

PAYMENT SERVICES (GIBRALTAR-BASED FIRMS) INSTRUMENT 2009

Powers exercised by the Financial Ombudsman Service Limited

- A. The Financial Ombudsman Service Limited makes this instrument in the exercise of paragraph 14 (The scheme operator's rules) of Schedule 17 (The Ombudsman Scheme) to the Financial Services and Markets Act 2000 ("the Act").
- B. Paragraph 3(2) of Schedule 7 to the Payment Services Regulations 2009 (SI No 2009/209) ("the Regulations") as amended by the Payment Services (Amendment) Regulations 2009 (SI No 2009/2475) is relevant to the exercise of the power set out in paragraph A above because it provides that subsections (4), (5) and (6) of that power do not apply to the rules made by the Financial Ombudsman Service Limited set out in this instrument.
- C. The making of this instrument by the Financial Ombudsman Service Limited is subject to the consent and approval of the Financial Services Authority.

Powers exercised by the Financial Services Authority

- D. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in or under:
 - (1) the following provisions of the Act:
 - (a) section 226 (Compulsory Jurisdiction) as applied by regulation 125 (Transitional provisions: the ombudsman scheme) of the Regulations;
 - (b) paragraph 17 (Fees) of Schedule 1 as modified by regulation 92(1) (Costs of supervision) of the Regulations; and
 - (c) paragraph 13(4) (Authority's procedural rules) of Schedule 17 (The Ombudsman Scheme); and
 - (2) the other powers listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- E. Paragraph 3(1) of Schedule 7 to the Regulations is relevant to the exercise of the powers set out in paragraphs D(1) and (2) above because it provides that section 155 (Consultation) of the Act does not apply to the rules made by the Financial Services Authority set out in this instrument.
- F. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- G. This instrument comes into force on 6 December 2009.

Amendments to the Handbook

- H. The Glossary of definitions is amended in accordance with the Annex to this instrument.

Citation

- I. This instrument may be cited as the Payment Services (Gibraltar-based Firms) Instrument 2009.

By order of the Board of the Financial Ombudsman Service Limited
28 October 2009

By order of the Board
5 November 2009

Annex

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text.

EEA authorised payment institution

(a) (in accordance with regulation 2(1) of the *Payment Services Regulations*) a person authorised in an *EEA State* other than the *United Kingdom* to provide *payment services* in accordance with the *Payment Services Directive*; and

(b) (in accordance with paragraph 1 of Schedule 7 to the *Payment Services Regulations*) a firm which has its head office in Gibraltar, is authorised in Gibraltar to provide *payment services*, and has an entitlement corresponding to its passport right deriving from the *Payment Services Directive*, to establish a *branch* or provide services in the *United Kingdom*.