

Submission on discussion document: *Effective financial dispute resolution*

Your name and organisation

Name	Privacy of natural persons
Organisation (if applicable)	Fisher Funds Management Limited
Contact details	Privacy of natural persons

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Responses to discussion document questions

Issue 1: Consumer awareness of and access to dispute resolution

1

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

- A.** This submission relates only to the retail product set offered by Fisher Funds Management Limited and its related entities (Fisher Funds), being managed investment scheme (MIS) products, including KiwiSaver schemes.
- B.** In this context, Fisher Funds interprets the references to dispute resolution (DR) as references to the four external, independent DR schemes, being:
- Financial Services Complaints Limited (FSCL) – a Financial Ombudsman Service
 - Banking Ombudsman (BOS)
 - Insurance and Financial Services Ombudsman (IFSO)
 - Financial Dispute Resolution Service (FDR)
- C.** Other than the data in the consultation paper regarding low consumer awareness / access to dispute resolution, Fisher Funds does not have sufficient client-based evidence that there is a problem with low consumer awareness and/or access to DR schemes.
- For example, Fisher Funds clients with complaints do not typically raise a lack of awareness of or difficulties with accessing DR services, in the course of their complaint.
- This may be because Fisher Funds enables clients to make complaints by making complaints-related information easily accessible. On Fisher Funds website landing page, there is a link headed 'Complaints' that opens to a full page with information on the process of making a complaint, including contact details for Fisher Funds, our Supervisor, and our DR provider – Financial Services Complaints Limited (FSCL).
- Additionally, Fisher Funds Product Disclosure Statements and advice disclosure statements contain details of how clients can make complaints and who the DR provider is.
- Fisher Funds takes complaints seriously and has documented systems and processes in place including:
- a Complaints Management Policy
 - clients are offered multiple channels to raise complaints
 - Fisher Funds Client Service Team is located in New Zealand and employees are provided with complaints management training
 - complaints are recorded in the customer relationship management system
 - complaints are reported within Fisher Funds up to and including the Board
 - re-mediation, where required, is tracked to closure
- D.** In Fisher Funds' view, raising consumer awareness, beyond what MIS managers can and are in any case obliged to do, is an issue that needs to be addressed by the government through agencies such as MBIE (and IRD for KiwiSaver) via public advertising and communication efforts.
- E.** There is already a high level of complaints oversight and accountability as, in addition to DR schemes reporting on their operations, MIS managers such as Fisher Funds

completing annual returns which provide a significant amount of information on complaints, including those referred to DR schemes.

- F.** The annual returns are submitted to the Financial Markets Authority (FMA) which could be expected to be able to discern trends, communicate industry complaints metrics, including utilisation rates of DR schemes, which would enable MIS managers (and DR schemes) to benchmark themselves.
- G.** This type of industry focussed approach may contribute to better consumer outcomes than regulation.
- H.** Additionally, the effectiveness of DR schemes in the MIS space is buttressed by the fact that FMA is another recourse channel for consumers to escalate their complaints.
- I.** On the basis that the discussion document postulates there may be a problem with low consumer awareness and access to dispute resolution, one of the potential contributors could be that the duality of parties and their separate responsibilities in the MIS space i.e. the roles of managers of MIS products v. MIS product supervisors, may not always be well understood by consumers who wish to make a complaint.
- J.** Confusion regarding the duality may be amplified when the manager and the supervisor of an MIS manager belong to separate DR schemes.
- K.** Anecdotally, one of the more common complaints escalated to DR schemes by MIS product consumers (KiwiSaver scheme members) relates to significant financial hardship (SFH) claims being declined or only partially approved by the supervisor.
- L.** The consumer's complaint regarding the declined / partially approved application is usually directed at the MIS manager indicating limited understanding of the manager and supervisor's separate roles in approving SFH applications.
- M.** As the manager both receives the initial SFH application and communicates the supervisor's decision on the application, some consumers interpret this to mean that the manager has declined/partially approved their claims.
- N.** This confusion could potentially be addressed by making a relevant government department the sole arbiter of SFH claims in the KiwiSaver space.
- O.** Another important consideration for consumers invested in KiwiSaver schemes is that there is an essential element of portability which means that consumers disaffected with their current provider can easily switch to another KiwiSaver provider that better meets their needs.
- P.** This can be contrasted with consumers holding core banking products such as mortgages and credit/debit cards where switching may not be an easy option or if it is, there are considerable practical difficulties and inconveniences (e.g. having to change all DDs and APs on an existing credit/debit cards) when transferring to another bank.
- Q.** As a result, it is to be expected that the DR scheme which primarily serves consumers holding core banking products such as mortgages and credit/debit cards (the Banking Ombudsman) has evolved through a different journey and applies different criteria, including higher compensation limits, than DR schemes operating primarily in the MIS (including KiwiSaver) product space.
- R.** Fisher Funds is of the view that whilst effectiveness may be able to be improved through alignment of certain rules, the various schemes have developed on different paths to primarily serve the needs of different consumer groups. This evolution and focus on

particular consumer groups should not automatically be disregarded simply for the sake of DR uniformity.

2

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

The recent increase in the volume of disputes may indicate better awareness and access to the schemes.

However, it is more likely that it's being driven by cost-of-living pressures on consumers causing an uptick in KiwiSaver significant financial hardship (SFH) withdrawal applications.

Where SFH applications do not meet the supervisors' qualifying criteria for withdrawal, they are declined or only partially approved. This can often prompt a complaint from the client, initially to the manager who typically refers it to the supervisor. From there, it may be escalated to the manager's or supervisor's DR.

Across the industry, there is anecdotal evidence that complaints have increased in line with the increase in SFH withdrawal applications.

3

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

Based on Fisher Funds' own experience, there are few if any barriers preventing consumers from accessing financial service providers internal complaints processes.

The only circumstance that comes to mind is where the consumer doesn't know who their KiwiSaver provider is and is therefore unable to access the correct provider's internal complaints processes.

This situation has been addressed to some extent by Inland Revenue offering a 'find my KiwiSaver provider' service however consumers may benefit by the service being more widely publicised.

4

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

Based on Fisher Funds own experience, there are few, if any barriers, preventing consumers from accessing DR schemes.

We understand that DR providers in the managed investment scheme space (which includes KiwiSaver) have a convention that if the consumer contacts the wrong DR provider, that DR provider will refer them to the correct DR.

Fisher Funds has no evidence of client confusion as between the Banking Ombudsman and other DR providers.

Additionally, you will be aware that the two main DR providers (FSCL and IFSO) are merging, resulting in fewer DR providers.

Clearly, if a consumer doesn't know which KiwiSaver scheme they are a member of, then access to the relevant DR scheme would be more difficult.

Fisher Funds makes multiple channels for complaints available to clients (which reference our DR provider), has a well-staffed, well trained, and locally based client service centre able to assist clients with their complaints and to refer them, as appropriate, to Fisher Funds DR provider.

5

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

Fisher Funds has no specific examples or case studies of situations where consumers have experienced issues accessing a financial DR scheme.

It is not generally a feature of client complaints to Fisher Funds that making a complaint or accessing Fisher Funds' DR provider was difficult.

Instead, there are occasional instances where the client has gone directly to Fisher Funds' DR before attempting to resolve the issue within Fisher Funds internal complaints system.

We understand that the DR providers in the MIS space have conventions that if the consumer:

- contacts the DR provider before accessing the MIS manager's internal complaints process, they will be referred back to the manager to attempt a resolution
- contacts the wrong DR provider, that provider will refer them to the correct DR provider

Additionally, you will be aware that the two main DR providers (FSCL and IFSO) are merging, resulting in fewer DR providers, thereby lessening the potential for consumer confusion as to which DR provider to contact.

Issue 2: Enhancing scheme effectiveness through improved oversight and accountability

6

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

Fisher Funds has no evidence to suggest that current oversight and accountability mechanisms are insufficient to ensure DR schemes' effectiveness.

The DR schemes complete and submit annual reports containing detailed information on their operations, including the nature and level of consumer interactions with their services. We are not proposing changes to these reports.

Fisher Funds DR has an engagement charter, annual reports and a range of other consumer-oriented publications available on its website.

With respect to the 5 yearly reviews of DR schemes, we recommend that such reviews are conducted on a common, specified date, notwithstanding the date when the DR scheme was originally approved.

Fisher Funds does not support overseas measures referenced in the consultation e.g. government appointment of DR scheme company directors. The DR schemes are privately owned companies and should be independent of all bodies, including government.

7

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

Fisher Funds has no evidence to suggest that the DR schemes are not as effective as they could be in dealing with client complaints.

The main issue seems to be consumer awareness of their existence and purpose. As previously suggested, raising awareness is an appropriate action for MBIE (and IRD) to consider.

Having regard to Fisher Funds DR provider (FSCL), its services are prompt, independent and free to consumers, which features Fisher Funds would like to see retained across all DRs.

It is uncommon for a KiwiSaver client to complain to Fisher Funds that FSCL was ineffective.

The more likely complaint is where FSCL upholds the supervisor's decision to decline a client's significant financial hardship (SFH) application. This is generally due to a lack of consumer understanding as to the constraints of the KiwiSaver Act and the nature / scope of the supervisor's powers.

The above situation could be mitigated by, for example, having a relevant government department assess and make a determination on all KiwiSaver early withdrawal applications, including SFH.

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

The **two objectives** are:

1. **Improve consumer access**
2. **Improve scheme effectiveness**

The consultation paper records **four criteria** for assessing the options:

1. **Accessible to consumers** – see below.

Although Fisher Funds supports the intention of the first objective and the first criteria, Fisher Funds, as a representative MIS Manager, already meets the legal requirements for disclosure information regarding complaints management, including DR access, and goes further to meet the spirit of effective complaints management – see section 4 above.

Raising awareness of the DR schemes should not be the individual responsibility of MIS managers or DR providers but should instead be an obligation on MBIE (and/or IRD) to promote it through advertising and consumer communication channels.

2. **Accountable** – whilst supported in principle, when assessing how well DR schemes are delivering services etc., the existing structure of detailed annual complaints reporting and rolling five yearly reviews should be sufficient.

In the event the government wants more information, DR scheme providers may have to dedicate additional resources to undertake monitoring and reporting that they are not currently required to perform.

This is likely to result in additional cost which would have to be met by the government, the DR scheme provider, or the product provider.

Fisher Funds does not support any proposal to remove consumers' free access to DR.

3. **Effective services** – timely resolution, consistent outcomes etc.

In the event the government wants more information on timeliness etc, this should be able to be sourced from the detailed annual complaints reporting that all DRs currently submit.

Whilst effective servicing is supported in principle, it may be necessary for the government to part fund DR schemes if additional monitoring and reporting is required which would otherwise impose additional costs on the DR provider and/or have to be met by the product provider.

Additionally, Kiwisaver and other managed funds providers already report detailed information on complaints numbers and types in their annual returns. This could be

aggregated by FMA with DR complaints reporting for better insights into trends and suggested metrics that DR scheme and product providers parties could measure themselves against.

Lastly, supervisors of Kiwisaver and other MIS already provide another layer of independent scrutiny over consumer complaints numbers and outcomes.

4. **Cost efficient** – see below

With respect to the criterion of **Cost efficient**, it is concerning to note that the consultation references passing costs onto consumers.

Fisher Funds does not support any proposal to pass costs onto consumers.

It is inequitable that, for example, where membership of a KiwiSaver scheme is compulsory, consumers should have to pay to access what is currently a free DR service.

Status quo: Retain existing model and monitor the impact of aligning the schemes' rules

9

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

As stated earlier in our response, Fisher Funds is of the view that regulations are unlikely to achieve objective 1 – improve consumer access.

Raising awareness of the existence of DR schemes in order to improve consumer access is not the responsibility of MIS managers or DR providers but is instead an obligation on MBIE (and IRD) and should be promoted through advertising and consumer communication channels.

With respect to objective 2 – improve scheme effectiveness – there is inconclusive evidence that the DR schemes are either (i) ineffective or (ii) ineffective to the extent that intervention via regulation is required.

That DR schemes have evolved through differing pathways to meet the needs of different consumer groups is not a sound basis for regulatory intervention when those needs continue to be met.

Fisher Funds supports **retaining the existing model and monitoring the impact of aligning the schemes' rules** but amended as below:

“As noted earlier, the Financial Service Providers (Rules for Approved Dispute Resolution Schemes) Regulations 2024 are due to commence on 18 July 2024.

These regulations will improve equality of access to redress for consumers by aligning the rules of the schemes in key areas including:

a. Setting a higher and consistent financial lump sum compensation limit of \$500,000 for all schemes (this is currently \$350,000 or \$200,000 for some schemes) and a consistent weekly compensation limit of \$2,600 for complaints related to regular payment products (currently only two of the schemes have a weekly limit). “

Response: Whilst Fisher Funds broadly supports regulatory change to align DR rules where it makes sense to do so, uniformity of rules simply for its own sake is not supported e.g. a complaint to the Banking Ombudsman in respect of a mortgage or other borrowings will likely require a higher dollar ceiling than consumer complaints regarding their KiwiSaver schemes.

We recommend that with the exception of bank-based products (mortgages, credit cards, personal loans etc.) the financial lump sum compensation upper limit of \$350,000 is retained.

We have no comment regarding the weekly compensation limits as the Fisher Funds' product set is not predicated on regular payments.

b. "Providing for consistent financial awards for non-financial harm and inconvenience suffered by a complainant throughout the complaints process. "

Fisher Funds does not support the proposal for financial awards for non-financial harm and/or inconvenience.

Any complaints process, by its nature, entails non-financial pressures especially significant financial hardship (SFH) claims where consumers are already sensitised to pressure.

Where SFH claims are declined by the supervisor, this undoubtedly creates both financial and non-financial pressures but these pressures are usually the result of the correct application of KiwiSaver law.

c. "Setting consistent timeframes for consumers to bring a complaint to a scheme. "

Fisher Funds supports the principles of setting consistent timeframes for consumers to bring complaints to schemes.

Option to address issue 1: Supporting consumer access and awareness of schemes

10

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

The options referred to include:

- a. More services providing information and support*
- b. Clear and prominent communication by financial service providers in all communications and on providers' websites*
- c. An awareness campaign*
- d. Single front door 0800 number or website*

Fisher Funds supports options a. and c. where the services and awareness campaigns are established and funded by government agencies (MBIE and IRD) and/or agencies which receive government support, such as citizens' advice bureau.

Fisher Funds supports option b. and, amongst other things, already includes a link to complaints on the landing page of our website.

However, the risk with adding more 'clear and prominent' messages is that they can get lost especially when the product provider already has obligations to make other consumer messages clear and prominent e.g. . Financial Advice Providers making their advice disclosures 'clear and prominent'.

Additionally, more consumers are using their mobiles to access product information and, the risk when they are using a screen smaller than their laptop/desktop/tablet is that they will simply skip past complaints information irrespective of its prominence as they fulfil their tasks.

Fisher Funds does not support option d. of a single front door.

First, this already exists in practice with referrals between the various DR providers and secondly, if the consumer doesn't know how to contact their own KiwiSaver or DR provider, they may be even less likely to know how to contact a generic routing service.

In addition, it would result in another layer of cost to be borne by the industry.

11 What are the likely costs of implementing these options?

As, in our view, options a. and c. should be borne by government agencies, it is not appropriate to consider their costs.

Option b. is not likely to cost providers materially in terms of development or hosting but we caution the need to make it clear and prominent having regard for the many other purposes consumers go to a provider's website and the fact that an increasing number of consumers access their provider through mobiles.

Option d. seems to be an unnecessary exercise and in any event should not be pursued if the costs of providing a front-door service have to be borne by the DR providers and ultimately by the manager of the consumer products.

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

Options where we recommend the government pays (a. and c.) should be led by the government.

A modified option b. should be led by the product providers.

Option d. should not be pursued as it would impose unnecessary costs on DR providers and MIS product managers and does not materially improve services to consumers.

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

No. Managers of issued products already provide considerable information regarding their internal and external complaints processes in their offer and other disclosure documents.

Additionally, consumers of MIS and FAP products have recourse to complain to the FMA.

Option to address issue 2: Enhancing scheme effectiveness through improved oversight and accountability

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

On the basis that there is no evidence of harm to consumers caused by the current accountability levels of DR schemes, we do not think there is a need for them to be more accountable.

Additionally, provided the DR services meet the relevant entry criteria, fulfil their annual reporting requirements, and satisfactorily complete their periodic government reviews, there is little to suggest that another level of accountability is required.

One of the key risks of introducing unnecessary levels of accountability and with it the potential for increased costs, is the pressure that may come to bear on consumers to meet some or all of the costs of making a complaint, particularly in circumstances where the complaint is not upheld.

As stated earlier, Fisher Funds does not support DR costs falling on consumers.

As discussed earlier, many complaints reviewed by DR providers relate to significant financial hardship claims being declined by the supervisor on the basis they fail to meet the statutory criteria.

This is not to say that the consumer claimants are not in financial hardship, only that the law as it relates to early withdrawal of KiwiSaver funds is highly prescriptive and does not always include the particular hardships being experienced by consumers.

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

Fisher Funds does not have evidence to support any claim there are material issues with either the performance or effectiveness of the DR schemes that it has engaged with.

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?

There should be well-understood guidelines as to the expectations for how DR schemes carry out independent reviews.

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

The government has endorsed a model whereby the DR providers are independently owned and operated with annual reporting requirements and periodic government reviews.

Unless the government wishes to fundamentally change its approach to DR services, then it should not be setting further scheme rules, especially where those rules could have cost implications for all parties in the complaints chain.

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?

There is insufficient evidence of ineffective and partial governance of the schemes to suggest it is necessary for government to make changes.

The government has endorsed a model whereby the DR providers are independently owned and operated with annual reporting requirements and periodic government reviews.

Unless the government wishes to fundamentally change its approach to DR services, then it should not be setting further scheme rules, especially where those rules have cost implications for all parties in the complaints chain.

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?

Requiring schemes to have performance targets or standards and reporting against them immediately creates the potential for conflicts with consumers' best interests.

For example, requiring a DR provider to resolve complaints within a fixed time frame may mitigate against the interests of consumers by limiting the time available to those consumers to gather and present evidence supporting their claims.

Instead, a better approach may be to aggregate DR and product providers annual complaints reporting to generate metrics that DR schemes and product providers can benchmark themselves against.

20

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

The risk and/or unintended consequences associated with the options being considered is that there is not a sufficiently large body of recent evidence to substantiate all the options being considered.

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.

The risk with any changes to the DR schemes has to be that they will eventually result in pressure on consumers to pay for their own complaints, especially in circumstances where their complaints are not upheld or are otherwise unfounded.

As stated earlier, Fisher Funds does not support DR costs falling on consumers.

22

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

Improved analysis and sharing of DR providers' annual regulatory returns and periodic reviews and product providers' complaints data to generate metrics that DR schemes and product providers can benchmark themselves against.

Other options

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?

Fisher Funds agrees that the impact of regulations to align scheme rules, along with any other improvements changes proposed in this document, should be assessed before considering changes to the current scheme model.

There needs to be more evidence of the nature and extent of the problem regarding awareness of and access to the DR schemes as these two aspects may have very different drivers and potential solutions.

24

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

No comment.

Other comments

Based on its own experience, Fisher Funds does not have sufficiently robust evidence that there is a problem with low consumer awareness and / or access to dispute resolution services.

However, such lack of such evidence may be explained by the fact that Fisher Funds clients have a greater awareness of and access to DR due to:

- the range of channels for clients to contact us with any issue, including complaints

- Fisher Funds having a well-resourced, high functioning client service team
- Fisher Funds operating a comprehensive client relationship management system that, amongst other things, records all client interactions
- complaints being recorded and reported within the business to governance level

In any case, Fisher Funds does not support:

- consolidating the various DR schemes into a single entity
- any option which would add a material cost burden to the DR schemes which would then have to be passed to DR scheme members e.g. MIS managers
- any option which restricts or limits free access to DR services for consumers

Fisher Funds supports alignment of scheme rules, as appropriate, but recognises that certain DR schemes offer services unique to their value proposition and purpose. Their evolution has occurred in response to their consumers' needs and in circumstances where those needs are not common across all the industries the various DR schemes cover.