

**COMPLAINTS SOURCEBOOK
(FINANCIAL OMBUDSMAN SERVICE GENERAL LEVY 2003/2004)
INSTRUMENT 2003**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions of the Financial Services and Markets Act 2000 (the “Act”):
- (1) section 138 (General rule making power);
 - (2) section 156 (General and supplementary powers);
 - (3) section 157(1) (Guidance); and
 - (4) section 234 (Funding).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

Commencement

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

Amendment of the Complaints sourcebook

- D. The Complaints sourcebook (DISP) is amended:
- (1) in accordance with Annex A to this instrument; and
 - (2) by inserting, as DISP 5 Ann 1R (2003-4), the provisions in Annex B to this instrument.

Citation

- E. This instrument may be cited as the Complaints Sourcebook (Financial Ombudsman Service General Levy 2003/2004) Instrument 2003.

By order of the Board
20 March 2003

Annex A

Amendments to the Complaints sourcebook (DISP)

In this Annex underlining indicates new text and striking through indicates deleted text.

1.1.7 R (1) A firm which does not conduct business with *eligible complainants* and has no reasonable likelihood of doing so is exempt from *DISP* 1.2 – *DISP* 1.7, if it notifies the *FSA* in writing of this fact and that notice remains current, with effect from the date that notice is received by the *FSA*.

(2) In (1), conducting business means carrying on any of the activities to which the rules in *DISP* 2.6 apply with or for *persons* who are *eligible complainants* under *DISP* 2.4.

1.1.7AG The meaning of conducting business is not limited to entering into new transactions with or for a *person* who is a customer. A *firm* which continues to service an existing customer (who is an *eligible complainant*) will be conducting business if the activity is one to which *DISP* 2.6 applies. For example, the *firm* may advise a customer to cash in an *investment* (see *DISP* 2.6.1R(1)), where *advising on investments* is a *regulated activity*.

...

1.1.10 R A *firm* which is exempt under *DISP* 1.1.7R must notify the *FSA* in writing if the conditions in *DISP* 1.1.7R no longer apply.

...

5.4.8A R A *firm* (A) must also pay a *general levy* which would have been payable by another *firm* (B) where:

(1) between 31 December and 31 March, A acquires all or part of the business of B whether by merger, acquisition of goodwill or otherwise; and

(2) B would have been liable to pay a *general levy* in the *financial year* immediately following the three *month* period specified in (1) in respect of the business acquired by A.

...

5.5.2AG A *firm* should not provide a statement of *relevant business* if it deals only with *eligible complainants* who are not private individuals. *Relevant business* is defined in the *Glossary* as business done with private individuals only. So *DISP* 5.5.1R does not apply in relation to

business done with other types of *eligible complainant* described in DISP 2.4.3R(1)(b), (c) and (d); the funding of FOS Ltd in relation to that business is by special case fee only (see DISP 5.6.6R).

...

- 5.10.2 G *Firms* which cease to be authorised and, therefore subject to the *Compulsory Jurisdiction* part way through the year will not, normally, receive a refund of their *general levy* (or *supplementary levy*) except in exceptional circumstances. ~~However, exceptions may be made if firms have informed the FSA of their plans before the end of the previous financial year.~~ *Firms* will continue to be liable for any case fees relating to *chargeable cases* closed by the *Financial Ombudsman Service* after they cease to be *authorised*. *Firms* will be charged the standard case fee where the complaint was closed by the *Financial Ombudsman Service* before the end of the year in which their *authorisation* ceased. The special case fee will apply to any complaint closed after the end of that year since the *firm* will no longer be contributing to the *general levy*.

Annex B

DISP 5 Ann1R

DISP 5 Ann 1R: Annual Fees Payable in Relation to 2003/04

Introduction: annual budget

- 1 The *annual budget* for 2003/04 approved by the *FSA* is £34.7m.

Part 1: general levy and supplementary levy

- 2 The total amount expected to be raised through the *general levy* in 2003/04 will be £11.9m.

Part 2: Fee tariffs for general levy and supplementary levy

- 3 No *establishment costs* will be raised in 2003/04 by the *supplementary levy*.
- 4 Table: *fee tariffs for industry blocks*

Industry block	Tariff base	General levy payable by firm
1-Deposit acceptors, mortgage lenders and administrators (excluding <i>firms</i> in block 14)	Number of accounts relevant to the activities in <i>DISP</i> 2.6.1R	£0.0125 per relevant account, subject to a minimum levy of £200
2- <i>Firms</i> that undertake insurance activities, subject to prudential regulation only (excluding <i>firms</i> in blocks 13 & 15)	Relevant annual gross premium income	£0.116 per £1,000 of relevant annual gross premium income, subject to a minimum levy of £200
3- <i>Society</i> of Lloyd's	To be allocated by the <i>Society</i>	£88,060 to be allocated by the <i>Society</i>
4- <i>Firms</i> that undertake insurance activities, subject to both prudential and conduct of business regulation (<i>long-term</i> life <i>insurers</i>) (excluding <i>firms</i> in block 15)	Relevant adjusted annual gross premium income	£0.092 per £1,000 of relevant adjusted annual gross premium income, subject to a minimum levy of £100

5-Fund managers (including those holding <i>client money/assets</i> and not holding <i>client money/assets</i>)	Relevant funds under management	£0.00187 per £1,000 of relevant funds under management, subject to a minimum levy of £100
6-Operators, trustees and depositaries of collective investment schemes	Flat fee	Levy of £75
7-Dealers as principal	Flat fee	Levy of £75
8-Advisory arrangers, dealers or brokers holding and controlling <i>client money</i> and/or assets	Number of relevant <i>approved persons</i> (<i>controlled functions</i> 21, 22, 24, 25, 26)	£35 per relevant <i>approved person</i> (<i>controlled functions</i> 21, 22, 24, 25, 26), subject to a minimum levy of £75
9-Advisory arrangers, dealers or brokers not holding and controlling <i>client money</i> and/or assets	Number of relevant <i>approved persons</i> (<i>controlled functions</i> 21, 22, 24, 25, 26)	£20 per relevant <i>approved person</i> (<i>controlled functions</i> 21, 22, 24, 25, 26), subject to a minimum levy of £75
10-Corporate finance advisers	Flat fee	Levy of £75
11-Execution-only arrangers, dealers or brokers	Flat fee	Levy of £75
12-	N/A for 2003/04	
13-Cash plan health providers	Flat fee	Levy of £50
14-Credit unions	Flat fee	Levy of £50
15-Friendly societies whose tax-exempt business represents 95% or more of their total relevant business	Flat fee	Levy of £50

- 5 The *industry blocks* in the table are the same as the equivalent activity groups set out in part 7 of SUP 20 Ann 1R.
- 6 Where the tariff base in the table is defined in similar terms as the tariff base for the equivalent activity group set out in part 7 of SUP 20 Ann 1R, it must be calculated in the same way as that tariff base except that it takes into account only the *firm's relevant business*.