



## **Submission on Financial Service Providers (Registration and Dispute Resolution) Bill**

28 February 2008

### **About HFANZ**

Health Funds Association of New Zealand (HFANZ) is the industry body representing health insurers. Members include friendly societies, mutuals, and subsidiaries of public companies. Membership is voluntary, with HFANZ membership comprising 10 health insurers, who together account for over 98% of health insurance policies. A full list of members is attached as an appendix to this submission.

HFANZ was set up in 1989 and was incorporated in 1995 under the Incorporated Societies Act. HFANZ does not represent the interests of individual insurers.

HFANZ has a commitment to continual improvement of industry practice and well-informed policyholders. The industry abides by a code of practice, which is reviewed regularly in consultation with stakeholders. HFANZ works closely with the ISO scheme and has two representatives on that board.

### **Support for Bill**

HFANZ supports the objectives of the Bill and the proposed requirement for registration of financial service providers.

HFANZ supports the provision for mandatory membership of dispute resolution schemes. We note the Bill in its present form does not provide for this until a reserve scheme is appointed.

### **General comments**

There is a high level of cross-referencing with the Financial Advisers Bill which could be avoided if the two Bills were to be combined. HFANZ would support the combining of the Bills into a single Bill for reporting back to Parliament.

There are a number of issues in relation to the appointment and operation of a reserve scheme which are unclear, incomplete, or appear to be at odds with other parts of the Bill. It is hoped these will be resolved or clarified prior to the Bill being reported back.

### **Comment on specific issues**

HFANZ makes the following specific comments about three provisions in the Bill.

#### **1. Single or multiple industry-based schemes**

The Bill has adopted the model of multiple industry-based dispute resolution schemes. HFANZ supports disputes resolution schemes that ensure specialist expertise is available based upon product-lines. There are significant differences in types of complaints received by consumers in the banking, financial services and insurance sectors. Effective dispute resolution requires an understanding of the industry structure and products available within distinctly different markets.

This could be achieved through either multiple industry-based disputes resolution schemes or a single industry based scheme (with appropriate specialist expertise in the different product-lines).

Moving towards a single industry-based scheme for disputes resolution has other advantages. We believe the choice of model should also be made on the basis of what is most cost-effective and best serves interests of consumers. HFANZ maintains there are likely economies of scale which favour consolidation, with there being some merit in moving towards a single, well-resourced dispute resolution scheme for the entire financial sector (provided specialist expertise is maintained).

As a general comment, HFANZ maintains that it is important for scheme members to own the rules of the scheme. This is a fundamental hallmark of an industry-based disputes resolution scheme. The greater the level of prescription by Government, the lower the level of industry buy-in is likely to be. HFANZ argues that the industry participants are themselves best-placed to make many of the decisions relating to the scheme's operation, such as the level of discretion over fees, membership, and scope of application. If the level of industry buy-in or ownership of the rules of the scheme is weakened too greatly, it can not credibly be called industry based dispute resolution.

#### **2. Extension to medium-sized business**

HFANZ does not support the provision allowing disputes resolution schemes to be accessed by medium-sized business. The whole premise of a disputes resolution scheme of this nature is to provide a forum for consumer redress as an alternative to the expense of litigation. While making such a forum available to small business can be justified, HFANZ does not believe an adequate case has been made for widening access to schemes to medium sized firms with up to 19 employees. Such a move raises the potential for schemes' resources to become tied up in dealing with complaints of medium sized firms exploiting the scheme as a low-cost alternative to making a legal claim.

HFANZ supports the retention of the consumer focus of the current disputes resolution schemes, and believe that the scope would be better defined to extend only to small

business, i.e. 1-5 employees. An alternative is definition by way of reference to annual turnover of the business. HFANZ notes the current ISO scheme defines its scope through reference to both number of employees and annual turnover (maximum \$400,000 p.a).

### 3. Appeals to district courts

HFANZ notes that the Bill provides for a formal appeals process into the district court system, *"on the grounds that the dispute resolution process was unfair to the appellant and prejudicially affected the result of the decision."* It is our experience with the ISO scheme that a hallmark of such industry-based dispute resolution schemes is that they provide a mechanism other than Court action for the resolution of consumer disputes. In this sense, the provision for a statutory appeal process appears inconsistent with an industry-based dispute resolution model.

HFANZ interprets the proposed process to mean appeals would not take place purely on the grounds that the appellant was unhappy with the outcome but rather, an appeal would only be made in cases where it was believed that a failing in the process has led to an incorrect finding. While HFANZ is supportive of this as presently proposed, we would not support any widening of the scope to provide for more general appeal rights to district courts.

#### **Oral submissions**

HFANZ does not wish to be heard in relation to this submission.

Roger Styles  
Executive Director

## **Appendix 1: HFANZ Members**

### HFANZ FULL MEMBERS

- Accuro Ltd
- American International Group
- EBS Health Care
- ING Life (NZ) Ltd
- Manchester Unity Friendly Society
- Police Health Plan Ltd
- Southern Cross Healthcare
- Sovereign Assurance Company Limited
- TOWER Health & Life Ltd
- Union Medical Benefits Society Ltd (Unimed)

### HFANZ ASSOCIATE MEMBERS

- Medilink Limited