

consultation amendment to rules – changes to the FEES rules for participants joining part way

February 2018

index

1. introduction
2. background
3. proposed amendments

annex

A. Draft Rules - as part of the Fees Manual (Financial Ombudsman Service Case Fees 2018/19) Instrument 2018

responses

We welcome your feedback on these amendments to our scheme rules. Please send your views and comments – to reach us by 5pm on 1 March 2018 – to:

consultations@financial-ombudsman.org.uk

Or write to:

Debbie Enever
Stakeholder team – consultation responses
Financial Ombudsman Service
PO Box 69989
London
E14 1PR

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

Our voluntary jurisdiction covers complaints that don't come under our compulsory jurisdiction where the business has chosen to be covered by the ombudsman.

The voluntary jurisdiction is funded by an annual levy on participants and case fees. The level of the levy and case fees are set by us and approved by the FCA.

Businesses which join the voluntary jurisdiction part way through the year pay a proportion of the annual levy.

This consultation sets out the amendments that we propose to make to update and simplify the voluntary jurisdiction rules and standard terms for calculating the levy in those circumstances.

We propose making those changes alongside the amendments set out in our recent consultation on our plans and budget for 2018/2019 (<http://www.financial-ombudsman.org.uk/publications/plan-budget.htm>).

background

The ombudsman service currently has two jurisdictions –

- the compulsory jurisdiction (C):
 - covers financial businesses regulated by PRA and FCA;
 - covers activities specified in rules made by FCA; and
 - is mainly restricted to services provided in or from the UK.

- the voluntary jurisdiction (V):
 - covers financial businesses that volunteer to join it;
 - covers activities specified in rules made by the ombudsman service with the approval of FCA; and
 - covers services directed at the UK from the European Economic Area, as well as services provided in or from the UK.

proposed amendments

Under the VJ standard terms, businesses joining the VJ part way through the year are required to pay a proportion of the annual levy usually payable under FEES 5.3 (The general levy) and FEES 5 ANNEX 2R (Annual Levy Payable in Relation to the Voluntary Jurisdiction).

The amount payable was meant to be calculated by reference to the FCA's periodic fee formula set out at FEES 4.2.6R. Last year the FCA made some changes to the way its periodic fees are calculated for persons becoming subject to the fee during the course of a fee year. FEES 4.2.6R was replaced by 4.2.7ER.

Rather than adopting the new periodic fee formula set out at FEES 4.2.7ER, we propose to update the VJ rules and standard terms to simplify the rules relating to the annual levy calculation for new VJ participants.

We propose that new participants joining in the first quarter of any financial year pay 100% of the levy, those joining in the second quarter pay 75%, those joining in the third quarter pay 50% and those joining in the fourth quarter pay 25%. We believe this simplified formula will help prospective VJ participants to better understand and assess the costs of joining the VJ and will be straightforward to administer.

The Annex to this document contains the relevant parts of the draft rules instrument relating to this proposal.

Annex – Draft Rules

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

Amend the following as shown.

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

4.2 Standard terms

...

4.2.6 The following *rules* in *FEES* apply to *VJ participants* as part of the *standard terms*, but substituting '*VJ participant*' for '*firm*':

...

~~(3) FEES 4.2.6 R (1)(b) (periodic fees);~~

...

(5) FEES 5.3.8 R (calculation of general levy) but substituting:

(a) 'Voluntary Jurisdiction' for 'Compulsory Jurisdiction'; and

(b) 'FEES 5 Annex 2R' for 'FEES 5 Annex 1 R';

...

~~(11) FEES 5.8.1 R (joining the Financial Ombudsman Service)~~ FEES 5.3.8AR;
and

(12) FEES 5 Annex 2R and FEES 5 Annex 3R.

Amendments to the Fees manual (FEES)

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

FEES 5.3 The general levy

...

FEES 5.3.8 A

A *VJ participant* which becomes subject to the *Financial Ombudsman Service* part way through a *financial year* must pay a proportion of the annual levy required by *FEES 5.3* and *FEES 5 Annex 2R*, to be calculated as follows:

(1) a *VJ participant* joining during the first quarter of the *financial year* will pay 100% of the annual levy;

(2) a *VJ participant* joining during the second quarter of the *financial year* will pay 75% of the annual levy;

(3) a *VJ participant* joining during the third quarter of the *financial year* will pay 50% of the annual levy; and

(4) a *VJ participant* joining during the fourth quarter of the *financial year* will pay 25% of the annual levy.