

EXPOSURE DRAFT

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Inserts for
**Treasury Laws Amendment (Measures
for Consultation) Bill 2021:
Compensation Scheme of Last Resort**

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details

1. Schedule 1	At the same time as the <i>Financial Services Compensation Scheme of Last Resort Levy Act 2021</i> commences. However, the provisions do not commence at all if that Act does not commence.	
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Schedule 1—Amendments

Part 1—Main amendments

Corporations Act 2001

1 Section 761A

Insert:

AFCA's accumulated unpaid fees has the meaning given by subsection 1058A(4).

AFCA's unpaid fees, for a month, has the meaning given by subsection 1058A(2).

compensation scheme of last resort means the compensation scheme of last resort established under Part 7.10B.

compensation scheme of last resort operator: see *CSLR operator*.

CSLR operator (short for compensation scheme of last resort operator) means the person for whom an authorisation under section 1060 is in force.

fee recovery day means the day prescribed by regulations made for the purposes of this definition.

relevant AFCA determination has the meaning given by subsection 1063(2).

revised claims and costs estimate has the same meaning as in the *Financial Services Compensation Scheme of Last Resort Levy Act 2021*.

sub-sector has the same meaning as in the *Financial Services Compensation Scheme of Last Resort Levy Act 2021*.

sub-sector levy cap has the same meaning as in the *Financial Services Compensation Scheme of Last Resort Levy Act 2021*.

2 After paragraph 1058(4)(b)

Insert:

(ba) to the CSLR operator; or

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3 At the end of Part 7.10A

Add:

Division 4—AFCA reporting obligations

1058A AFCA reporting to CSLR operator

AFCA's unpaid fees

- (1) AFCA must notify the CSLR operator, in writing, of AFCA's unpaid fees, for a month starting on or after the fee recovery day, as soon as practicable after the end of the month.
- (2) ***AFCA's unpaid fees***, for a month, is the sum of each fee that:
 - (a) relates to a complaint against a person that has been resolved by AFCA (including by making a determination); and
 - (b) AFCA has charged to the person who, at the time the complaint was made, was a member of the AFCA scheme of a kind prescribed by regulations made for the purposes of this paragraph; and
 - (c) the person has not paid to AFCA; and
 - (d) AFCA has finished taking reasonable steps to recover, including the steps (if any) prescribed by regulations made for the purposes of this paragraph, during the month; and
 - (e) meets any other requirements prescribed by regulations made for the purposes of this paragraph.

AFCA's accumulated unpaid fees

- (3) AFCA must notify the CSLR operator, in writing, of AFCA's accumulated unpaid fees within the period of 90 days starting on the fee recovery day.
- (4) ***AFCA's accumulated unpaid fees*** is the sum of each fee that:
 - (a) relates to a complaint against a person that has been resolved by AFCA (including by making a determination); and
 - (b) AFCA has charged to the person who, at the time the complaint was made, was a member of the AFCA scheme of a kind prescribed by regulations made for the purposes of this paragraph; and
 - (c) the person has not paid to AFCA; and

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- 1 (d) AFCA has finished taking reasonable steps to recover,
2 including the steps (if any) prescribed by regulations made
3 for the purposes of this paragraph, during the period:
4 (i) starting on 1 November 2018; and
5 (ii) ending on the day before the fee recovery day; and
6 (e) meets any other requirements prescribed by regulations made
7 for the purposes of this paragraph.

8 **4 After Part 7.10A**

9 Insert:

10 **Part 7.10B—Compensation scheme of last resort**

11 **Division 1—Establishment of the compensation scheme of** 12 **last resort**

13 **1059 Establishment of the scheme**

14 The compensation scheme of last resort is established by this Part.

15 **1060 Minister may authorise an operator of the compensation** 16 **scheme of last resort**

- 17 (1) The Minister may, by notifiable instrument, authorise a person to
18 operate the compensation scheme of last resort if the Minister is
19 satisfied the person will meet the mandatory requirements under
20 section 1061.

21 Note: The person who is authorised by the Minister to operate the
22 compensation scheme of last resort is the CSLR operator (short for
23 compensation scheme of last resort operator).

- 24 (2) An authorisation of a person to operate the compensation scheme
25 of last resort must not come into force while an authorisation of
26 another person to operate that scheme is in force.

- 27 (3) The Minister may, by notifiable instrument, vary or revoke an
28 authorisation.

- 29 (4) In an instrument under subsection (1) or (3), the Minister:
30 (a) must specify the day the authorisation, variation or
31 revocation comes into force; and

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(b) may specify, vary or revoke conditions relating to the authorisation.

1061 Mandatory requirements

- (1) The mandatory requirements for a person (the *operator*) to operate the compensation scheme of last resort are:
- (a) the organisational requirement under subsection (2); and
 - (b) the operator requirements under subsection (3); and
 - (c) the operational requirements under subsection (4); and
 - (d) the compliance requirements under subsection (5).

Organisational requirement

- (2) The organisational requirement is that the operator does not require a person applying for compensation to pay any fee or charge to the operator, or to any other entity, in relation to the application.

Operator requirements

- (3) The operator requirements are that:
- (a) the operator is a company limited by guarantee; and
 - (b) the operator's constitution provides that the operator must not be operated for profit; and
 - (c) the operator's constitution provides that amounts paid to the operator by the Commonwealth must be maintained for the purposes of the compensation scheme of last resort; and
 - (d) the operator's constitution provides that the Chair of the board of the operator must be an independent person; and
 - (e) the operator's constitution provides that, within 6 months after the operator is authorised under section 1060, the Minister may appoint an independent person as the Chair of the board of the operator; and
 - (f) the operator's constitution provides that, within 6 months after the operator is authorised under section 1060, the following must be appointed as members of the board:
 - (i) a person who is a director of AFCA who has experience in carrying on the kinds of businesses operated by members of the AFCA scheme;
 - (ii) a person who is a director of AFCA who has experience in representing consumers;

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- 1 (iii) a person who is a qualified actuary with expertise in
2 actuarial analysis;
3 (iv) a person who has expertise in claims handling.

4 *Operational requirements*

- 5 (4) The operational requirements are that:
6 (a) the operator operates in accordance with the operator's
7 constitution; and
8 (b) the operator administers the compensation scheme of last
9 resort in accordance with this Part and regulations made for
10 the purposes of this Part; and
11 (c) the operator has appropriate expertise available to deal with
12 applications for compensation; and
13 (d) the operator has appropriate expertise available to undertake
14 actuarial analysis and modelling to estimate the value of
15 claims to be made against the compensation scheme of last
16 resort.

17 *Compliance requirements*

- 18 (5) The compliance requirements are that:
19 (a) the operator is to ensure that any conditions of the
20 authorisation of the operator (see paragraph 1060(4)(b)) are
21 complied with; and
22 (b) the operator is to ensure that regulatory requirements issued
23 under section 1069F are complied with.

24 **Division 2—Compensation payments under the scheme**

25 **1062 Compensation payments**

- 26 (1) The CSLR operator must pay an amount of compensation to a
27 person if:
28 (a) the person is eligible for compensation under section 1063;
29 and
30 (b) the amount of compensation is the amount referred to in
31 section 1065; and
32 (c) the operator has offered the amount of compensation to the
33 person in accordance with section 1066; and
34 (d) the person has accepted the amount of compensation in
35 accordance with section 1067.

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- 1 (2) The CSLR operator must pay the amount of compensation to the
2 person:
3 (a) in a single lump sum; or
4 (b) if a determination under subsection 1069D(1) specifies,
5 under subsection 1069D(3), a class of persons that includes
6 the person—in the instalments specified in the determination
7 for that class of persons over the period specified in the
8 determination.
- 9 (3) The CSLR operator must not pay an amount under this section
10 before the day prescribed by regulations made for the purposes of
11 this subsection.

12 **1063 Eligibility for compensation payments**

- 13 (1) A person is eligible for compensation if:
14 (a) the person applies to the CSLR operator for compensation in
15 accordance with section 1064; and
16 (b) AFCA has made a determination in relation to the person that
17 is a relevant AFCA determination (see subsection (2)); and
18 (c) the requirements (if any) prescribed by regulations made for
19 the purpose of this paragraph are met; and
20 (d) the person has not withdrawn the person's application for
21 compensation.
- 22 Note: A person's application for compensation may be withdrawn at any
23 time before compensation is paid (see subsection 1064(4)).
- 24 (2) A determination made by AFCA in relation to a person is a
25 *relevant AFCA determination* if:
26 (a) the determination:
27 (i) relates to a complaint made by the person against
28 another person (the *AFCA member*) who, at the time
29 the complaint was made, was a member of the AFCA
30 scheme; and
31 (ii) is binding on the AFCA member; and
32 (iii) requires the AFCA member to pay an amount to the
33 person; and
34 (iv) is a determination of a kind prescribed by regulations
35 made for the purposes of this paragraph; and
36 (b) AFCA has finished taking reasonable steps, including the
37 steps (if any) prescribed by regulations made for the purposes

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- 1 of this paragraph, to require the AFCA member to pay the
2 amount to the person; and
3 (c) the amount payable to the person in accordance with the
4 determination has not been paid to the person in full.
- 5 (3) Without limiting the requirements that may be prescribed for the
6 purposes of paragraph (1)(c), those requirements may include the
7 following:
8 (a) a requirement that the person is satisfied that a payment is
9 not likely to be made to the person in accordance with the
10 relevant AFCA determination;
11 (b) a requirement that the person is not eligible to recover
12 compensation under any other statutory compensation
13 scheme with respect to the matters covered by the relevant
14 AFCA determination.

15 **1064 Applications for compensation payments**

- 16 (1) A person may apply, in the approved form, to the CSLR operator
17 for compensation.
- 18 (2) An application is in the approved form if and only if:
19 (a) it is in the form approved by the CSLR operator; and
20 (b) it includes any information (including any declarations)
21 required by the form; and
22 (c) it is given in the manner required by the CSLR operator.
- 23 (3) The CSLR operator may approve a form for the purposes
24 paragraph (2)(a).
- 25 (4) A person may withdraw an application for compensation at any
26 time before the operator pays an amount of compensation.

27 **1065 Amount of compensation payments**

- 28 (1) The amount of compensation for a person must, subject to
29 subsection (2), be an amount equal to the lowest of the following
30 amounts:
31 (a) \$150,000;
32 (b) if a determination under subsection 1069D(1) specifies,
33 under subsection 1069D(2), a class of persons that includes
34 the person—the amount less than \$150,000 that is specified
35 in that determination for that class of persons for the
36 purposes of this paragraph;
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- 1 (c) the amount payable to the person under the relevant AFCA
2 determination in respect of the person.
- 3 (2) However, if the person has received a payment:
4 (a) in relation to the relevant AFCA determination; and
5 (b) of a kind prescribed by regulations made for the purposes of
6 this paragraph;
7 the amount of compensation for the person under subsection (1)
8 must be reduced by the amount of that payment.

9 **1066 Offer of compensation payments**

- 10 (1) If a person is eligible for compensation under section 1063, the
11 CSLR operator must offer to the person, in writing, the amount of
12 compensation referred to in section 1065.
- 13 (2) The offer must explain the effect of section 1068 (subrogation of
14 rights).

15 **1067 Acceptance of offer of compensation payments**

16 A person accepts an amount of compensation under this section if
17 the person agrees, in writing, to accept the amount of compensation
18 offered by the CSLR operator.

19 **1068 CSLR operator's right of subrogation if compensation is paid**

- 20 If:
- 21 (a) the CSLR operator pays an amount of compensation to a
22 person under section 1062 in relation to a relevant AFCA
23 determination binding on another person (the *AFCA*
24 *member*) who is, or was, a member of the AFCA scheme;
25 and
26 (b) the AFCA member is, or becomes, a Chapter 5 body
27 corporate;
- 28 the CSLR operator is subrogated, to the extent of that amount, to
29 any rights and remedies that the person may have, in relation to the
30 relevant AFCA determination, that are recognised by an officer of
31 the Chapter 5 body corporate.

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1 **Division 3—Reimbursement of unpaid AFCA fees**

2 **1069 Payment of AFCA’s unpaid fees**

- 3 (1) The CSLR operator must pay to AFCA an amount equal to
4 AFCA’s unpaid fees for a month starting on or after the fee
5 recovery day if:
- 6 (a) AFCA has notified the CSLR operator of those fees in
7 accordance with subsection 1058A(1); and
 - 8 (b) the requirements (if any) prescribed by regulations made for
9 the purposes of this paragraph are met.
- 10 (2) The CSLR operator must pay the amount to AFCA as soon as
11 reasonably practicable after AFCA’s notification to the CSLR
12 operator of those fees.
- 13 (3) However, the CSLR operator must not pay an amount under this
14 section before the day prescribed by regulations made for the
15 purposes of this subsection.

16 **1069A Payment of AFCA’s accumulated unpaid fees**

- 17 (1) The CSLR operator must pay to AFCA an amount equal to
18 AFCA’s accumulated unpaid fees if:
- 19 (a) AFCA has notified the CSLR operator of those fees in
20 accordance with subsection 1058A(3); and
 - 21 (b) the requirements (if any) prescribed by regulations made for
22 the purposes of this paragraph are met.
- 23 (2) The CSLR operator must pay the amount to AFCA as soon as
24 reasonably practicable after AFCA’s notification to the CSLR
25 operator of those fees.
- 26 (3) However, the CSLR operator must not pay an amount under this
27 section before the day prescribed by regulations made for the
28 purposes of this subsection.

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1 Division 4—Powers and reporting requirements

2 Subdivision A—Powers of CSLR operator

3 1069B Power to obtain information and documents

4 (1) If the CSLR operator has reason to believe that a person is capable
5 of giving information or producing documents relevant to an
6 application for compensation under this Part, the CSLR operator
7 may, by written notice to the person, require the person:

- 8 (a) to give to the operator, by writing, any such information; or
- 9 (b) to produce to the operator such documents or copies of such
10 documents as are stated in the notice;

11 in the manner and within the period specified in the notice.

12 (2) The period specified in a notice given under subsection (1) must be
13 at least 14 days after the day the notice is given.

14 (3) If documents (whether originals or copies) are so produced, the
15 CSLR operator:

- 16 (a) may take possession of, and may make copies of, or take
17 extracts from, the documents; and
- 18 (b) may keep the documents for as long as is necessary for the
19 purpose of dealing with the application; and
- 20 (c) must, while keeping the documents, permit a person who
21 would be entitled to inspect any one or more of them (if the
22 documents were not in the possession of the operator) to
23 inspect at all reasonable times such of the documents as that
24 person would be so entitled to inspect.

25 (4) A person must not fail to comply with a requirement made by the
26 CSLR operator under subsection (1).

27 Penalty: 30 penalty units.

28 (5) Subsection (4) is an offence of strict liability.

29 Note: For strict liability, see section 6.1 of the *Criminal Code*.

30 (6) Subsection (4) does not apply to the extent that the person has a
31 reasonable excuse.

32 Note: A defendant bears an evidential burden in relation to the matter in this
33 subsection (see subsection 13.3(3) of the *Criminal Code*).

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1 (7) If a person who is, or was, a member of the AFCA scheme fails,
2 without a reasonable excuse, to comply with a requirement made
3 by the CSLR operator under subsection (1), the CSLR operator
4 must notify AFCA and ASIC of the person's failure to comply
5 with the notice.

6 (8) The CSLR operator must not require ASIC to give information or
7 produce documents under this section.

8 Note: For information sharing between ASIC and the CSLR operator, see
9 subparagraph 127(4)(aa)(i) of the *Australian Securities and*
10 *Investments Commission Act 2001*.

11 Subdivision B—CSLR operator reporting obligations

12 1069C Reporting by CSLR operator

13 *Reporting compensation payments*

14 (1) If the CSLR operator pays an amount of compensation:

15 (a) to a person under section 1062; and

16 (b) in relation to a relevant AFCA determination that is binding
17 on another person (the *AFCA member*) who is, or was, a
18 member of the AFCA scheme;

19 the CSLR operator must, as soon as reasonably practicable, notify
20 ASIC, in writing, of details about the AFCA member and the
21 AFCA member's failure to pay the amount required by the relevant
22 AFCA determination.

23 (2) If the CSLR operator:

24 (a) pays an amount of compensation to a person under section
25 1062 in relation to a relevant AFCA determination that is
26 binding on another person (the *AFCA member*) who is, or
27 was, a member of the AFCA scheme; and

28 (b) becomes aware that the AFCA member is a Chapter 5 body
29 corporate while the determination is in force;

30 the CSLR operator must, as soon as reasonably practicable, notify
31 an officer of the Chapter 5 body corporate, in writing, of the
32 amount of compensation paid.

33 *Reporting revised claims and costs estimates that exceed cap*

34 (3) If a revised claims and costs estimate for a levy period and a
35 sub-sector comes into force that could cause the sub-sector levy

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1 cap for the levy period and sub-sector to be exceeded, the CSLR
2 operator must notify the Minister of this as soon as practicable.

- 3 (4) A notice to the Minister under subsection (3) must include the
4 information (if any) prescribed by regulations made for the
5 purposes of this subsection.

6 **Subdivision C—Powers of the Minister**

7 **1069D Ministerial determination**

8 *Ministerial determination*

- 9 (1) If the Minister is notified under subsection 1069C(3) that a revised
10 claims and cost estimate for a levy period and a sub-sector could
11 cause the sub-sector levy cap for the levy period and sub-sector to
12 be exceeded, the Minister may, by legislative instrument, make a
13 determination dealing with one or more of the matters mentioned
14 in subsections (2) to (5).

15 *Cap on amount of compensation*

- 16 (2) A determination made under subsection (1) may specify an amount
17 for the purposes of paragraph 1065(1)(b) for a specified class of
18 persons.

19 *Manner of payment*

- 20 (3) A determination made under subsection (1) may provide that an
21 amount of compensation payable by the CSLR operator to a person
22 in a specified class of persons must be paid in specified instalments
23 over a specified period of time.

24 *Further levy for just the sub-sector that the revised estimate of 25 claims and costs relates to*

- 26 (4) For the purposes of paragraph 8(3)(b) of the *Financial Services
27 Compensation Scheme of Last Resort Levy Act 2021*, a
28 determination made under subsection (1) of this section may:
29 (a) specify that further levy needs to be imposed by
30 subsection 8(3) of that Act for the levy period and the
31 sub-sector; and
32 (b) specify the total amount of further levy that needs to be
33 imposed by that subsection on all persons for the levy period

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1 and the sub-sector, which must not exceed the difference
2 between:

- 3 (i) the revised claims and costs estimate (referred to in
4 subsection (1) of this section) for the levy period and
5 sub-sector; and
- 6 (ii) the total amount of levy paid that was earlier imposed
7 by subsection 8(1) of that Act on all persons for the levy
8 period and the sub-sector.

9 *Further levy for several sub-sectors, not just the sub-sector that the*
10 *revised estimate of claims and costs relates to*

11 (5) For the purposes of paragraph 9(c) of the *Financial Services*
12 *Compensation Scheme of Last Resort Levy Act 2021*, a
13 determination made under subsection (1) of this section may:

- 14 (a) specify that further levy needs to be imposed by section 9 of
15 that Act for the levy period on one or more of the following:
 - 16 (i) all members of one or more specified sub-sectors
17 (within the meaning of that Act);
 - 18 (ii) all members of one or more specified sub-sectors
19 (within the meaning of the *ASIC Supervisory Cost*
20 *Recovery Levy Act 2017*) that are each of a kind
21 prescribed by the regulations for the purposes of this
22 subparagraph;

23 if the Minister is satisfied that the criteria prescribed by the
24 regulations for the purposes of this paragraph are satisfied for
25 each of those specified sub-sectors; and

- 26 (b) specify the total amount of further levy that needs to be
27 imposed by section 9 of the *Financial Services*
28 *Compensation Scheme of Last Resort Levy Act 2021*, which
29 must not exceed the difference between:
 - 30 (i) the revised claims and costs estimate (referred to in
31 subsection (1) of this section) for the levy period and
32 sub-sector referred to in that subsection; and
 - 33 (ii) the total amount of levy paid that was earlier imposed
34 by subsection 8(1) of the *Financial Services*
35 *Compensation Scheme of Last Resort Levy Act 2021* on
36 all persons for that levy period and sub-sector.

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1 Division 5—Regulating the CSLR operator

2 1069E Obligation to comply with mandatory requirements

3 The CSLR operator must ensure that the mandatory requirements
4 for the operator under section 1061 are complied with.

5 1069F ASIC may issue regulatory requirements

6 ASIC may, by legislative instrument, issue to the CSLR operator
7 regulatory requirements relating to compliance with the mandatory
8 requirements for the operator under section 1061.

9 1069G General directions to CSLR operator

10 *Notice of intention to issue a direction*

11 (1) If ASIC considers that the CSLR operator has not done all things
12 reasonably practicable to ensure compliance with:

- 13 (a) the mandatory requirements for the operator under section
14 1061; or
15 (b) a condition of the authorisation of the operator imposed by
16 the Minister (see paragraph 1060(4)(b)); or
17 (c) regulatory requirements issued under section 1069F;

18 ASIC may give the CSLR operator written notice that it intends to
19 give the CSLR operator a specified direction under this section.

20 (2) The notice must set out:

- 21 (a) the specific measures that the direction will require the CSLR
22 operator to take to comply with the requirements or
23 condition; and
24 (b) the reasons for ASIC's intention to give the direction.

25 *Issuing a direction*

26 (3) If, after receiving the notice:

- 27 (a) the CSLR operator does not take those specific measures;
28 and
29 (b) ASIC still considers that it is appropriate to give the direction
30 to the CSLR operator;

31 ASIC may give the operator the direction, in writing, with a
32 statement setting out the reasons for giving the direction.

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1 (4) The direction must deal with the time by which, or the period
2 during which, it is to be complied with. The time or period must be
3 reasonable.

4 (5) A direction made under this section is not a legislative instrument.

5 *Compliance*

6 (6) The CSLR operator must comply with a direction made under this
7 section.

8 Note: Failure to comply with this subsection is an offence (see
9 subsection 1311(1)).

10 (7) If the CSLR operator fails to comply with the direction, ASIC may
11 apply to the Court for, and the Court may make, an order that the
12 operator comply with the direction.

13 *Varying or revoking a direction*

14 (8) ASIC may vary a direction made under this section by giving
15 written notice to the CSLR operator.

16 (9) The direction has effect until ASIC revokes it by giving written
17 notice to the CSLR operator.

18 (10) ASIC may revoke the direction, by giving written notice to the
19 CSLR operator, if, at the time of revocation, ASIC considers that
20 the direction is no longer necessary or appropriate.

21 **Division 6—Financial matters**

22 **1069H Payment to the CSLR operator of amounts equal to levy**

23 (1) The Commonwealth must pay to the CSLR operator an amount
24 equal to each amount received by ASIC, on behalf of the
25 Commonwealth, by way of:

26 (a) levy (within the meaning of the *Financial Services*
27 *Compensation Scheme of Last Resort Levy (Collection) Act*
28 *2021*); or

29 (b) late payment penalty (within the meaning of that Act); or

30 (c) shortfall penalty (within the meaning of that Act).

31 (2) The Consolidated Revenue Fund is appropriated for the purposes
32 of subsection (1).

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1 **1069J Application of money by CSLR operator**

- 2 (1) The money of the CSLR operator is to be applied only:
- 3 (a) to pay compensation under section 1062; and
- 4 (b) to pay AFCA's unpaid fees under section 1069; and
- 5 (c) to pay AFCA's accumulated unpaid fees under section
- 6 1069A; and
- 7 (d) to fund the CSLR operator's operations; and
- 8 (e) to reimburse to ASIC the administrative costs that ASIC has
- 9 notified to the CSLR operator under paragraph 9(1)(c) of the
- 10 *Financial Services Compensation Scheme of Last Resort*
- 11 *Levy (Collection) Act 2021*.
- 12 (2) Subsection (1) does not prevent investment of money that is not
- 13 immediately required for the purposes mentioned in that
- 14 subsection.

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1 **Part 2—Other amendments**

2 *Administrative Decisions (Judicial Review) Act 1977*

3 **5 After paragraph (hba) of Schedule 1**

4 Insert:

5 (hbb) decisions of the CSLR operator under Part 7.10B of the
6 *Corporations Act 2001* or regulations made for the purposes
7 of that Part;

8 *Australian Securities and Investments Commission Act 2001*

9 **6 After paragraph 12A(1)(b)**

10 Insert:

11 (ba) the *Financial Services Compensation Scheme of Last Resort*
12 *Levy (Collection) Act 2021*;

13 **7 After subparagraph 127(4)(aa)(i)**

14 Insert:

15 (ia) the CSLR operator (within the meaning of Chapter 7 of
16 the *Corporations Act 2001*);

17 *Corporations Act 2001*

18 **8 After subsection 601AB(1B)**

19 Insert:

20 (1C) ASIC may also decide to deregister a company if:

- 21 (a) the company is liable to pay levy (within the meaning of the
22 *Financial Services Compensation Scheme of Last Resort*
23 *Levy (Collection) Act 2021*); and
24 (b) the company has not paid in full at least 12 months after the
25 due date for payment:
26 (i) the amount of the levy; and
27 (ii) the amount of any late payment penalty payable in
28 relation to the levy; and
29 (iii) the amount of any shortfall penalty payable in relation
30 to the levy.

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9 After subsection 601AH(1A)

Insert:

- (1B) ASIC may reinstate the registration of a company deregistered under subsection 601AB(1C) if:
- (a) ASIC receives an application in relation to the reinstatement of the company's registration; and
 - (b) the levy (within the meaning of the *Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2021*) imposed on the company is paid in full; and
 - (c) the amount of any late payment penalty payable in relation to the levy is paid in full; and
 - (d) the amount of any shortfall penalty payable in relation to the levy is paid in full.

10 After paragraph 915B(1)(f)

Insert:

- ; or (g) is required to pay an amount to a person in accordance with a relevant AFCA determination and the CSLR operator has paid, under section 1062, an amount of compensation to the person in relation to the relevant AFCA determination; or
- (h) is liable to pay levy (within the meaning of the *Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2021*) and has not paid in full at least 12 months after the due date for payment:
 - (i) the amount of levy; and
 - (ii) the amount of any late payment penalty in relation to the levy; and
 - (iii) the amount of any shortfall penalty payable in relation to the levy.

11 After paragraph 915B(2)(e)

Insert:

- ; or (f) in the case of a partnership that is liable to pay levy (within the meaning of the *Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2021*)—the following have not been paid in full at least 12 months after the due date for payment:
 - (i) the amount of levy;
 - (ii) the amount of any late payment penalty in relation to the levy;

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(iii) the amount of any shortfall penalty payable in relation to the levy.

12 After paragraph 915B(3)(e)

Insert:

; or (f) the body is liable to pay levy (within the meaning of the *Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2021*) and has not paid in full at least 12 months after the due date for payment:

- (i) the amount of levy; and
- (ii) the amount of any late payment penalty in relation to the levy; and
- (iii) the amount of any shortfall penalty payable in relation to the levy.

13 After paragraph 915B(4)(e)

Insert:

; or (f) in the case of a licensee that is a single legal entity under section 761FA and also liable to pay levy (within the meaning of the *Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2021*)—the following have not been paid in full at least 12 months after the due date for payment:

- (i) the amount of levy;
- (ii) the amount of any late payment penalty in relation to the levy;
- (iii) the amount of any shortfall penalty payable in relation to the levy.

14 In the appropriate position in Schedule 3

Insert:

- Subsection 1069G(6)
- (a) for an individual—100 penalty units for each day, or part of a day, in respect of which the offence is committed; and
 - (b) for a body corporate—1,000 penalty units for each day, or part of a day, in respect of which the offence is committed

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1 *National Consumer Credit Protection Act 2009*

2 **15 At the end of subsection 54(1)**

3 Add:

4 ; or (e) the CSLR operator (within the meaning of Chapter 7 of the
5 *Corporations Act 2001*) has paid, under section 1062 of that
6 Act, an amount of compensation to a person in relation to a
7 relevant AFCA determination (within the meaning of that
8 Chapter) that was binding on the licensee; or

9 (f) in the case of a licensee that is liable to pay levy (within the
10 meaning of the *Financial Services Compensation Scheme of*
11 *Last Resort Levy (Collection) Act 2021*)—the following have
12 not been paid in full at least 12 months after the due date for
13 payment:

14 (i) the amount of levy;

15 (ii) the amount of any late payment penalty in relation to the
16 levy;

17 (iii) the amount of any shortfall penalty payable in relation
18 to the levy.