

Complaints Sourcebook (Financial Ombudsman Voluntary Jurisdiction EEA Activities) Instrument 2002

Powers exercised

- A The Financial Ombudsman Service Limited amends its Voluntary Jurisdiction rules, set out in the Financial Services Authority's Complaints sourcebook (DISP), in the exercise of the following powers in the Financial Services and Markets Act 2000:
- (1) section 227 (Voluntary Jurisdiction Rules);
 - (2) paragraph 18 of Schedule 17 (Standard Terms).

Approval

- B The amendments were approved by the Financial Services Authority on 21 March 2002.

Commencement

- C This instrument comes into force on 1 April 2002.

Amendment of the Voluntary Jurisdiction rules

- D The Voluntary Jurisdiction rules are amended in accordance with the Annex to this instrument.

By order of the Board of the Financial Ombudsman Service Limited:
19 March 2002

Annex

(Underlining indicates inserted text, striking through indicates deleted text)

DISP 1.1.4G Amend as shown below

DISP 1.1.4 G *VJ participants* are subject to *DISP* 1, except *DISP* 1.1.5R and *DISP* 1.5 (Record keeping and reporting), by contract under the *standard terms* as if they were firms (see *DISP* 4.2.2R). *DISP* 1.2 applies to *VJ participants* only in relation to complaints about activities of the *VJ participant* specified in *DISP* 2.6.9R. *DISP* 1.2 also applies to *VJ participants* elsewhere in the *EEA* under the extended jurisdiction set out in *DISP* 2.7.2R.

DISP 2.6.9R Amend as shown below:

DISP 2.6.9 R The *Ombudsman* can consider a complaint under the *Voluntary Jurisdiction* only if it is not covered by the *Compulsory Jurisdiction* and it relates to an act or omission in the carrying on of one or more of the following activities by a *VJ participant*:

- (1) ~~lending money secured by a charge over land;~~
- (1) general insurance business;
- (2) accepting deposits;
- (3) lending money secured by a charge over land;
- (4) lending money (other than *restricted credit*);
- (5) paying money by a *plastic card* (other than a *store card*);
- (6) the provision of ancillary banking services;
- (2)(7) a financial services activity carried on after *commencement* and which had been covered by a *former scheme* in so far as the *VJ participant* was a member of that former scheme, in respect of that activity, immediately before the *commencement day*;

or ~~an activity ancillary to it~~ activities ancillary to them (see *DISP* 2.6.11R).

DISP 2.6.10R Amend as shown below:

DISP 2.6.10 G *DISP* 2.6.9R(2)(7) enables complaints about *VJ participants* which, immediately before the *commencement day*, were members of one of the *former schemes* replaced by the *Financial Ombudsman Service* to be dealt with under the *Voluntary Jurisdiction*. This is in respect of the financial services activities for which the *VJ participant* was previously covered but excludes complaints which fall into the *Compulsory Jurisdiction* as *relevant complaints*. So the complaints which are covered by *DISP* 2.6.9R(2)(7) are only those which arise out of acts or omissions occurring after the *commencement day*.

Insert, after DISP 2.6.10G:

DISP 2.6.10A G *DISP* 2.6.9R(6) includes the activities referred to in *DISP* 2.6.6G.

DISP 2.6.11R Amend as below:

DISP 2.6.11 R The activities in *DISP* 2.6.9R include any ancillary activities, including advice and any ancillary long-term insurance, provided by the *VJ participant* in connection with those activities.

DISP 2.7.2G Amend as below:

~~DISP 2.7.2 G The territorial scope therefore covers firms (including appointed representatives) or *VJ participants* operating from a permanent place of business in the United Kingdom, including incoming *EEA firms* and incoming Treaty firms which qualify for authorisation under Schedule 3 (*EEA Passport Rights*) or Schedule 4 (Treaty rights) to the Act.~~

DISP 2.7.2 R The territorial scope of the jurisdiction of the *Financial Ombudsman Service* covers complaints about the activities specified in *DISP* 2.6.9R(1) to *DISP* 2.6.9R(6) or activities ancillary to them carried on from an establishment elsewhere in the *EEA* if the following conditions are met:

- (1) the activity is directed wholly or partly at the *United Kingdom* (or part of it);
- (2) contracts governing the activity are, or (in the case of a potential customer) would have been, make under the law of England and Wales, Scotland or Northern Ireland; and
- (3) the *VJ participant* has notified appropriate regulators in its *Home State* of its intention to participate in the *Voluntary Jurisdiction*.

DISP 2.7.3G Amend as below:

~~DISP 2.7.3 G Complaints which concern business conducted by branches of firms or *VJ participants* outside the *United Kingdom* or by *EEA firms* operating in the *United Kingdom* on a services basis from outside the *United Kingdom* are not subject to the *Compulsory Jurisdiction* or the *Voluntary Jurisdiction* of the *Financial*~~

Ombudsman Service.

DISP
2.7.3 G *DISP 2.7.2R (1) covers activities which the VJ participant conducts with the intention that some or all of the customers relating to that activity should reside in the United Kingdom.*

DISP 2.7.4G Amend as below:

~~DISP~~
~~2.7.4~~ G *A complaint can be dealt with under the Financial Ombudsman Service irrespective of whether the complainant lives or is based in the United Kingdom.*

DISP
2.7.4 G *The Compulsory Jurisdiction:*

- (1) *covers firms (including appointed representatives) operating from an establishment in the United Kingdom, including incoming EEA firms and incoming Treaty firms which qualify for authorisation under Schedule 3 (EEA Passport Rights) or Schedule 4 (Treaty Rights) to the Act; but*
- (2) *does not cover complaints which concern business conducted by branches of firms outside the United Kingdom or by EEA firms operating in the United Kingdom on a services basis from outside the United Kingdom.*

Insert, after DISP 2.7.4G:

~~DISP~~
~~2.7.4~~ G *A complaint can be dealt with under the Financial Ombudsman Service irrespective of whether the complainant lives or is based in the United Kingdom.*

DISP
2.7.4 G *The Compulsory Jurisdiction:*

- (1) *covers firms (including appointed representatives) operating from an establishment in the United Kingdom, including incoming EEA firms and incoming Treaty firms which qualify for authorisation under Schedule 3 (EEA Passport Rights) or Schedule 4 (Treaty Rights) to the Act; but*
- (2) *does not cover complaints which concern business conducted by branches of firms outside the United Kingdom or by EEA firms operating in the United Kingdom on a services basis from outside the United Kingdom.*

DISP 4.2.2R Amend as below:

DISP 4.2.2 R The rules and guidance contained in *DISP* 1 (Complaint handling procedures for firms) will apply to *VJ participants* for the purposes of the *Voluntary Jurisdiction* as if they were *firms*, with the exception of *DISP* 1.1.1R (Application) and *DISP* 1.5 (Record keeping and reporting). *DISP* 1.2 (Internal complaint handling procedures: general requirements) applies in relation to complaints about activities of the *VJ participant* specified in *DISP* 2.6.9R.