

COMPLAINTS RETURN 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);
 - (2) section 157(1) (Guidance);
 - (3) article 15 (Record keeping and reporting requirements relating to relevant complaints) of the Financial Services and Markets Act 2000 (Transitional Provisions) (Ombudsman Scheme and Complaints Scheme) Order 2001; and
 - (4) article 9 (Record keeping and reporting requirements relating to relevant transitional complaints) of the Financial Services and Markets Act 2000 (Transitional Provisions) (Complaints Relating to General Insurance and Mortgages) Order 2004.
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Financial Services and Markets Act 2000.

Commencement

- C. This instrument comes into force as follows:
- (1) Part 1 of Annex A comes into force on 14 December 2007;
 - (2) the remainder of this instrument comes into force on 1 August 2009.

Amendments to the Handbook

- D. The Dispute Resolution: Complaints sourcebook (DISP) is amended in accordance with Annex A.
- E. The Credit Unions sourcebook (CRED) is amended in accordance with Annex B to this instrument

Citation

- F. This instrument may be cited as the Complaints Return Instrument 2007.

By order of the Board
6 December 2007

Annex A

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

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

Part 1: Comes into force on 14 December 2007

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1.10 Complaints reporting rules

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Joint reports

1.10.1A R [Text to follow]

1.10.1B G [Text to follow]

1.10.1C R *Firms* that are part of a *group* may submit a joint report to the FSA. The joint report must contain the information required from all *firms* concerned and clearly indicate the *firms* on whose behalf the report is submitted. The requirement to provide a report, and the responsibility for the report, remains with each *firm* in the *group*.

1.10.1D G Not all the *firms* in the *group* need to submit the report jointly. *Firms* should only consider submitting a joint report if it is logical to do so, for example, where the *firms* have a common central *complaints* handling team and the same *accounting reference date*.

TP1		Transitional provisions			
(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
10	<i>DISP</i> 1.10.1R and <i>DISP</i> 1.10.2R	R	Expired <i>DISP</i> 1.10.1R and <i>DISP</i> 1.10.2R do not apply to a <i>firm</i> with permission to carry on only <i>insurance mediation activity</i>, <i>mortgage mediation activity</i>, or both.	(1) In respect of <i>mortgage mediation activities</i> ; 31.10.04 – 31.3.05; (2) in respect of <i>insurance</i>	

							<i>mediation activities, 14.1.05 – 31.3.05.</i>	
11	<i>DISP</i> 1.10.1R and <i>DISP</i> 1.10.2R	R	<u>Expired</u> Where a firm is required under 1.10.1R and <i>DISP</i> 1.10.2R to submit information using a report in the format set out in <i>DISP</i> 1 Ann 1R on a half yearly basis, this must be read as a reference to providing the first and second report in accordance with transitional provision 12R.				From 01.4.05, expiring on 31.3.06	1 April 2005
12	<i>DISP</i> 1.10.1R and <i>DISP</i> 1.10.2R	R	<u>Expired</u> If transitional provision 11R applies, the <i>firm's</i> first and second report must be provided as follows:					
			Accounting reference date	Reporting period starts	Reporting period ends	Report to be provided		
			Between 1 January 2005 and 31 March 2005	1 st report: 1 April 2005	6 months after the accounting reference date within 2005	30 business days after period end		
				2 nd report: the day after the end of the 1 st reporting period	the accounting reference date within 2006			
			Between 1 April 2005 and 30 June 2005	1 st report: 1 April 2005	6 months after the accounting reference date within 2005	30 business days after period end		
				2 nd report: the day after the end of the 1 st reporting period	the accounting reference date within 2006			
			Between 1 July 2005 and 30 September 2005	1 st report: 1 April 2005	the accounting reference date within 2005	30 business days after period end		
				2 nd report: the day following the accounting	6 months after the accounting reference date			

				<i>reference date within 2005</i>	within 2005			
			Between 1 October 2005 and 31 December 2005	1 st report: 1 April 2005	the <i>accounting reference date</i> within 2005	30 <i>business days</i> after period end		
				2 nd report: the day following the <i>accounting reference date</i> within 2005	6 <i>months</i> after the <i>accounting reference date</i> within 2005			
13	DISP 1	R	<u>Deleted</u> Where, at the <i>relevant commencement date</i> , a firm is still dealing with a complaint that is capable of being referred to the <i>Financial Ombudsman Service</i> as a <i>relevant transitional complaint</i> :			31 October 2004 (for a complaint to which the <i>MCAS Scheme</i> applied immediately before that date)	31 October 2004	
			(1)	it may continue to try to resolve the complaint in accordance with the complaints procedures that applied previously; but	14 January 2005 (for a complaint to which the <i>GISC Facility</i> applied immediately before that date)			
			(2)	it must, within eight weeks of the <i>relevant commencement date</i> , send the complainant a response which satisfies <i>DISP 1.4.5R</i> , unless <i>DISP 1.4.3AR</i> or <i>DISP 1.4.9R</i> applies.				
14		G	<u>Expired</u> <i>DISP TP 13R</i> recognises that where a <i>firm</i> has already received, but only partly completed the handling of, a complaint which is capable of becoming a <i>relevant transitional complaint</i> , it may not always be practicable to handle the complaint in accordance with <i>DISP 1</i> after the <i>relevant commencement date</i> .					
15	FEES 5.4.1R	R	<u>Expired</u> A <i>firm</i> which falls within <i>industry block 16</i> or <i>17</i> needs to provide a statement to the <i>FSA</i> by the end of February 2005 only if it is providing the <i>FSA</i> with a statement of the total amount of <i>relevant business</i> .			31 October 2004 to 28 February 2005 for <i>firms</i> falling in <i>industry block 16</i>	31 October 2004	

				14 January 2005 to 28 February 2005 for firms falling in industry block 17	
16	FEES 5.4.1R	R	<u>Expired</u> In respect of the year 2005/06, the FSA will already have a statement of the total amount of the firm's annual income as part of the firm's application for a Part IV permission or to vary a Part IV permission. There is thus no need for a firm to repeat this information if it decides not to report annual income for relevant business in accordance with DISP TP 15R.	31 October 2004 to 28 February 2005 for firms falling in industry block 16 14 January 2005 to 28 February 2005 for firms falling in industry block 17	31 October 2004
17	DISP 1.3.12R – DISP 1.3.17G	R	<u>Deleted</u> A firm must apply DISP as it applied before amendment by the Depolarisation Instrument to complaints received before 14 January 2005.	From 14 January 2005.	14 January 2005.
...					
19	DISP 1.10.1CR and DISP 1.10.1DG	R	Firms that submit a joint report before 31 July 2009 must clearly indicate in writing to the FSA the firms on whose behalf the report is submitted.	From 14 December 2007 to 31 July 2009	14 December 2007

Part 2: Comes into force on 1 August 2009

1.10 Complaints reporting rules

...

1.10.1A R [Text to follow] A firm must not include in the report a complaint that has been forwarded in its entirety to another respondent under the complaints forwarding rules.

1.10.1B G [Text to follow] Where a firm has forwarded to another respondent only part of a complaint or where two respondents may be jointly responsible for a complaint, then the complaint should be reported by both firms.

...

1.10.2 R DISP 1 Annex 1R requires (for the relevant reporting period) information about:

- (1) the total number of *complaints* received by the *firm*, ~~broken down according to the categories and generic product types described in *DISP* 1 Annex 1R which are relevant to the *firm*;~~
- (2) the total number of *complaints* closed by the *firm*:
 - (a) within four weeks or less of receipt;
 - (b) ~~within more than four weeks and up to eight weeks of receipt; and~~
 - (c) more than eight weeks after receipt;
- (3) the total number of *complaints*:
 - (a) upheld by the *firm* in the reporting period; and
 - ~~(b) that the *firm* knows have been referred to, and accepted by, the *Financial Ombudsman Service* in the reporting period;~~
 - ~~(c)~~ outstanding at the beginning of the reporting period; and
 - ~~(d) outstanding at the end of the reporting period; and~~
- (4) the total amount of redress paid in respect of *complaints* during the reporting period.

1.10.3 G For the purpose of *DISP* 1.10.2R, upon completing the return, the *firm* should note that:

- (1) ...
- (2) Under *DISP* 1.10.2R(3)(a), a *firm* should report any *complaint* to which it has given a ~~*final response*~~ response which upholds the *complaint*, even if any redress offered is disputed by the complainant. For this purpose, 'response' includes a response under the complainant's written acceptance rule (*DISP* 1.6.4R), the two stage *complaints* procedures rule (*DISP* 1.6.5R) (unless a *final response* was sent later) and a *final response*. Where a *complaint* is upheld in part or where the *firm* does not have enough information to make a decision yet chooses to make a goodwill payment to the complainant, a *firm* should treat the ~~whole~~ *complaint* as upheld for reporting purposes. However, where a *firm* rejects a *complaint*, yet chooses to make a goodwill payment to the complainant, the *complaint* should be recorded as 'rejected'.
- (3) ...

...

DISP 1 Ann 1R is deleted and replaced with the following text. The text is not underlined.

DISP 1 Ann 1R

Illustration of the reporting requirements, referred to in *DISP 1.10.1R*

Complaints Return (DISP 1 Ann 1R)

GROUP REPORTING / NIL RETURN DECLARATION

- 1 Does the data reported in this return cover complaints relating to more than one entity? If 'Yes', then list the *firm* reference numbers (FRNs) of all the entities included in this return. Yes / No

- 2 We wish to declare a nil return Yes / No

RETURN DETAILS REQUIRED

- 3 Total complaints outstanding at reporting period start date

Complaints closed

	A	B	C	D	E
Product/service grouping	Complaints closed within 4 weeks	Complaints closed > 4 but within 8 weeks	Complaints closed > 8 weeks	Total complaints upheld by firm	Total redress paid
4 Banking					
5 Home finance					
6 General insurance and pure protection					
7 Decumulation, life and pensions					
8 Investments					

Complaints opened

		A	B	C	D	E
	Product/service grouping	Advising, selling and arranging	Terms and disputed sums/charges	General admin/customer service	Arrears related	Other
9	Banking	Current accounts				
10		Credit cards				
11		Unregulated loans				
12		Savings (inc. Cash ISA) and other banking				
13	Home finance	Equity release products				
14		Impaired credit mortgages				
15		Other regulated home finance products				
16		Other unregulated home finance products				
17	General insurance & pure protection	Payment protection insurance				
18		Other general insurance				
19		Critical illness				
20		Income protection				
21		Other pure protection				
22	Decumulation, life and pensions	Personal pensions and FSAVCs				
23		Investment linked annuities				
24		Income drawdown products				
25		Endowments				
26		Other decumulation, life and pensions				
27	Investments	Investment bonds				
28		PEPs/ISAs (exc. cash ISAs)				
29		Investment trusts				
30		Unit trusts/OEICs				
31		Structured products				
32		Other investment products/funds				
33		Investment management/services (inc. platforms)				

NOTES ON THE COMPLETION OF THIS RETURN

Nil returns

If no *complaints* have been received during the reporting period and no *complaints* were outstanding at the beginning of the period, the *firm* may submit a NIL RETURN by clicking on the relevant box.

Product/service groupings

Complaints should be allocated to these groupings based on the product or service the *complaint* relates to.

Complaints opened

Firms operating the two-stage process (*DISP* 1.6.5R) may decide to re-open a closed *complaint* after more than eight weeks from the complainant's receipt of its non-final response where the complainant has indicated he remains dissatisfied. These re-opened *complaints* should be reported in this return as new *complaints*.

Product and cause categories

The 'other' categories should only be used in exceptional circumstances when none of the specific product or cause categories are appropriate.

A *complaint* should be reported against the product/service element complained about; this may be different to the main policy itself. For example, for a term assurance policy with an attaching critical illness option, where the *complaint* relates to the term assurance element, it should be reported under 'other pure protection' but where the *complaint* relates to the critical illness element, it should be reported under 'critical illness'.

...

Annex B

Amendments to the Credit Unions sourcebook (CRED)

In this Part, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

...

- 17.6.3 R A *credit union* must provide the *FSA*, once a year, with a report in the format set out in *CRED 17 Annex 1R* (Credit Union complaints return) which contains (for the relevant reporting period) information about:
- (1) the total number of complaints received by the *credit union* (except those referred to in *CRED 17.4.1R*) ~~broken down according to the categories and in respect of each of the generic product types described in *CRED 17 Annex 1R* (Credit union complaints return) which are relevant to the *credit union*;~~
 - (2) the number of complaints closed by the *credit union*:
 - (a) within eight weeks of receipt; and
 - (b) more than eight weeks after receipt;
 - (3) the total number of complaints:
 - (a) upheld by the *credit union* in the reporting period;
 - ~~(b) that the *credit union* knows have been referred to, and accepted by, the FOS during the reporting period; and~~
 - (be) outstanding at the ~~end~~ start of the reporting period; and
 - (4) the total amount of redress paid in respect of complaints during the reporting period; ~~and~~
 - ~~(5) the single contact within the *credit union* for complainants.~~
- 17.6.4 G For the purpose of *CRED 17.6.3R*, and upon completing the return, the *credit union* should note that:
- (1) ...

- (2) Where a complaint has been upheld under *CRED* 17.6.3R(3)(a), a *credit union* should report any complaints to which it has given a final response which accepts the complaint and, where appropriate, offers redress, even if the redress offered is disputed by the complainant. Where a complaint is upheld in part, or where the *credit union* does not have enough information to make a decision yet chooses to make a goodwill payment to the complainant, the *credit union* should treat the ~~whole~~ complaint as upheld for reporting purposes. Where a *credit union* rejects a complaint, yet chooses to make an ex-gratia payment to the complainant, the complaint should be recorded as rejected.

...

CRED 17 Annex 1R is deleted and replaced with the following text. The text is not underlined.

CRED 17 Ann 1R

(for FSA use only)

Credit union complaints return

FSA Handbook Reference: CRED 17 Ann 1R
This is the report referred to in CRED 17.6.3R

Please read the notes on completion before completing this return

Firm details and reporting period

Section 1

1.01	FSA firm reference number	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
1.02	Name of <i>credit union</i>	<input type="text"/>					
1.03	Reporting period	From	<input type="text"/>	<input type="text"/>	To	<input type="text"/>	<input type="text"/>

Nil return declaration

Section 2

SECTIONS 1 AND 6 MUST STILL BE COMPLETED.

2.01	We wish to declare a Nil Return (Tick the box if applicable)	Nil return	<input type="checkbox"/>
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Complaints outstanding

Section 3

3.01	Number of complaints outstanding as at reporting period start date	<input type="text"/>
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Complaints opened during reporting period
Section 4

Product/service grouping	Product/service	Advising, selling and arranging	Terms and disputed sums/charges	General admin/customer service	Arrears related	Other
Banking	Current accounts					
	Credit cards					
	Unregulated loans					
	Savings (inc. Cash ISA) and other banking					
Home finance	Equity release products					
	Impaired credit mortgages					
	Other regulated home finance products					
	Other unregulated home finance products					
General insurance and pure protection	Payment protection insurance					
	Other general insurance					
	Critical illness					
	Income protection					
	Other pure protection					
Decumulation, life and pensions	Personal pensions and FSAVCs					
	Investment linked annuities					
	Income drawdown products					
	Endowments					
	Other decumulation, life and pensions					
Investments	Investment bonds					
	PEPs/ISAs (exc. cash ISAs)					
	Unit trusts/OEICs					
	Investment trusts					
	Structured products					
	Other investment products/funds					
	Investment management/services (inc. platforms)					

Complaints closed during reporting period

Section 5

Product/service grouping	Number of complaints closed within 8 weeks	Number of complaints closed after more than 8 weeks	Number of complaints upheld by the <i>credit union</i> in the period	Total amount of redress paid to consumers in the period
Banking				
Home finance				
General insurance and pure protection				
Decumulation, life and pensions				
Investments				

Declaration and signature

Section 6

Knowingly or recklessly giving the *FSA* information which is false or misleading in a material particular may be a criminal offence (section 398 of the Financial Services and Markets Act 2000) and a breach of regulatory requirements.

In signing this form, the *credit union* acknowledges that the data supplied may be used by the *FSA* in a variety of different ways (including making it publicly available) in support of its principal functions and statutory objectives as provided for under the Financial Services and Markets Act 2000.

I confirm that I have read the notes and that the information given in this return about complaints received by the *credit union* named at Section 1.02 is accurate and complete to the best of my knowledge and belief.

6.01	Name of <i>person</i> completing on behalf of the <i>credit union</i>	
6.02	Job title	
6.03	Signature	
6.04	Date	

Notes on completion of this return

Completing this return

The return must be completed in black ink and (if in manuscript) in BLOCK LETTERS.

All dates must be provided in numeric form (for example: 29/02/2006 for 29 February 2006).

The *credit union* is responsible for the accuracy of the data and completion of the return.

Section 2 – Nil Returns

If no complaints (except those referred to in *CRED 17.4.1R*) have been received during the reporting period, and no complaints were outstanding at the beginning of the period, the *credit union* may submit a **NIL RETURN** by ticking the relevant box on the front of the form.

Sections 1 and 6 must still be completed.

Section 4 – Complaints opened during reporting period

Enter the number of complaints for each product according to the category of complaint.

Leave blanks where no complaints have been received.

All *credit unions* provide the products “Savings (inc Cash ISA) and other banking” (members’ shares) and “Unregulated loans” (members’ loans not secured on land), and may receive complaints for those products. The corresponding rows in the form have been left shaded to help *credit unions* with completion; all other rows are clear. Some categories of complaint (shown in the column headings) may not apply to those products.

Some *credit unions* may also provide other products (for which they may require further permission). If so they should enter the number of complaints received for these products in the relevant boxes, even though they are clear.

Section 5 – Complaints closed during reporting period

Credit unions will usually receive complaints relating to the 'Banking' product/service grouping only and this row is shaded to help with completion. As above – some credit unions may also provide other products; if so they should also fill in the appropriate row even though it is not shaded.

Section 6 – Declaration & signature

The declaration must be signed by an appropriate individual for the *credit union* submitting this return.

If you have any questions or need help with this return, please approach your usual supervisory contact at the FSA.

REPORTS SENT BY POST MUST BE ADDRESSED TO:

THE FINANCIAL SERVICES AUTHORITY
P O BOX 35747
LONDON E14 5WP
UNITED KINGDOM

Hand delivered returns should be marked for **the attention of Contract Revenue and Information Management Division** and be delivered to 25 The North Colonnade, Canary Wharf, London E14 5HS.