

DISPUTE RESOLUTION: COMPLAINTS (ALTERNATIVE INVESTMENT FUND MANAGERS DIRECTIVE) INSTRUMENT 2013

Powers exercised by the Financial Ombudsman Service Limited

- A. The Financial Ombudsman Service Limited:
- (a) makes the rules in the Annex to this instrument for licensees relating to the Consumer Credit Jurisdiction; and
 - (b) varies the standard terms in the Annex to the instrument for Voluntary Jurisdiction participants relating to the Voluntary Jurisdiction;

in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):

- (1) section 226A (Consumer credit jurisdiction);
- (2) section 227 (Voluntary jurisdiction);
- (3) paragraph 14 (The scheme operator’s rules) of Schedule 17;
- (4) paragraph 16B (Procedure for complaints etc) of Schedule 17;
- (5) paragraph 16E (Procedure for consumer credit rules) of Schedule 17;
- (6) paragraph 16G (Consultation) of Schedule 17;
- (7) paragraph 18 (Terms of reference to the scheme) of Schedule 17;
- (8) paragraph 20 (Voluntary jurisdiction rules: procedure) of Schedule 17; and
- (9) paragraph 22 (Consultation) of Schedule 17.

- B. The making of these rules and the varying of the standard terms by the Financial Ombudsman Service Limited is subject to the consent and approval of the Financial Conduct Authority (“FCA”).

Powers exercised by the Financial Conduct Authority

- C. The FCA makes the Annex to this instrument relating to the Compulsory Jurisdiction in the exercise of the following powers and related provisions in the Act:
- (1) section 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers); and
 - (3) section 226 (Compulsory jurisdiction).
- D. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.
- E. The FCA approves and consents to the Financial Ombudsman Service Limited making the rules and varying the standard terms under this instrument pursuant to the following powers and related provisions in the Act:
- (a) section 226A (Consumer credit jurisdiction);
 - (b) section 227 (Voluntary jurisdiction);
 - (c) paragraph 14 (The scheme operator’s rules) of Schedule 17; and
 - (d) paragraph 18 (Terms of reference to the scheme) of Schedule 17.

Commencement

F. This instrument comes into force on 22 July 2013.

Amendments to the Handbook

G. The Dispute Resolution: Complaints Sourcebook (DISP) of the FCA's Handbook of rules and guidance is amended in accordance with the Annex to this instrument.

Citation

H. This instrument may be cited as the Dispute Resolution: Complaints (Alternative Investment Fund Managers Directive) Instrument 2013.

By order of the Board of the Financial Ombudsman Service Limited
19 June 2013

By order of the Board of the FCA
27 June 2013

Annex

Amendments to the Dispute Resolution: Complaints sourcebook

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

2.7 Is the complainant eligible?

...

Eligible complainants

...

2.7.6 R To be an *eligible complainant* a person must also have a *complaint* which arises from matters relevant to one or more of the following relationships with the *respondent*:

...

(3) the complainant is the holder, or the beneficial owner, of *units* in a *collective investment scheme* and the *respondent* is ~~the operator or depositary of the scheme;~~

(a) the operator of a scheme;

(b) the depositary of an authorised fund; or

(c) the depositary of a charity AIF;

(3A) the complainant is the holder, or the beneficial owner, of *units* or *shares* in an AIF where the *respondent* is:

(a) the AIFM of an unauthorised AIF (apart from a closed-ended corporate AIF);

(b) the AIFM or depositary of an authorised AIF; or

(c) the AIFM or depositary of a charity AIF (apart from a charity AIF which is a closed-ended corporate AIF);

...