

## **scheme of delegation**

### **made by the scheme operator appointed under the Financial Services and Markets Act 2000 (as amended by the Financial Services Act 2012)**



As of July 2013

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#### **Introduction**

The purpose of this document is:

- To define and record those functions specifically reserved to the Board of the Financial Ombudsman Service Ltd (“the Board”) pursuant to the Financial Services and Markets Act, as amended by the Financial Services Act 2012 (“the Act”).
- To define, and record the delegation of certain functions of the Board to the Chief Ombudsman and the Executive of the Financial Ombudsman Service (“the Executive”) and the Executive’s powers of further delegation.

The power to effect such delegation is derived expressly from section 225(2) and Schedule 17, paragraph 3(4) of the Act and implicitly from the Act establishing the Scheme Operator and under the operation of Article 22 of the Articles of Association of the Financial Ombudsman Service Ltd.

The Board has established sub-committees pursuant to Article 22 to carry out specific functions, including delegated functions, where appropriate. It currently has an Audit Committee and a Nomination and Remuneration Committee; their functions are prescribed in their respective terms of reference.

Notwithstanding such delegation, the Board remains accountable for all of its functions, including those delegated to the Executive, and will therefore receive information about the exercise of delegated functions from the Executive, in order to maintain a monitoring role.

All functions recorded as delegated in this Scheme of Delegation can be reassumed by the Board at any time. The Board expressly reserves the right to deal with any matters, whether generally or exceptionally, previously delegated.

This Scheme of Delegation does not address all the responsibilities of the Board created under the Act, as amended by the Limited Liability Partnership Regulations 2001, the Consumer Credit Act 2006, the Tribunals and Enforcement Act 2007, the Payment Services Regulations 2009, the Financial Services Act 2010, the Electronic Money Regulations 2011 and the Financial Services Act 2012, or elsewhere.

All functions of the Scheme Operator which have not been specifically reserved to the Board by virtue of schedule 17, paragraph 3(4) of the Act, or delegated in this Scheme of Delegation, (to include, for the avoidance of doubt, all and every function involved in the administration of the scheme by the Scheme Operator, pursuant to section 225(2) of the Act, and any function reasonably incidental to it) may be exercised by the Executive on behalf of the Board.

The Executive may itself further delegate any of its functions as it considers appropriate either fully or under the general supervision and control of the Executive to any employee or officer of the Company, or to any professional or technical advisers or other persons that the Executive considers to be appropriately skilled.

The following tables list:

- (1) Reserved non-delegable functions of the Board
- (2) Delegated functions of the Board
- (3) Delegable functions of the Board, which the Board wishes to expressly reserve to itself
- (4) Delegated authorities approved by the Audit Committee

Functions, introduced by the amendments made by the Financial Services Act 2012, are highlighted in grey for ease of identification.

**(1) Reserved Non Delegable Functions of the Board under the Financial Services and Markets Act 2000, as amended by the Financial Services Act 2012.**

<b>Nature of Function</b>	<b>Source of Power</b>	<b>Function reserved to</b>	<b>Reservation power</b>
The making of voluntary jurisdiction rules	Section 227(3) Schedule 17, paras 18-22	The Board of the scheme operator	Schedule 17, para 3(4)
The making of consumer credit rules	Section 226A (7) Section 229 (4A) Schedule 17, para 16E	The Board of the scheme operator with the approval of the FCA	Schedule 17, para 3(4)
The determination of sums for funding the consumer credit jurisdiction	Section 234A(1)	The Board of the scheme operator with the approval of the FCA	Schedule 17, para 3(4)
The appointment and maintenance of the panel of ombudsman	Schedule 17, para 4	The Board of the scheme operator	Schedule 17, para 3(4)
The appointment of the Chief Ombudsman	Schedule 17, para 5	The Board of the scheme operator	Schedule 17, para 3(4)
The making of an annual report to the FCA on the discharge of the scheme operator's functions.	Schedule 17, para 7	The Board of the scheme operator	Schedule 17, para 3(4)

The adoption and/or variation of an annual budget	Schedule 17, para 9	The Board of the scheme operator with the approval of the FCA	Schedule 17, para 3(4)
The preparation of an annual plan in respect of each financial year, making provision for the use of resources of the scheme operator	Schedule 17, para 9A	The Board of the scheme operator	Schedule 17, para 3(4)
The making of "scheme rules" setting out procedure for the reference of complaints, for their investigation, consideration and determination by an ombudsman as specified in Schedule 17 paras 14(2) and 15	Schedule 17, para 14(1)	The Board of the scheme operator with the consent of the FCA	Schedule 17, para 3(4)

**(2) Delegated Functions of the Board under the Financial Services and Markets Act 2000, as amended by the Financial Services Act 2012**

<b>Nature of Function</b>	<b>Source of Power</b>	<b>Function delegated to*</b>	<b>Delegation power</b>
Powers related to funding consumer credit licensees	Section 234A (3) (9)	The Executive	Article 22 of the Articles of Association
Publication of information, guidance or advice	Schedule 17, para 8	The Executive	Article 22 of the Articles of Association
Administration of the Scheme, save for those non-delegable functions referred to in paragraph 1 above.	Section 225(2)	The Executive	Article 22 of the Articles of Association
The publication of a report of determinations	Section 230A	The Executive	Article 22 of the Articles of Association

The disclosure of information to the FCA to assist in advancing the FCA's operational objectives	Section 232A	The Executive	Article 22 of the Articles of Association
Co-operation with the FCA in the exercise of the functions of the FCA and the Ombudsman Service	Schedule 17, para 3A (1)	The Executive	Article 22 of the Articles of Association
The sending of a copy of the annual accounts to the Comptroller and Auditor General, and of the certified accounts and report to the FCA	Schedule 17, para 7A	The Executive	Article 22 of the Articles of Association

**(3) Delegable Functions to be reserved by the Board under the Financial Services and Markets Act 2000, as amended by the Financial Services Act 2012**

<b>Nature of Function</b>	<b>Source of Power</b>	<b>Function reserved to</b>	<b>Reservation power</b>
The power to make "costs rules" to provide the Ombudsman with the power to award costs	Section 230 [see DISP 3.7.9]	The Board of the scheme operator with the approval of the FCA	Article 22 of the Articles of Association
The referral of a regulated person to the FCA when certain conditions are met ("super complaints")	Section 234D	The Board of the scheme operator	Section 234D
Preparation and maintenance of a memorandum with FCA re co-operation	Schedule 17, para 3A (2) (3)	The Board of the scheme operator	Schedule 17, para 3A (2) (3)