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 1.4.7 R, DISP 1.4.3 A 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 1.4.7 R, DISP 1.4.3 A 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 1.4.7 R, DISP 1.4.3 A R or DISP 1.4.9 R applies).

Early resolution of complaints

1.4.7 R [deleted] 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.

1.4.8 G [deleted] DISP 1.4.7 R 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:
more than six months after the date on which the complainant is advised by the firm or VJ participant to send 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.

chargeable case  any complaint referred to the Financial Ombudsman Service, except where:

(a) the Ombudsman considers it apparent from the complaint, when it is received, and from any final response which has been issued by the firm, that the complaint should not proceed because:

(a)(i) the complainant is not an eligible complainant in accordance with DISP 2; or

(b)(i) the complaint does not fall within the jurisdiction of the Financial Ombudsman Service (as described in DISP 2); or

(c)(iii) the Ombudsman considers that the complaint should be dismissed without consideration of its merits under DISP 3.3 (Dismissal of complaints without consideration of the merits); or

(d)(b) the Ombudsman considers, at any stage, that the complaint should be dismissed under DISP 3.3.1R(2) on the grounds that it is frivolous or vexatious.

Compulsory Jurisdiction  the jurisdiction of the Financial Ombudsman Service to which firms (and certain unauthorised persons as a result of the Ombudsman Transitional Order or section 226(2)(b) and (c) of the Act) are compulsorily subject.