

21 November 2023

Submitted via: review@ifso.nz

Prof. John McMillan AO
IFSO Scheme Independent Review

Re: IFSO Scheme Independent Review consultation paper

Fair dispute resolution schemes should be readily available to ensure people, whānau and communities working with Financial Mentors do not have hardship compounded or caused by financial providers' misconduct. Based on financial mentors' insights, FinCap recommends more work is done to increase accessibility to the Insurance and Financial Services Ombudsman scheme.

FinCap welcomes the opportunity to comment on the IFSO Scheme Independent Review consultation paper (**Consultation Paper**). Financial mentors regularly assist whānau who were provided with loans that were always going to be unaffordable. They occasionally see issues with lenders not providing helpful assistance where hardship arises or issues where insurers are not supporting whānau as expected. In all of these scenarios FinCap will recommend a financial mentor approach the relevant financial dispute resolution scheme. When making such recommendations, escalating issues with access or following up to get feedback from financial mentors about our recommendation, we hear of any friction in the process of getting community members access to justice.

For context, it is worth reiterating, that we see friction, inefficiency and inconsistency from financial dispute resolution schemes across the experiences of financial mentors and the whānau they assist that we are privy to. Generally, like many other community groups who submitted to the Ministry of Business Innovation and Employment on scheme alignment, we have called for a single financial dispute resolution scheme in Aotearoa.¹ We will attach our submission to that review with our email to provide this submission.

We expand on these comments as well as respond to questions posed in the Consultation Paper below.

About FinCap

FinCap (the National Building Financial Capability Charitable Trust) is a registered charity and the umbrella organisation supporting the 190 local, free financial mentoring services across Aotearoa. These services supported 50,000 whānau facing financial hardship in 2022. We lead the sector in the training and development of financial mentors, the collection and analysis of 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.

¹ See submissions published here: <https://www.mbie.govt.nz/have-your-say/review-of-approved-financial-dispute-resolution-scheme-rules/>

Responses to Consultation Paper questions

Your views are invited on whether the IFSO Scheme is meeting those requirements for structural and functional independence in its complaint handling service.

Financial mentors occasionally comment that they perceive IFSO and other schemes are easier to participate in for members than for whānau facing financial hardship. Usually, this commentary sits alongside how difficult it was to progress through the stages of dispute resolution from internal complaint to investigation whilst also maintaining ongoing engagement with a complainant who is vulnerable by way of multiple time-consuming issues in their life. IFSO has been doing work to better inform financial mentors about realistic timeframes for working with the scheme by resourcing community engagement at regional financial mentor hui. This helps but in general we think changes to improve accessibility to IFSO would be best for improving the perception of independence. Most of IFSO's peers seem to have put more resources into staffing for warmly receiving public complaints or warm referring to members' internal complaints processes.

We also recommend that all schemes name members in published decisions as well as annual complaint counts. This transparency and accountability can improve the perception of independence from paying participants.

Your views are invited on whether the procedures and decision making of the IFSO Scheme comply with the Fairness principle, including how the IFSO Scheme applies the 'fair and reasonable' standard. Financial mentors often mention frustration with the time it takes to move through the stages of dispute resolution where the financial institution goes right up to, or over, deadlines to respond to a scheme.

Stakeholders have shared with FinCap that IFSO has a flat fee structure for participants regardless of how long or escalated complaints end up. This is in contrast to other models we have seen where fees increase as resolution processes escalate. The escalating fee model disincentivises participants drawing out the process and we recommend this is considered. There will almost always be an asymmetry in resources between a participant and complainant where the complainant is supported by a financial mentor. The timely resolution of an issue can be the difference between needing to go through an insolvency procedure or continue facing substantial hardship, or not.

We are encouraged by the publishing of IFSO's *Guidance on the Fair and Reasonable Jurisdiction of the IFSO Scheme*. Given the examples are focused on insurance and that financial mentors are often approaching IFSO around lending issues and credit contracts that were IFSO's second largest enquiries per sector in 2023,² considerations could be given to adding more lending dispute examples in a guidance update.

Your views are invited on whether the IFSO Scheme is meeting the principles of accessibility, accountability, efficiency and effectiveness in its complaint handling service.

Issues with accessibility undermine the potential for fairness as those who could most benefit from services find barriers to getting through the door. IFSO is less accessible for financial mentors and the whānau they support than other schemes and FinCap again recommends changes are made to improve first engagement with potential complainants.

We gather that IFSO prefers a simple online complaint form is filled out to begin a complaint which is inconsistent with other schemes that are more available over the phone to help potential complainants navigate what options they have. Community outreach to financial mentors by IFSO has been welcomed but financial mentors have at times fed back that their work seemed unwelcomed

² See page 9: <https://s3.ap-southeast-2.amazonaws.com/ifso-files/docs/IFSO-Annual-Report-2023.pdf>

when they actually contacted the scheme. The trust and confidence of financial mentors is important to the scheme reaching whānau who need their services the most.

Financial mentors have also shown us examples of unreasonable amounts of work having to be done to have IFSO or their member accept escalation because of deadlock. Participants at times refuse to acknowledge deadlock and this can prolong the harm caused from an issue in dispute and increase the likelihood that the complainant abandons trying to resolve the issue as financial hardship continues to compound. We note a previous independent review mentioned an IFSO staff member's concern that *"there is a need for added vigilance to ensure that Participants do not unnecessarily string out the internal complaint process before issue of a Deadlock letter."*³ The recent examples shared with us by financial mentors indicates this potential issue is still occurring at times.

While we call for improvement in this submission, we would also like to recognise that some IFSO staff are always open to FinCap escalating a perceived or clear barrier a financial mentor or the whānau they support has with accessing the scheme. While ideally FinCap would not need to escalate such issues, the willingness to escalate outside usual process can make the difference between access to justice or not when it matters.

FinCap is also raising the need for all schemes to consider their ongoing effectiveness in the context of more complex arrangements of bundled products and services emerging. For example, the unsolicited sale of insurance alongside lending, broadband, solar panels and other new energy technology in a single visit to a whānau home could lead to complaints across a range of schemes and courts. Getting a fair and coherent outcome across the range of issues all sold together could be totally inaccessible to most in Aotearoa. We recommend IFSO, other schemes and policy makers work to address such complicated problems early through both robust consumer protections and complaints processes being established.

Your views are invited on the actions taken by the IFSO Scheme in response to the recommendations from the 2018 independent review of the scheme.

We are concerned that the Consultation Paper notes that IFSO may have only partially fulfilled a recommendation by not explicitly requiring itself to raise systemic issues with participants. We have seen some work that indicates IFSO does raise such issues with participants but it would be good for it to be formalised if not already otherwise. Financial dispute resolutions schemes are a source of truth and are potentially able to flag an emerging issue with a financial institution's processes earlier so as to prevent further harm. Raising the same issues with the regulator and publishing the systemic issue raised with a participant named could also improve accountability, outcomes and confidence in the Scheme.

This review is interested to receive any comments you wish to make about the MBIE review and, going forward, its implications for the IFSO Scheme.

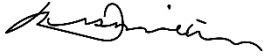
As stated in the introduction to this submission, FinCap and others submitted that there instead be a single dispute resolution body for financial services in Aotearoa. We also submitted that all financial dispute resolution schemes be required to implement public vulnerability policies with minimum standards of what must be included.⁴ We reiterate these recommendations in the context of whatever can be done towards this within the context of the current independent review of IFSO.

³ See page 26: <https://s3.ap-southeast-2.amazonaws.com/ifso-files/images/Independent-Review-Final-4-March-2019.pdf>

⁴ See: <https://www.mbie.govt.nz/dmsdocument/16784-fincap-review-of-the-approved-financial-disputes-resolution-schemes-discussion-paper-submission>

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,

A handwritten signature in black ink, appearing to read 'Ruth Smithers', with a stylized flourish at the end.

Ruth Smithers
Chief Executive
FinCap