

2 October 2026

Director, Programs and Redress Unit
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600
By email: CSLR@treasury.gov.au

Dear Director

Compensation Scheme of Last Resort: Application of the waterfall framework for the 2026–27 special levy

The Insurance Council of Australia ('Insurance Council') welcomes the opportunity to provide a submission on behalf of our members to Treasury's consultation on the proposed application of the Compensation Scheme of Last Resort (CSLR) waterfall framework for the 2026–27 special levy ('the consultation').¹

The Insurance Council is the representative body of Australian general insurers and covers approximately 90 per cent of total premiums written by general insurers and reinsurers. As a foundational component of the Australian economy, general insurers write 90 million policies a year and pay out \$58.9 billion in claims.²

We continue to support the policy objective of the CSLR to provide compensation to consumers who have suffered loss from exceptional cases of financial misconduct and are unable to obtain compensation through other means. The Insurance Council acknowledges Treasury's work to establish greater certainty in the allocation of special levies, with the Financial Year (FY) 2026-27 levy period the first practical application of the waterfall framework.

As outlined in our May 2026 submission in response to Treasury's consultation '*Reform options to improve the ongoing sustainability of the CSLR*' ('reform options paper'), our position is that funding arrangements should reinforce accountability by aligning costs as closely as practicable with the sectors and activities responsible for, connected to, or benefiting from the conduct that caused consumer losses.³

The scale of the current special levy reinforces this. The CSLR operator's revised estimate for 2026-27 totals approximately \$198.1 million, of which approximately \$190.3 million is attributed to the personal financial advice sub-sector.⁴ The shortfall to be met through the special levy is approximately \$170.3 million.

¹ Treasury (21 September 2026), [Compensation Scheme of Last Resort 2026–27 special levy](#).

² www.insurancecouncil.com.au

³ Treasury (April 2026), [Compensation Scheme of Last Resort \(CSLR\): Reform options to support ongoing sustainability](#)

⁴ Compensation Scheme of Last Resort (Finity) (June 2026), [Revised Estimate for FY2027 \(4th Levy Period\)](#) and Compensation Scheme of Last Resort Operator, Media Release (2 July 2026) [Compensation Scheme of Last Resort releases FY2027 revised levy estimate](#).

We also remain concerned that the CSLR ultimately adds to insurance affordability pressures and Government should consider whether imposing additional costs on an unrelated sector such as general insurance is appropriate.

Insurance affordability remains a significant policy challenge. Imposing additional costs on general insurers to fund losses arising from activities with which they have no demonstrated connection risks adding further pressure to the cost of providing insurance to Australian households and businesses.

Observations

Our position remains that Tier 3 should be reserved for genuinely exceptional or systemic circumstances. Broad cross-subsidisation should not become an ordinary means of funding CSLR liabilities where there is no demonstrated connection between the levied sub-sectors and the underlying losses.

Under the proposed 2026-27 allocation of the approximately \$170.3 million special levy, financial advice would contribute \$10 million under Tier 1, responsible entities \$40 million under Tier 2, and the remaining \$120.26 million distributed among retail-facing sub-sectors under Tier 3.⁵ Under Tier 3, insurance product providers would contribute approximately \$12.97 million and insurance product distributors another \$1.44 million, despite identifying the responsible entities and relevant Tier 2 sub-sector.

This highlights the Insurance Council's concern that, where the contribution of a responsible or connected sub-sector is constrained by the applicable levy cap, a substantial proportion of the remaining costs may be allocated to other financial services sub-sectors without a demonstrated connection to the underlying losses. Levy caps should highlight unsustainable cost drivers and prompt action to address them, rather than operate as a mechanism for broadening the levy base.

Treasury's April 2026 reform options paper illustrated the application of the waterfall framework on the basis of a \$40 million total contribution from the primary sub-sector, comprising the \$20 million annual levy and a \$20 million special levy. The current proposal instead limits the Tier 1 special levy to \$10 million, resulting in a total contribution of \$30 million. The consultation paper does not explain the basis for this, such as any capacity to pay assessment, or why the full \$20 million special levy cap has not been applied.

This is particularly relevant given that the proposed \$170.3 million special levy includes \$120.26 million allocated to unrelated Tier 3 sub-sectors. Applying the full \$20 million Tier 1 special levy would reduce the amount required to be recovered through Tier 3 by \$10 million.

Where liabilities attributable to a particular sector cannot reasonably be collected in a single year, consideration should instead be given to mechanisms that preserve the connection between responsibility and funding, including appropriate multi-year recovery arrangements, alongside safeguards addressing viability. These measures should be accompanied by structural reforms that address the underlying drivers of CSLR claims.

Broader sustainability of the CSLR

⁵ Table 2, [consultation paper](#).

The Insurance Council reiterates that reform of the levy allocation methodology cannot substitute for action to address the underlying causes of CSLR losses.

The purpose of a genuine last-resort scheme must be to capture exceptional cases after other avenues have failed. A model that routinely generates liabilities sufficiently large to require substantial special levies across unrelated financial services sectors should prompt examination of the regulatory settings that permit those liabilities to accumulate.

We urge the Government to continue progressing the structural reforms considered through the April 2026 review, including reforms aimed at strengthening accountability, recovering unpaid AFCA determinations, reducing avoidable escalation of liabilities into the CSLR and ensuring firms have appropriate financial resources to meet foreseeable obligations.

Importantly, structural reform should seek to prevent consumer harm. Financial misconduct and subsequent firm failure can result in significant financial loss and emotional distress for consumers. While the CSLR provides an important avenue of redress after that harm has occurred, the priority should be to reduce the likelihood of consumers suffering those losses in the first place. This requires appropriate financial resources, effective supervision and early intervention where risks emerge.

Consultation questions

We have provided answers below to the specific questions raised in the consultation.

Question 1: Do you agree with the approach to identifying connection? If not, what other factors should be considered?

The Insurance Council supports the proposed approach to Tier 2 in principle, including the recognition that connection requires a product, service or regulated activity to have formed a 'substantive part of the pathway to consumer loss'. We also support the proposition that incidental, routine, administrative or merely facilitative involvement should not, of itself, be sufficient to establish connection.

We also support Treasury's statement that a connection finding is not equivalent to a finding of misconduct or legal liability. However, because a Tier 2 connection finding can create substantial financial consequences for otherwise compliant firms within an entire sub-sector, the evidentiary threshold should be robust, transparent and consistently applied.

The Insurance Council considers that the assessment of connection should be based on clear and repeatable criteria. While Treasury's proposed methodology draws on evidence including AFCA determinations, ASIC information and regulatory material, the consultation paper does not expressly identify the factors that should be applied in determining whether a sub-sector is sufficiently connected to an underlying loss.

As outlined in our May submission, relevant criteria could include the extent to which a sub-sector derived a demonstrable financial benefit from the conduct and the capacity of the relevant sector or sub-sector to influence, prevent or control the conduct giving rise to the loss.

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?

The Insurance Council supports the principle of assessing connection by reference to the circumstances and available evidence associated with the relevant loss events.

While Treasury seeks views on whether the methodology is appropriate and repeatable, the consultation paper identifies a broad test of ‘substantive’ connection but does not explain how that threshold is applied or relevant factors are assessed. A clear and replicable methodology is needed to support transparent and consistent connection assessments.

As outlined in our May 2026 submission, where Tier 2 levies apply, apportionment should reflect the relative contribution or benefit of connected sub-sectors, rather than equal allocation across connected sub-sectors. This would better align the amount of the levy with the basis on which a sub-sector has been assessed as connected to the underlying losses.

This would provide greater certainty for future levy periods and help ensure Tier 2 remains limited to sub-sectors with a clear and demonstrable connection to the underlying losses.

Treasury should publish a clear methodology for assessing connection, together with sufficient information about its application to each relevant loss event to enable stakeholders to understand:

- the relevant activity or conduct.
- how that activity formed a substantive part of the pathway to loss.
- the evidentiary basis for the conclusion.
- whether and how financial benefit, contribution to the loss and capacity to prevent or influence the conduct were considered; and
- the basis for determining the amount allocated to each connected sub-sector.

Question 3: Do stakeholders consider that the application of the prescribed entity metrics gives rise to material adverse outcomes within any sub-sector?

The Insurance Council remains concerned about the use of ASIC Industry Funding Model metrics to allocate a Tier 3 CSLR levy within insurance sub-sectors.

Treasury acknowledges in the consultation paper that prescribed metrics can produce concentrated levy outcomes where particular business models generate disproportionately high levels of activity against the relevant metric. Treasury also acknowledges that the relevant metric may not align with other indicators of scale, financial capacity, market footprint or regulatory risk. An existing ASIC metric should not be applied because it is administratively available where its application may produce outcomes inconsistent with the policy rationale for the levy.

As outlined in our May submission, using total premium income as a levy metric for insurance product providers can capture commercial as well as retail insurance activity. This raises questions about the consistency of the allocation with the policy rationale for Tier 3, which is described as applying to retail-facing financial services sub-sectors.

Similarly, the claims handling metric can produce highly concentrated outcomes because claims volumes can vary significantly between insurance products and business models. Our May submission noted an example of a FY where a smaller insurer accounted for more than 19.5 per cent of the total claims handling levy despite being one of 329 entities in the sub-sector.

Treasury has recognised a similar issue for large securities and futures exchange participants, where the existing metric can inadvertently capture wholesale and institutional activity.⁶ Treasury has

⁶ Paragraphs 21 and 22, [consultation paper](#).

adjusted the proposed contributions for these sub-sectors as an interim measure while a new metric is developed.

The Insurance Council considers that the same principle should apply where insurance metrics capture activity outside the intended retail focus of Tier 3.

The Insurance Council recommends clarification is provided on the following:

- if Treasury has considered the potential for the same insurer or insurance group to incur special levy liabilities across the insurance product provider, insurance product distributor and claims handling and settling services provider sub-sectors.
- where an entity may be liable across multiple insurance sub-sectors, how Treasury has assessed the cumulative levy exposure and the implications for the viability and sustainability of affected entities and sub-sectors; and
- whether the ASIC regulatory-effort metric used for insurance product providers captures regulatory activity associated with commercial or wholesale insurance business.

The Insurance Council recommends that Treasury consider whether an adjustment is required for insurance-related sub-sectors where the existing metrics capture activity outside the intended retail scope of Tier 3 or result in materially concentrated outcomes.

Question 4: Is the viability or sustainability of any sub-sector(s) threatened by the proposed levy allocations in Table 2?

The assessment should extend beyond whether a special levy presents an immediate threat to the solvency of a whole sub-sector. The Government should consider whether imposing additional costs on an unrelated sector such as general insurance is appropriate, particularly where those costs may ultimately contribute to the cost of providing insurance.

Insurance affordability remains a significant policy challenge. Imposing additional costs on general insurers to fund losses arising from activities with which they have no demonstrated connection risks adding further pressure to the cost of providing insurance to Australian households and businesses.

Conclusion

The Insurance Council welcomes Treasury's work to improve the transparency and predictability of the special levy framework. We would welcome the opportunity to discuss these matters further with Treasury. If you have any questions, please contact me or Leisha Watson, Director Regulatory and Consumer Policy at lwatson@insurancecouncil.com.au.

Yours sincerely



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