



Banking and Financial Services Ombudsman  
Annual Report 2003-04





## Our Purpose

Our primary function is dispute resolution.

We contribute to:

- Raising industry standards
- Increasing the financial literacy of consumers
- Better informed policy outcomes for government, industry and the community

## Workplace Values

- Excellence in decision making
- A cooperative work environment
- Respect for all users of the Scheme
- Staff development – knowledge skills initiative

## *Accessible – Fair – Independent*

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# Highlights

- This year's results reflect a change in the profile of cases coming to the BFSO. For the second consecutive year there has been a decline in the number of new cases (15.5 per cent) to 5,859 and an increase in the number of cases resolved prior to an investigation (90.1 per cent from 87.0 per cent in 2003).
- This indicates a marked improvement in members' internal dispute resolution and a positive acceptance of ADR processes. The BFSO has contributed to this early resolution rate by an emphasis on member education, including quarterly Bulletins, tailored presentations and training workshops to members and the annual members' conference, attended this year by 150 delegates.
- As a consequence of the early resolution of many cases, disputes that do require investigation are now more complex. BFSO initiatives to deal with this include Australia-wide briefing sessions for members, implementation of an electronic Knowledge Management System for staff and expansion of the internal professional development program.
- External consultation and community education have also been in focus this year with a particular contribution being made to financial literacy initiatives and programs.
- A comprehensive stakeholder survey in 2003 resulted in a review of BFSO brochures and other written material to reduce confusion about our role, a review of how our role is communicated to callers and the member briefing sessions introduced in June 2004.
- Case resolution times have continued to improve. 47.2 per cent of cases were closed within 60 days (44.3 per cent in 2003), 80.2 per cent within 120 days (77.5 per cent in 2003) and the median waiting time for cases to be allocated into investigation reduced to 13 days (22 days in 2003). The BFSO website had 43,678 hits between September 2003 and June 2004 with 1197 disputes lodged online.
- The BFSO's role in investigating and resolving systemic issues continues to be important. 19 systemic issues were investigated this year, involving over 100,000 customers, of which 15 have been resolved.
- The membership base has grown. As at 30 June 2004 the Scheme had 30 bank members and 17 non-bank members. To reflect increases in housing prices, borrowing levels and the size of investments, the Board has approved an increase in the jurisdictional limit from \$150,000 to \$250,000, to take effect in December 2004.

# Chairman's Message

**BFSO has, once again, proved itself to be a flexible organisation, adapting during the year to the many changes in both the financial services sector and the dispute resolution environment.**

There has been a seamless transition during the year from the use of the name Australian Banking Industry Ombudsman Limited to Banking and Financial Services Ombudsman Limited. The broadening of the Scheme's membership base, which I announced in last year's report, has also been very successful. I welcome the 17 non-bank members who joined the Scheme during the year, and look forward to the unique experiences and variety that these organisations will bring to the Scheme.

The year in review saw the Board commission two very important projects. The first was the BFSO Stakeholder Survey. The survey involved almost 2,000 people including the general public, consumers who had telephoned the Scheme or lodged a formal dispute, and relevant staff from member banks. The results of the survey were very pleasing, and the Scheme's reputation for providing a high quality dispute resolution service was confirmed. The survey indicated that there was a need for a greater understanding of the actual role of the Ombudsman, and several projects aimed at increasing the public's awareness of the Scheme and clarifying the Ombudsman's role and powers are now underway.

The second project is an independent review of the operations and procedures of the Scheme which is required every three years pursuant to the BFSO Constitution and which commenced in June 2004. The review team, Mr Phil Khoury, Ms Debra Russell and Ms Fiona Guthrie bring a broad range of expertise to the task and have consulted extensively with representatives from consumer and industry groups, as well as BFSO staff. In addition, a number of written submissions have been received. A report is expected by the end of the year and will be made available on the BFSO website.

The Board looks forward to reporting any initiatives that may arise out of the review in next year's Annual Report.

Another significant development during the year was the launch of the new Code of Banking Practice in August 2003. To date, thirteen member banks have subscribed to the Code. I am pleased that the Code Compliance Monitoring Committee ("CCMC") is now established, with an independent chairman, Mr Tony Blunn, a consumer representative, Mr David Tennant and a banking representative, Mr Russell Rechner. The role of the CCMC is supported by the secondment of a member of staff from BFSO and there will be agreed protocols between both organisations.

In August 2003, Mr Don Armstrong, AM, a director nominated by member banks who represented the interests of small business, retired. I would like to thank him for his dedication and service to the Scheme since 1998, and in particular, for the period in which he acted as Chairman of the Scheme.

Mr Roger du Blet, AM, was appointed a Director to replace Mr Armstrong. Mr du Blet brings considerable experience in the small business arena to the Board, and we look forward to his contributions to the work of the Scheme.

This will be my last message as Chairman as I will be stepping down in order to take up an appointment on the Board of the National Australia Bank. During these last two years as Chairman, I have greatly valued the opportunity to work with an exceptionally diligent and harmonious Board and an outstanding Ombudsman. The Scheme is very fortunate to have Colin Neave who is such a skilled and committed Ombudsman and to have such a talented team working with him. The Board joins me in thanking Colin and his team, not only for their dedicated work, but for their constantly refreshing enthusiasm, initiative and goodwill.

I am delighted that Michael Lavarch has agreed to become the new Chairman of BFSO. I am sure that under his able chairmanship, and with the support of Colin and his team, the Scheme will continue to meet the challenges ahead and continue to establish benchmarks of excellence in dispute resolution for the industry and consumers.



Ms Jillian Segal  
Chairman



# Message from the Chairman Designate

**I am very pleased to be joining the Board of the Banking and Financial Services Ombudsman as I have always had a strong belief in, and commitment to, alternative dispute resolution.**

I look forward to working with the Board and the Ombudsman to encourage the further growth and development of the Scheme so that it is positioned to meet the future challenges and expectations of the financial services industry and their customers.

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Prof Michael Lavarch  
Chairman Designate



## **Chairman Designate, Prof Michael Lavarch**

Professor Lavarch, is currently Dean of the Faculty of Law at Queensland University of Technology and was a former Commonwealth Attorney-General and secretary-general of the Law Council of Australia from 2001 - 2004. His current service on boards and committees includes membership of the advisory board, Key Centre for Law, Ethics and Governance, Griffith University, Chief Adjudicator of the Alcohol Beverages Advertising Complaints Panel and Director, National Electricity Market Management Company.



## BFSO Board Members June 2004

### 1 Ms Jillian Segal, Chairman

Ms Segal was appointed Chairman of the BFSO Board in September 2002. She has a legal background and was a Commissioner and then Deputy Chair at ASIC from 1997 to 2002. She is also a Non-Executive Director of the Australian Stock Exchange, a member of the Major Performing Arts Board of the Australia Council and a member of the Government's Business Regulatory Advisory Group. She was a member of the PwC Audit Standards Oversight Board until September 2004.

### 2 Ms Deborah Batten, Member Representative

Ms Batten is a General Manager of the National Australia Bank, in charge of the office of the Executive General Manager of the bank. Ms Batten was appointed to the BFSO Board in June 2002.

### 3 Ms Jill Lester, Member Representative

Ms Lester was appointed to the BFSO Board in September 2001. She is currently Executive General Manager, Communication, Community and Reputation of the Commonwealth Bank of Australia.

### 4 Mr Jeremy Griffith, Member Representative

Mr Griffith is the General Manager Corporate Relations of St George Bank Limited. Mr Griffith was appointed to the BFSO Board in May 2003.

### 5 Ms Carolyn Bond, Consumer Representative

Ms Bond is the Manager of the Consumer Credit Legal Service in Melbourne. She was appointed to the BFSO Board in December 2001.

### 6 Ms Su Mahalingham, Consumer Representative

Ms Mahalingham is the Director of the Consumer Credit Legal Service in Perth. She was appointed a Board Member of the BFSO in September 2002.

### 7 Mr Roger du Blet AM, Small Business Representative

Mr du Blet was appointed to the BFSO Board as the small business representative in 2003. He is a Director of the Australian Chamber of Commerce and Industry and chairs the Building Products Innovation Council, the Small Business Forum and the Small Business Coalition. Mr du Blet is the Managing Director of Reduct Pty Ltd, a consultancy for the building and development industry.



# Ombudsman's Foreword

**It has been another year of change and growth for the Scheme, with the broadening of our membership base to include non-banks. Considerable effort has been put into educating our new members about the practices and procedures of the office, as well as our approach to particular types of disputes.**

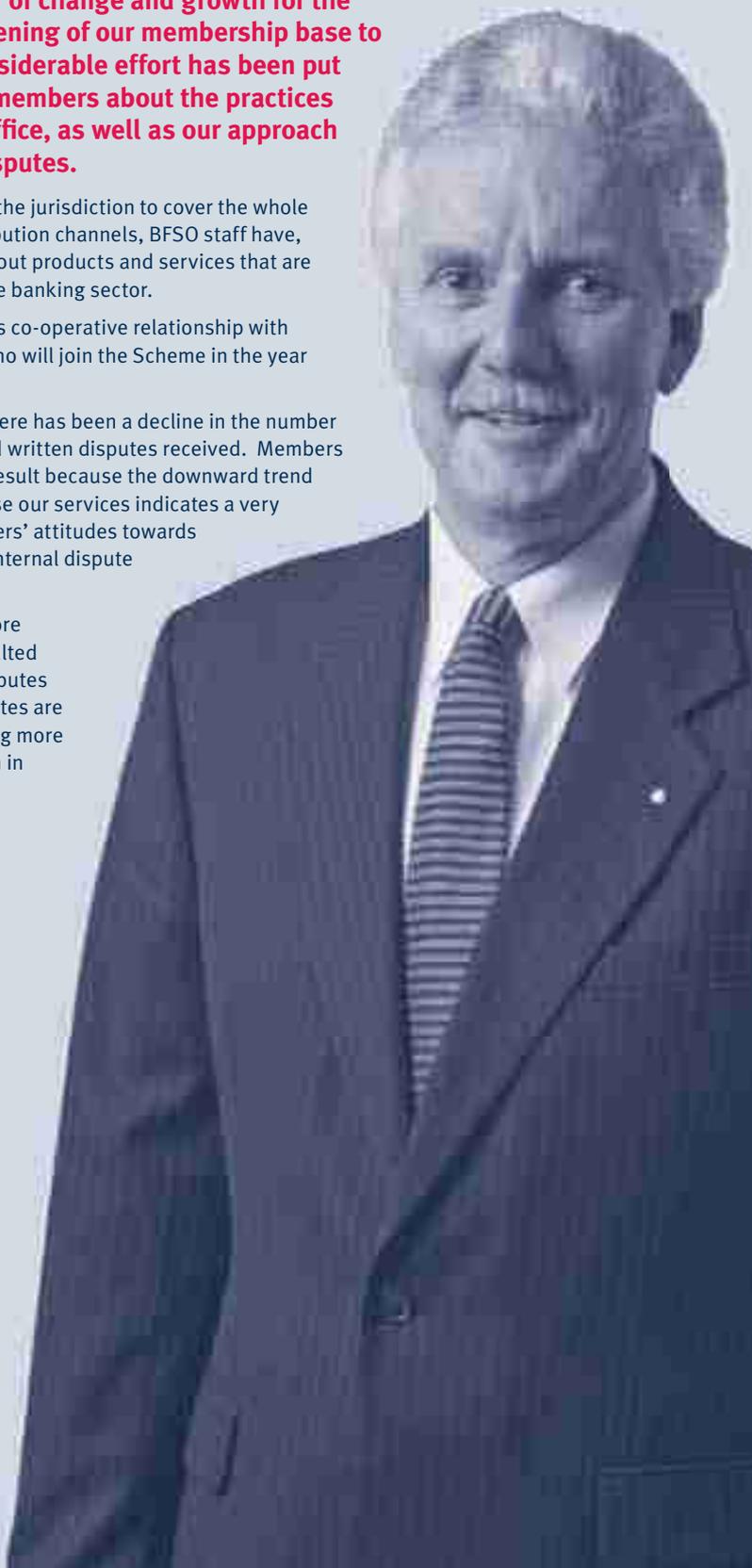
As a result of the expansion of the jurisdiction to cover the whole banking group and bank distribution channels, BFSO staff have, in turn, learned a great deal about products and services that are not traditionally available in the banking sector.

I look forward to continuing this co-operative relationship with existing members and those who will join the Scheme in the year ahead.

For the second year running, there has been a decline in the number of new telephone enquiries and written disputes received. Members are to be commended for this result because the downward trend in the need for consumers to use our services indicates a very marked improvement in members' attitudes towards and commitment to their own internal dispute resolution processes.

Members' efforts to resolve more complaints internally have resulted in a change to the profile of disputes received by the Scheme. Disputes are now far more complex, requiring more intervention by BFSO staff than in previous years.

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To deal with the increased complexity, BFSO has introduced a number of initiatives:

- Australia wide “briefing sessions” with members have commenced, and will be offered regularly in the year ahead. To date, eight sessions have been held in Melbourne, Sydney, Brisbane, Perth and Adelaide, covering topics such as “How BFSO Works” and “Spotting Legal Issues”. All sessions have been well attended by members and the feedback has been very positive.
- BFSO’s quarterly Bulletins have addressed topics including mortgagee sales, disability and incapacity issues, the new Code of Banking Practice, on-line and off-line credit card fraud and e-commerce.
- BFSO’s internal professional development program has provided training to staff in areas including Financial Services Reform, Bankruptcy and Recovery Action, Principles of Decision Making and the Code of Banking Practice.
- A Knowledge Management System has been developed for staff, providing easy access to resources that assist with investigation and decision making.

I expect the trend of a higher proportion of more complex cases will continue in the year ahead and I am confident we are well placed to meet the challenges this will present.

Another factor that will impact upon the types of disputes we receive is the increase to the jurisdictional limit of the Scheme. The limit has been \$150,000 since 1996, but following extensive consultation with industry and consumer groups, the BFSO Board approved an increase to \$250,000. The new limit will become effective on 1 December 2004. The increased limit is a welcome extension to the jurisdiction of the Scheme and reflects recent economic changes, in particular, the increased cost of housing, the levels of borrowing and the size of investments.

The Chairman’s Message refers to the Stakeholder Survey that was carried out between August and October 2003. I am personally very pleased with both the outcome of the survey and the initiatives it has prompted. For example, the Scheme is now contributing regular articles to regional newspapers about issues arising in the financial services sector. We have also engaged the services of consultants to review our brochures and information handouts to ensure that we are giving the public an accurate message about the role of the Scheme.

As an organisation committed to continuous improvement, the Scheme is also currently undergoing an independent review of its operations and procedures. I await with interest the results of the review, expected towards the end of the year, and any developments that may arise out of the review.

I take this opportunity to thank the Board of the Scheme for the support it has given both myself and our staff during the year. There has been a great deal of work carried out by the Board in the context of the Stakeholder Survey and the Independent Review, and the contribution of all directors is appreciated. I recognise, especially, the outstanding contribution that Jillian Segal made as Board Chairman. We appreciated her support and valued her counsel, vision and energy.

I also thank our staff for another year of commitment and dedication. Without their considerable efforts, the Scheme would not have achieved such positive results.



Colin Neave  
Ombudsman

# Our People and What We Do

**BFSO provides flexible working arrangements and is committed to family-friendly employment policies. BFSO employs 42 staff on a full-time or part-time basis.**

For example, of the 13 Case Managers, 9 are part-time. The number of full-time equivalent staff is 33.32. Staff members undertake a variety of jobs within the organisation and contribute, on a number of levels, to the resolution of disputes between consumers and members.

**Administrative Support (3)** The Administrative Support staff provide personal assistant services to the Ombudsman and reception, mail and file maintenance services for the Scheme. They contribute to case management by documenting all incoming correspondence to the office on the Scheme's case management database.

**Assistant Communications and Information Systems Manager (1)** The Assistant to the Communications and Information System Managers provides support to those managers.

**Banking Adviser (1)** The Banking Adviser provides advice to the Ombudsman and staff on banking practice standards, technical knowledge of banking and banking procedures and systems. The Banking Adviser is seconded annually from one of the member banks.

**Case Managers (13)** Case Managers are responsible for resolving disputes that have not been resolved at the initial referral and facilitation stage and which require investigation. They investigate disputes and resolve them through providing a written Finding, convening conciliation conferences and facilitating negotiation. One of the Case Managers also has responsibility for privacy issues.

**Case Officers (12)** Case Officers provide the telephone information and referral service of the BFSO. They classify and summarise written disputes, manage the initial referral and facilitation process and are also involved in investigating some disputes. One of the Case Officers is also responsible for coordinating the training and staff development program.

**Communications Systems Manager (1)** The Communications Systems Manager ensures the provision of quality telephone systems through the management of call flow traffic, the review and improvement of telephone processes, including the call centre service shared with other schemes, Financial Services Complaints. The Communications Systems Manager is also responsible for the maintenance of the website, the electronic communication within BFSO as well as technical support for special projects.

**Finance Manager and Company Secretary (1)** The Finance Manager and Company Secretary is responsible for the preparation of the Scheme's annual budget and arranging the funding of the Scheme from members. Other responsibilities include the maintenance of all financial records and the company registers, the preparation of the Scheme's financial statements and the payment of staff salaries and benefits.

**General Manager (1)** The General Manager contributes to internal management, BFSO policy, quality assurance in case management and the management of external relationships. The General Manager also monitors Case Managers' workload and undertakes case management in some disputes.

**Information Systems Manager (1)** The Information Systems Manager has responsibility for the information technology infrastructure of the BFSO. The Information Systems Manager also undertakes the statistical reporting for the performance of the Scheme within the BFSO as well as to members, the Board and other stakeholder groups.

**Legal Counsel (3)** The Legal Counsel group, which includes the General Counsel, provides legal and jurisdictional advice to the Ombudsman and to staff and also provides quality assessment services to Case Managers and Case Officers to ensure all relevant legal and decision-making principles are considered during dispute resolution. The group also contributes to policy direction and to internal and external education. One of the Legal Counsel also has a role in liaising with non-bank members.

**Ombudsman (1)** The Ombudsman is the Chief Executive Officer of the BFSO whose principal powers and duties are to consider disputes within the Terms of Reference and to facilitate the satisfaction, settlement or resolution of such disputes.

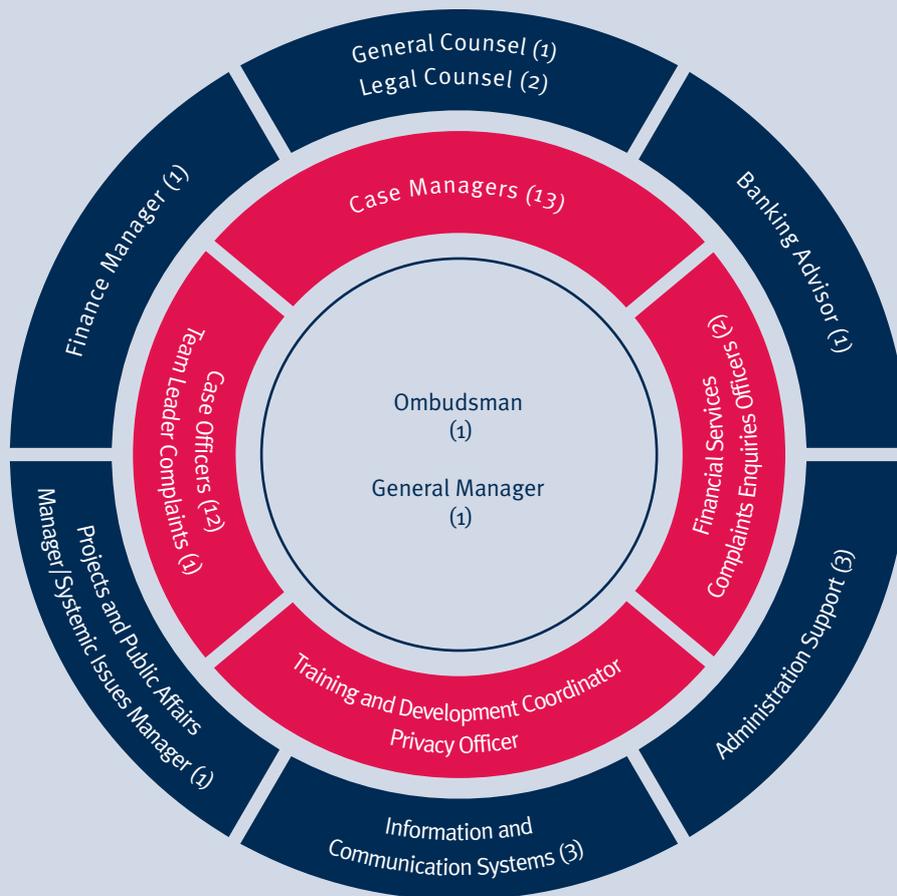
**Projects and Public Affairs Manager (1)** The Projects and Public Affairs Manager is part of the team which develops internal and external policy, is responsible for management of all systemic issues, including reporting quarterly to ASIC, and coordinates the publication of BFSO materials including the Scheme’s annual report, and the development of the Scheme’s website.

**Financial Services Complaints Enquiries Officers (2)** The Financial Services Complaints Enquiries Officers are responsible for answering all calls received by the Financial Services Complaints service. They direct callers through to the participating scheme with the most appropriate jurisdiction or to other more appropriate organisations.

**Team Leader – Complaints (1)** The Team Leader – Complaints provides leadership and case management support to Case Officers, in addition to producing assessments of disputes and monitoring Case Officers’ workloads.

**Code Compliance Monitoring Committee Executive Officer (1)** The BFSO provides secretariat services to the CCMC. One person has been seconded from the BFSO to act as the secretariat, which was established in April 2004. The position is fully funded from the CCMC budget which is derived from fees levied on banks subscribing to the Code of Banking Practice.

**BFSO Organisational Chart  
2004**



# Industry and Community Involvement

**BFSO contributes to the development of government and industry policy in the financial services sector. It also promotes good industry practice and the development of community awareness of issues in the banking and financial services sector.**

We have done this by providing submissions to government reviews such as that conducted by Consumer Affairs Victoria on “Online Shopping and Consumer Protection”. We have also made contributions towards improving financial literacy in Australia by making submissions to both the Consumer and Financial Literacy Taskforce’s Discussion Paper: “Australian Consumers and Money” and ASIC’s Discussion Paper “Financial Literacy in Schools”. We also sent two representatives to the “Broadening Financial Understanding Workshop” that was organised by the Australian Bankers’ Association.

We have provided input to member projects and product development, published our own policy and approach to issues in our quarterly bulletins and given presentations and conducted training workshops. In June 2004, BFSO began a series of “briefing sessions” for members. To date, eight sessions have been held in Melbourne, Sydney, Brisbane, Perth and Adelaide. The two main topics presented were “How BFSO Works” and “Spotting Legal Issues”. We will continue to offer these sessions in the year ahead.

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**Participants at the Annual Members’ Conference, attended by over 150 delegates.**



In the year in review, BFSO has been involved in 54 presentations or training workshops.

Presentations on the role of BFSO and topics relevant to the financial services sector were made to a number of groups including the following:

- South African Interbank Compliance and Training Project
- Monetary Authority, Singapore
- Arabic Workers' Network
- Australian National University
- Financial Counsellors of New South Wales Inc.
- Law Institute of Victoria
- International Womens' Insolvency Reconstruction Confederation
- Network Law Financial Services Forum

Topics addressed throughout the year included:

- "The New Code of Banking Practice – Issues for Bankers and Lawyers"
- "Independence of the BFSO"
- "Financial Services Regulation and the Code of Banking Practice"
- "Cross border E-Finance, Consumer Protection and Online Consumer Protection"
- "Resolving Financial Disputes"
- "How to Manage Compliance while Growing your Business"



# Users of the Scheme

## Summary of Users of Scheme and the Percentage of Population in Each State

To monitor BFSO coverage throughout Australia, BFSO compares the percentage of telephone enquiries and written complaints from each state and territory to the adult population in each state or territory.

Such a comparison continues to show a similar pattern to previous years, with an over-representation of telephone enquiries and disputes in Victoria and the Australian Capital Territory, proportional representation in the Northern Territory and Western Australia and an under-representation in New South Wales, Queensland and Tasmania. This year, there was an over-representation of telephone enquiries from South Australia, when compared to that state's adult population, but an under-representation of written complaints received from that state. This suggests that callers who were put in contact with their financial services provider resolved their issues without the need to formalise a complaint in writing to BFSO.

For this reporting period, the percentage of telephone enquiries and written disputes continued to closely reflect the population spread and indicates consumers' awareness of the Scheme, nation-wide.

## Rural Users

Rural users of the Scheme are those consumers living in the non-capital city statistical divisions identified by the Australian Bureau of Statistics.<sup>1</sup>

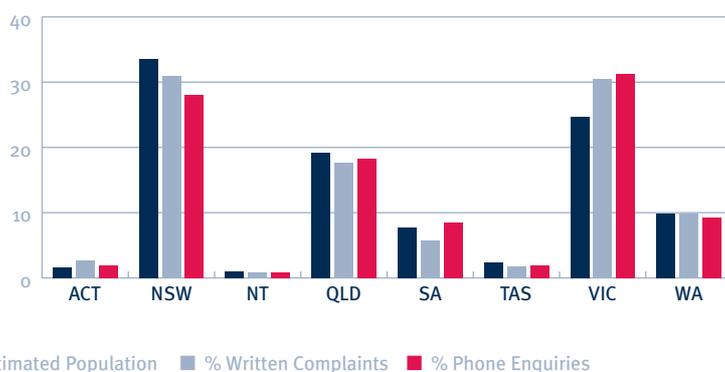
This year there has again been an over-representation of telephone enquiries and disputes from consumers in Victoria. Rural consumers in Western Australia and the Northern Territory continue to show proportional representation in their use of the Scheme. In the previous reporting year, there was proportional representation of rural users from Tasmania, however, in this reporting period, they were under-represented. This year there continues to be a slight under-representation of use of the Scheme by rural users from New South Wales. There was an under-representation of telephone enquiries from rural users in Queensland but an over-representation of written disputes received from rural users in that state. The reverse applied to the rural users of the Scheme from South Australia, who were under-represented in written complaints received and over-represented in telephone enquiries.

<sup>1</sup>Australian Demographic Statistics 3101.0 – December quarter 2003.

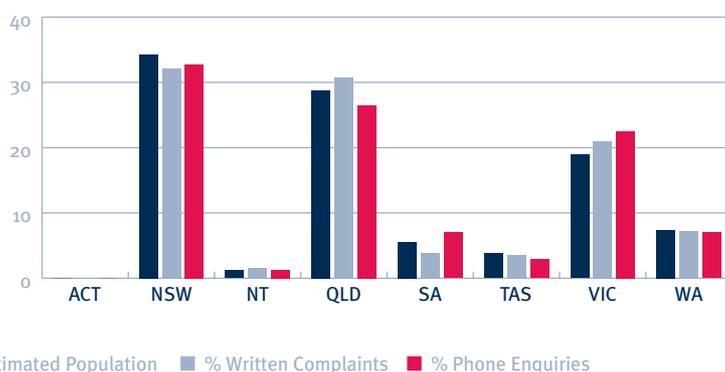
## Small Business

The relative proportion of individual and small business consumers using the Scheme was similar to previous years, with 7.2 per cent of telephone enquiries and 11.4 per cent of written disputes from small businesses.

### All Users (%)



### Rural Users (%)



Users of the Scheme	Individuals	Incorporated Businesses	Unincorporated Businesses
Phone Enquiries	92.8%	4.1%	3.1%
Written Disputes	88.6%	7.3%	4.1%

# Telephone Service

## Financial Services Complaints

Financial Services Complaints, formerly called Banking Insurance Investment Assist, continues to operate as a cooperative venture between BFSO, Financial Industry Complaints Service Limited and Insurance Enquiries and Complaints Limited. Financial Services Complaints provides consumers with a single access number for assistance with enquiries covered by the three schemes, as well as the Credit Union Dispute Resolution Centre and Credit Ombudsman Services Limited.

Financial Services Complaints answered a total of 149,710 calls for the reporting period, an increase of 4.9 per cent from the previous year. A further 2,367 calls were answered by the automated answer service. 97.9 per cent of calls were answered immediately by Financial Services Complaints staff, which was an improvement from 94.1 per cent in the previous year. Only 0.1 per cent of calls were abandoned. Of the calls answered by Financial Services Complaints, 25.1 per cent were directed to BFSO staff. 12.4 per cent of callers were provided with referral details to organisations other than those participating in Financial Services Complaints.

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## The Year in Review

BFSO case officers answered a total of 36,382 calls during the reporting period. This was a decrease of 17.9 per cent compared to the 44,304 calls answered in the previous reporting period.

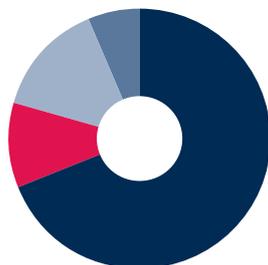
While this is the second year in which there has been a significant decrease in the number of calls answered, the results of the 2003 Stakeholder's Survey indicate that the general public's awareness of the Scheme has increased significantly since 1995. The decrease in the number of calls answered by BFSO case officers can be explained in part by members' increased efforts to promote their internal dispute resolution processes and to resolve complaints more readily.

Another possible reason for the decrease in telephone calls is the increased use of the Scheme's website by consumers. For this reporting period, website hits were recorded from September 2003 to June 2004 and there were 43,678 hits during this time. For the entire reporting period, 1197 complaints were lodged on-line.

During the reporting period, the performance figures for the handling of telephone enquiries once again met BFSO targets for waiting times and abandonment rates:

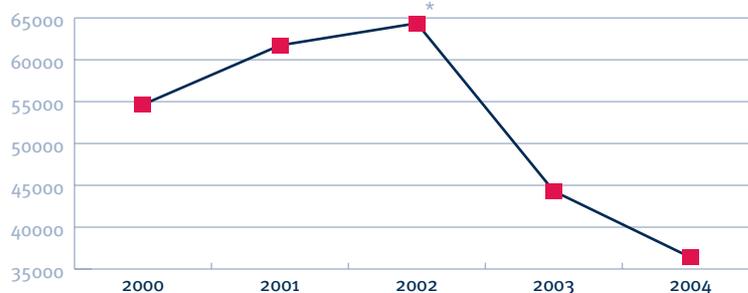
- the average speed of answer of all calls was 33 seconds; and
- the average monthly abandonment rate was 2.8 per cent, which was consistent with the previous year's result.

### Distribution of Calls Answered (%)



Ne enquiries within TOR	69.0%
Ne enquiries outside TOR	10.5%
Follow-up calls on open cases	14.2%
Administrative calls not related to cases	6.3%

### Telephone Calls Answered 5 Year Trend



■ Telephone Calls Answered 5 Year Trend

\* Introduction of Financial Services Complaints referral service.

# New Disputes

In the previous reporting period, there was, for the first time in many years, a decrease in the number of new disputes lodged with the Scheme. In this reporting period, the number of new disputes lodged with the Scheme has again fallen. BFSO received 5,859 new cases during the year, a decrease of 15.5 per cent from the previous year.

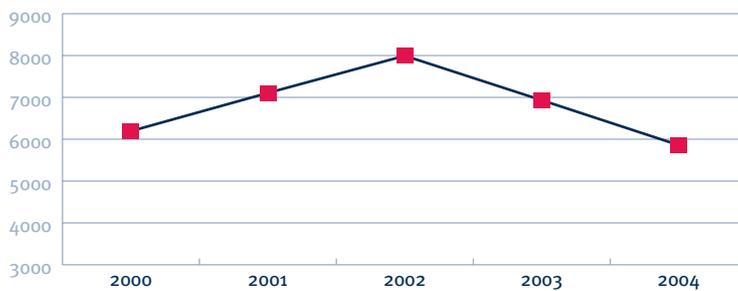
The decrease continues to suggest that there is a reduced need for consumers to contact BFSO. Reasons for this may be that consumers are more readily finding members' own internal dispute resolution mechanisms and that members may be more willing to resolve disputes with customers.

There were 43,678 hits to the BFSO website between September 2003 and June 2004. The Jurisdictional Checker function on the website continues to provide a useful guide for consumers to use prior to lodging a written dispute.

The graph below shows the continued decrease in the volume of written disputes received this year.

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Ne Cases Received 5 Year Trend

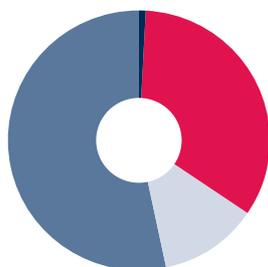


Ne Cases Received 5 Year Trend

## Work in Progress

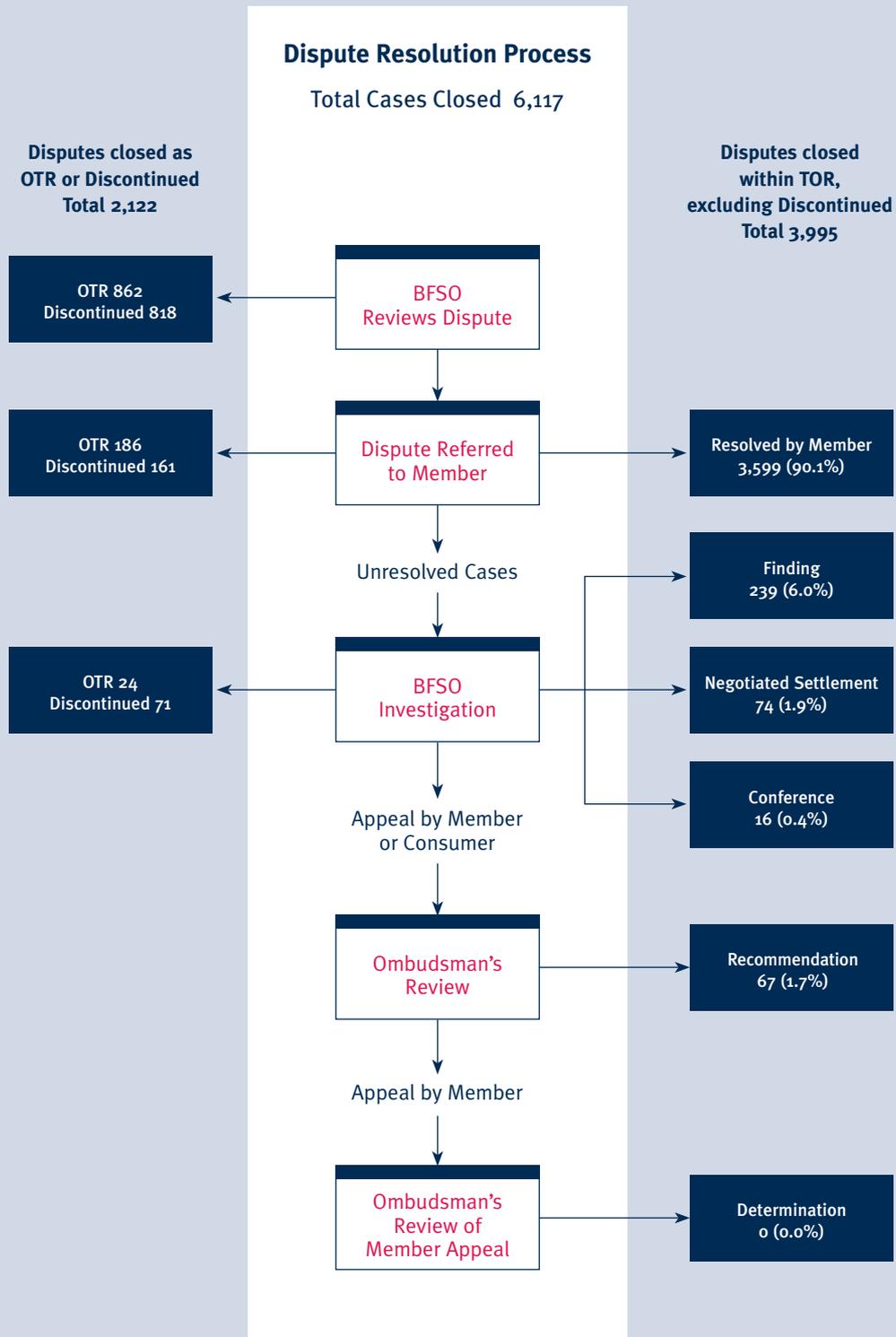
At the end of the reporting period, there were 1,156 open cases distributed as follows:

Distribution of Open Cases (%)



■ Preliminary (not yet processed)	11/1.0%
■ With Member	389/33.6%
■ Investigation	141/12.2%
■ Provisionally Closed	615/53.2%

# Dispute Resolution Process and Outcome of Closed Cases



# Closed Cases

**A total of 6,117 cases were closed during the year, a marked decrease of 18.4 per cent from the previous year. As in the previous reporting period, the lower number of closed cases reflects the decreased number of new cases lodged with the Ombudsman.**

## Cases Outside the Terms of Reference

If it is clear from the consumer's correspondence that the dispute is outside the Ombudsman's Terms of Reference ("OTR") we write to the consumer to explain why the matter is OTR and refer the consumer to the customer relations department of the member or to a more appropriate forum.

If there is any doubt about jurisdiction the dispute is referred to the member. Cases were classified as OTR after referral to the member when information provided demonstrated that the dispute arose because of a policy decision or a commercial decision of the member, or where the matter had been or was the subject of proceedings in another forum.

The main reasons for determining that a matter was outside the Ombudsman's jurisdiction at the investigation stage were that the investigation revealed that a court was a more appropriate forum to consider the dispute or the amount being claimed exceeded the Ombudsman's jurisdictional limit.

## Discontinued Cases

Discontinued cases are considered to be within the Terms of Reference but do not proceed to a conclusion about the merits of the case for the following reasons:

- BFSO's consideration of the matter cannot proceed because the disputant fails to respond to a request for further information to support their claim;
- BFSO advises the disputant that there is no basis for the further involvement of the Scheme because there is no financial loss arising from the dispute; or
- The disputant withdraws the dispute. Reasons given for the withdrawal of cases include that a settlement was negotiated directly with the member or a third party or the consumer redirects their claim against a third party.

## Early Resolution

Of the 3,995 cases where an outcome was determined by BFSO, 90.1 per cent were resolved by the member at an early stage prior to a BFSO investigation, an increase from 87.0 per cent in the last reporting period. Although BFSO did not investigate these cases, about 15 per cent of early resolution cases involved BFSO facilitating the resolution. For example, this could be achieved by writing to the member to point out unresolved questions or difficulties with the member's position or facilitating a negotiated settlement.

## Investigations

This year the number of closed investigations decreased in line with the overall reduction in the number of cases closed. 396 cases were closed following an investigation.

There are various options for resolving disputes once an investigation commences and the method chosen will depend on the complexity of the issues raised, the expectations of the parties and their willingness to negotiate.

This year 74 investigations were closed after BFSO facilitated a settlement between the parties and a further 16 cases were closed after a conciliation conference was conducted by the Ombudsman. 239 cases were closed after the parties were provided with a Finding issued by a case manager. A Finding is a written assessment of the merits of the dispute.

The consumer and the member have 30 days to accept or reject the Finding. The Finding was rejected by one or both of the parties in 21.9 per cent of cases. These cases were then referred to the Ombudsman who issued a Recommendation on how the dispute should be resolved. During the reporting period, 67 cases were closed after a Recommendation was issued.

Examples of how these various methods of dispute resolution are applied to disputes are provided in the Case Studies section of this report.

Cases Closed 5 Year Trend



### Outcome of Closed Investigations

In 396 cases closed after a Finding, negotiated settlement, conciliation conference or Recommendation, the outcome was as follows:

- the member's actions were considered correct in 41.7 per cent of cases;
- the consumer's claim was upheld in 17.9 per cent of cases; and
- in 40.4 per cent of cases, the outcome was a compromise benefiting both parties.

### Case Resolution Time

The resolution time is the period of time between the date the dispute is referred to the member and the date it is closed. This includes the 30 day appeal period during which the case is said to be provisionally closed. Of the cases referred to members during the reporting period, 47.2 per cent were closed within 60 days, an improvement on the previous year's figure of 44.3 per cent. This is the second consecutive year in which there has been an improvement in the number of cases closed within 60 days.

80.2 per cent of cases were closed within 120 days, which is a slight improvement on the previous year's figure of 77.5 per cent. Most of these cases were resolved at the early resolution stage.

10 per cent of cases, however, took over 181 days to close, which was a slight decrease from the previous year's figure of 13.9 per cent. These cases were unresolved disputes requiring investigation by BFSO. As members become more focused on resolving disputes through their internal processes, the trend is for unresolved cases to be more complex. Considerable work is required by BFSO to gather and assess the information, analyse the legal and banking issues and formulate appropriate recommendations for the resolution of the dispute.

Unresolved cases wait in a pool for allocation to a case manager for investigation. For the second year running, there was an improvement in the time taken for unresolved disputes to be allocated for investigation. This year, the median number of days before those cases requiring investigation were allocated to case managers was 13. This was a decrease from 22 days in the previous reporting period.

### Early Resolution Rate (%)



■ Percentage of cases resolved prior to formal investigation

### Case Resolution Time

3-year comparison of time taken to resolve disputes

Cases within Terms or Reference (ex DIS)	2002	2003	2004
0 to 60 days	40.9%	44.3%	47.2%
61 to 90 days	27.8%	24.0%	24.0%
91 to 120 days	10.9%	9.2%	9.0%
121 to 150 days	5.0%	4.8%	6.4%
151 to 180 days	2.8%	3.8%	3.4%
181 days & over	12.6%	13.9%	10.0%
<b>Total Cases</b>	<b>5512</b>	<b>5074</b>	<b>3995</b>
<b>Median Days – All Cases Sent to Member</b>	<b>68</b>	<b>65</b>	<b>62</b>

### Member Statistics

The table following sets out dispute resolution statistics for each member of the Scheme, for the year in review. The provision of this information reflects BFSO's ongoing commitment to independence and transparency.

Readers should keep the following very important points in mind to avoid forming inaccurate views about the dispute resolution performance of any member:

- Members have vastly different market shares. A large number of disputes lodged against a particular member may reflect these differences in customer base size rather than the member's performance; and
- Some figures will include disputes lodged against a member's related bodies corporate. Some members, however, have few or no related bodies corporate.

The table has three columns which shows for each member:

- The number of disputes within Terms of Reference that were closed during the year in review, excluding cases that were discontinued;
- The percentage of disputes resolved by each member at an early resolution stage. These disputes did not require an investigation by BFSO; and
- The median number of days to resolve cases at the early resolution stage. This is measured from the date a case was referred to the member to the date on which the case was closed (including the 30 day appeal period).

The table lists members in alphabetical order.

### Cases Closed: 1 July 2003 - 30 June 2004

Member	Total Cases Closed (Ex OTR and Discontinued)	Early Resolution Rate	Early Resolution Time (Median Days)
Adelaide Bank Limited	48	97.9%	56
American Express International Inc	1	100.0%	49
AMP Bank Limited	20	95.0%	79
ANZ Banking Group Limited	695	90.9%	75
Arab Bank Australia Limited	3	66.7%	33
Bank of Queensland Limited	38	84.2%	62
Bank of Western Australia Limited	105	89.5%	63
Bank SA (a division of St George Bank)	24	87.5%	65
Bendigo Bank Limited	56	94.6%	46
Citibank Pty Limited	178	93.3%	63
Commonwealth Bank of Australia	1,105	91.9%	50
Elders Rural Bank Limited	1	100.0%	71
HSBC Bank Australia Limited	56	92.9%	62
ING Bank (Australia) Limited	21	85.7%	49
Macquarie Bank Limited	9	100.0%	76
Members Equity Pty Limited	11	72.7%	44
National Australia Bank Limited	649	83.2%	61
Rabobank Australia Limited	1	100.0%	36
St George Bank Limited	193	94.8%	54
Suncorp-Metway Ltd	117	88.0%	65
Westpac Banking Corporation	664	90.7%	56
	<b>3995</b>	<b>90.1%</b>	<b>58</b>

NB: List excludes those members which did not have cases closed during the period.

# Types of Disputes

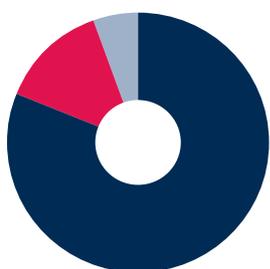
BFSO classifies all cases according to:

- ... the product or service obtained by the consumer; and
- ... the problem with the product or service, as reported by the consumer.

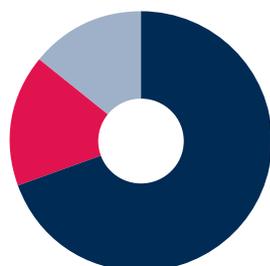
Every dispute involves at least one product and for each product recorded, there is at least one problem.

The pie charts below show the broad financial product categories in descending order according to the number of cases involving a dispute about the product category. The tables show the proportion of disputes involving discrete financial product groups within the broad categories.

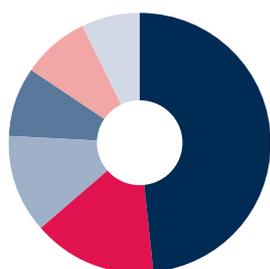
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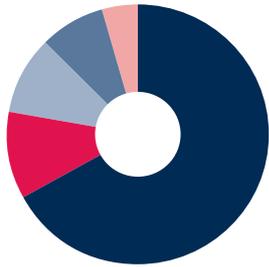
<b>Consumer Finance Cases</b>		<b>1355</b>
■ Credit Cards		81.2%
■ Personal Loan		13.4%
■ Other		5.4%
■ Personal Overdraft		2.0%
■ Equity Finance		3.0%
■ Margin Lending		0.4%



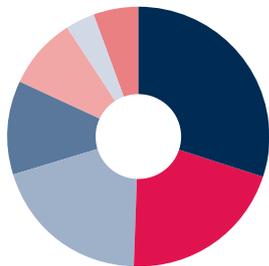
<b>Housing Finance Cases</b>		<b>1087</b>
■ Home Loan – Variable Rate		69.5%
■ Investment Property Loan		16.4%
■ Home Loan – Fixed Rate		14.1%



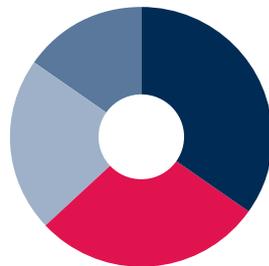
<b>Payment Systems Cases</b>		<b>874</b>
■ ATM		48.4%
■ Periodical Payments, Direct Debits		15.3%
■ Cheques (inc. 3rd Party)		12.2%
■ Computer Banking		8.8%
■ Telegraphic Transfers		8.1%
■ Other		7.2%
■ Cash Management		2.4%
■ EFTPOS		2.3%
■ Telephone Banking		1.5%
■ Currency Exchange/Travellers Cheques		1.0%



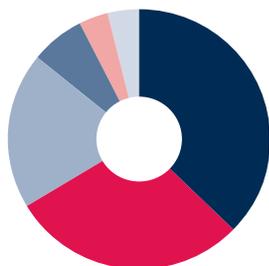
<b>Deposit Account Cases</b>		<b>750</b>
■ Statement Savings Account		67.1%
■ Personal Cheque Account		10.9%
■ Term Deposit		9.7%
■ Passbook		8.0%
■ Other		4.3%
Cash Management		3.3%
Mortgage Offset		0.7%
Foreign Currency Account		0.3%



<b>Business Facility Cases</b>		<b>548</b>
■ Business Cheque Account		30.2%
■ Merchant Facility		20.4%
■ Business Loan – Variable		19.9%
■ Business Overdraft		11.5%
■ Lease		8.9%
■ Business Loan – Fixed		3.8%
■ Other		5.3%
Bank Guarantee		2.4%
Commercial Bills		2.0%
Trade Finance		0.7%
Hedging Facility		0.2%



<b>Financial Planning Cases</b>		<b>46</b>
■ Managed Funds		34.8%
■ Superannuation		28.3%
■ Life Insurance		21.7%
■ Shares/Bonds		15.2%



<b>Other Products or Services Cases</b>		<b>134</b>
■ Holding Title Deeds		37.4%
■ Other Products or Services		29.1%
■ Insurance		19.4%
■ Deposit to 3rd Party Account		6.7%
■ Safe Custody		3.7%
■ No Product or Service		3.7%

## Product Groups and Problems – All Closed Cases

As in the previous four years, disputes about Consumer Finance (28.3 per cent) and Housing Finance (22.7 per cent) were the top two product categories in disputes this year. The third ranked product type in disputes was Payment Systems (18.2 per cent) whereas in previous years, it has been Deposit Accounts. Disputes about Payment Systems products involved cheques, electronic systems such as internet and telephone banking, direct debits and ATM and EFTPOS transactions.

The main product complained about in the Consumer Finance category continues to be the credit card account. Disputes about this product have decreased slightly from 1,392 last year to 1,101 this year. This decrease is consistent with the general decrease in written disputes lodged with the Scheme.

For credit card accounts, the main problems identified were unauthorised transactions and maladministration in providing credit. Maladministration arises when credit is provided to a customer in circumstances where they had no reasonable prospect of servicing the repayments. Maladministration often arises in cases where customers receive unsolicited, pre-approved credit limit increases and their ability to repay has not been assessed.

In the Housing Finance category, the main product complained about continues to be the variable rate home loan, representing 69.5 per cent of cases in this category. The main problems identified with variable rate home loans were delays in loan approvals or delays in settlement of the loan and breach of contract.

For the first time in five years, disputes about Payment System products have outnumbered those concerning Deposit Account products. 48.4 per cent of disputes in this category concerned ATM transactions. The main problems identified with ATMs were unauthorised transactions and cash dispensing errors.

The table on the right shows a breakdown of the main products complained about and the problems with the product, as described by consumers.



Product Group	Major Products	Main Problems	%
<b>Consumer Finance</b>	Credit Cards	Unauthorised transactions	18.1
		Maladministration in granting credit	7.6
	Personal Loan	Maladministration in granting loan Inappropriate debt collection activity	9.2 8.8
	Equity Finance	Fee excessive, inappropriate or wrong Product/service advice	15.3 10.2
<b>Housing Finance</b>	Home Loan – Variable rate	Delays (eg, loan approval, settlement)	21.8
		Contractual breach, written instruction not carried out	7.1
	Investment Property Loan	Delays (eg, loan approval, settlement) Fee excessive, inappropriate or wrong	20.1 8.5
	Home Loan – Fixed rate	Early repayment fee excessive, inappropriate or wrong Delays (eg, loan approval, settlement)	18.5 11.0
<b>Payment System</b>	ATM	Unauthorised transactions	55.7
		Incorrect cash given	36.0
	Periodical Payments, Direct Debits	Contractual breach, written instruction not carried out Fee excessive, inappropriate or wrong	27.9 14.9
	Cheques (inc. 3rd party)	Dishonoured transactions Lost funds	20.2 11.3
<b>Deposit Account</b>	Statement Savings account	Fee excessive, inappropriate or wrong	20.0
		Unauthorised transactions	13.1
	Personal Cheque account	Fee excessive, inappropriate or wrong Unilateral member action	22.3 9.7
	Term Deposit	Contractual breach, written instruction not carried out Product/service advice	13.5 11.2
<b>Business Facility</b>	Business Cheque Account	Contractual breach, written instruction not carried out	13.1
		Withdrawal or deposit errors	12.6
	Business Loan – Variable	Delay (eg, loan approval, settlement) Fee excessive, inappropriate or wrong	8.6 7.9
	Merchant Point of Sale Facility	Dishonoured transactions Product/service advice	28.9 10.1
<b>Other Products or Services</b>	Holding Title Deeds	Lost documents/safe custody items	41.4
		Delays	27.6
	Other	Other Delays	22.5 10.0
	Insurance	Oral breach/instructions not carried out Contractual breach, written instruction not carried out	15.4 15.4
<b>Financial Planning</b>	Managed Funds	Delays	20.0
		Investment advice	20.0
	Superannuation	Delays	27.8
		Withdrawal or deposit errors	22.2
	Life Insurance	Product/service advice Delays	27.3 18.2

## Product Groups and Problems - Investigations

The profile of product groups in investigations differs from the profile for all closed cases. Disputes involving Housing Finance and Business Facilities predominated in investigation cases, representing 31.6 per cent and 21.6 per cent respectively. These types of disputes generally involve complex legal and banking issues and the loss claimed is often in the tens of thousands.

In disputes about variable rate home loans the main problems identified were delays in loan approval or settlement and maladministration in debt recovery. In disputes about fixed rate home loans the main problems related to early repayment fees and insufficient, incorrect or misleading product advice.

This year, complaints about products provided to small businesses comprised 11.4 per cent of all closed cases, and 21.6 per cent of investigations. Disputes involving business products are twice as likely to be unresolved at an early stage as disputes about products provided to individual consumers.

The merchant facility was the subject of most investigations of disputes lodged by small businesses. The most common problems identified were fraudulent transactions and merchant chargebacks. Business overdrafts were also the subject of several investigations. The main problems were the rejection of an application or withdrawal of the facility and unilateral action by the member in relation to the facility.

During the reporting period, disputes about Consumer Finance products represented 29.7 per cent of all cases that were resolved promptly after referral to members but only 17.2 per cent of all investigation cases. This is similar to previous years where the majority of disputes involving credit cards and other Consumer Finance products, such as personal loans and overdrafts, were resolved promptly by members without requiring significant involvement by BFSO.

Disputes falling into the Payment Systems category also represented 17.2 per cent of all investigation cases. The main product identified in this category was the ATM where consumers complained about being held liable for unauthorised transactions. The main problems in disputes about cheques were dishonours and oral breaches of instructions or arrangements, such as failing to cover cheques where an agreement was in place to do so.

The table below shows a comparison of the product categories that were the subject of a BFSO investigation and the product categories in cases that were readily resolved by members.

### Product Group Representation in Closed Cases

Product Group	Representation of Product Group %		
	All Cases Referred to Member	Early Resolution Cases	Investigation Cases
Consumer Finance	28.3%	29.7%	17.2%
Housing Finance	22.7%	21.5%	31.6%
Payment System	18.2%	18.4%	17.2%
Deposit Account	15.6%	16.5%	9.3%
Business Facility	11.4%	10.1%	21.6%
Financial Planning	1.0%	0.9%	1.3%
Other Products or Services	2.8%	2.9%	1.8%

# Disputes Outside Terms of Reference

## The Terms of Reference set out the Ombudsman's jurisdiction to consider disputes.

There are certain categories of dispute that the Ombudsman is unable to consider. These include disputes about:

- Member policy – such as levels of interest rates or fees or branch closures; and
- Commercial decisions – such as decisions not to provide finance, where there is no pre-existing obligation to lend.

## The Year In Review

This year, 10.5 per cent of telephone enquiries were considered to be outside the Ombudsman's Terms of Reference ('OTR'). This figure has steadily declined from 18.7 per cent two years ago and from 12.8 per cent last year. This decrease indicates that the filtering of telephone enquiries by Financial Services Complaints is working effectively in ensuring fewer OTR enquiries are being received by BFSO staff.

This year, the percentage of closed written cases that were classified as OTR was 17.5 per cent.

The table below shows the main OTR categories for disputes received during the year from both individuals and small businesses.

Top 4 OTR Reasons			
Individuals			
Closed Cases		Telephone Enquiries	
Member Policy	23.5%	Member Policy	22.2%
Non Member Financial Institution	19.3%	Non Member Financial Institution	16.0%
Other Jurisdiction more Appropriate	17.7%	General Complaint Only	15.1%
No Financial Service	12.5%	Commercial Decision	15.0%
Small Business			
Closed Cases		Telephone Enquiries	
No Financial Service	21.6%	Commercial Decision	24.8%
Other Jurisdiction more Appropriate	20.4%	Member Policy	20.3%
Commercial Decision	15.6%	No Financial Service	19.1%
Member Policy	15.0%	General Complaint Only	11.4%

## OTR Categories in Disputes from Individuals

The profile of written disputes received from individual consumers that were classified as OTR was similar to the previous year. Disputes about member policy represented the largest OTR category at 23.5 per cent. This was a slight increase from last year's figure of 21.8 per cent. This year, in 17.7 per cent of OTR cases it was considered that there was a more appropriate forum to consider the dispute, a slight decrease from 18.5 per cent in the previous year.

In relation to telephone enquiries that were OTR, the largest category was member policy at 22.2 per cent. This is a change from last year where the largest category was calls regarding non-member financial institutions. The reduction in calls about non member financial institutions demonstrates that the filtering of calls through Financial Services Complaints is working effectively.

## OTR Categories in Disputes from Small Businesses

Last year, the main reason for small business disputes to be categorised as OTR was that the dispute involved a commercial decision. The main reason for small business disputes to be categorised as OTR this year was that no financial service had been provided to the disputant (21.6 per cent). These are instances where a disputant may be affected by dealings with a financial services provider, and may even have a claim for loss, but they did not receive a direct financial service from the financial services provider about which they complain.

The most common type of complaint like this was in relation to third party cheques, that is, a cheque deposited into an account operated by someone other than the person named as the payee on the front of the cheque. The Ombudsman cannot investigate a complaint made by the payee or by the small business that issued the cheque because he has no authority to investigate the account of the third party. Evidence about the third party's account and the circumstances in which the cheque was deposited into their account would be essential in these cases to determine a claim that the third party's bank was negligent in collecting the cheque and therefore liable to compensate the true owner.

The largest category of OTR telephone enquiries (24.8 per cent) was those involving a commercial decision. This differed from last year's profile where the main reason telephone enquiries were OTR was because they concerned member policy.



# Systemic Issues

**BFSO has conducted a total of 19 investigations into systemic problems during the year in review. 15 of these issues have been resolved, and investigations are continuing into the remaining four matters. These investigations are important in a broader sense because the issues have either affected, or have the potential to affect a large number of consumers in addition to those who have complained to BFSO.**

## Identification of Systemic Issues

BFSO aims to identify systemic problems as early as possible, with most matters being identified by case officers when new written disputes are received. Issues are identified when:

- Case officers notice a number of disputes about the same issue;
- They believe that an issue raised in a single dispute could affect other customers in a similar way to the disputant; or
- A disputant claims that the issue they have raised in their complaint is systemic in nature.

## Investigation and Resolution

Investigations into systemic problems are carried out by the systemic issues manager, legal counsel or case managers, in consultation with the Ombudsman. Often, legal advice and /or banking advice is required. If the investigator concludes that there is a systemic problem, options for resolving the matter are put to the member.

There are generally two limbs to the resolution of any systemic issue:

- Ensuring that the problem is fixed at its source; and
- Ensuring that customers who have been disadvantaged financially as a result of the problem are appropriately compensated.

## Reporting

BFSO is obliged, under our Terms of Reference and as an Australian Securities and Investments Commission ('ASIC') approved alternative dispute resolution Scheme, to report systemic issues to ASIC on a quarterly basis.

The reports do not usually identify the member, but include details of the nature of the problem and the manner in which it was resolved. A member is only identified if it does not rectify the matter to the Ombudsman's satisfaction.

The following are examples of some systemic issues that BFSO considered over the last year.

### Rewards Program Fees Charged to Closed Credit Card Accounts

One member was charging rewards program fees on credit card accounts that were closed, but had not been fully repaid. The fees were charged until the debt was repaid in full. The credit card terms and conditions allowed the member to charge the fee in these circumstances, but we questioned the fairness of this – given that there were no services provided to the debtor in relation to the rewards program and the debtor was unable to redeem the points.

The member agreed to resolve the problem by:

- Making changes to its system to ensure that the fee was not charged on certain categories of closed accounts;
- Until the system change was implemented, performing a monthly manual check of relevant closed accounts and reversing any rewards fees that had been inappropriately charged; and
- Refunding the fee to anyone who complained to the member about the matter.

### Failure to Supply Credit Card Account Statements

In January 2004, one member failed to send account statements to approximately 72,000 credit card holders. These card holders had not made any customer initiated transactions on their accounts, but the member had debited an annual fee to their accounts in January. As a fee had been charged, statements should have been issued.

Many of these customers did not make any repayments to their accounts in February 2004 because they were unaware that the annual fee had been charged. As a result, many were charged a late repayment fee, and interest on the outstanding amount. Others were also charged a duplicate statement fee when they requested copies of their January statements.

When this matter was brought to the member's attention, it promptly acknowledged the problem and made arrangements for fees and interest to be refunded.

### Insurance Policies Set Up Without Customers' Consent

In March 2004, an employee of a financial institution set up income protection insurance policies for customers without their knowledge or consent. Premiums were deducted from customers' credit card accounts on a monthly basis.

When this matter was brought to the member's attention, it conducted an audit of the insurance policies. The audit revealed that the staff member had inappropriately set up 12 insurance policies.

The member refunded the premiums to all 12 customers and the staff member left the employ of the member.

### Charging Double Fees for Cheque Dishonour

One dispute that we received illustrated that one member had been charging a \$20 unauthorised overdraft fee and a \$35 cheque dishonour fee when it dishonoured cheques due to insufficient funds.

We advised the member that as the cheques had been dishonoured, no overdraft had been provided to customers, and in such circumstances, an unauthorised overdraft fee was not appropriate.

The member accepted our view and implemented a systems change to ensure that only the cheque dishonour fee is charged when a cheque is dishonoured.

The member also agreed to refund the \$20 unauthorised overdraft fee to all customers who had been charged inappropriately over the last six years.

# Case Studies

The case studies selected for this report include cases that are illustrative of the legal and banking practice issues raised in disputes, the investigation process and different types of resolution.

## Unauthorised ATM Withdrawals

Mr S had an account which he operated with a debit card. Mr S had recently sold his home. He was expecting the mortgagee of his former home to deposit the net proceeds of the sale to the account. He later learnt that his account had been closed, a new account had been opened, and that the sale proceeds had been deposited to, and subsequently withdrawn from, the new account via ATM withdrawals. He said he did not close his account nor open the new account, was unaware of the deposit of the net proceeds to the account, and did not withdraw the sale proceeds.

The member said it closed the original account because it was overdrawn. It said that Mr S had opened the new account and had produced photo identification when doing so. It said that Mr S must have performed the withdrawals (or must have compromised PIN security) since they were all performed with the correct PIN on the first attempt.

### Investigation

The investigation showed that:

- Mr S was the victim of a fraud which involved the opening of the new account, the depositing of part of the net proceeds of sale to the new account, and the withdrawal of the proceeds of sale from the new account.
- Mr S was living in another state when the new account was opened and could not have opened it.
- Mr S did not receive the PIN or the card for the new account, which were given, and sent, to the person who opened the new account.

### Resolution

The case manager issued a Finding that concluded that Mr S had not performed the ATM withdrawals or authorised them and that the member had not proved on the balance of probabilities that Mr S had contributed to the losses resulting from the unauthorised transactions by breaching the EFT Code. It was recommended that Mr S's liability be limited to \$150.

The member accepted the Finding and reimbursed Mr S the \$23,000 which had been withdrawn from the account.



## Suspicious Withdrawal from Account

Mr V held an Enduring Power of Attorney for his mother, Mrs W. Mrs W suffered from Parkinson's disease and on 30 September 2002 was admitted to hospital seriously ill after an overdose of her medication. Hospital records dated 1, 2 and 4 October 2002, which were obtained by Mr V under Freedom of Information, refer to Mrs W's confused state and vagueness.

On 3 October 2002 Mrs W's term deposit account was closed and \$72,881.90 was transferred to an account in the name of her daughter Ms R.

Once Mr V became aware of the account's closure and the transfer of funds he contacted the member. It told him that it did not need to refer his mother's request to close the account to him, it was not aware of his mother's medical condition at the time of the closure and that its records indicated that his mother signed the closure request.

The member subsequently placed a freeze on the funds transferred to Ms R's account. It said that it would not allow any transactions on the account until Mr V and his sister, Ms R, resolved the matter.

Mr V wrote to BFSO and said that as he and his sister were not on speaking terms the matter could not be resolved between them. He said that he did not believe that his mother had the ability, on 3 October 2002, to make decisions in her best interests or that she had the capacity to issue instructions regarding the closure of her term deposit account. Mr V also questioned the member's involvement in facilitating and accepting the instructions to close the account.

## Investigation and Resolution

The case manager obtained the original documents presented to the member in order to close the term deposit account. A statement was also provided by the officer who attended to the account closure.

It transpired that Ms R had attended the member's premises on three occasions on 3 October 2002. On the first occasion Ms R advised that her mother was sick in hospital and wanted to transfer her term deposit monies to her daughter. The officer advised Ms R what was required in order to close her mother's term deposit account. Ms R acted on that advice and returned with a note signed by her mother. Ms R was then given a standard form authorising the closure of Mrs W's account to take back to her mother for her signature. Ms R returned to the branch with her mother's signature on the standard form.

The officer acknowledged that Mrs W's signature was "*not quite the same*" as her signature on the member's signature card but stated that she allowed for Mrs W being sick and four years older than when she signed the signature card.

The case manager issued a Finding which stated that a member has a contractual duty of care to its customer in the execution of payment instructions. In the case manager's opinion the following factors should have been sufficient to prompt the officer to make further enquiries before she actioned what purported to be Mrs W's instructions:

- The enquiry to the member regarding what was required to close the account and the instructions for the closure and transfer of funds were presented to the member by the beneficiary of the transfer;
- The two very different handwriting styles on the note from Mrs W put the member on notice that Mrs W did not write the note;
- The questionable nature of Mrs W's signature on the form authorising closure of the term deposit account;
- The ambiguous direction in the closure form to deposit funds in an account nominated as Mrs W's account when the account was actually Ms R's account;
- The amount of the transfer (\$72,881.90); and
- The interest penalty for prepayment and the lack of any reasonable explanation for the urgency to withdraw the money prior to maturity in less than three weeks time.

The case manager concluded that the member had failed in its contractual duty of care and that Mrs W's term deposit account was closed without proper authority.

The case manager suggested that the member should re-establish a term deposit account in Mrs W's name. An interest adjustment of around \$6,000.00 to take account of interest foregone in the period since the account's closure was also proposed.

The parties accepted the Finding.

## Mortgagee Sale

In 1995 Mrs R and her husband borrowed \$108,000 from the member to refinance their existing home loan. By January 2001 Mrs R was separated from her husband and he was facing bankruptcy.

After an unsuccessful attempt to arrange an acceptable repayment arrangement of the home loan with the member, Mrs R placed the property on the market for sale for \$120,000. An offer of \$115,000 was received, however, the sale did not proceed. The agent discovered that some unfinished alterations on the property did not have council approval and informed Mrs R that this situation hampered the marketing of the property.

Mrs R then discovered through her estranged husband that the member had taken possession of the property in July 2001. She made contact with the member and provided it with a copy of an engineer's report she had obtained in relation to the incomplete work.

The member obtained marketing proposals and a valuation of the property. One estate agent proposed an auction with a reserve price of \$80,000, the other estimated the property's value to be \$90,000, but did not give a view on the preferred method of sale. Both agents expressed concern about the cost of the rectification work required on the property. The independent valuer engaged by the member suggested the property's value was between \$75,000 and \$85,000, but advised that no sale be effected until a further more comprehensive engineer's report was obtained on the extent of the rectification work required.

The engineer's report obtained detailed the compliance and completion works required on the property, which it described as being "*most substantial*". It estimated the cost of compliance works to be about \$15,500 and stated "*There would be twice this to complete all unfinished and planned works*". In view of the report, the valuer revised his valuation of the property to \$70,000 if it was not necessary to demolish the extension works and \$55,00 if demolition was required.

The member sold the property for \$85,000 by private treaty a few days after it was listed with the estate agent. The advertising comprised a 'for sale' sign on the property and a poster displayed in the listing agent's window. In addition, the property was multi-listed. The sale proceeds left a shortfall of around \$20,000 on the loan debt.

Mrs R complained to this office about the price for which the property was sold.

### Investigation and Resolution

In its review of the dispute, this office considered:

1. The member's sale of the property:
  - By private treaty rather than public auction; and
  - Without first advertising the property in relevant newspapers; and
2. The price for which the property was sold.

### Sale by Private Treaty

The view taken by BFSO is that where a property is sold by private treaty, it is for a mortgagee to show that there were valid reasons for selling by this method rather than at public auction.

In this case the reasons given by the member mainly related to the unapproved extension works and:

- The possibility that exposure of the property on the market could possibly expedite action by the council in relation to the demolition order; and
- An anticipated difficulty in locating a purchaser for the property.

While accepting that the unapproved extensions and the demolition order would have raised concerns for the member, the case manager considered that the following factors were also significant:

1. In the valuer's initial letter to the member he referred to a discussion he had with a representative of the engineers who provided the report, in which the representative said:

- “This is a very common occurrence and that they are required to complete such a report several times per month in respect to illegal improvements”; and
  - Local councils had little option but to issue a demolition order when they were confronted with an illegal addition and that the appeal process is the common vehicle used to resolve the matter;
2. The offer to purchase the property was made only a few days after the member listed the property with the agent and was apparently from a buyer who contacted the agent via the internet;
  3. An advertising campaign as such had not been undertaken; and
  4. The agent was aware that an earlier offer of \$115,000, albeit a conditional offer, had been received on the property.

In view of these factors the case manager was not persuaded that it was reasonable for the bank to sell the property by private treaty rather than public auction.

### Advertising

BFSO expects that a member, when selling a property as mortgagee, would undertake an adequate advertising campaign in order to expose the property to the market. In this case there was no newspaper advertising undertaken at all. Rather, the advertising undertaken was limited to a window poster and a board on the property, both of which would only have been in place for about one week. In the case manager’s view this extent of advertising was insufficient to have tested the market.

### The Sale Price

Mrs R believed that the property was sold for less than its market value and requested a comparison be made with the market price of neighbouring properties. However, the valuer noted that it was impossible to find any directly comparable evidence regarding the property’s value because of the existence of the demolition order.

The case manager considered this was a reasonable view.

On the issue of the adequacy of the sale price, the case manager noted that in early May 2001 an offer was made to purchase the property for \$115,000. Mrs R had responded with a counter offer of \$117,000 and the potential sale did not proceed. Mrs R provided a copy of that offer which disclosed that it was conditional upon “*all building extensions being approved by the relevant authority*”.

The report provided by the consulting engineers estimated the cost of compliance works to be \$15,500. Accordingly, had those works been completed prior to the offer of \$115,000, the disputant would have been able to accept the offer and would have achieved a sale at that figure.

In the case manager’s opinion the existence of a potential purchaser in May 2001 and the location of an alternative purchaser so soon after the property was placed back on the market by the member suggested that there would have been other potential purchasers had the property been properly marketed.

The case manager was not satisfied that the price of \$85,000 was the best price that could have been achieved if an appropriate method of sale and appropriate advertising had been undertaken. The case manager considered that by selling the property by private treaty so soon after placing the property on the market the bank did not meet its common law duty to act without a reckless or wilful disregard for the interests of the mortgagor.

### Resolution

It appeared that had an appropriate advertising campaign been undertaken and the property sold by public auction, a price of around \$99,500 (that is \$115,000 less \$15,500 for compliance works) may have been achieved. As there was also an issue involved in this case relating to the member’s inappropriate advance of funds to the borrowers for renovation works, it was considered that an appropriate resolution of the dispute would be for Mrs R to be relieved of any further liability under the loan contract. Both Mrs R and the member agreed to the resolution of the dispute on this basis.

## Substitution of Security without Consent

In March 2000, Mr P entered into a loan agreement with the member together with his de facto partner at the time, Ms L. The property taken by the member as security for the loan was in the name of Ms L.

By October 2002, the relationship had ended and Mr P said that he became aware that the security property was to be sold. Mr P said he contacted the member on a number of occasions to ensure that new security could not be substituted for the loan without his consent. He said he was advised that his consent would be required.

Mr P was subsequently informed that the security property had been sold and another form of security substituted.

Mr P asserted that as the member had not obtained his consent to the substitution of security that he was no longer a party to the loan agreement. He also stated that had he known that the member would allow substitution of the security without his consent he would have taken legal action to stop the sale of the security property and he had been precluded from doing so.

The member acknowledged that it was its usual procedure to seek a signed acceptance of a variation notice from both parties to the loan prior to substituting security, and in this circumstance, it had only received Ms L's consent.

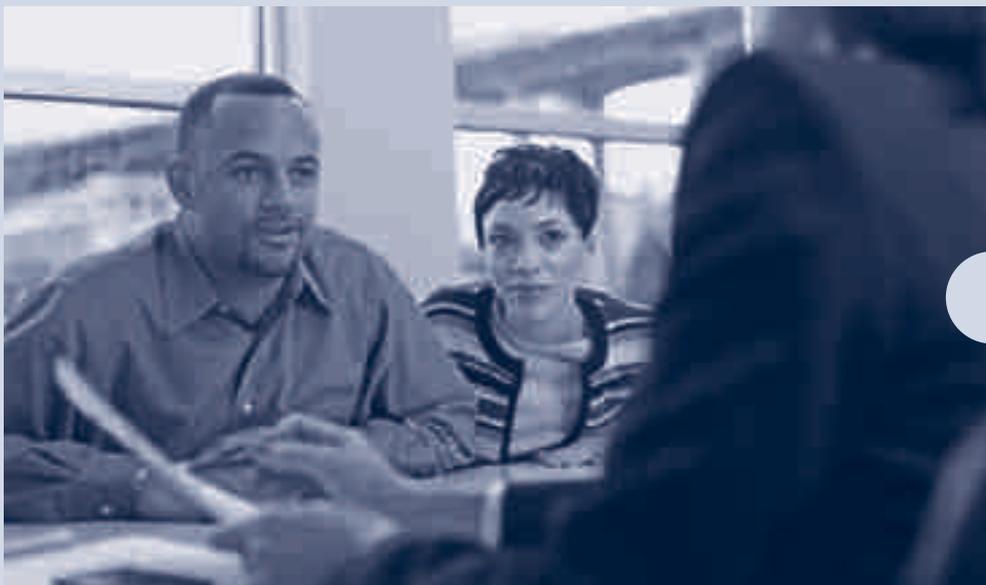
The member stated, however, that it could not agree to Mr P's request that the sole responsibility for the loan be placed with Ms L as it could not unilaterally agree to effectively terminate the loan contract.

## Resolution

The case manager issued a Finding to the parties. The case manager concluded that:

- Even though the member's action in agreeing to a substitution of security without Mr P's consent was not a contractual breach of the loan agreement, the actions demonstrated poor banking practice.
- Despite this, the case manager could not conclude that Mr P had suffered a financial loss as a result of the member's actions in allowing substitution of security for the loan.
- In any event, as the dispute involved a third party who was not a party to the dispute, BFSO was unable to further investigate the issue of financial loss. To investigate a claim that Mr P had suffered a financial loss would require an investigation into the arrangements between the borrowers and a determination of their respective benefits and liabilities for the loan. This is a matter that is more appropriately dealt with in a court.

The file was closed on this basis.



## Foreign Exchange Transaction – Misleading Conduct

Mr M instructed the member to transfer A\$1.5m by telegraphic transfer to W Ltd in Gibraltar, providing overseas bank account details. Although Mr M initially received written confirmation from the member that the transaction had been dealt with, he was informed by telephone two days after giving the instructions that it had not gone through and was advised, incorrectly, that the member had been unable to complete the transaction in Australian dollars (AUD).

In fact an error had been made by the member in the input of information for the transfer. Had the information been input correctly by the member, the transaction could have been processed.

Believing he had no alternative, Mr M instructed the member to send the transfer in pounds (GBP). Mr M said that he had a contractual obligation to send the funds in AUD and the recipient was claiming the sum of A\$17,000 approximately, on the basis that the recipient had made arrangements to convert the funds to GBP, at a rate more favourable than the rate at which it was converted by the member in Australia.

The member admitted it made an error but denied liability for the loss claimed by Mr M.

## Investigation and Resolution

The file was referred to a case manager for investigation.

In the course of the investigation Mr M provided the contractual documents to BFSO evidencing his obligation to pay W Ltd in AUD. The case manager formed the view that the member was in breach of its contract with Mr M. It had failed to effect a transfer of the funds in AUD as instructed, when it could have done so, and provided misleading information to him. The loss that Mr M incurred was reasonably foreseeable. It was the case manager's preliminary view that the member was liable to indemnify Mr M even if it did not know of the exact contractual arrangements between Mr M and W Ltd.

On the basis of this office's preliminary view, the member offered Mr M the sum of A\$14,374.00 in full and final settlement of the dispute. This offer was accepted by Mr M and the matter was settled.



## Disappointed Investors

In late 2000 Mr & Mrs A sold their home, bought a caravan and planned to travel around Australia. Mrs A received a disability pension and Mr A received a carer's pension. Centrelink advised them to invest the \$100,000 surplus from the sale of their house in an annuity in order to protect their pensions. Mr & Mrs A sought the advice of a financial planner.

In early 2003 Mr & Mrs A decided to settle in a country town and sought to access their investment to purchase a home. At this time they discovered that the investment statements had been incorrectly addressed to Epping New South Wales instead of their son's address in Epping Victoria and that they had 'lost' almost \$20,000. They wrote to the Ombudsman seeking assistance to recover some of their money.

In response to the dispute, the financial services provider said that the advice provided was fair and reasonable and clearly met Mr & Mrs A's needs and objectives. It said that Mr & Mrs A failed to pay regard to monthly income payments of almost \$14,000 over the period of the investment. It acknowledged that the statements were sent to an incorrect address.

### Investigation

The investigation focused on answering the following three questions:

1. Were the recommendations of the financial adviser appropriate for Mr & Mrs A's stated needs in August 2000?
2. What were the consequences of the financial services provider's failure to send statements to Mr & Mrs A's address? and
3. Was the financial services provider liable to compensate Mr & Mrs A?

### The investment advice

In late 2000 when the financial advice was given, section 851(2) of the Corporations Act applied. This section requires an adviser to consider the information provided by the customer, but also to carry out an investigation of the person's investment objectives, financial situation and particular needs. Section 852 made the adviser liable to pay compensation unless the recommendation was, in all the circumstances, appropriate having regard to the information that the adviser had about the client's objectives, financial situation and particular needs.

The case manager talked to the disputants and the financial services provider about the initial discussions and examined documents completed during the application process. The documents included the prospectus, including a Key Features Statement, an application to invest, a Needs Analysis and a Financial Plan.

The case manager noted that the prospectus was a comprehensive document written in plain English. Information in the prospectus included a statement that there was a 14-day period in which the application could be cancelled and a clear description about how the allocated pension operated and circumstances that would result in a decline in the account balance.

The Needs Analysis noted that Mr & Mrs A were highly concerned about inflation, they would be concerned if their capital declined by 10% in one year and that they could accept a negative return of 1 in 7 years. The Needs Analysis stated that Mr & Mrs A's objectives were to create more income, retain their Centrelink pensions, invest in tax-advantaged investments, minimise the impact of inflation and invest for capital growth. The financial adviser determined that an investment mix of 60% growth and 40% income suited Mr & Mrs A's risk profile.

Mr & Mrs A acknowledged that the information in the Needs Analysis was accurate. The case manager considered the information in the Needs Analysis and concluded that the recommendations in the Financial Plan were appropriate for Mr & Mrs A's stated needs in August 2000.

### Annual statements

Mr & Mrs A acknowledged that they were advised that the investment could go up or down a few thousand dollars but said that the financial adviser should have kept his eye on things and contacted them when the investment was not performing well.

The case manager noted that the financial adviser's explanation that the investment could fluctuate was conservative given that the historical returns in the prospectus for the recommended products showed that the net returns over a five year period were in excess of the payment amount nominated by Mr & Mrs A. She also noted that it was not the financial adviser's role to initiate a review of the Mr & Mrs A's portfolio.

The investigation revealed that a letter incorrectly addressed to Mr & Mrs A was returned to the financial services provider and the file system showed that an address was required, but no follow-up action was taken.

Mr & Mrs A said that if they had been receiving regular statements they would have switched their investment into a conservative or defensive option and not let the investment drop below \$95,000. The case manager accepted that this was likely. She noted that the value of the investment had fallen over \$8,800 between September 2000 and 29 September 2001 and a switch would preserve the status of Mr & Mrs A's pensions. She also concluded that Mr & Mrs A would have switched into a conservative product in late October 2001, after the impact of the events of September 11 on the investment markets.

### Resolution

In the Finding, the case manager concluded that the financial advice was appropriate for Mr & Mrs A's needs in August 2000. She also concluded that the failure to ensure that statements were sent to Mr & Mrs A's address deprived them of information about the performance of their investment and the opportunity to switch their investment to a more conservative product.

To calculate Mr & Mrs A's loss, the case manager first determined the value of the investment on 31 October 2001, the likely date of the switch. She chose two conservative products and took a mid-point value of the two investments in April 2003 and compared this to the value of Mr & Mrs A's investment in April 2003. The difference was about \$9,000. The case manager concluded that the disputants should bear some responsibility for their failure to make enquiries about how their investment was performing and that their "loss" should be reduced by 25%.

Both parties accepted the Finding in this case and the financial services provider paid Mr & Mrs A \$6,715.50 in resolution of the dispute.



## Internet Fraud

C's company manufactured and exported exercise equipment. In 2002 it began selling to retail customers via its website, including to overseas customers. In November and December 2002, it received orders from Indonesia for equipment to the value of \$20,000 with a request to split the price of the goods over eight credit cards. C received authorisation from its bank for the transactions and shipped the goods.

In January 2003, it received orders from a different individual from Indonesia but again with a request to split the full price of the order over six credit cards. When authorisation was sought it was declined. In a conversation with the member's officer about the implications of the decision to decline, C's manager was told that there was a risk that the previous orders may be fraudulent. The transactions were in fact disputed by the true cardholders in late January 2003 and charged back to C.

C's dispute was that he had relied upon what he regarded as the member's approval of the November/December transactions to send the goods. The merchant agreement, however, clearly stated that a transaction was invalid and could be charged back if it was not authorised by the cardholder. The Merchant Operating Guide provided to the business also made it clear that the purchaser's bona fides were accepted by the merchant at its own risk and that when authorisation from the bank is obtained it does not guarantee that the purchase is being made by the cardholder.

The case manager set out her view in a Finding. It was her view that in the circumstances there had been no misrepresentation by the member and no grounds for finding that the member should compensate C for the amounts charged back.



## Maladministration in Granting Credit

In November 2003, Mrs T approached a financial counselling service with an unsecured credit card debt of \$74,000.

Mrs T was a 60 year old pensioner on a disability support pension. She rented emergency government housing, had no assets and had not worked for several years. Mrs T had initially approached a financial counsellor to discuss the option of bankruptcy as she could no longer afford to continue making repayments.

The financial counsellor was concerned that the member had not adequately assessed Mrs T's ability to service the debt. The account showed that the disputant was making regular fortnightly repayments however, she was in fact depositing her fortnightly pension to the card account and then withdrawing it again as a cash advance.

The financial counsellor lodged a dispute with BFSO on behalf of the disputant.

### Resolution

Following referral to the member, the member wrote to the financial counsellor and stated that it did not believe any maladministration had occurred in relation to the credit approval. However, in order to resolve the dispute it offered to reduce the credit card debt from \$74,000 to \$5,000. The member also offered to accept interest free payments of \$50 per fortnight until the residual debt was repaid.

Mrs T accepted this offer.



## Request to Assist with Credit Contract Variation

Ms P was unable to meet repayment obligations under her credit card contract. She completed a hardship application form and despite indicating that it would respond within 48 hours, the member had not responded for a number of weeks. The member then sent notice that if total payment was not made within 14 days, the debt would be listed with a credit reference agency.

Ms P had tried to clear the debt, however was awaiting the disbursement of the proceeds of a sale of a property in accordance with a Family Court Order. She had put the member on notice that the proceeds of the sale would be received within two months and she would then be in a position to clear the debt.

### Resolution

The case officer referred the dispute to the member. The member offered:

- A refund of interest on the credit card for the previous three months;
- A refund of late payment fees and over the limit fees for the previous three months;
- To cease collection activity for two months to allow the proceeds of the sale to be made available; and
- To cease interest on the account.

The case was resolved without the further involvement of BFSO.



# Appendix A

## Definition of Terms

### ASIC

Australian Securities and Investments Commission

### BFSO

Banking and Financial Services Ombudsman Limited, formerly called Australian Banking Industry Ombudsman Limited

### Case Manager

Investigates unresolved disputes

### Case Officer

Takes telephone calls from the public, processes new disputes and investigates some unresolved disputes

### Case Resolved

A dispute that is resolved after referral to the financial institution

### Conciliation Conference

A case conference conducted by the Ombudsman

### Customer

An individual or small business user of financial services

### Determination

A written decision issued by the Ombudsman if the member rejects a Recommendation. A determination is binding on the member

### Directors

The Directors of the BFSO Board

### Discontinued

Disputes sent to BFSO for our information without a request to investigate, and disputes subsequently withdrawn by the disputant

### Disputant

An individual or small business bringing a dispute before the Ombudsman

### Dispute

A written request for assistance to resolve a disagreement between a financial services provider and a customer

### Enquiry

A telephone enquiry from a person

### Financial Services Complaints

Financial Services Complaints telephone referral service, a co-operative venture between the Banking and Financial Services Ombudsman, Financial Services Industry Complaints Service Limited and Insurance Enquiries and Complaints Limited

### Finding

A written assessment of the merits of a dispute after investigation of the dispute by BFSO staff

### Guidelines

A manual published by BFSO which explains the clauses of the Terms of Reference. New Guidelines were published on 11 March 2002 when the new Terms of Reference became effective

### Member

A financial services provider that has agreed to participate in the Scheme (see Appendix B)

### Negotiated Settlement

An investigation that is resolved by way of a settlement that is acceptable to both parties. Usually a case manager will facilitate the settlement

### OTR

(Outside Terms of Reference) A dispute that is outside the Ombudsman's jurisdiction

**Problem**

The term used by BFSO to describe the nature or description of the dispute that the disputant has about a financial service

**Product**

The term used by BFSO to categorise the various financial products, services, accounts or facilities available to customers from members

**Provisionally Closed**

The status of a case for the 30 day period between BFSO seeking confirmation of the resolution of the case and the date when the appeal period expires and the case is closed

**Recommendation**

A decision made by the Ombudsman if either the member or disputant reject a case manager's Finding, or where resolution cannot be reached at a Conciliation Conference

**Related Body Corporate**

A company that belongs to the same group of companies as a member

**Small Business**

For events occurring prior to 6 July 1998:

An unincorporated business

For events occurring between 6 July 1998 and 10 March 2002:

An incorporated or unincorporated business with less than 15 employees and a turnover of less than \$1 million, which is independently owned and managed

For events occurring on or after 11 March 2002:

An incorporated or unincorporated business that employs less than 100 full-time employees if the business is manufacturing, and less than 20 employees if the business is of another nature

**Serious Misconduct**

A broad term that includes fraudulent conduct, grossly negligent or inefficient conduct, and wilful or flagrant breaches of relevant laws and codes of practice. BFSO is obliged to report cases of serious misconduct to ASIC.

**Systemic Issue**

An issue which has been raised in a dispute or several disputes to BFSO which will affect a class of people in addition to those who have complained to the Scheme.

BFSO is obliged to report systemic issues to ASIC.

**Telephone Dispute**

Details of a dispute recorded by a case officer and referred directly to the member by BFSO

**Terms of Reference**

A written document setting out the powers, duties and obligations of BFSO

**The Board**

The governing body of the Scheme comprising an independent chair, two consumer and one small business representative, and three bank representatives

# Appendix B

## Full list of members as at 30 June 2004:

- Bank Members
- Adelaide Bank Limited
  - AMP Bank Limited
  - ANZ Banking Group Limited
  - Arab Bank Australia Limited
  - Bank of China
  - Bank of Cyprus Australia Pty Ltd
  - Bank of Queensland Limited
  - Bank of Tokyo – Mitsubishi (Australia) Ltd
  - Bank of Western Australia Limited
  - Bank SA (a division of St George Bank Limited)
  - Bendigo Bank Limited
  - Citibank Pty Limited
  - Commonwealth Bank of Australia
  - Elders Rural Bank Limited
  - HSBC Bank Australia Limited
  - ING Bank (Australia) Limited
  - Laiki Bank (Australia) Limited
  - Macquarie Bank Limited
  - Members Equity Pty Limited
  - Mizuho Corporate Bank Ltd
  - National Australia Bank Limited
  - Rabobank Australia Limited
  - Royal Bank of Canada
  - St George Bank Limited
  - State Bank of India
  - Suncorp-Metway Ltd
  - Taiwan Business Bank
  - The International Commercial Bank of China
  - United Overseas Bank Limited
  - Westpac Banking Corporation

## Related Bodies Corporate

The Scheme can also consider disputes about any related bodies corporate of its members provided that the dispute relates to an act or omission that first occurred on or after 11 March 2002. During the year, the Scheme considered disputes involving the following related bodies corporate:

- ANZ Funds Management
- CBFC Ltd
- Commonwealth Financial Services
- Commonwealth Insurances
- Commonwealth Life
- Colonial First State
- Commonwealth Securities (ComSec)
- Esanda Finance Corporation Limited
- Homepath Pty Ltd
- HSBC Stockbroking (Australia) Pty Ltd
- Maxis Loans
- MLC Limited
- Macquarie Mortgages Pty Ltd
- National Australia Funds Management Limited
- St George Business Finance Pty Ltd
- Super Members Home Loans Ltd
- Westpac Financial Services Ltd

## Non – Bank Members

- All-States Group
- American Express International Inc
- Australian Postal Corporation
- eChoice Pty Ltd
- Elders Limited
- Forex Plus Australia Pty Ltd
- Habib Finance (Australia) Ltd
- Home Loan Selection Services Pty Ltd (Incorporating Nelson Alexander Home Loans)
- Mortgage Selection Services Pty Ltd
- ProLoan (Australia) Pty Ltd
- Prosolution Group Pty Ltd
- RCP Finance Limited
- Real Financial Services Pty Ltd
- Sherlock Home Loans (Aust) Pty Ltd
- StrataPay Pty Ltd
- Technocash Pty Ltd
- Telecheck Payment Systems Limited

# Summary Financial Statements

## Banking and Financial Services Ombudsman Limited

ABN 48 050 070 034

### Statement of Financial Position

As at 31 March 2004

	31 March 2004	31 March 2003
	\$	\$
<b>Current Assets</b>		
Cash assets	1,454,782	1,605,185
Accounts receivable	536,405	90,457
Other	99,045	47,803
<b>Total Current Assets</b>	<b>2,090,232</b>	<b>1,743,445</b>
<b>Non-Current Assets</b>		
Plant and Equipment	233,860	334,230
<b>Total Non-Current Assets</b>	<b>233,860</b>	<b>334,230</b>
<b>Total Assets</b>	<b>2,324,092</b>	<b>2,077,675</b>
<b>Current Liabilities</b>		
Payables	396,545	470,670
Other liabilities	606,100	405,000
Provisions	438,000	388,200
<b>Total Current Liabilities</b>	<b>1,440,645</b>	<b>1,263,870</b>
<b>Non-Current Liabilities</b>		
Payables	250,000	250,000
Provisions	151,500	117,000
<b>Total Non-Current Liabilities</b>	<b>401,500</b>	<b>367,000</b>
<b>Total Liabilities</b>	<b>1,842,145</b>	<b>1,630,870</b>
<b>Net Assets</b>	<b>481,947</b>	<b>446,805</b>
<b>Accumulated Funds</b>	<b>481,947</b>	<b>446,805</b>

Audited Financial Statements and Directors' Report for Banking and Financial Services Ombudsman Limited have, in accordance with legal requirements, been lodged with ASIC and are available for public scrutiny

## Banking and Financial Services Ombudsman Limited

ABN 48 050 070 034

### Statement of Financial Performance

For the year ended 31 March 2004

	31 March 2004	31 March 2003
	\$	\$
<b>Revenue from ordinary activities</b>	<b>4,839,729</b>	<b>4,484,797</b>
Employee benefits expense	(3,323,422)	(3,190,476)
Depreciation and amortisation expense	(138,827)	(148,194)
Borrowing costs expense	–	92
Occupancy costs	(270,629)	(238,685)
Technology costs	(249,254)	(241,769)
Telephone expense	(132,482)	(140,474)
Directors' fees	(132,949)	(123,474)
Consulting fees	(143,254)	(33,683)
Travel and accommodation expenses	(69,250)	(71,557)
Promotion and information expenses	(64,292)	(50,216)
Auditor's remuneration	(6,500)	(6,329)
Other expenses from ordinary activities	(273,728)	(299,906)
<b>Profit (loss) from ordinary activities before income tax expense</b>	<b>35,142</b>	<b>(59,874)</b>
Income tax expense relating to ordinary activities	–	–
<b>Profit (loss) from ordinary activities after income tax expense</b>	<b>35,142</b>	<b>(59,874)</b>
<b>Total changes in equity</b>	<b>35,142</b>	<b>(59,874)</b>

# Thank You BFSO

“I wish to thank you for all your efforts assisting the ‘little person’ with their claims against big business.”

*“Thank you for your service in fixing my dispute... Thank God there is an Ombudsman. Your one letter to the bank solved a dispute which I have unsuccessfully tried to solve for eight months.”*

*“It gave me a great deal of fulfilment... to know that the BFSO is a very effective organisation in protecting the rights of consumers. It is gratifying to know that as consumers... we are not completely alone and powerless.”*

“Without your intervention I would have been unfairly out of pocket.”

“I wish to offer your organisation a very big thankyou... for a splendid outcome.”

*“It makes one feel good to know that there are people out there like you willing to help out when all else fails.”*

**Banking and Financial Services Ombudsman**

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