

Financial Ombudsman Service
2008–2009 Annual Review

One organisation, many specialisations



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OUR VISION

To be the external dispute resolution scheme of choice for the financial services industry.

OUR MISSION

To serve the community and industry by resolving disputes between consumers and financial services providers in a way people can trust.

ABOUT THIS REVIEW

This annual review is designed to provide an update on our operations in our first year as a merged organisation.

This review has a strong focus on the number and nature of the disputes we have received. This has been done to meet the requirements of ASIC Regulatory Guideline 139 and to reflect our new merged organisation.

The framework for this annual review is based on the products and services we have jurisdiction to consider. This framework has been applied retrospectively to allow comparison of the year in review with the previous year's results for the same products and services handled in the predecessor schemes.

WHAT WE DO

The Financial Ombudsman Service is an independent organisation resolving disputes between consumers and financial services providers across Australia.

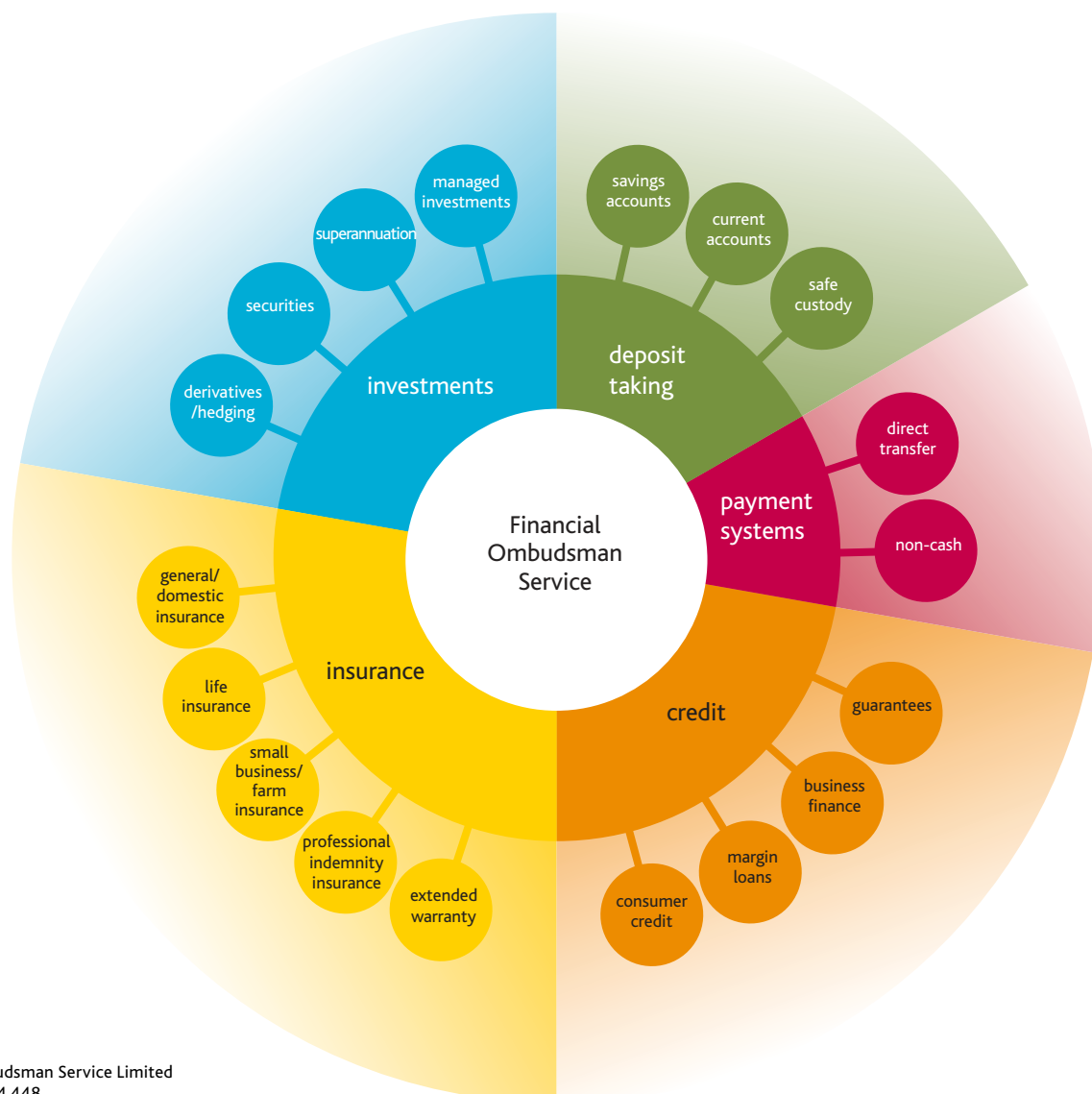
The types of disputes we can handle are broadly as follows:

- Investments
- Insurance
- Credit
- Payment systems
- Deposit taking

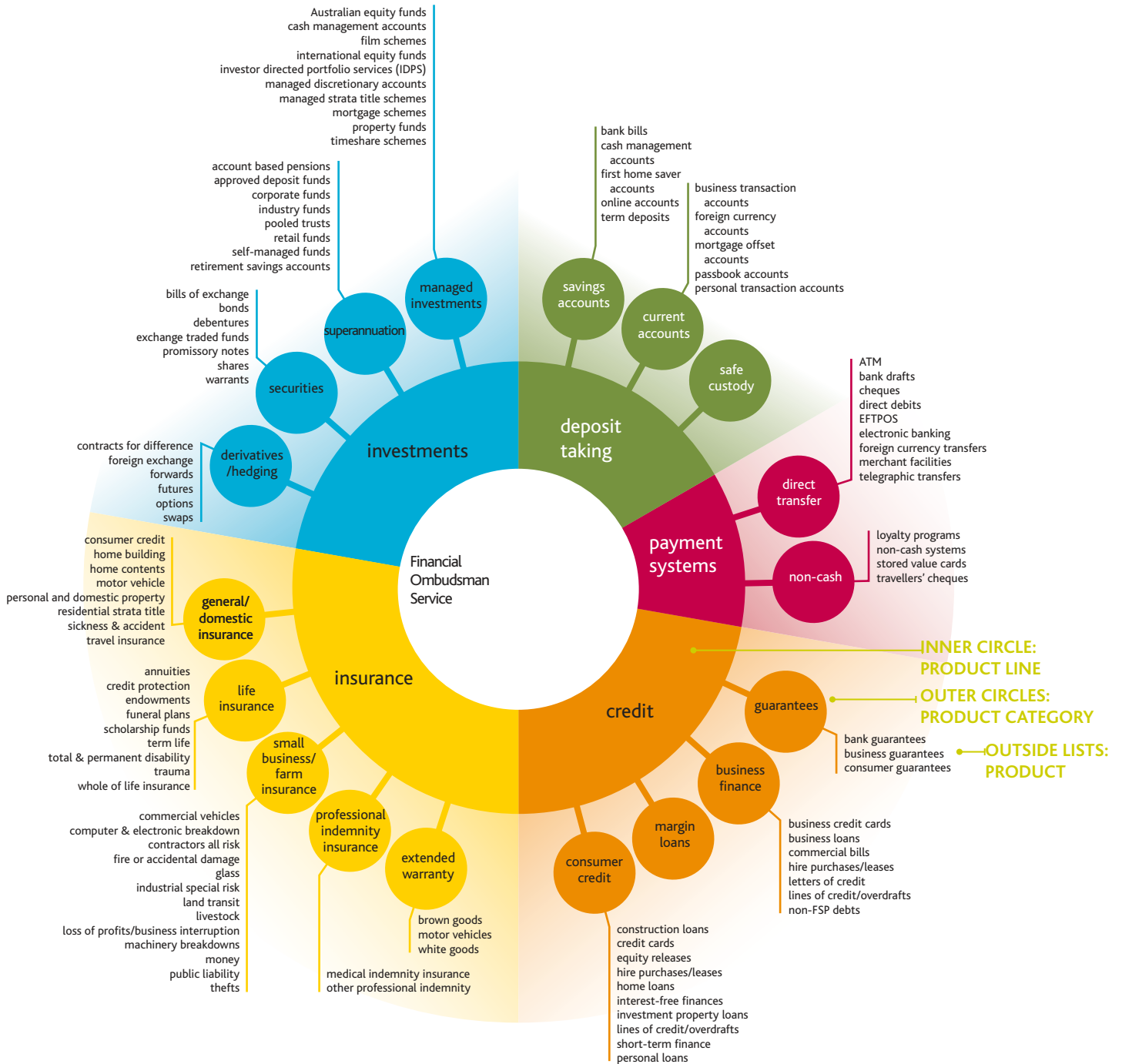
The diagram below sets out the specific product categories that are covered by each product line.

See inside this fold-out cover for the full listing of products we can consider. See page 19 onwards for detailed dispute information for each of these product lines, categories, and products.

For more information or additional copies of this review, please email publications@fos.org.au



This diagram shows the new product lines we are reporting on in this review. The product lines and categories reflect the wide range of products offered by our members.



2008–2009 at a glance

19,107 new disputes came to us, up 33% on the previous year.

→ See page 19

17,007 disputes were closed/resolved, up 19% on 2007-2008.

→ See page 42

1 July 2008 – **BFSO, FICS and IOS consolidate operations** to form the Financial Ombudsman Service. See message from Peter E Daly, outgoing Chair of the Board. → page 2

A strong foundation to face the challenges of the future. See message from Professor The Honourable Michael Lavarch, new Chair of the Board. → page 4

30 May 2009 – **Terms of Reference approved** by the Board. See Chief Ombudsman's message. → page 8

We have a **broad range of approaches to dispute resolution**, meaning many of our disputes are resolved without requiring a formal determination. → See page 42

Over 225 outreach events, education activities and training workshops were conducted across Australia to a wide range of audiences. → See page 12

We have a **new reporting process** along product lines to help us meet the requirements of ASIC Regulatory Guide 139. → See page 18

3,835 effective members were registered by 30 June 2009. → www.fos.org/members

1 January 2009 – **CUDRC and IBD join** the Financial Ombudsman Service. → See page 2

11–12 June 2009 Inaugural National Conference. → See page 14

Message from Peter E. Daly AM Outgoing Chair of the Board

This year heralded enormous changes in achieving the amalgamation of a number of complaint resolution schemes to form a single Financial Ombudsman Service.



Under the stewardship of the Board, extensive work has been undertaken to establish a 'one stop shop' for the vast majority of disputes between consumers/ small businesses and financial services providers. Much progress has been made in our first year of operations as a fully amalgamated service and we are appreciative of the support provided by the Assistant Treasurer, The Honourable Nick Sherry.

Changes associated with the amalgamation and the development of the new Terms of Reference (TOR) were the two major focus areas of the Board and senior management activities in 2008-2009.

Terms of Reference

The Board oversaw and participated in an extensive consultation process with all stakeholders for the new TOR. Having considered the proposed TOR, submissions (including submissions in reply), and the revised draft TOR (incorporating changes recommended after consideration of all submissions), we approved the revised draft TOR on 30 May 2009.

If approved by ASIC before 1 January 2010, the TOR (as changed in accordance with any request made by ASIC) will take effect from 1 January 2010. This means from 1 January 2010 we will have in place a single set of rules, procedures and definitions for handling financial services disputes across Australia.

The approved TOR can be found on our website at www.fos.org.au/torsettled. The next step is the development of Operational Guidelines supporting the TOR, which are designed to act as user guides to assist Financial Ombudsman Service users to feel confident about the approach we will take in applying the TOR.

Amalgamation

The Board is proud of the progress the Financial Ombudsman Service has made in its first year of operations, bringing together the Banking and Financial Services Ombudsman, the Insurance Ombudsman Service, the Financial Industry Complaints Service, as well as the Credit Union Dispute Resolution Centre and Insurance Brokers Disputes Ltd.

The goal is to be the external dispute resolution service of choice and to set the benchmarks for excellence. We now provide dispute resolution services for over 80% of all disputes which arise in relation to the provision of financial services in Australia.

Board changes

As you may know, I ceased to hold the office of Chair of the Board on 31 May 2009. It was always planned that myself and the transitional Board would steer the new organisation through its demanding first year of operations and then hand over to a new Board for the journey ahead.

This passing of the baton has occurred and I wish to congratulate Professor The Honourable Michael Lavarch on his appointment as Chair of the Board. I have utmost confidence in Michael and his newly assembled Board (many are returning from the transitional Board and/or previous scheme Boards) and wish them well for the future.

I wish to personally thank my fellow Board members for their hard work over the last year: Fiona Guthrie, Kerrie Kelly, Dr Elizabeth Lanyon, Professor The Honourable Michael Lavarch, Russell McKimm, Jenni Mack, David Squire and Susie Upton.

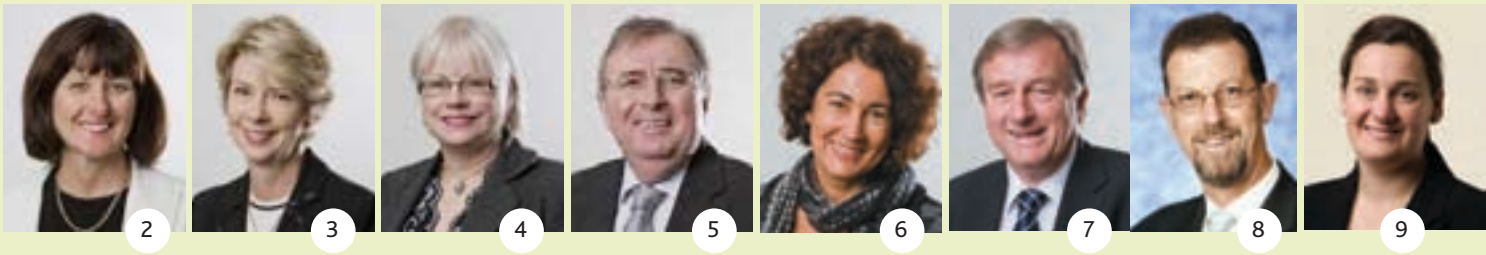
I would also like to thank the Ombudsmen: Colin Neave, Alison Maynard, Sam Parrino and Philip Field for their dedication and support of the development of the amalgamated Financial Ombudsman Service. It has been a period of great change – both for the organisation and in the market itself – but the view from the other side is very positive.

A handwritten signature in black ink, appearing to read 'P. E. Daly'.

Peter E. Daly, AM
Chair of the Board

Board of Directors

- 1 July 2008 to 31 May 2009



1. Peter E Daly AM, Chair of the Board
2. Fiona Guthrie
3. Kerrie Kelly
4. Dr Elizabeth Lanyon
5. Professor The Hon. Michael Lavarch
6. Jenni Mack
7. Russell McKimm
8. David Squire
9. Susie Upton

The Financial Ombudsman Service began operating on 1 July 2008 under the guidance of a transitional Board, comprising directors from the Boards of the previous schemes. The remit of this Board was to oversee the first year of operations of the Financial Ombudsman Service and then elect a new board for the future. See pages 6–7 for the new Financial Ombudsman Service Board.

Message from Professor The Honourable Michael Lavarch New Chair of the Board

The creation of the single amalgamated Financial Ombudsman Service could not have been more timely.

I am honoured to have been chosen as the new Chair of the Board of the Financial Ombudsman Service and I would like to acknowledge my predecessor Peter E Daly's leadership and championing of the Financial Ombudsman Service, particularly over the past year.

As the previous Chair of the Banking and Financial Services Ombudsman Board, I also served on the Financial Ombudsman Service transitional Board. As such, I am no stranger to the organisation or the financial services industry.

Turbulent markets

Our first year of operations has coincided with a turbulent period within the financial markets. This has created an unprecedentedly high number of disputes being referred to the Financial Ombudsman Service. Many disputes have arisen because people have experienced anxiety about their investments or found themselves in financial difficulty or hardship. Add to this the considerable choice, sophistication and complexity created by the very wide range of products being offered and we have a challenge to meet.

In many ways therefore, the creation of the single amalgamated Financial Ombudsman Service could not have been more timely. It offers a 'one stop shop' for consumers and small businesses for the spectrum of financial products and services sold by a broad range of financial services providers.

Focussing on resolution

Building on this strong foundation now in place, we continue to focus on promoting resolution of customer disputes by financial services providers, helping to reduce the instances where their customers become our 'customers'. Early resolution without the breakdown of a relationship is the most effective way to create customer satisfaction and customer retention for our members. Prompt resolution of a problem is generally the key desire of customers.

We will continue to raise awareness of the Financial Ombudsman Service in the Australian community. This will be achieved through a range of targeted events and promotions. These activities are based on a robust approach to identifying where the greatest needs lie.

We need to ensure consumers are aware of the avenue to resolution offered by the Financial Ombudsman Service.

New credit regime

The Financial Ombudsman Service will be taking a leading role within the new consumer credit regime that comes into play in 2010. This legislation will see a new credit service provider license system in place. The regime is designed to improve the standards of service for the industry, while offering consumers greater protection. This new licensing system will see a potential addition of many new members coming to us. Our staff have extensive experience in credit disputes, especially in claims of responsible lending and hardship and in the negotiation of effective commercial outcomes for the parties.

ASIC Regulatory Guide 139

We will also be working diligently to ensure everything we do complies with the new *ASIC Regulatory Guide 139: Approval and oversight of external dispute resolution schemes*.

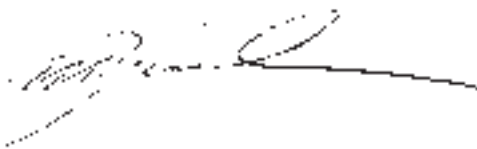
We are already further improving our reporting approach to assist in better dispute resolution performance for all of our members. This is reflected in the amount and presentation of statistics in this review (see page 16 onwards).

We will continue to enhance our understanding of the recurring and emerging problems for consumers across the broad range of financial products and services and types of members that now fall within our new Terms of Reference.

New Board

Finally, I would like to introduce the new Financial Ombudsman Service Board to you (see pages 6–7), many of whom will be familiar faces.

Together we will be working with the Ombudsmen* and staff to build on the already strong foundation that the Financial Ombudsman Service has in place.



**Professor The Honourable
Michael Lavarch**
Chair of the Board



* Recruitment for a new Ombudsman – General Insurance is still underway at time of printing

Board of Directors - 1 June 2009 onwards

The new Financial Ombudsman Service Board took effect from 1 June 2009.

- 1 Professor The Honourable
Michael Lavarch
Chair of the Board
- 2 David Coorey
Consumer Director
- 3 Dr. Brendan French
Industry Director
- 4 Kerrie Kelly
Industry Director
- 5 Catriona Lowe
Consumer Director
- 6 Jenni Mack
Consumer Director
- 7 Russell McKimm
Industry Director
- 8 Denis Nelthorpe
Consumer Director
- 9 David Squire
Industry Director

→ Biographies of the
Financial Ombudsman
Service Board of Directors,
can be found on our
website at [www.fos.org.
au/governance](http://www.fos.org.au/governance)





Message from Colin Neave Chief Ombudsman

It has been both a demanding and successful year, with more work still to come.

There have been many steps undertaken to ensure we have a cohesive approach to everything we do now that we are one organisation. These include clearly articulating our underlying principles and core values and developing systems and processes that align our operations.

Consultation to create terms of reference

Much of that work lay in creating our new Terms of Reference (TOR). It was critical to ensure the TOR were well understood and met the needs and expectations of a diverse group of key stakeholders. This was a challenge and I thank the wide variety of people who took the time and effort necessary to give careful consideration to the principles of effective alternative dispute resolution (ADR) for the financial services industry and contributed to the debate. The result is that the new TOR was settled by the Board on 30 May 2009 and will provide a solid foundation for the future.

Implementation

Flowing from the decisions made about the TOR and the new requirements of ASIC Regulatory Guide 139, the organisation turned its attention to addressing the many aspects of implementation of new processes and procedures.

We have the opportunity to use the extensive experience drawn from several ADR schemes, each of which was successful in its own right. We are able to reap the benefits from the cross pollination of ideas and practices on a range of matters integral to an effective external dispute resolution (EDR) scheme.

The areas in which we can use this expertise include management of systemic issues; responding to natural disasters and exercising the core skills of dispute resolution through conciliation, negotiation, mediation and decision making. The opportunities continue to arise.

Communication

As we continue to develop our single case management system across all areas, we are also building our capability to understand the trends and issues that are facing consumers and financial services providers (FSPs) across many products and services sold through many channels. We see this capability as critical to our development of effective communication to consumers and the industry about avoiding conflict and creating resolution. It informs our ability to make meaningful contributions to Government policy development about the issues that need addressing to continue to build effective relations between FSPs and their customers.

Funding

An important step we must take is to identify a new funding model that covers the broad spectrum of participants. The model needs to be simple to understand and administer. It needs to help drive resolution earlier rather than later and it must operate fairly. We are fully cognisant of the many views and needs of industry as we move to finalise our new model.

Cases

The year in review has been a demanding one for FSPs as they deal with significantly increased case loads in their internal dispute resolution groups and with us. As consideration is given to the models FSPs will adopt to deal with these cases, the requirements of Australian Standard 10002 remain at the forefront of assisting in the development of an approach which ensures there are sufficient resources to meet the needs of customers. We too are finding that our resources have been severely stretched to meet the demand for our services.

Conference

The energy, ideas and commitment to dispute resolution in the financial services industry was epitomised by the discussions, good will and contributions by all the speakers and participants at our first conference held this year. Thanks to all who supported our inaugural conference.

Thanks

My thanks to the transitional and new Boards, our Advisory Committees, my fellow Ombudsmen and our dedicated staff for their hard work and commitment to the ideals of EDR and to our mission - to serve the community and industry by resolving disputes between consumers and financial organisations in a way which is trusted.



Colin Neave
Chief Ombudsman



Our people and our structure

We employ a diverse group of professionals with a wide range of skills and experience.

Our people

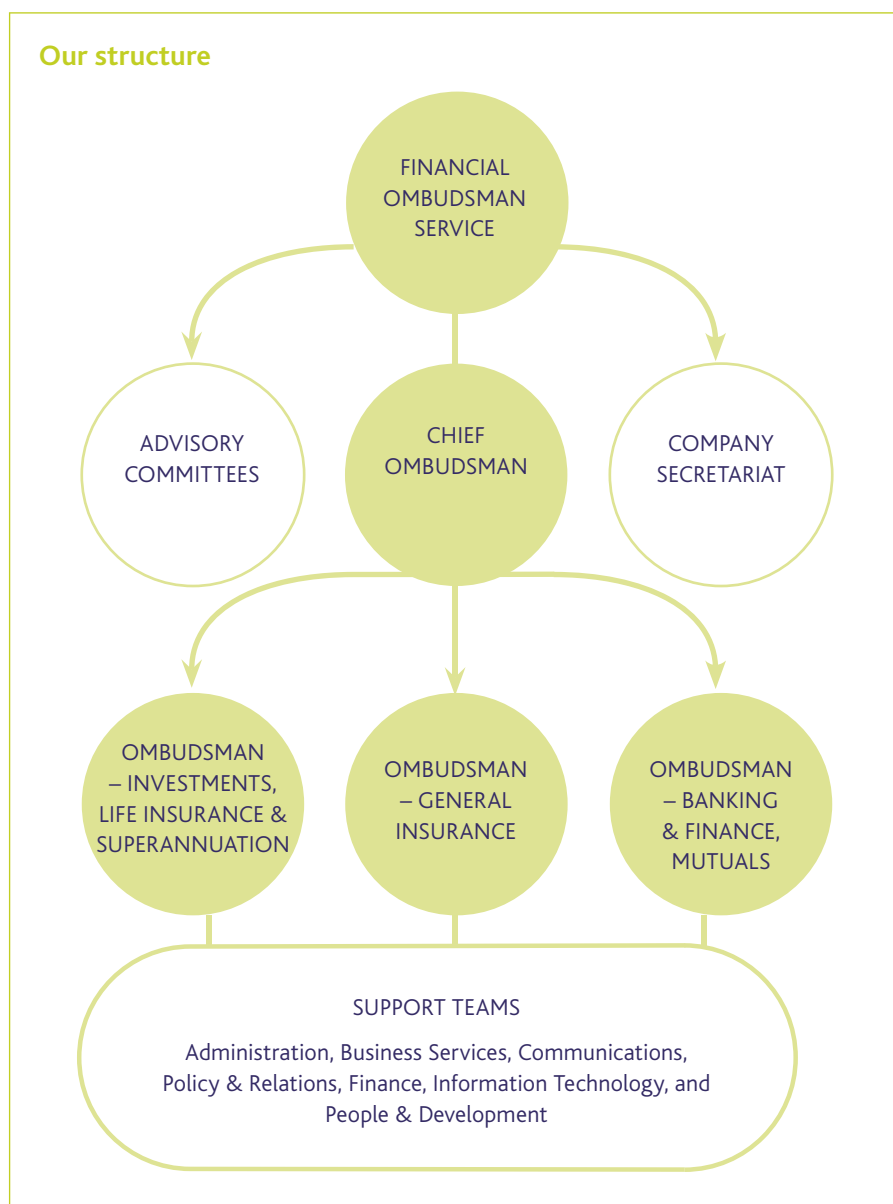
Our staff are a valuable asset and they come from many different areas: private and corporate legal practice, banking and investment, conciliation, alternative dispute resolution, financial counselling, insurance, regulatory bodies, communication and marketing, administration, and a range of financial services providers.

With the increased levels of disputes, we have been recruiting more people. Internal recruitment allows us to share skills and experience across the dispute resolution groups, while external recruitment has brought us perspectives from industry and other dispute resolution schemes.

Cross-functional teams have been created to bring together skills from the previous schemes as well as providing the opportunity to engage new staff. Support teams operate across groups, while dedicated case management teams have improved our capacity to handle the increased volume of work during this period.

As at 30 June 2009, the Financial Ombudsman Service employed 134 full-time and 78 part-time staff, including members of decision-maker panels.

Our structure

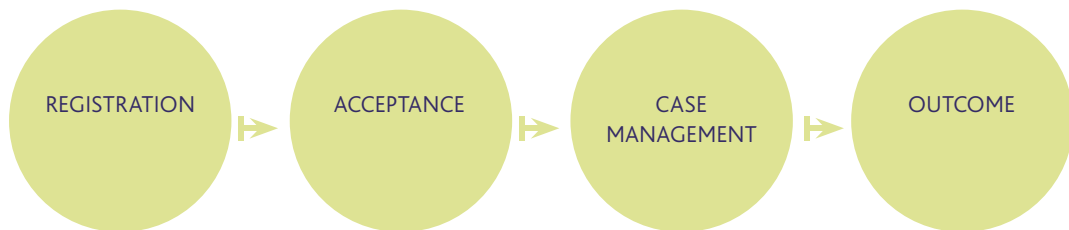




Our process

We are currently reviewing how we operate and handle disputes, looking at areas of leading practice and identifying where there is room for improvement. Our aim is to develop a single, robust set of processes and procedures that support the newly established Terms of Reference and enhance our dispute resolution operations.

The basic structure of our dispute handling process can be broken into four broad steps:



Industry and community involvement

Through engagement we can learn from the industry and community, and share our insights into the nature of disputes.

The Financial Ombudsman Service is committed to the advancement of dispute resolution by:

1. Reducing disputes or by making them less complex by, for example:
 - contributing to clarification or development of laws
 - commenting on policies, practices or procedures, and
 - identifying, discussing or addressing issues that are known to have given rise to disputes.
2. Raising awareness of the Financial Ombudsman Service across the Australian population.
3. Encouraging members to maintain and develop their internal dispute resolution capability.

We do this through a variety of activities, as set out in the following pages.

Where we went and who we spoke to

During the year, the Financial Ombudsman Service delivered over 225 presentations across the country to a variety of audiences (see pie charts below). Some presentations focused on what services we offer and how we operate. Other presentations dealt with more specific issues such as financial hardship, home insurance and home loans.

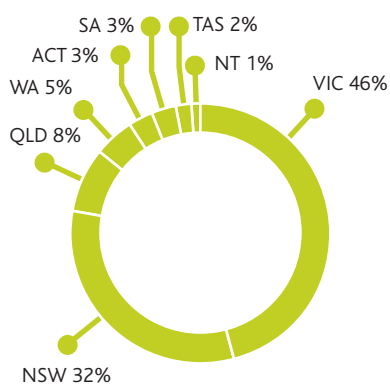
Our work also extended to supporting victims of the Victorian bushfires and investors affected by the global financial crisis.

Consumer-based presentations and community outreach

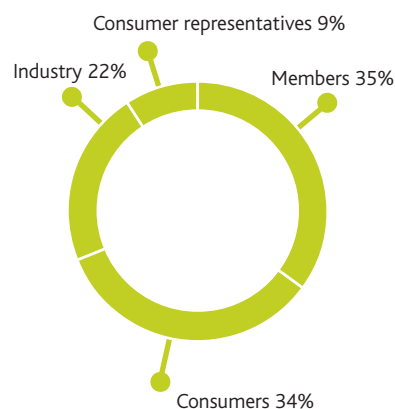
Over the year we spoke to a range of community based groups across the country. Some examples of the forums at which we were represented are:

- First Home Buyers Expo (Brisbane, Melbourne and Sydney)
- National Small Business Summit
- National Consumer Conference (Adelaide)
- Hume Region Financial Counsellors' Network
- Financial and Consumer Rights Council, and
- Riverina Foundation for Aboriginal Affairs.

Locations



Audiences



In addition, we:

- presented to the Townsville Storm Investors Consumer Action Group
- visited disaster areas, such as the flood areas of Queensland, and
- offered advice and support to the communities affected by the bushfires in Victoria.

An example of our efforts to provide relevant information tailored for specific community groups is our participation in the *Good Service* and *Do It Right* forums at which we provided information to Aboriginal communities in NSW on:

- maladministration arising in relation to unsolicited increases in credit card limits and personal loans for cars

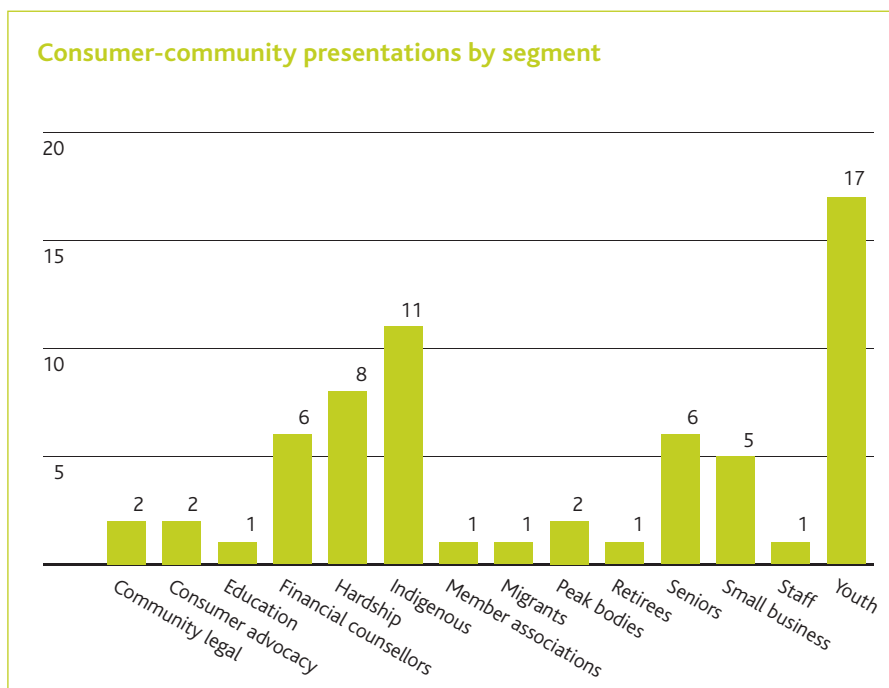
- financial difficulty
- electronic funds transfer disputes, and
- the Centrelink Code of Operation.

Through this work, we also sought to raise awareness of our service with the community.

Youth targeted workshops based on the *Sort It* publication were also held. Produced in conjunction with the Telecommunications Industry Ombudsman, *Sort It* presents a range of case studies based on mobile phone, credit and other debt faced by young people.

Bushfire and flooding relief hotline

In response to the Victorian bushfires; and the flooding in Queensland, we established a dedicated bushfire and flooding relief telephone hotline to answer questions and give guidance to affected communities.





Member and industry presentations and activities

The Financial Ombudsman Service also made many presentations or held forums for members and industry over the course of the year. These varied from tailored information for specific members/groups to more general presentations made to industry. Some examples are:

- International Network of Financial Services Ombudsman Schemes
- General Insurance Open Forums
- Interbank Dispute Forum, and
- Small business round table forum.

We also had a presence at industry events such as the:

- Financial Planning Association's National Conference
- Securities and Derivatives Industry Association Conference, and
- NSW State Legal Conference.

The bar chart at right shows an overview of the different member audiences we presented to during the year.

National conference

On 11-12 June 2009 our inaugural National Conference was held in Melbourne, with the theme *Financial Services - The Changing Landscape*. Around 400 attendees experienced a diverse program of presenters, including representatives from industry, government, regulatory agencies and the consumer movement.

The Financial Ombudsman Service was fortunate to have the newly appointed Assistant Treasurer, Senator the Honourable Nick Sherry address the conference, in his first public event in his new role. He spoke about the Government's enthusiasm for the merger of the predecessor schemes into the Financial Ombudsman Service and gave

a brief update on the new legislation designed to streamline the regulation of credit and margin lending.

→ You can view copies of some presentations from our conference at www.fos.org.au/conference

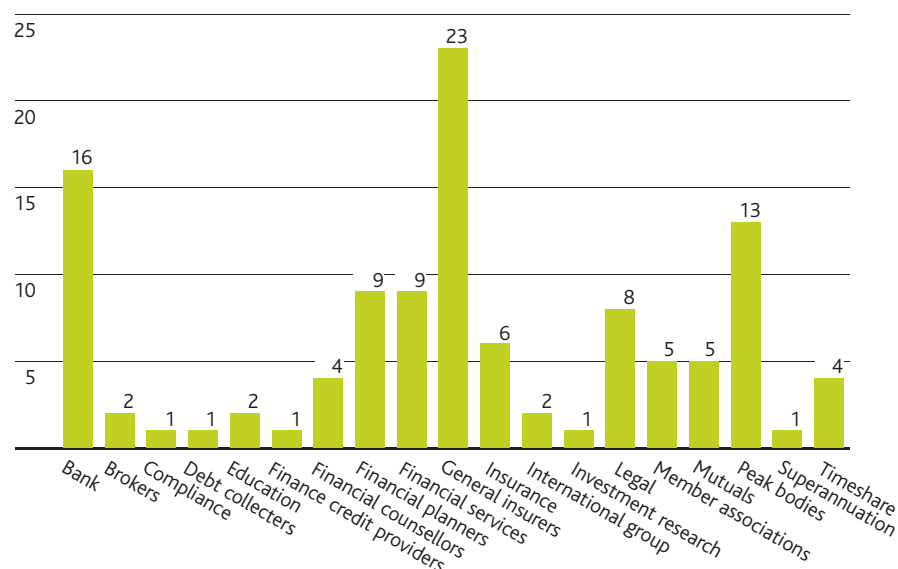
IDR workshops

We held two more of our popular Avoiding, Managing & Resolving Complaints workshops this year.

These workshops help members with information and skills to avoid, manage and resolve complaints using their own IDR processes.

→ Upcoming workshops or events can be found at www.fos.org.au/events

Member presentations by segment





Contributions to changes in legislation and policy

This year we contributed to discussions on reforms to legislation and policy e.g. consumer credit and margin lending reforms. We also made submissions to enquiries, reviews and issues papers including the:

- Standing Committee of Officials of Consumer Affairs consultation paper — *The Australian Consumer Law*
- Australian Securities and Investments Commission's *Consultation Paper 102*, on the review of regulatory guides relating to dispute resolution
- Ministerial Council on Consumer Affairs' consultation paper — *Responsible Lending Practices in relation to Consumer Credit Cards*
- National Alternative Dispute Resolution Advisory Council's issues paper — *Alternative Dispute Resolution in the Civil Justice System*, and
- Administrative Review Council's report — *Administrative Accountability in Business Areas subject to Complex Regulation*.

Publications

The Financial Ombudsman Service produced a range of publications throughout the year, including:

Brochures

A range of brochures were produced during the year, covering general information about the service, our privacy obligations, as well as specific *How to Lodge a Dispute* brochures.

eNews

Three editions of our e-newsletter were produced featuring our latest news, statistics and case studies.

Bulletins

Three bulletins were produced during the year, discussing our approach to emerging legal and industry practice issues. Topics included:

- Disaster response
- Legal action and disputes lodged with us
- Breaking a fixed rate loan
- Direct debits on transaction accounts
- Maladministration and secured lending

- Dealing with customers in financial difficulty, and
- The impact of the EFT code on credit card transactions authorised by a PIN and MOTO (or card not present) transactions.

Information sheets

Information sheets offer important advice to consumers or their advocates who may have questions about failed companies that have gone into administration or liquidation. During the year we produced information sheets on:

- Storm Financial Pty Ltd
- Great Southern Ltd
- Timbercorp Ltd
- Customers in financial difficulty, and
- Break costs.

- eNews editions can be found at www.fos.org.au/enews
- Bulletins and other publications can be found at www.fos.org.au/publications

Calls/enquiries – 1 July 2008 to 30 June 2009

We received 168,679 initial enquiries during the year.

Calls we received

Our call centre handles around 940 calls each day, as well as fielding calls for three other EDR schemes:

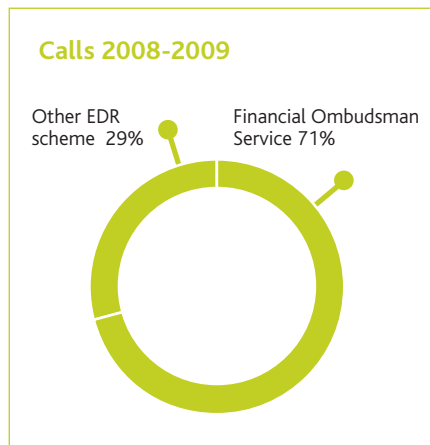
- Credit Ombudsmen Service Limited
- Financial Co-operative Dispute Resolution Scheme, and
- Superannuation Complaints Tribunal.

Consumers can call 1300 78 08 08 from anywhere in Australia for the cost of a local call*. Our call centre is open between 9am and 5pm Monday to Friday AEST.

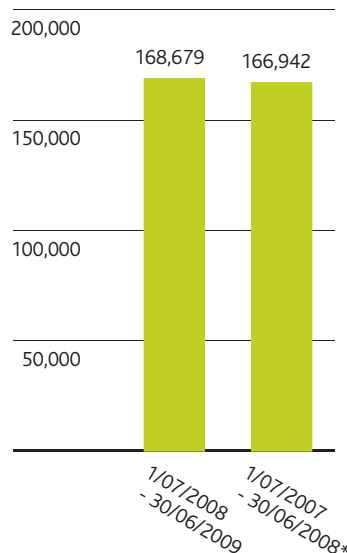
During 2008-2009, our call centre received 236,378 phone calls. This was a 6% increase on the 222,801 calls received in 2007-2008.

The pie chart below shows the proportion of calls that were for us.

* Calls are charged at local rates from landlines and at the applicable rate if calling from a mobile.



Initial enquiries we received



* please note that figures from 2008-09 are consolidated figures derived from the statistics of the individual schemes

Registration process

In March 2009 the Banking & Finance group began trialling a system of 'registering' a dispute with a member within one working day of our receiving the dispute. We also notify the consumer that the member has been advised of the dispute. This is to promote further contact and encourage a resolution with the financial services provider.

The new process aims to save both time and money for members, while helping to promote better relations with their customers. For consumers, it offers the chance to resolve disputes as early and as quickly as possible using the members' own internal dispute resolution (IDR) processes.

The registration process is a precursor to the new TOR requirement which requires us to refer consumers to their financial services provider where the consumer has not utilised the provider's IDR process. We are currently looking at ways in which the process can be improved following the trial.

Registration	As at 30/06/2009
Enquiries registered with members	3,285

Categories and products

To provide a logical and streamlined approach to reporting, our dispute statistics are focussed on product lines.

The diagram below sets out our five financial services dispute product lines that we now report on and the product categories connected to them.



Reporting our statistics

Our approach to reporting has changed to reflect our new merged organisation and to meet the requirements of RG 139. We now report on all disputes received, regardless of whether they progress to investigation stage or not. This change may impact on how we present some past figures.

The framework for this review is based on the products and services we have jurisdiction to consider. This framework has been applied retrospectively to allow comparison of the year in review with the previous year's results for the same products and services handled in the predecessor schemes.

In order to present a full and consistent picture of disputes over the 12-month period, we have included statistics from 1 July 2008 to 30 June 2009 for both the Credit Dispute Resolution Centre and the Insurance Brokers Disputes Ltd, though these two schemes did not formally join the Financial Ombudsman Service until 1 January 2009.

Listing our members

Now that we have close to 4,000 members, we aren't able to list each of our members and their dispute numbers in this review as we have previously. A full list of all our members can be found at www.fos.org.au/members

Disputes commentary

Dispute statistics are examined by category, product type and provider in the following pages. These statistics are accompanied by commentary and analysis by the following people:

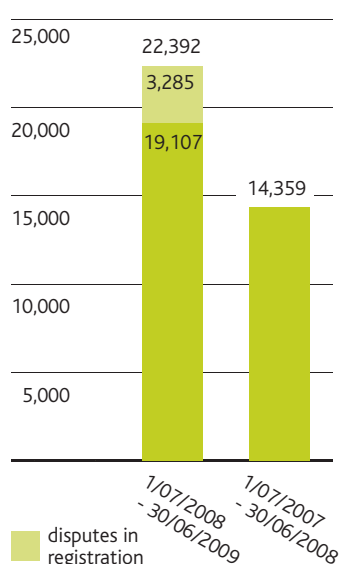
- 1 Philip Field *Ombudsman*
– *Banking & Finance, Mutuals*
- 2 Alison Maynard *Ombudsman*
– *Investments, Life Insurance & Superannuation*
- 3 Graham Warner *Manager*,
Dispute Resolution, General Insurance



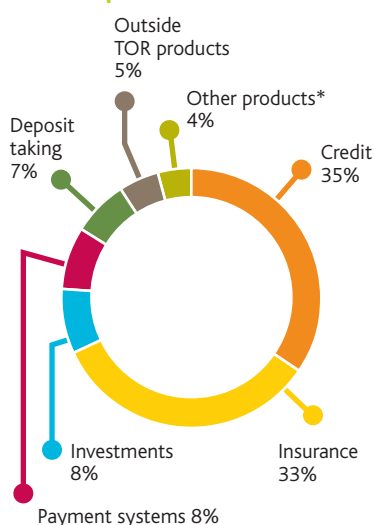
New disputes – 1 July 2008 to 30 June 2009

Unprecedented economic conditions contributed to a 33% increase in overall disputes for the year, with a 68% increase in disputes about investments.

New disputes overall



New disputes received %



* Other = no product information available

The following pages examine:

- the overall new disputes received for the year
- the dispute figures for each product line
- the product category disputes within each product line, and
- the types of members we have and the categories of disputes received about them.

In the vast majority of cases, consumers call us with questions about an issue rather than a dispute and sometimes their dispute may not fall within our jurisdiction (see page 43). Consequently only 13% of initial calls result in the logging of a dispute.

The number of new disputes we received this financial year was up 33% on the last financial year. This is not surprising given the economic conditions and weather events of 2008-2009.

New disputes received by product line

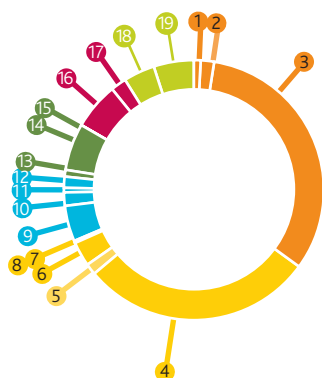
Product line	1/07/2008-30/06/2009	Percentage difference*	1/07/2007-30/06/2008
Credit	6,731	↑ 36%	4,944
Insurance	6,406	↑ 34%	4,798
Investments	1,540	↑ 68%	916
Deposit taking	1,293	↓ 19%	1,590
Payment systems	1,474	↑ 8%	1,365
Outside TOR products	927	↑ 94%	477
Other products	736	↑ 174%	269
Total disputes received	19,107		14,359

* rounding of some figures has taken place

While we continue to see higher volumes of disputes about credit and insurance, the most significant increase has been the 68% increase in disputes about investments. As the share market has fallen and property prices have wavered, consumers have suffered losses. This has caused consumers to question whether strategies advised to them and adopted were appropriate in the first place and potential deficiencies in sales practices have been highlighted. In falling markets deficiencies in service are also highlighted. For instance, the delay in the implementation of a request for redemption or the delay in the adoption of a more conservative approach may result in significant losses.

3,285 disputes were still in 'registration' (see page 16) at the end of the period. These are not included in the above table or pie chart at left as they are yet to be classified by product. They do appear in the overall new disputes bar chart (top left).

Disputes by product category 2008–2009



Product	Number of disputes
1 Margin loans	181
2 Business finance	348
3 Consumer credit	6,202
4 General / domestic insurance	5,522
5 Small business / farm insurance	258
6 Life insurance	573
7 Professional indemnity	22
8 Extended warranty	31
9 Managed investments	853
10 Securities	327
11 Derivatives & hedging	76
12 Superannuation	284
13 Savings accounts	173
14 Current accounts	1,086
15 Safe custody	34
16 Direct transfer	1,089
17 Non-cash	385
18 Other	736
19 Product outside TOR	927
Total	19,107

Disputes received by product lines and product categories

We saw a rise in disputes across almost all product categories.

The information below shows:

- the number of disputes received in 2007-2008
- the number of disputes received in 2008-2009
- the percentage increase or decrease in the number of disputes received from 2007-2008 to 2008-2009
- the percentage of disputes within each product category contributing to the total number of disputes received about the product line in 2008-2009, and
- the percentage of total disputes for each product category.

Product	Number of disputes			2008-2009	
	2007-2008	% difference*	2008-2009	% of product categories within product line*	% of total disputes*
Investments	916		1,540		
Managed investments	436	↑ 95.6%	853	56%	4%
Securities	267	↑ 22.5%	327	21%	2%
Derivatives & hedging	43	↑ 76.7%	76	5%	<1%
Superannuation	170	↑ 67.0%	284	18%	1%
Insurance	4,798		6,406		
General / domestic insurance	4,134	↑ 33.6%	5,522	86%	29%
Small business / farm insurance	181	↑ 42.5%	258	4%	1%
Life insurance	446	↑ 28.4%	573	9%	3%
Professional indemnity	14	↑ 57.1%	22	<1%	<1%
Extended warranty	23	↑ 34.7%	31	<1%	<1%
Credit	4,944		6,731		
Margin loans	35	↑ 417.1%	181	3%	1%
Business finance	264	↑ 31.8%	348	5%	2%
Consumer credit	4,645	↑ 33.5%	6,202	92%	32%
Deposit taking	1,590		1,293		
Savings accounts	149	↑ 16.1%	173	13%	1%
Current accounts	1,378	↓ 21.2%	1,086	84%	6%
Safe custody	63	↓ 46.0%	34	3%	<1%
Payment systems	1,365		1,474		
Direct transfer	1,211	↓ 10.0%	1,089	74%	6%
Non-cash	154	↑ 150.0%	385	26%	2%
Other	269	↑ 173.6%	736		4%
Product outside TOR	477	↑ 94.3%	927		5%
Total	14,359		19,107		100.0%

* rounding of some figures has taken place

What new disputes were about

We have different types of members so we receive different types of disputes about them.

The following table shows our different types of members and the categories of disputes we received against them. Turn to page 22 for types of disputes that fall under these dispute categories.

	Service	Privacy & confidentiality	Transactions	Charges	Disclosure	Advice	Financial services provider decision	Other
Banks*	23%	3%	16%	19%	2%	6%	26%	5%
Credit unions	24%	4%	20%	23%	1%	6%	20%	2%
Financial planners	30%	0%	3%	2%	13%	51%	0%	1%
General insurers	5%	0%	0%	2%	1%	3%	77%	12%
Insurance brokers	18%	0%	0%	25%	0%	38%	16%	3%
Life insurers	25%	0%	2%	10%	15%	1%	46%	1%
Make a market	54%	0%	8%	0%	23%	15%	0%	0%
Managed investments responsible entity	60%	0%	1%	7%	28%	3%	0%	1%
Non-banks	19%	8%	20%	3%	4%	3%	41%	2%
Stockbrokers	55%	0%	18%	5%	9%	13%	0%	0%
Warranty companies	19%	0%	0%	4%	0%	51%	26%	0%

* This may include financial planners who work for a bank

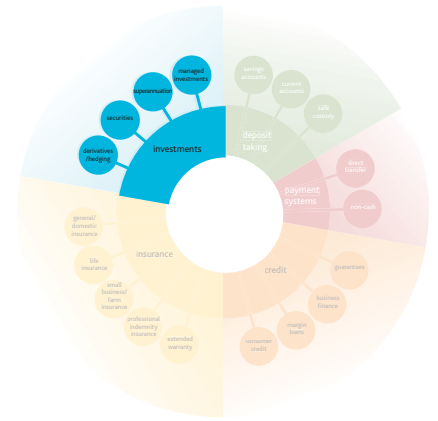
Types of disputes

The following table shows the categories of disputes and the specific types of disputes they cover.

Service			Privacy & confidentiality	Transactions	Charges	Disclosure	Advice	Financial services provider decision
Instructions	Administrative	Delay	Individual credit reporting	Unauthorised transactions	Incorrect fees/costs	Misleading product/service information	Unsuitable advice	Decline application
Failure to follow instructions	Management of client details	Following instructions	Commercial credit reporting	Dishonoured transactions	Incorrect premiums	Incorrect product/service information	Inappropriate advice	Decline claim
Incorrectly processed instructions	Incorrect balance provided	Processing transactions	Privacy breach	Incorrect benefit payment	Incorrect commissions	Insufficient product/service information	Incorrect advice	Decline variation request
Failure to abide by contract clauses	Loss of documents	Assessing claims	Confidentiality breach	Incorrect deductible excess	Incorrect deductible excess			Decline financial difficulty application
	Loss of safe custody items	Handling complaints						Decline product feature/service
	Incorrect claim bonus changes							Quantum decision
	Incorrect repayment figures							Maladministration in lending
	Handling of complaint							Maladministration in debt recovery
	Handling of claim							Inappropriate collection conduct
								Cancellation of refund
								Cancellation of product
								Cancellation of policy
								Unilateral action

Investment disputes

Investment related disputes rose by 68% during 2008–2009.



New investment disputes

The information below shows the following:

- the number of investment disputes received in 2007-2008
- the number of investment disputes received in 2008-2009
- the percentage increase or **decrease** in the number of investment disputes received from 2007-2008 to 2008-2009
- the percentage of disputes within each product category of investments contributing to the total number of investment disputes received in 2008-2009, and
- the percentage of total disputes for each investment product category.

Product category	Number of disputes		2008-2009		% of total disputes*
	2007-2008	2008-2009	% of product categories within product line*		
Investments	916	1,540		8%	
Managed investments	436	↑ 95.6% 853	56%	4%	
Securities	267	↑ 22.5% 327	21%	2%	
Derivatives & hedging	43	↑ 76.7% 76	5%	<1%	
Superannuation	170	↑ 67.0% 284	18%	1%	

* rounding of some figures has taken place

COMMENTARY ON NEW INVESTMENT DISPUTES

Alison Maynard Ombudsman – Investment, Life Insurance & Superannuation

The highest increase in any product line in the past year was experienced by investments. Any products linked to share market performance were likely to fall in value, at times significantly, causing consumers to review the advice which led to investment strategies being adopted in the first place. Service issues also tend to be highlighted during this time of market volatility. This is borne out by the sharp rise in investment disputes across all the product categories under this product line.

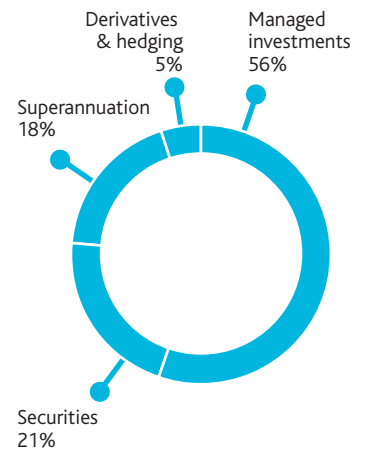
It was also a year of large corporate collapses – Storm Financial, Great Southern and Timbercorp – leaving investors in the lurch, losing many thousands or hundreds of thousands of dollars and facing financial ruin. The ASIC enquiry into Storm Financial is still underway at the time of printing.

The number of investment disputes received was also impacted by a number of managed investment mortgage funds suspending distributions and redemptions due to the market volatility and liquidity issues.

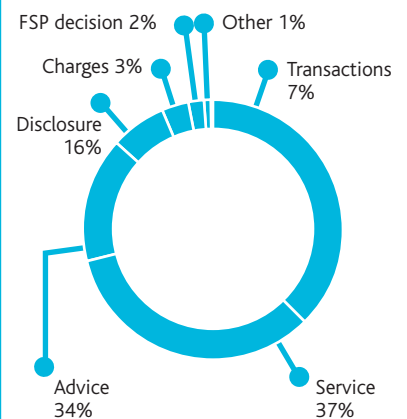
The ramifications of the collapse of Westpoint in 2007 were still being felt during the past year as well, though new Westpoint disputes coming to us continued to decrease significantly during the period.

New investment disputes

The chart below shows how investment disputes were spread across product categories by percentage.



Investment disputes by type



Managed investment

Typically with managed investment disputes we are seeing problems about inappropriate advice and the standard of service. The vast majority of financial planners and authorised representatives are acutely aware of their obligations when providing both general and personal advice. Nevertheless we still see disputes where over-enthusiastic sales techniques see sellers moving from general advice to personal advice without completing the necessary or appropriate assessment of a client's investment objectives and risk profile.

The Financial Ombudsman Service also received a number of disputes concerning the suspension of distributions and redemptions from a number of managed investment schemes, and disputes about

delays in redemption requests being processed. Due to the extreme market volatility over the last year, there were delays in the time taken to process investment redemption requests. This meant that investors could experience a significant loss in the value of their investments even over a relatively short period of time once they submitted a redemption request.

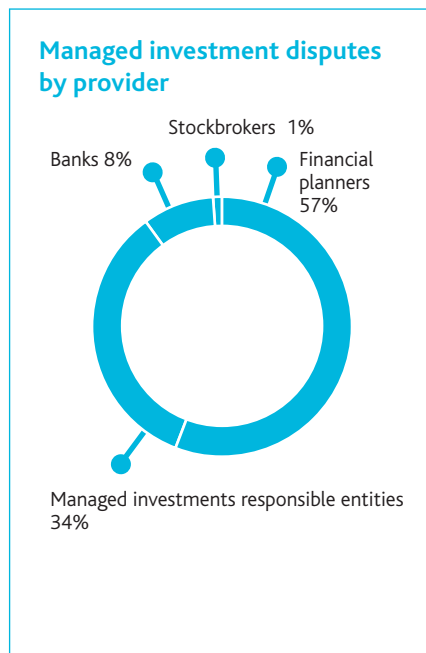
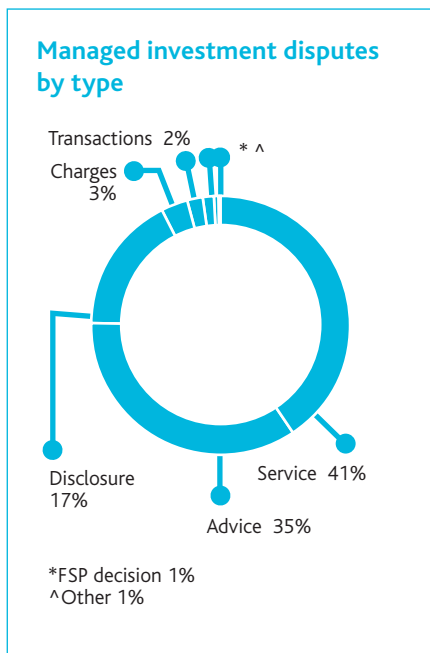
Managed investment providers

The majority of managed investment disputes referred to us concerned financial advice or service provided by financial planners to clients in relation to managed investments (57%).

The second largest proportion of managed investment disputes related to managed investments responsible entities (34%).

Derivatives & hedging

The top three disputes referred to the Financial Ombudsman Service about derivatives and hedging concerned service (32%), disclosure (27%) and transaction-based disputes (24%). As with other product categories such as managed investments and securities, the extreme market volatility experienced in the last year meant that problems such as delays in the provision of market related service (including processing buy and sell orders, the management of stop losses, and failure to provide timely information about market movements) all contributed to an increase in the number of disputes concerning such issues. Disputes brought to us about derivative and hedging transactions that were incorrectly or inappropriately processed, leading to financial loss, also increased.



The Financial Ombudsman Service is continuing to see an increase in the number of disputes about newer derivative investment products such as contracts for difference. Due to the highly leveraged nature of such investments, the recent market volatility has seen an increase in the number of investors incurring significant financial loss through the use of such higher risk, leveraged products.

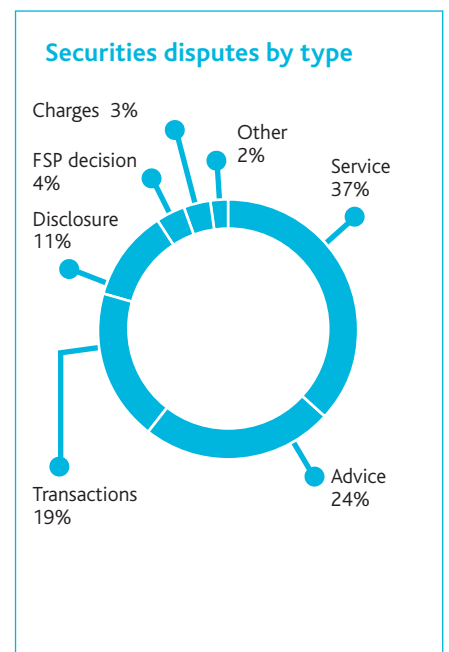
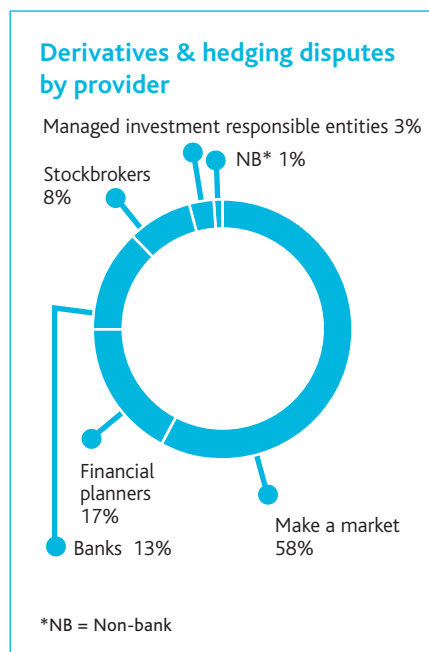
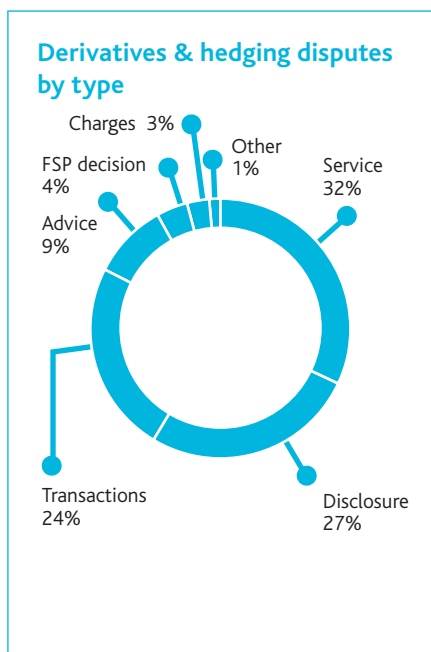
Derivatives & hedging providers

The majority of derivatives and hedging product disputes made to us last year (58%) concerned “make a market” providers such as providers of contracts for difference (CFDs). We are continuing to see an increase in the number of disputes about newer derivative investment products such as CFDs.

A number of these disputes arise due to a lack of consumer understanding of the operation of these sophisticated products. Often these products are offered on an ‘execution only’ basis and this has not been understood by the investor who may expect a higher level of service and protection of their position.

Securities

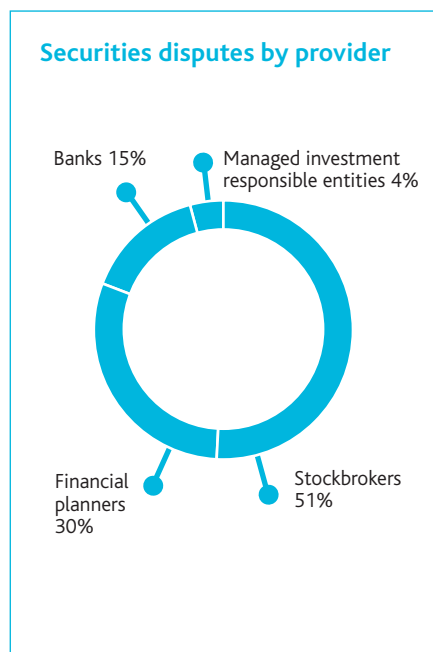
The top three categories of disputes we received about securities concerned service (37%), advice (24%) and transactions (19%). As noted previously, the extreme market volatility recently experienced has meant that issues such as delays in the provision of market related service contributed to an increase in the number of securities disputes. We also experienced a large increase in advice related securities disputes. Most of these disputes related to the appropriateness of securities related financial advice.



As noted above, while we have seen an ongoing decrease in new Westpoint related disputes in 2008/2009, we still received 14 new Westpoint disputes during this period, all of which concerned the appropriateness of financial advice recommending Westpoint.

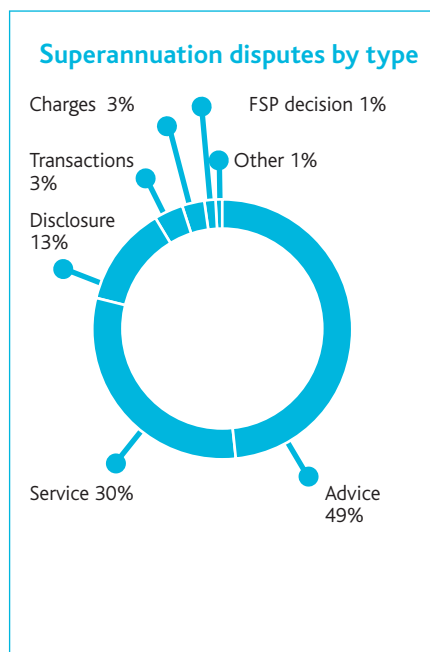
Securities providers

The majority of disputes concerning securities related to stockbrokers (51%), reflecting their market share of securities related transactions and investments. Financial planners made up the next highest proportion of disputes about securities (30%). These disputes related predominately to the appropriateness of financial advice and the standard of service provided in relation to the trading of securities.



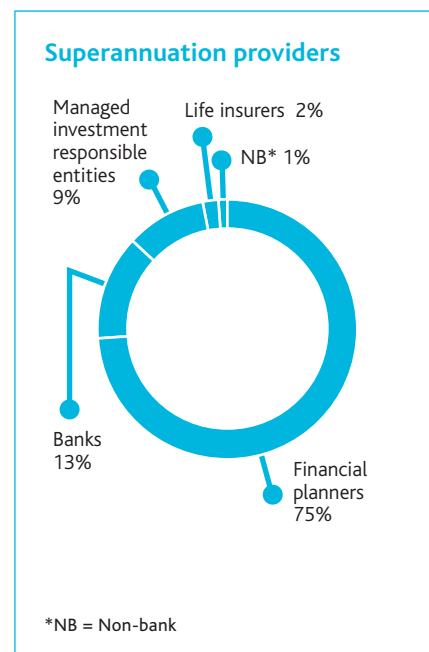
Superannuation

The disputes we received concerning superannuation products were similar in profile to managed investment disputes. The most common issues raised were inappropriate advice and the standard of service. Many of these disputes concerned the appropriateness of financial advice provided to invest into higher growth, more aggressive investments within a person's superannuation portfolio. A number of service related disputes concerned the time taken to organise the redemption of investments and the level of monitoring and review of investment portfolios.



Superannuation providers

The majority of superannuation disputes made to us concerned financial advice or service provided by financial planners to clients in relation to their superannuation (75%).



Insurance disputes

Insurance related disputes rose 34% during 2008–2009.



New insurance disputes

The information below shows the following:

- the number of insurance disputes received in 2007-2008
- the number of insurance disputes received in 2008-2009
- the percentage increase or **decrease** in the number of insurance disputes received from 2007-2008 to 2008-2009
- the percentage of disputes within each product category of insurance contributing to the total number of insurance disputes received in 2008-2009, and
- the percentage of total disputes for each insurance product category.

Product category	Number of disputes			2008-2009	
	2007-2008		2008-2009	% of product categories within product line*	% of total disputes*
Insurance	4,798		6,406		33%
General / domestic insurance	4,134	↑ 33.6%	5,522	86%	29%
Small business/ farm insurance	181	↑ 42.5%	258	4%	1%
Professional indemnity	14	↑ 57.1%	22	<1%	<1%
Extended warranty	23	↑ 34.7%	31	<1%	<1%
Life insurance	446	↑ 28.4%	573	9%	3%

* rounding of some figures has taken place

COMMENTARY ON GENERAL INSURANCE DISPUTES

Graham Warner

Manager – Dispute Resolution, General Insurance

The main influence in numbers were large insurance claims events. Extreme weather in late 2008 and during the early months of 2009 contributed to the overall 34% increase in general/domestic insurance disputes.

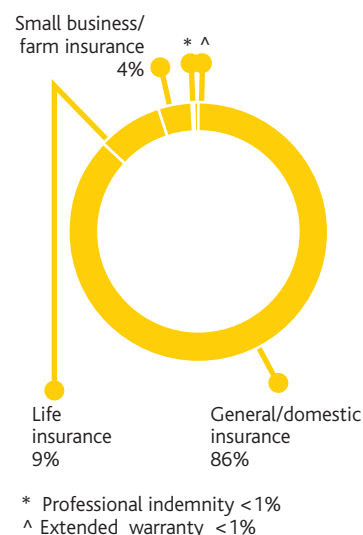
The horrific bushfires in February 2009 that destroyed or severely damaged towns like Marysville and Kinglake contributed to dispute and enquiry numbers, and we are expecting to see a number of bushfire disputes come through.

Terrible storms and floods in northern New South Wales, in places such as Coffs Harbour and Urunga, also contributed to dispute increases, as did the storms that hit areas in northern Queensland, as well as Brisbane.

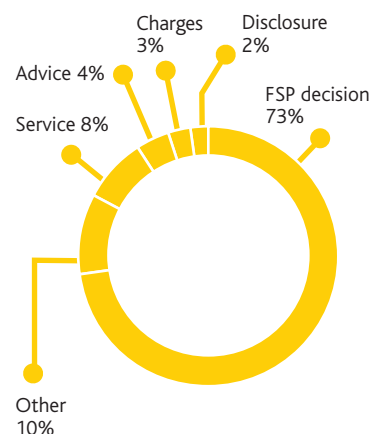
Another factor involved in the increase was the impact of the drought, where reactive soils under homes dry out, causing movement and cracking of walls and breaking pipes.

New insurance disputes

The chart below shows how insurance disputes were spread across product categories by percentage.



Insurance disputes by type



General/domestic insurance

General/domestic insurance disputes were up 34% in the period overall. These disputes related primarily to motor vehicle insurance (39%), home building insurance (27%), home contents insurance (10%) and travel insurance (16%). There were also a small number of disputes about sickness and accident, personal and domestic property, consumer credit insurance and residential/strata title insurance.

The most prevalent source of disputes concerned agreed understanding about the extent of the cover.

The largest cause of disputes in general/domestic insurance was generated by decisions made by financial service providers (76%) to decline a claim, cancel a policy and about the quantum of the claim.

What the policy does or does not cover is the core source of disputes and we saw a range of cases including:

- gradual deterioration, wear and tear (home building and motor vehicle)
- earth movement, erosion and subsidence (home building)
- theft from a public place (travel)
- pre-existing medical condition (travel and personal accident and illness)

General/domestic insurance providers

Not surprisingly, almost all (98%) disputes about the provision of general/domestic insurance were about sales of these products by general insurers. The other 2% came from insurance brokers and banks.

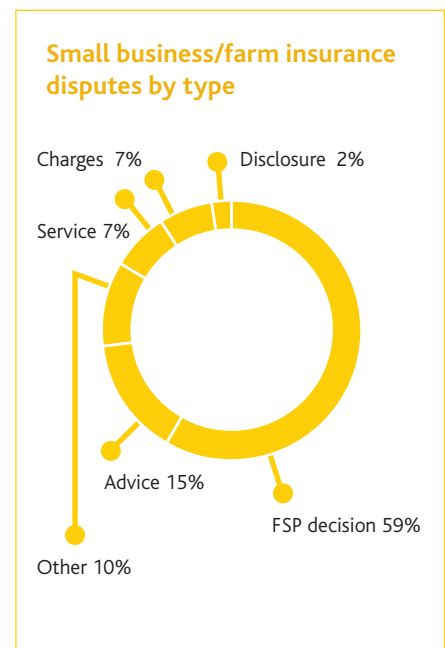
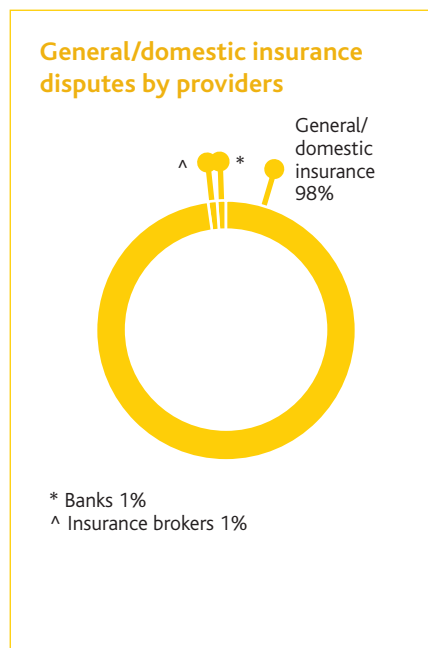
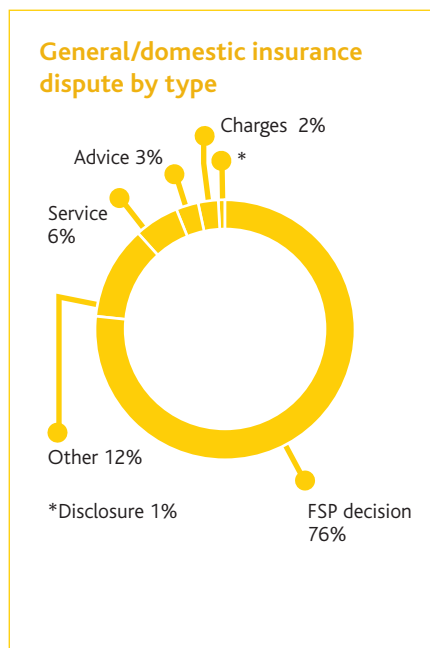
Small business/farm insurance

A substantial cause of disputes about small business/farm insurance was generated by confusion about the extent of the cover provided under the policy i.e. what items were and weren't covered.

Some policies and packages can be quite complex in nature, with many different sections. An example is farm insurance where a policy may package together items like the farmhouse, fencing, livestock, crops, as well as public liability.

With the current economic climate, some consumers may also be choosing to insure less items to save money on premiums.

59% of the disputes were about decisions to decline a claim, to cancel a policy and the amount allowed under the policy.



Small business/farm insurance providers

There are two aspects of small business/farm insurance that make up the disputes that come to us. The advice about the nature and type of cover recommended by brokers (17%) and the cover itself as provided by insurers (83%).

Professional indemnity insurance

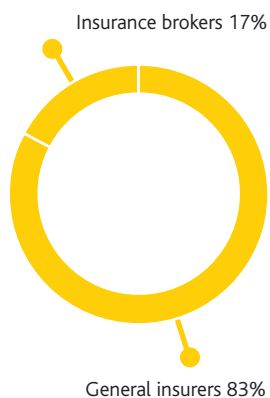
Many of the professional indemnity insurance disputes considered were under medical indemnity insurance policies (59%) and involved issues such as premium increases, disclosure and imposition of a higher excess.

The number of disputes we receive about professional indemnity insurance is small, reflecting the relative size of this product category in the broader market, as well as the fact that it is doctors, rather than general consumers, who have the disputes with the insurance providers.

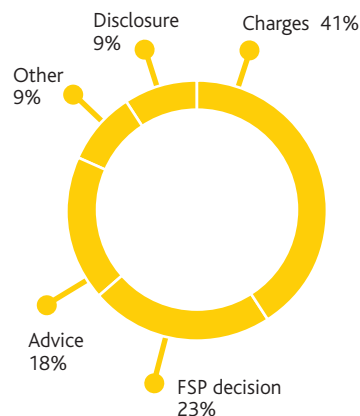
Professional indemnity insurance providers

There are two aspects of professional indemnity insurance that make up the disputes that come to us: the advice about the nature and type of cover recommended by brokers (41%) and the cover itself as provided by medical indemnity insurers (59%).

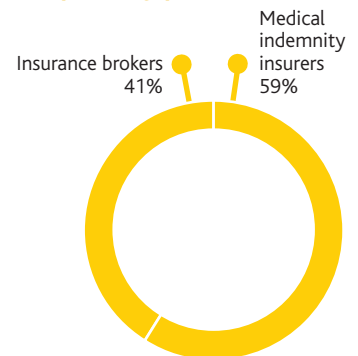
Small business/farm insurance disputes by provider



Professional indemnity insurance disputes by type



Professional indemnity insurance disputes by provider



Extended warranty

Extended warranties relate primarily to extending the manufacturer's warranty on motor vehicles.

Extended warranty providers

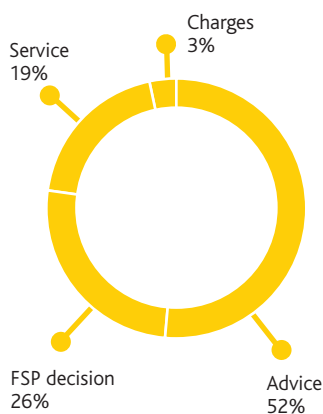
All extended warranty disputes we received related to warranty providers because they are the only providers who offer this product.

COMMENTARY ON LIFE INSURANCE DISPUTES

Alison Maynard,
Ombudsman – Insurance, Life Insurance & Superannuation

Life insurance disputes were up 28% during the period, with the majority of disputes about income protection (28%) and term of life insurance (24%). Other disputed products included whole of life insurance (11%) and total and permanent disability insurance (19%). A small number of disputes were received about annuities (8%), trauma (4%), funeral plans (3%), endowments (2%) and scholarship funds (1%).

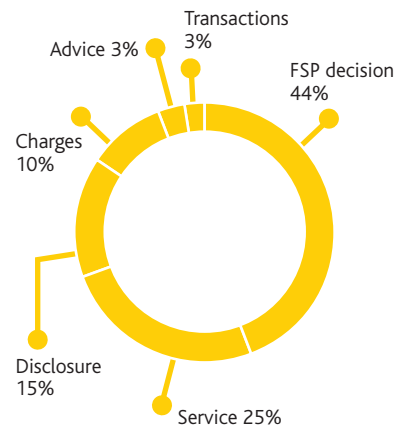
Extended warranty disputes by type



Extended warranty disputes by provider



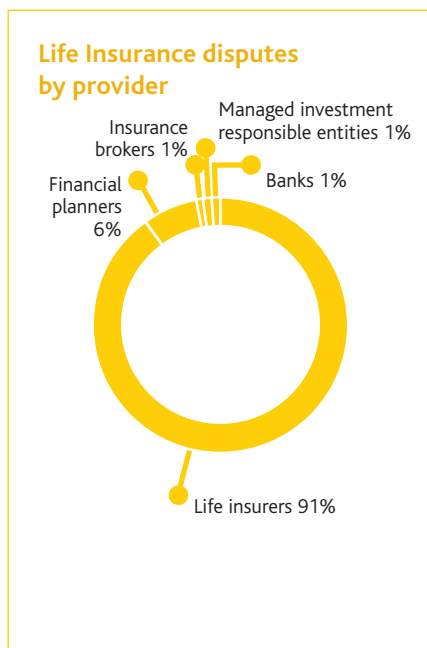
Life insurance disputes by type



Most of the disputes related to denial of claims and service related issues, mainly concerning the time taken to assess and accept claims and the information required by insurers from an insured party when dealing with a claim.

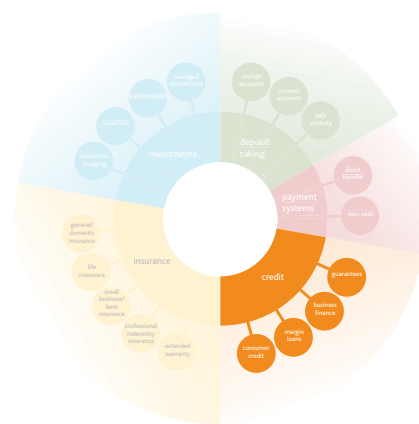
Life insurance providers

The vast majority of life insurance disputes made to us concern the cover itself, as provided by life insurers (91%). A small number of disputes concern the appropriateness of advice provided by financial planners (6%) and insurance brokers (1%) in relation to life insurance.



Credit disputes

Credit related disputes rose by 36% during 2008–2009.



New credit disputes

The information below shows the following:

- the number of credit disputes received in 2007-2008
- the number of credit disputes received in 2008-2009
- the percentage increase or **decrease** in the number of credit disputes received from 2007-2008 to 2008-2009
- the percentage of disputes within each product category of credit contributing to the total number of credit disputes received in 2008-2009, and
- the percentage of total disputes for each credit product category.

Product category	Number of disputes		2008-2009	
	2007-2008	2008-2009	% of product categories within product line*	% of total disputes
Credit	4,944	6,731		
Margin loans	35	↑ 417.1%	181	3%
Business finance	264	↑ 31.8%	348	5%
Consumer credit	4,645	↑ 33.5%	6,202	92%

* rounding of some figures has taken place

COMMENTARY ON CREDIT DISPUTES

Philip Field

Ombudsman – Banking & Finance, Mutuals

During the year there were 6,731 new disputes relating to credit. This is up 36% on the previous financial year and reflects the deteriorating economic condition of 2008–2009 and the hardship experienced by many consumers.

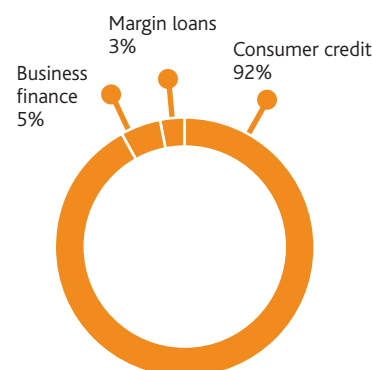
Of the disputes we received about credit, the most frequently raised cause of dispute (31%) concerned a decision by the financial services provider. The biggest single cause concerned the application of break costs to fixed rate and business loans.

We saw an increasing number of disputes regarding customers experiencing financial difficulty. In addition, we often see disputes where maladministration and financial difficulty are combined i.e. a consumer may have been granted credit which, on a proper assessment they didn't have the capacity to pay. This leads them to experience financial hardship.

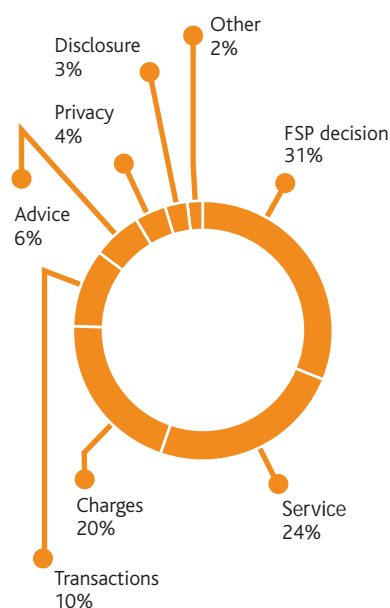
The vast majority (90%) of credit disputes related to credit provided by banks.

New credit disputes

The pie chart below shows how credit disputes were spread across product categories by percentage.



Credit disputes by type



COMMENTARY ON MARGIN LOAN DISPUTES

Alison Maynard,
Ombudsman – Investments, Life Insurance & Superannuation

Philip Field, Ombudsman – Banking & Finance, Mutuals

Margin loans

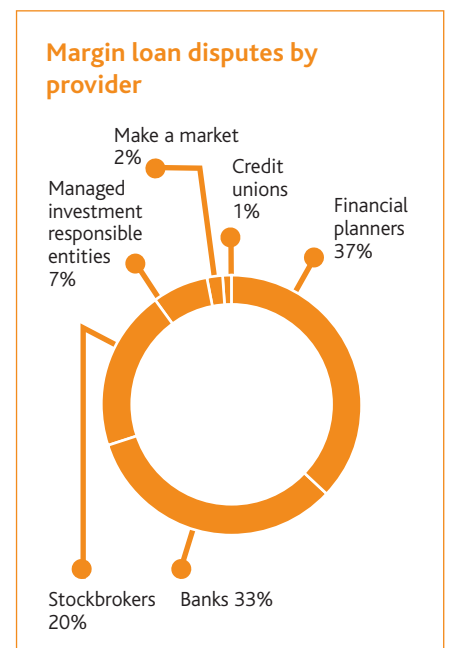
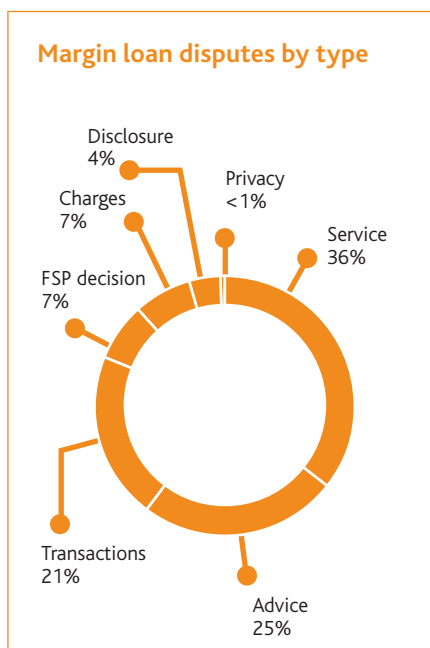
Margin loan disputes in particular experienced a very high increase (417%) though this figure must be seen within the context of the small number of disputes experienced in past years and they weren't always reported as a separate product category.

Even allowing for this, what is clear is that many consumers who thought they had adopted an appropriate strategy which was initiated in a rising market, were caught out by the implications of a margin loan as the market fell. As they realised the extent of their exposure, they revisited the advice and information that had led to this investment strategy and this resulted in disputes.

The causes of disputes about margin loans also reflect consumer concern and confusion about how they were informed of margin calls.

Margin loan provider

Margin loan disputes are spread across several sales channels, including financial planners (37%), banks (33%) and stockbrokers (20%).

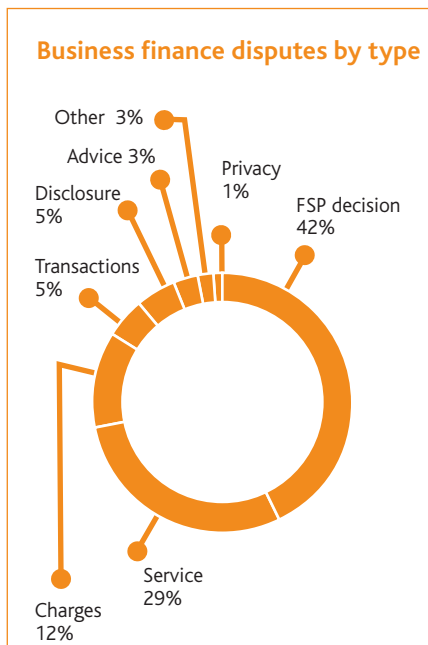


COMMENTARY ON CREDIT DISPUTES

Philip Field – Ombudsman Banking & Finance, Mutuals

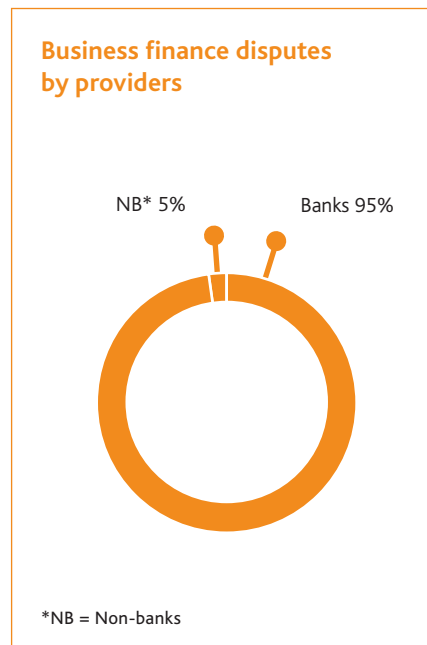
Business finance

Disputes about business finance increased by 32%. Disputes in this category related to loans, credit card accounts, lines of credit and overdrafts, hire purchase agreements, leases, letter of credit and commercial bills. Many of the problems leading to disputed actions by the financial services providers stemmed from cash flow problems experienced by disputants, often leading to defaults on a number of different facilities. Enforcement action by credit providers, including realisation of securities after defaults, was the main subject of disputes.



Business finance providers

95% of the disputes about business finance concerned bank lenders. Again, that is consistent with their market share and the fact that all banks are members of the Financial Ombudsman Service.



Consumer credit

Consumer credit (including housing finance) disputes rose 32% overall. 40% of consumer credit disputes related to credit cards and 46% related to home loans.

Other consumer credit disputes concerned personal loans, overdrafts and lines of credit. Disputes about investment property loans and equity release products were also included in the housing finance category.

In the reporting year, the largest single subject of housing finance disputes was break costs for fixed rate loans. Many borrowers locked into fixed rate loans during the period of rising interest rates, experienced in the months before September 2008. When rates began to fall, a large number of borrowers wanted to 'break' their fixed rate contracts, either by refinancing to variable rates or lower fixed rates, or by selling and paying out their loans. Fixed rate loan contracts provide for break costs incurred by financial services providers to be passed onto borrowers, if the loan is terminated before the fixed rate period ends.

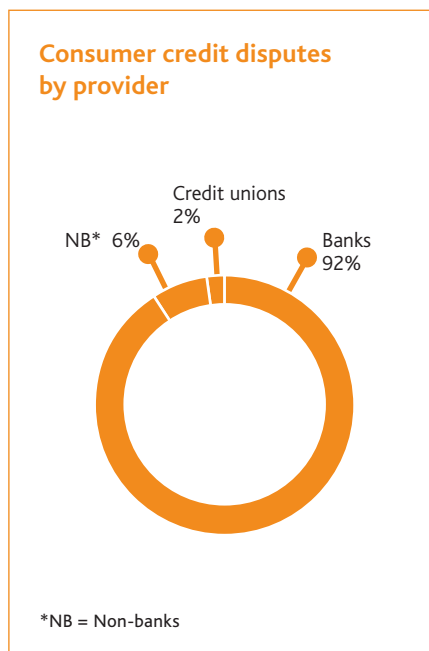
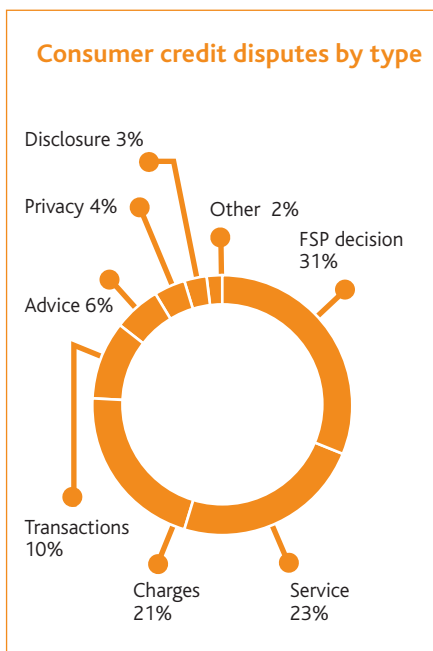
One of the biggest areas of disputes concerned claims of inadequate disclosure about break costs, calculation errors or delays in acting on instructions to end the loan. The main purpose of selecting a fixed rate is to provide certainty about future loan payments. For many borrowers who had no option but to sell their properties (due the economic climate), the cases also involved requests for assistance due to financial hardship.

Unsolicited offers by financial services providers to increase credit card limits formed the basis of many disputes about consumer finance (shown in the FSP decision category below).

Interest rates and charges were the subject of 21% of disputes in this category. 23% of disputes concerned service failures. These included disputes about inability to access funds.

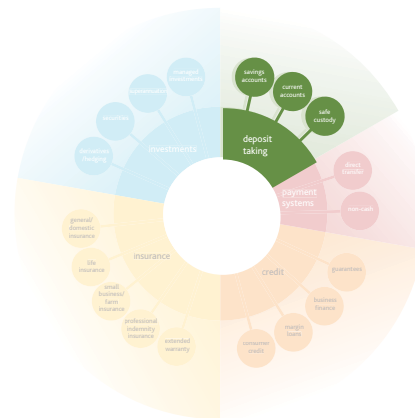
Consumer credit providers

There are a growing number of members of the Financial Ombudsman Service who are non-banks operating in the consumer credit market. Again the largest share of the market sits with banks.



Deposit taking disputes

Deposit taking related disputes fell by 19% during 2008–2009.



New deposit taking disputes

The information below shows the following:

- the number of deposit taking disputes received in 2007-2008
- the number of deposit taking disputes received in 2008-2009
- the percentage increase or **decrease** in the number of deposit taking disputes received from 2007-2008 to 2008-2009
- the percentage of disputes within each product category of deposit taking contributing to the total number of deposit taking disputes received in 2008-2009, and
- the percentage of total disputes for each deposit taking product category.

Product category	Number of disputes		2008-2009	
	2007-2008		2008-2009	% of product categories within product line* % of total disputes
Deposit taking	1,590		1,293	
Savings accounts	149	↑ 16.1%	173	13% 1%
Current accounts	1,378	↓ 21.1%	1,086	84% 6%
Safe custody	63	↓ 46.0%	34	3% <1%

* rounding of some figures has taken place

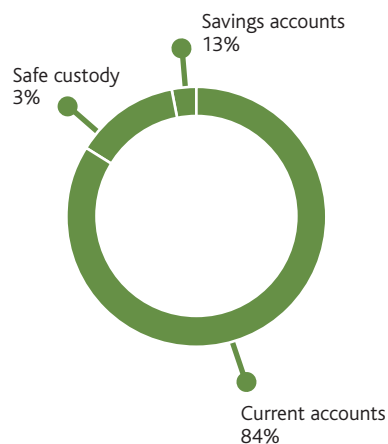
COMMENTARY ON DEPOSIT TAKING DISPUTES

Philip Field Ombudsman – Banking & Finance, Mutuals

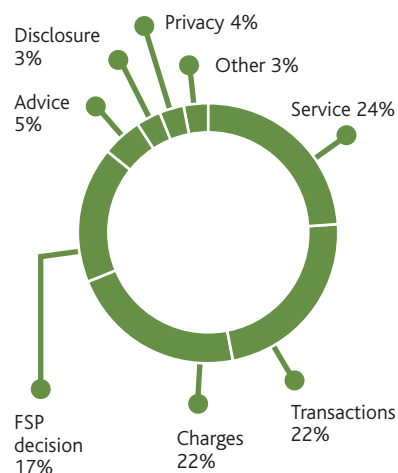
This was one of the few areas within the Financial Ombudsman Service that actually saw a drop in disputes during 2008-2009, particularly in the category of safe custody products. This may be because of a decline in the availability or popularity of the safe custody product.

New deposit taking disputes

The pie chart below shows how deposit taking disputes were spread across product categories by percentage.



Deposit taking disputes by type



Savings accounts

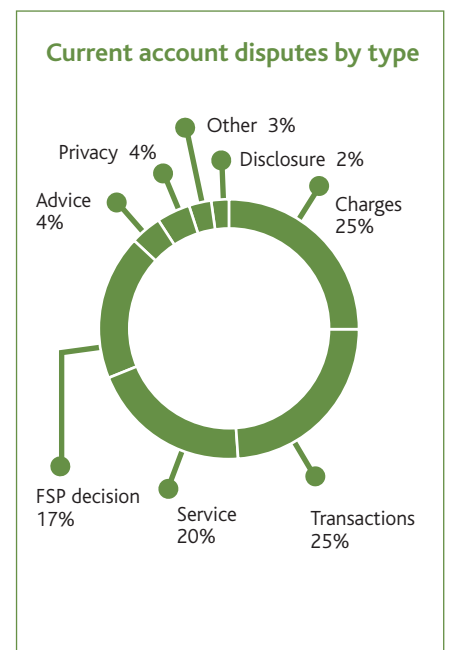
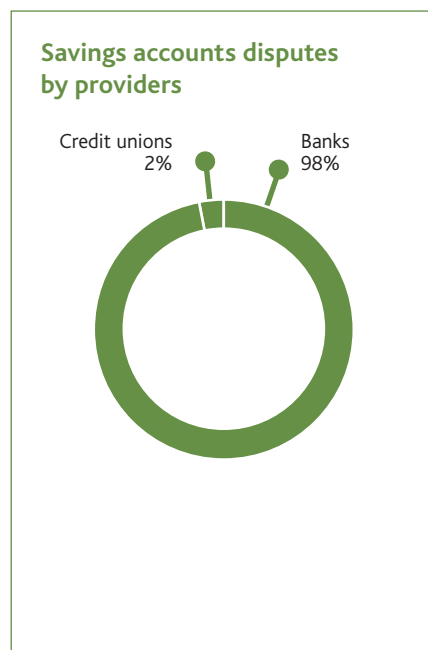
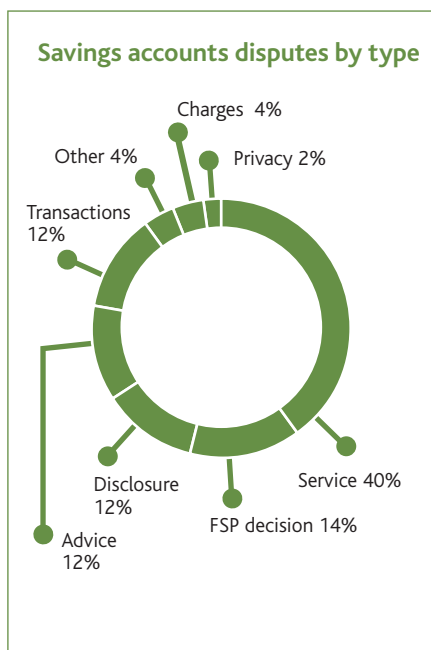
Disputes about savings accounts include disputes about term deposits, bank bills, cash management accounts, online accounts and home saver accounts.

Savings accounts providers

Banks have the largest market share of deposit taking products. This is reflected in the proportion of disputes about savings accounts provided by banks.

Current accounts

Current account disputes relate to passbook accounts, personal transaction accounts, business transaction accounts, mortgage offset accounts and foreign currency accounts.



Current accounts providers

As with savings accounts, banks have the largest market share of deposit taking products so they also have the largest share of disputes relating to current account providers.

Safe custody

Many financial services providers offer safe custody services for the storage of valuables and personal effects, such as title deeds, jewellery and mementos. Most disputes related to claims of lost packages or contents.

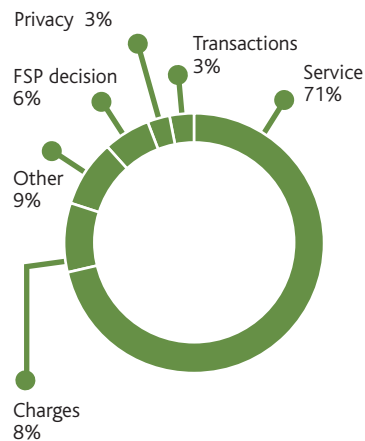
Safe custody providers

Traditionally the majority of safe custody services are provided by banks. It follows that the majority of disputes about provision of safe custody relate to banks.

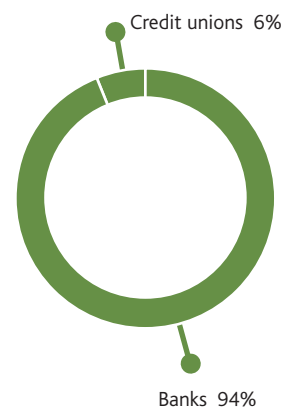
Current accounts disputes by provider



Safe custody disputes by type

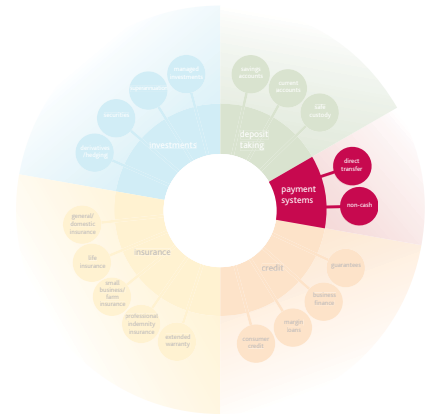


Safe custody disputes by provider



Payment systems disputes

Payment systems related disputes rose by 8% during 2008–2009.



The information below shows the following:

- the number of payment systems disputes received in 2007-2008
- the number of payment systems disputes received in 2008-2009
- the percentage increase or **decrease** in the number of payment systems disputes received from 2007-2008 to 2008-2009
- the percentage of disputes within each product category of payment systems contributing to the total number of payment systems disputes received in 2008-2009, and
- the percentage of total disputes for each payment systems product category.

Number of disputes

Product category	Number of disputes		2008-2009		
	2007-2008		2008-2009	% of product categories within product line*	% of total disputes
Payment systems	1,365		1,474		8%
Direct transfer	1,211	↓ 10.0%	1,089	74%	6%
Non-cash	154	↑ 150.0%	385	26%	2%

* rounding of some figures has taken place

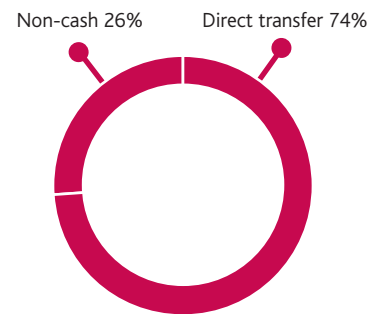
COMMENTARY ON PAYMENT SYSTEMS DISPUTES

Philip Field Ombudsman – Banking & Finance, Mutuals

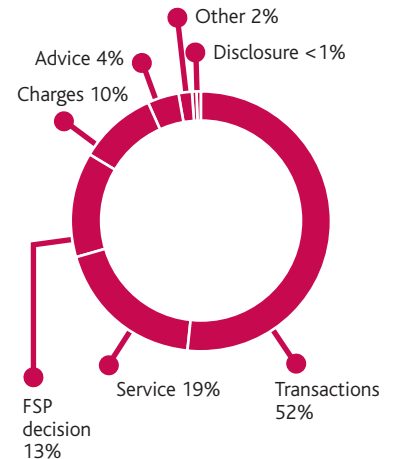
There was an overall increase in disputes within this category, with the small decrease in direct transfer disputes offset by an increase in disputes in the non-cash segment.

New payment systems disputes

The pie chart below shows how deposit taking disputes were spread across product categories by percentage.



Payment systems disputes by type



Direct transfer

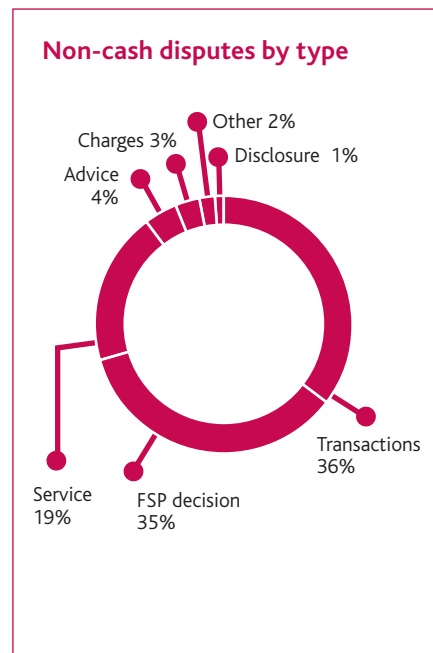
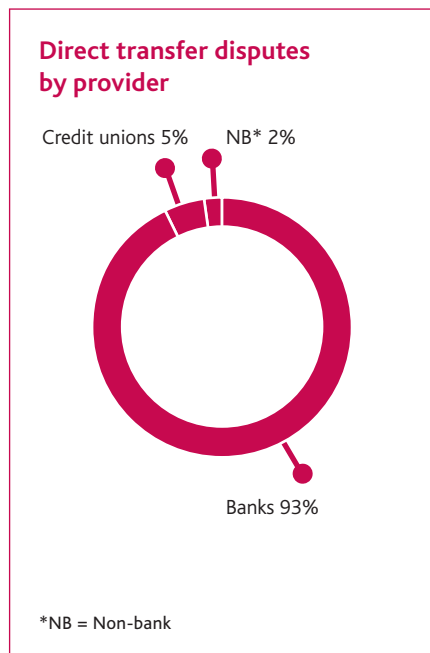
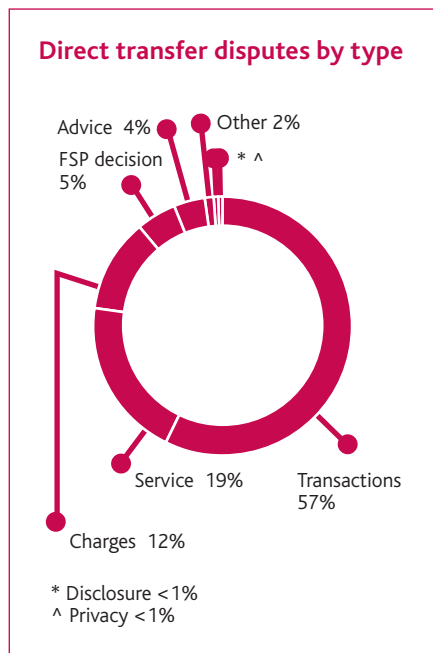
Direct transfer disputes cover disputes about ATMs, EFTPOS, cheques, direct debits, electronic banking, telegraphic transfers, merchant facilities, foreign currency transfers and bank drafts. The 10% drop in direct transfer payment system disputes may be the result of increased compliance with the electronic funds transfer (EFT) Code of Practice. Our staff have for many years provided training sessions for financial services providers on EFT Code compliance and continued to do so in 2008-09. We have also been working with financial services providers to increase the prominence of warnings to customers using internet banking facilities about the importance entering the correct account number when using internet banking.

Direct transfer providers

As banks have the largest market share of direct transfer products, it is not surprising that 93% of all direct transfer disputes relate to banks.

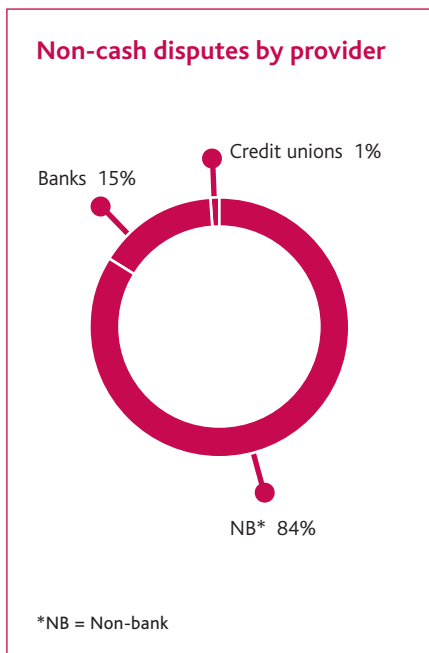
Non-cash

Non-cash payment system disputes relate to travellers' cheques, non-cash systems, stored value cards and loyalty programs. Non-cash payment system disputes rose 150% for the period, but from a low base. One reason for the increase in disputes may be the increase in the use of non-banking channels to make non-cash payments, and thus reflects the growing market share of non-banks in the payment facility market.



Non-cash providers

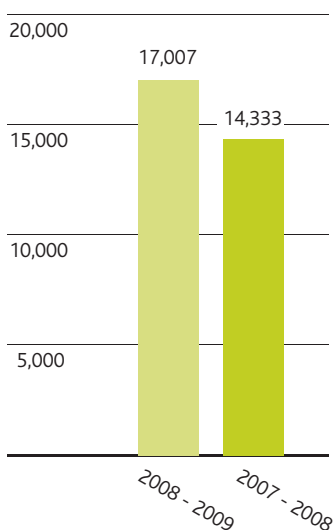
Non-cash providers are usually internet-based payment systems that are not linked to authorised deposit-taking accounts.



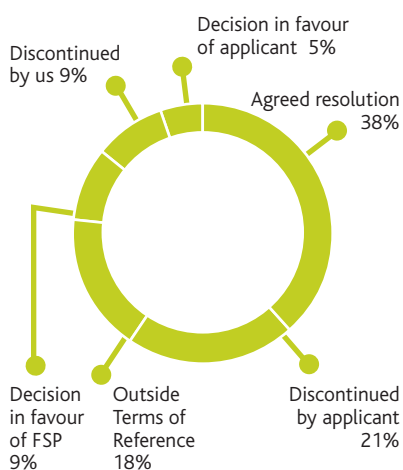
The disputes we resolved

We resolved 17,007 disputes in the last financial year, 19% more than for the previous financial year.

Total disputes closed



Outcome of disputes % 2008-2009



Resolution via different methods

We have several different approaches to dispute resolution. Flexibility of approach is adopted to ensure the individual circumstance of each case is considered.

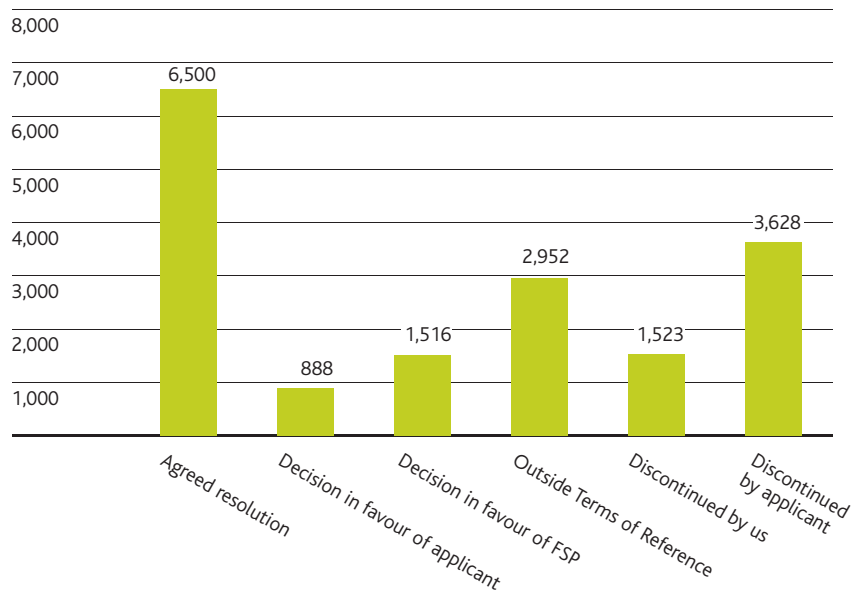
Our approaches include:

- negotiation between the parties assisted by case officers
- conciliation conferences conducted by trained conciliators, and
- determinations and adjudications (decisions) by decision-makers.

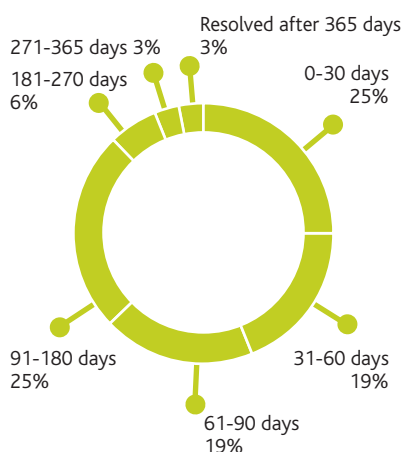
Negotiations and conciliations that are successful are collectively called 'agreed resolutions' because both parties come to an agreement with our help, avoiding the need to take the dispute to a decision-maker.

The following table sets out the different types of outcomes we reached with disputes in the last financial year.

Outcome of disputes 2008-2009



How long it took to resolve disputes 2008–2009



Outside Terms of Reference

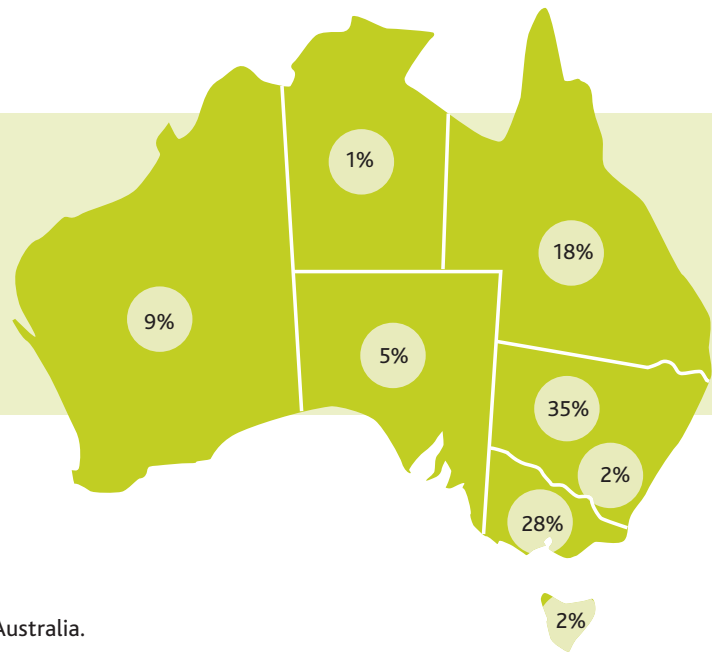
The Terms of Reference (TOR) describe dispute resolution rules and processes for the Financial Ombudsman Service. The TOR set out matters such as who can lodge a dispute, our monetary limits and what types of things we can and cannot consider.

For the 2008-2009 year, while we were developing our new amalgamated Financial Ombudsman Service TOR, we continued to operate according to the substantially the same individual TOR that governed our predecessor schemes.

The table below outlines the number and reason why some disputes for the period were considered 'outside Terms of Reference', meaning they were outside our various jurisdictions and we were unable to consider them.

Outside Terms of Reference	No.
Financial services provider not a member of ours	915
Dispute more appropriately dealt with by another forum (court or EDR scheme)	572
Business policy	347
No financial service	252
Outside our monetary limits	149
Outside product range	112
Superannuation trustee decision	97
Outside our time frames	81
Outside scope of uninsured third party motor vehicle jurisdiction	65
Management of a fund or scheme as a whole	62
Commercial decision	53
Legal proceedings underway at the time dispute lodged with us	17
Investment performance	15
Level of fee, premium, charge or interest	11
Remedy sought outside terms of reference	11
Dispute previously dealt with by a court or other EDR scheme	10
Dispute settled prior to being lodged with us	10
Underwriting or actuarial factors	6
Applicant - large business	6
Dispute being dealt with by another EDR scheme	4
No loss sustained by applicant	3
Outside statute of limitations	2
Dispute previously dealt with by us (or predecessor scheme)	1
Criminal proceedings underway at the time dispute lodged with us	1
Other	150
Total	2,952

→ More information on our Terms of Reference can be found at www.fos.org.au/tor



Where our disputes came from

The consumers who lodged disputes with us are spread across Australia.

The people who come to us with disputes are generally in proportion to the population of their home state or territory, though there continues to be a proportionally higher use of our service in NSW and Victoria. This matches the spread of population across the different states and territories, see below.

State/territory	Australian population at 31 December 2008*	% disputes
NSW	33%	35%
VIC	25%	28%
QLD	20%	18%
WA	10%	9%
SA	7%	5%
TAS	2%	2%
ACT	2%	2%
NT	1%	1%
Total	100%	100%

Of these disputes, 96% were made by individuals and 4% were made on behalf of small businesses.

* Source: Australian Bureau of Statistics website - www.abs.gov.au/ausstats/abs@.nsf/mf/3101.0/

Systemic issues

We have a responsibility to identify, investigate, resolve and report systemic issues that arise from disputes.

Systemic issues are those that we identify that may have affected, or have the potential to affect, a number of customers beyond the parties to a dispute.

By investigating systemic issues, we can help consumers in an affected group to obtain compensation that is due to them when there has been some error. For our members, the investigation of systemic issues helps raise industry standards.

Identification of systemic issues

We aim to identify systemic issues as early as possible, with most matters being identified by staff in the early stage of the dispute resolution process.

The member is then given an opportunity to respond to us before a decision is made as to whether a possible systemic issue is confirmed as a definite systemic issue.

Investigation and resolution

Investigations into systemic problems are carried out by us in consultation with legal counsel and the individual product area Ombudsmen. Often legal advice and/or industry advice is required. If it is concluded that there is a systemic issue, options for resolving the matter are put to the member.

There are generally two outcomes for the resolution of any systemic issue:

- ensuring that the problem is fixed at its source, and
- ensuring that customers who have experienced loss as a result of the problem are appropriately compensated.

Reporting

We are obligated, both under our Terms of Reference and as an ASIC approved external dispute resolution scheme, to report systemic issues to ASIC on a quarterly basis. The reports do not identify the member, but include details of the nature of the problem and the manner in which it was resolved. A member is only identified to ASIC if it does not rectify the matter to the Ombudsman's satisfaction.

During the course of this year, 81 definite systemic issues were identified and resolved to the satisfaction of the Ombudsman.

Systemic issues during this year fell into the following broad categories:

- disclosure in relation to the operation of an account or facility
- inappropriate or misleading disclosure
- computer programming and human errors
- contract and calculation errors
- conduct contravening legal codes, and
- IDR / EDR license obligations.

Examples of systemic issues from the past year

Internet representation of available balance

Disputes received in relation to two different members identified that the representation or disclosure on the financial services provider's internet site of cleared funds available for withdrawal was incorrect. This information caused some customers to incur dishonour fees on both sending and receiving accounts.

In order to resolve the systemic issue the financial services providers each:

- Agreed that any affected customers would have relevant fees incurred refunded to their account, and
- Included a proximate warning on its internet screen that the account balance may include uncleared funds.

Incorrect credit listings

A dispute we received illustrated that a customer did not receive:

- a demand that met the requirements of the Uniform Consumer Credit Code, and
- a written warning that a default listing could be made against his credit file.

In response to our referral of this matter to the member, it identified that a total of 3,403 customers had received deficient default notices, 1,442 of which had been incorrectly credit listed. In an effort to resolve the systemic issue, the member ensured that the credit listing agency removed the credit listings of all 1,442 affected customers. The member undertook to consider any further complaints about those incorrect credit listings on a case by case basis.

Refund of mortgage insurance on early repayment of a loan

We received a dispute from a customer who repaid his mortgage loan after 18 months and his request for a partial refund of his Lender's Mortgage Insurance (LMI) premium was refused.

While not all LMI premiums are refundable, the LMI guidelines in this case provided eligible customers with the ability to obtain a partial refund in certain circumstances.

Upon referral of this matter to the member, it confirmed that it did not have appropriate processes and procedures in place for requesting the refund from the insurer when it was available. The member identified 937 customer accounts that may have been eligible for a refund.

In resolution of this systemic issue, the member:

- made refunds of about \$920,000 to affected customers, and
- developed and implemented a process to notify customers in the future of their entitlement to a refund and how a claim can be made.

Non-complying Statement of Advice

One FSP was queried in respect of what appeared to be the systemic use of a non-complying Statement of Advice (SoA) in its dealing with its clients. Following the inquiry, it was revealed that the dispute had gone right through our process, up to and including a determination, without relevant appendices and attachments to the SoA having been provided by either party. This was despite concerns being raised of non-disclosure of relevant information forming part of the dispute.

Upon receipt of the full SoA, we determined that the application of the relevant law and ASIC Class Orders meant that there was no systemic issue in regard to the provision of the SoA, and the FSP undertook to provide all relevant information to case workers in the future.

Non-retention of order records

One FSP was queried in respect of its non-retention of order records, as required by law. Throughout the dispute, the FSP had been requested to provide evidence of the orders placed by the consumer and had stated that it was unable to do so, as the order records could not be located.

Following the inquiry raising its statutory obligation to retain those records, the FSP had its third-party data storage provider source the records and demonstrated that those records were still under its control. We were satisfied that this was the case and that there was no systemic issue, but advised that the FSP should have been able to source that information during the course of the dispute.

Compliance with ASIC RG 165

One FSP was queried regarding its internal dispute resolution (IDR) process and its compliance with RG 165, as well as the impact that the process has upon the FSP's statutory obligation to provide access to an external dispute resolution (EDR) scheme.

In not following the definition of 'complaint' as set out in RG 165, the FSP denied consumers access to IDR, and therefore EDR, processes, instead terminating the arrangement with the client and initiating legal proceedings to recover any outstanding account balance or fees.

This matter has not yet been resolved, pending a meeting between ourselves and the FSP.

Glossary of terms used in this review

Term/acronym	Explanation
ADR	Alternative dispute resolution - broadly means different ways of resolving disputes, which don't necessarily involve going to court
ASIC	Australian Securities and Investments Commission
BFSO	Banking and Financial Services Ombudsman
CUDRC	Credit Union Dispute Resolution Centre
EDR	External dispute resolution (the Financial Ombudsman Service is an EDR scheme)
FICS	Financial Industry Complaints Service
FSP	Financial services provider
GFC	Global financial crisis
IBD	Insurance Brokers Disputes Limited
IDR	Internal dispute resolution - all FSPs should have IDR processes and procedures in place to handle disputes they receive about their business
IOS	Insurance Ombudsman Service
Make a market	Someone who through a facility/place/other means, regularly states prices at which they propose to acquire or dispose of financial products on their own behalf - e.g. contracts for difference
Member	Financial services provider that is a member of the Financial Ombudsman Service
NB	Non-bank, a financial services provider that is not a bank
Product	Specific type of product within a product category (e.g. shares are a product within the securities product category)
Product category	Group of products within a particular product line (e.g. securities are a product category within the investment product line)
Product line	Broad line of products (e.g. Investments)
RG 139	ASIC Regulatory Guideline 139 sets out the requirements of how an EDR like the Financial Ombudsman Service can become an ASIC-approved EDR provider and how they have to operate and report to maintain their approved status
TOR	Terms of Reference, the rules and processes that we follow as an organisation

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FOREST MANAGEMENT



BLEACHING PROCESS



ENVIRONMENTAL
MANAGEMENT SYSTEMS



RECYCLED CONTENT

Delay in implementing a determination

An FSP has to take reasonable steps to make full payment to the consumer in accordance with our determination within a specified time frame of notice of acceptance by the consumer.

The FSP had failed to implement a determination within the required time frame. We raised the issue with the FSP and, after it had investigated the matter, the FSP readily acknowledged it had not implemented the determination in a timely manner.

The FSP advised the delay was due to the file handler having been on leave and its processes and procedures failed to ensure ongoing file management during staff absences. The FSP had promptly rectified the matter once we brought it to its attention.

The FSP advised there was inadequate back up for dealing with important urgent matters during staff absences, as there were no written processes and procedures which dealt with file handovers. The FSP introduced a new computer system to replace a diary system previously used by that section. Under the new system, the section manager monitors the process and will follow up with those staff who do not adhere to the timelines.

Failure to comply with timelines in providing internal dispute resolution (IDR) decisions

An FSP has an obligation to notify a consumer of its IDR decision within a specified time frame of receiving the notice of dispute from the consumer.

There were five instances where the FSP had failed to notify consumers of its IDR decisions. We raised these matters with the FSP and met with senior management. The FSP took our feedback on board and readily acknowledged it had failed to satisfy the obligation under the Terms of Reference.

The FSP undertook a comprehensive review of its processes and procedures in relation to complaint handling, internal dispute resolution and external dispute resolution, since we had raised a number of other issues as well. The FSP increased staff numbers with relevant experience and qualifications within the IDR and EDR sections. It introduced new systems to monitor complaint and dispute processes. The FSP also introduced a considerable number of changes to its processes and procedures to ensure compliance with timelines.

In addition, the FSP conducted an audit of all IDR decisions over the previous three months and also introduced refresher training for relevant staff to ensure they understood their responsibilities. We also conducted a workshop training session with the FSP.

Failure to advise of the availability of the Financial Ombudsman Service

An FSP has an obligation to advise a consumer of the availability of our service where its IDR decision is unacceptable to the consumer or if its examination of the dispute results in confirmation of the decision originally complained of.

There was an instance of an FSP failing to advise a consumer of our service after providing an IDR decision. We raised the matter with the FSP, which investigated the issue and identified an employee having failed to follow the FSP's usual processes and procedures in this instance. The FSP provided the employee concerned with additional training and conducted refresher training for relevant staff to ensure similar instances do not occur.

The FSP was satisfied this was an isolated incident as it also reviewed its IDR files over a four-month period.