

Submission

to the

Finance and Expenditure Select Committee

on the

Financial Service Providers Amendment Bill

23 June 2025



About NZBA

1. The New Zealand Banking Association – Te Rangapū Pēke (**NZBA**) is the voice of the banking industry. We work with our member banks on non-competitive issues to tell the industry's story and develop and promote policy outcomes that deliver for New Zealanders.
2. The following seventeen registered banks in New Zealand are members of NZBA:
 - ANZ Bank New Zealand Limited
 - ASB Bank Limited
 - Bank of China (NZ) Limited
 - Bank of New Zealand
 - China Construction Bank (New Zealand) Limited
 - Citibank N.A.
 - The Co-operative Bank Limited
 - Heartland Bank Limited
 - The Hongkong and Shanghai Banking Corporation Limited
 - Industrial and Commercial Bank of China (New Zealand) Limited
 - JPMorgan Chase Bank N.A.
 - KB Kookmin Bank Auckland Branch
 - Kiwibank Limited
 - Rabobank New Zealand Limited
 - SBS Bank
 - TSB Bank Limited
 - Westpac New Zealand Limited

Contact details

3. If you would like to discuss any aspect of this submission, please contact:

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Introduction

4. NZBA welcomes the opportunity to provide feedback to the Finance and Expenditure Select Committee (**Select Committee**) on the Financial Service Providers (Registration and Dispute Resolution) Amendment Bill (**Bill**).
5. This submission addresses the two key changes proposed to the Financial Service Providers (Registration and Dispute Resolution) Act 2008 (**Act**) by the Bill. These are:
 - 5.1. the new provisions concerning the independent review of approved dispute resolution schemes; and
 - 5.2. a new regulation-making power that can be used to prescribe requirements regarding the governance of approved dispute resolution schemes.

General Comments

6. NZBA supports the objective of a well-functioning dispute resolution scheme system across all financial services providers (**FSP**) in New Zealand.
7. NZBA considers that the Banking Ombudsman Scheme (**BOS**) generally operates effectively and that there is no pressing need for reform in relation to the governance and oversight of that scheme. However, NZBA appreciates the importance of maintaining confidence of all stakeholders (particularly consumers) in the operation of financial dispute resolution schemes more generally and so, in principle, welcomes the proposed targeted amendments aimed at strengthening existing structures and processes.
8. While NZBA has not suggested any changes to the proposed amendments relating to independent reviews of approved dispute resolution schemes, it seeks two amendments / clarifications concerning the creation of requirements for the membership of boards and governing bodies of dispute resolution schemes.

Independent review of schemes

9. NZBA members support the amendments proposed but note that the BOS, as well as other dispute resolution scheme providers, are best placed to identify any practical concerns with the proposals. For their part, NZBA members remain committed to contributing to the independent review process to the extent they can assist appointed reviewers.¹

¹ For the avoidance of doubt, members of schemes are not persons responsible for the schemes. Relating to this, NZBA suggests that any references in the Bill to "persons responsible" is amended to "person responsible" (singular), consistent with how that term is used in the Act. Among other things, this will reduce the risk of any potential confusion and suggestion that the Minister can direct that reviewers' fees and expenses are paid by members directly.



Regulation-making power concerning governance requirements

10. NZBA recognises the fundamental importance of good governance. This includes ensuring boards have the right mix of skills and experience to deliver the approved dispute resolution providers' services and ensuring sufficient levels of independence across members of each board.
11. NZBA is, therefore, in principle supportive of the proposed new regulation power to be inserted into the Act as s 79(1)(caa). There are, however, two areas in which it seeks amendment and/or clarification.

Board/governing body level independence should be the focus

12. NZBA is concerned with the wording of the proposed new s 79(caa)(iii). That subsection may be read as directing regulations to be made that would not only prevent FSPs from being involved in the governance of approved dispute resolution schemes, but would require certain existing FSP and industry representatives to step down from their governance roles. This would not be the correct approach, and NZBA does not understand this to be the intention of the Bill.
13. FSP, as well as consumer representatives can and do provide valuable input as directors of approved dispute resolution schemes. Given the nature of the financial services industry, among other things, FSP representatives bring valuable skill, knowledge and experience. Retaining this expertise at the governance level should be encouraged given the value this brings to the schemes and ultimately for those who use them.
14. In view of the above, the key governance check to promote independence should focus on composition of the board or governing body of any dispute resolution scheme and ensuring balanced representation. That is, to ensure that, in addition to any FSP representatives, there are a sufficient number of non-FSP representatives on the relevant board or governing body. Such an approach is also consistent with the Reserve Bank's Corporate Governance guidance (BS14) for registered banks. Specifically, the requirement for boards to include a certain number of independent directors (alongside executive directors) can be seen to support the stated purposes which include promoting the maintenance of a sound and efficient financial system.² As recognised when the Bill was introduced, the BOS (whose board includes FSP representatives):

"is a good example of a scheme that's become, over the years, more and more independent and has had its jurisdiction expanded significantly... the confidence in that sector has benefited from it".

² See para 9 of [BS14 - Corporate Governance](#).



15. In order to ensure the necessary clarity on this point, NZBA seeks that the proposed s 79(1)(caa)(iii) in the Bill is amended. For example, along the following lines:

79 Regulations under this Part

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:

...

(caa) prescribing requirements for the membership of the board or other governing body of the person responsible for an approved dispute resolution scheme, for its chairperson, and for any deputy or acting chairperson, including prescribing any of the following ~~(which may be specified for 1 or more members or for the board or other governing body as a group):~~

- (i) requirements for the knowledge, skills, and experience of members (which may be specified for 1 or more members or for the board or other governing body as a group):
- (ii) grounds for disqualifying a person from being a member; (iii) requirements to ensure that ~~members, and~~ the board or other governing body is reasonably independent of any financial service provider or group of financial service providers ~~(for example, to prevent a member from representing, or promoting the interest or views of, any industry participants);~~

16. A separate example under the proposed s 79(1)(caa) could also be added. For example:

Example

Examples of the types of requirements that the Minister may set under s 79(1)(caa)(iii) include requirements relating to the number of non-financial service provider directors that the approved dispute resolution service must have and/or to prescribe that the chairperson must be a director who does not represent a financial service provider. This would be to ensure that the board and/or governing body itself is able to operate free from material impact from industry participants.

Consultation on regulations

17. As set out in the extract from the Act above, regulations relating to governance made under the proposed s 79(1)(caa) will be made by the Minister. The Bill proposes that the Minister must not recommend the making of regulations under s 79(1)(caa) "unless the Minister has consulted the FMA and any other persons that the Minister considers are likely to be substantially affected by the regulations".
18. NZBA and its members anticipate that they ought to be considered as substantially affected by regulations made under s 79(1)(caa), including given their own interests in ensuring both effective and independent dispute resolution schemes in which banks



and their customers can trust. However, it would be helpful to have this clarified. Again, this could be addressed through the inclusion of an example such as:

- 1(C) The Minister must not recommend the making of regulations under subsection 1(caa), (ca) or (cb) unless the Minister has consulted the FMA and any other persons that the Minister considers are likely to be substantially affected by the regulations (*for example, approved dispute resolution schemes and their members*).