

# amendments to our voluntary jurisdiction

a consultation paper



Financial  
Ombudsman  
Service

April 2015

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## 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 16 April 2015 – to [amardeep.rihal@financial-ombudsman.org.uk](mailto:amardeep.rihal@financial-ombudsman.org.uk)

Or write to:

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We may want to publish the responses we receive to this consultation paper. In the interest 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 the 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 (VJ) is wider than the territorial scope of our compulsory jurisdiction (CJ).

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 has recently made an emergency rule change to DISP 2.3.1R in order to bring it in line with recent changes made to the Regulated Activities Order. This consultation paper proposes a parallel extension of our voluntary jurisdiction.

## **pensions reforms**

As part of the 2014 budget, the Government announced wide-ranging changes to the pensions market by proposing to allow individuals more freedom in how they access and use their retirement income. From 6 April 2015, the Government's new flexible pensions regime allows defined contribution (DC) pension schemes to offer pension savers aged 55 and over immediate access to their pension savings. Members of defined benefit (DB) schemes will not have this flexibility.

It is widely expected that more DB scheme members will seek to transfer their benefits to DC schemes, for early and more flexible access to their pension savings. The Government has therefore introduced a requirement that consumers take advice from an adviser authorised by the Financial Conduct Authority (FCA) before a transfer can proceed. The new provisions refer to transfers of 'safeguarded benefits', which are primarily benefits in DB schemes but may also be benefits such as guarantees or other promises in other types of scheme.

Transfers from DB schemes can be to personal pension schemes or to occupational DC schemes. FCA rules, and our jurisdiction, already cover advice on transfers to personal pension schemes, but do not cover transfers to occupational DC schemes. The Government has updated the Regulated Activities Order to make such advice an FCA regulated activity and the FCA's emergency rule change (introducing this activity as a new activity under DISP 2.3.1R) has brought complaints about such advice into our compulsory jurisdiction from the 6 April.

## 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 24 April 2015 so it reads:

- 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 ~~22 July 2014~~ 24 April 2015) would be covered by the *Compulsory Jurisdiction*, if they were carried on from an establishment in the *United Kingdom* (these activities are listed in *DISP 2 Annex 1G*);

We also propose to amend DISP 2 Annex 1 G as follows–

The activities which were covered by the Compulsory Jurisdiction (at ~~1 April 2014~~ 24 April 2015) were:

- ...
- (h) the regulated activity specified in article 53E (advising on conversion or transfer of pension benefits) of the *Regulated Activities Order*,
- ...

The activities which (at ~~1 April 2014~~ 24 April 2015) 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*:

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

## **Voluntary jurisdiction rules (advising on conversion or transfer of pension benefits) instrument 2015**

### **Powers exercised by the Financial Ombudsman Service Limited**

A. The Financial Ombudsman Service makes this instrument in the exercise of the following powers and related provisions of in the Financial Services and Markets Act 2000:

- a) section 227 (Voluntary jurisdiction);
- b) paragraph 8 (Information, advice and guidance) of Schedule 17;
- c) paragraph 18 (Terms of reference to the scheme) of Schedule 17.

B. The making of these rules by the Financial Ombudsman Service Limited is subject to the approval of the Financial Conduct Authority.

### **Commencement**

C. This instrument comes into force on 24 April 2015.

### **Amendments to the Handbook**

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

### **Citation**

E. This instrument may be cited as the Voluntary Jurisdiction Rules (Advising on Conversion or Transfer of Pension Benefits) Instrument 2015.

**By order of the Board of the Financial Ombudsman Service**  
**[20 April 2015]**

**Approved by the Board of the Financial Conduct Authority**  
**[23 April 2015]**

## Annex A

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text.

2. Jurisdiction of the Financial Ombudsman Service

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 ~~22 July 2014~~ 24 April 2015) would be covered by the Compulsory Jurisdiction, if they were carried on from an establishment in the United Kingdom (these activities are listed in DISP 2 Annex 1G);

...

2 Annex 1G

### Regulated activities for the Voluntary Jurisdiction at ~~1 April 2014~~ 24 April 2015

The activities which were covered by the Compulsory Jurisdiction (at ~~1 April 2014~~ 24 April 2015) were:

...

(h) the regulated activity specified in article 53E (advising on conversion or transfer of pension benefits) of the Regulated Activities Order;

...

The activities which (at ~~22 July 2014~~ 24 April 2015) 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.