

6 October 2026

The Commissioner
Australian Government Treasury
1 Langton, Crescent,
Parkes, ACT, 2600

Online response/Email: CSLR@treasury.gov.au

Dear Sir/Madam,

Australian Custodial Services Association Submission regarding the Consultation Paper: Compensation Scheme of Last Resort (CSLR) – application of the waterfall framework for the 2026–27 special levy

The Australian Custodial Services Association (ACSA) is the peak industry body representing members of Australia's custodial and investment administration sector. Our mission is to promote efficiency and international best practice for members, our clients, and the market. Members of ACSA include J.P. Morgan, HSBC, State Street, BNP Paribas Securities Services, BNY, Citi, Clearstream, and The Northern Trust Company.

Collectively, the members of ACSA hold securities and investments in excess of AUD \$6.0 trillion in value in custody and under administration for Australian clients comprising institutional investors such as the trustees of major industry, retail and corporate superannuation fund, life insurance companies, responsible entities and trustees of wholesale and retail investment funds, and various forms of international investors into Australia.

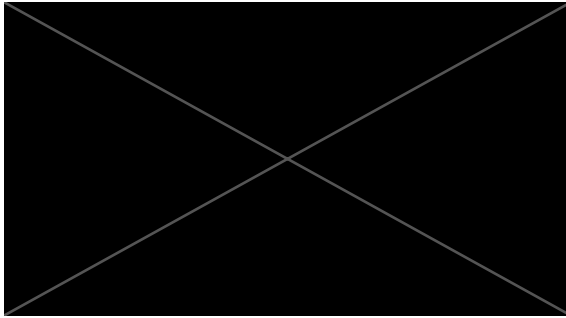
We welcome the opportunity to respond to the targeted consultation on the application of the waterfall framework for the 2026–27 CSLR special levy. Our comments focus on the proposed allocation to the Custodians sub-sector (\$1.798 million special levy) and the broader methodology for assessing connection and allocating Tier 3 levies.

We support the policy objective of ensuring the CSLR remains sustainable and can continue to pay eligible compensation. However, the proposed treatment of custodians' risks imposing costs that are poorly aligned with the drivers of the underlying losses (primarily linked to retail platform offerings and advice failures associated with Dixon Advisory, Shield and First Guardian). Institutional custody arrangements, which form a material part of the custodian's sub-sector, have no substantive connection to those losses.

Attached are responses to the questions raised in the submission.

Thank you again for the opportunity to participate in this consultation. Please contact me if you have any comments about this submission.

Yours sincerely



About ACSA

www.acsa.com.au

Custodians provide a range of institutional services, with clients typically favouring a bundled approach to custody and investment administration. Solutions may include traditional custody and safekeeping, investment administration, foreign exchange, securities lending, tax and financial reporting, investment analytics (risk, compliance, and performance reporting), investment operations middle office outsourcing and ancillary banking services.

These services represent key investment back-office functions – often representing the client’s asset book of record and essential source data in relation to the investments they hold.

The key sectors supported by ACSA members include large superannuation funds and investment managers, as well as other domestic and international institutions.

ACSA works with peer associations, regulators and other market participants on a pre-competitive basis to encourage standards, promote consistency, market reform and operating efficiency.

Note: The views expressed in this letter are prepared by ACSA for the purposes of consideration by Treasury in response to the Consultation Paper: Compensation Scheme of Last Resort (CSLR) – application of the waterfall framework for the 2026–27 special levy and should not be relied upon for any other purpose. The comments in this letter do not comprise financial, legal or taxation advice and should not be regarded as the views of any particular member of ACSA.

ACSA Response to Treasury the Consultation Paper: Compensation Scheme of Last Resort (CSLR) – application of the waterfall framework for the 2026–27 special levy

Question 1

Do you agree with the approach to identifying connection as outlined above? If not, what other factors should be considered?

We support the principle that connection under Tier 2 should align with consumer loss (creating, distributing, acquiring or continuing the harmful product or arrangement). We endorse the clarification that incidental, routine, administrative or merely facilitative involvement—including custody or administration—should not, without more, establish connection.

Additional factors that should be considered include:

- The distinction between retail-facing platform/custody services that form part of the product distribution chain and pure institutional or wholesale custody services that sit outside that chain in servicing APRA regulated Superannuation funds and Approved Managed Investment Schemes.
- Whether the entity exercised any discretion, advice, product design, marketing or distribution function that contributed to the loss, versus purely operational safekeeping, settlement or asset-servicing functions.
- Evidence of actual involvement in the specific loss events, rather than generic membership of a broad sub-sector.

Question 2

Does the proposed methodology for mapping connection appropriately identify sub-sectors connected to the underlying losses in FY2026–27?

a. Are there any sub-sectors which have been incorrectly included or excluded? Is there evidence that would support a different assessment of connection?

b. Is the methodology sufficiently repeatable for application in future years?

a. The methodology correctly places Responsible Entities of MISs in Tier 2 on the basis of publicly available evidence of connection to the Dixon Advisory / Shield / First Guardian losses.

However, the subsequent allocation of residual costs across all remaining retail-facing sub-sectors under Tier 3 (including custodians) treats every member of those sub-sectors as equally appropriate residual contributors which is not the case. This is not sufficiently granular.

Custodians as a class include both:

- entities whose services form part of retail platform offerings that may have a closer (though still typically facilitative) link to the products or advice that caused losses; and

- pure institutional custody providers whose clients include APRA regulated Superannuation Funds and Approved Managed Investment Schemes which are wholesale/institutional and who have no direct involvement in retail product design, distribution or advice.

There is no evidence that institutional custody arrangements contributed to the relevant losses. Treating the entire custodian's sub-sector as a residual Tier 3 payer therefore incorrectly includes entities with no material connection.

Evidence supporting a different assessment includes the nature of institutional custody mandates (segregated, non-discretionary safekeeping and settlement for professional clients) and the absence of any public findings linking institutional custodians to the specific loss events.

In addition, custodians to institutional clients, such as ACSA Members, are generally global banks with alignment to APRA regulated ADI's which have prudentially regulated policies, processes and procedures enforcing robust risk management, compliance and operational resilience.

b. The high-level connection test is capable of being applied in future years, but only if it is applied with greater precision at the sub-sector (or, where necessary, activity) level. Without clearer differentiation between retail-platform-related activity and pure institutional custody, the methodology risks becoming a blunt residual allocation rather than a repeatable, connection-based tool.

Question 3

Do stakeholders consider that the application of the prescribed entity metrics gives rise to material adverse outcomes within any sub-sector?

a. If yes, what evidence supports that assessment, and why would the adverse impacts justify changes that may result in the redistribution of levy liabilities and other unintended consequences elsewhere in the framework?

Yes. Application of the prescribed metrics to the custodian's sub-sector produces material adverse outcomes for pure institutional custody providers.

The \$1.798 million special levy is a significant increase relative to prior-year custodians levies. Because the metric does not distinguish between retail-platform-related custody activity (or those directly engaged in the retail platform offerings and advice failures associated with Dixon Advisory, Shield and First Guardian) and institutional custody activity, institutional providers are required to cross-subsidise losses to which they have no connection.

As noted above, custodians to institutional clients, such as ACSA Members, are generally global banks with alignment to APRA regulated ADI's which have prudentially regulated policies, processes and procedures enforcing robust risk management, compliance and operational resilience.

Cross subsidising losses is inequitable and risks:

- distorting competitive dynamics between institutional custodians and other service providers;

- creating incentives for institutional clients to structure arrangements in ways that avoid Australian-regulated custody (potentially increasing operational or systemic risk); and
- imposing costs that cannot readily be passed through in competitive institutional markets without affecting the viability or attractiveness of Australian custody services.

These outcomes justify a more refined allocation within the custodian's sub-sector (or an exclusion/adjustment for institutional custody activity) even if that results in some redistribution of residual Tier 3 liabilities. The alternative—continuing to levy entities with no substantive connection—undermines the integrity of the waterfall framework itself.

Question 4

Is the viability or sustainability of any sub-sector(s) threatened by the proposed levy allocations in Table 2?

a. If yes, do you have any relevant data to support your viability assessment?

For pure institutional custody providers, the proposed allocation raises sustainability concerns, particularly for mid-sized and specialist providers operating on thin margins in a competitive global market. While the absolute dollar amount may appear modest relative to the largest players, the combination of:

- a sharp increase in the special levy,
- the inability to distinguish institutional from retail-platform activity, and
- limited ability to pass costs through to wholesale clients

creates a material and recurring cost that is unrelated to risk or misconduct within the institutional segment.

We do not currently hold publicly disclosable firm-level data that would allow a precise quantification of viability impact across the entire sub-sector. We would be pleased to engage further with Treasury (on a confidential basis if preferred) to provide more detailed information on the composition of the ACSA Member custodians sub-sector and the relative contribution of institutional versus retail-platform activity.

Recommendations

1. Refine the application of Tier 3 (and, where relevant, future connection assessments) so that pure institutional custody activity is either excluded from, or better aligned to the consumer losses within the sub sector.
2. Confirm that incidental or facilitative custody services do not, without more, establish connection under the Tier 2 test.
3. Develop a more granular metric or adjustment mechanism that distinguishes retail-platform-related custody from institutional custody for future levy periods.
4. Ensure that any residual allocation continues to respect the principle that costs should fall, as far as practicable, on those with a genuine connection to the losses.