. A deed required as part of the determination could not be executed due to superannuation law, leaving AFCA unable to deem the determination unpaid and failed. The consequence is devastating. The consumer may be locked out of accessing the CSLR altogether, despite already having gone through the AFCA process and receiving a determination in her favour. This is not consumer protection. It is a loophole that leaves harmed Australians stranded between systems while their lives remain on hold.

Further public reporting by The Australian, the Australian Financial Review, Professional Planner and Financial Standard has highlighted another deeply concerning development, where a financially harmed victim has now been dragged into Federal Court proceedings to defend her own AFCA determination. The action seeks to restrain the enforcement of the determination itself, creating the real risk that consumers could be blocked from progressing to the CSLR while lengthy court proceedings unfold. This is completely contrary to the purpose and spirit of the CSLR.

Ordinary Australians who have already suffered catastrophic losses should not be forced into complex legal battles simply to access a compensation framework the Government itself created as a last resort safety net. Consumers are being re-traumatised by delay, uncertainty, and legal complexity while solvent entities continue to pursue technical pathways to avoid accountability.

Treasury must urgently close these loopholes.

The system cannot allow AFCA determinations to become meaningless through procedural deadlocks, court restraint tactics or corporate structuring that prevents victims from accessing compensation. If the CSLR is to maintain public confidence, the pathway from AFCA determination to compensation must be clear, enforceable and protected from obstruction.

At its core, these reforms should be about restoring trust in the Australian financial system. Australians were told to seek licensed advice, use regulated structures and trust the safeguards around superannuation. When these safeguards fail, the response cannot be delayed by technicalities and legal warfare against victims.

Prepared and written by: Melinda Kee
Contributions made by: Dylan Greenway - Natalia Russ - Gary Prince
Case Studies Contributions made by: Members of the SOS Save Our Super Facebook Page

Annexure 1

FinReg Transparency Portal V2

Suggestion to provide ASIC – AFCA – APRA – CSLR – FAA better transparency on adherence to regulatory requirements

SOS SAVE OUR SUPER | POLICY PROPOSAL

Prepared By: Melinda Kee

FinReg Transparency Portal

A Centralised Government Compliance & Visibility Platform for Australia's Financial Services Ecosystem

ASIC	APRA	AFCA	CSLR	FAAA

Regulatory Access Partners

THE PROBLEM

Why a centralised portal is urgently needed

PI Insurance - No Central Visibility

There is no mechanism for ASIC, APRA, AFCA, or CSLR to verify in real time that licensees, trustees, auditors, and fund managers hold current PI insurance. Lapses go undetected until claims are made.

Double Compensation Risk

Without cross-referencing between CSLR payouts, PI insurance claims, and class action settlements, consumers may be compensated multiple times while others receive nothing.

PDS Currency Not Enforced

Fund managers are not required to maintain a live, auditable repository of current Product Disclosure Statements accessible to regulators and compliance bodies simultaneously.

Class Actions Operate in Isolation

Legal firms pursuing class actions have no mandated channel to cross-check CSLR and insurance payouts, creating opacity that undermines fair and efficient consumer redress.

The FinReg Transparency Portal closes all of these gaps in a single, mandated, penalty-backed platform.

PORTAL ARCHITECTURE

Two access tiers — Regulatory Oversight | Industry Compliance

REGULATORY ACCESS (Read + Alert)

ASIC
Full system oversight

APRA
Trustee compliance

AFCA
Dispute resolution

CSLR
Compensation visibility

FAAA
Advisor compliance

FinReg Transparency Portal

Legal Firms must Register Class actions Against a Financial Firm to allow full transparency to work with the CSLR to ensure no double compensations

INDUSTRY LOGIN (Upload + Report)

Trustees
PI, DDO, fund onboarding

Licensees
PI, claims, payments

Auditors
PI insurance currency

Research Houses
PI + methodology docs

Fund Managers
Current PDS uploads

Legal Firms - class action register (mandatory login)

MODULE 1 — PI INSURANCE COMPLIANCE

Mandatory upload & real-time visibility for all relevant entities

WHO MUST UPLOAD

- **Licensees**
- **Trustees**
- **Auditors**
- **Research Houses**
- **Fund Managers**

REQUIREMENTS

Annual upload

PI certificate renewed each policy year - expiry date auto-tracked

Claims notification

Proof of notification to insurer uploaded within 14 days of any claim

Proof of payment

Evidence of premium payment uploaded - supports CSLR transparency

Real-time regulator access

ASIC, APRA, AFCA, CSLR & FAAA view all PI records instantly

Automated expiry alerts

System alerts entity 90, 60, 30 days before expiry - ASIC notified on lapse

PENALTY: Civil penalty applies for each day PI insurance is not current and visible on the portal. ASIC empowered to issue immediate stop-order.

MODULE 2 — FUND MANAGER PDS REPOSITORY

Live, auditable Product Disclosure Statement currency - visible to all regulators

What Must Be Uploaded

- Current PDS for every product offered
- Supplementary PDS (SPDS) where applicable
- Target Market Determination (TMD)
- Date of each document version
- Previous versions retained for audit trail

Who Can Access

- ASIC — compliance and stop orders
- APRA/FAAA — Trustee & adviser suitability review
- AFCA — dispute context
- CSLR — product context for claims
- Treasury — policy and systemic review
- Licensees — due diligence on products
  Trustees — fund selection oversight

Obligations & Consequences

- PDS must be updated within 5 business days of any material change
- Penalty per day for outdated PDS remaining visible as current
- ASIC notified automatically on missed update deadlines
- Product cannot be promoted until PDS is confirmed current on portal
- Auditor attestation required annually

PENALTY: Distributing a product without a current PDS on the portal constitutes a breach. Civil penalty applies per product per day.

MODULE 3 — TRUSTEE & LICENSEE DUE DILIGENCE

Mandatory proof of due diligence when onboarding any new superannuation fund

1

Fund Onboarding Trigger

When a Trustee or Licensee proposes to onboard a new superannuation fund, a mandatory due diligence filing is triggered in the portal.

2

DD Checklist Completion

The entity must complete a structured portal checklist covering: fund mandate, fee structure, investment strategy, risk profile, member suitability, and PDS currency.

3

Supporting Documents Upload

Upload of current PDS, TMD, fund constitution, auditor sign-off, and any research house assessment. All docs timestamped and version-controlled.

4

Regulator Notification

ASIC, APRA and FAAA receive automated notification of each new fund onboarding. Flag raised if PDS is not current on portal at time of onboarding.

5

Ongoing Maintenance

Trustee / Licensee must update the portal within 10 business days of any material change to fund structure, fees, or risk profile. Failure triggers penalty.

6

Annual Attestation

Annual statutory declaration required confirming due diligence is current. Auditor co-signature required. Regulator access to all records.

PENALTY: Onboarding a superannuation fund without a completed portal due diligence filing is a strict liability offence.

MODULE 4 — CSLR COMPENSATION TRANSPARENCY

Eliminating double compensation — full cross-register visibility

HOW IT WORKS: Every CSLR payment, PI insurance payout, AFCA determination, and class action settlement is recorded on the portal. Legal firms must apply for a login and cross-check the register before filing. CSLR can see all streams in one view. No consumer can be compensated twice.

MANDATORY: Legal firms pursuing class actions must register on the portal and cross-check the CSLR register before proceeding. Penalty for failure to register.

MODULE 5 — CLASS ACTIONS & LEGAL FIRM REGISTER

Mandatory registration, cross-checking, and transparency obligations for pursuing legal firms

REGISTRATION PROCESS

1 **Apply for portal login**
Legal firm must apply through ASIC-administered portal. Application includes firm details, matter description, and named affected consumers.

2 **Cross-check CSLR register**
On login, firm is provided with a list of all consumers who have received CSLR payments relevant to their matter.

3 **Cross-check PI & AFCA records**
Firm must certify it has reviewed all insurance payouts and AFCA determinations before filing any claim.

4 **File compensation exclusions**
Any consumer already compensated must be excluded from the class or the settlement must account for prior payments. (excluding partial compensation)

5 **Post-settlement reporting**
Settlement outcomes are uploaded to the portal within 30 days. CSLR and insurers receive automatic notification.

WHAT THE PORTAL PROVIDES TO LEGAL FIRMS

CSLR Payout Register
Full list of consumers who have received CSLR compensation, by matter type and date

PI Insurance Payments
Aggregated view of insurer payouts by licensee/trustee — consumer-level where court-ordered

AFCA Determinations
All relevant AFCA outcomes by product and entity (resulting in upcoming payments)

Class Action Register
All registered class actions — avoid duplication of claims across competing law firms

Penalty for non-compliance
Failure to register before filing constitutes contempt of the regulatory process. Civil penalty applies.

No class action may proceed against a relevant financial services entity without a verified portal login. This is a precondition, not a recommendation.

PENALTIES & ENFORCEMENT FRAMEWORK

Non-compliance is not an option - penalties are civil, criminal, and licence-based

Licensees

- PI insurance not current on portal
- Failure to upload claims notification within 14 days
- Onboarding super fund without DD filing

Penalty: Civil penalty per day of non-compliance + licence suspension on 3rd breach

Trustees

- PI insurance lapsed / not uploaded
- Failure to complete annual DD attestation
- Material fund change not notified within 10 days

Penalty: Civil penalty + ASIC investigation trigger. Director personal liability where data retention failures occur.

Auditors

- PI insurance not maintained on portal
- Annual attestation not completed

Penalty: Registration cancellation. ASIC referral for professional conduct review.

Fund Managers

- PDS not current on portal
- New PDS not uploaded within 5 business days of change

Penalty: Product cannot be distributed. Civil penalty per product per day. ASIC stop-order power.

Research Houses

- PI insurance not maintained on portal
- Methodology documentation not current

Penalty: Assessments not recognised for compliance purposes. Civil penalty applies.

Legal Firms

- Class action filed without portal registration
- Failure to cross-check CSLR register before filing

Penalty: Civil penalty. Court may set aside proceedings. ASIC referral to Law Society.

EXTENDED PORTAL USES — FUTURE MODULES

The portal is a platform — not just a document repository. Additional modules can be activated by regulation.

Real-Time Breach Alerting

Regulators receive automated alerts when any entity's documentation lapses, a penalty threshold is breached, or unusual activity is detected.

Systemic Risk Dashboard

Treasury and ASIC access an aggregate risk dashboard showing PI insurance coverage rates, lapse clusters, and claims concentration by fund type.

Trustee & Adviser Compliance History

APRA/FAAA can view the full compliance history of any Trustee & AFS licensee, including PI currency, claims history, and DD filing record, when assessing fitness.

Individual Adviser Register

Extension of the portal to capture individual adviser compliance records, including PI claims made against them personally, accessible to licensees onboarding advisers.

Multi-Fund Consolidated View

Trustees managing multiple funds can view all PI, PDS, and DD records across their entire portfolio in a single dashboard. ASIC can compare across trustee groups.

Consumer Self-Check

A limited public-facing view allowing consumers to verify whether the entity they were advised by held current PI insurance and a valid AFS licence at the relevant date.

Inter-Regulator Data Sharing

Structured data-sharing protocols between ASIC, APRA, AFCA, CSLR, and FAAA, removing the need for manual information requests and reducing regulatory duplication.

Automated Penalty Initiation

Where non-compliance persists beyond a defined threshold, the portal automatically initiates the penalty process and generates an ASIC referral, reducing enforcement lag.

The portal is built to scale - each module activated by regulation, without requiring new platform infrastructure.

SOS SAVE OUR SUPER | POLICY RECOMMENDATION

The FinReg Transparency Portal: A Single Source of Truth.

As an investor of FGMF and dealing with trying to be the bridge between government agencies and the victims, I have been perplexed by the lack of transparency in an industry where transparency is critical. I have had conversations with ASIC/AFCA/FAAA & the CSLR in relation to InterPrac and their PI insurance. Not one agency had transparency which showed no enforceable accountability was in place.

PI Insurance

All relevant entities maintain visible, current PI insurance - penalties for lapses

CSLR Transparency

All compensation streams cross-referenced - double payment structurally prevented

PDS Currency

Fund Managers maintain live PDS records - no distribution without portal confirmation

Class Action Register

Legal firms mandated to register and cross-check before filing - no exceptions

Due Diligence

Trustees & Licensees complete mandatory DD filings for every super fund onboarding

Regulator Access

ASIC, APRA, FAAA, AFCA, CSLR & Treasury have real-time, simultaneous visibility of all records