

**COMPLAINTS SOURCEBOOK (MORTGAGE ENDOWMENT COMPLAINTS)
INSTRUMENT 2003**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions listed in Schedule 4 to the Complaints sourcebook (Powers exercised).
- B. The rule-making powers listed in that Schedule are specified for the purpose of section 153(2) of the Financial Services and Markets Act 2000 (Rule-making instruments).

Commencement

- C. This instrument comes into force on 1 February 2003.

Amendments to the Complaints sourcebook (DISP)

- D. The Complaints sourcebook (DISP) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Complaints Sourcebook (Mortgage Endowment Complaints) Instrument 2003.

By order of the Board
16 January 2003

Annex

Amendment to the Complaints sourcebook (DISP)

In this Annex, underlining indicates new text. Where an entire new section is inserted, the place that it goes is indicated and the text is not underlined.

- 2.3.1 R (1) The *Ombudsman* cannot consider a complaint (except as described in (2)) if the complainant refers it to the *Financial Ombudsman Service*:
...
- (c) more than six years after the event complained of or (if later) more than three years from the date on which he became aware (or ought reasonably to have become aware) that he had cause for complaint, unless he has referred the complaint to the *firm* or *VJ participant* or to the *Ombudsman* within that period and has a written acknowledgement or some other record of the complaint having been received (but see *DISP* 2.3.5R – *DISP* 2.3.6R).
- (2) The *Ombudsman* can consider complaints made outside the time limits in (1)(b) or (c) when, in his view, the failure to comply with the time limits was as a result of exceptional circumstances or where he is required to do so by *the Ombudsman Transitional Order* (see *DISP* 2.3.2G) or where the *firm* has not objected to the *Ombudsman* considering the complaint.

After *DISP* 2.3.1R, insert the following new paragraph:

- 2.3.1A G If the 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* 2.3.1R(1)(c) to start to run.

After *DISP* 2.3.5R, insert the following new paragraphs:

Exception for mortgage endowment complaints

- 2.3.6 R (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 would, as a result of this *rule* *DISP* 2.3.6, have more time to refer the complaint than under *DISP* 2.3.1R(1)(c), the time for referring a complaint to the *Financial Ombudsman Service*:

- (a) starts to run from the date the complainant receives a letter from a *firm* or *VJ participant* warning the complainant that there is a high risk that the *policy* will not, at maturity, produce a sum large enough to repay the target amount; and
 - (b) ends six months from the date the complainant receives a second letter from a *firm* or *VJ participant* containing the same warning or other reminder of the need to act.
- (2) Paragraph (1) does not apply if:
- (a) the *Ombudsman* is of the opinion that, in the circumstances of the case, it is appropriate for *DISP* 2.3.1R(1)(c) to apply without modification; or
 - (b) in respect of any particular complaint, the *firm* can show that the three year period specified in *DISP* 2.3.1R(1)(c) had started to run before the complainant received any such letter as mentioned in *DISP* 2.3.6R(1)(a).