

# 49 newsletter

Financial Services Authority and  
Financial Ombudsman Service

## Complaints handling arrangements:

Feedback statement on CP33 and draft rules

A joint consultation paper

May 2000

### About this newsletter

This Newsletter provides a summary of FSA Consultation Paper 49 – Complaints handling arrangements – Feedback statement on CP33 and draft rules.

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# Executive Summary

Consultation Paper 49 (CP49) provides feedback on Consultation Paper 33 (CP33), which sought views on detailed proposals for the new arrangements for handling consumer complaints under the new regulatory framework. It also sets out for comment the draft rules which the FSA and the Financial Ombudsman Service Limited (FOS) propose to make in the light of responses received. These rules will appear in the Redress Block of the FSA Handbook of Rules and Guidance, which will also contain the rules relating to the Financial Services Compensation Scheme.

Under the Financial Services and Markets Bill (FSMB), responsibility for making the complaints handling rules relating to firms falls to the FSA. Responsibility for the rules relating to the various aspects of the Financial Ombudsman Service (the Scheme) is shared between the FSA and the FOS, the company which the FSA has set up to operate the new Scheme. Both the FSA and the FOS are required to consult on the draft rules before they can be made and the FOS's rules are subject to the approval of the FSA. Like CP33, therefore, this paper is issued jointly by the FSA and the FOS.

The draft rules contained in CP49 will apply to all FSA-authorized firms which conduct business with persons who are eligible to refer a complaint to the Scheme. These firms will be subject to the Compulsory Jurisdiction of the Scheme and are likely to include any firm which conducts 'retail' financial services business, including investment firms, deposit takers and general insurers. These rules will also apply (by contractual agreement) to unauthorised firms which choose to join the Voluntary Jurisdiction. The activities covered by the Compulsory Jurisdiction are specified by the FSA; those covered by the Voluntary Jurisdiction are specified by the FOS.

## Outline of paper

CP49 provides feedback on the following main issues which were consulted on in CP33:

- the scope of the Scheme, including who should have access to the Scheme, which firms and activities the Scheme should cover and what the territorial limits on the Scheme's scope should be;
- the Scheme rules which will govern the way in which complaints will be handled under the Scheme;
- the funding of the Scheme;
- complaints handling by firms - a single set of requirements for all FSA authorised firms.

CP49 summarises the responses received to CP33. Most of the FSA's and the FOS's proposals were supported by the majority of respondents. However, some proposals have been modified or clarified to accommodate concerns expressed by respondents and these are explained in the paper.

CP49 provides a commentary on the draft complaints handling rules for firms and the draft ombudsman scheme rules. In order to make the rules comprehensible and accessible to those who will have to refer to them, we

have sought to produce a single coherent set of rules, rather than a series of separate instruments which mirror the FSA's and the FOS's different areas of responsibility under the FSMB. Wherever possible, the requirements relating to the Compulsory and Voluntary Jurisdictions are identical and, in order to avoid duplication and undue complexity, a substantial number of rules are therefore 'common' rules, which will be made by both the FSA and the FOS under their respective powers under the legislation.

The draft rules are based on the provisions of the FSMB as it currently stands. Transitional provisions will be made under the FSMB once enacted. However, we expect that the Scheme will be able to deal with pre-N2<sup>1</sup> complaints which the relevant existing schemes would have been able to handle.

CP49 contains a statement of the FSA's reasons for believing that the proposed rules and guidance are compatible with its general duties under the FSMB. The FSA believes that the new complaints rules and the existence of the FOS, which will play a key part in the new regulatory system, will help it to meet its statutory objectives, particularly its consumer protection objective.

CP49 also contains a cost benefit analysis of the new arrangements, as required by the FSMB.

Annex A of CP49 sets out the draft rules which the FSA and the FOS respectively propose to make. These will replace the various different arrangements which currently apply to firms with a single set of requirements at N2.

The draft rules comprise four chapters:

- Complaints Handling Procedures for Firms;
- Jurisdiction Rules;
- Complaints Handling Procedures of the Scheme; and
- Standard Terms (for participation in the Voluntary Jurisdiction).

The draft funding rules (which will form a fifth chapter) are not included in the paper and will be published separately for consultation later this year. The FSA has decided to postpone consultation on these rules for two main reasons. This will provide further time for the Industry Funding Group (which has been providing us with valuable assistance) to help us to develop our views on how the funding proposals should be refined in order to achieve a result which is equitable across all industry sectors. It will also enable us to co-ordinate publication of these proposals with the publication of proposals for funding the FSA, on which a separate consultation paper is due to be issued during the summer.

<sup>1</sup> 'N2' is the date when the FSA and the FOS will assume their full powers. The date of N2 has not yet finally been decided.

The Financial Services Authority and the Financial Ombudsman Service Limited invite representations on this joint Consultation Paper. Both the FSA and the Financial Ombudsman Service Limited will receive copies of all responses.

Representations should reach us by 31 August 2000. You can send your response by electronic submission using the form on the FSA's website (at [www.fsa.gov.uk/pubs/cp/cp49\\_response.html](http://www.fsa.gov.uk/pubs/cp/cp49_response.html)), by e-mail or in writing to the following:

Miles Larbey  
Complaints Oversight and Policy Department  
The Financial Services Authority  
25 The North Colonnade  
Canary Wharf  
London E14 4HS

Telephone: 020 7676 0820  
Fax: 020 7676 9713  
E-mail: [cp49@fsa.gov.uk](mailto:cp49@fsa.gov.uk)

**It is the FSA's policy to make all responses to formal consultation available for public inspection unless the respondent requests otherwise.**

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