

amendments to our voluntary jurisdiction



Financial
Ombudsman
Service

a consultation paper

June 2014

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- A. Draft rules instrument – Handbook Administration (no 34) Instrument 2014.

responses

We welcome your feedback on these amendments to our voluntary jurisdiction, as set out in the Dispute Resolution: Complaints sourcebook. Please send your views and comments – to reach us by 9am on 23 June 2014 – to harry.hughes@financial-ombudsman.org.uk.

Or write to:



Harry Hughes
The Financial Ombudsman Service
Exchange Tower
London
E14 9SR

We may want to publish the responses we receive to this consultation paper. In the interests of transparency, we encourage non-confidential responses.

If you do send us a confidential response, it would be helpful if you could tell us why you consider the information confidential. We cannot guarantee that confidentiality can always be maintained. We will not regard an automatic confidentiality disclaimer generated by your IT system, of itself, as binding.

We are subject to the Freedom of Information Act 2000, so information provided in response to this consultation may be subject to publication, disclosure, or release to other parties.

introduction

This consultation sets out the amendments that we propose to make to the scope of our voluntary jurisdiction, as set out in the Dispute Resolution: Complaints sourcebook (DISP) of the Financial Conduct Authority Handbook.

background

The territorial scope of our voluntary jurisdiction is wider than the territorial scope of our compulsory jurisdiction.

It has long been the ombudsman service's policy to extend the activities covered by the VJ in step with extensions in the activities covered by the CJ. This is to minimise confusion for consumers and financial businesses, and for operational simplicity.

Part 2 of DISP dictates the scope of our voluntary jurisdiction. The Financial Conduct Authority proposes to make amendments to DISP 2 Annex 1, in order to bring it in line with recent changes made to the list of regulated activities as set out in the Glossary definition of 'regulated activity'. This consultation paper proposes a parallel extension of our voluntary jurisdiction.

proposed amendments

The rules at DISP 2.5.1R specify the activities covered by the voluntary jurisdiction. We propose to make amendments with effect from the 1 July so it reads:

".....

which is carried on by way of business and relates to a *specified investment* applicable to that activity or, in the case of (20), (21), (21A), (22), (22A), (22B), (22C), (22D), (22E) and (23), is carried on in relation to property of any kind or, in the case of (40A) or (40B) relates to information about a *person's* financial standing.

And with effect from 22 July:

- (c) activities (which at ~~1 April~~ 22 July 2014) would be covered by the *Compulsory Jurisdiction*, if they were carried on from an establishment in the *United Kingdom* (these activities are listed in *DISP2 Annex 1G*);

We also propose to add to DISP 2 Annex 1G:

...

The activities which (at ~~1 April~~ 22 July 2014) were *regulated activities* were, in accordance with section 22 of the *Act* (The classes of activity and categories of investment), any of the following activities specified in Part II of the *Regulated Activities Order*:

...

(20) ~~establishing, operating or winding up a collective investment scheme~~

~~(article 51(1)(a);~~

~~(21) *acting as trustee of an authorised unit trust scheme* (article 51(1)(b));~~

~~(21A) *acting as the depositary of an authorised contractual scheme* (article 51(1)(bb));~~

~~(22) *acting as the depositary or sole director of an open-ended investment company* (article 51(1)(c));~~

...

which is carried on by way of business and relates to a *specified investment* applicable to that activity or, in the case of ~~(20), (21), (21A), (22)~~, (22A), (22B), (22C), (22D), (22E) and (23), is carried on in relation to property of any kind or, in the case of (40A) or (40B) relates to information about a *person's* financial standing.

Annex 1 contains the draft rules instrument to implement this proposal.

HANDBOOK ADMINISTRATION (NO 34) INSTRUMENT 2014

Powers exercised by the Financial Ombudsman Service Limited

- A. The Financial Ombudsman Service Limited makes the guidance and varies the standard terms in Annex E (DISP) to this instrument for Voluntary Jurisdiction participants in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 227 (Voluntary jurisdiction); and
 - (2) paragraphs 8 (Guidance), 18 (Terms of reference to the scheme) and 22 (Consultation) of Schedule 17 (The Ombudsman Scheme).
- B. The making of the changes in Annex E by the Financial Ombudsman Service Limited is subject to the consent and approval of the Financial Conduct Authority.

...

Annex E

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

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

Part 1: Comes into force on 1 July 2014

...

2 Annex 1G Regulated activities for the Voluntary Jurisdiction at 1 April 2014

...

The activities which (at 1 April 2014) were *regulated activities* were, in accordance with section 22 of the *Act* (The classes of activity and categories of investment), any of the following activities specified in Part II of the *Regulated Activities Order*.

...

which is carried on by way of business and relates to a *specified investment* applicable to that activity or, in the case of (20), (21), (21A), (22), (22A), (22B), (22C), (22D), (22E) and (23), is carried on in relation to property of any kind or, in the case of (40A) or (40B) relates to information about a *person's* financial standing.

Part 2: Comes into force on 22 July 2014

2.5 To which activities does the Voluntary Jurisdiction apply?

2.5.1 R The *Ombudsman* can consider a *complaint* under the *Voluntary Jurisdiction* if:

...

(2) it relates to an act or omission by a *VJ participant* in carrying on one or more of the following activities:

...

(c) activities (which at ~~1 April~~ 22 July 2014) would be covered by the *Compulsory Jurisdiction*, if they were carried on from an establishment in the *United Kingdom* (these activities are listed in *DISP2 Annex 1G*);

...

...

2 Annex 1G Regulated activities for the Voluntary Jurisdiction at ~~1 April~~ 22 July 2014

...

The activities which (at ~~1 April~~ 22 July 2014) were *regulated activities* were, in accordance with section 22 of the *Act* (The classes of activity and categories of investment), any of the following activities specified in Part II of the *Regulated Activities Order*:

...

(20) ~~*establishing, operating or winding up a collective investment scheme* (article 51(1)(a));~~

(21) ~~*acting as trustee of an authorised unit trust scheme* (article 51(1)(b));~~

(21A) ~~*acting as the depositary of an authorised contractual scheme* (article 51(1)(bb));~~

(22) ~~acting as the depositary or sole director of an open-ended investment company (article 51(1)(c));~~

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which is carried on by way of business and relates to a *specified investment* applicable to that activity or, in the case of ~~(20), (21), (21A), (22)~~; (22A), (22B), (22C), (22D), (22E) and (23), is carried on in relation to property of any kind or, in the case of (40A) or (40B) relates to information about a *person's* financial standing.