

19 June 2025

Submitted via: bills.parliament.nz

Finance and Expenditure Committee
Parliament Buildings
Wellington

Re: Financial Service Providers (Registration and Dispute Resolution) Amendment Bill

Consistent and effective dispute resolution should be readily available for timely application of our consumer finance and debt collection laws. Such availability can help avoid financial hardship being compounded or caused by misconduct and otherwise help households get money back in their wallets each week. We need to consolidate to a single financial dispute resolution scheme to realise more consistent, timely and effective resolution when whānau need it most.

We welcome the opportunity to comment on the Financial Service Providers (Registration and Dispute Resolution) Amendment Bill (**The Bill**). We generally support the proposed changes in the bill because they are preferable to the status quo. However, further action is needed now. Where a financial dispute resolution scheme underperforms, the consequences can include whānau being financially excluded and impoverished for generations because they did not have access to justice.

In the course of their work many financial mentors interact with different financial dispute resolution schemes. The schemes have focused their joint outreach on financial mentors in recognition of their frequent engagement. Our sector has a clear view of what is and is not working.

Financial mentors have reported systemic issues around the layman accessibility, inconsistency and quality across the four financial dispute resolution schemes. This leads FinCap to recommending further and immediate action to consolidate to a single financial dispute resolution scheme because this will create a better environment for addressing these issues and is preferable to the proposed changes. Aotearoa is an outlier; the United Kingdom and Australia have consolidated.

We expand on these comments and make other further recommendations below.

About FinCap

FinCap (the National Building Financial Capability Charitable Trust) is a registered charity and the umbrella organisation supporting the 177 local, free financial mentoring services across Aotearoa. These services supported almost 62,000 whānau facing financial hardship in 2024. We lead the sector in the training and development of financial mentors, collect and analyse client data and encourage collaboration between services. We advocate on issues affecting whānau to influence system-level change to reduce the causes of financial hardship.

We strongly recommend consolidating to a single financial dispute resolution scheme. Doing so would action the ongoing united calls of multiple community organisations assisting people facing financial issues over many years.¹ Having multiple financial dispute resolution schemes is limiting

¹ See this linked submission from FinCap as well as Christians Against Poverty, Citizens Advice Bureau, Consumer NZ and The Salvation Army's submissions on the same consultation in 2021: <https://www.mbie.govt.nz/have-your-say/review-of-approved-financial-dispute-resolution-scheme-rules>

their effectiveness. The inconsistent processes are confusing for consumers, as well as their representatives, and are a barrier to raising issues from a financial service.

Moving to a single scheme would also resolve issues financial mentors have identified with inconsistency in decisions and approaches across the schemes. Updating practice across a single scheme to better meet the needs of consumers would be simple compared to trying to convince multiple schemes with varying rules and internal culture to update. Greater transparency and more streamlined reports of material breaches would also be possible with one scheme.

Moving to a single scheme would also bring Aotearoa into line with the United Kingdom and Australia.² These jurisdictions have already established that there is not sufficient merit in schemes competing for members as this can be a race to who can be the least consumer friendly and least stringent at holding members to account.

While some may argue different expertise might be needed across financial services, teams of experts could operate efficiently and effectively under a single organisation and governance structure. Various financial services' issues would have similarities so shared knowledge, among other economies of scale, would emerge. This would ultimately deliver better value for consumers against the volume of consumer contacts and complaints considered. The Bill should be amended to immediately move to consolidating for a single effective independent financial dispute resolution scheme.

Recommended Amendment

Insert new clause 10A

10A New section 80A inserted (Review of disputes resolution schemes)

After section 80, insert:

80A Review of disputes resolution schemes

1. The Minister must, as soon as practicable after the commencement of this section —
 - a. review the operation and effectiveness of the disputes resolution schemes and whether the disputes resolution schemes should be consolidated into one or more scheme
 - b. prepare a report on that review.
2. The Minister must present the report to the House of Representatives as soon as practicable after it has been completed.

We support the proposed changes compared to the status quo but recommend amendments give certainty that regular reviews begin immediately with recommendations and responses proactively publicised. Ideally, if the changes proposed pass, the new powers would be utilised by the Minister to swiftly commence a consistent independent review across all currently approved schemes. The review would include a focus on whether there should be more than one approved scheme. However, it is unclear from the information provided what will happen.

The proposed changes in the Bill don't signal any timeframe for the Minister to act on the changes and commission independent reviews or form regulations on minimum standards for governance. Ideally, if the proposed changes pass, we would see the powers actioned immediately on ascent with:

² The United Kingdom consolidated from 8 schemes to a single Financial Ombudsman Service in 2001: <https://api.parliament.uk/historic-hansard/commons/1999/jun/28/financial-services-and-markets-bill>, the Australian Financial Complaints Authority commenced in 2018 and replaced three schemes: <https://www.afca.org.au/about-afca/rules-and-guidelines/enabling-legislation>

- An immediate review of all approved schemes by the same independent reviewer and certainty this will recur, at most, every five years.
- Immediate consultation from officials to establish the regulations needed to ensure financial dispute resolution schemes are governed in an effective and independent manner.

We recommend an amendment is added to the Bill to ensure regular simultaneous independent reviews of any approved schemes, the first commencing immediately after the bill ascends and then recurring no longer than every five years.

Clause 8 of The Bill proposes requiring schemes to provide the recommendations and their responses to the Minister at the end of the financial year where a review occurred. This will mean the reviews will likely be available to the public at some point. However, drafting that proactively prompts immediate publication recommendations and more timely updates on responses would reflect greater transparency.

Recent work done by the Commerce Commission on dispute resolution relating to Retail Service Quality work for the telecommunications industry could be seen as a case study of an effective process which transparently reported recommendations and responses.³ Transparency gave FinCap greater confidence in the consumer protection system for this industry. It also strengthened our confidence when recommending that financial mentors engage with the relevant Telecommunications Scheme. We saw how feedback on concerns turned into recommendations and actions. Financial mentors have given anecdotal feedback that the telecommunication scheme has improved since the initial 2021 review. To better ensure a similarly successful process, **we recommend that the bill is amended to require immediate publication of independent review findings, recommendations and responses from the reviewed scheme**

We recommend ensuring debt collection conduct is always accountable to a free and effective alternative dispute resolution service. No matter how robust the Credit Contracts and Consumer Finance Act (CCCFA) and enforcement is made at this point in time, debts from before protections were effective will continue to present to financial mentors that are causing substantial hardship for borrowers.

This is because unfair debt collection practices go unchecked. Aotearoa does not have coherent laws or enforcement tools to effectively prevent unreasonable conduct from debt collectors.⁴ Common issues include unreasonable fees and charges, harassment through excessive contact, misleading claims about actions that will be taken and coercion to make unaffordable repayments.

Some of these issues need addressing through better definition of what reasonable debt collecting conduct is permissible as an output of the announced review of the Fair Trading Act later this year.⁵ However, there are existing issues around misleading conduct from debt collectors that could be better resolved now were financial mentors always able to raise them with a dispute resolution service. **We recommend an amendment to add all debt collection activities to schedule 5 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008.**

We recommend funding the financial rights legal service pilot proposal to strengthen the consumer protection system. FinCap strongly recommends that government funds the Community Law Centres o Aotearoa pilot of a financial rights legal service. We anticipate that such a pilot, among many other

³See: <https://comcom.govt.nz/regulated-industries/telecommunications/telecommunications-for-consumers/reviews-of-industry-dispute-resolution-schemes>

⁴ See: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4161249

⁵ See: <https://www.beehive.govt.nz/speech/speech-fintechnz-hui-taumata-2025>

benefits, would build the confidence and capability of community services to identify financial services complaints, access dispute resolution and engage effectively with the process. The pilot might also have the potential to improve the accountability of dispute resolution, where legal expertise might be more available to review preliminary decisions from dispute resolution staff against other decisions and the complainant's rights. A copy of the pilot proposal is available on request.

Please contact Senior Policy Advisor Jake Lilley on jake@fincap.org.nz or 027 278 2672 to discuss any aspect of this submission further.

Ngā mihi,



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