

DISPUTE RESOLUTION: COMPLAINTS (MIFID) INSTRUMENT 2007

Powers exercised

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

Commencement

- C. This instrument comes into force on 1 November 2007.

Amendments to the Handbook

- D. The Dispute Resolution: Complaints sourcebook is amended by inserting the provisions in the Annex to this instrument.

Citation

- E. This instrument may be cited as the Dispute Resolution: Complaints (MiFID) Instrument 2007.

By order of the Board
25 January 2007

Annex

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text and striking through indicates deleted text. Where an entire section of text is being inserted, the place where the change will be made is indicated and the text is not underlined. Where an entire section is being deleted this will be indicated.

TP1 Transitional provisions

TP 1.1

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional Provision: dates in force	Handbook Provisions: coming into force
1	...				
<u>1A</u>	<u>DISP 1</u>	<u>R</u>	<u>A complaint received by a firm on or before 31 October 2007 should be handled, resolved, recorded and reported in accordance with the requirements of DISP as they stood at the date the complaint was received.</u>	<u>From 1 November 2007</u>	<u>1 November 2007</u>
2	...				

The whole of DISP 1 is deleted and replaced with the following:

Treating complainants fairly

1.1 Purpose, interpretation and application

1.1.1 R This chapter applies to the *MiFID business* of a *firm*.

1.1.2 R This chapter applies only to the extent necessary to implement *MiFID* and the *MiFID implementing directive*.

Application to firms

- 1.1.3 R (1) This chapter applies to a *firm* in respect of *complaints* from *eligible complainants* concerning activities carried on from an establishment maintained by it in the *United Kingdom*.
- (2) However, in relation to *complaints* concerning the *MiFID business* of a *firm*, the *complaints handling rules* and the *complaints record rule*:
- (a) apply only in relation to *complaints* from *retail clients*, and do not apply in relation to *complaints* from *eligible complainants* who are not *retail clients*; and
- (b) apply to the *branch* of a *UK firm* in another *EEA State*; and
- (c) do not apply to the *branch* of an *EEA firm* in the *United Kingdom*.
- 1.1.4 [intentionally blank]
- 1.1.5 [intentionally blank]
- 1.1.6 [intentionally blank]
- 1.1.7 [intentionally blank]
- 1.2 Complaints handling rules
- 1.2.1 R Effective and transparent procedures for the reasonable and prompt handling of *complaints* must be established, implemented and maintained by:
- (1) a *firm*; and
- (2) a *branch* of a *UK firm* in another *EEA State*.
- [Note: article 10 of the *MiFID implementing Directive*]
- 1.3 [intentionally blank]
- 1.3.1 [intentionally blank]
- 1.4 [intentionally blank]
- 1.4.1 [intentionally blank]
- 1.5 Complaints record rule
- 1.5.1 R A *firm* and a *branch* of a *UK firm* in another *EEA State* must keep a record of each *complaint* received and the measures taken for its resolution, and retain that record for:
- (1) at least five years where the *complaint* relates to *MiFID business*; and

(2) three years for all other *complaints*,
 from the date the *complaint* was received.

[Note: article 10 of the *MiFID implementing Directive*]

DISP Sch 1 Record keeping requirements

DISP Sch 1.1 G

...

DISP Sch 1.2 G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
<i>DISP</i> 1.5.1R	Complaints <i>Complaints</i> subject to <i>DISP</i> 1.4.1.1 –DISP 1.1.6 G	Not specified but see <i>DISP</i> 1.5.2G <u>Each</u> <u>complaint</u> received and the <u>measures taken</u> <u>for its resolution</u>	On receipt	<u>5 years for</u> <u>complaints</u> <u>relating to</u> <u>MiFID business</u> <u>and 3 years for</u> <u>all other</u> <u>complaints</u>