

# **consultation amendment to rules**

## ***– possible changes to the time limits for PPI complaints***

December 2015

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**A. Draft rules instrument – Dispute Resolution: Payment Protection Insurance Complaints (Voluntary jurisdiction) (Financial Ombudsman Service) Instrument 2016**

### **responses**

We welcome your feedback on these amendments to our scheme rules. Please send your views and comments – to reach us by 5pm on 26 February 2016 – to:

[consultations@financial-ombudsman.org.uk](mailto: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**

This consultation sets out the amendments that we propose to make to our scheme rules, affecting businesses subject to our voluntary jurisdiction.

## **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.

The FCA is responsible for making the rules that set the scope of the CJ and the ombudsman service is responsible for making the rules that set the scope of the VJ.

In November 2015 the FCA published proposed changes to its rules and guidance for businesses about handling PPI complaints for consultation, to reflect recent legal developments. It is also consulting on a new rule that would set a deadline by which consumers would need to make their PPI complaints or else lose their right to have them assessed by firms or by the ombudsman service

Our consultation is purely about possible changes to the time limits for PPI complaints. To keep the VJ rules aligned with the CJ and to avoid consumer and business confusion about the deadline, we think it would be appropriate to amend the VJ rules to mirror the proposed changes to the CJ time limits, subject to the FCA's final rules.

## **proposed amendments**

The proposed change to the time limit rules set out at DISP 2.8 will mean that prospective complainants will have to submit their PPI complaint by a specific date, or lose the right to have their complaint assessed by the firm or us. There will be an FCA-led communications campaign designed to prompt consumers to complain in advance of the deadline.

We anticipate that, if made as proposed, the rule will mean that we will not be able to consider complaints about the sale of PPI made two years after the start date of the rule, other than in limited circumstances. The FCA's consultation proposes that the deadline would not extend time for those consumers for whom the time limits under our existing rules for complaining to the ombudsman have already begun to run or passed.

To keep the VJ rules aligned with the CJ and to avoid consumer and business confusion – following the communications campaign – about the deadline, we think it would be appropriate to amend the VJ rules if the FCA makes the proposed changes to the CJ. We currently deal with a small, but not insignificant number of PPI sales complaints (predominantly against overseas insurers) under the VJ and any changes to the VJ time limits will have an impact on those firms and their customers.

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

**DISPUTE RESOLUTION: PAYMENT PROTECTION INSURANCE COMPLAINTS  
(VOLUNTARY JURISDICTION) (FINANCIAL OMBUDSMAN SERVICE) INSTRUMENT 2016**

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

- A. The Financial Ombudsman Service Limited amends the voluntary jurisdiction rules and fixes and varies the standard terms for Voluntary Jurisdiction participants relating to the Voluntary Jurisdiction as set out in the Annex to this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000:
- (a) section 227 (Voluntary jurisdiction);
  - (b) paragraph 18 (Terms of reference to the scheme) of Schedule 17; and
  - (c) paragraph 22 (Consultation) of Schedule 17.
- B. The amendment of the Voluntary Jurisdiction rules and fixing and varying of the standard terms is subject to the approval of the Financial Conduct Authority.

**Approval by the Financial Conduct Authority**

- C. The Financial Conduct Authority approves the Voluntary Jurisdiction rules made and standard terms fixed and varied by the Financial Ombudsman Service Limited.

**Commencement**

- D. This instrument comes into force on [XX].

**Amendments to the Handbook**

- E. The Dispute Resolution: Complaints sourcebook (DISP) is to be amended in accordance with the Annex to this instrument.

**Citation**

- F. This instrument may be cited as the Dispute Resolution: Payment Protection Insurance Complaints (Voluntary Jurisdiction) (Financial Ombudsman Service) Instrument 2016.

By order of the Board of the Financial Ombudsman Service Limited  
[date]2016

By order of the Board of the Financial Conduct Authority  
[date]2016

## Annex

### Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

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

#### 2.8 Was the complaint referred to the Financial Ombudsman Service in time?

...

2.8.2 R The *Ombudsman* cannot consider a *complaint* if the complainant refers it to the *Financial Ombudsman Service*:

(1) ...

(2) more than:

(a) six years after the event complained of; or (if later)

(b) three years from the date on which the complainant became aware (or ought reasonably to have become aware) that he had cause for complaint;

unless the complainant referred the *complaint* to the *respondent* or to the *Ombudsman* within that period and has a written acknowledgement or some other record of the *complaint* having been received; or

(2A) after [XX] where the *complaint*:

(a) relates to the sale of a *payment protection contract* that took place on or before [XX]; and

(b) expresses dissatisfaction about the sale, or matters related to the sale, including where there is a rejection of claims on the grounds of ineligibility or exclusion (but not matters unrelated to the sale, such as delays in claims handling or administrative matters such as taking the incorrect amount of premium)

unless the complainant referred the *complaint* to the *respondent* or to the *Ombudsman* before that date and has a written acknowledgement or some other record of the *complaint* having been received;