

10 July 2017

EDR Review Secretariat
Financial System Division
Markets Group
The Treasury
Langton Crescent
PARKES ACT 2600

By email: EDRreview@treasury.gov.au

Dear Sir/Madam

Review of the Financial System External Dispute Resolution Scheme

Suncorp Group (Suncorp) welcomes the opportunity to provide a submission in response to the supplementary issues paper *Consultation on the establishment, merits and potential design of a compensation scheme of last resort and the merits and issues associated with providing access to redress for past disputes* (the Issues Paper).

Suncorp Group Limited is a top 20 ASX-listed company with \$96 billion in assets. The Group employs approximately 13,500 people and serves close to nine million customers across general insurance, life insurance, banking and wealth through its trusted brands including Suncorp, AAMI, GIO, Shannons, Vero and Apia.

Executive Summary

In the interest of improving consumer outcomes, Suncorp does not oppose the establishment of a prospective compensation scheme of last resort (CSLR). However, the scope of any such scheme must be limited to addressing instances where an External Dispute Resolution scheme¹ has made a determination in favour of a consumer ("**EDR determination**"), but compensation has not been paid because the financial services licensee is insolvent or is being wound up.

If a CSLR is established, it should only be one aspect of a broader approach to creating a robust and stable financial services sector, and should only be implemented when other relevant measures are in place to minimise the likelihood of consumers needing to rely on the scheme. It is important that any scheme be a true *last resort*, as discussed further below.

While a CSLR will provide a safety net to assist consumers with no other recourse to compensation, it does little to solve the broader problem of individuals receiving poor financial advice and financial services providers being unable to pay associated claims.

In addition to ensuring appropriate risk mitigation measures are in place, the design of any CSLR will need to be carefully considered to ensure the scheme is fit for purpose. A robust review process should be established to ensure there are no unintended consequences arising from the scheme that may lead to broader detrimental outcomes for customers.

This submission provides Suncorp's views on the key matters arising from the issues paper, including:

- the need for effective risk mitigation measures to underpin any CSLR;
- relevant design considerations for developing a workable scheme; and

¹ Either the Financial Ombudsman Service, the Credit and Investments Ombudsman, the Superannuation Complaints Tribunal or the Australian Financial Complaints Authority (once established)

- our concerns about the potential for retrospective application of a CSLR.

Suncorp has also contributed to the submissions provided by the Insurance Council of Australia, Australian Bankers' Association and the Financial Services Council, and we are generally supportive of these submissions.

Ensuring effective risk management

A CSLR should not be introduced in the absence of a robust industry framework that minimises the frequency of unpaid EDR determinations.

Complementary measures to place greater responsibility directly on licensees for their own conduct, and reduce the likelihood of unpaid EDR determinations progressing to a CSLR, have been detailed in previous reports and are noted in the ABA, FSC and ICA submissions.

These measures include:

- finalising initiatives already underway to lift the professionalism of licensed financial advisers;
- improved monitoring and supervision by ASIC, particularly in relation to professional indemnity cover and financial capacity of licensees to meet EDR determinations; and,
- providing ASIC with adequate enforcement powers to ensure licensee compliance.

In the absence of strong risk mitigation measures, prudentially sound and responsible financial service licensees will effectively be subsidising those licensees who do not maintain adequate capital and professional indemnity cover to meet determinations. It could also reduce the impetus on licensees to take out adequate professional indemnity insurance, increasing the risk of future unpaid EDR determinations.

Scheme design considerations

If a CSLR is to be introduced, Suncorp is broadly supportive of the model proposed by the Australian Bankers' Association (ABA), as outlined in the Supplementary Issues paper and the ABA submission, as a starting point for designing a workable scheme.

However, it is important to acknowledge that most cases progressing to a CSLR, and that have historically led to uncompensated losses, will relate to certain segments of the financial services industry. The Issues Paper fails to acknowledge this, instead working under the assumption that these problems are spread evenly across the sector.

If a scheme is implemented, it should be predominantly funded by those segments of the financial services industry that have licensees providing the services that are most likely to give rise to uncompensated consumer losses. Compensation for poor financial planning advice, for example, should not be cross-subsidised by general insurers operating no-advice or general-advice models.

It is also vital that any CSLR act as a true last resort once other avenues have been exhausted, and have a clear and limited scope. This should include clearly delineating the jurisdiction of the scheme, which should closely align with the EDR framework and should only extend to cases where a licensee is insolvent or being wound up, rather than where a licensee has simply ceased trading or failed to pay for some other reason. The scheme should have robust processes in place to ensure all other avenues for payment have been exhausted prior to a consumer having access to the CSLR.

This is vital to minimise the moral hazard risks that would be inherent in a scheme that effectively acts as a broad guarantee for investment losses. It also mirrors the approach taken in other last resort schemes, such as the Financial Claims Scheme and National Guarantee Fund, which operate effectively to respond to specific issues in particular sectors rather than taking a blanket approach. While there has been some criticism of the "patchwork" nature of these schemes, there has been no indication that this tailored approach has resulted in poor outcomes.

Addressing past disputes

While we recognise the impact of previous unpaid EDR determinations on consumers, Suncorp does not support an industry-funded CSLR scheme having any retrospective application.

Suncorp is concerned that a CSLR that attempts to address prior disputes will create significant uncertainty and complexity for industry.

Ultimately, it is likely that the administrative cost to both Government and industry of implementing a retrospective CSLR would far outweigh the compensation that would be paid.

In addition to the cost and complexity of administering a retrospective scheme, there are significant equity issues associated with retroactively changing established EDR processes (including monetary and time limits) for one class of consumers. Suncorp does not support an approach to compensation that undermines existing legal and policy settings.

Conclusion

Suncorp looks forward to continuing engagement with the Government to ensure the EDR framework for financial services delivers the best possible outcomes for consumers. Should you have any questions or require more information please do not hesitate to contact Jane Macnamara, Senior Advisor Government and Public Policy on 02 8121 0118 or jane.macnamara@suncorp.com.au.

Yours sincerely



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