

House of Lords Select Committee on Regulators Additional Memorandum by the Financial Ombudsman Service

[This additional memorandum arises from oral evidence given by the British Bankers' Association, the Association of British Insurers and the Association of Independent Financial Advisers. The numbering follows on from our original memorandum.]

16. When the Financial Ombudsman Service was established in 2001, its powers and procedures were modelled on the pattern established by the insurance and banking industries when they established the voluntary Insurance Ombudsman in 1981 and Banking Ombudsman in 1986. Even the maximum amount an ombudsman can award (£100,000) has remained unchanged.
17. Insofar as the impact of the Financial Ombudsman Service on the financial industry has grown, this is because of an increase in the number of cases which consumers – dissatisfied with the financial services industry's response to their complaints – have referred to the ombudsman. These have risen four-fold in six years.
18. The Financial Ombudsman Service is not a regulator. It resolves individual disputes as an alternative to the civil courts. The statutory and procedural arrangements concerning the Financial Ombudsman Service's structure and accountability are designed to be appropriate for a quasi-judicial, and *not* a regulatory, role
19. The House of Commons Treasury Committee, in its enquiry into *"Restoring Confidence in Long-Term Savings"*, in its 2003-04 session concluded that: "*the Financial Ombudsman Service currently commands wide support among the industry and consumers as an inexpensive and speedy way of resolving disputes and achieving redress where redress is due.*"
20. In its comparatively short life, the Financial Ombudsman Service has already been involved in several reviews. The wider-implications arrangements with the FSA (see www.widerimplications.info) arose from the Treasury-sponsored review of the Financial Services and Markets Act initiated in 2003, which included the interaction between the Financial Ombudsman Service and the FSA.
21. The (entirely non-executive) Board of the Financial Ombudsman Service commissioned an independent external review in 2004 and has publicly committed itself to repeating the exercise very three years. The ombudsman service's published corporate plan for 2007/8 includes provision for the next review, the arrangements for which are currently being put in hand.

22. The 2004 review was undertaken by Professor Elaine Kempson from Bristol University's Personal Finance Research Centre. The report – "*Fair and reasonable: an assessment of the Financial Ombudsman Service*" – examined the ombudsman service's case-handling procedures and systems, and its performance in terms of quality, consistency, process and value
23. Professor Kempson's report concluded that her "*overall view was that the Financial Ombudsman Service is a thoughtful, well-managed organisation that is doing a good job under difficult circumstances.*" (A full copy of the report is available on our website at: www.financial-ombudsman.org.uk/publications/pdf/kempson-report-04.pdf.)
24. The Financial Ombudsman Service has arrangements under which both consumers and financial firms can make complaints about the service we provide. Although these are not required by the Financial Services and Markets Act, we recognise that they provide an appropriate level of scrutiny and accountability. (More details are available on our website at: <http://www.financial-ombudsman.org.uk/about/our-service-standards.htm#6>.)
25. These arrangements provide ultimately for the referral of a complaint about our service to the Independent Assessor. He is appointed by the Financial Ombudsman Service's Board and he provides it with an annual report, which is published in its entirety in the Financial Ombudsman Service's annual report (available on our website at: http://www.financial-ombudsman.org.uk/publications/ar07/ia_report.html).
26. On the question of principles-based regulation, the FSA itself said in its manifesto "*Principles-based regulation: focusing out outcomes that matter*":
"It is important to bear in mind that most cases considered by the FOS turn on disputes of fact or on the application of general legal principles that apply to all businesses. This is unlikely to change as a result of our move to principles-based regulation. So we believe that it will also not change the ombudsman's role and its interaction with our regime."
(See www.fsa.gov.uk/pubs/other/principles.pdf.)

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On behalf of the Financial Ombudsman Service

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