

July 2007

07 / 9
newsletter

This newsletter provides a summary of PS07/9. Please see 'Who should read this paper?' below to see if PS07/9 is relevant to you.

Financial Services Authority

Treating Complainants Fairly

Feedback on CP06/19 (part) and made rules

Why are we issuing the Policy Statement?

This Policy Statement (PS):

- gives feedback (and final rules) on the October '06 consultation on the *Dispute Resolution: complaints* Sourcebook (Chapter 1)¹; and
- confirms the rules set out in January '07² that transposed the requirements for complaints handling and complaints record keeping in MiFID.³

1 Set out in CP06/19 (Chapter 31) (*Reforming Conduct of Business Regulation*)

2 In PS07/2 (Chapter 14) (*Implementing the Markets in Financial Instruments Directive*)

3 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.

Who should read the paper?

The paper is of interest to firms and to participants in the Consumer Credit Jurisdiction and Voluntary Jurisdiction of the Financial Ombudsman Service.⁴

Is this of interest to consumers?

Consumers will benefit from the shorter, clearer, more outcome-focused 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.

What is the background to this?

The PS complements the new Conduct of Business Sourcebook established (in PS07/6) on the basis of principles-based regulation (PBR).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.

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.

What are the next steps?

The final rules, which we have set out in the Instrument at Appendix 1, come into force on 1 November 2007.

4 The FSA made the rules in respect of firms, but for consistency, rules in the same terms (with some exceptions, notably the complaints record rule and the complaints reporting rules) 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 PS and rules.

5 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.

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.

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