

**COMPLAINTS SOURCEBOOK (CONSUMER CREDIT RULES)
INSTRUMENT 2006**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers);
 - (3) section 226 (Compulsory jurisdiction);
 - (4) section 234 (Industry Funding);
 - (5) paragraph 13 of Schedule 17 (The Ombudsman Scheme); and
 - (6) section 157 (Guidance)
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 April 2007.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Dispute Resolution: Complaints sourcebook (DISP) is amended in accordance with Annex B to this instrument.
- F. The Fees manual (FEES) is amended in accordance with Annex C to this instrument.

Citation

- G. This instrument may be cited as the Complaints Sourcebook (Consumer Credit Rules) Instrument 2006.

By order of the Board:

23 November 2006

Annex A

Amendments to the Glossary of definitions

In this Annex, any definition which is not underlined is an existing definition also hereby made for the purpose of the Compulsory Jurisdiction.

consumer credit activity

any one of the following activities carried on by a *licensee* or *firm*:

- (a) providing credit or otherwise being a creditor under a *regulated consumer credit agreement*;
- (b) the bailment or (in Scotland) the hiring of goods or otherwise being an owner under a *regulated consumer hire agreement*;
- (c) credit brokerage in so far as it is the effecting of introductions of:
 - (i) individuals desiring to obtain credit to persons carrying on a consumer credit business; or
 - (ii) individuals desiring to obtain goods on hire to persons carrying on a consumer hire business;
- (d) in so far as they relate to *regulated consumer credit agreements* or *regulated consumer hire agreements*;
 - (i) debt-adjusting;
 - (ii) debt-counselling;
 - (iii) debt-collecting; or
 - (iv) debt administration;
- (e) the provision of credit information services; or
- (f) the operation of a credit reference agency;

where at the time of the act or omission complained of:

- (g) the *licensee* or *firm* was:
 - (i) covered by a standard licence under the Consumer Credit Act 1974 (as amended); or
 - (ii) authorised to carry on an activity by virtue of section 34(A) of that Act; and
- (h) the activity was carried on in the course of a business of a type specified in accordance with section 226A(2)(e) of the *Act*;

and expressions used in the Consumer Credit Act 1974 (as amended) have the same meaning in this definition as they have in that Act.

regulated consumer credit agreement

in accordance with section 8 of the Consumer Credit Act 1974 (as amended) an agreement between an individual "the debtor" and any other person "the creditor" by which the creditor provides the debtor with credit of any amount and which is not an exempt agreement for the purposes of that Act;

and expressions used in that Act have the same meaning in this definition.

regulated consumer hire agreement

in accordance with section 15 of the Consumer Credit Act 1974 (as amended) an agreement made by a person with an individual "the hirer" for the bailment or (in Scotland) the hiring of goods to the hirer, being an agreement which

- (a) is not a hire-purchase agreement, and
- (b) is capable of subsisting for more than three months, and
- (c) is not an exempt agreement;

and expressions used in that Act have the same meaning in this definition.

Annex B

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

2.4.3 R ...

(2) The following are not *eligible complainants*:

- (a) (in the *Compulsory Jurisdiction*), an individual, business, charity or trustee, who was an *intermediate customer* or *market counterparty* in relation to the *firm* in question at the time of the act or omission, and in respect of the activity, which is the subject of the complaint;
- (b) (in the *Compulsory Jurisdiction*, the *Consumer Credit Jurisdiction* and the *Voluntary Jurisdiction*), a *firm*, *licensee* or *VJ participant* whose complaint relates in any way to an activity which the *firm* itself has *permission* to carry on or which the *licensee* or *VJ participant* itself conducts, and which is subject to the *Compulsory Jurisdiction*, the *Consumer Credit Jurisdiction* or the *Voluntary Jurisdiction* of the *Financial Ombudsman Service*

...

2.4.11 R The relationships with the *firm*, *licensee* or *VJ participant* relevant for *DISP* 2.4.10R(2)(a) are:

- (1) the complainant has given the *firm*, *licensee* or *VJ participant* a guarantee or security for a mortgage ~~or~~ loan, actual or prospective *regulated consumer credit agreement*, or an actual or prospective *regulated consumer hire agreement*, or any linked transaction as defined in the Consumer Credit Act 1974 (as amended); or
- (5) ... ~~or~~ or
- (6) the complainant is a *person* about whom information relevant to his financial standing is or was held by the *firm*, *licensee* or *VJ participant* in operating a credit reference agency, as defined by section 145(8) of the Consumer Credit Act 1974 (as amended); or
- (7) the complainant is a *person* from whom the *firm*, *licensee* or *VJ participant* has sought to recover payment under a *regulated consumer credit agreement* or *regulated consumer hire agreement* in carrying on debt-collecting as defined by section 145(7) of the Consumer Credit Act (1974) (as amended).

...

2.6.1 R The *Ombudsman* can consider a complaint under the *Compulsory Jurisdiction* only if it relates to an act or omission by a *firm* in the carrying on of one or more of the following activities (unless the provision described in *DISP 2.6.3G* applies):

...

(6) consumer credit activities;

...

Sch 4.1 G 3 The following powers and related provisions in the *Act* have been exercised by the *FOS Ltd* to make the rules in *DISP*:

...

(7) Section 226A(7) (Consumer Credit Jurisdiction)

(8) Section 229 (Awards)

(9) Schedule 17 paragraph 16B,D

4.2	G		Table: The powers to make rules relating to the new ombudsman scheme are shared between the <i>FSA</i> and the <i>Financial Ombudsman Service (FOS Ltd)</i> . <i>FOS Ltd's</i> rules are subject to <i>FSA</i> consent or approval. The rules made exclusively by <i>FOS Ltd</i> are:	
			<u>DISP 1</u>	<u>1.1.1 BR</u>
				<u>1.1.1 DR</u>
			DISP 2	2.6.9R
				2.6.11R
				<u>2.6.8 A-BR</u>

Annex C

Amendments to the Fees manual

In this Annex, underlining indicates new text.

5.2.2

5.2.2 G Section 234 ...

(1) the establishment of the Financial Ombudsman Service

FEES 5 ANNEX 1

...

Part 3: Case fees – firms