Chapter 1

Treating complainants fairly
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:

(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 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 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 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.
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**

A UK UCITS management company must ensure that the procedures it establishes under DISP 1.3.1R 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**

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

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

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.