Australian
Finance
Industry
Association

16 December 2022

Mr Chris D'Souza
Branch Manager
Department of Social Services
Via email: FCR@dss.gov.au

To Chris D'Souza,

**DSS Financial Counselling Industry Funding Model – Discussion Paper**

The Australian Finance Industry Association (AFIA)[1] appreciates the opportunity to respond to the Department of Social Services ('DSS') Financial Counselling Industry Funding Model Discussion Paper ('Discussion Paper').[2]

AFIA is the only peak body representing the entire finance industry in Australia.

We represent over 150 providers of consumer, commercial and wholesale finance in Australia, including bank and non-bank lenders, finance companies, fintechs, providers of vehicle and equipment finance, car rental and fleet providers, and service providers in the finance industry. We are the voice for advancing a world-class finance industry and our members are at the forefront of innovation in consumer and business finance in Australia. Our members finance Australia's future.

We collaborate with our members, governments, regulators and customer representatives to promote competition and innovation, deliver better customer outcomes and create a resilient, inclusive and sustainable future. We provide new policy, data and insights to support our advocacy in building a more prosperous Australia.

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[1] www.afia.asn.au.

[2] The Department of Social Services (November 2022), Financial Counselling Industry Funding Model Discussion Paper

**INTRODUCTORY COMMENTS**

AFIA welcomes the opportunity to provide feedback on the Department for Social Services Discussion Paper and appreciates all the work that has gone into its development.

AFIA supports the aim of increasing the availability of free financial counselling for people who find themselves in financial difficulty. It is crucial that people who are in debt or are not able to meet their ongoing expenses have access to free support services, such as an independent financial counsellor.

We strongly support and value the work that financial counsellors undertake for our community and have been working closely with the Australian Government and financial counsellors to progress a longer-term funding solution for the financial counselling sector. In November this year, as part of a coalition of partners from the banking, finance, telecommunications, energy, and online gambling sectors, we wrote to the CEO of the Financial Counselling Foundation to advise of a voluntary contribution to the Foundation to help fund front-line financial counselling services.[3]

AFIA recognises the need for predictable and stable funding with a model supported by robust data and an underlying equitable methodology. This in will in turn help to strengthen the credibility and effectiveness of the funding model and proposed independent body.

We believe that for the funding model to be workable and equitable, it must apportion costs appropriately between all the businesses that create the demand for the service and those that increase financial stress on individuals, including the gambling sector.

The model must be designed to ensure that voluntarily contributing businesses do not disproportionately bear the burden of financing the model against non-contributing businesses, who could have practices that increase the need for the funding for financial counselling services. Additionally, the methodology of the model must be credible to avoid dis-incentivising businesses from contributing.

AFIA recommends that the model be calculated based on robust evidence and incentivise good behaviour from businesses to reduce the funding costs required. We also believe that funding should be part of a co-contribution approach with governments also maintaining funding commitments to support funding costs required.

AFIA has provided recommendations below on the voluntary nature of the model, how to ensure it is workable in the long-term and equitable, as well as comments on the sectors covered and the robustness of the methodology. Our recommendations include re-calculating the contribution of the sectors and reconsideration of the proposed sectors to be covered.

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[3] Financial Counselling Foundation website

**Attachment A** provides further detail on AFIA's position and specific recommendations on the Discussion Paper.

**CLOSING COMMENTS**

We look forward to working further with the Australian Government and Financial Counselling profession to develop a long-term and credible funding model. Thank you for the opportunity to participate in this consultation.

Should you wish to discuss our submission or require additional information, please feel free to contact me at Leisha.watson@afia.asn.au.

Yours sincerely

Leisha Watson
**Senior Policy Adviser**

**ATTACHMENT A**

1. What are your views on the proposed principles for development of the industry funding model?

AFIA recognises the need for predictable and stable funding with a model supported by robust data and an underlying equitable methodology. We are supportive in principle of a funding model consisting of continuing fixed contributions by the Australian Government and equitable contributions from industries that create the demand for the services. We stress the importance of the funding model being equitable and appropriately covering all the relevant businesses that create the demand for the funding of financial counselling services.

AFIA is supportive of clear and high-level guiding principles for the proposed funding model. These will help to strengthen the credibility of the model, as well as provide the proposed independent body with a clear mandate. However, we have concerns about the risks created by the voluntary nature of the interim funding model, that this will lead to inconsistency in funding and contribute to creating an unlevel playing field within the sectors, with only some relevant businesses contributing.

Therefore, AFIA believes the funding model must avoid sectors and businesses effectively 'topping up' their own contributions to compensate for funding gaps. The funding model must be workable, equitable and sustainable for the future.

In line with the proposed guiding principle that the funding model will ensure predictability and stability of funding.[4] AFIA recommends that:

- Further information and assurances be provided on the risks outlined above created by the voluntary nature of the interim funding model proposed and how any gaps in funding contributions will be addressed and managed. As well as a recognition that sectors will not be expected to top up funding gaps

- Further details be provided about the development of a sustainable funding model that does not rely on voluntary contributions, including consultation processes and timing

- The guiding principles for the funding model should include that it ensures equitable contributions from industries and businesses that contribute to the need for the funding for financial counselling services.

2. What are your views on the proposed quantum for each year for the first three years of the model?

[4] Financial Counselling Industry Funding Model Discussion Paper, page 6

AFIA supports a funding model that seeks to expand the funding availability for financial counselling services and does not act as any substitute for the existing funding that is provided. This in line with the proposed guiding principle that industry funding provides an additional funding stream to current sources.[5]

The Discussion Paper states that the proposed quantum of annual funding from the latest modelling is based on funding by government, 'unmet demand' and historical demand. The demand is considered 'unmet' where an individual does not receive an appointment with a financial counsellor within a two-week period. The unmet demand estimate is based on a 2021 survey of 200 financial counsellors over a two-week period.[6]

While we understand that there may be limitations in available data, AFIA believes that the robustness of the data that the quantum has been based on should be carefully reviewed, with a particular focus on the data relied upon to calculate for the unmet demand. We do not believe that the methodology used to calculate the unmet demand is sufficiently robust and are concerned that it cannot be solely relied upon given its limitations. Please see further detailed comments below on this point under Question 3.

3. Are there any evidence-based adjustments that could be made to the suggested contributions methodology? What are they and how could they be incorporated into the methodology?

As referred to above, AFIA has concerns over the limitations of the data results from the survey of financial counsellors which has been relied upon to identify and determine the sub-sector industry contributions. We do not believe that the length of the survey and small number of financial counsellors contributing provides a sufficient amount of data to rely upon.

Crucially, the survey does not consider any of the underlying, and often complex, financial history of individuals and the impact that certain subsectors have on financial stress. A recent report from Financial Counselling Australia found that most of their clients present with multiple forms of debt, leading to an inability to afford essentials, such as their mortgage.[7]

In line with the proposed guiding principle in the Discussion Paper, AFIA believes that all businesses who contribute to the demand for the service and increase financial stress on individuals should be covered by the funding model on an equitable basis, to incentivise voluntary contributions. We note that a 3 per cent threshold of financial counsellor time in the 2021 survey referenced has been applied

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[5] *Ibid.*

[6] Financial Counselling Industry Funding Model Discussion Paper, page 10

[7] Financial Counselling Australia (May 2022), The explosion of gambling harm and the need for urgent training for financial counsellors, page 4.

and our understanding is that this is based on a judgement as to whether the funding provided would outweigh the time and costs to the peak body in collecting the funds. We have concerns on the proposal to utilise peak bodies as a collection method and provide further comments at Question 9 below.

The Discussion Paper itself recognises that the Sylvan Review raised the fact that problem gambling can drive demand for financial counselling services.[8] However, the methodology only estimates gambling to contribute 0.35 per cent of financial counsellor time, and therefore, below the proposed threshold. In contrast, survey results published in May 2022 of financial counsellors found that, because of gambling, people experienced multiple forms of debt including being unable to pay rent or mortgage, payday loans and credit cards.[9] The survey of specialist gambling counsellors found that 91 per cent of individuals were unable to pay their rent or mortgage and the report emphasises a need for the urgent training on gambling for financial counsellors.[10]

In further contrast to the 0.35 per cent of time attributed to gambling, the suggested total contributions attribute more than 10 per cent to debt collection companies or buyers servicing banks, finance companies, utilities and federal and state government agencies after accounts have fallen into arrears. The very nature of debt collection businesses is that they have a disproportionately higher number of financially distressed customers, which should be recognised as an anomaly in the model. If this was not the case, then there would be potentially perverse implications that could have adverse consequences for vulnerable customers in financial hardship.

Additionally, AFIA notes the Buy Now, Pay later (BNPL) sector is calculated as contributing to 4.32 per cent of financial counsellor time. To compare, the options paper on Regulating BNPL released by the Treasury in November 2022 referenced the Australian Financial Security Authority (AFSA)'s *Strategic Analytics memorandum: BNPL Industry Analysis* from 2021 which found that while around a third of personal insolvencies had at least one BNPL debt, by value BNPL debts only represented 0.3 per cent of all secured debt in personal insolvency cases.[11]

Oxford Economics' BNPL Research Report demonstrates that during the 2020-21 financial year, the Australian Financial Complaints Authority (AFCA) received 767 complaints about BNPL products, representing only 0.01 per cent of the 5.9 million active accounts during that period. [12] Additionally, only

[8] Louise Sylvan (March 2019), The Countervailing Power: Review of the coordination and funding for financial counselling services across Australia

[9] Financial Counselling Australia (May 2022), The explosion of gambling harm and the need for urgent training for financial counsellors, page 4.

[10] *Ibid.*

[11] The Treasury (November 2022), Regulating Buy Now, Pay Later in Australia - Options paper

[12] AFIA (June 2022), The economic impact of Buy Now Pay Later in Australia, page 31.

0.34 per cent of active BNPL accounts were subject to financial hardship arrangements as on 30 June 2021.

AFIA believes the funding model must ensure proposed contributions are equitable and do not risk creating any unlevel playing field within the sectors. This will help in turn increase the incentives to contribute and provide essential funding for the services. It would not be equitable for subsectors to provide disproportionate contributions that risk any topping up of the funding to account for the demand created by other subsectors, where they cannot control or improve the behaviour which may increase the need for funding.

In the absence of robust and credible data supporting the funding model, there is a risk of scope creep where the funding expectations, and priorities of the independent body, could extend beyond what is intended in the guiding principles.

AFIA recommends that further work must be undertaken to consider ways to increase the reliability and credibility of the underlying data on which the quantum of contributions has been based. This could include, for example, data on consumer hardship requests and detailed surveys taken directly from users of financial counselling services, which can then be analysed against the survey of financial counsellors. [13] Furthermore, the Australian Financial Complaints Authority's (AFCA) Annual Review report for 2021-22 provides useful information on the products where they have received the most financial difficulty complaints, as well as the top issues reported. [14]

In line with the proposed guiding principle that the industries that contribute to the demand for, and benefit from, financial counselling, contribute to the funding of the services,[15] AFIA recommends that:

- The methodology is reviewed and the calculations for contributions from the subsectors adjusted accordingly
- Further data is required to compare the results of the 2021 survey of financial counsellors to increase the credibility and reliability of the suggested sub-sector contributions
- The levels of financial stress caused by sectors are considered (including the impact of gambling and poor financial advice as contributing factors) to ensure all relevant sectors are appropriately covered on an equitable basis.

4. Should any businesses within a subsector be excluded (e.g., small businesses)?

[13] AFIA released a report on ''The economic impact of Buy Now Pay Later in Australia'' (June 2022) which found that only 0.34 per cent of active BNPL accounts were in hardship: AFIA BNPL Research Report, page 8.

[14] Australian Financial Complaints Authority (AFCA), website

[15] Financial Counselling Industry Funding Model Discussion Paper, page 6

Given the voluntary nature of the model, AFIA does not find it appropriate to explicitly exclude businesses. We should incentivise a wider array of contributions to ensure essential funding is provided. The exclusion of all small businesses would also exclude smaller sized businesses that can create high levels of financial stress levels for individuals.

For example, the Australian Securities and Investments Commission (ASIC) has taken action against payday loan providers for charging individuals fees to reschedule dates for their loan repayments.[16] These fees increased individuals' debt and contributed to their financial hardship.[17] The Financial Services Royal Commission further highlighted examples of serious non-compliance by financial advisers of obligations that protect consumers, which resulted in poor outcomes. ASIC has since taken action against financial advisers for poor advice and causing consumer harm.[18]

5. <u>What are your views on options 1 and 2 for determining the split within subsectors for voluntary contributions?</u>

AFIA notes the proposal is to utilise peak bodies to secure funding contributions for the initial three-year period (interim funding model). The Discussion Paper proposes some methods for determining the contributions from businesses in the financial services sector, such as the AFCA membership levy (Method 1) or the ASIC cost recovery implementation statement (Method 2). We note that Method 1 would likely impact the appetite for certain financial firms to voluntarily become members of AFCA, noting that AFIA's codes of practice have secured AFCA membership as an impact additional customer safeguard. Method 2 does not provide any indicative amounts for BNPL businesses, which are members of AFIA. Method 2 is also based on the ASIC industry funding model, which is under review.[19] We believe further consideration of the direct and indirect implications of imposing a particular method is required.

With the above point in mind, AFIA has been supportive of AFCA's introduction of a 'user-pays' approach that relies more on fixed fees. We believe this approach embeds an incentive for members to make improvements to their respective processes. An approach similar to the AFCA fee model may be an appropriate method which determines splits within subsectors and considers case fees relating to hardship complaints or complaints relating to irresponsible lending.[20] However, the number of complaints should be monitored carefully to avoid being distorted by inappropriate or vexatious complaints, such as those not relating to consumer hardship thereby generating unfair costs. Additionally, an exclusion for financial firms that have voluntarily become members of AFCA, based on their dispute data, may be appropriate to not cause inadvertent distortions.

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[16] ASIC news item (7 June 2022): ASIC sues sunshine loans for charging prohibited fees.

[17] ASIC new item (28 June 2022): ASIC wins appeal on Cigno and BHF Solutions Federal Court decision.

[18] See ASIC, Summary of ASIC enforcement action, under 'poor financial advice cases'.

[19]ASIC (2022), Review of the Australian Securities and Investments Commission Industry Funding Model

[20] AFCA (2022), Funding Model Consultation Report

In consideration of the AFCA model, a possible approach to balance these related factors might be a threshold being considered where contributions are only expected once a business reaches a certain number of complaints, such as the five free complaints per year for all AFCA members.[21]

8. When would an appropriate time be to review the functioning of the model?

A full review of the model undertaken in year two of the interim funding model would assist in informing future funding.[22] We recommend that the full review of the model include the use of data collected within the two-year period on the amount received of voluntary industry funding, the work undertaken to encourage participation by the independent body, how the funding has been allocated to frontline casework, and what data has been used to calculate the contributions.

9. Are peak organisations an appropriate mechanism to obtain a formal commitment from subsectors as part of the initial set up of the model? Are there alternative methods to secure commitments that could be undertaken in a timely manner?

AFIA recognises that utilising peak bodies may have some appeal as a vehicle for a collection method in the period of the interim funding model. However, we consider that there are significant pitfalls in such a method and believe that the independent funding body is the most appropriate mechanism to secure the funding commitments.

There are businesses who are not covered by a peak body within the relevant sector and not all peak bodies are contemplated for inclusion within this scheme. This creates a significant gap where other businesses require to be communicated with and encouraged to contribute to a voluntary model.

For example, critical bodies such as the National Credit Providers Association (NCPA), Australian Gaming Council (AGC), Responsible Wagering Australia (RWA) and Consumer Household Equipment Rental Providers Association (CHERPA) are not included in Appendix E, despite their sectors creating demand for financial counselling services.

Furthermore, we have experienced significant resource demands in supporting a proposed industry funding model for financial counselling, including gaining an initial funding contribution from some AFIA members, which is now the subject of a separate dialogue with the government and the Financial Counselling Australia Foundation. We are concerned that relying on peak bodies in such a way would have substantial resource and cost implications for these organisations and their members. All activities

[21] *Ibid*.

[22] Financial Counselling Industry Funding Model Discussion Paper, page 29.

to this end have been unfunded and therefore required substantial pro bono time and effort from a few key individuals.