

EXPLANATORY STATEMENT

Issued by authority of the Compensation Scheme of Last Resort Limited

Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2023

Financial Services Compensation Scheme of Last Resort Levy (Collection) (Initial Cost

Estimates for 2025-26 Levy Period) Determination 2025

Section 9 of the *Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2023* (the Act) provides that the Compensation Scheme of Last Resort (CSLR) operator, the Compensation Scheme of Last Resort Limited (CSLRL), may determine an estimate of the sum of the total amount of compensation that will be payable during the levy period, the Australian Financial Complaints Authority's (AFCA) unpaid fees expected for each of the months in the levy period, the CSLR's expected administrative costs for the levy period, the Australian Securities and Investment Commission's (ASIC) expected administrative costs notified to CSLR for the levy period, the relevant amount of the capital contribution in accordance with the Act, and any specified shortfall or excess amounts from earlier levy periods in accordance with the Act.

The purpose of the *Financial Services Compensation Scheme of Last Resort Levy (Collection) (Initial Cost Estimates for the 2025-26 Levy Period) Determination 2025* is to determine that estimate for the 2025-26 levy period. This will allow ASIC to impose a levy of the specified amount under section 8 of the *Financial Services Compensation Scheme of Last Resort Levy Act 2023* in accordance with the calculations detailed in regulation 9 of the *Financial Services Compensation Scheme of Last Resort Levy Regulations 2023*.

Regardless of the amounts reflected in the *Financial Services Compensation Scheme of Last Resort Levy (Collection) (Initial Cost Estimates for the 2025-26 Levy Period) Determination 2025*, per paragraph 17(2)(a) of the *Financial Services Compensation Scheme of Last Resort Levy Act 2023*, ASIC will only be able to impose a levy up to \$20 million for a relevant sub-sector. Any amount exceeding this cap may only be imposed by way of a determination under section 1069H of the *Corporations Act 2001*.

The Act requires that the CSLR operator reasonably believes the estimate to be accurate having had regard to actuarial principles. To this end, CSLRL engaged actuarial expertise to inform the estimate for the 2025-26 levy period. CSLRL did not engage in public consultation on this instrument as it reasonably believes the inputs to the specified amount to be accurate.

The Act does not specify any conditions that needs to be satisfied before the power to make the Determination may be exercised.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

This instrument is subject to disallowance under section 42 of the *Legislation Act 2003*. The Instrument will be repealed (sunset) in accordance with section 50 of the *Legislation Act 2003*.

The Determination commenced on the day after Registration on the Federal Register of Legislation.

Details of the Determination are set out in Attachment A.

A statement of Compatibility with Human Rights is at Attachment B.

Details of the *Financial Services Compensation Scheme of Last Resort Levy (Collection) (Cost Estimates for 2025-26 Levy Period) Determination 2025*

Section 1 – Name

This section provides that the name of the instrument is the *Financial Services Compensation Scheme of Last Resort Levy (Collection) (Initial Cost Estimates for the 2025-26 Levy Period) Determination 2025*.

Section 2 – Commencement

The Determination commences on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The Determination is made under the *Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2023* (the Act).

Section 4 – Definitions

In this Determination:

2025-26 levy period means the 12-month period starting after the end of the second levy period.

credit intermediaries sub-sector has the same meaning as in the *Financial Services Compensation Scheme of Last Resort Levy Regulations 2023*.

credit providers sub-sector has the same meaning as in the *Financial Services Compensation Scheme of Last Resort Levy Regulations 2023*.

financial services compensation scheme of last resort has the same meaning as in the *Corporations Act 2001*.

licensed personal advice sub-sector has the same meaning as in the *Financial Services Compensation Scheme of Last Resort Levy Regulations 2023*.

securities dealers sub-sector has the same meaning as in the *Financial Services Compensation Scheme of Last Resort Levy Regulations 2023*.

the Act are references to the *Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2023*.

Sections 5 to 8 – Initial estimates of unpaid claims, fees and costs for 2025-26 levy period

The initial estimate for the 2025-26 levy period is determined to be the sum of what CSLRL reasonably believes (having regard to actuarial principles) of:

- the total amount of compensation that will be payable under section 1063 of the *Corporations Act 2001* during the levy period and for the sub-sector, other than any such compensation relating to pre-CSLR complaints; and

- AFCA's unpaid fees expected for each of the months in the levy period, and
- the CSLR's expected administrative costs for the levy period, and
- ASIC's expected administrative costs notified to CSLR for the levy period, and
- the relevant amount of the capital reserve establishment contribution in accordance with the Act; and
- the specified excess worked out for the first levy period and the sub-sector.

The following table includes the estimate by sub-sector:

Act References	Description	Sub Sectors			
		Credit intermediaries	Credit providers	Licensed personal advice	Securities dealers
Paragraph 9(1)(a)	Compensation claims	\$1,029,650.51	\$214,812.54	\$59,528,821.67	\$760,242.04
Paragraph 9(1)(b)(i)	AFCA unpaid fees	\$210,145.75	\$976,059.21	\$8,001,097.57	\$222,146.81
Paragraph 9(1)(b)(ii)	CSLR's administrative costs	\$1,063,974.20	\$1,093,047.35	\$2,840,330.97	\$1,063,649.34
Paragraph 9(1)(b)(iii)	ASIC's administrative costs	\$225,000.00	\$225,000.00	\$625,000.00	\$225,000.00
Paragraph 9(1)(b)(iv)	Capital reserve establishment	\$416,666.67	\$416,666.67	\$416,666.67	\$416,666.67
Paragraph 9(1)(b)		\$1,915,786.62	\$2,710,773.23	\$11,883,095.21	\$1,927,462.82
Paragraph 9(2)(b)	Excess amounts from first levy period	(\$222,122.00)	(\$127,055.00)	(\$1,302,250.00)	(\$344,678.00)
Subsection 9(1)	Total	\$2,723,315.13	\$2,798,530.77	\$70,109,666.88	\$2,343,026.86

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Financial Services Compensation Scheme of Last Resort Levy (Collection) (Initial Cost Estimates for the 2025-26 Levy Period) Determination 2025

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

Section 9 of the Act provides that the Compensation Scheme of Last Resort (CSLR) operator, the Compensation Scheme of Last Resort Limited (CSLRL), may determine an estimate of the sum of the total amount of compensation that will be payable during the levy period, the Australian Financial Complaints Authority's unpaid fees expected for each of the months in the levy period, the CSLR's expected administrative costs for the levy period, the Australian Securities and Investment Commission's (ASIC) expected administrative costs notified to CSLR for the levy period, the relevant amount of the capital contribution in accordance with the Act, and any specified shortfall or excess amounts from earlier levy periods in accordance with the Act.

The purpose of the Determination is to determine that estimate for the 2025-26 levy period. This will allow ASIC to impose a levy of the specified amount under section 8 of the *Financial Services Compensation Scheme of Last Resort Levy Act 2023* in accordance with the calculations detailed in regulation 9 of the *Financial Services Compensation Scheme of Last Resort Levy Regulations 2023*.

The Act requires that the CSLR operator reasonably believes the estimate to be accurate having had regard to actuarial principles. To this end, CSLRL engaged actuarial expertise to inform the estimate for the 2025-26 levy period. CSLRL did not engage in public consultation on this instrument as it reasonably believes the inputs to the specified amount to be accurate.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.