



# **Submission**

of

## **Finsec Incorporated**

on the

### **Financial Service Providers (Registration and Dispute Resolution Act) 2008**

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## **Overview**

Finsec is very supportive of the establishment an industry based disputes resolution service for financial service providers. Whilst our preference would be for there to be only one scheme with compulsory membership for all FSPs, we accept the legislation allows for alternative schemes (other than the Reserve Scheme) to be established.

We believe that this will lead to other schemes applying for registration to differentiate themselves from the Reserve Scheme.

Finsec strongly submits that whilst such points of differentiation are allowable, the core basis of any alternative scheme should mirror or be better than the core basis of the Reserve Scheme.

In our view, it is illogical that an alternative scheme should be able to have points of difference which provide less benefit to or be more restrictive on the complainant. If this were the case, it would complicate choice and could discourage complainants from seeking redress.

Given the views expressed above, this submission seeks to answer those questions of relevance to us in the consultation document on the Reserve Dispute Resolution Scheme. Our views as expressed would equally apply to any Approved Disputes Resolution Schemes.

### **Question 6: Compensation Cap vs. Claim Limit**

Finsec supports a compensation cap that is independent of the value of any disputed transaction.

We also strongly submit there should be a specific ability for the award of inconvenience and / or costs payments. Experience is very clear that complainants can experience severe stress and or additional costs (such as time off work, legal advice, information provision etc.) in pursuing a dispute. We submit that it is only fair that such awards be available as part of a proposed resolution.

Other disputes resolution processes we are aware of do contain such a specific ability (e.g. the Banking Ombudsman Scheme - up to \$10,000) and we believe the Reserve Scheme should also.

**Question 7: Compensation Caps of \$100,000 or \$1,000 per week in case of Disability Insurance Regular Payments**

The global financial crisis and the ensuing collapse of many managed funds sold by financial advisers clearly demonstrates the breadth of value of transactions that consumers undertake with financial advisers.

These range from smaller investments to people seeking advice on how to plan their retirement, often involving hundreds of thousands of dollars saved over a life-time. With this breadth of value of transactions also comes a wide breadth of negative effects of any transactions that may be at the centre of a complaint. This is amply demonstrated in the varying circumstances of those affected by the recent ING managed funds debacle.

People in a position where their complaint centres on, what is for them, a significant sum of money often lack the financial means to seek redress in other ways.

For these reasons, Finsec strongly believes the proposed compensation cap should be higher and set at \$200,000.

We are also concerned at the proposed cap of \$1,000 per week for disability insurance as we believe this figure to be far too low. Such policy's payments are typically based on 75% (or thereabouts) of gross income insured. What such a low limit could mean is that a person insuring their income who earns more than \$69,500 per annum might not be able to take a dispute for the full amount of their claim.

Given the cost of such insurance, we suspect that there will be a bias towards higher income earners purchasing such insurance and that this bias would potentially be reflected in any disputes taken.

Such a low limit could therefore significantly limit those able to take a complaint relating to this type of product. As such, we believe the limit should be set at \$2,500 per week for disability insurance claims.

**Question 9: Is the requirement for all members to have an internal complaints procedure too difficult to meet?**

Finsec does not believe so. We would argue that it is an essential part of a positive disputes resolution culture that all providers be required to make meaningful efforts to resolve disputes internally in the first instance.

**Question 13: Reserve scheme being a contracted dispute resolution service**

Finsec believes the Ministry of Consumer Affairs should provide the dispute resolution service rather than the service being contracted out. We believe such an arrangement would provide the following benefits:-

- a) Reduce the cost of the service due to the lack of any commercial profit imperative
- b) Strengthen the impartiality of the service
- c) Assist the service through it being a part of a consumer focussed environment with a watching brief on best practice in all aspects of consumer affairs
- d) Promotion of the scheme would be better integrated into the wider work of the Ministry in this area.

This recommendation would require consequential changes to the role of the proposed advisory body.

**Question 15: Composition of advisory body**

From the information available, it is unclear what criteria would be applied to the appointment of the seventh member of the advisory body. It is presumed that this person would be a staff member of the Ministry but in any event, we recommend that this should be the case.

## Confidentiality

Finsec accepts that confidentiality can and does act to assist parties to a complaint to find resolution. We do however believe that there are a number of circumstances where transparency and accountability require a level of public disclosure.

- Record of complaints and outcomes

A record of all complaints that are lodged with the scheme and the outcome should be available (without identifying information except for the FSP's name or business name) as a matter of public record. A consumer should be able to ask the scheme for information on a FSP's record of complaints as part of their decision making process. Withholding or making such information inaccessible seriously erodes a consumer's ability to independently check an important indicator of an FSP's business practice.

- Generated information

Finsec is strongly of the view that any information generated in the course of a complaint (other than that of a commercially sensitive nature) should be able to be used by the complainant in the further pursuit of their complaint should the matter not be resolved through the complaints process of the scheme.

- Systematic issues and serious misconduct

Finsec submits that the scheme should disclose (with identifying information) details of any FSP with systematic or serious misconduct issues as part of its public reporting where those issues are serious and ongoing

Whilst we recognise that FSPs may be uncomfortable with these submissions, Finsec is of the view that a core function of the reserve disputes resolution scheme ought to be to act as a source of information of the practices of FSPs to consumers.