

Annual Report

Te Pūrongo-Ā-Tau

2023 / 2024

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A Financial Ombudsman Service

FSCL FINANCIAL SERVICES COMPLAINTS LTD
RATONGA PŪTEA PUNA MANAAKI

**WE RESOLVE
COMPLAINTS SIMPLY
AND CONFIDENTIALLY
BY WORKING WITH
CONSUMERS AND THEIR
FINANCIAL SERVICE
PROVIDER TO REACH
A FAIR OUTCOME.**

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WHO WE ARE AND WHAT WE DO

FSCL is an independent financial ombudsman and dispute resolution service approved by the Minister of Consumer Affairs under the Financial Service Providers (Registration and Dispute Resolution) Act 2008.

Our role is to resolve complaints between consumers and their financial service provider about financial services and advice, including insurance, loans, managed funds, and trustee services.

FSCL is a not-for-profit company funded by a combination of membership and complaint fees levied on participating financial service providers. We provide our services to consumers free of charge.

FSCL's decision-making process is independent of our scheme participants and industry sectors. FSCL's Financial Ombudsman & Chief Executive Officer and staff are entirely responsible for handling and determining complaints and are not subject to external influence from any of FSCL's stakeholders.

HOW WE WORK

We resolve complaints through investigation, working confidentially and in a non legalistic manner to assist both sides to reach a fair outcome.

Our process is both inquisitorial and consensus based and focuses on producing a mutually acceptable outcome. Both scheme participants and consumers are afforded an equal opportunity to put forward their cases. This is intended to ensure procedural fairness and to promote effective dispute resolution.

When a complaint cannot be resolved by agreement, our Financial Ombudsman & Chief Executive Officer can make a decision which is binding on the participant, but only if the consumer accepts the decision in full and final resolution of the complaint. The decision includes our Financial Ombudsman & Chief Executive Officer's reasons for making the decision.

“ IT WAS A GREAT SERVICE. WHILE THE OUTCOME WAS NOT WHAT WE WERE HOPING FOR, WE FELT THAT IT WAS FAIR.

“ IT WAS EASY TO DEAL WITH THE TEAM. COMMUNICATION WAS CLEAR AND THEY FOLLOWED UP EVERY STEP OF THE WAY. A QUICK RESOLUTION WAS FOUND.

OUR YEAR IN A SNAPSHOT

DISPUTES UP
10%
COMPLAINTS UP
6%



364
DISPUTES
INVESTIGATED AND
RESOLVED
**A 33% INCREASE
ON LAST YEAR**


2,526
INITIAL ENQUIRIES
TO OUR OFFICE

29
WEBINARS
FOR SCHEME
PARTICIPANTS AND
CONSUMERS

7
GUIDES
ON COMMON
COMPLAINTS
ISSUED

**ENGAGEMENT
CHARTER AND
FAIRNESS
CHECKLIST**
LAUNCHED



91%
OF SURVEYED
CONSUMERS
FOUND OUR
SERVICE EASY
TO USE AND
UNDERSTAND

90%
OF SURVEYED
CONSUMERS FELT
LISTENED TO AND
SHOWN RESPECT

87%
OF SURVEYED
CONSUMERS
WOULD
RECOMMEND FSCL
TO OTHERS



CHAIR'S MESSAGE

Jane Meares
Board Chair



In 2023/24, the ongoing financial pressure on consumers and businesses due to the higher cost of living and interest rates has led to a steady rise in complaints. This highlights the importance of accessible, fair, and independent dispute resolution during challenging economic times.

Along with this, the new coalition government has started consultation on reforms to the financial services industry at pace, aiming to simplify and streamline financial services for consumers.

ACCESSIBILITY AND EFFECTIVENESS

Included in the recent Ministry of Business, Innovation, and Employment (MBIE) consultation were questions relating to the financial dispute resolution schemes, accessibility and effectiveness, and consumer awareness of the schemes. We wait to hear what actions may result from that consultation. While we are firmly of the view that we are meeting the recognised Ombudsman principles of accessibility and effectiveness, we will strongly support any practical initiatives that help raise awareness of the dispute resolution services and make it easier for consumers to know which scheme to approach with their complaint about a financial service provider.

We are always working to increase consumer awareness of and trust in our service. I'm pleased to report that we continue to receive good coverage of our media releases on topical issues and case studies highlighting key lessons learned from our investigations. This helps to increase education and awareness, as evidenced, in part, by the increase in complaints to our service. Of course,

one of the more effective ways to increase awareness of our scheme is through our participants letting people know about us.

As announced in April this year, we began evaluating a merger with the Insurance & Financial Services Ombudsman Scheme (IFSO). At present, the two organisations together account for approximately 90% of financial services complaint cases (excluding banking). The evaluation process will take some time to complete and will include consultation with scheme participants and other stakeholders.

MAINTAINING HIGH STANDARDS

While this is a time of change, I am pleased to report we have maintained our high standards - not only in resolving complaints but also in supporting our scheme participants given the increase in complaints. The Board and I will continue to ensure that FSCL has the necessary support the organisation needs in the year ahead. This has included recruiting additional staff to help us manage the increase in complaints.

Our FSCL team is our greatest asset and, earlier in the year, the Board carried out an employee engagement survey. We were pleased with the results which showed overall a highly engaged team, motivated to do their best.



WE ARE ALWAYS WORKING TO INCREASE CONSUMER AWARENESS OF AND TRUST IN OUR SERVICE.

CHANGES TO OUR RULES

As part of the government's financial services reforms (Phase 1), regulations to change the rules of the four approved dispute resolution schemes came into effect on 18 July 2024. The purpose is to promote consistency between the schemes. Most of the new regulations were already reflected in our terms of reference, however the main changes included increases to the maximum compensation amounts the schemes can award: \$500,000 for direct financial loss and \$10,000 for non-financial loss. I believe these changes will help to provide access to justice for more consumers.

GOVERNANCE NEWS

In Board news, I accepted a reappointment as Chair for a three-year term on 1 April 2024. Tuhi Leef was also reappointed as a Board consumer representative for a three-year term from 1 July 2024.

THANKS

I would like to take this opportunity to thank my fellow directors for their ongoing support and valuable contributions to FSCL's strategic direction.

I particularly thank our Financial Ombudsman and CEO Susan Taylor for her continued hard work and leadership, including the pivotal task of evaluating the proposed merger with the IFSO Scheme.

On behalf of the Board, I would like to extend my heartfelt thanks to all our team for their dedication and commitment, in what can at times be a challenging environment. I commend the team's focus on resolving complaints fairly and appropriately with a high degree of professionalism.

We expect the year ahead to be another busy and challenging one for FSCL and the wider financial services industry, but I have every confidence that FSCL will continue to go from strength to strength, delivering an efficient and fair dispute resolution service to all New Zealanders. Of that I am proud.

FINANCIAL OMBUDSMAN AND CHIEF EXECUTIVE OFFICER'S MESSAGE

Susan Taylor
Financial Ombudsman and
Chief Executive Officer



Following on from last year's upward trend, our latest statistics show no letup in the number of complaints and disputes, in what has been another busy year for FSCL and the wider sector.

This year we have seen a further rise in complaints made to our service with a 6% increase in complaints and a 10% increase in the disputes that we formally investigate and resolve. I'm pleased to report that, despite these increases, we continue to ensure they are resolved as quickly as possible.

With New Zealanders facing increasing financial pressures and rising costs, maintaining consumer confidence in financial services is more important now than ever. We are committed to helping both our participants and consumers achieve the best outcome together when a complaint is made.

While FSCL's role is sometimes viewed as the ambulance waiting at the bottom of the cliff, we strive to build the fence at the top as much as possible. We encourage and provide advice to our participants on how to better manage complaints and we support them to prevent disputes from arising. We also build awareness of our service and support our consumers, particularly those who are vulnerable, through the process.

Our team takes pride in our work and its positive impact. We continue to invest in our team's capability, through regular training including in cultural competency, communicating clearly, and managing challenging behaviours.

As mentioned in the Chair's introduction, this year we announced we were exploring a proposed merger with the Insurance & Financial Services Ombudsman Scheme (IFSO) and there have been changes to our rules in regard to an increase in our financial limits for compensation.

SHARING OUR EXPERTISE

One of the ways we support our scheme participants and cope with the increase in complaints is by being proactive and pivoting when required. We've now embedded into our processes a new Early Assistance stage (EA Plus) which looks to prioritise early resolution, flagging cases that can be quickly resolved without needing a full investigation. This has proved successful in seeing more complaints resolved at a very early stage in the process.

We have produced a number of helpful guides for our participants and consumers alike. This is with the aim of education, complaint prevention, and raising industry standards.

Our monthly webinar series continues to be popular, as we share our learnings and offer opportunities for professional development. We are also pleased to see our participants joining and making use of our resource library which holds a raft of key information to better manage customer complaints. We have refreshed our website, to make it more user friendly and the look of our regular participant newsletters.

CONSUMER OUTREACH

Consumer outreach is a core part of our work. Led by our Case and Early Assistance Manager, Meryn Gates, we have run several workshops for consumer advocacy organisations and financial mentors, both online and in person around the country. We also publish a quarterly consumer newsletter.

We continue to work with our colleagues at the other financial dispute resolution services to build awareness and together ran a series of 'virtual cuppas'. These online, informal, small group discussions are an opportunity for financial mentors and other relevant community groups to ask questions about the work we do and find out how we can help.



YOUR INSIGHTS WERE INCREDIBLY VALUABLE, AND WE APPRECIATE THE EFFORT YOU PUT INTO SHARING YOUR KNOWLEDGE WITH US

We have made a dedicated effort to reach out to small businesses to inform them about our services, recognising that many are struggling due to the current economic environment.

We also raise consumer awareness through regular media releases on topical issues, social media posts and highlighting commonly misunderstood issues through our real-life case studies.

FAIRNESS IN ACTION

Fairness is at the heart of everything we do and over the last 12 months we have embarked on a review of our fairness jurisdiction and how that works in practice. This includes making changes to the way we structure our written decisions on complaints to highlight our approach on fairness. We also produced a 'fairness checklist' to help inform our decision making and discussions with our participants and consumers about what a fair outcome is.

Over the past year, and reflecting a trend both here and overseas, we've observed an increase in the number of people displaying challenging behaviours. In response, we launched our Engagement Charter, outlining our expectations about how consumers, financial service providers, and third parties should engage with us and each other when using our service.

REGULATORY LANDSCAPE

This year the new government has been consulting on and initiating a raft of financial services reforms, including:

- reviewing the Credit Contracts and Consumer Finance Act 2003
- updating the Responsible Lending Code, and
- improving the financial dispute resolution system, focussing on improving consumers' awareness of and access to dispute resolution services and efficiency.

We already collect and report on key metrics as discussed in the case statistics and case overview sections of this report.

LOOKING AHEAD

Looking ahead to the next 12 months we will be working on advancing the proposed merger with IFSO, and a 1 July 2025 start date.

We also anticipate the high level of complaints is likely to continue while economic conditions remain challenging. We may also see some rise due to the increase in our financial loss compensation as a result of the new rules for dispute resolution schemes.

THANKS

I am very grateful to and thank our Board Chair, Jane Meares, and fellow directors for their continued support, forward thinking, and guidance.

I sincerely thank all my team for their focus, hard work and commitment to providing our participants and consumers with an excellent service during what has been both a challenging and rewarding year. An organisation is only as good as the people who work for it, and we are fortunate to have dedicated staff who truly care about the work we do and achieving the best possible results.

Ehara taku toa i te toa takitahi, engari he toa, takitini. Success is not the work of one, but the work of many.

CASE STATISTICS

This year saw rises in both new complaints and disputes to our service, although the levels of the increases were lower than last year. We had a slight increase in complaints this year, up by 6%, with 1,426 complaints coming into our early assistance area compared with 1,349 complaints last year.

A complaint is where a consumer contacts us about an issue with their financial service provider. Our early assistance team helps refer the complaint to the financial service provider's internal complaints process and keeps a watching brief to make sure the complaint is satisfactorily resolved.

Dispute investigations also increased again this year by 10%, with 359 new disputes, compared to 326 last year. A dispute is a case where FSCL formally investigates the complaint and helps negotiate the resolution or withdrawal of the complaint.

Our team worked very hard to complete dispute investigations as efficiently as possible with 364 disputes completed this year compared to 274 last year - a massive 33% increase.

All our numbers - complaints and disputes - were new records for our service.

As at 30 June 2024, we had seven cases that had been opened for more than six months, with three of those related to some very complex business interruption insurance cases, involving technical and finely balanced legal issues. We had 23 cases that were between three and six months old. The remaining 65 cases carried over from last year were under three months old. This statistic again demonstrates our efficiency in resolving complaints. As we said last year, resolving a dispute as soon as possible in the process benefits everyone in terms of time and money saved and it is more likely that the consumer will be satisfied with the outcome of their complaint.

Initial enquiries to the office were also up slightly - 2,526 compared to 2,415 last year. An initial enquiry is where the consumer makes a general enquiry about a particular financial service provider or product, or wants general information about our service, and does not yet have a complaint.

We expect that the continuing increase in complaints and disputes reflects, in large part, current economic circumstances with high interest rates on loans and the higher cost of living. The increase is also likely due partly to the great consumer outreach work we and the other approved schemes do, aided by our communications and media work.

The breakdown of cases between simple, standard, and complex is similar to last year's numbers. Approximately 22% (78) of cases were classified as complex and 65% (235) of cases as standard. Cases are classified as complex if they involve difficult questions of fact or law, large files, and if one or both parties exhibit challenging behaviour. Cases are classified as standard if they involve common complaint issues and do not raise any unusual facts, novel issues, or points of law. A simple case is one which can be resolved very easily, usually within four weeks of the file being opened, and with very little work needed from our team.

We completed:

- 51 simple case investigations with an average working day count of 15 days, against a target of 20 days
- 235 standard case investigations with an average working day count of 49 working days, against a target of 65 working days, and
- 78 complex case investigations with an average working day count of 87 days, against a target of 130 days.

This result compares favourably with last year.

This year, complaints against lenders were again the largest portion of cases investigated at 37%, similar to 38% last year. Complaints against financial advisers at 18% of the total, insurers (14.5%) and card issuers (14%) were up in numbers this year. Complaints against other

364

INVESTIGATIONS COMPLETED 2023/2024

financial service provider types were similar to last year.

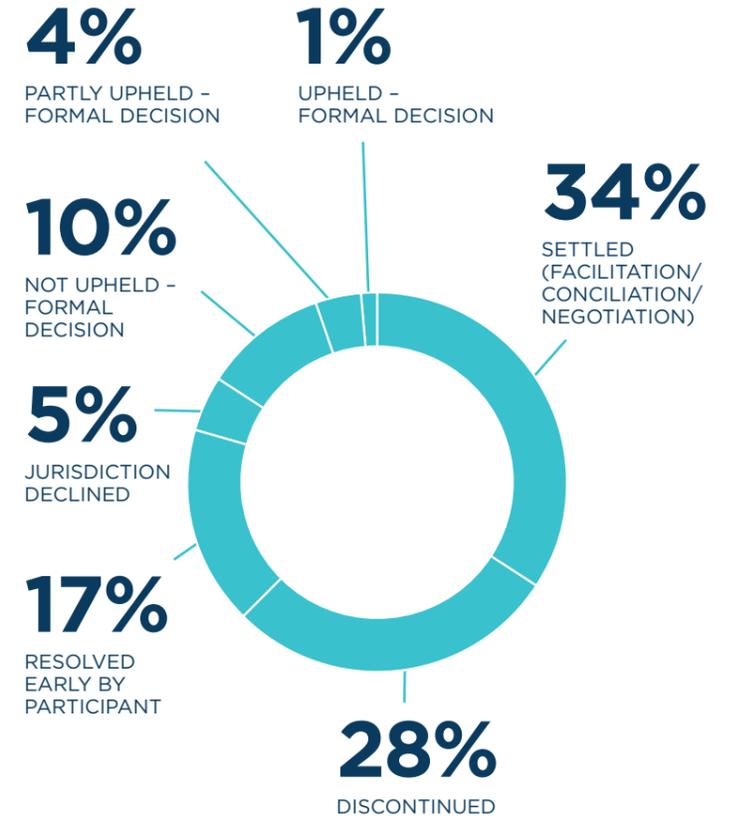
Complaints about consumer credit was the highest category of complaints, making up 29% of the cases investigated, followed by complaints about credit cards at 14% and mortgage loans at 11.5%.

We negotiated or awarded compensation totalling \$1,131,493, compared to last year's compensation of \$1,418,735. The largest single award of compensation was just over \$117,000.

125 cases were settled through our process without the need for a final binding (on the scheme participant) decision and 62 cases were resolved by the participant very early in the process, sometimes with the help of our Early Assistance team, compared to 39 cases last year. The increase in the number of cases resolved early reflects the successful introduction of our Early Assistance Plus process which encourages participants to resolve complaints early without needing the case to go right through the FSCL investigation process. In cases that are settled, the consumer receives compensation or some other remedial action such as an apology, a fee waiver, or a loan restructure. 103 cases were discontinued by the consumer after we told them that we were unlikely to uphold their complaint.

This year we issued decisions on 57 cases or about 16% of all cases investigated. It was very pleasing to see fewer cases having to proceed all the way to a final decision, with the vast majority settling or being discontinued earlier in the investigation process.

CASE OUTCOMES



	23/24	22/23	21/22
Settled (facilitation/conciliation/negotiation)	125	88	79
Discontinued	103	82	60
Resolved early by participant	62	39	23
Jurisdiction declined	17	10	10
Not upheld - formal decision	38	26	20
Partly upheld - formal decision	14	15	14
Upheld - formal decision	5	14	8

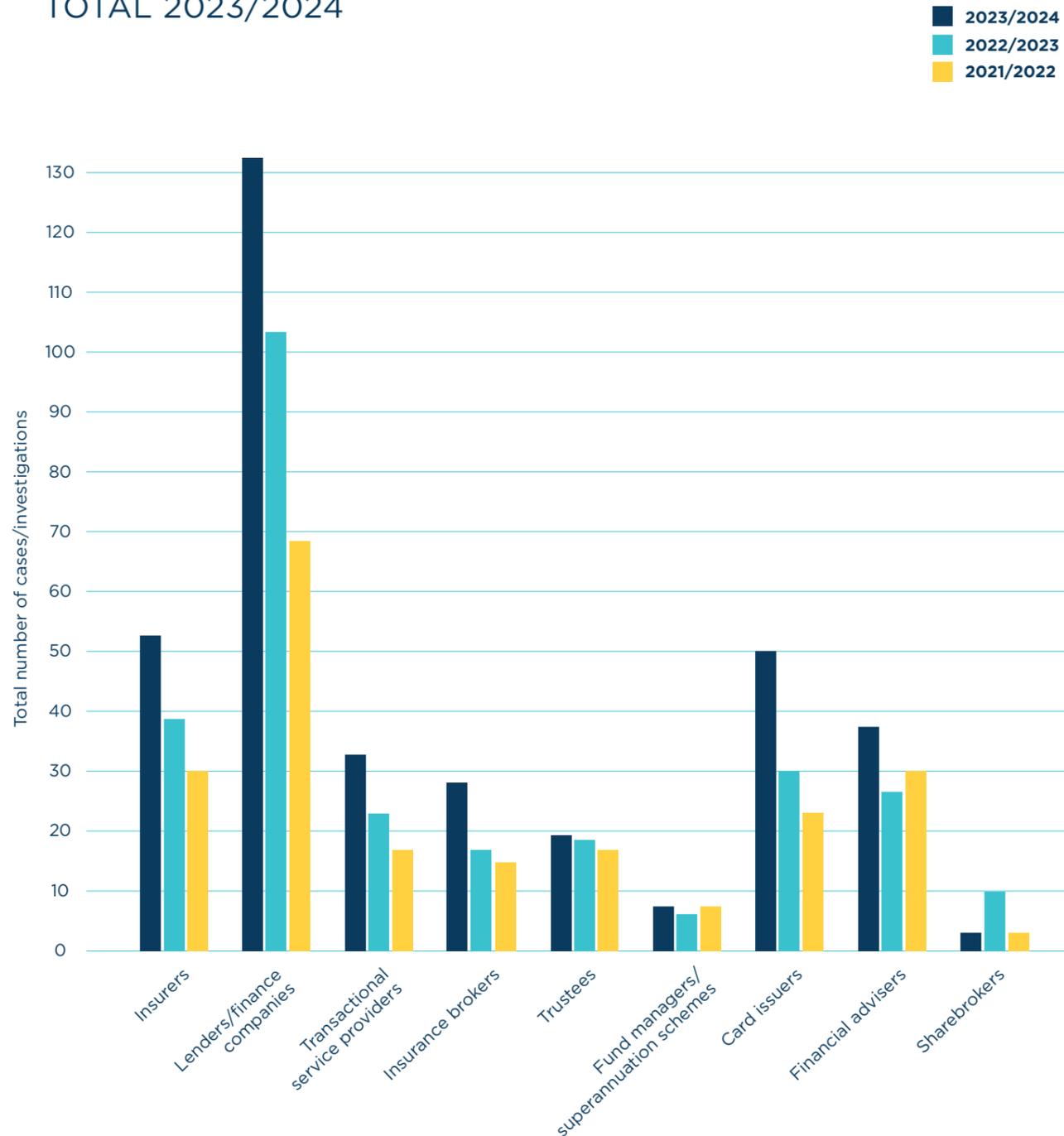


THE EARLY ASSISTANCE PROCESS IS HELPFUL, AND THE TEAM VERY ENGAGED THROUGH THIS PROCESS WITH A CLEAR DESIRE TO ASSIST BOTH PARTIES AT THE OUTSET.

CASES INVESTIGATED BY PARTICIPANT CATEGORY

364

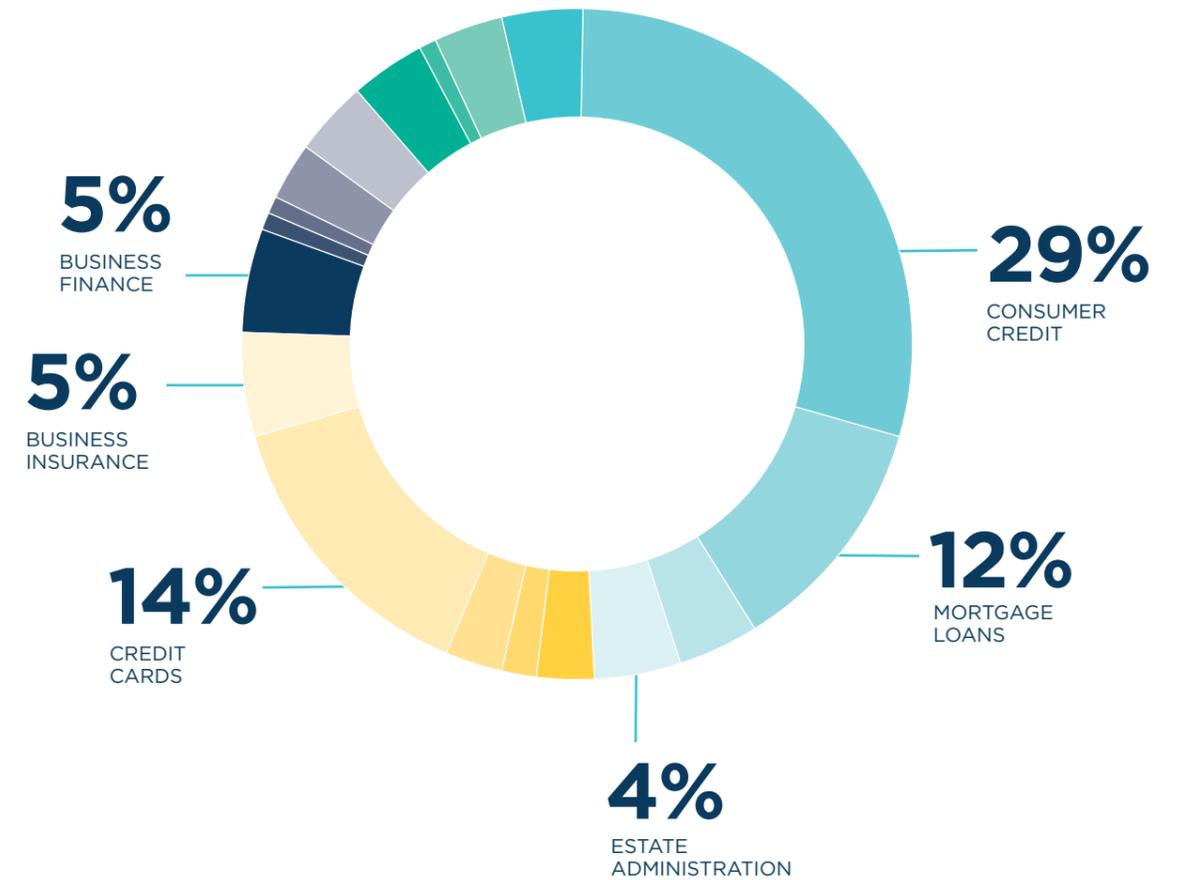
TOTAL 2023/2024



PRODUCT CATEGORIES FOR CASES INVESTIGATED

364

TOTAL 2023/2024



	23/24	22/23	21/22
Travel insurance	15	12	11
Consumer credit	106	86	61
Mortgage loans	42	17	22
Travel cards	14	8	3
Estate administration	16	9	9
Motor vehicle insurance	10	3	7
Trading platforms	6	9	17
Money transfer / foreign exchange	10	13	
Credit cards	51	20	20
Business insurance (formerly material damage insurance)	19	23	17

	23/24	22/23	21/22
Business finance	18	14	4
Health	3	3	1
KiwiSaver	3	11	10
Superannuation and managed funds	10	7	7
Home and contents insurance	13	8	6
Life	13	11	10
Securities	3	9	0
Other	12	11	

CASE OVERVIEW

Once again, complaints about lenders have dominated our caseload this year, making up approximately 37% percent of the cases we formally investigated. This reflects current economic conditions where, due to high interest rates and the rising cost of living, more people are struggling to manage their loans, particularly car and personal loans.

FINANCIAL HARDSHIP

This in turn has meant we have seen more hardship related cases this year. Under the Credit Contracts and Consumer Finance Act 2003 (the Act), lenders are obliged to consider hardship applications from borrowers whose financial circumstances have unexpectedly changed. In many circumstances, the lender can provide some temporary relief to the borrower, perhaps by way of interest only loan payments for a time or a loan payment deferral for three months.

However, the lender will not provide hardship relief where the borrower has no reasonable prospect of being able to restart usual loan payments again after three months. In some cases, it is in the best interests of both parties for the borrower to surrender the secured asset, such as the car, to allow the lender to sell it. This has the effect of freezing the interest and fees charged on the loan. The lender and borrower can then come to an arrangement for the borrower to repay the remaining loan balance over time.

In Case Study 1, the borrower, who was struggling to pay his loan, applied for hardship relief. The lender failed to communicate properly that they could not offer any hardship relief and then delayed taking recovery action. This left the borrower confused about the status of their loan and unhappy when the lender started recovery action.

BUSINESS LOANS

We have also seen more complaints about business loans. We often must explain to the borrowers in these cases that the responsible lending obligations in the Act do not apply to non-consumer credit loans.

Despite this, we will look to ask the lender to do the "right thing" if the circumstances around the loan approval appear unfair or where, if the responsible lending rules had applied, credit would never have been granted to the small business.

FAIRNESS

As reported in the Ombudsman's overview, this year has seen work on our fairness jurisdiction. Fairness is a fundamental principle of Ombudsman schemes worldwide and resolving complaints based on fairness is at the heart of our work.

Under our rules, we must deal with a complaint on its merits and do what is fair in all the circumstances. The outcome we reach on a complaint is not necessarily the outcome a court would reach on a legal claim.

Case Study 2 is an example of where we stood back and looked at what would be a fair outcome in all the circumstances. In this case, while the lender would have been legally entitled to pursue the borrower for an overdue loan because the borrower had given the lender his personal guarantee, we decided it would not be fair for the lender to be able to rely on the personal guarantee.



FAIRNESS IS A FUNDAMENTAL PRINCIPLE OF OMBUDSMAN SCHEMES WORLDWIDE AND RESOLVING COMPLAINTS BASED ON FAIRNESS IS AT THE HEART OF OUR WORK



FRAUD AND SCAMS

We also continue to see cases involving fraud and scams. Scammers' methods are becoming increasingly more sophisticated.

Scammers often approach their targets through social media channels, as was the case in Case Study 3. If the consumer willingly engages in the scam, they will not usually be able to recover the money they have handed over to the scammer.

It is important for consumers to remember that they are responsible for the security of their account and that they should never give someone their account details without meeting them in person and carrying out due diligence on the person. They should also never give their card's PIN to any other person as that is a breach of the card's conditions of use.

However, in this case, we found that the lender had not carried out proper loan affordability tests when approving some of the loans that were taken out by the consumer to give money to the scammer. Because of this, the lender agreed to write off some of the money the consumer owed to them.



THE CASE MANAGER WAS GREAT, EFFECTIVE AND FAIR IN ALL INSTANCES. ASSISTED IN NEGOTIATION WITH A MUTUALLY AGREEABLE OUTCOME.

CASE STUDY ONE

Confusion around a financial hardship application

In 2018 Khaled borrowed \$8,000 to buy a car. Khaled struggled to make his loan payments from the beginning, but his financial difficulties were made worse when the Covid-19 lockdown started, and in April 2020 he applied to the lender for hardship relief.

The lender accepted Khaled's hardship application and reduced his weekly repayments from \$62 to \$40 for six weeks. Later in 2020 the lender agreed to restructure the loan by adding the loan arrears to the loan balance and permanently reducing the weekly repayments to \$42.

In September 2021 Khaled stopped repaying the loan and in October 2021 submitted a change of circumstances form to support his hardship application. The lender's Covid-19 relief team declined the application four days later because it did not meet their criteria. The lender was concerned that Khaled was experiencing long term financial hardship.

In the months that followed Khaled continued to make further hardship applications, but it was not until March 2022 that the lender clearly explained that Khaled did not qualify for hardship relief because he could not afford to make any loan repayments.

By August 2023 Khaled had made no payments since September 2021 and the lender decided to take recovery action.

Khaled complained to FSCL that he believed the lender had accepted his hardship application and could not now demand that he repay the loan in full.

We referred Khaled's complaint to the lender's internal complaints process and the lender agreed to write off the full amount owing on the loan, nearly \$7,000, and removed their security interest in Khaled's car. Khaled did not accept the offer and asked FSCL to investigate his complaint.

DISPUTE

Khaled did not accept the offer because he wanted the lender to correct his credit record to show that he was in hardship, and not that he had missed payments.

The lender said that they had not approved Khaled's hardship application and they were unable to change his credit record because it accurately showed that he had not made any loan repayments since September 2021.

REVIEW

We explained that although Khaled was experiencing financial hardship, this did not mean the lender was obliged to offer hardship relief. As Khaled could not afford to make any payments it would have been irresponsible for the lender to agree with Khaled's decision to stop repaying the loan. We were satisfied the lender's advice to the credit reference agency, that Khaled's payments were late, was accurate and the lender could not ask the credit reference agency to change the notation on Khaled's credit record to 'hardship'.

We reviewed the lender's communication with Khaled and could understand his confusion. Between November 2021 and March 2022, the lender did not give Khaled a definite response to the hardship application, offering to reconsider the additional information Khaled was supplying. However, in March 2022 the lender explained that Khaled did not qualify for hardship relief and, as Khaled could not afford to repay the loan, there was nothing more they could do.

It was surprising that the lender did not take recovery action sooner. Delayed recovery action can increase costs and be more stressful for the borrower.

However, we explained to Khaled that the lender's offer to write off his residual debt of about \$7,000 and release the security interest in the car was reasonable compensation for any communication confusion.

RESOLUTION

Khaled accepted our decision and agreed to discontinue his complaint.

**Names in all case studies have been changed.*



INSIGHTS FOR CONSUMERS

Under the Credit Contracts and Consumer Finance Act 2003, lenders are obliged to consider hardship applications from borrowers whose financial circumstances have unexpectedly changed. However, if restructuring a loan isn't feasible, allowing indefinite payment stoppage would be irresponsible.



THE LENDER WAS CONCERNED THAT KHALED WAS EXPERIENCING LONG TERM FINANCIAL HARDSHIP.

CASE STUDY TWO

Taking a fair and reasonable approach to a business loan

Thomas was an independent director of a trustee company. The company was set up by Finn, a business owner. Thomas had no financial interest in either the trustee company or Finn's business and was not personally related to Finn.

In February 2023, a lender agreed to loan Finn's business \$200,000.

On a busy Friday afternoon, the lender sent Thomas a copy of Finn's loan contract to sign electronically and return as quickly as possible. Thomas thought that the lender wanted him to sign the loan agreement because he was an independent director of Finn's trustee company.

The electronic signing platform skipped Thomas through the loan, from signature to signature, where required. The agreement contained a personal guarantee from Thomas, meaning he would be personally liable for the loan if Finn and his company did not repay the lender.

Thomas was unaware that the lender had him sign a personal guarantee for Finn's loan. Thomas thought that his liability was limited to the assets of Finn's trust.

A few days later, Thomas had a bad feeling about the loan agreement, and he emailed the lender to confirm that he had not given a personal guarantee for Finn's loan.

The lender told Thomas that they had already paid the loan out to Finn, and that they were not willing to remove his personal guarantee.

In March 2023, within weeks of receiving the loan, Finn's company went into liquidation. The lender then took legal action against Thomas for the payment of Finn's debt and lodged a caveat on the title to Thomas's home.

Thomas complained to FSCL.

DISPUTE

Thomas said that the lender should not have asked him for a personal guarantee as he only had a professional relationship with Finn and knew that he had no personal relationship with Finn. Thomas said the lender knew the business was struggling when Finn applied for the loan and the lender deliberately included a personal guarantee from him because they were concerned that Finn would not be able to repay the loan.

Thomas said he would never have knowingly agreed to sign a personal guarantee. The lender did not specifically point out to Thomas that the loan agreement included a personal guarantee, never mentioned that he would be personally liable, and never gave Thomas the opportunity to seek independent advice. Thomas said that the lender put pressure on him and the electronic signing process did not give him the opportunity to properly review the agreement.

The lender said that they were comfortable with the risk of lending to Finn and, though they made inquiries about the financial position of Finn's business, they were not aware that there was such a significant risk of liquidation.

The lender also said that Thomas could have read the agreement in the process of signing it electronically and that he was experienced enough to understand it. The lender said that Thomas was bound by the agreement even if he did not read it.

REVIEW

We could see that the lender never mentioned they planned to ask Thomas for a personal guarantee. If the lender had checked, Finn would have explained that he did not have a personal relationship with Thomas. The lender never tried to clarify the nature of Finn and Thomas's relationship.

The lender never told Thomas that they wanted him to provide a personal guarantee.

There was enough information to make the lender aware that Thomas had no personal relationship with Finn or any interest in Finn's business. We found that the lender had not done their due diligence before asking Thomas to provide a personal guarantee.

We could also see that the lender placed significant pressure on Thomas to sign the loan agreement urgently. The lender did not give Thomas any time to review the document properly or seek independent advice, as they wanted the agreement signed urgently on the same day. We found that the lender's actions contributed to Thomas's mistake about the type of guarantee he was providing.

The lender had discovered the true nature of Thomas and Finn's relationship before they paid the loan out to Finn and so, in our view, the lender should not have paid the loan out to Finn once they became aware that his relationship with Thomas was a professional one.

RESOLUTION

We had to balance the legal principles and what was fair and reasonable in the circumstances.

We found that Thomas's guarantee would likely be unenforceable because the lender took advantage of Thomas's mistake and did not give him an opportunity to properly review the loan agreement. Further, the lender's conduct gave Thomas the impression that his signature was only a formality.

The lender did not remind Thomas to obtain independent advice or give him an opportunity to do so.

We did not consider it fair for the lender to be able to recover their debt from Thomas. Thomas did not receive any personal benefit from the loan. The lender had also had the opportunity to fix their mistake before they paid the loan out to Finn.

We found that the fair outcome was for Thomas to be returned to the position he would have been if he had not provided his personal guarantee.

We recommended that the lender abandon their legal action against Thomas, withdraw their caveat over his home, and release him from his personal guarantee for Finn's loan.

The lender accepted our decision, and the complaint was settled.

***Names in all case studies have been changed.**

INSIGHTS FOR CONSUMERS

Always read documents before signing and get independent legal advice. You are legally bound by signed agreements even if you haven't read them. We can only recommend release from obligations if the lender's conduct is significantly improper. If pressured to sign without review, withhold your signature until you understand the document. For personal guarantees, seek independent advice.

CASE STUDY THREE

Falling victim to an online scam

In 2021 Rika received a LinkedIn message from John, claiming to be the owner of an American based construction company. John told Rika that his company was in the process of finalising a tender to build a mall in Tokyo and asked if she was interested in a position on their administration team. John said that the position was part-time, and she could work remotely.

John also told Rika that they were working with their investors and would be able to start paying her a weekly salary once the build started.

Rika was excited about the new opportunity and the additional income, so she accepted the offer and sent John her CV, contact information, bank account details and a copy of her driver's licence.

Rika started working immediately and did everything that was required of her. Because Rika and John spoke regularly, they built a close relationship, and John approached Rika when the company struggled to finalise the funds from their investors. John told Rika that they only needed \$25,000 to reach the required funds and asked if she was interested in investing.

Rika said that she would love to help but did not have \$25,000 to invest.

A while later John suggested that Rika apply for a loan of \$25,000 and said that her return on investment would be ten times the loan amount. John also agreed to pay the monthly repayments on the loan, so Rika did not have to.

Rika trusted John and applied for four credit cards with a combined credit limit of \$25,000. The lender approved Rika's applications. On receiving the cards Rika activated them and she sent John the card numbers, expiry dates, CVV numbers and the PINs.

A few months later the lender phoned Rika and told her that her repayments were overdue. Rika immediately phoned John and he promised to pay.

A month later the lender sent Rika a letter of demand saying that they were going to hand her account to a debt collection agency if she did not pay the overdue amounts. Rika called the lender and told them about her agreement with John. The lender explained that Rika was responsible for the debt and suggested she pay the arrears to avoid legal action and ask John to pay her back.

Rika was worried that she would lose her house and started making payments.

By the time Rika paid back \$18,500, she was in financial hardship and could not afford the monthly repayments. She complained to the lender that she had been the victim of fraud.

The lender said that Rika's funds were not fraudulently accessed as she claimed. The lender said that Rika willingly gave John her account details and she knew John was going to withdraw the full amount of \$25,000. The lender suggested Rika file a complaint of fraud against John with the police.

Rika then complained to FSCL.

DISPUTE

Rika said that John fraudulently used the funds without her authority because the funds had not been used for the purpose agreed between them.

The lender said that Rika's account was not fraudulently used, and that Rika was scammed out of her funds. They were not able to assist where a client fell victim to a scam.

Under the lender's terms and conditions, Rika should have taken extra care to keep her card details private, which she did not do.

REVIEW

After reviewing the complaint, it was clear that unfortunately, Rika had been scammed. Because Rika had willingly handed over her credit card details to John, the scammer, we found that the lender was not obliged to refund the money John had spent on the cards.

We explained to Rika that for the lender to reimburse her, she had to prove that she had not authorised the transactions, which she could not do. Because Rika gave her card details to John, she was now liable for the debt.

Rika still owed the lender \$6,500, before fees and interest were added, and she was concerned that the repayments were unaffordable.

IRRESPONSIBLE LENDING

We expressed our concern about the lender approving four credit cards only weeks apart. It was our view that the second, third and fourth cards should not have been approved until Rika started paying her first card.

We also questioned:

- If a higher credit limit was affordable, why did the lender not just increase Rika's limit on the first card?
- Why did Rika have to apply for four different cards with the same lender?
- Rika's arrears on her first card should have been a red flag for the lender and the other cards should not have been approved.

We told the lender that the loans on the second, third and fourth cards may have amounted to irresponsible lending in breach of the lender's responsible lending obligations under the Credit Contracts and Consumer Finance Act 2003 (CCCFA). The CCCFA says that where a lender has loaned money irresponsibly, they are obliged to refund all interest charges, credit fees and default fees that have become or would have become payable under the agreement.

RESOLUTION

The lender reviewed their position and offered to write off the outstanding amount of \$6,500 in final settlement of Rika's complaint. Rika accepted the lender's offer, and the complaint was settled.

***Names in all case studies have been changed.**

INSIGHTS FOR CONSUMERS

Scams are common, and if something seems too good to be true, it probably is. Most scam victims communicate with scammers via email or social media. Protect your account by never giving out details or PINs, especially to someone you haven't met in person. Report any fraudulent activity within 30 days.



CASE STUDY FOUR

Miscommunication leads to a complaint

Hemi had separated from his partner and wanted to move out of the family home quickly. Hemi met a mortgage adviser who reassured him that finance to buy a new home would not be a problem.

Hemi found a house and signed a sale and purchase agreement, conditional on finance and a satisfactory builder's report. Hemi went back to the adviser, who approached a bank for a loan on Hemi's behalf.

The adviser emailed Hemi, with the subject line "finance confirmed". Attached to the email was the lender's conditional approval letter. The lender's letter made it clear that their offer was conditional on a satisfactory builder's report. In the correspondence between Hemi and the adviser, the adviser advised Hemi to discuss the finance offer with his lawyer.

Hemi was satisfied with the builder's report and told his lawyer that she could confirm the offer was now unconditional. The next day the bank told the adviser that they were not satisfied with the builder's report and would not lend.

Because the offer was unconditional, Hemi had no choice but to pay the deposit for the new property that day.

As the settlement date approached, Hemi still did not have finance and paid the vendors \$2,500 to extend the settlement date.

The adviser then approached a non-bank lender who agreed to lend, but only to a company or a trust. As the new settlement date was only weeks away now, and Hemi needed to set up a company or a trust to complete the purchase.

The lender approved the loan on an interest-only basis for six months, giving Hemi and his former partner time to sell their jointly owned property, provided Hemi could show he had \$50,000 set aside for the interest only payments. Hemi did not have this amount of money on hand and had to borrow from his daughter. Although this was stressful for Hemi, he was able to raise the necessary \$50,000 and settle the purchase.

About six months later Hemi complained that the subject line "finance approved" had led him to confirm the sale and purchase agreement conditions had been met, committing him to buy the property. Hemi said that as a result of this miscommunication, he had incurred additional costs of \$92,000 and significant stress and inconvenience. Hemi and the adviser were unable to resolve the complaint and Hemi complained to FSCL.

DISPUTE

Hemi said that when he read the subject line "finance confirmed" he assumed the finance offer was unconditional and did not read the lender's letter offering finance.

The adviser agreed that the subject line, read on its own, could be confusing. However, the adviser sent the email to both Hemi and his lawyer. The lender's offer, attached to the email, clearly stated that their offer was conditional on the builder's report.

REVIEW

It was our view that the subject line 'finance confirmed' in the email was misleading when read on its own, but we considered there was enough information available in the email's attachment for Hemi to know that the lender's finance offer was conditional on the lender accepting the builder's report. We considered the adviser's contribution to Hemi's decision to confirm the finance condition was minimal.

We were satisfied that the adviser worked hard to find alternative finance for Hemi within a tight timeframe. We did not think it fair to hold the adviser responsible for these additional costs. We said that Hemi should discontinue his complaint and he agreed to do so.

*Names in all case studies have been changed.

“ THE ADVISER EMAILED HEMI, WITH THE SUBJECT LINE “FINANCE CONFIRMED”.

INSIGHTS FOR CONSUMERS

Clear communication is essential in financial transactions. The misleading subject line "finance confirmed" caused costly confusion for Hemi. Both clients and advisers must ensure clarity and thoroughly review all documents to avoid misunderstandings and financial stress.



SUMMARY PROFIT AND LOSS STATEMENT

FOR THE YEAR ENDED 30 JUNE 2024

	2024	2023
	\$	\$
REVENUE		
Membership fees	1,889,905	1,574,047
Non-government service delivery contracts	602,418	413,798
Interest revenue	164,180	97,276
Other revenue	6,095	31,014
Total revenue	2,662,598	2,116,135
EXPENSES		
Employee remuneration and other related expenses	1,744,863	1,531,917
Other expenses related to service delivery	769,131	692,089
TOTAL EXPENSES	2,513,994	2,224,006
Net Surplus/(Deficit)	148,604	(107,871)

SUMMARY STATEMENT OF MOVEMENTS IN EQUITY

FOR THE YEAR ENDED 30 JUNE 2024

	2024	2023
	\$	\$
Net (deficit)/surplus for the year	148,604	(107,871)
Equity at beginning of year	2,383,880	2,491,751
Equity at end of year	2,532,484	2,383,880

These summary statements are to be read in conjunction with the notes to the summary financial statements

SUMMARY BALANCE SHEET

FOR THE YEAR ENDED 30 JUNE 2024

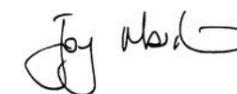
	2024	2023
	\$	\$
Equity	2,532,484	2,383,880
CURRENT ASSETS		
Cash, bank balances and short term deposits	2,570,292	1,944,326
Receivables	115,070	84,747
Prepayments	21,693	16,346
	2,707,055	2,045,419
NON CURRENT ASSETS		
Property, plant and equipment	72,633	77,908
Intangibles	45,533	61,984
Term deposits	-	411,265
	118,166	551,157
Total assets	2,825,221	2,596,576
CURRENT LIABILITIES		
Payables	125,972	85,611
Accrued charges	147,342	123,557
Lease incentive	1,557	3,528
	274,871	212,696
NON CURRENT LIABILITIES		
Lease incentive	17,866	-
	17,866	-
Total liabilities	292,737	212,696
Net assets	2,532,484	2,383,880

APPROVAL OF FINANCIAL STATEMENTS

These Summary Financial Statements have been approved by the board on 28 August 2024. For and on behalf of the Board of Directors:



DIRECTOR



DIRECTOR

These summary statements are to be read in conjunction with the notes to the summary financial statements

SUMMARY STATEMENT OF CASHFLOW

FOR THE YEAR ENDED 30 JUNE 2024

	2024 \$	2023 \$
Cash was provided by (used for)		
OPERATING ACTIVITIES		
Receipts from Participants	2,487,283	2,045,219
GST movement	477	1,394
Operating costs	(2,401,891)	(2,181,297)
Income tax paid/(refunded)	(19,188)	(18,335)
	66,681	(153,019)
INVESTING ACTIVITIES		
Payments to property, plant and equipment and intangible assets	(16,160)	(22,943)
Investments in term deposits	(1,862,962)	(2,196,516)
Term deposits matured	1,785,251	2,139,746
Net interest received	164,180	97,276
	70,309	17,563
Net movement in cash	136,990	(135,456)
Opening bank balances	159,075	294,531
Closing bank balances	296,065	159,075
REPRESENTED BY		
Bank balances	296,065	159,075
Closing bank balances	296,065	159,075

These summary statements are to be read in conjunction with the notes to the summary financial statements

NOTES TO THE SUMMARY FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2024

The Summary Financial Statements have been prepared for the individual entity Financial Services Complaints Limited for the accounting period ended 30 June 2024. Also included for comparative purposes are figures for the period ended 30 June 2023.

The specific disclosures included in the Summary Financial Statements have been extracted from the Full Financial Services Complaints Limited Financial Statements. The Summary Financial Statements do not include all disclosures provided in the Full Financial Statements and cannot be expected to provide as complete an understanding as provided by the Full Financial Statements.

Financial Services Complaints Limited does not have a general purpose financial reporting requirement. Financial Services Complaints Limited's constitution requires the preparation of special purpose financial statements within five months of the company's balance date.

The Full Financial Statements for Financial Services Complaints Limited have been prepared applying the Public Benefit Entity Simple Format Reporting - Accrual (Not for Profit) ("PBE SFR-A (NFP)") standard with the exception of an entity information page and the preparation of a statement of service performance.

The purpose of the Full Financial Statements is to provide users with consistent year on year information regarding the financial performance and position of Financial Services Complaints Limited and so that the company can meet its obligations under the Income Tax Act.

The Summary Financial Statements are presented in New Zealand dollars, which is the operational currency of Financial Services Complaints Limited. All financial information presented in New Zealand dollars has been rounded to the nearest dollar.

The Full Financial Statements for the year end 30 June 2024 were authorised for issue by the directors of Financial Services Complaints Limited on 28 August 2024 and an unmodified audit report was issued by BDO at that date.

The Full Financial Statements for the year end 30 June 2023 were authorised for issue by the directors of Financial Services Complaints Limited on 23 August 2023 and an unmodified audit report was issued by BDO at that date.

A copy of the Full Financial Statements can be obtained via the Financial Services Complaints Limited's website: fscl.org.nz.



BDO Wellington Audit Limited

INDEPENDENT AUDITOR'S REPORT ON THE SUMMARY FINANCIAL STATEMENTS

To the Shareholders of Financial Services Complaints Limited

The accompanying summary financial statements, which comprise the summary balance sheet as at 30 June 2024, the summary profit and loss statement, the summary statement of cashflow and summary statement of movements in equity for the year then ended, and related notes are derived from the audited special purpose financial statements of Financial Services Complaints Limited for the year ended 30 June 2024. We expressed an unmodified audit opinion on those special purpose financial statements in our report dated 30 August 2024. Those financial statements, and the summary financial statements, do not reflect the effects of events that occurred subsequent to the date of our report on those financial statements.

The summary financial statements do not include all the disclosures included in the special purpose financial statements. Reading the summary financial statements, therefore is not a substitute for reading the audited special purpose financial statements of Financial Services Complaints Limited.

Directors' Responsibility for the Summary Financial Statements

The directors are responsible for the preparation of a summary of the audited special purpose financial statements in accordance with FRS-43: *Summary Financial Reports* ("FRS-43").

Auditor's Responsibility

Our responsibility is to express an opinion on these summary financial statements based on our procedures, which were conducted in accordance with International Standard on Auditing (New Zealand) (ISA (NZ)) 810, "Engagements to Report on Summary Financial Statements".

Other than in our capacity as auditor we have no relationship with, or interests in, Financial Services Complaints Limited.

Opinion

In our opinion, the summary financial statements derived from the audited special purpose financial statements of Financial Services Complaints Limited for the year ended 30 June 2024 are consistent, in all material respects, with those special purpose financial statements in accordance with FRS-43.

Basis of Accounting and Restriction on Distribution and Use

Without modifying our opinion, we draw attention to the Notes to the summary financial statements, which describes the basis of accounting. The summary financial statements are prepared to assist the shareholders by providing users with consistent year on year information regarding the summary financial performance and position of Financial Services Complaints Limited. As a result, the summary statements may not be suitable for another purpose. Our report is intended solely for the shareholders and should not be distributed to or used by parties other than the shareholders.

BDO Wellington Audit Limited

BDO WELLINGTON AUDIT LIMITED

Wellington
New Zealand
30 August 2024

COMPANY DIRECTORY

Level 4, Legal House, 101 Lambton Quay
Wellington 6011

INCORPORATION NUMBER

2303993

IRD NUMBER

103-018-668

DIRECTORS

Jane Meares (Chair)
Tuhi Leef
Mary Holm
Joy Marslin
Paul Jamieson

SHAREHOLDER

The Board Chair is the company's sole shareholder and holds the shares on trust for the fulfilment of the company's objective, which is to provide an external dispute resolution scheme for its participants.

ACCOUNTANTS

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Wellington

AUDITORS

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A Financial Ombudsman Service

FSCL FINANCIAL SERVICES COMPLAINTS LTD
RATONGA PŪTEA PUNA MANAAKI