

07/9

Financial Services Authority

Treating Complainants Fairly

Feedback on CP06/19 (part) and
made rules

July 2007



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This Policy Statement reports on the main issues arising from Chapter 31 of Consultation Paper 06/19 (*Reforming Conduct of Business Regulation*) and publishes final rules.

Please address any comments or enquiries to:

Julian Watts
Retail Intelligence and Regulatory Themes
Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Telephone: 020 7066 1046
Fax: 020 7066 1047
E-mail: cp06_19@fsa.gov.uk

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1 Overview

1.1 This Policy Statement (PS):

- gives feedback (and final rules) on the consultation on the *Dispute Resolution: complaints* Sourcebook (Chapter 1) set out in CP06/19 (Chapter 31) (*Reforming Conduct of Business Regulation*); and
- confirms the rules set out in PS07/2 (Chapter 14) (*Implementing the Markets in Financial Instruments Directive (MiFID)*) which transposed that directive's requirements for complaints handling and complaints record keeping.¹

1.2 This PS is of interest to firms, participants in the Consumer Credit Jurisdiction (CCJ) and Voluntary Jurisdiction (VJ) of the Financial Ombudsman Service (FOS), and to consumers. In it, we express the views of the FSA, which made the rules in respect of firms. But for consistency, rules in the same terms (with some exceptions²) have been made by the FOS for CCJ and VJ participants. (Firms, and CCJ and VJ participants, are collectively referred to as 'respondents' here and in the rules).

1.4 This PS complements the new Conduct of Business Sourcebook established (in PS07/6) on the basis of principles-based regulation (PBR). PBR means, where possible, moving away from dictating through detailed, prescriptive rules and supervisory actions how firms should operate their business, and giving firms the responsibility to decide how best to align their business objectives and processes with the regulatory outcomes we have specified.

1.5 We have reduced prescription around process and timing for seeking to resolve complaints, creating a shorter set of rules that focus more clearly on fair outcomes for complainants and on the responsibility of respondents (and in particular their senior management) to deliver these. The complaints provisions of MiFID, meanwhile, have been implemented in a way that maintains simplicity and consistency of standards across types of business.

1 Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on Markets in Financial Instruments, Commission Directive 2006/73/EC of 10 August 2006 and Commission Regulation (EC) No 1287/2006 of 10 August 2006.

2 In particular, the complaints record rule and the complaints reporting rules apply only to firms.

1.6 We set out the final rules in the Instrument at Appendix 1 (see also, in due course, Handbook online (<http://www.fsa.gov.uk/Pages/handbook/>)). The rules come into force at 1 November 2007.

1.7 In four areas, namely:

- the proposed requirement to provide complaints process details around point of sale;
- the proposed requirement to refer to the ultimate availability of FOS around point of sale and in letters acknowledging complaints;
- the proposed highlighting and recasting of the existing (but seemingly little used) rule allowing respondents to close complaints by obtaining complainants' written acceptance of their responses³; and
- the proposed amendments to the complaints forwarding rules;

we have decided (in light of responses received to CP06/19) not to pursue the proposed changes, and instead to revert, in the made rules, to the relevant existing requirements. None of these reversions should lead to an increase in compliance costs for firms.

1.8 We have also:

- corrected the application provisions by reinstating existing requirements (omitted in error from the version consulted on) concerning:
 - relevant new complaints and relevant transitional complaints;
 - third party processors;
 - complaints about the activities of other respondents with which a respondent has some connection in marketing or providing financial services or products⁴; and
- reinstated in full the equivalent of the existing rules on the Society of Lloyds⁵;

but as the effect of these changes is merely to ensure the final rules reflect the existing rules, they shouldn't lead to an increase in compliance costs for firms.

1.9 We also expect none of the additional changes to guidance in DISP 1 that we have made (see para 2.12 below) to lead to incremental costs of more than minimal significance.

1.10 Lastly, we would draw attention to CP07/14, which proposes simplifications of DISP 2-4 (concerning the jurisdiction and procedures of the FOS), but also consults on two further aspects relevant to the final rules set out here (see paras 2.4 to 2.7 below).

3 Old DISP 1.4.3AR

4 See the new glossary definition of *complaint*

5 Old DISP 1.7

Small Firms

The final rules do not alter the fundamental requirements already in DISP about prompt and fair investigation, adjudication and communication with complainants concerning complaints. Some of the changes give respondents more flexibility, particularly around communicating with complainants about their complaints.

Consumers

Consumers will benefit from the shorter, clearer, more outcome focused New DISP rules, which will lead firms and other respondents to improve the speed, quality and fairness of their efforts to resolve complaints and their communications with complainants.

2 Key points arising from responses and our decisions on them

2.1 This chapter sets out responses received on our proposals, and our replies.

In CP06/19 we asked:

Q94: Do you agree the draft New DISP text provides a better focus on the key aspects of fair and timely complaints resolution?

General approach

2.2 An overwhelming majority of responses agreed with our general approach to revising the rules.

2.3 Some expressed reservations about the potential for associated website or other material to complement the new shorter rules. They feared this might lead to a proliferation of material that had not been through cost-benefit disciplines and was of uncertain force.

Our response: We welcome the support for our approach. We have taken the opportunity, in light of responses, to reorder sections of the rules. This will draw out even more clearly the fundamental ‘qualitative’ requirements of fair resolution which underpin the more procedural rules around time limits.

Concerning non-Handbook material under PBR, if a firm complies with the Principles, high-level rules and other rules, then it is irrelevant whether it has complied with the other material we have issued (see pp 10-11 of *Principles-based regulation – focusing on the outcomes that matter* (April 2007)).

But we would not envisage material on dealing with complaints coming solely (or even mainly) from us. We remain willing to discuss with trade bodies, or others, good practice material which they have developed or may develop.

Two-stage process

2.4 Although we had not proposed changes to the current rules on the two-stage process in CP06/19, we flagged a review of its workings and of the potential scope for harmonising it with the core resolution rule.

- 2.5 We surveyed a sample of firms to assess how the two-stage process is used in practice, and the flow of complaints through it. Independently of this, we conducted thematic work on banks' handling of complaints about overdraft fees/charges.
- 2.6 On the one hand, this work made clear that altering the fundamental aspects of the two-stage process would involve significant additional costs to firms, so change cannot be undertaken lightly. But the work also raised certain issues about some firms' interpretation of the process.

Our response: The two-stage process is left unchanged in the rules made here. And we are still considering the implications of the banking complaint work for any further changes to the rules. But in the meantime, for reasons we set out in CP07/14 (Chapter 3), in particular to support the key outcome of clear and timely disclosure to complainants concerning FOS, we are consulting there on proposed additional guidance intended to make clear that firms should refer to FOS, where the rules require this, on the *face* of their responses to complainants.

Written acceptances by complainants

- 2.7 The draft rules highlighted to respondents (for example, as a potential alternative to the two-stage process) the existing (but seemingly little used) option of closing complaints by obtaining the complainant's written acceptance of a response.⁶ However, firms regarded this as unwieldy and unattractive to complainants, and consumer stakeholders did not give it particular support.

Our response: In light of these responses, we have decided not to recast this rule in the proposed manner, and to retain its existing form in the rules made here. But for reasons set out in CP07/14, in particular to support once again the key outcome of clear and timely disclosure to complainants concerning FOS, we are consulting there on a proposed amendment to the rule that would require responses made under it to now refer to the 'ultimate availability of the FOS' (as is already required of initial responses made under the two-stage process⁷).

Time limits

- 2.8 Some firms welcomed the draft guidance on our expectation that most complaints should be dealt with through a substantive response by eight weeks, as useful confirmation of what they took to be the existing position. But some thought this was a new expectation that was not in keeping with a principles-based approach, and which ignored the fact that some kinds of complaints simply take longer than others to deal with.

Our response: This guidance merely highlights the approach to timeliness that we have clearly and consistently taken in, for example, our supervisory strategy towards firms' handling of mortgage endowment complaints (which are at the more complex end of the complaint spectrum). We have also taken this approach to timeliness in our wider dealings with, and communications to, firms about these and other complaints.

6 Old DISP 1.4.3AR

7 Old DISP 1.4.9R(3)

The guidance does not imply any additional burden to the retail market as a whole, whose aggregate reported complaints to us indicate most are already substantively dealt with in this timescale. But it does aim to help improve the performance of those who are performing poorly. And it does, in any case, recognise there may always be some complaints which a firm, for unavoidable reasons, proves unable to address substantively within eight weeks.

We think this entirely compatible with a PBR approach because it does not involve procedural prescription. Instead, it aims for the important high-level outcome of minimising the number of complainants who might otherwise turn to the FOS because they had not received any substantive response to their complaint from the firm.

For these reasons, we have retained the guidance.

Root cause analysis

- 2.9 Some firms welcomed the greater clarity in the draft rules and guidance on the root cause analysis of complaints and the treatment of consumers who may have been affected by issues but had not complained. But some queried the need for separate provisions for complaints about non-MiFID business and MiFID business.

Our response: Given the relevant parts of SYSC referred to in the guidance do not apply to non-MiFID business⁸, we need a separate rule concerning root cause analysis for complaints about non-MiFID business.

Forwarding complaints

- 2.10 The draft rules on a respondent forwarding a complaint to another respondent (which it has reasonable grounds to be satisfied may be responsible for the fault alleged) proposed:
- a) no longer requiring the respondent forwarding the complaint to tell the complainant it has done so in a final response letter, or to report that complaint on its complaints return to us;
 - b) prohibiting a complaint from being referred a second time (to rule out multiple referrals back and forth between two respondents); and
 - c) excluding such forwarding from the ‘lighter touch’ approach available under the rules for complaints resolved by the close of the next business day.⁹
- 2.11 However, a number of responses felt these changes did not improve on the current rules. In particular, there was concern that prohibiting a respondent from forwarding a complaint a second time might create a perverse incentive for the respondent that received a forwarded complaint always to send it back. It was also felt disproportionate to preclude a complaint that might be minor, but properly lay with another respondent, from being handled by the respondent that initially received it under the ‘resolved by close of next business day’ rule.

8 SYSC 6.1 includes obligations concerning firms’ controls over the risks of compliance failures.

9 Old DISP 1.3.3R(2)

Our response: In light of these responses, we have retained the existing rules. This means, among other things, that a complaint which would otherwise be treated under the forwarding rules can be dealt with under the ‘resolved by next business day’ rule. But we have made clear (in the overarching complaints resolution rules) that a respondent taking this route must still have had reasonable grounds to be satisfied that it was another respondent that may be solely or jointly responsible for the fault alleged.

Guidance

- 2.12 There were various suggestions for reductions in the draft guidance. Conversely, some questions implied the need for some existing guidance omitted in the CP to be reinstated.

Our response: We have removed from the final rules the following pieces of guidance consulted on (not because we are relaxing relevant requirements, but because we think they are covered elsewhere in the Handbook or else are self-evident):

- expressions of dissatisfaction not covered by the rules; and
- the role of appointed representatives in complaints covered by the rules.

But we have reinstated guidance in the final rules on:

- the need to resolve complaints at the earliest possible opportunity, minimising the number of unresolved complaints which need to be referred to the FOS; and
- completing the complaints return (pending the outcome of the review of the return in the forthcoming CP on integrated regulatory reporting – see para 2.18 below).

In CP06/19 we asked:

Q95: Do you agree with our removing: a] the five-day requirement for acknowledgement; b] the four-week requirement for a holding reply; and changing c] firms’ publicising obligations?

The five-day requirement for acknowledgement

- 2.13 Most firms welcomed the removal of this time-limit (and its replacement by ‘prompt’) and the increased flexibility that would result (though some said they would leave the five-day limit ‘hardwired’ in their system anyway).
- 2.14 A few saw little point in the change, considering the time-limit a clear signpost to consumers about the start of the complaints process. Consumer stakeholders felt this more strongly, seeing the time-limit as an important consumer protection measure. So they disagreed with its removal, fearing this would encourage less well-intentioned firms to abuse the greater discretion now left to them.

The four-week requirement for a holding reply

- 2.15 There was wide support for our replacing this by a requirement to ‘keep complainants reasonably informed’ of the progress of their complaint. But consumer stakeholders again saw the existing requirement as a useful prescription which guarantees minimum standards for keeping the complainant informed. They said its removal would grant too much discretion to less well-intentioned firms.

Our response: We do not agree the five-day time-limit for acknowledgement, or four-week holding reply requirement, are key consumer protections, or that removing the prescriptive time limits around them will lead to significant detriment – after all, the fundamental protections available to the complainant (their right to have their complaint assessed promptly and fairly by the firm; and their being able to go to the FOS after eight weeks, and being told of this by the firm) remain unchanged. Rather, these changes are a small but important part of that wider shifting of focus from compliance with procedural detail to a focus on delivering the key outcomes – complaints dealt with fairly and promptly; and complainants informed appropriately of their rights. We will, of course, continue to hold firms accountable for delivering these outcomes.

Firms' publicising obligations

- 2.16 We proposed that firms should now be required to provide complaints process details, including reference to the ultimate availability of the FOS,¹⁰ around the point of sale (rather than merely referring to the availability of such process details as was previously required), and that letters acknowledging a complaint should also now refer to 'the ultimate availability of the FOS'. These proposed changes were supported by consumer stakeholders, and some companies involved in complaint handling, as potentially raising consumer awareness.
- 2.17 But other firms and trade bodies strongly disagreed with the proposals, on the grounds that providing these details on complaints process around point of sale was not timely, and would merely add to the other messages the consumer was receiving then. They said that providing the reference to the ultimate availability of FOS when acknowledging a complaint was also not timely, since the consumer had no decision to make then, as the firm was still considering the complaint.

Our response: In light of these arguments, we have not taken forward the proposals. So in the made rules set out here, the requirements remain, as in current DISP, that respondents should refer in writing at, or immediately after the point of sale to the availability of information about their complaints process¹¹, and provide this information (which may be in leaflet form) when acknowledging a complaint¹². But this information should still, as now, include reference to the place of the FOS in the complaints process.¹³

Complaints reporting

- 2.18 Although we had not consulted on any changes to the complaint reporting requirements, some firms took the opportunity to ask us to review these.

Our response: As part of our Better Regulation work, we are consulting, in the forthcoming CP on integrated regulatory reporting requirements, on reductions in the volume of information collected in the complaints return.

10 This phrase is drawn from the existing requirements for an initial response under the two-stage process – old DISP 1.4.9R(3).

11 Old DISP 1.2.9R(1)

12 Old DISP 1.2.9R(2) and 1.4.1R

13 Old DISP 1.2.4G(4)

In CP06/19 we asked:

Q97: Do you agree with the proposed change to the DISP criteria for 'eligible complainants'?

- 2.19 No firms objected to the proposed change, seeing little impact from it. One other response expressed concern that authorised intermediaries cannot complain under the rules to the FOS about, for example, professional indemnity insurance.

Our response: The exclusion from the FOS jurisdiction of complaints from small businesses that are authorised firms which relate to matters connected to that authorisation, has been reviewed several times in previous consultations. We continue to believe it is proportionate and appropriate.

In CP06/19 we asked:

Q99: Do you agree with our view of straightforward transition to 'New DISP', or are there complications we have not allowed for?

Transitional provisions

- 2.20 No responses identified additional complexities of transition.

List of non-confidential responses to CP06/19 (chapter 31)

Adam Samuel

AEGON UK

Association of British Insurers

Association of Friendly Societies

Association of Independent Financial Advisers

Association of Private Client Investment Managers and Stockbrokers

Aviva

Axa Life

Baillie Gifford & Co

Britannia Building Society

British Bankers' Association

Building Societies Association

Capita Group

Deloitte & Touche LLP

F&C Asset Management PLC

Fidelity Investments

Financial Services Consumer Panel

Friends Provident

Gissings

GMAC-RFC Limited

Hastings Insurance services Limited Firm

HBOS

Higham Dunnett Shaw
Huntswood
International Financial Data Services
Investment and Life Assurance Group
Investment Management Association
Joint trade associations (AFB, FOA, ICMA, ISDA, LIBA and SIFMA)
Legal and General Group
Liverpool Victoria
Lloyd's
Nationwide
NFU Mutual
Openwork
Prudential
Rathbone
Respond Group Ltd
Royal London Group
Royal & SunAlliance
Scottish Widows
Sesame Ltd
Simplyhealth
Smaller Businesses Practitioner Panel
The Children's Mutual
UnumProvident
Which?
Zurich Financial Services

Appendix 1

Made text

**DISPUTE RESOLUTION: COMPLAINTS (SIMPLIFICATION AND MiFID)
INSTRUMENT 2007**

Powers exercised by the Financial Ombudsman Service Limited

- A. The Financial Ombudsman Service Limited makes:
- (1) the rules and guidance in Annexes A and B to this instrument for licensees relating to the Consumer Credit Jurisdiction; and
 - (2) the standard terms and guidance in Annexes A and B to this instrument for VJ participants relating to the Voluntary Jurisdiction;
- in exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (a) section 226A (Consumer credit jurisdiction);
 - (b) section 227 (Voluntary Jurisdiction);
 - (c) paragraph 16B (Consumer credit jurisdiction) of Schedule 17;
 - (d) paragraph 18 (Terms of reference to the scheme) of Schedule 17;
 - (e) paragraph 14 (The scheme operator’s rules) of Schedule 17; and
 - (f) paragraph 8 (Guidance) of Schedule 17.
- B. In each case the Financial Services Authority approves the rules and standard terms and guidance to be made by the Financial Ombudsman Service Limited.

Powers exercised by the Financial Services Authority

- C. The Financial Services Authority makes the rules and guidance in this instrument for firms relating to the Compulsory Jurisdiction in the exercise of the powers and related provisions in or under:
- (1) the following sections of the Act:
 - (a) section 138 (General rule-making power);
 - (b) section 156 (General supplementary powers);
 - (c) section 157(1) (Guidance);
 - (d) section 226 (Compulsory jurisdiction);
 - (e) section 234 (Industry funding); and
 - (f) paragraph 13(4) (Authority’s procedural rules) of Schedule 17;
 - (2) 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 (SI 2001/2326); and

- (3) 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 (SI 2004/454).

- D. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

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

Amendments to the Dispute Resolution: Complaints sourcebook

- F. The Dispute Resolution: Complaints sourcebook (DISP) is amended in accordance with Annex A to this instrument.

Consequential amendments to the Handbook

- G. The modules of the FSA's Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex B
Mortgages: Conduct of Business sourcebook (MCOB)	Annex C
Supervision manual (SUP)	Annex D
Credit Unions sourcebook (CRED)	Annex E
Professional Firms sourcebook (PROF)	Annex F

Notes

- H. In Annex A to this instrument, the "notes" (indicated by "**Note:**") are included for the convenience of readers but do not form part of the legislative text.

Citation

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

By order of the Board of the Financial Ombudsman Service Limited
7 June 2007

By order of the Board of the Financial Services Authority
28 June 2007

Annex A

Amendments to 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.

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

1 Treating complainants fairly

1.1 Purpose and application

Purpose

- 1.1.1 G This chapter contains *rules* and *guidance* on how *respondents* should deal promptly and fairly with *complaints* in respect of business carried on from establishments in the *United Kingdom* or by certain *branches* of *firms* in the *EEA*. It is also relevant to those who may wish to make a *complaint* or refer it to the *Financial Ombudsman Service*.

Background

- 1.1.2 G Details of how this chapter applies to each type of *respondent* are set out below. For this purpose, *respondents* include:
- (1) *persons* carrying on *regulated activities* and covered by the *Compulsory Jurisdiction (firms)*;
 - (2) *persons* covered by the *Consumer Credit Jurisdiction (licensees)*; and
 - (3) *persons* who have opted in to the *Voluntary Jurisdiction (VJ participants)*.

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 or its *appointed representative* in the *United Kingdom*.
 - (2) For *complaints* relating to the *MiFID business* of a *firm*, the *complaints handling rules* and the *complaints record rule*:
 - (a) apply to *complaints* from *retail clients* and do not apply to *complaints* from *eligible complainants* who are not *retail clients*;

- (b) also apply in respect of activities carried on from a *branch* of a *UK firm* in another *EEA State*; and
 - (c) do not apply in respect of activities carried on from a *branch* of an *EEA firm* in the *United Kingdom*.
- 1.1.4 R Where a *firm* has outsourced activities to a *third party processor*, *DISP* 1.1.3R does not apply to the *third party processor* when acting as such, but applies to the *firm* which is taking responsibility for the acts and omissions of the *third party processor* in respect of the outsourced activities.
- 1.1.5 R This chapter does not apply to:
 - (1) a *UCITS qualifier*;
 - (2) a *credit union*; and
 - (3) an *authorised professional firm* in respect of expressions of dissatisfaction about its *non-mainstream regulated activities*.
- 1.1.6 G Analogous obligations relevant to *credit unions* are set out in *CRED* 17.
- 1.1.7 R This chapter applies to the *Society*, *members* of the *Society* and *managing agents*, subject to the *Lloyd's complaint rules*.
- 1.1.8 R An *insurance intermediary*, that is not also an *insurer*, must have in place and operate appropriate and effective procedures for registering and responding to *complaints* from a *person* who is not an *eligible complainant*.

[**Note:** article 10 of the *Insurance Mediation Directive*]
- 1.1.9 G A *complaint* about pre-commencement investment business which was regulated by a *recognised professional body* will be handled under the arrangements of that professional body and is outside the scope of this sourcebook.
- 1.1.10 R In relation to a *firm's* obligations under this chapter, references to a *complaint* also include an expression of dissatisfaction which is capable of becoming a *relevant new complaint* or a *relevant transitional complaint*.

FSAVC Review

- 1.1.11 R Where the subject matter of a *complaint* is subject to a review directly or indirectly under the terms of the policy statement for the review of specific categories of *FSAVC* business issued by the *FSA* on 28 February 2000, the *complaints resolution rules*, the *complaints time limit rules*, the *complaints record rule* and the *complaints reporting rules* will apply only if the *complaint* is about the outcome of the review.

Exemptions

- 1.1.12 R (1) A *firm* falling within the *Compulsory Jurisdiction* which does not conduct business with *eligible complainants* and has no reasonable likelihood of doing so, can, by written notification to the *FSA*, claim exemption from the *rules* relating to the funding of the *Financial Ombudsman Service*, and from the remainder of this chapter.
- (2) Notwithstanding (1), the *complaints handling rules* and *complaints record rule* will continue to apply in respect of *complaints* concerning *MiFID business*.
- (3) The exemption takes effect from the date on which the written notice is received by the *FSA* and will cease to apply when the conditions relating to the exemption no longer apply.

- 1.1.13 G *SUP 15.6* refers to and contains requirements regarding the steps that *firms* must take to ensure that information provided to the *FSA* is accurate and complete. Those requirements apply to information submitted to the *FSA* under this chapter.

Application to licensees and VJ participants

- 1.1.14 R This chapter (except the *complaints record rule* and the *complaints reporting rules*) applies to *licensees* for *complaints* from *eligible complainants*.
- 1.1.15 R This chapter (except the *complaints record rule* and the *complaints reporting rules*) applies to *VJ participants* for *complaints* from *eligible complainants* as part of the *standard terms*.
- 1.1.16 G Although *licensees* and *VJ participants* are not required to comply with the *complaints record rule*, it is in their interest to retain records of *complaints* so that these can be used to assist the *Financial Ombudsman Service* should it be necessary.
- 1.1.17 R In relation to the *Consumer Credit Jurisdiction* only, *FOS Ltd* may dispense with, or modify, the application of the *rules* in this chapter to *licensees* where it considers it appropriate to do so and is satisfied that:
- (1) compliance by the *licensee* with the *rules* would be unduly burdensome or would not achieve the purpose for which the *rules* were made; and
- (2) it would not result in undue risk to the *persons* whose interests the *rules* were intended to protect.
- 1.1.18 G This power is intended to deal with exceptional circumstances, for example, where it is not possible for a *licensee* to meet the specified time limits, and any dispensation or modification is likely to be rare.

Outsourcing of complaint handling

- 1.1.19 G (1) This chapter does not prevent:
- (a) the use by a *respondent* of a third party administrator to handle or resolve *complaints* (or both); or
 - (b) two or more *respondents* arranging a one-stop shop for handling or resolving *complaints* (or both) under a service level agreement.
- (2) These arrangements do not affect *respondents'* obligations as set out in *DISP* or the provisions relating to *outsourcing* by a *firm* set out in *SYSC* 8 and *SYSC* 13.
- 1.1.20 G Further *guidance* on the application of this chapter is set out in the table in *DISP* 1 Annex 2G.

1.2 Consumer awareness rules

- 1.2.1 R To aid consumer awareness of the protections offered by the provisions in this chapter, *respondents* must:
- (1) publish appropriate summary details of their internal process for dealing with *complaints* promptly and fairly;
 - (2) refer *eligible complainants* in writing to the availability of these summary details at, or immediately after, the point of sale; and
 - (3) provide such summary details in writing to *eligible complainants*:
 - (a) on request; and
 - (b) when acknowledging a *complaint*.
- 1.2.2 R Where the activity does not involve a sale, the obligation in *DISP* 1.2.1R(2) shall apply at, or immediately after, the point when contact is first made with an *eligible complainant*.
- 1.2.3 G These summary details should cover at least:
- (1) how the *respondent* fulfils its obligation to handle and seek to resolve relevant *complaints*; and
 - (2) that, if the *complaint* is not resolved, the complainant may be entitled to refer it to the *Financial Ombudsman Service*.
- 1.2.4 G The summary details may be set out in a leaflet, and their availability may be referred to in contractual documentation.
- 1.2.5 G *Respondents* may also display or reproduce the *Financial Ombudsman Service* logo (under licence) in :

- (1) branches and sales offices to which *eligible complainants* have access;
or
- (2) marketing literature or correspondence directed at *eligible complainants*;

provided it is done in a way which is not misleading.

1.3 Complaints handling rules

- 1.3.1 R Effective and transparent procedures for the reasonable and prompt handling of *complaints* must be established, implemented and maintained by:
- (1) a *respondent*; and
 - (2) a *branch* of a *UK firm* in another *EEA State*.
- [**Note:** article 10 of the *MiFID implementing Directive*]
- 1.3.2 G These procedures should:
- (1) allow *complaints* to be made by any reasonable means; and
 - (2) recognise *complaints* as requiring resolution.
- 1.3.3 R In respect of *complaints* that do not relate to *MiFID business*, a *respondent* must put in place appropriate management controls and take reasonable steps to ensure that in handling *complaints* it identifies and remedies any recurring or systemic problems, for example, by:
- (1) analysing the causes of individual *complaints* so as to identify root causes common to types of *complaint*;
 - (2) considering whether such root causes may also affect other processes or products, including those not directly complained of; and
 - (3) correcting, where reasonable to do so, such root causes.
- 1.3.4 G A *firm* should use the information it gains from dealing with *complaints* that relate to *MiFID business* in accordance with this chapter to inform its compliance with its obligations to monitor the adequacy and effectiveness of its measures and procedures to detect and minimise any risk of compliance failures (*SYSC 6.1*).
- 1.3.5 G A *firm* should have regard to *Principle 6* (Customers' interests) when it identifies problems, root causes or compliance failures and consider whether it ought to act on its own initiative with regard to the position of *customers* who may have suffered detriment from, or been potentially disadvantaged by such factors, but who have not complained.

1.4 Complaints resolution rules

- 1.4.1 R Once a *complaint* has been received by a *respondent*, it must:
- (1) investigate the *complaint* competently, diligently and impartially;
 - (2) assess fairly, consistently and promptly:
 - (a) the subject matter of the *complaint*;
 - (b) whether the *complaint* should be upheld;
 - (c) what remedial action or redress (or both) may be appropriate;
 - (d) if appropriate, whether it has reasonable grounds to be satisfied that another *respondent* may be solely or jointly responsible for the matter alleged in the *complaint*;taking into account all relevant factors;
 - (3) offer redress or remedial action when it decides this is appropriate;
 - (4) explain to the complainant promptly and, in a way that is fair, clear and not misleading, its assessment of the *complaint*, its decision on it, and any offer of remedial action or redress; and
 - (5) comply promptly with any offer of remedial action or redress accepted by the complainant.
- 1.4.2 G Factors that may be relevant in the assessment of a *complaint* under *DISP* 1.4.1R(2), include the following:
- (1) all the evidence available and the particular circumstances of the *complaint*;
 - (2) similarities with other *complaints* received by the *respondent*;
 - (3) relevant *guidance* published by the *FSA*, other relevant regulators, the *Financial Ombudsman Service* or *former schemes*; and
 - (4) appropriate analysis of decisions by the *Financial Ombudsman Service* concerning similar *complaints* received by the *respondent*.
- 1.4.3 G The *respondent* should aim to resolve *complaints* at the earliest possible opportunity, minimising the number of unresolved *complaints* which need to be referred to the *Financial Ombudsman Service*.

- 1.4.4 R Where a *complaint* against a *respondent* is referred to the *Financial Ombudsman Service*, the *respondent* must cooperate fully with the *Financial Ombudsman Service* and comply promptly with any settlements or awards made by it.
- 1.4.5 G *DISP* App 2 contains *guidance* to *respondents* on the approach to assessing financial loss and appropriate redress where a *respondent* upholds a *complaint* concerning the sale of an endowment policy for the purposes of repaying a *mortgage*.

1.5 Complaints resolved by close of the next business day

- 1.5.1 R The following *rules* do not apply to a *complaint* that is resolved by a *respondent* by close of business on the *business day* following its receipt:
- (1) the *complaints time limit rules*;
 - (2) the *complaints forwarding rules*;
 - (3) the *complaints reporting rules*; and
 - (4) the *complaints record rule*, if the *complaint* does not relate to *MiFID business*.
- 1.5.2 G *Complaints* falling within this section are still subject to the *complaint resolution rules*.
- 1.5.3 G For the purposes of this section:
- (1) a *complaint* received on any day other than a *business day*, or after close of business on a *business day*, may be treated as received on the next *business day*; and
 - (2) a *complaint* is resolved where the complainant has indicated acceptance of a response from the *respondent*, with neither the response nor acceptance having to be in writing.

1.6 Complaints time limit rules

Keeping the complainant informed

- 1.6.1 R On receipt of a *complaint*, a *respondent* must:
- (1) send the complainant a prompt written acknowledgement providing early reassurance that it has received the *complaint* and is dealing with it; and

- (2) ensure the complainant is kept informed thereafter of the progress of the measures being taken for the *complaint's* resolution.

Final or other response within eight weeks

- 1.6.2 R The *respondent* must, by the end of eight weeks after its receipt of the *complaint*, send the complainant:
- (1) a *final response*; or
 - (2) a written response which:
 - (a) explains why it is not in a position to make a *final response* and indicates when it expects to be able to provide one;
 - (b) informs the complainant that he may now refer the *complaint* to the *Financial Ombudsman Service*; and
 - (c) encloses a copy of the *Financial Ombudsman Service* standard explanatory leaflet.
- 1.6.3 G *Respondents* are not obliged to comply with the requirements in *DISP* 1.6.2R where they are able to rely on any of the following *rules*:
- (1) the complainant's written acceptance *rule* (*DISP* 1.6.4R);
 - (2) the *rules* for *respondents* with two-stage *complaints* procedures (*DISP* 1.6.5R); or
 - (3) the complaints forwarding *rules* (*DISP* 1.7).

Complainant's written acceptance

- 1.6.4 R *DISP* 1.6.2R does not apply if the complainant has already indicated in writing acceptance of a response by the *respondent*, provided that the response informs the complainant how to pursue his *complaint* with the *respondent* if he remains dissatisfied.

Respondents with two-stage complaints procedures

- 1.6.5 R If, within eight weeks of receiving a *complaint*, the *respondent* sends the complainant a written response which:
- (1) offers redress or remedial action (whether or not it accepts the *complaint*) or rejects the *complaint* and gives reasons for doing so;
 - (2) informs the complainant how to pursue his *complaint* with the *respondent* if he remains dissatisfied;
 - (3) refers to the ultimate availability of the *Financial Ombudsman Service* if he remains dissatisfied with the *respondent's* response; and

- (4) indicates it will regard the *complaint* as closed if it does not receive a reply within eight weeks of the complainant's receipt of the response;

the *respondent* is not obliged to continue to comply with *DISP* 1.6.2R unless the complainant indicates that he remains dissatisfied, in which case, the obligation to comply with *DISP* 1.6.2R resumes.

- 1.6.6 R If the complainant takes more than a week to reply to a written response of the kind described in *DISP* 1.6.5R, the additional time in excess of a week will not count for the purposes of the time limits in *DISP* 1.6.2R or the *complaints reporting rules*.

Speed and quality of response

- 1.6.7 G It is expected that within eight weeks of their receipt, almost all *complaints* to a *respondent* will have been substantively addressed by it through a *final response* or response as described in *DISP* 1.6.4R or *DISP* 1.6.5R.
- 1.6.8 G When assessing a *respondent's* response to a *complaint*, the *FSA* may have regard to a number of factors, including, the quality of response, as against the *complaints resolution rules*, as well as the speed with which it was made.

1.7 Complaints forwarding rules

- 1.7.1 R A *respondent* that has reasonable grounds to be satisfied that another *respondent* may be solely or jointly responsible for the matter alleged in a *complaint* may forward the *complaint*, or the relevant part of it, in writing to that other *respondent*, provided it:
- (1) does so promptly;
 - (2) informs the complainant promptly in a *final response* of why the *complaint* has been forwarded by it to the other *respondent*, and of the other *respondent's* contact details; and
 - (3) where jointly responsible for the fault alleged in the *complaint*, it complies with its own obligations under this chapter in respect of that part of the *complaint* it has not forwarded.

Dealing with a forwarded complaint

- 1.7.2 R When a *respondent* receives a *complaint* that has been forwarded to it under *DISP* 1.7.1R, the *complaint* is treated for the purposes of *DISP* as if made directly to that *respondent*, and as if received by it when the forwarded *complaint* was received.
- 1.7.3 G On receiving a forwarded *complaint*, the standard time limits will apply from the date on which the *respondent* receives the forwarded *complaint*.

1.8 Complaints time barring rule

- 1.8.1 R If a *respondent* receives a *complaint* which is outside the time limits for referral to the *Financial Ombudsman Service* (see *DISP* 2.3) it may reject the *complaint* without considering the merits, but must explain this to the complainant in a *final response* in accordance with *DISP* 1.6.2R and indicate that the *Ombudsman* may waive the time limits in exceptional circumstances.

1.9 Complaints record rule

- 1.9.1 R A *firm*, including, in the case of *MiFID business*, 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*]

1.10 Complaints reporting rules

- 1.10.1 R Twice a year a *firm* must provide the *FSA* with a complete report concerning *complaints* received from *eligible complainants*. The report must be set out in the format in *DISP* 1 Annex 1R.
- 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 four 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;
 - (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, when completing the return, the *firm* should take into account the following matters.

- (1) If a *complaint* could fall into more than one category, the *complaint* should be recorded in the category which the *firm* considers to form the main part of the *complaint*.
- (2) Under *DISP* 1.10.2R(3)(a), a *firm* should report any *complaint* to which it has given a *final response* which upholds the *complaint*, even if any redress offered is disputed by the complainant. Where a *complaint* is upheld in part, 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) If a *firm* reports on the amount of redress paid under *DISP* 1.10.2R(4), redress should be interpreted to include an amount paid, or cost borne, by the *firm*, where a cash value can be readily identified, and should include:
 - (a) amounts paid for distress and inconvenience;
 - (b) a free transfer out to another provider which transfer would normally be paid for;
 - (c) goodwill payments and goodwill gestures;
 - (d) interest on delayed settlements;
 - (e) waiver of an excess on an insurance policy; and
 - (f) payments to put the consumer back into the position the consumer should have been in had the act or omission not occurred.

- (4) If a *firm* reports on the amount of redress paid under *DISP* 1.10.2R(4), the redress should not, however, include repayments or refunds of premiums which had been taken in error (for example where a *firm* had been taking, by direct debit, twice the actual premium amount due under a policy). The refund of the overcharge would not count as redress.
- 1.10.4 R The relevant reporting periods are:
- (1) the six *months* immediately following a *firm's accounting reference date*; and
 - (2) the six *months* immediately preceding a *firm's accounting reference date*.
- 1.10.5 R Reports are to be submitted to the *FSA* within 30 *business days* of the end of the relevant reporting periods through, and in the electronic format specified in, the *FSA* Complaints Reporting System or the appropriate section of the *FSA* website.
- 1.10.6 R If a *firm* is unable to submit a report in electronic format because of a systems failure of any kind, the *firm* must notify the *FSA*, in writing and without delay, of that systems failure.
- 1.10.7 R A closed *complaint* is a *complaint* where:
- (1) the *firm* has sent a *final response*; or
 - (2) the complainant has indicated in writing acceptance of the *firm's* earlier response under *DISP* 1.6.4R; or
 - (3) for a *firm* which operates a two-stage *complaints* procedure, the complainant has not indicated that he remains dissatisfied within eight weeks of the response sent by the *firm* under *DISP* 1.6.5R.
- 1.10.8 G If a *complaint* is reported as closed under *DISP* 1.10.2R(2) because the complainant has not replied to the *firm* within eight weeks of a written response which meets the requirements in *DISP* 1.6.5R, the *firm* may treat the date of that response as the date when the *complaint* was closed for the purposes of the reporting requirements in *DISP* 1.10.2R(2).

Notification of contact point for complainants

- 1.10.9 R For the purpose of inclusion in the public record maintained by the *FSA*, a *firm* must:
- (1) provide the *FSA*, at the time of its *authorisation*, with details of a single contact point within the *firm* for complainants; and

- (2) notify the *FSA* of any subsequent change in those details when convenient and, at the latest, in the *firm's* next report under the *complaints reporting rules*.

1.11 The Society of Lloyd's

- 1.11.1 R The *Society* must establish and maintain appropriate and effective procedures for handling *complaints* by *policyholders* against *members* of the *Society* which comply with this chapter.
- 1.11.2 R A *member* of the *Society* must, in complying with this chapter, ensure that the arrangements which the *member* maintains are compatible with the *Lloyd's complaint procedures*, so that, taken as a whole, the requirements of this sourcebook are met.
- 1.11.3 R The *Society* must take reasonable steps to ensure that *complaints* by *policyholders* against *members* of the *Society* are dealt with under the *Lloyd's complaint procedures* and that *members* comply with the requirements of those procedures.
- 1.11.4 R A *complaint* by a *policyholder* against a *member* of the *Society* may not be referred to the *Financial Ombudsman Service* until after the *Lloyd's complaint procedures* have been completed or until after the end of eight weeks from receipt of the *complaint*, whichever is the earlier.
- 1.11.5 R (1) A notification claiming exemption under *DISP* 1.1.12R from the *complaints reporting rules* and the *rules* relating to the funding of the *Financial Ombudsman Service* must be given to the *FSA* by the *Society* on behalf of any *member* eligible for an exemption.
- (2) The *Society* must notify the *FSA* if the conditions relating to such an exemption no longer apply to a *member* who is exempt.
- 1.11.6 R The report to be sent to the *FSA* under the *complaints reporting rules* must be provided by the *Society* and must cover all *complaints* by *policyholders* against *members* falling within the scope of the *complaints reporting rules*.
- 1.11.7 G Each *member* of the *Society* is individually subject to the *rules* in this chapter as a result of the *insurance market direction* given in *DISP* 2.5.4D under section 316 of the *Act* (Direction by Authority).
- 1.11.8 G However, the *Society* operates a two-tier internal complaints handling procedure, currently set out in the "Code for Underwriting agents: UK Personal Lines Claims and Complaints Handling". Under this procedure, *complaints* by *policyholders* against *members* of the *Society* are considered by the *managing agent* and then, if necessary, by the *Society's* in-house Complaints Department. This procedure (and any procedure that may replace it) will be subject to the requirements in this chapter.

- 1.11.9 G *Members* will individually comply with this chapter if and only if all *complaints* by *policyholders* against *members* are dealt with under the *Lloyd's complaints procedures*. Accordingly, certain of the obligations under this chapter, for example the obligation to report on *complaints* received and the obligation to pay fees under the *rules* relating to the funding of the *Financial Ombudsman Service (FEES 5)*, must be complied with by the *Society* on behalf of *members*. *Managing agents* will not have to make a separate report to the *FSA* on *complaints* reported under the *complaints reporting rules* sent by the *Society*.
- 1.11.10 R A *members' adviser* must establish and maintain effective arrangements for handling any *complaint* from a *member* of the *Society* regarding advice given to the *member* in connection with the acquiring or disposing of *syndicate* participation.
- 1.11.11 G *Complaints* from *members* of the *Society* regarding the activities of *members' advisers*, which cannot be resolved by the *members' adviser*, cannot be referred to the *Financial Ombudsman Service*.
- 1.11.12 G The *Financial Ombudsman Service* is not able to deal with the *complaints* listed in *DISP 1.11.13R* and separate *rules* and *guidance* are therefore required.
- 1.11.13 R The *Society* must establish and maintain appropriate and effective arrangements for handling any complaint from a *member* or a *former member* about:
- (1) *regulated activities* carried on by the *Society*;
 - (2) the *Society's regulatory functions* carried on by the *Society*, the *Council* or those to whom the *Council* delegates authority to carry out such functions;
 - (3) advice given by an *underwriting agent* to a *person* to become, continue or cease to be, a member of a particular *syndicate*; and
 - (4) the management by a *managing agent* of the underwriting capacity of a *syndicate* on which the complainant participates or has participated.
- 1.11.14 R The *Society* must maintain by *byelaw* one or more appropriate effective schemes for the resolution of disputes between an *individual member* or a *former member* who was an *individual member* and:
- (1) his *underwriting agent*; or
 - (2) the *Society*.
- 1.11.15 R For the purposes of *DISP 1.11.13R* "*individual member*" includes a *member* which is a *limited liability partnership* or a *body corporate* whose members consist only of, or of the nominees for, a single natural person or a group of *connected persons*.

- 1.11.16 G The schemes to which *DISP* 1.11.13R currently refers are the *Lloyd's Arbitration Scheme* and the *Lloyd's Members' Ombudsman* respectively, but the *Society* may maintain other independent dispute resolution schemes in addition to, or instead of, either of these schemes.
- 1.11.17 G The schemes referred to in *DISP* 1.11.13R should be operationally independent of the *Society*.
- 1.11.18 G An *individual member* or *former member* who was an *individual member* should not have access to the schemes referred to in *DISP* 1.11.13R unless the *complaints* arrangements maintained by the *Society* have failed to resolve the *complaint* to his satisfaction within eight weeks of receiving it.
- 1.11.19 G The *Society* should give the *FSA* adequate notice of all proposed changes to the *byelaws* relating to the schemes referred to in *DISP* 1.11.13R.
- 1.11.20 G When considering what is required to ensure the operational independence of the schemes referred to in *DISP* 1.11.13R, or proposed changes in such schemes, the *Society* should take account of similar arrangements operated by the *Financial Ombudsman Service*.
- 1.11.21 R A contravention of *DISP* 1.11.13R or *DISP* 1.11.14R does not give rise to a right of action by a *private person* under section 150 of the *Act* (Actions for damages) and each of those *rules* is specified under section 150(2) of the *Act* as a provision giving rise to no such right of action.

...

DISP 1 Annex 1R

COMPLAINTS RETURN

(DISP 1 Ann 1R)

Illustration of the reporting requirements regarding *complaints*, referred to in *DISP* 1.10.1R and 1.10.2R

NIL RETURN DECLARATION

A Nil Return may only be declared where:

- a) no *complaints* were received during the reporting period,

AND

- b) no *complaints* were outstanding at the beginning of the period.

We wish to declare a Nil Return

Yes / No

RETURN DETAILS REQUIRED

Include Private Individual Complaints
(click if applicable)

Include Small Business Complaints
(click if applicable)

Private Individual Complaints

	Overcharging	Delays	Other admin	Misleading Advice	Failure to carry out instructions	Poor customer service	Misleading advertising	Disputes over sums/amounts	Switching/churning	Breach of contract	Arrears handling	Other	Total
FSAVC													
Personal Pension													
Stakeholder Pension													
Mortgage Endowment													
Other Endowment													
Whole of Life													
Permanent Health													
Term Assurance													
PEP/ISA													
Cash Deposit ISA													
Investment Trust													
Unit Trust/OEIC													
Investment Bond													
Share/Derivative													
Other Regulated Investments													
Current Account													
Deposit/Savings													
Credit Card													
Lifetime Mortgage													
Flexible Mortgage													
Impaired Credit Mortgage													
Self Cert Mortgage													
Other Regulated Mortgage													
Other unregulated loan secured on land													
Other loans													
Standard Annuity													
Investment based Annuity													
Income Withdrawal Product													
Income Protection													
Long Term Care													
Private Medical Insurance													
Critical Illness													
Motor													
Property													
Other GI/Pure protection													
Other													
Total													

Small Business Complaints

	Overcharging	Delays	Other admin	Misleading Advice	Failure to carry out instructions	Poor customer service	Misleading advertising	Disputes over sums/amounts	Switching/churning	Breach of contract	Arrears handling	Other	Total
FSAVC													
Personal Pension													
Stakeholder Pension													
Mortgage Endowment													
Other Endowment													
Whole of Life													
Permanent Health													
Term Assurance													
PEP/ISA													
Cash Deposit ISA													
Investment Trust													
Unit Trust/OEIC													
Investment Bond													
Share/Derivative													
Other Regulated Investments													
Current Account													
Deposit/Savings													
Credit Card													
Lifetime Mortgage													
Flexible Mortgage													
Impaired Credit Mortgage													
Self Cert Mortgage													
Other Regulated Mortgage													
Other unregulated loan secured on land													
Other loans													
Standard Annuity													
Investment based Annuity													
Income Withdrawal Product													
Income Protection													
Long Term Care													
Private Medical Insurance													
Critical Illness													
Motor													
Property													
Other GI/Pure protection													
Other													
Total													

COMPLAINTS CLOSED DURING REPORTING PERIOD

Number of *complaints* closed within 4 weeks

Number of *complaints* closed between 4 and 8 weeks

Number of *complaints* closed after more than 8 weeks

COMPLAINTS OUTSTANDING

Number of *complaints* outstanding as at reporting period start date

Number of *complaints* outstanding as at reporting period end date

COMPLAINTS MANAGEMENT

Number of *complaints* upheld by the firm in the period

Total amount of redress paid to consumers in the period

Number of *complaints* referred to, and accepted by, the FOS in the period

NOTES ON THE COMPLETION OF THIS RETURN

Complaints Helptext

This is the return referred to in *DISP* 1.10.1R and only *complaints* subject to *DISP* 1.6 – *DISP* 1.10 should be included in this return.

Nil returns

If no *complaints* of any kind 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.

Complaints contact details

Details of a contact point for *complaints* must be provided in accordance with *DISP* 1.10.9R for inclusion in the public record. This must include at least a name, or a job title, or a department name, but need not include all three. This information was previously supplied as part of the *complaints* return but now no longer forms part of the return. This information will be captured by the Firm's Online System. Please check that the details of your *complaints* contact are correct in the Firm's Online System and update if necessary.

Private individual complaint returns

This section relates to records of *complaints* subject to *DISP* 1.6 – *DISP* 1.10, received from private individuals. *Firms* should report all *complaints* received during the reporting period, even where the *complaint* has not been, or is unlikely to be upheld by the *firm*. If a *firm* has received private individual *complaints* then it should click on the box marked "include private individual complaints".

Firms should report *complaints* received in the single category that best reflects the main cause of dissatisfaction (whether financial loss, material distress or material inconvenience) as described by the complainant.

DISP 2.4.3R provides further definition of an *eligible complainant*.

Firms should enter the total number of private individual *complaints* in the box marked "Grand Total Number of Complaints made by private individuals".

Select the type of product from the drop down list. You will need to create a new line for each produce according to the category of *complaint*. Enter the number of *complaints* for each product according to the category of the *complaint*. Zeroes must be entered where no *complaints* have been received under that category of *complaint*.

Enter a total for each product type on the right hand side of each row and for each category of *complaint* at the bottom of each column. Then complete the total number of *complaints* made by private individuals box in the "total" box in the bottom right hand corner of the table. Check that this total is the same as the "Grand total number of *complaints* made by private individuals" entered at the start of section.

Small business complaint returns

This section relates to records of *complaints* subject to *DISP* 1.6 – *DISP* 1.10 received from *eligible complainants* as defined in *DISP* 2.4.3R other than private individuals. This section should include *complaints* from:

- Small business customers (with an annual turnover of less than £1 million a year);
- Charities (with an annual income of less than £1 million); and
- Trustees of a trust (with net assets of less than £1 million).

Firms should report all *complaints* received during the reporting period, even where the *complaint* has not been, or is unlikely to be upheld by the firm. If a *firm* has received small business complaints then they should click on the box marked "include small business complaints".

Firms should report *complaints* received in the single category that best reflects the main cause of dissatisfaction (whether financial loss, material distress or material inconvenience) as described by the complainant.

Firms should enter the total number of small business *complaints* in the box marked "Grand Total Number of Complaints made by small businesses".

Select the type of product from the drop down list. You will need to create a new line for each different product you wish to report for. Enter the number of *complaints* for each product according to the category of complaint. Zeroes must be entered where no *complaints* have been received under that category of *complaint*.

Enter a total for each product type on the right hand side of each row and for each category of *complaint* at the bottom of each column. Then complete the total number of *complaints* made by small businesses box in the "total" box in bottom right hand corner of the table. Check that this total is the same as the "Grand total number of complaints made by small businesses" entered at the start of section.

Complaints closed during the reporting period

Indicate the number of *complaints* subject to *DISP* 1.6 – *DISP* 1.10 closed during the reporting period within the timescales shown. See *DISP* 1.10.7R for the *rules* governing when a-*complaint* is considered to be closed.

Complaints outstanding

Give the number of *complaints* subject to *DISP* 1.6 - *DISP* 1.10 outstanding at the start of the reporting period and the end of the reporting period.

Uphold rates and redress

The *firm* must indicate the total number of *complaints* upheld in the customer's favour. The *firm* must also state the total amount of redress paid to its customers within the reporting period (this includes payments made to customers that have had their *complaints* rejected or partially upheld as well as *complaints* that have been fully upheld). See *DISP* 1.10.3G.

FOS

The *firm* must state how many of its *complaints* (private and small business) it knows to have been referred to the Financial Ombudsman Service within the reporting period.

...

The following is inserted after *DISP* 1 Annex 1R. This text is new and is not underlined.

DISP 1 Annex 2G

1. The table below summarises the application of *DISP* 1. Where the table indicates that a particular section may apply, its application in relation to any particular activity or *complaint* is dependent on the detailed application provisions set out in *DISP* 1.

2. In some cases the application of *DISP* 1 to *firms* depends on whether responsibility for the matter is reserved under a European Community instrument to an *incoming EEA firm's Home State regulator*. Reference should be made to the detailed application provisions set out in *DISP* 1.

Type of respondent	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules
<i>firm</i> in relation to <i>complaints</i> concerning non-MIFID <i>business</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i> (<i>DISP</i> 1.3.4G does not apply)	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>
<i>firm</i> in relation to <i>complaints</i> concerning MiFID <i>business</i>	Applies for <i>eligible complainants</i>	Applies for <i>retail clients</i> (<i>DISP</i> 1.3.3R does not apply)	Applies for <i>eligible complainants</i>	Applies for <i>retail clients</i>	Applies for <i>eligible complainants</i>

<i>branch of a UK firm in another EEA State in relation to complaints concerning non-MiFID business</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply
<i>branch of a UK firm in another EEA State in relation to complaints concerning MiFID business</i>	Does not apply	Applies for <i>retail clients</i> (DISP 1.3.3R does not apply)	Does not apply	Applies for <i>retail clients</i>	Does not apply
<i>incoming branch of an EEA firm in relation to complaints concerning non-MiFID business</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>
<i>incoming branch of an EEA firm in relation to complaints concerning MiFID business</i>	Applies for <i>eligible complainants</i>	Does not apply	Applies for <i>eligible complainants</i>	Does not apply	Applies for <i>eligible complainants</i>
<i>incoming EEA firm providing cross-border services from outside the UK</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply

<i>branch of an overseas firm (in relation to all complaints)</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>
<i>licensee</i>	Applies for <i>eligible complaints</i>	Applies for <i>eligible complaints</i> (DISP 1.3.4G to DISP 1.3.5G do not apply)	Applies for <i>eligible complaints</i> (DISP 1.6.8G does not apply)	Does not apply	Does not apply
<i>VJ participant</i>	Applies for <i>eligible complaints</i>	Applies for <i>eligible complaints</i> (DISP 1.3.4G to DISP 1.3.5G do not apply)	Applies for <i>eligible complaints</i> (DISP 1.6.8G does not apply)	Does not apply	Does not apply

2.4 Who can refer a complaint to the Financial Ombudsman Service?

...

Classes of person

2.4.3 R (1) Subject to (2), a *person* is an *eligible complainant* if he is:

...

(2) The following are not *eligible complainants*:

(a) (in the *Compulsory Jurisdiction*); an individual, business, charity, or trustee (of a trust which is not a *pension scheme* trust falling under (1)(d) above), who was ~~an *intermediate customer*~~ a *professional client* or ~~*market counterparty*~~ *eligible counterparty* in relation to the *firm* in question at the time of the act or omission, and in respect of the activity, which is the subject of the ~~complaint~~ *complaint*;

(aa) ...

- (b) (in the *Compulsory Jurisdiction*, the *Consumer Credit Jurisdiction* and the *Voluntary Jurisdiction*); a *firm*, *licensee* or *VJ participant* whose ~~complaint~~ complaint relates in any way to an activity which the *firm* itself has *permission* to carry on or which the *licensee* or *VJ participant* itself conducts, and which is subject to the *Compulsory Jurisdiction*, the *Consumer Credit Jurisdiction* or the *Voluntary Jurisdiction* of the *Financial Ombudsman Service*.

...

2.5 Which firms are subject to the jurisdiction of the Financial Ombudsman Service?

Firms and VJ participants

...

- 2.5.2 G *Firms* may, however, be exempt from the requirements of *DISP 1* (~~Complaint handling procedures for firms~~ Treating complainants fairly) and *FEES 5* (*Financial Ombudsman Service* funding), if they qualify under ~~*DISP 1.1.7R*~~ *1.1.12R* (Exemption).

...

3.2 The investigation and consideration of complaints by the Ombudsman

...

- 3.2.3 R Where the *firm* or *licensee* has not had eight weeks from receipt of the *complaint* provided for under *DISP 1.4.5R* in which to consider the ~~complaint~~ it, the *Ombudsman* will refer the ~~complaint~~ complaint to the *firm* or *licensee*, unless the *firm* or *licensee* has already issued a *final response*.

...

4.2 The standard terms

...

Complaint handling procedures

4.2.2 R The rules and guidance contained in *DISP 1* (Complaint handling procedures for firms) will apply to *VJ participants* for the purposes of the *Voluntary Jurisdiction* as if they were *firms*, with the exception of *DISP 1.1.R* (Application) and *DISP 1.5* (Record keeping and reporting). *DISP 1.2* (Internal complaint handling procedures: general requirements) applies in relation to complaints above activities of the *VJ participant* specified in ~~*DISP 2.6.9R*~~. By agreeing to participate in the *Voluntary Jurisdiction*, a *VJ participant* agrees to handle *complaints* in accordance with the provisions of *DISP 1* which apply to *VJ participants*.

TP1 Transitional provisions

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional Provision	(5) Transitional Provision: dates in force	(6) Handbook Provisions: coming into force
...					
1A	<i>DISP 1</i>	R	A <i>complaint</i> received by a <i>firm</i> <i>respondent</i> on or before 31 October 2007 should be handled, resolved, recorded and reported in accordance with the requirements of <i>DISP</i> as they stood at the date the <i>complaint</i> was received.	From 1 November 2007	1 November 2007
<u>1B</u>	<u><i>DISP 2.4.3</i></u>	<u>R</u>	<u>In relation to a <i>complaint</i> concerning an act or omission before 1 November 2007, in <i>DISP 2.4.3 R (1)(a)</i> substitute "an <i>intermediate customer or market counterparty</i>" for "<i>a professional client or eligible counterparty</i>".</u>	<u>From 1 November 2007</u>	<u>1 November 2007</u>
...					
10	<i>DISP 1.5.4R</i> <i>1.10.1R</i> and <i>DISP 1.10.2R</i>	R	<i>DISP 1.5.4R</i> <i>1.10.1R</i> and <i>DISP 1.10.2R</i> does 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.		
11	DISP 1.5.4R <u>1.10.1R</u> and <u>DISP 1.10.2R</u>	R	Where a <i>firm</i> is required under DISP 1.5.4R <u>1.10.1R</u> and <u>DISP 1.10.2R</u> to submit information using a report in the format set out in <i>DISP 1 Ann 1R</i> 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.	...	...
12	DISP 1.5.4R <u>1.10.1R</u> and <u>DISP 1.10.2R</u>	R	...		
...					
13	<i>DISP 1</i>	R	Where, at the <i>relevant commencement date</i> , a <i>firm</i> 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 DISP 1.4.5R <u>1.6.3R</u> , unless DISP 1.5.4.3A R or DISP 1.4.9 R <u>1.6.4R</u> or <u>1.6.5R</u> applies.		
...					

17	DISP 1.4.18R <u>DISP 1.3.12R</u> DISP 1.4.20G <u>DISP 1.3.17R</u>	R	<p>A <i>firm</i> must apply <i>DISP</i> as it applied before amendment by the Depolarisation Instrument to complaints received before 14 January 2005.</p> <p>...</p>	From 14 January 2005	14 January 2005
18	DISP 1.5.4 <u>DISP 1.10.1R</u> and <u>DISP 1.10.2R</u> , DISP 1.5.6 <u>DISP 1.10.4R</u> and DISP 1 Annex 1R	R	<p>(1) Solely in respect of information regarding any <i>reversion activity</i> or <i>home purchase activity</i> required to be reported in <u>DISP 1.10.1R</u> and <u>DISP 1.10.2R</u>1.5.4R, a <i>firm</i> is not required to include such information in respect of relevant reporting periods (as set out in <u>DISP 1.10.4R</u>1.5.6R) ending before 1 October 2007;</p>	...	...

Schedule 1 (Record keeping requirements) is amended as follows:

...

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
DISP 1.9.1R 1.5.1R	<i>Complaints</i> subject to DISP 1.1.1.3 – DISP 1.8 (other than DISP 1.5)	Each <i>complaint</i> received and the measures taken for its resolution	On receipt	5 years for <i>complaints</i> relating to <i>MiFID business</i> and 3 years for all other <i>complaints</i>

Schedule 2 (Notification requirements) is amended as follows:

...

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
DISP 1.1.7R 1.1.12R	...	...	Conditions in DISP 1.1.7 1.1.12R apply	...
DISP 1.1.10R	End of exemption	Confirmation that the conditions in DISP 1.1.7R no longer apply	Conditions in DISP 1.1.7R no longer apply	As soon as reasonably practicable.
DISP 1.5.4R 1.10.1R	...	...	...	...
DISP 1.5.11R 1.10.8R	...	...	...	...
DISP 1.7.5R 1.11.5R(1)	...	...	...	...
DISP 1.7.6R 1.11.5R(2)	...	...	...	...
DISP 1.7.7R 1.11.6R	...	...	...	...
...				

...

Schedule 4 (Powers Exercised) is amended as follows:

Sch 4.1 G

1.	The following powers and related provisions in the <i>Act</i> , in the <i>Mortgages and General Insurance Complaints Transitional Order</i> and in the <i>Ombudsman Transitional Order</i> have been exercised by the <i>FSA</i> to make the rules in <i>DISP</i> : ... <u>(8A) Schedule 17 paragraph 13(4)</u> ... <u>(10) Article 9 (Record-keeping and reporting requirements relating to relevant transitional complaints) of the <i>Mortgages and General Insurance Complaints Transitional Order</i></u>
...	
3.	The following powers and related provisions in the <i>Act</i> have been exercised by <i>FOS Ltd</i> to make the rules in <i>DISP</i> <u>(1A) Section 226A (Consumer Credit Jurisdiction)</u> ... <u>(5A) Schedule 17 paragraph 16B (Consumer Credit Jurisdiction)</u> ...

Sch 4.2 G

Table:	The powers to make rules relating to the new ombudsman scheme are shared between the <i>FSA</i> and the <i>Financial Ombudsman Service</i> (<i>FOS Ltd</i>). <i>FOS Ltd</i> 's rules are subject to <i>FSA</i> consent or approval. The rules made exclusively by <i>FOS Ltd</i> are:
DISP 1	1.1.1BR 1.1.1DR
...	

Schedule 5 (Actions for damages for contravention under section 150 of the Act) is amended as follows:

...

Sch 5.2 G

Chapter /Appendix	Section / Annex	Paragraph	Right of Action under s150		
			For private person?	Removed?	For other person?
1 Complaints handling arrangements	All rules apart from <i>DISP</i>	-	Yes	-	-

for <i>firms</i>	1.7.14R 1.11.13R and <i>DISP</i> 1.11.14R 1.7.15R				
1	7	14 and 15	No	Yes - <i>DISP</i> 1.11.21R 1.7.22R	No
...					

Schedule 6 (Rules that can be waived) is amended as follows:

Sch 6.1 G No rules in *DISP* may be waived, other than *DISP* ~~1.5.4R~~ 1.10.1R, and *DISP* ~~1.4.1R~~ 1.6. to *DISP* ~~1.4.16R~~ 1.8.

Annex B

Amendments to the Glossary of definitions

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

<i>complaint</i>	<p>(1) (in <i>COAF</i>) any expression of dissatisfaction about the manner in which the <i>FSA</i> has carried out its statutory functions other than its legislative functions.</p> <p>(2) <u>(in <i>DISP</i>, except <i>DISP</i> 1.1 and the <i>complaints handling rules</i> and the <i>complaints record rule</i> in relation to <i>MiFID business</i>) any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a <i>person</i> about the provision of, or failure to provide, a financial service, which:</u></p> <p>(a) <u>alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience; and</u></p> <p>(b) <u>relates to an activity of that <i>respondent</i>, or of any other <i>respondent</i> with whom that <i>respondent</i> has some connection in marketing or providing financial services or products, which comes under the jurisdiction of the <i>Financial Ombudsman Service</i>.</u></p> <p>(2) (only in relation to <i>MiFID business</i> in <i>DISP</i> 1.1, the <i>complaints handling rules</i> and the <i>complaints record rules</i>) (in <i>DISP</i> 1.1 and the <i>complaints handling rules</i> and the <i>complaints record rule</i> only in relation to <i>MiFID business</i>) any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a <i>person</i> about the provision of, or failure to provide, a financial service, where such complaint involves an allegation that the complainant has suffered, or may suffer, which alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience.</p>
<i>complaints handling rules</i>	<u><i>DISP</i> 1.23.</u>
<i>complaints record rule</i>	<u><i>DISP</i> 1.59.</u>
<i>complaints reporting rules</i>	<u><i>DISP</i> 1.10.</u>
<i>complaints resolution rules</i>	<u><i>DISP</i> 1.4.</u>

complaints
time barring
rule DISP 1.7

complaints
time limits
rules DISP 1.6.

consumer
awareness
rules DISP 1.42.

final response (1) (in CRED) a written response from the firm which:
...
(2) (in DISP) a written response from a respondent which:
(a) accepts the complaint and, where appropriate, offers redress or remedial action; or
(b) offers redress or remedial action without accepting the complaint; or
(c) rejects the complaint and gives reasons for doing so;
and which:
(d) encloses a copy of the Financial Ombudsman Service's standard explanatory leaflet; and
(e) informs the complainant that if he remains dissatisfied with the respondent's response, he may now refer his complaint to the Financial Ombudsman Service and must do so within six months.

Lloyd's
complaint
procedures the procedures established and maintained by the Society under DISP 1.11.1R.

Lloyd's
complaint
rules DISP 1.11

respondent (in DISP) a firm, licensee or VJ participant covered by the Compulsory Jurisdiction, Consumer Credit Jurisdiction or Voluntary Jurisdiction.

Annex C

Amendments to the Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)

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

6.4 Mortgages: content of the offer document

...

- 6.4.14 G *DISP 1-2.1R* requires a *firm* to deal promptly and fairly with complaints, ~~have in place a complaints handling policy for handling complaints about its services, and also for including referring to another *firm* complaints~~ *complaints* about that other *firm's* services.

Annex D

Amendments to the Supervision manual (SUP)

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

12.4 What must a firm do when it appoints an appointed representative or an EEA tied agent?

...

12.4.5E G (1) ...

- (2) Under *DISP* 1.2.91R, a *firm* must among other things, supply ~~a copy of its~~ summary details of its internal process for dealing promptly and fairly with *complaints* ~~internal-complaint handling process~~ to the *customer* when it receives a ~~complaint~~ *complaint*. In complying with *DISP* 1.2.91 R, a *firm* should ensure that the "lead-principal" is clearly identified in the procedures.

...

Annex E

Amendments to the Credit Unions sourcebook (CRED)

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

17.1 Application and Purpose

...

- 17.1.2 G This chapter replaces *DISP* 1 (~~Complaints Handling Procedures for firms Treating complainants fairly~~), which does not apply to *credit unions* (*DISP* 1.1.45R(2)).

Annex F

Amendments to the Professional Firms sourcebook (PROF)

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

5.3 Reference to other sourcebooks and manuals

...

Dispute resolution: Complaints sourcebook

- 5.3.6 G *DISP* 1.1.45R(43)(e) provides that *DISP* 1 (~~Complaints Handling Procedures for firms~~ Treating complainants fairly) does not apply to an *authorised professional firm* in so far as its *non-mainstream regulated activities* are concerned. *DISP* 2.6.7R further provides that a complaint about an *authorised professional firm* cannot be handled under the *Compulsory Jurisdiction of the Financial Ombudsman Service* if it relates solely to *non-mainstream regulated activity* and can be handled by a *designated professional body*. This is because such a complaint will be handled by the relevant professional body.

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The Financial Services Authority
25 The North Colonnade Canary Wharf London E14 5HS
Telephone: +44 (0)20 7066 1000 Fax: +44 (0)20 7066 1099
Website: <http://www.fsa.gov.uk>

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