

Dispute resolution: Complaints

Chapter 4

Standard terms

4.1 Purpose and application

Purpose

- 4.1.1 **G** 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 **G** These *standard terms* apply to any business which has agreed to be a *VJ participant*.

4.2 Standard terms

4.2.1 **R** 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 **R** 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 **R** 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 **R** 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)).

- 4.2.5 **R** 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.
- 4.2.6 **R** 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*';

- (11) ■ FEES 5.3.8AR;
- (12) ■ FEES 5 Annex 2R and ■ FEES 5 Annex 3R; and
- (13) ■ FEES 5.1.8 R.

Withdrawal from participation

4.2.7

R 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

R 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.

