

Chapter 1

Treating complainants fairly

1.1 Purpose and application

Purpose

1.1.1 **G** This chapter contains *rules* and *guidance* on how *respondents* should deal promptly and fairly with *complaints* in respect of business:

- (1) carried on from establishments in the *United Kingdom*; or
- (2) carried on from establishments in an *EEA State*, in the case of a *TP firm*, a *TA EMI firm*, a *TA PI firm* or a *TA RAISP firm* with respect to services provided into the *United Kingdom*; or
- (3) carried on in *Great Britain*, in respect of *regulated claims management activities*, (see ■ PERG 2.4A).

1.1.1A **G** This chapter is also relevant to those who may wish to make a *complaint* or refer it to the *Financial Ombudsman Service*.

Background

1.1.2 **G** Details of how this chapter applies to each type of *respondent* are set out below. For this purpose, *respondents* include:

- (1) *persons* carrying on *regulated activities (firms)*, providing *payment services (payment service providers)* providing *electronic money issuance services (electronic money issuers)* carrying on *CBTL business (CBTL firms)*, providing *credit information* under the *Small and Medium Sized Business (Credit Information) Regulations (designated credit reference agencies)*, or providing *specified information* under the *Small and Medium Sized Business (Finance Platforms) Regulations (designated finance platforms)* and which are covered by the *Compulsory Jurisdiction*; and
- (2) [deleted]
- (3) *persons* who have opted in to the *Voluntary Jurisdiction (VJ participants)*.

Application to firms

1.1.3 **R** (-1) This chapter applies to a *TP firm*. This *rule* demonstrates the contrary intention under ■ GEN 2.2.26R.

- (1) Subject to ■ DISP 1.1.5 R, this chapter applies to a *firm* in respect of *complaints* from *eligible complainants* concerning activities carried on from an establishment maintained by it or its *appointed representative*:
 - (a) in the *United Kingdom*; or
 - (b) in an *EEA State*, in the case of a *TP firm* with respect to services provided into the *United Kingdom*.
- (1A) This chapter also applies to a *firm* in respect of *complaints* from *eligible complainants* concerning activities which are, or which are ancillary to, *regulated claims management activities*.
- (2) For the *MiFID complaints* of a *MiFID investment firm*:
 - (a) ■ DISP 1.1A applies; and
 - (b) the other provisions of this chapter apply only as set out in ■ DISP 1.1A.
 - (c) [deleted]
- (2A) For the *MiFID complaints* of a *third country investment firm* received from *retail clients* or *elective professional clients*:
 - (a) ■ DISP 1.1A applies; and
 - (b) the other provisions of this chapter apply only as set out in ■ DISP 1.1A.
- (3) [deleted]
- (4) [deleted]

1.1.3A D The *complaints reporting directions* apply to a *firm* that provides *payment services* or issues *electronic money* in respect of:

- (1) *complaints* from *payment service users*; and
- (2) *complaints* from *electronic money* holders that are *eligible complainants*

concerning activities carried on from an establishment maintained by the *firm* in the *United Kingdom* (or in an *EEA State*, in the case of a *TP firm* with respect to services provided into the *United Kingdom*).

1.1.4 R Where a *firm* has outsourced activities to a *third party processor*, ■ DISP 1.1.3 R does not apply to the *third party processor* when acting as such, but applies to the *firm* which is taking responsibility for the acts and omissions of the *third party processor* in respect of the outsourced activities.

1.1.5 R This chapter does not apply to:

- (1) [deleted]
- (2) [deleted]

- (3) an *authorised professional firm* in respect of expressions of dissatisfaction about its *non-mainstream regulated activities*;
- (3A) a *firm* in respect of *complaints* concerning activities which:
 - (a) are not carried on in *Great Britain* but which would be *regulated claims management activities* if they were carried on in *Great Britain*; or
 - (b) are ancillary to activities described in (a);
- (4) *complaints* in respect of *auction regulation bidding*;
- (5) a *full-scope UK AIFM* or a *small authorised UK AIFM*, for *complaints* concerning *AIFM management functions* carried on for an *AIF* that is a *body corporate* unless it is a *collective investment scheme*;
- (6) a *depository*, for *complaints* concerning activities carried on for an *AIF* that is:
 - (a) a *body corporate* unless it is a *collective investment scheme*; or
 - (b) another type of *AIF* unless it is:
 - (i) an *authorised AIF*; or
 - (ii) an *LTIF*; or
 - (iii) a *charity AIF*; and
- (7) *complaints* in respect of *administering a benchmark*.

- 1.1.5-A G References in ■ DISP 1.1.5 R to a *full-scope UK AIFM* and *small authorised UK AIFM* carrying on *AIFM management functions* for an *AIF* that is a *body corporate* that is not a *collective investment scheme* include *firms* that are *internally managed AIFs*.
- 1.1.5-B G For an activity to amount to a *regulated claims management activity* it must be carried on in *Great Britain* (see ■ PERG 2.4A). The effect of ■ DISP 1.1.3R(1A) and ■ DISP 1.1.5R(3A) is that the application of this chapter to *regulated claims management activities* and activities ancillary to *regulated claims management activities* depends on whether the activity is carried on in *Great Britain* rather than whether it is carried on from an establishment maintained in the *United Kingdom*.
- 1.1.5A R ■ DISP 1.6.2A, ■ DISP 1.6.2B (*rules relating to EMD complaints and PSD complaints*), the *complaints reporting rules*, the *complaints reporting directions* and the *complaints data publication rules* do not apply to a *credit union*.
- 1.1.6 G ■ CRED9 sets out *rules* for *credit unions* in relation to reporting *complaints*.
- 1.1.6A G In relation to a *credit union*, the nature, scale and complexity of the *credit union's* business should be taken into account when deciding the appropriate procedures to put in place for dealing with *complaints*.

1.1.7	R	This chapter applies to the <i>Society, members of the Society and managing agents</i> , subject to the <i>Lloyd's complaint rules</i> .
1.1.8	R	[deleted]
1.1.9	G	[deleted]
1.1.9A	G	<p>The scope of this sourcebook does not include:</p> <ul style="list-style-type: none"> (1) a <i>complaint</i> about pre-commencement investment business which was regulated by a <i>recognised professional body</i> (those <i>complaints</i> will be handled under the arrangements of that professional body); or (2) a <i>complaint</i> about the administration of an <i>occupational pension scheme</i>, because this is not a <i>regulated activity</i> (<i>firms</i> should refer complainants to the <i>Pensions Ombudsman</i> rather than to the Financial Ombudsman Service and should refer consumers' general requests for information or guidance to <i>MoneyHelper</i>).
1.1.10	R	<p>In relation to a <i>firm's</i> obligations under this chapter, references to a <i>complaint</i> also include an expression of dissatisfaction which is capable of becoming a:</p> <ul style="list-style-type: none"> (1) <i>relevant new complaint</i>; (2) <i>relevant transitional complaint</i>; (3) <i>relevant new credit-related complaint</i>; (4) <i>relevant new claims management complaint</i>; or (5) <i>relevant transitional funeral plan complaint</i>. <p>Additional requirements for insurance and reinsurance distribution business in the UK</p>
1.1.10-A	R	<p>Where <i>insurance distribution activities</i> are carried on from an establishment maintained by it or its <i>appointed representative</i> in the <i>United Kingdom</i> (or in an <i>EEA State</i>, in the case of a <i>TP firm</i> with respect to services provided into the <i>United Kingdom</i>), a <i>firm</i> must have in place and operate appropriate and effective procedures for registering and responding to <i>complaints</i> from a <i>person</i> who is not an <i>eligible complainant</i>.</p> <p>[Note: article 14 of the <i>IDD</i>]</p>
1.1.10-B	R	[deleted]
1.1.10A	R	<p>Application to payment services providers that are not firms</p> <p>This chapter (except the <i>complaints reporting rules</i> and the <i>complaints data publication rules</i>) applies to <i>payment service providers</i> that are not <i>firms</i> in respect of <i>complaints</i> from <i>eligible complainants</i> concerning activities carried</p>

on from an establishment maintained by that *payment service provider* or its *agent* in the *United Kingdom* (or in an *EEA State*, in the case of a *TA PI firm* or a *TA RAISP firm* with respect to services provided into the *United Kingdom*).

1.1.10AB **D** The *complaints reporting directions* apply to a *payment service provider* that is not a *firm* in respect of *complaints* from *payment service users* concerning activities carried on from an establishment maintained by that *payment service provider* or its *agent* in the *United Kingdom* (or in an *EEA State*, in the case of a *TA PI firm* or a *TA RAISP firm* with respect to services provided into the *United Kingdom*).

1.1.10B **G** (1) In this sourcebook, the term *payment service provider* does not include *credit institutions* (which are covered by this sourcebook as *firms*), but it does include *small electronic money institutions* and *registered account information service providers*.

(2) [deleted]

Application to electronic money issuers that are not firms

1.1.10C **R** This chapter (except the *complaints reporting rules*, and the *complaints data publication rules*) applies to an *electronic money issuer* that is not a *firm* in respect of *complaints* from *eligible complainants* concerning activities carried on from an establishment maintained by that *electronic money issuer* or its *agent* in the *United Kingdom* (or in an *EEA State*, in the case of a *TA EMI firm* with respect to services provided into the *United Kingdom*).

1.1.10CA **D** The *complaints reporting directions* apply to an *electronic money issuer* that is not a *firm* in respect of *complaints* from *eligible complainants* concerning activities carried on from an establishment maintained by that *electronic money issuer* or its *agent* in the *United Kingdom* (or in an *EEA State*, in the case of a *TA EMI firm* with respect to services provided into the *United Kingdom*).

1.1.10D **G** (1) In this sourcebook, the term *electronic money issuer* does not include *credit institutions*, *credit unions* or municipal banks (which will be carrying on a *regulated activity* if they issue *electronic money* and will be covered by this sourcebook as *firms* in those circumstances), but it does include *small electronic money institutions* and *persons* who meet the conditions set out in regulation 75(1) or regulation 76(1) of the *Electronic Money Regulations*.

(2) [deleted]

Application to UCITS management companies

1.1.10E **R** For *complaints* related to *collective portfolio management services* of a *UK UCITS management company* for a *UCITS scheme* or a *scheme* which, immediately before *IP completion day*, was an *EEA UCITS scheme*, ■ DISP 1.1.3R (1) applies, except where modified as follows:

(1) the *consumer awareness rules, complaints handling rules and complaints record rule* apply in respect of *complaints from Unitholders* rather than from *eligible complainants*; and

(2) [deleted]

1.1.10F **R** [deleted]

Application to CBTL firms

1.1.10G **R** This chapter (except the *complaints record rule, the complaints reporting rules and the complaints data publication rules*) applies to *CBTL firms* in respect of *complaints from eligible complainants* concerning activities carried on from an establishment maintained in the *United Kingdom*.

1.1.10H **G** (1) In this sourcebook, the term *CBTL firm* does not include a *firm*. A *firm* carrying on *CBTL business* is covered by this sourcebook as a *firm*.

(2) *CBTL firms* are reminded of their obligation to retain information relevant to demonstrating the firm's compliance or non-compliance with the requirements of Schedule 2 to the *MCD Order*.

Application to designated credit reference agencies

1.1.10I **R** This chapter (except the *complaints record rule, the complaints reporting rules and the complaints data publication rules*) applies to a *designated credit reference agency* in respect of *complaints from eligible complainants* concerning activities carried on from an establishment maintained by it or its *agent* in the *United Kingdom*.

1.1.10J **G** Although *designated credit reference agencies* are not required to comply with the *complaints record rule*, they must retain records in accordance with regulation 24 of the *Small and Medium Sized Business (Credit Information) Regulations* and these can be used to assist the *Financial Ombudsman Service* should this be necessary.

Application to designated finance platforms

1.1.10K **R** This chapter (except the *complaints record rule, the complaints reporting rules, and the complaints data publication rules*) applies to a *designated finance platform* in respect of *complaints from eligible complainants* concerning activities carried on from an establishment maintained by it or its *agent* in the *United Kingdom*.

1.1.10L **G** Although *designated finance platforms* are not required to comply with the *complaints record rule*, they must retain records in accordance with regulation 21 of the *Small and Medium Sized Business (Finance Platforms) Regulations* and these can be used to assist the *Financial Ombudsman Service* should this be necessary.

Application to firms in relation to a relevant motor finance discretionary commission arrangement complaint

1.1.10M

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In relation to a *relevant motor finance DCA complaint*:

(1) ■ DISP 1.6; and

(2) ■ DISP 1.9,

apply as modified by ■ DISP App 5 (Relevant motor finance discretionary commission arrangement complaint handling rules).

1.1.10N

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■ DISP App 5 contains *complaint handling rules* in respect of a *relevant motor finance DCA complaint*.

FSAVC Review

1.1.11

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Where the subject matter of a *complaint* is subject to a review directly or indirectly under the terms of the policy statement for the review of specific categories of *FSAVC* business issued by the *FSA* on 28 February 2000, the *complaints resolution rules*, the *complaints time limit rules*, the *complaints record rule*, the *complaints reporting rules* and the *complaints data publication rules* will apply only if the *complaint* is about the outcome of the review.

Consumer redress schemes

1.1.11A

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Where the subject matter of a *complaint* falls to be dealt with (or has properly been dealt with) under a *consumer redress scheme*, the *complaints resolution rules*, the *complaints time limits rules*, the *complaints record rule* and the *complaints reporting rules* do not apply.

Exemptions for firms, payment service providers, electronic money issuers, designated credit reference agencies and designated finance platforms

1.1.12

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(1) A *firm*, *payment service provider*, *electronic money issuer*, *designated credit reference agency* or *designated finance platform* falling within the *Compulsory Jurisdiction* which does not conduct business with *eligible complainants* and has no reasonable likelihood of doing so, can, by written notification to the *FCA*, claim exemption from the *rules* relating to the funding of the *Financial Ombudsman Service*, and from the remainder of this chapter.

(2) Notwithstanding (1):

(a) ■ DISP 1.1A will continue to apply to *MiFID complaints*; and

(b) the *consumer awareness rules*, the *complaints handling rules* and the *complaints record rule* will continue to apply in respect of *complaints* concerning the provision of *collective portfolio management services*.

(3) The exemption takes effect from the date on which the written notice is received by the *FCA* and will cease to apply when the conditions relating to the exemption no longer apply.

1.1.13 **G** ■ SUP 15.6 refers to and contains requirements regarding the steps that *firms* must take to ensure that information provided to the *FCA* is accurate and complete. Those requirements apply to information submitted to the *FCA* under this chapter.

Application to VJ participants

1.1.14 **R**

1.1.15 **R** This chapter (except the *complaints record rule*, the *complaints reporting rules* and the *complaints data publication rules*) applies to *VJ participants* for *complaints* from *eligible complainants* as part of the *standard terms*.

1.1.16 **G** Although *VJ participants* are not required to comply with the *complaints record rule*, it is in their interest to retain records of *complaints* so that these can be used to assist the *Financial Ombudsman Service* should it be necessary.

1.1.17 **R**

1.1.18 **G**

Outsourcing of complaint handling

1.1.19 **G**

- (1) This chapter does not prevent:
 - (a) the use by a *respondent* of a third party administrator to handle or resolve *complaints* (or both); or
 - (b) two or more *respondents* arranging a one-stop shop for handling or resolving *complaints* (or both) under a service level agreement.
- (2) These arrangements do not affect *respondents'* obligations as set out in *DISP* or the provisions relating to *outsourcing* by a *firm* set out in ■ SYSC 8 and ■ SYSC 13.

1.1.20 **G** Further *guidance* on the application of this chapter is set out in the table in ■ DISP 1 Annex 2.