PAYMENT SERVICES (TRANSITIONING FIRMS) INSTRUMENT 2009

Powers exercised

A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in or under:

(1) the following provisions of the Financial Services and Markets Act 2000 ("the Act"):

(a) section 157(1) (Guidance);

(b) section 226 (Compulsory Jurisdiction) as applied by regulation 125 (Transitional provisions: the ombudsman scheme) of the Payment Services Regulations 2009 (SI 2009/209) ("the Regulations");

(c) paragraph 13(4) (Authority's procedural rules) of Schedule 17 (The Ombudsman Scheme);

(2) regulation 93 (Guidance) of the Regulations; and

(3) the other powers listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.

B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on 1 November 2009.

Amendments to the Handbook

D. The Dispute Resolution: Complaints sourcebook (DISP) is amended in accordance with the Annex to this instrument.

Citation

E. This instrument may be cited as the Payment Services (Transitioning Firms) Instrument 2009.

By order of the Board
24 September 2009

Annex

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, the text is all new and is not underlined.

TP 1 Transitional provisions

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TP 1.4 Payment Services Regulations 2009 transitioning payment institutions

1 R This TP applies in relation to a *person* who falls within regulation 122(1) (Transitional provisions: requirement to be authorised as a payment institution) or regulation 123(1) (Transitional provisions: requirement to be registered as a small payment institution) of the *Payment Services Regulations* (a "transitioning payment institution").

2 R This TP applies from 1 November 2009 until 30 April 2011.

3 R *DISP* 1 (Treating complainants fairly) applies in relation to a transitioning payment institution as if the transitioning payment institution were a *payment institution*.

4 R The *Ombudsman* can consider a *complaint* that relates to an act or omission by a transitioning payment institution under the *Compulsory Jurisdiction* if:

(1) it could consider that *complaint* under the *Compulsory Jurisdiction* if it related to a *payment institution*; and

(2) (where the transitioning payment institution is a *licensee*) the *complaint* relates to an act or omission in providing *payment services*.

5 G The effect of this transitional provision is to:

(1) apply to transitioning payment institutions as though they were *payment institutions* the complaints-handling requirements in *DISP* 1.1 to *DISP* 1.8; and

(2) to bring them within the scope of the *Compulsory Jurisdiction* to the same extent as *payment institutions*.

6 G *Complaints* relating to *payment services*, *consumer credit activities* or a combination of both can be considered under the *Compulsory Jurisdiction*. However, transitioning payment institutions that are *licensees* will remain subject to the *Consumer Credit Jurisdiction* for *complaints* that relate only to *consumer credit activities*.