

From the Desk of Director Andy Semple



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The Treasury
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(Submitted via consult.treasury.gov.au)

Subject: Submission to Treasury Consultation Paper: Enhancing the Effectiveness of Financial Service Professional Indemnity Insurance (December 2025)

The Association of Securities and Derivatives Advisers of Australia (ASDAA) appreciates the opportunity to provide these comments to Treasury in respect of the Enhancing the Effectiveness of Financial Service Professional Indemnity Insurance Consultation Paper.

ASDAA is an association which represents its members from the Securities and Derivatives advisory profession. Its members are comprised of individuals who are either directors or employees of firms which hold Australian Financial Services Licences (AFSLs).

ASDAA has a strong desire to raise professional standards and improve investor protection. ASDAA members rely on the ongoing trust of their clients and on the integrity of the Australian financial markets for their livelihood. Without both, clients wouldn't participate in the markets and trade in shares, exchange traded options and other listed financial products.

Professional advisers from the Securities and Derivatives industry have been absent from the CSLR claims driving levy escalations. Why, because advisers who specialise in the dealing and advising of Securities and Derivatives are under a much more defined and stringent management and supervision structure than those who provide financial planning and wealth management advice outside this area.

By being financial product advisers, ASDAA members have been caught up in the various findings and recommendations of recent reviews, including the Ramsay Review and CSLR post-implementation review, notwithstanding that the problems that gave rise to these reviews/events, and to the significant public debate over

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the last few years, have occurred in the financial planning/wealth management areas, and not in relation to the Securities and Derivatives advisory profession.

The consultation paper appropriately highlights the broader sustainability and purpose of the CSLR as an essential safeguard for consumer redress and confidence. However, ASDAA submits that equal if not greater consideration must be given to the broader sustainability and purpose of existing financial service providers (FSPs). PII is a compulsory AFSL requirement under s912B of the Corporations Act 2001, ensuring compensation arrangements.

Reforms that increase costs or restrictions must weigh this reality, as they threaten license compliance and business viability. Without thriving, compliant FSPs supported by reasonable regulatory costs, markets lose liquidity and investor choice. Prioritising CSLR sustainability above the viability of FSPs is a flawed approach.

This dynamic creates a significant moral hazard that is untenable for an already greatly diminished advice industry. The CSLR's structure where levies rise to cover unpaid AFCA awards from legacy failures shifts costs to compliant firms with no wrongdoing. This creates moral hazard by potentially reducing diligence upstream while penalising responsible participants.

This exacerbates the decline in adviser numbers (post-Royal Commission reductions due to regulatory burdens like CSLR levies and PII costs), which in turn correlates with rising AFCA complaints (advice sector up 18% in 2024-25, SMSF-related up 95%, best interests failures up 124%) and scam vulnerabilities, as fewer qualified advisers leave consumers more exposed to dodgy schemes.

Even if the CSLR were allocated an annual budget of \$500,000,000 (half a billion dollars), it is ASDAA's view that AFCA and the CSLR would still claim that amount is insufficient. At some point the CSLR must not only adhere to its existing per-claim maximum cap (\$150,000), but must also be required to live within a firm, fixed annual budget cap that cannot increase indefinitely.

The current model of open-ended annual levy increases to meet projected shortfalls is unsustainable and creates the perception of unlimited funding demands. The CSLR cannot be allowed to operate as an ever-expanding mechanism without hard fiscal discipline otherwise it will continue to impose disproportionate burdens on compliant FSPs across all sub-sectors.

An example from an ASDAA member firm illustrates the escalating burden: PII cost in January 2007 was \$9,570.94 (\$2m any one claim / \$4m aggregate limits). In 2026, renewal terms were \$48,762.01 (\$2.5m any one claim / \$5m aggregate with one reinstatement)—a 5.09x nominal increase (CAGR 8.95%), or 3.12x real terms (above 63.4% cumulative CPI inflation, real CAGR 6.17%). This escalation, despite a claim-free history and recent market softening, underscores the growing compulsory cost pressure on compliant specialist firms. Further reforms could exacerbate it significantly.

ASIC industry funding levies impose an additional layer of escalating costs on FSPs. For one ASDAA member firm, these levies rose from \$11,616 (leviable year 2021-22) to \$22,265 (2024-25)—a 91.68% overall increase over four years, including a sharp 68.29% jump in 2022-23 driven by graduated adviser and

transaction-based components. With consistent minimums (\$1,500 for advisers, \$1,000 for securities dealers) and rising graduated rates (e.g., securities dealers rate from \$0.15 to \$0.38 per \$10,000 of transactions), this trend compounds the PII burden and highlights the cumulative regulatory pressure on compliant licensees, particularly specialists in securities and derivatives who contribute minimally to the issues driving these costs.

It is ASDAA's opinion that if ASIC, APRA, and Treasury want a sustainable operation of the CSLR, then the glaring hole is poor consumer education. The Australian education curriculum addresses issues like budgeting and cash flow, compound interest, macroeconomics, the stock market, currencies and trade, and inflation at a basic level, but implementation is inconsistent and depth insufficient.

This lack of financial education has caused a massive vulnerability gap, leading more people into dodgy investments like the First Guardian MIS, where basic understanding of liquidity risks could have prevented losses. ASDAA is not suggesting everyone needs the education level of a financial planner or stockbroker, but current financial education is terrible and must be strengthened to reduce CSLR reliance.

ASDAA further submits that retail clients and investors should not rely on unsolicited advertisements on social media platforms like Facebook or Instagram, or respond to cold calls from spruikers promoting investments. Individuals who make investment decisions based solely on such promotions—without seeking licensed professional advice—should bear greater personal responsibility for the outcomes.

Allowing such investors to access AFCA complaints and CSLR compensation lightly creates an unfair burden on honest, professional FSPs, who are not involved in these decisions but ultimately subsidise the system through escalating levies. While AFCA and CSLR require evidence of misconduct by a licensed firm, the rise in scam-related complaints (averaging 498 per month in 2024-25, often linked to social media) highlights how poor investor judgment amplifies vulnerabilities, shifting costs to compliant providers without accountability.

FSPs are increasingly frustrated with bearing the consequences of investor errors in non-advised scenarios, such as those driven by "too good to be true" online deals or high-pressure cold calls, which ASIC has flagged as red flags. Reforms must address this imbalance to reduce moral hazard and promote investor education, ensuring CSLR remains a true last resort rather than a safety net for reckless choices. Without emphasizing personal responsibility, the scheme risks perpetuating a cycle where FSPs fund outcomes unrelated to their services.

If an investor sees a celebrity-endorsed ad on social media flogging an "unreal" investment opportunity, they should immediately recognise that the real "product" being sold is often themselves - their data, trust, or funds targeted by scammers. These endorsements are frequently deepfakes or unauthorised, contributing to \$260 million in online scam losses in the first nine months of 2025 (up 16% year-on-year). The sharp decline in adviser numbers—from 28,914 in 2019 to around 15,300 in 2025 (a 47% fall, CAGR -10.2%) is driven by rising costs and regulatory red tape which makes the problem worse. With fewer professional advisers means more unadvised consumers exposed to unregulated channels and

high-risk schemes. ASDAA urges Treasury to link PII reforms to measures that reverse this trend and restore access to qualified advice.

The paper identifies five key areas for PII enhancement. ASDAA's responses address these themes and the Appendix questions (1-16).

1. Requirements for PII (Questions 1–3)

Current legislative requirements under s912B of the Corporations Act 2001 provide appropriate flexibility for specialist, low-risk firms like ASDAA members, who operate in securities and derivatives dealing with stringent supervision and minimal claims history. For instance, a recent member renewal with Dual Australia reflects this: a \$2.5m limit with one reinstatement, \$25,000 excess, and a 5% premium reduction to \$48,762.01, alongside enhanced sub-limits to \$1m for compensatory penalties, loss mitigation, and statutory liability. Making requirements more prescriptive, such as mandatory higher limits or prohibited exclusions, risks unintended consequences like reduced insurer capacity or premium increases, particularly for compliant sectors absent from CSLR pressures driven by financial planning and MIS failures.

ASDAA opposes broad legislative minima, as they could force a one-size-fits-all approach that disadvantages low-risk sub-sectors. The current ASIC guidance in RG 126 allows self-assessment tailored to business nature, which has worked well for our members - evidenced by the claim-free history supporting discounted renewals despite a 409% nominal PII cost rise from 2007 to 2026 for one member. Sub-sector specific considerations are essential: securities and derivatives advisers face transaction-based risks under ASX rules and margin requirements, warranting scaled minima to avoid cross-subsidising high-risk advice areas like those linked to Dixon Advisory or First Guardian collapses.

To support the sustainability of small FSPs and facilitate new entrants into the market - particularly those with low revenue levels - consideration should be given to reducing the minimum limit of cover requirements where appropriate. The current \$2 million minimum (as per ASIC guidance) can represent a disproportionate burden for smaller or emerging specialist firms in low-risk sub-sectors like securities and derivatives dealing. Lowering this threshold for qualifying low-revenue or low-claim licensees would ease entry barriers, reduce compulsory cost pressures, and help maintain market diversity and access to advice services, without compromising consumer protection in higher-risk areas.

Furthermore, any changes must prioritize FSP sustainability over CSLR alone. Compulsory PII is already burdensome and further restrictions could exacerbate vulnerabilities, especially if Lloyd's underwriters (20-25% market share) withdraw due to unappealing rules, as seen in 2019 pullbacks leading to 42% premium spikes. ASDAA recommends retaining flexibility with targeted guidance updates, ensuring reforms do not balloon costs for sectors like ours that contribute minimally to CSLR claims.

2. Regulatory Oversight (Questions 4–6)

ASIC's current oversight, focused on data collection during licensing and annual self-certification of adequacy, is proportionate for low-claim sectors like securities and derivatives. Enhanced powers, such as routine policy verifications or levy-

funded reviews, could impose unnecessary administrative burdens on compliant licensees without addressing root causes of CSLR unsustainability, like AFCA's hindsight bias in determinations (e.g., retroactively deeming recommendations unsuitable post-market downturn). For ASDAA members, this flexibility has enabled cost-effective PII, as seen in recent claim-free renewals supporting discounts.

We support targeted ASIC focus on high-risk sub-sectors contributing to CSLR levy blowouts (e.g., advice sub-sector projections at \$126.9m for FY2026-27, ~\$8,300–\$9,300 per adviser), rather than blanket increases that penalise specialists. Expanding data collection (e.g., detailed operations) must be balanced against costs, as compulsory PII is already a viability strain. One member's costs rose 3.12x real terms over 19 years. Without this, reforms risk a "doom loop" where FSP exits reduce market integrity, contradicting CSLR goals.

ASDAA wishes to highlight that ASIC's collection of annual data relating to PII from AFSL holders only commenced in 2025, following the introduction of a new form for the submission of Annual financial returns and audit reports. We do not believe that ASIC is in a position to meaningfully assess or comment on the effectiveness of this data, or to propose enhancements to its collection or analysis, as it has yet to receive a full year's worth of data from all AFSL holders.

At this early stage, any discussion of effectiveness or possible improvements remains premature, given the infancy of the data collection process. Premature proposals for enhanced oversight based on incomplete or untested data risk imposing unnecessary burdens on compliant licensees without evidence of benefit, further straining FSP sustainability in an already pressured environment.

ASDAA emphasizes that oversight should incorporate consumer education gaps, a glaring hole in CSLR sustainability. Poor curriculum coverage of basics like liquidity risks (evident in First Guardian failures) drives claims. ASIC could advocate for stronger financial literacy to prevent vulnerabilities, reducing oversight needs. If Lloyd's exits due to regulatory overreach, oversight alone won't mitigate supply shortages and Treasury must model such scenarios to protect FSP access to PII.

3. PII Market (Questions 7–9)

The PII market has softened with new entrants like Everest and Markel, offering 5-10% reductions for low-risk profiles, benefiting ASDAA members in securities and derivatives. However, uneven access and affordability persist due to legacy issues in unrelated sectors, not ours—e.g., high-risk advice driving CSLR levies. A recent member experience highlights this. Despite softening, PII costs ballooned from \$9,570.94 in 2007 to \$48,762.01 in 2026, a 409% nominal rise far exceeding inflation, underscoring compulsory PII's burden on compliant firms.

We note the comparison in the consultation paper to other professions such as lawyers and accountants, and the effectiveness of their industry bodies in creating standards that result in reduced PII costs. However, the key difference between these professions and the financial services sector is that accountants and lawyers benefit from reduced liability, as their clients remain primarily responsible for the information they provide and the consequences of any decisions made based on that information.

By way of example, when using the services of an accountant, the client typically declares that the information provided is true and correct, and that the financials and tax return created and submitted to the ATO are true and correct. This declaration holds even if the client does not fully understand the information, as they rely on the accountant's expertise to ensure compliance with accounting standards. If something is wrong, the ATO seeks recourse directly from the client, not the accountant who prepared the accounts. Furthermore, the client must pursue resolution through the courts, without access to a free dispute resolution scheme backed by a CSLR equivalent if the accountant becomes insolvent.

Unlike the financial services sector, which is held liable and accountable for any information provided to a client - regardless of whether the initial information supplied by the client was correct - the liability and accountability imposed on financial services providers, combined with the lack of corresponding responsibility on clients, is the glaring difference. This structural disparity explains why similar results and efficiencies from industry standards are unlikely to be achieved in the financial services sector. Reforms must acknowledge this fundamental imbalance to avoid further disadvantaging compliant FSPs in a market already pressured by compulsory PII and CSLR levies.

Reforms must avoid distorting supply, particularly if prescriptive rules deter Lloyd's underwriters (20-25% share), as partial withdrawals in 2019 spiked premiums 42%. ASDAA questions whether ASIC/APRA/Treasury have modeled a Lloyd's decline or exit, which could reduce capacity and balloon costs further - potentially unviable for specialists like us. Group policies via associations could stabilize access, but only if voluntary and targeted to sub-sectors. Broad mandates risk market withdrawal, harming liquidity in equities/derivatives.

Moreover, market issues tie to CSLR unsustainability, amplified by poor consumer education. Gaps in curriculum topics like inflation, compound interest, and stock markets create vulnerabilities to dodgy MIS like First Guardian, where basic liquidity understanding could have avoided losses. ASDAA urges Treasury to prioritize education reforms alongside PII enhancements, as over-regulating the market without addressing demand-side gaps will exacerbate FSP pressures without achieving useful outcomes.

4. PII Policies (Questions 10–13)

PII policy features, such as excesses, exclusions, and retroactivity, are market-negotiated and adequate for ASDAA members' low-risk activities. A recent member renewal exemplifies this: enhanced sub-limits to \$1m for penalties and mitigation, with no punitive changes, reflecting claim-free status. Broad bans on exclusions (e.g., insolvency) or mandatory run-off could unnecessarily raise premiums for our sector, which faces defined transaction risks rather than the legacy misconduct in financial planning driving CSLR claims like Dixon (551 payouts, \$36.7m).

We caution against one-size-fits-all policy adjustments, as they ignore sub-sector differences. Securities advisers like our members have minimal exposure to AFCA's debatable hindsight determinations (e.g., retroactive unsuitability in market failures). Targeted updates for high-claim areas are preferable, preserving affordability. One member's 3.12x real cost rise since 2007 already strains viability amid CSLR levies (\$126.9m projected for advice in FY2026-27).

In order to ensure sustainability of small FSPs, consideration should be given to reduce the minimum limit of cover requirements in order to reduce the burden for small FSPs and new entrants into the market with low revenue levels. The current \$2 million minimum (as guided by ASIC RG 126) can be disproportionate for emerging or low-revenue specialist firms in low-risk sub-sectors like securities and derivatives dealing. Lowering this threshold for qualifying licensees would alleviate compulsory cost pressures, support market entry and diversity, and align with the need to balance consumer protection with FSP viability without undermining safeguards in higher-risk areas.

ASDAA highlights that policy effectiveness links to consumer education deficiencies. Investors lacking basics on asset classes or liquidity (as in First Guardian) fuel claims, shifting burdens to PII. Reforms should complement stronger curriculum integration of financial literacy, reducing policy gaps without over-regulating compliant FSPs. If Lloyd's withdraws due to unappealing terms, policy availability could collapse, underscoring the need for balanced, evidence-based changes.

5. PII and External Administration (Questions 14–16)

Insolvency exclusions and recovery barriers in external administration shift costs to CSLR, exacerbating levy pressures on innocent firms. ASDAA members, with low insolvency risk due to stringent oversight, support targeted solutions like national third-party recovery laws or narrow exclusion limits, but oppose broad bans that could deter insurers like Lloyd's and inflate premiums. For example, recent member renewal terms rely on market-driven features while mandatory changes risk uninsurability for specialists.

The CSLR is trapped in a destructive “doom loop”: advice levies have exploded from \$4.8 million in 2023-24 to a projected \$126.9 million in FY2026-27 because AFCA’s often subjective, hindsight-driven determinations (e.g., reframing market losses as misconduct in Dixon) produce large unpaid awards that the scheme then covers through escalating industry levies. This forces compliant, low-risk FSPs to subsidise legacy failures they had no part in, undermining their sustainability and creating an unacceptable cross-subsidy. Treasury must confront these root causes, particularly AFCA’s decision-making practices, to stop the cycle of punishing responsible firms.

Finally, poor consumer education is a glaring CSLR hole: Curriculum gaps in macroeconomics, inflation, and markets leave investors vulnerable to MIS like First Guardian, where liquidity warnings were ignored. Enhancing education could prevent claims, reducing administration burdens. Without this, reforms risk centralising CSLR over FSP thriving, leading to market exits and reduced integrity.

Recommendations for PII Improvements and Warnings

ASDAA has a duty to warn Treasury of both good ideas that could improve PII effectiveness - potentially at the cost of moderate premium increases - and bad ideas that, despite best intentions, would likely result in significantly higher premiums or market disruption. The following recommendations are informed by the paper's analysis and ASDAA members' experiences, emphasizing reforms that balance consumer protection with FSP viability, particularly for low-risk sub-sectors like securities and derivatives.

Recommended Improvements (Worth Moderate Premium Increases):

1. **Ban Insolvency Exclusions for High-Risk Sub-Sectors:** Align with UK FSCS standards by prohibiting broad insolvency exclusions in PII policies for high-risk advice areas (e.g., personal financial planning/MIS-linked). This would ensure coverage during administration/winding-up, reducing CSLR reliance, but could raise premiums 10-15% for affected firms - acceptable if targeted, as UK changes showed no major cost spikes. For low-risk specialists like ASDAA members, maintain flexibility to avoid unnecessary burdens.
2. **Mandate Run-Off Cover for At-Risk Licensees:** Require automatic run-off cover (e.g., 12 months post-cancellation) for licensees with retail exposure >\$2m revenue or history of AFCA complaints. This closes gaps in retroactivity but may increase premiums 5-10% which is a worthwhile trade-off for preventing "gap" claims shifting to CSLR, as per Ramsay Review insights. Exempt low-claim sub-sectors to protect small FSPs.
3. **Enhance ASIC Oversight with Levy-Funded Reviews:** Expand ASIC's role to include targeted annual audits of PII adequacy for high-claim sub-sectors, funded by increased levies on those sectors (e.g., advice at \$126.9m FY2027). This could improve consistency but add 5-8% to premiums via admin costs is justified if it reduces overall CSLR levies by ensuring better claim responses, without broad application to compliant specialists.

Potentially Harmful Ideas (Leading to Significant Premium Hikes):

1. **Universal High Minimum Limits:** Implementing blanket higher limits (e.g., \$5m for all licensees) might seem protective but would drive premiums up 30-50% or more for small/low-revenue FSPs, risking market withdrawal (e.g., Lloyd's 2019 pullbacks spiked rates 42%). This overreach ignores sub-sector differences and could deter new entrants, worsening adviser shortages.
2. **Complete Ban on All Exclusions:** Banning all common exclusions (e.g., cyber, unlicensed conduct) sounds consumer-friendly but would make risks unpriceable, leading to 40%+ premium surges or insurer exits, as UK FCA rejected similar ideas for unaffordability. It fails to address root causes like education gaps and shifts more costs to CSLR.
3. **Mandatory Group Policies or Industry-Wide Standards:** Forcing all licensees into group schemes or rigid standards (e.g., via bodies like FSC) intends efficiency but could reduce competition, inflating premiums 20-40% due to limited customization. For specialists like ASDAA members, this ignores low-risk profiles and amplifies cross-subsidization burdens.

These recommendations prioritize targeted, evidence-based changes to enhance PII without undermining market stability, drawing on ASDAA's low-claim experience and the paper's call for balanced reforms.

ASDAA appreciates the opportunity to provide this Submission to Treasury on these significant proposals. We would be happy to discuss any issues arising from our submissions on this issue, or to provide any further material that may assist. Should you require any further information, please contact Brad Smoling, Director of Communications, on (07) 5532 3930 or email brad@asdaa.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A. Semple', written in a cursive style.

**Andy Semple
Managing Director**