



FINANCIAL SERVICES FEDERATION

19 June 2024

Consumer Policy  
Building, Resources and Markets  
Ministry of Business, Innovation and Employment

By email: [consumer@mbie.govt.nz](mailto:consumer@mbie.govt.nz)

### **Effective financial dispute resolution discussion document**

The Financial Services Federation (FSF) is grateful to the Ministry for the opportunity to respond to its draft discussion document: Effective financial dispute resolution discussion document.

#### **Introductory comments:**

The FSF congratulates the Ministry on the discussion document and recognises the enormous amount of work that has gone into its preparation in such a timely manner.

The FSF is the industry body representing the responsible and ethical non-bank finance providers operating in New Zealand. Our membership (a list of which is attached as Appendix A) includes motor vehicle finance providers, non-bank housing lenders, Non-Bank Deposit Takers (NBDTs), the larger finance companies operating in New Zealand, fleet and asset leasing providers, credit-related insurers and a number of Affiliate members which include internationally recognised legal and consulting partners. Our members provide their products and services to more than 1.7 million New Zealand consumers and businesses. Data relating to the extent to which FSF members (excluding Affiliate members) contribute to New Zealand consumers, society, and business is attached as Appendix B.

FSF members who have retail clients are required under the Financial Services (Registration and Disputes Resolution) Act 2008 (the FSPR Act) to be registered on the Financial Services Providers Register (the FSPR) and to belong to an approved disputes resolution scheme. The members belong either to the Insurance and Financial Services Ombudsman Scheme (the IFSO Scheme) or to Financial Services Complaints Limited's Scheme (FSCL). Very few, if any, members belong to the Financial Disputes Resolution Service (FDRS) and none belong to the Banking Ombudsman Scheme.

The FSF notes that the IFSO scheme and FSCL are the two disputes resolution schemes who are currently in merger discussions which is something that FSF members would support.

In the interests of full disclosure, I was a member of the IFSO scheme Commission (Board) from February 2014 until February this year.

The following are the FSF's answers to the specific questions raised in the discussion document:

1. Do you think there is a problem with low consumer awareness and access to dispute resolution?

Apart from the fact that the FSPR Act requires FSF members who have retail clients to belong to an approved disputes resolution scheme, section 26B of the Credit Contracts and Consumer Finance Act 2003 (CCCFA) also requires consumer credit providers to disclose to their customers information about their dispute resolution scheme.

This disclosure is required as part of the lender's obligations in relation to hardship applications; when the lender receives a written complaint with respect to any enforcement action they may have taken; and by the lender to the borrower when the lender receives any other type of complaint described in the regulations.

In addition, the Constitution of the IFSO Scheme requires their members (or participants) to operate a bona fide internal complaints handling service in relation to its financial services for the benefit of users of their services that is publicised and promoted to users of their services; and informs users of their services the Scheme is available to provide them with a free complaints resolution service, by publicising and promoting it on the participant's website and/or any contractual documents.

FSCL's Terms of Reference require their participants to have a documented internal complaints process appropriate to the nature of their services and the scale of their operations; to provide information about their internal complaints process to their customers or clients; when advising complainants of the outcome of complaints dealt with by the participant's internal complaints process, also advise complainants that they may make a complaint to FSCL if they are not satisfied with that outcome; provide FSCL's contact details to complainants both at the time the complainant first makes a complaint to the participant, and when advising the complainant of the outcome of the complaint dealt with by the participant's internal complaints process.

In spite of all this available information for consumers about their access to dispute resolution, it seems likely, and this is borne out by MBIE's New Zealand Consumer Survey 2022, that awareness of the four schemes is low. However, the FSF does not believe that this is necessarily a problem as the key audience for such awareness is a consumer who has a complaint or dispute with the provider at which point the provider is required to make proactive disclosure of their internal and external processes. The awareness is raised at the point where it is needed.

2. Do you think the recent increase in the volume of disputes indicates better awareness and access to the schemes?

The FSF submits that the fact of the recent increase in the volumes of disputes could not have happened without awareness of the schemes but the increase in disputes could perhaps also be attributed to a number of other factors, not just awareness. For example, it

is likely that recent circumstances such as Covid lockdowns, extreme weather events, increased interest rates and high inflation have increased the situations where consumers have felt the need to make a complaint against their financial services provider and are therefore as much a driver of the increase in disputes as awareness of the schemes.

3. What are the barriers for consumers in accessing financial service providers' internal complaints processes?

The FSF does not believe there are significant barriers for consumers in accessing financial service providers' internal complaints processes as we have outlined in the answer to question 1 above.

FSF members strive to avoid situations where their customers feel the need to complain in the first place but where such situations do occur they strive to ensure there are as few barriers for consumers to access their internal complaints processes as possible.

FSF members point out that there is a difference between a dispute or a complaint and a matter that can be resolved quickly so as to avoid it becoming a dispute or complaint. The FSF points out that under the Financial Markets Conduct Act Regulations, stage 4 disclosure (complaints) does not need to occur if the "expression of dissatisfaction" is able to be resolved informally within 2 days.

The FSF has a longstanding Memorandum of Understanding with FinCap, the organisation that supports financial mentoring services. Through this MoU, the FSF and FinCap have agreed a standard privacy waiver that can be used by financial mentors when dealing with an FSF member on behalf of a client that will be accepted by the FSF member to allow whatever the client's issue might be to be resolved through the mentor.

Additionally, FSF's consumer lending members have set up priority email in-boxes using standardised email addresses (e.g. [financialmentor@ABCFinance.co.nz](mailto:financialmentor@ABCFinance.co.nz)) for mentors to use to access the right person within the FSF member organisation who can resolve complaints and issues in a timely manner.

The FSF also works closely with FinCap and their mentor network to bring an FSF member together with mentors to discuss any issues or concerns mentors may have with respect to a member's processes to avoid issues becoming a problem for consumers that might give rise to complaints.

The disputes resolution schemes themselves also provide their participants with helpful information and advice about how to run an effective internal complaints process.

4. What are the barriers for consumers in accessing dispute resolution schemes?

The same applies as above. FSF members ensure that their customers are informed of the option they have of accessing the member's dispute resolution scheme and the way in which they can go about doing this.

5. Do you have any specific examples or case studies of situations where consumers have experienced issues accessing a financial dispute resolution scheme?

The FSF does not have any such specific examples.

6. Do you think that current oversight and accountability mechanisms are sufficient to ensure schemes' effectiveness? Why/why not?

From the perspective of FSF members who are participants in the dispute resolution schemes, they appear to be operating effectively already. They appear to have effective governance as both the IFSO scheme and FSCL have an equal number of Commission or Board members who bring an industry perspective and who bring the consumer perspective as well as an independent Chair.

FSF members find the schemes' published annual reports to contain helpful information about the types of disputes they have received and made decisions on but would not have any objection to the schemes being required to report on specific matters to ensure consistency.

The same applies to the terms of reference for the independent review they are required to undergo every five years.

7. Do you think the schemes are as effective as they could be? Why/why not?

As stated above, FSF members have no material issues with the effectiveness of the schemes to which they belong.

However, as participants, financial services providers have to meet the cost of the investigation of a dispute, regardless of the outcome. It is not uncommon for the outcome of a dispute to be the same offer to the customer as was already made to them through the provider's own internal complaints processes.

In such cases, it is desirable for the dispute resolution schemes to engage with lenders to resolve complaints at the lowest possible level to avoid them becoming disputes.

8. Do you agree with these criteria for assessing the options? Why/why not?

The criteria to analyse the options for addressing these issues seem reasonable to the FSF.

9. Do you think that the new regulations will be sufficient to achieve the objectives set out above?

The FSF believes that retaining the status quo and monitoring the effect of the Financial Service Providers (Rules for Approved Dispute Resolution Schemes) Regulations 2024 which commence in only a few weeks from now, will be sufficient to achieve the objectives.

It would seem reasonable to allow the Regulations to bed in before considering any further regulatory intervention. There is also a lot happening in the regulatory space for financial services providers – and for the schemes themselves to understand – particularly with the proposed financial services reforms of which this discussion is a part.

10. Which of the options we have described above would be most effective to support consumers to resolve issues with their financial services provider?

The FSF notes that the first step towards resolution involves raising the issue with the financial service provider and the schemes will refer a complaint back to the provider if they have not already had the opportunity to resolve the complaint internally – which is entirely reasonable. FSF members ensure that information about their complaints process and the availability of their independent dispute resolution scheme is provided to their customers in a way that is both prominent and timely.

With respect to option a, it is not clear from the discussion document what more services that provide information, advice or navigation support to consumers are being suggested. Financial mentors are certainly such service providers and they already do refer their clients to the relevant scheme or make that referral on their behalf. However, it should be noted that these services are often run by people on a voluntary basis. It is the FSF's experience that there is a spectrum of quality with respect to the advice financial mentors provide to their clients. Whilst in the majority of cases, this advice can be helpful to their clients, in some instances it can be quite detrimental, and it is the FSF's view that more needs to be done to support increased professionalism and upskilling for financial mentors.

Also, as the discussion document notes and we have also pointed out in this submission, the CCCFA places a legal obligation on consumer credit providers to disclose information about their dispute resolution scheme and financial mentoring services in various circumstances. Financial advice providers are also required to provide information to consumers about their complaints process and independent dispute resolution when receiving a complaint. If other financial services provider participants in the schemes do not have similar disclosure obligations, then option b to place further and consistent requirements on all financial service providers makes sense.

The FSF does not support an awareness campaign as an option. These are expensive and might result in an increase in enquiries to the schemes for the period of the campaign, but we do not believe they result in a consistent increase in awareness beyond that. Awareness of the schemes is most effective at the point it is required. Any campaigns outside of this key decision point will not, in the FSF's view, drive any increase in resolved complaints.

The FSF does support a 'single front door' 0800 number as suggested in option d.

11. What are the likely costs of implementing these options?

The option of an awareness campaign would be the most expensive of the four options in the discussion document and the question of who would pay for it has not been clearly spelled out.

There are costs associated with options b and d. For the financial service providers who would be required under option b to communicate with consumers about their complaints processes and dispute resolution and who are not currently required to do so, there would be costs associated with updating their disclosures. The FSF does not see any justification for proceeding with Option b.

Option d would require the schemes themselves to update their websites and promotional materials to publicise the single front door as there would be for financial service providers in updating their disclosures and websites etc.

Given that it is not clear what option a would involve, it is hard for the FSF to consider what the likely costs of implementing it would be. However, if it were to include increasing the professionalism and skills of financial mentors to ensure that the advice they provided to their clients, then the FSF would be supportive of this option.

It should be remembered, however, when considering costs, that the schemes themselves are fully funded by their participants which is already a significant cost on the financial service providers. Any increase in cost for the schemes would be passed on to participants so all options should be carefully considered from the point of view of not adding significantly extra cost on participants.

12. Should these options be led by government, or the schemes themselves?

Option a to increase the effectiveness of the financial mentor sector would have to be led (and funded) by government. Option b would have to be led by government as it would require legislative change to place disclosure obligations about the availability of the schemes on all financial service providers which the FSF does not see as being necessary. Option c of an awareness campaign would have to be led by government, but the FSF does not believe awareness campaigns are particularly effective. Option d would have to be led by the schemes.

13. Are there any other approaches that would improve consumer access to and awareness of dispute resolution options?

The FSF cannot think of any other approaches that would improve consumer access to and awareness of dispute resolution options.

14. Do you think that there is a need for dispute resolution schemes to be more accountable?

The FSF does not believe there is a lack of public confidence in the schemes. There may be a lack of awareness of the existence of the schemes but that is not the same thing as a lack of confidence in them.

As previously stated, I have been a member of the IFSO scheme commission for nearly 10 years. From where I sat, the scheme takes their governance and performance extremely seriously and this is consistent with FSF members' experience of working with FSCL.

When raising the question of whether or not schemes need to be more accountable to government, it would be interesting to know whether this is required of other types of dispute resolution schemes, for example the Electricity Authority which is cited in the discussion document. Also, the FSF is not convinced that making the schemes more accountable to government increases positive outcomes for consumers. For example, if the Electricity Authority is subject to such accountability, has that resulted in better pricing, treatment or access for consumers?

15. Do you think there are issues with the performance or effectiveness of the schemes?

The FSF does not believe there are issues with the performance or effectiveness of the schemes. In members' experience, the schemes work closely with their participants to help them understand the issues they are seeing through the complaints that are brought to them so that participants can learn from these. They provide a lot of training through webinars and case notes and regular events to help participants better manage complaints and to avoid receiving them.

As an IFSO commissioner, I received reports at each Commission meeting about how the scheme was performing against the targets set for them by the Commission such as time to resolve complaints etc.

16. Do you think there should be consistency in how the schemes carry out independent reviews? What would be the best approach for achieving this consistency?

The FSF supports in principle the setting of consistent terms of reference for the independent reviews of dispute resolution services. However, it may be that the same terms may not be suitable when considering the different nature of participants in each of the schemes. For example, the Banking Ombudsman Scheme has only registered banks as participants whilst the other schemes have a broader range of participants.

Consistency is good but consideration should also be given to the different nature of the services provided by each of the schemes' participants and the terms should be tailored to take this into account as required.

17. Do you think government should set further scheme rules? If yes, what areas of the scheme rules should be set by government?

The FSF questions whether government plays such a role in other dispute resolution schemes such as the Electricity Authority. It seems that the government already has the ability to set scheme rules if it is felt that this is required and the recently made regulations to align scheme rules on compensation limits is an example of when the government has chosen to exercise that ability.

The FSF cannot think of any other areas of the scheme rules that should be set by government.

18. Do you think it is necessary for government to make changes to ensure effective and impartial governance of the schemes? If yes, what changes would best meet this aim?

The FSF does not believe there is evidence that the schemes' governance is not already effective and impartial. From our knowledge of the IFSO scheme and FSCL, their governance structure where three members of the Commission or Board are appointed industry representatives, three are representatives from the consumer sector and there is one independent Chair is already effective and as impartial as it can possibly be. The FSF can therefore see no reason why government should be involved in appointing board members.

19. Do you think the schemes should have to report against performance targets or standards? If yes, how should these standards be reported and what metrics should be used?

The FSF supports the schemes having to report against performance targets or standards and believes that they are already doing so through their annual reports. These already include metrics on resolution rates, time to resolve, consumer satisfaction and number and outcome of complaints about the scheme.

20. Are there any risks or unintended consequences associated with the options we are considering?

Other than adding further cost on the schemes or their participants as has already been pointed out, which should be avoided as much as possible, the FSF is also concerned that imposing overly prescriptive requirements, governance, or constraints on the dispute resolution schemes could make the schemes less efficient which could easily result in worse outcomes for consumers.

21. Will any of these proposals result in significant additional costs for the schemes, scheme participants and/or consumers? If yes, please describe the magnitude of these costs.

Please refer to the answers provided previously.

22. Are there any other ways to improve schemes' accountability and effectiveness?

The FSF does not believe there is any basis for the assertion that there is an issue with the effectiveness of the schemes. Accountability does not equate to effectiveness and none of the reference material indicates that the schemes are failing to resolve disputes for consumers.

23. Do you agree that the impact of regulations to align scheme rules, along with any other improvements proposed in this document, should be assessed before considering changes to the current scheme model? Why/why not?

The FSF agrees that the impact of the new regulations to align scheme rules, along with any other improvements proposed in the discussion document should be assessed before considering changes to the current scheme model. If the improvements result in heightened



consumer awareness and therefore increased complaints volumes this may impact effectiveness by causing delays in resolving disputes.

A model that could be considered for comparison to that of the dispute resolution schemes is that of the AML/CFT supervisory regime where there are three supervisors for different entities covered by that legislation which allows for a nuanced approach depending on the type of entities each deal with, but which has also evolved to ensure a consistent supervisory approach is taken by each of the supervisors.

24. Are there any other areas and options for change that we should consider that have not been addressed in this discussion document?

The FSF notes that the discussion document states that no further options are being proposed to change the overall scheme model. As the discussion document states, the IFSO scheme and FSCL are currently discussing a merger between them and this will reduce the number of schemes to three once that is completed so it is happening for the sake of efficiency now without the need for government intervention.

The FSF is aware that Australia and the UK have moved to a single entity for financial disputes resolution. This has not necessarily been without issue for their participants. For example, financial services providers in both jurisdictions report a tendency towards regulatory overreach on the part of each of their dispute resolution schemes. By this we mean that the schemes can at times be seen to have taken their role beyond resolving disputes and have been known to set standards for their participants that go above and beyond what is required of them in law.

FSF members who operate on both sides of the Tasman also report that there has been a large increase in the fees they pay to AFCA since its inception and there are often significant delays experienced between a complaint being raised by a customer and being allocated to the lender so there is reason to believe that a single entity model might not always be the most effective.

The FSF therefore does not believe there is sufficient evidence to show that the current model for financial services dispute resolution is less than effective in the way that it operates in New Zealand for any further intervention from government to be required.

Once again, the FSF is grateful for the opportunity to comment on the discussion document and looks forward to the outcome of this consultation. We are, as ever, happy to provide any further information or feedback that might be helpful.

Privacy of natural persons



Lyn McMorran  
EXECUTIVE DIRECTOR

Appendix A



FSF Membership List as at April 2024

Non-Bank Deposit Takers, Specialist Housing/Property Lenders, Credit-related Insurance Providers	Vehicle Lenders Finance Companies/Diversified Lenders	Finance Companies/ Diversified Lenders contd.	Finance Companies/ Diversified Lenders, Insurance Premium Funders	Affiliate Members	Affiliate Members contd., and Leasing Providers
<p>XCEDA (B)</p> <p>Finance Direct Limited ➤ Lending Crowd</p> <p>General Finance (BB)</p> <p>Gold Band Finance (B+) ➤ Loan Co</p> <p>Mutual Credit Finance (B)</p> <p><u>Credit Unions/Building Societies</u></p> <p>First Credit Union (BB)</p> <p>Nelson Building Society (BB+)</p> <p>Police and Families Credit Union (BB+)</p> <p><u>Specialist Housing/Property Lenders</u></p> <p>Basecorp Finance Limited</p> <p>First Mortgage Managers Ltd.</p> <p>Liberty Financial Limited</p> <p>Pepper NZ Limited</p> <p>Resimac NZ Limited</p> <p><u>Credit-related Insurance Providers</u></p> <p>Protecta Insurance</p> <p>Provident Insurance Corporation Ltd</p>	<p>Auto Finance Direct Limited</p> <p>BMW Financial Services ➤ Mini ➤ Alpha Financial Services</p> <p>Community Financial Services</p> <p>Go Car Finance Ltd</p> <p>Honda Financial Services</p> <p>Kubota New Zealand Ltd</p> <p>Mercedes-Benz Financial</p> <p>Motor Trade Finance</p> <p>Nissan Financial Services NZ Ltd ➤ Mitsubishi Motors Financial Services ➤ Skyline Car Finance</p> <p>Onyx Finance Limited</p> <p>Scania Finance NZ Limited</p> <p>Toyota Finance NZ ➤ Mazda Finance</p> <p>Yamaha Motor Finance</p> <p><u>Finance Companies/Diversified Lenders</u></p> <p>AfterPay</p> <p>Avanti Finance ➤ Branded Financial</p> <p>Basalt Group</p>	<p>Blackbird Finance</p> <p>Caterpillar Financial Services NZ Ltd</p> <p>Centracorp Finance 2000</p> <p>DebtManagers</p> <p>Finance Now ➤ The Warehouse Financial Services ➤ SBS Insurance</p> <p>Future Finance</p> <p>Geneva Finance</p> <p>Harmony</p> <p>Humm Group</p> <p>Instant Finance ➤ Fair City ➤ My Finance</p> <p>John Deere Financial</p> <p>Latitude Financial</p> <p>Lifestyle Money NZ Ltd</p> <p>Limelight Group</p> <p>Mainland Finance Limited</p> <p>Metro Finance</p> <p>Nectar NZ Limited</p> <p>NZ Finance Ltd</p>	<p>Personal Loan Corporation</p> <p>Pioneer Finance</p> <p>Prospra NZ Ltd</p> <p>Speirs Finance Group (L &amp;F) ➤ Speirs Finance ➤ Speirs Corporate &amp; Leasing ➤ Yoogo Fleet</p> <p>Turners Automotive Group ➤ Autosure ➤ East Coast Credit ➤ Oxford Finance</p> <p>UDC Finance Limited</p> <p><u>Yes Finance Limited</u></p> <p>Zip Co NZ Finance Limited</p> <p><u>Insurance Premium Funders</u></p> <p>Elantis Premium Funding NZ Ltd</p> <p>Financial Synergy Limited</p> <p>Hunter Premium Funding</p> <p>IQumulate Premium Funding</p> <p>Rothbury Instalment Services</p>	<p>Alfa Financial Software NZ Limited</p> <p>AML Solutions Limited</p> <p>Buddle Findlay</p> <p>Chapman Tripp</p> <p>Credisense Ltd</p> <p>Credit Sense Pty Ltd</p> <p>Deloitte</p> <p>EY</p> <p>FinTech NZ</p> <p>Finzsoft</p> <p>Happy Prime Consultancy Limited</p> <p>KPMG</p> <p>Loansmart Ltd</p> <p>LexisNexis</p> <p>Motor Trade Association</p> <p>Odessa Technology Inc.</p> <p>One Partner Limited</p> <p>PWC</p> <p>Sense Partners</p> <p>Simpson Western</p> <p>Summer Lawyers</p>	<p><u>Credit Reporting, Debt Collection Agencies,</u></p> <p>Centrix</p> <p>Credit Corp ➤ Baycorp</p> <p>Debtworks (NZ) Limited</p> <p>Equifax</p> <p>Gravity Credit Management Limited</p> <p>IDCARE Ltd</p> <p>Illion</p> <p>Quadrant Group (NZ) Ltd</p> <p>Recoveries Corp NZ Ltd</p> <p><u>Leasing Providers</u></p> <p>Custom Fleet</p> <p>Euro Rate Leasing Limited</p> <p>Fleet Partners NZ Ltd</p> <p>ORIX New Zealand</p> <p>SG Fleet</p> <p>Total 97 members</p>



FINANCIAL SERVICES FEDERATION (FSF)

## THE NON-BANK FINANCE INDUSTRY SECTOR - 2022



# 48%

NON-BANK

BANK

of personal consumer loans are financed by the **non-bank sector** represented by FSF members.

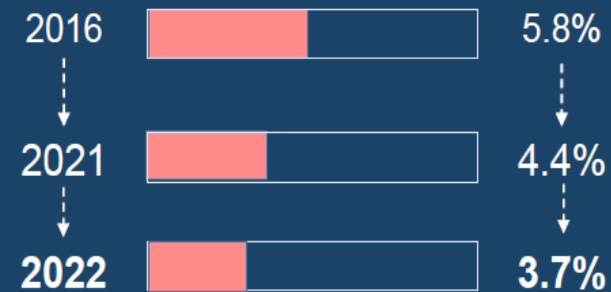
*Setting industry standards for responsible lending, promoting compliance and consumer awareness.*

### Percent of Loan Requests Approved

## 46%



### Percent of Loan Book in Arrears



# KEY FACTS: THE NON-BANK FINANCE INDUSTRY SECTOR

## FSF Members (as at 28 Feb 2022)

Number of Members	57
Number of Employees	3,561
Applications Processed	1,085,739
Loan Requests Approved	495,434
Percent of Loan Book in Arrears	3.7%

## Bank Sector (as at 28 Feb 2022)

Value of Mortgage Loans	\$329B
Value of Consumer Loans	\$7.6B
Value of Business Loans	\$118B

## Non-Bank Sector Share (as at 28 Feb 2022)

% of Total Mortgage Loans	0.4%
% of Total Consumer Loans	47.7%
% of Total Business Loans	5.9%

## Insurance Credit Related (as at 28 Feb 2022)

Number of Employees	237
Number of Policies	311,409
Gross Claims (annual)	\$27.2M
Days to Approved Claim	20 days

## Consumer Loans (as at 28 Feb 2022)

Total Value of Loans	\$8.1B
Number of Customers	1,699,683
Number of Loans	1,584,984
Monthly Instalments:	\$330M

### Average Value of Loan:

Mortgage	\$171,932
Vehicle Loan	\$12,393
Unsecured	\$2,467
Other Security	\$5,754
Lease Finance	\$2,804

### Average Monthly Instalment:

Mortgage	\$257
Vehicle Loan	\$463
Unsecured	\$144
Other Security	\$302
Lease Finance	\$241

## Business Loans (as at 28 Feb 2022)

Total Value of Loans	\$7.3B
Number of Customers	136,830
Number of Loans	264,827
Monthly Instalments:	\$590M

### Average Value of Loan:

Mortgage	\$443,784
Vehicle Loan	\$28,869
Unsecured	\$7,443
Other Security	\$32,374
Lease Finance	\$24,921

### Average Monthly Instalment:

Mortgage	\$2,281
Vehicle Loan	\$1,064
Unsecured	\$799
Other Security	\$11,044
Lease Finance	\$939