



INSURANCE  
BROKERS  
DISPUTES  
LIMITED

# ANNUAL REPORT

| JANUARY – 31 DECEMBER 2008

## HIGHLIGHTS

- IBD opened 118 new cases in 2008, an increase of ten on 2007.
- The number of closed cases in 2008 was 127, which was 31 more than 2007.
- The number of cases closed following a referral to the Referee rose from 14 in 2007 to 19 in 2008.
- Despite the increase of the complaint limit overall to \$100,000 since May 2007, the majority of complaints (80 per cent) had a value of \$10,000 or less.
- IBD continues to monitor compliance with the NIBA Insurance Brokers Code of Practice under its agreement with NIBA.
- Effective 1 January 2009 IBD has merged with the Financial Ombudsman Service (FOS) to form its Insurance Broking Division. The company IBD has since gone into voluntary liquidation.

PURSUANT TO THE TERMS OF REFERENCE OF INSURANCE BROKERS DISPUTES LIMITED THE FOLLOWING IS THE ANNUAL REPORT COVERING THE PERIOD **JANUARY 1 2008 TO 31 DECEMBER 2008.**

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# FOREWORD BY THE CHAIRMAN, MR DICK VINEY

Last year I had the pleasure of introducing my first Annual Report for Insurance Brokers Disputes Limited as Chairman. In my report, I said:

*"The Board of IBD is watching with interest the merger of the three large external dispute resolution schemes in the financial services sector. Once the details of the merger become clearer, the Board will consider whether it is in the interests of IBD and its members to join the merged entity."*

The Financial Ombudsman Service ("FOS") commenced on 1 July 2008 and at its meeting in October 2008, the IBD Board decided that it was in the best interests of IBD and its members to join from 1 January 2009. The transition from IBD to FOS has been a smooth one. All members of IBD have now joined FOS and the members have approved the winding up of IBD as a members' voluntary liquidation. As a result this will be my last Annual Report as Chairman of IBD.

I would like to thank my fellow directors, Bob Elder, Peter Gartlan, Jenni Mack and Noel Pettersen for their support and dedication to ensuring the good governance of IBD. I would also like to thank the staff who have supported IBD, Daniela Kirchlinde, Philip Field, Michael Wells, Fiona Ottey and Emil Georgiev; and our Referee Belinda Lim for her continued support and guidance of the decision making process at IBD.

## THE YEAR IN REVIEW

This year was the first full year of the adoption of the new increased jurisdictional limit of \$100,000 for both individuals and small businesses.

There was an increase in the number of disputes that were referred to IBD, from 108 in 2007 to 118 in 2008. The median time for dealing with a dispute has decreased from 114 days in 2007 to 91 days in 2008. The new process, which involves a more detailed assessment by the Case Manager with a right of appeal to the Referee, was implemented following the 2005 Review of IBD. This process is now well established and continuously monitored for further improvement.

The number of cases that were referred to the Referee increased from 14 in 2007 to 19 in 2008. I think that one of the reasons for this increase is the more complicated nature of complaints, in particular in regards to small business pak complaints which represent 30 per cent of complaints lodged with IBD. I would like to thank Michael Wells again for the quality of his work in 2008/2008. Michael's role is to collate all information and aspects of a complaint, examine the parties' respective cases and then to issue a finding. In the event that the parties do not accept the finding the matter (including the finding) is sent to the Referee for final determination.

The Financial Service Ombudsman (FOS) has continued our previous arrangement with the Banking and Financial Services Ombudsman (BFSO) to enable IBD to function smoothly.

Daniela Kirchlinde and Fiona Ottey both have returned from maternity leave on a part time basis. Daniela Kirchlinde has undertaken the role as Code Compliance Manager and also assisting in the merger of IBD with FOS. Fiona Ottey has continued in her role as Case Manager; but since the writing of this report has gone again on maternity leave.

I would like to thank Philip Field again for his outstanding contribution and the staff at FOS for ensuring that IBD continued to provide a quality dispute resolution service.

## THE FUTURE

I am sure that FOS will continue to provide the high level of dispute resolution services that members of IBD have enjoyed over the years. At the same time IBD members will benefit from FOS' wider range of resources, expertise, training and cost effectiveness.

**Dick Viney**  
Chairman

# ABOUT IBD

Insurance Brokers Disputes Limited (IBD) is a free external dispute resolution service designed to assist in the resolution of disputes between insurance brokers, underwriting agents and other insurance intermediaries (other than insurance companies) that are members of the scheme (the members) and their individual and small business clients. IBD aims to resolve disputes quickly and efficiently, providing an alternative to costly litigation.

IBD is approved by the Australian Securities and Investments Commission (ASIC) and operates in accordance with Terms of Reference. The Terms of Reference are published on the website at [www.fos.org.au](http://www.fos.org.au) under the Insurance Broking Division.

Most general insurance broking firms are members of IBD, including most members of the National Insurance Brokers Association of Australia (NIBA). IBD is funded by its members in order to provide a service which is free of charge to consumers. Complaints against insurance companies cannot be dealt with by IBD and are handled instead by the General Insurance division of the Financial Ombudsman Service (FOS), formerly known as the Insurance Ombudsman Services (IOS).

A consumer with a problem should initially discuss it with the complaints or customer relations officer of the insurance broker or financial service provider. All members are required to have internal dispute resolution (IDR) systems in place to monitor and resolve complaints. They must agree to make a decision about a complaint quickly, usually within 20 working days.

If the consumer is still not satisfied, the consumer can lodge their dispute with IBD. In section 3 of this Annual Report there is a summary of how IBD deals with disputes that are lodged with us.

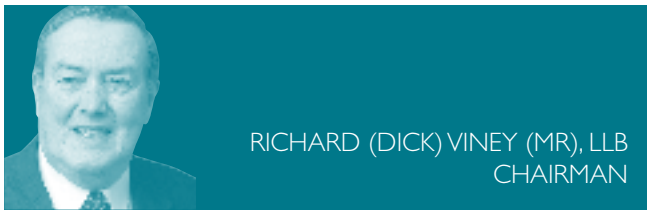
Following the merger of the Banking & Financial Services Ombudsman (BFSO), Financial Industry Complaints Service (FICS) and Insurance Ombudsman Service (IOS) to form the national Financial Ombudsman Service (FOS) on 1 July 2008, IBD became the Insurance Broking division of the Financial Ombudsman Service on 1 January 2009.

The company IBD went into voluntary liquidation following the IBD General Meeting on 16 April 2009.

# BOARD OF DIRECTORS

Since 1 January 2003, IBD has operated as a public company limited by guarantee, which is overseen by a Board of Directors. The Board consists of two consumer representatives, two industry representatives and one independent chairperson. The Board oversees the operation of IBD and the General Insurance Brokers Code of Practice (the Code).

Industry representatives are appointed in consultation with NIBA, while consumer representatives are appointed in consultation with the Consumers Federation of Australia and members of the wider consumer movement.



RICHARD (DICK) VINEY (MR), LLB  
CHAIRMAN

Mr Viney was appointed Chairman of the IBD Board as from 1 July 2007. He has been a barrister and solicitor for over 30 years and has held a number of positions in the West Australian and Victorian Public Service. He was Commissioner of Corporate Affairs for Victoria from 1982 to 1984. He was then appointed Chairman of the Victorian Credit Licensing Authority, and in 1995 joined law firm Mallesons Stephen Jaques as a consultant. Mr Viney is a Chair of Panels and Adjudicator of Financial Ombudsman Service - Investments, Life Insurance & Superannuation division.



ROBERT ELDER (MR),  
INDUSTRY REPRESENTATIVE

Mr Elder has more than 30 years' experience as a company director. He was Co-founder and former Managing Director of IPG Insurance Brokers. He was Director and General Manager of the forerunner to NIBA, the Australia Insurance Brokers Association (AIBA.). Mr Elder is also a former President of NIBA and was a NIBA Board member for ten years.



NOEL PETTERSEN (MR),  
INDUSTRY REPRESENTATIVE,  
CHIEF EXECUTIVE,  
NATIONAL INSURANCE  
BROKERS ASSOCIATION

Mr Pettersen is a former ministerial adviser and public relations consultant. He is Chairman of the Council of International Insurance Broker Associations and is an Executive Council member of the World Federation of Insurance Intermediaries. He has more than 20 years' experience as a company director. Mr Pettersen is the current Chief Executive Officer of the National Insurance Brokers Association (NIBA).



PETER GARTLAN (MR),  
CONSUMER REPRESENTATIVE

Mr Gartlan has over 20 years experience as a consumer advocate in the areas of financial counselling, micro-finance and community services management. He currently designs and implements financial literacy programs for apprentices in the building and construction industry and is on the national executive of Consumers' Federation Australia. Mr Gartlan holds qualifications in Financial Counselling and Training and Assessment.



JENNI MACK (MS),  
CONSUMER REPRESENTATIVE

Ms Mack is an experienced consumer representative and company director. She is Chair of the Board of consumer group Choice and a director of the Financial Ombudsman Service. She chairs the Australian Securities and Investments Commission's Consumer Advisory Panel. She is also a director of the Travel Compensation Fund and Choiceswitch (a price comparison and switching service). Ms Mack is a former member of the Judicial Commission of NSW, a former Deputy Legal Services Commissioner in New South Wales and in the early nineties was the Executive Director of the Consumers' Federation of Australia. Ms Mack has a BA and a Masters of Administrative Law and Policy.

#### MEETINGS OF BOARD OF DIRECTORS

The number of directors' meetings held during the financial year and the number of meetings attended by each director were:

|                  | HELD | ATTENDED |
|------------------|------|----------|
| MR DICK VINEY    | 4    | 4        |
| MR NOEL PETERSEN | 4    | 4        |
| MR ROBERT ELDER  | 4    | 4        |
| MR PETER GARTLAN | 4    | 3        |
| MS JENNI MACK    | 4    | 4        |

## OUR PEOPLE

Daniela Kirchlinde, IBD Compliance Manager, and Fiona Ottey, Case Manager, returned from maternity leave in 2008 on a part time basis.

### DANIELA KIRCHLINDE, CODE COMPLIANCE MANAGER

Daniela Kirchlinde has broad insurance industry experience, having worked for both brokers and insurers in Australia and overseas. She held the role of Complaints Manager of the Insurance Brokers Dispute Facility (IBDF) since its inception in 1996 and was re-employed by IBD as its General Manager upon establishment. Before joining the IBDF, Daniela worked for an Australian insurer as intermediaries underwriting manager, where her responsibilities included investigating client complaints, analysing statistical data and improving client services. Previously, she worked for two years for a reinsurance broker at Lloyds. Daniela has a Bachelor of Commerce degree from Cologne University, speaks three languages, and holds the German equivalent of the Australian Insurance Institute Associateship, plus a Graduate Diploma in Finance and Investment from the Securities Institute of Australia. Since returning from maternity leave, she continued in her role as Code Compliance Manager and also co-coordinated the merger of IBD into FOS.

### PHILIP FIELD, COMPLIANCE MANAGER

Philip Field joined BFSO as Legal Counsel in February 2002 and was appointed General Manager – Corporate and Legal Counsel in March 2006. He has also since been appointed as the Ombudsman of the FOS Banking and Finance division. Philip has been a solicitor for over 20 years and prior to joining the BFSO worked in private practice and as in-house counsel for a number of financial institutions. Philip has a Bachelor of Economics, Bachelor of Laws (with Honours) and a Master of Laws, all from Monash University. He continued to fill the role of Company Secretary and Compliance Manager for IBD which he has done while Daniela Kirchlinde had been on maternity leave.

### MICHAEL WELLS, CASE MANAGER

Michael Wells joined IBD as a Case Manager in March 2007 on a shared basis with BFSO. Michael has nineteen years banking and finance experience gained while working in the Legal Department of the Commonwealth Bank of Australia, including two years as a solicitor. Michael studied law at Deakin University as a mature age student, graduating in 2003 and was admitted as a legal practitioner of the Supreme Court of New South Wales in October 2004.

### FIONA OTTEY, CASE MANAGER

Fiona joined IBD as a Case Manager in April 2006 on a shared basis with BFSO. Fiona has extensive experience of insurance and other financial services disputes, having come from private practice as a Senior Associate in the insurance and financial services division of Phillips Fox. Fiona previously practiced as a Senior Associate in insurance and commercial litigation at Anderson Rice. Fiona spent her first year of practice as a solicitor for the Commonwealth Bank in Melbourne. During her time in private practice, Fiona conducted a variety of litigation, provided commercial and indemnity advice and was actively involved in the mediation and resolution of disputes. Fiona has LIV recognized mediation qualifications. At IBD and BFSO, Fiona facilitates the resolution of disputes between financial service providers, including insurance brokers, and customers. She also issues Findings if resolution cannot be achieved between the parties. Fiona has a Bachelor of Arts and a Bachelor of Laws from Monash University. Since mid year 2008 Fiona has gone again on maternity leave.



#### DAVID LETCHER, REFEREE

David Letcher was IBD's Referee since the inception of the former scheme in 1996. Complaints made to IBD and alleged breaches of the Code which cannot be conciliated by the Compliance Manager were passed to him for final determination. As Referee, he had the authority to make orders and impose sanctions or orders, which are binding on members.

David had forty years of insurance law experience. He conducted many seminars on insurance law, consumer and regulatory issues. His experience included litigation in the Magistrates', County, Supreme, Federal and High Courts. His work also involved policy drafting, document preparation and Government submissions.

David was well known for his views on ethical issues such as fraud, the duty of utmost good faith and the proper conduct of negotiation and litigation. He was a partner of Norris Coates, Solicitors, since 1965 and was a Member of the Law Council of Australia, the Australian Insurance Law Association, and the Insurance Council of Australia's Anti-Fraud Task Force. David passed away on 6 April 2008.

#### BELINDA LIM, REFEREE

Belinda Lim is a Barrister at the Victorian Bar, having signed the Bar Roll in 1999. After completing her articles at Arthur Robinson & Co (now Arthur Robinson & Hedderwicks) in 1982, Belinda practised with that firm in commercial litigation and general commercial law for a further two years. She joined Madden Butler Elder & Graham (now Dunhill Madden Butler) in 1985 becoming a senior associate in 1987 and a partner in 1989. As a partner at Dunhill Madden Butler she practised in commercial litigation, banking & finance and engineering & construction law. Belinda is an accredited mediator with LEADER and at the Bar read with Mr Russell Berglund Q.C. Belinda has now been appointed as IBD's main Referee.

#### RON BEASLEY, ALTERNATE REFEREE

Ron Beasley has practised law for 48 years. Prior to his appointment as Victorian Government Solicitor (VGS) in 1991 he was the senior litigation partner in the firm Sly and Weigall, now known as Deacons. He retired as VGS in 2000 and since that time he has served as Adjudicator, Referee and Chair Panel 2 of the FOS General Insurance division. He has served and continues to serve as Chair and board member of a number of government and non government bodies. He was made an honorary life member of the Law Institute of Victoria in 1998 and in 2000 he was awarded the Chief Justice's Medal for distinguished service to the law and the community. Ron was appointed as Alternate Referee in April 2008 when Belinda Lim moved into her role as main Referee.

#### CASE OFFICER GROUP

The Case Officers who deal with telephone referrals to IBD and complaints lodged in the early stages are Emil Georgiev, Darren Hexter, Joseph Sowersby and Sally Thompson..

# REPORT FROM THE REFEREE, MS BELINDA LIM

I am pleased to present my first report as Referee, since assuming that role upon the passing of the late Mr David Letcher. David was the Referee of IBD for many years and without exception, served IBD well.

In 2008, I provided written determinations for 14 matters, which is the same number of matters as for the previous year, 2007. Of these 14 matters, half were in favour of the broker and half in favour of the consumer. What this indicates to me is that the referee system for resolving disputes between consumers and brokers is working as it should and is neither weighted in favour of the broker nor the consumer.

The fact that the number of disputes has not increased reflects positively on IBD's Referee system which has, as a first port of call, a review by dedicated case managers who collect and review all the factual material in order to make findings, which if challenged are then referred to me for determination. I thank the case managers for their good work in providing these written findings, which make my job so much easier.

There are a number of issues which have arisen out of the cases which came to me for determination upon which I wish to comment. These issues are not new and I note from David's previous reports that they arise time and again. These issues are:

## ADDING VALUE FOR THE CLIENT

I am conscious of how easy it is to make a complaint against a broker for failing to get the "best" (often meaning cheapest) policy for a consumer. The wisdom of hindsight is a wonderful thing and no doubt, a scouring of the insurance products available could perhaps yield a policy arguably better than the one presented to the consumer. Having said this, it is important to bear in mind that policies are often difficult to compare in terms of what might be "better", as they can and often do, vary in the detail and coverage. This being so, cheaper is not necessarily better and the needs of the consumer must be paramount when selecting policies for the consumer's consideration. One such matter for consideration is no doubt cost, but it is only one consideration amongst a myriad. There is obviously no point in selecting the perfect cover if the cost is prohibitive to the consumer; just as there is no point in selecting cheap cover that does not adequately cover the risk in question. I make these comments against the background of one case which caused me a great deal of difficulty. I ordered the broker to make a significant payment to the consumer which represented the saving which the consumer should have made had the policy which was ultimately put in place, been placed at the outset. I took the view in that instance, that the broker had not discharged its duty to source the most suitable policy for the consumer. The policy which had initially been placed was unaffordable for the consumer and because of the consumer's own enquiries, a more affordable policy was put in place which adequately covered the risk. What's more, the more affordable policy was placed with an insurer in the broker's own stable of insurers.

I understand the pressures of work and life which make it sometimes difficult to spend the time which is ideally required to do the job properly. Nonetheless, if the work to place a renewal or policy can be instigated in plenty of time, and reasonable enquiries made to source the most suitable policy, then brokers will be well protected against any complaints about "better" policies having been available. In the end, perfection is not what is required of a broker, but reasonableness in the discharge of its duty to a consumer.

## MOTOR VEHICLE WARRANTIES

These so called warranties continue to cause difficulties for consumers because of their specialist wording, and the lack of understanding by consumers that the warranties do not give the kind of cover as could be expected under insurance policies. The stringent terms and conditions relating to servicing and reporting make it easy to offend against the warranty and for the warranty giver to then deny the claim based upon these offences. This is an area in which it is clear that consumers are being disadvantaged by a lack of understanding of the effect of the terms and conditions of the contract into which they are entering.

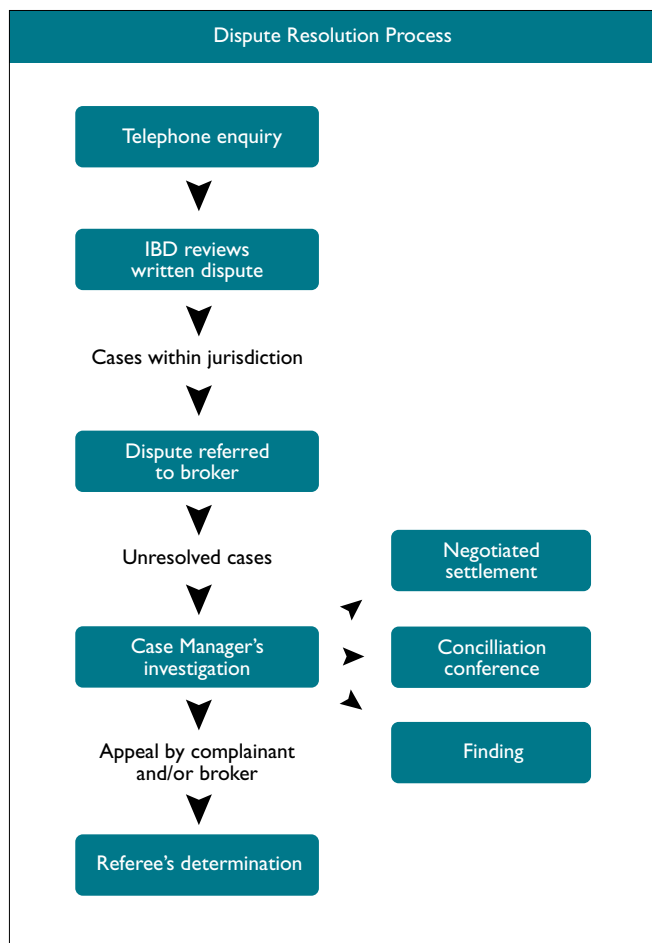
## FACTUAL MATERIAL AND DOCUMENTATION

Many of the cases are determined on their facts. This is what makes them challenging and each case different. As David Letcher observed in his last report, the cases often involve complicated and involved facts and it appeared to him that the cases coming to him were getting more complicated. The factual material requires sorting out before any determination can be made. This is what also makes it imperative for proper and complete record keeping by brokers and consumers. It is not possible to remember with any real certainty events, which happened months or even years ago. Because the referee system of IBD relies upon documentation in the main and oral evidence is not ordinarily required to be given in a case, good record keeping is essential to ensure the referee system works as it should and that the parties can be satisfied that findings and determinations are made on reasoned and proper grounds. I urge all brokers in the ordinary course of their businesses, to make it the norm to keep complete and proper files relating to dealings with consumers, which includes not only copies of all main documents passing between them and their clients, but also notes of instructions given to them by their clients, and records of outcomes of enquiries made on the client's behalf.

Finally, my thanks to Mr Philip Field, the Directors, case managers and staff of IBD for their support and assistance to me as Referee in 2008.

**Belinda Lim**  
Referee

# DISPUTE RESOLUTION PROCESS



## STAGE ONE: TELEPHONE ENQUIRIES

All telephone enquiries to IBD are initially answered by the Financial Ombudsman Service (FOS). It is a central telephone contact point for consumers wishing to access a financial services alternative dispute resolution scheme. When a consumer calls the 1300 78 08 08 number to discuss their complaint about a broker, a FOS Enquiry Officer will identify whether the broker is a member of IBD. If the enquiry does not involve a member, FOS will refer the caller to the most appropriate service.

If the enquiry involves a member, the Enquiry Officer will refer the caller to an IBD Case Officer.

If the caller's complaint has not been dealt with by the broker's IDR process, the Case Officer will provide the caller with contact details of the person nominated by the broker to deal with customer disputes.

If the matter appears to be within the Terms of Reference, the Case Officer will also provide information about how to lodge a written dispute with IBD if the matter remains unresolved following referral to the member.

If the matter is outside IBD's Terms of Reference, the Case Officer will advise the caller of other organisations that may be able to assist.

## STAGE TWO: LODGING THE DISPUTE

If the complaint remains unresolved by the member, or the disputant does not accept the member's proposal to resolve the dispute, the disputant can write to IBD to lodge a dispute. A member can also refer a disputant's complaint directly to IBD with the disputant's written consent.

Complaint forms and translating services are also available in other languages if required. If complainants are experiencing difficulties lodging their dispute, due to language problems or disability, staff can assist by:

- meeting with disputants to identify the grounds of their dispute;
- arranging for a translation services; and
- assisting disputants to write their initial letter of complaint.

## STAGE THREE: REFERRAL TO THE BROKER

After reviewing the written dispute and assessing that it falls within IBD's Terms of Reference, the Case Officer refers the dispute to the member, giving the member a final opportunity to resolve the dispute before a Case Manager investigates.

The member has 14 days to respond to the dispute after receiving the formal referral from IBD.

#### STAGE FOUR: INVESTIGATION AND RESOLUTION

Following the response from the member, or the expiry of 14 days, the Case Manager will investigate any unresolved disputes by collecting and examining all relevant documents and information.

In determining the most appropriate option for resolving disputes after an investigation has commenced, the Case Manager will consider factors such as the complexity of the issues in dispute, the expectations of the parties and their willingness to negotiate a settlement.

Once an investigation has commenced, a dispute can be resolved in one of the following ways:

In considering a dispute or making a Determination, the Case Manager and the Referee must observe applicable rules of law, judicial authority, and precedent.

The Referee must also have regard to:

- applicable industry codes (including the General Insurance Brokers Code of Practice);
- good industry practice; and
- what is fair and reasonable in all the circumstances.

|                                |  |
|--------------------------------|--|
| <b>Negotiated settlement</b>   | <p>The Case Manager may facilitate a negotiation process for the parties in dispute to come to an agreement as to how the dispute should be resolved. The terms of any agreement will then form the basis of the dispute settlement and will be confirmed in writing.</p> <p>The parties to the dispute may independently come to an agreement as to how it should be resolved, with the terms of settlement confirmed in writing.</p>   |
| <b>Conciliation conference</b> | <p>A conference may be convened in order to discuss the case, with the view to reaching a resolution at the conference. The terms of any resolution are confirmed in writing.</p>  |
| <b>Finding</b>                 | <p>The Case Manager may issue a written Finding, setting out his or her views of the merits of the dispute and how it should be resolved. The dispute will be resolved if both parties accept the Finding.</p>   |
| <b>Determination</b>           | <p>If either party rejects the Case Manager's Finding, the Referee will review the dispute and issue a Determination setting out how he considers the matter should be resolved. If the disputant accepts it, the Determination is binding on the member and IBD cannot consider the dispute further and the file will be closed. If the disputant does not accept the Determination, the disputant will retain their right to pursue the dispute in other appropriate forums.</p> |

# COMPLAINTS ANALYSIS

IBD uses its Case Information Management System (CIMS) to capture information about enquiries and disputes that it receives. The details recorded for each enquiry or case includes the name of the relevant member, the product type to which the dispute relates, and the main problem or problems identified by the disputant.

The following pages contain statistical information about the operation of IBD over the reporting period (1 January 2008 – 31 December 2008).

## USERS OF IBD

### ALL USERS

IBD compares the percentage of written disputes from each state to the total population in each state and the number of members in that state. As shown below, most representations are consistent with the state's population and the number of members.



State Distribution

### COUNTRY USERS

#### ALL USERS

Country users are those identified as living in the non-capital statistical divisions identified by the Australian Bureau of Statistics. As shown in Table 1 below, country users made up 33 out of 118 (28%) of written complaints in the reporting period. This compares with 25.9% in the last reporting period.

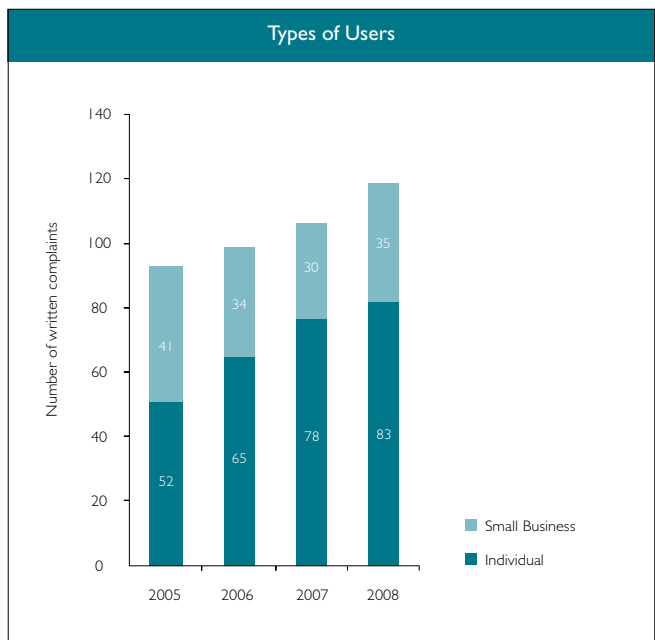
|                                  | ACT      | NSW       | NT       | QLD       | SA       | TAS      | VIC       | WA        | Other    | Total      |
|----------------------------------|----------|-----------|----------|-----------|----------|----------|-----------|-----------|----------|------------|
| Complaints – metro               | 0        | 25        | 0        | 7         | 3        | 1        | 27        | 7         | 0        | 70         |
| Complaints – country             | 0        | 11        | 1        | 7         | 2        | 3        | 5         | 4         | 0        | 33         |
| Email only                       | 0        | 0         | 0        | 0         | 0        | 0        | 1         | 0         | 8        | 9          |
| Not provided                     | 0        | 4         | 0        | 0         | 0        | 0        | 1         | 0         | 1        | 6          |
| <b>Total Complaints Received</b> | <b>0</b> | <b>40</b> | <b>1</b> | <b>14</b> | <b>5</b> | <b>4</b> | <b>34</b> | <b>11</b> | <b>9</b> | <b>118</b> |

Country and Metropolitan users 2008

### SMALL BUSINESS

In addition to individuals, any retail client who has a problem with his or her insurance broker or intermediary concerning a general

or life insurance product can contact IBD. "Retail client" includes any small business operation, which employs less than 100 people if it is or includes being a manufacturer of goods, otherwise 20 people. The graph below shows the numbers of small business disputants compared with individuals in 2005, 2006, 2007 and 2008.



Individual and Small Business Users

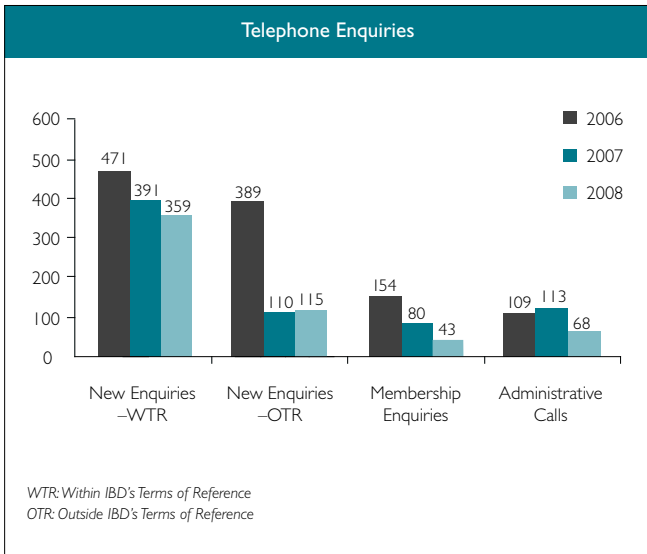
IBD continued to be predominantly used by individuals, even when the limit for small business disputes was increased from \$5,000 to \$100,000 in May 2007.

### TELEPHONE ENQUIRIES

As noted in section 3 of this Annual Report, callers to our 1300 78 08 08 number reach the central telephone inquiry area of the Financial Ombudsman Service (FOS). FOS then transfer callers to IBD if that is the most appropriate scheme to handle their query or complaint.

During the reporting period, IBD recorded a total of 649 telephone calls, 474 of which were new enquiries, and 359 of which were within IBD's Terms of Reference.

This equates to a monthly average of 54 calls of which, on average, 40 were new enquiries. Compared to the last reporting period, the total calls decreased by 16.3% and new enquiries by 5.4%.

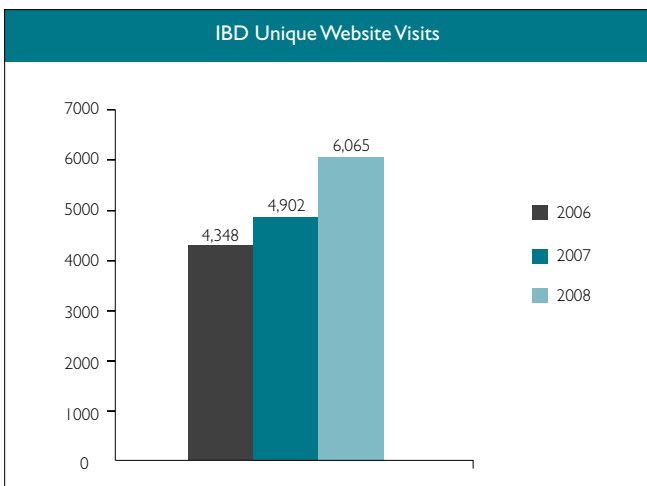


Telephone Enquiries

#### WEBSITE USAGE

Unique visits to IBD via its website ([www.ibdltd.com.au](http://www.ibdltd.com.au)) grew in 2008, with 6,065 hits recorded in the reporting period. The graph below shows the continued growth in hits since 2006.

Since the merger with FOS on 1 January 2009, IBD's unique website has been closed and all information, including old Annual Reports and Summary of Determinations of IBD and the former IBDF have been transferred to FOS website [www.fos.org.au](http://www.fos.org.au). Complainants are encouraged to refer to FOS website for information and to lodge a complaint.

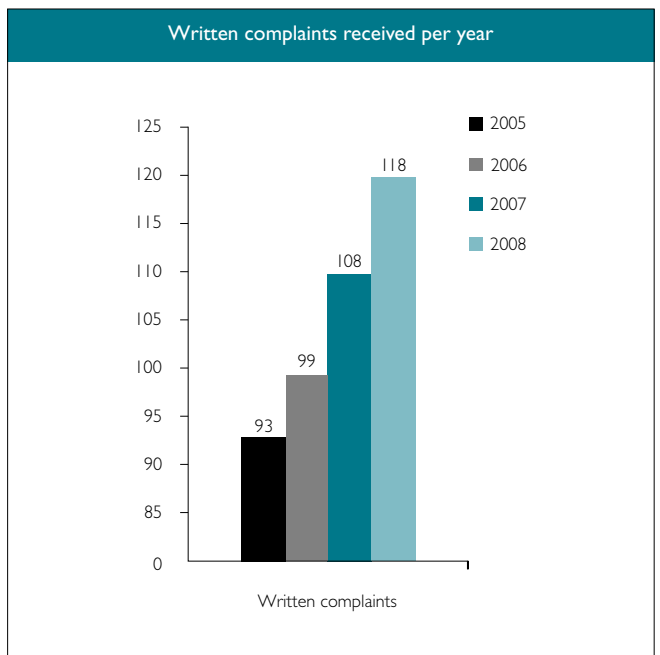


IBD website hits

#### NEW CASES RECEIVED

New cases can be lodged with IBD by email, fax, letter; via a meeting with IBD or through the website, which contains a dispute form that can be completed and submitted on-line. When a written dispute is received by IBD, a new case is opened.

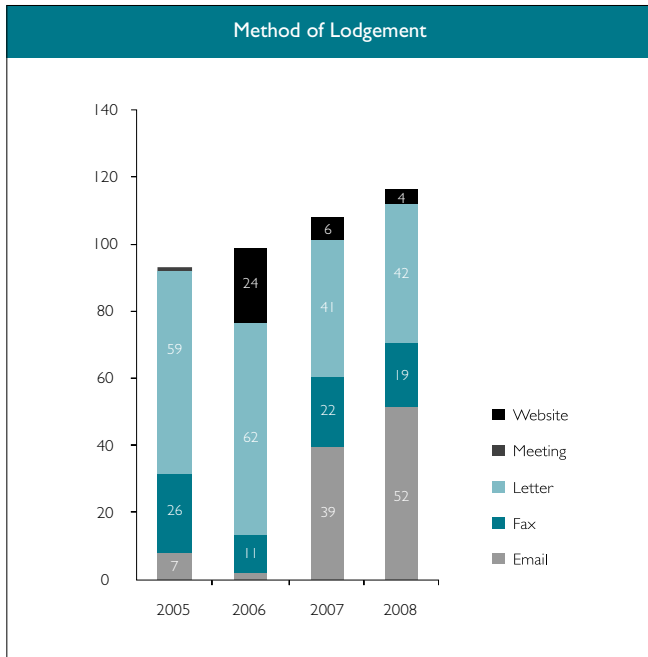
In 2008, IBD received a total of 118 new cases, an increase of 10 (9.3%) on the previous year. The graph below represents the number of new cases received since January 2005.



New Cases Received

#### METHOD OF LODGEMENT

The majority of complaints are still lodged by letter with a large increase in the receipt of complaints by email. In 2008 the number lodged using the website form continued to decrease to 3.4% (from 5.6% in 2007). However, email complaints continued to increase from 39 in 2007 to 52 in 2008.



Method of Lodgement

### OPEN CASES: OUR WORK IN PROGRESS

As at 31 December 2008, IBD had 35 open cases, 9 less than the number of open cases as at 31 December 2007. The table below shows the distribution of open cases at different stages of the IBD process.

| Open Cases - as at 31 December 2008 |           |
|-------------------------------------|-----------|
| With Member for Consideration       | 12        |
| Member Response being Assessed      | 7         |
| Case Manager Investigating          | 13        |
| Finding Issued                      | 2         |
| Determination Issued by Referee     | 1         |
| <b>Total Open Cases</b>             | <b>35</b> |

Distribution of Open Cases at 31 December 2008

### CLOSED CASES

In the current reporting period from 1 January 2008 to 31 December 2008, IBD closed 127 cases, 31 (32.3%) more than the number of closed cases in the previous reporting period.

The investigation process usually involves the Case Manager writing to both the disputant and the broker setting out the complaint and the response and seeking further information from the parties before providing a detailed Finding.

This process was introduced in response to the Independent Review of IBD conducted in 2005. The Reviewer noted in his report that such a process would result in it taking longer to resolve disputes. However, the more detailed findings provided by the Case Manager to the consumer is one reason why fewer cases have been referred to the Referee for a Determination during the reporting period, as the consumer was satisfied with the information provided in the finding.

The table below shows a summary of the outcome of the closed cases compared with the same data from 2007. This table shows a significant increase in the percentage of cases that were resolved by the member without referral to a Case Manager. The percentage of cases that were resolved after referral to the Referee did not vary from 2007.

| Closed Outcomes                       | 2008       | % of total | 2007      | % of total |
|---------------------------------------|------------|------------|-----------|------------|
| Closed without referral to member     | 12         | 9.45       | 22        | 22.92      |
| Closed after referral to member       | 65         | 51.18      | 32        | 33.33      |
| Closed after referral to Case Manager | 31         | 24.41      | 28        | 29.17      |
| Closed after referral to Referee      | 19         | 14.96      | 14        | 14.58      |
| <b>Total</b>                          | <b>127</b> |            | <b>96</b> |            |

Closed Cases

## CASE OUTCOMES

### *Cases closed without formal referral to the broker*

In 2008, 12 cases were closed without being formally referred to the broker. These included two cases assessed by IBD as outside the Terms of Reference.

The remaining 115 cases were formally referred to the relevant broker for its response.

### *Cases closed following a formal referral to the broker*

Out of the 115 cases formally referred to the broker, 49 cases were resolved after IBD facilitated settlement between the parties. Another eight cases were either discontinued, withdrawn by the disputant or the disputant failed to respond to a request for further information. Three cases were assessed to be Outside Terms of Reference at this stage and five were referred to other bodies.

The remaining 50 cases were investigated by an IBD Case Manager.

### *Cases closed after referral to the Case Manager*

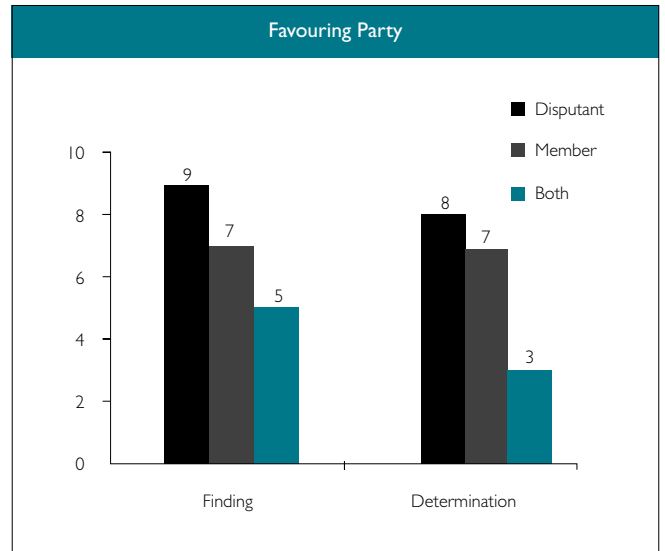
During the Case Manager's investigation five cases were discontinued because the disputants did not respond to a request for further information. Two cases were resolved after IBD facilitated settlement between the parties. Two cases were withdrawn by the disputant.

Of the remaining 41 cases, 21 cases were resolved after the Case Manager issued a Finding on the merits of the dispute. Nine Findings were issued favouring the disputant, seven favouring the member and five favouring both. One case was referred to another body.

### *Cases closed after referral to the Referee*

There were 19 cases where the Case Manager's Finding was rejected by either or both of the parties and each of these cases was referred to the Referee.

The Referee issued 18 Determinations, eight favouring the disputant, seven favouring the member and three Determinations favouring both. One dispute was discontinued due to the disputant failing to respond to a request for further information.



*Favouring Party – Cases Investigated*

The overall spread of case outcomes is shown graphically in the table above.

### *Information about disputes outside IBD's Terms of Reference*

The Terms of Reference define IBD's jurisdiction to consider disputes and there are some disputes that it cannot consider and are considered to be outside our Terms of Reference (**OTR**). For example, OTR cases include cases that are more appropriately dealt with in another forum, where the claim amount may be too high, the business does not fall within the small business definition of IBD's Terms of Reference, the product is not covered by IBD's Terms of Reference or legal action may have commenced.

Of the 127 cases closed in 2008, five were found to be OTR. The reasons are as set out in the table below.

| OTR Reasons                |          |
|----------------------------|----------|
| Large Business             | 2        |
| Product not covered by IBD | 3        |
| <b>Total</b>               | <b>5</b> |

*OTR Cases*



## CASE RESOLUTION TIMES

The case resolution time is determined from the date that the case is referred to the broker until the date that it is closed. It includes the time taken for the disputant to return a written authority and any "appeal" period, when the case is provisionally closed.

In 2008, the median number of days taken to resolve closed cases was 91 days.

The table below shows the length of time that it took to resolve the cases closed (excluding cases that were discontinued or outside the Terms of Reference) in the reporting period, compared to 2006 and 2007.

|                                       | 2006      | 2007      | 2008       |
|---------------------------------------|-----------|-----------|------------|
| Less than 7 days                      | 6         | 13        | 1          |
| 7 days to less than 15 days           | 5         | 5         | 1          |
| 15 days to less than 30 days          | 6         | 10        | 13         |
| 30 days to less than 60 days          | 16        | 14        | 43         |
| 60 days to less than 90 days          | 16        | 5         | 17         |
| 90 days and over                      | 34        | 49        | 52         |
| <b>All Cases Closed in the Period</b> | <b>83</b> | <b>96</b> | <b>127</b> |

*Case resolution times*

## PRODUCTS AND PROBLEMS

IBD's activities cover a range of products including motor vehicle, home buildings and contents, sickness and accident, life, consumer credit, travel, personal and domestic property and small business policies.

Cases are classified in CIMS in accordance with:

- the product or service provided by the broker to the complainant; and
- the problem with the product or service, as reported by the complainant.

The following two tables show the major products and main problems for the cases closed after referral to the broker for investigation. Note that there can be more than one product or problem involved in any one case.

|                                      | 2006      |               | 2007       |               | 2008       |               |
|--------------------------------------|-----------|---------------|------------|---------------|------------|---------------|
| Business pak electronics             | 1         | 1.20          | 0          | 0.00          | 0          | 0.00          |
| Business pak                         | 11        | 13.25         | 11         | 10.89         | 15         | 11.45         |
| Business pak burglary                | 3         | 3.61          | 1          | 0.99          | 5          | 3.82          |
| Business pak business interruption   | 0         | 0.00          | 0          | 0.00          | 1          | 0.76          |
| Business pak electronics             | 0         | 0.00          | 1          | 0.99          | 0          | 0.00          |
| Business pak fire & perils           | 0         | 0.00          | 2          | 1.98          | 1          | 0.76          |
| Business pak glass                   | 1         | 1.20          | 0          | 0.00          | 0          | 0.00          |
| Business pak machinery breakdown     | 0         | 0.00          | 1          | 0.99          | 1          | 0.76          |
| Business pak money                   | 0         | 0.00          | 0          | 0.00          | 0          | 0.00          |
| Business pak personal accident       | 0         | 0.00          | 0          | 0.00          | 0          | 0.00          |
| Business pak public liability        | 1         | 1.20          | 1          | 0.99          | 1          | 0.76          |
| Contractors Risk Insurance           | 0         | 0.00          | 0          | 0.00          | 4          | 3.05          |
| Farm                                 | 1         | 1.20          | 2          | 1.98          | 1          | 0.76          |
| Home and contents                    | 9         | 10.84         | 16         | 15.84         | 10         | 7.63          |
| Income Protection                    | 4         | 4.82          | 2          | 1.98          | 1          | 0.76          |
| Industrial Special Risk              | 0         | 0.00          | 0          | 0.00          | 0          | 0.00          |
| Life                                 | 0         | 0.00          | 1          | 0.99          | 3          | 2.29          |
| Livestock                            | 0         | 0.00          | 1          | 0.99          | 0          | 0.00          |
| Marine                               | 0         | 0.00          | 2          | 1.98          | 4          | 3.05          |
| Motor vehicle commercial             | 2         | 2.41          | 4          | 3.96          | 9          | 6.87          |
| Motor vehicle extended warranty      | 15        | 18.07         | 18         | 17.82         | 24         | 18.32         |
| Motor vehicle private                | 12        | 14.46         | 8          | 7.92          | 11         | 8.40          |
| Other                                | 1         | 1.20          | 5          | 4.95          | 5          | 3.82          |
| Personal Accident & Sickness         | 6         | 7.23          | 2          | 1.98          | 2          | 1.53          |
| Pleasure Craft                       | 0         | 0.00          | 2          | 1.98          | 1          | 0.76          |
| Professional Indemnity               | 2         | 2.41          | 3          | 2.97          | 4          | 3.05          |
| Public Liability                     | 7         | 8.43          | 4          | 3.96          | 5          | 3.82          |
| Relocation Insurance                 | 0         | 0.00          | 0          | 0.00          | 10         | 7.63          |
| Strata Title/Landlord                | 5         | 6.02          | 9          | 8.91          | 10         | 7.63          |
| Superannuation                       | 0         | 0.00          | 0          | 0.00          | 0          | 0.00          |
| Travel                               | 0         | 0.00          | 5          | 4.95          | 3          | 2.29          |
| Workers Compensation                 | 2         | 2.41          | 0          | 0.00          | 0          | 0.00          |
| <b>Number of 'Products' Reported</b> | <b>83</b> | <b>100.00</b> | <b>101</b> | <b>100.00</b> | <b>131</b> | <b>100.00</b> |

*Product Types*

|                                      | 2006      |               | 2007       |               | 2008       |               |
|--------------------------------------|-----------|---------------|------------|---------------|------------|---------------|
| Cancellation/refund                  | 6         | 7.2%          | 14         | 13.9%         | 19         | 14.5%         |
| Cancellation/refund commission issue | 2         | 2.4%          | 3          | 3.0%          | 1          | 0.8%          |
| Cancellation/refund funding issue    | 7         | 8.4%          | 2          | 2.0%          | 1          | 0.8%          |
| Cancellation/refund time issue       | 3         | 3.6%          | 0          | 0.0%          | 3          | 2.3%          |
| Claim                                | 7         | 8.4%          | 24         | 23.8%         | 18         | 13.7%         |
| Claim settlement issue               | 12        | 14.5%         | 7          | 6.9%          | 14         | 10.7%         |
| Claim time issue                     | 4         | 4.8%          | 2          | 2.0%          | 14         | 10.7%         |
| Cover                                | 17        | 20.5%         | 31         | 30.7%         | 43         | 32.8%         |
| Excess                               | 2         | 2.4%          | 0          | 0.0%          | 3          | 2.3%          |
| Fee from broker                      | 3         | 3.6%          | 1          | 1.0%          | 3          | 2.3%          |
| Fraud                                | 1         | 1.2%          | 2          | 2.0%          | 0          | 0.0%          |
| New business                         | 4         | 4.8%          | 3          | 3.0%          | 0          | 0.0%          |
| Non disclosure                       | 2         | 2.4%          | 1          | 1.0%          | 0          | 0.0%          |
| Non disclosure conviction            | 2         | 2.4%          | 1          | 1.0%          | 2          | 1.5%          |
| Other                                | 0         | 0.0%          | 4          | 4.0%          | 2          | 1.5%          |
| Premium Funding                      | 1         | 1.2%          | 0          | 0.0%          | 0          | 0.0%          |
| Premium level                        | 0         | 0.0%          | 1          | 1.0%          | 2          | 1.5%          |
| Professionalism                      | 3         | 3.6%          | 3          | 3.0%          | 1          | 0.8%          |
| Renewal                              | 4         | 4.8%          | 1          | 1.0%          | 2          | 1.5%          |
| Renewal not received                 | 1         | 1.2%          | 0          | 0.0%          | 1          | 0.8%          |
| Renewal time issue                   | 1         | 1.2%          | 0          | 0.0%          | 1          | 0.8%          |
| Value (agreed/market)                | 1         | 1.2%          | 1          | 1.0%          | 1          | 0.8%          |
| <b>Number of 'Problems' Reported</b> | <b>83</b> | <b>100.0%</b> | <b>101</b> | <b>100.0%</b> | <b>131</b> | <b>100.0%</b> |

#### Problem Types

The top two product groups in terms of the number of complaints received were Motor Vehicle Extended Warranty (18.32%), and Business Pak (11.45%).

#### SYSTEMIC ISSUES

In addition to investigating and resolving individual disputes, IBD has a broader role in identifying systemic issues and cases of serious misconduct. ASIC's *Policy Statement 139* (PS 139) formalises this role. As a scheme approved under PS 139, IBD must:

- Identify systemic issues and cases of serious misconduct that arise from the consideration of disputes;
- Refer any identified matters back to the member for response and action; and
- Provide quarterly reports to ASIC about systemic issues and cases of serious misconduct.

A systemic issue is one that has been raised in a dispute or several disputes to IBD, which will affect a class of people, in addition to those who have complained to IBD. Several disputes of the same type may indicate a systemic problem.

However, an issue may also be identified out of the consideration of one single dispute where the effect of the issue will clearly extend beyond the parties to the dispute.

Serious misconduct is a broad term that includes fraudulent conduct, grossly negligent or inefficient conduct, and wilful or flagrant breaches of relevant laws and codes of practice.

In the period 1 January 2008 to 31 December 2008, no systemic issues were identified.

IBD continues to monitor whether members have adequate procedures in place for dealing with complaints internally, in particular whether they provide the client with written information and advice concerning the member's own internal dispute resolution procedures and the services provided by IBD once a possible complaint/problem has been noted.

## VALUE OF COMPLAINTS

Some cases, such as those already involved in legal proceedings, cannot be handled by IBD.

Prior to 1 May 2007, IBD was unable to consider disputes involving claims of more than \$50,000 for individual disputes and \$5,000 for small business disputes, except where the insurance broker or financial service provider and its professional indemnity insurer agreed to waive this limit.

A consumer also has the right to confirm in writing that he or she will waive that amount of the claim which is above these limits to enable IBD to handle the complaint.

These limits increased to \$100,000 in all cases from 1 May 2007.

Despite that increase, the majority of complaints (80 per cent) had a value of \$10,000 or less. There was only one complaint in excess of \$100,000, and nine complaints with a value between \$50,000 and \$100,000 (in comparison to four in 2007).

|                       | 2006 | 2007 | 2008 |
|-----------------------|------|------|------|
|                       | %    | %    | %    |
| Less than \$1,000     | 43.4 | 50.0 | 49.2 |
| \$1,001 to \$5,000    | 33.3 | 25.9 | 16.1 |
| \$5,001 to \$10,000   | 4.0  | 6.5  | 15.3 |
| \$10,001 to \$50,000  | 16.2 | 13.9 | 11.0 |
| \$50,001 to \$100,000 | 1.0  | 3.7  | 7.6  |
| \$100,000 +           | 2.0  | 0.0  | 0.8  |

*Value of Claims*

## OTHER ACTIVITIES

During the reporting period IBD participated in the Consumer Conference held in Sydney.

Case Manager Michael Wells attended the National Insurance Brokers' Association ("NIBA") Conference in Broadbeach and the Steadfast Conference in Adelaide.

IBD continued to monitor the standards contained in the Insurance Brokers Code of Practice under their agreement with NIBA. The Code applies automatically to all NIBA Members. Non-NIBA Members can apply to NIBA via IBD to subscribe to the Code. IBD is of the view that the Code represents good industry practice and the role of Code Monitor is consistent with IBD's objectives to ensure that good industry standards are achieved and maintained.

Code standards will be monitored through the consideration of disputes and by conducting random audits.

## PARTICIPATING MEMBERS

| Members as at 31 December 2008        |            |               |
|---------------------------------------|------------|---------------|
| Extended Warranty                     | 6          | 0.7%          |
| Financial Planner                     | 4          | 0.5%          |
| General & Foreign Broker              | 71         | 8.8%          |
| General & Life broker                 | 40         | 5.0%          |
| General & Super Broker                | 2          | 0.2%          |
| General Broker                        | 614        | 76.1%         |
| General, Life & Foreign Broker        | 6          | 0.7%          |
| General, Super & Life Broker          | 30         | 3.7%          |
| General, Super, Life & Foreign Broker | 13         | 1.6%          |
| Life Broker                           | 1          | 0.1%          |
| Super & Life Broker                   | 11         | 1.4%          |
| Superannuation Broker                 | 2          | 0.2%          |
| Underwriting Agency                   | 7          | 0.9%          |
| <b>Total</b>                          | <b>807</b> | <b>100.0%</b> |

### *Members*

As noted in the table above there were 807 members as at 31 December 2008. Almost 90% of members provided general broker, general and life, or general and foreign broker services.



LEVEL 12, 31 QUEEN STREET MELBOURNE VIC 3000  
TOLL-FREE: 1300 78 08 08 FACSIMILE: 03 9613 6399  
[info@fos.org.au](mailto:info@fos.org.au) [www.fos.org.au](http://www.fos.org.au)