FOI 3379
Document 1

Questions

s 22

What is the impact of redirecting costs of Dixon Advisory complaints received after original introduction (16 October 2021) towards the sub-sectors for collection in the second year?

Firstly, the notional value of the existing backlog and one-off levy would be significantly reduced.

Secondly, funding for these complaints would not be received from sub-sectors until very late into the first year. This would mean that the scheme would likely have insufficient funding available to pay a significant number of claims received in the first year, resulting in significant delays for claimants.

Thirdly, depending on the cost estimate for the costs being redirected to sub-sectors, the sub-sector cap for the financial advice sector could be exceeded, resulting in Ministerial intervention via the special levy.

s 22

14 pages have been removed from this document as irrelevant material under section 22 and 1 page has been removed as exempt material under section 47G(1)(a) of the FOI Act

FOI 3379
Document 2

s 22

[redacted]

Impact of the collapse of Dixon Advisory & Superannuation Services Pty Ltd

What is behind the significant increase in the backlog of accumulated complaints since the last time the CSLR Bills were introduced into Parliament?

The recent collapse of Dixon Advisory in January 2022 has resulted in a significant increase in the number of complaints against Dixon received by AFCA. These complaints form part of the backlog of accumulated complaints on pause with AFCA.

The CSLR will address the backlog of accumulated complaints which are within scope of the scheme.

How many complaints make up the backlog of accumulated complaints?

As at 7 September 2022, the backlog is comprised of a total of 1,836 complaints, of which 1,638 relate to Dixon Advisory.

The backlog is comprised of complaints (including closed complaints) that relate to an in-scope financial product and/or service and were provided to AFCA by 7 September 2022 (the day before the CSLR Bills were introduced into Parliament).

s 22

[redacted]

1 page has been removed from this document as irrelevant material under section 22 of the FOI Act

s 22

[redacted]

Will the collapse of Dixon Advisory delay the payment of compensation under the CSLR?

The arrangements to be put into place to support the timely processing of complaints eligible under the CSLR is a matter for AFCA.

How will the collapse of Dixon Advisory impact the annual levy estimate in future years, particularly for the financial advice sub-sector?

The annual levy estimate will equal what the CSLR operator reasonably believes, having regard to actuarial principles, is required to make compensation payments and cover scheme costs for the upcoming levy period.

The operator may have regard to any matter it considers appropriate as part of determining the estimate, including the historical number and value of unpaid complaints attributable to in-scope sub-sectors.

s 22

[redacted]

FOI 3379
Document 3

From: s 22 [redacted]
To: Zaheed, Mohita
Cc: s 47E(d) [redacted]; Preston, Robb
Subject: CSLR - data [SEC=OFFICIAL]
Date: Thursday, 20 October 2022 9:15:03 AM
Attachments: image001.png

OFFICIAL

Hi Mohita

As discussed, here is some data on CSLR

1) What is the current number and value of non-Dixon Advisory complaints that may be eligible under the CSLR?

As at 17 October 2022:

- AFCA has received 198 non-Dixon complaints, all forming part of the backlog of accumulated complaints. The total maximum notional value to compensate these complaints is approximately $28 million.
- 155 of these complaints relate to financial advice. The total maximum notional value to compensate these complaints is $23.3 million.

s 22 [redacted]

3) Disregarding Dixon Advisory complaints, what is the estimated total cost for the financial advice sub-sector in the second levy period?

$7.1 million, which is made up of:

- Compensation: $3.9m
- Admin cost $1.9m
- Capital contribution $1.3m

s 47C [redacted]

The Minister may decide that Dixon complainants are to be paid in specified instalments over a specified period of time.

Dixon data

As at 17 October 2022:

- AFCA has received 1,754 complaints against Dixon Advisory. The total maximum notional value to compensate all these Dixon Advisory complaints is $263.1 million.
- 1,638 of these complaints form part of the backlog of accumulated complaints. The total maximum notional value to compensate Dixon Advisory backlog complaints is $245.7 million.

Cheers, s 22 [redacted]

s 22 [redacted] — **Director (A/g)**
Redress Unit, Banking, Credit and Insurance Branch
Financial System Division
P + s 22 [redacted]

The Treasury acknowledges the traditional owners of country throughout Australia, and their continuing *connection to land, water and community. We pay our respects to them and their cultures and to elders both past and present.*

COMPENSATION SCHEME OF LAST RESORT

Key Message:

- The Morrison Government has introduced legislation to establish the Compensation Scheme of Last Resort (CSLR) to facilitate the payment of compensation to eligible consumers who have received a determination from the Australian Financial Complaints Authority (AFCA) which remains unpaid.
- The CSLR forms part of the final tranche of legislation to implement the Government's response to the Hayne Royal Commission.
- The Government will continue to consult on the legislation as part of Committee processes as it proceeds through the Parliament.

Key Facts And Figures:

- The scheme will facilitate the payment of compensation to eligible consumers who have received a determination for compensation from the Australian Financial Complaints Authority (AFCA) which remains unpaid.
- Consumers who have an unpaid AFCA determination relating to personal advice, credit intermediation, securities dealing, or credit provision will be eligible to receive up to $150,000 in compensation.
  - This is broadly equivalent to the £85,000 limit on compensation that is available under the UK Financial Services Compensation Scheme.
- To facilitate the start of the scheme from 1 July 2022, the Government will provide funding to establish the scheme and contribute to the costs of the scheme in its first year of operation. Going forward, the scheme will be industry funded through a levy on relevant financial services licensees.
- Costs associated with a backlog of complaints provided to AFCA between November 2018 and October 2021 will be funded by Australia's ten largest banking and insurance groups (excluding health insurers).
- On 20 October 2021, the Senate referred the collapse of the Sterling Income Trust to the Economics References Committee for inquiry and report by 1 December 2021. The exclusion of managed investment schemes (MISs), such as the Sterling Income Trust, from the scope of the CSLR was a key matter considered during the hearings for the inquiry held on 16 and 18 November 2021.
  - The CSLR is a last-resort scheme intended to cover a targeted range of financial products and services. It is not a broad-based insurance policy intended to underwrite any and every investment that consumers choose to make.
  - The Ramsay Review and Hayne Royal Commission said that upon establishment the CSLR should be restricted to personal financial advics failures. The Government has gone well beyond this and has additionally included credit intermediation, credit provision and securities dealing within the scope of the CSLR.
  - The CSLR will not cover MISs or other speculative or high-risk financial products as doing so would introduce perverse incentives and moral hozard risks into already high-risk and speculative markets. These issues risk undermining ongoing confidence in the financial system more broadly.

QTB Number	QB21-000175	**Adviser**	s 22
Contact Officer	s 22	**Contact Number**	(s 22 /s 22
Division responsible	Financial System Division		
Office Responsible	Minister for Superannuation, Financial Services and the Digital Economy, Minister for Women's Economic Security	**Date of Update**	19 November 2021

COMPENSATION SCHEME OF LAST RESORT

   - A broad-based scheme risks exposing the financial system to significant costs. For example, the UK broad-based Financial Services Compensation Scheme has experienced steady growth since its establishment in 2001. The demand on the scheme for compensation has doubled from £243 million in 2013 to £564 million in 2021. In 2022, industry is anticipated to be levied over £1 billion to meet £968 million in forecasted compensation cost.

- The legislation is expected to be referred to a Senate Committee for inquiry and report.

Coalition Action:

- In February 2019, the Government released its response to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. The Government has committed to take action on all 76 recommendations contained within the Royal Commission's Final Report.
- As part of its response to recommendation 7.1 of the Royal Commission, the Government has agreed to establish an industry-funded, forward looking CSLR.
- A CSLR was originally recommended by the Ramsay Review Supplementary Final Report, which the Government released in December 2017.
   - On 20 April 2016, the Government commissioned the Ramsay Review to make recommendations to improve the existing external dispute resolution framework. The Review Panel comprised of Professor Ian Ramsay (Chair), Julie Abramson and Alan Kirkland. Terms of Reference were released on 8 August 2016.
   - On 3 February 2017, the Government amended the Terms of Reference to require the Panel to provide a separate report on the establishment, merits and design of a last resort compensation scheme and on the merits and issues involved in providing access to redress for past disputes.
- On 20 December 2019, the Government released a Discussion Paper on aspects of the CSLR, including coverage, funding arrangements, compensation limits and how to manage scheme evolution. Submissions were sought by 7 February 2020.
   - 60 submissions were received in response to the Discussion Paper.
- On 8 May 2020, the Government announced a six-month deferral to the implementation of commitments associated with the Royal Commission as a result of the significant impacts of the coronavirus.
- On 16 July 2021, the Government released Exposure Draft legislation that would establish a CSLR and an associated Proposals Paper. Submissions were sought by 13 August 2021.
   - 65 submissions were received in response to the exposure draft legislation and Proposals Paper.

Background:

Royal Commission into Misconduct in the Banking Superannuation and Financial Services Industry

- The Royal Commission recommended that the three principal recommendations to establish a CSLR made in the Supplementary Report of the Ramsay Review should be carried into effect (Recommendation 7.1 — Compensation scheme of last resort).

COMPENSATION SCHEME OF LAST RESORT

Ramsay Review – Compensation Scheme of Last Resort

- The Supplementary Report recommended that an industry-funded, limited and carefully targeted forward-looking CSLR be established.
  - In particular, the Report recommended that a CSLR should be restricted to financial advice failures but be scalable if in future other significant problems emerge.

Past proposals for a last resort compensation scheme

- The Parliamentary Joint Committee on Corporations and Financial Services' 2009 *Inquiry into financial products and services in Australia* recommended that the government investigate the costs and benefits of differing models of a statutory last resort compensation fund for investors (recommendation 10).
- The 2012 Richard St John report *Compensation arrangements for consumers of financial services* recommended against implementing a compensation scheme of last resort and concluded it would be inappropriate and possibly counterproductive to introduce one (rec. 1).
  - The then Minister for Financial Services and Superannuation, Bill Shorten MP, commissioned that inquiry and accepted that particular recommendation.
- The Parliamentary Joint Committee on Corporations and Financial Services' 2012 *Inquiry into the collapse of Trio Capital* did not support a general compensation scheme for self-managed super funds (rec. 1).
- On 21 April 2016, the Australian Bankers' Association announced it would consider setting up a last resort compensation scheme for financial advisers, as part of a Strengthening Community Trust plan.

QTB Number	QB21-000175	**Adviser**	s 22
Contact Officer	s 22	**Contact Number**	s 22 / s 22
Division responsible	Financial System Division		
Office Responsible	Minister for Superannuation, Financial Services and the Digital Economy, Minister for Women's Economic Security	**Date of Update**	19 November 2021

COMPENSATION SCHEME OF LAST RESORT (CSLR)

Key Message:

- The Morrison Government has introduced legislation to establish the Compensation Scheme of Last Resort (CSLR) to facilitate the payment of compensation to eligible consumers who have received a determination from the Australian Financial Complaints Authority (AFCA) which remains unpaid.
- The CSLR forms part of the final tranche of legislation to implement the Government's response to the Hayne Royal Commission.
- The Senate Economics Legislation Committee has recommended the passage of the CSLR Bills without amendment.

Key Facts And Figures:

- The scheme will facilitate the payment of compensation to eligible consumers who have received a determination for compensation from the Australian Financial Complaints Authority (AFCA) which remains unpaid.
- Consumers who have an unpaid AFCA determination relating to personal advice, credit intermediation, securities dealing, or credit provision will be eligible to receive up to $150,000 in compensation.
  - This is broadly equivalent to the £85,000 limit on compensation that is available under the UK Financial Services Compensation Scheme.
- As part of the 2021-22 MYEFO, the Government has provided $45.3 million in new funding under the measure 'Compensation Scheme of Last Resort – establishment' to establish the scheme and contribute to the costs of the scheme in its first year of operation. Going forward, the scheme will be entirely industry funded through a levy on relevant financial services licensees.
- Costs associated with a backlog of complaints provided to AFCA between November 2018 and October 2021 will be funded by Australia's ten largest banking and insurance groups (excluding health insurers).
- On 28 October 2021, the Government introduced three bills to establish the CSLR, consisting of the Financial Sector Reform (Hayne Roayl Commission Response No. 3) Bill 2021, the Financial Services Compensation Scheme of Last Resort Levy Bill 2021 and Financial Services Compensation Scheme of Last Resort Levy (Collections) Bill 2021.
- On 25 November 2021, the Senate referred the provisions of these bills to the Senate Economics Legislation Committee for inquiry and report by 15 February 2022. A public hearing was held on 27 January 2022.
  - A key matter considered during the hearing on 27 January 2022 was the exclusion of managed investment schemes (MISs) from the scope of the CSLR. In their submissions to the committee, consumer groups (led by CHOICE), advisers (FPAA, AFA), finance brokers (MFAA) and other associations (CPA, Maurice Blackburn, Law Council of Australia) argued for the inclusion of MISs. Product issuers (ABA, COBA, FSC) and dealers (AFMA) argued for the scope to be maintained as proposed or narrowed to be initially limited to personal advice.

QTB Number	QB22-000027	**Adviser**	s 22
Contact Officer	s 22	**Contact Number**	s 22 / s 22
Division responsible	Financial System Division		
Office Responsible	Minister for Superannuation, Financial Services and the Digital Economy, Minister for Women's Economic Security	**Date of Update**	

COMPENSATION SCHEME OF LAST RESORT (CSLR)

- On 15 February 2022, the Committee handed down its report into its inquiry into the provisions of the bills. The report contained two recommendations:
  - Committee recommendation (Recommendation 1): The committee recommends the bills be passed.
  - Additional comment from Labor Senators: Labor Senators recommend that the Australian Government expand the scope of the CSLR to include managed investment schemes.
- The CSLR is a last-resort scheme intended to cover a targeted range of financial products and services. It is not a broad-based insurance policy intended to underwrite any and every investment that consumers choose to make.
- The Ramsay Review and Hayne Royal Commission said that upon establishment the CSLR should be restricted to personal financial advics failures. The Government has gone beyond this and has also included credit intermediation, credit provision and securities dealing within the scope of the CSLR.
- The CSLR will not cover MISs or other speculative or high-risk financial products as doing so would introduce perverse incentives and moral hozard risks into already high-risk and speculative markets. These issues risk undermining ongoing confidence in the financial system more broadly.
- A broad-based scheme risks exposing the financial system to significant costs. For example, the UK broad-based Financial Services Compensation Scheme has experienced steady growth since its establishment in 2001. The demand on the scheme for compensation has doubled from £243 million in 2013-14 to £564 million in 2020-21. The scheme is levying industry £717 million in 2021-22 and is currently forecasting to levy industry £900 million in 2022-23.
- The effectiveness of Professional Indemnity (PI) insurance in responding to compensation claims against firms as a means of reducing the cost of the CSLR is also a key matter raised by stakeholders.
  - The Government has committed to consult on proposals to enhance the enhance the effectiveness of PI insurance in responding to compensation claims to ensure that the CSLR truly operates as a scheme of last resort. Stakeholders welcomed the upcoming consultation. Several stakeholders consider the effectiveness of PI insurance could be strengthened through greater ASIC oversight and enforcement of PI insurance requirements (e.g. FSC, AFA, CPA).

Coalition Action:

- In February 2019, the Government released its response to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. The Government has committed to take action on all 76 recommendations contained within the Royal Commission's Final Report.
- As part of its response to recommendation 7.1 of the Royal Commission, the Government has agreed to establish an industry-funded, forward looking CSLR.
- A CSLR was originally recommended by the Ramsay Review Supplementary Final Report, which the Government released in December 2017.
  - On 20 April 2016, the Government commissioned the Ramsay Review to make recommendations to improve the existing external dispute resolution framework. The Review Panel comprised of

COMPENSATION SCHEME OF LAST RESORT (CSLR)

Professor Ian Ramsay (Chair), Julie Abramson and Alan Kirkland. Terms of Reference were released on 8 August 2016.

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- On 16 July 2021, the Government released Exposure Draft legislation that would establish a CSLR and an associated Proposals Paper. Submissions were sought by 13 August 2021.
  - 65 submissions were received in response to the exposure draft legislation and Proposals Paper.
- On 28 October 2021, the Government introduced the Hayne Royal Commission Response No. 3 (2021) package of Bills to establish the CSLR into the House of Representatives.

Background:

Royal Commission into Misconduct in the Banking Superannuation and Financial Services Industry

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- The 2012 Richard St John report *Compensation arrangements for consumers of financial services* recommended against implementing a compensation scheme of last resort and concluded it would be inappropriate and possibly counterproductive to introduce one (rec. 1).
  - The then Minister for Financial Services and Superannuation, Bill Shorten MP, commissioned that inquiry and accepted that particular recommendation.

QTB Number	QB22-000027	**Adviser**	s 22	
Contact Officer	s 22	**Contact Number**	s 22 /s 22	
Division responsible	Financial System Division			
Office Responsible	Minister for Superannuation, Financial Services and the Digital Economy, Minister for Women's Economic Security		**Date of Update**	

COMPENSATION SCHEME OF LAST RESORT (CSLR)

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- On 21 April 2016, the Australian Bankers' Association announced it would consider setting up a last resort compensation scheme for financial advisers, as part of a Strengthening Community Trust plan.

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