

Thank you for the opportunity to make the submission on the draft Incorporated Societies Bill.

## **Background**

The Insurance & Financial Services Ombudsman Scheme Inc. (“the IFSO Scheme”) was set up as an unincorporated society in January 1995, by insurance and savings industry bodies to act as a voluntary scheme to provide disputes resolution services to its members.

In 2008, the Financial Service Providers (Registration and Dispute Resolution) Act 2008 (“FSP Act”) introduced a requirement for all financial service providers to become members of an approved dispute resolution scheme.

In 2010, in response to the legislation, the IFSO Scheme expanded its rules to allow all financial service providers to become members. To accommodate this broader membership, the IFSO Scheme changed its structure, becoming an incorporated society.

In May 2010, the IFSO Scheme became an approved dispute resolution scheme under the FSP Act.

## **Our Submission**

Generally we support the proposed amendments to the Incorporated Societies Act 1908 as set out in the draft Bill.

The key issue for the IFSO Scheme is the proposal that all changes to the constitution must be approved by members at a general meeting.

This would cause the IFSO Scheme real concerns, because it is not consistent with our other legislative obligations and, in particular, section 63(3) of the FSP Act, which allows our constitution to be amended by regulation.

The relevant section of the FSP Act states as follows:

- (3) The rules about an approved dispute resolution scheme must be treated as containing any provision that is implied into those rules by regulations made under this Act.

To accommodate changes made by regulation and otherwise, we currently have 2 mechanisms for changing our Constitution:

1. by the Commission, following Participant, industry, Minister and consumer consultation and Commission approval; and
2. by regulations made under the FSP Act, in which case the changes take effect without consultation and are notified to members as soon as reasonably practicable.

Should our Constitution be amended by regulations made under the FSP Act, the Bill as drafted would require members to vote on that amendment in circumstances where the members could have no effect on the outcome. In the event members disagreed with a prescribed change made by regulation, the IFSO Scheme would have a constitutional dilemma.

**We submit that the Bill be changed to recognise that an amendment made to an Incorporated Society's constitution by other legislation or regulation, take effect as specified in that other legislation or regulation and not be required to be approved by members.**

Kind regards

***Karen Stevens***

Karen Stevens

Insurance & Financial Services Ombudsman | Insurance & Financial Services Ombudsman Scheme Inc.

T 0800 888 202 | F 04 499 7614 | PO Box 10-845, Wellington 6143

[www.ifso.nz](http://www.ifso.nz)

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