

**COMPLAINTS SOURCEBOOK (AMENDMENT) INSTRUMENT 2003**

**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in or under the Financial Services and Markets Act 2000 (the “Act”):
- (1) section 138 (General rule-making power);
  - (2) section 156 (General supplementary powers);
  - (3) section 157 (Guidance);
  - (4) section 226 (Compulsory jurisdiction); and
  - (5) paragraph 13 of Schedule 17 (Authority’s procedural rules).
- B. The rule making powers listed above are specified for the purposes of section 153(2) of the Act (Rule making instruments).

**Commencement**

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

**Amendments to the Complaints sourcebook (DISP)**

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

**Amendments to the Glossary**

- E. The Glossary is amended in accordance with Annex B to this instrument

**Citation**

- F. This instrument may be cited as the Complaints Sourcebook (Amendment) Instrument 2003.

By order of the Board  
17 July 2003

## Annex A

### Amendments to the Complaints sourcebook (DISP)

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

1.2.9 R A *firm* must:

- (1) refer *eligible complainants* in writing to the availability of its internal complaint handling procedures at, or immediately after, the point of sale;
- (2) publish details of its internal complaint handling procedures, supply a copy on request to an *eligible complainant*, and supply a copy automatically ~~to the complainant~~ when it receives a complaint from an *eligible complainant* (unless the complaint is resolved by close of business on the next *business day*); and
- (3) display in each of its branches or sales offices to which *eligible complainants* have access a notice indicating that it is covered by the *Financial Ombudsman Service*.

1.3.3 R *DISP* 1.4 – *DISP* 1.5 ~~*DISP* 1.6~~ do not apply:

...

1.3.3A R In order to comply with *DISP* 1.3.3 R(2), when a complaint is received on any day other than a *business day*, or after close of business on a *business day*, a *firm* can treat the complaint as received on the next *business day*.

...

Early resolution of complaints

1.4.3A R *DISP* 1.4.4 R to *DISP* 1.4.6 R do not apply if the complainant has already indicated in writing acceptance of a response by the *firm*, provided that the response informed the complainant how to pursue his complaint if he remained dissatisfied.

1.4.3B G *DISP* 1.4.3A R recognises that the complainant may accept the *firm's* response at any time during the complaint process and that this may resolve the complaint, even when the *firm* has not issued a *final response*. The *firm's* response need not have referred to the *Financial Ombudsman Service*, but should have explained how the complaint

would be progressed by the *firm* if the complainant remained dissatisfied.

1.4.4 R A *firm* must, within four weeks of receiving a complaint, (unless ~~DISP 1.4.7R~~ DISP 1.4.3A R or *DISP 1.4.9 R* applies) send the complainant either:

...

1.4.5 R A *firm* must, by the end of eight weeks after its receipt of a complaint, (unless ~~DISP 1.4.7R~~ DISP 1.4.3A R or *DISP 1.4.9 R* applies) send the complainant either:

...

1.4.6 R Where, at *commencement*, a firm is still dealing with a complaint that is capable of being referred to the *Financial Ombudsman Service* as a *relevant new complaint*:

...

(2) it must, within eight weeks of *commencement*, send the complainant a response which satisfies *DISP 1.4.5 R*, (unless ~~DISP 1.4.7R~~ DISP 1.4.3A R or *DISP 1.4.9 R* applies).

#### **Early resolution of complaints**

1.4.7 R ~~[deleted] DISP 1.4.4R to DISP 1.4.6R do not apply if the complainant has already indicated in writing acceptance of a response by the *firm*, provided that the response informed the complainant how to pursue his complaint if he remained dissatisfied.~~

1.4.8 G ~~[deleted] DISP 1.4.7R recognises that a response by the *firm* will not necessarily be its *final response* but that it may, nonetheless, resolve the complaint.~~

...

...

2.1.3 R A reference in this chapter to a “complaint”:

(1) includes part of a complaint; and

(2) under the *Compulsory Jurisdiction* includes all or part of a relevant new complaint.

...

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*:

- ...
- (b) more than six months after the date on which ~~the complainant is advised by the firm or VJ participant in~~ sends the complainant its final response advising him that he may refer his complaint to the *Financial Ombudsman Service*; or

2.4.10 R A person is an *eligible complainant* if:

- ...
- (2) he has a complaint against the *firm* or *VJ participant* which either:
- (a) arises out of a relationship which he has with the *firm* or *VJ participant* as described in *DISP 2.4.11 R* or *DISP 2.4.12 R (4)*; or

2.4.11 R The relationships with the *firm* or *VJ participant* relevant for *DISP 2.4.10 R(2)(a)* are:

- ...
- (3) the complainant is the true owner or the *person* entitled to immediate possession of a cheque or other bill of exchange, or of the funds it represents, collected by the *firm* or *VJ participant* for someone else's account; or

2.4.12 R The circumstances relevant for *DISP 2.4.10 R(2)(b)* are:

- ...
- (3) that the complainant is a *person* on whom the legal right to benefit from a claim under a *contract of insurance* has been devolved by contract, statute or subrogation; or
- (4) that the complainant is the beneficial owner of units in a collective investment scheme, and the firm or VJ participant is the operator or depositary of the scheme.

2.4.13 G *DISP 2.4.12 R(2)* and (3) include, for example, employees covered by a group permanent health policy taken out by an employer, which provides in the insurance contract that the policy was taken out for the benefit of the employee. They do not include, for example, complaints about the actions of the insurer of the other driver in a car accident.

2.6.6 G For the purposes of *DISP 2.6.1 R(5)*, ancillary banking services include, for example, the provision and operation of cash machines, ~~and~~ safe deposit boxes and the provision of account aggregation

services (that is, services where details from several accounts which may be held by different financial services providers can be accessed by a single password).

...

3.1.4 R Except as otherwise specified, references in this chapter to a “complaint” include:

- (1) a *relevant new complaint*; and
- (2) part of a complaint or a *relevant new complaint*.

## ANNEX B

### Amendments to the Handbook Glossary

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

<i>chargeable case</i>	<p>any complaint referred to the <i>Financial Ombudsman Service</i>, <del>apart from those</del> <u>except</u> where:</p> <p>(a) the <i>Ombudsman</i> considers it apparent from the complaint, <u>when it is</u> received, and from any <i>final response</i> which has been issued by the <i>firm</i>, that the complaint should not proceed because:</p> <p><del>(a)(i)</del> the complainant is not an <i>eligible complainant</i> in accordance with <i>DISP 2</i>; or</p> <p><del>(b)(ii)</del> the complaint does not fall within the jurisdiction of the <i>Financial Ombudsman Service</i> (as described in <i>DISP 2</i>); or</p> <p><del>(c)(iii)</del> the <i>Ombudsman</i> considers that the complaint should be dismissed without consideration of its merits under <i>DISP 3.3</i> (Dismissal of complaints without consideration of the merits); or</p> <p><del>(d)(b)</del> the <i>Ombudsman</i> considers, at any stage, that the complaint should be dismissed under <i>DISP 3.3.1R(2)</i> on the grounds that it is frivolous or vexatious.</p>
<i>Compulsory Jurisdiction</i>	<p>the jurisdiction of the <i>Financial Ombudsman Service</i> to which <i>firms</i> (and certain <i>unauthorised persons</i> as a result of the <i>Ombudsman Transitional Order</i> <u>or section 226(2)(b) and (c) of the Act</u>) are compulsorily subject.</p>