Annual Review
2014-2015

FINANCIAL OMBUDSMAN SERVICE AUSTRALIA
This Annual Review covers the 2014-2015 financial year (1 July 2014 – 30 June 2015). It follows the reporting requirements for external dispute resolution (EDR) schemes set out in ASIC Regulatory Guide 139. The review is available in hard copy and on the Financial Ombudsman Service Australia website at www.fos.org.au/annualreview. To order print copies, please email publications@fos.org.au.

All data in this review was correct at time of reporting. Minor discrepancies between this and previous annual reviews reflect the outcome of a review of our data and reporting frameworks.

Many of the charts and tables in this review use percentages. All percentages have been rounded to the nearest whole number. Because of this, the sum of the percentages in a chart or table might not add up to 100%.

The 2014-2015 Comparative Tables, which show dispute data about FOS members, are available on our website at www.fos.org.au/comparativetables.

**Contents**

Mission 1
What we do 1
Year at a glance 3
Message from the Chair of the Board 4
Message from the Chief Ombudsman 6
Simpler and quicker dispute process 7
Our performance against strategic measures 8
Our people 16
Organisation chart 20
Senior Leadership Group 21
Our stakeholders 22
Our members 23
Stakeholder engagement 25
Significant event response plan 31
Who lodged disputes 32
Overview of disputes 38
How we classify disputes 39
Our dispute resolution process 46
How we count disputes 47
Total disputes received 48
Total disputes closed 51
What the disputes were about 54
Accepted disputes 56
Disputes 57
Credit disputes 58
General insurance disputes 63
Payment system disputes 68
Deposit-taking disputes 70
Investment disputes 74
Life insurance disputes 80
Traditional trustee service disputes 84
Financial difficulty disputes 85
Legal proceedings disputes 92
Conciliation conferences 94
Systemic issues and serious misconduct 95
Code compliance and monitoring 100
Corporate governance 106
Glossary 113
Mission

Our mission is to fulfil an important community role by providing an independent dispute resolution service in which people can place their confidence and trust. This involves understanding all sides of a dispute and resolving it fairly and efficiently.

We aim to be:
- Respectful
- Efficient
- Trustworthy
- Forward thinking

What we do

We resolve disputes between consumers and financial services providers:
- in a cooperative, efficient, timely and fair manner
- with minimum formality and technicality
- as transparently as possible, taking into account our obligations for confidentiality and privacy.

This involves understanding all aspects of a dispute without taking sides, and making decisions based on the specific facts and circumstances of each dispute.
## 2014-2015 at a glance

<table>
<thead>
<tr>
<th>Performance Indicators</th>
<th>2014-2015</th>
<th>Performance Compared with Last Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total disputes received</td>
<td>31,895</td>
<td>up 1%</td>
</tr>
<tr>
<td>Total disputes closed</td>
<td>34,714</td>
<td>up 4%</td>
</tr>
<tr>
<td>Financial difficulty disputes accepted</td>
<td>4,134</td>
<td>down 12%</td>
</tr>
<tr>
<td>Systemic issues resolved</td>
<td>52</td>
<td></td>
</tr>
<tr>
<td>Number of investigations of alleged breaches of industry codes of practice with 238 confirmed breaches</td>
<td>347</td>
<td></td>
</tr>
<tr>
<td>Number of members</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Authorised credit representatives</td>
<td>4,849</td>
<td>up 0.1%</td>
</tr>
<tr>
<td>Phone calls handled by our contact team</td>
<td>210,420</td>
<td>down 5%</td>
</tr>
<tr>
<td>Visits to our website</td>
<td>602,542</td>
<td>up 3%</td>
</tr>
</tbody>
</table>
In last year's Annual Review, I spoke about the findings of the first independent review undertaken since FOS was established in 2008. Periodic independent reviews of FOS's operations are an important public accountability mechanism and the FOS Board welcomed the review and its findings.

With the implementation of the new dispute process on 1 July 2015 (along with changes that have been made to our Terms of Reference), all the FOS Board-endorsed recommendations from the independent review were implemented by the end of July 2015.

In response to the review's key finding around timeliness, I outlined that the Board had endorsed significant changes to simplify and improve the FOS dispute process. The Board also set out our aims of significantly reducing our backlogs by the end of 2014 and implementing a new streamlined dispute process by 30 June 2015.

While the Board did not underestimate the challenges involved in achieving these aims in such a short timeframe, the independent review findings clearly set out the importance of moving quickly to do so.

I am very pleased that FOS has delivered these achievements in the timeframes set. Last year we eliminated the backlog of disputes across all dispute areas. This required a concerted effort by all staff working closely with our members, consumer organisations and other stakeholders.

In addition, based on extensive consultation with all our stakeholders, our new streamlined dispute process went live on 1 July 2015. While it is early days, we are already seeing the benefits of more active engagement with applicants and financial services providers (FSPs) earlier in the dispute process, fewer FOS 'touchpoints', and applying FOS expertise earlier in disputes.

The changes are not only about reducing the time taken to resolve disputes. At their heart, they are designed to improve the quality of the experience for both applicants and members. Our efforts to continue improving the quality of our dispute process remain a key focus of the FOS Board and of the 2015-2016 FOS Business Plan.

Dispute numbers

For the third consecutive year, dispute numbers remained steady. We believe this is largely as a result of efforts by industry participants to reduce consumer complaints and improve their internal dispute resolution (IDR) processes.

Our new dispute resolution process provides more opportunity for FSPs to resolve customer complaints before they are referred to FOS as disputes. We hope this will help FSPs resolve more disputes quickly and directly with their customers.
Message from the Chair of the Board

The changes are not only about reducing the time taken to resolve disputes. At their heart, they are designed to improve the quality of the experience for applicants and members.

New Board appointments
The Board has continued to see a number of changes. Two new directors, Carmel Franklin and Louise Lakomy, were appointed to the FOS Board, effective from 1 June 2015.

Carmel Franklin, a consumer director, has been involved with consumer issues for a number of years, including as Chair of Financial Counselling Australia. Louise Lakomy, an industry director, is a certified financial planner and recently retired from the board of the Financial Planning Association after serving the maximum term of six years.

We are pleased to welcome Carmel and Louise to the FOS Board.

Denis Nelthorpe and Russell McKimm retired at the end of May. Both have been Board members since June 2009 and Russell was also on the Transition Board from May 2008 to May 2009. On behalf of the Board, I wish to thank Denis and Russell for their valuable and significant contributions over many years to FOS and its predecessor organisations. We have greatly benefited from the commitment and experience they have brought to the FOS Board.

Board evaluation
As part of the Board’s commitment to high standards of corporate governance, in 2014-2015 the Board engaged an external consultant to perform an independent assessment of its performance to augment the annual self-assessments conducted previously.

While the evaluation suggested some minor enhancements of the Board’s processes for consideration, it found the FOS Board to be functioning well, with an appropriate skills mix and effective practices and structures.

New Lead Ombudsman appointed
In early 2015, the Board advertised for a new Lead Ombudsman for our investments, life insurance and superannuation jurisdictions. Following a comprehensive selection process conducted by the Nominations and Remuneration Committee, the Board appointed Dr June Smith as the Lead Ombudsman (Investments and Advice), effective from 1 July 2015.

June brings to the role extensive experience in independent decision-making positions, well developed stakeholder skills and a high level of credibility among key internal and external stakeholders. She joins our other Lead Ombudsmen – Philip Field (Banking and Finance) and John Price (General Insurance) - as part of our experienced and expert panel of ombudsmen.

Funding review
For the past 18 months, FOS has been consulting with our members and key associations on revised fees and charges consistent with our new dispute process. The broad structure of funding remains unchanged: a membership fee, user charge and dispute fees. However, we have introduced a number of changes to align our fees with the new resolution stages in our dispute process.

The FOS Board adopted the proposed fees and charges, which were announced in March 2015. The new fee arrangements apply from 1 July 2015.

Working with our stakeholders
I would like to thank all our stakeholders for their involvement with FOS over the past year in helping us undertake the significant changes to our dispute process and organisation. The changes we have made mean that FOS is well placed to remain at the forefront in delivering effective alternative dispute resolution for the Australian community.

I particularly want to thank all FOS staff for their continued contribution, commitment and resilience throughout another challenging year.

As we move into the coming year, the Board looks forward to working with all stakeholders to deliver a fast, efficient and fair dispute resolution service that is accessible to everyone in the community.

Professor the Honourable
Michael Lavarch AO
Chair of the Board
I am pleased to be able to report we delivered strongly on all our priorities in the FOS 2014-2015 Business Plan.

Working closely with our members and consumer organisations, we made major improvements to our dispute resolution process consistent with the recommendations of the FOS independent review.

We eliminated our backlog in case management in December 2014, and at all stages of our dispute process in June 2015. This meant we were well placed to transition to the new dispute process, which came into effect on 1 July 2015. For the first time since FOS was established in 2008, we are operating without a backlog.

Simpler and quicker dispute process

Our new streamlined dispute process is designed to be quicker and simpler and enhance user experience for applicants and financial services providers (FSPs). The graphic on the facing page shows how our business initiatives have led to a new way of working from 1 July 2015 which includes:

- A new process to fast-track decisions for simpler and low-value disputes
- A new registration and referral process
- Provision of specialist expertise earlier in the dispute process
- Reduction of ‘touchpoints’ and process stages
- A more efficient financial difficulty dispute process including earlier contact, flexible pathways and consistent decision making

A new format for decisions that more effectively communicates the outcomes of disputes to applicants and FSPs.

These changes are being underpinned by technology enhancements, including an improved document exchange portal and online dispute form, which will be introduced later in 2015.

Enhancing trust and confidence

We have made a number of submissions to recent Government inquiries on financial services. The theme underpinning our submissions has been the importance of government, industry and consumer organisations collaborating to enhance consumer confidence and trust in financial services. In many ways, we consider this collaboration over many years has been central to the development of FOS and the current model of financial sector dispute resolution.

The opportunities for all stakeholders to work together to enhance trust and confidence in the interests of the broader financial sector and community have underpinned FOS’s proposals, including on:

- The importance of finding a cost-effective solution to the problem of unpaid FOS determinations
- Developing a sustainable funding model for community financial counselling, legal aid and specialist legal centres
- Opportunities to reduce complexity for consumers in accessing timely, low cost and efficient dispute resolution for all financial sector disputes.

A note of thanks

I would like to thank all our stakeholders for their responses to our consultation, participation in pilot projects, and for working with us directly and through industry, consumer and other meetings. As a result of this engagement, we modified and improved our original proposals to streamline our dispute process so that it works effectively for both applicants and FSPs.

The improvements we have made to the timeliness and quality of our dispute service would not have been possible without the continuing dedication and hard work of FOS staff and the support of the FOS Board.

I look forward to working with the Board, staff and all our stakeholders as we build on our achievements to further improve the independent and impartial dispute service we provide to the Australian community.

Shane Tregillis
Chief Ombudsman
Improvements to our way of working

The changes we have made to our dispute process have seen many improvements to the way we work, as illustrated below.

The enhanced process

Our new dispute process, effective from 1 July 2015, has fewer stages and is designed to be simpler and quicker to use.

Registration and Referral

<table>
<thead>
<tr>
<th>Standard and Complex</th>
<th>Fast Track</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Case Management</strong></td>
<td><strong>Case Management</strong></td>
</tr>
<tr>
<td>4 - 8 weeks</td>
<td>3 - 6 weeks</td>
</tr>
<tr>
<td><strong>Decision</strong></td>
<td><strong>Decision</strong></td>
</tr>
<tr>
<td>4 weeks</td>
<td>4 weeks</td>
</tr>
<tr>
<td><strong>Financial Difficulty</strong></td>
<td><strong>Financial Difficulty</strong></td>
</tr>
<tr>
<td>3 - 4 weeks</td>
<td>2 weeks</td>
</tr>
</tbody>
</table>
2014-2015 performance against our strategic measures
Our 2012-2016 Strategic Plan*

Our Strategic Plan aims to meet the six external dispute resolution (EDR) benchmarks prescribed by the Australian Securities and Investments Commission (ASIC).

Our focus continues to be on delivering an efficient and effective dispute resolution service, successfully managing our public role and stakeholder engagement, and further developing FOS’s organisational capabilities and infrastructure.

EDR BENCHMARKS

ACCESSIBILITY  INDEPENDENCE  FAIRNESS  ACCOUNTABILITY  EFFICIENCY  EFFECTIVENESS

THREE-YEAR FOCUS

Delivering a more efficient and effective dispute resolution service
Enhancing our public role and stakeholder engagement
Ensuring organisational development and sustainability

WHAT WE WANT TO BE

A customer-centric service for consumers and financial services providers
An organisation that monitors and improves its performance.

A trusted organisation
The authority on financial services disputes resolution and an influential voice on how to prevent disputes.

A smart, efficient and responsible organisation
An organisation with passionate people, effective systems, clear plans and a conscience.

WHAT WE NEED TO DO

» Set and meet time and service standards for all our dispute resolution services
» Improve user experience
» Maintain and enhance the quality of our dispute resolution services

» Promote our service, actively engage and maintain stakeholder support
» Share our knowledge, experience and insights
» Raise community awareness of FOS
» Routinely seek stakeholder feedback and act on it

» Embed new ways of working as part of our desired behaviours and culture
» Attract and develop highly skilled and engaged people
» Develop, maintain and enhance e-enabled solutions that improve performance and deliver operational efficiencies

* Our three-year Strategic Business Plan 2012-2015 has been extended to reflect our continued focus on the three key priorities above.
## Our performance in 2014-2015

### Delivering a more efficient and effective dispute resolution service

<table>
<thead>
<tr>
<th>Our 2014-2015 plans</th>
<th>What we achieved</th>
</tr>
</thead>
</table>
| **Eliminate dispute backlog by 31 December 2014.**          | » Eliminated our dispute backlog across all dispute resolution teams. There are no disputes at FOS that have been unallocated for more than seven days at any stage of the FOS dispute process.  
» Introduced a new format for decisions that more effectively communicates the outcomes of disputes to both applicants and FSPs. |
| **Redesign our dispute process to resolve disputes in a more timely, efficient and fair manner.** | » Redesigned our dispute process to provide specialist expertise earlier in the process and reduced multiple dispute touch points and process stages.  
» Introduced a new registration and referral process to give FSPs a final opportunity to resolve their dispute directly with their customers before the FOS investigation begins.  
» Implemented a new process to fast-track decisions for simple and low-value disputes.  
» Implemented a more efficient financial difficulty process that provides for earlier contact, flexible pathways and consistent decision making.  
» Reviewed and amended our Terms of Reference to support the new process and jurisdiction.  
» Undertook four major quality reviews and four applicant surveys and improved the way we deal with disputes as a result.  
» Improved our reporting framework and analytics in line with the new dispute process. |
| **Align the Systemic Issues function with improvements in dispute resolution process and approaches.** | » Increased phone contact with FSPs and expedited the allocation of possible systemic issues.  
» Enhanced our internal quality assurance practices and encouraged the use of Plain English in all our communications.  
» Prioritised and enhanced the process for referring instances of serious misconduct to ASIC.  
» Eliminated the queue of possible systemic issues awaiting investigation. |
| **Code: Enhance the Code monitoring function and processes.** | » Developed a risk-based assessment model to identify key emerging risks in each Code Compliance sector.  
» Developed electronic document exchange between the FOS Code Compliance Team and financial services providers. The online portal went live 1 July 2015. |
## Our performance in 2014-2015

### Enhancing our public role and stakeholder engagement

<table>
<thead>
<tr>
<th>Our 2014-2015 plans</th>
<th>What we achieved</th>
</tr>
</thead>
</table>
| Review and enhance our stakeholder engagement strategy. | » Actively engaged with FSPs and consumer organisations through the development and implementation of the new dispute process, using:  
   » member e-newsletters  
   » an interactive process map tool  
   » videos  
   » forums  
   » webinars  
   » stakeholder events  
   » face-to-face meetings.  
« Organised or participated in more than 60 events for members and consumer advocates and other stakeholders.  
« Expanded our community outreach activities to include financial capability workers and community/legal representatives.  
« Undertook two stakeholder engagement surveys to evaluate the level and quality of communications engagement through the process changes. |
| Improve the accessibility of FOS for consumers. | » Commissioned a Web Content Accessibility Guidelines (WCAG) Audit and commenced work to enhance the way information is presented on our website and in publications.  
« The FOS Accessibility Working Group developed new guidelines for FOS staff to improve the accessibility of our service with a focus on disadvantaged and vulnerable consumers.  
« Developed a new electronic statement of financial position and online dispute form to improve the accessibility of FOS forms.  
« Continued our efforts to reach community groups, such as Aboriginal and Torres Strait Islander peoples and culturally and linguistically diverse communities. |
## Our performance in 2014-2015

### Enhancing our public role and stakeholder engagement

<table>
<thead>
<tr>
<th>Our 2014-2015 plans</th>
<th>What we achieved</th>
</tr>
</thead>
<tbody>
<tr>
<td>Promote financial services providers' understanding of systemic issues obligations and functions.</td>
<td>» Actively engaged with FSPs to discuss systemic issues and raise the awareness and understanding of systemic issues obligations and functions.</td>
</tr>
<tr>
<td></td>
<td>» Provided quarterly systemic issues reports to FSPs.</td>
</tr>
<tr>
<td>Code: Promote stakeholder understanding of Code Compliance.</td>
<td>» Successfully transitioned Code subscribers (insurance broking and customer owned banking sectors) to their respective revised Codes of Practice.</td>
</tr>
<tr>
<td></td>
<td>» Aligned secretariat operations and Code governance frameworks across all Code Compliance sectors.</td>
</tr>
</tbody>
</table>
Our performance in 2014-2015

Ensuring organisational development and sustainability

<table>
<thead>
<tr>
<th>Our 2014-2015 plans</th>
<th>What we achieved</th>
</tr>
</thead>
</table>
| Continue to develop our people's engagement and expertise to support the reform of our dispute resolution process. | » Implemented a new organisational structure and successfully transitioned all FOS staff to new roles and responsibilities.  
 » Carried out change management training for all FOS staff and commenced our new ways of working.  
 » Implemented a new learning management system and delivered staff training to ensure expertise in the new process.  
 » Updated technical materials in line with the new process. Delivered staff training to ensure expertise in the new process. |
| Continue to strengthen our internal governance and resource management processes to support the way we operate our business. | » Reviewed and enhanced our internal governance practices and procedures to support the new process.  
 » Consulted with our members and implemented a revised funding model which commenced on 1 July 2015. |
| Deliver IT initiatives to support the new dispute resolution process.                | » Reviewed and improved our information management practices and IT infrastructure to support the new dispute process.  
 » Developed a document exchange portal for FSPs, to be launched in October 2015.  
 » Improved and further developed our case management system to support the new dispute process. |
| Code: Coordinate the Code governance and operational processes alignment.            | » Implemented a quality assurance process to ensure consistency, quality and continuous improvement.  
 » Refined the secretariat function to ensure effective delivery of Code liaison activities. |
Our strategic measures
Our 2014-2015 performance and our 2015-2016 targets

<table>
<thead>
<tr>
<th>Strategic focus</th>
<th>Success measures</th>
<th>2014-2015 targets</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Delivering a more efficient and effective dispute resolution service</strong></td>
<td><strong>Applicant satisfaction</strong>&lt;br&gt;Percentage of applicants who report a satisfactory or better dispute resolution experience at FOS.</td>
<td>Applicant satisfaction level:&lt;br&gt;Registered disputes: 95% applicants satisfied&lt;br&gt;Closed disputes: 75% applicants satisfied&lt;br&gt;Discontinued disputes: 70% applicants satisfied</td>
</tr>
<tr>
<td></td>
<td><strong>Clearance ratio</strong>&lt;br&gt;A retrospective indicator that compares how many disputes we closed with how many we received.</td>
<td>≥103%</td>
</tr>
<tr>
<td></td>
<td><strong>Projected overload</strong>&lt;br&gt;An indicator that estimates how many currently open cases will not be closed within our 6, 12 and 24 month standards.</td>
<td>≤0</td>
</tr>
<tr>
<td></td>
<td><strong>Age profile of open disputes</strong>&lt;br&gt;2014-2015 - Percentage of open disputes that are less than or equal to 365 days old.&lt;br&gt;2015-2016 - Percentage of open disputes that are less than or equal to 180 days old.</td>
<td>≥95%</td>
</tr>
<tr>
<td></td>
<td><strong>Time to close disputes</strong>&lt;br&gt;The age profile of closed disputes.</td>
<td>80% ≤ 180 days&lt;br&gt;95% ≤ 365 days</td>
</tr>
<tr>
<td></td>
<td><strong>Disputes closed per quarter per dispute FTE</strong>&lt;br&gt;This provides a measure of the dispute handling process at FOS. It does not account for changes in product type or dispute complexity.</td>
<td>≥26</td>
</tr>
<tr>
<td><strong>Enhancing our public role and stakeholder engagement</strong></td>
<td><strong>Stakeholder engagement survey responses</strong>&lt;br&gt;2014-15 - Qualitative assessment of stakeholder satisfaction with level and quality of engagement in the Dispute Process Reform program implementation.&lt;br&gt;2015-16 - Measure overall satisfaction that FOS is meeting the needs of stakeholders.</td>
<td>Stakeholders indicate they are satisfied with the level and quality of FOS engagement with them as part of the Dispute Process Reform program</td>
</tr>
<tr>
<td><strong>Ensuring organisational development and sustainability</strong></td>
<td><strong>Staff engagement score</strong>&lt;br&gt;Survey responses measuring the level of staff engagement and alignment with our values and behaviours.</td>
<td>≥10% increase in the number of FOS staff who report feeling engaged in the workplace</td>
</tr>
<tr>
<td></td>
<td><strong>Environment audit rating</strong>&lt;br&gt;The National Australian Built Environment Rating System (NABERS) rating of organisation’s impact on the environment.</td>
<td>≥5 star rating</td>
</tr>
<tr>
<td></td>
<td><strong>Corporate Full Time Equivalent (FTE) to total FTE</strong>&lt;br&gt;The percentage of support staff (corporate) to staff directly involved in dispute resolution ≤15%</td>
<td>≤15%</td>
</tr>
</tbody>
</table>
## Our strategic measures

<table>
<thead>
<tr>
<th>2014-2015 performance</th>
<th>2015-2016 targets</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant satisfaction results have improved since last reported. In 2014-2015:</td>
<td>In 2015-2016, we will implement measures to evaluate and improve the experience of applicants and FSPs in our new dispute process. Our aim is to lift overall applicant satisfaction levels as follows:</td>
</tr>
<tr>
<td>» 94% of applicants with registered disputes were satisfied with their dispute resolution experience.</td>
<td>Registered disputes: 95% satisfied</td>
</tr>
<tr>
<td>» 73% of applicants who have disputes closed were satisfied with their dispute resolution experience.</td>
<td>Closed disputes: 80% satisfied</td>
</tr>
<tr>
<td>» 52% of applicants with a discontinued dispute were satisfied with their dispute resolution experience.</td>
<td>Discontinued disputes: 70% satisfied</td>
</tr>
<tr>
<td>112%</td>
<td>≥103%</td>
</tr>
<tr>
<td>Our clearance ratio has increased significantly over the last 12 months as we eliminated our dispute backlog</td>
<td>In 2015-2016 we will not be lifting our clearance ratio, as the backlog of disputes has now been cleared and we will be operating our real-time dispute resolution process.</td>
</tr>
<tr>
<td>-6,472</td>
<td>This measure will be discontinued given the elimination of our backlog.</td>
</tr>
<tr>
<td>97% open disputes are less than or equal to 365 days old.</td>
<td>≥95% are less than or equal to 180 days old.</td>
</tr>
<tr>
<td>83% of disputes were closed within 180 days. 95% of disputes were closed within 365 days.</td>
<td>For disputes received after 30 June 2015, 95% ≤ 180 days</td>
</tr>
<tr>
<td>27.02</td>
<td>≥26</td>
</tr>
<tr>
<td>Respondents across 2 pulse surveys rated their satisfaction with the level and quality of engagement with them as part of the Dispute Process Reform program as &gt;7. This is on a scale of 0 (extremely dissatisfied) to 10 (extremely satisfied).</td>
<td>≥70 on a scale of 0 (extremely dissatisfied) to 10 (extremely satisfied) are satisfied that FOS is meeting their needs. In 2015-2016, FOS will be conducting a major survey similar to that conducted in 2013-2014.</td>
</tr>
<tr>
<td>This is a biannual survey. The next one is due in 2015-2016.</td>
<td>≥10% increase in the number of FOS staff who report feeling engaged in the workplace.</td>
</tr>
<tr>
<td>5 star rating</td>
<td>≥5 star rating</td>
</tr>
<tr>
<td>15%</td>
<td>≤15%</td>
</tr>
</tbody>
</table>
Our people

FOS staff are experienced professionals dedicated to resolving disputes fairly, impartially and efficiently.

Our key focus in 2014-2015 was on engaging our staff in the significant organisational changes leading up to the introduction of our new dispute process and our new ways of working. We acknowledge that changes of this scale are challenging for all staff.

Staff at every level were provided with an opportunity to be involved in the organisational changes that underpin the new dispute process, through consultation, workshops and presentations. They provided ideas and feedback that helped the organisation adapt to meet the demands of the new process.

The improvements we have made to the timeliness and quality of our dispute service would not have been possible without the commitment and hard work of FOS staff.

Learning and development

Specialist knowledge and skills

We provide wide-ranging learning and development opportunities to equip FOS staff with the specialist knowledge and skills required to deliver high quality dispute resolution outcomes.

This year, we delivered targeted technical training to staff on the dispute process changes as well as key specialist knowledge requirements for banking and finance, investments and advice, and insurance.

Enhancing our leadership capability

A total of 58 staff graduated from courses in the FOS Management Development Program in 2014-2015. The program is divided into four streams:

- Foundations of Management (for staff with management aspirations) – developed with the Australian Institute of Management
- Aspiring Managers (for new managers) – developed with Deakin Prime
- Leading Managers (for experienced managers) – developed with Deakin Prime
- Senior Managers – a residential course at the Mt Eliza Business School.

The courses help graduates build their leadership capabilities, and enhance knowledge sharing at FOS.

Occupational health and safety (OHS)

We are committed to providing a safe and healthy workplace. This year we offered OHS services, training and initiatives including:

- OHS and Equal Employment Opportunities e-learning courses
- ergonomic assessments of workstations
- training for FOS First Aid officers and mental health first aid
- free flu vaccinations
- psychosocial (stress) management programs.

Workforce planning

At 30 June 2015, FOS had a total workforce of 362 (288.13 full-time equivalent) compared with 377 (298.85 full-time equivalent) one year earlier.

We work closely with dispute teams to determine workforce demands and ensure adequate staffing and skill levels. Staff training programs, continuous improvement and recruitment are used to address shortfalls.

With the changing dispute environment, effective workforce planning is critical. The Board has agreed that a business case be developed to support potential investment in a new payroll and human resource information system that will enhance resource planning so that FOS can more effectively respond to changes in dispute flows.

Gender equity

Our workforce consists of 209 (58%) women and 153 (42%) men across part-time and full-time roles. The table below shows the distribution of male and female employees.

Gender breakdown at FOS

<table>
<thead>
<tr>
<th>Category</th>
<th>F</th>
<th>M</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Middle management</td>
<td>22</td>
<td>18</td>
<td>40</td>
</tr>
<tr>
<td>Senior professional/technical</td>
<td>164</td>
<td>103</td>
<td>267</td>
</tr>
<tr>
<td>Executive level (including Lead Ombudsmen)</td>
<td>1</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>Ombudsmen (excluding sessional staff)</td>
<td>8</td>
<td>4</td>
<td>12</td>
</tr>
<tr>
<td>Board</td>
<td>5</td>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>Consumer or industry panel members</td>
<td>9</td>
<td>19</td>
<td>28</td>
</tr>
</tbody>
</table>

| Total | 209 | 153 | 362 |

Page 17
Recruitment, induction and demographics

In 2014-2015, we welcomed 46 new employees. We provide new starters with a comprehensive induction and orientation program to give them the necessary tools, skills and understanding of FOS, our culture and values, operational strategies and business goals.

Within the first six months of employment, new staff can participate in discussions about our business plans and interpersonal effectiveness training.

Most staff recruited in 2014-2015 were in the 21 to 30 and 31 to 40 age brackets. This trend was consistent with the age distribution of staff across the organisation.

Ombudsmen

In 2014-2015, our full-time, part-time and sessional Ombudsmen were:

Shane Tregillis – Chief Ombudsman
Philip Field – Lead Ombudsman, Banking and Finance
John Price – Lead Ombudsman, Insurance
June Smith – appointed Lead Ombudsman, Investments and Advice, in May 2015, effective from 1 July 2015

Katharine Adams
Michael Arnold
Ronald Beazley
Sarah-Jane Christensen
Evelyn Halls
Alison Maynard
Christine McCarthy
Nicole McCutcheon
Denny Meadows
Don O’Halloran
Michael Pearce SC (sessional)
Justi Tonti-Filippini
Marita Wall

Adjudicators

The Board appointed the following Adjudicators as part of our Fast Track team:

Rachel Erlich
Qasim Gilani
Chris Liamos
Charlotte Murphy
Ruth Talalla

Recognising service excellence

FOS recognises and celebrates the achievements of our people through service excellence awards. In 2014-2015, we acknowledged service excellence by presenting awards to the following staff:

Keith Atkins – Case Manager, General Insurance
Claire Beattie – Events Manager, Stakeholder Engagement and Communications
Natalie Brownscombe – Senior Dispute Officer, Banking and Finance
Pujitha Fernando – Dispute Information Analyst, Strategy Planning and Analysis
Jack Furphy – Registration Team Manager, General Resolution Group
Raymond Pereira – IT Service and Systems Support Officer, Information Technology
Sarah Roche – Project Officer, Specialist Resolution Group
Christopher Siemers – Case Manager, Financial Difficulty
Hannah Thiele – Executive Assistant to Lead Ombudsman, General Insurance
Kaetrina Trunzo – Business Services Team Leader, Strategy and Business Operations
Organisation chart

Effective 1 July 2015
Senior Leadership Group

From left, front:
- John Price
  Lead Ombudsman – General Insurance
- Jamie Orchard
  Executive General Manager – Investigation & Resolution
- Jenny Peachey
  Executive General Manager – Corporate Strategy & Services

From left, back:
- Philip Field
  Lead Ombudsman – Banking and Finance
- Shane Tregillis
  Chief Ombudsman
- Michael Ridgway
  Executive General Manager – Assessment & Resolution
- June Smith*
  Lead Ombudsman – Investments and Advice

*Effective from 1 July 2015
Our stakeholders

FOS has a broad range of stakeholders – financial services providers (members of FOS), consumer representatives such as financial counsellors and community lawyers, industry bodies, ASIC and other government bodies, and the Australian community. We engage with all these stakeholders in various ways.
Our members

FOS is one of the largest industry-based external dispute resolution services in Australia. Our members are financial services providers (FSPs) that have chosen us as their external dispute resolution scheme. Every business with an Australian financial services licence or credit licence must be a member of an external dispute resolution scheme approved by the Australian Securities and Investments Commission (ASIC).

Our members include banks, credit unions, building societies, credit providers, general and life insurance companies and brokers, superannuation providers, fund managers, mortgage and finance brokers, financial planners, stockbrokers, investment managers, friendly societies, timeshare operators and authorised representatives. To see if your FSP is a member of FOS, go to www.fos.org.au/member.

Our members fall into two categories – licensees and authorised credit representatives (ACRs). Licensees are FSPs that hold an Australian financial services licence or a credit licence from ASIC. ACRs are businesses that represent a credit licensee. Any complaint we receive from a customer of an ACR is referred to the dispute resolution area of its licensee.

FOS is a not-for-profit service and a significant proportion of our funding comes from case fees. The case fees paid by an FSP reflect the number of disputes it has at FOS and the progress of these disputes before reaching resolution. FSPs also pay an annual membership fee.

The vast majority (94%) of our 14,107 members did not have any disputes lodged against them in 2014-2015. When members did have disputes lodged against them, most had only one dispute. Of the FSPs with disputes lodged against them, the proportion of members with only one dispute increased from 44% last year to 46% in 2014-2015. There were 54 members with more than 100 disputes lodged against them.

### Distribution of disputes across membership base in 2014-2015

<table>
<thead>
<tr>
<th>Number of disputes per FSP</th>
<th>Number of FSPs</th>
<th>Total number of disputes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>395</td>
<td>395</td>
</tr>
<tr>
<td>2</td>
<td>112</td>
<td>224</td>
</tr>
<tr>
<td>3</td>
<td>57</td>
<td>171</td>
</tr>
<tr>
<td>4-10</td>
<td>147</td>
<td>882</td>
</tr>
<tr>
<td>11-20</td>
<td>64</td>
<td>978</td>
</tr>
<tr>
<td>21-50</td>
<td>23</td>
<td>774</td>
</tr>
<tr>
<td>51-100</td>
<td>16</td>
<td>1,028</td>
</tr>
<tr>
<td>&gt;100</td>
<td>54</td>
<td>27,443</td>
</tr>
<tr>
<td></td>
<td>868</td>
<td>31,895</td>
</tr>
<tr>
<td><strong>FSPs with no disputes</strong></td>
<td></td>
<td><strong>13,239</strong></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>14,107</strong></td>
</tr>
</tbody>
</table>

### Member numbers

<table>
<thead>
<tr>
<th></th>
<th>1 July 2014</th>
<th>30 June 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Licensees</td>
<td>4,842</td>
<td>4,849</td>
</tr>
<tr>
<td>Authorised credit representatives</td>
<td>10,392</td>
<td>9,258</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>15,234</strong></td>
<td><strong>14,107</strong></td>
</tr>
</tbody>
</table>

Our total membership base at 30 June 2015 was 14,107. The number of licensee members increased marginally to 4,849 in 2014-2015. The total number of ACRs was 9,258. The main reason for the overall decrease is a reduction in ACRs (1,134). Generally this occurs when these businesses cease to operate or no longer operate in a business that requires them to be a member of an external dispute resolution scheme.
Accountants

FOS welcomed accountants and accounting firms as new members in 2014-2015. Accountants without an Australian Financial Services (AFS) licence, or those who do not intend to become an authorised representative of an AFS licensee, need to apply for a limited AFS licence if they want to continue giving advice about self-managed superannuation funds after 30 June 2016. A requirement of holding a limited AFS licence is membership of an ASIC-approved EDR scheme.

During the year, we worked with professional accounting bodies to explain how their members can meet their new licence requirements. We discussed the benefits of IDR and EDR and the value of FOS membership using editorials and advertisements in industry newsletters and journals, taking advantage of speaking opportunities and face-to-face meetings.

We participated in 11 licensing workshops and conferences for accountants in Adelaide, Brisbane, Canberra, the Gold Coast, Melbourne, Perth and Sydney, and developed useful resources for accountants and other new FOS members to help them avoid disputes and provide effective internal dispute resolution.

FOS also provided accountants with a tailored application process at [www.fos.org.au/members/accountants](http://www.fos.org.au/members/accountants) or by calling 1300 565 562.

Fees

For the past 18 months, FOS has consulted with our members and key associations on revised fees and charges consistent with our new dispute process. The broad structure of funding remains unchanged: a membership fee, user charge and dispute fees. However, we have introduced a number of changes to align our fees with the new stages in our dispute resolution process.

The FOS Board adopted the proposed fees and charges, which were announced in March 2015. The new fee arrangements apply from 1 July 2015.
Stakeholder engagement

In 2014-2015, stakeholder engagement focused on informing stakeholders about the role of FOS and the FOS process improvements to enable faster and easier dispute resolution. We consulted extensively with stakeholders about how the new process could best work for the benefit of consumers and members.

Our Consumer Liaison Group provided valuable stakeholder views from user groups, and our members gave us important feedback after taking part in several pilots and trials of new process initiatives. As a result of this engagement, we modified and improved our original proposals to ensure they work more effectively for applicants and members.

We engaged with FSPs and consumer organisations in many ways including:

» face-to-face meetings especially with members who use our service most frequently
» stakeholder events
» industry forums
» webinars
» member e-newsletters
» an interactive process tool map
» videos and other communications.

FOS organised or participated in more than 60 events for members, consumer representatives and other stakeholders.

Sharing knowledge and expertise with our members

We shared our knowledge and expertise to build skills and capacity in the sector and help members understand the new dispute process and how to avoid disputes. Key activities were:

» Hosting a total of 20 open forums in Adelaide, Brisbane, Melbourne, Perth and Sydney that brought together industry participants from banking and finance, general insurance, life insurance and investments and advice to discuss FOS decisions and insights and the new dispute process.
» Holding webinars for the banking and finance and investments, life insurance and superannuation industries on loss calculation and responsible lending.
» Participating in industry conferences, panel discussions, seminars, training, meetings and workshops for industry associations, members and specialist financial services groups.
» Continuing to provide quarterly benchmarking reports for banking and finance and general insurance members with large dispute numbers.

Sharing knowledge and expertise with the community

This year, we continued to work closely with financial counsellors through their national and state bodies, and extended our partnerships and liaison with legal, migrant and other support services. These include community workers who provide support and casework for vulnerable and disadvantaged people such as Aboriginal and Torres Strait Islander peoples and migrants.

We complemented this outreach work with other engagement and awareness-raising activities, including participating in public inquiries about improving financial services, and responding to requests from media outlets for information about FOS.

Policy work

FOS makes many submissions to inquiries, reviews and consultations. In 2014-2015, we made submissions to the:

» Interim Report of the Financial System Inquiry
» Final Report of the Financial System Inquiry
» Inquiry into the Scrutiny of Financial Advice
» Inquiry into proposals to lift the professional, ethical and education standards in the financial services industry
» Australian Small Business and Family Enterprise Ombudsman Bill 2015
» Extending unfair contract term protections to small business consumers.
Media relations

FOS works with media outlets throughout Australia to share the knowledge and experience of our Ombudsmen and other experts with the broader community and help to develop community awareness of dispute resolution services. We respond to inquiries about our service, and inform debate about dispute resolution and consumer and financial issues.

During 2014-2015, journalists interviewed FOS Ombudsmen on topics including insurance issues, notably travel and flood insurance, and banking, financial hardship and credit issues such as ePayments.

Industry-focused media were particularly interested in our submissions on a compensation scheme of last resort and our new dispute resolution process.

Applicant survey

A quarterly applicant survey conducted as part of our efforts to improve customer service found that 94% of applicants with registered disputes were satisfied with their dispute resolution experience over 2014-2015.

The survey, which is conducted by an independent research company, provides important information on what FOS is doing well, and areas where we can improve.

The survey covers consumers who have recently telephoned to lodge a dispute, have recently had their dispute resolved, or who have recently discontinued their dispute with FOS.

Almost three-quarters (73%) of applicants who had disputes closed were satisfied with their experience and about half (52%) with a discontinued dispute were satisfied with their experience.

We expect our more timely dispute resolution process, together with improved personal contact at key stages of our dispute process, to improve the experience of applicants and FSPs.

Publications

FOS produces a range of publications and other communications to help people understand the dispute resolution service we provide and share our dispute experience. Most of these publications can be found on the FOS website including:

The Circular, our quarterly online publication, has a circulation of about 16,000. It provides an overview of disputes handled each quarter, information about the numbers and types of disputes we handle, case studies and analysis of particular issues from FOS. During 2014-2015 we released editions 18, 19, 20 and 21 (see www.fos.org.au/circular).

The FOS Approach, which is designed to help members and consumers understand how we consider disputes and reach decisions. We now have 14 FOS Approach documents which are available on our website at www.fos.org.au/approach.

In 2014-2015, with the assistance of the Plain English Foundation, we developed a template document for the FOS Approach that better reflects our new, more effective recommendations style, and published six new FOS Approach documents.

Compensation scheme

the missing link

In various submissions to the Financial System and other inquiries, FOS called for a compensation scheme of last resort for consumers to address the issue of unpaid determinations as a key initiative to restore consumer confidence and trust in financial services.

Unpaid determinations arise in disputes where FOS determines that consumers should be compensated but financial services providers are unwilling or unable to do so. As at 30 June 2015, consumers were owed $12.6 million in unpaid determinations.

In June 2015, FOS released an updated proposal to establish a financial services compensation scheme of last resort. The proposal sets out the governance structure, scope, operations and legislative changes that would be required to support such a scheme and outlines potential funding mechanisms.

FOS considers such a scheme is the missing element in current reform efforts to professionalise the financial planning sector.

FOS acknowledges steps taken by the industry, regulators and government to restore trust, including lifting conduct standards, professionalism and educational requirements for financial planning and advice, but remains a strong proponent of a compensation scheme of last resort so that when things go wrong, consumers will be compensated when a decision is made in their favour.
A more accessible website

**FOS is committed to providing an accessible service that gives everyone in the community the information they need in a format that suits them.**

In 2014-2015, we improved the accessibility of our website and other communications for people with visual impairment by introducing better contrasting colours and adding transcripts to our online videos, 20 of which we published in community languages (see below).

These improvements followed an independent audit of the FOS website commissioned in 2014-2015. The results showed that we could do more to achieve our target of AA compliance with international standards for website accessibility.

We also expanded and improved our website content, adding new FOS Approach documents, key determinations and case studies, information preparing stakeholders for the new process, community language content, consumer guides and a new section for accountants.

We added the following videos to our online resources:

- Dispute Resolution Process
- What we do (English and community languages)
- How we can help (English and community languages)
- The benefits of FOS membership.

There were more visits to the FOS website in 2014-2015 than any previous year since our original website was launched in 2008.

Our metrics indicate that users are finding the online content or service they need from our website more easily and are spending more time on the required pages (see table below).

**Website visits by year**

<table>
<thead>
<tr>
<th></th>
<th>2013-14</th>
<th>2014-15</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Visits</td>
<td>586,777</td>
<td>602,542</td>
<td>+2.7%</td>
</tr>
<tr>
<td>Unique visitors</td>
<td>451,158</td>
<td>418,433</td>
<td>-7.3%</td>
</tr>
</tbody>
</table>

*Note: A single visit on a website may contain multiple page views, search actions etc and ends after 30 minutes of inactivity. A unique visitor is a person who has used the website at least once in 2014-2015*

**Telephone calls down**

FOS received 210,420 phone calls in 2014-2015, which was 5% fewer than last year. Per business day, we received an average of 832 calls, compared with 884 last year. The decrease corresponds to the increase in the number of disputes registered through our website, which rose from 74% last year to 76%. Only 2% of disputes were lodged over the phone.

There were 499 calls to our natural disaster line in 2014-2015, about 4% less than last year and down 46% from 2011-2012. This decrease corresponds with the decrease in natural disasters compared with previous years.

Consumers may lodge their disputes over the phone, or call FOS for general information about our process. If we cannot help, we try to refer the caller to the appropriate agency or service.

**Consumer Liaison Group**

FOS convenes the Consumer Liaison Group (CLG) quarterly. The CLG is made up of consumer representatives from across Australia who meet us throughout the year to:

- identify opportunities to make our service more effective, accessible and user-friendly for vulnerable and disadvantaged consumers
- increase and improve engagement between FOS and the community sector
- promote better understanding of key dispute resolution issues that affect the sector
- provide a formal mechanism to communicate updates between FOS and the community sector.

In 2014-2015 the CLG comprised a representative from each of the following organisations:

- Anglicare Tasmania
- Consumer Action Law Centre
- Financial Counselling Australia
- Financial Rights Legal Centre
- Legal Aid NSW
- Legal Aid Queensland
- Uniting Communities.
Educational events and conferences

In 2014-2015 FOS supported a number of educational events and activities for consumer representatives such as financial counsellors, community lawyers and financial capability workers. These events included:

» Financial Counselling Australia – Conference and Twilight EDR Forum (see below)
» Annual conferences/professional development days:
  » Financial and Consumer Rights Council (Victoria)
  » Financial Counsellors’ Association of NSW
  » Financial Counsellors’ Association of Western Australia
  » Money Workers Association of the Northern Territory

We participated in six state conferences, including the national Financial Counselling Australia conference in Canberra. In conjunction with this conference, we collaborated with other industry ombudsman schemes to present the Twilight EDR Forum – a workshop on external dispute resolution that aimed to help financial counsellors to support their clients to access FOS.

FOS also benefited from participating in the Aboriginal and Torres Strait Islander forum, Yarning Circle, which explored cultural barriers to making complaints.

Expanding outreach

We expanded our community outreach to include financial capability workers and community and Legal Aid lawyers, and worked closely with the Telecommunications Industry Ombudsman to explore opportunities to better understand the needs of Indigenous consumers. This included visits to remote Aboriginal communities, witnessing first hand some of the challenges and barriers to accessing services such as FOS, and the vital role that financial counsellors and financial capability workers play in these communities (see Taking the FOS message to remote communities, page 30).

FOS also participated in the Financial Hardship Working Group, an initiative of the Law and Justice Foundation of NSW and Legal Aid NSW. The group was convened to increase inter-agency collaboration, improving access to justice for Australians in financial difficulty.

We worked with the Victorian Multicultural Advisory Committee, sharing information about FOS and learning more about the challenges and issues affecting new entrants to Australia. This is an outreach initiative that will be extended to other states in 2015-2016.

Empowering clients at FOS forum

The WA FOS Forum was held in Perth as part the Financial Counsellors’ Association of WA (FCAWA) annual conference in October 2014.

FOS forums for consumer representatives are designed to educate delegates about our service, deepen their knowledge of dispute resolution and help them empower vulnerable and disadvantaged clients.

FOS speakers including the Lead Ombudsman (Banking and Finance), Philip Field, addressed more than 100 delegates on responsible lending, financial difficulty disputes, changes to the FOS dispute resolution process, industry codes of practice, how we support vulnerable and disadvantaged consumers, and recent accessibility initiatives.

We received positive feedback on these sessions, including from Lee-Ann Read, Membership and Services Manager of FCAWA, who said: “You all did such a terrific job, the feedback from members was that you left them wanting more.”

FOS held a similar forum in August 2014 as part of the Money Workers Association of the Northern Territory annual conference in Alice Springs.

Roundtable with consumer representatives

In conjunction with the FOS National Conference, we convened a Chief Ombudsman’s Roundtable on fee-for-service agents. Senior representatives from across the consumer sector joined FOS Chief Ombudsman Shane Tregillis and FOS Board members, sharing their knowledge.

In particular, they raised concerns about reports of misleading and/or deceptive advertising and claims of the ability to ‘fix credit’, undue influence over a consumer’s decision to declare bankruptcy, and repayment plans that are unachievable for vulnerable and disadvantaged consumers.

Members of the Consumer Liaison Group and Chief Ombudsman Roundtable also attended the FOS National Conference, bringing our key stakeholders together.

Consumer Liaison Group

From left, back row: Phil Powell (Anglicare Tasmania), Melanie Hallam (FOS), Veronica McGowan (FOS), Alexandra Kelly (Financial Rights Legal Centre), Paul Holmes (Legal Aid Queensland). Front row: Brenda Staggs (Legal Aid NSW), Christine Raymond (Uniting Communities), Agata Wierzbowski (Consumer Action Law Centre).
Meet Alexandra Kelly
FOS Consumer Liaison Group member

A short-term telemarketing role in 2006 convinced then law student Alexandra Kelly that she had a knack of picking up verbal cues over the phone.

Now Alexandra uses this skill to help consumers who cannot afford legal or financial representation when they ring the Sydney-based Financial Rights Legal Centre, where she is co-principal solicitor.

She is one of about 20 lawyers and financial counsellors who answer calls to the centre’s Credit and Debt Hotline and national Insurance Law Service, providing information, advice and referrals. She also represents clients in court and tribunals and in disputes through Ombudsman services such as FOS.

Alexandra speaks to many distressed consumers who are angry with the situation in which they find themselves.

A problem which she says is reaching crisis point is the proliferation of financial difficulty businesses such as budgeting, credit repair and debt administration and consolidation services.

She says the service provided by these for-profit and largely unregulated businesses is generally poor.

“People in financial distress need unconflicted advice. Genuine, free services like ours are run by people with professional standards and accreditation.”

- Alexandra Kelly

Answering the calls

“The more consumers use them, the more harm these businesses do,” she says. “They prey on the most vulnerable of people who typically pay a lot of money to get in more financial trouble.

“People in financial distress need unconflicted advice. Genuine, free services like ours are run by people with professional standards and accreditation. And we aren’t here to make money; we’re here to work in the best interests of clients.”

Alexandra joined the FOS Consumer Liaison Group in November 2013. She finds it a useful way of understanding how the FOS process works, so that she can inform clients.

Being on the Consumer Liaison Group also gives Alexandra an opportunity to share client experience of FOS with senior management, and through FOS, advocate for consumers with the financial services industry.

“My goal in every phone call is to help people articulate and assert their legal rights, and to speak up for consumers who cannot speak for themselves,” she says.
Webinar launches financial difficulty changes

FOS held a webinar for consumer representatives in March 2015 to introduce changes to the financial difficulty dispute resolution process.

The webinar, presented by Tim Goss, Manager Operations – Financial Difficulty, outlined how the new process would work, including how financial information would be collected.

Key consumer organisations that attended included The Salvation Army, Anglicare, Good Shepherd, Wesley Mission, UnitingCare Community, Lifeline, Legal Aid and state-based community legal centres.

The webinar was included on the program of scheduled professional development run by the Financial Counsellors’ Association of NSW, and a transcript was provided to delegates at the Financial Counselling Australia conference.

Taking the FOS message to remote communities

Located in the remote north-west of South Australia, the APY Lands are home to the Anangu, Pitjantjatjara and Yankunytjatjara peoples – a population of about 2,500. Less than one-fifth speak English at home.

The delegation met the Executive Board, which is the governing body of the APY Lands, and explained the role of both Ombudsman schemes.

They also met MoneyMob Talkabout workers who live in the community and provide casework and financial literacy education to the Anangu people.

The first dispute was lodged with FOS on behalf of an Anangu woman by a MoneyMob worker in December 2014.

“In terms of accessibility, the combination of remoteness, literacy and language is a significant barrier,” Melanie said. “MoneyMob workers are well placed to help Anangu people manage their complaints with financial services providers.”

Evaluating communications

To ensure our communications around the new process development and introduction were timely and relevant, we conducted a survey of our key stakeholders (mainly high-volume users of FOS and consumer representative groups) in October 2014.

This evaluation indicated high levels of satisfaction with communication approaches, which were meeting stakeholder needs and expectations. Based on feedback received, we implemented a member e-newsletter on the new process. A follow-up Pulse survey of these stakeholders was undertaken in June 2015.
FOS has a significant event response plan in place to ensure we respond effectively to significant events. Among the major factors that might determine that an event falls into our ‘significant event’ category are the likely significant increase in our dispute numbers, and/or the impact of the event.

The plan can be triggered by any type of event – for example, a natural disaster (bushfire, flood or cyclone etc), financial collapse or large financial services provider (FSP) technology failure. To ensure we respond quickly and proactively, we implement our plan even if it initially appears to be a relatively low-impact event in terms of how many disputes we expect it to generate.

The main objectives of the significant event response plan are to ensure that we continue to provide the same standard of service to our stakeholders by:

» consistently identifying and assessing the likely impact of significant events for consumers and FSPs as quickly and effectively as possible

» effectively dealing with any disputes arising from a significant event, and managing and controlling any impact on FOS resources and workloads

» ensuring timely and appropriate internal and external communication and stakeholder engagement during the course of a significant event.

During 2014-2015, a number of FSPs put in place remediation programs largely as a result of financial advice provided to customers.

FOS implemented tailored significant event response plans to support the resolution of disputes lodged with FOS that were not resolved through these remediation programs.

We also implemented our significant event response plan for these events:

**November 2014**
- Brisbane hailstorms

**January 2015**
- South Australian bushfires
- Swiss franc depegging from the Euro

**February 2015**
- Cyclone Marcia

**April 2015**
- NSW storms
- South-east Queensland and northern NSW severe weather
- ANZAC Day hailstorms (NSW)
Who lodged disputes

Our national, free service is available to consumers who have an unresolved dispute with a financial services provider (FSP) if the FSP is a FOS member. These consumers include individuals, partnerships of individuals, some small businesses and clubs or incorporated associations.

Our Terms of Reference

FOS operations are governed by our published Terms of Reference, which sets out the principles for how we operate, our rules and processes.

The principles that underpin our operations and processes are that, in dealing with disputes, FOS:

» must do what in our opinion is appropriate with a view to resolving disputes in a cooperative, efficient, timely and fair manner

» shall proceed with the minimum formality and technicality

» shall be as transparent as possible, while also acting in accordance with our confidentiality and privacy obligations.

The Terms of Reference sets out who is eligible to lodge a dispute, the types of disputes that we can consider, how we resolve disputes, the types of remedies that we can provide and other related matters. In addition, FOS publishes Operational Guidelines to assist understanding of the Terms of Reference and to provide further detail as to how we resolve disputes.

The most recent version of our Terms of Reference was released on 1 January 2015 following stakeholder consultation and ASIC approval.

Changes in the Terms of Reference were made in response to recommendations in the independent review and support our new dispute process. Most of the changes were effective from 1 January 2015. A further two changes come into effect on 1 January 2016.

Apart from changes to our dispute process, the changes to the Terms of Reference address disputes involving small business credit and insurance, traditional trustee companies and fee-for-service agents (see page 34).

To learn more about our Terms of Reference, see www.fos.org.au/tor or www.fos.org.au/factsheets.

About our applicants

Geographic distribution

The geographic distribution of applicants in 2014-2015 was similar to last year, and to that of the Australian population.
Age

More than three-quarters of people who lodged disputes in 2014-2015 were aged over 30. This reflects the trend for consumers to increase the number of financial services and products they hold as they get older.

As in previous years, the largest percentage of disputes lodged in 2014-2015 came from the 40-59 age group (42%)

People aged 18-24 lodged 990 disputes in 2014-2015, which was 3% of all disputes. Most of those disputes were about personal loans, comprehensive motor vehicle insurance and credit cards.

Complaints about credit cards was the most common reason the 60+ age group came to FOS.

Applicant type

As in previous years, the vast majority (almost 94%) of disputes were lodged by individuals. Just under 6% were lodged by small business, and 0.2% were lodged jointly by individuals and small business.

How applicants lodged their disputes

More than three-quarters of applicants (76%) lodged their disputes through the FOS website using our online dispute form in 2014-2015, which was an increase from 74% last year, 69% the previous year, 63% in 2011-2012 and 57% in 2010-2011. These increases correspond to greater use of the internet, and we have responded by making our online dispute form easier to use (available in late 2015).

Consumers can also lodge their dispute over the phone, by letter, email or fax.

Received complaints and disputes by age of applicant

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>60+</td>
<td>15%</td>
</tr>
<tr>
<td>40-59</td>
<td>42%</td>
</tr>
<tr>
<td>30-39</td>
<td>19%</td>
</tr>
<tr>
<td>18-24</td>
<td>3%</td>
</tr>
<tr>
<td>Other/Not specified</td>
<td>11%</td>
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</table>

<table>
<thead>
<tr>
<th>Applicant Type</th>
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<tbody>
<tr>
<td>Email</td>
<td>2,962</td>
</tr>
<tr>
<td>In person</td>
<td>9</td>
</tr>
<tr>
<td>Letter</td>
<td>3,781</td>
</tr>
<tr>
<td>Phone</td>
<td>706</td>
</tr>
<tr>
<td>Fax</td>
<td>218</td>
</tr>
<tr>
<td>Internet</td>
<td>24,219</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>31,895</strong></td>
</tr>
</tbody>
</table>
Representation

The dispute resolution service FOS provides is a free and accessible alternative to court. Applicants do not need legal or financial advice or representation to come to us, nor do they need to pay anyone to represent them. But we recognise that some applicants may prefer to have someone lodge their dispute for them or act on their behalf during the dispute resolution process. An applicant must give written authority for someone to represent them.

In 2014-2015, 5,745 applicants used a representative to lodge a dispute for them with FOS. The type of representative applicants most commonly chose was a family member or friend (39%).

Many people in financial difficulty seek the help of a consumer representative. This year, consumer representatives, including financial counsellors, Legal Aid and community lawyers from 131 community-based organisations (151 last year), helped Australians lodge 472 disputes with FOS. This number of disputes is almost one-third (32%) fewer than last year.

This decrease may help to explain an increase in the use of fee-for-service agents, who charge consumers a fee for providing representation. The number of applicants using a fee-for-service agent increased 7% following a 59% increase last year. (See also Roundtable with consumer representatives, page 28; Community centres raise financial literacy standards, page 35).

In 2014-2015, we changed our Terms of Reference regarding disputes lodged by fee-for-service agents. From 1 January 2015, FOS can refuse to consider such disputes if the agent is engaging in inappropriate conduct or the dispute does not include information requested by FOS. Our Operational Guidelines clarify how this provision will be applied (see www.fos.org.au/tor).

Disputes lodged by consumer representatives

More than 40% of the disputes lodged by consumer representatives on behalf of applicants came from just 10 organisations in 2014-2015. Legal Aid NSW again lodged the highest number of disputes on behalf of its clients.

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Aid NSW</td>
<td>42</td>
</tr>
<tr>
<td>The Salvation Army Moneycare NSW &amp; ACT</td>
<td>30</td>
</tr>
<tr>
<td>UnitingCare Victoria &amp; Tasmania*</td>
<td>20</td>
</tr>
<tr>
<td>Financial Rights Legal Centre NSW</td>
<td>18</td>
</tr>
<tr>
<td>Good Shepherd Australia New Zealand (Vic)</td>
<td>18</td>
</tr>
<tr>
<td>Uniting Communities (South Australia)</td>
<td>16</td>
</tr>
<tr>
<td>Lifeline in NSW</td>
<td>16</td>
</tr>
<tr>
<td>Anglicare Victoria</td>
<td>12</td>
</tr>
<tr>
<td>UnitingCare Community (Queensland)</td>
<td>12</td>
</tr>
<tr>
<td>UnitingCare Wesley Bowden (UCWB) South Australia</td>
<td>11</td>
</tr>
</tbody>
</table>

* Connections UnitingCare, Lentara Uniting Care, UnitingCare Regen, Wimmera UnitingCare, UnitingCare Wodonga.
Community financial counselling, legal aid and specialist legal centres play a valuable role in raising the standard of practical financial literacy, FOS said in its March 2015 submission to the Financial System Inquiry.

The submission said that these services help consumers avoid debt and other financial problems and, where problems arise, pursue and resolve disputes.

Without such services, many vulnerable and disadvantaged consumers could not take complaints to financial services providers or escalate complaints to external dispute resolution.

In its submission, FOS warned that if consumers could not get help free of charge, they may turn to commercial claims management businesses, which may prompt the emergence of a claims management industry in Australia and the issues associated with this industry in the United Kingdom.

“We have become aware of gaps in the availability of financial counselling services and consumers have indicated that they have encountered long delays when accessing these services,” the submission said. “When financial counselling is not available, or available only after long delays, consumers' financial problems are exacerbated and their personal wellbeing suffers.”

FOS strongly supports government, industry and community sector collaboration to develop a sustainable funding model for these services.
Making our service more accessible

FOS recognises that the access needs of Australians using our service can differ. Meeting these needs and adapting the way we communicate is very important.

In September 2014, we launched a video translated into 12 community languages to show consumers how FOS can help them resolve disputes.

The one-minute animation, which was developed with SBS and with the help of FOS multilingual staff, is available in English as well as Arabic, Cantonese, Greek, Italian, Korean, Mandarin, Persian, Punjabi, Spanish, Turkish and Vietnamese. The video is on our YouTube channel: www.youtube.com/fosaustralia.

We are also focused on helping vulnerable and disadvantaged applicants access our service. The FOS Access Working Group reviewed and improved guides for staff on how to quickly find practical advice and referral agencies to help applicants in crisis, such as those threatening self-harm, and for applicants with additional needs.

We introduced a priority call system for applicants identifying their own additional needs. Under this initiative, someone from FOS will call the applicant within 48 hours of their lodging a dispute with an offer of additional assistance and tailored support.

See also A more accessible website, page 27.

Additional assistance

FOS is committed to being accessible to everyone. Some of the factors that may impact on applicants’ access to our service include:

» language barriers, including English not being a person’s first language
» hearing, speech, vision and other physical impairments
» medical conditions
» literacy barriers
» mental health issues
» social and economic barriers.

We work to remove barriers to people coming to FOS, for example by offering language assistance or alternative ways of communicating.

In 2014-2015, we received 817 requests for additional assistance, which was a 1% increase from last year.

Received disputes by type of additional assistance

<table>
<thead>
<tr>
<th>Additional Assistance</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mental health</td>
<td>366</td>
</tr>
<tr>
<td>Literacy</td>
<td>100</td>
</tr>
<tr>
<td>Hearing</td>
<td>97</td>
</tr>
<tr>
<td>Physical impairment</td>
<td>96</td>
</tr>
<tr>
<td>Cognitive condition</td>
<td>93</td>
</tr>
<tr>
<td>Sight/vision</td>
<td>47</td>
</tr>
<tr>
<td>Text telephone</td>
<td>18</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>817</strong></td>
</tr>
</tbody>
</table>

For more details about additional assistance, see our accessibility guidelines at www.fos.org.au/access.

Translators

When lodging disputes, applicants are given the opportunity to request the help of a translator. This can help the applicant explain the details of their dispute to FOS, possibly by translating correspondence. Not all applicants who indicate they might need a translator end up using one, but if one is required, FOS will arrange and pay for the service.

In 2014-2015, 590 applicants requested a translator. This was a 3% increase from last year. The languages for which we received the most translator requests were Arabic (93), Cantonese and Mandarin (67), Chinese (other than Cantonese and Mandarin) (53) and Vietnamese (44).
### Received complaints and disputes by language requested

<table>
<thead>
<tr>
<th>Language</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arabic</td>
<td>93</td>
</tr>
<tr>
<td>Chinese</td>
<td>53</td>
</tr>
<tr>
<td>Vietnamese</td>
<td>44</td>
</tr>
<tr>
<td>Mandarin</td>
<td>37</td>
</tr>
<tr>
<td>Cantonese</td>
<td>30</td>
</tr>
<tr>
<td>Greek</td>
<td>23</td>
</tr>
<tr>
<td>Korean</td>
<td>23</td>
</tr>
<tr>
<td>Hindi</td>
<td>22</td>
</tr>
<tr>
<td>Persian (Farsi)</td>
<td>21</td>
</tr>
<tr>
<td>Turkish</td>
<td>19</td>
</tr>
<tr>
<td>Punjabi</td>
<td>17</td>
</tr>
<tr>
<td>Afrikaans</td>
<td>16</td>
</tr>
<tr>
<td>Spanish</td>
<td>14</td>
</tr>
<tr>
<td>Italian</td>
<td>11</td>
</tr>
<tr>
<td>Serbian</td>
<td>10</td>
</tr>
<tr>
<td>Indonesian</td>
<td>8</td>
</tr>
<tr>
<td>Filipino (Tagalog)</td>
<td>8</td>
</tr>
<tr>
<td>Sinhalese</td>
<td>8</td>
</tr>
<tr>
<td>Bengali</td>
<td>7</td>
</tr>
<tr>
<td>Dari</td>
<td>7</td>
</tr>
<tr>
<td>Macedonian</td>
<td>7</td>
</tr>
<tr>
<td>Russian</td>
<td>7</td>
</tr>
<tr>
<td>Croatian</td>
<td>6</td>
</tr>
<tr>
<td>Portuguese</td>
<td>6</td>
</tr>
<tr>
<td>Tamil</td>
<td>6</td>
</tr>
<tr>
<td>Gujarati</td>
<td>5</td>
</tr>
<tr>
<td>Thai</td>
<td>5</td>
</tr>
<tr>
<td>Albanian</td>
<td>4</td>
</tr>
<tr>
<td>Bosnian</td>
<td>4</td>
</tr>
<tr>
<td>Nepalese</td>
<td>4</td>
</tr>
<tr>
<td>Urdu</td>
<td>4</td>
</tr>
<tr>
<td>Amharic</td>
<td>3</td>
</tr>
<tr>
<td>Burmese</td>
<td>3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Language</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deaf-Oral</td>
<td>3</td>
</tr>
<tr>
<td>French</td>
<td>3</td>
</tr>
<tr>
<td>Japanese</td>
<td>3</td>
</tr>
<tr>
<td>Kurdish</td>
<td>3</td>
</tr>
<tr>
<td>Ashanti</td>
<td>2</td>
</tr>
<tr>
<td>Assyrian</td>
<td>2</td>
</tr>
<tr>
<td>Deaf-Sign</td>
<td>2</td>
</tr>
<tr>
<td>Estonian</td>
<td>2</td>
</tr>
<tr>
<td>Finnish</td>
<td>2</td>
</tr>
<tr>
<td>German</td>
<td>2</td>
</tr>
<tr>
<td>Malayalam</td>
<td>2</td>
</tr>
<tr>
<td>Pidgin English</td>
<td>2</td>
</tr>
<tr>
<td>Romanian</td>
<td>2</td>
</tr>
<tr>
<td>Samoan</td>
<td>2</td>
</tr>
<tr>
<td>Slovene</td>
<td>2</td>
</tr>
<tr>
<td>Tibetan</td>
<td>2</td>
</tr>
<tr>
<td>Ukrainian</td>
<td>2</td>
</tr>
<tr>
<td>Wolof (African dialect)</td>
<td>2</td>
</tr>
<tr>
<td>Akan (Ghana)</td>
<td>1</td>
</tr>
<tr>
<td>Armenian</td>
<td>1</td>
</tr>
<tr>
<td>Creole</td>
<td>1</td>
</tr>
<tr>
<td>Czech</td>
<td>1</td>
</tr>
<tr>
<td>Dutch</td>
<td>1</td>
</tr>
<tr>
<td>Fijian</td>
<td>1</td>
</tr>
<tr>
<td>Hebrew</td>
<td>1</td>
</tr>
<tr>
<td>Khmer</td>
<td>1</td>
</tr>
<tr>
<td>Lao</td>
<td>1</td>
</tr>
<tr>
<td>Latin</td>
<td>1</td>
</tr>
<tr>
<td>Maori</td>
<td>1</td>
</tr>
<tr>
<td>Polish</td>
<td>1</td>
</tr>
<tr>
<td>Swahili</td>
<td>1</td>
</tr>
<tr>
<td>Swedish</td>
<td>1</td>
</tr>
<tr>
<td>Tigrigna</td>
<td>1</td>
</tr>
</tbody>
</table>

**Total** 590
Overview of disputes
How we classify disputes

We classify disputes according to:

- the **product/s** the consumer is complaining about
- the **issue/s** involved in the dispute
- the **sales** or service channel the consumer used to purchase or get advice about the product in dispute
- the **outcome** of the dispute (once it is closed)

This section details all the classifications within these categories.
An overview of how we classify financial products

Percentages below are for disputes lodged in 2014-2015

Credit 49%

Business finance
» Business credit card
» Business loans
» Commercial bills
» Hire purchase/lease
» Letter of credit
» Line of credit/overdraft
» Non-FSP debt

Consumer credit
» Construction loans
» Credit cards
» Equity release
» Hire purchase/lease
» Home loans
» Interest-free finance
» Investment property loans
» Line of credit/overdraft
» Non-FSP debt
» Personal loans
» Short-term finance

Guarantees
» Bank guarantees
» Business guarantees
» Consumer guarantees

Margin loans

General insurance 26%

Domestic insurance
» Consumer credit insurance
» Home building
» Home contents
» Motor vehicle – comprehensive
» Motor vehicle – third party fire and theft
» Motor vehicle – third party theft
» Motor vehicle – uninsured third party
» Personal and domestic property – caravan
» Personal and domestic property – domestic pet
» Personal and domestic property – horse
» Personal and domestic property – mobile phone

Non-cash
» Loyalty programs
» Non-cash systems
» Stored value cards
» Travellers’ cheques

Deposit taking 7%

Current accounts
» Business transaction accounts
» Foreign currency accounts
» Mortgage offset accounts
» Passbook accounts
» Personal transaction accounts

Safe custody

Savings accounts
» Bank bills
» Cash management accounts
» First home buyer accounts
» Online accounts
» Term deposits

Investment 5%

Derivatives/hedging
» Contracts for difference
» Foreign exchange
» Forwards
» Futures
» Options
» Swaps

Managed investments
» Australian equity funds
» Cash management accounts
» Charitable/educational schemes
» Film schemes
» Horse schemes
» International equity funds
» Investor direct portfolio services
» Managed discretionary accounts
» Managed strata title schemes
» Mixed asset funds
» Mortgage schemes
» Primary production schemes
» Property funds
» Timeshare schemes
» Trustee common funds
How we classify disputes

FOS handles disputes across many areas of financial services. Our classification system divides these disputes into product types.

There are seven main product types: credit, deposit taking, general insurance, investments, life insurance, payment systems and traditional trustee services.

Accepted disputes by product line in 2014-2015

- **Credit** 49%
- **Traditional trustee services** <1%
- **Life insurance** 5%
- **Investment** 5%
- **Payment systems** 7%
- **Deposit taking** 7%
- **General insurance** 26%

There are 23 product categories within these product types and 133 individual products.

As the diagram below demonstrates, we receive many disputes about some products, such as credit and general insurance, and receive a very small number about other products, such as traditional trustee services.
**2 Issues**

We also classify disputes according to the issue/s involved. For example, a person may lodge a dispute about an FSP declining their request for financial difficulty assistance (issue) in respect of their home loan (product).

Some issues, such as those relating to financial difficulty, are very common in the disputes we receive, while others are less frequent.

The table below provides the major issue types as well as the specific issues that fall under each type.

<table>
<thead>
<tr>
<th>Advice</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to act in client’s best interest</td>
<td>Denial of claim – no proof of loss</td>
</tr>
<tr>
<td>Failure to prioritise client’s interests</td>
<td>Denial of variation request</td>
</tr>
<tr>
<td>Failure to provide advice</td>
<td>Error in debt collection</td>
</tr>
<tr>
<td>Inappropriate advice</td>
<td>Inappropriate debt collection action</td>
</tr>
<tr>
<td>Incorrect advice</td>
<td>Inappropriate margin call notice</td>
</tr>
<tr>
<td></td>
<td>Interpretation of policy terms and conditions</td>
</tr>
<tr>
<td></td>
<td>Liability disputed</td>
</tr>
<tr>
<td></td>
<td>Maladministration in lending</td>
</tr>
<tr>
<td></td>
<td>Maladministration in loan management</td>
</tr>
<tr>
<td></td>
<td>Product terms/features/service</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Charges</td>
<td></td>
</tr>
<tr>
<td>Break costs</td>
<td></td>
</tr>
<tr>
<td>Deductible or excess</td>
<td></td>
</tr>
<tr>
<td>Incorrect commissions</td>
<td></td>
</tr>
<tr>
<td>Incorrect fees/costs</td>
<td></td>
</tr>
<tr>
<td>Incorrect interest added</td>
<td></td>
</tr>
<tr>
<td>Incorrect premiums</td>
<td></td>
</tr>
<tr>
<td>No claim bonus</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Disclosure</td>
<td></td>
</tr>
<tr>
<td>Break costs disclosure</td>
<td></td>
</tr>
<tr>
<td>Fee disclosure</td>
<td></td>
</tr>
<tr>
<td>Incorrect product/service information</td>
<td></td>
</tr>
<tr>
<td>Insufficient product/service information</td>
<td></td>
</tr>
<tr>
<td>Misleading product/service information</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Financial difficulty</td>
<td></td>
</tr>
<tr>
<td>Decline of financial difficulty request</td>
<td>Denial of claim – no proof of loss</td>
</tr>
<tr>
<td>Default notice</td>
<td>Denial of variation request</td>
</tr>
<tr>
<td>FSP failure to respond to request for assistance</td>
<td>Error in debt collection</td>
</tr>
<tr>
<td>Request to suspend enforcement proceedings</td>
<td>Inappropriate debt collection action</td>
</tr>
<tr>
<td></td>
<td>Inappropriate margin call notice</td>
</tr>
<tr>
<td></td>
<td>Interpretation of policy terms and conditions</td>
</tr>
<tr>
<td></td>
<td>Liability disputed</td>
</tr>
<tr>
<td></td>
<td>Maladministration in lending</td>
</tr>
<tr>
<td></td>
<td>Maladministration in loan management</td>
</tr>
<tr>
<td></td>
<td>Product terms/features/service</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Instructions</td>
<td></td>
</tr>
<tr>
<td>Delay</td>
<td></td>
</tr>
<tr>
<td>Failure to follow instructions/agreement</td>
<td></td>
</tr>
<tr>
<td>Incorrectly processed instructions</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-Terms of Reference issues</td>
<td></td>
</tr>
<tr>
<td>Non-Terms of Reference</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Privacy and confidentiality</td>
<td></td>
</tr>
<tr>
<td>Consumer credit reporting</td>
<td></td>
</tr>
<tr>
<td>Failure/refusal to provide access</td>
<td></td>
</tr>
<tr>
<td>Other privacy breaches</td>
<td></td>
</tr>
<tr>
<td>Unauthorised information disclosed</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Service</td>
<td></td>
</tr>
<tr>
<td>Delay in claim handling</td>
<td></td>
</tr>
<tr>
<td>Delay in complaint handling</td>
<td></td>
</tr>
<tr>
<td>Failure to provide special needs assistance</td>
<td></td>
</tr>
<tr>
<td>Inappropriate portfolio liquidation</td>
<td></td>
</tr>
<tr>
<td>Incorrect financial information provided</td>
<td></td>
</tr>
<tr>
<td>Loss of documents/personal property</td>
<td></td>
</tr>
<tr>
<td>Management of applicant details</td>
<td></td>
</tr>
<tr>
<td>Service quality</td>
<td></td>
</tr>
<tr>
<td>Technical problems</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Transactions</td>
<td></td>
</tr>
<tr>
<td>Dishonoured transactions</td>
<td></td>
</tr>
<tr>
<td>Incorrect payment</td>
<td></td>
</tr>
<tr>
<td>Mistaken internet payment</td>
<td></td>
</tr>
<tr>
<td>Unauthorised transactions</td>
<td></td>
</tr>
</tbody>
</table>
We also classify disputes according to the sales and service channel, or type of business, the FSP was conducting in providing the product or service that the dispute is about.

For example, where a dispute concerns a general insurance policy sold through a broker, and the dispute is lodged against the policy issuer, the sales and service channel is “general insurer”. But if the dispute is lodged against the broker, the sales and service channel is “general insurance broker”.

Some FSPs operate through multiple sales and service channels while others operate through a single channel.

The table below shows a full list of the sales and service channels of our members.

### Sales and service channels

| Accountant | Make a market |
| Administration services provider | Managed discretionary account operator |
| Bank | MIS operator/fund manager |
| Building society | Mortgage aggregator |
| Charity/community fund | Mortgage broker |
| Clearing/settlement house | Mortgage manager |
| Corporate advisor | Mortgage originator |
| Coverholder | Non-cash payment system provider |
| Credit provider | Pooled superannuation trust |
| Credit reporting agency | Private health insurer |
| Credit representative | Product distributor |
| Credit union | Product issuer |
| Custodial and depository services | Professional indemnity insurer |
| Debt collector or buyer | Provider of lender of record services |
| Derivatives dealer | Reinsurer/reinsurance agent |
| Finance broker | Research house |
| Financial advisor/planner | Securities dealer |
| Foreign exchange dealer | Stockbroker |
| Friendly society | Superannuation fund trustee/advisor |
| General insurance broker | Timeshare scheme operators |
| General insurer | Travellers’ cheques/foreign currency transfer provider |
| Life insurance broker | Trustee |
| Life insurer | Underwriting agency |
| | Warranty provider |

### Outcomes

We use the term ‘closed dispute’ to refer to a dispute we have finished handling.

A dispute can be closed:

» through an agreement between the parties involved

» through a decision made by FOS

» because the dispute is discontinued or outside our Terms of Reference.

When FOS finishes handling a dispute, we classify it according to its outcome and outcome type. The possible outcomes and outcome types are listed on the following pages.
How we classify disputes

Resolved by agreement

These outcomes are reached by agreement between the consumer and the FSP. They can reach agreement by communicating directly with each other (resolved by the FSP) or with the help of FOS (conciliation or negotiation).

Conciliation involves a telephone conference between the FSP, the applicant and FOS. This technique allows both parties to talk about the issues of the complaint in an attempt to reach a mutually agreeable outcome. Our conciliators bring the parties together to guide the conversation to make it easier for everyone to talk about the issues involved (see Conciliation conferences, page 94).

Resolved by agreement

<table>
<thead>
<tr>
<th>Conciliation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apology</td>
</tr>
<tr>
<td>Capitalisation of arrears</td>
</tr>
<tr>
<td>Hardship superannuation release</td>
</tr>
<tr>
<td>Monetary compensation in full</td>
</tr>
<tr>
<td>Monetary compensation in part</td>
</tr>
<tr>
<td>No compensation or action</td>
</tr>
<tr>
<td>Not disclosed</td>
</tr>
<tr>
<td>Other product, service or resolution provided</td>
</tr>
<tr>
<td>Partial waiver of debt/interest/fees</td>
</tr>
<tr>
<td>Policy/contract altered/voided/cancelled</td>
</tr>
<tr>
<td>Repayment arrangement</td>
</tr>
<tr>
<td>Timeframe for refinance</td>
</tr>
<tr>
<td>Timeframe for sale/surrender of asset</td>
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</tbody>
</table>

Negotiation

<table>
<thead>
<tr>
<th>Negotiation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apology</td>
</tr>
<tr>
<td>Capitalisation of arrears</td>
</tr>
<tr>
<td>Hardship superannuation release</td>
</tr>
<tr>
<td>Monetary compensation in full</td>
</tr>
<tr>
<td>Monetary compensation in part</td>
</tr>
<tr>
<td>No compensation or action</td>
</tr>
<tr>
<td>Not disclosed</td>
</tr>
<tr>
<td>Other product, service or resolution provided</td>
</tr>
<tr>
<td>Partial waiver of debt/interest/fees</td>
</tr>
<tr>
<td>Policy/contract altered/voided/cancelled</td>
</tr>
<tr>
<td>Repayment arrangement</td>
</tr>
<tr>
<td>Timeframe for refinance</td>
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<tr>
<td>Timeframe for sale/surrender of asset</td>
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</tbody>
</table>

Resolved by FSP

<table>
<thead>
<tr>
<th>Resolved by FSP</th>
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</thead>
<tbody>
<tr>
<td>Resolved by FSP</td>
</tr>
<tr>
<td>Apology</td>
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<tr>
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</tr>
<tr>
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<tr>
<td>Monetary compensation in part</td>
</tr>
<tr>
<td>No compensation or action</td>
</tr>
<tr>
<td>Not disclosed</td>
</tr>
</tbody>
</table>

Resolved by FOS decision or assessment

These outcomes are reached following a FOS recommendation or determination or other assessment about the merits of a dispute.

A recommendation to the parties is an assessment provided by FOS following a detailed investigation into the dispute. If the consumer or FSP rejects the recommendation or the FSP fails to respond, the dispute proceeds to the final stage in our process. At that stage, an Ombudsman, Adjudicator or panel reviews the dispute and makes a formal decision called a determination, by which the FSP is bound, if the consumer accepts it.

Some disputes proceed directly to determination without a recommendation being made. These are known as expedited determinations. FOS applies criteria in deciding whether standard and complex disputes ought to be expedited. Where a dispute is expedited to determination, FOS will usually provide the parties with a preliminary view through a telephone call, case conference or letter.

Preliminary view in favour of applicant

<table>
<thead>
<tr>
<th>Preliminary view in favour of applicant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capitalisation of arrears</td>
</tr>
<tr>
<td>Monetary compensation in full</td>
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<tr>
<td>Monetary compensation in part</td>
</tr>
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</tr>
</tbody>
</table>

Preliminary view in favour of FSP

<table>
<thead>
<tr>
<th>Preliminary view in favour of FSP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capitalisation of arrears</td>
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<tr>
<td>Monetary compensation in full</td>
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</tr>
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</tr>
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</tr>
<tr>
<td>Timeframe for refinance</td>
</tr>
<tr>
<td>Timeframe for sale/surrender of asset</td>
</tr>
</tbody>
</table>

We may provide the parties with guidance on the merits of a dispute after we have investigated and considered the issues raised. Disputes resolved through such guidance are recorded with an Assessment outcome. We have reclassified these outcomes as Outside Terms of Reference, where provided in writing, following a recommendation made in the independent review of FOS last year. This reclassification improves transparency of our reporting.
How we classify disputes

**Resolved by FOS decision or Assessment**

<table>
<thead>
<tr>
<th>Decision in favour of applicant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capitalisation of arrears</td>
</tr>
<tr>
<td>Monetary compensation in full</td>
</tr>
<tr>
<td>Monetary compensation in part</td>
</tr>
<tr>
<td>Other product, service or resolution provided</td>
</tr>
<tr>
<td>Repayment arrangement</td>
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<tr>
<td>Timeframe for refinance</td>
</tr>
<tr>
<td>Timeframe for sale/surrender of asset</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Decision in favour of FSP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capitalisation of arrears</td>
</tr>
<tr>
<td>Monetary compensation in part</td>
</tr>
<tr>
<td>No compensation or action</td>
</tr>
<tr>
<td>Other product, service or resolution provided</td>
</tr>
<tr>
<td>Repayment arrangement</td>
</tr>
<tr>
<td>Timeframe for refinance</td>
</tr>
<tr>
<td>Timeframe for sale/surrender of asset</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apology</td>
</tr>
<tr>
<td>Capitalisation of arrears</td>
</tr>
<tr>
<td>Monetary compensation in full</td>
</tr>
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</tr>
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</tr>
<tr>
<td>Timeframe or refinance</td>
</tr>
<tr>
<td>Timeframe for sale/surrender of asset</td>
</tr>
</tbody>
</table>

**Discontinued or Outside Terms of Reference**

**Discontinued**

- Sale of asset
- Fee-for-service agent conduct
- Beneficiary legal proceedings
- Discontinued by applicant
- Failure to respond
- Outside Terms of Reference

**Outside Terms of Reference**

4.1 Applicant not eligible

4.2(a) Dispute not under Australian law
4.2(b) Type of dispute outside ToR
4.2(c) Not a current FOS member
4.3 Excluded by general insurance policy

5.1(a) Privacy only
5.1(b) Level of fee/premium/charge
5.1(c) Credit risk assessment
5.1(d) Underwriting/actuarial factors led to offer of non-standard life
5.1(e) General insurance premium ratings/weightings
5.1(f) Insurance cover refusal
5.1(g) Investment performance
5.1(h) Trustee decision
5.1(i) Management of a fund as a whole
5.1(j) Allocation of benefit
5.1(k) Dispute previously dealt with by FOS
5.1(l) Deal with by court/tribunal/scheme
5.1(m) Legal proceedings previously commenced before lodgement
5.1(n) Lodged with other external dispute resolution (EDR) scheme
5.1(o) Claim exceeds 500K
5.1(p) Related to body corporate >20/100
5.1(q) Small business credit facility exceeds $2M
5.1(s) Excluded traditional trustee company service
5.1(t) Alleged capacity of testator
5.1(u) Excluded professional accounting service
5.2 General discretion
5.2(a) More appropriate place
5.2(b) Non-retail client
5.2(c) FSP practice/policy
5.2(d) Frivolous/vexatious/lacking in substance
5.2(e) Legal proceedings commenced
5.2(f) FSP practice/policy
6.2(a)(ii) Outside 2 year National Credit Code (NCC) credit contract internal dispute resolution (IDR) time limit
6.2(a)(i) Outside 2 year National Credit Code (NCC) credit contract time limit
6.2(b)(i) Outside 6 year time limit
6.2(b)(ii) Outside 2 year internal dispute resolution (IDR) time limit

**Discontinued or Outside Terms of Reference**

These outcomes reflect disputes that are outside our Terms of Reference (that is, not the kind of disputes that FOS can consider) or that are discontinued because the consumer chooses to discontinue the dispute or stops communicating with FOS.

In 2014-2015, following a recommendation made in the independent review of FOS, we changed the way we classify disputes that have been finalised on the basis that further investigation is not warranted after considering the facts of the dispute. This may be because it is clear that there was no loss, loss has been appropriately compensated by the FSP or there was clearly no error by the FSP.

In financial difficulty disputes this may occur when the FSP has met its financial difficulty obligations to the applicant and has proposed a solution which is fair in the circumstances, but this has not been accepted by the consumer. In previous years, these disputes have been classified with an Assessment outcome. We now classify these disputes as Outside Terms of Reference. For more information on this change, please see Excluding Disputes at [www.fos.org.au/approach](http://www.fos.org.au/approach).
Our dispute resolution process

The process outlined below was used in 2014-2015 but was replaced from 1 July 2015 with a streamlined dispute resolution process (see page 7).

Internal dispute resolution
Most disputes received by FOS are resolved directly between financial services providers (FSPs) and their customers.

Once a dispute has been lodged with FOS, we give the FSP the opportunity to resolve the dispute directly with the applicant through its own internal dispute resolution (IDR) process. Many FSPs have a dedicated complaints department with which consumers can deal.

External dispute resolution
If a complaint is not resolved through the FSP’s IDR process, or it has already been through IDR before it is lodged with FOS, it proceeds to FOS which is an external dispute resolution (EDR) scheme.

As an EDR scheme, our role as an independent external party is to investigate and consider a dispute to help the FSP and the consumer resolve the dispute.

FOS dispute stages
In 2014-2015, these were the key stages of our dispute resolution process:

1 Register a dispute
A consumer contacts the FSP or registers the dispute with us. The FSP has 45 days to respond (21 days in financial difficulty cases) before we can get involved. We encourage the consumer and FSP to resolve the disputes themselves if possible.

2 Acceptance
If the dispute has not been resolved between the consumer and the FSP, we assess if it is a type of dispute we can consider. If we cannot, we will let the consumer know if another organisation may be able to help.

3 Resolution by agreement
We gather information about the dispute from the consumer and the FSP and select the most suitable way to resolve the dispute (eg conciliation, negotiation).

4 Written decision
If the parties cannot reach agreement, we will provide a written assessment of how we think a dispute should be resolved.

A determination is binding on the FSP if the consumer accepts it, and is the last thing we can do to help resolve a dispute.
How we count disputes

What we record about complaints referred for internal dispute resolution (IDR)

At Registration, we lodge the dispute in our system, record some basic information about the issue(s) in dispute and then send the details to the FSP.

What we record about disputes that we consider

At the Acceptance stage of our process, we assess whether a dispute is within our jurisdiction and we record extensive information about it. We classify it according to the product(s) or services(s) it relates to, the issue(s) it raises, and the sales and service channels(s) through which the consumer bought the product(s) or service(s) in dispute.

Having detailed information helps us to select the most appropriate way to help the parties resolve the dispute. It also enables us to report accurately and thoroughly about the disputes we have dealt with. We continue to update our dispute data and information as the dispute progresses.

In our new dispute process, which was implemented on 1 July 2015, all disputes registered by FOS are referred back to the FSP to provide another opportunity for the parties to resolve their dispute. This means that FOS will accept fewer disputes in 2015-2016, because some will be resolved by the parties themselves during this period.

What we record about disputes involving multiple issues or products

Some of the disputes we receive are about more than one product/service or more than one issue. For example, a consumer might complain about their residential strata title insurance policy (Product A) and about damaged furniture they believe should have been covered by their home contents insurance policy (Product B) which is separate from their residential strata title insurance policy.

The approach we usually take is to establish one case file but to record the fact that more than one product has been complained about and that more than one issue has been raised. This is an important aspect of both case management and dispute resolution. It ensures all aspects of a dispute are considered and provides an accurate picture of the causes of a consumer’s concerns.

However, it also means that there are two ways that we can count and report on disputes. We can count a dispute that involves multiple products and issues as a single dispute, because it comes from one consumer and we hold one case file on it. Alternatively, we can count it as multiple disputes: one for each product or distinct issue in dispute. Which of these counting methods we use depends on what we are reporting – as explained below.

Reporting the total number of disputes

When we report the total number of disputes we received or closed, we count each case as one dispute even if it is about multiple products and issues. This is the best way of presenting FOS’s overall dispute input and output in a year. We have used this counting method in the following sections of this review:

» Total disputes received (page 48)
» Total disputes closed (page 51)
» Who lodged disputes (page 32)

Reporting about products, issues and sales and service channels

When we want to analyse the products, issues and sales and service channels involved in disputes, we exclude the cases we received and closed in Registration. We focus on accepted disputes – that is, disputes that reached the Acceptance stage of our dispute resolution process.

For accepted disputes, a case that is about more than one distinct issue will be counted as two disputes: one for each issue. This enables us to provide an accurate picture of the proportions of disputes that involve each product and issue.

We have used this counting method in the following sections of this review:

» What the disputes were about (page 54)
» Credit disputes (page 58)
» General insurance disputes (page 63)
» Payment systems disputes (page 68)
» Deposit-taking disputes (page 70)
» Investment disputes (page 74)
» Life insurance disputes (page 80)
» Traditional trustee service disputes (page 84).

We use both counting methods for the remaining two sections: Financial difficulty disputes (page 85) and Legal proceedings disputes (page 92).

Disputes ‘not yet determined’

In this Annual Review, the category ‘Not yet determined’ is used to refer to disputes we have only just received and about which we may not yet have all relevant information – such as the products, sales and service channels and issues involved.

Figures from previous years reflect data that was correct at the time that data was collected. Disputes from previous years listed as ‘Not yet determined’ have therefore not been adjusted, even though they would have been determined by 2014-2015.
FOS received 31,895 disputes in 2014-2015. This was a 1% increase from last year.

Dispute numbers have stabilised in the past three years after steep increases from 2009-2010 to 2011-2012.

The key reasons for the general decline in dispute numbers since then are reductions in:

» Financial difficulty disputes, which we believe is due largely to improvements FSPs have made in managing financial hardship requests.

» General insurance and natural disaster-related disputes due to a much higher prevalence of insurance covering flooding, greater consumer awareness about flood cover and improved industry practice.

<table>
<thead>
<tr>
<th>Year</th>
<th>Case Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008-09</td>
<td>22,392</td>
</tr>
<tr>
<td>2009-10</td>
<td>23,790</td>
</tr>
<tr>
<td>2010-11</td>
<td>30,283</td>
</tr>
<tr>
<td>2011-12</td>
<td>36,099</td>
</tr>
<tr>
<td>2012-13</td>
<td>32,307</td>
</tr>
<tr>
<td>2013-14</td>
<td>31,680</td>
</tr>
<tr>
<td>2014-15</td>
<td>31,895</td>
</tr>
</tbody>
</table>

FOS received an average 2,658 disputes per month in 2014-2015, up from 2,640 in 2013-2014. Our busiest month was March 2015 (2,961) and our quietest was November 2014 (2,406).
Registration and acceptance

The table below shows how the 31,895 disputes that FOS received in 2014-2015 entered the FOS dispute resolution process (see page 46 for more information on our process).

### Stage into which disputes entered FOS process

<table>
<thead>
<tr>
<th></th>
<th>Number</th>
<th>%</th>
<th>2013-14</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registration</td>
<td>14,053</td>
<td>44%</td>
<td>43%</td>
</tr>
<tr>
<td>Acceptance</td>
<td>17,842</td>
<td>56%</td>
<td>57%</td>
</tr>
<tr>
<td><strong>Total disputes received</strong></td>
<td><strong>31,895</strong></td>
<td><strong>100%</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

Registered disputes

We registered 14,053 disputes in 2014-2015, compared with 13,513 last year. This was an increase of 4%. March 2015 had the most disputes registered for the year, and November 2014 had the least.

Not all registered disputes proceed to the Acceptance stage of our process. During 2014-2015, 5,502 registered disputes progressed to Acceptance – an average of 459 a month. Last year, 5,287 disputes progressed to Acceptance at a monthly average of 441.

Almost two-thirds (60%) of the disputes we received at Registration were closed after they were referred back to the FSP and went through the FSP’s internal dispute resolution (IDR) process (see page 46 for explanation of IDR). This was the same as last year. These disputes are resolved by the FSP and the consumer working together. This highlights the value of FSPs considering disputes before FOS becomes involved.

![Number of disputes registered by month graph](image)
Accepted disputes

We accepted 23,344 disputes in 2014-2015, down slightly (0.5%) from last year. The accepted disputes consisted of 17,842 disputes that entered directly into our dispute process at Acceptance and 5,502 that progressed to Acceptance from Registration. The peak was in July 2014.

It should be noted that some of the disputes we accept (that enter the Acceptance stage of our process) are ultimately found to be outside our jurisdiction (see page 53 for more information).

Number of disputes accepted by month

Accepted disputes

Accepted disputes that had bypassed Registration
FOS closed 34,714 disputes in 2014-2015, almost 4% more than last year. We eliminated our backlog in case management in December 2014, and at all stages of our dispute process in June 2015.

A dispute can be closed at different stages in our dispute resolution process (see page 46). It may close through an agreement between the parties involved, through a decision made by FOS or because the dispute is discontinued or outside our Terms of Reference.

Of the disputes we closed in 2014-2015, 8,645 were closed during the Registration stage and 26,069 during or after the Acceptance stage.

<table>
<thead>
<tr>
<th>Stage at which disputes were closed</th>
<th>2010-11</th>
<th>2011-12</th>
<th>2012-13</th>
<th>2013-14</th>
<th>2014-15</th>
</tr>
</thead>
<tbody>
<tr>
<td>During Registration stage</td>
<td>9,735</td>
<td>11,066</td>
<td>8,805</td>
<td>8,348</td>
<td>8,645</td>
</tr>
<tr>
<td>During or after Acceptance stage</td>
<td>19,091</td>
<td>24,983</td>
<td>24,968</td>
<td>25,102</td>
<td>26,069</td>
</tr>
<tr>
<td>Total</td>
<td>28,826</td>
<td>36,049</td>
<td>33,773</td>
<td>33,450</td>
<td>34,714</td>
</tr>
</tbody>
</table>

**Time taken to close disputes**

In 2014-2015 we achieved an increase of four percentage points in the proportion of disputes closed within 30 days (22% compared with 18% last year and 15% the previous year). Almost two-thirds (61% compared with 56% last year) were closed within 60 days and almost three-quarters (72% compared with 67% last year) within 90 days.

Reducing the time taken to close disputes is a major focus for FOS in our initiatives to deliver a more efficient and effective dispute resolution service.

**Days taken to close disputes**

<table>
<thead>
<tr>
<th>Days</th>
<th>2011-12 %</th>
<th>2012-13 %</th>
<th>2013-14 %</th>
<th>2014-15 %</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;=30</td>
<td>12</td>
<td>15</td>
<td>18</td>
<td>22</td>
</tr>
<tr>
<td>31-60</td>
<td>40</td>
<td>40</td>
<td>38</td>
<td>39</td>
</tr>
<tr>
<td>61-90</td>
<td>11</td>
<td>11</td>
<td>11</td>
<td>11</td>
</tr>
<tr>
<td>91-180</td>
<td>18</td>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>181-270</td>
<td>10</td>
<td>8</td>
<td>7</td>
<td>6</td>
</tr>
<tr>
<td>271-365</td>
<td>4</td>
<td>5</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>366-730</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>&gt;730</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

**Outcomes of disputes closed**

The possible outcomes of a dispute handled by FOS are listed on pages 44-45. The table on page 52 shows the outcomes of the disputes closed in the past four years. The chart groups the outcomes into categories – resolved by agreement, resolved by FOS decision or assessment, discontinued and outside the FOS Terms of Reference.

The proportion of disputes closed by agreement between the applicant and the FSP dropped from 72% in 2011-2012 to 67% the following year, 65% last year and 63% in 2014-2015. The proportion of disputes resolved through a FOS decision – because an agreement could not be reached – was almost 14% in 2014-2015.
Collaborative resolutions are quicker and cheaper than resolutions achieved through a formal decision by FOS. They can be tailored to the specific facts of the dispute and are also more likely to maintain, or even improve, relationships between the consumer and their FSP.

The proportion of disputes that were discontinued fell from 8% in 2012-2013 to 7% in 2013-2014 and 6% in 2014-2015. A dispute is recorded as being discontinued if the applicant decides to discontinue their dispute or to pursue it through alternative means (eg in court), or if the applicant fails to respond to several requests from us for contact and information. FOS has a follow-up process in place for situations in which an applicant does not respond to communication from us.

Outcomes of disputes closed

<table>
<thead>
<tr>
<th></th>
<th>2011-12</th>
<th>%</th>
<th>2012-13</th>
<th>%</th>
<th>2013-14</th>
<th>%</th>
<th>2014-15</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>RESOLVED BY AGREEMENT</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Resolved by FSP</td>
<td>23,699</td>
<td>66</td>
<td>18,785</td>
<td>56</td>
<td>18,252</td>
<td>55</td>
<td>18,273</td>
<td>53</td>
</tr>
<tr>
<td>Negotiation</td>
<td>1,359</td>
<td>4</td>
<td>2,720</td>
<td>8</td>
<td>2,674</td>
<td>8</td>
<td>2,565</td>
<td>7</td>
</tr>
<tr>
<td>Conciliation</td>
<td>752</td>
<td>2</td>
<td>857</td>
<td>3</td>
<td>829</td>
<td>2</td>
<td>878</td>
<td>3</td>
</tr>
<tr>
<td>Agreed resolution*</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>RESOLVED BY FOS DECISION OR ASSESSMENT</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decision in favour of FSP</td>
<td>1,500</td>
<td>4</td>
<td>1,576</td>
<td>5</td>
<td>1,667</td>
<td>5</td>
<td>2,078</td>
<td>6</td>
</tr>
<tr>
<td>Decision in favour of applicant</td>
<td>1,234</td>
<td>3</td>
<td>1,400</td>
<td>4</td>
<td>1,381</td>
<td>4</td>
<td>1,478</td>
<td>4</td>
</tr>
<tr>
<td>Decision confirming FSP's offer/action</td>
<td>280</td>
<td>1</td>
<td>86</td>
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<td>1,406</td>
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<td><strong>DISCONTINUED OR OUTSIDE TERMS OF REFERENCE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Discontinued</td>
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<td>2,681</td>
<td>8</td>
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<td>7</td>
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<td><strong>Total</strong></td>
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<td>33,773</td>
<td>100</td>
<td>33,450</td>
<td>100</td>
<td>34,714</td>
<td>100</td>
</tr>
</tbody>
</table>

* ‘Agreed resolution’ was an outcome used under our old Terms of Reference to cover resolutions reached collaboratively without FOS having to make a formal decision on a dispute. Under our revised Terms of Reference, we split Resolved by Agreement outcomes into three types - resolved by FSP, negotiation and conciliation - corresponding to the way a resolution was reached.
**Disputes Outside our Terms of Reference (OTR)**

Our Terms of Reference (available at [www.fos.org.au/tor](http://www.fos.org.au/tor)) explain our jurisdiction – what kinds of disputes we can consider, who can bring disputes to FOS, and which kinds of FSPs can handle disputes.

The proportion of disputes outside our Terms of Reference increased from 11% in 2011-2012 to 17% in 2014-2015.

This year, 5,913 disputes were found to be outside our jurisdiction. This was 20% more than last year (4,914). The largest increases were general discretion (73%), type of dispute outside Terms of Reference (32%) and more appropriate place (25%), and the largest decrease was dealt with by court/tribunal/scheme (12%).

Key reasons for the rise in the general discretion category included changes in the classification of disputes from assessment outcomes to outside Terms of Reference after an assessment has been made that further investigation of a matter is not warranted (see pages 44-45 for further details). This change in classification applies to disputes where there was no loss, loss has been appropriately compensated by the FSP or there was clearly no error by the FSP; and in financial difficulty disputes where an FSP has proposed a fair and reasonable repayment or credit variation but the proposal has not been accepted.

In the ‘more appropriate place’ category, the main increases related to disputes referred to the Superannuation Complaints Tribunal, such as disputes relating to superannuation trustee decisions and matters involving life insurance issued through a superannuation fund, and disputes referred to other Ombudsman services.

The table (right) categorises these disputes according to the reasons we could not consider them.


---

**OTR for new Terms of Reference by outcome types (reasons)**

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<th>Reason</th>
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</tr>
</thead>
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<td>4.1 Applicant not eligible</td>
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</tr>
<tr>
<td>4.2(a) Dispute not under Australian law</td>
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<tr>
<td>4.2(b) Type of dispute outside ToR</td>
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<tr>
<td>4.2(c) Not a current FOS member</td>
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<tr>
<td>4.3 Excluded GI policy</td>
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<tr>
<td>5.1(a) Privacy only</td>
<td>17</td>
</tr>
<tr>
<td>5.1(b) Level of fee/premium/charge</td>
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<tr>
<td>5.1(c) Credit risk assessment</td>
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<tr>
<td>5.1(d) Underwriting/actuarial factors leading to offer of non-standard life</td>
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</tr>
<tr>
<td>5.1(e) GI premium ratings/weightings</td>
<td>14</td>
</tr>
<tr>
<td>5.1(f) Insurance cover refusal</td>
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<tr>
<td>5.1(g) Investment performance</td>
<td>12</td>
</tr>
<tr>
<td>5.1(h) Trustee decision</td>
<td>14</td>
</tr>
<tr>
<td>5.1(i) Management of fund as whole</td>
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</tr>
<tr>
<td>5.1(j) Allocation of benefit</td>
<td>3</td>
</tr>
<tr>
<td>5.1(k) Dispute previously dealt with by FOS</td>
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<tr>
<td>5.1(l) Dealt with by court/tribunal/scheme</td>
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</tr>
<tr>
<td>5.1(m) Legal proceedings previously commenced before lodgement</td>
<td>10</td>
</tr>
<tr>
<td>5.1(o) Claim exceeds 500K</td>
<td>122</td>
</tr>
<tr>
<td>5.1(p) Related body corporate &gt;20/100</td>
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<tr>
<td>5.2 General discretion</td>
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<tr>
<td>5.2(a) More appropriate place</td>
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<td>5.2(b) Non-retail client</td>
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<td>5.2(c) FSP practice/policy</td>
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<tr>
<td>5.2(d) Frivolous/vexatious/lacking substance</td>
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<tr>
<td>5.2(e) Legal proceedings commenced</td>
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<tr>
<td>6.2b(i) Outside 6 year time limit</td>
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<tr>
<td>6.2b(ii) Outside 2 year IDR time limit</td>
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<tr>
<td>OTR 5.1(r) Small business credit facility exceeds $2M</td>
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<tr>
<td>OTR 5.1(u) Excluded professional accounting service</td>
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</tbody>
</table>

**Total** 5,913
What the disputes were about

Total number of disputes received by product line

Almost half the disputes we received in 2014-2015 were about one product line: credit. Common issues within credit disputes included financial difficulty and financial services provider (FSP) decision. However, financial difficulty disputes overall have fallen in recent years (see page 85).

As the table below shows, the proportion of credit disputes received in 2014-2015 is consistent with the past two years. See pages 58-62 for a detailed analysis of credit disputes.

General insurance disputes represented 26% of the disputes we received in 2014-2015, the same as last year. See pages 63-67 for a detailed analysis of general insurance disputes.

The proportion of life insurance disputes was unchanged from last year (4%) but the number of life insurance disputes increased almost 5% from last year, following a 12% increase the previous year. See pages 80-83 for a detailed analysis of life insurance disputes.

The number of investment disputes increased more than 16%, although the proportion of investment disputes was generally consistent with previous years. See pages 74-79 for a detailed analysis of investment disputes.

<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>%</td>
<td>Number</td>
<td>%</td>
<td>Number</td>
<td>%</td>
<td>Number</td>
<td>%</td>
</tr>
<tr>
<td>Credit</td>
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<td>50</td>
<td>16,358</td>
<td>49</td>
<td>16,544</td>
<td>50</td>
<td>16,458</td>
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<td>8,867</td>
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<tr>
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<td>2,457</td>
<td>7</td>
<td>2,348</td>
<td>7</td>
<td>2,754</td>
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<td>2,086</td>
<td>6</td>
<td>2,310</td>
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<td>1,462</td>
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<td>1,430</td>
<td>4</td>
<td>1,666</td>
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<td>4</td>
<td>1,420</td>
<td>4</td>
<td>1,485</td>
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<td>0</td>
<td>29</td>
<td>0</td>
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<td>1</td>
<td>500</td>
<td>2</td>
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<td>0</td>
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<td>33,537</td>
<td>100</td>
<td>33,278</td>
<td>100</td>
<td>34,490</td>
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</table>

Note that the total of 34,490 in this table does not match the total of 31,895 in the Total disputes received by year chart on page 48. The total in this chart is based on counting cases about multiple products and issues as multiple disputes. For further explanation of this distinction, see How we count disputes on page 47.
Accepted disputes by product line

Accepted disputes are those that have entered the Acceptance stage of our dispute resolution process (see page 46 for an explanation of our process). In 2014-2015, credit disputes accounted for 49% of all accepted disputes (consistent with last year), followed by general insurance (26%, down slightly from last year).

Accepted disputes by product line and year

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<tr>
<th></th>
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<th></th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>%</td>
<td>Number</td>
<td>%</td>
</tr>
<tr>
<td>Credit</td>
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<td>Deposit taking</td>
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<td>1,043</td>
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<td>Traditional trustee services</td>
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<td>Products outside FOS Terms of Reference</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>26,468</strong></td>
<td><strong>100</strong></td>
<td><strong>25,338</strong></td>
<td><strong>100</strong></td>
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</tbody>
</table>

Note that the total of 25,800 in this table does not match the total of 23,344 in the Accepted disputes by month chart on page 50. The total in this chart is based on counting cases about multiple products and issues as multiple disputes. For further explanation of this distinction, see How we count disputes on page 47.
Accepted disputes

Most disputes we accepted in 2014-2015 were represented by the banking sales and service channel (46%). This was one percentage point more than last year. Of these disputes, the most common issues were financial difficulty and financial services provider (FSP) decision.

Accepted disputes by sales and service channel and issue type

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<th>-</th>
<th>-</th>
<th>-</th>
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<th>-</th>
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<td>-</td>
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<td>11</td>
<td>2</td>
<td>1</td>
<td>-</td>
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<td>3,296</td>
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<td>1,585</td>
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<td>1,021</td>
<td>834</td>
<td>1,552</td>
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<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>810</td>
<td>365</td>
<td>164</td>
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<td>251</td>
<td>75</td>
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<td>280</td>
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<td>23</td>
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<td>Custodial and depository services</td>
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<td>6</td>
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<td>12</td>
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<td>2</td>
<td>144</td>
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<td>9</td>
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<td>1</td>
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<td>-</td>
<td>-</td>
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<td>1</td>
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<tr>
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<tr>
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<td>7</td>
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<td>15</td>
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<tr>
<td>Superannuation fund trustee/advisor</td>
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<td>10</td>
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<tr>
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<td>-</td>
<td>4</td>
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<tr>
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<td>2,071</td>
<td>1,091</td>
<td>4,654</td>
<td>7,935</td>
<td>2,240</td>
<td>437</td>
<td>1,747</td>
<td>2,862</td>
<td>2,012</td>
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</table>
Disputes
In 2014-2015, the number of accepted credit disputes was almost the same as last year. A total of 12,601 disputes, or 49% of all accepted disputes, were related to credit compared with 12,605 or 50% of all accepted disputes last year.

As in previous years, the vast majority (90%) of credit disputes concerned consumer credit. The most common issue in credit disputes was financial difficulty (37%). We examine financial difficulty disputes in detail on page 85.
**Business finance**

We accepted 1,055 business finance disputes in 2014-2015, a 2% increase on last year.

Most business finance disputes related to business loans (69%) followed by lines of credit/overdraft (10%), hire purchase/leases (10%) and business credit cards (8%).

Financial difficulty (40%) and FSP decision (24%) were the main issues within business finance disputes.

Banks were involved in more than three-quarters (79%) of disputes relating to business finance.
Credit disputes

Consumer credit

We accepted 11,291 consumer credit disputes in 2014-2015, up 1% from last year.

Of these disputes, 40% were about credit cards, 30% about home loans and 19% about personal loans.

In 2014-2015, the number of credit card and personal loan disputes increased by 4% and the number of home loan disputes declined by 5%. Home loan disputes about financial difficulty fell 13%.

The percentage of consumer credit disputes that were about financial difficulty fell for the fifth consecutive year to 36%, compared with 40% last year, 44% the previous year, and 54% in 2011-2012 (see Financial difficulty, page 85).

Banks were involved in 72% of consumer credit disputes in 2014-2015.
Guarantees

A guarantee is a promise to pay a debt of another if they do not pay. For example, a business guarantee is a guarantee offered by a company or an individual as security for the borrowings of a business.

In 2014-2015 there were 195 guarantee disputes, down 14% from last year.

More than half of these disputes (53%) related to business guarantees, 34% to consumer guarantees and 13% to bank guarantees.

More than one-third (37%) of these disputes related to financial difficulty and one-quarter (26%) were about a decision made by an FSP.

Margin loans

Margin loans are loans that allow an investor to borrow money against the value of listed shares or units in managed funds.

There were 17 margin loan disputes in 2014-2015. This was 21% more than last year.

Of these margin loan disputes, nine related to an FSP decision.
A dispute in which the applicants said that the FSP breached their privacy by sending personal details to a third party without their authority was resolved in their favour.

A FOS Ombudsman determined that the FSP breached its obligations by sending the applicants’ credit card statements to the wrong address.

The determination found that the FSP did not take reasonable steps to accurately record the applicants’ address, and to send their credit card statements to the correct address.

The data quality provisions of the National Privacy Principles require the FSP to record the applicants’ correct address.

The problem occurred when the FSP failed to amend the applicants’ postcode when changing their address details.

“It would have been reasonable for the FSP to take steps to check that correspondence sent to the applicants was addressed to the correct postcode,” the FOS determination said.

The Ombudsman awarded the applicants $1,000 compensation for the stress and inconvenience that they suffered after discovering that their credit card information had been sent to the wrong address. The applicants believed the recipient had misused their credit card information.

The FSP also listed defaults on the applicants’ credit information files without notifying them first.

Under the National Credit Code, the FSP must deliver a default notice to the applicants’ last known address.

The FSP admitted that incorrect address details remained on its database, and that correspondence was sent to the wrong address.

“In those circumstances, the FSP was not entitled to list the default on the applicants’ credit files,” the Ombudsman said in the determination made in February 2015.

The Ombudsman awarded the applicants a further $1,000 as compensation for non-financial loss as a result of incorrectly listing defaults on their credit information files (which were later removed).

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**Case study**

Wrong postcode leads to privacy dispute

A dispute in which the applicants said that the FSP breached their privacy by sending personal details to a third party without their authority was resolved in their favour.

A FOS Ombudsman determined that the FSP breached its obligations by sending the applicants’ credit card statements to the wrong address.

The determination found that the FSP did not take reasonable steps to accurately record the applicants’ address, and to send their credit card statements to the correct address.

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The Ombudsman awarded the applicants a further $1,000 as compensation for non-financial loss as a result of incorrectly listing defaults on their credit information files (which were later removed).
General insurance dispute numbers were little changed, increasing by 1% in 2014-2015.

Dispute numbers have stabilised in the past two years due to a reduced level of natural disasters and significant improvements in the industry’s internal claims handling and dispute resolution processes.

A new General Insurance Code of Practice came into effect on 1 July 2014. Throughout 2014-2015, the Code Compliance and Monitoring team worked with the Insurance Council of Australia to help industry and consumer groups successfully transition to the Code’s revised standards (see Code compliance and monitoring, page 100).

We accepted 6,780 general insurance disputes in 2014-2015 compared with 6,704 last year.

In keeping with previous years, the vast majority (94%) of disputes accepted in 2014-2015 related to domestic insurance. Almost two-thirds (65%) of general insurance disputes concerned the financial services provider (FSP) decision, which in most cases related to an FSP’s decision to decline a claim.
Domestic insurance

We accepted 6,401 domestic insurance disputes in 2014-2015, which was 3% more than last year. The increase was driven by a one-third (34%) rise in travel insurance disputes, to 855 in 2014-2015. The main issue was denial of claim – exclusion/condition.

However, the type of insurance policies most people complained about were motor vehicle comprehensive (38%) and home building (23%). Travel insurance (13%) and home contents (8%) were next.

In most domestic insurance disputes (65%), consumers complained about the insurer’s decision.

In the domestic insurance category, the majority of disputes (96%) were lodged against an insurance company and 3% involved general insurance brokers.

Improving disclosure about credit card travel cover

In 2014-2015, the Australian Securities and Investments Commission reviewed 17 credit card brands in response to dispute data provided by FOS and complaints made by the general public regarding “complimentary” travel insurance.

Common complaints about the “complimentary” travel insurance provided through credit cards include:

- uncertainty about who is covered – for example, if cover extends to a family member who is not the credit cardholder
- what is covered – the extent of inclusions and exclusions
- eligibility requirements – the degree to which the credit card must be used to pay for a trip and related costs (when the policy is ‘activated’)
- if reward points can be used to activate cover
- difficulty locating the insurance terms and conditions.

ASIC reported in June 2015 that as a result of its review, card issuers and their insurers had agreed to clarify:

- when cover is activated (such as when a minimum spend threshold must be met to enable coverage)
- if and when reward points used to pay for travel costs will activate insurance
- whether supplementary cardholders can benefit from a policy
- information about documentation needed to make claims.

ASIC also reported that credit card issuers have improved their websites to provide easier access to the policy terms and conditions, including direct links.

The changes and improved disclosure should help to reduce confusion for consumers.
Small business/farm insurance

We accepted 286 small business/farm insurance disputes in 2014-2015, which accounted for 4% of general insurance disputes. Almost two-thirds (64%) related to an FSP decision.

Small business owners and farmers take out insurance policies to cover such things as property and vehicle damage, machinery breakdowns, public liability, theft and loss of property.

In 2014-2015, most small business/farm insurance disputes related to commercial property (45%) and commercial vehicles (26%).

Of all the small business/farm insurance disputes, the majority (89%) involved general insurers and their customers, and 10% involved general insurance brokers and their customers.

Accepted small business/farm insurance disputes by issue type

Professional indemnity insurance

We accepted 23 professional indemnity insurance disputes in 2014-2015 compared with 27 last year. Of these disputes, 10 were due to decisions made by the FSP.

More than three-quarters (83%) of professional indemnity insurance disputes involved a general insurer.

Accepted professional indemnity disputes by issue type

Accepted professional indemnity disputes by sales and service channel
Extended warranty

Extended warranties are available for motor vehicles, whitegoods and browngoods (for example, TVs, radios and computers). We accepted 69 disputes about extended warranties in 2014-2015 compared with 67 last year.

The majority (57%) involved general insurance brokers and 36% involved general insurers. More than half (54%) were about decisions made by the FSP.

Accepted extended warranty disputes by issue type

<table>
<thead>
<tr>
<th>Issue Type</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advice</td>
<td>1%</td>
</tr>
<tr>
<td>Charges</td>
<td>13%</td>
</tr>
<tr>
<td>Disclosure</td>
<td>4%</td>
</tr>
<tr>
<td>FSP decision</td>
<td>54%</td>
</tr>
<tr>
<td>Instructions</td>
<td>3%</td>
</tr>
<tr>
<td>Non ToR</td>
<td>12%</td>
</tr>
<tr>
<td>Service</td>
<td>13%</td>
</tr>
</tbody>
</table>

Accepted extended warranty disputes by sales and service channel

<table>
<thead>
<tr>
<th>Channel</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Credit provider</td>
<td>1%</td>
</tr>
<tr>
<td>Credit representative</td>
<td>1%</td>
</tr>
<tr>
<td>Financial advisor/planner</td>
<td>1%</td>
</tr>
<tr>
<td>General insurance broker</td>
<td>37%</td>
</tr>
<tr>
<td>General insurer</td>
<td>16%</td>
</tr>
<tr>
<td>Product distributor</td>
<td>1%</td>
</tr>
<tr>
<td>Not yet determined</td>
<td>1%</td>
</tr>
</tbody>
</table>

General insurance brokers

In 2014-2015, there were 257 disputes between general insurance brokers and their customers. This was almost the same as last year, when there were 256 disputes (up from 195 in 2012-2013).

The most common insurance products in disputes involving general insurance brokers were personal and domestic property, home building and motor vehicles. The main issue was denial of claim.

Case study

Neighbour’s broken pipe leads to damage dispute

An applicant lodged a dispute in July 2014 over a claim denied by the insurer for water damage to a wall and concrete slab at the insured building.

The damage was caused by a large volume of water leaking from a broken pipe on a neighbouring property.

The insurer assessed the claim and refused liability, saying that the loss was caused by ground movement, which is a general exclusion in the policy.

The policy specifically covered damage caused by the escape of liquid from any drain, fixed pipes, roof gutters, guttering, rainwater, downpipes, drainage and sewerage systems.

The insurer’s engineer considered that the influx of water from a neighbour’s water service led to the soil becoming saturated and compressing under the weight of the concrete block wall and the concrete slab.

Establishing the major (or proximate) cause of the loss was the key consideration for the Ombudsman in deciding whether the exclusion applied.

“There is no evidence that the earth movement was independent of the damage caused by the leaking pipe and no evidence that the earth movement would have occurred in the absence of the leaking pipe,” the Ombudsman said.

The Ombudsman determined that the insurer was liable for all the damage to the wall and slab and should process the claim consistent with the policy’s terms and conditions.
A dispute involving a refused travel insurance claim for loss of luggage from a crowded bus terminal centred on whether the baggage was left unattended.

The applicant’s policy covered loss, theft or damage to luggage, but specifically excluded items left unattended in a public place.

The luggage stolen was valued at more than $15,000 and included several items of jewellery that could easily be removed.

FOS found that the insurer was entitled to refuse payment because the baggage was left unattended in a public place.

The Ombudsman found that the bus terminal fitted the definition of a public place, and determined that the applicant stepped away from the luggage, which was behind them when greeting relatives.

“It was not in the applicant’s sight or capable of being observed during the one to two minutes the greeting occurred,” the Ombudsman said in the April 2015 determination. “It was not a matter of the applicant being momentarily distracted or having a sudden lapse of concentration.”

Courts have interpreted that items are left unattended if there is not someone able to keep the items under observation or in a position to observe any attempt or have every prospect of preventing any unauthorised interference with the items, the Ombudsman said.

Whether an item is left unattended depends on the particular facts of each individual set of circumstances.

Case study
Unattended luggage at centre of travel dispute
In 2014-2015 we accepted 1,776 payment system disputes. This was a 12% increase from last year, due to disputes about direct transfer. Two-thirds (66%) of the disputes were about direct transfer systems and the rest were about non-cash systems.

Direct transfer

We accepted 1,178 direct transfer disputes in 2014-2015, up 22% from last year. Of these disputes, 40% were about electronic banking, 13% about direct debits and 12% about ATMs.

Electronic banking disputes increased by one-third (34%) in 2014-2015. Mistaken internet payments (169, up 14% from last year) and unauthorised transactions (70, up 89% from last year) were the most common issues within electronic banking disputes. However, in terms of the rapid increase in electronic banking transactions, these dispute numbers are very small.

Banks are the main supplier of direct transfer payment systems and were involved in 83% of direct transfer disputes.
Non-cash

Disputes in this category involve non-cash facilities, which are often internet-based. The category includes loyalty programs, stored value cards and travellers’ cheques.

We accepted 594 non-cash payment system disputes in 2014-2015, a decline of 3% from last year. Almost half (43%) of these disputes involved an FSP decision. Of the non-cash disputes, 86% were about non-cash systems and 12% were about stored value cards.

Accepted non-cash disputes by issue type

<table>
<thead>
<tr>
<th>Type</th>
<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>Advice</td>
<td>1%</td>
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<tr>
<td>Charges</td>
<td>5%</td>
</tr>
<tr>
<td>Disclosure</td>
<td>4%</td>
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<tr>
<td>Financial difficulty</td>
<td>1%</td>
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<tr>
<td>FSP decision</td>
<td>43%</td>
</tr>
<tr>
<td>Instructions</td>
<td>12%</td>
</tr>
<tr>
<td>Privacy &amp; confidentiality</td>
<td>1%</td>
</tr>
<tr>
<td>Service</td>
<td>11%</td>
</tr>
<tr>
<td>Transactions</td>
<td>23%</td>
</tr>
</tbody>
</table>

Case study

Delay over mistaken internet payment unreasonable

A FOS Adjudicator described a month-long delay in attempting to recall an applicant’s funds mistakenly transferred via internet banking as unreasonable, and determined that the FSP should reimburse the applicant.

The applicant made the $7,436 payment but the intended recipient did not get the funds. It transpired that the applicant had used a wrong account number and paid the funds to an incorrect account.

The applicant used a business account to make the payment and so the transaction was not covered by ASIC’s ePayments Code.

The FOS determination found that the applicant contacted the FSP branch as soon as possible after becoming aware of the mistaken payment.

The determination said that rather than attempting to recall funds straight away, the FSP sent a trace request to the receiving bank, and a further trace request three weeks later. A further week later, the FSP unsuccessfully tried to recall funds from the receiving bank, and two months later, after three more attempts, the FSP was informed that the recall request had been unsuccessful due to insufficient funds in the original recipient’s account.

The February 2015 determination said the FSP took too long to try to recall the funds and so was liable to reimburse the applicant the original sum plus interest.

“When a payment has been made by mistake, time is of the essence when the FSP is notified of this by its customer,” the determination said.

“FOS takes the view that the FSP is under a duty to exercise a reasonable degree of care in all the circumstances. In practice, it ought to attempt to recall funds within one to two business days of being notified of a mistaken payment, when the FSP knows where the funds went.”

“As the applicant reported the mistaken payment promptly, FOS understands that the FSP could have sought automatic reversal of the mistaken payment.

“The FSP’s delay was unreasonable in the circumstances and contributed to the applicant’s loss. FOS considers that there was a reasonable possibility that funds would still have been available for debit at the time the mistaken payment was reported to the FSP.”
In 2014-2015 we accepted 1,744 deposit-taking disputes. This was 19% more than last year and 38% more than 2012-2013.

Deposit-taking disputes comprise two main product categories:

- **Current accounts** including business transaction, foreign currency, mortgage offset, passbook and personal transaction accounts
- **Savings accounts** including bank bills (which are short-term money market investments), term deposits, cash management, first home buyer and online accounts.

![Accepted deposit-taking disputes by product category and year](chart)

Current accounts
There were 1,352 current account disputes in 2014-2015, a 21% increase over last year.
The most common issues in dispute were transactions (28%), instructions (23%) and FSP decision (16%).
The vast majority (91%) of current account disputes involved banks, which is to be expected because banks are the main supplier of deposit-taking products.

Savings accounts
FOS accepted 372 savings account disputes in 2014-2015, which was 11% more than last year.
Of these, 98 disputes or 26% of savings account disputes were about transactions. This compared with 57 transactions disputes last year (17% of savings account disputes). Other key issues were instructions (24%), charges (13%) and FSP decision (13%).
The products consumers complained about most were cash management accounts (36%), term deposits (33%) and online accounts (27%).
**Safe custody**

Safe custody is the storage of valuable possessions, such as jewellery and important documents, in a secure vault at a bank.

We accepted 17 safe custody disputes in 2014-2015 compared with 11 last year. These disputes were mainly over loss of documents/personal property.
A dispute in which an applicant claimed that $10,000 was withdrawn from their account without their authorisation was determined in favour of their FSP.

A FOS decision found that the FSP had paid out cash in accordance with the applicant’s instructions.

During the course of the dispute, the applicant and their representative were provided with a copy of a signed receipt for the disputed transaction. Neither raised concerns about the signature on the transaction receipt or withdrawal voucher.

The FOS decision found that it was more likely than not that the applicant signed the transaction withdrawal voucher and receipt, but the applicant was unable to recall doing so.

The September 2014 determination said that the applicant’s representative stated that usually when the applicant made a verbal request to the FSP, the FSP would provide the relevant paperwork for the applicant to sign. It was implied that the teller may have tricked the applicant into signing it.

“The information provided by the FSP shows that the applicant is known to the teller,” the determination said. “The teller said that the applicant made the disputed transaction and this is why the teller stamped the reverse of the withdrawal slip ‘customer known to me’.

“If the applicant had been tricked into signing the voucher, I would expect to see two transactions for that day - the transaction the applicant came into the branch to perform, and the transaction they were tricked into doing. There is only one transaction made on that day - that is, the disputed transaction.”

FOS found that the FSP was not liable for any loss the applicant may have suffered as a result of the transaction.
FOS accepted 1,332 investment disputes in 2014-2015, an increase of 13% from last year.

Dispute numbers increased across every category and the overall increase was due mainly to rises in disputes about managed investments and superannuation.

This overall increase brings to an end the steady decline in accepted disputes in most investment categories since 2010-2011.

Managed investments

We accepted 593 managed investment disputes in 2014-2015, up 10% from last year but 36% down from 2011-2012 when dispute numbers were affected by the Global Financial Crisis (GFC). Dispute numbers appear to have stabilised in the past three years.

This supports the view that issues arising from the GFC that have driven investment disputes in previous years have generally progressed through our dispute process.

Managed investments accounted for almost half (45%) of overall investment disputes.

The increase in managed investment disputes compared with last year was due to disputes involving Australian equity funds, which increased to 124 or 21% of managed investment disputes from only 6 (or 1%) last year. The main issue related to Australian equity funds disputes was inappropriate advice (38%).

Mixed asset funds (investing in multiple asset classes such as cash, bonds, shares and property) continued to be the most common managed investment product that people complained about. In 2014-2015, mixed asset funds represented 266 disputes or 45% of managed investment disputes. However, this was a reduction in both the number (352) and proportion (65%) of mixed asset disputes from last year.

Advice accounted for half (50%) of the issues in managed investment disputes followed by disclosure (15%). The issue of FSP decision fell to 9% in 2014-2015 from 14% last year. Many investors complained that the advice they received was not suitable for their goals, objectives or risk tolerance, or that risks were not always adequately disclosed or explained.

The majority of managed investment disputes involved a financial advisor/planner (56%) or a managed investment scheme operator/fund manager (26%).
**Superannuation**

In 2014-2015, we accepted 330 disputes about superannuation, which was an 11% increase from last year, and represented one-quarter of all investment disputes.

Most of these disputes were about retail funds (40%) and self-managed funds (28%). The increase in disputes about superannuation was driven by issues involving retail funds, which were up more than one-third (34%) from last year. More than half (56%) of the disputes about retail funds were about failure to follow instructions/agreement, service quality, inappropriate advice and incorrect fees/costs. The most common issue in disputes relating to self-managed funds was inappropriate advice (27%) – often about establishing the fund or investing the fund assets.

See also Disputes outside our Terms of Reference, page 53.

**Securities**

FOS accepted 210 securities disputes in 2014-2015, up 11% from last year. The vast majority (93%) related to shares. These disputes account for about one-sixth (15%) of overall investment disputes.

Disputes relating to service (28%) and advice (25%) were most common in this category, followed by instructions (16%). FSP decision accounted for only 8% of these disputes.

Of all the securities disputes, more than one-quarter (28%) involved a stockbroker, one-quarter (25%) involved a financial advisor/planner, and 17% a securities dealer.
Investment disputes

**Accepted securities disputes by issue type**

- Advice: 25%
- Charges: 3%
- Disclosure: 6%
- FSP decision: 8%
- Instructions: 16%
- Non ToR: 0%
- Privacy & confidentiality: 1%
- Service: 28%
- Transactions: 11%

**Accepted derivatives/hedging disputes by issue type**

- Advice: 15%
- Charges: 4%
- Disclosure: 10%
- FSP decision: 31%
- Instructions: 13%
- Non ToR: 1%
- Service: 8%
- Transactions: 1%

**Accepted securities disputes by sales and service channel**

- Bank: 7%
- Credit provider: 0%
- Custodial and depository services: 4%
- Derivatives dealer: 5%
- Finance broker: 0%
- Financial advisor/planner: 25%
- Foreign exchange dealer: 1%
- General insurer: 0%
- Life insurer: 0%
- Make a market: 3%
- Managed discretionary account operator: 0%
- MIS operator/fund manager: 2%
- Research house: 4%
- Securities dealer: 7%
- Stockbroker: 28%
- Not yet determined: 1%

**Accepted derivatives/hedging disputes by sales and service channel**

- Bank: 1%
- Credit union: 1%
- Derivatives dealer: 18%
- Finance broker: 2%
- Financial advisor/planner: 13%
- Foreign exchange dealer: 13%
- Make a market: 26%
- Research house: 3%
- Securities dealer: 19%
- Stockbroker: 6%
- Not yet determined: 1%

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**Derivatives/hedging**

Derivatives and hedging products include contracts for difference, foreign currencies, forwards, futures, options and swaps.

In 2014-2015, we accepted 176 disputes about these products, up 76% from last year. These disputes account for 13% of overall investment disputes. The most common issues in this category were FSP decision (31%), advice (15%), service (15%) and instructions (13%).

The large increase was influenced by disputes resulting from the unpegging of the Swiss franc from the Euro in January 2015, and disputes involving FSPs (usually margin foreign exchange providers) and investors using high frequency trading.
Real property

Real property is land and the residential or commercial property on it.

We accepted 22 disputes about real property in 2014-2015 (up from 9 last year). The main issue in these disputes was advice (55%).

![Accepted real property disputes by issue type](chart1)

![Accepted real property disputes by sales and service channel](chart2)

**Case study**

**Poor performance not grounds for compensation**

Poor performance and inconsistent reporting of prices of a unit trust in which the applicants to a dispute invested $20,000 did not demonstrate a breach of duty by the FSP, a FOS Ombudsman found.

Product disclosure statements (PDSs) for the trust showed that it would invest predominantly in Australian over-the-counter contracts for difference and shares, use gearing as part of its strategy and said there was a risk investors may lose some or all of their investment capital.

The Ombudsman found in the March 2015 determination that there was no information to show the FSP invested outside the disclosed investment strategy, and independent audit information noted no financial irregularities or deviation from the unit trust’s compliance plan.

“There has been some inconsistent reporting of unit prices to the applicants by the FSP and the failure to explain its reporting of unit prices is most regrettable but this is not sufficient in itself to justify an order compensating the applicants,” the Ombudsman said. “They must prove the inconsistent unit price reporting caused them to suffer loss.”

The applicants argued that volatility of unit prices suggested that key (FSP) personnel tended to adopt a strategy based on instinct or impulse rather than adhere to a well-defined strategy as indicated in the PDSs.

The Ombudsman determined that the applicants had not provided any evidence to support that complaint.

“The fact that unit prices dropped sharply does not by itself prove that the FSP failed to comply with the disclosed investment strategies,” the determination said.

“The applicants have not shown that the poor performance of the trust was due to any breach of duty by the FSP, so the FSP is not required to compensate them.”
Case study
Illegitimate backdating of forms results in $88,000 loss

An applicant who took up advice to invest in a managed investment scheme suffered losses of more than $88,000 in a dispute lodged against the advisor, who was an authorised representative of an FSP and also the applicant’s tax agent.

The applicant’s “critical and over-riding objective” had been short-term tax minimisation, and the investment was financed entirely by a loan.

A FOS Ombudsman found that the advisor backdated to 31 May 2007 a Statement of Advice and application forms for the investment and loan. The cut-off date for tax deductions of the investment costs was 1 June 2007.

The Ombudsman determined that although all the key documents were dated 31 May 2007, the advice was given in early July 2007 and the application forms were completed on 10 July 2007.

“It was highly inappropriate for the advisor to recommend and then facilitate the applicant’s investment after the 1 June 2007 cut-off date using backdated forms,” the Ombudsman said.

In 2012 the Australian Taxation Office decided that the applicant must refund tax deductions received from the investment and also pay penalties and interest.

The Ombudsman described the advisor’s behaviour as reprehensible and inexcusable, and said the advisor had at the very least committed breaches of the Corporations Act, relating to suitability of advice, and the common law duty of care that he owed to the applicant.

The Ombudsman determined that the applicant would not have invested in the scheme but for the advice, and that the applicant was not aware that tax deductions were not available if the investment was made after the cut-off date. However, the Ombudsman found that the applicant should have taken better care to understand the tax deductibility of the investment and reduced compensation by 25%.

The Ombudsman determined that the FSP must pay the applicant more than $66,000 plus $3,000 costs.
FOS accepted 1,227 life insurance disputes in 2014-2015, an increase of 6% from last year.

The rise was due to a 20% increase in disputes about non-income stream risk products, with most of these disputes relating to total and permanent disability and term life insurance.

Denial of claim (32%) was the most common reason consumers came to FOS with life insurance complaints. This was a more common reason in income stream risk disputes (37%) than non-income stream risk disputes (26%).

Income stream risk

We accepted 677 disputes relating to income stream risk products in 2014-2015, four less than last year. Of these disputes, 552 (or 82%) involved income protection insurance compared with 539 (or 79%) last year.

Income protection insurance pays an income if the policyholder is unable to work due to injury or illness (as defined by policy conditions).

We accepted 125 disputes about consumer credit insurance in 2014-2015 compared with 142 last year. This insurance is designed to cover the policyholder for their obligations under a loan agreement. Consumer credit insurance protects the borrower in the event of accident, sickness, involuntary unemployment or death. If the policyholder is unable to work due to accident, sickness or involuntary unemployment, it covers the loan repayments for a stated period of time or until the policyholder is able to return to work.

Most disputes we accepted about income stream risk products were in relation to financial services provider (FSP) decision (59%). Of these, an FSP decision to deny a claim remains a prevalent complaint for income protection insurance and consumer credit insurance. Within these disputes, the applicants complained that the FSP was not willing to accept information provided in support of claims without corroborating evidence.

Complaints about claim amounts and incorrect premiums together with disputes over denial of claim and claim handling delays were key themes associated with income protection insurance.

Of continuing concern is the failure of FSPs to use correct policy provisions and to rely on more recent versions with less beneficial terms.

Given that life insurers are the main suppliers of these products, it was not surprising that most income stream risk product disputes (68%) involved life insurers.
Non-income stream risk

There were 550 non-income stream risk disputes in 2014-2015, up 20% on last year. Half the disputes (49%) about non-income stream risk products related to a decision made by the FSP.

One-third (34%) of these disputes concerned total and permanent disability insurance. The number of these disputes increased to 188 in 2014-2015 from 133 last year. Denial of claim was the most common reason people lodged disputes about this product, followed by complaints about a delay in claim handling.

In this category, term life insurance product disputes almost doubled, to 165 (or 30% of non-income stream risk disputes) from 87 disputes (or 19%) last year. The most common issues for the term life products were denial of claim and incorrect premiums.

We also accepted 95 disputes related to trauma insurance products in 2014-2015. Denial of claim was the most common issue.

Life insurers, as the main suppliers of these products, represented the majority (69%) of non-income stream risk product disputes.
A dispute in which an insurer refused an applicant’s claim for income protection centred on an assessment of the relevant medical evidence provided to FOS.

The applicant was gainfully employed until suffering a lower back injury in December 1999. The applicant lodged a claim for total disability that was accepted by the insurer.

The policy provided for benefits to be paid if the applicant was disabled and as a result was:

» unable to perform continuously at least one of the important duties of their regular occupation necessary to producing income

» not working in any gainful occupation

» under the regular and personal care of a medical practitioner.

The FSP said it had considered previous medical reports, and benefits were paid accordingly. It was not until mid-2013 that the FSP sought independent opinion on the applicant’s ability to return to work.

In October 2013, the insurer wrote to the applicant saying that it was stopping further payments because it considered that the applicant was able to return to work.

Under the policy, a benefit ends when the insured person is no longer disabled.

The FOS Ombudsman said that because the FSP closed the claim, the onus was on the FSP to establish that it was entitled to do so.

The Ombudsman found that the FSP was not entitled to refuse the claim because the applicant continued to meet the definition of total disability under the policy.

The Ombudsman relied on the findings of an orthopaedic surgeon that the applicant continued to suffer physical limitations as a result of the injury. This meant that the applicant had to avoid repetitive bending, lifting weights heavier than 10 to 15 kilograms, and maintaining certain postures for long periods. An occupational therapist supported this view.

“The medical evidence shows that the applicant continued to have physical limitations which includes avoiding repetitive bending,” the Ombudsman said. This was one of the important duties in the applicant’s previous job.

The FSP also failed to establish that the applicant could work in other gainful occupations.

The Ombudsman directed the FSP to reinstate the claim and total disability benefits plus interest for the relevant period.
An applicant’s claim for unemployment benefits under an insurance policy was denied by an FSP. The applicant made the claim in November 2012 after becoming unemployed. The applicant was insured under a bill relief plan, which typically provide unemployment benefits if the insured cannot earn income due to an illness or injury, even redundancy.

The FSP denied the applicant’s claim because it said the evidence indicated that the applicant resigned. Under the policy, no benefit is paid if the policyholder is unemployed due to voluntary resignation. To qualify for benefits, the applicant had to prove involuntary unemployment.

The applicant said they were made redundant and forced to resign, having been told by their manager that their position was being made redundant because the company was moving offshore, but could not substantiate this claim. On the other hand, a number of emails from the applicant’s former employer stated that the applicant had resigned voluntarily.

The FOS Ombudsman said in the November 2014 determination that it was reasonable for the FSP to require documents that showed that the applicant was made redundant. “There is no evidence confirming the applicant was made involuntarily redundant,” the Ombudsman said. “The applicant is therefore not entitled to a payment of unemployment benefit under the policy.”

**Case study**
**Applicant not entitled to unemployment benefits**

An applicant’s claim for unemployment benefits under an insurance policy was denied by an FSP. The applicant made the claim in November 2012 after becoming unemployed. The applicant was insured under a bill relief plan, which typically provide unemployment benefits if the insured cannot earn income due to an illness or injury, even redundancy.

The FSP denied the applicant’s claim because it said the evidence indicated that the applicant resigned. Under the policy, no benefit is paid if the policyholder is unemployed due to voluntary resignation. To qualify for benefits, the applicant had to prove involuntary unemployment.

The applicant said they were made redundant and forced to resign, having been told by their manager that their position was being made redundant because the company was moving offshore, but could not substantiate this claim. On the other hand, a number of emails from the applicant’s former employer stated that the applicant had resigned voluntarily.

The FOS Ombudsman said in the November 2014 determination that it was reasonable for the FSP to require documents that showed that the applicant was made redundant. “There is no evidence confirming the applicant was made involuntarily redundant,” the Ombudsman said. “The applicant is therefore not entitled to a payment of unemployment benefit under the policy.”
FOS accepted 26 traditional trustee service disputes in 2014-2015. This was five more than last year.

Of this year’s disputes, 15 related to estate management products and 9 related to trusts.

**Accepted traditional trustee disputes by product category**

- Estate management: 58%
- Estate planning: 8%
- Trusts: 35%

**Estate management**

The key issues in estate management disputes were service (53%), instructions (20%) and charges (13%).

**Accepted estate management disputes by issue type**

- Service: 53%
- Instructions: 20%
- Charges: 13%
- Advice: 7%

Our first full year of dealing with traditional trustee service disputes was 2012-2013 and we have continued to see a very small number of such matters since our jurisdiction expanded on 1 January 2012.
Financial difficulty disputes

Financial difficulty occurs when a consumer is unexpectedly unable to meet their repayment obligations. This can be as a result of a variety of causes including accident, separation, death of a family member, unexpected medical or funeral expenses, reduction of work hours, redundancy or a downturn in business.

FOS can consider financial difficulty disputes from individuals and small businesses.

In 2014-2015, we accepted 4,134 disputes relating to financial difficulty, which was a 12% reduction from last year, 20% less than 2012-2013 and 37% less than 2011-2012.

Almost all disputes (99%) were in the credit product category. Of the remaining 26 disputes, 12 were in the deposit-taking category.

The reduction in disputes continues to be most likely due to:

- improvements financial services providers (FSPs) have made in managing hardship requests and complaints from customers in financial difficulty
- consistently low interest rates, which have reduced repayment pressure for many borrowers
- fewer consumers requesting financial difficulty assistance from their FSPs or greater willingness of FSPs to provide financial difficulty assistance if it is requested.

Financial Counselling Australia’s 2014-2015 Rank the Bank report further supports an improvement in financial hardship practices, observing an improvement across the banking sector including improved referrals to hardship teams, increased access and better staff training.

See also Own Motion Inquiries, Code compliance and monitoring, page 103.

Our new financial difficulty dispute process

In 2014-2015, FOS developed a more timely and efficient way of managing financial difficulty disputes. We introduced the changes progressively during the year and the new process was fully implemented on 1 July 2015.

Key features of the process are:

- a single case owner to handle disputes
- early over-the-phone engagement with dispute parties
- increased support and resources for applicants to help prepare financial information, including an electronic statement of financial position
- FSPs to provide a summary of credit facilities at the beginning of the process to enable FOS to immediately have targeted discussions with applicants
- early identification of appropriate resolution pathways
- increased use of early telephone conciliation conferences where a dispute is not resolved quickly
- using formal written decisions where negotiation or conciliation is inappropriate or unsuccessful.
Why financial difficulty disputes are lodged

In 2014-2015, the underlying reason for lodging financial difficulty disputes with FOS changed. The proportion of disputes lodged due to an FSP failing to respond to a request for assistance was down to 30% from 33% last year. The most common financial difficulty disputes were those involving an FSP declining financial difficulty assistance to consumers (47%, an increase of 13 percentage points from last year).

If a consumer requests financial difficulty assistance, the FSP is required to communicate the outcome of its assessment of the request. This may be a decision to decline further assistance. If this occurs and the facility is regulated by the National Credit Code, the consumer must be provided with reasons and the name and contact details of the FSP's approved external dispute resolution scheme. It is then up to the consumer to initiate contact with the dispute resolution scheme if they want the decision to be reviewed. Our data illustrates that this is increasingly why financial difficulty disputes are lodged with FOS.

This change suggests that FSPs are more willing to consider an application for financial difficulty assistance and communicate a decision to consumers compared with previous years. This may be due to greater consumer awareness and access to hardship teams, and better processes from FSPs to identify consumers in need.

Financial difficulty disputes where a default notice was issued increased to 9% from 2% last year, while a request to suspend enforcement proceedings decreased to 14% from 30% last year. Under the National Credit Code, an FSP is required to provide details of its approved external dispute resolution scheme when issuing a default notice. These figures suggest that many consumers are taking steps sooner to contact FOS if they are in financial difficulty, such as when a default notice is issued, rather than waiting for debt recovery legal proceedings to begin.
Financial difficulty disputes

Accepted financial difficulty disputes by sales and service channel

- Bank: 71%
- Credit provider: 7%
- Credit reporting agency: 0%
- Credit representative: 0%
- Credit union: 1%
- Custodial and depository services: 1%
- Debt collector or buyer: 3%
- Finance broker: 0%
- Financial advisor/planner: 3%
- General insurer: 0%
- Life insurer: 0%
- MIS operator/fund manager: 0%
- Mortgage broker: 1%
- Mortgage manager: 0%
- Mortgage originator: 0%
- Product distributor: 0%
- Securities dealer: 0%
- Superannuation fund trustee/advisor: 0%
- Trustee: 0%
- Not yet determined: 2%

Accepted financial difficulty disputes by issue type

- Decline of financial difficulty request: 47%
- Default notice: 9%
- FSP failure to respond to request for assistance: 30%
- Request to suspend enforcement proceedings: 16%
- Not yet determined: 0%

Financial difficulty – products

Consumer credit

Most financial difficulty disputes are lodged with FOS by individuals, and most of the financial difficulty disputes we accepted related to consumer credit facilities (88%). Of these, 41% related to home loans, 27% to credit cards and 20% to personal loans.

It is not uncommon for applicants to lodge financial difficulty disputes in relation to multiple credit facilities, with one or multiple FSPs. For this reason, it is important that FOS is aware of all the facilities applicants hold, to ensure that options being considered are appropriate and consistent with the level of difficulty the applicant may be experiencing. It is also important that applicants are willing to share information about their financial position with their FSPs, because this can help to resolve disputes earlier.
Financial difficulty disputes

Business finance

Business finance disputes represented 9% of all financial difficulty disputes accepted in 2014-2015. Of these, 67% related to business loans and 15% to lines of credit/overdraft facilities.

While the volume of financial difficulty disputes involving business finance was small compared to consumer credit facilities, we have found that dealing with financial difficulty disputes involving business finance facilities can be complex. The applicants may represent multiple entities and the value of some facilities can be high.

Financial difficulty outcomes

Most financial difficulty disputes are resolved when both parties work together, with FOS’s assistance, to reach agreement. An agreed outcome can include initiatives such as:

- Repayments placed on hold for a reasonable period to allow the applicant time to return to work
- Credit contracts varied to capitalise arrears so that they can be repaid over the term of the loan
- A reasonable timeframe to sell a property, if it appears that the applicant/s will not be able to meet their repayment obligations.

In 2014-2015, 29% of financial difficulty disputes were resolved directly between the FSP and the applicant, and 19% reached an outcome via negotiation facilitated by FOS. Conciliation was used to reach an outcome in 12% of disputes.

Disputes that were outside FOS’s Terms of Reference represented 23% of financial difficulty cases. The most common reason why these disputes were excluded was as a result of debt recovery legal proceedings progressing beyond a point where FOS can consider the dispute. This is also reflected in Legal proceedings disputes (see page 92), as most of these disputes relate to financial difficulty.

During the year, FOS also changed the way in which we classify disputes which have been excluded on the basis that the dispute is lacking in merit after considering the facts of the dispute. Previously, these disputes were classified with an Assessment outcome and we now classify them as Outside Terms of Reference. For more information on this change, please see Excluding Disputes at www.fos.org.au/approach. This and other FOS Approach documents contain detailed information about dealing with financial difficulty disputes.
Financial difficulty disputes

Geographic breakdown

In the tables below, we align the total number of financial difficulty disputes with the population data on page 32.

Victoria, New South Wales and Queensland residents were the most likely to lodge financial difficulty disputes in 2014-2015. This is broadly consistent with the overall geographic distribution of disputes received.

A higher proportion of applicants from Queensland and Victoria lodged financial difficulty disputes compared with other issues.

Received disputes - geographic breakdown

<table>
<thead>
<tr>
<th></th>
<th>FD</th>
<th>% FD</th>
<th>All excl FD</th>
<th>All excl FD</th>
<th>% all excl FD</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACT</td>
<td>51</td>
<td>1</td>
<td>484</td>
<td>433</td>
<td>2</td>
</tr>
<tr>
<td>NSW</td>
<td>1,324</td>
<td>26</td>
<td>9,731</td>
<td>8,407</td>
<td>31</td>
</tr>
<tr>
<td>NT</td>
<td>22</td>
<td>0</td>
<td>189</td>
<td>167</td>
<td>1</td>
</tr>
<tr>
<td>QLD</td>
<td>1,113</td>
<td>22</td>
<td>5,711</td>
<td>4,598</td>
<td>17</td>
</tr>
<tr>
<td>SA</td>
<td>396</td>
<td>8</td>
<td>1,857</td>
<td>1,461</td>
<td>5</td>
</tr>
<tr>
<td>TAS</td>
<td>70</td>
<td>1</td>
<td>446</td>
<td>376</td>
<td>1</td>
</tr>
<tr>
<td>VIC</td>
<td>1,540</td>
<td>30</td>
<td>9,270</td>
<td>7,730</td>
<td>29</td>
</tr>
<tr>
<td>WA</td>
<td>443</td>
<td>9</td>
<td>2,657</td>
<td>2,214</td>
<td>8</td>
</tr>
<tr>
<td>Not provided</td>
<td>99</td>
<td>2</td>
<td>1,140</td>
<td>1,041</td>
<td>4</td>
</tr>
<tr>
<td>Other country</td>
<td>33</td>
<td>1</td>
<td>410</td>
<td>377</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>5,091</td>
<td>100</td>
<td>31,895</td>
<td>26,804</td>
<td>100</td>
</tr>
</tbody>
</table>

How applicants in financial difficulty lodged disputes

In financial difficulty disputes, applicants are most likely to lodge their dispute with FOS through our website. Applicants are also six times more likely to lodge a financial difficulty dispute by phone compared with other disputes at FOS. We are developing an online option for applicants to enable them to provide more details of their financial position electronically.

How applicants in financial difficulty heard about FOS

About one-third (31%, the same proportion as last year) of applicants in financial difficulty had already heard about FOS. Many of the others found out about our service through their financial counsellor (12%) or the internet (10%).

In 2014-2015, 60% of all dispute referrals to FOS from financial counsellors and 40% of dispute referrals from a charity or church organisation were for reasons of financial difficulty.

Received financial difficulty disputes by how applicant heard about FOS

<table>
<thead>
<tr>
<th>How applicant heard about FOS</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Already knew about FOS</td>
<td>1,596</td>
</tr>
<tr>
<td>Another dispute resolution scheme (eg Superannuation Complaints Tribunal)</td>
<td>178</td>
</tr>
<tr>
<td>Charity/church organisation</td>
<td>38</td>
</tr>
<tr>
<td>Community centre/consumer representative</td>
<td>79</td>
</tr>
<tr>
<td>Event/trade fair/presentation</td>
<td>7</td>
</tr>
<tr>
<td>Family/friends/colleague (word of mouth)</td>
<td>297</td>
</tr>
<tr>
<td>Financial counsellor</td>
<td>599</td>
</tr>
<tr>
<td>Financial planner</td>
<td>47</td>
</tr>
<tr>
<td>FSP I have a dispute with</td>
<td>142</td>
</tr>
<tr>
<td>Government agency (eg ACCC, ASIC, APRA)</td>
<td>61</td>
</tr>
<tr>
<td>Industry association (eg ABA, FPA, FSC)</td>
<td>4</td>
</tr>
<tr>
<td>Internet</td>
<td>527</td>
</tr>
<tr>
<td>Legal Aid/free legal service</td>
<td>245</td>
</tr>
<tr>
<td>Media (eg newspaper/magazine)</td>
<td>35</td>
</tr>
<tr>
<td>Member of Parliament</td>
<td>12</td>
</tr>
<tr>
<td>Phone directory</td>
<td>19</td>
</tr>
<tr>
<td>Solicitor/legal professional</td>
<td>264</td>
</tr>
<tr>
<td>Welfare/migrant service</td>
<td>5</td>
</tr>
<tr>
<td>Not provided</td>
<td>862</td>
</tr>
<tr>
<td>Unknown</td>
<td>74</td>
</tr>
<tr>
<td>Total</td>
<td>5,091</td>
</tr>
</tbody>
</table>

Characteristics of financial difficulty applicants compared with all applicants

Applicants in financial difficulty disputes are most likely to be in the 40-59 age bracket.

Where applicants in financial difficulty disputes appoint a representative, the representative is less likely to be a family member, and more likely to be a financial counsellor compared with other disputes. This reflects the positive role financial counsellors play in helping consumers deal with financial difficulty.

Applicants in financial difficulty are more likely to lodge disputes jointly. Where the dispute is lodged by a single applicant, it is more likely to be a female applicant compared with other disputes.

Our records also show that applicants in financial difficulty disputes are more likely to report that they have a mental illness compared with applicants in other disputes. During the year we continued to work to improve support and access for applicants who need additional assistance (see page 36).
## Received disputes by age of applicant

<table>
<thead>
<tr>
<th>Age Group</th>
<th>FD</th>
<th>% FD</th>
<th>All</th>
<th>All excl FD</th>
<th>% all excl FD</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-17</td>
<td>6</td>
<td>0</td>
<td>45</td>
<td>39</td>
<td>0</td>
</tr>
<tr>
<td>18–24</td>
<td>188</td>
<td>4</td>
<td>990</td>
<td>802</td>
<td>3</td>
</tr>
<tr>
<td>25–29</td>
<td>280</td>
<td>5</td>
<td>3,241</td>
<td>2,961</td>
<td>11</td>
</tr>
<tr>
<td>30–39</td>
<td>1,162</td>
<td>23</td>
<td>6,191</td>
<td>5,029</td>
<td>19</td>
</tr>
<tr>
<td>40–59</td>
<td>2,491</td>
<td>49</td>
<td>13,256</td>
<td>10,765</td>
<td>40</td>
</tr>
<tr>
<td>60+</td>
<td>603</td>
<td>12</td>
<td>4,734</td>
<td>4,131</td>
<td>15</td>
</tr>
<tr>
<td>Not provided</td>
<td>361</td>
<td>7</td>
<td>3,438</td>
<td>3,077</td>
<td>11</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>5,091</strong></td>
<td><strong>100</strong></td>
<td><strong>31,895</strong></td>
<td><strong>26,804</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

## Received financial difficulty disputes by type of representative

- Accountant: 2% (28% of FD, 11% of All excl FD)
- Family or friend: 28% (35% of FD, 10% of All excl FD)
- Fee for service agent: 2% (17% of FD, 3% of All excl FD)
- Financial advisor: 2% (17% of FD, 3% of All excl FD)
- Financial counsellor: 0% (12% of FD, 0% of All excl FD)
- Legal guardian: 0% (12% of FD, 0% of All excl FD)
- Not listed here: 3% (12% of FD, 0% of All excl FD)
- Power of attorney: 1% (12% of FD, 0% of All excl FD)
- Solicitor: 12% (28% of FD, 10% of All excl FD)
- Trustee: 0% (12% of FD, 0% of All excl FD)

## Received financial difficulty disputes by type of special assistance

- Cognitive condition: 11% (Cognitive condition: 0% of FD, 0% of All excl FD)
- Hearing: 4% (Hearing: 0% of FD, 0% of All excl FD)
- Literacy: 10% (Literacy: 0% of FD, 0% of All excl FD)
- Mental health: 63% (Mental health: 0% of FD, 0% of All excl FD)
- Physical impairment: 8% (Physical impairment: 0% of FD, 0% of All excl FD)
- Sight/ vision: 3% (Sight/ vision: 0% of FD, 0% of All excl FD)
- Text telephone: 1% (Text telephone: 0% of FD, 0% of All excl FD)
Case study
Obligation to consider hardship assistance

An applicant had a personal loan secured by a car and fell into arrears when they experienced financial hardship due to unemployment.

Then the applicant got a new job and contacted the FSP to explain they were resuming work the following week.

The applicant asked the FSP to allow time to repay the arrears, and to restart repayments when receiving their first pay.

The FSP asked the applicant to make payments while it considered the request and sent a Statement of Financial Position (SOFP) to complete.

The applicant returned a completed SOFP. The FSP said it would not consider an arrangement unless the arrears were repaid. The applicant had resumed normal repayments in the meantime.

The applicant lodged a dispute with FOS, after which the FSP offered the applicant three arrangements. Each time, the FSP asked the applicant to make additional payments to clear short-term arrears. According to the SOFP, these additional payments were unaffordable to the applicant.

FOS determined that the FSP had breached its obligation to give genuine consideration to the applicant’s requests for assistance because it:

» demanded higher than normal payments in lieu of receiving a hardship application

» refused to consider hardship assistance unless the arrears were cleared

» offered inappropriate repayment arrangements.

FOS considered that an appropriate solution could have been:

» a short-term moratorium on payments while the applicant found a job

» time to show serviceability once the applicant had resumed work

» capitalisation of arrears because it was clear that the loan would be repaid in full if it was varied.

FOS awarded non-financial loss compensation and required the FSP to capitalise arrears into the loan.
Legal proceedings disputes

In 2014-2015, FOS accepted 1,425 legal proceedings disputes, which was 15% less than last year, and closed 11% fewer disputes than last year due to fewer disputes being received.

Legal proceedings disputes are where a financial services provider (FSP) has begun debt recovery legal proceedings against an applicant in court before the dispute is lodged with FOS. We can consider these disputes as long as the applicant has not taken a step beyond lodging a defence or a defence and counterclaim in those proceedings.

FOS has been able to consider these disputes since January 2010. Before then, the FOS Terms of Reference excluded such disputes.

We have a process to help us identify disputes where legal proceedings disputes have begun, and once they are identified we treat these disputes as urgent and expedite them through our dispute handling process.

For more information, please see our Operational Guidelines to the Terms of Reference, which can be found at [www.fos.org.au/tor](http://www.fos.org.au/tor).

Legal proceedings disputes relate to debt recovery, so financial difficulty remains the most common issue in these disputes (see issues, page 93). See also page 85 for an outline of the reasons behind a reduction in financial difficulty disputes in recent years.

Banks were involved in three-quarters (75%) of legal proceedings disputes.

### Products

The vast majority (98%) of accepted legal proceedings disputes in 2014-2015 were about credit products, with 87% of these relating to consumer credit products. Most (56%) of those related to home loans.

In these disputes, the legal proceedings generally seek judgment for possession of the family home so that the property can be sold and the proceeds applied to repay the outstanding debt.

A smaller proportion of legal proceedings disputes related to unsecured facilities – 15% to credit cards, 9% to personal loans (some personal loans may be secured by vehicles or equipment) and 6% to business loans.
Issues

In 2014-2015, the predominant issue category in legal proceedings disputes was financial difficulty (85%). Within this category, almost one-third (32%) related to an FSP declining a request for financial difficulty, followed by one-quarter (25%) for applicant requests for an FSP to suspend enforcement proceedings, and failure of an FSP to respond to a request for assistance (20%).

This represents a significant difference to last year, with the number of disputes relating to applicant requests for an FSP to suspend enforcement proceedings falling from 1,142 to 412, while the number of disputes relating to an FSP declining a request for financial difficulty more than doubled.

The reasons for this change are explored in Financial difficulty disputes (page 86).

Outcomes

During 2014-2015, we determined that 39% of legal proceedings disputes were outside our jurisdiction. The most common reason for this was that a court order had been issued before the dispute was lodged. For this reason it is important for applicants to contact their FSP quickly if they are experiencing difficulty repaying their loan. If the applicant is not satisfied with the consideration given by their FSP following this contact, it is equally important that they lodge a dispute with FOS as soon as they can.

Of the legal proceedings disputes that FOS considered, a significant number were resolved between FSPs and applicants (20%), with FOS also conciliating outcomes in 15% and negotiated settlements in 13% of disputes.

Demographics

People aged 40 to 59 were most likely to lodge legal proceedings disputes with FOS. This age group represented more than half (55%) of the legal proceedings dispute applicants but only 42% of all FOS disputes.

As in previous years, most disputes involving people in this age bracket related to debt recovery legal proceedings in which the FSP was seeking to take possession of the family home. This adds a deal of complexity because the timeframes for a loan to be repaid, before applicants retire, is shorter than for people in younger age brackets.
Conciliation conferences

FOS has a team of specialist conciliators who conduct regular telephone conciliation conferences to resolve disputes involving financial difficulty, general insurance, investments, superannuation, life insurance, stockbroking and banking and finance matters.

Conciliation conferences provide an informal forum in which the parties can discuss all issues, and develop and assess potential options for resolving the dispute.

In 2014-2015, FOS conducted 1,163 telephone conciliation conferences, which was 5% more than last year. Of the disputes that went to conciliation, almost three-quarters (73%) were resolved at this stage (71% last year).

The resolution rate varies depending on the issues in dispute. For example, financial difficulty disputes tend to have a higher resolution rate than disputes involving banking and finance products where financial difficulty is not a factor. In complex disputes, a conciliation conference can help resolve some of the issues so that any further investigation is limited in scope.

New initiatives

In 2014-2015, we made some changes to ensure more efficient and fair conciliation processes. This included our approach to taking notes and trialling a process to help prepare terms of agreement for resolved disputes.

We also conducted advanced negotiation training to develop the skills of our conciliators.

Feedback and peer review

All participants in FOS telephone conciliation conferences are invited to complete a survey to allow parties to provide feedback and measure satisfaction with the process.

In 95% of cases, respondents said that the role of the conciliator was positive (93% last year). In 96% of cases their experience during the FOS conciliation conference was positive (95% last year), and in 91% of cases respondents said their overall experience of the FOS conciliation process was positive (89% last year).

Case study
Helping to see the other person’s viewpoint

A dispute involving a claim for a chargeback on a credit card to a victim of an internet scam was resolved by conciliation. The financial services provider (FSP) refused to pay the applicant’s claim because it said that the applicant had authorised the payment.

As soon as the applicant became aware of the scam, they contacted the FSP. The applicant thought they had acted quickly enough to stop the transaction proceeding.

The dispute was taken to conciliation, where a discussion facilitated by the FOS conciliator revealed that the applicant was primarily frustrated with the conduct of the FSP when the issue was first raised. The applicant had a long history as a customer of the FSP.

The telephone conciliation conference enabled the FSP and applicant to understand each other’s perspective and some of the reasons for the dispute being pursued.

In private sessions, the conciliator discussed with the parties how a decision maker would approach such a dispute. During the 90-minute conference, which included joint and private sessions, the parties identified common interests that enabled them to work together to achieve a resolution.

Both parties considered the benefits of resolving the dispute through conciliation, including the opportunity to avoid the time, money and inconvenience of continuing to an Ombudsman determination.

The dispute was resolved when it was agreed that the FSP would pay the applicant half the disputed amount.
Systemic issues & serious misconduct
Systemic issues and serious misconduct

In addition to our role of resolving individual disputes, FOS is required by ASIC Regulatory Guide 139 to identify, resolve and report on systemic issues and to notify ASIC of cases of serious misconduct.

A systemic issue is defined in our Terms of Reference as an issue that will have an effect on people beyond the parties to a dispute. Serious misconduct is defined as conduct that may be fraudulent or grossly negligent or may involve wilful breaches of applicable laws or obligations.

Identifying systemic issues gives FOS the chance to help financial services providers (FSPs) fix the issues, raise industry standards and help consumers obtain fair compensation for financial losses.

Our systemic issues process

1. IDENTIFY a possible systemic issue (2,137 referrals in 2014-2015)
   FOS staff consider whether each dispute raises any issues that could affect a wider group of people. Systemic issues can be identified by staff at any stage of the dispute resolution process.

2. REFER the issue to the FSP (173 cases in 2014-2015)
   Once a possible systemic issue is identified, we provide details of the issue to the relevant FSP, ask for further information and invite the FSP to respond formally.

3. ASSESS whether it is a definite systemic issue (62 cases in 2014-2015)
   We assess the FSP’s response and determine whether the issue is definitely systemic. Our systemic issues staff carry out investigations in consultation with the relevant Ombudsman.
   If we decide that it is a systemic issue, we manage its resolution with the FSP.
   If we decide that an issue is not systemic (89 cases in 2014-2015), the matter is concluded, although we may reconsider it if new information becomes available.

4. RESOLVE the issue through collaboration with the FSP (52 cases in 2014-2015)
   We work with the FSP to resolve the systemic issue. This requires the FSP, where appropriate, to:
   » identify all affected customers
   » compensate the affected customers fairly for any financial loss
   » implement a strategy to prevent the problem recurring.

5. REPORT the issue to ASIC
   We provide quarterly reports to ASIC on the numbers of possible and definite systemic issues we have identified, and on the nature, progress and resolution of definite systemic issues. FSPs are not named in these reports.
   FOS identifies an FSP in a report to ASIC only if the FSP has not dealt with a definite systemic issue to the satisfaction of the relevant Ombudsman or if it is a case of serious misconduct.
Systemic issues and serious misconduct cases this year

The systemic issues team received 2,137 referrals of possible systemic issues from FOS dispute handling teams in 2014-2015 (compared with 1,903 last year). This included multiple referrals of the same issues. Staff are regularly reminded of FOS's systemic issues obligation and encouraged to refer any disputes of concern.

The systemic issues team uses a thorough assessment process to decide whether a matter should be referred to an FSP for response. This means that some referrals are escalated and some are not.

In 2014-2015, we identified and referred 173 possible systemic issues to FSPs for response (compared with 162 last year), and resolved 52 definite systemic issues (54 last year).

A total of 221 systemic issue investigations were closed at the preliminary investigation stage in 2014-2015, about one-quarter (27%) more than last year. This represents an increasing trend to contact FSPs to obtain further information before referring the matter as possibly systemic.

Some of the possible and definite systemic issues identified in 2014-2015 were still being investigated at the end of the year and it is difficult to quantify how many customers have been affected by systemic issues and remediated. Nevertheless, we identified that more than 77,402 customers were directly identified by FSPs as having been affected by FOS systemic issues in 2014-2015.

Other outcomes of the 52 systemic issues resolved this year include:

» more than $4.3 million was refunded following direct FOS involvement (or in some cases the issues identified from FOS disputes may have already been remediated by the FSP or been subject to ASIC involvement)
» more than 2,700 credit listings were amended or removed
» reward points reimbursed
» fees refunded
» insurance claim denials overturned
» clients contacted following conduct of authorised representatives
» refunds of enforcement costs
» improvements to disclosure
» template letter updates
» online banking improvements
» improvements to processes, procedures and training.

We determined that 105 referred issues were not systemic but in many cases a positive outcome was achieved from the referral, including:

» greater consistency across the FSP’s customer communications, updated template letters and simpler internal FSP communications for dispute correspondence
» improved training and policies for dealing with customers in financial difficulty
» fees reimbursed to customers for a service not delivered
» improvements made to collections systems to ensure that default listings cannot be added after judgment has been obtained
» revised policies, procedures and training where necessary to ensure compliance with external dispute resolution obligations (including ensuring that no costs relating to disputes are passed on to complainants and that FOS requests for information are met within appropriate timeframes).

Common issues continue to be:

» policies for dealing with customers in financial difficulty
» conduct of employees and authorised representatives
» improper collection activity.

We reported 14 cases of serious misconduct to ASIC in 2014-2015 compared with 11 cases last year.

Examples of definite systemic issues

» failure to include stamp duty calculation in the market value when cash is used to settle an insurance claim
» incorrectly made credit listings, although this year continued the downward trend of new issues in this space
» issues relating to how FSPs deal with customers in financial difficulty are raised regularly and often result in modified behaviours.

Working together with financial services providers and ASIC

In 2014-2015, a number of matters we identified and referred to financial services providers (FSPs) as systemic had been or subsequently were self-reported to ASIC by the FSP.

Several other issues that we raised as possibly systemic had already been or were subject to investigation by ASIC.

This year, FOS also interacted more with ASIC on investigations of systemic issues.
FOS identified a possible systemic issue from a number of general insurance disputes that raised concerns regarding the quality and timeliness of an FSP’s responses to FOS via a law firm engaged by the FSP to conduct its internal and external dispute resolution processes.

In particular, our analysis of some of the disputes identified that the law firm was conducting IDR reviews and issuing IDR letters on legal letterhead. FOS took the view that providing IDR correspondence to policyholders on legal letterhead may influence or dissuade them from pursuing a complaint. Where a customer received an IDR response on legal letterhead, this might impact on their rights and entitlement to pursue their dispute through EDR and their perception of the requirement to have their own legal representation, given that FOS is free to consumers.

FOS discussed the issue with ASIC on a de-identified basis. ASIC said that the use of external legal counsel to correspond with customers may intimidate consumers from using the non-adversarial FOS system and could create a barrier for those customers to resolve their disputes.

The FSP agreed to ensure that all future communication with customers relating to escalated complaints and dispute resolution is provided directly by the FSP, even where the FSP may have received assistance from a law firm in preparing the correspondence. ASIC said in a media statement that these changes would ensure the FSP met “expected outsourcing standards” for dispute resolution.

FOS raised a possible systemic issue with an FSP relating to how it dealt with an applicant’s request for hardship assistance before lodging a dispute with us.

During our review of dispute information, we were concerned to note that the applicant said the FSP had required a fee to be paid to process the hardship application.

The FSP advised that it had previously treated a hardship request the same way as customers initiating a request for a contract variation. Such a request incurred a fee and customers seeking consideration of their hardship application also incurred this fee.

We advised the FSP that we considered it inappropriate to charge a fee to process a request for hardship assistance, and that this was a definite systemic issue.

During the investigation, we obtained further detail and information about the instances in which the FSP had sought the fee from its customers. In particular, we were concerned that some customers’ hardship applications were not considered because they were unable or unwilling to incur the fee.

The FSP advised FOS that no customers had been refused hardship assistance or refused consideration of their hardship request due to their refusal or unwillingness to pay a fee.

The FSP confirmed for FOS that its hardship policy had been amended to remove the fee and that no customers had incurred a hardship application fee after that time.

The FSP reviewed a total of almost 2,000 open and closed accounts to identify customers who had incurred the fee upon applying for hardship. Following this review, the FSP advised FOS that it had refunded hardship fees to a large number of customers.

Some of the impacted current account holders had the fee refunded to their accounts and the other customers received a cheque with an explanatory letter from the FSP.

Case study
Direct involvement of law firm could send the wrong message

Case study
Fee for hardship request inappropriate
A dispute raising concerns about an FSP’s oversight of a former authorised representative (AR) was referred to the systemic issues team.

The AR helped a customer to withdraw part of their superannuation despite the customer being under the preservation age and not entitled to make such a withdrawal.

The applicant was later investigated and penalised by the Australian Taxation Office (ATO).

During FOS’s consideration of the dispute, the FSP said that the AR enabled the withdrawal of superannuation for clients who approached the AR to do so and they (the clients) understood the activity was unlawful.

We noted that in 2012, the AR was banned by ASIC for six years. We sought further information from the FSP about its dealings with ASIC and what remedial action had been taken to restore the affected clients to the position they would have been in but for the AR’s conduct.

We considered the FSP’s submissions about the AR’s conduct and the fact that a number of customers had demonstrated that they were worse off as a result of obtaining early access to their superannuation.

We considered that the matter represented a definite systemic issue. In particular, we were concerned that the FSP had not contacted all affected customers advising them that the FSP could consider their complaint.

In order to be satisfied that the wider group had been adequately compensated, we requested that the FSP invite all affected customers to bring their concerns to the FSP for consideration individually and on their merits.

The FSP agreed with our request and sent letters to all affected applicants inviting them to provide further information to enable the FSP to consider their claims. It then provided refunds to customers who were able to establish that the AR wrongly represented that their funds would be passed to the ATO but instead kept and used these funds for the AR’s own purpose.

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**Case study**

**Early withdrawal of superannuation raises alarm**

A dispute raising concerns about an FSP’s oversight of a former authorised representative (AR) was referred to the systemic issues team.

The AR helped a customer to withdraw part of their superannuation despite the customer being under the preservation age and not entitled to make such a withdrawal.

The applicant was later investigated and penalised by the Australian Taxation Office (ATO).

During FOS’s consideration of the dispute, the FSP said that the AR enabled the withdrawal of superannuation for clients who approached the AR to do so and they (the clients) understood the activity was unlawful.

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Code compliance & monitoring
The Financial Ombudsman Service Australia Code Compliance and Monitoring team (FOS Code) is a separately operated and funded business unit of FOS.

FOS Code supports independent committees to monitor compliance with codes of practice in the Australian financial services industry to achieve service standards people can trust. Our aim is to help financial services providers (FSPs):

» build good relationships with their customers
» improve complaints handling
» reduce the number of customer disputes through improved service delivery.

Codes of Practice

FOS Code administers and monitors compliance with four industry codes of practice:

» Code of Banking Practice
» General Insurance Code of Practice
» Customer Owned Banking Code of Practice
» Insurance Brokers Code of Practice.

Our services are funded by the industry associations responsible for these codes, in accordance with service level agreements.

Codes of practice set standards of good industry practice for FSPs when dealing with people who are, or who may become, individual or small business customers in areas relating to service provision, standards of professional conduct, practice standards and ethical behaviour.

These codes are voluntary and FSPs can decide whether to subscribe to the appropriate Code. Once they subscribe to a Code, they are required to comply with it. The codes therefore play an important role in the regulatory framework of the Australian financial services industry.

Some 604 FSPs subscribed to the four codes in 2014-2015. Each code subscriber has made a commitment to:

» work to improve the standards of practice and service in their industry
» promote informed decisions about their services
» act fairly and reasonably in delivering those services.

As at 30 June 2015:

**Code of Banking Practice**
- **Subscribers** 13 banking groups (18 banks)
- **Coverage** Individual and small business customers
- **Overseen by** Code Compliance Monitoring Committee

**General Insurance Code of Practice**
- **Subscribers** 158 code subscribers (50 general insurers and 108 Lloyd’s Australia coverholders and claims administrators)
- **Coverage** Policyholders and uninsured third parties (debt recovery)
- **Overseen by** General Insurance Code Governance Committee

**CustomerOwned Banking Code of Practice**
- **Subscribers** 81 institutions
- **Coverage** Individual and small business customers
- **Overseen by** Customer Owned Banking Code Compliance Committee

**Insurance Brokers Code of Practice**
- **Subscribers** 342 insurance brokers
- **Coverage** Individual and small business clients
- **Overseen by** Insurance Brokers Code Compliance Committee
Code Compliance Committees

Code monitoring is overseen by Code Compliance Committees, which comprise an independent Chair, a consumer representative and an industry representative.

The Code Compliance Committees are independent of the industries that are responsible for these codes, and have powers and functions to identify and address breaches of code obligations. These committees met 26 times in 2014-2015 (once more than last year).

FOS Code provides secretariat, code monitoring and investigation services to each of these committees. In 2014-2015, FOS Code continued to improve the efficiency of committee operations by:

» developing an online portal to streamline the exchange of code compliance information between the committees and code subscribers
» delivering ‘Board Pad’ services across all four committees to securely and efficiently distribute committee papers via tablet devices
» developing an investigations process and procedures manual for each committee to ensure a consistent approach to code compliance matters.

Code governance frameworks

Two new Code Compliance Committees in the insurance broking and general insurance industries began work in 2014-2015, following independent reviews of their respective industry codes. We continued to work closely with and advise the National Insurance Brokers Association and the Insurance Council of Australia on the operation of the new code governance frameworks.

In 2014-2015, Committee Chairs across the four codes we administer attended an inaugural annual forum to exchange information on governance, code compliance and monitoring and decision-making frameworks.

Monitoring compliance

Annual compliance program

In 2014-2015, 384 code subscribers were asked to respond to an annual compliance statement, self-certification or annual return relevant to their Code’s obligations. The questionnaires asked them to report on the operation and effectiveness of the code monitoring frameworks within their organisations.

During this process, code subscribers self-identified 12,854 breaches of code obligations. Results of the annual compliance program and the trends and emerging risks in code compliance were reported back to industry and other stakeholders in annual reports published for each code.

The team also assessed code compliance through 13 onsite bank visits, teleconference assessments with 26 insurance brokers and 13 mutual banking institutions, and 13 desktop audits of code subscribers in general insurance. These assessments enabled us to:

» have in-depth, face-to-face discussions with code subscribers about code compliance monitoring within their organisation
» verify compliance information received during the year as a result of our other activities
» provide specific feedback to code subscribers deemed to be at risk of non-compliance
» discuss complaint and breach systems, complaints handling, code breach identification and reporting, staff training and promotion of the codes
» make recommendations to individual code subscribers
» assess the effectiveness of the code compliance monitoring frameworks of the organisations in more detail.

Significant code breaches

Significant breaches of code obligations usually involve a number of customers who have been impacted by the conduct or activity and who have suffered loss. Significant breaches also require more extensive remedial action to be undertaken by the code subscriber to correct the non-compliant conduct and to reduce the likelihood of recurrence.

FOS Code dealt with 20 breaches of the codes during 2014-2015 that were assessed as ‘significant’: eight in banking, one in general insurance, six in customer owned banking and five in insurance broking.

Compliance investigations

Each code sets out individual rights for consumers, including to lodge a complaint that an FSP may not have met their obligations under their industry code. Investigating these type of concerns helps us to monitor FSP compliance, and support them to remedy code breaches.

We do not:

» provide compensation – that is the role of external dispute resolution bodies such as the Financial Ombudsman Service Australia or courts and tribunals
» issue fines or penalties – that is the role of regulators such as the Australian Securities and Investments Commission (ASIC).

Anyone can contact us to allege an FSP may have breached their industry code. For us to investigate a matter, at a minimum:

» the FSP must have adopted their industry code
» the financial service had to take place in Australia
» the matter has to involve an individual or small business customer or their guarantor
» a code obligation needs to cover the issue.

Our investigation processes are independent, fair, efficient and transparent (subject to our confidentiality and privacy obligations). Each investigation is unique and depends on its facts. However, as a general guide, we take into account:

» evidence before us
» the law
Financial difficulty remains one of the most significant and sensitive areas of engagement between banks and their customers, according to CCMC stakeholders. While FOS has received fewer complaints relating to financial difficulty in the past three years (see page 85), it continues to receive high volumes of disputes in this area.

The CCMC assessed banks’ compliance with the enhanced code standards. As part of the inquiry, 13 banking groups completed a questionnaire detailing their processes for helping customers overcome financial difficulty. In addition, 75 consumer and small business representatives documented their experiences dealing with banks on behalf of their customers.

The FOS Code team, on behalf of the CCMC, also visited 44 bank branches and audited bank websites to assess customers’ access to information on financial difficulty assistance.

Overall, the CCMC found that banks have robust procedures in place to deal with customers in financial difficulty, and that they are committed to engaging actively and cooperatively with customers to ensure effective outcomes. Results from the survey of consumer and small business representatives indicate that while banks have improved the way they deal with customers experiencing financial difficulty, some issues remain, particularly where the customer’s situation is unique or requires longer-term solutions.

A summary of the CCMC’s findings and recommendations to industry will be available at www.ccmc.org.au from late 2015.

Financial difficulty – customer owned banking

The Customer Owned Banking Code Compliance Committee conducted an inquiry to determine whether the practices of credit unions, mutual banks and mutual building societies were consistent with financial hardship provisions under the Customer Owned Banking Code of Practice.

While the Committee found the institutions surveyed were genuinely willing to help their customers in financial difficulty, they noted that obligations under the Code were broadly interpreted by institutions and not always consistently applied.

Most financial counsellors interviewed as part of the inquiry reported, for example, that some of the customers they represented were not offered a tailored or flexible repayment arrangement as would be expected. One-third of financial counsellors also reported instances where institutions had listed a default on their client’s credit file or sold their debt while a request for financial hardship assistance was still being considered. This is again inconsistent with the Code’s obligations.

Insurance broking

An inquiry conducted by the Insurance Brokers Code Compliance Committee assessed how effectively insurance brokers were complying with their obligations under Standard 11 of the Insurance Brokers Code of Practice. This standard requires code subscribers to make information about the Code readily available to consumers, including services covered by the Code and how to make a complaint if things go wrong.

The Committee found that overall, code subscribers systematically improved the visibility and accessibility of code and dispute resolution information on their websites. An increasing number of code subscribers (based on a previous inquiry conducted in 2012) at a minimum mentioned the Code on their websites.


Code transition

The 2014 General Insurance Code of Practice came into effect on 1 July 2014, with a 12-month transition to follow. Throughout this period, we worked extensively with the Insurance Council of Australia and its Code Transition Working Group to help industry successfully transition to the Code’s revised standards. As part of this work we:

» developed a master desktop audit template, which provides extensive information for code subscribers on compliance with the Code
» developed a ‘Q & A’ document to provide clarification on new Code standards
» developed a gap analysis document identifying what has changed and what has remained the same under the new Code
» established a helpdesk to assist code subscribers with transition
» participated in four industry forums on transition.

Stakeholder engagement

FOS Code attended 73 meetings with regulators, industry associations, consumer advocates and other stakeholders throughout the year.

Significant initiatives included the annual Bank Forum of the Code Compliance Monitoring Committee (CCMC), attended by 23 participants representing 11 banks. Hosted by Westpac Banking Corporation, the forum provided participants with the opportunity to discuss the CCMC’s work and hear a range of industry speakers. Four Bank Stakeholder Liaison Group teleconferences held throughout the year complemented the forum, allowing attendees to discuss code compliance issues.

FOS Code conducted a workshop with the Insurance Council of Australia’s Code Reference Group to discuss general insurance industry data, including aggregated breach data.

Code awareness and consumer advocates

In 2014-2015, we continued to work with key consumer stakeholders (including Financial Counselling Australia) to promote code awareness in the sector.

We partnered with the Telecommunication Industry Ombudsman and Energy and Water Ombudsman schemes in Victoria, NSW and South Australia to present training to more than 200 financial counsellors in those states.

We presented at two national financial counsellor conferences (WA and NT), met representatives in Tasmania and attended the National Association of Community Legal Centres Conference in Alice Springs.

In Victoria, we delivered professional development training to financial counsellors and students enrolled in the Diploma of Community Services (Financial Counselling). We also launched a FOS-wide e-Learning module on FOS Code’s role.

We developed a new ‘Code toolkit’ brochure to promote the role of the Code Compliance Committees and FOS Code as well as the four codes and key code transition changes. This brochure was published on the websites of some consumer advocacy and financial counselling groups and the FOS website at www.fos.org.au/about-us/codes-of-practice.

FOS Code – by the numbers

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Case study
Lending decisions must be prudent and diligent

FOS Code investigations into concerns raised by several customers about a bank manager’s lending decisions formed the basis of a determination by the Code Compliance Monitoring Committee (CCMC) in 2014-2015.

In one instance, the bank manager provided increased credit – granting a refinancing application for a higher loan amount. A key issue was the age of the borrower. While age alone is not a barrier to a lending decision, the customer was 69 when applying for the 30-year refinance loan.

The CCMC determination considered that under the ‘provision of credit’ obligation in the Code of Banking Practice, a prudent and diligent banker would have made further inquiries about the customer’s future earning capacity and retirement plans before deciding on the new loan.

In another provision of credit case in 2014-2015, a customer received a series of credit card limit increases. The CCMC determined that a prudent and diligent banker would have made further inquiries before increasing the limits because of several negative events recorded on the customer’s accounts. In these circumstances it was insufficient for the bank to rely solely on the customer’s declaration that they could afford the increases before granting them.

Since the events giving rise to the investigations, changes in the law have required all banks to enhance their lending processes. In view of these legislative changes, the CCMC issued Guidance Note No. 9 (see www.ccmc.org.au).

This note summarises the CCMC’s approach to assessing banks’ compliance with the provision of credit obligation, including assessing the steps a bank has taken to consider a customer’s individual circumstances and making appropriate inquiries when customer information held by a bank is limited, unverified or inconsistent.

Case study
Insurance complaints do not need to be in writing

FOS Code identified that a general insurance company operating under the 2012 General Insurance Code of Practice had used a claim denial letter template that incorrectly required a consumer to put their complaint about a claim denial in writing.

Asking customers to put complaints or disputes in writing may deter them from accessing the company’s complaints handling process, inconsistent with its obligation under the Code to conduct complaints handling in a fair, transparent and timely manner.

A former employee had created the incorrect letter template and a small number of staff had used it over a 16-month period when informing 111 customers that the company had denied their claims.

To remedy this situation, the company:

» phoned each of the customers to advise them of the error in the denial confirmation letter and clarified that they were not required to put a complaint in writing
» subsequently issued the correct letter to each of the affected customers
» reminded all claims staff not to diverge from using standard templates in any circumstances
» removed the incorrect claim denial letter template
» enhanced its claim denial letter templates to make a clear distinction between what information can and cannot be altered
» moved the authority to modify and/or replace claim letter templates to the company’s Chief Operating Officer.
Corporate governance
Corporate governance

FOS prides itself on independence, integrity and transparency in all aspects of its operations, and applies the principles of good corporate governance to the running of the company.

We consider the ASX Corporate Governance Principles and Recommendations, 3rd Edition, sets the benchmark for a high standard of corporate governance in Australia.

This section explains how we apply the Principles and Recommendations issued by the ASX Corporate Governance Council to FOS’s operations.

**Principle 1: Lay solid foundations for management and oversight**

*Functions reserved by the Board and those delegated to management*

Since the inception of the company, the FOS Board has adopted a Charter that governs its operations and clearly delineates the responsibilities of the Board and of senior management.

The role of the Board is to monitor the performance of FOS, provide direction to the Chief Ombudsman on policy matters, set the budget, and review from time to time the Terms of Reference, including the jurisdictional limits of FOS.

The Board does not involve itself in the detail of disputes lodged at FOS, because that would prejudice the independence of the Ombudsmen. The decisions of the Ombudsmen are free of any interference from the Board.

The Board has two committees to assist it in its role – the Finance and Risk Management Committee and the Nominations and Remuneration Committee.

The role of management is to implement the strategic direction provided by the Board and to ensure that FOS provides its external dispute resolution (EDR) services within the terms of its approval from ASIC.

*Appointment of directors*

The Nominations and Remuneration Committee Charter sets out the process to be followed by the Board when appointing or reappointing directors and other Board appointees.

*Written terms of appointment*

Written agreements set out the terms of each appointment of FOS Board directors and senior executives.

*Direct accountability of Company Secretary to Board for proper functioning of the Board*

As set out in the Board Charter, the FOS Company Secretary is appointed by, and accountable to, the Board and may advise the Chair, the Board, its Committees and individual directors on matters of governance process.

*Diversity policy*

The FOS Diversity Policy and Procedures are available via the Careers page on our website (www.fos.org.au/careers) and reflect our commitment to diversity at all levels in the FOS workplace.

*Evaluation of performance of FOS Board*

The Nominations and Remuneration Committee of the Board ensures a robust system of performance evaluation is in place for Board appointees and the Board itself.

In 2014-2015, the Board engaged an external consultant to perform an independent assessment of its performance to augment the self-assessment process that had been conducted in previous years. The evaluation suggested some minor enhancements of the Board’s processes for its consideration, but said that the FOS Board has a wide and appropriate skills mix and effective practices and structures.

*Evaluation of performance of FOS senior management*

Since FOS began operating in 2008, all employees of FOS, including senior managers, have been subject to a performance evaluation process. The line manager of an employee conducts the performance evaluation, with the Chief Ombudsman responsible for the performance evaluation of the senior managers reporting to him. The performance evaluation of the Chief Ombudsman is conducted by the Chair of the Board.
Principle 2: Structure the Board to add value

FOS Board of Directors

Professor The Honourable Michael Lavarch AO – LLB (QUT)

Michael Lavarch was appointed a Transition Director on incorporation of the company, for a term expiring on 31 May 2009, and when the new Board was formed on 1 June 2009 he was appointed a director and Independent Chair of the Board. He was reappointed as Chair of the Board on 20 February 2015 for a further three-year term commencing on 1 June 2015.

Michael is the Commissioner, Risk Analysis and Investigation, for the Australian Skills Quality Authority. Michael is formerly Executive Dean of the Faculty of Law at the Queensland University of Technology. He is a former Federal Attorney-General and a former Secretary-General of the Law Council of Australia. He has extensive board experience, having held public and private company directorships, and is currently Chief Adjudicator of the Alcohol Beverages Advertising Code adjudication panel.

In 2012, Michael was appointed an Officer of the Order of Australia for distinguished service to law, education and human rights.

Robert Belleville – MBA

Robert Belleville was appointed an Industry Director on 25 February 2010 and reappointed for a further three years on 15 February 2013.

Robert is a member of the Insurance Manufacturers of Australia (IMA) Board and is Chair of the IMA Board Risk Committee and a member of its Audit Committee.

He was employed by AAMI for more than 37 years, culminating in his appointment as Chief Executive Officer in 2002. Soon afterwards he added the position of Chief Executive of Promina’s Direct Division, adding APIA, Shannons and Just Car Insurance to his responsibilities. Following the successful offer by Suncorp to take over Promina, Robert was appointed Group Executive, Personal Lines, which added GIO and Suncorp portfolios to his oversight. Despite retiring in December 2008, Robert stayed on with Suncorp as a part-time consultant until September 2009.

David Coorey – BA, LLB (UNSW)

David Coorey was appointed a Consumers’ Director on 1 June 2009 and reappointed on 20 February 2015 for a further two-year term commencing on 1 June 2015.

He is a senior lawyer with the Consumer Law team of the Civil Litigation section of the Legal Aid Commission of NSW, which he joined in 2002. Since commencing with the Legal Aid Commission, he has been actively involved in policy work in consumer law, with particular interest in policy issues that affect consumers of insurance products.

He previously worked with the law firm Freehills for more than three years, including a one-year pro bono secondment to Kingsford Legal Centre. He is also a former member of the Insurance Council of Australia Consumer Reference Group. David has worked in various areas of civil law, including insurance, credit, consumer and trade practices litigation, as well as human rights and discrimination law.

Jennifer Darbyshire – BA, LLB (Hons), LLM (London), GAICD

Jennifer was appointed an Industry Director on 8 June 2012 and reappointed on 20 February 2015 for a further three-year term commencing 1 June 2015.

Jennifer joined National Australia Bank in 2006 and was appointed General Manager Group Regulatory Strategy and Affairs in early 2015. From mid-2012 to late 2014, Jennifer was General Counsel and Company Secretary for NAB’s UK banking operations. Her previous roles at NAB include leading the Product Regulation Resolution legal team which supports NAB’s Australian and Asian operations and manages major litigation and large scale non-litigious disputes.

Jennifer has previously worked in private legal practice (including Mallesons in Melbourne and Linklaters in London) and in major Australian corporations (including Coles Myer). She has a corporate legal and executive background with extensive governance, regulatory and transactional experience.

Jennifer is the Chair of Heide Museum of Modern Art. Previous directorships include St Vincent’s & Mercy Private Hospital (2006 to 2011) and St Vincent’s Advisory Council Melbourne (2011 to 2012).
Carmel Franklin – BEd., Dip (Financial Counselling)

Carmel Franklin was appointed to the Board on 20 February 2015 for a three-year term commencing on 1 June 2015.

Carmel has been involved with consumer issues for a number of years, including as the Director of Care Financial Counselling and the Consumer Law Centre of the ACT, as the Chair of Financial Counselling Australia and through her role on the boards of the National Information Centre on Retirement Investments and the Welfare Rights and Legal Centre. In addition to these positions, she is a member of the ATO Individual Tax Advisory Forum.

She is a former member of the ASIC Consumer Advisory Panel as well as the FOS Consumer Liaison Group.

Elissa Freeman – BA (UNSW)

Elissa Freeman was appointed a Consumers’ Director on 21 February 2014 and commenced in the role on 1 June 2014.

Elissa is a prominent consumer advocate and is Manager of Consumer Policy at CHOICE. Elissa has advocated for consumers across the financial services, telecommunications and energy and water industries in her roles at CHOICE, the Australian Communications Consumer Action Network and the Public Interest Advocacy Centre. She has represented consumers widely, including at the ASIC Consumer Advisory Panel and the ACCC Consumer Consultative Committee.

She has previously held governance positions at the Financial Rights Legal Centre (then the Consumer Credit Legal Centre of NSW) and the Women and Girls Emergency Centre, and has been a Council member of the Energy and Water Ombudsman of NSW.

Louise Lakomy – MBA, GDPFP, JP, CFP

Louise Lakomy was appointed to the Board on 20 February 2015 for a three-year term commencing on 1 June 2015.

Louise is a Certified Financial Planner (CFP) with 15 years’ experience in financial planning. In her current role she is a Senior Financial Planner with Crystal Wealth Partners, an independently-owned financial planning business offering investment and strategic advice to her clients. Louise also holds a Masters of Business Administration.

She recently retired from the Board of the Financial Planning Association (FPA) of Australia after serving the maximum term of six years. She is a former member of the Financial Planning Education Council and the FPA’s Professionalism Committee and has held roles with large institutions including Westpac and St George private banks as well as boutique advisory firms.

Catriona Lowe – LLB (Qld)

Catriona Lowe was appointed a Consumers’ Director on 1 June 2009 and reappointed on 20 February 2015 for a further three-year term commencing on 1 June 2015.

Catriona is a member of the Boards of the Telecommunications Industry Ombudsman and Legal Practice Liability Committee. She is also Treasurer of the Consumers’ Federation of Australia and Chair of the ACCC Consumer Consultative Committee.

She is formerly the Co-Chief Executive Officer of the Consumer Action Law Centre and, before joining Consumer Action, was a Director in the Australian Competition and Consumer Commission’s Policy and Liaison Branch. Catriona was Deputy Director and the first Principal Solicitor of the legal practice at Consumer Law Centre Victoria and spent five years in private practice as a litigation lawyer.

Catriona has also served as a member of the Board of the National Information Centre on Retirement Investment, a member of ASIC’s External Advisory Panel, a member of the NAB Social Responsibility Advisory Council, a member of the Insurance Council of Australia Consumer Reference Group and a member of the Motor Car Traders’ Guarantee Fund Claims Committee.

Russell McKimm – Dip FP, FSIA, MSDIA, FAICD, ADA1 & 2 (ASX)

Russell McKimm was appointed a Transition Director on incorporation of the company, for a term expiring on 31 May 2009, and when the new Board was formed on 1 June 2009 he was appointed an Industry Director. Russell was re-appointed for a further two years on 11 May 2012 and retired from the Board on 31 May 2015.

Russell is an advisor with Patersons Securities Ltd and a panel member for the ASX Disciplinary Tribunal and the ASIC Markets Disciplinary Panel. He was appointed a non-executive director of the G.W. Vowell Foundation Ltd on August 2013.

His previous positions include Director with Shaw Stockbroking Ltd from 2005 to 2007, Director with Tolhurst Noall Ltd from 2001 to 2005 and Managing Director of Ord Minnett Ltd from 1988 to 1991. He holds a Diploma of Financial Planning from Deakin University.
and has studied at the Securities Institute of Australia, where he was also a regular lecturer in Certificate and Graduate Diploma courses. Russell is a past president of the Financial Planning Association (FPA) and a former board member of the FPA Complaints Resolution Scheme.

Christopher McRae – BA, LLB (Sydney)

Chris McRae was appointed an Industry Director on 8 June 2012 and reappointed on 20 February 2015 for a further three-year term commencing on 1 June 2015.

Chris is a director of McRae Services Pty Ltd, an incorporated legal practice specialising in financial services law, corporate governance and regulatory compliance, life insurance contracts review, drafting and settlement, stamp duty, superannuation and trustee services, consumer credit law and financial services dispute resolution.

Chris is also a consultant to several larger members of the Financial Services Council (FSC). Before establishing his legal consultancy in 2009, Chris held senior legal roles at AMP for more than 25 years. He was Specialist Counsel for AMP Financial Services from 1998 to 2008 and Chief Legal Officer for AMP Society Australia from 1988 to 1998. He managed in-house legal teams at AMP and represented AMP on FSC committees and in dealings with APRA and ASIC.

Denis Nelthorpe – B Juris, LLB, AM

Denis Nelthorpe was appointed a Consumers’ Director on 1 June 2009 and reappointed for a further two years on 11 May 2012. He retired from the Board on 31 May 2015.

He is the Manager of Footscray and Wyndham Legal Service and Director of Legal Services with the Brimbank Melton Community Legal Centre. He was appointed Adjunct Professor of Law at Victoria University in July 2012 and is the Chair of the Code Compliance Committee for the Australian Liquid Petroleum Gas Association.

He is a past President of the Consumers’ Federation of Australia and a past Chief Executive Officer of the Consumer Credit Legal Service (1986-91) and the Consumer Law Centre Victoria (1993-98). He was also the Director of the State Insurance Office Consumer Appeals Office in 1991-92.

Denis was made a Member of the Order of Australia in the June 2011 Queen’s Birthday Honours List.

Company Secretary

Nicolas Crowhurst - BA, LLB (Hons), ACIS, ACSA

Nicolas Crowhurst was appointed Company Secretary on 23 September 2010, after serving as Assistant Company Secretary. He is also a Director of Financial Services Compensation Scheme Pty Ltd.

Nicolas qualified as a Barrister in the United Kingdom in 2000 and has previously served as Legal Counsel to the Financial Industry Complaints Service Limited and the company.

He is a member of the Governance Institute of Australia, and the Institute of Chartered Secretaries and Administrators.

Disclosures regarding Nominations and Remuneration Committee

The Nominations and Remuneration Committee comprises the Chair of the Board, one industry director (formerly Russell McKimm, now Jennifer Darbyshire following Mr McKimm’s retirement) and one consumers’ director (David Coorey). This composition satisfies the Constitutional requirements for board committees to maintain equal membership between industry and consumers’ directors.

However, where thought necessary, the Committee has engaged external assistance from relevant stakeholder groups to provide advice and guidance on its duties and responsibilities.

The following table sets out the meetings and attendances for the Nominations and Remuneration Committee in 2014-2015:

<table>
<thead>
<tr>
<th></th>
<th>Actual attendance</th>
<th>Eligible to attend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Michael Lavarch</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>David Coorey</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Russell McKimm</td>
<td>3</td>
<td>3</td>
</tr>
</tbody>
</table>

The Skills Matrix of the FOS Board of Directors

The Board Charter states that examples of the core technical competencies which should be found across the Board include:

» Accounting and finance (Directors who have expertise in financial accounting)
» Business judgment (Directors who have a record of making good business decisions)
» Governance (Directors who understand and keep abreast of good governance practices)
» Knowledge of consumers’ issues and needs (Directors with appropriate and relevant consumer movement-specific knowledge and experience)
» Industry knowledge (Directors with appropriate and relevant industry-specific knowledge and experience)

» Knowledge of internal and external dispute resolution

» Human resource management (Directors who have experience and interests in Human Resource management and staff welfare).

Independent directors

The Chair is required by the FOS Constitution to be independent and the FOS Board Charter prohibits a single individual from occupying the roles of Chair and Chief Ombudsman.

The FOS Board comprises individuals with expertise and knowledge as required by the FOS Constitution. None of the directors is an executive director.

While the directors, with the exception of the Chair, are required to represent the interests of industry or consumers, each understands his or her legal obligation as a director to put the needs of FOS before those of their own ‘constituents’.

Induction and training of directors

Upon appointment, each director is provided with a comprehensive induction to FOS and its operations. The directors are also permitted to request and receive all reasonable training necessary for them to perform their role as directors effectively.

Principle 3: Promote ethical and responsible decision making

Code of Conduct

The standards of behaviour expected of FOS directors and employees are set out in the Board Charter, the FOS Code of Conduct, and the FOS values of Respectful, Efficient, Trustworthy and Thinking Ahead.

Principle 4: Safeguard integrity in financial reporting

Audit Committee

The functions of an audit committee are carried out at FOS by the Finance and Risk Management Committee. Catriona Lowe is the Chair of this committee, and Robert Belleville is the other member.

Since its inception in 2008, the Committee has had a formal charter governing its area of responsibility. The Charter was last revised in October 2012 and approved by the Board.

The following table sets out the meetings and attendances for the Finance and Risk Management Committee in 2014-2015:

<table>
<thead>
<tr>
<th>Name</th>
<th>Actual attendance</th>
<th>Eligible to attend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robert Belleville</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Catriona Lowe</td>
<td>5</td>
<td>5</td>
</tr>
</tbody>
</table>

CEO and CFO declarations

Prior to the Board approving the annual financial reports contained within the FOS General Purpose Financial Report, the Board receives from the Chief Ombudsman and Chief Financial Officer a declaration that, in their opinion, the financial records have been properly maintained and that the financial statements comply with appropriate accounting standards.

These declarations also state that the financial statements give a true and fair view of the financial position and performance of FOS and that these opinions have been formed on the basis of a sound system of risk management and internal control which is operating effectively.

Attendance of the external auditor at Annual General Meeting

The external auditor receives an invitation to attend each AGM, but attendance has not, to date, been required by the membership.

Principle 5: Make timely and balanced disclosure

Disclosure Policy

This principle applies to companies that are subject to the ASX Listing Rule disclosure requirements, and as such has no direct relevance to FOS.

However, FOS has various policies and procedures which, in combination, cover many of the same areas as the recommended Disclosure Policy.

Principle 6: Respect the rights of shareholders

As a public company limited by guarantee, FOS does not have shareholders. As a result, this principle has no direct relevance to FOS.

However, FOS is committed to respecting the rights of its stakeholders, particularly the financial services providers (FSPs) that are members of the scheme and the consumers who use the service.

Information about FOS and its governance

Information about FOS can be found on our website (www.fos.org.au), by email (info@fos.org.au), or by telephone 1800 367 287 freecall (1800 FOS AUS) or 1300 56 55 62 for members.
Stakeholder relations program

FOS has a Stakeholder Engagement strategy which sets out our approach to liaison with our members, consumers, ASIC and the broader community.

Activities that promote two-way communication include industry and consumer forums, the FOS Conference, our online magazine The Circular, and our Accessibility project.

Meetings of stakeholders

The Annual General Meeting is held and run in accordance with the Corporations Act 2001 and the FOS Constitution.

FOS’s ASIC Liaison Policy and Procedures and our Stakeholder Engagement Strategy encourage participation at general stakeholder meetings.

Electronic communications

FOS has developed Secure Services, a secure part of the website for FSPs and consumer representatives to manage disputes and information exchange electronically.

In addition, consumers are able to lodge disputes electronically through the FOS website (www.fos.org.au).

Principle 7: Recognise and manage risk

Oversight of risk

While ultimate responsibility for risk oversight and risk management rests with the full Board, the Finance and Risk Management Committee has operational oversight of these activities and the Senior Leadership Group has day-to-day operational responsibility for risk oversight and management.

Given the nature of the material business risks of FOS, the Senior Leadership Group is supported and advised by a Risk Management Working Group, chaired by the Company Secretary and consisting of the:

» Chief Financial Officer
» Chief Information Officer
» Facilities and Procurement Manager
» Senior Manager – Community & Corporate Communications
» Senior Manager – Human Resources
» Senior Manager – Quality, Knowledge & Improvement
» Senior Manager – Strategy & Analysis

A Risk Management Report is presented to the Finance and Risk Management Committee at the end of each quarter, with significant issues being advised as necessary.

Review of risk management framework

Four internal audits were conducted in 2014-2015, as well as a full revision of the risk management framework and approach to strategic risk within the organisation.

Internal audit

During 2013-2014, FOS introduced an internal audit function to provide additional assurance to its policies and procedures, particularly those regarding Financial, Human Resources, Legal and IT risks and responsibilities.

This internal audit function has been outsourced to Pitcher Partners, who provide a systematic, disciplined approach to evaluating and improving the effectiveness of our risk management and internal control processes.

Material exposure

As at the time of publication, FOS has no known material exposure to any economic, environmental or social sustainability risks.

Principle 8: Remunerate fairly and responsibly

Remuneration committee

The main functions of a Remuneration Committee are performed at FOS by the Nominations and Remuneration Committee (see above).

The Board sets its own remuneration by consensus, in accordance with clause 4.15 of the FOS Constitution and on advice from the Nominations and Remuneration Committee. The Board also sets the remuneration of the Chief Ombudsman.

Responsibility for the company’s remuneration, recruitment, retention and termination policies for all other employees has been delegated to the Chief Ombudsman, but significant changes to these policies are ratified by the Board.

The remaining aspects of this principle are applicable to companies that are subject to the ASX Listing Rules, and as such have no relevance to FOS.

Remuneration of non-executive directors and executive directors

All FOS directors are non-executive directors and, aside from the Chair, are paid equally, with a small additional payment being made to the members of the Finance and Risk Management Committee.

Equity-based remuneration

FOS does not offer equity-based remuneration to any employee.
<table>
<thead>
<tr>
<th>Term</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>accepted dispute</td>
<td>a dispute that has passed through the Acceptance stage of our dispute resolution process - it can either have proceeded from the Registration stage into Acceptance or gone directly into Acceptance (compare to registered dispute)</td>
</tr>
<tr>
<td>ACR</td>
<td>authorised credit representative – a business that is authorised to engage in specified credit activities on behalf of a business with an Australian credit licence from ASIC</td>
</tr>
<tr>
<td>alternative dispute resolution</td>
<td>ways of resolving disputes that do not involve going to court, such as conciliation and negotiation</td>
</tr>
<tr>
<td>APRA</td>
<td>Australian Prudential Regulation Authority</td>
</tr>
<tr>
<td>ASIC</td>
<td>Australian Securities and Investments Commission</td>
</tr>
<tr>
<td>closed dispute</td>
<td>a dispute is closed once our handling of it is complete - this can be achieved through an agreement between the parties involved, through a decision by FOS, or because the dispute is discontinued or outside our Terms of Reference</td>
</tr>
<tr>
<td>consumer</td>
<td>an individual or small business owner who uses the services of a financial services provider</td>
</tr>
<tr>
<td>EDR</td>
<td>external dispute resolution – dispute resolution managed by an independent third party (the Financial Ombudsman Service is an EDR service)</td>
</tr>
<tr>
<td>financial difficulty</td>
<td>a consumer may experience financial difficulty if they are unexpectedly unable to meet their repayment obligations on a credit contract</td>
</tr>
<tr>
<td>FOS</td>
<td>Financial Ombudsman Service Australia</td>
</tr>
<tr>
<td>FSP</td>
<td>financial services provider</td>
</tr>
<tr>
<td>IDR</td>
<td>internal dispute resolution – every member should have IDR processes in place to handle disputes they receive about their business</td>
</tr>
<tr>
<td>member</td>
<td>a financial services provider that is a member of the Financial Ombudsman Service</td>
</tr>
<tr>
<td>NCC</td>
<td>National Credit Code (part of the National Consumer Credit Protection Act 2009)</td>
</tr>
<tr>
<td>Ombudsman</td>
<td>someone who investigates disputes between aggrieved parties (eg consumers and small businesses) and organisations (eg financial services providers) and mediates a fair settlement or makes a final decision on the matter</td>
</tr>
<tr>
<td>outcome</td>
<td>the way in which a dispute has been resolved or finalised</td>
</tr>
<tr>
<td>outcome type</td>
<td>the result or consequences of the resolution or finalisation of a dispute</td>
</tr>
<tr>
<td>product</td>
<td>a specific type of product within a product category (eg shares are a product within the securities product category)</td>
</tr>
<tr>
<td>product category</td>
<td>a group of products within a particular product line (eg securities are a product category within the investments product line)</td>
</tr>
<tr>
<td>product line</td>
<td>a broad line of products (eg investments)</td>
</tr>
<tr>
<td>registered dispute</td>
<td>a dispute that has entered the Registration stage of our dispute resolution process (compare to accepted dispute)</td>
</tr>
<tr>
<td>RG 139</td>
<td>ASIC Regulatory Guideline 139 – this document sets out the requirements of how an organisation such as the Financial Ombudsman Service can become an ASIC-approved EDR scheme and how they have to operate and report to maintain that approval</td>
</tr>
<tr>
<td>sales and service channel</td>
<td>the channel a consumer used to purchase or get advice about the product in dispute</td>
</tr>
<tr>
<td>ToR</td>
<td>Terms of Reference – the document setting out the broad rules and processes that the Financial Ombudsman Service follows</td>
</tr>
</tbody>
</table>