

**Reprint  
as at 1 July 2014**



**Financial Service Providers  
(Dispute Resolution—Reserve  
Scheme Fees) Rules 2010**

(SR 2010/397)

Financial Service Providers (Dispute Resolution—Reserve Scheme Fees) Rules 2010: revoked, on 1 July 2014, by section 48(b) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Anand Satyanand, Governor-General

**Order in Council**

At Wellington this 1st day of November 2010

Present:

His Excellency the Governor-General in Council

Pursuant to sections 72(1)(c) and 72A of the Financial Service Providers (Registration and Dispute Resolution) Act 2008, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and on the recommendation of the Minister of Consumer Affairs, makes the following rules.

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**Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

**These rules are administered by the Ministry of Economic Development.**

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## **Rules**

### **1 Title**

These rules are the Financial Service Providers (Dispute Resolution—Reserve Scheme Fees) Rules 2010.

### **2 Commencement**

These rules come into force on 5 November 2010.

### **3 Interpretation**

(1) In these rules, unless the context otherwise requires,—

**annual accounts** means,—

(a) in relation to a member that is required to produce an annual report, the annual report and any financial statements that are included with, or form part of, that annual report; and

(b) in any other case, the annual accounts or financial statements of the member

**complaint** means a complaint that is accepted for consideration by the reserve scheme

**FA Act** means the Financial Advisers Act 2008

**fee calculation date** means the date, described in rule 10(3), that is the relevant date for the purpose of—

(a) determining which class of members a member belongs to; and

(b) calculating the membership fee payable by the member

**FSP Act** means the Financial Service Providers (Registration and Dispute Resolution) Act 2008

**major financial service**, in relation to a member, means the financial service listed in a paragraph of section 5 of the FSP Act that, compared with any other financial service the member provides under that section, accounts for the largest proportion of its revenue, as determined by reference to its latest annual accounts on the fee calculation date

**reserve scheme** means the reserve dispute resolution scheme for financial service providers that is appointed under section 72(1)(a) of the FSP Act by the Financial Service Providers (Appointment of Reserve Scheme) Order 2010.

- (2) A person **acts in a member’s business** if, on the fee calculation date,—
  - (a) the person is employed or engaged by the member in the relevant capacity; or
  - (b) the person is an individual member himself or herself and provides services in the relevant capacity.
- (3) Terms not defined in these rules but defined in either the FA Act or the FSP Act have the meanings set out in those Acts.

## **Part 1** **Membership fees**

### *Obligation to pay*

#### **4 Members to pay annual membership fee**

- (1) Every member of the reserve scheme must pay an annual fee for membership of the scheme.
- (2) Every member must pay the membership fee appropriate to its class, as determined under these rules.

### *Classes of members and amount of fees*

#### **5 Fees for Class 1 members (certain QFEs)**

- (1) A Class 1 member is a financial service provider—
  - (a) that is a QFE; and
  - (b) whose major financial service is not a financial service referred to in the descriptions of Classes 3 and 4.
- (2) The membership fee for a Class 1 member is \$2,000, plus \$200 for the sixth and every additional QFE adviser or authorised financial adviser acting in the member’s business, up to a maximum of \$20,000 in aggregate.

#### **6 Fees for Class 2 members (financial adviser service)**

- (1) A Class 2 member is a financial service provider—
  - (a) whose major financial service is providing a financial adviser service (as referred to in section 5(a) of the FSP Act); and
  - (b) that is not a QFE.
- (2) The membership fee for a Class 2 member that has only 1 financial adviser acting in the member’s business is \$700.

- (3) The membership fee for a Class 2 member that has 2 to 4 financial advisers acting in the member's business is \$500, plus \$300 for each registered financial adviser and \$250 for each authorised financial adviser acting in the member's business.
- (4) The membership fee for any other Class 2 member is \$1,000, plus \$300 for each registered financial adviser and \$250 for each authorised financial adviser acting in the member's business, up to a maximum of \$20,000 in aggregate.

**7 Fees for Class 3 members (insurers)**

- (1) A Class 3 member is a financial service provider whose major financial service is that of acting as an insurer (as referred to in section 5(m) of the FSP Act).
- (2) The membership fee for a Class 3 member is \$2,000, plus \$1,000 for every \$5 million of in-force premiums from retail business that exceeds \$10 million, up to a maximum of \$100,000 in aggregate.
- (3) The amount of in-force premiums from retail business held by a Class 3 member must be determined by reference to the member's latest annual accounts, as at the date of those annual accounts.

**8 Fees for Class 4 members (lenders)**

- (1) A Class 4 member is a financial service provider—
  - (a) that is a registered bank (as referred to in section 5(c) of the FSP Act); or
  - (b) whose major financial service is—
    - (i) acting as a deposit taker (as referred to in section 5(b) of the FSP Act); or
    - (ii) providing credit under a credit contract (as referred to in section 5(e) of the FSP Act).
- (2) The membership fee for a Class 4 member that is a registered bank is \$100,000.
- (3) The membership fee for any other Class 4 member is determined according to the amount of the member's retail advances to customers, as follows:

<b>Amount of member's retail advances</b>	<b>Membership fee</b>
Less than \$1 million	\$1,000
\$1 million and over, but less than \$50 million	\$2,000
\$50 million and over, but less than \$200 million	\$5,000
\$200 million and over, but less than \$500 million	\$10,000
\$500 million and over, but less than \$1,000 million	\$20,000
\$1,000 million and over	\$100,000

- (4) The amount of a Class 4 member's retail advances to customers must be determined by reference to the member's latest annual accounts, as at the date of those annual accounts.

**9 Fees for Class 5 members (other)**

- (1) A Class 5 member is a financial service provider—
- (a) whose major financial service is any of the financial services described in section 5(ab), (d), (f), (g), (h), (i), (ia), (j), (k), (l), or (n) of the FSP Act; and
  - (b) that is not a QFE.
- (2) The membership fee for a Class 5 member that does not have any financial advisers acting in the member's business is \$2,000.
- (3) The membership fee for any other Class 5 member is \$1,000, plus \$300 for each registered financial adviser and \$250 for each authorised financial adviser acting in the member's business, up to a maximum of \$20,000 in aggregate.

*How membership fees paid*

**10 Membership fee calculated annually but payable in 2 instalments**

- (1) The membership fee is calculated on an annual basis.
- (2) The membership year starts on 1 July in each year.
- (3) The fee calculation date for a membership year is as follows:
  - (a) for new members, the date of the member's application for membership;
  - (b) for existing members,—

- (i) 1 May of the preceding membership year; or
  - (ii) if, on that 1 May the person was not a member, the date of the member's application for membership.
- (4) The annual membership fee must be collected in 2 instalments, as follows:
  - (a) the first instalment covers the period 1 July to 31 December:
  - (b) the second instalment covers the period 1 January to 30 June.
- (5) Each instalment is payable within 10 working days after the commencement of that instalment period or (if the person becomes a member part-way through an instalment period) on the date on which the person's membership starts.
- (6) This rule is subject to rule 11.

**11 Commencing and ceasing membership part-way through membership year**

- (1) If a person becomes a member part-way through a membership year, the person is liable for only a pro rata proportion of the amount of the instalment otherwise payable by the member for an instalment period that has already commenced.
- (2) If a person ceases to be a member before 31 December in any year, the person is not liable to pay the second instalment of the annual membership fee.
- (3) If, before the commencement of an instalment period (and before paying the relevant instalment), the member gives notice that it will cease to be a member part-way through that instalment period, the person is liable for only a pro rata proportion of the amount of the instalment otherwise payable by the member.
- (4) No part of a membership fee is refundable, except when necessary to correct an error.
- (5) Liability for a pro rata proportion of an instalment under this rule must be calculated on the basis that a person is liable to pay a proportion of the instalment for each month, or part of a month, for which the person is a member.

**12 First membership fees after these rules in force**

The pro rata proportion of an instalment of the annual membership fee of a person that becomes a member of the reserve scheme before 5 November 2010 (which is the date these rules come into force) must be determined as if the membership commenced on 5 November 2010.

**Part 2  
Charges for complaints****13 Complaints charges**

- (1) Every member or former member of the reserve scheme must pay a complaints charge in respect of every complaint that is accepted by the reserve scheme.
- (2) No more than 1 complaints charge is payable in respect of a complaint.
- (3) The amounts of the complaints charges are as set out in rules 14 to 16.
- (4) Every complaints charge is payable within 10 working days after the date of invoice.

**14 Level 1 complaint**

- (1) A Level 1 complaint is a complaint that is resolved, withdrawn, or that otherwise ceases without the formal involvement of a scheme conciliator, scheme mediator, or scheme adjudicator.
- (2) The complaints charge for a Level 1 complaint that is resolved by the parties entering into an agreed settlement is \$775.
- (3) The complaints charge for a Level 1 complaint that is withdrawn or that otherwise ceases is \$625.
- (4) However, the complaints charge for a Level 1 complaint that, with the member's agreement, was accepted by the reserve scheme without having been considered under the member's own complaint procedures is \$1,500.

**15 Level 2 complaint**

- (1) A Level 2 complaint is a complaint that is resolved, withdrawn, or that otherwise ceases following the formal involve-



ment of a scheme conciliator or scheme mediator but without the formal involvement of a scheme adjudicator.

- (2) The complaints charge for a Level 2 complaint that is resolved by the parties entering into an agreed settlement is \$2,350.
- (3) The complaints charge for a Level 2 complaint that is withdrawn or that otherwise ceases is \$2,175.
- (4) However, the complaints charge for a Level 2 complaint that, with the member's agreement, was accepted by the reserve scheme without having been considered under the member's own complaint procedures is \$2,850.

**16 Level 3 complaint**

- (1) A Level 3 complaint is a complaint in which a scheme adjudicator is formally involved.
- (2) The complaints charge for a Level 3 complaint in which no scheme conciliator or scheme mediator was previously involved is \$1,695.
- (3) The complaints charge for a Level 3 complaint in which a scheme conciliator or scheme mediator was previously involved is \$3,270.
- (4) However, the complaints charge for a Level 3 complaint that, with the member's agreement, was accepted by the reserve scheme without having been considered under the member's own complaint procedures is \$3,500.

**Part 3  
General provisions**

**17 Fees and charges administered by Ministry of Consumer Affairs**

- (1) The membership fees and complaints charges set out in these rules must be paid to the Crown and are recoverable as debts due to the Crown.
- (2) The administration of the fees and charges is the responsibility of the Ministry of Consumer Affairs.

**18 Disputes about fees and charges**

- (1) If a member or former member of the reserve scheme wishes to dispute the amount of any membership fee or complaints charge for which it is liable, the member or former member must notify the Ministry of Consumer Affairs of the dispute and the reasons for it,—
- (a) in the case of a dispute about a membership fee, before the last day on which the fee is payable; and
  - (b) in the case of a dispute about a complaints charge, within 10 days after the date of the invoice for the charge.
- (2) Liability for payment of the fee or charge is suspended until the dispute is settled.

**19 Fees and charges inclusive of GST**

The fees and charges prescribed by these rules are inclusive of goods and services tax.

Rebecca Kitteridge,  
Clerk of the Executive Council.

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**Explanatory note**

*This note is not part of the rules, but is intended to indicate their general effect.*

These rules, which come into force on 5 November 2010, set out the membership fees and complaints charges that apply to the reserve dispute resolution scheme appointed under the Financial Service Providers (Registration and Dispute Resolution) Act 2008.

The annual membership fee for membership of the reserve scheme varies with the size and type of business of the member, and is collected in two 6-monthly instalments. There are 5 classes of member (in essence: QFEs that are not lenders or insurers; financial adviser businesses that are not QFEs; insurers; banks and other lenders; and other financial service providers).

The charges imposed for dealing with complaints vary according to the level (facilitation/negotiation, mediation/conciliation, or adjudication) to which the complaint is taken before it is resolved, withdrawn, or otherwise ceases, and whether the complaint has been through the member's own complaint procedures.

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Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 4 November 2010.

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## Reprints notes

### **1**    *General*

This is a reprint of the Financial Service Providers (Dispute Resolution—Reserve Scheme Fees) Rules 2010 that incorporates all the amendments to those rules as at the date of the last amendment to them.

### **2**    *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3**    *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4**    *Amendments incorporated in this reprint*

Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34): section 48(b)

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