

Statement of difference – [Small Business \(Eligible Complainant\) \(Amendment\) Instrument 2019](#)

The board of the Financial Ombudsman Service makes voluntary jurisdiction rules – subject to the approval of the Financial Conduct Authority. We're required by the Financial Services and Markets Act 2000 to publish a draft of the proposed rules and consider any comments on the proposed rules before making the final rules. We're also required to publish a statement on any differences – which we consider significant – between the proposed rules and the final rules made.

The [Small Business \(Eligible Complainant\) \(Amendment\) Instrument 2019](#) includes changes to the voluntary jurisdiction (VJ) rules, following the changes made to our VJ rules in the [Small Business \(Eligible Complainant\) Instrument 2018](#).

We published a draft of the proposed VJ rule changes in a consultation paper [CP 18/03](#). The proposed rule changes published in the consultation paper apply to both the compulsory jurisdiction (CJ) and the VJ. This consultation paper explained that the Financial Ombudsman Service proposed to expand its jurisdiction to allow SMEs with fewer than 50 employees, annual turnover of under £6.5m and an annual balance sheet total of under £5m to be able to access the ombudsman service. We also proposed to increase the limits on annual income for charities and net asset values for trusts. We also proposed that personal guarantors of loans to a business they are involved in should be able to complain to the ombudsman service.

In the consultation paper we proposed transitional provisions that any complaints about acts or omissions brought about by small businesses and guarantors that met the relevant threshold before the new eligible complainant categories came into effect would not be looked at retrospectively. However, the transitional provisions did not include equivalent retrospectivity provisions for charities and trusts. This position was repeated in the final rules published with the policy statement [PS 18/21](#).

It was not the intention of the Financial Ombudsman Service that complaints under the VJ about the acts or omissions of charities and trusts that meet the expanded eligibility threshold should be able to be looked at retrospectively. As a consequence, the Financial Ombudsman Service board on 27 March 2019 and the FCA board on 28 March 2019 made rules to include the transitional provision on retrospectivity for charities and trusts, for both the CJ and the VJ.

The significant differences between the proposed rules and the made rules are set out below (underlining indicates new text and striking through indicates deleted text):

TP 1 Transitional provisions

1.1 Transitional provisions table

(1)	(2) Material	(3)	(4) Transitional provision	(5)	(6)
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	provision to which transitional provision applies			Transitional provision: dates in force	Handbook provision: coming into force
...					
51	<i>DISP</i> 2.7.3R(3), (4) and (6)	R	The amendments to <i>DISP</i> 2.7.3R(3) and (4) and new paragraph <i>DISP</i> 2.7.3R(6) <u>applies apply</u> only in relation to a <i>complaint</i> concerning an act or omission which occurs on or after 1 April 2019.	From 1 April 2019	From 1 April 2019
...					