



## **CILEx Regulation - Transitioning towards an insurance backed compensation scheme**

**A response by  
The Chartered Institute of Legal Executives (CILEx)**

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## **1. Introduction**

- 1.1. The Chartered Institute of Legal Executives (CILEx) is the professional association and governing body for Chartered Legal Executive lawyers, other legal practitioners and paralegals. CILEx represents around 20,000 members, which includes approximately 7,500 fully qualified Chartered Legal Executive lawyers.
- 1.2. CILEx is the Approved Regulator under the Legal Service Act 2007. These regulatory powers are delegated to the independent regulator CILEx Regulation Ltd.
- 1.3. This consultation proposes changes to the CILEx Compensation Fund Rules with a view to moving towards a largely insurance backed compensation scheme as opposed to the maintenance of a substantial fund. This is intended to achieve a more proportionate and cost effective regime while maintaining robust consumer protection.

## **2. Q1. Do you agree with our proposal to transition towards a largely insurance backed compensation scheme rather than continuing to rely on a large fund?**

- 2.1. CILEx supports this transition. An insurance backed model is more proportionate and offers important safeguards that a single fund may not be able to offer in the event that the fund were depleted.

## **3. Q2. Do you agree with our proposal to introduce eligibility criteria and the threshold proposed for placing certain organisations outside the protections of the compensation arrangements?**

- 3.1. Protection for particularly vulnerable consumers is paramount, and it is right therefore that those who are more especially prone to hardship should be prioritised for protection. Considering the resources available, limiting access to the scheme to those who would be most in need is a balanced measure.
- 3.2. Whilst a £1m figure for cut off is arbitrary, we recognise that it is easy to understand for those making claims on the fund. Whilst we appreciate that there is a lack of claims data currently, as this data builds CILEx Regulation may wish to consider whether the threshold in future should be calculated using that data.
- 3.3. We acknowledge that, when it comes to asset valuation, there could be regional variance because of issues such as house prices. CILEx Regulation may wish to consider this to ensure that those who suffer genuine hardship are not inappropriately excluded by the criteria.

## **4. Q3. Do you foresee any issues with CILEx Regulation seeking to fund professional indemnity insurance run-off premiums where firms are in default but continue to incur liability?**

- 4.1. CILEx is not yet convinced of the necessity for this action, though we recognise the good intentions behind the proposal to provide a safety net for consumers.
- 4.2. Many of the issues are already identified in the consultation itself, including rewarding regulatory failure, but we would also raise the potential cost implications; particularly the additional cost to CILEx Regulation of launching action to reclaim unpaid premiums against closed firms. It also introduces risk of the fund being depleted, considering that up to six years of premiums would need to be met, which is among the reason why an insurance-backed scheme is being considered in the first place.
- 4.3. An insurer will know if run-off cover is not being paid, and is required to inform CILEx Regulation of this. It should be made clear what steps both parties should take to make the firm pay their run-off cover prior to the Compensation Fund stepping in to cover the unmet premiums
- 4.4. In the interest of limiting the potential exposure insurers face, and therefore the premiums the fund must meet, CILEx Regulation may wish to consider similar eligibility criteria for those who make claims made during run-off periods as for those who make claims against the fund itself.

**5. Q4. Do you agree with our proposal to introduce a £2 million aggregate limit on the value of claims which can be made under the compensation arrangements in respect of one firm?**

- 5.1. For the sustainability of the compensation arrangements, we recognise the reason for this limit.
- 5.2. However the rules would benefit from clarifying the conditions on this limit; does this limit apply to cumulative claims over the course of a certain period or for one entity over its entire lifetime.

**6. Q5. Do you have any other comments on the drafting proposals set out at Annex 1 in the context of how the new approach would be implemented and the other changes proposed to the rules?**

- 6.1. CILEx Regulation may wish to consider what if any circumstance a failed applicant would be able to appeal against a decision by the Trustees to not make an award.

**For further details**

Should you require any further information, please contact;

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