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as at 15 December 2021



Financial Service Providers (Registration and Dispute Resolution) Act 2008

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Commencement see section 2

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Business, Innovation, and Employment.

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Registration

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1 Title

This Act is the Financial Service Providers (Registration and Dispute Resolution) Act 2008.

2 Commencement

- (1) Part 2 and section 48 come into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more orders may be made that do either or both of the following:
 - (a) bring different provisions into force on different dates;
 - (b) bring provisions into force on different dates in respect of different types of financial service or financial service provider.
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

- (3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 2(1)(a): Part 2 (except subpart 1) and section 48 brought into force, on 16 August 2010, by clause 2 of the Financial Service Providers (Registration and Dispute Resolution) Act Commencement Order 2010 (SR 2010/231).

Section 2(1)(b): subpart 1 of Part 2 brought into force (in respect of financial services other than financial adviser services), on 1 December 2010, by clause 3 of the Financial Service Providers (Registration and Dispute Resolution) Act Commencement Order 2010 (SR 2010/231).

Section 2(1)(b): subpart 1 of Part 2 brought into force (in respect of financial adviser services), on 1 April 2011, by clause 4 of the Financial Service Providers (Registration and Dispute Resolution) Act Commencement Order 2010 (SR 2010/231).

Section 2(1): replaced, on 1 July 2010, by section 5 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 2(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 1

Preliminary provisions

2A Purposes of this Act

The purposes of this Act are—

- (a) to promote the confident and informed participation of businesses, investors, and consumers in the financial markets; and
- (b) to promote and facilitate the development of fair, efficient, and transparent financial markets.

Section 2A: inserted, on 1 July 2014, by section 4 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

3 Overview

- (1) This Act requires financial service providers to be registered.
- (2) Financial service providers are generally required to be members of a dispute resolution scheme if they provide financial services to retail clients.
- (3) The Act sets out how a dispute resolution scheme may be approved by the Minister and why the approval might be withdrawn.
- (4) *[Repealed]*
- (5) This section is intended as a guide only.

Section 3(2): replaced, on 1 July 2010, by section 6 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 3(2): amended, on 1 July 2014, by section 5(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 3(3): amended, on 1 July 2014, by section 5(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 3(4): repealed, on 1 July 2014, by section 5(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

4 Interpretation

In this Act, unless the context otherwise requires,—

annual confirmation means the annual confirmation relating to a registered provider supplied to the Registrar under section 28

annual report means the annual report relating to an approved dispute resolution scheme supplied to the Minister under section 68

approved dispute resolution scheme has the meaning given by section 50

business includes any profession, trade, or undertaking, whether or not carried on with the intention of making a pecuniary profit

chief executive means the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

company means a company, or an overseas company, within the meaning of section 2(1) of the Companies Act 1993

contract of insurance—

- (a) means every contract of insurance including a contract of life insurance (including endowment and annuity contracts) and reinsurance; but
- (b) does not include a class of contract declared not to be a contract of insurance by regulations

controlling owner means, in relation to a financial service provider that is not an individual, any person who beneficially owns 50% or more of that provider

conveyancing practitioner has the meaning given by section 6 of the Lawyers and Conveyancers Act 2006

credit contract—

- (a) has the meaning given by section 7 of the Credit Contracts and Consumer Finance Act 2003;
- (b) includes a credit sale that is treated as a credit contract under section 16A (mobile trader credit sales) of that Act;
- (c) includes a contract that is declared to be a consumer credit contract under Part 6 of that Act;
- (d) does not include something that would otherwise be covered by paragraph (a), but that is not covered by paragraph (b) or (c), that—

- (i) is specified in section 15(1)(a) or (b) of that Act; or
- (ii) is a contract under which no interest charges, and no credit fees, as defined in section 5 of that Act, are payable; or
- (iii) is declared not to be a credit contract under Part 6 of that Act

creditor has the same meaning as in section 5 of the Credit Contracts and Consumer Finance Act 2003 except that it also includes a person who is treated as a creditor under that Act in respect of a credit contract

director has the meaning given by section 6(1) of the Financial Markets Conduct Act 2013

disciplinary committee means the disciplinary committee established under Part 5 of Schedule 5 of the Financial Markets Conduct Act 2013

document means—

- (a) any material, whether or not it is signed or otherwise authenticated, that bears symbols (including words and figures), images, or sounds, or from which symbols, images, or sounds can be derived, and includes—
 - (i) a label, marking, or other writing that identifies or describes a thing of which it forms a part, or to which it is attached:
 - (ii) a book, map, plan, graph, or drawing:
 - (iii) a photograph, film, or negative; and
- (b) information electronically recorded or stored, and information derived from that information

due date, in relation to an annual confirmation, means the date allocated to a registered financial service provider by the Registrar under section 16(1)(b)

engaged, in relation to a person who gives financial advice, has the meaning given by section 431E of the Financial Markets Conduct Act 2013 (but *see* section 44A, which relates to when a person is engaged to give advice through an interposed person)

family trust has the same meaning as in section 5 of the Credit Contracts and Consumer Finance Act 2003

FATF means the Financial Action Task Force on Money Laundering established in Paris in 1989

FATF Recommendations means all of the following recommendations:

- (a) the 40 Recommendations adopted by FATF at its plenary meeting on 20 June 2003:
- (b) the Special Recommendations on Terrorist Financing adopted by FATF at its extraordinary plenary meeting on 31 October 2001:
- (c) Special Recommendation IX on Terrorist Financing adopted by FATF at its plenary meeting between 20 and 22 October 2004

financial advice provider has the meaning given by section 6(1) of the Financial Markets Conduct Act 2013

financial advice service has the meaning given by section 6(1) of the Financial Markets Conduct Act 2013

financial markets legislation has the meaning given by section 4 of the Financial Markets Authority Act 2011

financial service has the meaning given by section 5

financial service provider means a person who provides or offers to provide a financial service

FMA means the Financial Markets Authority established under Part 2 of the Financial Markets Authority Act 2011

in the business of providing a financial service has the meaning given by section 6

incorporated law firm has the meaning given by section 6 of the Lawyers and Conveyancers Act 2006

insurer means a person by whom or on whose behalf the risk or part of the risk to which any contract of insurance relates is accepted

lawyer has the meaning given by section 6 of the Lawyers and Conveyancers Act 2006

levy means a levy prescribed by regulations made under section 68 of the Financial Markets Authority Act 2011

licensed means licensed, registered, authorised, or otherwise approved by a licensing authority

licensed provider means a person, identified in Schedule 2, who—

- (a) provides or offers to provide a licensed service; and
- (b) is licensed, registered, authorised, or otherwise approved by a licensing authority

licensed service means a financial service in respect of which a licensing enactment requires a person to be licensed (or to be exempt from that requirement) to—

- (a) provide the service; or
- (b) hold out that the person provides the service

licensing authority means a body or person, identified in Schedule 2, that licenses, registers, authorises, or otherwise approves a person to be a licensed provider (but *see* section 44B in relation to operators of financial product markets)

licensing enactment means an enactment identified in Schedule 2

member, in relation to a dispute resolution scheme, has the meaning given by section 48(2)

member of a local authority has the meaning given by section 5(1) of the Local Government Act 2002

Minister means—

- (a) the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act and for Parts 1 and 2; and
- (b) the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for Part 3

Ministry means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

mobile trader has the same meaning as in section 5 of the Credit Contracts and Consumer Finance Act 2003

person includes a corporation sole, a body corporate, and an unincorporated body

prescribed means prescribed by this Act or by any regulations made under this Act

qualified statutory accountant has the same meaning as in section 5(1) of the Financial Reporting Act 2013

real estate agent means a person who is a licensee under the Real Estate Agents Act 2008

register means the register of financial service providers established and maintained under section 24

Registrar means the Registrar of Financial Service Providers appointed under section 35

regulated client money or property service has the meaning given by section 431W(4) of the Financial Markets Conduct Act 2013

regulated financial advice has the meaning given by section 431C(3) of the Financial Markets Conduct Act 2013

related company has the meaning given by section 2(3) of the Companies Act 1993

retail client has the meaning set out in section 49

senior manager means, in relation to a financial service provider, a person who is not a director but occupies a position that allows the person to exercise significant influence over the management or administration of that provider (for example, a chief executive or a chief financial officer)

tax agent has the meaning given by section 3(1) of the Tax Administration Act 1994 and, for the purposes of this Act, includes a representative and nominated person as those terms are defined in section 3(1) of the Tax Administration Act 1994

wholesale client has the meaning set out in section 49.

Section 4 **affiliated entity**: repealed, on 1 July 2014, by section 6(4) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 4 **broker**: repealed, on 15 March 2021, by section 62(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 4 **broking service**: repealed, on 15 March 2021, by section 62(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 4 **chartered accountant**: repealed, on 1 July 2015, by section 17 of the Financial Reporting Amendment Act 2014 (2014 No 64).

Section 4 **contract of insurance**: inserted, on 1 July 2010, by section 7(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 4 **conveyancing practitioner**: inserted, on 1 July 2010, by section 7(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 4 **credit contract**: replaced, on 1 October 2021, by section 60(1) of the Credit Contracts Legislation Amendment Act 2019 (2019 No 81).

Section 4 **creditor**: replaced, on 1 October 2021, by section 60(1) of the Credit Contracts Legislation Amendment Act 2019 (2019 No 81).

Section 4 **director**: replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 4 **disciplinary committee**: inserted, on 15 March 2021, by section 62(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 4 **engaged**: inserted, on 15 March 2021, by section 62(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 4 **financial advice provider**: inserted, on 15 March 2021, by section 62(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 4 **financial advice service**: inserted, on 15 March 2021, by section 62(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 4 **financial adviser service**: repealed, on 15 March 2021, by section 62(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 4 **financial markets legislation**: inserted, on 15 March 2021, by section 62(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 4 **FMA**: inserted, on 1 July 2014, by section 6(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 4 **incorporated law firm**: inserted, on 1 July 2010, by section 7(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 4 **insurance business**: repealed, on 1 July 2010, by section 7(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 4 **insurer**: inserted, on 1 July 2010, by section 7(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 4 **levy**: inserted, on 1 July 2014, by section 6(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 4 **licensed**: inserted, on 1 July 2010, by section 7(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 4 **licensed service**: replaced, on 1 July 2010, by section 7(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 4 **licensing authority**: replaced, on 15 March 2021, by section 62(3) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 4 **licensing enactment**: inserted, on 1 July 2010, by section 7(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 4 **mobile trader**: inserted, on 1 October 2021, by section 60(2) of the Credit Contracts Legislation Amendment Act 2019 (2019 No 81).

Section 4 **person**: amended, on 1 July 2010, by section 7(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 4 **qualified statutory accountant**: inserted, on 1 July 2015, by section 17 of the Financial Reporting Amendment Act 2014 (2014 No 64).

Section 4 **regulated client money or property service**: inserted, on 15 March 2021, by section 62(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 4 **regulated financial advice**: inserted, on 15 March 2021, by section 62(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 4 **reserve scheme**: repealed, on 1 July 2014, by section 6(4) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 4 **responsible financial service provider**: repealed, on 1 July 2014, by section 6(4) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 4 **retail client**: inserted, on 1 July 2010, by section 7(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 4 **tax agent**: amended, on 18 March 2019, by section 368 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 4 **wholesale client**: inserted, on 1 July 2010, by section 7(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

5 Meaning of financial service

- (1) In this Act, **financial service** means any of the following financial services:
- (a) a financial advice service:
 - (ab) a regulated client money or property service (including a custodial service):
 - (b) being a licensed NBDT, as defined in the Non-bank Deposit Takers Act 2013:
 - (c) being a registered bank:
 - (d) keeping, investing, administering, or managing money, securities, or investment portfolios on behalf of other persons:
 - (e) being a creditor under a credit contract:
 - (ea) being a mobile trader:
 - (f) operating a money or value transfer service:
 - (g) issuing or managing the means of payment (for example, credit or debit cards, cheques, travellers' cheques, money orders, bankers' drafts, or electronic money):
 - (h) giving financial guarantees:
 - (i) acting as an offeror of financial products offered under an FMC offer:

- (ia) acting in any of the following capacities in respect of regulated products or financial products offered under an FMC offer:
 - (i) as an issuer:
 - (ii) as a supervisor:
 - (iii) as an investment manager:
- (ib) any of the following market services if the service is, or is required to be, provided under a market services licence (whether as a licence holder or as an authorised body):
 - (i) acting as a manager of a registered scheme (other than a restricted scheme):
 - (ii) acting as an independent trustee of a restricted scheme:
 - (iii) acting as a provider of a discretionary investment management service:
 - (iv) acting as a derivatives issuer:
 - (v) acting as a provider of prescribed intermediary services:
 - (vi) acting as an administrator of a financial benchmark:
- (ic) acting as a custodian in respect of a registered scheme or a discretionary investment management service provided by a DIMS licensee:
- (id) operating a financial product market:
- (j) changing foreign currency:
- (k) trading financial products or foreign exchange on behalf of other persons:
- (l) providing forward foreign exchange contracts:
- (m) acting as an insurer:
- (ma) providing a prescribed service—
 - (i) that is the same, or substantially the same, as a service referred to in paragraph (ib); but
 - (ii) in respect of which the provider is not required to provide the service under a market services licence because of an exemption under section 389(3)(b) of the Financial Markets Conduct Act 2013 or an exemption granted or issued by a licensing authority or because the service is a wholesale service or provided only to wholesale clients or wholesale investors (as defined in any licensing enactment):
- (n) providing any other financial service that is prescribed for the purposes of New Zealand complying with the FATF Recommendations, other recommendations by FATF, or other similar international obligations that are consistent with the purpose of this Act.

- (2) Any term or expression that is defined in the Financial Markets Conduct Act 2013 and used in this section, but not defined in this Act, has the same meaning as in the Financial Markets Conduct Act 2013.
- (3) In this section, **FMC offer** means any of the following kinds of offers:
- (a) a regulated offer within the meaning of section 41 of the Financial Markets Conduct Act 2013:
 - (b) an offer of financial products referred to in clause 19 or 21 of Schedule 1 of that Act.

Section 5(1)(a): replaced, on 15 March 2021, by section 63(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 5(1)(ab): replaced, on 15 March 2021, by section 63(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 5(1)(b): replaced, on 1 May 2015, by section 91(2) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Section 5(1)(e): amended, on 6 June 2015, by section 7 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 5(1)(ea): inserted, on 1 October 2021, by section 61 of the Credit Contracts Legislation Amendment Act 2019 (2019 No 81).

Section 5(1)(g): replaced, on 15 March 2021, by section 63(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 5(1)(i): replaced, on 15 March 2021, by section 63(3) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 5(1)(ia): replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 5(1)(ib): replaced, on 15 March 2021, by section 63(4) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 5(1)(ic): inserted, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 5(1)(id): inserted, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 5(1)(k): replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 5(1)(m): replaced, on 1 July 2010, by section 8(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 5(1)(ma): inserted, on 15 March 2021, by section 63(5) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 5(2): replaced, on 15 March 2021, by section 63(6) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 5(3): inserted, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

6 Meaning of in the business of providing a financial service

In this Act, **in the business of providing a financial service** means carrying on a business of providing a financial service (whether or not the business is the provider's only business or the provider's principal business).

Section 6: amended, on 15 March 2021, by section 64 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

7 Persons who are not in business of providing financial service

- (1) *[Repealed]*
- (2) None of the following persons are in the business of providing a financial service for the purposes of this Act to the extent this subsection applies to them:
 - (a) a lawyer, incorporated law firm, conveyancing practitioner, qualified statutory accountant, tax agent, or real estate agent providing a service in the ordinary course of business of the relevant kind:
 - (b) a public service agency as defined in section 5 of the Public Service Act 2020:
 - (c) the Reserve Bank of New Zealand (and any subsidiaries):
 - (d) the statutory entities listed in Schedule 1 of the Crown Entities Act 2004 (other than Public Trust):
 - (e) a person engaged in terminating the business of a financial service provider after that provider has been deregistered:
 - (f) a non-profit organisation in respect of free financial services:
 - (g) *[Repealed]*
 - (h) an executor, administrator, or trustee in respect of services provided in the administration of an estate or a trustee in respect of services provided to beneficiaries of a family trust:
 - (i) a nominated representative (within the meaning of section 6(1) of the Financial Markets Conduct Act 2013) while acting in that capacity on behalf of the financial advice provider that nominated the person:
 - (j) an employer while providing services to enable employees of the employer to obtain rights or benefits under a retirement scheme (as defined in section 6(1) of the Financial Markets Conduct Act 2013), being a scheme in which that employer participates for the benefit of its employees:
 - (k) any person exempted, under regulations made under this Act or by or under any other enactment, from the application of this Act or from the requirement to register under this Act (to the extent of the relevant exemption).
- (3) If subsection (2) applies to a person (A), it applies equally to any controlling owner, director, employee, agent, or other person while acting in the course of, and for the purposes of, A's business to the same extent as it applies to A.
- (4) However, subsections (2) and (3) do not apply if, and to the extent that, any other enactment requires a person referred to in those subsections to be registered under this Act.

Section 7: replaced, on 1 July 2010, by section 9 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 7 heading: replaced, on 15 March 2021, by section 65(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 7(1): repealed, on 15 March 2021, by section 65(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 7(2)(a): amended, on 1 July 2015, by section 17 of the Financial Reporting Amendment Act 2014 (2014 No 64).

Section 7(2)(b): replaced, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 7(2)(d): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 7(2)(g): repealed, on 1 July 2014, by section 8 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 7(2)(i): replaced, on 15 March 2021, by section 65(3) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 7(2)(j): replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

7A Application of Act

- (1) This Act applies to every person (**A**) who is in the business of providing a financial service if—
 - (a) A's financial services are provided to persons in New Zealand by or on behalf of A; or
 - (b) A is, or is required to be, a licensed provider under a licensing enactment; or
 - (c) A is required to be registered under this Act by or under any other enactment (including under a licence condition); or
 - (d) A provides the service in the prescribed circumstances; or
 - (e) A is a reporting entity to which the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 applies.
- (2) The following apply for the purposes of subsection (1)(a):
 - (a) the paragraph does not apply merely because A's financial services are accessible by persons in New Zealand;
 - (b) the paragraph does not apply if A—
 - (i) does not have a place of business in New Zealand; and
 - (ii) does not provide the service to any retail client in New Zealand;
 - (c) the paragraph does not apply if the extent to which the financial service is provided to persons in New Zealand is less than any prescribed threshold;
 - (d) the paragraph applies regardless of where the financial service is provided from.

- (3) Subsection (2)(c) does not apply in the prescribed circumstances.
- (4) This Act may also apply to a person who registers for financial advice services under section 22C (even though the person is not in the business of providing a financial service).
- (5) *See* section 12(1A), which applies section 12 to a person even if this Act would not otherwise apply to the person under this section.
- (6) This section is subject to section 7.

Section 7A: inserted, on 15 March 2021, by section 66 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

8 Act binds the Crown

This Act binds the Crown.

8A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

Section 8A: replaced, on 15 March 2021, by section 67 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Part 2 Registration

9 Purpose of this Part

The purpose of this Part is to—

- (a) establish a compulsory public register of financial service providers to enable—
 - (i) the public to access information about financial service providers; and
 - (ii) the Registrar and other regulators to regulate financial service providers:
- (b) prohibit certain people from being involved in the management or direction of registered financial service providers:
- (c) conform with New Zealand's obligations under the FATF Recommendations.

10 Registration and deregistration

- (1) Registration under this Act continues until the registered person is deregistered.
- (2) Registration may not be transferred and may not vest by operation of law in any person other than the person registered under this Act.
- (3) A person is deregistered when the Registrar enters on the register that the person is deregistered.

- (4) This section is subject to section 22B (suspension of registration).

Section 10(4): inserted, on 15 March 2021, by section 68 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Subpart 1—Requirements for registration and being member of approved dispute resolution scheme and prohibition against holding out

Subpart 1: brought into force (in respect of financial services other than financial adviser services), on 1 December 2010, by clause 3 of the Financial Service Providers (Registration and Dispute Resolution) Act Commencement Order 2010 (SR 2010/231).

Subpart 1: brought into force (in respect of financial adviser services), on 1 April 2011, by clause 4 of the Financial Service Providers (Registration and Dispute Resolution) Act Commencement Order 2010 (SR 2010/231).

Subpart 1 heading: replaced, on 15 March 2021, by section 69 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

11 Person in business of providing financial service must be registered and member of approved dispute resolution scheme

- (1) A person to whom this Act applies who is in the business of providing a financial service must—
- (a) be registered for that service under this Part; and
 - (b) if required by section 48, be a member of an approved dispute resolution scheme.
- (2) Every person who knowingly breaches subsection (1) commits an offence and is liable on conviction,—
- (a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$100,000, or to both; or
 - (b) in the case of a person who is not an individual, to a fine not exceeding \$300,000.

Section 11: brought into force (in respect of financial services other than financial adviser services), on 1 December 2010, by clause 3 of the Financial Service Providers (Registration and Dispute Resolution) Act Commencement Order 2010 (SR 2010/231).

Section 11: brought into force (in respect of financial adviser services), on 1 April 2011, by clause 4 of the Financial Service Providers (Registration and Dispute Resolution) Act Commencement Order 2010 (SR 2010/231).

Section 11 heading: replaced, on 15 March 2021, by section 70(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 11(1): replaced, on 15 March 2021, by section 70(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 11(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

12 No holding out that in business of providing financial service unless registered and member of approved dispute resolution scheme

- (1) A person must not—
- (a) hold out that the person is registered under this Act unless that person—

- (i) is registered under this Part; and
 - (ii) is, if required by section 48, a member of an approved dispute resolution scheme; or
 - (b) hold out that the person is registered under this Act in respect of a particular service unless that person—
 - (i) is registered for that service under this Part; and
 - (ii) is, if required by section 48, a member of an approved dispute resolution scheme; or
 - (c) hold out that the person is entitled, qualified, able, or willing to be in the business of providing a financial service to persons in New Zealand unless that person—
 - (i) is, if required by this Part, registered for that service under this Part; and
 - (ii) is, if required by section 48, a member of an approved dispute resolution scheme.
- (1A) This section applies to a person even if this Act would otherwise not apply to the person under section 7A.
- (2) Every person who knowingly breaches subsection (1) commits an offence and is liable on conviction,—
- (a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$100,000, or to both; or
 - (b) in the case of a person who is not an individual, to a fine not exceeding \$300,000.

Section 12: brought into force (in respect of financial services other than financial adviser services), on 1 December 2010, by clause 3 of the Financial Service Providers (Registration and Dispute Resolution) Act Commencement Order 2010 (SR 2010/231).

Section 12: brought into force (in respect of financial adviser services), on 1 April 2011, by clause 4 of the Financial Service Providers (Registration and Dispute Resolution) Act Commencement Order 2010 (SR 2010/231).

Section 12 heading: amended, on 1 July 2014, by section 11(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 12(1): replaced, on 15 March 2021, by section 71 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 12(1A): inserted, on 15 March 2021, by section 71 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 12(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

12A Registration for certain overlapping services not required

- (1) This section applies if—
- (a) a person (A) is registered for a financial service referred to in section 5(1)(a) to (c), (e), (ia)(ii) or (iii), (ib) to (id), (l), (m), or (ma); and

- (b) A also provides a financial service referred to in section 5(1)(d), (f), (g), (h), (i), (ia)(i), (j), or (k), but only in the ordinary course of providing the service for which A is registered as referred to in paragraph (a); and
 - (c) regulations provide for this section to apply in the circumstances in which A provides the service; and
 - (d) A complies with the terms and conditions (if any) prescribed for the purposes of this section.
- (2) A—
- (a) is not required to be registered for the financial service referred to in subsection (1)(b); and
 - (b) is not prevented from holding out that A is entitled, qualified, able, or willing to be in the business of providing that financial service.

Section 12A: inserted, on 15 March 2021, by section 72 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Subpart 2—Registration of financial service provider

13 Qualifications for registration as financial service provider

- (1) A person is qualified to be registered as a financial service provider if—
- (a) the person is not disqualified under section 14; and
 - (b) *[Repealed]*
 - (c) if a licensing enactment requires the person to be a licensed provider, the person is, or will be (on and from commencing to be in the relevant business), a licensed provider.
- (2) However, subsection (3) applies to a person to whom section 131B of the Credit Contracts and Consumer Finance Act 2003 applies (which relates to when a person needs to be certified).
- (3) The person is not qualified to be registered as a financial service provider for the service of being a creditor under a credit contract or a mobile trader unless the person is certified under Part 5A of that Act.

Section 13(1)(b): repealed, on 1 July 2014, by section 12 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 13(1)(c): replaced, on 1 July 2010, by section 13 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 13(2): inserted, on 1 October 2021, by section 62 of the Credit Contracts Legislation Amendment Act 2019 (2019 No 81).

Section 13(3): inserted, on 1 October 2021, by section 62 of the Credit Contracts Legislation Amendment Act 2019 (2019 No 81).

14 Disqualified person

- (1) A person is disqualified if,—

- (a) in the case of an individual, the individual is disqualified under subsection (2); or
 - (b) in the case of a person who is not an individual, the person has a controlling owner, director, or senior manager who is disqualified under subsection (2).
- (2) The following persons are disqualified:
- (a) an undischarged bankrupt, or a person who has a substantially similar status in a country, State, or territory outside New Zealand:
 - (b) a person prohibited from being a director or promoter of, or concerned in the management of, an incorporated or unincorporated body under the Companies Act 1993, the Financial Markets Conduct Act 2013, or the Takeovers Act 1993:
 - (c) a person subject to a management banning order under the Financial Markets Conduct Act 2013, the Takeovers Act 1993, or subject to an order under section 108 of the Credit Contracts and Consumer Finance Act 2003:
 - (ca) a person who is prohibited from 1 or more of the following under an order made, or a notice given, under a law of a country, State, or territory outside New Zealand that is prescribed for the purposes of section 151(2)(eb) of the Companies Act 1993:
 - (i) being a director of a body corporate incorporated outside New Zealand (**an overseas company**):
 - (ii) being a promoter of an overseas company:
 - (iii) being concerned in or taking part in the management of an overseas company:
 - (d) a person who has been convicted of an offence against section 11, 12, or 41 within the past 5 years:
 - (da) a person who, within the past year, has been deregistered, or been a director or senior manager of an entity that has been deregistered, under section 18(1)(ca):
 - (e) a person who has been convicted of a crime involving dishonesty as defined in section 2(1) of the Crimes Act 1961 within the past 5 years:
 - (ea) a person who has been convicted within the past 5 years, in a country, State, or territory outside New Zealand, of an offence that is substantially similar to an offence specified in paragraph (e):
 - (f) a person who has been convicted of a money laundering offence or an offence relating to the financing of, or provision of material support for, terrorism, whether in New Zealand or elsewhere:

- (g) a person who is subject to a forfeiture order under the Criminal Proceeds (Recovery) Act 2009 or to a substantially similar order in a country, State, or territory outside New Zealand.
- (3) A member of a local authority must be treated as if he or she is not disqualified.

Section 14(2)(a): replaced, on 15 March 2021, by section 73(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 14(2)(b): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 14(2)(c): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 14(2)(ca): inserted, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 14(2)(da): inserted, on 15 March 2021, by section 73(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 14(2)(e): amended, on 7 November 2015, by section 4 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2015 (2015 No 102).

Section 14(2)(ea): replaced, on 15 March 2021, by section 73(3) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 14(2)(f): replaced, on 5 October 2021, by section 57 of the Counter-Terrorism Legislation Act 2021 (2021 No 37).

Section 14(2)(g): replaced, on 15 March 2021, by section 73(4) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Application for registration as financial service provider

15 Application to be registered as financial service provider

- (1) An application to be registered as a financial service provider must be made to the Registrar and—
- (a) state the following (as relevant to the applicant):
- (i) the name and business address of the applicant;
 - (ii) *[Repealed]*
 - (iii) whether the application relates to a licensed service, and if so, which particular licensed service; and
- (ab) if the applicant is applying to be registered under section 22C, state whether the applicant is engaged by a financial advice provider (**B**) to give regulated financial advice on B's behalf and, if so, B's name and business address; and
- (b) be in the form (if any) required by the Registrar; and
- (c) confirm that the applicant is not disqualified under section 14; and
- (d) contain, or be accompanied by, any other prescribed information or documents; and
- (e) be accompanied by the prescribed fee or levy (if any).

- (2) If the application relates to a licensed service, it must be accompanied by any information required, by or under the licensing enactment, to become a licensed provider, unless otherwise agreed by the relevant licensing authority and the Registrar.

Section 15(1)(a)(ii): repealed, on 1 July 2014, by section 14 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 15(1)(ab): inserted, on 15 March 2021, by section 74 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 15(1)(e): amended, on 1 July 2010, by section 14(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 15(2): amended, on 1 May 2014, by section 91(3) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Section 15(2): amended, on 1 July 2010, by section 14(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

15A Purpose of FMA's powers relating to registration

The purpose of section 15B is to prevent a person (A) from being registered as a financial service provider if such registration has, will have, or is likely to have the effect of—

- (a) creating, or causing the creation of, a false or misleading appearance with respect to the extent to which A—
- (i) provides, or will provide, financial services in New Zealand; or
 - (ii) provides, or will provide, financial services from a place of business in New Zealand; or
 - (iii) is, or will be, regulated by New Zealand law in relation to a financial service; or
- (b) otherwise damaging the integrity or reputation of—
- (i) New Zealand's financial markets; or
 - (ii) New Zealand's law or regulatory arrangements for regulating those markets.

Section 15A: inserted, on 1 July 2014, by section 15 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

15B FMA may prevent registration of financial service provider

- (1) On receipt of an application under section 15, the Registrar may, if the Registrar considers it necessary or desirable after having regard to section 15A, refer the application to the FMA and the FMA may, but is not required to, consider the application.
- (2) If the FMA decides to consider the application, the FMA must, after taking into account section 15A, consider whether preventing the applicant from being registered under section 16(1) is necessary or desirable.
- (3) If, in the FMA's view, the applicant should be prevented from being registered under section 16(1), the FMA must—

- (a) comply with subsection (4); and
 - (b) if, having considered any submission received under subsection (4), the FMA remains of the view that the applicant should be prevented from being registered, direct the Registrar to reject the application in accordance with section 16(2); and
 - (c) give its reasons for that direction.
- (4) Before giving a direction under subsection (3)(b), the FMA must—
- (a) give the applicant—
 - (i) written notice of its intention to give the direction; and
 - (ii) the reasons why it intends to give that direction; and
 - (iii) a date (being not less than 10 working days after the date of the notice referred to in subparagraph (i)) by which the applicant may make written submissions to the FMA in relation to its proposed direction; and
 - (b) consider any submissions received in accordance with paragraph (a)(iii).
- (5) The Registrar must comply with a direction given under subsection (3)(b).
- (6) A provider who is not satisfied with a direction given under this section may appeal to the High Court under section 42.

Section 15B: inserted, on 1 July 2014, by section 15 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

15C FMA may prevent registration regardless of whether applicant is otherwise qualified to be registered

The FMA may give a direction under section 15B in relation to an applicant regardless of whether the applicant is qualified for registration under section 13.

Section 15C: inserted, on 1 July 2014, by section 15 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

16 Registration of financial service provider

- (1) If the Registrar accepts that an applicant is qualified to be registered as a financial service provider, the Registrar must—
- (a) enter the following details on the register (as relevant to the provider):
 - (i) the name and business address of the provider:
 - (ii) *[Repealed]*
 - (ia) the type or types of financial service for which the provider is registered:
 - (iii) if the provider is a licensed provider in relation to a particular licensed service, that fact and the name and business address of the relevant licensing authority:

- (iiia) if the provider (A) is registered under section 22C, a statement as to whether A is engaged by a financial advice provider (B) to give regulated financial advice on B's behalf and, if so, B's name and business address; and
 - (iv) any other information prescribed in regulations; and
 - (aa) notify the provider of the Registrar's decision; and
 - (ab) require the provider to notify the Registrar, within 10 working days from receiving notification under paragraph (aa), of the name and business address of, and of the provider's membership number in, the approved dispute resolution scheme of which the provider is a member (if the provider is required, by section 48, to be a member of a scheme); and
 - (b) allocate a due date for the provider's annual confirmation, notify the provider of that date, and notify that date on the register.
- (1A) The Registrar may, at any time, require a person to provide prescribed information in the prescribed manner for the purpose of ascertaining whether—
- (a) the person is in the business of providing a financial service to persons in New Zealand; or
 - (b) any other matter referred to in section 7A applies in respect of the person.
- (1B) The Registrar may treat section 18(1)(b) as satisfied (and may, accordingly, deregister a provider under that paragraph) if the provider does not comply with a requirement under subsection (1A).
- (2) If the Registrar does not accept that an applicant is qualified to be registered as a financial service provider, or if directed by the FMA to reject the application, the Registrar must notify the applicant and any relevant licensing authority of the Registrar's decision or the FMA's direction, as the case may be.
- (3) Subsection (1) does not apply if the FMA has directed the Registrar to reject the application.

Section 16(1)(a)(ii): repealed, on 1 July 2014, by section 16(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 16(1)(a)(iia): inserted, on 1 July 2010, by section 15 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 16(1)(a)(iiia): inserted, on 15 March 2021, by section 75(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 16(1)(aa): inserted, on 1 July 2014, by section 16(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 16(1)(ab): inserted, on 1 July 2014, by section 16(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 16(1A): inserted, on 15 March 2021, by section 75(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 16(1B): inserted, on 15 March 2021, by section 75(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 16(2): amended, on 1 July 2014, by section 16(3)(a) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 16(2): amended, on 1 July 2014, by section 16(3)(b) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 16(3): inserted, on 1 July 2014, by section 16(4) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Changes relating to financial service provider

17 Duty to notify changes relating to financial service provider

- (1) Each of the following persons must notify the Registrar about the following relevant changes relating to a financial service provider:
 - (a) a financial service provider, if—
 - (i) the provider knows that the provider is no longer qualified for registration in accordance with section 13; or
 - (ii) the provider is in a business of providing a financial service for which the provider is not registered; or
 - (iii) the provider knows that any details on the register are no longer accurate, including information relating to the provider's membership of an approved dispute resolution scheme:
 - (b) the licensing authority, if the licensing authority knows that a financial service provider has ceased to be licensed:
 - (c) the person responsible for an approved dispute resolution scheme of which a financial service provider was a member, if the person knows that the provider is no longer a member of that scheme, in which case the person responsible must also notify the Registrar of the following matters:
 - (i) whether that provider's membership was terminated under section 63(1)(ba); and
 - (ii) whether any remedial action imposed on that provider by the scheme has not been carried out; and
 - (iii) whether there is any unresolved complaint about that provider:
 - (d) a financial advice provider, if the provider engages a financial adviser:
 - (e) a financial advice provider that is recorded on the register as having engaged a financial adviser, if the financial adviser is no longer engaged by the provider.
- (1A) To avoid doubt, the notification obligations in subsection (1)(c) apply in relation to an approved dispute resolution scheme or a reserve scheme that has been discontinued (whether as a result of approval being withdrawn or for any other reason).
- (2) The time within which a person must notify the Registrar under subsection (1) is 10 working days from the date the person comes to know about the change

or, in the case of an approved dispute resolution scheme or a reserve scheme that has been discontinued, within 10 working days of that discontinuance.

- (3) A financial service provider who breaches subsection (1)(a) commits an offence and is liable on conviction to a fine not exceeding \$10,000.
- (4) A person who breaches subsection (1)(c), (d), or (e) commits an offence and is liable on conviction to a fine not exceeding \$10,000.

Section 17(1)(a): replaced, on 1 July 2010, by section 16 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 17(1)(a)(iii): replaced, on 1 July 2014, by section 17(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 17(1)(b): replaced, on 1 July 2010, by section 16 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 17(1)(c): replaced, on 1 July 2014, by section 17(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 17(1)(d): inserted, on 15 March 2021, by section 76(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 17(1)(e): inserted, on 15 March 2021, by section 76(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 17(1A): inserted, on 1 July 2014, by section 17(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 17(2): amended, on 1 July 2014, by section 17(4) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 17(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 17(4): amended, on 15 March 2021, by section 76(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 17(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Deregistration of financial service provider

18 Deregistration of financial service provider

- (1) The Registrar must deregister a financial service provider after a notice period in accordance with sections 19 and 20, if the Registrar is satisfied that the provider—
 - (a) is no longer qualified to be registered in accordance with section 13; or
 - (aa) has failed to notify the Registrar of the name, business address, and membership number, as required by section 16(1)(ab); or
 - (ab) is required by section 48 to be a member of an approved dispute resolution scheme but is not a member of any such scheme as required; or
 - (b) at any time after the expiry of 3 months after registration, is not in the business of providing a financial service or is otherwise no longer required to be registered under section 11; or

- (c) has made a representation to the Registrar or the FMA that is false or misleading in any material particular in connection with obtaining or maintaining its registration under this Act or any other matter relating to this Act (for example, false information about the extent to which the person is in the business of providing a financial service); or
 - (ca) has failed to comply with a duty provided for under regulations made under section 44(1)(bb) and (bc) or has otherwise failed to provide any material information that it is required to provide by or under this Act, and the Registrar is satisfied that the failure is serious after having regard to the matters set out in subsection (1AB); or
 - (d) has proffered an application fee or annual confirmation fee or levy that has subsequently been dishonoured, declined, or reversed.
- (1AA) Subsection (1)(ab) does not apply in respect of any time before the end of the period of 10 working days referred to in section 16(1)(ab).
- (1AB) In considering whether a failure is serious under subsection (1)(ca), the Registrar—
- (a) must have regard to—
 - (i) the nature and extent of the failure; and
 - (ii) the circumstances in which the failure occurred; and
 - (iii) whether the provider has previously failed to comply with the duty referred to in that paragraph or has otherwise previously failed to provide any material information that it is required to provide by or under this Act; and
 - (b) may have regard to any other matters that the Registrar thinks relevant.
- (1A) The Registrar may, if the Registrar considers it necessary or desirable after taking into account section 18A, refer consideration of whether a financial service provider should be deregistered to the FMA for the FMA's direction.
- (1B) The Registrar must deregister a financial service provider if—
- (a) the FMA gives a direction under section 18B(3)(c)(i); or
 - (b) the FMA gives a direction under section 469(2)(a) or (b) of the Financial Markets Conduct Act 2013; or
 - (c) the disciplinary committee gives a direction under clause 46(3)(a) or (b) of Schedule 5 of the Financial Markets Conduct Act 2013.
- (1C) Deregistration under subsection (1B)(c) relates only to the provider's registration for a financial advice service.
- (2) The Registrar must deregister a financial service provider if the provider so requests in writing, with effect from any future date requested. The Registrar must notify any relevant licensing authority of this deregistration.
- (2A) The Registrar must deregister a financial service provider in respect of a particular service after a notice period in accordance with sections 19 and 20 if the

Registrar is satisfied that the provider is disqualified from being registered in respect of that service.

- (3) For the purposes of this section and sections 19 and 20, **notice period** means 20 working days from the date of the Registrar's notification under section 19.

Section 18(1)(aa): inserted, on 1 July 2014, by section 18(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 18(1)(ab): inserted, on 30 May 2017, by section 100(1) of the Regulatory Systems (Commercial Matters) Amendment Act 2017 (2017 No 12).

Section 18(1)(b): replaced, on 15 March 2021, by section 77(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 18(1)(c): replaced, on 15 March 2021, by section 77(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 18(1)(ca): inserted, on 15 March 2021, by section 77(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 18(1)(d): amended, on 1 July 2010, by section 17(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 18(1AA): inserted, on 30 May 2017, by section 100(2) of the Regulatory Systems (Commercial Matters) Amendment Act 2017 (2017 No 12).

Section 18(1AB): inserted, on 15 March 2021, by section 77(3) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 18(1A): inserted, on 1 July 2014, by section 18(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 18(1B): replaced, on 15 March 2021, by section 77(4) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 18(1C): inserted, on 15 March 2021, by section 77(4) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 18(2A): inserted, on 1 October 2021, by section 63 of the Credit Contracts Legislation Amendment Act 2019 (2019 No 81).

18A Purpose of FMA's powers relating to deregistration

The purpose of section 18B is to provide for the deregistration of a person (A) if A's registration has, will have, or is likely to have the effect of—

- (a) creating, or causing the creation of, a false or misleading appearance with respect to the extent to which A—
- (i) provides, or will provide, financial services in New Zealand; or
 - (ii) provides, or will provide, financial services from a place of business in New Zealand; or
 - (iii) is, or will be, regulated by New Zealand law in relation to a financial service; or
- (b) otherwise damaging the integrity or reputation of—
- (i) New Zealand's financial markets; or
 - (ii) New Zealand's law or regulatory arrangements for regulating those markets.

Section 18A: inserted, on 1 July 2014, by section 19 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

18B Consideration of deregistration of financial service provider by FMA

- (1) The FMA—
 - (a) may, but is not required to, consider a referral under section 18(1A); and
 - (b) may otherwise consider giving a direction under this section at its own discretion (if a referral has not been made).
- (2) If the FMA decides to consider the referral or otherwise decides to consider giving a direction under this section, the FMA must, after taking into account section 18A, consider whether it is necessary or desirable for a financial service provider to be deregistered.
- (3) If, after acting under subsection (2), the FMA decides to give a direction to the Registrar under this section to deregister the financial service provider, the FMA must—
 - (a) give the financial service provider—
 - (i) written notice of its intention to give the direction; and
 - (ii) the reasons why it intends to give the direction; and
 - (iii) a date (being not less than 20 working days after the date of the notice referred to in subparagraph (i)) by which the applicant may make written submissions to the FMA in relation to its proposed direction; and
 - (b) consider any submissions received in accordance with paragraph (a)(iii); and
 - (c) either,—
 - (i) if the FMA remains of the view that the financial service provider should be deregistered, direct the Registrar to deregister the provider; or
 - (ii) if the FMA decides that the provider should not be deregistered, advise the Registrar accordingly; and
 - (d) give its reasons for the direction or advice, as the case may be.
- (4) A provider who is not satisfied with a direction given under this section may appeal to the High Court under section 42.
- (5) Sections 19 and 20 do not apply if a financial service provider is deregistered as a result of a direction given under subsection (3)(c)(i).

Section 18B: inserted, on 1 July 2014, by section 19 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

18C FMA may direct deregistration regardless of whether section 18(1) applies

The FMA may give a direction under section 18B in relation to a person regardless of whether any of paragraphs (a) to (d) of section 18(1) apply.

Section 18C: inserted, on 1 July 2014, by section 19 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

19 Notice of intention to deregister

- (1) The Registrar must notify a financial service provider and any relevant licensing authority of the Registrar's intention to deregister the provider under section 18(1).
- (2) The Registrar's notice must set out—
 - (a) that the Registrar intends to deregister the provider under section 18(1) (stating whichever paragraph applies); and
 - (b) the reasons why the Registrar considers the relevant paragraph in section 18(1) applies; and
 - (c) that there is a notice period before deregistration occurs during which the provider may object, under section 20, to the deregistration.

20 Objection to proposed deregistration of financial service provider

- (1) During the notice period, the financial service provider may object (with reasons) to the proposed deregistration under section 18(1).
- (2) If the Registrar receives an objection under subsection (1) within the notice period, the Registrar must consider the objection and must not proceed with a deregistration under section 18(1), unless the Registrar is satisfied that any of paragraphs (a) to (d) of section 18(1) applies.
- (3) In the case of section 16(1B), the only valid objection to the proposed deregistration is that the provider complied with the requirement under section 16(1A).

Section 20(3): inserted, on 15 March 2021, by section 78 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

21 Notification of deregistration of financial service provider

- (1) If the Registrar deregisters a financial service provider, the Registrar must notify—
 - (a) the financial service provider, stating the provider's right of appeal to the High Court against the deregistration under section 42; and
 - (b) any relevant licensing authority; and
 - (c) the public, by a notice that is publicly available on an Internet site (at all reasonable times) for not less than 20 working days.
- (2) In the case of a deregistration in accordance with a direction referred to in section 18(1B)(b) or (c), the notice under subsection (1)(a) must refer to an appeal under subpart 9 of Part 8 of the Financial Markets Conduct Act 2013 (rather than an appeal under section 42).

Section 21(2): inserted, on 15 March 2021, by section 79 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Reregistration of financial service provider

22 Reregistration of financial service provider

- (1) The Registrar may reregister a financial service provider who was deregistered—
 - (a) on the grounds set out in section 18(1)(b) if the Registrar is satisfied that, at the time of deregistration, the financial service provider was in the business of providing a financial service and was required to be registered under section 11; or
 - (b) on the grounds set out in section 18(1)(d) if the Registrar is satisfied that the application fee or annual confirmation fee or levy has been paid.
- (2) A reregistration is effective from the date of deregistration as if the deregistration had not occurred.
- (3) If the Registrar reregisters a financial service provider, the Registrar must notify—
 - (a) the financial service provider; and
 - (b) any relevant licensing authority; and
 - (c) the public, by a notice that is publicly available on an Internet site (at all reasonable times) for not less than 20 working days.
- (4) A financial service provider may not apply to be reregistered under this section after the date that is 60 days after the date of deregistration.
- (5) This section does not prevent a person from making a new application for registration under section 15.

Section 22(1)(a): replaced, on 15 March 2021, by section 80(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 22(1)(b): amended, on 1 July 2010, by section 18 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 22(4): inserted, on 15 March 2021, by section 80(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 22(5): inserted, on 15 March 2021, by section 80(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

22A Registrar must not reregister financial adviser if direction has been made

The Registrar must not reregister a person (A) in respect of a financial advice service during a period if the Registrar has received a direction under section 469(2)(b)(ii) or clause 46(3)(b)(ii) of Schedule 5 of the Financial Markets Conduct Act 2013 to prevent A from being reregistered during that period.

Section 22A: inserted, on 15 March 2021, by section 81 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Suspension of registration

Heading: inserted, on 15 March 2021, by section 81 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

22B Suspension of registration

- (1) The Registrar must suspend the registration of a person (A) if the Registrar has received a direction under section 469(2)(c) or clause 46(3)(c) of Schedule 5 of the Financial Markets Conduct Act 2013.
- (2) The suspension is in effect—
 - (a) for the period specified in the direction; or
 - (b) until A meets the conditions specified in the direction (but, in any case, not for a period of more than 12 months).
- (3) A person whose registration is suspended is taken not to have that registration while it is suspended.
- (4) However, the FMA or the disciplinary committee may specify in the direction that subsection (3) does not apply for specified purposes.

Section 22B: inserted, on 15 March 2021, by section 81 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Registration of financial advisers

Heading: inserted, on 15 March 2021, by section 81 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

22C Registration of financial advisers

- (1) An individual (A) who is not disqualified under section 14 may be registered as a financial service provider for financial advice services provided to retail clients even though A is not in the business of providing that service.

Example

Susan is employed by ABC Limited (ABC) to give regulated financial advice to ABC's retail clients.

ABC is required to be licensed under section 388(ba) of the Financial Markets Conduct Act 2013 and registered under this Act. Under section 431D of that Act, ABC is the entity that is providing the financial advice service. Susan is not providing the service because she is not in business and is only giving the advice on behalf of ABC to ABC's clients.

However, under the conditions of ABC's market service licence, the type of service that Susan gives may not be given by a nominated representative. That type of service can be given only by a financial adviser (that is, a person who is registered under this Act). Subsection (1) allows Susan to register even though, as an employee, she is not in the business of providing a financial advice service.

- (2) Sections 15 to 16 apply with all necessary modifications for the purposes of registration under this section.

- (3) If A becomes registered under this section, this Act (and the rules of an approved dispute resolution scheme) apply with all necessary modifications to A as if A were in the business of providing a financial advice service and A were registered under section 16.
- (4) However,—
 - (a) A may not be deregistered in respect of the financial advice service under section 18(1)(b) on the basis that A is no longer required to be registered under section 11; and
 - (b) section 18(1)(b) applies to A in respect of that service only if—
 - (i) A is treated as being no longer in the business of providing a financial advice service under section 22D; or
 - (ii) A does not comply with section 28(1) by the due date (*see* section 28(3)); or
 - (iii) section 37(6) applies to A.
- (5) For the purposes of Part 3, A must be treated as providing a financial advice service to a client (C) if—
 - (a) A is engaged by a financial advice provider to give regulated financial advice on the provider's behalf; and
 - (b) C is a client of that provider; and
 - (c) A gives financial advice to C.
- (6) *See* section 48A, which provides for when financial advisers are exempt from being members of an approved dispute resolution scheme.
- (7) In this section and section 22D, **retail client** has the same meaning as in clause 3 of Schedule 5 of the Financial Markets Conduct Act 2013.

Section 22C: inserted, on 15 March 2021, by section 81 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

22D Financial adviser may be deregistered if not engaged by provider for extended period

- (1) This section applies if the Registrar is satisfied that—
 - (a) an individual (A) is registered under section 22C; but
 - (b) for a continuous period of at least 3 months (or a longer period that applies under subsection (4)), A has not been engaged by any financial advice provider to give regulated financial advice to retail clients on the provider's behalf.
- (2) A must be treated as being no longer in the business of providing a financial advice service (and, accordingly, must be deregistered for that service under section 18(1)(b)).
- (3) Any period before A is registered under section 22C must be disregarded for the purposes of this section.

- (4) The regulations may provide—
- (a) that, in 1 or more types of circumstances specified in the regulations, a period longer than 3 months applies under subsection (1)(b) (instead of the 3-month period):
 - (b) that the period that applies in particular circumstances is a period specified in the regulations or is a period determined on a case-by-case basis by the Registrar:
 - (c) for how the Registrar determines the period that applies.

Section 22D: inserted, on 15 March 2021, by section 81 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Information-sharing provisions

Heading: inserted, on 1 June 2021, by section 64 of the Credit Contracts Legislation Amendment Act 2019 (2019 No 81).

23 Information-sharing provisions between Registrar and Commission

Sections 17(1)(b), 18(2), 19(1), 21(b), and 22(3)(b) apply as if the Commerce Commission were identified in Schedule 2 as a body that is a licensing authority in respect of creditors and mobile traders.

Section 23: inserted, on 1 June 2021, by section 64 of the Credit Contracts Legislation Amendment Act 2019 (2019 No 81).

Responsible financial service provider

[Repealed]

Heading: repealed, on 1 July 2014, by section 20 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

23 Responsible financial service provider

[Repealed]

Section 23: repealed, on 1 July 2014, by section 20 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Subpart 3—Register of financial service providers

Register established

24 Register of financial service providers

The Registrar must establish and maintain a register of financial service providers.

25 Operation of and access to register

- (1) The register may be kept as an electronic register or in any other manner that the Registrar thinks fit.

- (2) The register must be available for access and searching by members of the public at all times unless suspended under subsection (3).
- (3) The Registrar may refuse access to the register or suspend its operation, in whole or in part,—
 - (a) if the Registrar considers that it is not practical to provide access to the register; or
 - (b) for any other reason that is prescribed by regulations made under this Act.

Compare: 2008 No 1 s 55(1), (2)

26 Purposes of register

The purposes of the register are—

- (a) to enable the public and any person referred to in paragraph (b) to—
 - (i) identify registered financial service providers; and
 - (ii) access information about—
 - (A) the name and business address of a registered financial service provider; and
 - (B) the approved dispute resolution scheme of which a registered financial service provider is a member (if required by section 48); and
 - (BA) the type or types of financial service for which a financial service provider is registered; and
 - (C) whether a registered financial service provider provides a licensed service; and
- (ab) to enable the public to otherwise access information to assist members of the public to make decisions relating to the provision of financial services; and
- (b) to assist any person in the exercise of the person's powers or the performance of the person's functions or duties under this Act or any other enactment; and
- (c) to conform with New Zealand's obligations under the FATF Recommendations.

Section 26(a)(ii)(B): amended, on 1 July 2014, by section 21 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 26(a)(ii)(BA): inserted, on 1 July 2010, by section 19 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 26(ab): inserted, on 15 March 2021, by section 82(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 26(b): amended, on 15 March 2021, by section 82(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

27 Contents of register

- (1) The register must contain the following information about each registered person (to the extent that the information is relevant):
 - (a) the registered financial service provider's name and business address;
 - (b) the name and business address of the approved dispute resolution scheme of which the registered financial service provider is a member;
 - (ba) the type or types of financial service for which the registered financial service provider is registered;
 - (c) in relation to a licensed provider,—
 - (i) the relevant licensed service;
 - (ii) the name and business address of the relevant licensing authority;
 - (ca) if the provider (A) is registered under section 22C, a statement as to whether A is engaged by a financial advice provider (B) to give regulated financial advice on B's behalf and, if so, B's name and business address;
 - (cb) in relation to a person that is certified under Part 5A of the Credit Contracts and Consumer Finance Act 2003,—
 - (i) whether the person is a creditor or a mobile trader;
 - (ii) the name and business address of the Commerce Commission, as the certifying authority;
 - (d) any other information prescribed in regulations.
- (2) In addition to the information referred to in subsection (1), the Registrar may, if the Registrar thinks it is appropriate, insert a note of warning in the register in relation to a registered person if—
 - (a) a request for information has been made by the Registrar under this Act in relation to that person; or
 - (b) the Registrar or the FMA is considering any matters relating to the deregistration of that person under this Act.
- (3) The Registrar must remove a note of warning inserted under subsection (2) if the Registrar is satisfied that the reasons for inserting it no longer apply.

Section 27(1)(b): amended, on 1 July 2014, by section 22(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 27(1)(ba): inserted, on 1 July 2010, by section 20 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 27(1)(ca): inserted, on 15 March 2021, by section 83 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 27(1)(cb): inserted, on 1 October 2021, by section 65 of the Credit Contracts Legislation Amendment Act 2019 (2019 No 81).

Section 27(2): inserted, on 1 July 2014, by section 22(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 27(3): inserted, on 1 July 2014, by section 22(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

28 Annual confirmation

- (1) Each registered financial service provider must supply to the Registrar each year by the due date an annual confirmation of details relating to that provider.
- (2) The annual confirmation must—
 - (a) be in the form (if any) required by the Registrar and be accompanied by the prescribed fee (if any) and any levy payable by the provider; and
 - (b) confirm that the provider is not disqualified under section 14; and
 - (c) contain, or be accompanied by, any other prescribed information or documents.
- (3) If a registered financial service provider does not comply with subsection (1) by the due date, the Registrar may assume that the provider is no longer in the business of providing a financial service and sections 18 to 20 apply.

Section 28(2)(a): amended, on 1 July 2010, by section 21 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

29 Registrar must amend register in certain circumstances

The Registrar must amend the register if—

- (a) an annual confirmation contains information that is different from the information entered on the register (where the Registrar is satisfied that the situations described in section 18(1) do not apply); or
- (b) a financial service provider informs the Registrar of information that is different from the information entered on the register (where the Registrar is satisfied that the situations described in section 18(1) do not apply); or
- (c) a licensing authority informs the Registrar that a registered financial service provider has become a licensed provider in relation to a particular licensed service; or
- (ca) a financial advice provider notifies the Registrar of a change under section 17(1)(d) or (e); or
- (d) the Registrar is satisfied at any time that the register contains a typographical error or a mistake, or omits information supplied to the Registrar; or
- (e) regulations made under this Act require the Registrar to do so in circumstances specified by the regulations.

Section 29(ca): inserted, on 15 March 2021, by section 84 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 29(e): replaced, on 1 July 2010, by section 22 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

30 Registrar may refuse to accept document

The Registrar may refuse to accept a document received by the Registrar under this Act if that document—

- (a) is not in the required form (if any); or
- (b) does not comply with prescribed requirements.

*Searches of register***31 Searches of register**

The register may be searched only by reference to the criteria specified in section 27(1)(a) to (d) and any other criteria prescribed in regulations.

Section 31: amended, on 1 July 2014, by section 23 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

32 Search purposes

The register may be searched for the following purposes:

- (a) by an individual, or a person with the consent of the individual, for the purpose of searching for information about that individual in accordance with the Privacy Act 2020:
- (b) by a person for a purpose referred to in section 26:
- (c) by a person for the purpose of advising another person in connection with any of the purposes referred to in this section.

Section 32(a): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

33 When search breaches information privacy principle

A person who searches a public register for personal information for a purpose that is not a purpose set out in section 32 must be treated, for the purposes of Parts 5 and 6 of the Privacy Act 2020, as having breached an information privacy principle under section 69(2)(a)(i) of that Act.

Section 33: replaced, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

*Information sharing***34 Sharing information with other persons or bodies**

(1) The Registrar may communicate to any of the persons or bodies referred to in subsection (4) any information that the Registrar—

- (a) holds (other than on the register) in relation to the exercise of the Registrar's powers or the performance of the Registrar's functions and duties; and
- (b) considers may assist the person or body in the exercise of its powers or the performance of its functions and duties.

- (2) The Registrar may use any information communicated to the Registrar by a person or body referred to in subsection (4) in the Registrar's exercise of the Registrar's powers or the performance of the Registrar's functions and duties.
- (3) This section applies despite anything to the contrary in any enactment, contract, deed, or document.
- (4) The persons or bodies to which this section applies are—
 - (a) the Financial Markets Authority:
 - (ab) the Reserve Bank of New Zealand:
 - (ac) any other licensing authority identified in Schedule 2:
 - (b) the New Zealand Police:
 - (c) the person responsible for an approved dispute resolution scheme:
 - (d) the Commerce Commission:
 - (da) the disciplinary committee:
 - (e) a prescribed agency that carries out supervisory or enforcement functions relating to money laundering or terrorist financing:
 - (f) a prescribed overseas agency that is the equivalent of the Registrar or of a body referred to in paragraphs (a) to (c), but only where there is a written agreement between the overseas agency and the Minister about sharing the information.

Section 34(4)(a): replaced, on 15 March 2021, by section 85(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 34(4)(ab): inserted, on 15 March 2021, by section 85(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 34(4)(ac): inserted, on 15 March 2021, by section 85(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 34(4)(d): replaced, on 1 July 2014, by section 24 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 34(4)(da): inserted, on 15 March 2021, by section 85(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Registrar of Financial Service Providers

35 Appointment of Registrar

- (1) The chief executive must appoint a Registrar of Financial Service Providers under the Public Service Act 2020.
- (2) The person holding office as Registrar of Companies under the Companies Act 1993, immediately before the commencement of this Act, is deemed to have been appointed as the first Registrar of Financial Service Providers in accordance with this section.

Compare: 1999 No 126 s 136

Section 35(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

36 Power of Registrar to delegate

- (1) The Registrar may delegate to any person, either generally or particularly, any of the Registrar's functions, duties, and powers except the power of delegation.
- (2) A delegation—
 - (a) must be in writing; and
 - (b) may be made subject to any restrictions and conditions the Registrar thinks fit; and
 - (c) is revocable at any time, in writing; and
 - (d) does not prevent the performance or exercise of a function, duty, or power by the Registrar.
- (3) A person to whom any functions, duties, or powers are delegated may perform and exercise them in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation.
- (4) A person who appears to act under a delegation is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.

Compare: 2003 No 12 s 62

Subpart 4—Registrar's inspection powers**37 Registrar's inspection powers**

- (1) The Registrar, or a person authorised by the Registrar, may take any of the steps listed in subsection (2) for the purpose of ascertaining whether a person—
 - (aaa) provides a financial service to persons in New Zealand as referred to in section 7A(1)(a); or
 - (a) is in the business of providing a financial service in breach of section 11; or
 - (b) is holding out or has held out that the person is in the business of providing a financial service in breach of section 12; or
 - (c) is qualified or has been qualified to be registered in accordance with section 13; or
 - (ca) is ordinarily resident in New Zealand; or
 - (cb) has a place of business in New Zealand; or
 - (cc) is in the business of providing a financial service; or
 - (d) has made a false or misleading representation or omission in breach of section 41.
- (2) The steps referred to in subsection (1) are the following:
 - (a) requiring a person to produce for inspection relevant documents within that person's possession or control:
 - (aa) ascertaining whether information provided to the Registrar is correct:

- (ab) requiring a person, in relation to information provided to the Registrar, to—
 - (i) confirm that the information is correct; or
 - (ii) correct the information:
 - (ac) specifying—
 - (i) a particular form in which the confirmation or correction referred to in paragraph (ab) must be provided; and
 - (ii) a date by which the confirmation or correction must be provided; and
 - (iii) whether the confirmation or correction must be verified by the production of original documents or certified copies of original documents or by a statutory declaration:
 - (b) inspecting and taking copies of relevant documents:
 - (c) taking possession of relevant documents and retaining them for a reasonable time for the purpose of taking copies.
- (2A) The Registrar, or a person authorised by the Registrar, may, under subsection (1), require a person (A) to do either or both of the following under subsection (2)(a) or (ab) (without limiting subsection (1) or (2)):
- (a) produce a relevant document relating to another person; or
 - (b) confirm that information provided by another person is correct, or correct that information, if A is reasonably able to give that confirmation or to make that correction.

Example

A is a director of ABC Limited.

A may be required to produce a document relating to ABC Limited's business or to confirm information provided by ABC Limited.

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- (3) Any person who exercises powers under subsection (1) must make his or her authorisation from the Registrar available on request.
 - (4) Nothing in this section limits or affects the Tax Administration Act 1994 or the Statistics Act 1975.
 - (5) A person must not obstruct or hinder the exercise of a power conferred by subsection (1).
 - (6) If a registered financial service provider, or a director of such a provider, does not comply with a requirement made under subsection (2)(a) or (ab) in relation to the provider (including compliance with the specifications in subsection (2)(ac)) within 20 working days from the date the requirement was notified to the provider or director, the Registrar may assume that the provider is no longer in the business of providing a financial service and sections 18 to 20 apply.

- (7) A person who knowingly fails to comply with a requirement under subsection (2) commits an offence and is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$30,000;
 - (b) in the case of a person who is not an individual, to a fine not exceeding \$300,000.
- (8) A person who breaches subsection (5) commits an offence and is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$30,000;
 - (b) in the case of a person who is not an individual, to a fine not exceeding \$300,000.
- (9) In this section, **relevant document** means a document that contains information relating to whether a person—
- (aaa) provides a financial service to persons in New Zealand as referred to in section 7A(1)(a); or
 - (a) is in the business of providing a financial service or a particular financial service; or
 - (b) is holding out or has held out that the person is in the business of providing a financial service in breach of section 12; or
 - (c) is qualified or has been qualified to be registered in accordance with section 13; or
 - (ca) is ordinarily resident in New Zealand; or
 - (cb) has a place of business in New Zealand; or
 - (cc) is in the business of providing a financial service; or
 - (d) has made a false or misleading representation or omission in breach of section 41.

Compare: 1993 No 105 s 365

Section 37(1)(aaa): inserted, on 15 March 2021, by section 86(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 37(1)(ca): inserted, on 1 July 2014, by section 25(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 37(1)(cb): inserted, on 1 July 2014, by section 25(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 37(1)(cc): inserted, on 1 July 2014, by section 25(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 37(2)(aa): inserted, on 1 July 2014, by section 25(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 37(2)(ab): inserted, on 1 July 2014, by section 25(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 37(2)(ac): inserted, on 1 July 2014, by section 25(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 37(2A): inserted, on 15 March 2021, by section 86(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 37(6): replaced, on 15 March 2021, by section 86(3) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 37(7): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 37(8): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 37(9)(aaa): inserted, on 15 March 2021, by section 86(4) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 37(9)(a): amended, on 1 July 2010, by section 23 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 37(9)(ca): inserted, on 1 July 2014, by section 25(4) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 37(9)(cb): inserted, on 1 July 2014, by section 25(4) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 37(9)(cc): inserted, on 1 July 2014, by section 25(4) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

38 Disclosure of information and reports

- (1) A person authorised by the Registrar for the purposes of section 37 who has obtained a document or information in the course of making an inspection under that section or prepared a report in relation to an inspection under that section must, if directed to do so by the Registrar, give the document, information, or report to—
 - (a) the Registrar; or
 - (b) the Minister; or
 - (c) the chief executive; or
 - (d) any person authorised by the Registrar to receive the document, information, or report for the purposes of this Act.
- (2) A person authorised by the Registrar for the purposes of section 37 who has obtained a document or information in the course of making an inspection under that section or prepared a report in relation to an inspection under that section must not disclose that document, information, or report, except—
 - (a) in accordance with subsection (1); or
 - (b) subject to the approval of the Registrar, with the consent of the person to whom it relates; or
 - (c) subject to the approval of the Registrar, for the purposes of this Act; or
 - (d) to the extent that the information, or information contained in the document or report, is available under any Act or in a public document.
- (3) A person who fails to comply with this section commits an offence and is liable on conviction to a fine not exceeding \$10,000.

Compare: 1993 No 105 s 366

Section 38(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

39 Exercise of powers under section 37 not affected by appeal

- (1) Despite any other provision of any Act or any rule of law, if a person appeals or applies to the High Court in relation to an act or decision of the Registrar or a person authorised by the Registrar under section 37, until a decision on the appeal or application is given,—
 - (a) the Registrar, or that authorised person, may continue to exercise the powers under that section as if no such appeal or application had been made; and
 - (b) no person is excused from fulfilling an obligation under that section by reason of that appeal or application.
- (2) Subsection (3) overrides subsection (1).
- (3) If the appeal or application is allowed or granted,—
 - (a) the Registrar must ensure that, as soon as is reasonably practicable after the court's decision is delivered, any copy of a document taken or retained under section 37 is destroyed; and
 - (b) no information acquired under section 37 is admissible in evidence in any proceedings unless the court hearing the proceedings in which it is sought to adduce the evidence is satisfied it was not obtained unfairly.

Compare: 1993 No 105 s 371

Subpart 5—Miscellaneous**40 Offence also committed by director**

If any financial service provider that is not an individual commits an offence against this Act, every director of the provider who knowingly authorises or knowingly fails to prevent the offence also commits an offence against this Act.

41 Offence to make false or misleading representation

- (1) Every person commits an offence who, in any document or information required by or for the purposes of this Part or by regulations (whether or not supplied to the Registrar),—
 - (a) makes a representation knowing that it is false or misleading in a material particular; or
 - (b) omits any matter knowing that the omission is false or misleading in a material particular.
- (2) A person who is convicted of an offence under subsection (1) is liable on conviction,—
 - (a) in the case of an individual, to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$100,000, or to both; or

- (b) in the case of a person who is not an individual, to a fine not exceeding \$300,000.

Section 41(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

42 Appeals from Registrar's decisions and FMA directions

- (1) A person (A) who is not satisfied with any of the following decisions of the Registrar may appeal to the High Court:
 - (a) a decision not to register A as a financial service provider under section 16 or 22C:
 - (b) a decision to deregister A under section 18:
 - (c) a decision of the Registrar or a person authorised by the Registrar under section 37 to require A to do something.
- (1AA) This section does not apply to a decision that may be appealed under subpart 9 of Part 8 of the Financial Markets Conduct Act 2013.
- (1A) A financial service provider who is not satisfied with any direction given by the FMA under section 15B or 18B may appeal to the High Court.
- (2) The time within which an appeal under subsection (1) may be made is 20 working days after the date of notification of the decision or direction, or within any further time that the court allows.
- (3) On appeal, the court may do any of the following:
 - (a) confirm, modify, or reverse the decision or direction or any part of it:
 - (b) exercise any of the powers that could have been exercised by the Registrar or the FMA in relation to the matter to which the appeal relates:
 - (c) refer the decision or direction back to the Registrar or the FMA (as the case may be) with directions to reconsider the whole or a specified part of the decision or direction.

Section 42 heading: amended, on 1 July 2014, by section 26(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 42(1): replaced, on 15 March 2021, by section 87 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 42(1AA): inserted, on 15 March 2021, by section 87 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 42(1A): inserted, on 1 July 2014, by section 26(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 42(2): amended, on 1 July 2014, by section 26(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 42(3)(a): amended, on 1 July 2014, by section 26(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 42(3)(b): amended, on 1 July 2014, by section 26(4) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 42(3)(c): replaced, on 1 July 2014, by section 26(5) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

43 Decisions or directions continue in effect until appeal

Unless the High Court orders otherwise, a decision or direction appealed against under section 42 continues in effect.

Section 43 heading: amended, on 1 July 2014, by section 27(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 43: amended, on 1 July 2014, by section 27(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

44 Regulations under Part 1 and this Part

- (1) The Governor-General may, by Order in Council on the recommendation of the Minister, make regulations for all or any of the following purposes:
- (aa) declaring a class of contract to be a contract of insurance for the purposes of this Act:
 - (a) prescribing a financial service for the purposes of section 5(1)(ma) or (n):
 - (aaa) prescribing circumstances for the purposes of section 7A(1)(d):
 - (aab) prescribing a threshold or thresholds for the purposes of section 7A(2)(c) and the circumstances in which that paragraph does not apply:
 - (ab) exempting any service or person or class of service or persons from the application of this Act, and prescribing the terms and conditions (if any) of the exemption:
 - (ac) providing for the circumstances in which section 12A applies and prescribing terms and conditions for the purposes of that section:
 - (b) specifying information or documents to be included in, or provided with, applications or other documents required under this Act, and requiring documents to be signed by specified persons:
 - (ba) prescribing information to be provided under section 16(1A), the time or times at which that information must be provided, and other matters relating to the manner in which the information is provided:
 - (bb) specifying warnings or other information about, or in connection with, the registration of a financial service provider that must be included in advertising for the service, in information or documents provided to persons who receive or may receive the service, or otherwise in information or documents of the classes specified in the regulations (for example, a warning that registration does not mean that the provider is subject to active regulation or oversight):
 - (bc) prescribing the circumstances in which the duty referred to in paragraph (bb) applies and the manner in which the duty must be carried out:
 - (bd) providing for matters referred to in section 22D(4):

- (c) prescribing procedures, requirements, and other matters, not inconsistent with this Part or with the purposes described in section 26, relating to the register, including matters that relate to—
 - (i) the operation of the register:
 - (ii) the information or documents to be contained in the register:
 - (iii) access to the register:
 - (iv) search criteria for the register:
 - (v) fees that may be payable in order to search the register:
 - (d) prescribing either of the following types of agency:
 - (i) an agency that carries out supervisory or enforcement functions relating to money laundering or terrorist financing for the purposes of section 34; or
 - (ii) an overseas agency that is the equivalent of the Registrar or of a body referred to in section 34(4)(a) to (c) for the purposes of section 34:
 - (e) prescribing fees payable to the Registrar in respect of any matter under this Act or the manner in which fees may be calculated:
 - (f) providing for any other matters contemplated by Part 1 or by this Part, necessary for its administration, or necessary for giving it full effect.
- (1AA) The Minister must, before making a recommendation under subsection (1)(aaa), be satisfied that the regulations are necessary or desirable—
- (a) to promote 1 or more of the purposes of this Act as specified in section 2A, 9, or 47; and
 - (b) to protect, or prevent damage to, the integrity or reputation of—
 - (i) New Zealand’s financial markets; or
 - (ii) New Zealand’s law or regulatory arrangements for regulating those markets.
- (1A) The Minister must, in relation to a recommendation under subsection (1)(ab),—
- (a) before making a recommendation, have regard to New Zealand’s obligations under the FATF Recommendations; and
 - (b) not make the recommendation unless the Minister is satisfied that the costs of compliance with this Act would be unreasonable or not justified by the benefit of compliance.
- (2) Information or documents may be prescribed under subsection (1)(b) or (c)(ii) for either or both of the following purposes (whether or not that information or documentation is collected or contained in the register for the purposes of this Part):

- (a) the purpose of assisting any person in the exercise of the person's powers or the performance of the person's functions or duties under this Act or any other relevant legislation:
- (b) the purpose of assisting a Minister, a department of State, or the Reserve Bank of New Zealand in administering this Act or any other relevant legislation.
- (2A) In subsection (2), **other relevant legislation** means any of the following:
- (a) any licensing enactment:
- (b) any financial markets legislation:
- (c) the Credit Contracts and Consumer Finance Act 2003.
- (2B) Subsection (2) does not limit subsection (1)(b) or (c).
- (3) The Registrar may refuse to perform a function or exercise a power until a prescribed fee or levy is paid.
- (4) Any Order in Council made under subsection (1)(e) may—
- (a) prescribe the method of payment of a fee; and
- (b) authorise the Registrar to refund or waive, in whole or in part and on any prescribed conditions, payment of a fee in relation to any person or class of persons.
- (5) Any fee or amount payable to the Registrar is recoverable by the Registrar in any court of competent jurisdiction as a debt due to the Registrar.
- (6) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- (7) If the regulations authorise the Registrar under subsection (4)(b) to grant refunds or waivers in respect of a class of persons,—
- (a) the instrument granting the refund or waiver is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and
- (b) the regulations must contain a statement to that effect.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (6)

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (7)(a)

Publication	See the relevant publication, presentation, and disallowance table in the secondary legislation referred to in subsection (6)	LA19 ss 73, 74, Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives, unless a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32

Disallowance It may be disallowed by the House of Representatives LA19 ss 115, 116
This note is not part of the Act.

Section 44(1): amended, on 1 July 2010, by section 24(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 44(1)(aa): inserted, on 1 July 2010, by section 24(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 44(1)(a): amended, on 9 April 2019, by section 88(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 44(1)(aaa): inserted, on 9 April 2019, by section 88(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 44(1)(aab): inserted, on 9 April 2019, by section 88(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 44(1)(ab): inserted, on 1 July 2010, by section 24(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 44(1)(ac): inserted, on 9 April 2019, by section 88(3) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 44(1)(b): amended, on 9 April 2019, by section 88(4) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 44(1)(ba): inserted, on 9 April 2019, by section 88(5) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 44(1)(bb): inserted, on 9 April 2019, by section 88(5) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 44(1)(bc): inserted, on 9 April 2019, by section 88(5) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 44(1)(bd): inserted, on 9 April 2019, by section 88(5) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 44(1AA): inserted, on 9 April 2019, by section 88(6) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 44(1A): inserted, on 1 July 2010, by section 24(4) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 44(2): replaced, on 9 April 2019, by section 88(7) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 44(2A): inserted, on 9 April 2019, by section 88(7) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 44(2B): inserted, on 9 April 2019, by section 88(7) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 44(3): amended, on 1 July 2010, by section 24(5) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 44(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 44(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

44A Who financial adviser is treated as engaged by when engaged indirectly

- (1) For the purposes of this Act, if a person (A) is engaged to give financial advice by a person (B) indirectly through an interposed person (C) (as described in

section 431E(b) of the Financial Markets Conduct Act 2013), A must be treated as engaged by—

- (a) both B and C, if both B and C are required to be registered under this Act for a financial advice service; or
 - (b) B (and not C), in any other case.
- (2) In this section, **required to be registered** means required to be registered—
- (a) by this Act; or
 - (b) by or under any other enactment (including under a licence condition).

Section 44A: inserted, on 15 March 2021, by section 89 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

44B FMA acts as licensing authority in relation to operators of financial product markets

- (1) This section applies in relation to a person that operates a financial product market that is licensed under Part 5 of the Financial Markets Conduct Act 2013.
- (2) The references to a licensing authority in sections 15 to 22, 27, and 29 must be treated as references to the FMA.

Section 44B: inserted, on 15 March 2021, by section 89 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Review and report on operation of this Part

45 Ministry must review and report on operation of this Part

- (1) The Ministry must, not later than 5 years after the commencement of this section,—
 - (a) review the operation of this Part since the commencement of this section; and
 - (b) prepare a report on the review for the Minister.
- (2) The report on the review must include recommendations to the Minister on whether any amendments to the Act concerning the matters dealt with in this Part are necessary or desirable.
- (3) As soon as practicable after receiving the report, the Minister must present a copy of that report to the House of Representatives.

46 Territorial scope

[Repealed]

Section 46: repealed, on 1 July 2010, by section 25 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Part 3 Dispute resolution

47 Purpose of this Part

The purpose of this Part is to promote confidence in financial service providers by improving consumers' access to redress from providers through schemes to resolve disputes. The schemes are intended to be accessible, independent, fair, accountable, efficient, and effective.

Subpart 1—Financial service provider must be member of dispute resolution scheme

48 Financial service provider must be member of dispute resolution scheme

- (1) Every financial service provider must be a member of an approved dispute resolution scheme in respect of a financial service provided to a retail client.
- (2) A **member**, in relation to an approved dispute resolution scheme, is a financial service provider who may be the subject of a complaint to that scheme.
- (3) However, this obligation does not apply to—
 - (a) a financial service provider in relation to providing a financial service referred to in section 5(1)(i) or (ia)(i) if providing that service is not the provider's only or principal business; or
 - (b) a financial service provider in relation to the financial service of operating a financial product market (within the meaning of section 6(1) of the Financial Markets Conduct Act 2013); or
 - (ba) an individual who is exempted from the obligation by section 48A; or
 - (c) a financial service provider (whether generally or in respect of a particular financial service or class of financial service) if it is exempted from the obligation by or under any other Act or by regulations made under section 79.

Section 48(1): amended, on 1 July 2014, by section 28(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 48(1): amended, on 1 July 2010, by section 26(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 48(2): amended, on 1 July 2014, by section 28(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 48(3): replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 48(3)(ba): inserted, on 15 March 2021, by section 90 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

48A When financial adviser is exempt from being member

- (1) An individual who is registered under section 22C (A) and who is engaged by a financial advice provider (B) to give regulated financial advice on B's behalf is

exempt from the obligation under section 48 to be a member of an approved dispute resolution scheme if B is a member of an approved dispute resolution scheme.

- (2) The exemption applies to the extent that A's obligation to be a member of an approved dispute resolution scheme arises only because of the regulated financial advice given by A on B's behalf (or on behalf of any other financial advice provider that is a member of an approved dispute resolution scheme).

Section 48A: inserted, on 15 March 2021, by section 91 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

49 Who are retail clients

- (1) A retail client is any person who receives a financial service who is not a wholesale client.
- (2) The following persons who receive a financial service are wholesale clients in respect of that financial service:
- (a) a person who is in the business of providing any financial service and receives the financial service in the course of that business:
 - (b) *[Repealed]*
 - (c) *[Repealed]*
 - (d) *[Repealed]*
 - (e) a person who is a wholesale investor (within the meaning of clause 3(2) of Schedule 1 of the Financial Markets Conduct Act 2013, except that the relevant time for the purpose of applying that schedule under this paragraph must be treated as the time immediately before the service is received by the client):
 - (f) a person who is, in relation to an offer of financial products, a wholesale investor (within the meaning of clause 3 of Schedule 1 of the Financial Markets Conduct Act 2013), if the service relates to that offer or to financial products that have been acquired by that person under that offer:
 - (fa) a person who is, in relation to an offer of financial products, a close business associate of the offeror (within the meaning of clause 4 of Schedule 1 of the Financial Markets Conduct Act 2013), if the service relates to that offer or to financial products that have been acquired by that person under that offer:
 - (fb) a person who is, in relation to an offer of financial products, a relative of the offeror or of a director of the offeror (within the meaning of clause 5 of Schedule 1 of the Financial Markets Conduct Act 2013), if the service relates to that offer or to financial products that have been acquired by that person under that offer:
 - (g) an eligible investor under section 49A:

- (h) if the financial service is a financial advice service or a regulated client money or property service, a person who is a wholesale client in respect of that service under clause 4 of Schedule 5 of the Financial Markets Conduct Act 2013.
- (3) If subsection (2) applies to a person (**A**), it applies equally to any controlling owner, director, employee, agent, or other person acting in the course of, and for the purposes of, A's business to the same extent as it applies to A.
- (4) In this section,—
entity—
 - (a) includes a body corporate and an unincorporated body (including partners in a partnership, members of a joint venture, or the trustees of a trust) and the sole trustee of a trust acting in his, her, or its capacity as trustee of that trust; but
 - (b) does not include an individual.

Section 49: replaced, on 1 July 2010, by section 27 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 49(2)(b): repealed, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 49(2)(c): repealed, on 15 March 2021, by section 92(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 49(2)(d): repealed, on 15 March 2021, by section 92(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 49(2)(e): replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 49(2)(f): replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 49(2)(fa): inserted, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 49(2)(fb): inserted, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 49(2)(h): replaced, on 15 March 2021, by section 92(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 49(4) **private offer of securities**: repealed, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

49A Who are eligible investors

- (1) A client is an eligible investor if—
 - (a) the client certifies in writing that the client understands that, as a consequence of certifying himself, herself, or itself to be an eligible investor, the financial service provider may not be a member of an approved dispute resolution scheme; and
 - (b) the client states the reasons for this certification; and
 - (c) a financial service provider signs a written acceptance of the certification in accordance with section 49B.

- (2) A certification may be specific to a particular service or class of services or may be general (but is effective only in relation to services provided after all of the requirements of subsection (1)(a) to (c) are met).

Section 49A: inserted, on 1 July 2010, by section 27 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

49B Acceptance of certification

- (1) A financial service provider must not accept a certification unless he, she, or it, having considered the client's reasons for the certification,—
- (a) is satisfied that the client has been sufficiently advised of the consequences of the certification; and
- (b) has no reason to believe that the certification is incorrect or that further information or investigation is required as to whether or not the certification is correct.
- (2) The person who accepts the certification of a client may be the person providing the financial services to the client (but does not need to be).
- (3) A financial service provider who accepts a certification without having complied with subsection (1) contravenes a wholesale certification requirement.
- (4) Contravention of this section may give rise to a pecuniary penalty order or compensatory order (*see* sections 79A and 79B).

Section 49B: inserted, on 1 July 2010, by section 27 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

49C Revocation of certification

- (1) A client who is an eligible investor may revoke a certification, in relation to a financial service provider to whom the certification has been given, by giving the financial service provider a signed notification to that effect.
- (2) A revocation is effective only in relation to services provided after it is given.

Section 49C: inserted, on 1 July 2010, by section 27 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

49D How to opt out of being wholesale client

- (1) A person may opt out of being a wholesale client, in relation to a financial service provider, by giving the financial service provider a signed notification to that effect.
- (2) A notification may be specific to a particular service, or class of services, or may be general for all services provided by the financial service provider to whom it is given.
- (3) A person may vary or revoke a notification in the same way as the notification may be given.
- (4) A notification (or variation or revocation of a notification) under this section is effective only in relation to services provided after it is given.

- (5) This section does not apply if a person is a wholesale client by reason of being an eligible investor.

Section 49D: inserted, on 1 July 2010, by section 27 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

49E Giving revocation of certification or notification of opt out

- (1) A revocation of a certification under section 49C or a notification under section 49D is sufficiently given to a financial service provider if—
- (a) it is provided to the financial service provider; or
 - (b) delivered or posted to the financial service provider at the person's business address stated on the register or (if not registered) the person's last known place of business in New Zealand; or
 - (c) sent by fax or email to the person's fax number or email address stated on the register.
- (2) The revocation or notification is treated as received by the person no later than 7 days after it is posted or 2 days after it is faxed or emailed, unless the person to whom it is posted or sent proves that it was not received (otherwise than through fault on the person's part).

Section 49E: inserted, on 1 July 2010, by section 27 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

49F Members of dispute resolution scheme must comply with rules and binding resolutions

- (1) A member of an approved dispute resolution scheme must comply with the rules of the scheme.
- (2) On the application of the person responsible for the scheme, the District Court may make an order requiring a member of the scheme to do either or both of the following:
- (a) comply with the rules of the scheme;
 - (b) comply with a resolution of a complaint that constitutes a binding resolution under those rules (a **binding settlement**).
- (3) If the District Court is satisfied that the terms of a binding settlement of a complaint are manifestly unreasonable, the court's order under subsection (2) may modify the terms of the binding settlement.
- (4) If an order requiring a member to comply with a binding settlement includes a requirement that the member pay an amount of money to a person, that order (or part of the order) may be enforced as if it were a judgment by the District Court for the payment of a sum of money.

Section 49F: inserted, on 1 July 2010, by section 27 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 49F(1): amended, on 1 July 2014, by section 29 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 49F(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 49F(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 49F(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

49G Offence to fail to comply with District Court order

- (1) A member of an approved dispute resolution scheme who, knowing that the member is subject to an order made under section 49F, fails to comply with the order, or fails to comply with the order within the time or in the manner required by the order, commits an offence and is liable on conviction to a fine not exceeding \$200,000.
- (2) Nothing in this section applies to an order or part of an order of the District Court referred to in section 49F(4).

Section 49G: inserted, on 1 July 2010, by section 27 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 49G(1): amended, on 1 July 2014, by section 30 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 49G(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 49G(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Subpart 2—Approval of dispute resolution schemes

50 Meaning of approved dispute resolution scheme

- (1) A dispute resolution scheme is an **approved dispute resolution scheme** if it has been approved by the Minister in accordance with this Part and that approval has not been withdrawn.
- (2) If an interim dispute resolution scheme is appointed under section 79AA, references in this Act to an approved dispute resolution scheme are to be read as including references to the interim dispute resolution scheme.
- (3) However, nothing in sections 51 to 61 applies in relation to the interim dispute resolution scheme.

Section 50(2): inserted, on 1 July 2014, by section 31 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 50(3): inserted, on 1 July 2014, by section 31 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Approval of dispute resolution schemes

51 Application for approval

- (1) The person responsible for a dispute resolution scheme may apply to the Minister for approval of the scheme.

- (2) The applicant must submit the following with the application:
 - (a) the rules about the scheme:
 - (b) any other information that is prescribed concerning the considerations outlined in section 52:
 - (c) the prescribed fee (if any).
- (3) The Minister may request the applicant to supply further information or documentation relating to the matters referred to in subsection (2)(a) or (b).

52 Mandatory considerations for approval

- (1) When considering an application under section 51, the Minister must have regard to the following considerations in light of the principles listed in subsection (2):
 - (a) whether the scheme has an appropriate purpose:
 - (b) whether the applicant has undertaken reasonable consultation on the scheme with members or potential members of the scheme, and persons (or their representatives) likely to be substantially affected by the scheme:
 - (c) whether the applicant has adequate funding to enable it to operate the scheme according to the scheme's purpose and in accordance with the rules about the scheme:
 - (d) whether the applicant's directors and senior managers are competent to manage a dispute resolution scheme:
 - (da) whether the scheme will accept all types of financial service providers as members and, if not, whether there are other approved dispute resolution schemes that cover all types of financial service providers:
 - (e) whether the scheme is capable of resolving disputes about the types of financial services provided by the members or potential members of the scheme:
 - (f) the amounts of money that complaints lodged with the scheme may be about, and whether those amounts are reasonable and appropriate:
 - (g) whether the rules about the scheme are adequate and comply with—
 - (i) the principles listed in subsection (2); and
 - (ii) the requirements of section 63:
 - (h) the number of currently approved dispute resolution schemes:
 - (i) the types of financial service providers that may be members of currently approved dispute resolution schemes:
 - (j) the proposed size of the scheme:
 - (k) the types of financial service providers that may be potential members of the scheme:

- (1) any other applications for approval that have been made.
- (2) The principles are—
 - (a) accessibility:
 - (b) independence:
 - (c) fairness:
 - (d) accountability:
 - (e) efficiency:
 - (f) effectiveness.

Section 52(1)(da): inserted, on 1 July 2014, by section 32 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

53 Minister must decide application for approval

- (1) The Minister must decide an application under section 51 by approving it or by rejecting it.
- (2) The Minister may only make a decision under subsection (1) after consultation with—
 - (a) the Minister of Finance; and
 - (b) the Minister of Commerce.

54 Notification and publication of decision

The Minister must, as soon as practicable after deciding the application,—

- (a) notify the applicant of the decision; and
- (b) if the decision is to approve the application, ensure that—
 - (i) the approval is published in the *Gazette*; and
 - (ii) the chief executive updates the details described in section 78(2).

55 Reapplication by unsuccessful applicant

An applicant whose application has been rejected may at any time reapply under section 51.

Withdrawal of approval

56 Withdrawal of approval

- (1) The Minister may withdraw the approval of an approved dispute resolution scheme after a notice period in accordance with sections 57 and 58 for any or all of the following reasons:
 - (a) there has been a breach of a prescribed requirement:
 - (b) there has been a failure to comply with the rules about the scheme:
 - (ba) the rules about the scheme do not, or no longer, comply with the requirements of section 63:

- (c) the person responsible for the scheme has not maintained or published a list of current members as required by section 62:
 - (d) the person responsible for the scheme has not published the rules as required by section 64:
 - (e) the person responsible for the scheme has not supplied the Minister with any of the following:
 - (i) an annual report as required by section 68:
 - (ii) any further information requested by the Minister under section 69:
 - (iii) an independent review as required by the rule described in section 63(1)(q):
 - (f) the person responsible for the scheme has not notified the Minister in accordance with section 65 before changing the rules about the scheme:
 - (g) the person responsible for the scheme has not complied with section 67:
 - (h) the scheme no longer satisfies the principles in section 52(2).
- (2) When considering whether to withdraw an approval, the Minister must have regard to the considerations referred to in section 52(1)(a) to (g) in light of the principles listed in section 52(2).
- (3) The Minister must withdraw the approval of an approved dispute resolution scheme if the person responsible for the scheme so requests, with effect from any future date requested.
- (3A) However, despite subsection (3), the Minister is not required to withdraw approval unless the person responsible for the scheme has, at the time of the request,—
- (a) given the Minister—
 - (i) 3 months' notice of the date on which the proposed withdrawal of approval is to take place; or
 - (ii) any lesser notice period agreed to by the Minister; and
 - (b) informed the Minister of adequate arrangements that it has made, or will make, to facilitate the transfer of members of the existing scheme to another approved dispute resolution scheme or schemes.
- (4) For the purposes of this section and sections 57 and 58, **notice period** means 20 working days from the date of the Minister's notification under section 57(1).

Section 56(1)(ba): inserted, on 1 July 2014, by section 33(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 56(1)(e)(iii): amended, on 1 July 2014, by section 33(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 56(3A): inserted, on 1 July 2014, by section 33(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

57 Notice of intention to withdraw approval

- (1) The Minister must notify the person responsible for the approved dispute resolution scheme of the Minister's intention to withdraw the scheme's approval under section 56(1).
- (2) The Minister's notice must set out—
 - (a) that the Minister intends to withdraw the scheme's approval for any or all of the grounds described in section 56(1) (stating which apply); and
 - (b) the reasons why the Minister considers any or all of the grounds described in section 56(1) apply; and
 - (c) that there is a notice period before the withdrawal of the scheme's approval during which the person responsible for the scheme may object, under section 58, to the intended withdrawal.
- (3) The Minister's notice may require the person responsible for the scheme to—
 - (a) notify all members of the Minister's intention to withdraw the scheme's approval; or
 - (b) provide the Minister with a list of the names and business addresses of current members so that the Minister can, if the Minister wishes, notify all members of the Minister's intention to withdraw the scheme's approval.
- (4) The Minister's notice may also require the person responsible for the scheme to do 1 or more of the following:
 - (a) notify members of the scheme of adequate arrangements that have been, or will be, made to facilitate the transfer of members of the scheme to another approved dispute resolution scheme or schemes:
 - (b) make clear to those members that those members may—
 - (i) apply to join another approved dispute resolution scheme or schemes in accordance with those arrangements; or
 - (ii) apply to join any other approved dispute resolution scheme:
 - (c) remind each of its members of the member's obligation—
 - (i) to continue to be a member of an approved dispute resolution scheme, as required by section 48; and
 - (ii) to notify the Registrar that the member has transferred to another approved dispute resolution scheme, and details of that scheme, as required by section 17.

Section 57(4): inserted, on 1 July 2014, by section 34 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

58 Objection to intended withdrawal of approval

- (1) During the notice period, the person responsible for an approved dispute resolution scheme—

- (a) may object (with reasons) to the intended withdrawal of the scheme's approval under section 56(1); and
 - (b) must not accept any new members.
- (2) If the Minister has received an objection under subsection (1) within the notice period, the Minister must consider it and must not proceed with a withdrawal under section 56(1) unless the Minister is satisfied that any or all of the reasons set out in section 56(1) apply.

59 Approval is withdrawn from date person responsible for scheme is notified

If the Minister withdraws a scheme's approval, the scheme's approval is withdrawn from the date the person responsible for the scheme is notified under section 60(a).

60 Notification and publication of withdrawal of approval

The Minister must, as soon as practicable after withdrawing the approval of a dispute resolution scheme,—

- (a) notify the person responsible for the scheme; and
- (b) notify the Registrar; and
- (c) ensure the withdrawal is published in the *Gazette*; and
- (d) ensure the chief executive updates the details described in section 78(2).

61 Effect of withdrawal of approval on members of dispute resolution scheme

When a dispute resolution scheme's approval is withdrawn, each member of the scheme—

- (a) ceases to be a member of that scheme; and
- (b) must ensure that—
 - (i) the member's obligations under section 17 are complied with; and
 - (ii) the member continues to comply with section 48.

Section 61: replaced, on 1 July 2014, by section 35 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

List of members of approved dispute resolution scheme

62 List of members

The person responsible for an approved dispute resolution scheme must maintain a list of the scheme's current members and must publish this list on an Internet site that is publicly available (at all reasonable times).

*Rules about approved dispute resolution scheme***63 Rules about approved dispute resolution scheme**

- (1) The person responsible for an approved dispute resolution scheme must issue rules about that scheme, and those rules must provide for, or set out, the following:
 - (a) which types of financial service providers may be members of the scheme:
 - (aa) that the types of financial service providers referred to in paragraph (a) must be accepted as members of the scheme, unless—
 - (i) refused membership for a reason set out in paragraph (ba); or
 - (ii) a provider is not eligible for registration under this Act:
 - (b) how financial service providers become members of the scheme and how membership is terminated:
 - (ba) that membership may be refused or terminated because of an applicant's, or a member's,—
 - (i) material or persistent breach of a scheme's rules:
 - (ii) failure to take remedial action imposed on that provider by a scheme (whether or not that scheme still exists):
 - (iii) failure to pay a scheme's membership fee:
 - (iv) failure to continue to be a type of financial service provider that may be a member of the scheme:
 - (c) that consumers and businesses that have no more than 19 full-time equivalent employees may make complaints for resolution by the scheme:
 - (d) how complaints about a member may be made for resolution by the scheme:
 - (e) a period after which the scheme, if asked by a complainant, must investigate a complaint that has been made directly to a member:
 - (f) that complaints about members must be investigated in a way that is consistent with the rules of natural justice:
 - (g) that the scheme has jurisdiction in respect of—
 - (i) a breach of contract, a statutory obligation, or an industry code; and
 - (ii) any other prescribed matters; and
 - (iii) any other matter provided for in the rules:
 - (h) that any information may be considered in relation to a complaint and any inquiry made that is fair and reasonable in the circumstances:

- (i) the remedial action that the scheme can impose on a member to resolve a complaint (for example, a requirement to change systems or to compensate a complainant up to a certain amount stated in the rules):
 - (j) how remedial action may be enforced against the scheme's members, including after members have left the scheme:
 - (k) *[Repealed]*
 - (l) that the scheme will not charge a fee to any complainant to investigate or resolve a complaint:
 - (m) that a resolution of a complaint about a member of the scheme is binding on the member concerned:
 - (n) that a resolution of a complaint about a member of the scheme is binding on the complainant concerned, if the complainant accepts the resolution:
 - (o) that the complainant may take alternative court action against the member at any time, including if the complainant rejects the resolution:
 - (p) that the scheme may cease investigating and resolving a complaint if the complainant takes alternative court action against the member:
 - (q) that an independent review of the scheme must occur at least once every 5 years after the date of the scheme's approval and must be supplied to the Minister within 3 months of completion:
 - (r) that the person responsible for the scheme and the scheme's members must inform the people referred to in paragraph (c) about the scheme:
 - (s) any other prescribed matters.
- (2) The compensation referred to in subsection (1)(i) that the scheme can impose on a member must be able to include, in the case of a complaint relating to a repossession under Part 3A of the Credit Contracts and Consumer Finance Act 2003, compensation for non-financial loss, stress, humiliation, and inconvenience up to a certain amount stated in the rules.
- (3) The rules about an approved dispute resolution scheme must be treated as containing any provision that is implied into those rules by regulations made under this Act.
- (4) A rule about an approved dispute resolution scheme has no effect to the extent that it is inconsistent with any provision implied into the rules by those regulations.

Section 63(1)(a): amended, on 1 July 2014, by section 36(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 63(1)(aa): inserted, on 1 July 2014, by section 36(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 63(1)(ba): inserted, on 1 July 2014, by section 36(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 63(1)(g): replaced, on 1 July 2014, by section 36(4) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 63(1)(k): repealed, on 1 July 2014, by section 36(5) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 63(1)(s): inserted, on 1 July 2014, by section 36(6) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 63(2): inserted, on 1 July 2014, by section 36(7) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 63(3): inserted, on 1 July 2014, by section 36(7) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 63(4): inserted, on 1 July 2014, by section 36(7) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

64 Obligation to publish rules

The person responsible for an approved dispute resolution scheme must make copies of the rules about the scheme available for inspection by the public, free of charge,—

- (a) at the scheme's head office (during ordinary office hours); and
- (b) on an Internet site in an electronic form that is publicly available (at all reasonable times).

65 Duty to notify change to rules

The person responsible for an approved dispute resolution scheme must notify the Minister if the person wishes to change the rules about the scheme.

66 Minister's consideration of change of rules

- (1) After receiving a notification under section 65, the Minister must notify the person responsible for a scheme that the Minister—
 - (a) approves the change; or
 - (b) considers the proposed change is not adequate and does not comply with—
 - (i) the principles listed in section 52(2); and
 - (ii) the requirements of section 63.
- (2) If subsection (1)(b) applies, the rule change must not be made.
- (3) The Minister must comply with subsection (1) within 45 working days of the notification of the change of rules unless the Minister, within those 45 working days,—
 - (a) requests further information from the person responsible for the scheme (in which case, the Minister must comply with subsection (1) within 45 working days after receipt of that further information); or
 - (b) advises the person responsible for the scheme that a period of more than 45 working days is required to consider the change (in which case, the Minister must specify the time within which he or she will comply with subsection (1)).

Section 66(1): amended, on 1 July 2014, by section 37(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 66(3): replaced, on 1 July 2014, by section 37(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

67 Duty to co-operate and communicate information in certain circumstances

- (1) The person responsible for an approved dispute resolution scheme (A) must—
- (a) co-operate with other approved dispute resolution schemes if a complaint involves members of those other schemes (for example, by disclosing personal information in accordance with the Privacy Act 1993 and protecting information that is subject to an obligation of confidence); and
 - (b) co-operate with the Registrar, including by communicating information to the Registrar in accordance with sections 17 and 34; and
 - (c) if A has reasonable grounds to believe that a member that is a registered bank, a licensed insurer, or a licensed NBDT has contravened or is likely to contravene any of the following Acts in a material respect, communicate that fact to the Reserve Bank:
 - (i) the Reserve Bank of New Zealand Act 1989;
 - (ii) the Insurance (Prudential Supervision) Act 2010;
 - (iii) the Non-bank Deposit Takers Act 2013; and
 - (d) if A has reasonable grounds to believe that a member that is a financial markets participant has contravened or is likely to contravene any financial markets legislation in a material respect, communicate that fact to the FMA; and
 - (e) if A has reasonable grounds to believe that a member that is a creditor under a consumer credit contract has contravened or is likely to contravene the Credit Contracts and Consumer Finance Act 2003 in a material respect, communicate that fact to the Commerce Commission; and
 - (f) otherwise provide information to a prescribed person in the prescribed manner if required to do so by regulations made under this Act.
- (2) In this section,—

consumer credit contract—

- (a) has the same meaning as in section 11 of the Credit Contracts and Consumer Finance Act 2003; and
- (b) includes a credit contract to which Part 3A of that Act applies

financial markets participant has the same meaning as in section 4 of the Financial Markets Authority Act 2011.

Section 67: replaced, on 15 March 2021, by section 93 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

67A Duty to communicate information about mobile traders

- (1) The person responsible for an approved dispute resolution scheme (A) must, if A has reasonable grounds to believe that a member that is a mobile trader has contravened or is likely to contravene the Credit Contracts and Consumer Finance Act 2003 in a material respect, communicate that fact to the Commerce Commission.
- (2) Communication under this section is treated as if it were communicated under section 67.

Section 67A: inserted, on 1 October 2021, by section 66 of the Credit Contracts Legislation Amendment Act 2019 (2019 No 81).

*Annual reports and information requests by Minister***68 Annual report**

The person responsible for an approved dispute resolution scheme must supply to the Minister, within 3 months after the end of the financial year applying to the scheme, an annual report containing prescribed information about the scheme in relation to that financial year.

69 Person responsible for approved dispute resolution scheme must supply further information on Minister's request

- (1) The person responsible for an approved dispute resolution scheme must supply to the Minister—
 - (a) any further information requested by the Minister about the information that is required by regulations to be in an annual report; and
 - (b) any information requested by the Minister about the scheme's compliance with the principles listed in section 52(2).
- (2) In supplying the information to the Minister, the person must disclose personal information in accordance with the Privacy Act 2020 and protect information that is subject to an obligation of confidentiality.

Section 69(2): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

70 Annual report and information requested by Minister to be publicly available

The person responsible for an approved dispute resolution scheme must make copies of its annual report available for inspection by the public, free of charge,—

- (a) at the scheme's head office (during ordinary office hours); and
- (b) on an Internet site in an electronic form that is publicly available (at all reasonable times).

Subpart 3—Reserve scheme

[Repealed]

Subpart 3: repealed, on 1 July 2014, by section 39 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

71 Reserve scheme

[Repealed]

Section 71: repealed, on 1 July 2014, by section 39 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Appointment of reserve scheme

[Repealed]

Heading: repealed, on 1 July 2014, by section 39 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

72 Appointment of reserve scheme

[Repealed]

Section 72: repealed, on 1 July 2014, by section 39 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

72A Reserve scheme: rules about fees and charges

[Repealed]

Section 72A: repealed, on 1 July 2014, by section 39 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

73 Revocation of appointment as reserve scheme

[Repealed]

Section 73: repealed, on 1 July 2014, by section 39 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

74 Notice of intention to recommend revocation of appointment as reserve scheme under section 73(2)(a) or (b)

[Repealed]

Section 74: repealed, on 1 July 2014, by section 39 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

75 Objection to intended recommendation for revocation

[Repealed]

Section 75: repealed, on 1 July 2014, by section 39 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

76 Duty to co-operate and communicate information in certain circumstances

[Repealed]

Section 76: repealed, on 1 July 2014, by section 39 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

*Levy to fund reserve scheme**[Repealed]*

Heading: repealed, on 1 July 2010, by section 33 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

77 Levy to fund reserve scheme*[Repealed]*

Section 77: repealed, on 1 July 2010, by section 33 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Subpart 4—Miscellaneous*Publication of details relating to approved dispute resolution schemes*

Heading: amended, on 1 July 2014, by section 40 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

78 Publication of details relating to approved dispute resolution schemes**(1) The chief executive—**

- (a) must ensure that the names of approved dispute resolution schemes and the name and business address of the person responsible for each scheme are available for inspection by the public, free of charge, at the head office of the Ministry (during ordinary office hours), and on an Internet site that is publicly available (at all reasonable times):
- (b) may make copies of the details available in any other way that the chief executive considers appropriate in the circumstances.

(2) *[Repealed]*

Section 78 heading: amended, on 1 July 2014, by section 41(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 78(1)(a): replaced, on 1 July 2014, by section 41(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 78(2): repealed, on 1 July 2014, by section 41(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

*Levy**[Repealed]*

Heading: repealed, on 1 July 2014, by section 42 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

78A Levy*[Repealed]*

Section 78A: repealed, on 1 July 2014, by section 42 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Regulations under this Part

79 Regulations under this Part

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:
- (a) exempting any person or class of persons from the obligation to be a member of an approved dispute resolution scheme and prescribing the terms and conditions (if any) of the exemption:
 - (aa) providing rules for an interim dispute resolution scheme:
 - (b) prescribing the information or documents to be supplied to the Minister as part of an application under this Part:
 - (c) prescribing processes for applications for the approval of dispute resolution schemes:
 - (ca) prescribing matters for the purposes of section 63(1)(g)(ii) and (s):
 - (cb) prescribing provisions to be implied into rules about approved dispute resolution schemes:
 - (d) prescribing rules for a class of approved dispute resolution scheme or for all approved dispute resolution schemes in the event that approval of those schemes is withdrawn:
 - (da) prescribing matters for the purposes of section 67(1)(f), including the circumstances in which information must be provided under that paragraph, the information that must be provided, and to whom and the manner in which it must be provided:
 - (e) prescribing the information that must be included in every annual report supplied in accordance with section 68, which must include—
 - (i) information about any independent review that occurred within the previous 12 months; and
 - (ii) information about a scheme's operation (including complaints received):
 - (f) prescribing fees payable in respect of any matter under this Part or the manner in which fees may be calculated:
 - (g) providing for any other matters contemplated by this Part, necessary for its administration, or necessary for giving it full effect.
- (1A) The Minister must not recommend the making of regulations under subsection (1)(a), unless the Minister is satisfied that—
- (a) the exemption is consistent with the purposes of this Act; and
 - (b) the costs of compliance with the obligation would be unreasonable or not justified by the benefits of compliance.

- (1B) The Minister must not recommend the making of regulations under subsection (1)(aa) unless the Minister—
- (a) is satisfied that—
 - (i) members of a scheme that has ceased, or will cease, to be an approved dispute resolution scheme would be, or are, unable to reasonably become members of another approved dispute resolution scheme; and
 - (ii) the interim dispute resolution scheme will be consistent with the purpose of this Part (*see* section 47); and
 - (iii) the interim dispute resolution scheme will be capable of providing a scheme for the purpose of this Part; and
 - (iv) the rules of the interim dispute resolution scheme will comply with section 63; and
 - (b) has consulted the FMA and any other persons that the Minister considers are likely to be substantially affected by the establishment of an interim dispute resolution scheme.
- (1C) The Minister must not recommend the making of regulations under subsection (1)(ca) or (cb) unless the Minister has consulted the FMA and any other persons that the Minister considers are likely to be substantially affected by the regulations.
- (1D) However, a failure to consult with the persons referred to in subsection (1B)(b) or (1C) does not affect the validity of the regulations.
- (2) The Minister may refuse to make a decision under this Part until the prescribed fee is paid.
- (3) Any Order in Council made under subsection (1) may—
- (a) prescribe the method of payment of a fee; and
 - (b) authorise the Minister to refund or waive, in whole or in part and on any prescribed conditions, payment of a fee in relation to any person or class of persons.
- (4) Any fee or amount payable under this Part is recoverable in any court of competent jurisdiction as a debt due to the Crown.
- (5) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- (6) If the regulations authorise the Minister under subsection (3)(b) to grant refunds or waivers in respect of a class of persons,—
- (a) the instrument granting the refund or waiver is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and
 - (b) the regulations must contain a statement to that effect.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (5)

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (6)(a)

Publication	See the relevant publication, presentation, and disallowance table in the secondary legislation referred to in subsection (5)	LA19 ss 73, 74, Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives, unless a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 79(1): amended, on 1 July 2010, by section 35(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 79(1)(a): replaced, on 1 July 2010, by section 35(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 79(1)(a): amended, on 7 June 2014, by section 43(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 79(1)(aa): inserted, on 7 June 2014, by section 43(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 79(1)(ca): inserted, on 7 June 2014, by section 43(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 79(1)(cb): inserted, on 7 June 2014, by section 43(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 79(1)(da): inserted, on 9 April 2019, by section 94 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Section 79(1A): inserted, on 1 July 2010, by section 35(3) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 79(1B): inserted, on 7 June 2014, by section 43(4) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 79(1C): inserted, on 7 June 2014, by section 43(4) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 79(1D): inserted, on 7 June 2014, by section 43(4) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 79(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 79(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

79AA Appointment of interim dispute resolution scheme

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister,—

- (a) appoint a dispute resolution scheme to fulfil the functions of the interim dispute resolution scheme (with or without conditions) for a term recommended by the Minister:
- (b) revoke an appointment made under paragraph (a).
- (2) The Minister may recommend an Order in Council for the purpose described in subsection (1)(a) only after complying with section 79(1B).
- (3) The Minister may recommend an Order in Council for the purpose described in subsection (1)(b) if the Minister is satisfied that the scheme is no longer required.
- (4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 79AA: inserted, on 1 July 2014, by section 44 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 79AA(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Pecuniary and compensatory orders for contravening wholesale certification requirement

Heading: inserted, on 1 July 2010, by section 36 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

79A Pecuniary order for contravening wholesale certification requirement

- (1) The High Court may, on application by the FMA, order a person to pay a pecuniary penalty to the Crown if the court is satisfied that the person has, without reasonable excuse, contravened a wholesale certification requirement under section 49B.
- (2) The amount of the pecuniary penalty must not, in respect of each act or omission, exceed \$100,000 in the case of an individual or \$300,000 in the case of an entity.
- (3) In setting the amount of the pecuniary penalty, the court must take into account all of the following matters:
 - (a) the nature and extent of the contravention:
 - (b) the nature and extent of any loss or damage suffered by a person as a result of the contravention, including the effect on a person of the loss of the opportunity to make a complaint to an approved dispute resolution scheme:

- (c) the circumstances in which the contravention took place (including whether the contravention was intentional, inadvertent, or caused by negligence):
 - (d) whether the person has previously been found by the court in proceedings under this Act to have engaged in similar conduct.
- (4) A financial service provider may not be liable to more than 1 pecuniary penalty in respect of the same conduct.
- (5) Proceedings under this section may be commenced at any time within 3 years after the contravention occurred.

Section 79A: inserted, on 1 July 2010, by section 36 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 79A(1): amended, on 1 July 2014, by section 45(1) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Section 79A(3)(b): amended, on 1 July 2014, by section 45(2) of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

79B Compensation for contravention of wholesale certification requirement

- (1) If the court orders a person to pay a pecuniary penalty under section 79A in respect of the contravention of a wholesale certification requirement, the court may, in addition, order a person to pay compensation to any person who has suffered, or is likely to suffer, loss or damage as a result of the contravention (the **aggrieved person**).
- (2) An application for orders under this section may be made by the FMA or any aggrieved person.
- (3) The application must be made within 1 year of the date of the pecuniary penalty order.
- (4) The court may make an order under this section whether or not any aggrieved person is a party to the proceedings.
- (5) In proceedings under this section, the court may make such orders as it thinks fit.

Section 79B: inserted, on 1 July 2010, by section 36 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Section 79B(2): amended, on 1 July 2014, by section 46 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34).

Review and report on operation of this Part

80 Ministry must review and report on operation of this Part

- (1) The Ministry must, not later than 5 years after the commencement of this section,—
- (a) review the operation of this Part since the commencement of this section; and
 - (b) prepare a report on the review for the Minister.

- (2) The report on the review must include recommendations to the Minister on whether any amendments to the Act concerning the matters dealt with in this Part are necessary or desirable.
- (3) As soon as practicable after receiving the report, the Minister must present a copy of that report to the House of Representatives.

Consequential amendment

81 Consequential amendment

The enactment specified in Schedule 1 is amended in the manner indicated in that schedule.

Schedule 1AA

Transitional, savings, and related provisions

s 8A

Schedule 1AA: inserted, on 26 November 2019, by section 95 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Part 1

Provisions relating to Financial Services Legislation Amendment Act 2019

Schedule 1AA Part 1: inserted, on 26 November 2019, by section 95 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

1 Change of financial service descriptions does not result in breach

- (1) This clause applies if, immediately before the commencement of section 63 of the Financial Services Legislation Amendment Act 2019 (which amends section 5),—
 - (a) a person is in the business of providing a financial service; and
 - (b) the person is registered under Part 2 of this Act for that service; and
 - (c) the description of that service is amended, repealed, or replaced by that section.
- (2) Despite the change referred to in subclause (1)(c), the person does not breach section 11, 12, or 17 because of that change (and, for that purpose, the person may continue to rely on section 5 as in force before the commencement of section 63 of the Financial Services Legislation Amendment Act 2019).
- (3) This clause ceases to apply at the close of the date that is 3 months after the date on which section 63 of the Financial Services Legislation Amendment Act 2019 comes into force.

Schedule 1AA clause 1: inserted, on 26 November 2019, by section 95 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

2 Certain persons not required to be registered merely because of new application provisions

- (1) This clause applies to a person (A) if,—
 - (a) immediately before the commencement of section 7A, this Act does not apply to A; but
 - (b) this Act applies to A on that commencement.
- (2) A is not required to be registered under this Act, or to be a member of an approved dispute resolution scheme, if A would not have been so required before the commencement of section 7A.

- (3) This clause ceases to apply at the close of a date appointed by the Governor-General by an Order in Council (which must be a date at least 6 months after the date on which section 7A comes into force).
- (4) An order under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this clause

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 1AA clause 2: inserted, on 26 November 2019, by section 95 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Schedule 1AA clause 2: ceased to apply, at the close of 16 December 2021, pursuant to clause 3 of the Financial Service Providers (End of Transitional Period) Order 2021 (LI 2021/282).

Schedule 1AA clause 2(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

3 Person may apply for registration for financial advice service before commencement

- (1) A person may—
 - (a) apply to be registered under Part 2 of this Act for a service referred to in section 5(1)(a) (as replaced by section 63 of the Financial Services Legislation Amendment Act 2019) before the commencement of that section 63; and
 - (b) apply to be registered under section 22C (as inserted by section 81 of the Financial Services Legislation Amendment Act 2019) before the commencement of that section 81; and
 - (c) notify, under section 17, changes relating to a financial service provider that are connected with section 5(1)(a) or 22C being replaced or inserted by section 63 or 81 of the Financial Services Legislation Amendment Act 2019, before those provisions come into force.
- (2) For the purposes of dealing with the application or notification, sections 63 and 81 of the Financial Services Legislation Amendment Act 2019, and any other provisions of that Act that are relevant to the matter that are not yet in force, must be treated as if they were in force.
- (3) However, a registration or change in registration under this clause does not take effect before the commencement of section 63 or 81 of the Financial Services Legislation Amendment Act 2019 (as the case may be).

Schedule 1AA clause 3 (except for subclause (1)(b) and (c)): inserted, on 26 November 2019, by section 95 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Schedule 1AA clause 3(1)(b): inserted, on 15 March 2021, by section 95 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Schedule 1AA clause 3(1)(c): inserted, on 15 March 2021, by section 95 of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Part 2

Provision relating to Credit Contracts Legislation Amendment Act 2019

Schedule 1AA Part 2: inserted, on 1 October 2021, by section 67 of the Credit Contracts Legislation Amendment Act 2019 (2019 No 81).

4 Creditors registered as financial service providers before commencement

- (1) This clause applies to every creditor that is registered under this Act as at the close of the day before commencement and that is required to be certified under Part 5A of the Credit Contracts and Consumer Finance Act 2003.
- (2) The date on and from which the creditor must be certified is the date in clause 12(2) or (5) (as the case may be) of Schedule 1AA of the Credit Contracts and Consumer Finance Act 2003, as amended by the Credit Contracts Legislation Amendment Act 2019.
- (3) After that date, section 18(1)(a) (which relates to deregistration) applies if the person is not certified.
- (4) In this clause, **commencement** means the commencement of section 131B of the Credit Contracts and Consumer Finance Act 2003.

Schedule 1AA clause 4: inserted, on 1 October 2021, by section 67 of the Credit Contracts Legislation Amendment Act 2019 (2019 No 81).

Schedule 1
Consequential amendment

s 81

Privacy Act 1993 (1993 No 28)

Part 1 of Schedule 2: insert the following item in its appropriate alphabetical order:

Financial Service Providers (Registration and Dispute Resolution) Act 2008

Section 24

Schedule 2

Licensing authorities and licensed providers

s 4

This schedule identifies—

- (a) bodies or persons who are licensing authorities; and
- (b) persons that are licensed providers; and
- (c) the enactments that require the relevant financial service to be provided only by a person who is licensed, registered, authorised, or otherwise approved by that licensing authority.

Licensing authority	Licensed provider	Enactment
The Minister (within the meaning of the Financial Markets Conduct Act 2013)	Persons that operate a financial product market that is licensed under Part 5 of the Financial Markets Conduct Act 2013	Financial Markets Conduct Act 2013
Reserve Bank of New Zealand	Registered banks	Reserve Bank of New Zealand Act 1989
Financial Markets Authority	Licensed supervisors in respect of debt securities and managed investment schemes	Financial Markets Supervisors Act 2011
Reserve Bank of New Zealand	Licensed insurers	Insurance (Prudential Supervision) Act 2010
Financial Markets Authority	Persons who hold, or are authorised bodies under, a market services licence	Financial Markets Conduct Act 2013
Reserve Bank of New Zealand	Licensed NBDTs	Non-bank Deposit Takers Act 2013

Schedule 2: amended, on 15 March 2021, by section 96(3) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Schedule 2: amended, on 1 May 2015, by section 91(4) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Schedule 2: amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Schedule 2: amended, on 1 April 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Schedule 2: amended, on 7 September 2013, by section 242 of the Insurance (Prudential Supervision) Act 2010 (2010 No 111).

Schedule 2: amended, on 1 October 2011, by section 61(3) of the Securities Trustees and Statutory Supervisors Act 2011 (2011 No 10).

Schedule 2: amended, on 1 July 2010, by section 37 of the Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41).

Schedule 2 paragraph (a): amended, on 15 March 2021, by section 96(1) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Schedule 2 paragraph (b): replaced, on 15 March 2021, by section 96(2) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Notes

1 *General*

This is a consolidation of the Financial Service Providers (Registration and Dispute Resolution) Act 2008 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Counter-Terrorism Legislation Act 2021 (2021 No 37): section 57

Financial Service Providers (End of Transitional Period) Order 2021 (LI 2021/282)

Secondary Legislation Act 2021 (2021 No 7): section 3

Public Service Act 2020 (2020 No 40): section 135

Privacy Act 2020 (2020 No 31): section 217

Credit Contracts Legislation Amendment Act 2019 (2019 No 81): Part 2 subpart 2 (as amended by COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10))

Financial Services Legislation Amendment Act 2019 (2019 No 8): Part 2

Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5): section 368

Regulatory Systems (Commercial Matters) Amendment Act 2017 (2017 No 12): section 100

District Court Act 2016 (2016 No 49): section 261

Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2015 (2015 No 102)

Financial Reporting Amendment Act 2014 (2014 No 64): section 17

Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2014 (2014 No 34)

Non-bank Deposit Takers Act 2013 (2013 No 104): section 91

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

Criminal Procedure Act 2011 (2011 No 81): section 413

Securities Trustees and Statutory Supervisors Act 2011 (2011 No 10): section 61

Insurance (Prudential Supervision) Act 2010 (2010 No 111): section 242

Financial Service Providers (Registration and Dispute Resolution) Act Commencement Order 2010 (SR 2010/231)

Financial Service Providers (Registration and Dispute Resolution) Amendment Act 2010 (2010 No 41)