Dispute resolution: Complaints
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Dispute resolution: Complaints

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Chapter INTRO

Introduction
This part of the FCA Handbook sets out how complaints are to be dealt with by respondents (firms, payment service providers, electronic money issuers, CBTL firms, designated credit reference agencies, designated finance platforms and VJ participants) and the Financial Ombudsman Service.

It refers to relevant provisions in the Act and in transitional provisions made by the Treasury under the Act. It includes rules and directions made by the FCA and rules made (and standard terms set) by FOS Ltd with the consent or approval of the FCA.

The powers to make rules and directions (or set standard terms) relating to firms, payment service providers, electronic money issuers, CBTL firms, designated credit reference agencies, designated finance platforms and VJ participants derive from various legislative provisions; but the rules (and standard terms) have been co-ordinated to ensure that they are identical, wherever possible.

Chapter 1: Treating complainants fairly

Chapter 2 - 4: The Financial Ombudsman Service

Chapter 2 sets out the scope of the Financial Ombudsman Service's two jurisdictions:
- the Compulsory Jurisdiction; and
- the Voluntary Jurisdiction.

The scope of the two jurisdictions is defined by: the type of activity to which the complaint relates; the place where the activity took place; the eligibility of the complainant; and the time limits for referring a complaint to the Financial Ombudsman Service.

Chapter 3 sets out the procedures of the Financial Ombudsman Service, including consideration and determination of complaints and how the Financial Ombudsman Service deals with information received.
Chapter 4 sets out the terms under which VJ participants participate in the Voluntary Jurisdiction.

Appendix 1: FCA’s guidance on handling mortgage-endowment complaints

This appendix contains the FCA’s guidance to firms on handling complaints relating to mortgage endowments.

Appendix 3: FCA’s rules and guidance on handling payment protection insurance complaints

This appendix sets out the approach which firms should use when handling complaints relating to the sale of payment protection contracts.

Financial Ombudsman Service fees

The rules on fees charged in respect of the Financial Ombudsman Service are in Chapter 5 of the Fees manual.
Chapter 1

Treating complainants fairly
1.1 Purpose and application

Purpose

1.1.1 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 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 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 (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 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 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 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 depositary, 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 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 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 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 CREDS 9 sets out rules for credit unions in relation to reporting complaints.

1.1.6A 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.
This chapter applies to the Society, members of the Society and managing agents, subject to the Lloyd's complaint rules.

The scope of this sourcebook does not include:

1. A complaint about pre-commencement investment business which was regulated by a recognised professional body (those complaints will be handled under the arrangements of that professional body); or

2. A complaint about the administration of an occupational pension scheme, because this is not a regulated activity (firms should refer complainants to the Pensions Ombudsman rather than to the Financial Ombudsman Service and should refer consumers' general requests for information or guidance to the Pensions Advisory Service).

In relation to a firm's obligations under this chapter, references to a complaint also include an expression of dissatisfaction which is capable of becoming a relevant new complaint, a relevant transitional complaint, a relevant new credit-related complaint, or a relevant new claims management complaint.

Additional requirements for insurance and reinsurance distribution business in the UK

Where insurance distribution activities are carried on from an establishment maintained by it or its appointed representative 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), a firm must have in place and operate appropriate and effective procedures for registering and responding to complaints from a person who is not an eligible complainant.

[Note: article 14 of the IDD]

Application to payment services providers that are not firms

This chapter (except the complaints reporting rules and the complaints data publication rules) applies to payment service providers that are not firms in respect of complaints from eligible complainants 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 TP firm or a TA RAISP firm with respect to services provided into the United Kingdom).
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).

1.1.10C 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).

1.1.10D 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 [deleted]

1.1.10G Application to CBTL firms

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 (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.

1.1.10I Application to designated credit reference agencies

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 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.

1.1.10K Application to designated finance platforms

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 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.

1.1.11 FSAVC Review

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

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) 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.

Application to VJ participants

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.
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.

### Outsourcing of complaint handling

(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.

Further guidance on the application of this chapter is set out in the table in DISP 1 Annex 2.
1.1A Complaints handling requirements for MiFID complaints

Application: Who? What?

1.1A.1 This section:

(1) applies to the MiFID complaints of a MiFID investment firm and does not apply to complaints that are not MiFID complaints;

(2) also applies to the MiFID complaints of a third country investment firm received from a retail client or an elective professional client but does not apply to complaints that are not MiFID complaints; and

(3) applies certain other provisions in DISP 1 to such complaints.

1.1A.2 For the MiFID complaints of a third country investment firm, the provisions marked “UK” shall apply as rules.

1.1A.3 A MiFID complaint is, amongst other things, a complaint to which article 26 of the MiFID Org Regulation applies, being a complaint about:

(1) the provision of investment services or ancillary services to a client by an investment firm;

(2) the provision of one or more investment services to a client by a CRD credit institution;

(3) selling structured deposits to clients, or advising clients on them, where the sale or advice is provided by an investment firm or a CRD credit institution;

(4) the activities permitted by the UK provisions which implemented article 6(3) of the UCITS Directive when carried on by a collective portfolio management investment firm; and

(5) the activities permitted by the UK provisions which implemented article 6(4) of the AIFMD when carried on by a collective portfolio management investment firm.

[Note: see article 1(1), 1(3) and 1(4) of MiFID, and article 1 of the MiFID Org Regulation]

1.1A.4 A MiFID complaint is also a complaint about the equivalent business of a third country investment firm.

[Note: see articles 39 and 41 of MiFID]
1.1A.5  **GR**  In contrast to the other provisions in ■ DISP 1 which generally apply to complaints from eligible complainants, subject to ■ DISP 1.1A.6R:

(1) the obligations in this section that apply to the MiFID complaints of MiFID investment firms, apply to complaints from “clients” as defined in the UK provisions which implemented MiFID (which includes retail clients, professional clients and (in relation to eligible counterparty business) eligible counterparties; and

(2) the obligations in this section that apply to the MiFID complaints of third country investment firms, apply to complaints from retail clients and elective professional clients.

[Note: see recital (103) and article 4(1)(9) of MiFID for the definition of “client”]

1.1A.6  **R**  (1) Only the provisions in this section marked “UK” and ■ DISP 1.1A.39R apply to a MiFID complaint received from a retail client, professional client or an eligible counterparty that is not an eligible complainant.

(2) But where the retail client, professional client or eligible counterparty is also an eligible complainant, all of the provisions in this section apply.

Application: Where? ................................................................................................................

The table below sets out how ■ DISP 1.1A applies to MiFID complaints relating to:

the activities of a MiFID investment firm carried on from an establishment in the United Kingdom; and

the equivalent business of a third country investment firm where the complaint is received from a retail client or an elective professional client.

[deleted]

[deleted]

Table: Application of DISP 1.1A to the MiFID business of firms in the UK, and the equivalent business of third country investment firms
### Section 1.1A: Complaints handling fairly

#### requirements for MiFID complaints

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<th>(1) Provision</th>
<th>(2) Provision applies to the MiFID business of a firm carried on from an establishment in the UK?</th>
<th>(3) Provision applies to the equivalent third country business of a third country investment firm where the complaint is received from a retail client or an elective professional client?</th>
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Interpretation of this section

1.1A.8 G This section contains a number of provisions marked with the status letters “UK”, which have been selectively reproduced from the MiFID Org Regulation.

1.1A.9 G References in column (1) to a word or phrase used in those provisions marked “UK” have the meaning indicated in column (2) of the table below:

<table>
<thead>
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<td>“complaint”</td>
<td>MiFID complaint</td>
</tr>
<tr>
<td>“investment firm” and “firm”</td>
<td>MiFID investment firm</td>
</tr>
</tbody>
</table>

[Note: for the definition of “client” see recital (103) and article 4(1)(9) of MiFID]

Consumer awareness

1.1A.10 UK Investment firms shall publish the details of the process to be followed when handling a complaint. Such details shall include information about the complaints management policy and the contact details of the complaints management function. This information shall be provided to clients or potential clients, on request, or when acknowledging a complaint.

[Note: article 26(2) of the MiFID Org Regulation]

1.1A.11 R A MiFID investment firm must provide information to eligible complainants, in a clear, comprehensible and easily accessible way, about the Financial Ombudsman Service (including the Financial Ombudsman Service’s website address):

(1) on its website, where one exists; and

(2) if applicable, in the general conditions of its contracts with eligible complainants.
Complaints handling

1.1A.12 UK
Investment firms shall establish, implement and maintain effective and transparent complaints management policies and procedures for the prompt handling of clients’ or potential clients’ complaints.

[Note: first paragraph, article 26(1) of the MiFID Org Regulation]

1.1A.13 UK
The complaints management policy shall provide clear, accurate and up-to-date information about the complaints-handling process. This policy shall be endorsed by the firm’s management body.

[Note: second paragraph, article 26(1) of the MiFID Org Regulation]

1.1A.14 EU
The complaints management policy should be set out in a written document e.g. as part of a general fair treatment policy. It should be made available to all relevant staff of the firm through appropriate internal channels.

[Note: guideline 1(b) and (c) of the Joint Committee Final Report on guidelines for complaints-handling for the securities (ESMA) and banking (EBA) sectors, 27 May 2014, JC 2014 43.]

1.1A.15 EU
The firm’s senior management should be responsible for the implementation of the the Joint Committee Final Report on guidelines for complaints-handling for the securities (ESMA) and banking (EBA) sectors, 27 May 2014, JC 2014 43.

[Note: guideline 1(b) and (c) of the Joint Committee Final Report on guidelines for complaints-handling for the securities (ESMA) and banking (EBA) sectors, 27 May 2014, JC 2014 43.]

1.1A.16 UK
Investment firms shall enable clients and potential clients to submit complaints free of charge.

[Note: article 26(2) of the MiFID Org Regulation]

1.1A.17 UK
Investment firms shall establish a complaints management function responsible for the investigation of complaints. This function may be carried out by the compliance function.

[Note: article 26(3) of the MiFID Org Regulation]

1.1A.18 UK
Investment firms’ compliance function shall analyse complaints and complaints-handling data to ensure that they identify and address any risks or issues.

[Note: article 26(7) of the MiFID Org Regulation]
MiFID complaints should be handled effectively and in an independent manner.

[Note: recital (38) of the MiFID Org Regulation]

Complaints resolution

Once a MiFID complaint has been received by a MiFID investment firm, the firm must:

1. investigate the complaint competently, diligently and impartially, obtaining additional information as necessary;

2. assess fairly, consistently and promptly:
   a. the subject matter of the complaint;
   b. whether the complaint should be upheld;
   c. what remedial action or redress (or both) may be appropriate; and
   d. if appropriate, whether it has reasonable grounds to be satisfied that another respondent may be solely or jointly responsible for the matter alleged in the complaint; and

3. comply promptly with any offer of remedial action or redress accepted by the complainant.

[Note: subject to a few minor changes reflecting its amended application, this provision replicates DISP 1.4.1R(1), (2) and (5).]

Factors that may be relevant in the assessment of a MiFID complaint under DISP 1.1A.20R(2) include the following:

1. all the evidence available and the particular circumstances of the complaint;

2. similarities with other complaints received by the respondent;

3. relevant guidance published by the FCA, other relevant regulators, the Financial Ombudsman Service or former schemes; and

4. appropriate analysis of decisions by the Financial Ombudsman Service concerning similar complaints received by the MiFID investment firm.

[Note: subject to a few minor changes reflecting its amended application, this provision replicates DISP 1.4.2G.]

Where a MiFID complaint against a MiFID investment firm is referred to the Financial Ombudsman Service, the MiFID investment firm must cooperate fully with the Financial Ombudsman Service and comply promptly with any settlements or awards made by it.

[Note: subject to a few minor changes reflecting its amended application, this provision replicates DISP 1.4.4R.]
Complaints resolved by close of the third business day

1.1A.23 R
If a MiFID investment firm resolves a MiFID complaint by close of business on the third business day following the day on which it is received, it may choose to comply with ■ DISP 1.1A.24UK to ■ DISP 1.1A.27G rather than with ■ DISP 1.1A.28R to ■ DISP 1.1A.34G.

1.1A.24 UK
When handling a complaint, investment firms shall communicate with clients or potential clients clearly, in plain language that is easy to understand and shall reply to the complaint without undue delay.

[Note: article 26(4) of the MiFID Org Regulation]

1.1A.25 UK
Investment firms shall communicate the firm’s position on the complaint to clients or potential clients and inform the clients or potential clients about their options, including that they may be able to refer the complaint to an alternative dispute resolution entity, as defined in regulation 4 of the ADR Regulations, or that the client may be able to take civil action.

[Note: article 26(5) of the MiFID Org Regulation. See the ADR Directive.]

1.1A.26 R
The explanation given by MiFID investment firms to clients or potential clients in accordance with ■ DISP 1.1A.25UK must also:

(1) refer to the fact that the complainant has made a MiFID complaint and inform the complainant that the MiFID investment firm now considers the MiFID complaint to have been resolved;

(2) inform the complainant that if, still dissatisfied with the resolution of the MiFID complaint, the complainant may be able to refer it to the Financial Ombudsman Service;

(3) indicate whether or not the respondent consents to waiving the relevant time limits in ■ DISP 2.8.2R or ■ DISP 2.8.7R (Was the complaint referred to the Financial Ombudsman Service in time?) by including the appropriate wording set out in ■ DISP 1 Annex 3R;

(4) provide the website address of the Financial Ombudsman Service; and

(5) refer to the availability of further information on the website of the Financial Ombudsman Service.

[Note: article 13 of the ADR Directive]

1.1A.27 G
The information regarding the Financial Ombudsman Service required to be provided in a communication sent under ■ DISP 1.1A.25UK and referred to in
DISP 1 : Treating complainants fairly

Section 1.1A : Complaints handling fairly

requirements for MiFID complaints

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■ DISP 1.1A.26R should be set out clearly, comprehensibly, in an easily accessible way and prominently within the text of those responses.

[Note: article 13 of the ADR Directive]

Complaints time limits

1.1A.28 R

On receipt of a MiFID complaint, a MiFID investment firm must:

1. send the complainant a prompt written acknowledgement providing early reassurance that it has received the MiFID complaint and is dealing with it; and

2. ensure the complainant is kept informed thereafter of the progress of the measures being taken for the MiFID complaint’s resolution.

[Note: subject to a few minor changes reflecting its amended application, this provision replicates ■ DISP 1.6.1R.]

1.1A.29 UK

When handling a complaint, investment firms shall communicate with clients or potential clients clearly, in plain language that is easy to understand and shall reply to the complaint without undue delay.

[Note: article 26(4) of the MiFID Org Regulation]

1.1A.29 EU

1.1A.30 R

Investment firms shall communicate the firm’s position on the complaint to clients or potential clients and inform the clients or potential clients about their options, including that they may be able to refer the complaint to an alternative dispute resolution entity, as defined in regulation 4 of the ADR Regulations, or that the client may be able to take civil action.

[Note: article 26(5) of the MiFID Org Regulation. See the ADR Directive.]

1.1A.31 R

The explanation given by MiFID investment firms to clients or potential clients in accordance with ■ DISP 1.1A.30UK must also:

1. enclose a copy of the Financial Ombudsman Service’s standard explanatory leaflet;

2. provide the website address of the Financial Ombudsman Service;

3. inform the complainant that if, still dissatisfied with the respondent’s response, the complaint may now be referred to the Financial Ombudsman Service; and

4. indicate whether or not the respondent consents to waiving the relevant time limits in ■ DISP 2.8.2R or ■ DISP 2.8.7R (Was the complaint referred to the Financial Ombudsman Service in time?) by including the appropriate wording set out in ■ DISP 1 Annex 3R.

[Note: article 13 of the ADR Directive]
**DISP 1 : Treating complainants fairly**

### Section 1.1A : Complaints handling

- **1.1A.32** The information regarding the *Financial Ombudsman Service* required to be provided in a *final response* sent under ■ DISP 1.1A.30UK and referred to in ■ DISP 1.1A.31R should be set out clearly, comprehensibly, in an easily accessible way and prominently within the text of those responses.

  [Note: article 13 of the *ADR Directive*]

- **1.1A.33** When assessing a *MiFID investment firm’s response* to a *MiFID complaint*, the *FCA* may have regard to a number of factors, including, the quality of response, as against the above rules, as well as the speed with which it was made.

  [Note: subject to a few minor changes reflecting its amended application, this provision replicates ■ DISP 1.6.8G]

- **1.1A.34** ■ DISP 2.8.1R sets out the circumstances in which the *Ombudsman* can consider a *complaint*, including where eight weeks have elapsed since its receipt by the *MiFID investment firm* and where the *MiFID investment firm* consents (subject to the other requirements of ■ DISP 2.8.1R(4)).

#### Complaints forwarding

- **1.1A.35** ■ DISP 1.7 also applies to a *MiFID complaint* received by a *MiFID investment firm*.

#### Complaints time barring

- **1.1A.36** If a *MiFID investment firm* receives a *MiFID complaint* which is outside the time limits for referral to the *Financial Ombudsman Service* (see ■ DISP 2.8) it may reject the *MiFID complaint* without considering the merits, but must explain this to the complainant in a *final response*.

  [Note: subject to a few minor changes reflecting its amended application, this provision replicates ■ DISP 1.8]

#### Complaints records

- **1.1A.37** Investment firms shall keep a record of the complaints received and the measures taken for their resolution.

  [Note: article 26(1) of the *MiFID Org Regulation*; see also article 72 of the *MiFID Org Regulation* regarding the retention of records]

#### Complaints reporting

- **1.1A.38** Investment firms shall provide information on complaints and complaints-handling to the relevant competent authorities and, where applicable under national law, to an alternative dispute resolution (ADR) entity.

  [Note: article 26(6) of the *MiFID Org Regulation*]

- **1.1A.39** The *complaints reporting rules* also apply to the *MiFID complaints of a firm*, except that the relevant parts of the report which the *firm* must provide to the *FCA* under ■ DISP 1.10.1R must, in relation to *MiFID complaints*, include information about such complaints received from *retail clients*, *professional
clients, and (where relevant) eligible counterparties rather than eligible complainants.

Complaints data publication

1.1A.40 The complaints data publication rules apply to the MiFID complaints of a firm.

1.1A.41 The effect of the complaints data publication rules and DISP 1.1A.37UK is that, for the purposes of complying with those rules, a firm’s complaints data summary should include relevant data about any MiFID complaints received by the firm.

1.1A.42 [deleted]
1.2 Consumer awareness rules

Publishing and providing summary details, and information about the Financial Ombudsman Service

1.2.1 To aid consumer awareness of the protections offered by the provisions in this chapter, respondents must:

(1) publish appropriate information regarding their internal procedures for the reasonable and prompt handling of complaints;

(2) refer eligible complainants to the availability of this information:

(a) in relation to a payment service, in the information on out-of-court complaint and redress procedures required to be provided or made available under regulations 43(2)(e) (Information required prior to the conclusion of a single payment service contract) or 48 (Prior general information for framework contracts) of the Payment Services Regulations; or

(aa) in relation to CBTL arrangers, in the information on registering complaints internally and out-of-court complaint and redress procedures provided under article 7(1)(h) of Schedule 2 to the MCD Order; or

(b) otherwise, in writing at, or immediately after, the point of sale; and

(c) in relation to a payment service, at the branch where the service is provided;

(3) provide such information in writing and free of charge to eligible complainants:

(a) on request; and

(b) when acknowledging a complaint; and

(4) provide information to eligible complainants, in a clear, comprehensible and easily accessible way, about the Financial Ombudsman Service including the Financial Ombudsman Service's website address:

(a) on the respondent’s website, where one exists; and

(b) if applicable, in the general conditions of the respondent's contract with the eligible complainant.

[Note: article 15 of the UCITS Directive, article 13(2) of the ADR Directive, article 14(1) of the ODR Regulation, regulation 19 of the ADR Regulations and article 101 of the Payment Services Directive]
1.2.2 Where the activity does not involve a sale, the obligation in DISP 1.2.1R(2)(b):

(1) shall apply at, or immediately after, the point when contact is first made with an eligible complainant; and

(2) where the respondent is a not-for-profit debt advice body:

(a) may be met at, or immediately after, the point when contact is first made with an eligible complainant, by making an oral reference to the availability of the information if the respondent does not communicate with the eligible complainant in writing then; and

(b) must be met in writing on the first occasion on which the respondent communicates with the eligible complainant in writing.

1.2.2A If an MCD credit intermediary has, before or at the point of sale, provided an eligible complainant with appropriate information in a durable medium about their internal procedures for the reasonable and prompt handling of complaints pursuant to another rule, the MCD credit intermediary need not refer to the availability of that information again under DISP 1.2.1R(2)(b).

1.2.2B [deleted]

1.2.3 The summary details concerning internal complaints handling procedures should cover at least:

(1) how the respondent fulfils its obligation to handle and seek to resolve relevant complaints; and

(2) (where the complaint falls within the jurisdiction of the Financial Ombudsman Service) that, if the complaint is not resolved, the complainant may be entitled to refer it to the Financial Ombudsman Service.

1.2.4 Those summary details may be set out in a leaflet, and their availability may be referred to in contractual documentation.

1.2.5 Respondents may also display or reproduce the Financial Ombudsman Service logo (under licence) in:

(1) branches and sales offices to which eligible complainants have access; or

(2) marketing literature or correspondence directed at eligible complainants;

provided it is done in a way which is not misleading.
1.2.5A [deleted]

1.2.6 **The Pensions Ombudsman**

Where respondents are required to provide information in relation to the Financial Ombudsman Service, they may also, where relevant, do so in relation to the Pensions Ombudsman on the same basis as set out in ▬DISP 1.2.1(4)R and ▬DISP 1.2.3G.

1.2.7 Where respondents are permitted to display or reproduce the Financial Ombudsman Service logo, they may, where relevant, also display or reproduce the Pensions Ombudsman logo (with consent) on the same basis as set out in ▬DISP 1.2.5G.
1.3 Complaints handling rules

Complaints handling procedures for respondents

1.3.1 Effective and transparent procedures for the reasonable and prompt handling of complaints must be established, implemented and maintained by a respondent.

[Note: article 6(1) of the UCITS implementing Directive]

Call charges

1.3.1A These procedures must ensure that a complaint may be made free of charge.

[Note: article 6(3) of the UCITS implementing Directive]

1.3.1AA Where a respondent operates a telephone line for the purpose of enabling an eligible complainant to submit a complaint, the complainant must not be bound to pay more than the basic rate when contacting the respondent by telephone.

1.3.1AB For the purposes of 1.3.1AAR the basic rate is the simple cost of connection and must not provide the respondent with a contribution to its costs or revenues.

1.3.1AC The following numbers, if used by a respondent, would comply with 1.3.1ABR:

(1) geographic numbers or numbers which are always set at the same rate, which usually begin with the prefix 01, 02 or 03;

(2) calls which can be free of charge to call, for example 0800 and 0808 numbers; and

(3) standard mobile numbers, which usually begin with the prefix 07, provided that the respondent ordinarily uses a mobile number to receive telephone calls.

1.3.1AD The following numbers, if used by a respondent, would not comply with 1.3.1ABR:

(1) premium rate numbers that begin with the prefix 09;
(2) other revenue sharing numbers in which a portion of the call charge can be used to either provide a service or make a small payment to the respondent, such as telephone numbers that begin with the prefix 084 or 0871, 0872 or 0873; and

(3) telephone numbers that begin with the prefix 0870, as the cost of making a telephone call on such numbers can be higher than a geographic cost and will vary depending on the eligible complainant’s telephone tariff.

Particular procedures for UCITS management companies

A UK UCITS management company must ensure that the procedures it establishes under DISP 1.3.1 R for the reasonable and prompt handling of complaints require that unitholders are allowed to file complaints in any of the official languages of the Home State of the UCITS scheme or a scheme which, immediately before IP completion day, was an EEA UCITS scheme or of any EEA State to which a notification was transmitted by the competent authority of the scheme’s Home State in accordance with article 93 of the UCITS Directive.

Further requirements for all respondents

These procedures should:

(1) allow complaints to be made by any reasonable means; and

(2) recognise complaints as requiring resolution.

These procedures should, taking into account the nature, scale and complexity of the respondent’s business, ensure that lessons learned as a result of determinations by the Ombudsman are effectively applied in future complaint handling, for example by:

(1) relaying a determination by the Ombudsman to the individuals in the respondent who handled the complaint and using it in their training and development;

(2) analysing any patterns in determinations by the Ombudsman concerning complaints received by the respondent and using this in training and development of the individuals dealing with complaints in the respondent; and
(3) analysing guidance produced by the FCA, other relevant regulators and the Financial Ombudsman Service and communicating it to the individuals dealing with complaints in the respondent.

1.3.3  A respondent must put in place appropriate management controls and take reasonable steps to ensure that in handling complaints it identifies and remedies any recurring or systemic problems, for example, by:

(1) analysing the causes of individual complaints so as to identify root causes common to types of complaint;

(2) considering whether such root causes may also affect other processes or products, including those not directly complained of; and

(3) correcting, where reasonable to do so, such root causes.

1.3.3B  The processes that a firm or CBTL firm should have in place in order to comply with DISP 1.3.3 R may include, taking into account the nature, scale and complexity of the firm’s or CBTL firm’s business including, in particular, the number of complaints the firm or CBTL firm receives:

(1) the collection of management information on the causes of complaints and the products and services complaints relate to, including information about complaints that are resolved by the firm by close of business on the third business day following the day on which it is received;

(2) a process to identify the root causes of complaints (■ DISP 1.3.3 R (1));

(3) a process to prioritise dealing with the root causes of complaints;

(4) a process to consider whether the root causes identified may affect other processes or products (■ DISP 1.3.3 R (2));

(5) a process for deciding whether root causes discovered should be corrected and how this should be done (■ DISP 1.3.3 R (3));

(6) regular reporting to the senior personnel where information on recurring or systemic problems may be needed for them to play their part in identifying, measuring, managing and controlling risks of regulatory concern; and

(7) keeping records of analysis and decisions taken by senior personnel in response to management information on the root causes of complaints.

1.3.4  [deleted]

1.3.5  [deleted]

1.3.6  Where a firm identifies (from its complaints or otherwise) recurring or systemic problems in its provision of, or failure to provide, a financial service or claims management service, it should (in accordance with Principle 6
(Customers' interests) and to the extent that it applies) consider whether it ought to act with regard to the position of customers who may have suffered detriment from, or been potentially disadvantaged by, such problems but who have not complained and, if so, take appropriate and proportionate measures to ensure that those customers are given appropriate redress or a proper opportunity to obtain it. In particular, the firm should:

1. ascertain the scope and severity of the consumer detriment that might have arisen; and
2. consider whether it is fair and reasonable for the firm to undertake proactively a redress or remediation exercise, which may include contacting customers who have not complained.

1.3.7 R

(1) A firm must appoint an individual at the firm, or in the same group as the firm, to have responsibility for oversight of the firm's compliance with DISP 1.

(2) The individual appointed must be carrying out a FCA governing function at the firm or in the same group as the firm.

(3) If there are no individuals at the firm or in the same group as the firm within (2), the firm must appoint an individual of appropriate seniority.

(4) A person approved to perform the limited scope function for the firm or for a firm in the same group as the firm satisfies the condition in (3).

1.3.8 G

Firms are not required to notify the name of the individual to the FCA or the Financial Ombudsman Service but would be expected to do so promptly on request. There is no bar on a firm appointing different individuals to have the responsibility at different times where this is to accommodate part-time or flexible working.
1.4 Complaints resolution rules

Investigating, assessing and resolving complaints

1.4.1 Once a complaint has been received by a respondent, it must:

(1) investigate the complaint competently, diligently and impartially, obtaining additional information as necessary;

(2) assess fairly, consistently and promptly:
   (a) the subject matter of the complaint;
   (b) whether the complaint should be upheld;
   (c) what remedial action or redress (or both) may be appropriate;
   (d) if appropriate, whether it has reasonable grounds to be satisfied that another respondent may be solely or jointly responsible for the matter alleged in the complaint;

taking into account all relevant factors;

(3) offer redress or remedial action when it decides this is appropriate;

(4) explain to the complainant promptly and, in a way that is fair, clear and not misleading, its assessment of the complaint, its decision on it, and any offer of remedial action or redress; and

(5) comply promptly with any offer of remedial action or redress accepted by the complainant.

1.4.2 Factors that may be relevant in the assessment of a complaint under DISP 1.4.1R (2) include the following:

(1) all the evidence available and the particular circumstances of the complaint;

(2) similarities with other complaints received by the respondent;

(3) relevant guidance published by the FCA, other relevant regulators, the Financial Ombudsman Service or former schemes; and

(4) appropriate analysis of decisions by the Financial Ombudsman Service concerning similar complaints received by the respondent (procedures for which are described in DISP 1.3.2A G).
1.4.3 The respondent should aim to resolve complaints at the earliest possible opportunity, minimising the number of unresolved complaints which need to be referred to the Financial Ombudsman Service.

Co-operating with the Financial Ombudsman Service

1.4.4 Where a complaint against a respondent is referred to the Financial Ombudsman Service, the respondent must cooperate fully with the Financial Ombudsman Service and comply promptly with any settlements or awards made by it.

Mortgage endowment complaints

1.4.5 DISP App 1 contains guidance to respondents on the approach to assessing financial loss and appropriate redress where a respondent upholds a complaint concerning the sale of an endowment policy for the purposes of repaying a mortgage.

Payment protection insurance complaints

1.4.6 DISP App 3 sets out the approach which respondents should use in assessing complaints relating to the sale of payment protection contracts and determining appropriate redress where a complaint is upheld. It also requires firms to send a written communication to complainants in certain circumstances (see DISP App 3.11).
1.5 Complaints resolved by close of the third business day

1.5.1 [Rule] The following rules do not apply to a complaint that is resolved by a respondent by close of business on the third business day following the day on which it is received:

(1) the complaints time limit rules; and
(2) the complaints forwarding rules.
(3) [deleted]
(4) [deleted]
(5) [deleted]

1.5.2 [Guideline] Complaints falling within this section are still subject to the complaints resolution rules.

When a complaint is resolved

1.5.2A [Rule] A complaint is resolved where the complainant has indicated acceptance of a response from the respondent, with neither the response nor acceptance having to be in writing.

1.5.3 [Guideline] [deleted]

Summary resolution communication

1.5.4 [Rule] Where the respondent considers a complaint to be resolved under this section, the respondent must promptly send the complainant a ‘summary resolution communication’, being a written communication from the respondent which:

(1) refers to the fact that the complainant has made a complaint and informs the complainant that the respondent now considers the complaint to have been resolved;
(2) tells the complainant that if he subsequently decides that he is dissatisfied with the resolution of the complaint he may be able to refer the complaint to the Financial Ombudsman Service;
(3) indicates whether or not the respondent consents to waive the relevant time limits in DISP 2.8.2R or DISP 2.8.7R (Was the complaint referred to the Financial Ombudsman Service in time?) by including the appropriate wording set out in DISP 1 Annex 3R;

(4) provides the website address of the Financial Ombudsman Service; and

(5) refers to the availability of further information on the website of the Financial Ombudsman Service.

[Note: article 13 of the ADR Directive]

1.5.5 The information regarding the Financial Ombudsman Service required to be provided in a summary resolution communication should be set out clearly, comprehensibly, in an easily accessible way and prominently, within the text of those responses.

1.5.5A A respondent may, where relevant, in a summary resolution communication (DISP 1.5.4R) refer to the availability of the Pensions Ombudsman, in addition to the Financial Ombudsman Service, by including the wording set out in DISP 1 Annex 4G.

1.5.6 In addition to sending a complainant a summary resolution communication, a respondent may also use other methods to communicate the information referred to in DISP 1.5.4R(1) to (5) where–

   (1) the respondent considers that doing so may better meet the complainant’s needs; or

   (2) the complainant and respondent have already been using another method to communicate about the complaint.

1.5.7 An example of DISP 1.5.6G(1) may be where a respondent is aware that a complainant is visually impaired. An example of DISP 1.5.6G(2) may be where a respondent has been communicating with a complainant about a complaint by telephone.
1.6 Complaints time limit rules

Keeping the complainant informed

1.6.1 On receipt of a complaint, a respondent must:

(1) send the complainant a prompt written acknowledgement providing early reassurance that it has received the complaint and is dealing with it; and

(2) ensure the complainant is kept informed thereafter of the progress of the measures being taken for the complaint's resolution.

1.6.1A To the extent that a complaint is in part an EMD complaint or a PSD complaint and the respondent has chosen to deal with it in parts, keeping the complainant informed of progress includes informing the complainant that this is the approach that the respondent will take.

Final or other response within eight weeks

1.6.2 Subject to DISP 1.6.2AR, the respondent must, by the end of eight weeks after its receipt of the complaint, send the complainant:

(1) a 'final response', being a written response from the respondent which:

(a) accepts the complaint and, where appropriate, offers redress or remedial action; or

(b) offers redress or remedial action without accepting the complaint; or

(c) rejects the complaint and gives reasons for doing so; and which:

(d) encloses a copy of the Financial Ombudsman Service's standard explanatory leaflet;

(da) provides the website address of the Financial Ombudsman Service;

(e) informs the complainant that if he remains dissatisfied with the respondent's response, he may now refer his complaint to the Financial Ombudsman Service; and

(f) indicates whether or not the respondent consents to waive the relevant time limits in DISP 2.8.2 R or DISP 2.8.7 R (Was the complaint referred to the Financial Ombudsman Service in time?)
by including the appropriate wording set out in DISP 1 Annex 3R; or

[Note: respondents are reminded of their obligations under regulation 19 of the ADR Regulations, which requires respondents to provide equivalent messaging in respect of the time limit in DISP 2.8.9R (Payment protection insurance complaints)]

(2) a written response which:

(a) explains why it is not in a position to make a final response and indicates when it expects to be able to provide one;

(b) informs the complainant that he may now refer the complaint to the Financial Ombudsman Service;

(ba) indicates whether or not the respondent consents to waive the relevant time limits in DISP 2.8.2 R or DISP 2.8.7 R (Was the complaint referred to the Financial Ombudsman Service in time?) if it becomes apparent that the complaint has been made or is referred outside those time limits;

(c) encloses a copy of the Financial Ombudsman Service standard explanatory leaflet; and

(d) provides the website address of the Financial Ombudsman Service.

[Note: article 13 of the ADR Directive]

EMD and PSD Complaints

1.6.2A Where a complaint is an EMD complaint or a PSD complaint, the respondent must:

(1) send a final response to the complainant by the end of 15 business days after the day on which it received the complaint; or

(2) in exceptional circumstances, if a final response cannot be given in accordance with paragraph (1) for reasons beyond the control of the respondent:

(a) send a holding response to the complainant by the end of 15 business days after the day on which it received the complaint, clearly indicating the reasons for the delay in answering the complaint and specifying the deadline by which it will send the final response; and

(b) send a final response to the complainant by the end of 35 business days after the day on which it received the complaint.

A final response sent under (1) or (2) above must be on paper, or if agreed between the respondent and the complainant, on another durable medium.

[Note: article 101 of the Payment Services Directive]

1.6.2B Where only part of a complaint is an EMD complaint or a PSD complaint, that part must be treated in accordance with DISP 1.6.2AR.

1.6.2C As the time limits in DISP 1.6.2AR are shorter than those in DISP 1.6.2R a respondent may choose to treat the whole complaint in accordance with DISP 1.6.2AR (see also DISP 2.8AR).
Complainant's written acceptance

1.6.4 R

DISP 1.6.2 R does not apply if the complainant has already indicated in writing acceptance of a response by the respondent, provided that the response:

1. informed the complainant how to pursue his complaint with the respondent if he remains dissatisfied;

2. referred to the ultimate availability of the Financial Ombudsman Service if he remains dissatisfied with the respondent’s response;

3. enclosed a copy of the Financial Ombudsman Service standard explanatory leaflet;

4. provided the website address of the Financial Ombudsman Service; and

5. indicated whether or not the respondent consents to waive the relevant time limits in DISP 2.8.2 R or DISP 2.8.7 R (Was the complaint referred to the Financial Ombudsman Service in time?) by including the appropriate wording set out in DISP 1 Annex 3 R.

1.6.4AR

DISP 1.6.4AR does not affect the requirements imposed by DISP 1.6.2AR.

Where a complaint is an EMD complaint or a PSD complaint and DISP 1.6.2AR applies a final response must always be sent unless DISP 1.5.1R applies.

1.6.6

[deleted]

1.6.6A

The information regarding the Financial Ombudsman Service, required to be provided in responses sent under the complaints time limit rules (DISP 1.6.2 R, DISP 1.6.2AR and DISP 1.6.4 R), should be set out clearly, comprehensibly, in an easily accessible way and prominently within the text of those responses.

[Note: article 13 of the ADR Directive]

1.6.7

A respondent may, where relevant, in a response sent under the complaints time limits rules (DISP 1.6.2R and DISP 1.6.4R) refer to the availability of the Pensions Ombudsman, in addition to the Financial Ombudsman Service, by including the wording set out in DISP 1 Annex 4G.

Speed and quality of response

1.6.7

It is expected that within eight weeks of their receipt, almost all complaints to a respondent will have been substantively addressed by it through a final response or response as described in DISP 1.6.4 R.
When assessing a respondent’s response to a complaint, the FCA may have regard to a number of factors, including, the quality of response, as against the complaints resolution rules, as well as the speed with which it was made.
1.7 Complaints forwarding rules

Forwarding a complaint

1.7.1 R A respondent that has reasonable grounds to be satisfied that another respondent may be solely or jointly responsible for the matter alleged in a complaint may forward the complaint, or the relevant part of it, in writing to that other respondent, provided it:

(1) does so promptly;

(2) informs the complainant promptly in a final response of why the complaint has been forwarded by it to the other respondent, and of the other respondent's contact details; and

(3) where jointly responsible for the fault alleged in the complaint, it complies with its own obligations under this chapter in respect of that part of the complaint it has not forwarded.

Dealing with a forwarded complaint

1.7.2 R When a respondent receives a complaint that has been forwarded to it under 1.7.1 R, the complaint is treated for the purposes of DISP as if made directly to that respondent, and as if received by it when the forwarded complaint was received.

1.7.3 G On receiving a forwarded complaint, the standard time limits will apply from the date on which the respondent receives the forwarded complaint.
1.8 Complaints time barring rule

1.8.1 If a respondent receives a complaint which is outside the time limits for referral to the Financial Ombudsman Service (see DISP 2.8) it may reject the complaint without considering the merits, but must explain this to the complainant in a final response in accordance with DISP 1.6.2 R or DISP 1.6.2AR.
1.9 Complaints record rule

1.9.1 A firm, a payment service provider or an e-money issuer, must keep a record of each complaint received and the measures taken for its resolution, and retain that record for:

(1) at least five years where the complaint relates to collective portfolio management services for a UCITS scheme or a scheme which, immediately before IP completion day, or an EEA UCITS scheme; and

(2) three years for all other complaints;

from the date the complaint was received.

Note: article 6(2) of the UCITS implementing Directive]

1.9.2 The records of the measures taken for resolution of complaints may be used to assist with the collection of management information pursuant to DISP 1.3.3BG(1) and regular reporting to the senior personnel pursuant to DISP 1.3.3BG(6).
1.10 Complaints reporting rules

1.10.1 Unless (2) applies, twice a year a firm must provide the FCA with a complete report concerning complaints received from eligible complainants.

(2) If a firm:
   (a) has permission to carry on only credit-related regulated activities or operating an electronic system in relation to lending and has revenue arising from those activities that is less than or equal to £5,000,000 a year; or
   (b) has permission to carry on only regulated claims management activities;

   the firm must provide the FCA with a complete report concerning complaints received from eligible complainants once a year.

(3) The report required by (1) and (2) must be set out in the format in:
   (a) DISP 1 Annex 1R, in respect of complaints which do not relate to regulated claims management activity or any activity ancillary to regulated claims management activity; and
   (b) DISP 1 Annex 1ABR, in respect of complaints relating to regulated claims management activity or any activity ancillary to regulated claims management activity.

(4) Paragraphs (1) and (2) do not apply to a firm with only a limited permission unless that firm is a not-for-profit debt advice body that at any point in the last 12 months has held £1 million or more in client money or as the case may be, projects that it will hold £1 million or more in client money in the next 12 months.

1.10.1A A firm with only a limited permission to whom DISP 1.10.1R(1) and (2) do not apply is required to submit information to the FCA about the number of complaints it has received in relation to credit-related activities under the reporting requirements in SUP 16.12 (see, in particular, data item CCR007 in SUP 16.12.29CR). A firm with limited permission to whom DISP 1.10.1R (1) and (2) do not apply is also subject to the complaints data publication rules in DISP 1.10A.

Forwarded complaints

A firm must not include in the report a complaint that has been forwarded in its entirety to another respondent under the complaints forwarding rules.
Where a firm has forwarded to another respondent only part of a complaint or where two respondents may be jointly responsible for a complaint, then the complaint should be reported by both firms.

Joint reports

Firms that are part of a group may submit a joint report to the FCA. The joint report must contain the information required from all firms concerned and clearly indicate the firms on whose behalf the report is submitted. The requirement to provide a report, and the responsibility for the report, remains with each firm in the group.

Not all the firms in the group need to submit the report jointly. Firms should only consider submitting a joint report if it is logical to do so, for example, where the firms have a common central complaints handling team, the same accounting reference date and are all subject to the same reporting frequencies and submission deadlines.

Information requirements

(1) Where a firm receives less than 500 complaints in a reporting period, Part A-1 of DISP 1 Annex 1 requires, for the relevant reporting period and in respect of particular categories of products:
   (a) in Table 1, information about the total number of complaints received by the firm and the cause of the complaint;
   (b) in Table 2, information about the number of complaints that were:
      (i) closed or upheld within different periods of time; and
      (ii) the total amount of redress paid by the firm in relation to complaints upheld and not upheld in the relevant reporting period; and
   (c) in Table 3, information providing context about the complaints received.

(2) Where a firm receives 500 or more complaints in a reporting period, Part A-2 of DISP 1 Annex 1 requires, for the relevant reporting period and in respect of particular categories of products:
   (a) in Table 4, information about the total number of complaints received by the firm and the cause of the complaint;
   (b) in Table 5, information about the number of complaints that were:
      (i) closed or upheld within different periods of time; and
      (ii) the amount of redress paid by the firm in relation to complaints upheld and not upheld in the relevant reporting period; and
   (c) in Table 6, information providing context about the complaints received.
(1) the total number of complaints received by the firm;

(2) the total number of complaints closed by the firm;

(3) the total number of complaints:
   (a) upheld by the firm in the reporting period; and
   (b) outstanding at the beginning of the reporting period; and

(4) the total amount of redress paid in respect of complaints during the reporting period.

1.10.2A

(1) Twice a year a firm must provide the FCA with a complete report concerning complaints received from eligible complainants about matters relating to activities carried out by its employees when acting as retail investment advisers. The report must be set out in the format in DISP 1 Annex 1C R.

(2) DISP 1 Annex 1C R requires (for the relevant reporting period) information about:
   (a) the total number of complaints received by the firm about matters relating to activities carried out by its employees when acting as retail investment advisers;
   (b) the total number of complaints closed by the firm about matters relating to activities carried out by its employees when acting as retail investment advisers;
   (c) the total number of complaints upheld by the firm about matters relating to activities carried out by its employees when acting as retail investment advisers; and
   (d) the total amount of redress paid in respect of complaints upheld during the reporting period about matters relating to activities carried out by its employees when acting as retail investment advisers.

(3) For the purposes of DISP 1 Annex 1C R retail investment adviser information must be reported by:
   (a) the employee’s Individual Reference Number (IRN); or
   (b) in the case of an employee of an SMCR firm who is performing an FCA certification function and has no IRN:
      (i) the employee’s National Insurance (NI) number and date of birth; or
      (ii) if the employee has no NI number, the employee’s date of birth, current passport number and nationality.

1.10.2B

DISP 1 Annex 1ABR requires (for the relevant reporting period) information about:

(1) in Table 1, the total number of complaints received by the firm and the main focus of the complaint;

(2) in Table 2:
(a) the number of complaints that were closed or upheld within different time periods;

(b) the total amount of redress paid by the firm in relation to complaints upheld and not upheld in the relevant reporting period; and

(c) redress in relation to the claims management fee cap, where this was done at the firm’s instigation rather than as the result of a complaint about the fee.

1.10.3 For the purposes of DISP 1.10.2R, DISP 1.10.2-AR, DISP 1.10.2AR and DISP 1.10.2BR, when completing the return, the firm should take into account the following matters.

(1) If a complaint could fall into more than one category, the complaint should be recorded in the category which the firm considers to form the main part of the complaint.

(2) Under DISP 1.10.2R(1)(b), DISP 1.10.2R(2)(b), DISP 1.10.2-AR or DISP 1.10.2BR(2), a firm should report information relating to all complaints which are closed and upheld within the relevant reporting period, including those resolved under DISP 1.5 (Complaints resolved by close of the third business day). Where a complaint is upheld in part, or where the firm does not have enough information to make a decision yet chooses to make a goodwill payment to the complainant, a firm should treat the complaint as upheld for reporting purposes. However, where a firm rejects a complaint, yet chooses to make a goodwill payment to the complainant, the complaint should be recorded as ‘rejected’.

(3) If a firm reports on the amount of redress paid under DISP 1.10.2R(1)(b)(ii), DISP 1.10.2R(2)(b)(ii), DISP 1.10.2-AR(4), DISP 1.10.2AR or DISP 1.10.2BR(2)(b), redress should be interpreted to include an amount paid, or cost borne, by the firm, where a cash value can be readily identified, and should include:

(a) amounts paid for distress and inconvenience;

(b) a free transfer out to another provider which transfer would normally be paid for;

(c) goodwill payments and goodwill gestures;

(d) interest on delayed settlements;

(e) waiver of an excess on an insurance policy;

(f) payments to put the consumer back into the position the consumer should have been in had the act or omission not occurred; and

(g) the refund of fees paid in excess of the claims management fee cap, and any amount which the firm had attempted to charge but which was written off or waived (before the customer paid it) on the basis that it would have exceeded the claims management fee cap.

(4) If a firm reports on the amount of redress paid under DISP 1.10.2R(1)(b)(ii), DISP 1.10.2R(2)(b)(ii), DISP 1.10.2-AR(4) or DISP 1.10.2AR, the redress should not, however, include repayments...
or refunds of premiums which had been taken in error (for example where a firm had been taking, by direct debit, twice the actual premium amount due under a policy). The refund of the overcharge would not count as redress.

[Note: See SUP 10A.14.24R for the ongoing duty to notify complaints about matters relating to activities carried out by an employee when acting as a retail investment adviser.]

1.10.4 R Unless DISP 1.10.4AR applies, the relevant reporting periods are:

(1) the six months immediately following a firm’s accounting reference date; and

(2) the six months immediately preceding a firm’s accounting reference date.

1.10.4A R If a firm is one to which DISP 1.10.1R(2) applies, the relevant reporting period is the year immediately following the firm’s accounting reference date.

1.10.5 R Reports are to be submitted to the FCA within 30 business days of the end of the relevant reporting periods through, and in the electronic format specified in, the FCA Complaints Reporting System or the appropriate section of the FCA website.

1.10.6 R If a firm is unable to submit a report in electronic format because of a systems failure of any kind, the firm must notify the FCA, in writing and without delay, of that systems failure.

1.10.6A R (1) If a firm does not submit a complete report by the date on which it is due, in accordance with DISP 1.10.5 R, the firm must pay an administrative fee of £250.

(2) The administrative fee in (1) does not apply if the firm has notified the FCA of a systems failure in accordance with DISP 1.10.6 R.

1.10.7 R A closed complaint is a complaint where:

(1) the firm has sent a final response; or

(2) the complainant has indicated in writing acceptance of the firm’s earlier response under DISP 1.6.4 R.

1.10.8 G [deleted]

Notification of contact point for complainants

1.10.9 R For the purpose of inclusion in the public record maintained by the FCA, a firm must:
(1) provide the FCA, at the time of its authorisation, with details of a single contact point within the firm for complainants; and

(2) notify the FCA of any subsequent change in those details when convenient and, at the latest, in the firm’s next report under the complaints reporting rules.

Meaning of revenue

In DISP 1.10, references to revenue in relation to any firm do not include the amount of any repayment of any credit provided by that firm as lender.
1.10A Complaints data publication rules

Obligation to publish summary of complaints data or total number of complaints

1.10A.1 (1) Unless (1A) applies to the firm, where, in accordance with DISP 1.10.1 R, a firm submits a report to the FCA reporting 500 or more complaints, it must publish a summary of the complaints data contained in that report (the complaints data summary).

(1A) (a) This paragraph applies to a firm which:

(i) has permission to carry on only credit-related regulated activities or to operate an electronic system in relation to lending; and

(ii) has revenue arising from those activities that is less than or equal to £5,000,000 a year.

(aa) This paragraph also applies to a firm which has permission to carry on only regulated claims management activities.

(b) Where a firm to which this paragraph applies submits a report to the FCA in accordance with DISP 1.10.1 R reporting 1000 or more complaints, it must publish a summary of the complaints data contained in that report (the complaints data summary).

(2) Where, in accordance with DISP 1.10.1C R, a firm submits a joint report on behalf of itself and other firms within a group and that report reports 500 or more complaints, it must publish a summary of the complaints data contained in the joint report (the complaints data summary), unless it is a firm to which (1A) applies.

(3) Where, in accordance with DISP 1.10.1C R, a firm to which (1A) applies submits a joint report on behalf of itself and other firms within a group and that report reports 1000 or more complaints, it must publish a summary of the complaints data contained in the joint report (the complaints data summary).

(4) Where, in accordance with SUP 16.12.4 R and SUP 16.12.29C R, a firm with a limited permission submits data item CCR007 to the FCA reporting 1000 or more complaints, it must publish the total number of complaints received.

Format of publication

1.10A.2 The complaints data summary required by DISP 1.10A.1 R must be published in the format set out in DISP 1 Annex 1B R.
**Time limits for publication**

1.10A.3  
(1) Where the firm’s relevant reporting period (as defined in DISP 1.10.4 R or DISP 1.10.4A R as the case may be) ends between 1 January and 30 June, the firm must publish the complaints data summary no later than 31 August of the same year.

(2) Where the firm’s relevant reporting period (as defined in DISP 1.10.4 R or DISP 1.10.4A R as the case may be) ends between 1 July and 31 December, the firm must publish the complaints data summary no later than 28 February of the following year.

(3) Where the firm is a firm with only a limited permission and its accounting reference date falls between 1 January and 30 June, the firm must publish the total number of complaints received no later than 31 August of the same year.

(4) Where the firm is a firm with only a limited permission and its accounting reference date falls between 1 July and 31 December, the firm must publish the total number of complaints received no later than 28 February of the following year.

**Confirmation of publication**

1.10A.4  
A firm must immediately confirm to the FCA, in an email submitted to complaintsdatasummary@fca.org.uk, that the complaints data summary or total number of complaints (as appropriate) accurately reflects the report submitted to the FCA, that the summary or total number of complaints (as appropriate) has been published and where it has been published.

**Publication on behalf of the firm**

1.10A.5  
A firm will be taken to have complied with DISP 1.10A.1R (1), DISP 1.10A.1R (1A), DISP 1.10A.1R (2), DISP 1.10A.1R (3) or DISP 1.10A.1R (4) if within the relevant time limit set out in DISP 1.10A.3 R the firm:

(1) ensures that another person publishes the complaints data summary or total number of complaints (as appropriate) on its behalf; and

(2) publishes details of where this summary or total number of complaints (as appropriate) is published.

**Joint reports: provision of information to third party on request**

1.10A.6  
Any firm covered by a joint report, other than the firm that submitted the joint report, must provide details of where the complaints data summary or total number of complaints (as appropriate) is published to any person who requests them.

**Mode and content of publication**

1.10A.7  
Firms may choose how they publish the complaints data summary or total number of complaints (as appropriate). However, the summary or total number of complaints (as appropriate) should be readily available. For this
reason, the FCA recommends that firms should publish the summary or total number of complaints (as appropriate) on their websites.

1.10A.8 [deleted]

Meaning of revenue

1.10A.9 In DISP 1.10A, references to revenue in relation to any firm do not include the amount of any repayment of any credit provided by that firm as lender.

Publication of complaints data by the FCA

1.10A.10 (1) To improve consumer awareness and to help firms compare their performance against their peers, the FCA publishes:

(a) complaints data about the financial services industry as a whole; and

(b) firm-level complaints data for those firms that are required to publish a complaints data summary or the total number of complaints (as appropriate) under DISP 1.10A.1R.

(2) The FCA also publishes firm-level information giving context to the complaints data reported to it for those firms that are required to publish that information under DISP 1.10A.1R.

1.10A.11 For firms reporting 500 or more complaints under DISP 1.10.1R(1) or 1000 or more complaints under DISP 1.10.1R(2) in the relevant reporting period, the FCA will publish the firm-level complaints data and information providing context to the complaints data reported to it either:

(1) after the firm provides the appropriate consent in the complaints data report and confirms that the reported data accurately reflects the data which it will publish under DISP 1.10A.1R; or

(2) after the FCA receives an email from the firm under DISP 1.10A.4R confirming that the complaints data summary accurately reflects the report submitted to the FCA, that the summary has been published and where it has been published.

1.10A.12 For firms with only a limited permission that report complaints to the FCA under the reporting requirements in SUP 16.12, the FCA will publish the firm-level complaints data reported to it after the FCA receives an email from the firm under DISP 1.10A.4R. That email should confirm that the total number of complaints accurately reflects the report submitted to the FCA under SUP 16.12, that the total number of complaints has been published and where the information has been published.
1.10B Payment services and electronic money complaints reporting

1.10B.1 D

(1) Once a year a credit institution that provides payment services or issues electronic money must provide the FCA with a complete report concerning complaints received about payment services and electronic money.

(2) Once a year an electronic money institution, a payment institution or a registered account information service provider must provide the FCA with a complete report concerning complaints received about payment services and electronic money.

(3) The report required by (1) and (2) must be set out in the format in DISP 1 Annex 1AD.

1.10B.2 G

(1) In contrast to the other provisions in DISP 1 which generally apply only to complaints from eligible complainants, the complaints reporting directions apply in addition to complaints from payment service users that are not eligible complainants.

(2) Payment service providers are reminded that regulation 101 of the Payment Services Regulations contains requirements relating to complaints resolution procedures applicable to complaints from payment service users that are not eligible complainants.

Forwarded complaints

1.10B.3 D

A respondent must not include in the report a complaint that has been forwarded in its entirety to another respondent under the complaints forwarding rules.

1.10B.4 D

Where a respondent has forwarded to another respondent only part of a complaint or where two respondents may be jointly responsible for a complaint, then the complaint should be reported by both respondents.

Joint Reports

1.10B.5 D

Respondents that are part of a group may submit a joint report to the FCA. The joint report must contain the information required from all respondents concerned and clearly indicate the respondents on whose behalf the report is submitted. The obligation to provide a report, and the responsibility for the report, remains with each respondent in the group.
Not all the respondents in the group need to submit the report jointly. Respondents should only consider submitting a joint report if it is logical to do so, for example, where the firms have a common central complaints handling team and the same accounting reference date.

Information requirements

(1) in Table 1, information about the total number of complaints received by the respondent and the cause of the complaint;

(2) in Table 2, information about the number of complaints that were:
   (a) closed or upheld within different periods of time; and
   (b) the total amount of redress paid by the respondent in relation to complaints upheld and not upheld in the relevant reporting period; and

(3) in Table 3, information providing context about the complaints received.

When completing the return, the respondent should take into account the following matters.

(1) If a complaint could fall into more than one category, the complaint should be recorded in the category which the respondent considers to form the main part of the complaint.

(2) Under DISP 1.10B.7D(2)(a), a respondent should report information relating to all complaints which are closed and upheld within the relevant reporting period, including those resolved under DISP 1.5 (Complaints resolved by close of the third business day). Where a complaint is upheld in part, or where the respondent does not have enough information to make a decision yet chooses to make a goodwill payment to the complainant, a respondent should treat the complaint as upheld for reporting purposes. However, where a respondent rejects a complaint, yet chooses to make a goodwill payment to the complainant, the complaint should be recorded as ‘rejected’.

(3) If a respondent reports on the amount of redress paid under DISP 1.10B.7D(2)(b) redress should be interpreted to include an amount paid, or cost borne, by the firm, where a cash value can be readily identified, and should include:
   (a) amounts paid for distress and inconvenience;
   (b) a free transfer out to another provider which transfer would normally be paid for;
   (c) goodwill payments and goodwill gestures;
(d) interest on delayed settlements;
(e) waiver of an excess on an insurance policy; and
(f) payments to put the complainant back into the position the complainant should have been in had the act or omission not occurred.

(4) If a respondent reports on the amount of redress paid under DISP 1.10B.7D(2)(b) the redress should not include the amount of a non-executed, defective or unauthorised payment transaction but should include any redress paid as a result of losses incurred by the complainant as a result of the non-executed, defective or unauthorised payment transaction.

1.10B.9 The relevant reporting period is the year immediately following:

(1) where the respondent has an accounting reference date, its accounting reference date; and

(2) where the respondent does not have an accounting reference date, 31 December each year.

1.10B.10 Reports are to be submitted to the FCA within 30 business days of the end of the relevant reporting periods through, and in the electronic format specified in, the FCA complaints reporting system or the appropriate section of the FCA website.

1.10B.11 If a respondent is unable to submit a report in electronic format because of a systems failure of any kind, the respondent must notify the FCA, in writing and without delay, of that systems failure.

1.10B.12 (1) If a respondent does not submit a complete report by the date on which it is due, in accordance with DISP 1.10B.10D, the respondent must pay an administrative fee of £250.

(2) The administrative fee in (1) does not apply if the respondent has notified the FCA of a systems failure in accordance with DISP 1.10B.11R.

1.10B.13 A closed complaint is a complaint where:

(1) the respondent has sent a final response; or

(2) the complainant has indicated in writing acceptance of the respondent’s earlier response under DISP 1.6.4R (where applicable).

1.10B.14 (1) To improve consumer awareness and to help respondents compare their performance against their peers, the FCA may publish:

(a) complaints data about the payment services and electronic money sector as a whole; and
(b) respondent level complaints data and information giving context to the complaints data for those respondents that provide appropriate consent in the electronic money and payment services complaints return form at DISP 1 Annex 1AD.

(2) Although the complaints data publication rules do not apply to a report submitted under DISP 1.10B.1, the electronic money and payment services complaints return form asks for the respondent’s consent to the publication by the FCA of the data contained in the report.
1.11 The Society of Lloyd's

Complaints handling procedures

1.11.1 The Society must establish and maintain appropriate and effective procedures for handling complaints by policyholders against members of the Society which comply with this chapter.

1.11.2 A member of the Society must, in complying with this chapter, ensure that the arrangements which the member maintains are compatible with the Lloyd's complaint procedures, so that, taken as a whole, the requirements of this sourcebook are met.

1.11.2A The Society must ensure that the arrangements which the member maintains include a requirement which corresponds to DISP 1.2.1 R (4) (Publishing and providing summary details, and information about the Financial Ombudsman Service).

[Note: article 13 of the ADR Directive and article 14 of the ODR Regulation]

1.11.3 The Society must take reasonable steps to ensure that complaints by policyholders against members of the Society are dealt with under the Lloyd's complaint procedures and that members comply with the requirements of those procedures.

Referral to the Financial Ombudsman Service

1.11.4 A complaint by a policyholder against a member of the Society may not be referred to the Financial Ombudsman Service until after the Lloyd's complaint procedures have been completed or until after the end of eight weeks from receipt of the complaint, whichever is the earlier.

Exemptions for members

1.11.5 (1) A notification claiming exemption under DISP 1.1.12 R from the complaints reporting rules and the rules relating to the funding of the Financial Ombudsman Service must be given to the FCA by the Society on behalf of any member eligible for an exemption.

(2) The Society must notify the FCA if the conditions relating to such an exemption no longer apply to a member who is exempt.
Complaints reporting rule

1.11.6 R The report to be sent to the FCA under the complaints reporting rules must be provided by the Society and must cover all complaints by policyholders against members falling within the scope of the complaints reporting rules.

Obligation to publish summary of complaints data

1.11.6A R Where, in accordance with DISP 1.11.6 R, the Society submits a report to the FCA reporting 500 or more complaints, it must publish a summary of the complaints data contained in that report (the complaints data summary).

Format of publication

1.11.6B R The Society must publish the complaints data summary in the format set out in the complaints publication form in DISP 1 Annex 1B R omitting details as to the firms and brands/trading names covered by the summary.

Time limits for publication

1.11.6C R The deadlines for publication of the Society’s complaints data summaries are:

1.28 February for the summary of its report relating to the reporting period ending on 31 December of the previous year; and

2.31 August for the summary of its report relating to the reporting period ending on 30 June of the same year.

Confirmation of publication

1.11.6D R The Society must immediately confirm to the FCA, in an email submitted to complaintsdatasummary@fca.org.uk, that the complaints data summary accurately reflects the report submitted to the FCA, that the summary has been published and where it has been published.

Mode and content of publication

1.11.6E G The Society may choose how it publishes the complaints data summary. However, the complaints data summary should be readily available. For this reason, the FCA recommends that the Society publishes the summary on its website. The Society may publish further information with the complaints data summary to aid understanding.

Application to members

1.11.7 G Each member of the Society is individually subject to the rules in this chapter as a result of the insurance market direction given in DISP 2.1.7 D under section 316 of the Act (Direction by a regulator).

However, the Society operates a two-tier internal complaints handling procedure, currently set out in the "Code for Underwriting agents: UK Personal Lines Claims and Complaints Handling". Under this procedure, complaints by policyholders against members of the Society are considered by the managing agent and then, if necessary, by the Society’s in-house...
Complaints Department. This procedure (and any procedure that may replace it) will be subject to the requirements in this chapter.

1.11.9 Members will individually comply with this chapter if and only if all complaints by policyholders against members are dealt with under the Lloyd's complaints procedures. Accordingly, certain of the obligations under this chapter, for example the obligation to report on complaints received and the obligation to pay fees under the rules relating to the funding of the Financial Ombudsman Service (FEES 5), must be complied with by the Society on behalf of members. Managing agents will not have to make a separate report to the FCA on complaints reported under the complaints reporting rules sent by the Society.

Complaints about the activities of members' advisers

1.11.10 A members' adviser must establish and maintain effective arrangements for handling any complaint from a member of the Society regarding advice given to the member in connection with the acquiring or disposing of syndicate participation.

1.11.11 Complaints from members of the Society regarding the activities of members' advisers, which cannot be resolved by the members' adviser, cannot be referred to the Financial Ombudsman Service.

Complaints from members or former members

1.11.12 The Financial Ombudsman Service is not able to deal with the complaints listed in DISP 1.11.13 and separate rules and guidance are therefore required.

1.11.13 The Society must establish and maintain appropriate and effective arrangements for handling any complaint from a member or a former member about:

(1) regulated activities carried on by the Society;

(2) the Society's regulatory functions carried on by the Society, the Council or those to whom the Council delegates authority to carry out such functions;

(3) advice given by an underwriting agent to a person to become, continue or cease to be, a member of a particular syndicate; and

(4) the management by a managing agent of the underwriting capacity of a syndicate on which the complainant participates or has participated.

1.11.14 The Society must maintain by byelaw one or more appropriate effective schemes for the resolution of disputes between an individual member or a former member who was an individual member and:
1.11.15  **R** For the purposes of [DISP 1.11.13 R](#) "individual member" includes a member which is a **limited liability partnership** or a **body corporate** whose **members** consist only of, or of the nominees for, a single natural person or a group of **connected persons**.

1.11.16  **G** The schemes to which [DISP 1.11.13 R](#) currently refers are the **Lloyd's Arbitration Scheme** and the **Lloyd's Members' Ombudsman** respectively, but the **Society** may maintain other independent dispute resolution schemes in addition to, or instead of, either of these schemes.

1.11.17  **G** The schemes referred to in [DISP 1.11.13 R](#) should be operationally independent of the **Society**.

1.11.18  **G** An **individual member** or **former member** who was an **individual member** should not have access to the schemes referred to in [DISP 1.11.13 R](#) unless the **complaints** arrangements maintained by the **Society** have failed to resolve the **complaint** to his satisfaction within eight weeks of receiving it.

1.11.19  **G** The **Society** should give the **FCA** adequate notice of all proposed changes to the **byelaws** relating to the schemes referred to in [DISP 1.11.13 R](#).

1.11.20  **G** When considering what is required to ensure the operational independence of the schemes referred to in [DISP 1.11.13 R](#), or proposed changes in such schemes, the **Society** should take account of similar arrangements operated by the **Financial Ombudsman Service**.

1.11.21  **R** A contravention of [DISP 1.11.13 R](#) or [DISP 1.11.14 R](#) does not give rise to a right of action by a **private person** under section 138D of the **Act** (Actions for damages) and each of those **rules** is specified under section 138D(3) of the **Act** as a provision giving rise to no such right of action.
Complaints return form

This annex consists only of one or more forms. Forms are to be found through the following address:

Complaints return form [DISP 1 Annex 1 R]
Electronic money and payment services complaints return form
Notes on completing electronic money and payment services complaints return form

Payment Services Complaints Return

Nil returns

If no complaints concerning payment services or electronic money have been received during the reporting period and no such complaints were outstanding at the beginning of the period, the respondent may submit a NIL RETURN by clicking on the relevant box.

Valuing data to be reported

Respondents should report the actual data requested in this complaints return, using single units, apart from in Table 3 where data should be reported in thousands. If the figure is less than one thousand, respondents should enter the figure as a decimal fraction: e.g. if the payment volume for a service is 200, this should be entered as ‘.2’.

Service groupings

In Table 1 and Table 3 complaints should be allocated to the service groupings based on the service the complaint relates to. If a single complaint relates to more than one category of service, respondents should allocate that complaint to the category that it most closely relates to, rather than reporting such a complaint twice. For example, if a complaint is about ATM withdrawal with a credit card, but the complaint is primarily about the ATM withdrawal, it should be recorded under the ATM withdrawal category.

The service groupings do not correspond directly with those set out in the Payment Services Regulations.

If a respondent has not received any complaints relating to a particular product or service during the reporting period, the relevant box should be left blank.

If complaints relate to the issuing or redemption of e-money and not a payment service executed using e-money, these complaints should be allocated to the ‘issuing or redemption of e-money’ category.

The ‘other payment service’ category should only be used in exceptional circumstances when none of the specific service categories are appropriate. A PSP should provide information for up to a maximum of five payment services.

Tables 1, 2, 3 and 4

In Tables 1, 2, 3 and 4 respondents should report all complaints relating (either wholly or in part) to payment services and electronic money. Note that this is a wider category than PSD complaints and EMD complaints as defined in the glossary, and would include, for example, complaints about breaches of the Principles for Businesses (for firms) or breaches of contract in connection with the issuance of electronic money or provision of payment services.

The complaints time limit rules (DISP 1.6) require EMD complaints and PSD complaints to be closed (by way of a final response) within 15 business days after the day on which the complaint is received (or, in exceptional circumstances, by the end of 35 business days after the day on which the complaint is received).

However PSPs must complete Table 2 with data on all complaints about payment services or electronic money (including those that are not EMD complaints and PSD complaints).

Contextualisation (Table 3)
When providing information giving context to its complaints data, respondents should provide payment volumes for payment services and e-money issuance in the reporting period, as indicated in the form.

The contextualisation metric for pre-paid cards and e-money payments, credit cards, debit cards / cash cards, direct debits, standing orders, credit transfers, money remittance, payment initiation services, merchant acquiring and ATM withdrawal is number of transactions in the reporting period (in thousands).

The contextualisation metric for ATM withdrawals should include withdrawals from the PSP’s ATM network in the reporting period for both the PSP’s own and other PSPs’ customers.

The contextualisation metric for issuing or redemption of e-money is the value of e-money issued or redeemed in the reporting period (in thousands).

The contextual information for account information services should be the number of customers that have used the firm’s account information services (AIS) in the reporting period. For authorised PIs this figure should be the same as that provided by payment and e-money institutions in Q80 of the Authorised Payment Institution Capital Adequacy Return and for authorised EMIs, in Q76 of the Authorised Electronic Money Institution Questionnaire.

**Complaints relating to alleged authorised push payment fraud (Table 4)**

Information on complaints relating to alleged authorised push payment fraud should be provided in Table 4. Data in this table should not be included in any total complaint figures as these complaints should already be reported in the preceding tables under the appropriate product/service groupings (for example, under ‘Credit transfer’). ...

**DISP 1 Annex 1R**

This return (Payment Services Complaints Return) only relates to complaints made in relation to payment services or electronic money. All complaints should be reported in **DISP 1 Annex 1R**.

**Transparency**

To improve consumer awareness and to help payment service providers compare their performance against their peers, the FCA may publish aggregated and anonymised complaints data.

The FCA may also publish respondent level complaints data where it has the respondent’s consent. If the respondent ticks the ‘Yes’ box in this report it is consenting to the FCA publishing the complaints data.
Claims management complaints and redress return form

Currency: Sterling only
Units: Integers

Group reporting
1 Does the data reported in this return cover complaints relating to more than one firm?
   (NB: You should always answer “No” if your firm is not part of a group.)
2 If “Yes” then list the firm reference numbers (FRNs) of all of the additional firms included in this return.

Nil return declaration
3 We wish to declare a nil return
   (If yes, leave all questions on complaints activities, including contextualisation, blank.)

Return details required
4 Total complaints outstanding at reporting period start date.
5 Total number of complaints opened during the reporting period.

Complaints data publication by FCA
6 If you are reporting 1000 or more complaints, do you consent to the FCA publishing the complaints data and information on context contained in this report in advance of the firm publishing the data itself?
7 If “Yes”, do you confirm that the complaints data and information on context contained in this report accurately reflects the information required to be published by the reporting firm under DISP?

Contextualisation data
8 Total number of leads generated or obtained during the reporting period
9 Total number of claims opened during the reporting period

Table 1

<table>
<thead>
<tr>
<th>Type of claim</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
</tr>
</thead>
<tbody>
<tr>
<td>Numbers of complaints during</td>
<td>personal injury claims</td>
<td>financial services or financial product claims</td>
<td>housing disrepair claims</td>
<td>claims for a specified benefit</td>
<td>criminal injury claims</td>
<td>employment-related claims</td>
</tr>
<tr>
<td>reporting period</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10 Total number of complaints</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>
### Table 2

Number of complaints closed during the reporting period (22 to 25) and complaints upheld (26)

Redress paid, in integers (27 to 30): for example, figures for redress paid should be to the nearest pound not to the nearest thousand pounds. Include all amounts in excess of the claims management fee cap, whether a refund of fees paid or a waiver of excess fees.

<p>| | | | | | | |</p>
<table>
<thead>
<tr>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>B</td>
<td>C</td>
<td>D</td>
<td>E</td>
<td>F</td>
<td></td>
</tr>
<tr>
<td>Type of claim</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Lead generation, unsolicited marketing and cold calling</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Quality of advice / provision of misleading information (including in advertisements)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Customer service issues (including call handling)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>General administration</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Upfront fees</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>16</td>
<td>Fee dispute (at settlement – other than one in 17 below)</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>17</td>
<td>Fees in excess of the claims management fee cap</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>Claim outcome</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>Process for obtaining and/or sharing of customer data</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>Delay in processing claim</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>Other – please provide details</td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

<p>| | | | | | | |</p>
<table>
<thead>
<tr>
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<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>22</td>
<td>Complaints closed within 3 days</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>Complaints closed within 8 weeks, but after more than 3 days</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>24</td>
<td>Complaints closed after more than 8 weeks</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>25</td>
<td>Total complaints closed</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>26</td>
<td>Complaints upheld</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>27</td>
<td>Redress paid for upheld complaints</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>28</td>
<td>Redress paid for complaints not upheld</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>29</td>
<td>Redress in relation to the claims management fee cap, where this was done at the firm’s instigation rather than as the result of a complaint about the fee</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>30</td>
<td>Total redress paid</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Complaints publication report

This table belongs to DISP 1.10A.2 R - DISP 1 Annex 1B R
Illustration of the online reporting requirements, referred to in DISP 1.10.2AR

This annex belongs to DISP 1.10.2A R DISP 1 Annex 1C R
# Application of DISP 1 to type of respondent / complaint

The table below summarises the application of DISP 1. Where the table indicates that a particular section may apply, its application in relation to any particular activity or complaint is dependent on the detailed application provisions set out in DISP 1.

<table>
<thead>
<tr>
<th>Type of respondent/complaint</th>
<th>DISP 1.1A Requirements for MiFID investment firms</th>
<th>DISP 1.2 Consumer awareness rules</th>
<th>DISP 1.3 Complaints handling rules</th>
<th>DISP 1.4 - 1.8 Complaints resolution rules etc.</th>
<th>DISP 1.9 Complaints record rule</th>
<th>DISP 1.10A Complaints reporting rules</th>
<th>DISP 1.10B Complaints data publication rules</th>
<th>DISP 1.10B Complaints reporting directions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>firm</strong> in relation to complaints concerning non-MiFID business (except as specifically provided below)</td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants (DISP 1.3.4G does not apply)</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies in relation to payment services for payment service users and in relation to electronic money for eligible complainants</td>
</tr>
<tr>
<td><strong>firm</strong> in relation to MiFID complaints concerning MiFID business carried on from an establishment in the UK (or in an EEA State, in the case of a TP firm with respect to services provided)</td>
<td>Applies for retail clients and professional clients, and (where relevant) eligible counterparties (see also DISP 1.1A.6R)</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>DISP 1.7 applies as set out in DISP 1.1A</td>
<td>Does not apply (but see DISP 1.1A.37UK)</td>
<td>Applies as set out in DISP 1.1A</td>
<td>Applies as set out in DISP 1.1A</td>
<td>Does not apply</td>
</tr>
</tbody>
</table>
### Type of respondent/complaint

<table>
<thead>
<tr>
<th>Type of respondent/complaint</th>
<th>DISP 1.1A Requirements for MiFID investment firms</th>
<th>DISP 1.2 Consumer awareness rules</th>
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<th>DISP 1.10A Complaints data publication rules</th>
<th>DISP 1.10B Complaints reporting directions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>UK UCITS management company in relation to complaints concerning collective portfolio management services in respect of a UCITS scheme or an EEA UCITS scheme</strong></td>
<td>Applies as set out in DISP 1.1A</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td>Does not apply (but see DISP 1.1A.37EU)</td>
<td>Applies as set out in DISP 1.1A</td>
<td>Applies as set out in DISP 1.1A</td>
<td>Does not apply</td>
</tr>
<tr>
<td><strong>Equivalent business of a third country investment firm in relation to MiFID complaints</strong></td>
<td>Applies as set out in DISP 1.1A</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Does not apply</td>
</tr>
<tr>
<td><strong>Branch of an overseas firm (in relation to all other complaints)</strong></td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Does not apply</td>
</tr>
<tr>
<td><strong>Payment service provider in relation to complaints</strong></td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Does not apply</td>
<td>Does not apply</td>
</tr>
<tr>
<td>Type of respondent/complaint</td>
<td>DISP 1.1A Requirements for MiFID investment firms</td>
<td>DISP 1.2 Consumer awareness rules</td>
<td>DISP 1.3 Complaints handling rules</td>
<td>DISP 1.4 - 1.8 Complaints resolution rules etc.</td>
<td>DISP 1.9 Complaints record rule</td>
<td>DISP 1.10 Complaints reporting rules</td>
<td>DISP 1.10A Complaints data publication rules</td>
<td>DISP 1.10B Complaints reporting directions</td>
</tr>
<tr>
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<td>-----------------------------------------------</td>
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<td>-----------------------------------------------</td>
</tr>
<tr>
<td>complaints concerning payment services</td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td></td>
</tr>
<tr>
<td>electronic money issuer in relation to complaints concerning issuance of electronic money</td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td></td>
</tr>
<tr>
<td>VJ participant</td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants (DISP 1.3.4G to DISP 1.3.5G do not apply)</td>
<td>Applies for eligible complainants (DISP 1.6.8G does not apply)</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td></td>
</tr>
<tr>
<td>complaints relating to auction regulation bidding</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td></td>
</tr>
<tr>
<td>a full-scope UK AIFM or a small authorised UK AIFM, for complaints concerning AIFM management functions</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td></td>
</tr>
</tbody>
</table>
### DISP 1 : Treating complainants fairly

<table>
<thead>
<tr>
<th>Type of respondent/complaint</th>
<th>DISP 1.1A Requirements for MiFID investment firms</th>
<th>DISP 1.2 Consumer awareness rules</th>
<th>DISP 1.3 Complaints handling rules</th>
<th>DISP 1.4 - 1.8 Complaints resolution rules etc.</th>
<th>DISP 1.9 Complaints record rules</th>
<th>DISP 1.10 Complaints reporting rules</th>
<th>DISP 1.10A Complaints data publication rules</th>
<th>DISP 1.10B Complaints reporting directions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carried on for an AIF that is a body corporate (unless it is a collective investment scheme)</td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants (DISP 1.3.4G does not apply)</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Does not apply</td>
</tr>
<tr>
<td>A depositary, for complaints concerning activities carried on for an authorised AIF</td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants (DISP 1.3.4G does not apply)</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Does not apply</td>
</tr>
<tr>
<td>A depositary, for complaints concerning activities carried on for an unauthorised AIF that is a charity AIF (other than a body corporate that is not a collective investment scheme)</td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants (DISP 1.3.4G does not apply)</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Does not apply</td>
</tr>
<tr>
<td>A depositary, for complaints concerning activities</td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants (DISP 1.3.4G)</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Does not apply</td>
</tr>
</tbody>
</table>

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[33x814]DISP 1 : Treating complainants

Annex 2

fairly
### Annex 2

#### DISP 1 : Treating complainants fairly

<table>
<thead>
<tr>
<th>Type of respondent/complaint</th>
<th>DISP 1.1A Requirements for MiFID investment firms</th>
<th>DISP 1.2 Consumer awareness rules</th>
<th>DISP 1.3 Complainants handling rules</th>
<th>DISP 1.4 - 1.8 Complainants resolution rules etc.</th>
<th>DISP 1.9 Complainants record rule</th>
<th>DISP 1.10 Complainants reporting rules</th>
<th>DISP 1.10A Complainants data publication rules</th>
<th>DISP 1.10B Complainants reporting directions</th>
</tr>
</thead>
<tbody>
<tr>
<td>carried on for an unauthorised AIF that is a LTIF (other than a body corporate that is not a collective investment scheme)</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
</tr>
<tr>
<td>a depositary, for complaints concerning activities carried on for an unauthorised AIF that is not a charity AIF or a LTIF</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
</tr>
<tr>
<td>Type of respondent/complaint</td>
<td>DISP 1.1A Requirements for MiFID investment firms</td>
<td>DISP 1.2 Consumer awareness rules</td>
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<td>DISP 1.9 Complaints record rule</td>
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</tr>
<tr>
<td>a CBTL firm in relation to complaints concerning CBTL business</td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
</tr>
<tr>
<td>a designated credit reference agency in relation to complaints about providing credit information</td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
</tr>
<tr>
<td>designated finance platform in relation to complaints about providing specified information</td>
<td>Does not apply</td>
<td>Applies for eligible complainants</td>
<td>Applies for eligible complainants</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
</tr>
<tr>
<td>complaints relating to administering a benchmark</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
<td>Does not apply</td>
</tr>
</tbody>
</table>
### Appropriate wording for inclusion in a final response or written acceptance

<table>
<thead>
<tr>
<th>The respondent does not consent to waive the six-month time limit in DISP 2.8.2 R (1)</th>
</tr>
</thead>
</table>
| **(1)** “You have the right to refer your complaint to the Financial Ombudsman Service, free of charge – but you must do so within six months of the date of this letter.**

If you do not refer your complaint in time, the Ombudsman will not have our permission to consider your complaint and so will only be able to do so in very limited circumstances. For example, if the Ombudsman believes that the delay was as a result of exceptional circumstances.” |

<table>
<thead>
<tr>
<th>The complaint was received outside the time limits in DISP 2.8.2R(2) and the respondent does not consent to waive those time limits or the six-month time limit in DISP 2.8.2 R (1)</th>
</tr>
</thead>
</table>
| **(2)** “You have the right to refer your complaint to the Financial Ombudsman Service, free of charge.”

The Ombudsman might not be able to consider your complaint if:

- what you’re complaining about happened more than **six years** ago, and
- you’re complaining more than **three years** after you realised (or should have realised) that there was a problem.

We think that your complaint was made outside of these time limits but this is a matter for the Ombudsman to decide. If the Ombudsman agrees with us, they will not have our permission to consider your complaint and so will only be able to do so in very limited circumstances (see below).

**If you do decide to refer your complaint to the Ombudsman you must do so within six months of the date of this letter.**

If you do not refer your complaint to the Ombudsman within six months of the date of this letter, the Ombudsman will not have our permission to consider your complaint and so will only be able to do so in very limited circumstances.

The very limited circumstances referred to above include, where the Ombudsman believes that the delay was as a result of exceptional circumstances.” |

<table>
<thead>
<tr>
<th>The complaint was received outside the time limits in DISP 2.8.2 R (2) and the respondent does not consent to waive those time limits but does consent to waive the six-month time limit in DISP 2.8.2 R (1)</th>
</tr>
</thead>
</table>
| **(3)** “You have the right to refer your complaint to the Financial Ombudsman Service, free of charge.”

The Ombudsman might not be able to consider your complaint if:

- what you’re complaining about happened more than **six years** ago, and
- you’re complaining more than **three years** after you realised (or should have realised) that there was a problem.

We think that your complaint was made outside of these time limits but this is a matter for the Ombudsman to decide. If the Ombudsman agrees with us, they will not have our permission to consider your complaint and so will only be able
to do so in very limited circumstances. For example, if the Ombudsman believes that the delay was as a result of exceptional circumstances.

The time limit for referring complaints to the Ombudsman is usually six months but we will consent to the Ombudsman considering your complaint even if you refer the complaint later than this.”

<table>
<thead>
<tr>
<th>The respondent does not consent to waive the time limits in DISP 2.8.7 R relating to mortgage endowment complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>(4)</strong></td>
</tr>
</tbody>
</table>
| “You have the right to refer your complaint to the Financial Ombudsman Service, free of charge — but you must do so within six months of the date of this letter. The Ombudsman might not be able to consider your complaint if: • you received a letter warning you that there was a high risk that your mortgage endowment policy would not produce a sum large enough to repay the target amount at maturity; and • you’re complaining more than three years after you received that letter, and • you’re complaining more than six months after the date on which we sent you a further communication notifying you when the three-year period would expire.

We think that your complaint was made outside of these time limits but this is a matter for the Ombudsman to decide. If the Ombudsman agrees with us, they will not have our permission to consider your complaint and so will only be able to do so in limited circumstances.” |

| The respondent consents to waive all applicable time limits |
| **(5)** |
| “You have the right to refer your complaint to the Financial Ombudsman Service, free of charge.

Although there are time limits for referring your complaint to the Ombudsman, we will consent to the Ombudsman considering your complaint even if you refer the complaint outside the time limits.” |

| Other circumstances not dealt with above |
| **(6)** |
| Where the respondent proposes to waive the time limits in DISP 2.8.2 R or DISP 2.8.7 R and appropriate wording for the respondent circumstances is not set out in (1) to (5), the respondent must adapt the appropriate wording as necessary. |
Appropriate wording for inclusion in a final response, written acceptance or summary resolution communication

Reference to the availability of The Pensions Ombudsman
“You have the right to refer your complaint to The Pensions Ombudsman free of charge.
The Pensions Ombudsman can be contacted at [full current contact details and current website address].”
Chapter 2

Jurisdiction of the Financial Ombudsman Service
2.1 Purpose, interpretation and application

Purpose

The purpose of this chapter is to set out rules and guidance on the scope of the Compulsory Jurisdiction and the Voluntary Jurisdiction, which are the Financial Ombudsman Service’s two jurisdictions:

(1) the Compulsory Jurisdiction is not restricted to regulated activities, payment services, issuance of electronic money, and CBTL business and covers:

(a) certain complaints against firms (and businesses which were firms at the time of the events complained about);

(b) relevant complaints against former members of former schemes under the Ombudsman Transitional Order, the Mortgage and General Insurance Complaints Transitional Order and the Claims Management Order;

(c) relevant credit-related complaints against businesses which were, at the time of the events complained about, covered by a standard licence under the Consumer Credit Act 1974, or formerly authorised to carry on an activity by virtue of section 34(A) of that Act, in accordance with article 11 of the Regulated Activities Amendment Order;

(d) certain complaints against designated credit reference agencies under the Small and Medium Sized Business (Credit Information) Regulations; and

(e) certain complaints against designated finance platforms under the Small and Medium Sized Business (Finance Platforms) Regulations;

(2) [deleted]

(3) the Voluntary Jurisdiction covers certain complaints against VJ participants, including in relation to events before they joined the Voluntary Jurisdiction.

2.1.2 Relevant complaints covered by the Compulsory Jurisdiction comprise:

(1) relevant existing complaints referred to a former scheme before commencement and inherited by the Financial Ombudsman Service under the Ombudsman Transitional Order;

(2) relevant new complaints about events before commencement but referred to the Financial Ombudsman Service after commencement under the Ombudsman Transitional Order;
(3) relevant transitional complaints referred to the Financial Ombudsman Service after the relevant commencement date under the Mortgages and General Insurance Complaints Transitional Order;

(4) relevant existing credit-related complaints referred to the Financial Ombudsman Service before 1 April 2014 which were formerly being dealt with under the Consumer Credit Jurisdiction and which are to be dealt with under the Compulsory Jurisdiction in accordance with article 11 of the Regulated Activities Amendment Order;

(5) relevant new credit-related complaints about events which took place before 1 April 2014 but referred to the Financial Ombudsman Service on or after 1 April 2014 which are to be dealt with under the Compulsory Jurisdiction in accordance with article 11 of the Regulated Activities Amendment Order;

(6) relevant existing claims management complaints referred to the Legal Ombudsman before 1 April 2019 and inherited by the Financial Ombudsman Service under the Claims Management Order; and

(7) relevant new claims management complaints about events which took place before 1 April 2019 but referred to the Financial Ombudsman Service on or after 1 April 2019 under the Claims Management Order.

2.1.3 The Ombudsman Transitional Order and the Claims Management Order requires the Financial Ombudsman Service to complete the handling of relevant existing complaints and relevant existing claims management complaints, in a significant number of respects, in accordance with the requirements of the relevant former scheme rather than in accordance with the requirements of this chapter.

Interpretation

2.1.4 In this chapter, carrying on an activity includes:

(1) offering, providing or failing to provide a service in relation to an activity;

(2) administering or failing to administer a service in relation to an activity; and

(3) the manner in which a respondent has administered its business, provided that the business is an activity subject to the Financial Ombudsman Service’s jurisdiction.

Purpose

2.1.5 In this chapter, ancillary banking services include, for example, the provision and operation of cash machines, foreign currency exchange, safe deposit boxes and account aggregation services (services where details of accounts held with different financial service providers can be accessed by a single password).
Application

2.1.6  
This chapter applies to the Ombudsman and to respondents.

2.1.6A  
This chapter applies to a TP firm. This rule demonstrates the contrary intention under GEN 2.2.26R.

2.1.7  
Part XVI of the Act (The Ombudsman Scheme), particularly section 226 (Compulsory jurisdiction), applies to members of the Society of Lloyd’s in respect of the regulated activities of effecting or carrying out contracts of insurance written at Lloyd’s.
2.2 Which complaints can be dealt with under the Financial Ombudsman Service?

2.2.1 The scope of the Financial Ombudsman Service's two jurisdictions depends on:

(1) the type of activity to which the complaint relates (see DISP 2.3, DISP 2.4 and DISP 2.5);

(2) the place where the activity to which the complaint relates was carried on (see DISP 2.6);

(3) whether the complainant is eligible (see DISP 2.7); and

(4) whether the complaint was referred to the Financial Ombudsman Service in time (see DISP 2.8).

2.2.2 The effect of section 234B of the Act is that where a person (a “successor”) has assumed a liability (including a contingent one) of another person who was, or would have been the respondent in respect of a complaint, the complaint may be dealt with by the Ombudsman as if the successor were the respondent.
2.3 To which activities does the Compulsory Jurisdiction apply?

Activities by firms

2.3.1 The Ombudsman can consider a complaint under the Compulsory Jurisdiction if it relates to an act or omission by a firm in carrying on one or more of the following activities:

(1) regulated activities (other than auction regulation bidding and administering a benchmark);

(1A) payment services;

(1B) [deleted]

(1C) CBTL business;

(2) [deleted]

(3) lending money secured by a charge on land;

(4) lending money (excluding restricted credit where that is not a credit-related regulated activity);

(5) paying money by a plastic card (excluding a store card where that is not a credit-related regulated activity);

(6) providing ancillary banking services;

(7) offering and/or issuing of investments by ISPVs;

(8) giving non-personal recommendation advice;

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

2.3.1A The Ombudsman can also consider a complaint under the Compulsory Jurisdiction if it relates to an act or omission by:

(1) an investment firm authorised under the UK provisions which implemented MiFID when providing investment services or ancillary services;

(2) a CRD credit institution when providing one or more investment services;
(3) an investment firm authorised under the UK provisions which implemented MiFID or a CRD credit institution when selling structured deposits to clients, or advising clients on them;

(4) a collective portfolio management investment firm when providing the activities permitted by the UK provisions which implemented article 6(3) of the UCITS Directive; and

(5) a collective portfolio management investment firm when providing the activities permitted by the UK provisions which implemented article 6(4) of the AIFMD.

[Note: see article 1(1), 1(3) and 1(4) and article 75 of MiFID, and articles 1 and 26(5) of the MiFID Org Regulation]

2.3.1B For the purposes of DISP 2.3.1AR, the Ombudsman can consider a complaint about an act carried out by a MiFID investment firm that is preparatory to the provision of an investment service or ancillary service which is an integral part of such a service. This includes, for example, generic advice given by a MiFID investment firm to a client prior to, or in the course of, the provision of investment advice or another investment service or ancillary service.

[Note: recitals 15 and 16 of the MiFID Org Regulation]

Activities by firms and unauthorised persons subject to a former scheme

2.3.2 The Ombudsman can also consider under the Compulsory Jurisdiction:

(1) as a result of the Ombudsman Transitional Order, a relevant existing complaint or a relevant new complaint that relates to an act or omission by a firm or an unauthorised person which was subject to a former scheme immediately before commencement;

(2) as a result of the Mortgages and General Insurance Complaints Transitional Order, a relevant transitional complaint that relates to an act or omission by a firm (or an unauthorised person that ceased to be a firm after the relevant commencement date) which was subject to a former scheme at the time of the act or omission; or

(2A) as a result of the Claims Management Order, a relevant claims management complaint that relates to an act or omission by a firm or an unauthorised person which was subject to a former scheme at the time of the act or omission;

provided that:

(3) the act or omission occurred in the carrying on by that firm or unauthorised person of an activity to which that former scheme applied; and

(4) the complainant is eligible and wishes to have the complaint dealt with by the Ombudsman.
Activities by firms and unauthorised persons previously subject to the Consumer Credit Jurisdiction

In accordance with article 11 of the Regulated Activities Amendment Order, the Ombudsman can also consider under the Compulsory Jurisdiction:

(1) a relevant existing credit-related complaint referred to the Financial Ombudsman Service before 1 April 2014 which was formerly being dealt with under the Consumer Credit Jurisdiction; and

(2) a relevant new credit-related complaint referred to the Financial Ombudsman Service on or after 1 April 2014 which relates to an act or omission which took place before 1 April 2014;

provided that:

(a) the complaint could have been dealt with under the Consumer Credit Jurisdiction (disregarding whether the complainant would have been eligible under rules made for the purposes of the Consumer Credit Jurisdiction and whether the complaint would have fallen within a description specified in those rules) but for the repeal of section 226A of the Act; and

(b) the complainant is eligible and wishes to have the complaint dealt with under the Financial Ombudsman Service.

Activities by payment service providers

The Ombudsman can consider a complaint under the Compulsory Jurisdiction if it relates to an act or omission by a payment service provider in carrying on:

(1) payment services; or

(2) credit-related regulated activities;

or any ancillary activities, including advice, carried on by the payment service provider in connection with them.

Activities by electronic money issuers

The Ombudsman can consider a complaint under the Compulsory Jurisdiction if it relates to an act or omission by an electronic money issuer in carrying on:

(1) issuance of electronic money; or

(2) credit-related regulated activities;

or any ancillary activities, including advice, carried on by the electronic money issuer in connection with them.

Activities by CBTL firms

The Ombudsman can consider a complaint under the Compulsory Jurisdiction if it relates to an act or omission by a CBTL firm in carrying on CBTL business or any ancillary activities, including advice, carried on by the CBTL firm in connection with its CBTL business.
2.3.2C  Consumer redress schemes

As a result of section 404B(11) of the Act, the Ombudsman can also consider under the Compulsory Jurisdiction a complaint from a complainant who:

1. is not satisfied with a redress determination made by a respondent under a consumer redress scheme; or

2. considers that a respondent has failed to make a redress determination in accordance with a consumer redress scheme.

2.3.2D  Activities by designated credit reference agencies

The Ombudsman can consider a complaint under the Compulsory Jurisdiction if it relates to an act or omission by a designated credit reference agency in carrying on:

1. the activity of providing credit information under the Small and Medium Sized Business (Credit Information) Regulations; or

2. any ancillary activities, including advice, carried on by the designated credit reference agency in connection with the activity in (1).

2.3.2E  Activities by designated finance platforms

The Ombudsman can consider a complaint under the Compulsory Jurisdiction if it relates to an act or omission by a designated finance platform in carrying on:

1. the activity of providing specified information under the Small and Medium Sized Business (Finance Platforms) Regulations; or

2. any ancillary activities, including advice, carried on by the designated finance platform in connection with the activity in (1).

2.3.3  General

Complaints about acts or omissions include those in respect of activities for which the firm, payment service provider, electronic money issuer, CBTL firm, designated credit reference agency or designated finance platform is responsible (including business of any appointed representative or agent for which the firm, payment institution, electronic money institution, designated credit reference agency or designated finance platform has accepted responsibility).

2.3.4  A complaint about an authorised professional firm cannot be handled under the Compulsory Jurisdiction of the Financial Ombudsman Service if it relates solely to a non-mainstream regulated activity and can be handled by a designated professional body.

2.3.5  The Compulsory Jurisdiction includes complaints about the UK end of 'one leg' payment services transactions, i.e. services provided from UK establishments that also involve a payment service provider located outside the EEA. The Compulsory Jurisdiction also includes complaints about payment services irrespective of the currency of the transaction.
2.5 To which activities does the Voluntary Jurisdiction apply?

2.5.1 The Ombudsman can consider a complaint under the Voluntary Jurisdiction if:

(1) it is not covered by the Compulsory 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 (other than auction regulation bidding and administering a benchmark) 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, other than regulated claims management activities and activities ancillary to regulated claims management activities, which (at 30 April 2021) would be covered by the Compulsory Jurisdiction if they were carried on from an establishment in the United Kingdom (these activities are listed in DISP 2 Annex 1G);

   (ca) an activity which would be a regulated claims management activity and would be covered by the Compulsory Jurisdiction if it were carried on in Great Britain (see PERG 2.4A);

   (d) [deleted]

   (e) lending money secured by a charge on land;

   (f) lending money (excluding restricted credit where that is not a credit-related regulated activity);

   (g) paying money by a plastic card (excluding a store card where that is not a credit-related regulated 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) offering and/or issuing of investments by ISPVs;
(m) [deleted]
or any ancillary activities, including advice, carried on by the VJ participant in connection with them.

2.5.2 The scope of the Voluntary Jurisdiction is wider than that of the Compulsory Jurisdiction, and so some activities are referred to in both jurisdictions.

2.5.3 DISP 2.5.1R (2)(a) is for those that are subject to the Compulsory Jurisdiction for regulated activities but are not covered by the Ombudsman Transitional Order, the Mortgage and General Insurance Complaints Transitional Order, or the Claims Management Order. It enables the Financial Ombudsman Scheme to cover complaints about earlier events relating to those activities before they became regulated activities.

2.5.4 DISP 2.5.1R (2)(b) is for those that were members of one of the former schemes replaced by the Financial Ombudsman Service immediately before commencement. It enables the Financial Ombudsman Service to cover complaints that arise out of acts or omissions occurring after commencement for any activities which are not covered by the Compulsory Jurisdiction but that would have been covered by the relevant former scheme.

2.5.4A DISP 2.5.1R(2)(c) includes complaints about the EEA end of ‘one leg’ payment services transactions, i.e. services provided from EEA establishments that are subject to the territorial jurisdiction of the Voluntary Jurisdiction (see DISP 2.6.4R (2)) that also involve a payment service provider located outside the EEA. It also includes complaints about payment services irrespective of the currency of the transaction.

2.5.5 The Voluntary Jurisdiction covers an act or omission that occurred before the VJ participant was participating in the Voluntary Jurisdiction, and whether the act or omission occurred before or after commencement, either:

(1) if the complaint could have been dealt with under a former scheme; or

(2) under the agreement by the VJ participant in the Standard Terms.
2.6 What is the territorial scope of the relevant jurisdiction?

Compulsory Jurisdiction

2.6.1 The Compulsory Jurisdiction covers complaints about the activities of a firm (including its appointed representatives), of a payment service provider (including agents of a payment institution), of an electronic money issuer (including agents of an electronic money institution), of a CBTL firm, of a designated credit reference agency or of a designated finance platform which:

(a) (except for regulated claims management activities and activities ancillary to regulated claims management activities) are carried on from an establishment in the United Kingdom; or

(b) are carried on from an establishment 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

(c) are, or are ancillary to, regulated claims management activities.

2.6.2 For an activity to amount to a regulated claims management activity it must be carried on in Great Britain (see PERG 2.4A). The application of the Compulsory Jurisdiction to firms which carry on 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.

Consumer Credit Jurisdiction

2.6.3
Voluntary Jurisdiction

2.6.4  The Voluntary Jurisdiction covers only complaints about the activities of a VJ participant carried on from an establishment:

(1) in the United Kingdom; or

(2) in the EEA or Gibraltar if the following conditions are met:

(a) the activity is directed wholly or partly at the United Kingdom (or part of it);

(b) contracts governing the activity are (or, in the case of a potential customer, would have been) made under the law of England and Wales, Scotland or Northern Ireland; and

(c) the VJ participant has notified appropriate regulators in the place in which the establishment is located of its intention to participate in the Voluntary Jurisdiction.

2.6.4A  Complaints about activities which are claims management services but which are not regulated claims management activity (for example, services provided by a company incorporated in Northern Ireland to a natural person ordinarily resident in Northern Ireland) may be covered by the Voluntary Jurisdiction under DISP 2.6.4R(1) where the activities are carried on from an establishment in the United Kingdom.

Location of the complainant

2.6.5  A complaint can be dealt with under the Financial Ombudsman Service whether or not the complainant lives or is based in the United Kingdom.
2.7 Is the complainant eligible?

2.7.1 A complaint may only be dealt with under the Financial Ombudsman Service if it is brought by or on behalf of an eligible complainant.

2.7.2 A complaint may be brought on behalf of an eligible complainant (or a deceased person who would have been an eligible complainant) by a person authorised by the eligible complainant or authorised by law. It is immaterial whether the person authorised to act on behalf of an eligible complainant is himself an eligible complainant.

Eligible complainants

2.7.3 An eligible complainant must be a person that is:

(1) a consumer; or

(2) a micro-enterprise;

(a) in relation to a complaint relating wholly or partly to payment services, either at the time of the conclusion of the payment service contract or at the time the complainant refers the complaint to the respondent; or

(b) otherwise, at the time the complainant refers the complaint to the respondent; or

(3) a charity which has an annual income of less than £6.5 million at the time the complainant refers the complaint to the respondent; or

(4) a trustee of a trust which has a net asset value of less than £5 million at the time the complainant refers the complaint to the respondent; or

(5) (in relation to CBTL business) a CBTL consumer; or

(6) a small business at the time the complainant refers the complaint to the respondent; or

(7) a guarantor.

2.7.4 In determining whether an enterprise meets the tests for being a micro-enterprise or a small business, account should be taken of the enterprise’s ‘partner enterprises’ or ‘linked enterprises’ (as those terms are defined in the Micro-enterprise Recommendation). For example, where a parent company
holds a majority shareholding in a complainant, if the parent company does not meet the tests for being a micro-enterprise or a small business then neither will the complainant.

[Note: articles 1 and 3 to 6 of the Annex to the Micro-enterprise Recommendation].

2.7.5 If a respondent is in doubt about the eligibility of a business, charity or trust, it should treat the complainant as if it were eligible. If the complaint is referred to the Financial Ombudsman Service, the Ombudsman will determine eligibility by reference to appropriate evidence, such as audited accounts or VAT returns.

2.7.5A A guarantor shall be an eligible complainant only to the extent that their complaint arises from matters relevant to the relationship with the respondent referred to in DISP 2.7.6R(10).

2.7.6 To be an eligible complainant a person must also have a complaint which arises from matters relevant to one or more of the following relationships with the respondent:

(1) the complainant is (or was) a customer, payment service user or electronic money holder of the respondent;

(2) the complainant is (or was) a potential customer, payment service user or electronic money holder of the respondent;

(2A) the complainant is (or was) a payer in a payment transaction in relation to which the respondent is (or was) the payee's payment service provider, provided the complaint relates to the respondent's obligations under regulation 90(3) of the Payment Services Regulations;

(2B) the complainant is a person that has transferred funds as a result of an alleged authorised push payment fraud and both:

(a) the respondent is (or was) involved in the transfer of the funds; and

(b) the complaint is not a PSD complaint;

(3) the complainant is the holder, or the beneficial owner, of units in a collective investment scheme and the respondent is:

(a) the operator of a scheme; or

(b) the depositary of an authorised fund; or

(c) the depositary of a charity AIF; or

(d) the depositary of an LTIF;

(3A) the complainant is the holder, or the beneficial owner, of units or shares in an AIF that is not a collective investment scheme where the respondent is:

(a) the AIFM of an unauthorised AIF (other than a body corporate); or
(b) the AIFM or depositary of a LTIF (other than a body corporate); or
(c) the AIFM or depositary of a charity AIF (other than a body corporate);

(4) the complainant is a beneficiary of, or has a beneficial interest in, a personal pension scheme or stakeholder pension scheme;

(5) the complainant is a person for whose benefit a contract of insurance was taken out or was intended to be taken out with or through the respondent;

(6) the complainant is a person on whom the legal right to benefit from a claim against the respondent under a contract of insurance has been devolved by contract, assignment, subrogation or legislation (save the European Community (Rights against Insurers) Regulations 2002);

(7) the complainant relied in the course of his business on a cheque guarantee card issued by the respondent;

(8) the complainant is the true owner or the person entitled to immediate possession of a cheque or other bill of exchange, or of the funds it represents, collected by the respondent for someone else's account;

(9) the complainant is the recipient of a banker's reference given by the respondent;

(10) the complainant gave the respondent a guarantee or security for:
(a) a mortgage;
(b) a loan;
(c) an actual or prospective regulated credit agreement;
(d) an actual or prospective regulated consumer hire agreement; or
(e) any linked transaction as defined in the Consumer Credit Act 1974 (as amended);

(11) the complainant is a person about whom information relevant to his financial standing is or was held by the respondent in providing credit references;

(11A) the complainant is a person about whom information relevant to his financial standing is or was held by the respondent in providing credit information;

(11B) the complainant is a person about whom specified information was provided to a person in relation to a finance application;

(12) the complainant is a person:
(a) from whom the respondent has sought to recover payment under a credit agreement or consumer hire agreement (whether or not the respondent is a party to the agreement); or
(b) in relation to whom the respondent has sought to perform duties, or exercise or enforce rights, on behalf of the creditor or
owner, under a credit agreement or consumer hire agreement in carrying on debt administration;

(13) the complainant is a beneficiary under a trust or estate of which the respondent is trustee or personal representative;

(14) (where the respondent is a dormant account fund operator) the complainant is (or was) a customer of a bank or building society which transferred any balance from a dormant account to the respondent;

(15) the complainant is either a borrower or a lender under a P2P agreement and the respondent is the operator of an electronic system in relation to lending.

(16) the complainant is a client (where the respondent is an ISPV).

(17) the complainant is a customer of the respondent in relation to regulated claims management activity.

2.7.7

(1) ■ DISP 2.7.6R (5) and ■ DISP 2.7.6R (6) include, for example, employees covered by a group permanent health policy taken out by an employer, which provides in the insurance contract that the policy was taken out for the benefit of the employee.

(2) ■ DISP 2.7.6R(2B) includes any complaint that the respondent did not do enough to prevent, or respond to, an alleged authorised push payment fraud.

2.7.7A

In addition, an individual is an eligible complainant if:

(1) they have been identified by the respondent as a politically exposed person, a family member of a politically exposed person, or a known close associate of a politically exposed person; and

(2) their complaint:

is that such identification is incorrect; or

(b) relates to an act or omission by the respondent in consequence of such identification.

2.7.8

In the Compulsory Jurisdiction, under the Ombudsman Transitional Order, the Mortgages and General Insurance Complaints Transitional Order and Claims Management Order, where a complainant:

(1) wishes to have a relevant new complaint, a relevant transitional complaint or a relevant new claims management complaint dealt with by the Ombudsman; and

(2) is not otherwise eligible; but

(3) would have been entitled to refer an equivalent complaint to the former scheme in question immediately before the relevant order came into effect;
if the Ombudsman considers it appropriate, he may treat the complainant as an eligible complainant.

Exceptions

2.7.9 The following are not eligible complainants:

(1) (in all jurisdictions) a firm, payment service provider, electronic money issuer, CBTL firm, designated credit reference agency, designated finance platform or VJ participant whose complaint relates in any way to an activity which:
   (a) the firm itself has permission to carry on; or
   (ab) the firm, payment service provider, electronic money issuer, CBTL firm, designated credit reference agency or designated finance platform itself is entitled to carry on under the Payment Services Regulations, the Electronic Money Regulations, the MCD Order, the Small and Medium Sized Business (Credit Information) Regulation or the Small and Medium Sized Business (Finance Platforms) Regulations; or
   (b) the VJ participant itself conducts;

and which is subject to the Compulsory Jurisdiction or the Voluntary Jurisdiction;

(2) (in the Compulsory Jurisdiction) a complainant, other than a trustee of a pension scheme trust, who was:
   (a) a professional client; or
   (b) an eligible counterparty;

   in relation to the firm and activity in question at the time of the act or omission which is the subject of the complaint.

(3) [deleted]

2.7.9A ■ DISP 2.7.9 R (1) and ■ DISP 2.7.9 R (2) do not apply to a complainant who is a consumer in relation to the activity to which the complaint relates.

2.7.10 In the Compulsory Jurisdiction, in relation to relevant new complaints under the Ombudsman Transitional Order and relevant transitional complaints under the Mortgages and General Insurance Complaints Transitional Order:

(1) where the former scheme in question is the Insurance Ombudsman Scheme, a complainant is not to be treated as an eligible complainant unless:
   (a) he is an individual; and
   (b) the relevant new complaint does not concern aspects of a policy relating to a business or trade carried on by him;

(2) where the former scheme in question is the GISC facility, a complainant is not to be treated as an eligible complainant unless:
   (a) he is an individual; and
(b) he is acting otherwise than solely for the purposes of his business; and

(3) where the former scheme in question is the MCAS scheme, a complainant is not to be treated as an eligible complainant if:

(a) the relevant transitional complaint does not relate to a breach of the Mortgage Code published by the Council of Mortgage Lenders;

(b) the complaint concerns physical injury, illness, nervous shock or their consequences; or

(c) the complainant is claiming a sum of money that exceeds £100,000.
2.8 Was the complaint referred to the Financial Ombudsman Service in time?

General time limits

The Ombudsman can only consider a complaint if:

(1) the respondent has already sent the complainant its final response or summary resolution communication; or

(2) in relation to a complaint that is not an EMD complaint or a PSD complaint, eight weeks have elapsed since the respondent received the complaint; or

in relation to a complaint that is an EMD complaint or a PSD complaint:

(a) 15 business days have elapsed since the respondent received the complaint and the complainant has not received a holding response as described in DISP 1.6.2A R(2)(a); or

(b) where the complainant has received a holding response, 35 business days have elapsed since the respondent received the complaint; or

(3) in relation to a complaint the subject matter of which falls to be dealt with (or has properly been dealt with) under a consumer redress scheme:

(a) the respondent has already sent the complainant its redress determination under the scheme; or

(b) the respondent has failed to send a redress determination in accordance with the time limits specified under the scheme; unless:

(4) the respondent consents and:

(a) the Ombudsman has informed the complainant that the respondent must deal with the complaint within eight weeks (or for EMD complaints and PSD complaints 15 business days or, in exceptional circumstances, 35 business days) and that it may resolve the complaint more quickly than the Ombudsman; and

(b) the complainant nevertheless wishes the Ombudsman to deal with the complaint.
Where a respondent has chosen to treat a complaint in its entirety in accordance with DISP 1.6.2AR, notwithstanding that parts of it fall outside DISP 1.6.2AR, DISP 2.8 will apply as if the whole complaint were an EMD complaint or a PSD complaint.

The Ombudsman cannot consider a complaint if the complainant refers it to the Financial Ombudsman Service:

1. more than six months after the date on which the respondent sent the complainant its final response, redress determination or summary resolution communication; or

2. more than:
   a. six years after the event complained of; or (if later)
   b. three years from the date on which the complainant became aware (or ought reasonably to have become aware) that he had cause for complaint;

unless the complainant referred the complaint to the respondent or to the Ombudsman within that period and has a written acknowledgement or some other record of the complaint having been received;

unless:

1. in the view of the Ombudsman, the failure to comply with the time limits in DISP 2.8.2 R or DISP 2.8.7 R was as a result of exceptional circumstances; or

2. the Ombudsman is required to do so by the Ombudsman Transitional Order; or

3. the respondent has consented to the Ombudsman considering the complaint where the time limits in DISP 2.8.2 R or DISP 2.8.7 R have expired (but this does not apply to a “relevant complaint” within the meaning of section 404B(3) of the Act).

If a respondent consents to the Ombudsman considering a complaint in accordance with DISP 2.8.2 R (5), the respondent may not withdraw consent.

The six-month time limit is only triggered by a response which is a final response, redress determination or summary resolution communication. The response must tell the complainant about the six-month time limit that the complainant has to refer a complaint to the Financial Ombudsman Service.

An example of exceptional circumstances might be where the complainant has been or is incapacitated.

Pensions review and FSAVC review

The six-year and the three-year time limits do not apply where:

1. [deleted]
(2) the complaint concerns a contract or policy which is the subject of a review directly or indirectly under:

(a) the terms of the Statement of Policy on ‘Pension transfers and Opt-outs’ issued by the FSA on 25 October 1994; or

(b) the terms of the policy statement for the review of specific categories of FSAVC business issued by the FSA on 28 February 2000.

Mortgage endowment complaints.......................... 2.8.6

If a complaint relates to the sale of an endowment policy for the purpose of achieving capital repayment of a mortgage, the receipt by the complainant of a letter which states that there is a risk (rather than a high risk) that the policy would not, at maturity, produce a sum large enough to repay the target amount is not, itself, sufficient to cause the three year time period in DISP 2.8.2R (2) to start to run.

2.8.7

(1) If a complaint relates to the sale of an endowment policy for the purpose of achieving capital repayment of a mortgage and the complainant receives a letter from a firm or a VJ participant warning that there is a high risk that the policy will not, at maturity, produce a sum large enough to repay the target amount then, subject to (2), (3), (4) and (5):

(a) time for referring a complaint to the Financial Ombudsman Service starts to run from the date the complainant receives the letter; and

(b) ends three years from that date ("the final date").

(2) Paragraph (1)(b) applies only if the complainant also receives within the three year period mentioned in (1)(b) and at least six months before the final date an explanation that the complainant's time to refer such a complaint would expire at the final date.

(3) If an explanation is given but is sent outside the period referred to in (2), time for referring a complaint will run until a date specified in such an explanation which must not be less than six months after the date on which the notice is sent.

(4) A complainant will be taken to have complied with the time limits in (1) to (3) above if in any case he refers the complaint to the firm or VJ participant within those limits and has a written acknowledgement or some other record of the complaint having been received.

(5) Paragraph (1) does not apply if the Ombudsman is of the opinion that, in the circumstances of the case, it is appropriate for DISP 2.8.2R (2) to apply.

Payment protection insurance complaints

2.8.8

If a complaint relates to the sale of a payment protection contract, knowledge by the complainant that there was a problem with the sale of the payment protection contract generally (for example where there has been a rejection of a claim on the grounds of ineligibility or exclusion, or the complainant has received a customer contact letter explaining that they may
have been mis-sold) would not in itself ordinarily be sufficient to establish for the purposes of the three-year time period in DISP 2.8.2R(2) that the complainant had become aware (or ought reasonably to have become aware) that he or she had cause for complaint in respect of a failure to make the disclosure set out at DISP App 3.3A.2E (relating to failure to disclose commission).

2.8.9  (1) In addition to DISP 2.8.1R and DISP 2.8.2R, unless one or more of the conditions in (2) below is met, the Ombudsman cannot consider a complaint which:

(a) relates to the sale of a payment protection contract that took place on or before 29 August 2017; and

(b) expresses dissatisfaction about the sale, or matters related to the sale, including where there is a rejection of claims on the grounds of ineligibility or exclusion (but not matters unrelated to the sale, such as delays in claims handling or administrative matters such as taking the incorrect amount of premium).

(2) The conditions are that:

(a) the complainant referred the complaint to the respondent or to the Financial Ombudsman Service on or before 29 August 2019 and has a written acknowledgement or some other record of the complaint having been received; or

(b) in the view of the Ombudsman, the failure to comply with the time limit in (2)(a) was as a result of exceptional circumstances; or

(c) the respondent has consented to the Ombudsman considering the complaint where the time limit in (2)(a) has expired (but this does not apply to a “relevant complaint” within the meaning of section 404B(3) of the Act); or

(d) the complaint:

(i) is made on or after 29 August 2019;

(ii) relates to the sale of a payment protection contract that was live as at 29 August 2017;

(iii) is made following a full or partial rejection of a claim on or after 29 August 2017 on the grounds of ineligibility, exclusion or limitation

and this condition applies only to the extent that the complaint relates to those grounds of rejection.

2.8.10 Where a complaint meets the requirements of DISP 2.8.9R(2)(d), those parts of the complaint that relate to the grounds of rejection of the claim are not subject to the restriction in DISP 2.8.9R(1) on an Ombudsman considering the complaint.
Section 2.8: Was the complaint referred to the Financial Ombudsman Service in time?
**Regulated Activities for the Voluntary Jurisdiction at 30 April 2021**

This table belongs to DISP 2.5.1 R

The activities which were covered by the *Compulsory Jurisdiction* (at 30 April 2021) were:

1. **for firms:**
   - (a) *regulated activities* (other than *auction regulation bidding* and *administering a benchmark*);
   - (b) *payment services*;
   - [deleted]
   - (d) *lending money* secured by a charge on land;
   - (e) *lending money* (excluding *restricted credit* where that is not a *credit-related regulated activity*);
   - (f) *paying money* by a *plastic card* (excluding a *store card* where that is not a *credit-related regulated activity*);
   - (g) *providing ancillary banking services*;
   - (h) [deleted]
   - (i) *CBTL business*;
   - (j) *offering and/or issuing of investments by ISPVs*;
   - (k) *giving non-personal recommendation advice*;

2. **for payment service providers:**
   - (a) *payment services*;
   - (b) *credit-related regulated activities*;
   
   or any ancillary activities, including advice, carried on by the *payment service provider* in connection with them.

3. **for electronic money issuers:**
   - (a) *issuance of electronic money*;
   - (b) *credit-related regulated activities*;
   
   or any ancillary activities, including advice, carried on by the *electronic money issuer* in connection with them;

4. **for CBTL firms: CBTL business** or any ancillary activities, including advice, carried on by the *CBTL firm* in connection with it.

5. **for designated credit reference agencies:**
   - (a) *providing credit information* under the *Small and Medium Sized Business (Credit Information) Regulations*; or
   - (b) any ancillary activities, including advice, carried on by the *designated credit reference agency* in connection with the activity in (a).
(6) for designated finance platforms:
(a) providing specified information under the Small and Medium Sized Business (Finance Platforms) Regulations; or
(b) any ancillary activities, including advice, carried on by the designated finance platform in connection with the activity in paragraph (a).

(7) for investment firms authorised under the UK provisions which implemented MiFID:
(a) providing investment services;
(b) providing ancillary services;
(c) selling structured deposits to clients; and
(d) advising clients on structured deposits;
(and, in the case of investment services and ancillary services, this includes any acts which are preparatory to the provision of an investment service or ancillary service which are an integral part of such a service).

(8) for a CRD credit institution:
(a) providing investment services;
(b) selling structured deposits to clients; and
(c) advising clients on structured deposits;
(and, in the case of investment services, this includes any acts which are preparatory to the provision of an investment service which are an integral part of such a service).

(9) for a collective portfolio management investment firm:
(a) when providing the activities permitted by the UK provisions which implemented article 6(3) of the UCITS Directive; and
(b) when providing the activities permitted by the UK provisions which implemented article 6(4) of the AIFMD;
and, in the case of such activities, this includes any acts which are preparatory to the provision of an investment service which are an integral part of such a service).

The activities which (at 30 April 2021) were regulated activities were, in accordance with section 22 of the Act (Regulated Activities), any of the following activities specified in Part II and Parts 3A and 3B of the Regulated Activities Order (with the addition of auction regulation bidding and administering a benchmark):

(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));
(4A) insurance risk transformation (article 13A);
(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));

(14D) credit broking (article 36A);

(14E) operating an electronic system in relation to lending (article 36H);

(15) managing investments (article 37);

(16) assisting in the administration and performance of a contract of insurance (article 39A);

(16A) debt adjusting (article 39D(1) and (2));

(16B) debt counselling (article 39E(1) and (2));

(16C) debt collecting (article 39F(1) and (2));

(16D) debt administration (article 39G(1) and (2));

(17) safeguarding and administering investments (article 40);

(18) sending dematerialised instructions (article 45(1));

(19) causing dematerialised instructions to be sent (article 45(2));

(22A) managing a UK UCITS (article 51ZA);

(22B) acting as a trustee or depositary of a UCITS (article 51ZB);

(22C) managing an AIF (article 51ZC);

(22D) acting as a trustee or depositary of an AIF (article 51ZD);

(22E) establishing, operating or winding up a collective investment scheme (article 51ZE);

(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 (except P2P agreements) (article 53(1));

(26A) advising on P2P agreements (article 53(2));

(27) advising on regulated mortgage contracts (article 53A);

(28) advising on a home reversion plan (article 53B);

(28A) advising on a home purchase plan (article 53C);

(29) advising on a regulated sale and rent back agreement (article 53D);

(29A) advising on regulated credit agreements for the acquisition of land (article 53DA)

(29B) advising on conversion or transfer of pension benefits (article 53E);

(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);

(32A) entering into a regulated credit agreement (article 60B(1));

(32B) exercising, or having the right to exercise, rights and duties under a regulated credit agreement (article 60B(2));

(32C) entering into a regulated consumer hire agreement (article 60N(1));

(32D) exercising, or having the right to exercise rights and duties under a regulated consumer hire agreement (article 60N(2));

(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));

(38C) meeting of repayment claims (article 63N(1)(a));

(38D) managing dormant account funds (including the investment of such funds) (article 63N(1)(b));

(38E) providing information in relation to a specified benchmark (article 63O(1)(a));

(38F) administering a specified benchmark (article 63O(1)(b));
(39) entering as provider into a funeral plan contract (article 59);

(40) agreeing to carry on a regulated activity (article 64);

(40A) providing credit information services (article 89A);

(40B) providing credit references (article 89B);

(41) seeking out, referrals and identification of claims or potential claims (article 89G);

(42) advice, investigation or representation in relation to a personal injury claim (article 89H);

(43) advice, investigation or representation in relation to a financial services or financial product claim (article 89I);

(44) advice, investigation or representation in relation to a housing disrepair claim (article 89J);

(45) advice, investigation or representation in relation to a claim for a specified benefit (article 89K);

(46) advice, investigation or representation in relation to a criminal injury claim (article 89L);

(47) advice, investigation or representation in relation to an employment-related claim (article 89M);

which is carried on by way of business and relates to a specified investment applicable to that activity or, in the case of (22A), (22B), (22C), (22D), (22E) and (23), is carried on in relation to property of any kind or, in the case of (40A) or (40B) relates to information about a person’s financial standing or, in the case of (41) to (47), is or relates to claims management services and is carried on in Great Britain.
Chapter 3

Complaint handling procedures of the Financial Ombudsman Service
3.1 Purpose, interpretation and application

Purpose

3.1.1 The purpose of this chapter is to set out:

1. the procedures of the Financial Ombudsman Service for investigating and determining complaints;
2. the basis on which the Ombudsman makes decisions; and
3. the awards which the Ombudsman can make.

Interpretation

3.1.2 In this chapter, 'out of jurisdiction' means outside the Compulsory Jurisdiction and the Voluntary Jurisdiction in accordance with DISP 2.

3.1.3 Where the respondent is a partnership (or former partnership), it is sufficient for the Ombudsman to communicate with one partner (or former partner).

3.1.4 The Ombudsman Transitional Order and the Claims Management Order requires the Financial Ombudsman Service to complete the handling of relevant existing complaints and relevant existing claims management complaints, in a significant number of respects, in accordance with the requirements of the relevant former scheme rather than in accordance with the requirements of this chapter.

Application

3.1.5 This chapter applies to the Ombudsman and to respondents.

3.1.6 This chapter applies to a TP firm. This rule demonstrates the contrary intention under GEN 2.2.26R.
3.2 Jurisdiction

3.2.1 The Ombudsman will have regard to whether a complaint is out of jurisdiction.

3.2.2 Unless the respondent has already had eight weeks to consider the complaint (or for EMD complaints and PSD complaints the time specified by DISP 2.8.1R(2A)) or issued a final response or summary resolution communication, the Ombudsman will refer the complaint to the respondent (except where DISP 2.8.1R(4) applies).

3.2.2A If the subject matter of a complaint falls to be dealt with by the respondent under a consumer redress scheme, and the time limits specified under the scheme for doing so have not yet expired, the Ombudsman will refer it to the respondent to be dealt with under the scheme (except where DISP 2.8.1R(4) applies).

3.2.3 Where the respondent alleges that the complaint is out of jurisdiction, the Ombudsman will give both parties an opportunity to make representations before he decides.

3.2.4 Where the Ombudsman considers that the complaint may be out of jurisdiction, he will give the complainant an opportunity to make representations before he decides.

3.2.5 Where the Ombudsman then decides that the complaint is out of jurisdiction, he will give reasons for that decision to the complainant and inform the respondent.

3.2.6 Where the Ombudsman then decides that the complaint is not out of jurisdiction, he will inform the complainant and give reasons for that decision to the respondent.
3.3 Dismissal without consideration of the merits and test cases

3.3.1 Where the Ombudsman considers that the complaint may be one which should be dismissed without consideration of the merits, he will give the complainant an opportunity to make representations before he decides.

3.3.2 Where the Ombudsman then decides that the complaint should be dismissed without consideration of the merits, he will give reasons to the complainant for that decision and inform the respondent.

3.3.3 Under the Ombudsman Transitional Order and the Mortgage and General Insurance Complaints Transitional Order and the Claims Management Order, where the Ombudsman is dealing with a relevant complaint, he must take into account whether an equivalent complaint would have been dismissed without consideration of its merits under the former scheme in question, as it had effect immediately before the relevant order came into effect.

3.3.3A Under the Claims Management Order the Ombudsman may dismiss a relevant claims management complaint, if he considers that the complaint would have been dismissed under the rules of the former scheme or should be dismissed under the grounds for dismissal in DISP 3.3.4R or DISP 3.3.4AR. Where the Ombudsman is dealing with a relevant new claims management complaint the rules of the former scheme must be read as if they were subject to paragraph 13 of Schedule 3 of the ADR Regulations.

Grounds for dismissal

The Ombudsman may dismiss a complaint referred to the Financial Ombudsman Service before 9 July 2015 without considering its merits if the Ombudsman considers that:

(1) the complainant has not suffered (or is unlikely to suffer) financial loss, material distress or material inconvenience; or

(2) the complaint is frivolous or vexatious; or

(3) the complaint clearly does not have any reasonable prospect of success; or

(4) the respondent has already made an offer of compensation (or a goodwill payment) which is:
(a) fair and reasonable in relation to the circumstances alleged by the complainant; and
(b) still open for acceptance; or

(5) the respondent has reviewed the subject matter of the complaint in accordance with:
(a) the regulatory standards for the review of such transactions prevailing at the time of the review; or
(b) [deleted]
(c) any formal regulatory requirement, standard or guidance published by the FCA or other regulator in respect of that type of complaint;

(including, if appropriate, making an offer of redress to the complainant), unless he considers that they did not address the particular circumstances of the case; or

(5A) the respondent has reviewed the subject matter of the complaint and issued a redress determination in accordance with the terms of a consumer redress scheme; or

(6) the subject matter of the complaint has previously been considered or excluded under the Financial Ombudsman Service, or a former scheme (unless material new evidence which the Ombudsman considers likely to affect the outcome has subsequently become available to the complainant); or

(7) the subject matter of the complaint has been dealt with, or is being dealt with, by a comparable independent complaints scheme or dispute-resolution process; or

(8) the subject matter of the complaint has been the subject of court proceedings where there has been a decision on the merits; or

(9) the subject matter of the complaint is the subject of current court proceedings, unless proceedings are stayed or sisted (by agreement of all parties, or order of the court) so that the matter may be considered by the Financial Ombudsman Service; or

(10) it would be more suitable for the subject matter of the complaint to be dealt with by a court, arbitration or another complaints scheme; or

(11) it is a complaint about the legitimate exercise of a respondent’s commercial judgment; or

(12) it is a complaint about employment matters from an employee or employees of a respondent; or

(13) it is a complaint about investment performance; or

(14) it is a complaint about a respondent’s decision when exercising a discretion under a will or private trust; or

(15) it is a complaint about a respondent’s failure to consult beneficiaries before exercising a discretion under a will or private trust, where there is no legal obligation to consult; or
(16) it is a complaint which:
   (a) involves (or might involve) more than one eligible complainant; and
   (b) has been referred without the consent of the other complainant or complainants;

and the Ombudsman considers that it would be inappropriate to deal with the complaint without that consent; or

(16A) it is a complaint about a pure landlord and tenant issue arising out of a regulated sale and rent back agreement; or

(17) there are other compelling reasons why it is inappropriate for the complaint to be dealt with under the Financial Ombudsman Service.

The Ombudsman may dismiss a complaint referred to the Financial Ombudsman Service on or after 9 July 2015 without considering its merits if the Ombudsman considers that:

(1) the complaint is frivolous or vexatious; or

(2) the subject matter of the complaint has been dealt with, or is being dealt with, by a comparable ADR entity; or

(3) the subject matter of the complaint has been the subject of court proceedings where there has been a decision on the merits; or

(4) the subject matter of the complaint is the subject of current court proceedings, unless proceedings are stayed or sisted (by agreement of all parties, or order of the court) so that the matter may be considered by the Financial Ombudsman Service; or

(5) dealing with such a type of complaint would otherwise seriously impair the effective operation of the Financial Ombudsman Service.

Examples of a type of complaint that would otherwise seriously impair the effective operation of the Financial Ombudsman Service may include:

(1) where it would be more suitable for the complaint to be dealt with by a court or a comparable ADR entity; or

(2) where the subject matter of the complaint has already been dealt with by a comparable dispute resolution scheme; or

(3) where the subject matter of the complaint has previously been considered or excluded under the Financial Ombudsman Service (unless material new evidence which the Ombudsman considers likely to affect the outcome has subsequently become available to the complainant); or

(4) it is a complaint which:
   (a) involves (or might involve) more than one eligible complainant; and
(b) has been referred without the consent of the other eligible complainant or complainants,

and the Ombudsman considers that it would be inappropriate to deal with the complaint without that consent.
3.4 Referring a complaint to another complaints scheme or court

3.4.1 The Ombudsman may refer a complaint to another complaints scheme where:

(1) he considers that it would be more suitable for the matter to be determined by that scheme; and

(2) the complainant consents to the referral.

Test cases

3.4.2 The Ombudsman may, with the complainant’s consent, cease to consider the merits of a complaint so that it may be referred to a court to consider as a test case, if:

(1) before the Ombudsman has made a determination, they have received in writing from the respondent:

(a) a detailed statement of how and why, in the respondent’s opinion, the complaint raises an important or novel point of law with significant consequences; and

(b) an undertaking in favour of the complainant that, if the complainant or the respondent commences court proceedings against the other in respect of the complaint in any court in the United Kingdom within six months of the complaint being dismissed, the respondent will:

(i) pay the complainant’s reasonable costs and disbursements (to be assessed, if not agreed, on an indemnity basis) in connection with the proceedings at first instance and any subsequent appeal proceedings brought by the respondent; and

(ii) make interim payments on account of such costs if and to the extent that it appears reasonable to do so; and

(2) the Ombudsman considers that the complaint:

(a) raises an important or novel point of law, which has important consequences; and

would more suitably be dealt with by a court as a test case.
Factors that the Ombudsman may take into account in considering whether to cease to consider the merits of a complaint so that it may be the subject of a test case in court include (but are not limited to):

1. whether the point of law is central to the outcome of the dispute;
2. how important or novel the point of law is in the context of the dispute;
3. the significance of the consequences of the dispute for the business of the respondent (or respondents in that sector) or for its (or their) customers;
4. the amount at stake in the dispute;
   - the remedies that a court could impose;
5. any representations made by the respondent or the complainant; and
6. the stage already reached in consideration of the dispute.
3.5 Resolution of complaints by the Ombudsman

3.5.1 The Ombudsman will attempt to resolve complaints at the earliest possible stage and by whatever means appear to him to be most appropriate, including mediation or investigation.

3.5.2 The Ombudsman may inform the complainant that it might be appropriate to complain against some other respondent.

3.5.3 Where two or more complaints from one complainant relate to connected circumstances, the Ombudsman may investigate them together, but will issue separate provisional assessments and determinations in respect of each respondent.

3.5.4 If the Ombudsman decides that an investigation is necessary, he will then:

(1) ensure both parties have been given an opportunity of making representations;

(2) send both parties a provisional assessment, setting out his reasons and a time limit within which either party must respond; and

(3) if either party indicates disagreement with the provisional assessment within that time limit, proceed to determination.

3.5.5 If the Ombudsman considers that the complaint can be fairly determined without convening a hearing, he will determine the complaint. If not, he will invite the parties to take part in a hearing. A hearing may be held by any means which the Ombudsman considers appropriate in the circumstances, including by telephone. No hearing will be held after the Ombudsman has determined the complaint.

3.5.6 A party who wishes to request a hearing must do so in writing, setting out:

(1) the issues he wishes to raise; and

(2) (if appropriate) any reasons why he considers the hearing should be in private;
so that the Ombudsman may consider whether:

(3) the issues are material;

(4) a hearing should take place; and

(5) any hearing should be held in public or private.

3.5.7 In deciding whether there should be a hearing and, if so, whether it should be in public or private, the Ombudsman will have regard to the provisions of the European Convention on Human Rights.

Evidence

3.5.8 The Ombudsman may give directions as to:

(1) the issues on which evidence is required;

(2) the extent to which evidence should be oral or written; and

(3) the way in which evidence should be presented.

3.5.9 The Ombudsman may:

(1) exclude evidence that would otherwise be admissible in a court or include evidence that would not be admissible in a court;

(2) accept information in confidence (so that only an edited version, summary or description is disclosed to the other party) where he considers it appropriate;

(3) reach a decision on the basis of what has been supplied and take account of the failure by a party to provide information requested; and

(4) treat the complaint as withdrawn and cease to consider the merits if a complainant fails to supply requested information.

3.5.10 Evidence which the Ombudsman may accept in confidence includes confidential evidence about third parties and security information.

3.5.11 The Ombudsman has the power to require a party to provide evidence. Failure to comply with the request can be dealt with by the court.

3.5.12 The Ombudsman may take into account evidence from third parties, including (but not limited to) the FCA, other regulators, experts in industry matters and experts in consumer matters.

Procedural time limits

3.5.13 The Ombudsman may fix (and extend) time limits for any aspect of the consideration of a complaint by the Financial Ombudsman Service.
### If a respondent fails to comply with a time limit, the Ombudsman may:

1. proceed with consideration of the *complaint*; and  
2. include provision for any material distress or material inconvenience caused by that failure in any award which he decides to make.

### If a complainant fails to comply with a time limit, the Ombudsman may:

1. proceed with consideration of the *complaint*; or  
2. treat the *complaint* as withdrawn and cease to consider the merits.
3.6 Determination by the Ombudsman

Fair and reasonable

3.6.1 The Ombudsman will determine a complaint by reference to what is, in his opinion, fair and reasonable in all the circumstances of the case.

3.6.2 Section 228 of the Act sets the ‘fair and reasonable’ test for the Compulsory Jurisdiction (other than in relation to a “relevant complaint” within the meaning of section 404B(3) of the Act) and DISP 3.6.1 R extends it to the Voluntary Jurisdiction.

3.6.3 Where a complainant makes complaints against more than one respondent in respect of connected circumstances, the Ombudsman may determine that the respondents must contribute towards the overall award in the proportion that the Ombudsman considers appropriate.

3.6.4 In considering what is fair and reasonable in all the circumstances of the case, the Ombudsman will take into account:

(1) relevant:
   (a) law and regulations;
   (b) regulators’ rules, guidance and standards;
   (c) codes of practice; and

(2) (where appropriate) what he considers to have been good industry practice at the relevant time.

3.6.5 Where the Ombudsman is determining what is fair and reasonable in all the circumstances of a relevant new complaint or a relevant transitional complaint or a relevant new claims management complaint, the Ombudsman Transitional Order, the Mortgage and General Insurance Complaints Transitional Order and the Claims Management Order make provision for him to take into account what determination the former Ombudsman might have been expected to reach in relation to an equivalent complaint dealt with under the former scheme in question immediately before the relevant order came into effect.
Consumer redress schemes

As a result of section 404B of the Act, if the subject matter of a complaint falls to be dealt with (or has properly been dealt with) under a consumer redress scheme, the Ombudsman will determine the complaint by reference to what, in the opinion of the Ombudsman, the redress determination under the consumer redress scheme should be or should have been, unless the complainant and the respondent agree that the complaint should not be dealt with in accordance with the consumer redress scheme.

The Ombudsman’s determination

When the Ombudsman has determined a complaint:

1. the Ombudsman will give both parties a signed written statement of the determination, giving the reasons for it;

2. the statement will require the complainant to notify the Ombudsman, before the date specified in the statement, whether he accepts or rejects the determination;

3. if the complainant notifies the Ombudsman that he accepts the determination within that time limit, it is final and binding on both parties;

4. subject to paragraph (4A), if the complainant does not notify the Ombudsman that he accepts the determination within that time limit, the complainant will be treated as having rejected the determination, and neither party will be bound by it;

4A. the complainant is not to be treated as having rejected the determination under paragraph (4) if all the following conditions are met:

   a. the complainant notifies the Ombudsman after the specified date of the complainant’s acceptance of the determination;

   b. the complainant has not previously notified the Ombudsman of the complainant’s rejection of the determination;

   c. in the view of the Ombudsman, the failure to comply with the time limit for acceptance was as a result of exceptional circumstances;

5. the Ombudsman will notify the respondent of the outcome and, if the complainant is treated as having rejected the determination under paragraph (4), the effect of paragraph (4A).

An Ombudsman may correct any clerical mistake in the written statement of an Ombudsman’s determination, whether or not the determination has already been accepted or rejected.

Any failure to comply with any provisions of the procedural rules made by the FOS Ltd does not of itself render an Ombudsman’s determination void.
Reports of determinations

3.6.8  

(1) The FOS Ltd will publish a report of any Ombudsman’s determination, save that if the Ombudsman who made the determination informs the FOS Ltd that, in the Ombudsman’s opinion, it is inappropriate to publish a report of that determination (or any part of it), the FOS Ltd will not publish a report of that determination (or that part, as appropriate).

(2) Unless the complainant agrees, a report will not include the name of the complainant, or particulars which (in the opinion of the FOS Ltd) are likely to identify the complainant.

(3) The FOS Ltd may charge a reasonable fee for providing a copy of a report.
Where a complaint is determined in favour of the complainant, the Ombudsman's determination may include one or more of the following:

1. a money award against the respondent; or
2. an interest award against the respondent; or
3. a costs award against the respondent; or
4. a direction to the respondent.

Money awards

Except in relation to a “relevant complaint” within the meaning of section 404B(3) of the Act, a money award may be such amount as the Ombudsman considers to be fair compensation for one or more of the following:

1. financial loss (including consequential or prospective loss); or
2. pain and suffering; or
3. damage to reputation; or
4. distress or inconvenience;

whether or not a court would award compensation.

In relation to a “relevant complaint” within the meaning of section 404B(3) of the Act, a money award is a payment of such amount as the Ombudsman determines that a respondent should make (or should have made) to a complainant under the scheme.

A money award under DISP 3.7.2A may specify the date by which the amount awarded is to be paid.

Where the Ombudsman is determining what amount (if any) constitutes fair compensation as a money award in relation to a relevant new complaint, a relevant transitional complaint or a relevant new claims management complaint, the Ombudsman Transitional Order, the Mortgages and General Insurance Complaints Transitional Order and the Claims Management Order make provision for him to take into account what amount (if any) might
have been expected to be awarded by way of compensation in relation to an equivalent complaint dealt with under the former scheme in question immediately before the relevant order came into effect.

3.7.4  The maximum money award which the Ombudsman may make is:

(a) £350,000 for a complaint concerning an act or omission which occurred on or after 1 April 2019; and

(b) £160,000 for a complaint concerning an act or omission which occurred before 1 April 2019.

(2) On 1 April each year, for complaints referred to the Financial Ombudsman Service on or after this date up to and including 31 March in the following year, the amounts in (1)(a) and (b) are adjusted by:

(a) applying the percentage increase in CPI between January 2019 and January of that year; and

(b) rounding down to the nearest £5,000.

[Note: The maximum money award which the Ombudsman may make is set out in the table below. This Note will be updated before any new limit takes effect.]

<table>
<thead>
<tr>
<th>date complaint referred</th>
<th>date of act or omission</th>
</tr>
</thead>
<tbody>
<tr>
<td>before 1 January 2012</td>
<td>before 1 April 2019</td>
</tr>
<tr>
<td>on or after 1 January 2012</td>
<td>£100,000</td>
</tr>
<tr>
<td>on or after 1 April 2019</td>
<td></td>
</tr>
<tr>
<td>on or after 1 April 2020</td>
<td></td>
</tr>
</tbody>
</table>

3.7.4A  The effect of section 404B(5) of the Act is that the maximum award which the Ombudsman may make also applies in relation to a “relevant complaint” within the meaning of section 404B(3) of the Act.

3.7.5  For the purpose of calculating the maximum money award, the following are excluded:

(1) any interest awarded on the amount payable under a money award;

(2) any costs awarded; and

(3) any interest awarded on costs.

3.7.6  If the Ombudsman considers that fair compensation requires payment of a larger amount, he may recommend that the respondent pays the complainant the balance. The effect of section 404B(6) of the Act is that this is also the case in relation to a “relevant complaint” within the meaning of section 404B(3) of the Act.
The Ombudsman will maintain a register of each money award.

**Interest awards**

Except in relation to a “relevant complaint” within the meaning of section 404B(3) of the Act, an interest award may provide for the amount payable under the money award to bear interest at a rate and as from a date specified in the award.

A money award under the Financial Ombudsman Service may provide for interest to be payable, at a rate specified in the award, on any amount which is not paid by the date specified in the award.

**Costs awards**

A costs award may:

1. be such amount as the Ombudsman considers to be fair, to cover some or all of the costs which were reasonably incurred by the complainant in respect of the complaint; and
2. include interest on that amount at a rate and as from a date specified in the award.

In most cases complainants should not need to have professional advisers to bring complaints to the Financial Ombudsman Service, so awards of costs are unlikely to be common.

**Directions**

Except in relation to a “relevant complaint” within the meaning of section 404B(3) of the Act, a direction may require the respondent to take such steps in relation to the complainant as the Ombudsman considers just and appropriate (whether or not a court could order those steps to be taken).

In relation to a “relevant complaint” within the meaning of section 404B(3) of the Act, a direction may require the respondent to take such action as the Ombudsman determines the respondent should take (or should have taken) under the scheme.

A respondent must comply promptly with:

1. any award or direction made by the Ombudsman; and
2. any settlement which it agrees at an earlier stage of the procedures.

Under the Act, a complainant can enforce through the courts a money award registered by the Ombudsman or a direction made by the Ombudsman.
3.8 Dealing with information

3.8.1 In dealing with information received in relation to the consideration of a complaint, the Financial Ombudsman Service will have regard to the parties' rights of privacy.

3.8.2B This does not prevent the Ombudsman disclosing information:

(1) to the extent that he is required or authorised to do so by law; or

(2) to the parties to the complaint; or

(3) in his determination; or

(4) at a hearing in connection with the complaint.

3.8.3 So long as he has regard to the parties' rights of privacy, the Ombudsman may disclose information to the FCA or any other body exercising regulatory or statutory functions for the purpose of assisting that body or the Financial Ombudsman Service to discharge its functions.
3.9 Delegation of the Ombudsman's powers

3.9.1A The Ombudsman may designate members of the staff of FOS Ltd to exercise any of the powers of the Ombudsman relating to the consideration of a complaint apart from the powers to:

(1) determine a complaint; or

(2) authorise the disclosure of information to the FCA or any other body exercising regulatory or statutory functions.

3.9.2 In DISP 2 to DISP 4 any reference to "the Ombudsman" includes a reference to any member of the staff of FOS Ltd to whom the exercise of any of the powers of the Ombudsman has been delegated.
Chapter 4

Standard terms
4.1 Purpose and application

Purpose

4.1.1 The purpose of this chapter is to set out how complaints against VJ participants are dealt with under the Voluntary Jurisdiction.

Application

4.1.2 These standard terms apply to any business which has agreed to be a VJ participant.
4.2 Standard terms

4.2.1 A VJ participant is subject to these standard terms, which may be amended or supplemented by the Financial Ombudsman Service with the approval of the FCA.

4.2.2 By agreeing to participate, a VJ participant also agrees that the Voluntary Jurisdiction covers an act or omission that occurred before the VJ participant was participating in the Voluntary Jurisdiction, whether the act or omission occurred before or after commencement.

Application of DISP 1 to DISP 3

4.2.3 The following rules and guidance apply to VJ participants as part of the standard terms, except where the context requires otherwise:

(1) DISP 1 (Treating complainants fairly), except:

   (a) DISP 1.9 (Complaints record rule);
   (b) DISP 1.10 (Complaints reporting rules);
   (ba) DISP 1.10A (Complaints data publication rules);
   (bb) DISP 1.10B (Payment services and electronic money complaints reporting); and
   (c) DISP 1.11 (Lloyd’s);
   (d) DISP 1.1A (Complaints handling requirements for MiFID complaints);

(2) DISP 2 (Jurisdiction of the Financial Ombudsman Service), except:

   (a) DISP 2.3 (Compulsory Jurisdiction); and

(3) DISP 3 (Complaint handling procedures of the Financial Ombudsman Service).

Determinations and awards

4.2.4 The Ombudsman has the same powers to make determinations and awards under the Voluntary Jurisdiction as he has under the Compulsory Jurisdiction (see DISP 3.7 (Awards by the Ombudsman)).
If the complainant accepts the Ombudsman's determination within the time limit specified by the Ombudsman, the determination will be binding on the VJ Participant and may be enforced in court by the complainant.

The following rules in FEES apply to VJ participants as part of the standard terms, but substituting 'VJ participant' for 'firm':

1. FEES 2.2.1 R (late payment) but substituting 'FOS Ltd' for 'the FCA';
2. FEES 2.3.1 R and 2.3.2 R (remission of fees);
3. [deleted]
4. FEES 5.3.6 R (general levy) but substituting:
   (a) 'Voluntary Jurisdiction' for 'Compulsory Jurisdiction'; and
   (b) 'FOS Ltd' for 'the FCA';
5. FEES 5.3.8 R (calculation of general levy) but substituting:
   (a) 'Voluntary Jurisdiction' for 'Compulsory Jurisdiction'; and
   (b) 'FEES 5 Annex 2R' for 'FEES 5 Annex 1R';
6. FEES 5.4.1 R (information) but substituting:
   (a) 'FOS Ltd' for 'the FCA';
   (b) 'FEES 5 Annex 2R' for 'FEES 5 Annex 1 R'; and
   (c) the following for FEES 5.4.1R(1):
      (A) A VJ participant must provide the FOS Ltd by the end of February each year (or, if the VJ participant has become subject to the Financial Ombudsman Service part way through the financial year, by the date requested by the FOS Ltd) with a statement of:
         (i) the total amount of relevant business (measured in accordance with the appropriate tariff base(s)) which it conducted; or
         (ii) in the case of firms in industry blocks 2 and 4, the gross written premium for fees purposes as defined in FEES 4 Annex 1AR (unless FEES 5.4.1R(1A) applies),
            as at or in the year to 31 December of the previous year as appropriate, in relation to the tariff base for each of the relevant industry blocks set out in FEES 5 Annex 2R;
7. FEES 5.5B (case fees);
8. [deleted]
9. [deleted]
10. FEES 5.7.1 R and 5.7.4R but substituting, in FEES 5.7.1 R, 'the FOS Ltd' for 'the FCA' and 'annual levy specified in FEES 5 Annex 2R' for 'general levy';
Withdrawal from participation

4.2.7 A VJ participant may not withdraw from the Voluntary Jurisdiction unless:

(1) the VJ participant has submitted to FOS Ltd a written plan for:
   (a) notifying its existing customers of its intention to withdraw; and
   (b) handling complaints against it before its withdrawal;

(2) the VJ participant has paid the general levy for the year in which it withdraws and any other fees payable; and

(3) FOS Ltd has approved in writing both the VJ Participant’s plan and the date of withdrawal (which must be at least six months from the date of the approval of the plan).

Exemption from liability

4.2.8 None of the following is to be liable in damages for anything done or omitted to be done in the discharge (or purported discharge) of any functions in connection with the Voluntary Jurisdiction:

(1) FOS Ltd;

(2) any member of its governing body;

(3) any member of its staff;

(4) any person acting as an Ombudsman for the purposes of the Financial Ombudsman Service;

except where:

(5) the act or omission is shown to have been in bad faith; or

(6) it would prevent an award of damages being made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998.
[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding)]
Appendix 1
Handling Mortgage Endowment Complaints

1.1 Introduction

App 1.1.1 This appendix sets out the approach and standards which firms should use when investigating complaints relating to the sale of endowment policies for the purposes of achieving capital repayment of a mortgage. It is not intended to be comprehensive. It is primarily concerned with the assessment of whether the complainant may have suffered financial loss, and if so, how much that loss is, and therefore what amount a firm should consider offering by way of fair and appropriate compensation in circumstances where the firm’s investigation of a complaint reveals:

(1) the complainant has received negligent advice on investments; and

(2) if this advice had not been negligent, either:

(a) the complainant would be unlikely to have acquired the endowment policy but instead would have taken out the same amount of loan on a repayment basis; or

(b) the complainant would have acquired an endowment mortgage for a shorter term.

App 1.1.2 There will also be cases where a firm will conclude after investigation that, notwithstanding its own failure to give compliant and proper advice, the complainant would nevertheless have proceeded with the endowment policy as sold, in which case no compensation will be due.

App 1.1.3 This appendix only addresses how firms should approach the assessment of loss and compensation where negligence on the part of the firm is established.

App 1.1.4 This appendix is relevant both to the obligations arising under the complaints handling rules contained in DISP 1 and to the FCA’s approach to the supervision of firms.
This appendix is also relevant to complaints which the Ombudsman may investigate under the Compulsory Jurisdiction or Voluntary Jurisdiction of the Financial Ombudsman Service established under Part XVI of the Act (The Ombudsman Scheme).

Before proceeding to assess the extent of a complainant's financial loss, a firm will usually have completed the following stages:

1. gathering all relevant facts and information;
2. making a fair and objective assessment whether it has failed to comply with a relevant duty owed to the complainant; and
3. assessing whether any failure of duty by it was in the circumstances a material failure in the sense that if it had not occurred the complainant would have been likely to have acted differently.

If it is concluded that the complainant would have acted differently, the firm should proceed to assess any direct or consequential loss.

Nothing in this appendix relieves firms of the obligation to consider the particular facts and circumstances of each complaint and to consider whether the assessment of loss and compensation should, in the light of those facts and circumstances, be carried out on a different basis. If, however, the facts and circumstances make it appropriate to do so, the FCA’s expectation is that firms will apply the approach and standards set out in this appendix, and where they do not, the FCA is likely to require them to demonstrate the adequacy and completeness of their alternative approach.

The standard approach to redress

If there has been a failure to give compliant and proper advice, or some other breach of the duty of care, the basic objective of redress is to put the complainant, so far as is possible, in the position he would have been in if the inappropriate advice had not been given, or the other breach had not occurred. In many cases, although it must be a matter for inquiry and assessment in each individual case, this position is likely to have resulted in the complainant taking a repayment mortgage with accompanying life cover, and this is the assumption which underpins the standard approach to redress.

Unless the contrary is demonstrated, it should be assumed that the complainant could have afforded the mortgage on a repayment basis.
App 1.2.3 The measure of any financial loss suffered by the complainant will be arrived at by:

1. comparing the complainant's current capital position with the position he would have been in had the loan been a standard repayment mortgage as at the date the firm decides to regard the complaint as justified; and

2. comparing the cost of the complainant's actual monthly outgoings and those he would have made had his loan been on a standard repayment basis as at the date the firm decides to regard the complaint as justified.

App 1.2.4 In some cases other factors may be included in the overall calculation, for example, if mortgage arrangement fees were waived by agreement on the occasion of the endowment policy being taken out.

App 1.2.5 If, on comparing the complainant's current endowment position with the repayment alternative, the surrender value of the endowment policy exceeds the amount of the capital which the complainant would have repaid through the repayment method, then, at the point of the assessment, the complainant has suffered no capital loss (but the complainant may suffer some compensatable consequential loss associated with changing the mortgage arrangements to the repayment basis, see ■ DISP App 1.3). Conversely, if the capital which would have been repaid on the repayment basis exceeds the surrender value, there is a capital loss represented by the difference between the two amounts.

App 1.2.6 If the complainant's endowment mortgage outgoings exceed the equivalent cost for the repayment method, the complainant should be compensated for the higher payments in addition to any loss on the surrender value and capital repaid comparison. This means, for example, that if the endowment arrangement has been more expensive, this may result in compensatable loss even though the capital repayment against surrender comparison may be favourable to the endowment.

App 1.2.7 If the total cost of the outgoings for the endowment calculation is less than that for the repayment calculation, the "savings" should be brought into account in assessing any overall loss unless it is unreasonable to do so.

App 1.2.8 It is unlikely to be reasonable to bring "savings" into account in circumstances where, at the time of the sale of the policy:

1. the complainant was advised or informed orally or in writing that he would have lower outgoings than would be the case under a repayment mortgage, whether or not the difference was quantified; and

2. the complainant has dissipated those "savings" on the strength of this advice or information.

App 1.2.9 The circumstances in which it may be appropriate to take some or all of the "savings" into account are those where, subject to ■ DISP App 1.2.7 G, the complainant is of "sufficient means" so that it is reasonable for a firm to assume that the "savings" have contributed to those means.
Where it is otherwise reasonable for "savings" to be brought into account, determining whether or not a complainant is of sufficient means and, if so, to what extent the "savings" are to be brought into account, will have to be based on the facts of each individual case. It will be appropriate to require the complainant to provide adequate information to assist the firm in this task. Matters to be taken into account in this assessment may include:

1. the length of the remaining mortgage term;
2. the complainant's current and prospective resources;
3. the amount of the capital shortfall in proportion to the endowment outgoings balance.

**App 1.2.11** Firms may adopt streamlined processes to assist them in individual assessments of "sufficient means", but will have to satisfy themselves that the complainant's position is nevertheless protected. Firms will need to ensure that the complainant is given an opportunity to make an informed choice whether to accept the streamlined process, that the process itself is transparent, and that the firm is satisfied that the outcome would be fair to complainants.

**App 1.2.12** If a firm intends to make a deduction for all or any part of the lower endowment outgoings, the firm should explain clearly to the complainant in writing both how the 'sufficient means' test has been satisfied, including details of the information taken into account in reaching the decision, and how the deduction has been arrived at. The letter should further inform the complainant that if he is unhappy with the proposal to make a deduction, either in principle or as to the amount, he should give his reasons to the firm.

**App 1.2.13** If a complainant puts forward a case that it would be unreasonable for a deduction to be made, the firm should reach a fair and objective determination on the facts of all relevant matters including those set out at DISP App 1.2.8 and DISP App 1.2.9.

**App 1.2.14** In recognition that firms may not wish, for practical reasons, to make individual assessments of "sufficient means", firms may decide not to seek to bring into account any benefit to the complainant in assessing overall compensation.

**App 1.2.15** It would not be unreasonable if a firm providing redress in these circumstances were to frame its offer of redress on the assumption that the complainant will agree to surrender the policy. However, firms should bear in mind that there may be circumstances where it is appropriate for the complainant to retain the policy, for example, where it is being retained as a savings vehicle.

**App 1.2.16** If a complainant becomes aware that he has taken out the endowment policy on the basis of unsuitable advice and inadequate information, he should if necessary, after taking appropriate advice, take reasonable steps to limit his loss, and may in any subsequent claim be unable to recover for losses which are avoidable. The complainant may have to show that he has not delayed unreasonably since becoming aware of his loss. The reasonable costs and expenses the complainant may have incurred in limiting his loss are to be taken into account in assessing his compensation. These costs and expenses are likely to include the complainant...
taking advice on whether he should convert from an endowment to a repayment mortgage and incurring expenses in doing so, see DISP App 1.3.

App 1.2.17 The standard approach to redress can be illustrated by the following examples, which show how redress would be calculated in certain hypothetical but typical scenarios. (Because the examples are illustrative, round numbers have been used for ‘established facts’ in each example. The payments should be taken as being made monthly: firms should not approximate by assuming that payments are made annually. If the complainant has benefited from MIRAS, the calculations should allow for the effect of MIRAS both on the endowment mortgage and the repayment comparison.)

App 1.2.18 Table of examples of typical redress calculations

<table>
<thead>
<tr>
<th>Example 1</th>
<th>Capital shortfall and higher endowment outgoings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example 2</td>
<td>Capital shortfall partially offset by lower endowment mortgage outgoings</td>
</tr>
<tr>
<td>Example 3</td>
<td>Capital shortfall more than offset by lower endowment mortgage outgoings</td>
</tr>
<tr>
<td>Example 4</td>
<td>Capital surplus more than offset by higher endowment mortgage outgoings</td>
</tr>
<tr>
<td>Example 5</td>
<td>Capital surplus partially offset by higher endowment mortgage outgoings</td>
</tr>
<tr>
<td>Example 6</td>
<td>Capital surplus and lower endowment mortgage outgoings</td>
</tr>
<tr>
<td>Example 7</td>
<td>Low start endowment mortgage</td>
</tr>
</tbody>
</table>

App 1.2.19 Example 1

**Capital shortfall and higher endowment mortgage outgoings**

**Background**

Capital sum of £50,000

25 year endowment policy

Duration to date: 5 years

Endowment *premium per month*: £75

**Established facts**

Endowment *surrender value*: £3,200

Capital repaid under equivalent repayment mortgage: £4,200

*Surrender value* less capital repaid: (£1,000)

Cost of converting from endowment mortgage to repayment mortgage: (£200)

**Total outgoings to date**

Equivalent repayment mortgage (capital + interest + DTA life cover): £21,950

Endowment mortgage (endowment *premium* + interest): £22,250

Difference in outgoings (repayment - endowment): (£300)
Example 1

Basis of compensation
In this example, the complainant has suffered loss because the surrender value of the endowment is less than the capital repaid and also because of the higher total outgoings to date of the endowment mortgage relative to the repayment mortgage. The two losses and the conversion cost are therefore added together in order to calculate the redress.

Redress
Loss from surrender value less capital repaid: (£1,000)
Loss from total extra outgoings under endowment mortgage: (£300)
Cost of converting to repayment mortgage: (£200)
Total loss: (£1,500)
Therefore total redress is: £1,500

Example 2

Capital shortfall partially offset by lower endowment mortgage outgoings

Background
Capital sum of £50,000
25 year endowment policy
Duration to date: 5 years
Endowment premium per month: £60

Established facts
Endowment surrender value: £2,500
Capital repaid under equivalent repayment mortgage: £4,200
Surrender value less capital repaid under equivalent repayment mortgage: (£1,700)
Cost of converting from endowment mortgage to repayment mortgage: (£300)
Total outgoings to date:
Repayment mortgage (capital + interest + DTA life cover): £21,950
Endowment mortgage (endowment premium + interest): £21,350
Difference in outgoings (repayment - endowment): £600

Basis of Compensation
In this example, the complainant has suffered loss because the surrender value of the endowment is less than the capital repaid but has gained form the lower outgoings of the endowment mortgage to date. In calculating the redress the gain may be offset against the loss unless the complainant's particular circumstances are such that it would be unreasonable to take account of the gain.

Redress if it is not unreasonable to take account of the whole of the gain from lower outgoings
Loss from surrender value less capital repaid: (£1,700)
Gain from total lower outgoings under endowment mortgage: £600
Example 2

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of converting to repayment mortgage:</td>
<td>(£300)</td>
</tr>
<tr>
<td>Net loss:</td>
<td>(£1,400)</td>
</tr>
<tr>
<td>Therefore total redress is:</td>
<td>£1,400</td>
</tr>
</tbody>
</table>

Redress if it is unreasonable to take account of gain from lower outgoings

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss from surrender value less capital repaid:</td>
<td>(£1,700)</td>
</tr>
<tr>
<td>Gain from total lower outgoings under endowment mortgage:</td>
<td>Ignored*</td>
</tr>
<tr>
<td>Cost of converting to repayment mortgage:</td>
<td>(£300)</td>
</tr>
<tr>
<td>Net loss taken into account:</td>
<td>(£2,000)</td>
</tr>
<tr>
<td>Therefore total redress is:</td>
<td>£2,000</td>
</tr>
</tbody>
</table>

* In this example, and also in Examples 3, 7, 8 and 9, the complainant's circumstances are assumed to be such as to make it unreasonable to take account of any of the gain from lower outgoings.

Example 3

Capital shortfall more than offset by lower endowment mortgage outgoings

Background

Capital sum of £50,000
25 year endowment policy
Duration to date: 8 years
Endowment premium per month: £65

Established facts

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Endowment surrender value:</td>
<td>£7,300</td>
</tr>
<tr>
<td>Capital repaid under equivalent repayment mortgage:</td>
<td>£7,600</td>
</tr>
<tr>
<td>Surrender value less capital repaid:</td>
<td>(£300)</td>
</tr>
<tr>
<td>Cost of converting from endowment mortgage to repayment mortgage:</td>
<td>(£200)</td>
</tr>
<tr>
<td>Total outgoings to date:</td>
<td></td>
</tr>
<tr>
<td>Repayment mortgage (capital + interest + DTA life cover):</td>
<td>£34,510</td>
</tr>
<tr>
<td>Endowment mortgage (endowment premium + interest):</td>
<td>£33,990</td>
</tr>
<tr>
<td>Difference in outgoings (repayment - endowment):</td>
<td>£520</td>
</tr>
</tbody>
</table>

Basis of Compensation

In this example, the complainant has suffered loss because the surrender value of the endowment is less than the capital repaid but has gained from the lower total outgoings of the endowment mortgage. In calculating redress the gain may be offset against the loss unless the complainant's particular circumstances are such that it would be unreasonable to take account of the gain.

Redress if it is not unreasonable to take account of the whole of the gain from lower outgoings

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss from surrender value less capital repaid:</td>
<td>(£300)</td>
</tr>
</tbody>
</table>
### Example 3

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gain from total lower outgoings under endowment mortgage:</td>
<td>£520</td>
</tr>
<tr>
<td>Cost of converting to repayment mortgage:</td>
<td>(£200)</td>
</tr>
<tr>
<td>Net gain:</td>
<td>£20</td>
</tr>
<tr>
<td><strong>Therefore, there has been no loss and no redress is payable.</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Redress if it is unreasonable to take account of gain from lower outgoings**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss from surrender value less capital repaid:</td>
<td>(£300)</td>
</tr>
<tr>
<td>Gain from total lower outgoings under endowment mortgage:</td>
<td>Ignored</td>
</tr>
<tr>
<td>Cost of converting to repayment mortgage:</td>
<td>(£200)</td>
</tr>
<tr>
<td>Net loss taken into account:</td>
<td>(£500)</td>
</tr>
<tr>
<td><strong>Therefore total redress is:</strong></td>
<td>£500</td>
</tr>
</tbody>
</table>

### Example 4

**Capital surplus more than offset by higher endowment mortgage outgoings**

#### Background
- Capital sum of £50,000
- 25 year endowment policy
- Duration to date: 8 years
- Endowment premium per month: £75

#### Established facts

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Endowment surrender value:</td>
<td>£7,800</td>
</tr>
<tr>
<td>Capital repaid under equivalent repayment mortgage:</td>
<td>£7,600</td>
</tr>
<tr>
<td>Surrender value less capital repaid:</td>
<td>£200</td>
</tr>
<tr>
<td>Cost of converting from endowment mortgage to repayment mortgage:</td>
<td>(£250)</td>
</tr>
<tr>
<td><strong>Total outgoings to date:</strong></td>
<td></td>
</tr>
<tr>
<td>Repayment mortgage (capital + interest + DTA life cover):</td>
<td>£34,510</td>
</tr>
<tr>
<td>Endowment mortgage (endowment premium + interest):</td>
<td>£34,950</td>
</tr>
<tr>
<td>Difference in outgoings (repayment - endowment):</td>
<td>(£440)</td>
</tr>
</tbody>
</table>

#### Basis of Compensation

In this example, the complainant has suffered loss because of the higher total outgoings to date of the endowment mortgage but has gained because the surrender value of the endowment is greater than the capital repaid. Since the sum of the loss and the conversion cost is greater than the gain, the redress is calculated as the difference between the two.

**Redress**
### Example 4

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gain from surrender value less capital repaid</td>
<td>£200</td>
</tr>
<tr>
<td>Loss from total extra outgoings under endowment mortgage</td>
<td>(£440)</td>
</tr>
<tr>
<td>Cost of converting to repayment mortgage</td>
<td>(£250)</td>
</tr>
<tr>
<td>Net loss</td>
<td>(£490)</td>
</tr>
<tr>
<td>Therefore total redress is</td>
<td>£490</td>
</tr>
</tbody>
</table>

### Example 5

**Capital surplus partially offset by higher endowment mortgage outgoings**

**Background**
- Capital sum of £50,000
- 25 year endowment policy
- Duration to date: 10 years
- Endowment premium per month: £75

**Established facts**
- Endowment surrender value: £11,800
- Capital repaid under equivalent repayment mortgage: £9,700
- Surrender value less capital repaid: £2,100
- Cost of converting from endowment mortgage to repayment mortgage: (£300)
- Total outgoings to date:
  - Repayment mortgage (capital + interest + DTA life cover): £46,800
  - Endowment mortgage (endowment premium + interest): £47,500
  - Difference in outgoings (repayment - endowment): (£700)

**Basis of Compensation**

In this example, the complainant has suffered loss because of the higher total outgoings to date of the endowment mortgage relative to the repayment mortgage. However, the sum of this and the conversion cost is less than the complainant’s gain from the difference between the surrender value of the endowment and the capital repaid. Thus no redress is payable.

**Redress**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gain from surrender value less capital repaid</td>
<td>£2,100</td>
</tr>
<tr>
<td>Loss from total extra outgoings under endowment mortgage</td>
<td>(£700)</td>
</tr>
<tr>
<td>Cost of converting to repayment mortgage</td>
<td>(£300)</td>
</tr>
<tr>
<td>Net gain</td>
<td>£1,100</td>
</tr>
<tr>
<td><strong>Therefore, there has been no loss and no redress is payable.</strong></td>
<td></td>
</tr>
</tbody>
</table>
Example 6

**Capital surplus and lower endowment mortgage outgoings**

**Background**
- Capital sum of £50,000
- 25 year endowment policy
- Duration to date: 10 years
- Endowment *premium* per month: £65

**Established facts**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Endowment <em>surrender value</em></td>
<td>£10,100</td>
</tr>
<tr>
<td>Capital repaid under equivalent repayment mortgage</td>
<td>£9,700</td>
</tr>
<tr>
<td><em>Surrender value</em> less capital repaid:</td>
<td>£400</td>
</tr>
<tr>
<td>Cost of converting from endowment mortgage to repayment mortgage:</td>
<td>(£200)</td>
</tr>
</tbody>
</table>

**Total outgoings to date:**
- Repayment mortgage (capital + interest + DTA life cover): £46,800
- Endowment mortgage (endowment *premium* + interest): £46,300

**Difference in outgoings (repayment - endowment):** £500

**Basis of Compensation**

In this example, the complainant has gained both because the *surrender value* of the endowment is greater than the capital repaid and because of the lower total outgoings of the endowment mortgage. These gains are larger than the cost of converting to a repayment mortgage. Thus no further action is necessary.

**Redress**

*As there has been no loss, no redress is payable.*

---

Example 7

**Low start endowment mortgage**

**Background**
- Capital sum of £50,000
- 25 year endowment policy
- Duration to date: 10 years
- Endowment *premium* per month: starting at £35 in first year, increasing by 20% simple on each policy anniversary, reaching £70 after five years and then remaining at that level.

**Established facts:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Endowment <em>surrender value</em></td>
<td>£8,200</td>
</tr>
<tr>
<td>Capital repaid under equivalent repayment mortgage:</td>
<td>£9,700</td>
</tr>
<tr>
<td><em>Surrender value</em> less capital repaid:</td>
<td>(£1,500)</td>
</tr>
</tbody>
</table>
Example 7

Cost of converting from endowment mortgage to repayment mortgage: (£250)

<table>
<thead>
<tr>
<th>Total outgoings to date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Repayment mortgage (capital + interest + DTA life cover): £46,800</td>
</tr>
<tr>
<td>Endowment mortgage (endowment premium + interest): £45,640</td>
</tr>
<tr>
<td>Difference in outgoings (repayment minus endowment): £1,160</td>
</tr>
</tbody>
</table>

Of this difference in outgoings, £800 arose in the five year period when the complainant was paying a low endowment premium.

Basis of compensation

In this example, the complainant has suffered loss because the surrender value of the endowment is less than the capital repaid but has gained from the lower total outgoings of the endowment mortgage. As in Example 3, in calculating redress the whole of the gain should be offset against the loss unless the complainant’s particular circumstances are such that it would be unreasonable to do so. However, unlike Example 3, in a low start endowment mortgage the complainant may have chosen to pay a lower than usual premium in the early years (this would need to be established on the facts of the case). Where it has been established that the complainant chose to make lower payments, even if it is unreasonable to take account of the whole of the gain from total outgoings, the gain from paying a lower premium during the low start period is normally taken into account. In such cases the redress is calculated as the capital loss plus the conversion cost minus the total amount by which repayment mortgage outgoings would have exceeded the actual low start endowment mortgage outgoings during the five year low start period.

Redress if it is not unreasonable to take account of the whole of the gain from lower outgoings

Loss from surrender value less capital repaid: (£1,500)
Gain from total lower outgoings under endowment mortgage: £1,160
Cost of converting to repayment mortgage: (£250)
Net loss: (£590)
Therefore total redress is: £590

Redress if it is unreasonable to take account of gain from lower outgoings

Loss from surrender value less capital repaid: (£1,500)
Gain from total lower outgoings during low start period of endowment mortgage: £800
Cost of converting to repayment mortgage: (£250)
Net loss taken into account: (£950)
Therefore total redress is: £950

Interest rates

In fixing a repayment comparator, it would be appropriate to have regard to the repayment quotation actually provided at the time of sale. If more than one
A repayment quotation was obtained, the comparison should be with the quotation which approximates most closely to the terms of the endowment mortgage actually taken. If a repayment quotation was not provided, or is not now available, it should be assumed that the interest rate for the repayment comparison is the same as that of the mortgage endowment arrangements. Firms will then need to replicate interest rate changes throughout the lifetime of the comparator mortgage.

**Life cover**

**App1.2.27** Unless after due inquiry there is clear evidence that the complainant with a mortgage endowment had no foreseeable need for life cover at the time the endowment arrangements were concluded, in the overall comparison between a repayment mortgage and an endowment mortgage the monthly outgoings under the repayment will include the premium for the decreasing term assurance that would have been required. This adjustment for the cost of life cover is only to be made if the firm is undertaking a comparison of monthly outgoings. It is not appropriate to deduct the cost of life cover from the capital loss calculation, as this would constitute double counting.

**App1.2.28** If a deduction is to be attributed to the provision of life cover, the appropriate approach is to assume that the complainant took out the insurance quoted in the alternative repayment quotation provided at the time of the sale. If the quotation is not available, the deduction should be at the rates that would have been quoted at the time.

**1.3 Remortgaging**

**App1.3.1** As already noted, the basic objective of redress is to put the complainant, so far as is possible, in the position he would have been in if the inappropriate advice or other breach had not occurred: for their part, the complainants should take such reasonable steps as they can to limit loss once they are informed of the position they are in because of the failure of advice at the time of sale.

**App1.3.2** In practice, it is likely to be appropriate for a complainant whose complaint has been upheld to convert to a repayment mortgage, whether or not there is financial loss to date. It will normally be possible for complainants to do so without incurring unreasonable cost. Conversion will of course mean that the complainant no longer has a policy.

**App1.3.3** Firms should therefore in the case of upheld complaints inform complainants that it is likely to be appropriate and necessary for them to convert to a repayment arrangement.

**App1.3.4** Firms should make it clear that they will bear the costs of conversion if the rearrangement is made with the existing lender and to the equivalent repayment
mortgage. If a complainant is not willing to rearrange with the existing lender, then the costs to be paid by the firm should normally be limited to those which would have been payable had the rearrangement been made with the existing lender and to the equivalent repayment mortgage. If it is not possible to rearrange with the existing lender, for example, if the lender has a closed book, the firm should pay all costs which are not unreasonable in completing the rearrangement with an alternative provider. Such costs might include an administration fee for changing the existing arrangement, redemption penalty, arrangement fee for the new mortgage and the reasonable cost of further advice if necessary.

App 1.3.5 If the "new" mortgage is, in fact, arranged at a lower interest rate than the existing loan, the benefit to the complainant should usually be disregarded, as it is always open to complainants to change their underlying mortgage arrangements at any time.

App 1.3.6 If the "new" mortgage is arranged at a higher interest rate than the existing loan, the increased payment should not normally be taken into account in calculating any payment to be made to the complainant.

App 1.3.7 If the complainant takes the opportunity to increase his loan on the occasion of the remortgage, the expenses which a firm pays by way of compensation should be paid by reference to the capital sum due under the "old" loan.

App 1.3.8 As stated, one aspect of the conversion process is the disposal of the endowment policy. The standard approach to assessing loss requires firms to calculate loss using the surrender value. However, once loss is established on this basis and firms move to deal with redress, they may wish to consider whether there is a role for the policy's 'market value' within the traded endowment policy (TEP) market.

App 1.3.9 A firm may arrange the sale of the endowment policy on the traded endowment market, provided the full implications of such a course of action are explained to the complainant and his express consent is obtained for the firm to arrange the sale. This includes informing the investor that he will continue to be the life assured under the policy. The complainant should be informed that such an arrangement may reduce or eliminate the amount of redress actually borne by the firm, but not so as to affect the amount of redress he receives.

App 1.3.10 In the event that a complainant is willing to pursue this option, a firm should first have assessed the complainant's loss using the approach set out in this appendix, and the minimum amount the complainant should receive under such a sale arrangement is the sum representing the position the complainant should have been in under this appendix together with the reimbursement of remortgaging costs. In order to ensure the process does not delay the provision of redress, the firm must pay this minimum sum immediately the complainant agrees to the sale arrangement. To the extent that the net amount realised by the sale of the policy on the traded endowment market exceeds the total redress due to the complainant, this greater sum is to be paid to the complainant on completion of the sale. If the amount realised by the sale of the policy on the traded endowment market is less than the total redress due to the complainant, the firm will be responsible for the amount of the shortfall.
Example of assessment set out at 1.3.10

The following example illustrates the position:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surrender value</td>
<td>£10,000</td>
</tr>
<tr>
<td>Loss calculated by standard approach</td>
<td>£5,000</td>
</tr>
<tr>
<td>Remortgaging costs</td>
<td>£300</td>
</tr>
<tr>
<td>Total</td>
<td>£15,300</td>
</tr>
</tbody>
</table>

Complainant receives £16,000 all ultimately funded from the TEP sale.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surrender value</td>
<td>£10,000</td>
</tr>
<tr>
<td>Redress calculated by standard approach</td>
<td>£5,000</td>
</tr>
<tr>
<td>Remortgaging costs</td>
<td>£300</td>
</tr>
<tr>
<td>Total</td>
<td>£15,300</td>
</tr>
</tbody>
</table>

Complainant receives £15,300, £13,000 ultimately funded from the TEP sale and £2,300 ultimately funded from the firm.

1.4 Policy reconstruction

This section of this appendix is primarily concerned with circumstances where the term of the mortgage and associated endowment policy extend beyond the individual complainant's normal retirement age in circumstances where the firm regards a complaint as justified because the arrangement is not affordable in retirement; and this could have, and should have, been foreseen at the time of the advice.

Two sets of circumstances are examined at DISP App 1.4.3 G to DISP App 1.4.13 G. Although these are considered in isolation, firms should, as part of their investigation of all of the factors involved in the complaint, consider whether either set of circumstances should be considered in conjunction with those factors examined at DISP App 1.2.

Case 1

If on enquiry it is found that no proper assessment of the complainant's post-retirement means had been undertaken at the time of sale, but if the likelihood had been that the complainant would have borrowed the same amount over a shorter term (up to retirement) using an endowment policy as a repayment vehicle, then an appropriate form of redress would be for the policy to be reconstructed with a shorter term.
Redress should in most cases be provided by meeting the cost of rearranging the policy, by way of a lump sum payment into the policy in respect of the higher rate of premium due from its inception. It may be appropriate in individual cases to take account of the lower premiums that the complainant will have paid to date. The guidance in DISP App 1.2, as to the circumstances in which this will be appropriate, will be relevant here.

If the policy extends beyond retirement age and the complainant is already retired, the policy should be reconstructed to a maturity date as at the accepted retirement date, with the policy proceeds becoming immediately payable. The costs are to be borne by the firm, subject to any lower outgoings adjustment.

Firms should consider whether the reconstruction would have tax implications for complainants (see DISP App 1.5.8 G and DISP App 1.5.9 G).

The reconstruction process deals with the situation to the date the policy is reconstructed. The complainant will generally be responsible for paying the increased premiums for the remaining term.

At the time the complainant is advised of the revised premium, he should as a matter of good practice be provided with a reprojection based on the prevailing projection rates, which will allow him to address any projected shortfall.

If it is not possible for a firm to reconstruct a policy, then it should offer the investor equivalent redress, for example, by paying a cash lump sum equivalent to the amount that would have been credited to a reconstructed policy.

If a loan extending into retirement was on any basis not affordable, whether or not it is reconstructed to the retirement date, firms will need to consider whether, if proper advice had been given, the loan would have been taken out at all and, if not, consider what arrangements might now need to be made in order to reduce the amount of the complainant’s borrowings.

Mismatched loans and policy terms

If a complaint is regarded as justified by the firm on the basis that the endowment policy maturity date extends beyond the mortgage term expiry date and the firm is responsible for this situation, the policy should be reconstructed so that it matures at the expiry of the mortgage term.

In these circumstances the guidance given elsewhere in DISP App 1.4 will apply as appropriate.

The following examples illustrate the approach to redress as described in this section.
### Example 8

**Term extends beyond retirement age and policy reconstruction**

**Background**

45 year old male non-smoker, having taken out a £50,000 loan in 1998 for a term of 25 years. Unsuitable sale identified on the grounds of affordability and complaint raised on 12th policy anniversary.

It has always been the intention of the complainant to retire at State retirement age 65.

Term from date of sale to retirement is 20 years and the maturity date of the mortgage is 5 years after retirement.

**Established facts**

Established premium paid by investor on policy of original term (25 years):

<table>
<thead>
<tr>
<th>Premium</th>
<th>£81.20</th>
</tr>
</thead>
</table>

Premium that would have been payable on policy with term from sale to retirement (20 years):

<table>
<thead>
<tr>
<th>Premium</th>
<th>£111.20</th>
</tr>
</thead>
</table>

Actual policy value at time complaint assessed:

<table>
<thead>
<tr>
<th>Value</th>
<th>£12,500</th>
</tr>
</thead>
</table>

Value of an equivalent 20-year policy at time complaint assessed:

<table>
<thead>
<tr>
<th>Value</th>
<th>£21,300</th>
</tr>
</thead>
</table>

Difference in policy values at time complaint assessed:

<table>
<thead>
<tr>
<th>Difference</th>
<th>£8,800</th>
</tr>
</thead>
</table>

Difference in outgoings (20 year policy - 25 year policy):

<table>
<thead>
<tr>
<th>Difference</th>
<th>£4,320</th>
</tr>
</thead>
</table>

**Basis of compensation**

The policy is reconstructed as if it had been set up originally on a term to mature at retirement age, in this example, a term of 20 years. The difference in the current value of the policy actually sold to the complainant and the current value of the reconstructed policy, as if the premium on the reconstructed policy had been paid from outset, is calculated. The complainant has gained from lower outgoings (lower premiums) of the actual endowment policy to date. In calculating the redress, the gain may be offset against the loss unless the complainant’s particular circumstances are such that it would be unreasonable to take account of the gain.

**Redress generally if it is not unreasonable to take account of the whole of the gain from lower outgoings**

<table>
<thead>
<tr>
<th>Loss from current value of reconstructed policy less current value of actual policy:</th>
<th>(£8,800)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gain from total lower outgoings under actual policy:</td>
<td>£4,320</td>
</tr>
<tr>
<td>Net loss:</td>
<td>(£4,480)</td>
</tr>
<tr>
<td>Therefore total redress is:</td>
<td>£4,480</td>
</tr>
</tbody>
</table>

**Redress if it is unreasonable to take account of gain from lower outgoings**

<table>
<thead>
<tr>
<th>Loss from current value of reconstructed policy less current value of actual policy:</th>
<th>(£8,800)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gain from total lower outgoings under actual policy:</td>
<td>Ignored</td>
</tr>
<tr>
<td>Therefore total redress is:</td>
<td>£8,800</td>
</tr>
</tbody>
</table>

**Additional Information**

If the policy is capable of reconstruction, the complainant must now fund the higher premiums himself for the remainder of the term of the policy.
Example 8

shortened policy until maturity. In this example the higher premium could be £111.20. However the firm should provide the complainant with a reprojection letter based on the reconstructed policy such that the actual monthly payment required to achieve the target sum could be even higher, say £130. The reprojection letter should set out the range of options facing the complainant to deal with the projected shortfall, if any.

Example 9

Term extends beyond retirement age: example of failure to explain investment risks

Background

45 year old male non-smoker, having taken out a £50,000 loan in 1998 for a term of 25 years. Unsuitable sale identified on the grounds of affordability and complaint raised on 12th anniversary.

It has always been the intention of the complainant to retire at state retirement age 65.

Term from date of sale to retirement is 20 years and the maturity date of the mortgage is five years after retirement.

In addition, an endowment does not meet the complainant’s attitude to investment risk and a repayment mortgage would have been taken out if properly advised.

Established facts

Surrender value (on the 25 year policy) at time complaint assessed: £12,500

Capital repaid under repayment mortgage of term to retirement date (20 years): £21,000

Surrender value less capital repaid: (£8,500)

Difference in outgoings (repayment - endowment): £5,400

Cost of converting from endowment mortgage to repayment mortgage: £200

Basis of compensation:

The surrender value of the (25 year term) endowment policy is compared to the capital that would have been repaid to date under a repayment mortgage arranged to repay the loan at retirement age, in this example, a repayment mortgage for a term of 20 years. The complainant has gained from lower outgoings of the endowment mortgage to date. In calculating the redress, the gain may be offset against the loss unless the complainant’s particular circumstances are such that it would be unreasonable to take account of the gain. The conversion costs are also taken into account in calculating the redress.

Redress generally

Loss from surrender value less capital repaid: (£8,500)

Gain from total lower outgoings under endowment mortgage: £5,400

Cost of converting to a repayment mortgage: (£200)

Net loss: (£3,300)

Therefore total redress is: £3,300
1.5 Additional considerations

**Example 9**

Redress if it is unreasonable to take account of gain from lower outgoings

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss from surrender value less capital repaid:</td>
<td>(£8,500)</td>
</tr>
<tr>
<td>Gain from total lower outgoings under endowment mortgage:</td>
<td>Ignored</td>
</tr>
<tr>
<td>Cost of converting to a repayment mortgage:</td>
<td>(£8,700)</td>
</tr>
<tr>
<td><strong>Therefore total redress is:</strong></td>
<td><strong>£8,700</strong></td>
</tr>
</tbody>
</table>

**Introduction**

App 1.5.1  
This section addresses issues which may be relevant to the standard redress for unsuitability cases, as well as some post-retirement cases upheld on the grounds of affordability.

**Continuing life cover and other policy benefits**

App 1.5.2  
*Firms* will need to consider the importance for many complainants of having life assurance in place to ensure a mortgage is paid off in the event of death.

App 1.5.3  
If a complaint is upheld and the *policy* is to be surrendered as part of the settlement, the *firm* should remind the complainant in writing that the life cover within the endowment will be terminated and that it may therefore be appropriate to take advice about the merits or otherwise of taking out a stand-alone *life policy* in substitution.

App 1.5.4  
If a need for life assurance at inception has been established so that a deduction representing its cost has been made from the redress payable under ▼ DISP App 1.2.4 G, the *firm* should advise the complainant that the *firm* would be responsible for paying any *premium* for an appropriate replacement *policy* which exceeds that used for calculating the deduction or alternatively will, where possible, provide the cover itself at that cost. If it is not possible for the *firm* to provide the cover itself at the original cost, it may choose to discharge that obligation by the payment of an appropriate lump sum. Any such amount should enable the complainant to effect the cover at the original cost, with no additional cost in respect of increased age or deterioration in health. This option may be particularly relevant if the *firm* against which the complaint has been made is an independent intermediary which cannot itself provide the cover, although it may be possible for such a *firm* to arrange for the product provider to offer cover to the complainant at the original *premium* on payment by the independent intermediary of an appropriate lump sum to meet any increased cost.

App 1.5.5  
*Firms* will not be responsible for any increased costs resulting from the complainant choosing another *product provider* or for increased *premiums* charged by another provider chosen by the complainant in respect of the risk now
presented, for example, higher *premiums* charged by the other provider due to deterioration in health, unless the original *product provider* no longer writes new business and is unable to offer revised life cover on a decreasing term assurance basis.

**App1.5.6**

There can be exceptional circumstances where, in order to retain suitable life cover, the endowment *policy* has to be retained and any additional costs will be the responsibility of the *firm* that sold the endowment *policy*.

**App1.5.7**

The same considerations will apply to the establishment of the need for other *policy* benefits including critical illness cover, disability cover and waiver of *premium*.

**Taxation**

**App1.5.8**

*Firms* will need to consider the likely taxation implications for complainants if *policies* are surrendered or reconstructed, or any form of underpinning or guarantee is given.

**App1.5.9**

If there is potential tax liability for the complainant, it will be appropriate for *firms* to undertake in writing to the complainant to reimburse any tax payable, or which becomes payable, and make payment on production of appropriate evidence of the liability and payment having been made.

"*Underpinning*"

**App1.5.10**

*Firms* proposing to offer arrangements involving some form of minimum underpinning or 'guarantee' should discuss their proposals with the *FCA* and HM Revenue and Customs at the earliest possible opportunity (see **DISP App 1.5.8 G**). The *FCA* will need to be satisfied that these proposals provide complainants with redress which is at least commensurate with the standard approaches contained in this appendix.

**Reference to the guidance in firms' complaints settlement letters**

**App1.5.11**

One of the reasons for introducing the *guidance* in this appendix is to seek a reduction in the number of complaints which are referred to the *Financial Ombudsman Service*. If a *firm* writes to the complainant proposing terms for settlement which are in accordance with this appendix, the letter may include a statement that the calculation of loss and redress accords with the *FCA guidance*, but should not imply that this extends to the assessment of whether or not the complaint should be upheld. *Firms* should point out that if the complainant remains dissatisfied, he may refer the complaint to the *Financial Ombudsman Service*.

**App1.5.12**

A statement under **DISP App 1.5.11 G** should not give the impression that the proposed terms of settlement have been expressly endorsed by either the *FCA* or the *Financial Ombudsman Service*.
Identification of windfall benefits

App 1.5.13 Windfall benefits should be determined in accordance with the principle in Needler Financial Services and Taber (‘Needler’). The basic legal principle in Needler is that a windfall benefit is not to be taken into account in determining the amount of an investor’s recoverable loss. The following paragraphs explain our views as to how firms may act in accordance with that principle.

App 1.5.14 A windfall benefit arises where:

1. there has been a demutualisation, distribution or reattribution of the inherited estate, or other extraordinary corporate event in a long-term insurer; and

2. the event gave rise to ‘relevant benefits’, as defined in DISP App 1.5.15 (below).

App 1.5.15 ‘Relevant benefits’ are those benefits that fall outside what is required in order that policyholders’ reasonable expectations at that point of sale can be fulfilled. (The phrase ‘policyholders’ reasonable expectations’ has technically been superseded. However, the concept now resides within the obligations imposed upon firms by FCA Principle 6 (‘...a firm must pay due regard to the interests of its customers and treat them fairly....’) Additionally, most of these benefits would have been paid prior to commencement, when policyholders’ reasonable expectations would have been a consideration for a long-term insurer.)

App 1.5.16 The issue of free shares or cash on a demutualisation, and additional bonuses and policy enhancements given by way of incentive to approve a reattribution or distribution of an inherited estate should, unless there is evidence to the contrary, be treated as relevant benefits for the purposes of DISP App 1.5.15. Whether additional bonuses and policy enhancements on a demutualisation are relevant benefits should be determined by applying the test in DISP App 1.5.15 to each benefit.

App 1.5.17 Firms should review the terms on which proposals were put to policyholders and the reasons given for a corporate event when determining whether a benefit should be treated as a relevant benefit.

App 1.5.18 Firms should not normally bring windfall benefits which are relevant benefits (as defined in DISP App 1.5.14) to account when assessing financial loss and redress. Where a windfall benefit is in the form of a policy augmentation the benefit should be deducted from the overall value of the policy when making this assessment.

App 1.5.19 A relevant benefit derived from a corporate event may only be brought to account if the firm is able to demonstrate, with written records created at the time of the advice, that:

1. The firm foresaw the prospect of the event and the benefit;

2. The firm’s advice included a statement recommending the particular policy because of the possibility of the benefit in question; and
(3) The statement was a material factor in the context of the advice and the decision to invest.

**App 1.5.20** If a *firm* considers that it can meet this requirement, the *firm* should by letter explain clearly to the complainant the reasons why it proposes that the benefit should not be treated as a windfall and should be taken into account. The *firm* should provide the complainant with copies of the relevant documents.

**App 1.5.21** The letter should also explain how the proposed value of the benefit has been calculated and should inform the complainant that if he does not accept the proposal to take the benefit into account he may tell the *firm*, with reasons. The letter should also say that, if he remains dissatisfied with the *firm's* response, he may refer the matter to the **Financial Ombudsman Service**.

### 1.6 Valuing Relevant Benefits

**App 1.6.1** If, exceptionally under the *guidance* at ▬ DISP App 1.5.13 G to ▬ DISP App 1.5.21 G, cash or *shares* derived from a corporate event are to be taken into account when assessing loss and redress, cash should be valued at the amount actually received and *shares* should be valued at their issue price. In both cases there should be no addition for interest.

**App 1.6.2** When valuing windfall augmentation benefits for the purposes of calculating loss and redress the objective is to exclude all changes arising from the windfall event. The amount of redress payable will then be equal to the amount that would have been payable if the windfall event had never occurred.

**App 1.6.3** A *product provider* should ensure that the method it adopts for valuing augmentation benefits is consistent with the statements made in the documentation published about the windfall event. Relevant documentation for the purpose of valuing such benefits will include (but is not limited to):

1. Any description of increases in benefits in any circular to *policyholders* (and any other public information relating to the event);
2. Any principles of financial management established for the management of the fund after the event;
3. Statements in any report produced by an *actuary* appointed under ▬ SUP 4 (Actuaries) for the event;
4. Statements in any independent *actuary* report produced for the event; and
5. Subsequent statements relating to bonus practice, calculation *surrender values*, or both.
The method of valuation adopted should treat the complainant fairly overall.

Where an accurate calculation of the value of an augmentation benefit either cannot be made, or would result in disproportionate expense or delay, product providers may adopt a simplified approach or a proxy method for calculating its value.

A simplified approach should treat the complainants fairly overall.

An actuary, appointed by a product provider under SUP 4 (Actuaries) should certify that the method adopted by the product provider for calculating the value of an augmentation benefit is in accordance with the guidance in DISP App 1.6.1 G to DISP App 1.6.6 G.

The principles set out above (in DISP App 1.6.1 G to DISP App 1.6.7 G) should be applied directly to mortgage endowment complaints where the capital loss is calculated by comparing the surrender value of the endowment policy with the capital which would have been repaid using a repayment mortgage.

In most cases where there is a loss, the endowment policy will be surrendered and put towards the cost of setting up a suitable repayment mortgage. Where this is the case, that part of the surrender value relating to the windfall augmentation should be paid as a cash lump sum to the investor or to the investor’s order as part of the redress package. Only that part of the surrender value which does not relate to the windfall augmentation should be put towards the cost of setting up a suitable repayment mortgage.

There may be some circumstances in which the policy will not be surrendered (see DISP App 1.2.15 G). In these cases, there is no requirement to pay the value of the windfall augmentation as a cash lump sum since the value of the augmentation will become payable when the policy matures. However, any fund value used in the calculation of redress payable should exclude the value of the windfall augmentation.

Firms are entitled to mitigate losses by making use of the Traded Endowment Policy (TEP) market (see DISP App 1.3.8 G to DISP App 1.3.10 G). This allows firms to sell policies on the TEP market to meet the costs of redress, rather than using the surrender value. Where this method is adopted, firms should pay to the investor, as part of the redress package, a cash lump sum representing that proportion of the policy realised which would have related to the windfall augmentation.

As this windfall amount should be excluded from the fund value used in the calculation of loss and redress it would also be appropriate for this extra payment to be ignored when assessing whether, "the net amount realised by the sale of the policy on the traded endowment market exceeds the total redress due to the complainant..." (DISP App 1.3.10 G).
There may be circumstances in which a policy needs to be reconstructed (see DISP App 1.4). In carrying out the required reconstruction, the windfall augmentation should be ignored in both the existing and the revised policy. However, the policyholder’s revised policy should be credited with any windfall augmentation which would have applied if the policy had been set up with the revised terms from the original date of advice. This enhancement can be taken into account in assessing a suitable level for future premiums, in line with DISP App 1.4.8 G.

DISP App 1.5.10 G provides firms with the opinion of underpinning benefits. Firms should satisfy the FCA that their proposals provide complainants with a level of redress that is at least commensurate with the standard approaches and, to ensure consistency, windfall augmentations should be excluded when considering whether an underpin will apply. The FCA will take this into account when considering proposals put forward by firms.

Product providers with windfall benefits in the form of policy augmentations should tell:

1. their own relevant customers (mortgage endowment complainants); and
2. other firms with such customers (and any other interested parties);

that they have excluded windfall augmentation benefits from values used or to be used for loss and redress. Firms should provide this information to the Financial Services Compensation Scheme when providing them with a value to be used for loss or redress. Should their own relevant customers, other firms with such customers (and any other interested parties) and the Financial Services Compensation Scheme request it, the firm should provide the value of these benefits and a description of the method used to exclude them.
Appendix 3
Handling Payment Protection Insurance complaints

3.1 Introduction

Application

(1) This appendix sets out how:

(a) a firm should handle complaints relating to the sale of a payment protection contract by the firm which express dissatisfaction about the sale, or matters related to the sale, including where there is a rejection of claims on the grounds of ineligibility or exclusion (but not matters unrelated to the sale, such as delays in claims handling); and

(b) a firm that is a CCA lender and which has received such a complaint should consider whether there was a failure to disclose commission in relation to the sale of a payment protection contract which covers or covered or purported to cover a credit agreement (this includes partial coverage).

(2) It relates to the sale of any payment protection contract whenever the sale took place and irrespective of whether it was on an advised or non-advised basis; conducted through any sales channel; in connection with any type of loan or credit product, or none; whether the insurer was in the same group as the firm or not; whether the premium was financed by the credit product or not; and for a regular premium or single premium payment. It applies whether the policy is currently in force, was cancelled during the policy term or ran its full term.

(3) It does not set out how a firm which has received a complaint referred to in (1)(a) should assess:

(a) whether the firm’s conduct of the sale was in breach of a fiduciary duty where there has been a failure to disclose either the existence of, or the level of, any commission and/or profit share paid;

(b) whether any omission (other than the omission referred to in DISP App 3.3A.2E) to disclose either the existence of, or level of, commission and/or profit share made the relationship unfair under section 140A of the CCA;
(c) any other issue not dealt with in step 1 or step 2 set out in this appendix.

Complaints concerning such issues should be dealt with under DISP 1.4.1R.

(4) It requires firms to send written communications to complainants in certain circumstances (see DISP App 3.11).

(5) There are further provisions on the application of this appendix in DISP App 3.10.

Two-step approach

This appendix provides for a two-step approach to handling complaints. Firms should apply it as follows:

(1) a firm which is not a CCA lender should only consider step 1;

(2) a CCA lender which did not sell the payment protection contract should only consider step 2, but does not have to do so if it knows the complainant has already made a complaint about a breach or failing in respect of the same contract and the outcome was that the firm which considered that complaint concluded that the complainant would not have bought the payment protection contract they bought;

(3) a CCA lender which also sold the payment protection contract should:
   (a) consider step 1 unless-
       (i) it has already considered step 1, or
       (ii) after considering DISP App 3.2.2G and DISP App 3.2.3G, it is clear that the true substance of the complaint is only about a failure to disclose commission; and
   (b) consider step 2 in cases where it has not concluded at step 1 that the complainant would not have bought the payment protection contract they bought.

In the case of a complaint described in DISP 2.8.9R(2)(d), the firm need only consider step 1 and only to the extent of the relevant grounds of rejection of the claim.

Step 1

At step 1, the aspects of complaint handling dealt with in this appendix are how the firm should:

(1) assess a complaint in order to establish whether the firm’s conduct of the sale failed to comply with the rules, or was otherwise in breach of the duty of care or any other requirement of the general law (taking into account relevant materials published by the FCA, other relevant regulators, the Financial Ombudsman Service and former schemes). In this appendix this is referred to as a “breach or failing” by the firm;
(2) determine the way the complainant would have acted if a breach or failing by the firm had not occurred; and

(3) determine appropriate redress (if any) to offer to a complainant.

App3.1.3 At step 1, where the firm determines that there was a breach or failing, the firm should consider whether the complainant would have bought the payment protection contract in the absence of that breach or failing. This appendix establishes presumptions for the firm to apply about how the complainant would have acted if there had instead been no breach or failing by the firm. The presumptions are:

(1) for some breaches or failings (see \ref{DISP App 3.6.2 E}), the firm should presume that the complainant would not have bought the payment protection contract they bought; and

(2) for certain of those breaches or failings (see \ref{DISP App 3.7.7 E}), where the complainant bought a single premium payment protection contract, the firm may presume that the complainant would have bought a regular premium payment protection contract instead of the payment protection contract they bought.

App3.1.4 There may also be instances where a firm concludes after investigation at step 1 that, notwithstanding breaches or failings by the firm, the complainant would nevertheless still have proceeded to buy the payment protection contract they bought. CCA lenders should still go on to consider step 2 in such cases.

Step 2

App3.1.4A At step 2, the aspects of complaint handling dealt with in this appendix are how a CCA lender should:

(1) assess a complaint to establish whether failure to disclose commission gave rise to an unfair relationship under section 140A of the CCA; and

(2) determine the appropriate redress (if any) to offer to a complainant.

Definitions

In this appendix:

(1) (a) at step 1, “historic interest” means the interest the complainant paid to the firm because a payment protection contract was added to a loan or credit product;

(b) at step 2, “historic interest” means in relation to any sum, the interest the complainant paid as a result of that sum being included in the loan or credit product;

(2) “simple interest” means a non-compound rate of 8% per annum;

(3) “claim” means a claim by a complainant seeking to rely upon the policy under the payment protection contract that is the subject of the complaint;
(4) “actual profit share” means a reasonable estimate of the profit share that was paid under profit share arrangements and that is notionally attributable to the payment protection contract;

(5) “anticipated profit share” means a reasonable estimate of the profit share which it was reasonably foreseeable at the time of sale would be paid over the relevant period or periods under profit share arrangements, and that would be notionally attributable to the payment protection contract;

(6) “commission” means the part of the total amount paid in relation to a payment protection contract that was not due to be passed to and retained by the insurer, excluding any sums which may be payable under profit share arrangements;

(7) “failure to disclose commission” means failure to make the disclosure at DISP App 3.3A.2E;

(8) “profit share arrangements” means arrangements (including contractual) that firms have to potentially receive back some of the total amount paid in relation to a payment protection contract which had initially gone to the insurer. For example, these arrangements might include amounts paid to cover potential claims on policies, but which remain unspent after a fixed period, for example because actual claims did not exceed certain levels. Other arrangements might take account of variable factors other than claims, including, for example, the value of rebates paid upon early cancellations of payment protection contracts;

(9) “redress period” means, in relation to a regular premium payment protection contract, any period when the commission paid plus the amount representing actual profit share in respect of that period exceeded 50% (or such other percentage calculated under DISP App 3.7A.4E) of the total amount paid in relation to the payment protection contract in respect of that period;

(10) “relevant period or periods” means:

(a) in relation to a single premium payment protection contract, the scheduled length of the contract;

(b) in relation to a regular premium payment protection contract, the period or periods over which commission was known or was reasonably foreseeable at the time of sale; and

(11) “total amount paid” means the total amount paid by the consumer in relation to a payment protection contract, including any Insurance Premium Tax payable.

App3.1.6 For the purposes of the definitions of “actual profit share”, “anticipated profit share” and “commission”, where the firm has no or incomplete records of the level of commission or profit share arrangements relevant to a particular payment protection contract, it should make reasonable efforts to obtain relevant information from third parties. Where no such information can be obtained, the firm may make reasonable assumptions based on, for example, commission levels.
or profit share arrangements in relation to which records are held, and general commercial trends in the industry during the period in question.

3.2 The assessment of a complaint

App 3.2.1 This section applies to both step 1 and step 2.

App 3.2.1 The firm should consider, in the light of all the information provided by the complainant and otherwise already held by or available to the firm, whether (at step 1) there was a breach or failing by the firm or (at step 2) whether there was a failure to disclose commission.

App 3.2.2 The firm should seek to establish the true substance of the complaint, rather than taking a narrow interpretation of the issues raised, and should not focus solely on the specific expression of the complaint. This is likely to require an approach to complaint handling that seeks to clarify the nature of the complaint.

App 3.2.3 A firm may need to contact a complainant directly to understand fully the issues raised, even where the firm received the complaint from a third party acting on the complainant’s behalf. The firm should not use this contact to delay the assessment of the complaint.

App 3.2.4 Where a complaint raises (expressly or otherwise) issues that may relate to the original sale or a subsequently rejected claim then, irrespective of the main focus of the complaint, the firm should pro-actively consider whether the issues relate to both the sale and the claim, and assess the complaint and determine redress accordingly.

App 3.2.5 If, during the assessment of the complaint, the firm uncovers evidence of a breach or failing, or a failure to disclose commission, that was not raised in the complaint, the firm should consider those other aspects as if they were part of the complaint, at step 1 or 2 as appropriate.

App 3.2.6 The firm should take into account any information it already holds about the sale and consider other issues that may be relevant to the sale identified by the firm through other means, for example, the root cause analysis described in DISP App 3.4.

App 3.2.7 The firm should consider all of its sales of payment protection contracts to the complainant in respect of re-financed loans that were rolled up into the loan covered by the payment protection contract that is the subject of the complaint. The firm should consider the cumulative financial impact on the complainant of
any previous breaches or failings in those sales or, where relevant, any previous failures to disclose commission.

3.3 The approach to considering evidence at step 1

App 3.3.1 G Where a complaint is made, the firm should assess the complaint fairly, giving appropriate weight and balanced consideration to all available evidence, including what the complainant says and other information about the sale that the firm identifies. The firm is not expected automatically to assume that there has been a breach or failing.

App 3.3.2 G The firm should not rely solely on the detail within the wording of a policy's terms and conditions to reject what a complainant recalls was said during the sale.

App 3.3.3 G The firm should recognise that oral evidence may be sufficient evidence and not dismiss evidence from the complainant solely because it is not supported by documentary proof. The firm should take account of a complainant's limited ability fully to articulate his complaint or to explain his actions or decisions made at the time of the sale.

App 3.3.4 G Where the complainant's account of events conflicts with the firm's own records or leaves doubt, the firm should assess the reliability of the complainant's account fairly and in good faith. The firm should make all reasonable efforts (including by contact with the complainant where necessary) to clarify ambiguous issues or conflicts of evidence before making any finding against the complainant.

App 3.3.5 G The firm should not reject a complainant's account of events solely on the basis that the complainant signed documentation relevant to the purchase of the policy.

App 3.3.6 G The firm should not reject a complaint because the complainant failed to exercise the right to cancel the policy.

App 3.3.7 G The firm should not consider that a successful claim by the complainant is, in itself, sufficient evidence that the complainant had a need for the policy or had understood its terms or would have bought it regardless of any breach or failing by the firm.

App 3.3.8 G The firm should not draw a negative inference from a complainant not having kept documentation relating to the purchase of the policy for any particular period of time.
In determining a particular complaint, the firm should (unless there are reasons not to because of the quality and plausibility of the respective evidence) give more weight to any specific evidence of what happened during the sale (including any relevant documentation and oral testimony) than to general evidence of selling practices at the time (such as training, instructions or sales scripts or relevant audit or compliance reports on those practices).

The firm should not assume that because it was not authorised to give advice (or because it intended to sell without making a recommendation) it did not in fact give advice in a particular sale. The firm should consider the available evidence and assess whether or not it gave advice or made a recommendation (explicitly or implicitly) to the complainant.

The firm should consider in all situations whether it communicated information to the complainant in a way that was fair, clear and not misleading and with due regard to the complainant’s information needs.

In considering the information communicated to the complainant and the complainant’s information needs, the evidence to which a firm should have regard includes:

1. the complainant’s individual circumstances at the time of the sale (for example, the firm should take into account any evidence of limited financial capability or understanding on the part of the complainant);
2. the complainant’s objectives and intentions at the time of the sale;
3. whether, from a reasonable customer’s perspective, the documentation provided to the complainant was sufficiently clear, concise and presented fairly (for example, was the documentation in plain and intelligible language?);
4. in a sale that was primarily conducted orally, whether sufficient information was communicated during the sale discussion for the customer to make an informed decision (for example, did the firm give an oral explanation of the main characteristics of the policy or specifically draw the complainant’s attention to that information on a computer screen or in a document and give the complainant time to read and consider it?);
5. any evidence about the tone and pace of oral communication (for example, was documentation read out too quickly for the complainant to have understood it?); and
6. any extra explanation or information given by the firm in response to questions raised (or information disclosed) by the complainant.

The firm should not reject a complaint solely because the complainant had held a payment protection contract previously.

The approach to considering evidence at step 2
This section applies to a CCA lender at step 2.

Assessment of fairness of relationship

Where the firm did not disclose to the complainant in advance of a payment protection contract being entered into (and is not aware that any other person did so at that time):

(1) the anticipated profit share plus the commission known at the time of the sale; or

(2) the anticipated profit share plus the commission reasonably foreseeable at the time of the sale; or

(3) the likely range in which (1) or (2) would fall;

the firm should consider whether it can satisfy itself on reasonable grounds that this did not give rise to an unfair relationship under section 140A of the CCA. The firm’s consideration of unfairness should take into account all relevant matters, including whether the non-disclosure prevented the complainant from making a properly informed judgement about the value of the payment protection contract.

Presumptions

(1) The firm should presume that failure to disclose commission gave rise to an unfair relationship under section 140A of the CCA if:

(a) the anticipated profit share plus the commission known at the time of the sale; or

(b) the anticipated profit share plus the commission reasonably foreseeable at the time of the sale;

was:

(c) in relation to a single premium payment protection contract, more than 50% of the total amount paid in relation to the payment protection contract; or

(d) in relation to a regular premium payment protection contract, at any time in the relevant period or periods more than 50% of the total amount paid in relation to the payment protection contract in respect of the relevant period or periods.

(2) The firm should presume that failure to disclose commission did not give rise to an unfair relationship under section 140A of the CCA if the test in (1) is not satisfied.

The presumption that failure to disclose commission gave rise to an unfair relationship is rebuttable. Examples of factors which may contribute to its rebuttal include:
(1) the CCA lender did not know and could not reasonably be expected to know or foresee the level of commission and anticipated profit share; or

(2) the complainant could reasonably be expected to be aware of the level of commission and anticipated profit share (e.g. because they worked in a role in the financial services industry which gave them such awareness); or

(3) disclosure would have made no difference whatsoever to the complainant’s judgement about the value of the payment protection contract. This factor is only likely to be relevant in limited circumstances. If the firm concludes that disclosure would have at least caused the complainant to question whether the payment protection contract represented value for money and whether it was a sensible transaction to enter into (regardless of whether they may or may not have ultimately gone ahead with the purchase), then the presumption is unlikely to be rebutted due to this factor.

App3.3A.6 The presumption that failure to disclose commission did not give rise to an unfair relationship is also rebuttable. An example of a factor which may contribute to its rebuttal includes that the complainant was in particularly difficult financial circumstances at the time of the sale.

Reasonably foreseeable commission

App3.3A.7 For the purposes of the provisions in this section, what is reasonably foreseeable should be determined with regard to all relevant factors, including, where relevant, any agreement specifying rate changes over the first years of the payment protection contract’s life (as in some regular premium payment protection contracts), and the length of time over which the commission will be governed by the agreement between lender and insurer that is in place at the time of sale.

3.4 Root cause analysis

App3.4.-1 This section applies to both step 1 and step 2, as appropriate.

App3.4.1 DISP 1.3.3 R requires the firm to put in place appropriate management controls and take reasonable steps to ensure that in handling complaints it identifies and remedies any recurring or systemic problems. If a firm receives complaints about its sales of payment protection contracts it should analyse the root causes of those complaints including, but not limited to, the consideration of:

(1) the concerns raised by complainants (both at the time of the sale and subsequently);

(2) the reasons for both rejected claims and complaints;

(3) the firm’s stated sales practice(s) at the relevant time(s);
(4) evidence available to the firm about the actual sales practice(s) at the relevant time(s) (this might include recollections of staff and complainants, compliance records, and other material produced at the time about specific transactions, for example call recordings and incentives given to advisers);

(5) relevant regulatory findings; and

(6) relevant decisions by the Financial Ombudsman Service.

App3.4.2

Where consideration of the root causes of complaints suggests recurring or systemic problems in the firm's sales practices for payment protection contracts, the firm should, in assessing an individual complaint, consider whether the problems were likely to have contributed (at step 1) to a breach or failing or (at step 2) to a failure to disclose commission in the individual case, even if those problems were not referred to specifically by the complainant.

App3.4.3

Where a firm identifies (from its complaints or otherwise) recurring or systemic problems in its sales practices for a particular type of payment protection contract, either for its sales in general or for those from a particular location or sales channel, it should (in accordance with Principle 6 (Customers' interests) and to the extent that it applies), consider whether it ought to act with regard to the position of customers who may have suffered detriment from, or been potentially disadvantaged by such problems but who have not complained and, if so, take appropriate and proportionate measures to ensure that those customers are given appropriate redress or a proper opportunity to obtain it. In particular, the firm should:

1. ascertain the scope and severity of the consumer detriment that might have arisen; and

2. consider whether it is fair and reasonable for the firm to undertake proactively a redress or remediation exercise, which may include contacting customers who have not complained.

3.5 Re-assessing rejected claims at step 1

App3.5.1

This section applies to step 1.

App3.5.1

Where a complaint is about the sale of a policy, the firm should, as part of its investigation of the complaint, determine whether any claim on that policy was rejected, and if so, whether the complainant may have reasonably expected that the claim would have been paid.

App3.5.2

For example, the complainant may have reasonably expected that the claim would have been paid where the firm failed to disclose appropriately an exclusion or
limitation later relied on by the insurer to reject the claim and it should have been clear to the firm that that exclusion or limitation was relevant to the complainant.

3.6 Determining the effect of a breach or failing at step 1

App 3.6.-1 This section applies to step 1.

App 3.6.1 Where the firm determines that there was a breach or failing, the firm should consider whether the complainant would have bought the payment protection contract in the absence of that breach or failing.

App 3.6.2 In the absence of evidence to the contrary, the firm should presume that the complainant would not have bought the payment protection contract he bought if the sale was substantially flawed, for example where the firm:

1. pressured the complainant into purchasing the payment protection contract; or

2. did not disclose to the complainant, in good time before the sale was concluded, and in a way that was fair, clear and not misleading, that the policy was optional; or

3. made the sale without the complainant's explicit agreement to purchase the policy; or

4. did not disclose to the complainant, in good time before the sale was concluded, and in a way that was fair, clear and not misleading, the significant exclusions and limitations, i.e. those that would tend to affect the decisions of customers generally to buy the policy; or

5. did not, for an advised sale (including where the firm gave advice in a non-advised sales process) take reasonable care to ensure that the policy was suitable for the complainant's demands and needs taking into account all relevant factors, including level of cover, cost, and relevant exclusions, excesses, limitations and conditions; or

6. did not take reasonable steps to ensure the complainant only bought a policy for which he was eligible to claim benefits; or

7. found, while arranging the policy, that parts of the cover did not apply but did not disclose this to the customer, in good time before the sale was concluded, and in a way that was fair, clear and not misleading; or

8. did not disclose to the complainant, in good time before the sale was concluded, and in a way that was fair, clear and not misleading, the total (not just monthly) cost of the policy separately from any other prices (or the basis for calculating it so that the complainant could verify it); or
(9) recommended a single premium payment protection contract without taking reasonable steps, where the policy did not have a pro-rata refund, to establish whether there was a prospect that the complainant would repay or refinance the loan before the end of the term; or

(10) provided misleading or inaccurate information about the policy to the complainant; or

(11) sold the complainant a policy where the total cost of the policy (including any interest paid on the premium) would exceed the benefits payable under the policy (other than benefits payable under life cover); or

(12) in a sale of a single premium payment protection contract, failed to disclose to the complainant, in good time before the sale was concluded, and in a way that was fair, clear and not misleading:

(a) that the premium would be added to the amount provided under the credit agreement, that interest would be payable on the premium and the amount of that interest; or

(b) (if applicable) that the term of the cover was shorter than the term of the credit agreement and the consequences of that mismatch; or

(c) (if applicable) that the complainant would not receive a pro-rata refund if the complainant were to repay or refinance the loan or otherwise cancel the single premium policy after the cooling-off period.

Relevant evidence might include the complainant’s demands, needs and intentions at the time of the sale and any other relevant evidence, including any testimony by the complainant about his reasons at the time of the sale for purchasing the payment protection contract.

App 3.6.3 E Relevant evidence might include the complainant’s demands, needs and intentions at the time of the sale and any other relevant evidence, including any testimony by the complainant about his reasons at the time of the sale for purchasing the payment protection contract.

3.7 Approach to redress at step 1

App 3.7.-1 E This section applies to step 1.

General approach to redress: all contract types

App 3.7.1 E Where the firm concludes in accordance with DISP App 3.6 that the complainant would still have bought the payment protection contract he bought, no redress will be due to the complainant in respect of the identified breach or failing, subject to DISP App 3.7.6 E.

App 3.7.2 E Where the firm concludes that the complainant would not have bought the payment protection contract he bought, and the firm is not using the alternative approach to redress (set out in DISP App 3.7.7 E to 3.7.15 E) or other appropriate redress (see DISP App 3.8), the firm should, as far as practicable, put the complainant in the position he would have been if he had not bought any payment protection contract.
In such cases the *firm* should pay to the complainant a sum equal to the total amount paid by the complainant in respect of the *payment protection contract* including historic interest where relevant (plus simple interest on that amount). If the complainant has received any rebate, for example if the *customer* cancelled a single premium *payment protection contract* before it ran full term and received a refund, the *firm* may deduct the value of this rebate from the amount otherwise payable to the complainant.

Additionally, where a single premium was added to a loan:

1. for live *policies*:
   a. subject to DISP App 3.7.5 E, where there remains an outstanding loan balance, the *firm* should, where possible, arrange for the loan to be restructured (without charge to the complainant but using any applicable cancellation value) with the effect of:
      i. removing amounts relating to the *payment protection contract* (including any interest and charges); and
      ii. ensuring the number and amounts of any future repayments (including any interest and charges) are the same as would have applied if the complainant had taken the loan without the *payment protection contract*; or
   b. where the *firm* is not able to arrange for the loan to be restructured (e.g. because the loan is provided by a separate *firm*), it should pay the complainant an amount equal to the difference between the actual loan balance and what the loan balance would have been if the *payment protection contract* (including any interest and charges) had not been added, deducting the current cancellation value. The *firm* should offer to pay any charges incurred if the complainant uses this amount to reduce his loan balance; and

2. for cancelled *policies*, the *firm* should pay the complainant the difference between the actual loan balance at the point of cancellation and what the loan balance would have been if no premium had been added (plus simple interest) minus any applicable cancellation value.

Where a claim was previously paid on the *policy*, the *firm* may deduct this from redress paid in accordance with DISP App 3.7.3 E. If the claim is higher than the amount to be paid under DISP App 3.7.3 E then the *firm* may also deduct the excess from the amount to be paid under DISP App 3.7.4 E.

Where the *firm* concludes that the complainant may have reasonably expected that a rejected claim would have been paid (see DISP App 3.5) then:

1. if the value of the claim exceeds the amount of the redress otherwise payable to the complainant for a breach or failing identified in accordance with this appendix, the *firm* should pay to the complainant only the value of the claim (and simple interest on it as appropriate); and

2. if the value of the claim is less than the amount of the redress otherwise payable to the complainant for a breach or failing identified in accordance with this appendix, the *firm* should pay to the complainant the value of that redress.
### Alternative approach to redress: single premium policies

**App3.7.7**  
Where the only breach or failing was within DISP App 3.6.2 E (9) and/or DISP App 3.6.2 E (12), and in the absence of evidence to the contrary, the **firm** may presume that instead of buying the single premium payment protection contract he bought, the complainant would have bought a regular premium payment protection contract.

**App3.7.8**  
If a **firm** chooses to make this presumption, then it should do so fairly and for all relevant complainants in a relevant category of sale. It should not, for example, only use the approach for those complainants it views as being a lower underwriting risk or those complainants who have cancelled their **policies**.

**App3.7.9**  
Where the **firm** presumes that the complainant would have purchased a regular premium payment protection contract, the **firm** should offer redress that puts the complainant in the position he would have been if he had bought an alternative regular premium payment protection contract.

**App3.7.10**  
The **firm** should pay to the complainant a sum equal to the amount in DISP App 3.7.3 E less the amount the complainant would have paid for the alternative regular premium payment protection contract.

**App3.7.11**  
The **firm** should consider whether it is appropriate to deduct the value of any paid claims from the redress.

**App3.7.12**  
Additionally, where a single premium was added to a loan, DISP App 3.7.4 E applies except that in respect of DISP App 3.7.4 E (1)(a) the cancellation value should only be used if the complainant expressly wishes to cancel the **policy**.

**App3.7.13**  
The **firm** should, for the purposes of redressing the complaint, use the value of £9 per £100 of benefits payable as the monthly price of the alternative regular premium payment protection contract. For example, if the monthly repayment amount in relation to the loan only is to be £200, the price of the alternative regular premium payment protection contract will be £18.

**App3.7.14**  
Where the **firm** presumes that the complainant would have purchased a regular premium payment protection contract and if the complainant expressly wishes it, the existing cover should continue until the end of the existing **policy** term. The complainant should pay the price of the alternative regular premium payment protection contract (at DISP App 3.7.13 E) and should be able to cancel at any time. This pricing does not apply where DISP App 3.7.4 E (1)(b) applies.

**App3.7.15**  
So that the complainant can make the decision on the continuation of cover from an informed position, the **firm** should:

1. offer to provide details of the existing payment protection contract;
2. inform the complainant that he may be able to find similar cover more cheaply from another provider in the event that he chooses to cancel the **policy** and take an alternative but remind the complainant that if his...
circumstances (for example, his health or employment prospects) have changed since the original sale, he may not be eligible for cover under any new policy he buys;

(3) make the complainant aware of the changes to the cancellation arrangements if cover continues;

(4) explain how the future premium will be collected and the cost of the future cover; and

(5) refer the complainant to [www.moneyadviceservice.org.uk](http://www.moneyadviceservice.org.uk) as a source of information about a range of alternative payment protection contracts.

### Interaction with step 2

App 3.7.16 Where the firm is aware that another firm has previously paid redress at step 2, the firm may deduct this from the redress due under step 1.

### 3.7A Approach to redress at step 2

App 3.7A.1 This section applies to a CCA lender at step 2.

#### Duty to remedy unfairness

App 3.7A.2 Where the firm concludes in accordance with [DISP App 3.3A](#) that the non-disclosure has given rise to an unfair relationship under section 140A of the CCA, the firm should remedy the unfairness.

#### Redress for single premium payment protection contracts

App 3.7A.3 In relation to a single premium payment protection contract, the firm should pay to the complainant a sum equal to:

1. the commission actually paid; plus
2. an amount representing actual profit share; minus
3. 50% of the total amount paid (or other percentage as in [DISP App 3.7A.4E](#)).

The firm should also pay historic interest in relation to that sum, where relevant. It should also pay simple interest on the whole amount.

#### Redress for regular premium payment protection contracts

App 3.7A.3A In relation to a regular premium payment protection contract, the firm should pay to the complainant in respect of each redress period a sum equal to:

1. an amount appropriately representing the commission paid in respect of that period; plus
(2) an amount appropriately representing profit share in respect of that period; minus

(3) 50% of the amount appropriately representing the total amount paid in respect of that period (or other percentage as in ■ DISP App 3.7A.4E).

A firm should pay the aggregate of those sums and also pay historic interest in relation to each of those sums, where relevant. It should also pay simple interest, where relevant.

Where the presumption against unfairness has been rebutted

App3.7A.4 E In cases where the presumption that failure to disclose commission did not give rise to an unfair relationship (in ■ DISP App 3.3A.4E(2)) has been rebutted and the firm has concluded that the non-disclosure gave rise to an unfair relationship under section 140A of the CCA, the firm should consider what level of commission plus anticipated profit share would not have given rise to unfairness in that case, and use that amount (expressed as a percentage) at ■ DISP App 3.7A.3E(3) or ■ DISP App 3.7A.3AE(3) as appropriate.

Where the complainant has received a rebate

App3.7A.5 E If the complainant has received any rebate, the firm may calculate the amount of the rebate that represents commission and actual profit share sums paid up to the point of the rebate that were more than 50% (or such other percentage determined under ■ DISP App 3.7A.4E) of the total amount paid in relation to the payment protection contract and deduct this from the amount of redress otherwise payable to the complainant.

Where a single premium was added to a loan

App3.7A.6 E Additionally, where a single premium policy was added to a loan:

(1) for live policies, where there remains an outstanding loan balance, the firm should, where possible, arrange for the loan to be restructured (without charge to the complainant but using any applicable cancellation value) with the effect of ensuring the number and amounts of any future repayments (including any interest and charges) are the same as would have applied if the commission plus anticipated profit share was 50% (or such other percentage determined under ■ DISP App 3.7A.4E) of the total amount paid in relation to the payment protection contract; or

(2) for cancelled policies, the firm should pay the complainant the difference between the actual loan balance at the point of cancellation and what the loan balance would have been if a sum equal to that payable under ■ DISP App 3.7A.3E (before historic or simple interest) had not been added (plus simple interest) minus any applicable cancellation rebate value.

Where a regular premium policy is live

App3.7A.7 E Additionally, for a regular premium payment protection contract, where the policy is live the firm should disclose the current level of known or reasonably foreseeable commission and currently anticipated profit share and give the complainant the choice of continuing with the policy without change or cancelling the policy without penalty.
For the purposes of DISP App 3.7A.7E, currently anticipated profit share should be read as requiring a projection forwards from the date of disclosure rather than from the date of the original sale.

The disclosure in DISP App 3.7A.7E may:

(1) be in the form of a range so long as it is sufficiently narrow to be clear and informative: and

(2) specify the current level of commission and currently anticipated profit share separately.

Where a claim was previously paid

Where a claim was previously paid on the policy, the firm should not deduct this from the redress paid.

Other appropriate redress at steps 1 and 2

Step 1

The remedies in DISP App 3.7 are not exhaustive.

When applying a remedy other than those set out in DISP App 3.7, the firm should satisfy itself that the remedy is appropriate to the matter complained of and is appropriate and fair in the individual circumstances.

Step 2

The remedies in DISP App 3.7A are not exhaustive.

A firm should depart from the remedies set out in DISP App 3.7A if there are factors in a particular complaint which require a different amount or form of redress in order to remedy the unfairness found.

Other matters concerning redress at steps 1 and 2

Where the complainant’s loan or credit card is in arrears the firm may, if it has the contractual right to do so, make a payment to reduce the associated loan or credit
card balance, if the complainant accepts the firm's offer of redress. The firm should act fairly and reasonably in deciding whether to make such a payment.

App 3.9.2 G In assessing redress, the firm should consider whether there are any other further losses that flow from its breach or failing or from its failure to disclose commission (as applicable), that were reasonably foreseeable as a consequence of the firm's breach or failing or of its failure to disclose commission, for example, where the payment protection contract's cost or rejected claims contributed to affordability issues for the associated loan or credit which led to arrears charges, default interest, penal interest rates or other penalties levied by the lender.

App 3.9.3 G Where, for single premium policies, there were previous breaches or failings or previous failures to disclose commission (see DISP App 3.2.7 G) the redress to the complainant should address the cumulative financial impact.

App 3.9.4 G The firm should make any offer of redress to the complainant in a fair and balanced way. In particular, the firm should explain clearly to the complainant the basis for the redress offered including how any compensation is calculated and, where relevant, the rescheduling of the loan, and the consequences of accepting the offer of redress.

3.10 Application: evidential provisions and guidance

Step 1

App 3.10.1 E The evidential provisions in this appendix for step 1 apply in relation to complaints about sales that took place on or after 14 January 2005.

App 3.10.2 G The guidance in this appendix for step 1 applies in relation to complaints about sales whenever the sale took place. For complaints about sales that took place prior to 14 January 2005, a firm should take account of the evidential provisions in this appendix for step 1 as if they were guidance.

Step 2

App 3.10.2A E The evidential provisions and guidance for step 2 apply in relation to complaints received by CCA lenders about sales where the payment protection contract covers or covered or purported to cover (this includes partial coverage) a credit agreement.
Effect of contravention of evidential provisions

App3.10.3 Contravention of an evidential provision in this appendix may be relied upon as tending to establish contravention of DISP 1.4.1 R.

3.11 Obligation to write letters to certain rejected complainants

Definitions

App3.11.-1 In this section:

(1) “purported complaint” means an expression of dissatisfaction which would have been a complaint, had it related to an activity which comes under the jurisdiction of the Financial Ombudsman Service;

(2) “recurring non-disclosure of commission” means any omission of the kind described at DISP App 3.1.1G(3)(b); and

(3) “non-disclosure of commission” means “failure to disclose commission” as defined at DISP App 3.1.5G(7) or recurring non-disclosure of commission.

Letters required to be sent by 29 November 2017

App3.11.1 DISP App 3.11.2R and DISP App 3.11.3R apply where:

(1) a complainant has made a complaint to a firm in relation to its sale of a payment protection contract which covered or purported to cover a credit agreement (this includes partial coverage);

(2) the complaint was rejected by the firm before 29 August 2017 in that the firm did not offer the complainant the redress they would have been offered had the firm concluded that the complainant would not have bought the payment protection contract they bought; and

(3) any referral of the complaint to the Financial Ombudsman Service has been concluded and did not result in the firm offering (or being required to pay) the complainant redress on the basis that the complainant would not have bought the payment protection contract they bought.

App3.11.2 The firm (or, where applicable, a successor) must as soon as reasonably practicable, and no later than 29 November 2017, send a written communication to the complainant which:

(1) informs the complainant that, despite having already made a complaint in relation to the sale of a payment protection contract, they can make a further complaint against the CCA lender in relation to a failure to disclose commission;

(2) makes clear the identity of the CCA lender, where this is known to the seller or can be identified by them following reasonable steps;
(3) informs the complainant of the 29 August 2019 time limit;

(4) refers to the availability of relevant further information on the FCA’s website (whose address should be provided) or by contacting the FCA’s PPI contact centre (whose telephone number should be provided); and

(5) where the firm is also the CCA lender, informs the complainant of its arrangements for handling further complaints about a failure to disclose commission.

App 3.11.3 The obligation to send a written communication does not apply where, in relation to the relevant payment protection contract the firm, or where appropriate the Financial Ombudsman Service, has previously considered, or indicated to the complainant in writing that it will consider, a complaint on the basis of a failure to disclose profit share and/or commission.

Letters required to be sent by 29 April 2019

App 3.11.4 ■ DISP App 3.11.5R and ■ DISP App 3.11.6R apply where, in relation to the sale of a payment protection contract which covers, covered or purported to cover a credit agreement (this includes partial coverage) a complainant has made:

(1) (in relation to a regular premium payment protection contract) a complaint to the CCA lender that was rejected before 30 January 2019 in that:

(a) it was considered under step 2 of ■ DISP Appendix 3 but redress on the basis that an unfair relationship under section 140A of the CCA had arisen was not offered; or

(b) it was not considered under step 2 of ■ DISP Appendix 3 because the complaint was treated as a purported complaint that did not come under the jurisdiction of the Financial Ombudsman Service; or

(2) a purported complaint to the selling firm that would otherwise have fallen to be considered under step 1 of ■ DISP Appendix 3 but was rejected before 30 January 2019 by that firm on the basis that it did not come under the jurisdiction of the Financial Ombudsman Service.

App 3.11.5 The firm that rejected the complaint or purported complaint (or, where applicable, its successor) must as soon as reasonably practicable, and no later than 29 April 2019, send a written communication to the complainant which:

(1) in a case falling within ■ DISP App 3.11.4R(1), informs the complainant they can make a complaint against the CCA lender in relation to recurring non-disclosure of commission;

(2) in a case falling within ■ DISP App 3.11.4R(2), informs the complainant they can make a complaint against the CCA lender in relation to non-disclosure of commission;

(3) where the firm is not the CCA lender, makes clear the identity of the CCA lender where this is known or can be identified by the firm by following reasonable steps;

(4) where the firm is the CCA lender, informs the complainant of its arrangements for handling complaints about non-disclosure of commission;
(5) informs the complainant of the 29 August 2019 time limit; and

(6) refers to the availability of relevant further information on the FCA’s website (whose address should be provided) or by contacting the FCA’s PPI contact centre (the telephone number of which should be provided).

App3.11.6 The obligation to send a written communication does not apply where:

(1) the firm is otherwise required to send such a written communication is the CCA lender, and knows that no non-disclosure of commission has occurred during a time which falls within the jurisdiction of the Financial Ombudsman Service;

(2) the complainant has already been offered or paid redress in respect of the payment protection contract (either on the basis that the complainant would not have bought the payment protection contract they bought or on the basis that an unfair relationship under section 140A of the CCA had arisen) by 29 April 2019;

(3) the CCA lender or the Financial Ombudsman Service has indicated to the complainant in writing that it will consider or reconsider the complaint or purported complaint and that consideration is not completed by 29 April 2019; or

(4) the CCA lender has, when considering or reconsidering a complaint or purported complaint, already considered recurring non-disclosure of commission and not offered redress on the basis that an unfair relationship under section 140A of the CCA had arisen.
## Dispute resolution: Complaints

### DISP TP 1
Transitional provisions

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<td>DISP 1.2.15 G R</td>
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<td>1A</td>
<td>DISP 1 R</td>
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<td>A complaint received by a respondent on or before 31 October 2007 should be handled, resolved, recorded and reported in accordance with the requirements of DISP as they stood at the date the complaint was received.</td>
<td>From 1 November 2007</td>
<td>1 November 2007</td>
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<tr>
<td>1B</td>
<td>DISP 2.7.9 R</td>
<td></td>
<td>In relation to a complaint concerning an act or omission before 1 November 2007, in DISP 2.7.9R (2) substitute &quot;an intermediate customer or market counterparty&quot; for &quot;(a) a professional client or (b) eligible counterparty&quot;.</td>
<td>From 1 November 2007</td>
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<td>2</td>
<td>DISP 1.5.4 R - DISP 1.5.7 R</td>
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<td>DISP 1.5.4 R - DISP 1.5.7 R</td>
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<td>6</td>
<td>DISP 2, DISP 3 and FEES 5 R</td>
<td>R</td>
<td>In DISP 2, DISP 3 and FEES 5 references to a &quot;firm&quot; or &quot;firms&quot; include unauthorised persons subject to the Compulsory Jurisdiction in relation to relevant complaints in accordance with the Ombudsman Transitional Order.</td>
<td>From commencement</td>
<td>Commencement</td>
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<td>7</td>
<td>DISP 2, DISP 3 and FEES 5 G</td>
<td>G</td>
<td>Under the Ombudsman Transitional Order, a relevant complaint is subject to the Compulsory Jurisdiction whether or not it is about a firm or an unauthorised person. Unauthorised persons are not subject to DISP 1, but references to &quot;firm&quot; in DISP 2, DISP 3 and FEES 5 include unauthorised persons subject to the Compulsory Jurisdiction in relation to relevant complaints, where applicable.</td>
<td>From commencement</td>
<td>Commencement</td>
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<tr>
<td>7A</td>
<td>DISP 2.8.7 R</td>
<td>R</td>
<td>Nothing in DISP 2.8.7 R affects the position of a complaint which, on 31 May 2004, could not have been considered by the Ombudsman under DISP 2.8.2 R (2); or DISP 2.8.7R (1)(b) as it then stood (as DISP 2.3.6 R (1)(b)).</td>
<td>From 1 June 2004 Amended with effect from 1 June 2004</td>
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<td>7B</td>
<td>DISP 2.8.7R</td>
<td>R</td>
<td>In the case of a complainant falling within DISP 2.8.7R, (and whose time for referring a complaint under the rules as they stood before 1 June 2004 has not expired), time will expire in accordance with DISP 2.8.7R save that if the final date would otherwise be before 30 November 2004 an explanation of the final date will be in conformity with DISP 2.8.7R(2), provided it stipulates a final date which is not less than two months from the date on which the explanation is likely to be received by the complainant.</td>
<td>From 1 June 2004</td>
<td>Amended with effect from 1 June 2004</td>
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<td>DISP 1, DISP 2, DISP 3, DISP 4 and FEES 5</td>
<td>R</td>
<td>In relation to relevant complaints, references in DISP 1, DISP 2, DISP 3, DISP 4 and FEES 5 to an &quot;eligible complainant&quot; include a person who is to be treated as an eligible complainant in accordance with the Ombudsman Transitional Order and references to a complaint shall be construed accordingly.</td>
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<td>16</td>
<td>FEES 5.4.1R</td>
<td>G</td>
<td>Expired</td>
<td></td>
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<tr>
<td>17</td>
<td>DISP 1.3.12R - DISP 1.3.17R</td>
<td>R</td>
<td>Deleted</td>
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<tr>
<td>18</td>
<td>DISP 1.10.1R and DISP 1.10.2R, DISP 1.10.4R</td>
<td>R</td>
<td>Expired</td>
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<td></td>
<td>and DISP 1 Annex 1</td>
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<tr>
<td>19</td>
<td>DISP 1.10.1C R and DISP 1.10.1D G</td>
<td>R</td>
<td>Expired</td>
<td></td>
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<tr>
<td>20</td>
<td>DISP 1.6.4 R</td>
<td>R</td>
<td>Expired</td>
<td></td>
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<tr>
<td>21</td>
<td>DISP 2.7.3 R</td>
<td>R</td>
<td>A person is also an eligible complainant if:</td>
<td>From 1 November 2009</td>
<td>1 November 2009</td>
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<td></td>
<td>(a) it is a business with a group annual turnover of less than £1 million at the time it refers the complaint to the respondent;</td>
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<td>(b) the complaint relates to a contract or policy entered into by or for the benefit of the complainant before 1 November 2009; and</td>
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<td></td>
<td>(c) if the complaint had been made immediately before 1 November 2009 the respondent was subject to, or participated in, the Ombudsman’s jurisdiction in respect of the activity to which the complaint relates.</td>
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</tr>
<tr>
<td>22</td>
<td>DISP 2.7.3 R</td>
<td>G</td>
<td>Transitional provision 21R applies together with the other eligibility rules in DISP 2.7. So, for example, a person who is an eligible complainant under the transitional provision, will not be an eligible complainant if the complaint does not arise from matters relevant to one of the relationships set out in DISP 2.7.6 R.</td>
<td>From 1 November 2009</td>
<td>1 November 2009</td>
</tr>
<tr>
<td>23</td>
<td>DISP 1.10A.1 R</td>
<td>R</td>
<td>[deleted]</td>
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<tr>
<td>24</td>
<td>DISP 1.10A.1 R</td>
<td>R</td>
<td>[deleted]</td>
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<tr>
<td>25</td>
<td>DISP 1.11.6A R</td>
<td>R</td>
<td>[deleted]</td>
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<tr>
<td>26</td>
<td>DISP 2.8.2 R</td>
<td>R</td>
<td>[deleted]</td>
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<tr>
<td>27</td>
<td>DISP 1.10.5 R</td>
<td>R</td>
<td>[deleted]</td>
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<tr>
<td>27A</td>
<td>Amendments to DISP made in the Consumer Redress Schemes Instru-</td>
<td></td>
<td>The amendments do not apply in relation to any consumer redress scheme imposed before the instrument came into force on a particular firm, or on a particular payment service provider or electronic money issuer, as envisaged by section 404F(7) of the Act.</td>
<td>From 1 August 2011 indefinitely</td>
<td>1 August 2011</td>
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<tr>
<td>28</td>
<td>DISP 3.7.4 R</td>
<td>R</td>
<td>For a complaint referred to the Financial Ombudsman Service before 1 January 2012 the maximum money award which the Ombudsman may make is £100,000.</td>
<td>From 1 January 2012</td>
<td>1 January 2012</td>
</tr>
<tr>
<td>28A</td>
<td>The amendments to DISP 2.7.6 R (12) effected by the Dispute Resolution: Complaints (Amendment No 4) Instrument 2011</td>
<td>R</td>
<td>The amendments referred to in column (2) do not affect who is an eligible complainant for the purpose of DISP 2.7.6 R (12)(a) in respect of complaints that relate to acts or omissions that occurred before 1 January 2012.</td>
<td>From 1 January 2012</td>
<td>1 January 2012</td>
</tr>
<tr>
<td>29</td>
<td>DISP 1.10.2 R and DISP 1 Annex 1</td>
<td>R</td>
<td>Where a firm reports information on any complaints closed under a two-stage procedure before 1 July 2012, the rules and guidance in DISP 1.6.6 R, DISP 1.10.3G (2), DISP 1.10.7R (3), and DISP 1.10.8 G and DISP 1 Annex 1 apply as they stood on 30 June 2012.</td>
<td>1 July 2012 to 31 December 2012</td>
<td>1 August 2009</td>
</tr>
<tr>
<td>30</td>
<td>DISP 1.10.2A R</td>
<td>R</td>
<td>Where a firm, which has a reporting period ending on or before 30 June 2013 submits its report to the FCA in accordance with the complaints reporting rule at DISP 1.10.2A R the number of complaints must be calculated for the period from the 31 December 2012 to the end of the firm’s relevant reporting period.</td>
<td>31 December 2012 to 30 June 2013</td>
<td>31 December 2012</td>
</tr>
<tr>
<td>31</td>
<td>DISP 1.10.6A R</td>
<td>R</td>
<td>(1) A firm is not liable to pay the administrative fee in DISP 1.10.6A R in respect of a failure to submit a report in accordance with DISP 1.10.5 R for a relevant reporting period ending before 1 March 2012. (2) Relevant reporting period in (1) has the meaning in DISP 1.10.4 R.</td>
<td>From 1 March 2012</td>
<td>1 March 2012</td>
</tr>
<tr>
<td>32</td>
<td>The changes to DISP 1.10 and DISP 1.10A</td>
<td>R</td>
<td>The changes referred to in column (2) to DISP 1.10 and DISP 1.10A do not apply until 1 October 2014.</td>
<td>1 April 2014 to 1 October 2014</td>
<td>1 April 2014</td>
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<tr>
<td>33</td>
<td>The changes to DISP 1.10 and DISP 1.10A set out in Annex K of the Consumer Credit (Consequential and Supplementary Amendments) Instrument 2014</td>
<td>G</td>
<td><em>Firms</em> are reminded that CONC 12.1.4 R provides that DISP 1.10 and DISP 1.10A (a) do not apply to a <em>person</em> with only an <em>interim permission</em>; and (b) apply to a <em>firm</em> with an <em>interim permission</em> that is treated as a variation of <em>permission</em> with respect to <em>credit-related regulated activity or operating an electronic system in relation to lending</em> as if the changes to DISP 1.10 and DISP 1.10A effected by the Consumer Credit (Consequential and Supplementary Amendments) Instrument 2014 had not been made. The effect of TP 32 and CONC 12.1.4 R is that: (1) for a <em>firm</em> with only an <em>interim permission</em>: (a) the reporting frequencies, submission deadlines and time limits for publication for the returns and complaints data summaries in DISP 1.10 and DISP 1.10A are calculated by reference to the <em>firm’s next accounting reference date</em> that follows 1 October 2014 or, if later, the date on which the <em>firm’s application for permission</em> to carry on <em>credit-related regulated activity or operating an electronic system in relation to lending</em> is granted; (b) the first complaints return in the form in DISP 1 Annex 1 should cover <em>complaints</em> received in the period: (i) starting on either 1 October 2014 or, if later, on the date on which the <em>firm’s application for permission</em> to carry on <em>credit-related regulated activity or operating an electronic system in relation to lending</em> is granted; and</td>
<td>1 April 2014 to the date on which <em>interim permission</em> ceases to have effect</td>
<td>1 April 2014</td>
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<td></td>
<td>DISP 1.10 and DISP 1.10A</td>
<td>R</td>
<td>DISP 1.10 and DISP 1.10A do not apply to a firm with permission to carry on only one or more credit-related regulated activities or operating an electronic system in relation to lending (and no other regulated activity) until 1 October 2014.</td>
<td>1 April 2014 to 1 October 2014</td>
<td>1 April 2014</td>
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<tr>
<td></td>
<td>DISP 2.3.1 R, DISP 2.3.2A R and DISP 2.3.2B R</td>
<td>R</td>
<td>(1) Except where indicated otherwise, expressions used in this rule have the same meaning as they had in the Consumer Credit Act 1974 on 31 March 2014, before the amendments made to that Act by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2013, the Financial Services Act 2012 (Consumer Credit) Order 2013, the Financial Services and Markets Act 2000 (Consumer Credit) (Miscellaneous Provisions) Order 2014, the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014, the Consumer Credit Act 1974 (Green Deal) (Amendment) Order 2014, and the Financial Services and Markets Act 2000 (Consumer Credit) (Miscellaneous Provisions) (No. 2) Order 2014 came into force.</td>
<td>Indefinitely from 1 April 2014</td>
<td>1 April 2014</td>
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(ii) ending on either the **accounting reference date** or (if the frequency is twice a year and the start of the period under (i) is more than six months before the **accounting reference date**) the date that falls six months before the **firm’s accounting reference date**.

(2) For a firm with an **interim permission** that is treated as a variation of permission, where the relevant reporting period includes a period after the date on which the firm’s application for a variation of permission to add credit-related regulated activity or operating an electronic system in relation to lending is granted (or, if that date is before 1 October 2014, where the relevant reporting period includes a period after 1 October 2014):

(a) the complaints return form should be submitted in the form in DISP 1 Annex 1 as amended by Annex K of the Consumer Credit (Consequential and Supplementary Amendments) Instrument 2014; and

(b) items 35 to 46 of the form should cover complaints received from 1 October 2014 or, if later, from the date on which the firm’s application for permission to carry on credit-related regulated activity or operating an electronic system in relation to lending is granted.
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<td></td>
<td>(2) In DISP 2.3.1 R, DISP 2.3.2A R and DISP 2.3.2B R, references to an act or omission by a <strong>firm</strong>, <strong>payment service provider</strong> or <strong>electronic money issuer</strong> in carrying on <strong>regulated activities</strong> or credit-related regulated activities include an act or omission which took place before 1 April 2014 in carrying on any one of the following activities:</td>
<td></td>
<td>(a) providing credit or otherwise being a creditor under a regulated consumer credit agreement;</td>
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<td>(b) the bailment or (in Scotland) the hiring of goods or otherwise being an owner under a regulated consumer hire agreement;</td>
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<td>(c) credit brokerage in so far as it was the effecting of introductions of:</td>
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<td>(i) individuals desiring to obtain credit to persons carrying on a consumer credit business; or</td>
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<td></td>
<td>(ii) individuals desiring to obtain goods on hire to persons carrying on a consumer hire business;</td>
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<td></td>
<td>(d) in so far as they related to regulated consumer credit agreements or regulated consumer hire agreements:</td>
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<td>(i) debt-adjusting;</td>
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<td>(ii) debt-counselling;</td>
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<td>(iii) debt-collecting; or</td>
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<td>(iv) debt administration;</td>
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<td>(e) the provision of credit information services; or</td>
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<td>(f) the operation of a credit reference agency;</td>
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<td>where at the time of the act or omission complained of:</td>
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<td>(g) the <strong>firm</strong>, <strong>payment service provider</strong> or <strong>electronic money issuer</strong> was:</td>
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<td>(i) covered by a standard licence under the <a href="https://www.gov.uk/guidance/consumer-credit-act-1974">Consumer Credit Act 1974</a>;</td>
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<td>(ii) authorised to carry on an activity by virtue of section 34A of that Act; or</td>
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<td></td>
<td>(iii) in accordance with regulation 26(2) of the Payment Services Regulations or regulation 31 of the Electronic Money Regulations was not required to hold a licence for consumer credit business under section 21 of the Consumer Credit Act 1974; and</td>
<td></td>
<td>(h) the activity was carried on in the course of a business of a type which was specified in accordance with section 226A(2)(e) of the Act (now repealed).</td>
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<tr>
<td>36</td>
<td>DISP 2.3.1 R R</td>
<td>In DISP 2.3.1 R (4), in relation to an act or omission by a firm in lending money that took place before 1 April 2014, the reference to &quot;(excluding restricted credit where that is not a credit-related regulated activity)&quot; is to be read as a reference to &quot;(excluding restricted credit where that is not an activity described in TP 35(2))&quot;.</td>
<td>Indefinitely from 1 April 2014</td>
<td>1 April 2014</td>
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<tr>
<td>37</td>
<td>DISP 2.3.1 R R</td>
<td>In DISP 2.3.1 R (5), in relation to an act or omission by a firm in paying money by a plastic card that took place before 1 April 2014, the reference to &quot;(excluding a store card where that is not a credit-related regulated activity)&quot; is to be read as a reference to &quot;(excluding a store card where that is not an activity described in TP 35(2))&quot;.</td>
<td>Indefinitely from 1 April 2014</td>
<td>1 April 2014</td>
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<tr>
<td>38</td>
<td>DISP 1 R</td>
<td>In respect of a complaint received by a respondent on or before 8 July 2015 the respondent must handle, resolve, record and report the complaint in accordance with the rules as they stood at the date on which the complaint was received by the respondent.</td>
<td>From 9 July 2015</td>
<td>From 9 July 2015</td>
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</table>
| 39  | DISP 1.5, DISP 1.10 and DISP 1.10A, DISP 1 Annex 1R, DISP 1 Annex 1BR R | (1) In respect of reporting periods starting on or before 29 June 2016, the rules and guidance in column (2) continue to apply to a firm as they stood at the beginning of the relevant reporting period for the purposes of reporting information about complaints under DISP 1.10 and DISP 1 Annex 1R, and publishing complaints data under DISP 1.10A and DISP 1 Annex 1BR.  
(2) For reporting periods commencing on or after 30 June 2016, the rules and guidance in column (2) apply as they stood on 30 June 2016. | From 30 June 2016 | From 30 June 2016 |
| 40  | DISP 1.5, DISP 1.10 and DISP 1.10A, DISP 1 G | The effect of TP 39(1) is that a firm with a reporting period which starts on or before 29 June 2016 should continue to use the rules, guidance, reporting forms and publication forms as they were at the start of the relevant reporting period and is not | From 30 June 2016 | From 30 June 2016 |
|-----|---------------------------------------------------------------|-----|-----------------------------|----------------------------------------|----------------------------------------|
| Annex 1R, DISP 1 Annex 1BR | required to report or publish information about complaints resolved under DISP 1.5 by close of the business day following its receipt in such a reporting period. However, subject to that, from 30 June 2016 a firm must comply with the rules in DISP 1.5 when dealing with complaints, so a firm would need to send a summary resolution communication under DISP 1.5 in relation to any complaint considered to be resolved by close of the third business day following the day on which it is received. | | | | |
| 41 DISP 1 R | With respect to a complaint received on or after 13 January 2018 concerning an act or omission that occurred before that date, the definition of PSD complaint in the Glossary is to be read as if the reference to Parts 6 and 7 of the Payment Services Regulations were a reference to Parts 5 and 6 of the Payment Services Regulations 2009. | From 13 January 2018 | | |
| 42 DISP 1.10B.9D D | The first relevant reporting period is the period commencing on 13 July 2018 and ending: (i) where the respondent has an accounting reference date, the first accounting reference date following 30 November 2018; (ii) where the respondent does not have an accounting reference date, 31 December 2018. | 13 January 2018 to 30 November 2019 | 13 January 2018 | |
| 43 DISP 1.10B.9D G | The effect of (42) is that, if a firm has an accounting reference date that falls shortly after 13 July 2018 (i.e. between 13 July 2018 and 30 November 2018), the first electronic money and payment services complaints return form that it is required to submit should cover a period of more than one year, from 13 July 2018 to the accounting reference date in 2019. | 13 January 2018 to 30 November 2019 | 13 January 2018 | |
| 44 DISP 2.7.7AR R | DISP 2.7.7AR applies in relation to a complaint concerning an act or omission which occurs on or after 26 June 2017. | 1 April 2018 | 1 April 2018 | |
| 45 DISP 2.7.6R(2A) R | DISP 2.7.6R(2A) applies in relation to a complaint concerning an act or omission which occurs on or after 13 January 2018. | 14 December 2018 | 14 December 2018 | |
| 46 DISP 2.7.6R(2B) R | DISP 2.7.6R(2B) applies in relation to a complaint concerning an act or omission which occurs on or after 31 January 2019. | 31 January 2019 | 31 January 2019 | |
| 46A DISP 1 DISP 2 DISP 3 and FEES 5 R | DISP 1, DISP 2, DISP 3 and FEES 5 only apply to a TP firm, a TA EMI firm, a TA PI firm and a TA RAIISP firm in respect of complaints under the Compulsory Jurisdiction about acts or omissions that occurred on or after IP completion day. | Amended with effect from IP completion day | | |
|-----|-------------------------------------------------------------|-----|---------------------------|----------------------------------------|----------------------------------------|
| 47  | DISP 1.10.1R, DISP 1.10.4AR, DISP 1.10.5R, and DISP 1 Annex 1ABR | R   | (1) This transitional provision applies where a firm with permission to carry on only regulated claims management activities is required to provide the FCA with its first report under DISP 1.10.1R in the form of DISP 1 Annex 1ABR.  
(2) No report is required under DISP 1.10.1R in the form of DISP 1 Annex 1ABR in respect of a period ending on an accounting reference date of the firm earlier than 1 July 2019.  
(3) If the firm does not provide a report in the form of DISP 1 Annex 1ABR under DISP 1.10.1R in respect of a period ending on an accounting reference date of the firm earlier than 1 July 2019, the first report in the form of DISP 1 Annex 1ABR provided under DISP 1.10.1R must cover the period from 1 April 2019 to the firm’s first accounting reference date which occurs on or after 1 July 2019. | From 1 April 2019 to 1 July 2020 | 1 April 2019 |
| 48  | DISP 2 and DISP 3 | R   | In DISP 2 and DISP 3 references to a “firm” or “firms” include unauthorised persons subject to the Compulsory Jurisdiction in relation to relevant claims management complaints in accordance with the Claims Management Order. | From 1 April 2019 | From 1 April 2019 |
| 49  | DISP 2 and DISP 3 | G   | Under the Claims Management Order, a relevant claims management complaint is subject to the Compulsory Jurisdiction whether or not it is about a firm or an unauthorised person. Unauthorised persons are not subject to DISP 1, but references to “firm” in DISP 2 and DISP 3 include unauthorised persons subject to the Compulsory Jurisdiction in relation to relevant claims management complaints, where applicable. | From 1 April 2019 | From 1 April 2019 |
| 50  | DISP 1, DISP 2, DISP 3 and DISP 4 | R   | In relation to relevant claims management complaints, references in DISP 1, DISP 2, DISP 3 and DISP 4 to an “eligible complainant” include a person who is to be treated as an eligible complainant in accordance with the Claims Management Order and references to a complaint shall be construed accordingly. | From 1 April 2019 | From 1 April 2019 |
| 51  | DISP 2.7.3R(3), (4) and (6) | R   | The amendments to DISP 2.7.3R(3) and (4) and new paragraph DISP 2.7.3R(6) apply only in relation to a complaint concerning an act or omission which occurs on or after 1 April 2019. | From 1 April 2019 | From 1 April 2019 |
| 52  | DISP 2.7.3R(7) | R   | DISP 2.7.3R(7) applies only in relation to a complaint concerning a guarantee or security given on or after 1 April 2019. | From 1 April 2019 | From 1 April 2019 |
| 52A | DISP 3.7.4 | R   | For a complaint referred to the Financial Ombudsman Service before 1 April 2019 but on or after 1 January 2012 the maximum money award which the Ombudsman may make is £150,000. | From 1 April 2019 | 1 April 2019 |

DISP 2 and DISP 3 references to a “firm” or “firms” include unauthorised persons subject to the Compulsory Jurisdiction in relation to relevant claims management complaints in accordance with the Claims Management Order.
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<tbody>
<tr>
<td>53</td>
<td>DISP 1 Annex 1AD</td>
<td>R</td>
<td>The figures for complaints relating to alleged authorised push payment fraud in Table 4 should only include such complaints from 1 July 2019.</td>
<td>1 July 2019 to 30 June 2020</td>
<td>1 July 2019</td>
</tr>
</tbody>
</table>

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.

7 R The rules and guidance in FEES 5.5.1 R, 5.5.6 R, FEES 5.5.7 R, 5.5.15 R, 5.7.2 R, 5.9.1 R and 5.9.2 G shall apply to transitioning payment institutions and persons that cease to be transitioning institutions in the same way as they apply to firms and firms that cease to be authorised.
### Dispute resolution: Complaints

**Schedule 1**

**Record keeping requirements**

**Sch 1.1 G**

The aim of the *guidance* in the following table is to give the reader a quick overall view of the relevant record keeping requirements.

It is not a complete statement of those requirements and should not be relied on as if it were.

**Sch 1.2 G**

<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Subject of record</th>
<th>Contents of record</th>
<th>When record must be made</th>
<th>Retention period</th>
</tr>
</thead>
<tbody>
<tr>
<td>DISP 1.1A.37UK</td>
<td>MiFID complaints subject to DISP 1.1A.</td>
<td>Each MiFID complaint received and the complaint handling measures taken to address the MiFID complaint and for its resolution</td>
<td>Not specified [Note: see article 26(1), article 72 and Annex 1 of the MiFID Org Regulation]</td>
<td>Not specified [Note: see article 72 of the MiFID Org Regulation]</td>
</tr>
<tr>
<td>DISP 1.9.1 R</td>
<td>Complaints subject to DISP 1.3 - DISP 1.8.</td>
<td>Each complaint received and the measures taken for its resolution</td>
<td>From receipt</td>
<td>5 years for complaints relating to collective portfolio management services and 3 years for all other complaints</td>
</tr>
</tbody>
</table>
# Dispute resolution: Complaints

## Schedule 2
Notification requirements

### Sch 2.1 G

The aim of the guidance in the following table is to give the reader a quick overall view of the relevant requirements for notification and reporting. It is not a complete statement of those requirements and should not be relied on as if it were.

<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Matter to be notified</th>
<th>Contents of notification</th>
<th>Trigger event</th>
<th>Time allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>DISP 1.1.12 R</td>
<td>Firm qualifies for exemption</td>
<td>Confirmation that a firm does not do business with eligible complainants and has no reasonable likelihood of doing so</td>
<td>Conditions in DISP 1.1.12 R apply</td>
<td>N/A</td>
</tr>
<tr>
<td>DISP 1.10.1 R (1)</td>
<td>Complaints report</td>
<td>Details</td>
<td>- 6 months preceding the accounting reference date&lt;br&gt;- accounting reference date</td>
<td>30 business days</td>
</tr>
<tr>
<td>DISP 1.10.1 R (2)</td>
<td>Complaints report</td>
<td>Details</td>
<td>A year immediately following the firm’s accounting reference date</td>
<td>30 business days</td>
</tr>
<tr>
<td>DISP 1.10.9R</td>
<td>Single contact point</td>
<td>Details</td>
<td>At the time of authorisation or on subsequent change</td>
<td>Not specified</td>
</tr>
<tr>
<td>DISP 1.10A.4 R and (where relevant) DISP 1.1A.40R</td>
<td>Publication of complaints data summary/ total number of complaints (as appropriate), including MiFID complaints where relevant</td>
<td>Email confirmation of publication, containing also a statement that the data summary or total number of complaints (as appropriate) accurately reflects the report submitted to the FCA and stating where the summary/ total number of complaints</td>
<td>Upon publication of complaints data summary/ total number of complaints (as appropriate)</td>
<td>Immediately</td>
</tr>
<tr>
<td>Handbook reference</td>
<td>Matter to be notified</td>
<td>Contents of notification</td>
<td>Trigger event</td>
<td>Time allowed</td>
</tr>
<tr>
<td>--------------------</td>
<td>-----------------------</td>
<td>--------------------------</td>
<td>---------------</td>
<td>--------------</td>
</tr>
<tr>
<td>DISP 1.11.5 R (1)</td>
<td>Member of Lloyd's qualifies for exemption</td>
<td>Confirmation by the Society of Lloyd's that a specified member of Lloyd's does not do business with eligible complainants and has no reasonable likelihood of doing so</td>
<td>[As above]</td>
<td>N/A</td>
</tr>
<tr>
<td>DISP 1.11.5 R (2)</td>
<td>End of exemption for member of Lloyd's</td>
<td>Confirmation by the Society of Lloyd's that the condition in DISP 1.12R no longer apply to a specified member of Lloyd's</td>
<td>Conditions in DISP 1.12R no longer apply</td>
<td>Not specified</td>
</tr>
<tr>
<td>DISP 1.11.6 R</td>
<td>Complaints report by Society of Lloyd's</td>
<td>Details</td>
<td>- 30 September - 31 March each year</td>
<td>One month</td>
</tr>
<tr>
<td>DISP 1.11.6D R</td>
<td>Publication of complaints data summary</td>
<td>Email confirmation of publication, containing also a statement that the data summary accurately reflects the report submitted to the FCA and stating where the summary has been published</td>
<td>Upon publication of complaints data summary</td>
<td>Immediately</td>
</tr>
</tbody>
</table>
Dispute resolution: Complaints

Schedule 3
Fees and other required payment

Sch 3.1 G
There are no requirements for fees or other payments in DISP.

Sch 3.2 G
[deleted]
Dispute resolution: Complaints

Schedule 4
Powers Exercised

Sch 4.1 G
[deleted]

Sch 4.2 G
[deleted]

Sch 4.3 G
[deleted]

Sch 4.4 G
[deleted]

Sch 4.5 G
[deleted]

[Note: certain rules in FEES are made exclusively by the FOS Ltd. A list of those rules is set out in GEN Sch 4.12 G.]
### Sch 5.1 G

1. The table below sets out the rules in DISP contravention of which by an authorised person may be actionable under section 138D of the Act (Actions for damages) by a person who suffers loss as a result of the contravention.

2. If a "Yes" appears in the column headed "For private person?", the rule may be actionable by a "private person" under section 138D (or, in certain circumstances, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 [SI 2001 No 2252]). A "Yes" in the column headed "Removed" indicates that the FCA has removed the right of action under section 138D(3) of the Act. If so, a reference to the rule in which it is removed is also given.

3. The column headed "For other person?" indicates whether the rule may be actionable by a person other than a private person (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of person by whom the rule may be actionable is given.

### Sch 5.2 G

<table>
<thead>
<tr>
<th>Chapter/ Appendix</th>
<th>Section/ Annex</th>
<th>Paragraph</th>
<th>Right of Action under s138D For private person?</th>
<th>Removed?</th>
<th>For other person?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Complaints handling arrangements for firms</td>
<td>All rules apart from DISP 1.11.13 R and DISP 1.11.14 R</td>
<td>-</td>
<td>Yes</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2 Jurisdiction rules</td>
<td>-</td>
<td>-</td>
<td>No</td>
<td>Yes - DISP 1.11.21 R</td>
<td>-</td>
</tr>
<tr>
<td>3 Complaints handling procedures of the Financial Ombudsman Service</td>
<td>-</td>
<td>-</td>
<td>Yes</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>4 The standard terms</td>
<td>-</td>
<td>-</td>
<td>N/A</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>
Schedule 5
Actions for damages for contravention under section 150 of the Act
Dispute resolution: Complaints

Schedule 6
Rules that can be waived

Sch 6.1 G

As a result of section 138A of the Act (Modification or waiver of rules) the FCA has power to waive all its rules, other than rules made under section 137O (Threshold condition code), section 247 (Trust scheme rules), section 248 (Scheme particular rules), section 261I (Contractual scheme rules) or section 261J (Contractual scheme particulars rules) of the Act.