

EXPLANATORY STATEMENT

Issued by authority of the Compensation Scheme of Last Resort Limited

Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2023

Financial Services Compensation Scheme of Last Resort Levy (Collection) (Initial Estimate of Unpaid Claims and Fees) Determination 2024

Section 11 of the *Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2023* (the Act) provides that the Compensation Scheme of Last Resort (CSLR) operator, the Compensation Scheme of Last Resort Limited (CSLRL), may determine an initial estimate of unpaid claims, and the Australian Financial Complaints Authority's (AFCA) unpaid fees, related to complaints provided to AFCA before the accumulation recovery day.

The purpose of the *Financial Services Compensation Scheme of Last Resort Levy (Collection) (Initial Estimate of Unpaid Claims and Fees) Determination 2024* is to determine that initial estimate. This will allow the Australian Securities and Investments Commission (ASIC) to impose a levy of the specified amount under section 10 of the *Financial Services Compensation Scheme of Last Resort Levy Act 2023* in accordance with the calculations detailed in regulation 18 of the *Financial Services Compensation Scheme of Last Resort Levy Regulations 2023*.

The Act requires that the CSLR operator reasonably believes the estimate to be accurate having had regard to actuarial principles. To this end, CSLRL engaged actuarial expertise to inform the estimate for the first levy period. CSLRL did not engage in public consultation on this instrument as it reasonably believes the inputs to the specified amount to be accurate.

The Act does not specify any conditions that needs to be satisfied before the power to make the Regulations may be exercised.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Determination commenced on the day after Registration on the Federal Register of Legislation.

Details of the Regulations are set out in [Attachment A](#).

A statement of Compatibility with Human Rights is at [Attachment B](#).

Details of the *Financial Services Compensation Scheme of Last Resort Levy (Collection) (Initial Estimate of Unpaid Claims and Fees) Determination 2024.*

Section 1 – Name

This section provides that the name of the instrument is the *Financial Services Compensation Scheme of Last Resort Levy (Collection) (Initial Estimate of Unpaid Claims and Fees) Determination 2024.*

Section 2 – Commencement

The Determination commences on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The Determination is made under the *Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2023* (the Act).

Section 4 – Definitions

In the Determination references to ***the Act*** are references to the *Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2023*.

Section 5 – Initial estimate of unpaid claims and unpaid fees

The initial estimate for the first level period is determined to be \$240, 857, 800.07 as the sum of:

- The specified amount equal to what CSLRL believes (having regard to actuarial principles) will be the total amount of compensation that will be payable under section 1063 of the *Corporations Act 2001* and relates to pre-CSLR complaints.
- The specified amount that CSLRL reasonably believes (having regard to actuarial principles) will be the portion of the total amount of AFCA's unpaid fees for all months that relates to pre-CSLR complaints; and
- The specified amount equal to AFCA's accumulated unpaid fees.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Financial Services Compensation Scheme of Last Resort Levy (Collection) (Initial Estimate of Unpaid Claims and Fees) Determination 2024

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Determination specifies, for the first levy period, the estimate of the sum of the amounts specified in section 11 of the Act.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.