

Chapter 1

Treating complainants fairly

1.3 Complaints handling rules

Complaints handling procedures for respondents

1.3.1 **R** Effective and transparent procedures for the reasonable and prompt handling of *complaints* must be established, implemented and maintained by:

- (1) a *respondent*; and
- (2) a *branch* of a *UK firm* in another *EEA State*.

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

Call charges

1.3.1A **R** 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 **R** 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 **R** For the purposes of ■ DISP 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 **R** The following numbers, if used by a *respondent*, would comply with ■ DISP 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 **R** The following numbers, if used by a *respondent*, would not comply with ■ DISP 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

- 1.3.1B **R** 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:

- (1) there are no restrictions on *Unitholders* exercising their rights in the event that the UCITS is authorised in an EEA State other than the United Kingdom; and
- (2) *Unitholders* are allowed to file complaints in any of the official languages of the Home State of the UCITS scheme or EEA UCITS scheme or of any EEA State to which a notification has been transmitted by the competent authority of the scheme's Home State in accordance with article 93 of the UCITS Directive.

[Note: article 15 of the UCITS Directive]

Further requirements for all respondents

- 1.3.2 **G** These procedures should:
- (1) allow *complaints* to be made by any reasonable means; and
 - (2) recognise *complaints* as requiring resolution.

- 1.3.2A **G** 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** **R** 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** **G** 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** **G** [deleted]
- 1.3.5** **G** [deleted]
- 1.3.6** **G** Where a *firm* identifies (from its *complaints* or otherwise) recurring or systemic problems in its provision of, or failure to provide, a financial 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

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- (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 *apportionment and oversight function* for the *firm* or for a *firm* in the same *group* as the *firm* satisfies the condition in (3).

1.3.8

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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.