

Ministry of **Economic
Development**



M a n a t ū Ō h a n g a

**Consumer Dispute Resolution and Redress:
Summary of Submissions**

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RFPP: Consumer Dispute Resolution & Redress Submission Summary

#	Issue Ref	Summary of Issue Raised by Submission
1.	1	Financial service providers often do not provide adequate information to alert consumers to dispute resolution mechanisms. Often consumers choose not to seek redress because they are unsure how to proceed and the likely options available to them might be daunting.
2.	1	Question whether the provision of fire and general insurance comes within the description of "financial transaction" in the paper.
3.	1	Credit union industry receives limited number of complaints.
4.	1	NZX firms are already subject to the provisions of NZX Discipline, which has power to consider complaints referred to it by NZX and to award restitution in the event of breaches of the NZX Participant Rules. However, the NZX Discipline provisions can only effectively be applied to breaches of the NZX Participant Rules and that it is therefore possible that a consumer complaint may be judged to fall outside of the jurisdiction of NZX Discipline, potentially leaving the consumer with limited options available to pursue a grievance.
5.	1	The discussion document fails to build a sufficiently strong case to warrant significant changes to the existing dispute resolution and redress mechanisms.
6.	1	The survey work undertaken provides little if any credible evidence of a problem in areas of the market not covered by industry based dispute resolution schemes. The proportion of complaints not resolved to the complainant's satisfaction (a self assessment) at best provides evidence of areas to look at more closely, but can hardly be regarded as evidence a problem exists because of the obvious bias.
7.	1	The Commerce Commission's powers under the CCCFA have not been widely tested. Any change in the legislation with regards to financial providers at this point would be precipitous.
8.	1	Disappointed that such emphasis is given to consumer confidence rather than equal emphasis being given to industry confidence in a dispute resolution scheme should it come to fruition. Very disappointed at the bias in favour of consumers throughout the discussion document. Equity is one of the founding principles in our legal system, one does not sense that this document shares the same desire for equity to all participants.
9.	1	Consumer decisions to borrow or invest are not made because of the existence, nature or form of dispute resolution or redress procedures. Decisions are made for more positive reasons often in ignorance of the existence of such procedures.
10.	1	It is not clear that a need exists for significant reinforcement of market incentives. Competitive pressure operates to provide a high level of motivation for organisations to behave in ways that maintain customer relationships. Situations in which this may not be the case are bound to exist, but in terms of scale these are most likely to be a small part of the whole.
11.	1	There are various avenues for disputes to go to arbitration if they cannot be resolved between company and client. Whilst protection should be provided to consumers, it should also have a balance to ensure that a disgruntled customer cannot hold a gun barrel to the head of a company simply because they are in dispute. There is a responsibility on anyone investing or borrowing money to ensure they have taken or received independent advice if they so choose. Suggest that there is a lack of acknowledgement within certain sectors of the New Zealand populace to accept responsibility for their own actions.

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12.	1	There appears to be a lack of understanding and confusion among consumers in general regarding complexities such as financial calculation methodology, and the interpretation to be placed on certain key provisions of finance contracts. Believe some financial providers are not as committed as they should be in resolving problems with consumers as soon as they arise.
13.	1	The incidence of complaints may not indicate instability or difficulty. Complaints might arise from increases in premiums, for instance.
14.	1	It is unclear to NZX whether MED intends that Issuers be included within the definition of "financial provider".
15.	1	Main problem is incomplete coverage of the financial sector by the existing ombudsman and industry schemes.
16.	2	Lack of consistent training in consumer rights and responsibilities for the staff of financial service providers is a current gap.
17.	2	Lack of visibility of schemes may contribute to consumers' lack of knowledge about the rights of access to the schemes.
18.	2	Any gaps in the current dispute resolution system will, of course, inhibit consumers' access to redress for individuals/organisations which fall in the gaps, eg financial intermediaries.
19.	2	The paper presents an incomplete picture of consumers' access to dispute resolution schemes. For example, lawyers and chartered accountants, who are intimately connected with providing financial services, are also subject to professional dispute resolution and redress mechanisms.
20.	2	A consideration of the need for, and form of, consumer dispute resolution and redress mechanisms that has any connection with the practical world needs to consider separate financial markets, product characteristics within these markets, complexity issues, and existing legislative requirements. Such consideration will permit a 'needs based' analysis to be derived, against which the need for consumer dispute resolution and redress arrangements can be assessed.
21.	2	There is not a demonstrated need for additional consumer dispute resolution and redress enhancements in respect of consumer credit. Based on material contained in the BO annual reports and the FSF experience from its complaint procedure it is evident that the enormous growth in the use of consumer credit over the past decade in particular has not been accompanied by a corresponding rise in complaints reported.
22.	2	Do not believe that there are any gaps, just that some categories of financial provider are not committed to the resolution of disputes with their consumers thereby forcing consumers to take formal action. Quantum of disputes rarely exceed \$1,000 or \$2,000 and these are in most instances resolved without resort to formal dispute resolution processes. Even where these disputes cannot be resolved, in our particular niche operation matters can cheaply and effectively be resolved through the DT or if it's a privacy matter, through the Office of the Privacy Commissioner.
23.	2	Given the low level of complaints, do not believe there are any inhibitors to consumer access to redress.
24.	2	The lack or low level of consumer confidence is particularly acute with respect to those financial providers that are not subject to any regulatory oversight. NZX considers there is a higher degree of consumer confidence in the stockbroking industry which is regulated by NZX.
25.	2	The extent to which gaps contribute to lower consumer confidence is arguable given that the majority of consumers have access to formal dispute resolution processes provided by industry participants. However, from the customer's perspective, the fact that complaint resolution is more complicated as a result will affect consumer confidence to some extent.

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26.	3	Yes, there is a need for government intervention to promote consumer confidence.
27.	3	There has been no voluntary industry buy-in for a consumer redress and resolution service in the current unregulated financial service sector.
28.	3	Government intervention is not required for the ISO and BO schemes as these are successfully self-managing.
29.	3	Govt intervention is not required in the insurance or banking sectors. Govt intervention, as opposed to a closer working relationship, in these sectors might damage the existing goodwill and industry commitment to EDR. If govt intervention is considered necessary it would be preferable for this to be restricted to setting parameters, allowing industry to determine the detail.
30.	3	Legislative backing to ensure the independence and accountability of any disputes resolution mechanism for financial intermediaries is crucial.
31.	3	Govt intervention is only needed to the extent that the regulation require each industry sector have a satisfactory dispute resolution mechanism in place and that the industry sector promote its existence to customer.
32.	3	The need for government to promote the Ministry's key objective, consumer confidence, is questionable. The Ministry has identified that there is not a confidence problem (para 34) and the discussion document on NBDT suggests the opposite problem exists, ie investors in NBDTs are too confident compared to investors in banks. This is evidenced by too narrow an interest rate differential between banks and non-banks.
33.	3	Would favour an overarching economic efficiency/public interest objective, but for the most part comfortable with the objectives stated. However, it is important that "promote consumer confidence" does not stand as an objective independent of the other objectives. Recommend the overarching objectives be restated as "to promote consumer confidence in the financial sector <u>by</u> reinforcing market incentives for financial providers and <u>promoting</u> resilience and stability to financial markets".
34.	3	The single key role for govt in promoting consumer confidence in the financial sector in terms of dispute resolution and redress would be to mandate the participation of all providers of financial products or services in an independent disputes resolution scheme. This would, by definition, then also require some regulation to ensure that current schemes change their rules and terms of reference to enable them to provide dispute resolution services to all providers of financial products or services under their (widened) jurisdiction.
35.	3	All financial institutions must be accountable to an industry body/regulator.
36.	3	Greater govt intervention is inappropriate at this time. Adequate protection is provided to all parties by current legislation by way of the court system and in particular through the Disputes Tribunal. If further govt intervention is required, then a court much like the Disputes Tribunal or the Tenancy Tribunal dealing specifically with matters relating to financial services would be the appropriate option.
37.	3	Do not believe that there is any need for govt involvement in the consumer finance sector, bearing in mind the quantum of the issues generally dealt with and the ease of invoking the DT and Privacy Commissioner processes.
38.	3	The govt's role is that of an overseer. While some level of govt involvement will be necessary to coordinate the initial setup process and an ongoing oversight role may also be necessary, if the industry is to take ownership of the dispute resolution scheme then it must be under the industry's control.

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39.	3	Do not believe there is any need for govt intervention unless they can prove inadequacies in current systems. Building societies should not be lumped in with finance companies in this regard.
40.	3	Any govt solution should recognise the existing bodies (eg NZX, NZX Discipline, APBs) and where a dispute indicates a breach of the rules of those bodies, refer matters to those bodies to handle the disciplinary aspect.
41.	3	Yes – access to a user-friendly dispute resolution process for all financial services customers can only be achieved by regulatory intervention.
42.	3	Govt intervention should be limited to financial providers not already covered by consumer dispute resolution schemes. No new regulation should directly impact on the BO and ISO schemes due to their noted effectiveness.
43.	3	Low cost dispute resolution procedures will not be provided voluntarily by all sectors of the industry so Govt intervention will be necessary. The role of Govt should be to establish such a process then leave it to the process to deal with the issues that arise.
44.	3	Where there is an established and coherent sector of the financial services industry, with at least a degree of industry organisation and with participants who are concerned for the reputation of the industry as a whole, then there is unlikely to be a need for more than support and encouragement from govt for industry-led initiatives in the development of consumer dispute resolution and redress mechanisms. The banking and insurance sectors meet this criteria but other sectors may not do so. If a comprehensive dispute resolution service is proposed it may be necessary to regulate for mandatory membership.
45.	4	Changes suggested under the review promote government intervention – this will lead to an increase in consumer confidence.
46.	4	Government intervention need not be heavy handed in order to be effective.
47.	4	It is understood that other regulatory changes are not designed to have any effect on consumers' access to redress.
48.	4	The enhanced licensing requirements and greater regulatory supervision proposed in the other discussion documents will serve to enhance the robustness of the sector as a whole. However it remains important to be able to offer an approach whereby an individual consumer is able to have the circumstances of their individual situation reviewed independently. It remains most appropriate for this role to sit under an ombudsman scheme.
49.	4	Other regulatory changes are not going to affect either the nature or quantum of disputes, neither will it necessitate changes to redress procedures.
50.	4	Concerned with the impacts of bringing in legislation with such breadth and interdependencies within a short period of time. Industry might not have capacity to implement the changes effectively and customers might be overwhelmed.
51.	4	The proposed removal of trustee supervision of ADTs may remove a more convenient complaint route than that provided by RBNZ.
52.	4	If a central disputes resolution and redress scheme were implemented there would be less need for regulatory intervention as proposed in the other papers.
53.	4	Developments in other areas of RFPP enhance regulatory oversight, but regulatory oversight alone can never ensure consumer satisfaction.
54.	5	The current ISO and BO work well, but need to be extended to address gaps in coverage.
55.	5	The voluntary nature of the current ombudsmen schemes does not provide an adequate incentive for unregulated providers to set up a similar scheme.

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56.	5	While the word “voluntary” has been used, it should be noted that membership of EDR schemes is required (with some limited exceptions) by several industry groups, eg Bankers Association, Insurance Council of NZ, Investment Savings and Insurance Association and Health Funds Association of NZ.
57.	5	The ISO’s decisions do have binding force, as the ISO has power to make binding awards, although she has not had to do so in 8 years. Industry association requirements are unlikely to prevent members from withdrawing because of what are perceived to be adverse decisions. To date, there have been no withdrawals from the ISO scheme because of decisions made against participants by the ISO throughout her 8 year appointment.
58.	5	Gaps should be addressed by mandatory membership of an EDR scheme. One of the easiest ways to fill some of the existing gaps would be for the existing EDR schemes to absorb those financial service providers which are involved in the same or similar industries, eg the ISO could take a complaint against a financial intermediary about an insurance product, or a complaint about a credit union could be referred to the BO. If the financial intermediaries who sell insurance are dealt with by a separate EDR scheme to the insurance companies, the EDR scheme will effectively be dealing with many more individuals than organisations. Experience shows that it is the larger organisations which can be the most supportive in the EDR process, because of international affiliations and a better understanding of the need for customer satisfaction.
59.	5	The existing system does not require amendment.
60.	5	If a change or consistency of approach was considered desirable and credit unions became a sub-tier of ADTs, the NZACU would favour using the BO and not an additional overriding body which would simply add to compliance costs.
61.	5	The existing voluntary industry-based dispute resolution schemes (BO and ISO) provide effective access and redress for consumers. Agree that there is a gap as these schemes do not apply to credit unions or finance companies.
62.	5	Existing framework generally works well although some minor improvements could be made. ISO should be available to all general insurers, not just members of industry bodies. Do not support extension of ISO scheme to include additional commercial products due to the varied and complex nature of these contracts.
63.	5	Support one ombudsman for the entire financial services sector.
64.	5	Most of the market, and for good reason, is already covered by dispute resolution schemes that are of a high standard. Equally, it is reasonable to assume the areas not covered by industry based dispute resolution are also that way for a good reason.
65.	5	The paper notes that the voluntary nature of dispute resolution schemes mean that decisions lack binding force as firms may withdraw. However, firms cannot pick and choose which decisions they comply with. The reputational cost of withdrawing would be significant and by far outweigh any benefit to the entity from avoiding monetary cost of one adverse decision.
66.	5	Not all regulatory arbitrage is bad. Regulatory arbitrage is good where the arbitrage opportunities are deliberately designed to afford greater choice in the way entities organise their affairs to best meet the interests of stakeholders, or to meet a diverse range of consumer and investor preferences.

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67.	5	"Equal access" is an objective without any public policy foundation. At most, governments can establish control over minimum access standards, but entities can and will compete to provide a level of access above these standards.
68.	5	The current ISO scheme is very effective and consumers find it easy to use and easy to access.
69.	5	The ISO scheme works well. Nonetheless, support mandatory participation. Alternatively, should be a requirement for insurers not participating in a dispute resolution scheme to make this clear to their consumers through their product disclosures.
70.	5	Do not believe that the current framework of voluntary dispute resolution works.
71.	5	Do not think a 'needs based' case exists for significant change to the status quo.
72.	5	The existing DT framework works well. Access to an industry specific body would be appropriate for disputes exceeding \$7,500 in quantum.
73.	5	Make membership mandatory. The breadth of financial services covered should be increased to include business superannuation, group risk, general insurance and the provision of advice.
74.	5	Voluntary dispute resolution schemes can work and work well, providing everyone volunteers.
75.	5	Status quo works well, with 98% of health insurance policyholders covered by voluntary membership. Gaps can be addressed by requiring mandatory membership.
76.	5	The status quo could be improved. There needs to be available a fair, accessible cost effective redress mechanism with increased knowledge about options for redress combined with increased education.
77.	5	The present voluntary system works well however regulatory support is needed to include those providers who do not participate.
78.	5	Major areas that can be improved are completing coverage of the financial services sector and removing overlap and resulting uncertainty for customers.
79.	5	The current framework works well and the govt should focus on setting up consumer dispute resolution and redress schemes that are both additional and complementary to the existing framework. The most effective way to improve current system is for formation of new schemes to include the financial providers who do not currently belong to existing schemes.
80.	5	The existing BO and ISO schemes should be supplemented by a dispute resolution scheme for financial intermediaries and such other approved collective schemes as other industry participants establish.
81.	5	The two existing dispute resolution schemes are effective and work well. Disputes Tribunals fill gaps to some extent, but rely on consumers to be sufficiently capable and informed to make a case against the financial organisation. Probably the most effective role for govt is to encourage and support the creation of further dispute resolution schemes as appropriate, and possibly the extension of existing ones, holding in reserve the possibility of regulation if sufficient coverage of the financial services sector is not achieved.
82.	6	No – education is better suited to the longer term and will not sufficiently address immediate concerns.
83.	6	No. Consumer education and consumer redress are separate concepts. More consumer education is extremely important and should be included in a government initiative to increase consumer knowledge, in addition to having effective and efficient EDR schemes in place.

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84.	6	The ISO and its member insurers promote the ISO to the customers of insurers. For those parts of the financial sector that do not currently have a dispute resolution mechanism there is a need for promotion at the cost of that industry sector.
85.	6	Recommend that a public education campaign be conducted during the implementation of the regulatory regime to ensure consumers are informed of their improved protection and rights under the regime, and of the dispute resolution and redress options available.
86.	6	There would have been value in incorporating into the analysis the role of financial intermediaries in a regulatory regime based on information disclosure. That is, aiding consumers in locating a financial institution that best meets their needs, and advising on any subsequent disputes between the consumer and the entity.
87.	6	Consumer education and information disclosure are inherently pro-market and are appropriate responses for dealing with the problems of asymmetric information between contracting parties. Recommend that the government explore further whether there exist education and information gaps that the government should, on cost benefit grounds, act to mitigate.
88.	6	Consumer education and information should be the responsibility of all parties: participants, dispute resolution schemes, Ministry. These would all ultimately be funded by the participant either directly, through levies (dispute resolution schemes) or through license fees (Ministry).
89.	6	Consumer education is no panacea. Should the govt deem that further consumer education is of benefit, then the state should pay for this education like it does in such areas as health education, human rights education, consumer rights and so on.
90.	6	More education and information would help, such as information on when disputes can be taken to the DT and the Courts (procedure, costs, etc). This material should be created and funded by govt.
91.	6	The most important aspect of any consumer dispute resolution and redress regime would be the provision of consumer education and information. Support a govt led and administered investor education programme.
92.	6	It is not appropriate for companies to be legislated to educate the public and it should be voluntary.
93.	6	Improved consumer understanding of existing dispute resolution schemes does not address the issue of the limited scope of the schemes.
94.	6	As all New Zealanders use the services of financial providers, improved public awareness of dispute resolution schemes is a public good. Govt should fund an education campaign to accompany the establishment of a new dispute resolution scheme.
95.	6	Consumer education will not by itself sufficiently address the concerns with the status quo approach to consumer dispute resolution.
96.	6	No – good information will help reduce the situations where disputes arise, but it can never eliminate them.
97.	6	Development of skilled and professional financial advisers is the best way that the industry can support consumers in making appropriate choices.
98.	6	Any new consumer dispute resolution scheme should be accompanied by an education campaign with resources being provided by the govt in the interests of the public good.
99.	6	Consumer education and information is an integral part of dispute resolution schemes. The scheme should have specific funding earmarked for education and promotion.
100.	6	The Retirement Commission should be charged with and funded for the provision of additional consumer education. The Ministry of Education and NZQA should be charged with and funded for the development of appropriate standards to be built into the education curriculum to improve the financial literacy of the next generation of consumers.

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101.	6	Consumer education is desirable but will not of itself obviate the need for dispute resolution processes. There are limits to the efficacy of disclosure requirements.
102.	7	Enhanced civil remedies and improvements to the court system for dispute resolution is more useful to consumers than the status quo.
103.	7	The existing ombudsman schemes have the advantage of being more flexible than the court system, easier to use, quicker to provide a result and free to consumers. By using the ISO or BO in the first instance, consumers can obtain redress or, if they remain dissatisfied, can then access the court system. By relying on enhanced civil remedies alone, the government would effectively remove existing options available to consumers.
104.	7	The existing court and DT mechanisms are an alternative to the ISO process and provide the consumer with a choice of avenue to pursue a dispute. Do not support this option as expanding this option will add little benefit to consumers.
105.	7	NZLS has recently suggested to the Minister of Justice that the jurisdiction of the DT be increased and the District Court Rules simplified. The implementation of those proposals will, of itself, improve access to justice. However, consumers must also have access to other industry-based dispute resolution mechanisms, if they – and the industry participants – choose to do so.
106.	7	Provided a special branch of the Disputes Tribunal is cost effective, ie there is sufficient demand, it is an option worth considering further. Recommend further consideration be given to the establishment of a special branch of the DT.
107.	7	Court system should remain an option, supplementing a robust consumer dispute resolution service by providing an avenue for appeal.
108.	7	Do not believe that the present court system fails either party. See little need to change the status quo.
109.	7	The DT process works well, however there is scope to create an industry specific body for disputes over the \$7,500 threshold.
110.	7	Internal dispute resolution procedure, together with civil remedies, provides sufficient protection. The possibility of court proceedings provides companies with an incentive to develop more effective dispute resolution mechanisms. Therefore, there is no need to develop new consumer dispute resolution procedures. If this is not accepted, support an enhancement to the current arrangements through the creation of an expanded disputes tribunal for financial disputes.
111.	7	Do not believe that enhanced civil remedies are necessary.
112.	7	Enhanced civil remedies may not have any value because disputes seldom get to the courts.
113.	7	Ad hoc changes to the court system are not supported. Access to courts and civil remedies are a broader policy consideration for the govt rather than a matter for consideration in the context of this review. Creation of a new specialist court or authority is not supported as it is ad hoc and the costs will likely exceed the benefits. There is a huge body of insurance law and existing courts are adequate. Key downsides to simple reliance on courts are the lack of industry engagement and the cost to both consumers and govt.
114.	7	Support a limit to the size of claim, but \$200,000 may be too low. People should be able to opt into the disputes resolution facility, regardless of size of claim, provided they are a consumer. Accordingly, the quality of personnel appointed to the body must be commensurate with this jurisdiction. One option may be to provide the tribunal with a discretion not to hear a particular matter if the issues are too complex.

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115.	7	The present industry schemes have advantage of mediated settlements, case management and industry participation. These could be lost in a judicial system.
116.	7	Question whether DT would possess the experience, acumen and skills to arbitrate in this particular area where the issues may be particularly specialised and complex.
117.	7	Enhanced civil remedies and improvements to the court system are not sufficient to deal with those claims that occur and are outside the scope of the Small Claims Tribunal but are not sufficiently large to require the time of the courts. Many consumers will not wish to take such an aggressive step despite having concern about their situation.
118.	7	If there is no proposal for a dispute resolution process to cover credit providers, it should be recognised that these customers will include a particularly vulnerable section of the population. This is also the section least likely to have the self confidence and resources to use the court system, even in the form of the DT.
119.	8	Mandatory.
120.	8	Recommend that all providers of financial products, including suppliers of credit, are required to be registered with the Companies Office and monitored by a regulator, either the Reserve Bank or the Securities Commission.
121.	8	Recommend that the voluntary industry-based dispute resolution schemes be extended to cover all financial providers, including building societies, credit unions, finance companies, financial intermediaries and superannuation schemes.
122.	8	The Ministry has failed to build a sufficiently strong case to warrant the government using its coercive powers to require that all financial providers join an industry-based dispute resolution scheme.
123.	8	Need for govt intervention to promote consumer confidence in financial sector dispute resolution is minimal. The most effective intervention is through the mandatory membership to an industry dispute resolution process with a wider scope.
124.	8	Given that regulation generally addresses the lowest common denominator, it is likely that a mandatory system should prevail.
125.	8	Support mandatory participation in consumer dispute resolution schemes by all financial services providers. However, careful balance must be struck between mandatory participation in a suitable scheme and leveraging off existing schemes, as due to the complexity and nature of the financial services industry a "one size fits all" approach is not appropriate.
126.	8	Mandatory. There is a risk that a voluntary dispute resolution scheme will attract the larger and more reputable organisations while smaller organisations and those engaged in more dubious practices remain outside.
127.	9	Funded by industry, through an annual fee or case levy.
128.	9	Should be funded by industry, provided that the industry funding the scheme is adequately represented in any governing body determining how the funding is to be apportioned over the scheme members. From the ISO experience, because the number of investigated complaints is relatively low, the method of apportioning levies needs to be simple to administer to avoid creating a disproportionately high administrative overhead. The split between the fixed cost component and the complaint based component is important to ensure they reflect all activities undertaken and to avoid situations where companies settle complaints because it is considered to be less expensive than referring the matter to the EDR scheme.
129.	9	Each industry-based dispute resolution scheme should be funded by the particular industry sector on a user pays basis.

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130.	9	Funded by government.
131.	9	Any dispute resolution scheme must be funded by the industry. The annual fee might be based on not only the size of the participants, but the extent to which the consumers of particular industry groups use the scheme.
132.	9	Dispute resolvers must be paid for their services. To ensure that appropriately qualified and experienced people offer their services as dispute resolvers, they should be paid an appropriate rate reflecting their experience and qualifications. At the same time, the fees of dispute resolvers would have to be regulated.
133.	9	Should be funded by industry participants, but only if participants are to have some ownership and governance of the system. A mix of premium based levy and fee for complaint is a pragmatic solution.
134.	9	Public must be made aware of the dispute resolution process, but must be sensitive to any increases in the cost of compliance.
135.	9	In order to deliver equivalent if not better outcomes to the existing dispute resolution processes, believe that the industry based dispute resolution system should be funded by govt.
136.	9	Industry funding of the dispute resolution process is appropriate on the assumption that any additional oversight from govt does not lead to a material increase in costs.
137.	9	The majority of cost should fall on industry. Industry participants share of funding must be aligned more heavily to usage ie normal annual registration fee plus fees per dispute.
138.	9	Some cost should be borne by complainants to stop frivolous claims. This could be in the form of a fee per claim, refundable on the basis of the arbitrators acceptance of the claim.
139.	9	Funding should continue to be by way of membership as presently provided for.
140.	9	The way that the BO and ISO are both funded is ideal.
141.	9	Industry based dispute resolution scheme should not be funded through case levies based on number of complaints against a firm. Funding could be via part of registration to APB, or funded by govt, or a mix of both.
142.	9	Support continuation of present self-funded model. There is a case for govt funding of any structural or establishment changes resulting from the RFPP.
143.	9	The cost of a dispute resolution system should be funded by the organisations that generate the disputes. The funding formula in place to fund the BO provides a sound funding model. Govt may wish to consider meeting the start-up costs of schemes in their initial year or allowing for tax credits.
144.	9	Funding for each scheme should be established by the participants.
145.	9	No comment on industry versus govt funding, except to say it is difficult to see how a single ombudsman scheme could be established without govt funding at least at the initial stages, and that some govt funding could be required to assist in the early development of any schemes additional to the existing ones.
146.	10	Use CGA definition of "consumer".
147.	10	For the ISO scheme, a consumer is effectively a policyholder who has received personal and domestic insurance or savings services from a member company. A policyholder can also be a small business. It should be for the EDR scheme to determine a monetary limit, because of the different sums involved in different industries.
148.	10	It is important that a clear definition of coverage be established in the legislation. In considering an appropriate definition for "members of the public", refer to the Securities Act and the CGA.

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149.	10	There should be no limit to the size of claim able to be assessed. However, such an approach would require the establishment of a robust appeals process for claims and/or settlements above a limit established by legislation or regulation in addition to the usual right available of seeking a judicial review.
150.	10	The current scope of coverage by the ISO is adequate. There should be an upper limit and the current limit of \$150,000 is adequate. Disputes involving sums above this amount are likely to be more complex and require a higher level of scrutiny than can be provided by the ISO. Similarly other commercial policies tend to apply to the more complex areas of insurance and disputes should be considered at a higher level.
151.	10	Subject to an appropriate appeal structure, including a right of court review, there should be no limit to the size of claim able to be assessed by a central complaints body.
152.	10	All policyholders or members (and eligible dependents) should be defined as consumers for the purpose of access to the dispute resolution scheme.
153.	10	Any financial products where an individual (rather than a business) is the end-user should be within the scope of an industry-based dispute resolution system.
154.	10	Mandatory participation should not extend to disputes under \$7,500 in quantum.
155.	10	Support a limit on claims aligned to that used by BO.
156.	10	For health insurance purposes, consumers are natural persons.
157.	10	Industry members should be free to make periodic changes to the rules relating to the type and size of disputes to be heard. These may involve minimum and maximum amounts, together with other restrictions on the type of dispute.
158.	10	The definition of customer should be broad and inclusive. Any customer who has a complaint should be able to seek redress through a dispute resolution scheme. To exclude certain groups, eg corporates, would undermine the schemes and policy objectives that underpin them, by encouraging financial providers to discriminate in how they treat customers' complaints.
159.	10	CGA defn is not relevant to NZX. Securities Act thresholds may seem more appropriate. Do not believe a monetary limit should be used to define consumer.
160.	10	The definition of consumer needs to be consistent with the other definitions of consumer that flow from the licensing requirements. Agree with a monetary limit on the amount that can be claimed and this needs to be related to a realistic amount depending on the service provided and that is easily indexed for inflation eg median house price, higher 25 percentile of salary. Better to limit claims rather than screen out on size.
161.	10	Some meshing of the CGA and the securities legislation definitions of consumer may be appropriate.
162.	10	Dispute resolution scheme should not be limited in terms of dollar amounts.
163.	10	The CGA definition of "consumer" is inadequate if the purpose of the dispute resolution scheme is to offer a service to those persons or entities who are unfairly disadvantaged in endeavouring to resolve a dispute with a large organisation. SMEs are often as much as individuals in need of dispute resolution services. If a dispute resolution service is not intended to be available to those who can afford substantial legal advice and representation, then a limit to the amount that can be claimed would serve to eliminate at least some of the legally complex cases that are more suited to the judicial process.
164.	11	Type of cases should be as broad as possible – should not be a prescriptive list.

#	Issue Ref	Summary of Issue Raised by Submission
165.	11	The ISO's TOR provides constraints on the types of complaint the ISO can consider.
166.	11	In considering likely areas for consumer complaint, the discussion paper does not appear to comprehensively address issues surrounding losses that might arise from the handling of client money or property, or methods of ensuring that a financial institution or financial advisor is able to pay restitution when awarded. For NZX Firms, these issues are addressed, at least in part, via the NZX Participant Rules requiring insurance cover appropriate to the business to be in place at all times for each NZX Firm and through the provision for a fidelity fund. Further discussion on solutions appropriate to the wider industry grouping of financial institutions and financial advisors is welcomed.
167.	11	There needs to be further consideration of the relationship between any dispute resolution scheme and the courts, eg the ability of dispute resolvers to refer a matter to the Court to make a ruling and establish a precedent, the ability of the court to appoint amicus curiae at the expense of a scheme to ensure the consumer's case is adequately argued; which determinations of a dispute resolver are enforceable in the courts, for example should only monetary determinations be enforceable as judgements.
168.	11	The following disputes should be excluded from the mandate of any finance sector dispute resolution system: privacy disputes currently resolved through the Office of the Privacy Commissioner; disputes relating to identity and anti-money laundering (ie crimes).
169.	11	Any new consumer dispute resolution procedures should be designed to ensure that consumers could not engage in "gaming" to avoid payments or in an attempt to recover money where an investment had not performed in line with their expectations.
170.	11	Aligned to that of the BO.
171.	11	Commercial matters and investment performance should be outside scope.
172.	11	Should not be a right of appeal by a financial provider.
173.	11	The dispute resolution system is an alternative to the courts. The grounds on which they can bring a complaint should therefore be consistent with general consumer protection law such as the CGA and the FTA. Customers should also be able to bring complaints on product or intermediary disclosure.
174.	11	Exercise of commercial judgement (setting fee levels etc) should be outside the scope of dispute resolution, as disclosure should occur at the commencement of the customer relationship so that consumers are fully aware when they purchase the product or service of the associated fee levels.
175.	11	All activity between a consumer and a participant should be able to be referred to a dispute resolution system.
176.	11	The jurisdiction should not be so narrowly drawn that some of the advantages of a non-court based system are lost. Industry-based dispute resolution schemes in general consider two types of cases: those that could be the subject of litigation, such as complaints of breach of contract or statutory obligations, and those that can be characterised as complaints of general unfairness, such as complaints about maladministration. Where there is an industry code of practice, complaints about breaches of the code provisions may make up a third category.
177.	12	Mandatory participation should be extended to providers of credit/lending.

#	Issue Ref	Summary of Issue Raised by Submission
178.	12	If all other financial products and providers are subject to the proposed scope of the dispute resolution system, then so should credit/lending activities be subject to them. By excluding credit/lending activities, it may mean that a provider could be within the scope of the EDR system for the provision of one service, but outside the scope for its credit/lending activities. This could create confusion for consumers, through maintaining a voluntary regime surrounded by what is effectively mandatory membership of EDR schemes for other financial products and providers through licensing/registration requirements.
179.	12	It is incorrect to suggest that there are non-licensed products as it is the provider and not the product that is licensed.
180.	12	The ISO scheme, if amended per this submission, would capture all general insurance products and providers.
181.	12	Should any financial products or providers fall outside of the proposed scope of the dispute resolution system, there should be required disclosure that these products or providers are not covered by an independent dispute resolution scheme.
182.	12	A consumer of credit provided by a bank, an ADT or an ODT should have rights to access the dispute resolution system.
183.	12	Disputes emanating from consumers who have obtained credit from the banks, ADTs and ODTs should fall within the scope of the dispute resolution system, all other should fall outside.
184.	12	If a firm is licensed it should be part of the scheme.
185.	12	It is not clear from the paper and from the review of financial intermediaries how APB disputes will be addressed. Oppose any additional carve-outs from the BO's jurisdiction, ie support all bank disputes going through the BO in the first instance.
186.	12	Mandatory participation should extend to credit/lending activities.
187.	12	Support one disputes resolution system for all retail financial services including banking products. Credit and lending activities should also be covered as they are no less likely to be subject to consumer complaints than other consumer financial services.
188.	12	No product or participant should be outside scope – mandatory participation is appropriate for all financial services participants.
189.	12	Some conceptual difficulties in addressing the discussion paper because of some uncertainty about its scope. The RFPP is about the regulation of non-bank financial institutions, financial intermediaries and financial products, but there appears to be an assumption that any regulatory requirements for the adoption of consumer dispute resolution arrangements will apply equally to banks and non-bank financial organisations.
190.	12	Some complaints involve a complex mixture of different products and services. It would be artificial to attempt to address only the parts of such a complaint that fell within a limited jurisdiction. It is also important to avoid the expense (for financial services providers) and the potential confusion (for consumers) of a situation where a provider may have to belong to more than one dispute resolution service.
191.	13	Industry funding alone does not ensure support or commitment. Commitment is not created by the imposition of a mandatory dispute resolution system. Rather, it is earned by the EDR scheme which can demonstrate an adherence to the Benchmarks (independence, fairness, effectiveness, efficiency, accountability and accessibility).

#	Issue Ref	Summary of Issue Raised by Submission
192.	13	Regulations should be separate for each industry sector as the participants are different and the products they provide are very different with very little, if any, cross over. Therefore the dispute resolution process, whilst it can be similar in structure, should be separate in practice as the expertise and knowledge required to settle disputes effectively and fairly is vastly different. The costs associated with this recommendation are relatively low.
193.	13	To the risk of exacerbating existing moral hazard problems from the Ministry's proposals need to be added the problems of less competition and choice and higher costs, costs ultimately born by consumers and equity holders.
194.	13	The advantage of such a system is that it utilises key industry knowledge and expertise in resolving disputes should be mandatory with redress through the courts.
195.	13	The advantages and disadvantages, costs and benefits are generally as identified in the discussion paper.
196.	14	Single scheme
197.	14	One scheme with specialist divisions.
198.	14	There is no indication that a single scheme is better than multiple schemes. Possibly, where there is a greater volume of complaints generated by a larger population, a single scheme may be more appropriate. This is not the situation in NZ.
199.	14	It would be counter-productive to tamper with existing schemes that are operating efficiently for the sake of creating a unified, cross-industry scheme. It would be far more efficient and less costly to govt to mandate that each industry establish and fund their own dispute resolution scheme with mandatory participation from all industry members which can be monitored through the registration process.
200.	14	As each sector of the financial industry is quite distinct in terms of the products they provide, each sector should have a separate dispute resolution service such as the ISO. Govt intervention is only needed to the extent that the regulation require each industry sector have a satisfactory dispute resolution mechanism in place and that the industry sector promote its existence to customer.
201.	14	The multiple scheme model will provide an efficient and cost effective sector focused dispute resolution system.
202.	14	Support establishment of a single consumer dispute resolution and redress process covering all financial service provision.
203.	14	Support option 4B – preferred approach is to build satellite schemes on the existing schemes so that the expertise and experience is used more across the whole sector.
204.	14	There should be a single entry point directing the consumer to the appropriate industry-based scheme. If more than one option covered largely equivalent relationships, there would inevitably be gaps that might undermine the credibility of the process. Therefore it is desirable to create a regulatory body which has the power to make a direction binding on all participants to the dispute.
205.	14	An amalgam of options 4B and 4C. Favour industry-based resolution schemes, and a single entry point which directs consumers to the appropriate scheme.
206.	14	Favour multiple schemes, however this is provided the government remains relatively more remote from those schemes, ie certifying whether, overall, each scheme is fit for purpose. If the government is to engage itself in the micromanagement of those schemes, for example approving rules, rule changes, operational structures, etc, the scheme will tend to a one size fits all approach, pressure to innovate will be compromised, costs will be significantly higher and flexibility will be lost.

#	Issue Ref	Summary of Issue Raised by Submission
207.	14	Three product-line based dispute resolution schemes (insurance, savings and lending) with mandatory participation by all providers of financial products in scheme(s) relevant to their product lines. Envisage participation to be based on product-lines rather than company affiliation – a company may need to belong to more than one scheme if it provides both insurance and lending products, for example.
208.	14	A single industry scheme is inappropriate. It would still require some form of segregation based on sector specific expertise. A single scheme would be contrary to the considerable industry commitment which already exists with the ISO.
209.	14	Single scheme. Multiple schemes create too much complexity and can confuse consumers.
210.	14	Single scheme.
211.	14	Multiple schemes with shared resources is the most appropriate model, especially in the short to medium term.
212.	14	If APBs are established as proposed in the financial intermediaries discussion paper, it will be important to clarify the relationship between the APB and the dispute resolution process. The current process where disputes do not progress through an industry body resolution process until the company has had a chance to resolve the issue in the first instance should be retained. The same process should apply in an APB environment where a complaint has been made against a member of an APB.
213.	14	Multiple schemes with shared resources.
214.	14	Consumers are best served by a single industry scheme with multiple points of entry.
215.	14	Multiple schemes with the option of shared resources is the consumer dispute resolution scheme that best meets the needs of industry and the public.
216.	14	Single scheme. There could be panels within the single entity to ensure that relevant expertise is brought to the dispute resolution process.
217.	14	Single scheme
218.	14	Multiple schemes is the most appropriate form, as the needs and nature of participants in the financial sector vary considerably. Multiple schemes would allow providers of similar size, operating models or geographic location to form a scheme that adequately reflects good practices by members, and allow the development of specialised knowledge of that segment of the financial market by the scheme.
219.	14	Multiple scheme arrangement, with the present models as a guide.
220.	14	Preferred alternative is multiples schemes. One possibility is a series of three or four industry based schemes, each focused on a particular group of organisations and covering all larger organisations in the group but also providing dispute resolution services on a contractual basis to smaller organisations or groups of organisations who may not be full participants in the schemes.
221.	15	Would build on the existing commitment and support for ISO and BO, while extending consumers' options for redress. Mandatory membership of an EDR scheme for complaints about financial intermediaries would fill an existing gap, however such a scheme has the potential to fail without the support of product providers.
222.	15	Key advantage is that the scheme will be focused on the specific industry sector with the specialist knowledge of that sector. Costs will be lower and there will be better buy in or ownership by the participants in the sector.

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223.	15	Advantage is that you get specific expertise relating to the specific financial sector in which the dispute has arisen, disadvantage is the sheer complexity of managing a multiple scheme system (causing consumer confusion) and determining under which scheme a dispute is to be resolved (where it might be unclear).
224.	15	Potentially confusing and expensive. Could lead to diminishing consumer standards as insurers shop around for more favourable schemes.
225.	15	Multiple schemes allow a public education campaign to build on existing appreciation of the ombudsmen schemes, making it more intuitively comprehensible what the new schemes do and how they work.
226.	16	Oversight – Disputes Tribunal Chief Referee model may be useful
227.	16	Publishing annual case studies allows the industry to predict the likely outcome of a complaint to the ISO and helps to promote better complaints handling and consistency of decision-making across the insurance sector.
228.	16	This is not an issue under a model where each industry sector has its own dispute resolution scheme.
229.	16	It may be worthwhile considering the introduction of an oversight panel which reviews key decisions made by each of the separate schemes. Would need to be criteria developed as to what constitutes a key decision.
230.	16	Greater co-operation between the existing bodies such as NZX, BO and ISO who already have established frameworks and experience would provide the foundation for a dispute resolution body.
231.	16	Do not support the use of multiple schemes.
232.	16	Forum shopping must be prevented and the decision of one scheme must be final.
233.	16	Prefer single scheme, but panel members could be on multiple schemes to promote consistency.
234.	16	Don't support multiple schemes. The need for procedures to ensure consistency are an aspect of the additional costs of separate schemes.
235.	16	Industry schemes will share a commonality and therefore it is appropriate that they establish a forum where they are able to consult each other on procedural matters and particular trends in the financial services industry.
236.	16	Sharing of decision-making processes of each scheme is sufficient to ensure consistent decisions are made.
237.	16	Consumer confusion is more apparent than real. If each scheme covers all members of a particular sector, there is little scope for similar complaints to be heard by different bodies.
238.	16	If a scheme can address and resolve systemic issues identified in complaints, so that there is no need to report them to the regulatory body, this in itself acts as an incentive to organisations to resolve systemic issues themselves, sometimes with assistance from the dispute resolution body.
239.	17	Agree with the benchmarks outlined in the paper.
240.	17	Minister should be responsible for approval of schemes.
241.	17	An approval process for multiple EDR schemes would be required, similar to the existing process in place in NZ for an EDR scheme to be allowed to use the name "Ombudsman". Adherence to the Benchmarks would be a minimum requirement.
242.	17	Guidelines for approval of EDR schemes should be put in place and the Securities Commission, rather than the Minister, should be responsible for approving EDR schemes. Direct political involvement in EDR schemes should be kept to a minimum.
243.	17	Agree that there should be a formal approval process for industry dispute resolution schemes.

#	Issue Ref	Summary of Issue Raised by Submission
244.	17	Any dispute resolution system must satisfy the following minimum criteria: be simple; be easily accessible; set out clearly the nature of the disputes determinable by the dispute resolvers, including monetary limits; be inexpensive to the industry participants, but free to the consumer; be impartial, and seen to be such; be confidential; the choice of participation in the system be the consumer's, not the industry participant's; require further consideration about the availability of legal representation; consumers should have the ability to accept or reject the dispute resolver's decisions; have limited rights of appeal to the Courts; once accepted by consumers, the dispute resolver's decisions be enforceable in the District Court or High Court.
245.	17	The regulatory body should at least have the following powers: to decide who in the particular circumstances is the dispute resolver; to direct that a dispute will not be referred to a dispute resolver where a professional body such as the new Standards Committees for lawyers is obliged to investigate and determine the dispute, where the dispute has been decided already or subject of a binding settlement, or where the dispute is vexatious; to make recommendations to the appropriate Ministers concerning schemes; to make recommendations to Ministers about the manner of appointment of dispute resolvers to dispute resolution schemes; to refer a provider to the appropriate regulatory authority for investigation; to review and report at regular intervals to the appropriate Ministers on whether approved dispute resolution schemes were fulfilling their purpose, with the ability to make appropriate recommendations; to publish reports about disputes decided by disputes resolvers without identifying information about consumers.
246.	17	The procedures adopted by the ISO are sufficient, ie Minister (and a range of other stakeholders) are consulted before any of the Rules are changed. This approach is more appropriate than the Minister having the responsibility to approve schemes.
247.	17	Other industry participants would be able to join a scheme subject to meeting the necessary entry requirements and/or any minimum regulatory requirements established for such schemes.
248.	17	Support the need for a consumer dispute resolution process and commend the comprehensive evaluation criteria that have been developed to assess the options. Whichever option is adopted, key aspects include full and equitable coverage of the industry, transparency of requirement (including improved awareness), accessibility for consumers and fair redress.
249.	17	Assuming the creation of a single scheme, the most significant standard to be put in place to ensure consumer confidence is the creation of rights to appeal decisions emanating from the scheme – by the courts if necessary on the basis of a misinterpretation of the fact and/or the law.
250.	17	The Minister should be responsible for approving any scheme.
251.	17	Support legislation to set out broad principles of scheme and ministerial approval of schemes.
252.	17	Legislation should set minimum standards for dispute resolution schemes. The Minister should be responsible for approving schemes to ensure consistency.
253.	17	Don't support multiple schemes. The need for oversight to ensure consistency and the related costs is one of the disadvantages.
254.	17	Each scheme will need to be subject to some form of supervision by an independent or govt body (eg the BO is monitored by the Banking Ombudsman Commission) in order to ensure that each scheme is operating efficiently and have the confidence of the marketplace.
255.	17	Procedures that currently apply to BO and ISO have proved to be reliable and consistent. They should be used as a model for other schemes.

#	Issue Ref	Summary of Issue Raised by Submission
256.	17	There will probably need to be an approval process for dispute resolution schemes. Provided there is a transparent process and clearly established standards, there seems little from the consumer point of view to choose between the various possible approving bodies.
257.	18	Information sharing is a plausible option, as it lowers the cost of access for consumers, while still leaving one-door access to schemes.
258.	18	Sharing resources among established schemes has been possible and is likely to be extended in the future. However, problems could arise when a new regime for financial intermediaries/other financial services providers is established, in terms of integration with existing facilities.
259.	18	No. Each scheme should focus on a specific industry sector.
260.	18	The benefits of sharing resources should be left to the various different schemes to determine the advantages and disadvantages.
261.	18	Do not consider that multiple schemes are advantageous. A single scheme with a single board of control will more effectively manage these resource allocation issues.
262.	18	Support multiple schemes with a sharing of resources between separate schemes. Such an arrangement would bring cost savings and a cross fertilisation of knowledge, information, skills and experience.
263.	18	Do not support shared resources where this resulted in a lower level of service by the BO. For example, would not support a single telephone number, because of the possibility of brand dilution or confusion. Would support a shared resource which answered all calls but could determine which scheme the call is directed to.
264.	18	It is a better option than having completely separate schemes as there are efficiencies in having shared services. However, there will still be the fixed costs of governance, management and reporting and this approach is still too complicated and expensive in the small NZ market compared with having a single scheme.
265.	18	Sharing resources is plausible. Whether it is appropriate is a decision to be determined by the schemes themselves rather than the regulators.
266.	18	There are limited sharing options. There is little to be gained by a strict adherence to a sharing principle.
267.	18	While the sharing of resources and systems between multiple schemes may well be desirable, it is difficult to see there is any need for regulation to achieve this.
268.	19	A single entry point should not be mandatory. Rather, the EDR schemes should work co-operatively to establish shared facilities. A requirement for minimum standards would provide direction and a focus for multiple EDR schemes.
269.	19	Support the establishment of a single point of access for consumers to register complaints and concerns. This central body should be able to: obtain help from other bodies such as APBs or other dispute resolution mechanisms (BO, ISO, NZX Discipline) to determine where responsibility lies and the appropriate conduct standards that should have been met; refer complaints to other bodies for resolution such as APBs, BO, ISO, NZX Discipline, where coverage by that body is determined to be more appropriate; determine complaint outcomes itself where referral is not appropriate (eg due to the complex nature of a complaint covering more than one complaints assessor or APB); power to impose restitution itself or confirm restitution recommended or imposed by another body and seek court backing for recovery, if necessary; power to refer matters to disciplinary bodies or other statutory authorities, such as the Sec Com or the police, in addition to directly addressing the consumer complaint and imposing restitution.
270.	19	Each sector of the finance industry is quite distinct and therefore a single entry point is not required.
271.	19	Support a single entry point.

#	Issue Ref	Summary of Issue Raised by Submission
272.	19	Support a single entry point as both an efficiency measure and to simplify the process for the consumer.
273.	19	The problem of multiple schemes causing confusion is overcome if there is one scheme for each broad type of insurance. This means multiple schemes, but only one for life, one for health, one for general.
274.	19	Single entry point should be mandatory.
275.	19	Do not support a single entry point.
276.	19	There should be multiple entry points. If there is a common entry point it will need to be established, maintained and supervised by the schemes that it services.
277.	19	An efficient inter-scheme referral service could be easier to operate than a single entry point and would ensure that complaints made to the wrong dispute resolution service quickly reached the appropriate destination.
278.	20	It would be contrary to the Aust model to speculate on what resources and functions <u>should</u> be shared. There is potential for resources like a joint call centre, joint presentations and case management systems to be shared, on a co-operative basis. Any new EDR scheme could benefit from using the same case management system trialled by the ISO, BO and other schemes.
279.	20	Each scheme should be separate to ensure buy in, ownership and effectiveness. Whilst there may be duplication of some functions the overall benefit of independent schemes will provide a better standard of conduct and a better outcome for consumers.
280.	20	Do not believe that multiple schemes provides the most efficient solution.
281.	20	Any sharing of resources or systems that delivers efficiencies and effectiveness along with cost savings should be considered.
282.	20	Improved flexibility with floating investigators who are able to move between schemes as demand fluctuates between them.
283.	20	Support a single scheme sharing all resources.
284.	21	A single scheme would not necessarily be able to shift resources from one area to another if there was a sudden increase in one type of complaint. Staff receive specialised training, and any shift requires time, training or employing more staff to deal with a sudden increase.
285.	21	Even if there are specialist divisions within a single scheme, such as investigation teams and ombudsman along product or provider lines, the larger areas of practice (banking/lending) would dominate the smaller dispute resolution teams, and the end result would be a less robust service for consumers with insurance-related complaints and an even less robust service for those with health or travel insurance-related complaints.
286.	21	No clear evidence that a single mandatory scheme would be less costly to run, and there is the possibility that complainants regarding products from the smaller financial providers or the providers that generate less complaints (such as insurers) may not receive the dedicated service that they deserve.
287.	21	While there may be some cost savings from a single scheme the wide range of businesses within the sector would make such a scheme unworkable.
288.	21	Advantages and disadvantages have been covered in the discussion document.
289.	21	A single scheme would be unworkable in practice due to the differences in size, complexity, operating models and market segments of the various providers. If the existing schemes were amalgamated and widened to include all financial providers, the goodwill and benefits of these schemes would be diminished and there would be severe difficulties reconciling the structure, funding and specialist knowledge accrued with the changes.

#	Issue Ref	Summary of Issue Raised by Submission
290.	21	A single scheme would need to subdivide the work into broad categories of entity; this is effectively what exists now. There seems to be very little cost savings associated with a single scheme.
291.	21	A single scheme would mean losing the current coverage of two schemes, BO and ISO, which function very well in their present form but which are very different because of the nature of complaints they handle. The main work of the ISO is handling complaints about insurance claims that have been declined. This means working within the terms of the insurance contract and favours a much more legalistic approach to complaints than that of the BO who is generally dealing with a wide range of complaints about banks' administration of their customers' affairs, and makes more use of the "fair and reasonable" standards applicable in such circumstances.
292.	22	Most important point is equal balance between industry and consumers.
293.	22	Appointment of all of the members of the governing body of a single EDR scheme by the Minister indicates a departure from the co-operative model and a move towards government control, funded by industry.
294.	22	There should not be a single scheme. This will impose additional cost and will be less efficient and obtain less buy in by the industry.
295.	22	Some members be appointed by appropriate Ministers, and others chosen by Ministers from nominees of industry-wide representative groups. It would be simplest to have one responsible Minister, preferably the Minister who was responsible for the administration of the Courts.
296.	22	Essential that participants be given the opportunity (through regulation) to select their representatives to sit on the governing board. Do not agree that the Minister should be given the authority to appoint industry representatives. Should be transparent criteria relating to the appointment of consumer representatives to ensure that consumer representatives have not only a strong background of governance roles, but also a strong understanding of the financial product for the scheme they are governing.
297.	22	Governing body should be appointed by the Minister. This would ensure independence from industry.
298.	22	Whatever process that is adopted should include a need for selection based on skills and experience necessary to govern such a scheme rather than their political persuasion.
299.	22	Appointment of the governing body should be a matter largely for determination by the industry members. Agree with having a consumer representative.
300.	22	Key industry groups to make nominations and for the Minister to appoint board members with the objective of maintaining broad industry representation.
301.	22	Procedures should follow those which currently operate for BO and ISO.
302.	22	Appointment by govt leads to concerns about the scheme's independence, not of its participants, but of government. It is not desirable for a dispute resolution body to be seen as a mere arm of a regulatory body, but this is often the perception in such circumstances.
303.	23	Rules needed to ensure consumer confidence in a dispute resolution scheme would be: <ul style="list-style-type: none"> - a code of practice - regular reviews - independent board or commission standing between industry and the consumer - appeals process - enforcement of scheme decisions - reporting requirements - consumer education program - effective promotion.

#	Issue Ref	Summary of Issue Raised by Submission
304.	23	Scheme rules would be required and would have to ensure transparency and independence to promote consumer and industry confidence.
305.	23	The existing ISO rules are adequate.
306.	23	Similar to ISO rules.
307.	23	Important for industry members to own the rules of any scheme. In the event of a single scheme, it is envisaged that different sector groups would contribute to sector-specific codes of practice.
308.	23	The present BO, ISO and IFA schemes are a good starting point.
309.	23	Scheme rules should be similar to those which currently apply to BO and ISO.
310.	Other	Believe that dispute resolution systems must be aimed at ensuring consumers' reasonable expectations are met. Any external dispute resolution system should be complemented by appropriate internal complaints handling procedures. Support the criteria of accessibility, independence, fairness, providing market incentives, flexible, transparent and the need to be cost effective.
311.	Other	The banking and insurance industry use of the title "Ombudsman" should be abolished, thus limiting the use of that title to those appointed as such under the Ombudsman Act 1975.
312.	Other	Of the evaluation criteria, in the absence of an overarching efficiency criterion, the "cost effective" criterion should be amended to include reference to regulatory costs. More significantly, a greater sense of the trade-off between costs and benefits needs to be provided, that is, that positive objectives will only be pursued up to the point that the expected marginal cost of doing so equals the marginal benefit. As the "cost effective" criterion currently reads, it could be interpreted to mean that the objectives are to be pursued irrespective of cost. Recommend the inclusion of a criteria that captures all costs and benefits, and that the expected cost of any scheme must be exceeded by the expected benefit.
313.	Other	Decisions of the disputes resolution body should be made binding through regulation/legislation, with the proviso that in limited circumstances either consumer or insurer could appeal the decision through the court system.
314.	Other	A new dispute resolution process would be unnecessary and unwieldy in respect to the GSFA and GSF, because there is an existing process for appeal to the Appeals Board.