

5<sup>th</sup> May 2021

DRSreview@mbie.govt.nz

# Submission template

## Review of the Approved Financial Dispute Resolution Scheme Rules

Your name and organisation

Name	Privacy of natural persons
Email	
Organisation/lwi	Insurance Brokers Association of New Zealand Inc

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1 What is your feedback on the proposed objective and criteria for the review? What is your feedback on the proposed weighting of the criteria?

Generally, improvements to schemes to achieve consistency in some key areas through regulation is supported

***Financial cap***

2 Are you aware of any instances of consumer harm due to the issues outlined?

No instances where consumer's complaints have been prejudiced as result of the current cap have been advised

3 Do you have any feedback on the problems outlined?

*[Insert response here]*

**Option one: set the primary jurisdictional and redress cap at \$350,000**

4 Do you have any feedback on this option?

The example provided notes that the \$350,000 proposed cap reflects an increase for inflation on the original \$200,000 cap introduced in 1992. It is also in step with the District Court.

We submit that schemes be required to provide draft findings to all parties (which must include any material evidence relating to the findings) so the parties can provide commentary within 30 days to be considered before findings are finalised.

5 Are there any other costs or benefits of this option?

If the cap is increased, there would be potential for an increased number of and/or more complex complaints to be made, with a flow on impact on members and schemes resources and time.

It does not appear to be clear, within the paper, of the timing that governs the proposed new cap. This could see claims held back in the short term so that, if the cap is increased, the higher cap applies. This could amplify the potential negative impact on time and resources noted above and at the bottom of page 1 of the consumer summary provided with the consultation paper

**Option two: introduce a weekly alternative to a lump sum cap**

6 Do you have any feedback on this option?

*[Insert response here]*

7 Do you agree that a weekly payment alternative should be introduced for all schemes? Why/why not?

*[Insert response here]*

8 Is \$1,500 an appropriate weekly payment alternative? Why/why not?

*[Insert response here]*

9 Are there any other costs or benefits of this option?

*[Insert response here]*

**Other potential issues with inconsistent awards**

10 Do you have any feedback on the problems outlined?

*[Insert response here]*

11 If a consistent special inconvenience award was to be introduced, in what circumstances should it be awarded? Should this be discretionary, or strictly prescribed?

Given that the special inconvenience awards are generally made for non – financial impacts, they should be set at a modest level that is consistent across FSCL, IFSO and FDRS where the inconvenience is material.

Some feedback obtained was that generally, these awards are made where there is no compensation payable but there is recognition that the member’s actions have resulted in some other non – financial impacts on the complainant.

Considering the reference for the overall cap to be in line with the District Court, is this award in addition to the cap set out in 4, or part of it?

12 If an interest award was to be introduced how should it be calculated?

*[Insert response here]*

13 What are the benefits and costs of the options?

*[Insert response here]*

**Timing of membership & jurisdiction**

14 Are you aware of any specific situations where providers have switched between schemes resulting in the situation described above? If so, what happened?

No. There are some other constraints on the ability of members to move easily between schemes such as the need to give notice of termination of membership and compliance the FSLAA disclosure regime as it affects financial advice providers and advisers

15

Do you agree with the potential problems that may occur as a result of inconsistent scheme rules about the timing of membership/jurisdiction?

*[Insert response here]*

**Option one: require all schemes to consider claims about current claims about current members, even if the issue arose prior to membership**

16

Do you have any feedback on this option?

We generally support this approach. The member should be more familiar with the time periods, practices, and jurisdiction of their current scheme.

17

Are there any other costs or benefits of this option?

**Option two: require schemes to consider complaints where the issue occurred when the provider was a member of the scheme, even if they are no longer a current member**

18

Do you have any feedback on this option?

See our comment under 16.

19

Are there any other costs or benefits of this option?

*[Insert response here]*

***Applicable time periods (limits) for bringing a claim***

20

Do you any feedback on the problems outlined?

*[Insert response here]*

21

Are you aware of instances of consumer harm from the problems outlined?

*[Insert response here]*

**Option one: limit time period I to a maximum of two months**

22

Do you have any feedback on the option?

*[Insert response here]*

23 Are there any other costs or benefits of this option?

*[Insert response here]*

**Option two: create a consistent time period II of three months after deadlock**

24 Do you have any feedback on this option?

Two months should be sufficient time for the complainant to bring a complaint to a scheme following deadlock.

25 Are there any other costs or benefits of this option?

*[Insert response here]*

**Option three: introduce discretion to hear a complaint after time period II**

26 Do you have any feedback on the option?

Having an actual time period would provide greater clarity for all parties.

27 Are there any other costs or benefits of this option?

*[Insert response here]*

**Option four: consistent limit for time period III**

28 Of the four schemes, which way of outlining time period III is preferable? Why/why not?

6 years after the complainant becomes (or should have become) aware. An issue is not always apparent from the date of the action.

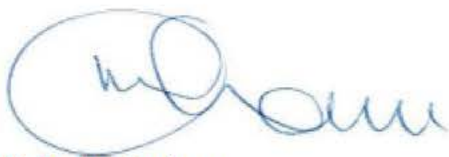
29 Are there any other costs or benefits of this option?

*[Insert response here]*

**Other Comments**

*[Insert response here]*

Yours faithfully



**Melanie Gorham**  
CEO IBANZ Inc