

## **Statement of difference – [Exiting the European Union: Fees and Dispute Resolution: Complaints \(Amendments\) 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 [Exiting the European Union: Fees and Dispute Resolution: Complaints \(Amendments\) Instrument 2019](#) includes changes to the voluntary jurisdiction (VJ) rules.

We published a draft of the proposed VJ rule changes in a consultation paper ([CP 18/36](#)). This consultation paper explained that the Financial Ombudsman Service proposed that participants of our VJ and also the Temporary Permissions Regime (TPR) would be charged a reduced levy for our VJ to reflect the fact that certain activities directed at the UK which were covered by the VJ would now be covered by the CJ going forward. This was captured in a proposed new rule, FEES 5.3.8BR contained in the draft instrument “Exiting the European Union: FEES and Dispute Resolution: Complaints (Amendment) Instrument 201[X]” which formed part of the consultation.

In the final policy statement ([PS 19/05](#)) the FCA set out a different approach to how EEA services firms would be required to report ‘relevant business’, which meant that such firms would be required only to pay the minimum fee block levies or flat fees, as well as case fees. Although the near-final rules published with PS 19/05 still contained the proposed new FEES 5.3.8BR, the policy statement said: “*The Financial Ombudsman is currently considering the impact that this revised approach may have on the proposed discount for firms in the VJ set out in FEES 5.3.8B R, and may decide to consult if any amendments are required.*”

We have reflected on this, and concluded that because EEA service firms will pay a minimum or flat fee for participation in the TPR, it is no longer appropriate to apply a reduced VJ levy. Therefore the rules made by the Financial Ombudsman Service board on 27 March 2019 and the FCA board on 28 March 2019 do not include the previously proposed FEES 5.3.8B R. We did not receive any comments following the publication of PS19/05 and the near-final rules on 28 February 2019. Having considered the matter further we did not consult on this change as the end result is that FEES remains unchanged.

The significant difference between the proposed rules and the rules made by the Financial Ombudsman Service is set out below (underlining indicates new text and striking through indicates deleted text):

### **5 Financial Ombudsman Service Funding**

#### **5.3 The general levy**

5.3.8B R ~~A VJ participant which is also a TP person will pay 20% of the annual levy required by FEES 5.3 and FEES 5 Annex 2R. [deleted]~~