

Financial Service Providers (Registration and Dispute Resolution) Amendment Bill

(Divided from the Credit Contracts and Financial
Services Law Reform Bill)

Government Bill

As reported from the committee of the whole
House

This bill was formerly part of the Credit Contracts and Financial Services Law Reform Bill as reported from the Commerce Committee. The committee of the whole House has further amended the bill and divided it into the following bills:

- the Credit Contracts and Consumer Finance Amendment Bill comprising clauses 1 and 2, Part 1, and Schedules 1 to 3
- this bill comprising Part 2 and Schedule 4.

**Financial Service Providers (Registration
and Dispute Resolution) Amendment Bill**

Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

text deleted

Hon Craig Foss

**Financial Service Providers
(Registration and Dispute
Resolution) Amendment Bill**

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Financial Service Providers (Registration and Dispute Resolution) Amendment Act **2013**.

- 2 Commencement** 5
(1) **Sections 71 and 105** come into force on the day after the date on which this Act receives the Royal assent.

- (2) The rest of this Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more orders may be made bringing different provisions into force on different dates and for different purposes.
- (3) To the extent that it is not previously brought into force under **subsection (1) or (2)**, the rest of this Act comes into force on the day that is 12 months after the date on which this Act receives the Royal assent. 5
- (4) In this section, **provision** includes any item, or any part of an item, in the Schedule. 10

71 Principal Act

This Part amends the Financial Service Providers (Registration and Dispute Resolution) Act 2008 (the **principal Act**).

72 New section 2A inserted (Purposes of this Act)

After the Part 1 heading, insert: 15

“2A Purposes of this Act

The purposes of this Act are—

- “(a) to promote the confident and informed participation of businesses, investors, and consumers in the financial markets; and 20
- “(b) to promote and facilitate the development of fair, efficient, and transparent financial markets.”

73 Section 3 amended (Overview)

- (1) In section 3(2), replace “In order to be registered, financial” with “Financial”. 25
- (2) In section 3(3), replace “, why the approval might be withdrawn, and how a dispute resolution scheme may be appointed as the reserve scheme” with “and why the approval might be withdrawn”.
- (3) Repeal section 3(4). 30

74 Section 4 amended (Interpretation)

- (1) In section 4, definition of **credit contract**, repeal paragraph (b)(ii).
- (1A) In section 4, definition of **credit contract**, paragraph (b)(iii), after “no interest charges”, insert “, and no credit fees,”. 5
- (2) In section 4, insert in their appropriate alphabetical order:
 - “**creditor** has the same meaning as in section 5 of the Credit Contracts and Consumer Finance Act 2003
 - “**FMA** means the Financial Markets Authority established under Part 2 of the Financial Markets Authority Act 2011 10
 - “**levy** means a levy prescribed by regulations made under section 68 of the Financial Markets Authority Act 2011”.
- (3) In section 4, repeal the definitions of **affiliated entity**, **reserve scheme**, and **responsible financial service provider**.

74A Section 5 amended (Meaning of financial service) 15

In section 5(e), replace “providing credit” with “being a creditor”.

74B Section 7 amended (Application of Act)

Repeal section 7(2)(g).

74C Subpart 1 heading in Part 2 amended 20

In Part 2, in the subpart 1 heading, after “registered”, insert “and member of approved dispute resolution scheme”.

75 Section 11 amended (No being in business of providing financial service unless registered)

- (1) In the heading to section 11, after “**registered**”, insert “**and member of approved dispute resolution scheme**”. 25
- (2) Replace section 11(1) with:
 - “(1) A person to whom this Act applies must not be in the business of providing a financial service unless that person—
 - “(a) is registered for that service under this Part; and 30
 - “(b) is, if required by section 48, a member of an approved dispute resolution scheme.”

- 76 Section 12 amended (No holding out that in business of providing financial service unless registered)**
- (1) In the heading to section 12, after “registered”, insert “**and member of approved dispute resolution scheme**”.
- (2) Replace section 12(1) with: 5
- “(1) A person to whom this Act applies must not—
- “(a) hold out that the person is registered under this Act unless that person—
- “(i) is registered under this Part; and
- “(ii) is, if required by section 48, a member of an approved dispute resolution scheme; or 10
- “(b) hold out that the person is registered in respect of a particular service or entitled, qualified, able, or willing to be in the business of providing a financial service unless that person— 15
- “(i) is registered for that service under this Part; and
- “(ii) is, if required by section 48, a member of an approved dispute resolution scheme.”
- 77 Section 13 amended (Qualifications for registration as financial service provider)** 20
- Repeal section 13(b).
- 78 Section 14 amended (Disqualified person)**
- (1) After section 14(2)(e), insert:
- “(ea) a person who has been convicted within the past 5 years, in a country other than New Zealand, of an offence that is substantially similar to an offence specified in paragraph (e).” 25
- (2) In section 14(2)(f), after “financing of terrorism”, insert “, whether in New Zealand or elsewhere”.
- 79 Section 15 amended (Application to be registered as financial service provider)** 30
- Repeal section 15(1)(a)(ii).
- 80 New sections 15AA to 15B inserted**
- After section 15, insert:

“15AA Purpose of FMA’s powers relating to registration

The purpose of **section 15A** is to prevent a person (A) from being registered as a financial service provider if such registration has, will have, or is likely to have the effect of—

- “(a) creating, or causing the creation of, a false or misleading appearance with respect to the extent to which A— 5
 - “(i) provides, or will provide, financial services in New Zealand; or
 - “(ii) provides, or will provide, financial services from a place of business in New Zealand; or 10
 - “(iii) is, or will be, regulated by New Zealand law in relation to a financial service; or
- “(b) otherwise damaging the integrity or reputation of—
 - “(i) New Zealand’s financial markets; or
 - “(ii) New Zealand’s law or regulatory arrangements for regulating those markets. 15

“15A Registrar may refer application to FMA—FMA may prevent registration of financial service provider

- “(1) On receipt of an application under section 15, the Registrar may, if the Registrar considers it necessary or desirable after having regard to **section 15AA**, refer the application to the FMA and the FMA may, but is not required to, consider the application. 20
- “(2) If the FMA decides to consider the application, the FMA must, after taking into account **section 15AA**, consider whether preventing the applicant from being registered under section 16(1) is necessary or desirable. 25
- “(3) If, in the FMA’s view, the applicant should be prevented from being registered under section 16(1), the FMA must—
 - “(a) comply with **subsection (4)**; and 30
 - “(b) if, having considered any submission received under **subsection (4)**, the FMA remains of the view that the applicant should be prevented from being registered, direct the Registrar to reject the application in accordance with section 16(2); and 35
 - “(c) give its reasons for that direction.
- “(4) Before giving a direction under **subsection (3)(b)**, the FMA must—

- “(a) give the applicant—
- “(i) written notice of its intention to give the direction; and
- “(ii) the reasons why it intends to give that direction; and 5
- “(iii) a date (being not less than 10 working days after the date of the notice referred to in **subparagraph (i)**) by which the applicant may make written submissions to the FMA in relation to its proposed direction; and 10
- “(b) consider any submissions received in accordance with **paragraph (a)(iii)**.
- “(5) The Registrar must comply with a direction given under **subsection (3)(b)**.
- “(6) A provider who is not satisfied with a direction given under this section may appeal to the High Court under section 42. 15
- “**15B FMA may prevent registration regardless of whether applicant is otherwise qualified to be registered**
- The FMA may give a direction under **section 15A** in relation to an applicant regardless of whether the applicant is qualified for registration under section 13.” 20
- 81 Section 16 amended (Registration of financial service provider)**
- (1) Repeal section 16(1)(a)(ii).
- (2) After section 16(1)(a), insert: 25
- “(aa) notify the provider of the Registrar’s decision; and
- “(ab) require the provider to notify the Registrar, within ~~5 working days~~ 10 working days from receiving notification under **paragraph (aa)**, of the name and business address of, and of the provider’s membership number 30
- in, the approved dispute resolution scheme of which the provider is a member (if the provider is required, by section 48, to be a member of a scheme); and”.
- (3) In section 16(2),—
- (a) after “financial service provider,” insert “or if directed by the FMA to reject the application,”: 35

- (b) after “decision”, insert “or the FMA’s direction, as the case may be”.
- (4) After section 16(2), insert:
 - “(3) Subsection (1) does not apply if the FMA has directed the Registrar to reject the application.” 5

82 Section 17 amended (Duty to notify changes relating to financial service provider)

- (1) Replace section 17(1)(a)(iii) with:
 - “(iii) the provider knows that any details on the register are no longer accurate, including information relating to the provider’s membership of an approved dispute resolution scheme:” 10
- (2) Replace section 17(1)(c) with:
 - “(c) the person responsible for an approved dispute resolution scheme of which a financial service provider was a member, if the person knows that the provider is no longer a member of that scheme, in which case the person responsible must also notify the Registrar of the following matters:
 - “(i) whether that provider’s membership was terminated under **section 63(ba)-63(1)(ba)**; and 20
 - “(ii) whether any remedial action imposed on that provider by the scheme has not been carried out; and
 - “(iii) whether there is any unresolved complaint about that provider.” 25
- (3) After section 17(1), insert:
 - “(1A) To avoid doubt, the notification obligations in **subsection (1)(c)** apply in relation to an approved dispute resolution scheme or a reserve scheme that has been discontinued (whether as a result of approval being withdrawn or for any other reason).” 30
- (4) In section 17(2), after “change”, insert “or, in the case of an approved dispute resolution scheme or a reserve scheme that has been discontinued, within ~~10 days~~ 10 working days of that discontinuance” 35

83 Section 18 amended (Deregistration of financial service provider)

(1) After section 18(1)(a), insert:

“(aa) has failed to notify the Registrar of the name, business address, and membership number, as required by **section 16(1)(ab)**; or”.

(2) After section 18(1), insert:

“(1A) The Registrar may, if the Registrar considers it necessary or desirable after taking into account **section 18AA**, refer consideration of whether a financial service provider should be deregistered to the FMA for the FMA’s direction.

“(1B) The Registrar must deregister a financial service provider if the FMA gives a direction under **section 18A(3)(c)(i)**.”

84 New sections 18AA to 18B inserted

After section 18, insert:

“18AA Purpose of FMA’s powers relating to deregistration

The purpose of **section 18A** is to provide for the deregistration of a person (A) if A’s registration has, will have, or is likely to have the effect of—

“(a) creating, or causing the creation of, a false or misleading appearance with respect to the extent to which A—

“(i) provides, or will provide, financial services in New Zealand; or

“(ii) provides, or will provide, financial services from a place of business in New Zealand; or

“(iii) is, or will be, regulated by New Zealand law in relation to a financial service; or

“(b) otherwise damaging the integrity or reputation of—

“(i) New Zealand’s financial markets; or

“(ii) New Zealand’s law or regulatory arrangements for regulating those markets.

“18A Consideration of deregistration of financial service provider by FMA

“(1) The FMA—

“(a) may, but is not required to, consider a referral under **section 18(1A)**; and

- “(b) may otherwise consider giving a direction under this section at its own discretion (if a referral has not been made).
- “(2) If the FMA decides to consider the referral or otherwise decides to consider giving a direction under this section, the FMA must, after taking into account **section 18AA**, consider whether it is necessary or desirable for a financial service provider to be deregistered. 5
- “(3) If, after acting under **subsection (2)**, the FMA decides to give a direction to the Registrar under this section to deregister the financial service provider, the FMA must— 10
- “(a) give the financial service provider—
- “(i) written notice of its intention to give the direction; and
- “(ii) the reasons why it intends to give the direction; 15
and
- “(iii) a date (being not less than 20 working days after the date of the notice referred to in **subparagraph (i)**) by which the applicant may make written submissions to the FMA in relation to its proposed direction; and 20
- “(b) consider any submissions received in accordance with **paragraph (a)(iii)**; and
- “(c) either,—
- “(i) if the FMA remains of the view that the financial service provider should be deregistered, direct the Registrar to deregister the provider; or 25
- “(ii) if the FMA decides that the provider should not be deregistered, advise the Registrar accordingly; 30
and
- “(d) give its reasons for the direction or advice, as the case may be.
- “(5) A provider who is not satisfied with a direction given under this section may appeal to the High Court under section 42.
- “(6) Sections 19 and 20 do not apply if a financial service provider is deregistered as a result of a direction given under **subsection (3)(c)(i)**. 35

“18B FMA may direct deregistration regardless of whether section 18(1) applies

The FMA may give a direction under **section 18A** in relation to a person regardless of whether any of paragraphs (a) to (d) of section 18(1) apply.”

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84A Section 23 and cross-heading repealed

Section 23 and the cross-heading above that section are repealed.

85 Section 26 amended (Purposes of register)

In section 26(a)(ii)(B), delete “or the reserve scheme”.

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86 Section 27 amended (Contents of register)

(1) In section 27(b), delete “or the reserve scheme”.

(2) In section 27, insert as subsections (2) and (3):

“(2) In addition to the information referred to in subsection (1), the Registrar may, if the Registrar thinks it is appropriate, insert a note of warning in the register in relation to a registered person if—

15

“(a) a request for information has been made by the Registrar under this Act in relation to that person; or

“(b) the Registrar or the FMA is considering any matters relating to the deregistration of that person under this Act.

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“(3) The Registrar must remove a note of warning inserted under **subsection (2)** if the Registrar is satisfied that the reasons for inserting it no longer apply.”

25

86A Section 31 amended (Searches of register)

In section 31, replace “27(a)” with “27(1)(a)”.

87 Section 34 amended (Sharing information with other persons or bodies)

Replace section 34(4)(d) with:

30

“(d) the Commerce Commission.”

88 Section 37 amended (Registrar’s inspection powers)

- (1) After section 37(1)(c), insert:
- “(ca) is ordinarily resident in New Zealand; or
 - “(cb) has a place of business in New Zealand; or
 - “(cc) is in the business of providing a financial service; or”.
- (2) After section 37(2)(a), insert:
- “(aa) ascertaining whether information provided to the Registrar is correct:
 - “(ab) requiring a person, in relation to information provided to the Registrar, to—
 - “(i) confirm that the information is correct; or
 - “(ii) correct the information:
 - “(ac) specifying—
 - “(i) a particular form in which the confirmation or correction referred to in **paragraph (ab)** must be provided; and
 - “(ii) a date by which the confirmation or correction must be provided; and
 - “(iii) whether the confirmation or correction must be verified by the production of original documents or certified copies of original documents or by a statutory declaration.”.
- (3) In section 37(6), after “subsection (2)(a)”, insert “to **(ab)** (including compliance with the specifications in **subsection (2)(ac)**)”.
- (4) After section 37(9)(c), insert:
- “(ca) is ordinarily resident in New Zealand; or
 - “(cb) has a place of business in New Zealand; or
 - “(cc) is in the business of providing a financial service; or”.

89 Section 42 amended (Appeals from Registrar’s decisions)

- (1) In the heading to section 42, after “**decisions**”, insert “**and FMA directions**”.
- (2) After section 42(1), insert:
- “(1A) A financial service provider who is not satisfied with any direction given by the FMA under **section 15A or 18A** may appeal to the High Court.”

- (3) In section 42(2) and (3)(a), after “decision”, insert “or direction”.
- (4) In section 42(3)(b), after “Registrar”, insert “or the FMA”.
- (5) Replace section 42(3)(c) with:
“(c) refer the decision or direction back to the Registrar or the FMA (as the case may be) with directions to reconsider the whole or a specified part of the decision or direction.” 5
- 89A Section 43 amended (Decisions continue in effect until appeal)** 10
- (1) In the heading to section 43, after “**Decisions**”, insert “**or directions**”.
- (2) In section 43, after “decision”, insert “or direction”.
- 90 Section 48 amended (Financial service provider must be member of dispute resolution scheme)** 15
- (1) In section 48(1), replace “either an approved dispute resolution scheme, or the reserve scheme,” with “an approved dispute resolution scheme”.
- (2) In section 48(2), delete “or the reserve scheme”.
- 91 Section 49F amended (Members of dispute resolution scheme must comply with rules and binding resolutions)** 20
- In section 49F(1), delete “or the reserve scheme”.
- 92 Section 49G amended (Offence to fail to comply with District Court order)**
- In section 49G(1), delete “or the reserve scheme”. 25
- 93 Section 50 amended (Meaning of approved dispute resolution scheme)**
- In section 50, insert as subsections (2) and (3):
- “(2) If an interim dispute resolution scheme is appointed under **section 79AA**, references in this Act to an approved dispute resolution scheme are to be read as including references to the interim dispute resolution scheme. 30

“(3) However, nothing in sections 51 to 61 applies in relation to the interim dispute resolution scheme.”

94 Section 52 amended (Mandatory considerations for approval)

After section 52(1)(d), insert: 5

“(da) whether the scheme will accept all types of financial service providers as members and, if not, whether there are other ~~approved schemes~~ approved dispute resolution schemes that cover all types of financial service providers:” 10

95 Section 56 amended (Withdrawal of approval)

(1) After section 56(1)(b), insert:

“(ba) the rules about the scheme do not, or no longer, comply with the requirements of section 63:”

(2) In section 56(1)(e)(iii), replace “63(q)” with “63(1)(q)”. 15

(3) After section 56(3), insert:

“(3A) However, despite subsection (3), the Minister is not required to withdraw approval unless the person responsible for the scheme has, at the time of the request,—

“(a) given the Minister— 20

“(i) 3 months’ notice of the date on which the proposed withdrawal of approval is to take place; or

“(ii) any lesser notice period agreed to by the Minister; and

“(b) ~~informed the Minister of the arrangements that it has made to transfer, or to facilitate the transfer of, members of the existing scheme to another approved dispute resolution scheme or schemes.~~ 25

“(b) informed the Minister of adequate arrangements that it has made, or will make, to facilitate the transfer of members of the existing scheme to another approved dispute resolution scheme or schemes.” 30

96 Section 57 amended (Notice of intention to withdraw approval)

(1) After section 57(2)(b), insert: 35

- “(ba) the proposed method for transferring members of the scheme to another approved dispute resolution scheme or schemes; and”.
- (2) After section 57(3), insert:
- “(4) The Minister’s notice may also require the person responsible for the scheme to— 5
- “(a) notify members of the scheme of the proposed method for transferring those members to another approved dispute resolution scheme or schemes; and
- “(b) make clear to those members that, instead of being transferred to another scheme in accordance with the proposed method of transfer, the members may apply to join any other approved dispute resolution scheme; and 10
- “(c) remind each of its members of the member’s obligation— 15
- “(i) to continue to be a member of an approved dispute resolution scheme, as required by section 48; and
- “(ii) to notify the Registrar that the member has transferred to another approved dispute resolution scheme, and details of that scheme, as required by section 17. 20
- “(4) The Minister’s notice may also require the person responsible for the scheme to do 1 or more of the following: 25
- “(a) notify members of the scheme of adequate arrangements that have been, or will be, made to facilitate the transfer of members of the scheme to another approved dispute resolution scheme or schemes;
- “(b) make clear to those members that those members may— 30
- “(i) apply to join another approved dispute resolution scheme or schemes in accordance with those arrangements; or
- “(ii) apply to join any other approved dispute resolution scheme; 35
- “(c) remind each of its members of the member’s obligation—

- “(i) to continue to be a member of an approved dispute resolution scheme, as required by section 48; and
- “(ii) to notify the Registrar that the member has transferred to another approved dispute resolution scheme, and details of that scheme, as required by section 17.” 5
- 97 Section 61 replaced (Effect of withdrawal of approval on members of dispute resolution scheme)**
- Replace section 61 with: 10
- “61 Effect of withdrawal of approval on members of dispute resolution scheme**
- When a dispute resolution scheme’s approval is withdrawn, each member of the scheme—
- “(a) ceases to be a member of that scheme; and 15
- “(b) must ensure that—
- “(i) the member’s obligations under section 17 are complied with; and
- “(ii) the member continues to comply with section 48.” 20
- 98 Section 63 amended (Rules about approved dispute resolution scheme)**
- (1) In section 63(a), delete “(all providers of that type must be eligible)”.
- (2) After section 63(a), insert: 25
- “(aa) that the types of financial service providers referred to in paragraph (a) must be accepted as members of the scheme, unless—
- “(i) refused membership for a reason set out in **paragraph (ba)**; or 30
- “(ii) a provider is not eligible for registration under this Act.”.
- (3) After section 63(b), insert:
- “(ba) that membership may be refused or terminated because of an applicant’s, or a member’s,— 35
- “(i) material or persistent breach of a scheme’s rules:

- “(ii) failure to take remedial action imposed on that provider by a scheme (whether or not that scheme still exists):
- “(iii) failure to pay a scheme’s membership fee:
- “(iv) failure to continue to be a type of financial service provider that may be a member of the scheme.” 5
- (4) Replace section 63(g) with:
- “(g) that the scheme has jurisdiction in respect of—
- “(i) a breach of contract, a statutory obligation, or an industry code; and 10
- “(ii) any other prescribed matters; and
- “(iii) any other matter provided for in the rules.”
- (6) Repeal section 63(k).
- (7) After section 63(r), insert:
- “(s) any other prescribed matters.” 15
- (8) In section 63, insert as subsections (2) to (4):
- “(2) The compensation referred to in subsection (1)(i) that the scheme can impose on a member must be able to include, in the case of a complaint relating to a repossession under **Part 3A** of the Credit Contracts and Consumer Finance Act 2003, compensation for non-financial loss, stress, humiliation, and inconvenience up to a certain amount stated in the rules. 20
- “(3) The rules about an approved dispute resolution scheme must be treated as containing any provision that is implied into those rules by regulations made under this Act. 25
- “(4) A rule about an approved dispute resolution scheme has no effect to the extent that it is inconsistent with any provision implied into the rules by those regulations.”
- 99 Section 66 amended (Minister’s consideration of change of rules) 30**
- (1) In section 66(1), replace “the Minister may” with “the Minister must”.
- (2) Replace section 66(3) with:
- “(3) The Minister must comply with subsection (1) within 45 working days of the notification of the change of rules unless the Minister, within those 45 working days,— 35

- “(a) requests further information from the person responsible for the scheme (in which case, the Minister must comply with subsection (1) within 45 working days after receipt of that further information); or
- “(b) advises the person responsible for the scheme that a period of more than 45 working days is required to consider the change (in which case, the Minister must specify the time within which he or she will comply with subsection (1)).” 5
- 100 Section 67 amended (Duty to co-operate and communicate information in certain circumstances) 10**
- (1) In section 67(a), delete “and with the reserve scheme”.
- (2) After section 67(c), insert:
- “(ca) if there is a series of material complaints about a particular creditor under a consumer credit contract or class of such creditors, communicate that fact to the Commerce Commission.” 15
- (3) In section 67(d), replace “Financial Markets Authority” with “FMA”.
- (4) In section 67, insert as subsection (2): 20
- “(2) In **subsection (1)(ca), consumer credit contract**—
- “(a) has the same meaning as in section 11 of the Credit Contracts and Consumer Finance Act 2003; and
- “(b) includes a credit contract to which **Part 3A** of that Act applies.” 25
- 101 Subpart 3 of Part 3 repealed**
- Repeal subpart 3 of Part 3.
- 102 Cross-heading above section 78 amended**
- In the cross-heading above section 78, delete “*and reserve scheme*”. 30
- 103 Section 78 amended (Publication of details relating to approved dispute resolution schemes and reserve scheme)**
- (1) In the heading to section 78, delete “**and reserve scheme**”.
- (2) Replace section 78(1)(a) with:

- “(a) must ensure that the names of approved dispute resolution schemes and the name and business address of the person responsible for each scheme are available for inspection by the public, free of charge, at the head office of the Ministry (during ordinary office hours), and on an Internet site that is publicly available (at all reasonable times).” 5
- (3) Repeal section 78(2).
- 104 Section 78A and cross-heading repealed**
Repeal section 78A and the cross-heading above that section. 10
- 105 Section 79 amended (Regulations under this Part)**
- (1) In section 79(1)(a), replace “either an approved dispute resolution scheme or the reserve scheme,” with “an approved dispute resolution scheme”.
- (2) After section 79(1)(a), insert: 15
“(aa) providing rules for an interim dispute resolution scheme.”
- (2A) After section 79(1)(c), insert:
“(ca) prescribing matters for the purposes of **section 63(1)(g)(ii) and (s):** 20
“(cb) prescribing provisions to be implied into rules about approved dispute resolution schemes.”
- (3) After section 79(1A), insert:
“(1B) The Minister must not recommend the making of regulations under **subsection (1)(aa)** unless the Minister— 25
“(a) is satisfied that—
“(i) members of a scheme that has ceased, or will cease, to be an approved dispute resolution scheme would be, or are, unable to reasonably become members of another approved dispute resolution scheme; and 30
“(ii) the interim dispute resolution scheme will be consistent with the purpose of this Part (*see* section 47); and

- “(iii) the interim dispute resolution scheme will be capable of providing a scheme for the purpose of this Part; and
- “(iv) the rules of the interim dispute resolution scheme will comply with section 63; and 5
- “(b) has consulted the FMA and any other persons that the Minister considers are likely to be substantially affected by the establishment of an interim dispute resolution scheme.
- “(1BA) The Minister must not recommend the making of regulations under **subsection (1)(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. 10
- “(1C) However, a failure to consult with the persons referred to in **subsection (1B)(b) or (1BA)** does not affect the validity of the regulations.” 15
- 106 New section 79AA inserted (Appointment of interim dispute resolution scheme)**
- After section 79, insert: 20
- “79AA Appointment of interim dispute resolution scheme**
- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister,—
- “(a) appoint a dispute resolution scheme to fulfil the functions of the interim dispute resolution scheme (with or without conditions) for a term recommended by the Minister: 25
- “(b) revoke an appointment made under **paragraph (a)**.
- “(2) The Minister may recommend an Order in Council for the purpose described in **subsection (1)(a)** only after complying with **section 79(1B)**. 30
- “(3) The Minister may recommend an Order in Council for the purpose described in **subsection (1)(b)** if the Minister is satisfied that the scheme is no longer required.”

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- 107 Section 79A amended (Pecuniary order for contravening wholesale certification requirement)**
- (1) In section 79A(1), replace “Financial Markets Authority” with “FMA”.
- (2) In section 79A(3)(b), delete “or the reserve scheme”. 5
- 107A Section 79B amended (Compensation for contravention of wholesale certification requirement)**
In section 79B(2), replace “Financial Markets Authority” with “FMA”.
- 108 Consequential amendments to other Acts** 10
Amend the Acts specified in **Schedule 4** as set out in that schedule.
- 109 Consequential revocations**
- The following are revoked:
- (a) Financial Service Providers (Appointment of Reserve Scheme) Order 2010 (SR 2010/251): 15
- (b) Financial Service Providers (Dispute Resolution—Reserve Scheme Fees) Rules 2010 (SR 2010/397):
- (c) Financial Service Providers (Dispute Resolution—Reserve Scheme) Rules 2010 (SR 2010/250). 20
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Schedule 4

s 108

Consequential amendments to other Acts

Financial Advisers Act 2008 (2008 No 91)

In section 5, definition of **approved dispute resolution scheme**, delete “, but also includes the reserve scheme within the meaning of section 71 of the FSP Act”.

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Securities Trustees and Statutory Supervisors Act 2011 (2011 No 10)

In section 16(2)(c)(ii), delete “and (b)”.

Legislative history

13 May 2014

Divided from Credit Contracts and Consumer Finance Amendment Bill (Bill 104–2) as Bill 104–3B
