

**DISPUTE RESOLUTION (VOLUNTARY JURISDICTION AND SALE AND RENT
BACK AMENDMENTS) INSTRUMENT 2009**

Powers exercised

- A. The Financial Ombudsman Service Limited makes the rules and guidance in the Annex to this instrument for VJ participants relating to the Voluntary Jurisdiction in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000:
- (a) section 227 (Voluntary Jurisdiction);
 - (b) paragraph 14 (the Scheme Operator's rules) of Schedule 17;
 - (c) paragraph 18 (Terms of reference to the scheme) of Schedule 17.
- B. The making of these rules and guidance by the Financial Ombudsman Service Limited is subject to the consent and approval of the Financial Services Authority.

Commencement

- C. This instrument comes into force on 6 February 2010.

Amendments to the Dispute Resolution: Complaints sourcebook

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

Citation

- E. This instrument may be cited as the Dispute Resolution: (Voluntary Jurisdiction and Sale and Rent Back Amendments) Instrument 2009.

By order of the Board of the Financial Ombudsman Service Limited
17 December 2009

ANNEX A

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

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

- 2.5.1 R The *Ombudsman* can consider a *complaint* under the *Voluntary Jurisdiction* if:
- (1) it is not covered by the *Compulsory Jurisdiction* or the *Consumer Credit Jurisdiction*; and
 - (2) it relates to an act or omission by a *VJ participant* in carrying on one or more of the following activities:
 - (a) an activity carried on after 28 April 1988 which:
 - (i) was not a *regulated activity* at the time of the act or omission, but
 - (ii) was a *regulated activity* when the *VJ participant* joined the *Voluntary Jurisdiction* (or became an *authorised person*, if later);
 - (b) a financial services activity carried on after *commencement* by a *VJ participant* which was covered in respect of that activity by a *former scheme* immediately before the *commencement day*;
 - (c) activities which (at 1 July ~~2007~~ 2009) were *regulated activities* or would be *regulated activities* if they were carried on from an establishment in the *United Kingdom* (these activities are listed in *DISP 2 Annex 1G*);
 - (d) activities which would be *consumer credit activities* if they were carried on from an establishment in the *United Kingdom*;
 - (e) lending *money* secured by a charge on land;
 - (f) lending *money* (excluding *restricted credit* where that is not a *consumer credit activity*);
 - (g) paying *money* by a *plastic card* (excluding a *store card* where that is not a *consumer credit activity*);
 - (h) providing ancillary banking services;

- (i) acting as an intermediary for a loan secured by a charge over land;
- (j) acting as an intermediary for *general insurance business* or *long-term insurance business*;
- (k) National Savings and Investments' business;
- (l) activities which (at 1 November 2009) were *payment services* or would be *payment services* if they were carried on from an establishment in the *United Kingdom*;

or any ancillary activities, including advice, carried on by the *VJ participant* in connection with them.

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2 Annex 1 G **Regulated activities for the Voluntary Jurisdiction at 1 July 2007 2009**

This table belongs to DISP 2.5.1R

The activities which (at 1 July ~~2007~~ 2009) were *regulated activities* for the Voluntary Jurisdiction were, in accordance with section 22 of the *Act* (The classes of activity and categories of investment), any of the following activities specified in Part II of the *Regulated Activities Order*:

- (1) *accepting deposits* (article 5);
- (2) *issuing electronic money* (article 9B);
- (3) *effecting contracts of insurance* (article 10(1));
- (4) *carrying out contracts of insurance* (article 10(2));
- (5) *dealing in investments as principal* (article 14);
- (6) *dealing in investments as agent* (article 21);
- (7) *arranging (bringing about) deals in investments* (article 25(1));
- (8) *making arrangements with a view to transactions in investments* (article 25(2));
- (9) *arranging (bringing about) regulated mortgage contracts* (article 25A(1));
- (10) *making arrangements with a view to regulated mortgage contracts* (article 25A(2));
- (11) *arranging (bringing about) a home reversion plan* (article 25B(1));
- (12) *making arrangements with a view to a home reversion plan* (article 25B(2));
- (13) *arranging (bringing about) a home purchase plan* (article 25C(1));
- (14) *making arrangements with a view to a home purchase plan* (article 25C(2));
- (14A) *operating a multilateral trading facility* (article 25D);

- (14B) *arranging (bringing about) a regulated sale and rent back agreement* (article 25E(1));
- (14C) *making arrangements with a view to a regulated sale and rent back agreement* (article 25E(2));
- (15) *managing investments* (article 37);
- (16) *assisting in the administration and performance of a contract of insurance*(article 39A);
- (17) *safeguarding and administering investments* (article 40);
- (18) *sending dematerialised instructions* (article 45(1));
- (19) *causing dematerialised instructions to be sent* (article 45(2));
- (20) *establishing, operating or winding up a collective investment scheme* (article 51(1)(a));
- (21) *acting as trustee of an authorised unit trust scheme* (article 51(1)(b));
- (22) *acting as the depositary or sole director of an open-ended investment company* (article 51(1)(c));
- (23) *establishing, operating or winding up a stakeholder pension scheme* (article 52(a));
- (24) *providing basic advice on a stakeholder product* (article 52B);
- (25) *establishing, operating or winding up a personal pension scheme* (article 52(b));
- (26) *advising on investments* (article 53);
- (27) *advising on regulated mortgage contracts* (article 53A);
- (28) *advising on a home reversion plan* (article 53B);
- (29) *advising on a home purchase plan* (article 53C);
- (29A) *advising on a regulated sale and rent back agreement* (article 53D);
- (30) *advising on syndicate participation at Lloyd's* (article 56);
- (31) *managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's* (article 57);
- (32) *arranging deals in contracts of insurance written at Lloyd's* (article 58);
- (33) *entering into a regulated mortgage contract* (article 61(1));
- (34) *administering a regulated mortgage contract* (article 61(2));
- (35) *entering into a home reversion plan* (article 63B(1));
- (36) *administering a home reversion plan* (article 63B(2));
- (37) *entering into a home purchase plan* (article 63F(1));
- (38) *administering a home purchase plan* (article 63F(2));
- (38A) *entering into a regulated sale and rent back agreement* (article 63J(1));
- (38B) *administering a regulated sale and rent back agreement* (article 63J(2));
- (39) *entering as provider into a funeral plan contract* (article 59);
- (40) *agreeing to carry on a regulated activity* (article 64);

which is carried on by way of business and relates to a *specified investment* applicable to that activity or, in the case of (20), (21), (22) and (23), is carried on in relation to property of any kind.