



CONSUMER SUMMARY

# Review of approved financial dispute resolution scheme rules



## Background

There are four approved dispute resolution schemes. The schemes resolve disputes between consumers and financial service providers free of charge. Providers can choose which scheme they are a member of and therefore which scheme resolves

complaints made about them. Each scheme is required to have a set of rules which govern how they resolve disputes. We want to make some rules consistent across schemes to promote the objectives of this review.

## Our objectives for this review



## Financial caps

The **primary financial cap** sets out the maximum value of claims that schemes can consider. It also sets the limit for how much redress the scheme can award. The **weekly alternative** is used to allow schemes to consider complaints about financial products that have a weekly value, the sum of which would be above the primary financial cap. The caps are as follows:

Scheme	Primary financial cap	Weekly alternative
Banking Ombudsman Scheme (BOS)	\$350,000	No weekly alternative
Insurance & Financial Services Ombudsman (IFSO)	\$200,000	\$1,500 per week
Financial Services Complaints Limited (FSCL)	\$200,000	No weekly alternative
Financial Dispute Resolution Service (FDRS)	\$200,000	No weekly alternative

Submissions close on **6 May 2021**. You can make a submission through the online portal at [research.net/r/drsreview](https://research.net/r/drsreview).

### Primary financial cap

#### POTENTIAL ISSUES

- › The primary financial cap may be too low and consumers may not have access to dispute resolution through the schemes
- › The financial caps may not reflect the true cost of financial products today

#### POTENTIAL OPTION

##### Set the primary cap at \$350,000

- ✓ This would make the schemes more accessible
- ✗ If this results in an increase in the number and complexity of complaints, schemes may be under-resourced to deliver effective dispute resolution

### Weekly alternative

#### POTENTIAL ISSUES

- › Consumers may not have access to dispute resolution if the product complained of has a weekly amount totaling above the primary financial cap (if their provider is not registered with IFSO)

#### POTENTIAL OPTION

##### Set a consistent weekly alternative

- ✓ Consumers bringing complaints requiring a weekly alternative would have greater access to schemes

- Do you agree that the differences in the financial caps are an issue? Why?
- Do you agree with the pros and cons of these options? Why?

## Timing of membership & jurisdiction

### ■ BACKGROUND

FSCL and IFSO's jurisdiction rules state that they can only consider complaints from consumers whose provider is a **current member of the scheme**. BOS and FDRS's jurisdiction rules state they can only consider complaints from consumers whose provider was a **member of the scheme when the issue occurred**.

### ■ POTENTIAL ISSUES

If a provider switches from (for example) FSCL to FDRS, there is the potential for a consumer to lose access to redress. This is because FSCL can only consider complaints about current members but FDRS can only consider complaints about participants who were members of the scheme when the issue occurred.

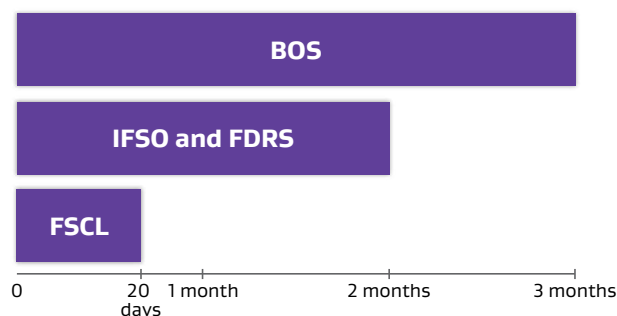
Proposed options	Costs and benefits
<ul style="list-style-type: none"><li>› Schemes can consider complaints from current members even if they weren't a member at the time the issue complained of occurred</li></ul>	<ul style="list-style-type: none"><li>✓ Reduce delays when deciding which scheme should consider a complaint</li><li>✓ Schemes can enforce decisions through the threat of removing a financial service provider from their scheme. This could result in de-registration and the inability to provide financial services in NZ</li></ul>
<ul style="list-style-type: none"><li>› Schemes can consider complaints if the issue complained of occurred when the provider was a member of the scheme even if the provider has since switched to another scheme</li></ul>	<ul style="list-style-type: none"><li>✓ Reduce delays when deciding which scheme should consider a complaint</li><li>✗ Schemes may struggle to enforce awards as they will not be able to remove the provider from their scheme, which carries the threat that the provider will be de-registered</li></ul>

- Do you agree with the potential issues that may arise? Why?
- Which of these options do you prefer and why?

## Time limits for bringing a complaint

### ■ TIME PERIOD I: WHEN DISPUTE RESOLUTION SCHEME BECOMES AVAILABLE WITHOUT DEADLOCK

When you first complain to your provider, you will go through their internal dispute resolution process to resolve your complaint. If you are unable to resolve the dispute internally, this is called deadlock. If neither a decision or deadlock is reached, you can escalate your complaint to a scheme once a specified time period has passed. This time period differs between schemes which means some consumers may have to wait longer than others to access schemes. These time limits are set out below:

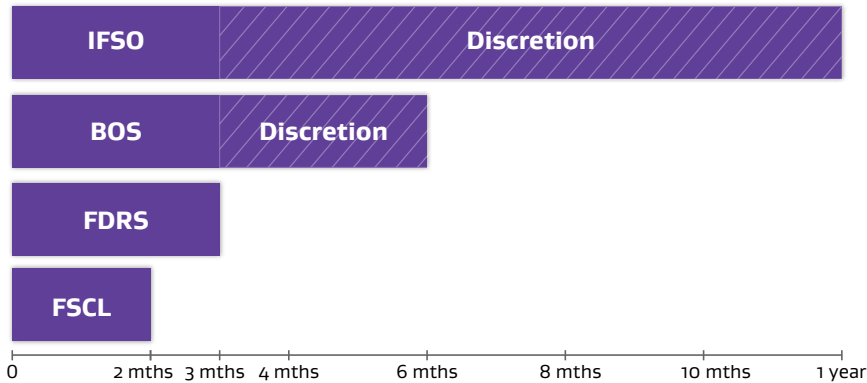


Proposed option	Costs and benefits
<ul style="list-style-type: none"><li>› Limit time period one to a maximum of two months</li></ul>	<ul style="list-style-type: none"><li>✓ This would decrease the time consumers must wait before accessing schemes</li><li>✗ This may cause claims to be rushed through the internal dispute resolution process</li></ul>

- Do you agree that the differences in time period I are an issue? Why?
- Do you agree with the pros and cons of the proposed option? Why?

**■ TIME PERIOD II: TIME FOLLOWING DEADLOCK WHEN SCHEME BECOMES UNAVAILABLE**

If you reach a decision or deadlock, there is a maximum time limit to bring your complaint to a scheme. These differ between schemes and some schemes have a discretion beyond the time limit. These differences mean some consumers have different time limits than others. Some consumers facing exceptional circumstances may not be able to bring their complaint within the standard time limit. The time limits are set out below:



Proposed option	Costs and benefits
<ul style="list-style-type: none"> <li>› Create a consistent time period of three months following deadlock, after which dispute resolution becomes available</li> </ul>	<ul style="list-style-type: none"> <li>✓ This would increase the time frame in which a consumer can bring a complaint to the scheme, increasing accessibility</li> <li>✗ Consumers may delay bringing a complaint</li> </ul>
<ul style="list-style-type: none"> <li>› Introduce a consistent discretion to hear complaint after time period II</li> </ul>	<ul style="list-style-type: none"> <li>✓ Schemes can hear more complaints</li> <li>✓ Consumers facing exceptional circumstances will not be denied access to the scheme</li> </ul>

- Do you agree that the differences in time period II are an issue? Why?
- Which option(s) do you prefer? Why?

**■ TIME PERIOD III: TOTAL DEADLINE FOR HEARING A COMPLAINT**

All schemes have a total deadline of six years after which a complaint cannot be considered by the scheme. The date from which the six years begins is inconsistent between schemes.

The BOS and FSCL six-year limit starts from when the complainant became (or reasonably should have become aware of) the action complained of (e.g. became aware their life insurance policy has a caveat to exclude cover in their situation). The IFSO limit starts when the action was first subject of a complaint to the participant. The FDRS limit starts from when the action complained of occurred.

These differences mean some consumers have a shorter total time period than others. This undermines both fairness and accessibility.

Proposed option	Costs and benefits
<ul style="list-style-type: none"> <li>› Have a consistent time period three</li> </ul>	<ul style="list-style-type: none"> <li>✓ This would be clear and consistent across schemes, increasing fairness</li> </ul>

- Do you agree that the differences in time period III are an issue? Why?
- What do you think the consistent time period should be? Why?

