Dispute resolution: Complaints

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Chapter INTRO

Introduction

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INTRO 1 Introduction

INTRO

This part of the *FCA Handbook* sets out how *complaints* are to be dealt with by *respondents* (*firms*, *payment service providers*, *electronic money issuers*, *CBTL firms*, *designated credit reference agencies*, *designated finance platforms* and *VJ participants*) and the *Financial Ombudsman Service*.

It refers to relevant provisions in the *Act* and in transitional provisions made by the Treasury under the *Act*. It includes *rules* and directions made by the *FCA* and rules made (and *standard terms* set) by *FOS Ltd* with the consent or approval of the *FCA*.

INTRO

The powers to make rules and directions (or set *standard terms*) relating to *firms*, *payment service providers*, *electronic money issuers*, *CBTL firms*, *designated credit reference agencies*, *designated finance platforms* and *VJ participants* derive from various legislative provisions; but the rules (and *standard terms*) have been co-ordinated to ensure that they are identical, wherever possible.

INTRO

Chapter 1: Treating complainants fairly

DISP 1 contains rules and guidance on how *respondents* should deal with *complaints* promptly and fairly, including *complaints* that could be referred to the *FOS*.

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Chapters 2 - 4: The Financial Ombudsman Service

Chapters 2, 3 and 4 set out how the *Financial Ombudsman Service* (operated by *FOS Ltd*) considers unresolved *complaints*.

Chapter 2 sets out the scope of the *Financial Ombudsman Service*'s two jurisdictions:
- the *Compulsory Jurisdiction*; and
- the *Voluntary Jurisdiction*.

The scope of the two jurisdictions is defined by: the type of activity to which the *complaint* relates; the place where the activity took place; the eligibility of the complainant; and the time limits for referring a *complaint* to the *Financial Ombudsman Service*.

Chapter 3 sets out the procedures of the *Financial Ombudsman Service*, including consideration and determination of *complaints* and how the *Financial Ombudsman Service* deals with information received.

Chapter 4 sets out the terms under which *VJ participants* participate in the *Voluntary Jurisdiction*.

INTRO **Appendix 1: FCA's guidance on handling mortgage-endowment complaints**

This appendix contains the *FCA's guidance* to *firms* on handling *complaints* relating to mortgage endowments.

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INTRO **Appendix 3: FCA's rules and guidance on handling payment protection insurance complaints**

This appendix sets out the approach which *firms* should use when handling *complaints* relating to the sale of *payment protection contracts*.

INTRO **Financial Ombudsman Service fees**

The rules on fees charged in respect of the *Financial Ombudsman Service* are in Chapter 5 of the Fees manual.

Chapter 1

Treating complainants fairly

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1.1 Purpose and application

Purpose

1.1.1 G This chapter contains *rules* and *guidance* on how *respondents* should deal promptly and fairly with *complaints* in respect of business:

(1) carried on from establishments in the *United Kingdom*; or

(2) carried on from establishments in an *EEA State*, in the case of a *TP firm*, a *TA EMI firm*, a *TA PI firm* or a *TA RAISP firm* with respect to services provided into the *United Kingdom*; or

(3) carried on in *Great Britain*, in respect of *regulated claims management activities*, (see PERG 2.4A).

1.1.1A G This chapter is also relevant to those who may wish to make a *complaint* or refer it to the *Financial Ombudsman Service*.

Background

1.1.2 G Details of how this chapter applies to each type of *respondent* are set out below. For this purpose, *respondents* include:

(1) *persons* carrying on *regulated activities* (*firms*), providing *payment services* (*payment service providers*) providing *electronic money* issuance services (*electronic money issuers*) carrying on *CBTL business* (*CBTL firms*), providing *credit information* under the *Small and Medium Sized Business (Credit Information) Regulations* (*designated credit reference agencies*), or providing *specified information* under the *Small and Medium Sized Business (Finance Platforms) Regulations* (*designated finance platforms*) and which are covered by the *Compulsory Jurisdiction*; and

(2) [deleted]

(3) *persons* who have opted in to the *Voluntary Jurisdiction* (*VJ participants*).

Application to firms

1.1.3 R (-1) This chapter applies to a *TP firm*. This *rule* demonstrates the contrary intention under GEN 2.2.26R.

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(1) Subject to DISP 1.1.5 R, this chapter applies to a *firm* in respect of *complaints* from *eligible complainants* concerning activities carried on from an establishment maintained by it or its *appointed representative*:

(a) in the *United Kingdom*; or

(b) in an *EEA State*, in the case of a *TP firm* with respect to services provided into the *United Kingdom*.

(1A) This chapter also applies to a *firm* in respect of *complaints* from *eligible complainants* concerning activities which are, or which are ancillary to, *regulated claims management activities*.

(2) For the *MiFID complaints* of a *MiFID investment firm*:

(a) DISP 1.1A applies; and

(b) the other provisions of this chapter apply only as set out in DISP 1.1A.

(c) [deleted]

(2A) For the *MiFID complaints* of a *third country investment firm* received from *retail clients* or *elective professional clients*:

(a) DISP 1.1A applies; and

(b) the other provisions of this chapter apply only as set out in DISP 1.1A.

(3) [deleted]

(4) [deleted]

1.1.3A D The *complaints reporting directions* apply to a *firm* that provides *payment services* or issues *electronic money* in respect of:

(1) *complaints* from *payment service users*; and

(2) *complaints* from *electronic money* holders that are *eligible complainants*

concerning activities carried on from an establishment maintained by the *firm* in the *United Kingdom* (or in an *EEA State*, in the case of a *TP firm* with respect to services provided into the *United Kingdom*).

1.1.4 R Where a *firm* has outsourced activities to a *third party processor*, DISP 1.1.3 R does not apply to the *third party processor* when acting as such, but applies to the *firm* which is taking responsibility for the acts and omissions of the *third party processor* in respect of the outsourced activities.

1.1.5 R This chapter does not apply to:

(1) [deleted]

(2) [deleted]

(3) an *authorised professional firm* in respect of expressions of dissatisfaction about its *non-mainstream regulated activities*;

(3A) a *firm* in respect of *complaints* concerning activities which:

(a) are not carried on in *Great Britain* but which would be *regulated claims management activities* if they were carried on in *Great Britain*; or

(b) are ancillary to activities described in (a);

(4) complaints in respect of *auction regulation bidding*;

(5) a *full-scope UK AIFM* or a *small authorised UK AIFM*, for *complaints* concerning *AIFM management functions* carried on for an *AIF* that is a *body corporate* unless it is a *collective investment scheme*;

(6) a *depositary*, for *complaints* concerning activities carried on for an *AIF* that is:

(a) a *body corporate* unless it is a *collective investment scheme*; or

(b) another type of *AIF* unless it is:

(i) an *authorised AIF*; or

(ii) [deleted]

(iii) a *charity AIF*; and

(7) complaints in respect of *administering a benchmark*.

1.1.5-A G References in DISP 1.1.5 R to a *full-scope UK AIFM* and *small authorised UK AIFM* carrying on *AIFM management functions* for an *AIF* that is a *body corporate* that is not a *collective investment scheme* include *firms* that are *internally managed AIFs*.

1.1.5-B G For an activity to amount to a *regulated claims management activity* it must be carried on in *Great Britain* (see PERG 2.4A). The effect of DISP 1.1.3R(1A) and DISP 1.1.5R(3A) is that the application of this chapter to *regulated claims management activities* and activities ancillary to *regulated claims management activities* depends on whether the activity is carried on in *Great Britain* rather than whether it is carried on from an establishment maintained in the *United Kingdom*.

1.1.5A R DISP 1.6.2A, DISP 1.6.2B (*rules* relating to *EMD complaints* and *PSD complaints*), the *complaints reporting rules*, the *complaints reporting directions* and the *complaints data publication rules* do not apply to a *credit union*.

1.1.6 G CREDS 9 sets out *rules* for *credit unions* in relation to reporting *complaints*.

1.1.6A G In relation to a *credit union*, the nature, scale and complexity of the *credit union's* business should be taken into account when deciding the appropriate procedures to put in place for dealing with *complaints*.

1.1.7 R This chapter applies to the *Society*, *members* of the *Society* and *managing agents*, subject to the *Lloyd's complaint rules*.

1.1.8 R [deleted]

1.1.9 G [deleted]

1.1.9A G The scope of this sourcebook does not include:

(1) a *complaint* about pre-*commencement* investment business which was regulated by a *recognised professional body* (those *complaints* will be handled under the arrangements of that professional body); or

(2) a *complaint* about the administration of an *occupational pension scheme*, because this is not a *regulated activity* (*firms* should refer complainants to the *Pensions Ombudsman* rather than to the Financial Ombudsman Service and should refer consumers' general requests for information or guidance to *MoneyHelper*).

1.1.10 R In relation to a *firm's* obligations under this chapter, references to a *complaint* also include an expression of dissatisfaction which is capable of becoming a:

(1) relevant new complaint;

(2) relevant transitional complaint;

(3) relevant new credit-related complaint;

(4) relevant new claims management complaint; or

(5) relevant transitional funeral plan complaint.

Additional requirements for insurance and reinsurance distribution business in the UK

1.1.10-A R Where *insurance distribution activities* are carried on from an establishment maintained by it or its *appointed representative* in the *United Kingdom* (or in an *EEA State*, in the case of a *TP firm* with respect to services provided into the *United Kingdom*), a *firm* must have in place and operate appropriate and effective procedures for registering and responding to *complaints* from a *person* who is not an *eligible complainant*.

[**Note:** article 14 of the *IDD*]

1.1.10-B R [deleted]

Application to payment services providers that are not firms

1.1.10A R This chapter (except the *complaints reporting rules* and the *complaints data publication rules*) applies to *payment service providers* that are not *firms* in respect of *complaints* from *eligible complainants* concerning activities carried on from an establishment maintained by that *payment service provider* or its *agent* in the *United Kingdom* (or in an *EEA State*, in the case of a *TA PI firm* or a *TA RAISP firm* with respect to services provided into the *United Kingdom*).

1.1.10AB D The *complaints reporting directions* apply to a *payment service provider* that is not a *firm* in respect of *complaints* from *payment service users* concerning activities carried on from an establishment maintained by that *payment service provider* or its *agent* in the *United Kingdom* (or in an *EEA State*, in the case of a *TA PI firm* or a *TA RAISP firm* with respect to services provided into the *United Kingdom*).

1.1.10B G

(1) In this sourcebook, the term *payment service provider* does not include *credit institutions* (which are covered by this sourcebook as *firms*), but it does include*small electronic money institutions* and *registered account information service providers*.

(2) [deleted]

Application to electronic money issuers that are not firms

1.1.10C R This chapter (except the *complaints reporting rules*, and the *complaints data publication rules*) applies to an *electronic money issuer* that is not a *firm* in respect of *complaints* from *eligible complainants* concerning activities carried on from an establishment maintained by that *electronic money issuer* or its *agent* in the *United Kingdom* (or in an *EEA State*, in the case of a *TA EMI firm* with respect to services provided into the *United Kingdom*).

1.1.10CA D The *complaints reporting directions* apply to an *electronic money issuer* that is not a *firm* in respect of *complaints* from *eligible complainants* concerning activities carried on from an establishment maintained by that electronic money issuer or its *agent* in the *United Kingdom* (or in an *EEA State*, in the case of a *TA EMI firm* with respect to services provided into the *United Kingdom*).

1.1.10D G

(1) In this sourcebook, the term *electronic money issuer* does not include *credit institutions*, *credit unions* or municipal banks (which will be carrying on a *regulated activity* if they issue *electronic money* and will be covered by this sourcebook as *firms* in those circumstances), but it does include *small electronic money institutions* and *persons* who meet the conditions set out in regulation 75(1) or regulation 76(1) of the *Electronic Money Regulations*.

(2) [deleted]

Application to UCITS management companies

1.1.10E R For *complaints* related to *collective portfolio management* services of a *UK UCITS management company* for a *UCITS scheme* or a *scheme* which, immediately before *IP completion day*, was an *EEA UCITS scheme*, DISP 1.1.3R (1) applies, except where modified as follows:

(1) the *consumer awareness rules*, *complaints handling rules* and *complaints record rule* apply in respect of *complaints* from *Unitholders* rather than from *eligible complainants*; and

(2) [deleted]

1.1.10F R [deleted]

Application to CBTL firms

1.1.10G R This chapter (except the *complaints record rule*, the *complaints reporting rules* and the *complaints data publication rules*) applies to *CBTL firms* in respect of *complaints* from *eligible complainants* concerning activities carried on from an establishment maintained in the *United Kingdom*.

1.1.10H G

(1) In this sourcebook, the term *CBTL firm* does not include a *firm*. A *firm* carrying on *CBTL business* is covered by this sourcebook as a *firm*.

(2) *CBTL firms* are reminded of their obligation to retain information relevant to demonstrating the firm's compliance or non-compliance with the requirements of Schedule 2 to the *MCD Order*.

Application to designated credit reference agencies

1.1.10I R This chapter (except the *complaints record rule*, the *complaints reporting rules* and the *complaints data publication rules*) applies to a *designated credit reference agency* in respect of *complaints* from *eligible complainants* concerning activities carried on from an establishment maintained by it or its *agent* in the *United Kingdom*.

1.1.10J G Although *designated credit reference agencies* are not required to comply with the *complaints record rule*, they must retain records in accordance with regulation 24 of the *Small and Medium Sized Business (Credit Information) Regulations* and these can be used to assist the *Financial Ombudsman Service* should this be necessary.

Application to designated finance platforms

1.1.10K R This chapter (except the *complaints record rule*, the *complaints reporting rules*, and the *complaints data publication rules*) applies to a *designated finance platform* in respect of *complaints* from *eligible complainants* concerning activities carried on from an establishment maintained by it or its *agent* in the *United Kingdom*.

1.1.10L G Although *designated finance platforms* are not required to comply with the *complaints record rule*, they must retain records in accordance with regulation 21 of the *Small and Medium Sized Business (Finance Platforms) Regulations* and these can be used to assist the *Financial Ombudsman Service* should this be necessary.

Application to firms in relation to a relevant motor finance discretionary commission arrangement complaint

1.1.10M R In relation to a *relevant motor finance DCA complaint*:

(1) DISP 1.6; and

(2) DISP 1.9,

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apply as modified by DISP App 5 (Relevant motor finance discretionary commission arrangement complaint handling rules).

1.1.10N G DISP App 5 contains *complaint* handling *rules* in respect of a *relevant motor finance DCA complaint*.

FSAVC Review

1.1.11 R Where the subject matter of a *complaint* is subject to a review directly or indirectly under the terms of the policy statement for the review of specific categories of *FSAVC* business issued by the *FSA* on 28 February 2000, the *complaints resolution rules*, the *complaints time limit rules*, the *complaints record rule*, the *complaints reporting rules* and the *complaints data publication rules* will apply only if the *complaint* is about the outcome of the review.

Consumer redress schemes

1.1.11A R Where the subject matter of a *complaint* falls to be dealt with (or has properly been dealt with) under a *consumer redress scheme*, the *complaints resolution rules*, the *complaints time limits rules*, the *complaints record rule* and the *complaints reporting rules* do not apply.

Exemptions for firms, payment service providers, electronic money issuers, designated credit reference agencies and designated finance platforms

1.1.12 R

(1) A *firm*, *payment service provider*, *electronic money issuer*, *designated credit reference agency* or *designated finance platform* falling within the *Compulsory Jurisdiction* which does not conduct business with *eligible complainants* and has no reasonable likelihood of doing so, can, by written notification to the *FCA* , claim exemption from the *rules* relating to the funding of the *Financial Ombudsman Service*, and from the remainder of this chapter.

(2) Notwithstanding (1):

  (a) DISP 1.1A will continue to apply to *MiFID complaints*; and

  (b) the *consumer awareness rules*, the *complaints handling rules* and the *complaints record rule* will continue to apply in respect of *complaints* concerning the provision of *collective portfolio management* services.

(3) The exemption takes effect from the date on which the written notice is received by the *FCA* and will cease to apply when the conditions relating to the exemption no longer apply.

1.1.13 G SUP 15.6 refers to and contains requirements regarding the steps that *firms* must take to ensure that information provided to the *FCA* is accurate and complete. Those requirements apply to information submitted to the *FCA* under this chapter.

Application to VJ participants

1.1.14 R

1.1.15 R This chapter (except the *complaints record rule*, the *complaints reporting rules* and the *complaints data publication rules*) applies to *VJ participants* for *complaints* from *eligible complainants* as part of the *standard terms*.

1.1.16 G Although *VJ participants* are not required to comply with the *complaints record rule*, it is in their interest to retain records of *complaints* so that these can be used to assist the *Financial Ombudsman Service* should it be necessary.

1.1.17 R

1.1.18 G

Outsourcing of complaint handling

1.1.19 G

(1) This chapter does not prevent:

(a) the use by a *respondent* of a third party administrator to handle or resolve *complaints* (or both); or

(b) two or more *respondents* arranging a one-stop shop for handling or resolving *complaints* (or both) under a service level agreement.

(2) These arrangements do not affect *respondents*' obligations as set out in *DISP* or the provisions relating to *outsourcing* by a *firm* set out in SYSC 8 and SYSC 13.

1.1.20 G Further *guidance* on the application of this chapter is set out in the table in DISP 1 Annex 2.

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1.1A Complaints handling requirements for MiFID complaints

Application: Who? What?

1.1A.1 R This section:

(1) applies to the *MiFID complaints* of a *MiFID investment firm* and does not apply to *complaints* that are not *MiFID complaints*;

(2) also applies to the *MiFID complaints* of a *third country investment firm* received from a *retail client* or an *elective professional client* but does not apply to *complaints* that are not *MiFID complaints*; and

(3) applies certain other provisions in DISP 1 to such complaints.

1.1A.2 R For the *MiFID complaints* of a *third country investment firm*, the provisions marked “UK” shall apply as *rules*.

1.1A.3 G A *MiFID complaint* is, amongst other things, a complaint to which article 26 of the *MiFID Org Regulation* applies, being a complaint about:

(1) the provision of *investment services* or *ancillary services* to a *client* by an *investment firm*;

(2) the provision of one or more *investment services* to a *client* by a *CRD credit institution*;

(3) selling *structured deposits* to *clients*, or advising clients on them, where the sale or advice is provided by an *investment firm* or a *CRD credit institution*;

(4) the activities permitted by the *UK* provisions which implemented article 6(3) of the *UCITS Directive* when carried on by a *collective portfolio management investment firm*; and

(5) the activities permitted by the *UK* provisions which implemented article 6(4) of the *AIFMD* when carried on by a *collective portfolio management investment firm*.

[**Note:** see article 1(1), 1(3) and 1(4) of *MiFID*, and article 1 of the *MiFID Org Regulation*]

1.1A.4 G

A *MiFID complaint* is also a complaint about the *equivalent business of a third country investment firm*.

[**Note:** see articles 39 and 41 of *MiFID*]

1.1A.5 G

In contrast to the other provisions in DISP 1 which generally apply to *complaints* from *eligible complainants*, subject to DISP 1.1A.6R:

(1) the obligations in this section that apply to the *MiFID complaints* of *MiFID investment firms*, apply to complaints from "clients" as defined in the *UK* provisions which implemented *MiFID* (which includes *retail clients*, *professional clients* and (in relation to *eligible counterparty business*) *eligible counterparties*; and

(2) the obligations in this section that apply to the *MiFID complaints* of *third country investment firms*, apply to complaints from *retail clients* and *elective professional clients*.

[**Note:** see recital (103) and article 4(1)(9) of *MiFID* for the definition of "client"]

1.1A.6 R

(1) Only the provisions in this section marked "UK" and DISP 1.1A.39R apply to a *MiFID complaint* received from a *retail client*, *professional client* or an *eligible counterparty* that is not an *eligible complainant*.

(2) But where the *retail client*, *professional client* or *eligible counterparty* is also an *eligible complainant*, all of the provisions in this section apply.

Application: Where?

1.1A.7 R

The table below sets out how DISP 1.1A applies to *MiFID complaints* relating to:

the activities of a *MiFID investment firm* carried on from an establishment in the *United Kingdom*; and

the *equivalent business of a third country investment firm* where the complaint is received from a *retail client* or an *elective professional client*.

[deleted]

[deleted]

Table: Application of DISP 1.1A to the MiFID business of firms in the UK, and the equivalent business of third country investment firms

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(1) Provision	(2) Provision applies to the MiFID business of a firm carried on from an establishment in the UK?	(3) Provision applies to the equivalent third country business of a third country investment firm where the complaint is received from a retail client or an elective professional client?
1.1A.10UK	Yes	Yes
1.1A.11R	Yes	Yes
1.1A.12UK	Yes	Yes
1.1A.13UK	Yes	Yes
1.1A.14G	Yes	Yes
1.1A.15G	Yes	Yes
1.1A.16UK	Yes	Yes
1.1A.17UK	Yes	Yes
1.1A.18UK	Yes	Yes
1.1A.19G	Yes	Yes
1.1A.20R	Yes	Yes
1.1A.21G	Yes	Yes
1.1A.22R	Yes	Yes
1.1A.23R	Yes	Yes
1.1A.24UK	Yes	Yes
1.1A.25UK	Yes	Yes
1.1A.26R	Yes	Yes
1.1A.27G	Yes	Yes
1.1A.28R	Yes	Yes
1.1A.29UK	Yes	Yes
1.1A.30UK	Yes	Yes
1.1A.31R	Yes	Yes
1.1A.32G	Yes	Yes
1.1A.33G	Yes	Yes
1.1A.34G	Yes	Yes
1.1A.35R	Yes	Yes
1.1A.36R	Yes	Yes
1.1A.37UK	Yes	Yes
1.1A.38UK	Yes	Yes
1.1A.39R	Yes	Yes
1.1A.40R	Yes	Yes
1.1A.41G	Yes	Yes
1.1A.42R	No	No

(1) Provision	(2) Provision applies to the MiFID business of a firm carried on from an establishment in the UK?	(3) Provision applies to the equivalent third country business of a third country investment firm where the complaint is received from a retail client or an elective professional client?
Notes		
(1) [deleted]		
(2) This table should be read in conjunction with the *rules* and *guidance* in DISP 1.1A.1R to DISP 1.1A.6R.		

Interpretation of this section

1.1A.8 G This section contains a number of provisions marked with the status letters "UK", which have been selectively reproduced from the *MiFID Org Regulation*.

1.1A.9 G References in column (1) to a word or phrase used in those provisions marked "UK" have the meaning indicated in column (2) of the table below:

(1)	(2)
"complaint"	*MiFID complaint*
"investment firm" and "firm"	*MiFID investment firm*

[**Note:** for the definition of "client" see recital (103) and article 4(1)(9) of *MiFID*]

Consumer awareness

1.1A.10 UK Investment firms shall publish the details of the process to be followed when handling a complaint. Such details shall include information about the complaints management policy and the contact details of the complaints management function. This information shall be provided to clients or potential clients, on request, or when acknowledging a complaint.

[**Note:** article 26(2) of the *MiFID Org Regulation*]

1.1A.11 R A *MiFID investment firm* must provide information to *eligible complainants*, in a clear, comprehensible and easily accessible way, about the *Financial Ombudsman Service* (including the *Financial Ombudsman Service's* website address):

(1) on its website, where one exists; and

(2) if applicable, in the general conditions of its contracts with *eligible complainants*.

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[**Note:** subject to a few minor changes reflecting its amended application, this provision replicates DISP 1.2.1R(4)]

[**Note:** article 13(2) of the *ADR Directive*, article 14(1) of the *ODR Regulation*, and regulation 19 of the *ADR Regulations*]

Complaints handling

1.1A.12 UK Investment firms shall establish, implement and maintain effective and transparent complaints management policies and procedures for the prompt handling of clients' or potential clients' complaints.

[**Note:** first paragraph, article 26(1) of the *MiFID Org Regulation*]

1.1A.13 UK The complaints management policy shall provide clear, accurate and up-to-date information about the complaints-handling process. This policy shall be endorsed by the firm's management body.

[**Note:** second paragraph, article 26(1) of the *MiFID Org Regulation*]

1.1A.14 EU The complaints management policy should be set out in a written document e.g. as part of a general fair treatment policy. It should be made available to all relevant staff of the *firm* through appropriate internal channels.

[**Note:** guideline 1(b) and (c) of the Joint Committee Final Report on guidelines for complaints-handling for the securities (ESMA) and banking (EBA) sectors, 27 May 2014, JC 2014 43.]

1.1A.15 EU The *firm's* senior management should be responsible for the implementation of the complaints management policy and for monitoring compliance with it.

[**Note:** guideline 1(b) and (c) of the Joint Committee Final Report on guidelines for complaints-handling for the securities (*ESMA*) and banking (*EBA*) sectors, 27 May 2014, JC 2014 43.]

1.1A.16 UK Investment firms shall enable clients and potential clients to submit complaints free of charge.

[**Note:** article 26(2) of the *MiFID Org Regulation*]

1.1A.17 UK Investment firms shall establish a complaints management function responsible for the investigation of complaints. This function may be carried out by the compliance function.

[**Note:** article 26(3) of the *MiFID Org Regulation*]

1.1A.18 UK Investment firms' compliance function shall analyse complaints and complaints-handling data to ensure that they identify and address any risks or issues.

[**Note:** article 26(7) of the *MiFID Org Regulation*]

1.1A.19 G *MiFID complaints* should be handled effectively and in an independent manner.

[**Note:** recital (38) of the *MiFID Org Regulation*]

Complaints resolution

1.1A.20 R Once a *MiFID complaint* has been received by a *MiFID investment firm*, the *firm* must:

(1) investigate the complaint competently, diligently and impartially, obtaining additional information as necessary;

(2) assess fairly, consistently and promptly:

(a) the subject matter of the complaint;

(b) whether the complaint should be upheld;

(c) what remedial action or redress (or both) may be appropriate; and

(d) if appropriate, whether it has reasonable grounds to be satisfied that another respondent may be solely or jointly responsible for the matter alleged in the complaint; and

(3) comply promptly with any offer of remedial action or redress accepted by the complainant.

[**Note:** subject to a few minor changes reflecting its amended application, this provision replicates DISP 1.4.1R(1), (2) and (5).]

1.1A.21 G Factors that may be relevant in the assessment of a *MiFID complaint* under DISP 1.1A.20R(2) include the following:

(1) all the evidence available and the particular circumstances of the complaint;

(2) similarities with other complaints received by the respondent;

(3) relevant guidance published by the *FCA*, other relevant regulators, the *Financial Ombudsman Service* or former schemes; and

(4) appropriate analysis of decisions by the *Financial Ombudsman Service* concerning similar complaints received by the *MiFID investment firm*.

[**Note:** subject to a few minor changes reflecting its amended application, this provision replicates DISP 1.4.2G.]

1.1A.22 R Where a *MiFID complaint* against a *MiFID investment firm* is referred to the *Financial Ombudsman Service*, the *MiFID investment firm* must cooperate fully with the *Financial Ombudsman Service* and comply promptly with any settlements or awards made by it.

[**Note:** subject to a few minor changes reflecting its amended application, this provision replicates DISP 1.4.4R.]

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Complaints resolved by close of the third business day

1.1A.23 R If a *MiFID investment firm* resolves a *MiFID complaint* by close of business on the third *business day* following the day on which it is received, it may choose to comply with ■ DISP 1.1A.24UK to ■ DISP 1.1A.27G rather than with ■ DISP 1.1A.28R to ■ DISP 1.1A.34G.

1.1A.24 UK When handling a complaint, investment firms shall communicate with clients or potential clients clearly, in plain language that is easy to understand and shall reply to the complaint without undue delay.

[**Note:** article 26(4) of the *MiFID Org Regulation*]

1.1A.25 UK Investment firms shall communicate the firm's position on the complaint to clients or potential clients and inform the clients or potential clients about their options, including that they may be able to refer the complaint to an alternative dispute resolution entity, as defined in regulation 4 of the *ADR Regulations*, or that the client may be able to take civil action.

[**Note:** article 26(5) of the *MiFID Org Regulation*. See the *ADR Directive*.]

1.1A.26 R The explanation given by *MiFID investment firms* to *clients* or potential clients in accordance with ■ DISP 1.1A.25UK must also:

(1) refer to the fact that the complainant has made a *MiFID complaint* and inform the complainant that the *MiFID investment firm* now considers the *MiFID complaint* to have been resolved;

(2) inform the complainant that if, still dissatisfied with the resolution of the *MiFID complaint*, the complainant may be able to refer it to the *Financial Ombudsman Service*;

(3) indicate whether or not the *respondent* consents to waiving the relevant time limits in ■ DISP 2.8.2R or ■ DISP 2.8.7R (Was the complaint referred to the Financial Ombudsman Service in time?) by including the appropriate wording set out in ■ DISP 1 Annex 3R;

(4) provide the website address of the *Financial Ombudsman Service*; and

(5) refer to the availability of further information on the website of the *Financial Ombudsman Service*.

[**Note:** article 13 of the *ADR Directive*]

1.1A.27 G The information regarding the *Financial Ombudsman Service* required to be provided in a communication sent under ■ DISP 1.1A.25UK and referred to in

DISP 1.1A.26R should be set out clearly, comprehensibly, in an easily accessible way and prominently within the text of those responses.

[**Note:** article 13 of the *ADR Directive*]

Complaints time limits

1.1A.28 R On receipt of a *MiFID complaint*, a *MiFID investment firm* must:

(1) send the complainant a prompt written acknowledgement providing early reassurance that it has received the *MiFID complaint* and is dealing with it; and

(2) ensure the complainant is kept informed thereafter of the progress of the measures being taken for the *MiFID complaint's* resolution.

[**Note:** subject to a few minor changes reflecting its amended application, this provision replicates DISP 1.6.1R.]

1.1A.29 UK When handling a complaint, investment firms shall communicate with clients or potential clients clearly, in plain language that is easy to understand and shall reply to the complaint without undue delay.

[**Note:** article 26(4) of the *MiFID Org Regulation*]

1.1A.29 EU

1.1A.30 R Investment firms shall communicate the firm's position on the complaint to clients or potential clients and inform the clients or potential clients about their options, including that they may be able to refer the complaint to an alternative dispute resolution entity, as defined in regulation 4 of the *ADR Regulations*, or that the client may be able to take civil action.

[**Note:** article 26(5) of the *MiFID Org Regulation*. See the *ADR Directive*.]

1.1A.31 R The explanation given by *MiFID investment firms* to *clients* or potential *clients* in accordance with DISP 1.1A.30UK must also:

(1) enclose a copy of the *Financial Ombudsman Service*'s standard explanatory leaflet;

(2) provide the website address of the *Financial Ombudsman Service*;

(3) inform the complainant that if, still dissatisfied with the *respondent*'s response, the *complaint* may now be referred to the *Financial Ombudsman Service*; and

(4) indicate whether or not the *respondent* consents to waiving the relevant time limits in DISP 2.8.2R or DISP 2.8.7R (Was the complaint referred to the Financial Ombudsman Service in time?) by including the appropriate wording set out in DISP 1 Annex 3R.

[**Note:** article 13 of the *ADR Directive*]

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1.1A.32 G The information regarding the *Financial Ombudsman Service* required to be provided in a *final response* sent under DISP 1.1A.30UK and referred to in DISP 1.1A.31R should be set out clearly, comprehensibly, in an easily accessible way and prominently within the text of those responses.

[**Note:** article 13 of the *ADR Directive*]

1.1A.33 G When assessing a *MiFID investment firm's* response to a *MiFID complaint*, the *FCA* may have regard to a number of factors, including, the quality of response, as against the above rules, as well as the speed with which it was made.

[**Note:** subject to a few minor changes reflecting its amended application, this provision replicates DISP 1.6.8G]

1.1A.34 G DISP 2.8.1R sets out the circumstances in which the *Ombudsman* can consider a *complaint*, including where eight weeks have elapsed since its receipt by the *MiFID investment firm* and where the *MiFID investment firm* consents (subject to the other requirements of DISP 2.8.1R(4)).

Complaints forwarding

1.1A.35 R DISP 1.7 also applies to a *MiFID complaint* received by a *MiFID investment firm*.

Complaints time barring

1.1A.36 R If a *MiFID investment firm* receives a *MiFID complaint* which is outside the time limits for referral to the *Financial Ombudsman Service* (see DISP 2.8) it may reject the *MiFID complaint* without considering the merits, but must explain this to the complainant in a *final response*.

[**Note:** subject to a few minor changes reflecting its amended application, this provision replicates DISP 1.8]

Complaints records

1.1A.37 UK Investment firms shall keep a record of the complaints received and the measures taken for their resolution.

[**Note:** article 26(1) of the *MiFID Org Regulation*; see also article 72 of the *MiFID Org Regulation* regarding the retention of records]

Complaints reporting

1.1A.38 UK Investment firms shall provide information on complaints and complaints-handling to the relevant competent authorities and, where applicable under national law, to an alternative dispute resolution (ADR) entity.

[**Note:** article 26(6) of the *MiFID Org Regulation*]

1.1A.39 R The *complaints reporting rules* also apply to the *MiFID complaints* of a *firm*, except that the relevant parts of the report which the *firm* must provide to the *FCA* under DISP 1.10.1R must, in relation to *MiFID complaints*, include information about such complaints received from *retail clients*, *professional* *clients*, and (where relevant) *eligible counterparties* rather than *eligible complainants*.

Complaints data publication

1.1A.40 R The *complaints data publication rules* apply to the *MiFID complaints* of a *firm*.

1.1A.41 G The effect of the *complaints data publication rules* and DISP 1.1A.37UK is that, for the purposes of complying with those *rules*, a *firm's complaints* data summary should include relevant data about any *MiFID complaints* received by the *firm*.

1.1A.42 R [deleted]

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1.2 Consumer awareness rules

Publishing and providing summary details, and information about the Financial Ombudsman Service

1.2.1 R To aid consumer awareness of the protections offered by the provisions in this chapter, *respondents* must:

(1) publish appropriate information regarding their internal procedures for the reasonable and prompt handling of *complaints*;

(2) refer *eligible complainants* to the availability of this information:

(a) in relation to a *payment service*, in the information on out-of-court complaint and redress procedures required to be provided or made available under regulations 43(2)(e) (Information required prior to the conclusion of a single payment service contract) or 48 (Prior general information for framework contracts) of the *Payment Services Regulations*; or

(aa) in relation to *CBTL arrangers*, in the information on registering complaints internally and out-of-court complaint and redress procedures provided under article 7(1)(h) of Schedule 2 to the *MCD Order*; or

(b) otherwise, in writing at, or immediately after, the point of sale ; and

(c) in relation to a *payment service*, at the *branch* where the service is provided;

(3) provide such information in writing and free of charge to *eligible complainants*:

(a) on request; and

(b) when acknowledging a *complaint*; and

(4) provide information to *eligible complainants*, in a clear, comprehensible and easily accessible way, about the *Financial Ombudsman Service* including the *Financial Ombudsman Service*'s website address:

(a) on the *respondent*'s website, where one exists; and

(b) if applicable, in the general conditions of the *respondent*'s contract with the *eligible complainant*.

[**Note:** article 15 of the *UCITS Directive*, article 13(2) of the *ADR Directive*, article 14(1) of the *ODR Regulation*, regulation 19 of the *ADR Regulations* and article 101 of the *Payment Services Directive*]

Relevant motor finance discretionary commission arrangement complaints

1.2.1A G ■ DISP App 5.2.4R requires a *respondent* to update the information it has published pursuant to ■ DISP 1.2.1R(1) in relation to the *complaint* handling time limits that apply to a *relevant motor finance DCA complaint*.

1.2.2 R Where the activity does not involve a sale, the obligation in ■ DISP 1.2.1R(2)(b):

(1) shall apply at, or immediately after, the point when contact is first made with an *eligible complainant*; and

(2) where the *respondent* is a *not-for-profit debt advice body*:

(a) may be met at, or immediately after, the point when contact is first made with an *eligible complainant*, by making an oral reference to the availability of the information if the *respondent* does not communicate with the *eligible complainant* in writing then; and

(b) must be met in writing on the first occasion on which the *respondent* communicates with the *eligible complainant* in writing.

1.2.2A G If an *MCD credit intermediary* has, before or at the point of sale, provided an *eligible complainant* with appropriate information in a *durable medium* about their internal procedures for the reasonable and prompt handling of *complaints* pursuant to another *rule*, the *MCD credit intermediary* need not refer to the availability of that information again under ■ DISP 1.2.1R(2)(b).

1.2.2B R [deleted]

Content of summary details

1.2.3 G The summary details concerning internal complaints handling procedures should cover at least:

(1) how the *respondent* fulfils its obligation to handle and seek to resolve relevant *complaints*; and

(2) (where the *complaint* falls within the jurisdiction of the *Financial Ombudsman Service*) that, if the *complaint* is not resolved, the complainant may be entitled to refer it to the *Financial Ombudsman Service*.

1.2.4 G Those summary details may be set out in a leaflet, and their availability may be referred to in contractual documentation.

Financial Ombudsman Service logo

1.2.5 G *Respondents* may also display or reproduce the *Financial Ombudsman Service* logo (under licence) in:

(1) branches and sales offices to which *eligible complainants* have access; or

(2) marketing literature or correspondence directed at *eligible complainants*;

provided it is done in a way which is not misleading.

1.2.5A G [deleted]

The Pensions Ombudsman

1.2.6 G Where *respondents* are required to provide information in relation to the *Financial Ombudsman Service*, they may also, where relevant, do so in relation to the *Pensions Ombudsman* on the same basis as set out in DISP 1.2.1(4)R and DISP 1.2.3G.

1.2.7 G Where *respondents* are permitted to display or reproduce the *Financial Ombudsman Service* logo, they may, where relevant, also display or reproduce the *Pensions Ombudsman* logo (with consent) on the same basis as set out in DISP 1.2.5G.

1.3 Complaints handling rules

Complaints handling procedures for respondents

1.3.1 R Effective and transparent procedures for the reasonable and prompt handling of *complaints* must be established, implemented and maintained by a *respondent*.

[**Note**: article 6(1) of the *UCITS implementing Directive*]

Call charges

1.3.1A R These procedures must ensure that a *complaint* may be made free of charge.

[**Note:** article 6(3) of the *UCITS implementing Directive*]

1.3.1AA R Where a *respondent* operates a telephone line for the purpose of enabling an *eligible complainant* to submit a *complaint*, the complainant must not be bound to pay more than the basic rate when contacting the *respondent* by telephone.

1.3.1AB R For the purposes of DISP 1.3.1AAR the basic rate is the simple cost of connection and must not provide the *respondent* with a contribution to its costs or revenues.

1.3.1AC R The following numbers, if used by a *respondent*, would comply with DISP 1.3.1ABR:

(1) geographic numbers or numbers which are always set at the same rate, which usually begin with the prefix 01, 02 or 03;

(2) calls which can be free of charge to call, for example 0800 and 0808 numbers; and

(3) standard mobile numbers, which usually begin with the prefix 07, provided that the *respondent* ordinarily uses a mobile number to receive telephone calls.

1.3.1AD R The following numbers, if used by a *respondent*, would not comply with DISP 1.3.1ABR:

(1) premium rate numbers that begin with the prefix 09;

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(2) other revenue sharing numbers in which a portion of the call charge can be used to either provide a service or make a small payment to the *respondent*, such as telephone numbers that begin with the prefix 084 or 0871, 0872 or 0873; and

(3) telephone numbers that begin with the prefix 0870, as the cost of making a telephone call on such numbers can be higher than a geographic cost and will vary depending on the *eligible complainant's* telephone tariff.

Particular procedures for UCITS management companies

1.3.1B R A *UK UCITS management company* must ensure that the procedures it establishes under DISP 1.3.1 R for the reasonable and prompt handling of *complaints* require that *unitholders* are allowed to file complaints in any of the official languages of the *Home State* of the *UCITS scheme* or a *scheme* which, immediately before *IP completion day*, was an *EEA UCITS scheme* or of any *EEA State* to which a notification was transmitted by the *competent authority* of the *scheme's Home State* in accordance with article 93 of the *UCITS Directive*.

Further requirements for all respondents

1.3.2 G These procedures should:

(1) allow *complaints* to be made by any reasonable means; and

(2) recognise *complaints* as requiring resolution.

1.3.2A G These procedures should, taking into account the nature, scale and complexity of the *respondent's* business, ensure that lessons learned as a result of determinations by the *Ombudsman* are effectively applied in future *complaint* handling, for example by:

(1) relaying a determination by the *Ombudsman* to the individuals in the *respondent* who handled the *complaint* and using it in their training and development;

(2) analysing any patterns in determinations by the *Ombudsman* concerning *complaints* received by the *respondent* and using this in training and development of the individuals dealing with *complaints* in the *respondent*; and

(3) analysing guidance produced by the *FCA* , other relevant regulators and the *Financial Ombudsman Service* and communicating it to the individuals dealing with *complaints* in the *respondent*.

1.3.3 R A *respondent* must put in place appropriate management controls and take reasonable steps to ensure that in handling *complaints* it identifies and remedies any recurring or systemic problems, for example, by:

(1) analysing the causes of individual *complaints* so as to identify root causes common to types of *complaint*;

(2) considering whether such root causes may also affect other processes or products, including those not directly complained of; and

(3) correcting, where reasonable to do so, such root causes.

1.3.3B G The processes that a *firm* or *CBTL firm* should have in place in order to comply with DISP 1.3.3 R may include, taking into account the nature, scale and complexity of the *firm*'s or *CBTL firm's* business including, in particular, the number of *complaints* the *firm* or *CBTL firm* receives:

(1) the collection of management information on the causes of *complaints* and the products and services *complaints* relate to, including information about *complaints* that are resolved by the *firm* by close of business on the third *business day* following the day on which it is received;

(2) a process to identify the root causes of *complaints* (DISP 1.3.3 R (1));

(3) a process to prioritise dealing with the root causes of *complaints*;

(4) a process to consider whether the root causes identified may affect other processes or products (DISP 1.3.3 R (2));

(5) a process for deciding whether root causes discovered should be corrected and how this should be done (DISP 1.3.3 R (3));

(6) regular reporting to the *senior personnel* where information on recurring or systemic problems may be needed for them to play their part in identifying, measuring, managing and controlling risks of regulatory concern; and

(7) keeping records of analysis and decisions taken by *senior personnel* in response to management information on the root causes of *complaints*.

1.3.4 G [deleted]

1.3.5 G [deleted]

1.3.6 G Where a *firm* identifies (from its *complaints* or otherwise) recurring or systemic problems in its provision of, or failure to provide, a financial service or *claims management service*, it should (in accordance with *Principle* 6

(Customers' interests) and to the extent that it applies) consider whether it ought to act with regard to the position of *customers* who may have suffered detriment from, or been potentially disadvantaged by, such problems but who have not complained and, if so, take appropriate and proportionate measures to ensure that those *customers* are given appropriate redress or a proper opportunity to obtain it. In particular, the *firm* should:

(1) ascertain the scope and severity of the consumer detriment that might have arisen; and

(2) consider whether it is fair and reasonable for the *firm* to undertake proactively a redress or remediation exercise, which may include contacting *customers* who have not complained.

1.3.7 R (1) A *firm* must appoint an individual at the *firm*, or in the same *group* as the *firm*, to have responsibility for oversight of the *firm's* compliance with DISP 1.

(2) The individual appointed must be carrying out a *FCA governing function* at the *firm* or in the same *group* as the *firm*.

(3) If there are no individuals at the *firm* or in the same *group* as the *firm* within (2), the *firm* must appoint an individual of appropriate seniority.

(4) A *person* approved to perform the *limited scope function* for the *firm* or for a *firm* in the same *group* as the *firm* satisfies the condition in (3).

1.3.8 G *Firms* are not required to notify the name of the individual to the *FCA* or the *Financial Ombudsman Service* but would be expected to do so promptly on request. There is no bar on a *firm* appointing different individuals to have the responsibility at different times where this is to accommodate part-time or flexible working.

1.4 Complaints resolution rules

Investigating, assessing and resolving complaints

1.4.1 R Once a *complaint* has been received by a *respondent*, it must:

(1) investigate the *complaint* competently, diligently and impartially, obtaining additional information as necessary;

(2) assess fairly, consistently and promptly:

(a) the subject matter of the *complaint*;

(b) whether the *complaint* should be upheld;

(c) what remedial action or redress (or both) may be appropriate;

(d) if appropriate, whether it has reasonable grounds to be satisfied that another *respondent* may be solely or jointly responsible for the matter alleged in the *complaint*;

taking into account all relevant factors;

(3) offer redress or remedial action when it decides this is appropriate;

(4) explain to the complainant promptly and, in a way that is fair, clear and not misleading, its assessment of the *complaint*, its decision on it, and any offer of remedial action or redress; and

(5) comply promptly with any offer of remedial action or redress accepted by the complainant.

1.4.2 G Factors that may be relevant in the assessment of a *complaint* under DISP 1.4.1R (2) include the following:

(1) all the evidence available and the particular circumstances of the *complaint*;

(2) similarities with other *complaints* received by the *respondent*;

(3) relevant guidance published by the *FCA* , other relevant regulators, the *Financial Ombudsman Service* or *former schemes*; and

(4) appropriate analysis of decisions by the *Financial Ombudsman Service* concerning similar *complaints* received by the *respondent* (procedures for which are described in DISP 1.3.2A G).

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1.4.3 G The *respondent* should aim to resolve *complaints* at the earliest possible opportunity, minimising the number of unresolved *complaints* which need to be referred to the *Financial Ombudsman Service*.

Co-operating with the Financial Ombudsman Service

1.4.4 R Where a *complaint* against a *respondent* is referred to the *Financial Ombudsman Service*, the *respondent* must cooperate fully with the *Financial Ombudsman Service* and comply promptly with any settlements or awards made by it.

Mortgage endowment complaints

1.4.5 G ■ DISP App 1 contains *guidance* to *respondents* on the approach to assessing financial loss and appropriate redress where a *respondent* upholds a *complaint* concerning the sale of an endowment policy for the purposes of repaying a *mortgage*.

Payment protection insurance complaints

1.4.6 G ■ DISP App 3 sets out the approach which *respondents* should use in assessing *complaints* relating to the sale of *payment protection contracts* and determining appropriate redress where a *complaint* is upheld. It also requires *firms* to send a written communication to complainants in certain circumstances (see ■ DISP App 3.11).

1.5 Complaints resolved by close of the third business day

1.5.1 R The following *rules* do not apply to a *complaint* that is resolved by a *respondent* by close of business on the third *business day* following the day on which it is received:

(1) the *complaints time limit rules*; and

(2) the complaints forwarding *rules*.

(3) [deleted]

(4) [deleted]

(5) [deleted]

1.5.2 G *Complaints* falling within this section are still subject to the *complaints resolution rules*.

When a complaint is resolved

1.5.2A R A *complaint* is resolved where the complainant has indicated acceptance of a response from the *respondent*, with neither the response nor acceptance having to be in writing.

1.5.3 G [deleted]

Summary resolution communication

1.5.4 R Where the *respondent* considers a *complaint* to be resolved under this section, the *respondent* must promptly send the complainant a 'summary resolution communication', being a written communication from the *respondent* which:

(1) refers to the fact that the complainant has made a *complaint* and informs the complainant that the *respondent* now considers the *complaint* to have been resolved;

(2) tells the complainant that if he subsequently decides that he is dissatisfied with the resolution of the *complaint* he may be able to refer the *complaint* to the *Financial Ombudsman Service*;

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(3) indicates whether or not the respondent consents to waive the relevant time limits in DISP 2.8.2R or DISP 2.8.7R (Was the complaint referred to the Financial Ombudsman Service in time?) by including the appropriate wording set out in DISP 1 Annex 3R;

(4) provides the website address of the *Financial Ombudsman Service*; and

(5) refers to the availability of further information on the website of the *Financial Ombudsman Service*.

[**Note**: article 13 of the *ADR Directive*]

1.5.5 G The information regarding the *Financial Ombudsman Service* required to be provided in a *summary resolution communication* should be set out clearly, comprehensibly, in an easily accessible way and prominently, within the text of those responses.

1.5.5A G A *respondent* may, where relevant, in a *summary resolution communication* (DISP 1.5.4R) refer to the availability of the *Pensions Ombudsman*, in addition to the *Financial Ombudsman Service*, by including the wording set out in DISP 1 Annex 4G.

1.5.6 G In addition to sending a complainant a *summary resolution communication*, a *respondent* may also use other methods to communicate the information referred to in DISP 1.5.4R(1) to (5) where–

(1) the *respondent* considers that doing so may better meet the complainant's needs; or

(2) the complainant and *respondent* have already been using another method to communicate about the *complaint*.

1.5.7 G An example of DISP 1.5.6G(1) may be where a *respondent* is aware that a complainant is visually impaired. An example of DISP 1.5.6G(2) may be where a *respondent* has been communicating with a complainant about a *complaint* by telephone.

1.6 Complaints time limit rules

Keeping the complainant informed

1.6.1 R On receipt of a *complaint*, a *respondent* must:

(1) send the complainant a prompt written acknowledgement providing early reassurance that it has received the *complaint* and is dealing with it; and

(2) ensure the complainant is kept informed thereafter of the progress of the measures being taken for the *complaint*'s resolution.

1.6.1A G To the extent that a *complaint* is in part an *EMD complaint* or a *PSD complaint* and the *respondent* has chosen to deal with it in parts, keeping the complainant informed of progress includes informing the complainant that this is the approach that the *respondent* will take.

Final or other response within eight weeks

1.6.2 R Subject to DISP 1.6.2AR, the *respondent* must, by the end of eight weeks after its receipt of the *complaint*, send the complainant:

(1) a 'final response', being a written response from the *respondent* which:

(a) accepts the *complaint* and, where appropriate, offers redress or remedial action; or

(b) offers redress or remedial action without accepting the *complaint*; or

(c) rejects the *complaint* and gives reasons for doing so;

and which:

(d) encloses a copy of the *Financial Ombudsman Service*'s standard explanatory leaflet;

(da) provides the website address of the *Financial Ombudsman Service*;

(e) informs the complainant that if he remains dissatisfied with the *respondent*'s response, he may now refer his *complaint* to the *Financial Ombudsman Service*; and

(f) indicates whether or not the *respondent* consents to waive the relevant time limits in DISP 2.8.2 R or DISP 2.8.7 R (Was the complaint referred to the Financial Ombudsman Service in time?)

by including the appropriate wording set out in DISP 1 Annex 3R; or

[**Note:** *respondents* are reminded of their obligations under regulation 19 of the *ADR Regulations*, which requires *respondents* to provide equivalent messaging in respect of the time limit in DISP 2.8.9R (Payment protection insurance complaints)]

(2) a written response which:

(a) explains why it is not in a position to make a *final response* and indicates when it expects to be able to provide one;

(b) informs the complainant that he may now refer the *complaint* to the *Financial Ombudsman Service*;

(ba) indicates whether or not the *respondent* consents to waive the relevant time limits in DISP 2.8.2 R or DISP 2.8.7 R (Was the complaint referred to the Financial Ombudsman Service in time?) if it becomes apparent that the complaint has been made or is referred outside those time limits;

(c) encloses a copy of the *Financial Ombudsman Service* standard explanatory leaflet; and

(d) provides the website address of the *Financial Ombudsman Service*.

[**Note:** article 13 of the *ADR Directive*]

EMD and PSD Complaints

1.6.2A R Where a *complaint* is an *EMD complaint* or a *PSD complaint*, the *respondent* must:

(1) send a *final response* to the complainant by the end of 15 *business days* after the day on which it received the *complaint*; or

(2) in exceptional circumstances, if a *final response* cannot be given in accordance with paragraph (1) for reasons beyond the control of the *respondent*:

(a) send a holding response to the complainant by the end of 15 *business days* after the day on which it received the complaint, clearly indicating the reasons for the delay in answering the *complaint* and specifying the deadline by which it will send the *final response*; and

(b) send a *final response* to the complainant by the end of 35 *business days* after the day on which it received the *complaint*.

A *final response* sent under (1) or (2) above must be on paper, or if agreed between the *respondent* and the complainant, on another *durable medium*.

[**Note:** article 101 of the *Payment Services Directive*]

1.6.2B R Where only part of a *complaint* is an *EMD complaint* or a *PSD complaint*, that part must be treated in accordance with DISP 1.6.2AR.

1.6.2C R As the time limits in DISP 1.6.2AR are shorter than those in DISP 1.6.2R a *respondent* may choose to treat the whole *complaint* in accordance with DISP 1.6.2AR (see also DISP 2.8AR).

1.6.3 G [deleted]

Complainant's written acceptance

1.6.4 R DISP 1.6.2 R does not apply if the complainant has already indicated in writing acceptance of a response by the *respondent*, provided that the response:

(1) informed the complainant how to pursue his *complaint* with the *respondent* if he remains dissatisfied;

(2) referred to the ultimate availability of the *Financial Ombudsman Service* if he remains dissatisfied with the *respondent's* response;

(3) enclosed a copy of the *Financial Ombudsman Service* standard explanatory leaflet;

(4) provided the website address of the *Financial Ombudsman Service*; and

(5) indicated whether or not the *respondent* consents to waive the relevant time limits in DISP 2.8.2 R or DISP 2.8.7 R (Was the complaint referred to the Financial Ombudsman Service in time?) by including the appropriate wording set out in DISP 1 Annex 3 R.

1.6.4A G DISP 1.6.4R does not affect the requirements imposed by DISP 1.6.2AR. Where a *complaint* is an *EMD complaint* or a *PSD complaint* and DISP 1.6.2AR applies a final response must always be sent unless DISP 1.5.1R applies.

1.6.5 R [deleted]

1.6.6 R [deleted]

1.6.6A G The information regarding the *Financial Ombudsman Service*, required to be provided in responses sent under the *complaints* time limit *rules* (DISP 1.6.2 R, DISP 1.6.2AR and DISP 1.6.4 R), should be set out clearly, comprehensibly, in an easily accessible way and prominently within the text of those responses.

[**Note:** article 13 of the *ADR Directive*]

1.6.6B G A *respondent* may, where relevant, in a response sent under the *complaints time limits rules* (DISP 1.6.2R and DISP 1.6.4R) refer to the availability of the *Pensions Ombudsman*, in addition to the *Financial Ombudsman Service*, by including the wording set out in DISP 1 Annex 4G.

Speed and quality of response

1.6.7 G It is expected that within eight weeks of their receipt, almost all *complaints* to a *respondent* will have been substantively addressed by it through a *final response* or response as described in DISP 1.6.4 R.

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1.6.8 G When assessing a *respondent*'s response to a *complaint*, the *FCA* may have regard to a number of factors, including, the quality of response, as against the *complaints resolution rules*, as well as the speed with which it was made.

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1.7 Complaints forwarding rules

Forwarding a complaint

1.7.1 R A *respondent* that has reasonable grounds to be satisfied that another *respondent* may be solely or jointly responsible for the matter alleged in a *complaint* may forward the *complaint*, or the relevant part of it, in writing to that other *respondent*, provided it:

(1) does so promptly;

(2) informs the complainant promptly in a *final response* of why the *complaint* has been forwarded by it to the other *respondent*, and of the other *respondent*'s contact details; and

(3) where jointly responsible for the fault alleged in the *complaint*, it complies with its own obligations under this chapter in respect of that part of the *complaint* it has not forwarded.

Dealing with a forwarded complaint

1.7.2 R When a *respondent* receives a *complaint* that has been forwarded to it under DISP 1.7.1 R, the *complaint* is treated for the purposes of *DISP* as if made directly to that *respondent*, and as if received by it when the forwarded *complaint* was received.

1.7.3 G On receiving a forwarded *complaint*, the standard time limits will apply from the date on which the *respondent* receives the forwarded *complaint*.

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1.8 Complaints time barring rule

1.8.1 R If a *respondent* receives a *complaint* which is outside the time limits for referral to the *Financial Ombudsman Service* (see DISP 2.8) it may reject the complaint without considering the merits, but must explain this to the complainant in a *final response* in accordance with DISP 1.6.2 R or DISP 1.6.2AR.

1.9 Complaints record rule

1.9.1 R A *firm*, a *payment service provider* or an *e-money issuer*, must keep a record of each *complaint* received and the measures taken for its resolution, and retain that record for:

(1) at least five years where the *complaint* relates to *collective portfolio management* services for a *UCITS scheme* or a *scheme* which, immediately before *IP completion day*, or an *EEA UCITS scheme*; and

(2) three years for all other *complaints*;

from the date the *complaint* was received.

Note: article 6(2) of the *UCITS implementing Directive*]

1.9.2 G The records of the measures taken for resolution of *complaints* may be used to assist with the collection of management information pursuant to DISP 1.3.3BG(1) and regular reporting to the *senior personnel* pursuant to DISP 1.3.3BG(6).

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1.10 Complaints reporting rules

1.10.1 R

(1) Unless (2) applies, twice a year a *firm* must provide the *FCA* with a complete report concerning *complaints* received from *eligible complainants*.

(2) If a *firm*:

(a) has *permission* to carry on only *credit-related regulated activities* or *operating an electronic system in relation to lending* and has revenue arising from those activities that is less than or equal to £5,000,000 a year; or

(b) has permission to carry on only:

(i) regulated claims management activities; or

(ii) regulated funeral plan activities,

the *firm* must provide the *FCA* with a complete report concerning *complaints* received from *eligible complainants* once a year.

(3) The report required by (1) and (2) must be set out in the format in:

(a) DISP 1 Annex 1R, in respect of *complaints* which do not relate to *regulated claims management activity* or any activity ancillary to *regulated claims management activity*;

(b) DISP 1 Annex 1ABR, in respect of complaints relating to *regulated claims management activity* or any activity ancillary to *regulated claims management activity*; and

(c) DISP 1 Annex 1ACR, in respect of *complaints* relating to *regulated funeral plan activities*.

(4) Paragraphs (1) and (2) do not apply to a *firm* with only a *limited permission* unless that *firm* is a *not-for-profit debt advice body* that at any point in the last 12 *months* has held £1 million or more in *client money* or as the case may be, projects that it will hold £1million or more in *client money* in the next 12 *months*.

1.10.1-A G

A *firm* with only a *limited permission* to whom DISP 1.10.1R(1) and (2) do not apply is required to submit information to the *FCA* about the number of complaints it has received in relation to credit-related activities under the reporting requirements in SUP 16.12 (see, in particular, data item CCR007 in SUP 16.12.29CR). A *firm* with *limited permission* to whom DISP 1.10.1R (1) and (2) do not apply is also subject to the complaints data publication rules in DISP 1.10A.

Forwarded complaints

1.10.1A **R** A *firm* must not include in the report a *complaint* that has been forwarded in its entirety to another *respondent* under the complaints forwarding *rules*.

1.10.1B **G** Where a *firm* has forwarded to another *respondent* only part of a *complaint* or where two *respondents* may be jointly responsible for a *complaint*, then the *complaint* should be reported by both *firms*.

Joint reports

1.10.1C **R** *Firms* that are part of a *group* may submit a joint report to the *FCA*. The joint report must contain the information required from all *firms* concerned and clearly indicate the *firms* on whose behalf the report is submitted. The requirement to provide a report, and the responsibility for the report, remains with each *firm* in the *group*.

1.10.1D **G** Not all the *firms* in the *group* need to submit the report jointly. *Firms* should only consider submitting a joint report if it is logical to do so, for example, where the *firms* have a common central *complaints* handling team, the same *accounting reference date* and are all subject to the same reporting frequencies and submission deadlines.

Information requirements

1.10.2 **R**

(1) Where a *firm* receives less than 500 *complaints* in a reporting period, Part A-1 of DISP 1 Annex 1 requires, for the relevant reporting period and in respect of particular categories of products:

(a) in Table 1, information about the total number of *complaints* received by the *firm* and the cause of the *complaint*;

(b) in Table 2, information about the number of *complaints* that were:

(i) closed or upheld within different periods of time; and

(ii) the total amount of redress paid by the *firm* in relation to *complaints* upheld and not upheld in the relevant reporting period; and

(c) in Table 3, information providing context about the *complaints* received.

(2) Where a *firm* receives 500 or more *complaints* in a reporting period, Part A-2 of DISP 1 Annex 1 requires, for the relevant reporting period and in respect of particular categories of products:

(a) in Table 4, information about the total number of *complaints* received by the *firm* and the cause of the *complaint*;

(b) in Table 5, information about the number of *complaints* that were:

(i) closed or upheld within different periods of time; and

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(ii) the amount of redress paid by the *firm* in relation to *complaints* upheld and not upheld in the relevant reporting period; and

(c) in Table 6, information providing context about the *complaints* received.

1.10.2-A R Part B of DISP 1 Annex 1R requires (for the relevant reporting period) information about:

(1) the total number of *complaints* received by the *firm*;

(2) the total number of *complaints* closed by the *firm*;

(3) the total number of *complaints*:

(a) upheld by the *firm* in the reporting period; and

(b) outstanding at the beginning of the reporting period; and

(4) the total amount of redress paid in respect of *complaints* during the reporting period.

1.10.2A R (1) Twice a year a *firm* must provide the *FCA* with a complete report concerning *complaints* received from *eligible complainants* about matters relating to activities carried out by its *employees* when acting as *retail investment advisers*. The report must be set out in the format in DISP 1 Annex 1C R.

(2) DISP 1 Annex 1C R requires (for the relevant reporting period) information about:

(a) the total number of *complaints* received by the *firm* about matters relating to activities carried out by its *employees* when acting as *retail investment advisers*;

(b) the total number of *complaints* closed by the *firm* about matters relating to activities carried out by its *employees* when acting as *retail investment advisers*;

(c) the total number of *complaints* upheld by the *firm* about matters relating to activities carried out by its *employees* when acting as *retail investment advisers*; and

(d) the total amount of redress paid in respect of *complaints* upheld during the reporting period about matters relating to activities carried out by its *employees* when acting as *retail investment advisers*.

(3) For the purposes of DISP 1 Annex 1C R *retail investment adviser* information must be reported by:

(a) the *employee's* Individual Reference Number (IRN); or

(b) in the case of an *employee* of an *SMCR firm* who is performing an *FCA certification function* and has no IRN:

(i) the *employee's* National Insurance (NI) number and date of birth; or

(ii) if the *employee* has no NI number, the *employee's* date of birth, current passport number and nationality.

1.10.2B R ■ DISP 1 Annex 1ABR requires (for the relevant reporting period) information about:

(1) in Table 1, the total number of *complaints* received by the *firm* and the main focus of the *complaint*;

(2) in Table 2:

(a) the number of *complaints* that were closed or upheld within different time periods;

(b) the total amount of redress paid by the *firm* in relation to *complaints* upheld and not upheld in the relevant reporting period; and

(c) redress in relation to the *claims management fee cap*, where this was done at the *firm's* instigation rather than as the result of a *complaint* about the fee.

1.10.2C R ■ DISP 1 Annex 1ACR requires (for the relevant reporting period) information about:

(1) in Table 1, the total number of *complaints* received by the *firm* and the main focus of the *complaints*;

(2) in Table 2:

(a) the number of *complaints* that were closed or upheld within different time periods; and

(b) the total amount of redress paid by the *firm* in relation to *complaints* upheld and not upheld in the relevant reporting period.

1.10.3 G For the purposes of ■ DISP 1.10.2R, ■ DISP 1.10.2-AR, ■ DISP 1.10.2AR, ■ DISP 1.10.2BR and ■ DISP 1.10.2CR, when completing the return, the *firm* should take into account the following matters.

(1) If a *complaint* could fall into more than one category, the *complaint* should be recorded in the category which the *firm* considers to form the main part of the *complaint*.

(2) Under ■ DISP 1.10.2R(1)(b), ■ DISP 1.10.2R(2)(b), ■ DISP 1.10.2-AR, ■ DISP 1.10.2BR(2) or ■ DISP 1.10.2CR(2), a *firm* should report information relating to all *complaints* which are closed and upheld within the relevant reporting period, including those resolved under ■ DISP 1.5 (Complaints resolved by close of the third business day). Where a *complaint* is upheld in part, or where the *firm* does not have enough information to make a decision yet chooses to make a goodwill payment to the complainant, a *firm* should treat the *complaint* as upheld for reporting purposes. However, where a *firm* rejects a *complaint*, yet chooses to make a goodwill payment to the complainant, the *complaint* should be recorded as 'rejected'.

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(3) If a *firm* reports on the amount of redress paid under DISP 1.10.2R(1)(b)(ii), DISP 1.10.2R(2)(b)(ii), DISP 1.10.2-AR(4), DISP 1.10.2AR, DISP 1.10.2BR(2)(b) or DISP 1.10.2CR(2)(b), redress should be interpreted to include an amount paid, or cost borne, by the *firm*, where a cash value can be readily identified, and should include:

(a) amounts paid for distress and inconvenience;

(b) a free transfer out to another provider which transfer would normally be paid for;

(c) goodwill payments and goodwill gestures;

(d) interest on delayed settlements;

(e) waiver of an excess on an insurance policy;

(f) payments to put the consumer back into the position the consumer should have been in had the act or omission not occurred; and

(g) the refund of fees paid in excess of the *claims management fee cap*, and any amount which the *firm* had attempted to charge but which was written off or waived (before the *customer* paid it) on the basis that it would have exceeded the *claims management fee cap*.

(4) If a *firm* reports on the amount of redress paid under DISP 1.10.2R(1)(b)(ii), DISP 1.10.2R(2)(b)(ii), DISP 1.10.2-AR(4), DISP 1.10.2AR or DISP 1.10.2CR(2)(b), the redress should not, however, include repayments or refunds of premiums which had been taken in error (for example where a *firm* had been taking, by direct debit, twice the actual premium amount due under a policy). The refund of the overcharge would not count as redress.

[**Note:** See SUP 10A.14.24R for the ongoing duty to notify *complaints* about matters relating to activities carried out by an *employee* when acting as a *retail investment adviser*.]

1.10.4 R Unless DISP 1.10.4AR applies, the relevant reporting periods are:

(1) the six *months* immediately following a *firm's accounting reference date*; and

(2) the six *months* immediately preceding a *firm's accounting reference date*.

1.10.4A R If a *firm* is one to which DISP 1.10.1R(2) applies, the relevant reporting period is the year immediately following the *firm's accounting reference date*.

1.10.5 R Reports are to be submitted to the *FCA* within 30 *business days* of the end of the relevant reporting periods through, and in the electronic format specified in, the *FCA* Complaints Reporting System or the appropriate section of the *FCA* website.

1.10.5A R Where the *FCA* grants a *person's* application for annulment of a cancellation or variation of its *Part 4A permission* under Schedule 6A to the *Act* and on the date of the annulment, the period for reports to be submitted to the *FCA* in accordance with DISP 1.10.5R has passed, the period within which the reports are to be submitted under DISP 1.10.5R does not apply. The *person* must submit such reports to the *FCA* within 30 *business days* of the date on which the annulment takes effect.

1.10.6 R If a *firm* is unable to submit a report in electronic format because of a systems failure of any kind, the *firm* must notify the *FCA* , in writing and without delay, of that systems failure.

1.10.6A R
(1) If a *firm* does not submit a complete report by the date on which it is due, in accordance with DISP 1.10.5 R, the *firm* must pay an administrative fee of £250.

(2) The administrative fee in (1) does not apply if the *firm* has notified the *FCA* of a systems failure in accordance with DISP 1.10.6 R.

1.10.7 R A closed *complaint* is a *complaint* where:

(1) the *firm* has sent a *final response*; or

(2) the complainant has indicated in writing acceptance of the *firm*'s earlier response under DISP 1.6.4 R.

1.10.8 G [deleted]

Notification of contact point for complainants

1.10.9 R For the purpose of inclusion in the public record maintained by the *FCA*, a *firm* must:

(1) provide the *FCA*, at the time of its *authorisation*, with details of a single contact point within the *firm* for complainants; and

(2) notify the *FCA* of any subsequent change in those details when convenient and, at the latest, in the *firm*'s next report under the *complaints reporting rules*.

Meaning of revenue

1.10.10 G In DISP 1.10, references to revenue in relation to any *firm* do not include the amount of any repayment of any *credit* provided by that *firm* as *lender*.

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1.10A Complaints data publication rules

Obligation to publish summary of complaints data or total number of complaints

1.10A.1 R

(1) Unless (1A) applies to the *firm*, where, in accordance with DISP 1.10.1 R, a *firm* submits a report to the *FCA* reporting 500 or more *complaints*, it must publish a summary of the *complaints* data contained in that report (the *complaints* data summary).

(1A) (a) This paragraph applies to a *firm* which:

(i) has *permission* to carry on only *credit-related regulated activities* or to *operate an electronic system in relation to lending*; and

(ii) has revenue arising from those activities that is less than or equal to £5,000,000 a year.

(aa) This paragraph also applies to a *firm* which has *permission* to carry on only:

(i) *regulated claims management activities*; or

(ii) *regulated funeral plan activities*.

(b) Where a *firm* to which this paragraph applies submits a report to the *FCA* in accordance with DISP 1.10.1 R reporting 1000 or more *complaints*, it must publish a summary of the *complaints* data contained in that report (the *complaints* data summary).

(2) Where, in accordance with DISP 1.10.1C R, a *firm* submits a joint report on behalf of itself and other *firms* within a *group* and that report reports 500 or more *complaints*, it must publish a summary of the *complaints* data contained in the joint report (the *complaints* data summary), unless it is a *firm* to which (1A) applies.

(3) Where, in accordance with DISP 1.10.1C R, a *firm* to which (1A) applies submits a joint report on behalf of itself and other *firms* within a *group* and that report reports 1000 or more *complaints*, it must publish a summary of the *complaints* data contained in the joint report (the *complaints* data summary).

(4) Where, in accordance with SUP 16.12.4 R and SUP 16.12.29C R, a *firm* with a *limited permission* submits *data item* CCR007 to the *FCA* reporting 1000 or more *complaints*, it must publish the total number of *complaints* received.

Format of publication

1.10A.2 R The *complaints* data summary required by DISP 1.10A.1 R must be published in the format set out in DISP 1 Annex 1B R.

Time limits for publication

1.10A.3 R

(1) Where the *firm's* relevant reporting period (as defined in DISP 1.10.4 R or DISP 1.10.4A R as the case may be) ends between 1 January and 30 June, the *firm* must publish the *complaints* data summary no later than 31 August of the same year.

(2) Where the *firm's* relevant reporting period (as defined in DISP 1.10.4 R or DISP 1.10.4A R as the case may be) ends between 1 July and 31 December, the *firm* must publish the *complaints* data summary no later than 28 February of the following year.

(3) Where the *firm* is a *firm* with only a *limited permission* and its *accounting reference date* falls between 1 January and 30 June, the *firm* must publish the total number of *complaints* received no later than 31 August of the same year.

(4) Where the *firm* is a *firm* with only a *limited permission* and its *accounting reference date* falls between 1 July and 31 December, the *firm* must publish the total number of *complaints* received no later than 28 February of the following year.

Confirmation of publication

1.10A.4 R A *firm* must immediately confirm to the *FCA* , in an email submitted to complaintsdatasummary@fca.org.uk , that the *complaints* data summary or total number of *complaints* (as appropriate) accurately reflects the report submitted to the *FCA* , that the summary or total number of *complaints* (as appropriate) has been published and where it has been published.

Publication on behalf of the firm

1.10A.5 E A *firm* will be taken to have complied with DISP 1.10A.1R (1), DISP 1.10A.1R (1A) (2) , DISP 1.10A.1R (3) or DISP 1.10A.1R (4) if within the relevant time limit set out in DISP 1.10A.3 R the *firm*:

(1) ensures that another *person* publishes the *complaints* data summary or total number of *complaints* (as appropriate) on its behalf; and

(2) publishes details of where this summary or total number of *complaints* (as appropriate) is published.

Joint reports: provision of information to third party on request

1.10A.6 R Any *firm* covered by a joint report, other than the *firm* that submitted the joint report, must provide details of where the *complaints* data summary or total number of *complaints* (as appropriate) is published to any *person* who requests them.

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Mode and content of publication

1.10A.7 G *Firms* may choose how they publish the *complaints* data summary or total number of *complaints* (as appropriate). However, the summary or total number of *complaints* (as appropriate) should be readily available. For this reason, the *FCA* recommends that *firms* should publish the summary or total number of *complaints* (as appropriate) on their websites.

1.10A.8 G [deleted]

Meaning of revenue

1.10A.9 G In DISP 1.10A, references to revenue in relation to any *firm* do not include the amount of any repayment of any *credit* provided by that *firm* as *lender*.

Publication of complaints data by the FCA

1.10A.10 G

(1) To improve *consumer* awareness and to help *firms* compare their performance against their peers, the *FCA* publishes:

(a) *complaints* data about the financial services industry as a whole; and

(b) *firm*-level *complaints* data for those *firms* that are required to publish a *complaints* data summary or the total number of *complaints* (as appropriate) under DISP 1.10A.1R.

(2) The *FCA* also publishes *firm*-level information giving context to the *complaints* data reported to it for those *firms* that are required to publish that information under DISP 1.10A.1R.

1.10A.11 G For *firms* reporting 500 or more complaints under DISP 1.10.1R(1) or 1000 or more *complaints* under DISP 1.10.1R(2) in the relevant reporting period, the *FCA* will publish the *firm*-level *complaints* data and information providing context to the *complaints* data reported to it either:

(1) after the *firm* provides the appropriate consent in the *complaints* data report and confirms that the reported data accurately reflects the data which it will publish under DISP1.10A.1R; or

(2) after the *FCA* receives an email from the *firm* under DISP 1.10A.4R confirming that the *complaints* data summary accurately reflects the report submitted to the *FCA*, that the summary has been published and where it has been published.

1.10A.12 G For *firms* with only a *limited permission* that report *complaints* to the *FCA* under the reporting requirements in SUP 16.12, the *FCA* will publish the *firm*-level *complaints* data reported to it after the *FCA* receives an email from the *firm* under DISP 1.10A.4R. That email should confirm that the total number of *complaints* accurately reflects the report submitted to the *FCA* under SUP 16.12, that the total number of *complaints* has been published and where the information has been published.

1.10B Payment services and electronic money complaints reporting

1.10B.1 D

(1) Once a year a *credit institution* that provides *payment services* or issues *electronic money* must provide the *FCA* with a complete report concerning *complaints* received about *payment services* and *electronic money*.

(2) Once a year an *electronic money institution*, a *payment institution* or a *registered account information service provider* must provide the *FCA* with a complete report concerning *complaints* received about *payment services* and *electronic money*.

(3) The report required by (1) and (2) must be set out in the format in DISP 1 Annex 1AD.

1.10B.2 G

(1) In contrast to the other provisions in DISP 1 which generally apply only to *complaints* from *eligible complainants*, the *complaints reporting directions* apply in addition to *complaints* from *payment service users* that are not *eligible complainants*.

(2) *Payment service providers* are reminded that regulation 101 of the *Payment Services Regulations* contains requirements relating to complaints resolution procedures applicable to *complaints* from *payment service users* that are not *eligible complainants*.

Forwarded complaints

1.10B.3 D

A *respondent* must not include in the report a *complaint* that has been forwarded in its entirety to another *respondent* under the complaints forwarding *rules*.

1.10B.4 D

Where a *respondent* has forwarded to another *respondent* only part of a *complaint* or where two *respondents* may be jointly responsible for a *complaint*, then the *complaint* should be reported by both *respondents*.

Joint Reports

1.10B.5 D

Respondents that are part of a group may submit a joint report to the *FCA*. The joint report must contain the information required from all *respondents* concerned and clearly indicate the *respondents* on whose behalf the report is submitted. The obligation to provide a report, and the responsibility for the report, remains with each *respondent* in the group.

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1.10B.6 G Not all the *respondents* in the group need to submit the report jointly. *Respondents* should only consider submitting a joint report if it is logical to do so, for example, where the *firms* have a common central *complaints* handling team and the same *accounting reference date*.

Information requirements

1.10B.7 D DISP 1 Annex 1AD requires, for the relevant reporting period and in respect of particular categories of products:

(1) in Table 1, information about the total number of *complaints* received by the *respondent* and the cause of the *complaint*;

(2) in Table 2, information about the number of *complaints* that were:

(a) closed or upheld within different periods of time; and

(b) the total amount of redress paid by the *respondent* in relation to *complaints* upheld and not upheld in the relevant reporting period; and

(3) in Table 3, information providing context about the *complaints* received.

1.10B.8 G When completing the return, the *respondent* should take into account the following matters.

(1) If a *complaint* could fall into more than one category, the *complaint* should be recorded in the category which the *respondent* considers to form the main part of the *complaint*.

(2) Under DISP 1.10B.7D(2)(a), a *respondent* should report information relating to all *complaints* which are closed and upheld within the relevant reporting period, including those resolved under DISP 1.5 (Complaints resolved by close of the third business day). Where a complaint is upheld in part, or where the *respondent* does not have enough information to make a decision yet chooses to make a goodwill payment to the complainant, a *respondent* should treat the *complaint* as upheld for reporting purposes. However, where a *respondent* rejects a *complaint*, yet chooses to make a goodwill payment to the complainant, the complaint should be recorded as ‘rejected’.

(3) If a *respondent* reports on the amount of redress paid under DISP 1.10B.7D(2)(b) redress should be interpreted to include an amount paid, or cost borne, by the *firm*, where a cash value can be readily identified, and should include:

(a) amounts paid for distress and inconvenience;

(b) a free transfer out to another provider which transfer would normally be paid for;

(c) goodwill payments and goodwill gestures;

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(d) interest on delayed settlements;

(e) waiver of an excess on an insurance policy; and

(f) payments to put the complainant back into the position the complainant should have been in had the act or omission not occurred.

(4) If a *respondent* reports on the amount of redress paid under DISP 1.10B.7D(2)(b) the redress should not include the amount of a non-executed, defective or unauthorised payment transaction but should include any redress paid as a result of losses incurred by the complainant as a result of the non-executed, defective or unauthorised payment transaction.

1.10B.9 D The relevant reporting period is the year immediately following:

(1) where the *respondent* has an *accounting reference date*, its *accounting reference date*; and

(2) where the *respondent* does not have an *accounting reference date*, 31 December each year.

1.10B.10 D Reports are to be submitted to the *FCA* within 30 *business days* of the end of the relevant reporting periods through, and in the electronic format specified in, the *FCA* complaints reporting system or the appropriate section of the *FCA* website.

1.10B.11 D If a *respondent* is unable to submit a report in electronic format because of a systems failure of any kind, the *respondent* must notify the *FCA*, in writing and without delay, of that systems failure.

1.10B.12 R (1) If a *respondent* does not submit a complete report by the date on which it is due, in accordance with DISP 1.10B.10D, the *respondent* must pay an administrative fee of £250.

(2) The administrative fee in (1) does not apply if the *respondent* has notified the *FCA* of a systems failure in accordance with DISP 1.10B.11R.

1.10B.13 D A closed *complaint* is a *complaint* where:

(1) the *respondent* has sent a *final response*; or

(2) the complainant has indicated in writing acceptance of the *respondent's* earlier response under DISP 1.6.4R (where applicable).

1.10B.14 G (1) To improve *consumer* awareness and to help *respondents* compare their performance against their peers, the *FCA* may publish:

(a) *complaints* data about the *payment services* and *electronic money* sector as a whole; and

(b) *respondent* level *complaints* data and information giving context to the *complaints* data for those *respondents* that provide appropriate consent in the electronic money and payment services complaints return form at ■ DISP 1 Annex 1AD.

(2) Although the *complaints data publication rules* do not apply to a report submitted under ■ DISP 1.10B.1, the electronic money and payment services complaints return form asks for the *respondent's* consent to the publication by the *FCA* of the data contained in the report.

1.11 The Society of Lloyd's

Complaints handling procedures

1.11.1 R The *Society* must establish and maintain appropriate and effective procedures for handling *complaints* by *policyholders* against *members* of the *Society* which comply with this chapter.

1.11.2 R A *member* of the *Society* must, in complying with this chapter, ensure that the arrangements which the *member* maintains are compatible with the *Lloyd's complaint procedures*, so that, taken as a whole, the requirements of this sourcebook are met.

1.11.2A R The *Society* must ensure that the arrangements which the *member* maintains include a requirement which corresponds to DISP 1.2.1 R (4) (Publishing and providing summary details, and information about the Financial Ombudsman Service).

[**Note:** article 13 of the *ADR Directive* and article 14 of the *ODR Regulation*]

1.11.3 R The *Society* must take reasonable steps to ensure that *complaints* by *policyholders* against *members* of the *Society* are dealt with under the *Lloyd's complaint procedures* and that *members* comply with the requirements of those procedures.

Referral to the Financial Ombudsman Service

1.11.4 R A *complaint* by a *policyholder* against a *member* of the *Society* may not be referred to the *Financial Ombudsman Service* until after the *Lloyd's complaint procedures* have been completed or until after the end of eight weeks from receipt of the *complaint*, whichever is the earlier.

Exemptions for members

1.11.5 R

(1) A notification claiming exemption under DISP 1.1.12 R from the *complaints reporting rules* and the *rules* relating to the funding of the *Financial Ombudsman Service* must be given to the *FCA* by the *Society* on behalf of any *member* eligible for an exemption.

(2) The *Society* must notify the *FCA* if the conditions relating to such an exemption no longer apply to a *member* who is exempt.

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Complaints reporting rule

1.11.6 R The report to be sent to the *FCA* under the *complaints reporting rules* must be provided by the *Society* and must cover all *complaints* by *policyholders* against *members* falling within the scope of the *complaints reporting rules*.

Obligation to publish summary of complaints data

1.11.6A R Where, in accordance with DISP 1.11.6 R, the *Society* submits a report to the *FCA* reporting 500 or more *complaints*, it must publish a summary of the *complaints* data contained in that report (the *complaints* data summary).

Format of publication

1.11.6B R The *Society* must publish the *complaints* data summary in the format set out in the *complaints* publication form in DISP 1 Annex 1B R omitting details as to the *firms* and brands/trading names covered by the summary.

Time limits for publication

1.11.6C R The deadlines for publication of the *Society's complaints* data summaries are:

(1) 28 February for the summary of its report relating to the reporting period ending on 31 December of the previous year; and

(2) 31 August for the summary of its report relating to the reporting period ending on 30 June of the same year.

Confirmation of publication

1.11.6D R The *Society* must immediately confirm to the *FCA*, in an email submitted to complaintsdatasummary@fca.org.uk , that the *complaints* data summary accurately reflects the report submitted to the *FCA*, that the summary has been published and where it has been published.

Mode and content of publication

1.11.6E G The *Society* may choose how it publishes the *complaints* data summary. However, the *complaints* data summary should be readily available. For this reason, the *FCA* recommends that the *Society* publishes the summary on its website. The *Society* may publish further information with the *complaints* data summary to aid understanding.

Application to members

1.11.7 G Each *member* of the *Society* is individually subject to the *rules* in this chapter as a result of the *insurance market direction* given in DISP 2.1.7 D under section 316 of the *Act* (Direction by a regulator).

1.11.8 G However, the *Society* operates a two-tier internal complaints handling procedure, currently set out in the "Code for Underwriting agents: UK Personal Lines Claims and Complaints Handling". Under this procedure, *complaints* by *policyholders* against *members* of the *Society* are considered by the *managing agent* and then, if necessary, by the *Society's* in-house

Complaints Department. This procedure (and any procedure that may replace it) will be subject to the requirements in this chapter.

1.11.9 G *Members* will individually comply with this chapter if and only if all *complaints* by *policyholders* against *members* are dealt with under the *Lloyd's complaints procedures*. Accordingly, certain of the obligations under this chapter, for example the obligation to report on *complaints* received and the obligation to pay fees under the *rules* relating to the funding of the *Financial Ombudsman Service* (FEES 5), must be complied with by the *Society* on behalf of *members*. *Managing agents* will not have to make a separate report to the *FCA* on *complaints* reported under the *complaints reporting rules* sent by the *Society*.

Complaints about the activities of members' advisers

1.11.10 R A *members' adviser* must establish and maintain effective arrangements for handling any *complaint* from a *member* of the *Society* regarding advice given to the *member* in connection with the acquiring or disposing of *syndicate* participation.

1.11.11 G *Complaints* from *members* of the *Society* regarding the activities of *members' advisers*, which cannot be resolved by the *members' adviser*, cannot be referred to the *Financial Ombudsman Service*.

Complaints from members or former members

1.11.12 G The *Financial Ombudsman Service* is not able to deal with the *complaints* listed in DISP 1.11.13 R and separate *rules* and *guidance* are therefore required.

1.11.13 R The *Society* must establish and maintain appropriate and effective arrangements for handling any *complaint* from a *member* or a *former member* about:

(1) *regulated activities* carried on by the *Society*;

(2) the *Society's regulatory functions* carried on by the *Society*, the *Council* or those to whom the *Council* delegates authority to carry out such functions;

(3) advice given by an *underwriting agent* to a *person* to become, continue or cease to be, a *member* of a particular *syndicate*; and

(4) the management by a *managing agent* of the underwriting capacity of a *syndicate* on which the complainant participates or has participated.

1.11.14 R The *Society* must maintain by *byelaw* one or more appropriate effective schemes for the resolution of disputes between an *individual member* or a *former member* who was an *individual member* and:

1

(1) his *underwriting agent*; or

(2) the *Society*.

1.11.15 R For the purposes of DISP 1.11.13 R "*individual member*" includes a *member* which is a *limited liability partnership* or a *body corporate* whose *members* consist only of, or of the nominees for, a single natural person or a group of *connected persons*.

1.11.16 G The schemes to which DISP 1.11.13 R currently refers are the *Lloyd's Arbitration Scheme* and the *Lloyd's Members' Ombudsman* respectively, but the *Society* may maintain other independent dispute resolution schemes in addition to, or instead of, either of these schemes.

1.11.17 G The schemes referred to in DISP 1.11.13 R should be operationally independent of the *Society*.

1.11.18 G An *individual member* or *former member* who was an *individual member* should not have access to the schemes referred to in DISP 1.11.13 R unless the *complaints* arrangements maintained by the *Society* have failed to resolve the *complaint* to his satisfaction within eight weeks of receiving it.

1.11.19 G The *Society* should give the *FCA* adequate notice of all proposed changes to the *byelaws* relating to the schemes referred to in DISP 1.11.13 R.

1.11.20 G When considering what is required to ensure the operational independence of the schemes referred to in DISP 1.11.13 R, or proposed changes in such schemes, the *Society* should take account of similar arrangements operated by the *Financial Ombudsman Service*.

1.11.21 R A contravention of DISP 1.11.13 R or DISP 1.11.14 R does not give rise to a right of action by a *private person* under section 138D of the *Act* (Actions for damages) and each of those *rules* is specified under section 138D(3) of the *Act* as a provision giving rise to no such right of action.

Complaints return form

Complaints return form

This annex consists only of one or more forms. Forms are to be found through the following address:

Complaints return form - DISP 1 Annex 1 R

Electronic money and payment services complaints return form

DISP 1 Annex 1AD

Notes on completing electronic money and payment services complaints return form

Payment Services Complaints Return

Nil returns

If no complaints concerning payment services or electronic money have been received during the reporting period and no such complaints were outstanding at the beginning of the period, the respondent may submit a NIL RETURN by clicking on the relevant box.

Valuing data to be reported

Respondents should report the actual data requested in this complaints return, using single units, apart from in Table 3 where data should be reported in thousands. If the figure is less than one thousand, respondents should enter the figure as a decimal fraction: e.g. if the payment volume for a service is 200, this should be entered as '.2'.

Service groupings

In Table 1 and Table 3 complaints should be allocated to the service groupings based on the service the complaint relates to. If a single complaint relates to more than one category of service, respondents should allocate that complaint to the category that it most closely relates to, rather than reporting such a complaint twice. For example, if a complaint is about ATM withdrawal with a credit card, but the complaint is primarily about the ATM withdrawal, it should be recorded under the ATM withdrawal category.

The service groupings do not correspond directly with those set out in the Payment Services Regulations.

If a respondent has not received any complaints relating to a particular product or service during the reporting period, the relevant box should be left blank.

If complaints relate to the issuing or redemption of e-money and not a payment service executed using e-money, these complaints should be allocated to the 'issuing or redemption of e-money' category.

The 'other payment service' category should only be used in exceptional circumstances when none of the specific service categories are appropriate. A PSP should provide information for up to a maximum of five payment services.

Tables 1, 2, 3 and 4

In Tables 1, 2, 3 and 4 respondents should report all complaints relating (either wholly or in part) to payment services and electronic money. Note that this is a wider category than PSD complaints and EMD complaints as defined in the glossary, and would include, for example, complaints about breaches of the Principles for Businesses (for firms) or breaches of contract in connection with the issuance of electronic money or provision of payment services.

The complaints time limit rules (■ DISP 1.6) require EMD complaints and PSD complaints to be closed (by way of a final response) within 15 business days after the day on which the complaint is received (or, in exceptional circumstances, by the end of 35 business days after the day on which the complaint is received).

However PSPs must complete Table 2 with data on all complaints about payment services or electronic money (including those that are not EMD complaints and PSD complaints).

Contextualisation (Table 3)

1

When providing information giving context to its complaints data, respondents should provide payment volumes for payment services and e-money issuance in the reporting period, as indicated in the form.

The contextualisation metric for pre-paid cards and e-money payments, credit cards, debit cards / cash cards, direct debits, standing orders, credit transfers, money remittance, payment initiation services, merchant acquiring and ATM withdrawal is number of transactions in the reporting period (in thousands).

The contextualisation metric for ATM withdrawals should include withdrawals from the PSP's ATM network in the reporting period for both the PSP's own and other PSPs' customers.

The contextualisation metric for issuing or redemption of e-money is the value of e-money issued or redeemed in the reporting period (in thousands).

The contextual information for account information services should be the number of customers that have used the firm's account information services (AIS) in the reporting period. For authorised PIs this figure should be the same as that provided by payment and e-money institutions in Q80 of the Authorised Payment Institution Capital Adequacy Return and for authorised EMIs, in Q76 of the Authorised Electronic Money Institution Questionnaire.

Complaints relating to alleged *authorised push payment fraud* **(Table 4)**

Information on complaints relating to alleged *authorised push payment fraud* should be provided in Table 4. Data in this table should not be included in any total complaint figures as these complaints should already be reported in the preceding tables under the appropriate product/service groupings (for example, under 'Credit transfer'). ...

DISP 1 Annex 1R

This return (Payment Services Complaints Return) only relates to complaints made in relation to payment services or electronic money. All complaints should be reported in ■ DISP 1 Annex 1R.

Transparency

To improve consumer awareness and to help payment service providers compare their performance against their peers, the *FCA* may publish aggregated and anonymised complaints data.

The *FCA* may also publish respondent level complaints data where it has the respondent's consent. If the respondent ticks the 'Yes' box in this report it is consenting to the *FCA* publishing the complaints data.

Claims management complaints and redress return form

Currency: Sterling only

Units: Integers

		A
Group reporting		
1	Does the data reported in this return cover *complaints* relating to more than one *firm*?	
	(NB: You should always answer "No" if your *firm* is not part of a *group*.)	
2	If "Yes" then list the firm reference numbers (FRNs) of all of the additional *firms* included in this return.	
Nil return declaration		
3	We wish to declare a nil return	
	(If yes, leave all questions on *complaints* activities, including contextualisation, blank.)	
Return details required		
4	Total *complaints* outstanding at reporting period start date.	
5	Total number of *complaints* opened during the reporting period.	
Complaints data publication by FCA		
6	If you are reporting 1000 or more *complaints*, do you consent to the *FCA* publishing the complaints data and information on context contained in this report in advance of the *firm* publishing the data itself?	
7	If "Yes", do you confirm that the *complaints* data and information on context contained in this report accurately reflects the information required to be published by the reporting *firm* under *DISP*?	
Contextualisation data		
8	Total number of leads generated or obtained during the reporting period	
9	Total number of *claims* opened during the reporting period	

Table 1

		A	B	C	D	E	F
		Type of claim					
Numbers of complaints during reporting period		*personal injury claims*	financial services or financial product *claims*	*housing disrepair claims*	*claims for a specified benefit*	*criminal injury claims*	*employment-related claims*
10	Total number of complaints						

1

		A	B	C	D	E	F
				Type of claim			
Main focus of complaint							
11	Lead generation, unsolicited marketing and cold calling						
12	Quality of advice / provision of misleading information (including in advertisements)						
13	Customer service issues (including call handling)						
14	General administration						
15	Upfront fees						
16	Fee dispute (at settlement – other than one in 17 below)						
17	Fees in excess of the *claims management fee cap*						
18	Claim outcome						
19	Process for obtaining and/or sharing of customer data						
20	Delay in processing claim						
21	Other – please provide details						

Table 2

Number of complaints closed during the reporting period (22 to 25) and complaints upheld (26)

Redress paid, in integers (27 to 30): for example, figures for redress paid should be to the nearest pound not to the nearest thousand pounds. Include all amounts in excess of the *claims management fee cap*, whether a refund of fees paid or a waiver of excess fees.

22	Complaints closed within 3 days	
23	Complaints closed within 8 weeks, but after more than 3 days	
24	Complaints closed after more than 8 weeks	
25	Total complaints closed	
26	Complaints upheld	
27	Redress paid for upheld complaints	
28	Redress paid for complaints not upheld	
29	Redress in relation to the *claims management fee cap*, where this was done at the *firm's* instigation rather than as the result of a *complaint* about the fee	
30	Total redress paid	

FPR-Complaints – Funeral Plans complaints return

FPR-Complaints – Funeral Plans complaints return

1

Complaints publication report

DISP 1 Annex 1B R

Illustration of the online reporting requirements, referred to in DISP 1.10.2AR

This annex belongs to DISP 1.10.2A R -DISP 1 Annex 1C R

Application of DISP 1 to type of respondent / complaint

The table below summarises the application of DISP 1. Where the table indicates that a particular section may apply, its application in relation to any particular activity or *complaint* is dependent on the detailed application provisions set out in DISP 1.

Type of respondent/ complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B Complaints reporting directions
firm in relation to *complaints* concerning non-*MiFID business* (except as specifically provided below)	Does not apply	Applies for *eligible complainants*	Applies for *eligible complainants* (DISP 1.3.4G does not apply)	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies in relation to *payment services* for *payment service users* and in relation to *electronic money* for *eligible complainants*
firm in relation to *MiFID complaints* concerning *MiFID business* carried on from an establishment in the *UK* (or in an *EEA State*, in the case of a *TP firm* with respect to services provided	Applies for *retail clients* and *professional clients*, and (where relevant) *eligible counterparties* (see also DISP 1.1A.6R)	Does not apply	Does not apply	DISP 1.7 applies as set out in DISP 1.1A	Does not apply (but see DISP 1.1A.37UK	Applies as set out in DISP 1.1A	Applies as set out in DISP 1.1A	Does not apply

Type of respondent/ complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B Complaints reporting directions
into the *United Kingdom*)								
UK UCITS management company in relation to *complaints* concerning *collective portfolio management* services in respect of a *UCITS scheme* or an *EEA UCITS scheme*	Does not apply	Applies for *unitholders*	Applies for *unitholders*	Applies for *eligible complainants*	Applies for *unitholders*	Applies for *eligible complainants*	Applies for *eligible complainants*	Does not apply
equivalent business of a third country investment firm in relation to *MiFID complaints*	Applies as set out in DISP 1.1A	Does not apply	Does not apply	Applies as set out in DISP 1.1A	Does not apply (but see DISP 1.1A.37EU)	Applies as set out in DISP 1.1A	Applies as set out in DISP 1.1A	Does not apply
branch of an *overseas firm* (in relation to all other *complaints*)	Does not apply	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies for *eligible complainants*	Does not apply
payment service provider in relation to *com*	Does not apply	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies for *eligible complainants*	Does not apply	Does not apply	Applies for *payment service users*

Type of respondent/complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B Complaints reporting directions
plaints concerning *payment services*								
electronic money issuer in relation to *complaints* concerning issuance of *electronic money*	Does not apply	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies for *eligible complainants*	Does not apply	Does not apply	Applies for *eligible complainants*
VJ participant	Does not apply	Applies for *eligible complainants*	Applies for *eligible complainants* (DISP 1.3.4G to DISP 1.3.5G do not apply)	Applies for *eligible complainants* (DISP 1.6.8G does not apply)	Does not apply	Does not apply	Does not apply	Does not apply
complaints relating to *auction regulation bidding*	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply
a *full-scope UK AIFM* or a *small authorised UK AIFM*, for complaints concerning *AIFM management functions*	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply

Type of respondent/ complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B Complaints reporting directions
carried on for an *AIF* that is a *body corporate* (unless it is a *collective investment scheme*)								
a *depositary*, for *complaints* concerning activities carried on for an *authorised AIF*	Does not apply	Applies for *eligible complainants*	Applies for *eligible complainants* (DISP 1.3.4G does not apply)	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies for *eligible complainants*	Does not apply
a *depositary*, for *complaints* concerning activities carried on for an *unauthorised AIF* that is a *charity AIF* (other than a *body corporate* that is not a *collective investment scheme*)	Does not apply	Applies for *eligible complainants*	Applies for *eligible complainants* (DISP 1.3.4G does not apply)	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies for *eligible complainants*	Does not apply
a *depositary*, for *complaints* concerning activities	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply

Type of respondent/ complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B Complaints reporting directions
carried on for an *unauthorised AIF* that is not a *charity AIF*								
a *depositary*, for *complaints* concerning activities carried on for an *unauthorised AIF* that is a *body corporate* (other than a *collective investment scheme*).	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply
a *CBTL firm* in relation to *complaints* concerning *CBTL business*	Does not apply	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies for *eligible complainants*	Does not apply	Does not apply	Does not apply	Does not apply
a *designated credit reference agency* in relation to *complaints* about providing *credit information*	Does not apply	Applies for *eligible complainants*	Applies for *eligible complainants*	Applies for *eligible complainants*	Does not apply	Does not apply	Does not apply	Does not apply
designated finance	Does not apply	Applies for *eligible*	Applies for *eligible*	Applies for *eligible*	Does not apply	Does not apply	Does not apply	

Type of respondent/complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B Complaints reporting directions
platform in relation to *complaints* about providing *specified information*		*complainants*	*complainants*	*complainants*				
complaints relating to *administering a benchmark*	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply

Appropriate wording for inclusion in a final response or written acceptance

	The respondent does not consent to waive the six-month time limit in DISP 2.8.2 R (1)
(1)	**"You have the right to refer your complaint to the Financial Ombudsman Service, free of charge – but you must do so within six months of the date of this letter.** If you do not refer your complaint in time, the Ombudsman will not have our permission to consider your complaint and so will only be able to do so in very limited circumstances. For example, if the Ombudsman believes that the delay was as a result of exceptional circumstances."
	The complaint was received outside the time limits in DISP 2.8.2R(2) and the respondent does not consent to waive those time limits or the six-month time limit in DISP 2.8.2 R (1)
(2)	**"You have the right to refer your complaint to the Financial Ombudsman Service, free of charge.** The Ombudsman might not be able to consider your complaint if: • what you're complaining about happened more than **six years** ago, **and** • you're complaining more than **three years** after you realised (or should have realised) that there was a problem. We think that your complaint was made outside of these time limits but this is a matter for the Ombudsman to decide. If the Ombudsman agrees with us, they will not have our permission to consider your complaint and so will only be able to do so in very limited circumstances (see below). **If you do decide to refer your complaint to the Ombudsman you must do so within six months of the date of this letter.** If you do not refer your complaint to the Ombudsman within six months of the date of this letter, the Ombudsman will not have our permission to consider your complaint and so will only be able to do so in very limited circumstances. The very limited circumstances referred to above include, where the Ombudsman believes that the delay was as a result of exceptional circumstances."
	The complaint was received outside the time limits in DISP 2.8.2 R (2) and the respondent does not consent to waive those time limits but does consent to waive the six-month time limit in DISP 2.8.2 R (1)
(3)	**"You have the right to refer your complaint to the Financial Ombudsman Service, free of charge.** The Ombudsman might not be able to consider your complaint if: • what you're complaining about happened more than **six years** ago, **and** • you're complaining more than **three years** after you realised (or should have realised) that there was a problem. We think that your complaint was made outside of these time limits but this is a matter for the Ombudsman to decide. If the Ombudsman agrees with us, they will not have our permission to consider your complaint and so will only be able

	to do so in very limited circumstances. For example, if the Ombudsman believes that the delay was as a result of exceptional circumstances. The time limit for referring complaints to the Ombudsman is usually six months but we will consent to the Ombudsman considering your complaint even if you refer the complaint later than this."
	The respondent does not consent to waive the time limits in DISP 2.8.7 R relating to mortgage endowment complaints
(4)	**"You have the right to refer your complaint to the Financial Ombudsman Service, free of charge — but you must do so within six months of the date of this letter.** The Ombudsman might not be able to consider your complaint if: • you received a letter warning you that there was a high risk that your mortgage endowment policy would not produce a sum large enough to repay the target amount at maturity; and • you're complaining more than **three years** after you received that letter, and • you're complaining more than **six months** after the date on which we sent you a further communication notifying you when the three-year period would expire. We think that your complaint was made outside of these time limits but this is a matter for the Ombudsman to decide. If the Ombudsman agrees with us, they will not have our permission to consider your complaint and so will only be able to do so in limited circumstances."
	The respondent consents to waive all applicable time limits
(5)	**"You have the right to refer your complaint to the Financial Ombudsman Service, free of charge.** Although there are time limits for referring your complaint to the Ombudsman, we will consent to the Ombudsman considering your complaint even if you refer the complaint outside the time limits."
	Other circumstances not dealt with above
(6)	Where the *respondent* proposes to waive the time limits in DISP 2.8.2 R or DISP 2.8.7 R and appropriate wording for the *respondent* circumstances is not set out in (1) to (5), the *respondent* must adapt the appropriate wording as necessary.

Appropriate wording for inclusion in a final response, written acceptance or summary resolution communication

Reference to the availability of The Pensions Ombudsman
“You have the right to refer your complaint to The Pensions Ombudsman free of charge.
The Pensions Ombudsman can be contacted at [full current contact details and current website address].”

Chapter 2

Jurisdiction of the Financial Ombudsman Service

2

2.1 Purpose, interpretation and application

Purpose

2.1.1 G The purpose of this chapter is to set out *rules* and guidance on the scope of the *Compulsory Jurisdiction* and the *Voluntary Jurisdiction*, which are the *Financial Ombudsman Service*'s two jurisdictions:

(1) the *Compulsory Jurisdiction* is not restricted to *regulated activities*, *payment services* , issuance of*electronic money*, and *CBTL business* and covers:

(a) certain *complaints* against *firms* (and businesses which were *firms* at the time of the events complained about);

(b) *relevant complaints* against former members of *former schemes* under the *Ombudsman Transitional Order*, the *Mortgage and General Insurance Complaints Transitional Order*, the *Claims Management Order* and the *Funeral Plans Order*;

(c) *relevant credit-related complaints* against businesses which were, at the time of the events complained about, covered by a standard licence under the Consumer Credit Act 1974, or formerly authorised to carry on an activity by virtue of section 34(A) of that Act, in accordance with article 11 of the *Regulated Activities Amendment Order*;

(d) certain *complaints* against *designated credit reference agencies* under the *Small and Medium Sized Business (Credit Information) Regulations*; and

(e) certain *complaints* against *designated finance platforms* under the *Small and Medium Sized Business (Finance Platforms) Regulations*;

(2) [deleted]

(3) the *Voluntary Jurisdiction* covers certain *complaints* against *VJ participants*, including in relation to events before they joined the *Voluntary Jurisdiction*.

2.1.2 G *Relevant complaints* covered by the *Compulsory Jurisdiction* comprise:

(1) *relevant existing complaints* referred to a *former scheme* before *commencement* and inherited by the *Financial Ombudsman Service* under the *Ombudsman Transitional Order*;

(2) *relevant new complaints* about events before *commencement* but referred to the *Financial Ombudsman Service* after *commencement* under the *Ombudsman Transitional Order*;

(3) *relevant transitional complaints* referred to the *Financial Ombudsman Service* after the *relevant commencement date* under the *Mortgages and General Insurance Complaints Transitional Order*;

(4) *relevant existing credit-related complaints* referred to the *Financial Ombudsman Service* before 1 April 2014 which were formerly being dealt with under the *Consumer Credit Jurisdiction* and which are to be dealt with under the *Compulsory Jurisdiction* in accordance with article 11 of the *Regulated Activities Amendment Order*;

(5) *relevant new credit-related complaints* about events which took place before 1 April 2014 but referred to the *Financial Ombudsman Service* on or after 1 April 2014 which are to be dealt with under the *Compulsory Jurisdiction* in accordance with article 11 of the *Regulated Activities Amendment Order*;

(6) *relevant existing claims management complaints* referred to the *Legal Ombudsman* before 1 April 2019 and inherited by the *Financial Ombudsman Service* under the *Claims Management Order*;

(7) *relevant new claims management complaints* about events which took place before 1 April 2019 but referred to the *Financial Ombudsman Service* on or after 1 April 2019 under the *Claims Management Order*; and

(8) *relevant transitional funeral plan complaints* about events which took place before 29 July 2022 but were referred to the *Financial Ombudsman Service* on or after 29 July 2022 in accordance with article 7 of the *Funeral Plans Order*.

2.1.3 G The *Ombudsman Transitional Order* and the *Claims Management Order* requires the *Financial Ombudsman Service* to complete the handling of *relevant existing complaints* and *relevant existing claims management complaints*, in a significant number of respects, in accordance with the requirements of the relevant *former scheme* rather than in accordance with the requirements of this chapter.

Interpretation

2.1.4 G In this chapter, carrying on an activity includes:

(1) offering, providing or failing to provide a service in relation to an activity;

(2) administering or failing to administer a service in relation to an activity; and

(3) the manner in which a *respondent* has administered its business, provided that the business is an activity subject to the *Financial Ombudsman Service*'s jurisdiction.

Purpose

2.1.5 G In this chapter, ancillary banking services include, for example, the provision and operation of cash machines, foreign currency exchange, safe deposit boxes and account aggregation services (services where details of accounts held with different financial service providers can be accessed by a single password).

Application

2.1.6 R This chapter applies to the *Ombudsman* and to *respondents*.

2.1.6A R This chapter applies to any *TP firm* who is or was, at the time of the act or omission, giving rise to the claim against it, a *TP firm*. This *rule* demonstrates the contrary intention under GEN 2.2.26R.

Application to the Ombudsman and respondents in relation to a relevant motor finance discretionary commission arrangement complaint

2.1.6B R In relation to a *relevant motor finance DCA complaint*:

(1) DISP 2.8.1R(2);

(2) DISP 2.8.1R(4)(a); and

(3) DISP 2.8.2R(1),

apply as modified by DISP App 5 (Relevant motor finance discretionary commission arrangement complaint handling rules).

2.1.6C G DISP App 5 contains *complaint* handling *rules* in respect of a *relevant motor finance DCA complaint*.

2.1.7 D Part XVI of the *Act* (The Ombudsman Scheme), particularly section 226 (Compulsory jurisdiction), applies to *members* of the*Society* of Lloyd's in respect of the *regulated activities* of *effecting* or *carrying out contracts of insurance* written at Lloyd's.

2.2 Which complaints can be dealt with under the Financial Ombudsman Service?

2.2.1 G The scope of the *Financial Ombudsman Service*'s two jurisdictions depends on:

(1) the type of activity to which the *complaint* relates (see DISP 2.3, DISP 2.4 and DISP 2.5);

(2) the place where the activity to which the complaint relates was carried on (see DISP 2.6);

(3) whether the complainant is eligible (see DISP 2.7); and

(4) whether the *complaint* was referred to the *Financial Ombudsman Service* in time (see DISP 2.8).

2.2.2 G The effect of section 234B of the *Act* is that where a *person* (a “successor”) has assumed a liability (including a contingent one) of another *person* who was, or would have been the *respondent* in respect of a *complaint*, the *complaint* may be dealt with by the *Ombudsman* as if the successor were the *respondent*.

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2.3 To which activities does the Compulsory Jurisdiction apply?

Activities by firms

2.3.1 R The *Ombudsman* can consider a *complaint* under the *Compulsory Jurisdiction* if it relates to an act or omission by a *firm* in carrying on one or more of the following activities:

(1) *regulated activities* (other than *auction regulation bidding*, *administering a benchmark* and *dealing with unwanted asset money*);

(1A) *payment services*;

(1B) [deleted]

(1C) *CBTL business*;

(2) [deleted]

(3) lending *money* secured by a charge on land;

(4) lending *money* (excluding *restricted credit* where that is not a *credit-related regulated activity*);

(5) paying *money* by a *plastic card* (excluding a *store card* where that is not a *credit-related regulated activity*);

(6) providing ancillary banking services;

(7) offering and/or issuing of *investments* by *ISPVs*;

(8) giving *non-personal recommendation advice*;

or any ancillary activities, including advice, carried on by the *firm* in connection with them.

2.3.1A R The *Ombudsman* can also consider a *complaint* under the *Compulsory Jurisdiction* if it relates to an act or omission by:

(1) an *investment firm* authorised under the *UK* provisions which implemented *MiFID* when providing *investment services* or *ancillary services*;

(2) a *CRD credit institution* when providing one or more *investment services*;

(3) an *investment firm* authorised under the *UK* provisions which implemented *MiFID* or a *CRD credit institution* when selling *structured deposits* to *clients*, or advising *clients* on them;

(4) a *collective portfolio management investment firm* when providing the activities permitted by the *UK* provisions which implemented article 6(3) of the *UCITS Directive*; and

(5) a *collective portfolio management investment firm* when providing the activities permitted by the *UK* provisions which implemented article 6(4) of the *AIFMD*.

[**Note:** see article 1(1), 1(3) and 1(4) and article 75 of *MiFID*, and articles 1 and 26(5) of the *MiFID Org Regulation*]

2.3.1B G For the purposes of DISP 2.3.1AR, the *Ombudsman* can consider a *complaint* about an act carried out by a *MiFID investment firm* that is preparatory to the provision of an *investment service* or *ancillary service* which is an integral part of such a service. This includes, for example, generic advice given by a *MiFID investment firm* to a *client* prior to, or in the course of, the provision of investment advice or another *investment service* or *ancillary service*.

[**Note:** recitals 15 and 16 of the *MiFID Org Regulation*]

Activities by firms and unauthorised persons subject to a former scheme

2.3.2 G The *Ombudsman* can also consider under the *Compulsory Jurisdiction*:

(1) as a result of the *Ombudsman Transitional Order*, a *relevant existing complaint* or a *relevant new complaint* that relates to an act or omission by a *firm* or an *unauthorised person* which was subject to a *former scheme* immediately before *commencement*;

(2) as a result of the *Mortgages and General Insurance Complaints Transitional Order*, a *relevant transitional complaint* that relates to an act or omission by a *firm* (or an *unauthorised person* that ceased to be a *firm* after the *relevant commencement date*) which was subject to a *former scheme* at the time of the act or omission; or

(2A) as a result of the *Claims Management Order*, a *relevant claims management complaint* that relates to an act or omission by a *firm* or an *unauthorised person* which was subject to a *former scheme* at the time of the act or omission;

(2B) as a result of the *Funeral Plans Order*, a *relevant transitional funeral plan complaint* that relates to an act or omission by a *firm* or *unauthorised person* which was subject to a *former scheme* at the time of the act or omission.

The *Ombudsman* may only consider a type of *complaint* referred to in (1) to (2B) if:

(3) the act or omission occurred in the carrying on by that *firm* or *unauthorised person* of an activity to which that *former scheme* applied; and

(4) the complainant is eligible and wishes to have the *complaint* dealt with by the *Ombudsman*.

Activities by firms and unauthorised persons previously subject to the Consumer Credit Jurisdiction

2.3.2-A G In accordance with article 11 of the *Regulated Activities Amendment Order*, the *Ombudsman* can also consider under the *Compulsory Jurisdiction*:

(1) a *relevant existing credit-related complaint* referred to the *Financial Ombudsman Service* before 1 April 2014 which was formerly being dealt with under the *Consumer Credit Jurisdiction*; and

(2) a *relevant new credit-related complaint* referred to the *Financial Ombudsman Service* on or after 1 April 2014 which relates to an act or omission which took place before 1 April 2014;

provided that:

(a) the *complaint* could have been dealt with under the *Consumer Credit Jurisdiction* (disregarding whether the complainant would have been eligible under rules made for the purposes of the *Consumer Credit Jurisdiction* and whether the complaint would have fallen within a description specified in those rules) but for the repeal of section 226A of the *Act*; and

(b) the complainant is eligible and wishes to have the *complaint* dealt with under the *Financial Ombudsman Service*.

Activities by payment service providers

2.3.2A R The *Ombudsman* can consider a *complaint* under the *Compulsory Jurisdiction* if it relates to an act or omission by a *payment service provider* in carrying on:

(1) payment services; or

(2) credit-related regulated activities;

or any ancillary activities, including advice, carried on by the *payment service provider* in connection with them.

Activities by electronic money issuers

2.3.2B R The *Ombudsman* can consider a *complaint* under the *Compulsory Jurisdiction* if it relates to an act or omission by an *electronic money issuer* in carrying on:

(1) issuance of *electronic money*; or

(2) credit-related regulated activities;

or any ancillary activities, including advice, carried on by the *electronic money issuer* in connection with them.

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Activities by CBTL firms

2.3.2BA R The *Ombudsman* can consider a *complaint* under the *Compulsory Jurisdiction* if it relates to an act or omission by a *CBTL firm* in carrying on *CBTL business* or any ancillary activities, including advice, carried on by the *CBTL firm* in connection with its *CBTL business*.

Consumer redress schemes

2.3.2C G As a result of section 404B(11) of the *Act*, the *Ombudsman* can also consider under the *Compulsory Jurisdiction* a *complaint* from a complainant who:

(1) is not satisfied with a *redress determination* made by a *respondent* under a *consumer redress scheme*; or

(2) considers that a *respondent* has failed to make a *redress determination* in accordance with a *consumer redress scheme*.

Activities by designated credit reference agencies

2.3.2D R The *Ombudsman* can consider a *complaint* under the *Compulsory Jurisdiction* if it relates to an act or omission by a *designated credit reference agency* in carrying on:

(1) the activity of providing *credit information* under the *Small and Medium Sized Business (Credit Information) Regulations*; or

(2) any ancillary activities, including advice, carried on by the *designated credit reference agency* in connection with the activity in (1).

Activities by designated finance platforms

2.3.2E R The *Ombudsman* can consider a *complaint* under the *Compulsory Jurisdiction* if it relates to an act or omission by a *designated finance platform* in carrying on:

(1) the activity of providing *specified information* under the *Small and Medium Sized Business (Finance Platforms) Regulations*; or

(2) any ancillary activities, including advice, carried on by the *designated finance platform* in connection with the activity in (1).

General

2.3.3 G *Complaints* about acts or omissions include those in respect of activities for which the *firm*, *payment service provider* , *electronic money issuer*, *CBTL firm*, *designated credit reference agency* or *designated finance platform* is responsible (including business of any *appointed representative* or *agent* for which the *firm*, *payment institution*, *electronic money institution*, *designated credit reference agency* or *designated finance platform* has accepted responsibility).

2.3.4 R A *complaint* about an *authorised professional firm* cannot be handled under the *Compulsory Jurisdiction* of the *Financial Ombudsman Service* if it relates solely to a *non-mainstream regulated activity* and can be handled by a *designated professional body*.

2.3.5 G The *Compulsory Jurisdiction* includes *complaints* about the *UK* end of 'one leg' *payment services* transactions, i.e. services provided from *UK* establishments that also involve a payment service provider located outside the *EEA*. The *Compulsory Jurisdiction* also includes *complaints* about *payment services* irrespective of the currency of the transaction.

2.3.6 G Schedule 6A to the *Act* sets out a procedure to enable the *FCA* to cancel or vary the *Part 4A permission* of a *person* who, it appears to the *FCA*, is not carrying on the *regulated activity* to which the *Part 4A permission* relates. In some cases, this may result in the *person* no longer being a *respondent* following cancellation of all their *Part 4A permissions*. Paragraph 5 of Schedule 6A to the *Act* sets out a procedure for the subsequent annulment of the decision to cancel or vary the *person's Part 4A permission* in specified circumstances where the *FCA* is satisfied that it is just and reasonable to do so. Where the *FCA* grants an application for annulment, either with conditions or unconditionally, paragraph 6 of Schedule 6A to the *Act* sets out its effect, which includes that the cancellation or variation of the *Part 4A permission* is treated as if it had never taken place. As a result of the effect of the annulment, the *person* may therefore be a *respondent* for the purposes of any *complaints* which arise during the period in which the *person's Part 4A permission* was cancelled or varied.

2.5 To which activities does the Voluntary Jurisdiction apply?

2.5.1 R The *Ombudsman* can consider a *complaint* under the *Voluntary Jurisdiction* if:

(1) it is not covered by the *Compulsory Jurisdiction*; and

(2) it relates to an act or omission by a *VJ participant* in carrying on one or more of the following activities:

(a) an activity (other than *auction regulation bidding*, *administering a benchmark*, *meeting of repayment claims*, *managing dormant asset funds (including the investment of such funds)* and *regulated pensions dashboard activity*) carried on after 28 April 1988 which:

(i) was not a *regulated activity* at the time of the act or omission, but

(ii) was a *regulated activity* when the *VJ participant* joined the *Voluntary Jurisdiction* (or became an *authorised person*, if later);

(b) a financial services activity carried on after *commencement* by a *VJ participant* which was covered in respect of that activity by a *former scheme* immediately before the *commencement day*;

(c) activities, other than *regulated claims management activities*, activities ancillary to *regulated claims management activities*, *meeting of repayment claims*, *managing dormant asset funds (including the investment of such funds)* and *regulated pensions dashboard activity*, which (at 30 November 2024) would be covered by the *Compulsory Jurisdiction*, if they were carried on from an establishment in the *United Kingdom* (these activities are listed in DISP 2 Annex 1G);

(ca) an activity which would be a *regulated claims management activity* and would be covered by the *Compulsory Jurisdiction* if it were carried on in *Great Britain* (see PERG 2.4A);

(cb) an activity which would be a *regulated funeral plan activity* and would be covered by the *Compulsory Jurisdiction* if it were carried on in relation to a funeral in the *United Kingdom*.

(d) [deleted]

(e) lending *money* secured by a charge on land;

(f) lending *money* (excluding *restricted credit* where that is not a *credit-related regulated activity*);

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(g) paying *money* by a *plastic card* (excluding a *store card* where that is not a *credit-related regulated activity*);

(h) providing ancillary banking services;

(i) acting as an intermediary for a loan secured by a charge over land;

(j) acting as an intermediary for *general insurance business* or *long-term insurance business*;

(k) National Savings and Investments' business;

(l) offering and/or issuing of *investments* by *ISPVs*;

(m) [deleted]

or any ancillary activities, including advice, carried on by the *VJ participant* in connection with them.

2.5.2 G The scope of the *Voluntary Jurisdiction* is wider than that of the *Compulsory Jurisdiction*, and so some activities are referred to in both jurisdictions.

2.5.3 G DISP 2.5.1R (2)(a)is for those that are subject to the *Compulsory Jurisdiction* for *regulated activities* but are not covered by any of the following:

(a) the *Ombudsman Transitional Order*,

(b) the *Mortgage and General Insurance Complaints Transitional Order*,

(c) the *Claims Management Order*, or

(d) the *Funeral Plans Order*.

It enables the *Financial Ombudsman Scheme* to cover *complaints* about earlier events relating to those activities before they became *regulated activities*.

2.5.4 G DISP 2.5.1R (2)(b) is for those that were members of one of the *former schemes* replaced by the *Financial Ombudsman Service* immediately before *commencement*. It enables the *Financial Ombudsman Service* to cover *complaints* that arise out of acts or omissions occurring after *commencement* for any activities which are not covered by the *Compulsory Jurisdiction* but that would have been covered by the relevant *former scheme*.

2.5.4A G DISP 2.5.1R(2)(c) includes *complaints* about the *EEA* end of 'one leg' *payment services* transactions, i.e. services provided from *EEA* establishments that are subject to the territorial jurisdiction of the *Voluntary Jurisdiction* (see DISP 2.6.4R (2)) that also involve a payment service provider located outside the *EEA*. It also includes *complaints* about *payment services* irrespective of the currency of the transaction.

2.5.5 R The *Voluntary Jurisdiction* covers an act or omission that occurred before the *VJ participant* was participating in the *Voluntary Jurisdiction*, and whether the act or omission occurred before or after *commencement*, either:

(1) if the *complaint* could have been dealt with under a *former scheme*; or

(2) under the agreement by the *VJ participant* in the *Standard Terms*.

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2.6 What is the territorial scope of the relevant jurisdiction?

Compulsory Jurisdiction

2.6.1 R (1) The *Compulsory Jurisdiction* covers *complaints* about the activities of a *firm* (including its *appointed representatives*), of a *payment service provider* (including *agents* of a *payment institution*), of an *electronic money issuer* (including agents of an *electronic money institution*), of a *CBTL firm*, of a *designated credit reference agency* or of a *designated finance platform* which:

(a) (except for *regulated claims management activities* and activities ancillary to *regulated claims management activities*) are carried on from an establishment in the *United Kingdom*; or

(b) are carried on from an establishment in an *EEA State*, in the case of a *TP firm*, a *TA EMI firm*, a *TA PI firm* or a *TA RAISP firm* with respect to services provided into the *United Kingdom*; or

(c) are, or are ancillary to, *regulated claims management activities*.

(2) [deleted]

(3) [deleted]

(4) [deleted]

(5) [deleted]

(6) [deleted]

2.6.2 G [deleted]

2.6.2A G For an activity to amount to a *regulated claims management activity* it must be carried on in *Great Britain* (see PERG 2.4A). The application of the *Compulsory Jurisdiction* to *firms* which carry on *regulated claims management activities* (and activities ancillary to *regulated claims management activities*) depends on whether the activity is carried on in *Great Britain* rather than whether it is carried on from an establishment maintained in the *United Kingdom*.

Consumer Credit Jurisdiction

2.6.3 G

Voluntary Jurisdiction

2.6.4 R The *Voluntary Jurisdiction* covers only *complaints* about the activities of a *VJ participant* carried on from an establishment:

(1) in the *United Kingdom*; or

(2) in the *EEA* or Gibraltar if the following conditions are met:

(a) the activity is directed wholly or partly at the *United Kingdom* (or part of it);

(b) contracts governing the activity are (or, in the case of a potential customer, would have been) made under the law of England and Wales, Scotland or Northern Ireland; and

(c) the *VJ participant* has notified appropriate regulators in the place in which the establishment is located of its intention to participate in the *Voluntary Jurisdiction*.

2.6.4A G *Complaints* about activities which are *claims management services* but which are not *regulated claims management activity* (for example, services provided by a company incorporated in Northern Ireland to a natural person ordinarily resident in Northern Ireland) may be covered by the *Voluntary Jurisdiction* under ■ DISP 2.6.4R(1) where the activities are carried on from an establishment in the *United Kingdom*.

2.6.4B G Complaints about activities which would be *regulated funeral plan activities* but which are not *regulated funeral plan activities* because, for example, the services are carried on in relation to a funeral outside of the *United Kingdom*, may be covered by the *Voluntary Jurisdiction* under ■ DISP 2.5.1R(2)(cb).

Location of the complainant

2.6.5 G A *complaint* can be dealt with under the *Financial Ombudsman Service* whether or not the complainant lives or is based in the *United Kingdom*.

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2.7 Is the complainant eligible?

2.7.1 **R** A *complaint* may only be dealt with under the *Financial Ombudsman Service* if it is brought by or on behalf of an *eligible complainant*.

2.7.2 **R** A *complaint* may be brought on behalf of an *eligible complainant* (or a deceased *person* who would have been an *eligible complainant*) by a *person* authorised by the *eligible complainant* or authorised by law. It is immaterial whether the *person* authorised to act on behalf of an *eligible complainant* is himself an *eligible complainant*.

Eligible complainants

2.7.3 **R** An *eligible complainant* must be a *person* that is:

(1) a *consumer*; or

(2) a *micro-enterprise* ;

(a) in relation to a *complaint* relating wholly or partly to *payment services*, either at the time of the conclusion of the *payment service* contract or at the time the complainant refers the *complaint* to the *respondent*; or

(b) otherwise, at the time the complainant refers the *complaint* to the *respondent*; or

(3) a charity which has an annual income of less than £6.5 million at the time the complainant refers the *complaint* to the *respondent*; or

(4) a trustee of a trust which has a net asset value of less than £5 million at the time the complainant refers the *complaint* to the *respondent*; or

(5) (in relation to *CBTL business*) a *CBTL consumer*; or

(6) a *small business* at the time the complainant refers the *complaint* to the *respondent*; or

(7) a *guarantor*.

2.7.4 **G** In determining whether an *enterprise* meets the tests for being a *micro-enterprise* or a *small business*, account should be taken of the *enterprise's* 'partner enterprises' or 'linked enterprises' (as those terms are defined in the *Micro-enterprise Recommendation*). For example, where a parent company holds a majority shareholding in a *complainant*, if the parent company does not meet the tests for being a *micro-enterprise* or a *small business* then neither will the *complainant*.

[**Note**: articles 1 and 3 to 6 of the Annex to the *Micro-enterprise Recommendation*].

2.7.5 G If a *respondent* is in doubt about the eligibility of a business, charity or trust, it should treat the complainant as if it were eligible. If the *complaint* is referred to the *Financial Ombudsman Service*, the *Ombudsman* will determine eligibility by reference to appropriate evidence, such as audited accounts or VAT returns.

2.7.5A R A *guarantor* shall be an *eligible complainant* only to the extent that their *complaint* arises from matters relevant to the relationship with the *respondent* referred to in DISP 2.7.6R(10).

2.7.6 R To be an *eligible complainant* a *person* must also have a *complaint* which arises from matters relevant to one or more of the following relationships with the *respondent*:

(1) the complainant is (or was) a customer, *payment service user* or electronic money holder of the *respondent*;

(2) the complainant is (or was) a potential customer, *payment service user* or electronic money holder of the *respondent*;

(2A) the complainant is (or was) a *payer* in a *payment transaction* in relation to which the *respondent* is (or was) the *payee's payment service provider*, provided the *complaint* relates to the *respondent's* obligations under regulation 90(3) of the *Payment Services Regulations*;

(2B) the complainant is a *person* that has transferred funds as a result of an alleged *authorised push payment fraud* and both:

(a) the *respondent* is (or was) involved in the transfer of the funds; and

(b) the *complaint* is not a *PSD complaint*;

(3) the complainant is the holder, or the beneficial owner, of *units* in a *collective investment scheme* and the *respondent* is:

(a) the *operator* of a *scheme*; or

(b) the *depositary* of an *authorised fund*; or

(c) the *depositary* of a *charity AIF*; or

(d) [deleted]

(3A) the complainant is the holder, or the beneficial owner, of *units* or *shares* in an *AIF* that is not a *collective investment scheme* where the *respondent* is:

(a) the *AIFM* of an *unauthorised AIF* (other than a *body corporate*); or

(b) [deleted]

(c) the *AIFM* or *depositary* of a *charity AIF* (other than a *body corporate*);

(4) the complainant is a beneficiary of, or has a beneficial interest in, a *personal pension scheme* or *stakeholder pension scheme*;

(5) the complainant is a *person* for whose benefit a *contract of insurance* was taken out or was intended to be taken out with or through the *respondent*;

(6) the complainant is a *person* on whom the legal right to benefit from a claim against the *respondent* under a *contract of insurance* has been devolved by contract, assignment, subrogation or legislation (save the European Community (Rights against Insurers) Regulations 2002);

(7) the complainant relied in the course of his business on a cheque guarantee card issued by the *respondent*;

(8) the complainant is the true owner or the *person* entitled to immediate possession of a cheque or other bill of exchange, or of the funds it represents, collected by the *respondent* for someone else's account;

(9) the complainant is the recipient of a banker's reference given by the *respondent*;

(10) the complainant gave the *respondent* a guarantee or security for:

(a) a mortgage;

(b) a loan;

(c) an actual or prospective *regulated credit agreement*;

(d) an actual or prospective *regulated consumer hire agreement*; or

(e) any linked transaction as defined in the Consumer Credit Act 1974 (as amended);

(11) the complainant is a *person* about whom information relevant to his financial standing is or was held by the *respondent* in *providing credit references*;

(11A) the complainant is a *person* about whom information relevant to his financial standing is or was held by the *respondent* in providing *credit information*;

(11B) the complainant is a *person* about whom *specified information* was provided to a *person* in relation to a *finance application*;

(12) the complainant is a *person*:

(a) from whom the *respondent* has sought to recover payment under a*credit agreement* or *consumer hire agreement* (whether or not the *respondent* is a party to the agreement); or

(b) in relation to whom the *respondent* has sought to perform duties, or exercise or enforce rights, on behalf of the creditor or

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owner, under a*credit agreement* or *consumer hire agreement* in carrying on *debt administration*;

(13) the complainant is a beneficiary under a trust or estate of which the *respondent* is trustee or personal representative;

(14) (where the *respondent* is a *dormant asset fund operator*) the complainant is (or was) a customer of a *bank* or *building society* which transferred any *balance* from a *dormant asset* to the *respondent*;

(14A) (where the *respondent* is a *dormant asset fund operator*) subject to DISP 2.7.6AR(1), the complainant is (or was) a *person* to whom the proceeds of a *long-term insurance contract* were payable by an *insurer*, but which instead were transferred by the *insurer* to the *respondent*;

(14B) (where the *respondent* is a *dormant asset fund operator*) subject to DISP 2.7.6BR, the complainant is (or was) a *member* of a *personal pension scheme* which transferred any eligible pension benefits due to the complainant to the *respondent*;

(14C) (where the *respondent* is a *dormant asset fund operator*) the complainant is (or was) a *person* to whom an *eligible CIS amount* was owing immediately before it was transferred to the *respondent* by the *authorised fund manager* or *depositary* of an *authorised fund*;

(14D) (where the *respondent* is a *dormant asset fund operator*) subject to DISP 2.7.6AR(2), the complainant is (or was) a *person* for whom a *firm* was holding *client money* immediately before it was transferred to the *respondent* by that *firm*;

(15) the complainant is either a *borrower* or a lender under a *P2P agreement* and the *respondent* is the *operator of an electronic system in relation to lending*;

(16) the complainant is a *client* (where the *respondent* is an *ISPV*);

(17) the complainant is a *customer* of the *respondent* in relation to *regulated claims management activity*;

(18) the complainant is a *customer* of the *respondent* in relation to *regulated pensions dashboard activity*.

2.7.6A R (1) DISP 2.7.6R (14A) does not include proceeds of a *contract of insurance* held in a *lifetime ISA* if their transfer to a *dormant asset fund operator* resulted in (or would result in) liability to pay a *lifetime ISA government withdrawal charge*.

(2) DISP 2.7.6R(14D) does not include *client money* held in a *lifetime ISA* if its transfer to a *dormant asset fund operator* resulted in (or would result in) liability to pay a *lifetime ISA government withdrawal charge*.

2.7.6B R Benefits under a *personal pension scheme* in DISP 2.7.6R(14B) are excluded from being ‘eligible pension benefits’ if (or to the extent that) they are provided from sums invested in a *with-profits fund*.

2.7.7 G

(1) DISP 2.7.6R (5)and DISP 2.7.6R (6) include, for example, employees covered by a group permanent health policy taken out by an employer, which provides in the insurance contract that the policy was taken out for the benefit of the employee.

(2) DISP 2.7.6R(2B) includes any *complaint* that the *respondent* did not do enough to prevent, or respond to, an alleged *authorised push payment fraud*.

2.7.7A R

In addition, an individual is an *eligible complainant* if:

(1) they have been identified by the *respondent* as a *politically exposed person*, a *family member of a politically exposed person*, or a *known close associate of a politically exposed person*; and

(2) their *complaint*:

is that such identification is incorrect; or

(b) relates to an act or omission by the *respondent* in consequence of such identification.

2.7.8 G

In the *Compulsory Jurisdiction*, under the *Ombudsman Transitional Order*, the *Mortgages and General Insurance Complaints Transitional Order*, *Claims Management Order* and the *Funeral Plans Order*, where a complainant:

(1) wishes to have a *relevant new complaint*, a *relevant transitional complaint* a *relevant new claims management complaint*, or a *relevant transitional funeral plan complaint* dealt with by the *Ombudsman*; and

(2) is not otherwise eligible; but

(3) would have been entitled to refer an equivalent *complaint* to the *former scheme* in question immediately before the relevant order came into effect;

if the *Ombudsman* considers it appropriate, he may treat the complainant as an *eligible complainant*.

Exceptions

2.7.9 R

The following are not *eligible complainants*:

(1) (in all jurisdictions) a *firm*, *payment service provider*, *electronic money issuer*, *CBTL firm*, *designated credit reference agency*, *designated finance platform* or *VJ participant* whose *complaint* relates in any way to an activity which:

(a) the *firm* itself has *permission* to carry on; or

(ab) the *firm*, *payment service provider*, *electronic money issuer*, *CBTL firm*, *designated credit reference agency* or *designated finance platform* itself is entitled to carry on under the *Payment Services Regulations*, the *Electronic Money Regulations*, the *MCD Order*, the *Small and Medium Sized Business (Credit Information)*

*Regulations*or the *Small and Medium Sized Business (Finance Platforms) Regulations*; or

(b) the *VJ participant* itself conducts;

and which is subject to the *Compulsory Jurisdiction* or the *Voluntary Jurisdiction*;

(2) (in the *Compulsory Jurisdiction*) a complainant, other than a trustee of a *pension scheme* trust, who was:

(a) a *professional client*; or

(b) an *eligible counterparty*;

in relation to the *firm* and activity in question at the time of the act or omission which is the subject of the *complaint*.

(3) [deleted]

2.7.9A R DISP 2.7.9 R (1) and DISP 2.7.9 R (2) do not apply to a complainant who is a *consumer* in relation to the activity to which the *complaint* relates.

2.7.10 G In the *Compulsory Jurisdiction*, in relation to *relevant new complaints* under the *Ombudsman Transitional Order* and *relevant transitional complaints* under the *Mortgages and General Insurance Complaints Transitional Order*:

(1) where the *former scheme* in question is the *Insurance Ombudsman Scheme*, a complainant is not to be treated as an *eligible complainant* unless:

(a) he is an individual; and

(b) the *relevant new complaint* does not concern aspects of a policy relating to a business or trade carried on by him;

(2) where the *former scheme* in question is the *GISC facility*, a complainant is not to be treated as an *eligible complainant* unless:

(a) he is an individual; and

(b) he is acting otherwise than solely for the purposes of his business; and

(3) where the *former scheme* in question is the *MCAS scheme*, a complainant is not to be treated as an *eligible complainant* if:

(a) the *relevant transitional complaint* does not relate to a breach of the Mortgage Code published by the Council of Mortgage Lenders;

(b) the *complaint* concerns physical injury, illness, nervous shock or their consequences; or

(c) the complainant is claiming a sum of money that exceeds £100,000.

2

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

General time limits

2.8.1 R The *Ombudsman* can only consider a *complaint* if:

(1) the *respondent* has already sent the complainant its *final response* or *summary resolution communication*; or

(2) in relation to a *complaint* that is not an *EMD complaint* or a *PSD complaint*, eight weeks have elapsed since the *respondent* received the *complaint*; or

in relation to a complaint that is an *EMD complaint* or a *PSD complaint*:

(a) 15 *business days* have elapsed since the *respondent* received the *complaint* and the complainant has not received a holding response as described in DISP 1.6.2A R(2)(a); or

(b) where the complainant has received a holding response, 35 *business days* have elapsed since the *respondent* received the *complaint*; or

(3) in relation to a *complaint* the subject matter of which falls to be dealt with (or has properly been dealt with) under a *consumer redress scheme*:

(a) the *respondent* has already sent the complainant its *redress determination* under the scheme; or

(b) the *respondent* has failed to send a *redress determination* in accordance with the time limits specified under the scheme;

unless:

(4) the *respondent* consents and:

(a) the *Ombudsman* has informed the complainant that the *respondent* must deal with the *complaint* within eight weeks (or for *EMD complaints* and *PSD complaints* 15 business days or, in exceptional circumstances, 35 business days) and that it may resolve the *complaint* more quickly than the *Ombudsman*; and

(b) the complainant nevertheless wishes the *Ombudsman* to deal with the *complaint*.

2.8.1A R Where a *respondent* has chosen to treat a *complaint* in its entirety in accordance with DISP 1.6.2AR, notwithstanding that parts of it fall outside DISP 1.6.2AR, DISP 2.8 will apply as if the whole complaint were an *EMD complaint* or a *PSD complaint*.

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

(1) more than six *months* after the date on which the *respondent* sent the complainant its *final response*, *redress determination* or *summary resolution communication*; or

(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;

unless:

(3) in the view of the *Ombudsman*, the failure to comply with the time limits in DISP 2.8.2 R or DISP 2.8.7 R was as a result of exceptional circumstances; or

(4) the *Ombudsman* is required to do so by the *Ombudsman Transitional Order*; or

(5) the *respondent* has consented to the *Ombudsman* considering the *complaint* where the time limits in DISP 2.8.2 R or DISP 2.8.7 R have expired (but this does not apply to a "relevant complaint" within the meaning of section 404B(3) of the *Act*).

2.8.2A R If a *respondent* consents to the *Ombudsman* considering a *complaint* in accordance with DISP 2.8.2 R (5), the *respondent* may not withdraw consent.

2.8.3 G The six-month time limit is only triggered by a response which is a *final response*, *redress determination* or *summary resolution communication*. The response must tell the complainant about the six-month time limit that the complainant has to refer a *complaint* to the *Financial Ombudsman Service*.

2.8.4 G An example of exceptional circumstances might be where the complainant has been or is incapacitated.

Pensions review and FSAVC review

2.8.5 R The six-year and the three-year time limits do not apply where:

(1) [deleted]

(2) the *complaint* concerns a contract or policy which is the subject of a review directly or indirectly under:

(a) the terms of the Statement of Policy on 'Pension transfers and Opt-outs' issued by the FSA on 25 October 1994; or

(b) the terms of the policy statement for the review of specific categories of *FSAVC* business issued by the FSA on 28 February 2000.

Mortgage endowment complaints

2.8.6 G If a *complaint* relates to the sale of an endowment *policy* for the purpose of achieving capital repayment of a mortgage, the receipt by the complainant of a letter which states that there is a risk (rather than a high risk) that the *policy* would not, at maturity, produce a sum large enough to repay the target amount is not, itself, sufficient to cause the three year time period in DISP 2.8.2R (2) to start to run.

2.8.7 R

(1) If a *complaint* relates to the sale of an endowment *policy* for the purpose of achieving capital repayment of a mortgage and the complainant receives a letter from a *firm* or a *VJ participant* warning that there is a high risk that the *policy* will not, at maturity, produce a sum large enough to repay the target amount then, subject to (2), (3), (4) and (5):

(a) time for referring a *complaint* to the *Financial Ombudsman Service* starts to run from the date the complainant receives the letter; and

(b) ends three years from that date ("the final date").

(2) Paragraph (1)(b) applies only if the complainant also receives within the three year period mentioned in (1)(b) and at least six months before the final date an explanation that the complainant's time to refer such a *complaint* would expire at the final date.

(3) If an explanation is given but is sent outside the period referred to in (2), time for referring a *complaint* will run until a date specified in such an explanation which must not be less than six months after the date on which the notice is sent.

(4) A complainant will be taken to have complied with the time limits in (1) to (3) above if in any case he refers the *complaint* to the *firm* or *VJ participant* within those limits and has a written acknowledgement or some other record of the *complaint* having been received.

(5) Paragraph (1) does not apply if the *Ombudsman* is of the opinion that, in the circumstances of the case, it is appropriate for DISP 2.8.2R (2) to apply.

Payment protection insurance complaints

2.8.8 G If a *complaint* relates to the sale of a *payment protection contract*, knowledge by the complainant that there was a problem with the sale of the *payment protection contract* generally (for example where there has been a rejection of a claim on the grounds of ineligibility or exclusion, or the complainant has received a customer contact letter explaining that they may have been mis-sold) would not in itself ordinarily be sufficient to establish for the purposes of the three-year time period in DISP 2.8.2R(2) that the complainant had become aware (or ought reasonably to have become aware) that he or she had cause for complaint in respect of a failure to make the disclosure set out at DISP App 3.3A.2E (relating to failure to disclose commission).

2.8.9 R

(1) In addition to DISP 2.8.1R and DISP 2.8.2R, unless one or more of the conditions in (2) below is met, the *Ombudsman* cannot consider a *complaint* which:

(a) relates to the sale of a *payment protection contract* that took place on or before 29 August 2017; 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).

(2) The conditions are that:

(a) the complainant referred the *complaint* to the *respondent* or to the *Financial Ombudsman Service* on or before 29 August 2019 and has a written acknowledgement or some other record of the *complaint* having been received; or

(b) in the view of the *Ombudsman*, the failure to comply with the time limit in (2)(a) was as a result of exceptional circumstances; or

(c) the *respondent* has consented to the *Ombudsman* considering the *complaint* where the time limit in (2)(a) has expired (but this does not apply to a "relevant complaint" within the meaning of section 404B(3) of the *Act*); or

(d) the *complaint*:

(i) is made on or after 29 August 2019;

(ii) relates to the sale of a *payment protection contract* that was live as at 29 August 2017;

(iii) is made following a full or partial rejection of a claim on or after 29 August 2017 on the grounds of ineligibility, exclusion or limitation

and this condition applies only to the extent that the *complaint* relates to those grounds of rejection.

2.8.10 G

Where a *complaint* meets the requirements of DISP 2.8.9R(2)(d), those parts of the *complaint* that relate to the grounds of rejection of the claim are not subject to the restriction in DISP 2.8.9R(1) on an *Ombudsman* considering the *complaint*.

Regulated Activities for the Voluntary Jurisdiction at 30 November 2024

This table belongs to DISP 2.5.1 R

The activities which were covered by the *Compulsory Jurisdiction* (at 30 November 2024) were:

(1) for *firms*:

(a) *regulated activities* (other than *auction regulation bidding*, *administering a benchmark* and *dealing with unwanted asset money*);

(b) *payment services*;

[deleted]

(d) lending *money* secured by a charge on land;

(e) lending *money* (excluding *restricted credit* where that is not a *credit-related regulated activity*);

(f) paying *money* by a *plastic card* (excluding a *store card* where that is not a *credit-related regulated activity*);

(g) providing ancillary banking services;

(h) [deleted]

(i) *CBTL business*;

(j)offering and/or issuing of *investments* by *ISPVs*;

(k)giving *non-personal recommendation advice*;

(2) for *payment service providers*:

(a) *payment services*;

(b) *credit-related regulated activities*;

or any ancillary activities, including advice, carried on by the *payment service provider* in connection with them.

(3) for *electronic money issuers*:

(a) issuance of electronic money;

(b) *credit-related regulated activities*;

or any ancillary activities, including advice, carried on by the *electronic money issuer* in connection with them;

(4) for *CBTL firms*: *CBTL business* or any ancillary activities, including advice, carried on by the *CBTL firm* in connection with it.

(5)for *designated credit reference agencies*:

(a)providing *credit information* under the *Small and Medium Sized Business (Credit Information) Regulations*; or (b)any ancillary activities, including advice, carried on by the *designated credit reference agency* in connection with the activity in (a).

(6)for *designated finance platforms*:

(a)providing *specified information* under the *Small and Medium Sized Business (Finance Platforms) Regulations*; or

(b)any ancillary activities, including advice, carried on by the *designated finance platform* in connection with the activity in paragraph (a).

(7)for *investment firms* authorised under the *UK* provisions which implemented *MiFID*:

(a) providing *investment services*;

(b)providing *ancillary services*;

(c)selling *structured deposits* to *clients*; and

(d)advising *clients* on *structured deposits*;

(and, in the case of *investment services* and *ancillary services*, this includes any acts which are preparatory to the provision of an *investment service* or *ancillary service* which are an integral part of such a service).

(8)for a *CRD credit institution*:

(a) providing *investment services*;

(b)selling *structured deposits* to *clients*; and

(c)advising *clients* on *structured deposits*;

(and, in the case of *investment services*, this includes any acts which are preparatory to the provision of an *investment service* which are an integral part of such a service).

(9)for a *collective portfolio management investment* firm:

(a)when providing the activities permitted by the *UK* provisions which implemented article 6(3) of the *UCITS Directive*; and

(b)when providing the activities permitted by the *UK* provisions which implemented article 6(4) of the *AIFMD*;

and, in the case of such activities, this includes any acts which are preparatory to the provision of an *investment service* which are an integral part of such a service).

The activities which (at 30 November 2024) were *regulated activities* were, in accordance with section 22 of the *Act* (Regulated Activities), any of the following activities specified in Part II and Parts 3A and 3B of the *Regulated Activities Order* (with the addition of *auction regulation bidding*, *administering a benchmark* and *dealing with unwanted asset money*):

(1) *accepting deposits* (article 5);

(2) *issuing electronic money* (article 9B);

(3) *effecting contracts of insurance* (article 10(1));

(4) *carrying out contracts of insurance* (article 10(2));

(4A)*insurance risk transformation* (article 13A);

(5) *dealing in investments as principal* (article 14);

(6) *dealing in investments as agent* (article 21);

(7) *arranging (bringing about) deals in investments* (article 25(1));

(8) *making arrangements with a view to transactions in investments* (article 25(2));

(9) *arranging (bringing about) regulated mortgage contracts* (article 25A(1));

(10) *making arrangements with a view to regulated mortgage contracts* (article 25A(2));

(11) *arranging (bringing about) a home reversion plan* (article 25B(1));

(12) *making arrangements with a view to a home reversion plan* (article 25B(2));

(13) *arranging (bringing about) a home purchase plan* (article 25C(1));

(14) *making arrangements with a view to a home purchase plan* (article 25C(2));

(14A) *operating a multilateral trading facility* (article 25D);

(14B) *arranging (bringing about) a regulated sale and rent back agreement* (article 25E(1));

(14C) *making arrangements with a view to a regulated sale and rent back agreement* (article 25E(2));

(14D) *credit broking* (article 36A);

(14E) *operating an electronic system in relation to lending* (article 36H);

(15) *managing investments* (article 37);

(16) *assisting in the administration and performance of a contract of insurance* (article 39A);

(16A) *debt adjusting* (article 39D(1) and (2));

(16B) *debt counselling* (article 39E(1) and (2));

(16C) *debt collecting* (article 39F(1) and (2));

(16D) *debt administration* (article 39G(1) and (2));

(17) *safeguarding and administering investments* (article 40);

(18) *sending dematerialised instructions* (article 45(1));

(19) *causing dematerialised instructions to be sent* (article 45(2));

(22A) *managing a UK UCITS* (article 51ZA);

(22B) acting as a trustee or depositary of a UCITS (article 51ZB);

(22C) *managing an AIF* (article 51ZC);

(22D) acting as a trustee or depositary of an AIF (article 51ZD);

(22E) *establishing, operating or winding up a collective investment scheme* (article 51ZE);

(23) *establishing, operating or winding up a stakeholder pension scheme* (article 52(a));

(24) *providing basic advice on a stakeholder product* (article 52B);

(25) *establishing, operating or winding up a personal pension scheme* (article 52(b));

(26) *advising on investments (except P2P agreements)* (article 53(1));

(26A)*advising on P2P agreements* (article 53(2));

(27) *advising on regulated mortgage contracts* (article 53A);

(28) *advising on a home reversion plan* (article 53B);

(28A) *advising on a home purchase plan* (article 53C);

(29) *advising on a regulated sale and rent back agreement* (article 53D);

(29A) *advising on regulated credit agreements for the acquisition of land* (article 53DA)

(29B) *advising on conversion or transfer of pension benefits* (article 53E);

(30) *advising on syndicate participation at Lloyd's* (article 56);

(31) *managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's* (article 57);

(32) *arranging deals in contracts of insurance written at Lloyd's* (article 58);

(32A) entering into a regulated credit agreement (article 60B(1));

(32B) exercising, or having the right to exercise, rights and duties under a regulated credit agreement (article 60(B)(2);

(32C) entering into a regulated consumer hire agreement (article 60N(1));

(32D) exercising, or having the right to exercise rights and duties under a regulated consumer hire agreement (article 60N(2));

(33) *entering into a regulated mortgage contract* (article 61(1));

(34) *administering a regulated mortgage contract* (article 61(2));

(35) *entering into a home reversion plan* (article 63B(1));

(36) *administering a home reversion plan* (article 63B(2));

(37) *entering into a home purchase plan* (article 63F(1));

(38) *administering a home purchase plan* (article 63F(2));

(38A) *entering into a regulated sale and rent back agreement* (article 63J(1));

(38B) *administering a regulated sale and rent back agreement* (article 63J(2));

(38C) *meeting of repayment claims* (article 63N(1)(a));

(38D) *managing dormant asset funds (including the investment of such funds)* (article 63N(1)(b));

(38E) *providing information in relation to a specified benchmark* (article 63O(1)(a));

(38F) *administering a specified benchmark* (article 63O(1)(b));

(39) *entering as provider into a funeral plan contract* (article 59);

(39A)*carrying out a funeral plan contract as provider* (article 59(1A));

(40) *agreeing to carry on a regulated activity* (article 64);

(40A) *providing credit information services* (article 89A);

(40B) *providing credit references* (article 89B);

(41)*seeking out, referrals and identification of claims or potential claims* (article 89G);

(42)*advice, investigation or representation in relation to a personal injury claim* (article 89H);

(43)*advice, investigation or representation in relation to a financial services or financial product claim* (article 89I);

(44)*advice, investigation or representation in relation to a housing disrepair claim* (article 89J);

(45)*advice, investigation or representation in relation to a claim for a specified benefit* (article 89K);

(46)*advice, investigation or representation in relation to a criminal injury claim* (article 89L);

(47)*advice, investigation or representation in relation to an employment-related claim* (article 89M);

(48) *regulated pensions dashboard activity* (article 89BA);

which is carried on by way of business and relates to a *specified investment* applicable to that activity or, in the case of (22A), (22B), (22C), (22D), (22E) and (23), is carried on in relation to property of any kind or, in the case of (40A) or (40B) relates to information about a person's financial standing or, in the case of (41) to (47), is or relates to *claims management services* and is carried on in *Great Britain*.

Chapter 3

Complaint handling procedures of the Financial Ombudsman Service

3

3.1 Purpose, interpretation and application

Purpose

3.1.1 G The purpose of this chapter is to set out:

(1) the procedures of the *Financial Ombudsman Service* for investigating and determining *complaints*;

(2) the basis on which the *Ombudsman* makes decisions; and

(3) the awards which the *Ombudsman* can make.

Interpretation

3.1.2 R In this chapter, 'out of jurisdiction' means outside the *Compulsory Jurisdiction* and the *Voluntary Jurisdiction* in accordance with DISP 2.

3.1.3 R Where the *respondent* is a *partnership* (or former *partnership*), it is sufficient for the *Ombudsman* to communicate with one partner (or former partner).

3.1.4 G The *Ombudsman Transitional Order* and the *Claims Management Order* requires the *Financial Ombudsman Service* to complete the handling of *relevant existing complaints* and *relevant existing claims management complaints*, in a significant number of respects, in accordance with the requirements of the relevant *former scheme* rather than in accordance with the requirements of this chapter.

Application

3.1.5 R This chapter applies to the *Ombudsman* and to *respondents*.

3.1.6 R This chapter applies to a *TP firm*. This *rule* demonstrates the contrary intention under GEN 2.2.26R.

3.2 Jurisdiction

3.2.1 R The *Ombudsman* will have regard to whether a *complaint* is out of jurisdiction.

3.2.2 R Unless the *respondent* has already had eight weeks to consider the *complaint* (or for *EMD complaints* and *PSD complaints* the time specified by DISP 2.8.1R(2A)) or issued a *final response* or *summary resolution communication*, the *Ombudsman* will refer the *complaint* to the *respondent* (except where DISP 2.8.1R(4) applies).

3.2.2A R If the subject matter of a *complaint* falls to be dealt with by the *respondent* under a *consumer redress scheme*, and the time limits specified under the scheme for doing so have not yet expired, the *Ombudsman* will refer it to the *respondent* to be dealt with under the scheme (except where DISP 2.8.1R(4) applies).

3.2.3 R Where the *respondent* alleges that the *complaint* is out of jurisdiction, the *Ombudsman* will give both parties an opportunity to make representations before he decides.

3.2.4 R Where the *Ombudsman* considers that the *complaint* may be out of jurisdiction, he will give the complainant an opportunity to make representations before he decides.

3.2.5 R Where the *Ombudsman* then decides that the *complaint* is out of jurisdiction, he will give reasons for that decision to the complainant and inform the *respondent*.

3.2.6 R Where the *Ombudsman* then decides that the *complaint* is not out of jurisdiction, he will inform the complainant and give reasons for that decision to the *respondent*.

3

3.3 Dismissal without consideration of the merits and test cases

3.3.1 R Where the *Ombudsman* considers that the *complaint* may be one which should be dismissed without consideration of the merits, he will give the complainant an opportunity to make representations before he decides.

3.3.2 R Where the *Ombudsman* then decides that the *complaint* should be dismissed without consideration of the merits, he will give reasons to the complainant for that decision and inform the *respondent*.

3.3.3 G Under the *Ombudsman Transitional Order* and the *Mortgage and General Insurance Complaints Transitional Order* and the *Claims Management Order*, where the *Ombudsman* is dealing with a *relevant complaint*, he must take into account whether an equivalent complaint would have been dismissed without consideration of its merits under the *former scheme* in question, as it had effect immediately before the relevant order came into effect.

3.3.3A G Under the *Claims Management Order* the *Ombudsman* may dismiss a *relevant claims management complaint*, if he considers that the complaint would have been dismissed under the rules of the *former scheme* or should be dismissed under the grounds for dismissal in DISP 3.3.4R or DISP 3.3.4AR. Where the *Ombudsman* is dealing with a *relevant new claims management complaint* the rules of the *former scheme* must be read as if they were subject to paragraph 13 of Schedule 3 of the *ADR Regulations*.

Grounds for dismissal

3.3.4 R The *Ombudsman* may dismiss a *complaint* referred to the *Financial Ombudsman Service* before 9 July 2015 without considering its merits if the *Ombudsman* considers that:

(1) the complainant has not suffered (or is unlikely to suffer) financial loss, material distress or material inconvenience; or

(2) the *complaint* is frivolous or vexatious; or

(3) the *complaint* clearly does not have any reasonable prospect of success; or

(4) the *respondent* has already made an offer of compensation (or a goodwill payment) which is:

(a) fair and reasonable in relation to the circumstances alleged by the complainant; and

(b) still open for acceptance; or

(5) the *respondent* has reviewed the subject matter of the *complaint* in accordance with:

(a) the regulatory standards for the review of such transactions prevailing at the time of the review; or

(b) [deleted]

(c) any formal regulatory requirement, standard or guidance published by the *FCA* or other regulator in respect of that type of *complaint*;

(including, if appropriate, making an offer of redress to the complainant), unless he considers that they did not address the particular circumstances of the case; or

(5A) the *respondent* has reviewed the subject matter of the *complaint* and issued a *redress determination* in accordance with the terms of a *consumer redress scheme*; or

(6) the subject matter of the *complaint* has previously been considered or excluded under the *Financial Ombudsman Service*, or a *former scheme* (unless material new evidence which the *Ombudsman* considers likely to affect the outcome has subsequently become available to the complainant); or

(7) the subject matter of the *complaint* has been dealt with, or is being dealt with, by a comparable independent complaints scheme or dispute-resolution process; or

(8) the subject matter of the *complaint* has been the subject of court proceedings where there has been a decision on the merits; or

(9) the subject matter of the *complaint* is the subject of current court proceedings, unless proceedings are stayed or sisted (by agreement of all parties, or order of the court) so that the matter may be considered by the *Financial Ombudsman Service*; or

(10) it would be more suitable for the subject matter of the *complaint* to be dealt with by a court, arbitration or another complaints scheme; or

(11) it is a *complaint* about the legitimate exercise of a *respondent*'s commercial judgment; or

(12) it is a *complaint* about employment matters from an employee or employees of a *respondent*; or

(13) it is a *complaint* about investment performance; or

(14) it is a *complaint* about a *respondent*'s decision when exercising a discretion under a will or private trust; or

(15) it is a *complaint* about a *respondent*'s failure to consult beneficiaries before exercising a discretion under a will or private trust, where there is no legal obligation to consult; or

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(16) it is a *complaint* which:

(a) involves (or might involve) more than one *eligible complainant*; and

(b) has been referred without the consent of the other complainant or complainants;

and the *Ombudsman* considers that it would be inappropriate to deal with the *complaint* without that consent; or

(16A) it is a *complaint* about a pure landlord and tenant issue arising out of a *regulated sale and rent back agreement*; or

(17) there are other compelling reasons why it is inappropriate for the *complaint* to be dealt with under the *Financial Ombudsman Service*.

3.3.4A R The *Ombudsman* may dismiss a *complaint* referred to the *Financial Ombudsman Service* on or after 9 July 2015 without considering its merits if the *Ombudsman* considers that:

(1) the *complaint* is frivolous or vexatious; or

(2) the subject matter of the *complaint* has been dealt with, or is being dealt with, by a comparable *ADR entity*; or

(3) the subject matter of the *complaint* has been the subject of court proceedings where there has been a decision on the merits; or

(4) the subject matter of the *complaint* is the subject of current court proceedings, unless proceedings are stayed or sisted (by agreement of all parties, or order of the court) so that the matter may be considered by the *Financial Ombudsman Service*; or

(5) dealing with such a type of *complaint* would otherwise seriously impair the effective operation of the *Financial Ombudsman Service*.

3.3.4B G Examples of a type of *complaint* that would otherwise seriously impair the effective operation of the *Financial Ombudsman Service* may include:

(1) where it would be more suitable for the *complaint* to be dealt with by a court or a comparable *ADR entity*; or

(2) where the subject matter of the *complaint* has already been dealt with by a comparable dispute resolution scheme; or

(3) where the subject matter of the complaint has previously been considered or excluded under the *Financial Ombudsman Service* (unless material new evidence which the *Ombudsman* considers likely to affect the outcome has subsequently become available to the complainant); or

(4) it is a *complaint* which:

(a) involves (or might involve) more than one *eligible complainant*; and

(b) has been referred without the consent of the other *eligible complainant* or complainants,

and the *Ombudsman* considers that it would be inappropriate to deal with the *complaint* without that consent.

3.3.5 R [deleted]

3.3.6 G [deleted]

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3.4 Referring a complaint to another complaints scheme or court

3.4.1 R The *Ombudsman* may refer a *complaint* to another complaints scheme where:

(1) he considers that it would be more suitable for the matter to be determined by that scheme; and

(2) the complainant consents to the referral.

Test cases

3.4.2 R The *Ombudsman* may, with the complainant's consent, cease to consider the merits of a *complaint* so that it may be referred to a court to consider as a test case, if:

(1) before the *Ombudsman* has made a determination, they have received in writing from the *respondent*:

(a) a detailed statement of how and why, in the *respondent*'s opinion, the *complaint* raises an important or novel point of law with significant consequences; and

(b) an undertaking in favour of the complainant that, if the complainant or the *respondent* commences court proceedings against the other in respect of the *complaint* in any court in the *United Kingdom* within six *months* of the *complaint* being dismissed, the *respondent* will:

(i) pay the complainant's reasonable costs and disbursements (to be assessed, if not agreed, on an indemnity basis) in connection with the proceedings at first instance and any subsequent appeal proceedings brought by the *respondent*; and

(ii) make interim payments on account of such costs if and to the extent that it appears reasonable to do so; and

(2) the *Ombudsman* considers that the *complaint*:

(a) raises an important or novel point of law, which has important consequences; and

would more suitably be dealt with by a court as a test case.

3.4.3 G Factors that the *Ombudsman* may take into account in considering whether to cease to consider the merits of a *complaint* so that it may be the subject of a test case in court include (but are not limited to):

(1) whether the point of law is central to the outcome of the dispute;

(2) how important or novel the point of law is in the context of the dispute;

(3) the significance of the consequences of the dispute for the business of the *respondent* (or respondents in that sector) or for its (or their) customers;

(4) the amount at stake in the dispute;

the remedies that a court could impose;

(6) any representations made by the *respondent* or the complainant; and

(7) the stage already reached in consideration of the dispute.

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3.5 Resolution of complaints by the Ombudsman

3.5.1 R The *Ombudsman* will attempt to resolve *complaints* at the earliest possible stage and by whatever means appear to him to be most appropriate, including mediation or investigation.

3.5.2 G The *Ombudsman* may inform the complainant that it might be appropriate to complain against some other *respondent*.

3.5.3 G Where two or more *complaints* from one complainant relate to connected circumstances, the *Ombudsman* may investigate them together, but will issue separate provisional assessments and determinations in respect of each *respondent*.

3.5.4 R If the *Ombudsman* decides that an investigation is necessary, he will then:

(1) ensure both parties have been given an opportunity of making representations;

(2) send both parties a provisional assessment, setting out his reasons and a time limit within which either party must respond; and

(3) if either party indicates disagreement with the provisional assessment within that time limit, proceed to determination.

Hearings

3.5.5 R If the *Ombudsman* considers that the *complaint* can be fairly determined without convening a hearing, he will determine the *complaint*. If not, he will invite the parties to take part in a hearing. A hearing may be held by any means which the *Ombudsman* considers appropriate in the circumstances, including by telephone. No hearing will be held after the *Ombudsman* has determined the *complaint*.

3.5.6 R A party who wishes to request a hearing must do so in writing, setting out:

(1) the issues he wishes to raise; and

(2) (if appropriate) any reasons why he considers the hearing should be in private;

so that the *Ombudsman* may consider whether:

(3) the issues are material;

(4) a hearing should take place; and

(5) any hearing should be held in public or private.

3.5.7 G In deciding whether there should be a hearing and, if so, whether it should be in public or private, the *Ombudsman* will have regard to the provisions of the European Convention on Human Rights.

Evidence

3.5.8 R The *Ombudsman* may give directions as to:

(1) the issues on which evidence is required;

(2) the extent to which evidence should be oral or written; and

(3) the way in which evidence should be presented.

3.5.9 R The *Ombudsman* may:

(1) exclude evidence that would otherwise be admissible in a court or include evidence that would not be admissible in a court;

(2) accept information in confidence (so that only an edited version, summary or description is disclosed to the other party) where he considers it appropriate;

(3) reach a decision on the basis of what has been supplied and take account of the failure by a party to provide information requested; and

(4) treat the *complaint* as withdrawn and cease to consider the merits if a complainant fails to supply requested information.

3.5.10 G Evidence which the *Ombudsman* may accept in confidence includes confidential evidence about third parties and security information.

3.5.11 G The *Ombudsman* has the power to require a party to provide evidence. Failure to comply with the request can be dealt with by the court.

3.5.12 G The *Ombudsman* may take into account evidence from third parties, including (but not limited to) the *FCA* , other regulators, experts in industry matters and experts in consumer matters.

Procedural time limits

3.5.13 R The *Ombudsman* may fix (and extend) time limits for any aspect of the consideration of a *complaint* by the *Financial Ombudsman Service*.

3.5.14 R If a *respondent* fails to comply with a time limit, the *Ombudsman* may:

(1) proceed with consideration of the *complaint*; and

(2) include provision for any material distress or material inconvenience caused by that failure in any award which he decides to make.

3.5.15 R If a complainant fails to comply with a time limit, the *Ombudsman* may:

(1) proceed with consideration of the *complaint*; or

(2) treat the *complaint* as withdrawn and cease to consider the merits.

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3.6 Determination by the Ombudsman

Fair and reasonable

3.6.1 R The *Ombudsman* will determine a *complaint* by reference to what is, in his opinion, fair and reasonable in all the circumstances of the case.

3.6.2 G Section 228 of the *Act* sets the 'fair and reasonable' test for the *Compulsory Jurisdiction* (other than in relation to a “relevant complaint” within the meaning of section 404B(3) of the *Act*) and DISP 3.6.1 R extends it to the *Voluntary Jurisdiction*.

3.6.3 G Where a complainant makes *complaints* against more than one *respondent* in respect of connected circumstances, the *Ombudsman* may determine that the *respondents* must contribute towards the overall award in the proportion that the *Ombudsman* considers appropriate.

3.6.4 R In considering what is fair and reasonable in all the circumstances of the case, the *Ombudsman* will take into account:

(1) relevant:

(a) law and regulations;

(b) regulators' rules, guidance and standards;

(c) codes of practice; and

(2) (where appropriate) what he considers to have been good industry practice at the relevant time.

3.6.5 G (1) Where the *Ombudsman* is determining what is fair and reasonable in all the circumstances of a *relevant new complaint*, a *relevant transitional complaint*, or a *relevant new claims management complaint*, the *Ombudsman Transitional Order*, the *Mortgage and General Insurance Complaints Transitional Order* and the *Claims Management Order* make provision for the *Ombudsman* to take into account what determination the *former Ombudsman* might have been expected to reach in relation to an equivalent complaint dealt with under the *former scheme* in question immediately before the relevant order came into effect.

(2) Where the *Ombudsman* is determining what is fair and reasonable in all the circumstances of a *relevant transitional funeral plan complaint*, the *Funeral Plans Order* makes provision for the *Ombudsman* to take

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into account what determination the *Funeral Planning Authority* might have been expected to reach in relation to an equivalent complaint dealt with under the *former scheme*.

Consumer redress schemes

3.6.5A G As a result of section 404B of the *Act*, if the subject matter of a *complaint* falls to be dealt with (or has properly been dealt with) under a *consumer redress scheme*, the *Ombudsman* will determine the *complaint* by reference to what, in the opinion of the *Ombudsman*, the *redress determination* under the *consumer redress scheme* should be or should have been, unless the complainant and the *respondent* agree that the *complaint* should not be dealt with in accordance with the *consumer redress scheme*.

The Ombudsman's determination

3.6.6 R When the *Ombudsman* has determined a *complaint*:

(1) the *Ombudsman* will give both parties a signed written statement of the determination, giving the reasons for it;

(2) the statement will require the complainant to notify the *Ombudsman* , before the date specified in the statement, whether he accepts or rejects the determination;

(3) if the complainant notifies the *Ombudsman* that he accepts the determination within that time limit, it is final and binding on both parties;

(4) subject to paragraph (4A), if the complainant does not notify the *Ombudsman* that he accepts the determination within that time limit, the complainant will be treated as having rejected the determination, and neither party will be bound by it;

(4A) the complainant is not to be treated as having rejected the determination under paragraph (4) if all the following conditions are met:

(a) the complainant notifies the *Ombudsman* after the specified date of the complainant's acceptance of the determination;

(b) the complainant has not previously notified the *Ombudsman* of the complainant's rejection of the determination;

(c) in the view of the *Ombudsman*, the failure to comply with the time limit for acceptance was as a result of exceptional circumstances;

(5) the *Ombudsman* will notify the *respondent* of the outcome and, if the complainant is treated as having rejected the determination under paragraph (4), the effect of paragraph (4A).

3.6.7 R (1) An *Ombudsman* may correct any clerical mistake in the written statement of an *Ombudsman*'s determination, whether or not the determination has already been accepted or rejected.

(2) Any failure to comply with any provisions of the procedural rules made by the *FOS Ltd* does not of itself render an *Ombudsman's* determination void.

Reports of determinations

3.6.8 G

(1) The *FOS Ltd* will publish a report of any *Ombudsman*'s determination, save that if the *Ombudsman* who made the determination informs the *FOS Ltd* that, in the *Ombudsman's* opinion, it is inappropriate to publish a report of that determination (or any part of it), the *FOS Ltd* will not publish a report of that determination (or that part, as appropriate).

(2) Unless the complainant agrees, a report will not include the name of the complainant, or particulars which (in the opinion of the *FOS Ltd*) are likely to identify the complainant.

(3) The *FOS Ltd* may charge a reasonable fee for providing a copy of a report.

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3.7 Awards by the Ombudsman

3.7.1 R Where a *complaint* is determined in favour of the complainant, the *Ombudsman's* determination may include one or more of the following:

(1) a money award against the *respondent*; or

(2) an interest award against the *respondent*; or

(3) a costs award against the *respondent*; or

(4) a direction to the *respondent*.

Money awards

3.7.2 R Except in relation to a "relevant complaint" within the meaning of section 404B(3) of the *Act*, a money award may be such amount as the *Ombudsman* considers to be fair compensation for one or more of the following:

(1) financial loss (including consequential or prospective loss); or

(2) pain and suffering; or

(3) damage to reputation; or

(4) distress or inconvenience;

whether or not a court would award compensation.

3.7.2A G In relation to a "relevant complaint" within the meaning of section 404B(3) of the *Act*, a money award is a payment of such amount as the *Ombudsman* determines that a *respondent* should make (or should have made) to a complainant under the scheme.

3.7.2B G A money award under DISP 3.7.2A G may specify the date by which the amount awarded is to be paid.

3.7.3 G (1) Where the *Ombudsman* is determining what amount (if any) constitutes fair compensation as a money award in relation to a *relevant new complaint*, a *relevant transitional complaint*, or a *relevant new claims management complaint*, the *Ombudsman Transitional Order*, the *Mortgages and General Insurance Complaints Transitional Order*, and the *Claims Management Order* make provision for the *Ombudsman* to take into account what amount (if any) might have been expected to be awarded by way of compensation in relation to an equivalent complaint dealt with under the *former scheme* in question immediately before the relevant order came into effect.

(2) Where the *Ombudsman* is determining what amount (if any) constitutes fair compensation as a money award in relation to a *relevant transitional funeral plan complaint*, the *Funeral Plans Order* makes provision for the *Ombudsman* to take into account what amount, if any, the *Funeral Planning Authority* might have been expected to award by way of compensation in relation to an equivalent complaint dealt with under the *former scheme*.

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3.7.4 R

(1) The maximum money award which the *Ombudsman* may make is:

(a) £350,000 for a *complaint* concerning an act or omission which occurred on or after 1 April 2019; and

(b) £160,000 for a *complaint* concerning an act or omission which occurred before 1 April 2019.

(2) On 1 April each year, for *complaints* referred to the *Financial Ombudsman Service* on or after this date up to and including 31 March in the following year, the amounts in (1)(a) and (b) are adjusted by:

(a) applying the percentage increase in *CPI* between January 2019 and January of that year; and

(b) rounding down to the nearest £5,000.

[**Note:** The maximum money award which the *Ombudsman* may make is set out in the table below. This Note will be updated before any new limit takes effect.

date complaint referred	**date of act or omission**	
	before 1 April 2019	on or after 1 April 2019
before 1 January 2012	£100,000	n/a
before 1 April 2019 but on or after 1 January 2012	£150,000	n/a
on or after 1 April 2019	£160,000	£350,000
on or after 1 April 2020	£160,000	£355,000
on or after 1 April 2022	£170,000	£375,000
on or after 1 April 2023	£190,000	£415,000
on or after 1 April 2024	£195,000	£430,000

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3.7.4A G

The effect of section 404B(5) of the *Act* is that the maximum award which the *Ombudsman* may make also applies in relation to a “relevant complaint” within the meaning of section 404B(3) of the *Act*.

3.7.5 G

For the purpose of calculating the maximum money award, the following are excluded:

(1) any interest awarded on the amount payable under a money award;

(2) any costs awarded; and

(3) any interest awarded on costs.

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3.7.6 G If the *Ombudsman* considers that fair compensation requires payment of a larger amount, he may recommend that the *respondent* pays the complainant the balance. The effect of section 404B(6) of the *Act* is that this is also the case in relation to a "relevant complaint" within the meaning of section 404B(3) of the *Act*.

3.7.7 R The *Ombudsman* will maintain a register of each money award.

Interest awards

3.7.8 R Except in relation to a "relevant complaint" within the meaning of section 404B(3) of the *Act*, an interest award may provide for the amount payable under the money award to bear interest at a rate and as from a date specified in the award.

3.7.8A G A money award under DISP 3.7.2A G may provide for interest to be payable, at a rate specified in the award, on any amount which is not paid by the date specified in the award.

Costs awards

3.7.9 R A costs award may:

(1) be such amount as the Ombudsman considers to be fair, to cover some or all of the costs which were reasonably incurred by the complainant in respect of the complaint; and

(2) include interest on that amount at a rate and as from a date specified in the award.

3.7.10 G In most cases complainants should not need to have professional advisers to bring *complaints* to the *Financial Ombudsman Service*, so awards of costs are unlikely to be common.

Directions

3.7.11 R Except in relation to a "relevant complaint" within the meaning of section 404B(3) of the *Act*, a direction may require the *respondent* to take such steps in relation to the complainant as the *Ombudsman* considers just and appropriate (whether or not a court could order those steps to be taken).

3.7.11A G In relation to a "relevant complaint" within the meaning of section 404B(3) of the *Act*, a direction may require the *respondent* to take such action as the *Ombudsman* determines the *respondent* should take (or should have taken) under the scheme.

Complying with awards and settlements

3.7.12 R A *respondent* must comply promptly with:

(1) any award or direction made by the *Ombudsman*; and

(2) any settlement which it agrees at an earlier stage of the procedures.

3.7.13 G Under the *Act*, a complainant can enforce through the courts a money award registered by the *Ombudsman* or a direction made by the *Ombudsman*.

3.8 Dealing with information

3.8.1 R In dealing with information received in relation to the consideration of a *complaint*, the *Financial Ombudsman Service* will have regard to the parties' rights of privacy.

3.8.2B R This does not prevent the *Ombudsman* disclosing information:

(1) to the extent that he is required or authorised to do so by law; or

(2) to the parties to the *complaint*; or

(3) in his determination; or

(4) at a hearing in connection with the *complaint*.

3.8.3 R So long as he has regard to the parties' rights of privacy, the *Ombudsman* may disclose information to the *FCA* or any other body exercising regulatory or statutory functions for the purpose of assisting that body or the *Financial Ombudsman Service* to discharge its functions.

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3.9 Delegation of the Ombudsman's powers

3.9.1A R The *Ombudsman* may designate members of the staff of *FOS Ltd* to exercise any of the powers of the *Ombudsman* relating to the consideration of a *complaint* apart from the powers to:

(1) determine a *complaint*; or

(2) authorise the disclosure of information to the *FCA* or any other body exercising regulatory or statutory functions.

3.9.2 G In DISP 2 to DISP 4 any reference to "the *Ombudsman*" includes a reference to any member of the staff of *FOS Ltd* to whom the exercise of any of the powers of the *Ombudsman* has been delegated.

Chapter 4

Standard terms

4.1 Purpose and application

Purpose

4.1.1 G The purpose of this chapter is to set out how *complaints* against *VJ participants* are dealt with under the *Voluntary Jurisdiction*.

Application

4.1.2 G These *standard terms* apply to any business which has agreed to be a *VJ participant*.

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4.2 Standard terms

4.2.1 R A *VJ participant* is subject to these *standard terms*, which may be amended or supplemented by the *Financial Ombudsman Service* with the approval of the *FCA*.

4.2.2 R By agreeing to participate, a *VJ participant* also agrees that the *Voluntary Jurisdiction* covers an act or omission that occurred before the *VJ participant* was participating in the *Voluntary Jurisdiction*, whether the act or omission occurred before or after *commencement*.

Application of DISP 1 to DISP 3

4.2.3 R The following rules and guidance apply to *VJ participants* as part of the *standard terms*, except where the context requires otherwise:

(1) DISP 1 (Treating complainantsfairly), except:

(a) DISP 1.9 (Complaints record rule);

(b) DISP 1.10 (Complaints reporting rules);

(ba) DISP 1.10A (Complaints data publication rules);

(bb) DISP 1.10B (Payment services and electronic money complaints reporting); and

(c) DISP 1.11 (Lloyd's);

(d) DISP 1.1A (Complaints handling requirements for MiFID complaints);

(2) DISP 2 (Jurisdiction of the Financial Ombudsman Service), except:

(a) DISP 2.3 (Compulsory Jurisdiction);

(b) DISP 2.7.6R(14);

(c) DISP 2.7.6R(14A);

(d) DISP 2.7.6R(14B);

(e) DISP 2.7.6R(14C);

(f) DISP 2.7.6R(14D);

(fa) DISP 2.7.6R(18);

(g) DISP 2.7.6AR(1); and

(h) DISP 2.7.6AR(2); and

(3) ■ DISP 3 (Complaint handling procedures of the Financial Ombudsman Service).

Determinations and awards

4.2.4 R The *Ombudsman* has the same powers to make determinations and awards under the *Voluntary Jurisdiction* as he has under the *Compulsory Jurisdiction* (see ■ DISP 3.7 (Awards by the Ombudsman)).

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4.2.5 R If the complainant accepts the *Ombudsman*'s determination within the time limit specified by the *Ombudsman*, the determination will be binding on the *VJ Participant* and may be enforced in court by the complainant.

4.2.6 R The following provisions and *rules* in *FEES* apply to *VJ participants* as part of the *standard terms*, but substituting '*VJ participant*' for '*firm*' and 'annual levy specified in ■ FEES 5 Annex 2R' for 'general levy':

(1) ■ FEES 2.2.1 R (late payment) but substituting '*FOS Ltd*' for 'the *FCA*';

(2) ■ FEES 2.3.1 R and ■ 2.3.2 R (remission of fees);

(3) [deleted]

(4) ■ FEES 5.3.6 R (general levy) but substituting:

(a) '*Voluntary Jurisdiction*' for '*Compulsory Jurisdiction*' ; and

(b) '*FOS Ltd*' for 'the *FCA*';

(5) ■ FEES 5.3.8 R (calculation of general levy) but substituting:

(a) '*Voluntary Jurisdiction*' for '*Compulsory Jurisdiction*';

(b) '■ FEES 5 Annex 2R' for '■ FEES 5 Annex 1R';

(c) '*FOS Ltd*' for 'the *FCA*'; and

(d) the following for ■ FEES 5.3.8R(2):

(2) for each of those tariff bases, calculate the sum payable in relation to the *relevant business* of the *VJ participant* for that year in accordance with ■ FEES 5 Annex 2R;

(6) ■ FEES 5.4.1R (information requirement), excluding ■ FEES 5.4.1R(1A), ■ FEES 5.4.1R(4) and ■ FEES 5.4.1R(6), but substituting:

(a) '*FOS Ltd*' for 'the *FCA*';

(b) '■ FEES 5 Annex 2R' for '■ FEES 5 Annex 1 R'; and

(c) the following for ■ FEES 5.4.1R(1):

(A) A *VJ participant* must provide the *FOS Ltd* by the end of February each year (or, if the *VJ participant* has become subject to the *Financial Ombudsman Service* part way through the *financial year*, by the date requested by the *FOS Ltd*) with a statement of:

(i) the total amount of *relevant business* (measured in accordance with the appropriate tariff base(s)) which it conducted; or

(ii) in the case of *VJ participants* in industry blocks 2V and 3V, the gross written premium as defined in the Notes to■ FEES 5 Annex 2R, as at or in the year to 31 December of the previous year as appropriate, in relation to the tariff base for each of the relevant industry blocks set out in FEES 5 Annex 2R;

(7) FEES 5.5B (case fees);

(8) [deleted]

(9) [deleted]

(10) FEES 5.7.1R but substituting, in FEES 5.7.1 R, 'the *FOS Ltd*' for ' the *FCA*' and 'annual levy specified in FEES 5 Annex 2R' for '*general levy*';

(11) FEES 5.3.8AR;

(12) FEES 5 Annex 2R and FEES 5 Annex 3R;

(13) FEES 5.1.8 R; and

(14) FEES 5.4.4G.

4.2.6A R The annual levy specified in FEES 5 Annex 2R must be paid to *FOS Ltd* by credit transfer.

Withdrawal from participation

4.2.7 R A *VJ participant* may not withdraw from the *Voluntary Jurisdiction* unless:

(1) the *VJ participant* has submitted to *FOS Ltd* a written plan for:

(a) notifying its existing customers of its intention to withdraw; and

(b) handling *complaints* against it before its withdrawal;

(2) the *VJ participant* has paid the general levy for the year in which it withdraws and any other fees payable; and

(3) *FOS Ltd* has approved in writing both the *VJ Participant's* plan and the date of withdrawal (which must be at least six months from the date of the approval of the plan).

Exemption from liability

4.2.8 R None of the following is to be liable in damages for anything done or omitted to be done in the discharge (or purported discharge) of any functions in connection with the *Voluntary Jurisdiction*:

(1) *FOS Ltd*;

(2) any member of its governing body;

(3) any member of its staff;

(4) any person acting as an *Ombudsman* for the purposes of the *Financial Ombudsman Service*;

except where:

(5) the act or omission is shown to have been in bad faith; or

(6) it would prevent an award of damages being made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998.

Chapter 5

Funding Rules

[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding)]

Appendix 1 Handling Mortgage Endowment Complaints

1.1 Introduction

App 1.1.1 G This appendix sets out the approach and standards which *firms* should use when investigating complaints relating to the sale of endowment *policies* for the purposes of achieving capital repayment of a mortgage. It is not intended to be comprehensive. It is primarily concerned with the assessment of whether the complainant may have suffered financial loss, and if so, how much that loss is, and therefore what amount a *firm* should consider offering by way of fair and appropriate compensation in circumstances where the *firm*'s investigation of a complaint reveals:

(1) the complainant has received negligent *advice on investments*; and

(2) if this advice had not been negligent, either:

(a) the complainant would be unlikely to have acquired the endowment policy but instead would have taken out the same amount of loan on a repayment basis; or

(b) the complainant would have acquired an endowment mortgage for a shorter term.

App 1.1.2 G There will also be cases where a *firm* will conclude after investigation that, notwithstanding its own failure to give compliant and proper advice, the complainant would nevertheless have proceeded with the endowment policy as sold, in which case no compensation will be due.

App 1.1.3 G This appendix only addresses how *firms* should approach the assessment of loss and compensation where negligence on the part of the *firm* is established.

App 1.1.4 G This appendix is relevant both to the obligations arising under the complaints handling *rules* contained in DISP 1 and to the *FCA's* approach to the supervision of *firms*.

App 1.1.5 G This appendix is also relevant to complaints which the *Ombudsman* may investigate under the Compulsory Jurisdiction or *Voluntary Jurisdiction* of the *Financial Ombudsman Service* established under Part XVI of the *Act* (The Ombudsman Scheme).

App 1.1.6 G Before proceeding to assess the extent of a complainant's financial loss, a *firm* will usually have completed the following stages:

(1) gathering all relevant facts and information;

(2) making a fair and objective assessment whether it has failed to comply with a relevant duty owed to the complainant; and

(3) assessing whether any failure of duty by it was in the circumstances a material failure in the sense that if it had not occurred the complainant would have been likely to have acted differently.

App 1.1.7 G If it is concluded that the complainant would have acted differently, the *firm* should proceed to assess any direct or consequential loss.

App 1.1.8 G Nothing in this appendix relieves *firms* of the obligation to consider the particular facts and circumstances of each complaint and to consider whether the assessment of loss and compensation should, in the light of those facts and circumstances, be carried out on a different basis. If, however, the facts and circumstances make it appropriate to do so, the *FCA's* expectation is that *firms* will apply the approach and standards set out in this appendix, and where they do not, the *FCA* is likely to require them to demonstrate the adequacy and completeness of their alternative approach.

1.2 The standard approach to redress

App 1.2.1 G If there has been a failure to give compliant and proper advice, or some other breach of the duty of care, the basic objective of redress is to put the complainant, so far as is possible, in the position he would have been in if the inappropriate advice had not been given, or the other breach had not occurred. In many cases, although it must be a matter for inquiry and assessment in each individual case, this position is likely to have resulted in the complainant taking a repayment mortgage with accompanying life cover, and this is the assumption which underpins the standard approach to redress.

App 1.2.2 G Unless the contrary is demonstrated, it should be assumed that the complainant could have afforded the mortgage on a repayment basis.

App 1.2.3 G The measure of any financial loss suffered by the complainant will be arrived at by:

(1) comparing the complainant's current capital position with the position he would have been in had the loan been a standard repayment mortgage as at the date the *firm* decides to regard the complaint as justified; and

(2) comparing the cost of the complainant's actual monthly outgoings and those he would have made had his loan been on a standard repayment basis as at the date the *firm* decides to regard the complaint as justified.

App 1.2.4 G In some cases other factors may be included in the overall calculation, for example, if mortgage arrangement fees were waived by agreement on the occasion of the endowment *policy* being taken out.

App 1.2.5 G If, on comparing the complainant's current endowment position with the repayment alternative, the *surrender value* of the endowment *policy* exceeds the amount of the capital which the complainant would have repaid through the repayment method, then, at the point of the assessment, the complainant has suffered no capital loss (but the complainant may suffer some compensatable consequential loss associated with changing the mortgage arrangements to the repayment basis, see DISP App 1.3). Conversely, if the capital which would have been repaid on the repayment basis exceeds the *surrender value*, there is a capital loss represented by the difference between the two amounts.

App 1.2.6 G If the complainant's endowment mortgage outgoings exceed the equivalent cost for the repayment method, the complainant should be compensated for the higher payments in addition to any loss on the *surrender value* and capital repaid comparison. This means, for example, that if the endowment arrangement has been more expensive, this may result in compensatable loss even though the capital repayment against surrender comparison may be favourable to the endowment.

App 1.2.7 G If the total cost of the outgoings for the endowment calculation is less than that for the repayment calculation, the "savings" should be brought into account in assessing any overall loss unless it is unreasonable to do so.

App 1.2.8 G It is unlikely to be reasonable to bring "savings" into account in circumstances where, at the time of the sale of the *policy*:

(1) the complainant was advised or informed orally or in writing that he would have lower outgoings than would be the case under a repayment mortgage, whether or not the difference was quantified; and

(2) the complainant has dissipated those "savings" on the strength of this advice or information.

App 1.2.9 G The circumstances in which it may be appropriate to take some or all of the "savings" into account are those where, subject to DISP App 1.2.7 G, the complainant is of "sufficient means" so that it is reasonable for a *firm* to assume that the "savings" have contributed to those means.

App 1.2.10 G Where it is otherwise reasonable for "savings" to be brought into account, determining whether or not a complainant is of sufficient means and, if so, to what extent the "savings" are to be brought into account, will have to be based on the facts of each individual case. It will be appropriate to require the complainant to provide adequate information to assist the *firm* in this task. Matters to be taken into account in this assessment may include:

(1) the length of the remaining mortgage term;

(2) the complainant's current and prospective resources;

(3) the amount of the capital shortfall in proportion to the endowment outgoings balance.

App 1.2.11 G *Firms* may adopt streamlined processes to assist them in individual assessments of "sufficient means", but will have to satisfy themselves that the complainant's position is nevertheless protected. *Firms* will need to ensure that the complainant is given an opportunity to make an informed choice whether to accept the streamlined process, that the process itself is transparent, and that the *firm* is satisfied that the outcome would be fair to complainants.

App 1.2.12 G If a *firm* intends to make a deduction for all or any part of the lower endowment outgoings, the *firm* should explain clearly to the complainant in writing both how the 'sufficient means' test has been satisfied, including details of the information taken into account in reaching the decision, and how the deduction has been arrived at. The letter should further inform the complainant that if he is unhappy with the proposal to make a deduction, either in principle or as to the amount, he should give his reasons to the *firm*.

App 1.2.13 G If a complainant puts forward a case that it would be unreasonable for a deduction to be made, the *firm* should reach a fair and objective determination on the facts of all relevant matters including those set out at ■ DISP App 1.2.8 G and ■ DISP App 1.2.9 G.

App 1.2.14 G In recognition that *firms* may not wish, for practical reasons, to make individual assessments of "sufficient means", *firms* may decide not to seek to bring into account any benefit to the complainant in assessing overall compensation.

App 1.2.15 G It would not be unreasonable if a *firm* providing redress in these circumstances were to frame its offer of redress on the assumption that the complainant will agree to surrender the *policy*. However, *firms* should bear in mind that there may be circumstances where it is appropriate for the complainant to retain the *policy*, for example, where it is being retained as a savings vehicle.

App 1.2.16 G If a complainant becomes aware that he has taken out the endowment *policy* on the basis of unsuitable advice and inadequate information, he should if necessary, after taking appropriate advice, take reasonable steps to limit his loss, and may in any subsequent *claim* be unable to recover for losses which are avoidable. The complainant may have to show that he has not delayed unreasonably since becoming aware of his loss. The reasonable costs and expenses the complainant may have incurred in limiting his loss are to be taken into account in assessing his compensation. These costs and expenses are likely to include the complainant taking advice on whether he should convert from an endowment to a repayment mortgage and incurring expenses in doing so, see DISP App 1.3.

App 1.2.17 G The standard approach to redress can be illustrated by the following examples, which show how redress would be calculated in certain hypothetical but typical scenarios. (Because the examples are illustrative, round numbers have been used for 'established facts' in each example. The payments should be taken as being made monthly: *firms* should not approximate by assuming that payments are made annually. If the complainant has benefited from MIRAS, the calculations should allow for the effect of MIRAS both on the endowment mortgage and the repayment comparison.)

App 1.2.18 G Table of examples of typical redress calculations

Example 1	Capital shortfall and higher endowment outgoings
Example 2	Capital shortfall partially offset by lower endowment mortgage outgoings
Example 3	Capital shortfall more than offset by lower endowment mortgage outgoings
Example 4	Capital surplus more than offset by higher endowment mortgage outgoings
Example 5	Capital surplus partially offset by higher endowment mortgage outgoings
Example 6	Capital surplus and lower endowment mortgage outgoings
Example 7	Low start endowment mortgage

App 1.2.19 G Example 1

Example 1	
Capital shortfall and higher endowment mortgage outgoings	
Background	
Capital sum of £50,000	
25 year endowment *policy*	
Duration to date: 5 years	
Endowment *premium* per *month*: £75	
Established facts	
Endowment *surrender value*:	£3,200
Capital repaid under equivalent repayment mortgage:	£4,200
Surrender value less capital repaid:	(£1,000)
Cost of converting from endowment mortgage to repayment mortgage:	(£200)
Total outgoings to date	
Equivalent repayment mortgage (capital + interest + DTA life cover):	£21,950
Endowment mortgage (endowment *premium* + interest):	£22,250
Difference in outgoings (repayment - endowment):	(£300)

Example 1	
Basis of compensation	
In this example, the complainant has suffered loss because the *surrender value* of the endowment is less than the capital repaid and also because of the higher total outgoings to date of the endowment mortgage relative to the repayment mortgage. The two losses and the conversion cost are therefore added together in order to calculate the redress.	
Redress	
Loss from *surrender value* less capital repaid:	(£1,000)
Loss from total extra outgoings under endowment mortgage:	(£300)
Cost of converting to repayment mortgage:	(£200)
Total loss:	(£1,500)
Therefore total redress is:	**£1,500**

App 1.2.20 G Example 2

Example 2	
Capital shortfall partially offset by lower endowment mortgage outgoings	
Background	
Capital sum of £50,000	
25 year endowment *policy*	
Duration to date: 5 years	
Endowment *premium* per *month*: £60	
Established facts	
Endowment *surrender value*:	£2,500
Capital repaid under equivalent repayment mortgage	£4,200
Surrender value less capital repaid under equivalent repayment mortgage:	(£1,700)
Cost of converting from endowment mortgage to repayment mortgage	(£300)
Total outgoings to date:	
Repayment mortgage (capital + interest + DTA life cover):	£21,950
Endowment mortgage (endowment *premium* + interest):	£21,350
Difference in outgoings (repayment - endowment):	£600
Basis of Compensation	
In this example, the complainant has suffered loss because the *surrender value* of the endowment is less than the capital repaid but has gained form the lower outgoings of the endowment mortgage to date. In calculating the redress the gain may be offset against the loss unless the complainant's particular circumstances are such that it would be unreasonable to take account of the gain.	
Redress if it is not unreasonable to take account of the whole of the gain from lower outgoings	
Loss from *surrender value* less capital repaid:	(£1,700)
Gain from total lower outgoings under endowment mortgage:	£600

Example 2	
Cost of converting to repayment mortgage:	(£300)
Net loss:	(£1,400)
Therefore total redress is:	**£1,400**
Redress if it is unreasonable to take account of gain from lower outgoings	
Loss from *surrender value* less capital repaid:	(£1,700)
Gain from total lower outgoings under endowment mortgage:	Ignored*
Cost of converting to repayment mortgage:	(£300)
Net loss taken into account:	(£2,000)
Therefore total redress is:	£2,000
* In this example, and also in Examples 3, 7, 8 and 9, the complainant's circumstances are assumed to be such as to make it unreasonable to take account of any of the gain from lower outgoings.	

App 1.2.21 G Example 3

Example 3	
Capital shortfall more than offset by lower endowment mortgage outgoings	
Background	
Capital sum of £50,000	
25 year endowment *policy*	
Duration to date: 8 years	
Endowment *premium* per *month*: £65	
Established facts	
Endowment *surrender value*:	£7,300
Capital repaid under equivalent repayment mortgage:	£7,600
Surrender value less capital repaid:	(£300)
Cost of converting from endowment mortgage to repayment mortgage:	(£200)
Total outgoings to date:	
Repayment mortgage (capital + interest + DTA life cover):	£34,510
Endowment mortgage (endowment *premium* + interest):	£33,990
Difference in outgoings (repayment - endowment):	£520
Basis of Compensation	
In this example, the complainant has suffered loss because the surrender value of the endowment is less than the capital repaid but has gained from the lower total outgoings of the endowment mortgage. In calculating redress the gain may be offset against the loss unless the complainant's particular circumstances are such that it would be unreasonable to take account of the gain.	
Redress if it is not unreasonable to take account of the whole of the gain from lower outgoings	
Loss from *surrender value* less capital repaid:	(£300)

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Example 3	
Gain from total lower outgoings under endowment mortgage:	£520
Cost of converting to repayment mortgage:	(£200)
Net gain:	£20
Therefore, there has been no loss and no redress is payable.	
Redress if it is unreasonable to take account of gain from lower outgoings	
Loss from *surrender value* less capital repaid:	(£300)
Gain from total lower outgoings under endowment mortgage:	Ignored
Cost of converting to repayment mortgage:	(£200)
Net loss taken into account:	(£500)
Therefore total redress is:	**£500**

App 1.2.22 G Example 4

Example 4	
Capital surplus more than offset by higher endowment mortgage outgoings	
<u>Background</u>	
Capital sum of £50,000	
25 year endowment *policy*	
Duration to date: 8 years	
Endowment *premium* per *month*: £75	
<u>Established facts</u>	
Endowment *surrender value*:	£7,800
Capital repaid under equivalent repayment mortgage:	£7,600
Surrender value less capital repaid:	£200
Cost of converting from endowment mortgage to repayment mortgage:	(£250)
<u>Total outgoings to date:</u>	
Repayment mortgage (capital + interest + DTA life cover):	£34,510
Endowment mortgage (endowment *premium* + interest):	£34,950
Difference in outgoings (repayment - endowment):	(£440)
<u>Basis of Compensation</u>	
In this example, the complainant has suffered loss because of the higher total outgoings to date of the endowment mortgage but has gained because the *surrender value* of the endowment is greater than the capital repaid. Since the sum of the loss and the conversion cost is greater than the gain, the redress is calculated as the difference between the two.	
<u>Redress</u>	

Example 4	
Gain from *surrender value* less capital repaid:	£200
Loss from total extra outgoings under endowment mortgage:	(£440)
Cost of converting to repayment mortgage:	(£250)
Net loss:	(£490)
Therefore total redress is:	**£490**

App 1.2.23 G Example 5

Example 5	
Capital surplus partially offset by higher endowment mortgage outgoings	
<u>Background</u>	
Capital sum of £50,000	
25 year endowment *policy*	
Duration to date: 10 years	
Endowment *premium* per *month*: £75	
<u>Established facts</u>	
Endowment *surrender value*:	£11,800
Capital repaid under equivalent repayment mortgage	£9,700
Surrender value less capital repaid:	£2,100
Cost of converting from endowment mortgage to repayment mortgage:	(£300)
<u>Total outgoings to date:</u>	
Repayment mortgage (capital + interest + DTA life cover):	£46,800
Endowment mortgage (endowment *premium* + interest):	£47,500
Difference in outgoings (repayment - endowment):	(£700)
<u>Basis of Compensation</u>	
In this example, the complainant has suffered loss because of the higher total outgoings to date of the endowment mortgage relative to the repayment mortgage. However the sum of this and the conversion cost is less than the complainant's gain from the difference between the *surrender value* of the endowment and the capital repaid. Thus no redress is payable.	
<u>Redress</u>	
Gain from *surrender value* less capital repaid:	£2,100
Loss from total extra outgoings under endowment mortgage:	(£700)
Cost of converting to repayment mortgage:	(£300)
Net gain:	£1,100
Therefore, there has been no loss and no redress is payable.	

App 1.2.24 G Example 6

Example 6	
Capital surplus and lower endowment mortgage outgoings	
Background	
Capital sum of £50,000	
25 year endowment *policy*	
Duration to date: 10 years	
Endowment *premium* per *month*: £65	
Established facts	
Endowment *surrender value*:	£10,100
Capital repaid under equivalent repayment mortgage	£9,700
Surrender value less capital repaid:	£400
Cost of converting from endowment mortgage to repayment mortgage:	(£200)
Total outgoings to date:	
Repayment mortgage (capital + interest + DTA life cover):	£46,800
Endowment mortgage (endowment *premium* + interest):	£46,300
Difference in outgoings (repayment - endowment):	£500
Basis of Compensation	
In this example, the complainant has gained both because the *surrender value* of the endowment is greater than the capital repaid and because of the lower total outgoings of the endowment mortgage. These gains are larger than the cost of converting to a repayment mortgage. Thus no further action is necessary.	
Redress	
As there has been no loss, no redress is payable.	

App 1.2.25 G Example 7

Example 7	
Low start endowment mortgage	
Background	
Capital sum of £50,000	
25 year endowment *policy*	
Duration to date: 10 years	
Endowment *premium* per *month*: starting at £35 in first year, increasing by 20% simple on each *policy* anniversary, reaching £70 after five years and then remaining at that level.	
Established facts:	
Endowment *surrender value*:	£8,200
Capital repaid under equivalent repayment mortgage:	£9,700
Surrender value less capital repaid:	(£1,500)

Example 7	
Cost of converting from endowment mortgage to repayment mortgage:	(£250)
Total outgoings to date	
Repayment mortgage (capital + interest + DTA life cover):	£46,800
Endowment mortgage (endowment *premium* + interest):	£45,640
Difference in outgoings (repayment minus endowment):	£1,160
Of this difference in outgoings, £800 arose in the five year period when the complainant was paying a low endowment *premium*.	
Basis of compensation	
In this example, the complainant has suffered loss because the *surrender value* of the endowment is less than the capital repaid but has gained from the lower total outgoings of the endowment mortgage. As in Example 3, in calculating redress the whole of the gain should be offset against the loss unless the complainant's particular circumstances are such that it would be unreasonable to do so. However, unlike Example 3, in a low start endowment mortgage the complainant may have chosen to pay a lower than usual *premium* in the early years (this would need to be established on the facts of the case). Where it has been established that the complainant chose to make lower payments, even if it is unreasonable to take account of the whole of the gain from total outgoings, the gain from paying a lower *premium* during the low start period is normally taken into account. In such cases the redress is calculated as the capital loss plus the conversion cost minus the total amount by which repayment mortgage outgoings would have exceeded the actual low start endowment mortgage outgoings during the five year low start period.	
Redress if it is not unreasonable to take account of the whole of the gain from lower outgoings	
Loss from *surrender value* less capital repaid:	(£1,500)
Gain from total lower outgoings under endowment mortgage:	£1,160
Cost of converting to repayment mortgage:	(£250)
Net loss:	(£590)
Therefore total redress is:	**£590**
Redress if it is unreasonable to take account of gain from lower outgoings	
Loss from *surrender value* less capital repaid:	(£1,500)
Gain from total lower outgoings during low start period of endowment mortgage:	£800
Cost of converting to repayment mortgage:	(£250)
Net loss taken into account:	(£950)
Therefore total redress is:	**£950**

Interest rates

App 1.2.26 G In fixing a repayment comparator, it would be appropriate to have regard to the repayment quotation actually provided at the time of sale. If more than one repayment quotation was obtained, the comparison should be with the quotation which approximates most closely to the terms of the endowment mortgage actually taken. If a repayment quotation was not provided, or is not now available, it should be assumed that the interest rate for the repayment comparison is the same as that of the mortgage endowment arrangements. *Firms* will then need to replicate interest rate changes throughout the lifetime of the comparator mortgage.

Life cover

App 1.2.27 G Unless after due inquiry there is clear evidence that the complainant with a mortgage endowment had no foreseeable need for life cover at the time the endowment arrangements were concluded, in the overall comparison between a repayment mortgage and an endowment mortgage the monthly outgoings under the repayment will include the premium for the decreasing term assurance that would have been required. This adjustment for the cost of life cover is only to be made if the *firm* is undertaking a comparison of monthly outgoings. It is not appropriate to deduct the cost of life cover from the capital loss calculation, as this would constitute double counting.

App 1.2.28 G If a deduction is to be attributed to the provision of life cover, the appropriate approach is to assume that the complainant took out the insurance quoted in the alternative repayment quotation provided at the time of the sale. If the quotation is not available, the deduction should be at the rates that would have been quoted at the time.

1.3 Remortgaging

App 1.3.1 G As already noted, the basic objective of redress is to put the complainant, so far as is possible, in the position he would have been in if the inappropriate advice or other breach had not occurred: for their part, the complainants should take such reasonable steps as they can to limit loss once they are informed of the position they are in because of the failure of advice at the time of sale.

App 1.3.2 G In practice, it is likely to be appropriate for a complainant whose complaint has been upheld to convert to a repayment mortgage, whether or not there is financial loss to date. It will normally be possible for complainants to do so without incurring unreasonable cost. Conversion will of course mean that the complainant no longer has a *policy*.

App 1.3.3 G *Firms* should therefore in the case of upheld complaints inform complainants that it is likely to be appropriate and necessary for them to convert to a repayment arrangement.

App 1.3.4 G *Firms* should make it clear that they will bear the costs of conversion if the rearrangement is made with the existing lender and to the equivalent repayment mortgage. If a complainant is not willing to rearrange with the existing lender, then the costs to be paid by the *firm* should normally be limited to those which would have been payable had the rearrangement been made with the existing lender and to the equivalent repayment mortgage. If it is not possible to rearrange with the existing lender, for example, if the lender has a closed book, the *firm* should pay all costs which are not unreasonable in completing the rearrangement with an alternative provider. Such costs might include an administration fee for changing the existing arrangement, redemption penalty, arrangement fee for the new mortgage and the reasonable cost of further advice if necessary.

App 1.3.5 G If the "new" mortgage is, in fact, arranged at a lower interest rate than the existing loan, the benefit to the complainant should usually be disregarded, as it is always open to complainants to change their underlying mortgage arrangements at any time.

App 1.3.6 G If the "new" mortgage is arranged at a higher interest rate than the existing loan, the increased payment should not normally be taken into account in calculating any payment to be made to the complainant.

App 1.3.7 G If the complainant takes the opportunity to increase his loan on the occasion of the remortgage, the expenses which a *firm* pays by way of compensation should be paid by reference to the capital sum due under the "old" loan.

App 1.3.8 G As stated, one aspect of the conversion process is the disposal of the endowment *policy*. The standard approach to assessing loss requires *firms* to calculate loss using the *surrender value*. However, once loss is established on this basis and *firms* move to deal with redress, they may wish to consider whether there is a role for the *policy*'s 'market value' within the traded endowment *policy* (TEP) market.

App 1.3.9 G A *firm* may arrange the sale of the endowment *policy* on the traded endowment market, provided the full implications of such a course of action are explained to the complainant and his express consent is obtained for the firm to arrange the sale. This includes informing the investor that he will continue to be the life assured under the *policy*. The complainant should be informed that such an arrangement may reduce or eliminate the amount of redress actually borne by the *firm*, but not so as to affect the amount of redress he receives.

App 1.3.10 G In the event that a complainant is willing to pursue this option, a *firm* should first have assessed the complainant's loss using the approach set out in this appendix, and the minimum amount the complainant should receive under such a sale arrangement is the sum representing the position the complainant should have been in under this appendix together with the reimbursement of remortgaging costs. In order to ensure the process does not delay the provision of redress, the *firm* must pay this minimum sum immediately the complainant agrees to the sale arrangement. To the extent that the net amount realised by the sale of the *policy* on the traded endowment market exceeds the total redress due to the complainant, this greater sum is to be paid to the complainant on completion of the sale. If the amount realised by the sale of the *policy* on the traded endowment market is less than the total redress due to the complainant, the *firm* will be responsible for the amount of the shortfall.

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App 1.3.11 G Example of assessment set out at 1.3.10

The following example illustrates the position:			
Surrender value	£10,000	TEP value	£16,000
Loss calculated by standard approach	£5,000		
Remortgaging costs	£300		
Total	£15,300		
Complainant receives £16,000 all ultimately funded from the TEP sale.			
Surrender value	£10,000	TEP value	£13,000
Redress calculated by standard approach	£5,000		
Remortgaging costs	£300		
Total	£15,300		
Complainant receives £15,300, £13,000 ultimately funded from the TEP sale and £2,300 ultimately funded from the *firm*.			

1.4 Policy reconstruction

App 1.4.1 G This section of this appendix is primarily concerned with circumstances where the term of the mortgage and associated endowment *policy* extend beyond the individual complainant's normal retirement age in circumstances where the *firm* regards a complaint as justified because the arrangement is not affordable in retirement; and this could have, and should have, been foreseen at the time of the advice.

App 1.4.2 G Two sets of circumstances are examined at DISP App 1.4.3 G to DISP App 1.4.13 G. Although these are considered in isolation, *firms* should, as part of their investigation of all of the factors involved in the complaint, consider whether either set of circumstances should be considered in conjunction with those factors examined at DISP App 1.2.

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App 1.4.3 G If on enquiry it is found that no proper assessment of the complainant's post-retirement means had been undertaken at the time of *sale*, but if the likelihood had been that the complainant would have borrowed the same amount over a shorter term (up to retirement) using an endowment *policy* as a repayment vehicle, then an appropriate form of redress would be for the *policy* to be reconstructed with a shorter term.

App 1.4.4 G Redress should in most cases be provided by meeting the cost of rearranging the *policy*, by way of a lump sum payment into the *policy* in respect of the higher rate of *premium* due from its inception. It may be appropriate in individual cases to take account of the lower *premiums* that the complainant will have paid to date. The *guidance* in ■ DISP App 1.2, as to the circumstances in which this will be appropriate, will be relevant here.

App 1.4.5 G If the *policy* extends beyond retirement age and the complainant is already retired, the *policy* should be reconstructed to a maturity date as at the accepted retirement date, with the *policy* proceeds becoming immediately payable. The costs are to be borne by the *firm*, subject to any lower outgoings adjustment.

App 1.4.6 G *Firms* should consider whether the reconstruction would have tax implications for complainants (see ■ DISP App 1.5.8 G and ■ DISP App 1.5.9 G).

App 1.4.7 G The reconstruction process deals with the situation to the date the *policy* is reconstructed. The complainant will generally be responsible for paying the increased *premiums* for the remaining term.

App 1.4.8 G At the time the complainant is advised of the revised *premium*, he should as a matter of good practice be provided with a reprojection based on the prevailing *projection* rates, which will allow him to address any projected shortfall.

App 1.4.9 G If it is not possible for a *firm* to reconstruct a *policy*, then it should offer the investor equivalent redress, for example, by paying a cash lump sum equivalent to the amount that would have been credited to a reconstructed *policy*.

Case 2

App 1.4.10 G If a loan extending into retirement was on any basis not affordable, whether or not it is reconstructed to the retirement date, *firms* will need to consider whether, if proper advice had been given, the loan would have been taken out at all and, if not, consider what arrangements might now need to be made in order to reduce the amount of the complainant's borrowings.

Mismatched loans and policy terms

App 1.4.11 G If a complaint is regarded as justified by the *firm* on the basis that the endowment *policy* maturity date extends beyond the mortgage term expiry date and the *firm* is responsible for this situation, the *policy* should be reconstructed so that it matures at the expiry of the mortgage term.

App 1.4.12 G In these circumstances the *guidance* given elsewhere in ■ DISP App 1.4 will apply as appropriate.

Examples

App 1.4.13 G The following examples illustrate the approach to redress as described in this section.

App 1.4.14 G Example 8

Example 8	
Term extends beyond retirement age and policy reconstruction	
<u>Background</u>	
45 year old male non-smoker, having taken out a £50,000 loan in 1998 for a term of 25 years. Unsuitable sale identified on the grounds of affordability and complaint raised on 12th *policy* anniversary.	
It has always been the intention of the complainant to retire at State retirement age 65.	
Term from date of sale to retirement is 20 years and the maturity date of the mortgage is 5 years after retirement.	
<u>Established facts</u>	
Established *premium* paid by investor on *policy* of original term (25 years):	£81.20
Premium that would have been payable on *policy* with term from *sale* to retirement (20 years):	£111.20
Actual *policy* value at time complaint assessed:	£12,500
Value of an equivalent 20-year *policy* at time complaint assessed:	£21,300
Difference in *policy* values at time complaint assessed:	£8,800
Difference in outgoings (20 year *policy* - 25 year *policy*):	£4,320
<u>Basis of compensation</u>	
The *policy* is reconstructed as if it had been set up originally on a term to mature at retirement age, in this example, a term of 20 years. The difference in the current value of the *policy* actually sold to the complainant and the current value of the reconstructed *policy*, as if the *premium* on the reconstructed *policy* had been paid from outset, is calculated. The complainant has gained from lower outgoings (lower *premiums*) of the actual endowment *policy* to date. In calculating the redress, the gain may be offset against the loss unless the complainant's particular circumstances are such that it would be unreasonable to take account of the gain.	
Redress generally if it is not unreasonable to take account of the whole of the gain from lower outgoings	
Loss from current value of reconstructed *policy* less current value of actual *policy*:	(£8,800)
Gain from total lower outgoings under actual *policy*:	<u>£4,320</u>
Net loss:	(£4,480)
Therefore total redress is:	£4,480
Redress if it is unreasonable to take account of gain from lower outgoings	
Loss from current value of reconstructed *policy* less current value of actual *policy*:	(£8,800)
Gain from total lower outgoings under actual *policy*:	Ignored
Therefore total redress is:	<u>£8,800</u>
<u>Additional Information</u>	
If the *policy* is capable of reconstruction, the complainant must now fund the higher *premiums* himself for the remainder of the term of the	

Example 8

shortened *policy* until maturity. In this example the higher *premium* could be £111.20. However the *firm* should provide the complainant with a reprojection letter based on the reconstructed *policy* such that the actual monthly payment required to achieve the target sum could be even higher, say £130. The reprojection letter should set out the range of options facing the complainant to deal with the projected shortfall, if any.

App 1.4.15 G Example 9

Example 9

Term extends beyond retirement age: example of failure to explain investment risks

Background

45 year old male non-smoker, having taken out a £50,000 loan in 1998 for a term of 25 years. Unsuitable sale identified on the grounds of affordability and complaint raised on 12th anniversary.

It has always been the intention of the complainant to retire at state retirement age 65.

Term from date of sale to retirement is 20 years and the maturity date of the mortgage is five years after retirement.

In addition, an endowment does not meet the complainant's attitude to investment risk and a repayment mortgage would have been taken out if properly advised.

Established facts

Surrender value (on the 25 year *policy*) at time complaint assessed:	£12,500
Capital repaid under repayment mortgage of term to retirement date (20 years):	£21,000
Surrender value less capital repaid:	(£8.500)
Difference in outgoings (repayment - endowment):	£5,400
Cost of converting from endowment mortgage to repayment mortgage:	£200

Basis of compensation:

The *surrender value* of the (25 year term) endowment *policy* is compared to the capital that would have been repaid to date under a repayment mortgage arranged to repay the loan at retirement age, in this example, a repayment mortgage for a term of 20 years. The complainant has gained from lower outgoings of the endowment mortgage to date. In calculating the redress, the gain may be offset against the loss unless the complainant's particular circumstances are such that it would be unreasonable to take account of the gain. The conversion costs are also taken into account in calculating the redress.

Redress generally

Loss from *surrender value* less capital repaid:	(£8,500)
Gain from total lower outgoings under endowment mortgage:	£5,400
Cost of converting to a repayment mortgage:	(£200)
Net loss:	(£3,300)
Therefore total redress is:	£3,300

Example 9	
Redress if it is unreasonable to take account of gain from lower outgoings	
Loss from *surrender value* less capital repaid:	(£8,500)
Gain from total lower outgoings under endowment mortgage:	Ignored
Cost of converting to a repayment mortgage:	(£8,700)
Therefore total redress is:	£8,700

1.5 Additional considerations

Introduction

App 1.5.1 G This section addresses issues which may be relevant to the standard redress for unsuitability cases, as well as some post-retirement cases upheld on the grounds of affordability.

Continuing life cover and other policy benefits

App 1.5.2 G *Firms* will need to consider the importance for many complainants of having life assurance in place to ensure a mortgage is paid off in the event of death.

App 1.5.3 G If a complaint is upheld and the *policy* is to be surrendered as part of the settlement, the *firm* should remind the complainant in writing that the life cover within the endowment will be terminated and that it may therefore be appropriate to take advice about the merits or otherwise of taking out a stand-alone *life policy* in substitution.

App 1.5.4 G If a need for life assurance at inception has been established so that a deduction representing its cost has been made from the redress payable under DISP App 1.2.4 G, the *firm* should advise the complainant that the *firm* would be responsible for paying any *premium* for an appropriate replacement *policy* which exceeds that used for calculating the deduction or alternatively will, where possible, provide the cover itself at that cost. If it is not possible for the *firm* to provide the cover itself at the original cost, it may choose to discharge that obligation by the payment of an appropriate lump sum. Any such amount should enable the complainant to effect the cover at the original cost, with no additional cost in respect of increased age or deterioration in health. This option may be particularly relevant if the *firm* against which the complaint has been made is an independent intermediary which cannot itself provide the cover, although it may be possible for such a *firm* to arrange for the product provider to offer cover to the complainant at the original *premium* on payment by the independent intermediary of an appropriate lump sum to meet any increased cost.

App 1.5.5 G *Firms* will not be responsible for any increased costs resulting from the complainant choosing another *product provider* or for increased *premiums* charged by another provider chosen by the complainant in respect of the risk now presented, for example, higher *premiums* charged by the other provider due to deterioration in health, unless the original *product provider* no longer writes new business and is unable to offer revised life cover on a decreasing term assurance basis.

App 1.5.6 G There can be exceptional circumstances where, in order to retain suitable life cover, the endowment *policy* has to be retained and any additional costs will be the responsibility of the *firm* that sold the endowment *policy*.

App 1.5.7 G The same considerations will apply to the establishment of the need for other *policy* benefits including critical illness cover, disability cover and waiver of *premium*.

Taxation

App 1.5.8 G *Firms* will need to consider the likely taxation implications for complainants if *policies* are surrendered or reconstructed, or any form of underpinning or guarantee is given.

App 1.5.9 G If there is potential tax liability for the complainant, it will be appropriate for *firms* to undertake in writing to the complainant to reimburse any tax payable, or which becomes payable, and make payment on production of appropriate evidence of the liability and payment having been made.

"Underpinning"

App 1.5.10 G *Firms* proposing to offer arrangements involving some form of minimum underpinning or 'guarantee' should discuss their proposals with the *FCA* and HM Revenue and Customs at the earliest possible opportunity (see ■ DISP App 1.5.8 G). The *FCA* will need to be satisfied that these proposals provide complainants with redress which is at least commensurate with the standard approaches contained in this appendix.

Reference to the guidance in firms' complaints settlement letters

App 1.5.11 G One of the reasons for introducing the *guidance* in this appendix is to seek a reduction in the number of complaints which are referred to the *Financial Ombudsman Service*. If a *firm* writes to the complainant proposing terms for settlement which are in accordance with this appendix, the letter may include a statement that the calculation of loss and redress accords with the *FCA guidance*, but should not imply that this extends to the assessment of whether or not the complaint should be upheld. *Firms* should point out that if the complainant remains dissatisfied, he may refer the complaint to the *Financial Ombudsman Service*.

App 1.5.12 G A statement under ■ DISP App 1.5.11 G should not give the impression that the proposed terms of settlement have been expressly endorsed by either the *FCA* or the *Financial Ombudsman Service*.

Identification of windfall benefits

App 1.5.13 G Windfall benefits should be determined in accordance with the principle in Needler Financial Services and Taber ('Needler'). The basic legal principle in Needler is that a windfall benefit is not to be taken into account in determining the amount of an investor's recoverable loss. The following paragraphs explain our views as to how *firms* may act in accordance with that principle.

App 1.5.14 G A windfall benefit arises where:

(1) there has been a demutualisation, distribution or reattribution of the inherited estate, or other extraordinary corporate event in a *long-term insurer*; and

(2) the event gave rise to 'relevant benefits', as defined in DISP App 1.5.15 G (below).

App 1.5.15 G 'Relevant benefits' are those benefits that fall outside what is required in order that *policyholders*' reasonable expectations at that point of sale can be fulfilled. (The phrase '*policyholders*' reasonable expectations' has technically been superseded. However, the concept now resides within the obligations imposed upon *firms* by *FCA* Principle 6 ('...a firm must pay due regard to the interests of its *customers* and treat them fairly....') Additionally, most of these benefits would have been paid prior to *commencement*, when *policyholders*' reasonable expectations would have been a consideration for a *long-term insurer*.)

App 1.5.16 G The issue of free *shares* or cash on a demutualisation, and additional bonuses and *policy* enhancements given by way of incentive to approve a reattribution or distribution of an inherited estate should, unless there is evidence to the contrary, be treated as relevant benefits for the purposes of DISP App 1.5.15 G. Whether additional bonuses and *policy* enhancements on a demutualisation are relevant benefits should be determined by applying the test in DISP App 1.5.15 G to each benefit.

App 1.5.17 G *Firms* should review the terms on which proposals were put to *policyholders* and the reasons given for a corporate event when determining whether a benefit should be treated as a relevant benefit.

App 1.5.18 G *Firms* should not normally bring windfall benefits which are relevant benefits (as defined in DISP App 1.5.14 G) to account when assessing financial loss and redress. Where a windfall benefit is in the form of a *policy* augmentation the benefit should be deducted from the overall value of the *policy* when making this assessment.

App 1.5.19 G A relevant benefit derived from a corporate event may only be brought to account if the *firm* is able to demonstrate, with written records created at the time of the advice, that:

(1) The *firm* foresaw the prospect of the event and the benefit;

(2) The *firm's* advice included a statement recommending the particular policy because of the possibility of the benefit in question; and

(3) The statement was a material factor in the context of the advice and the decision to invest.

App 1.5.20 G If a *firm* considers that it can meet this requirement, the *firm* should by letter explain clearly to the complainant the reasons why it proposes that the benefit should not be treated as a windfall and should be taken into account. The *firm* should provide the complainant with copies of the relevant documents.

App 1.5.21 G The letter should also explain how the proposed value of the benefit has been calculated and should inform the complainant that if he does not accept the proposal to take the benefit into account he may tell the *firm*, with reasons. The letter should also say that, if he remains dissatisfied with the *firm*'s response, he may refer the matter to the *Financial Ombudsman Service*.

1.6 Valuing Relevant Benefits

App 1.6.1 G If, exceptionally under the *guidance* at DISP App 1.5.13 G to DISP App 1.5.21 G, cash or *shares* derived from a corporate event are to be taken into account when assessing loss and redress, cash should be valued at the amount actually received and *shares* should be valued at their issue price. In both cases there should be no addition for interest.

App 1.6.2 G When valuing windfall augmentation benefits for the purposes of calculating loss and redress the objective is to exclude all changes arising from the windfall event. The amount of redress payable will then be equal to the amount that would have been payable if the windfall event had never occurred.

App 1.6.3 G A *product provider* should ensure that the method it adopts for valuing augmentation benefits is consistent with the statements made in the documentation published about the windfall event. Relevant documentation for the purpose of valuing such benefits will include (but is not limited to):

(1) Any description of increases in benefits in any circular to *policyholders* (and any other public information relating to the event);

(2) Any principles of financial management established for the management of the fund after the event;

(3) statements in any report produced by an *actuary* appointed under SUP 4 (Actuaries) for the event;

(4) statements in any independent *actuary* report produced for the event; and

(5) subsequent statements relating to bonus practice, calculation *surrender values*, or both.

App 1.6.4 G The method of valuation adopted should treat the complainant fairly overall.

App 1.6.5 G Where an accurate calculation of the value of an augmentation benefit either cannot be made, or would result in disproportionate expense or delay, *product providers* may adopt a simplified approach or a proxy method for calculating its value.

App 1.6.6 G A simplified approach should treat the complainants fairly overall.

App 1.6.7 G An *actuary*, appointed by a *product provider* under SUP 4 (Actuaries) should certify that the method adopted by the *product provider* for calculating the value of an augmentation benefit is in accordance with the *guidance* in DISP App 1.6.1 G to DISP App 1.6.6 G.

Implementation

App 1.6.8 G The principles set out above (in DISP App 1.6.1 G to DISP App 1.6.7 G) should be applied directly to mortgage endowment complaints where the capital loss is calculated by comparing the *surrender value* of the endowment *policy* with the capital which would have been repaid using a repayment mortgage.

App 1.6.9 G In most cases where there is a loss, the endowment *policy* will be surrendered and put towards the cost of setting up a suitable repayment mortgage. Where this is the case, that part of the *surrender value* relating to the windfall augmentation should be paid as a cash lump sum to the investor or to the investor's order as part of the redress package. Only that part of the *surrender value* which does not relate to the windfall augmentation should be put towards the cost of setting up a suitable repayment mortgage.

App 1.6.10 G There may be some circumstances in which the *policy* will not be surrendered (see DISP App 1.2.15 G). In these cases, there is no requirement to pay the value of the windfall augmentation as a cash lump sum since the value of the augmentation will become payable when the *policy* matures. However, any fund value used in the calculation of redress payable should exclude the value of the windfall augmentation.

App 1.6.11 G *Firms* are entitled to mitigate losses by making use of the Traded Endowment Policy (TEP) market (see DISP App 1.3.8 G to DISP App 1.3.10 G). This allows *firms* to *sell* policies on the TEP market to meet the costs of redress, rather than using the *surrender value*. Where this method is adopted, *firms* should pay to the investor, as part of the redress package, a cash lump sum representing that proportion of the *policy* realised which would have related to the windfall augmentation.

App 1.6.12 G As this windfall amount should be excluded from the fund value used in the calculation of loss and redress it would also be appropriate for this extra payment to be ignored when assessing whether, "the net amount realised by the sale of the *policy* on the traded endowment market exceeds the total redress due to the complainant..." (DISP App 1.3.10 G).

App 1.6.13 G There may be circumstances in which a *policy* needs to be reconstructed (see ■ DISP App 1.4). In carrying out the required reconstruction, the windfall augmentation should be ignored in both the existing and the revised *policy*. However, the *policyholder's* revised *policy* should be credited with any windfall augmentation which would have applied if the *policy* had been set up with the revised terms from the original date of advice. This enhancement can be taken into account in assessing a suitable level for future premiums, in line with ■ DISP App 1.4.8 G.

App 1.6.14 G ■ DISP App 1.5.10 G provides *firms* with the opinion of underpinning benefits. *Firms* should satisfy the *FCA* that their proposals provide complainants with a level of redress that is at least commensurate with the standard approaches and, to ensure consistency, windfall augmentations should be excluded when considering whether an underpin will apply. The *FCA* will take this into account when considering proposals put forward by *firms*.

App 1.6.15 G *Product providers* with windfall benefits in the form of *policy* augmentations should tell:

(1) their own relevant *customers* (mortgage endowment complainants); and

(2) other *firms* with such *customers* (and any other interested parties);

that they have excluded windfall augmentation benefits from values used or to be used for loss and redress. *Firms* should provide this information to the *Financial Services Compensation Scheme* when providing them with a value to be used for loss or redress. Should their own relevant *customers*, other *firms* with such *customers* (and any other interested parties) and the *Financial Services Compensation Scheme* request it, the *firm* should provide the value of these benefits and a description of the method used to exclude them.

Appendix 3 Handling Payment Protection Insurance complaints

3.1 Introduction

Application

App 3.1.1 G

(1) This appendix sets out how:

(a) a *firm* should handle *complaints* relating to the sale of a *payment protection contract* by the *firm* which express 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); and

(b) a *firm* that is a *CCA lender* and which has received such a *complaint* should consider whether there was a failure to disclose commission in relation to the sale of a *payment protection contract* which covers or covered or purported to cover a *credit agreement* (this includes partial coverage).

(2) It relates to the sale of any *payment protection contract* whenever the sale took place and irrespective of whether it was on an advised or non-advised basis; conducted through any sales channel; in connection with any type of loan or credit product, or none; whether the *insurer* was in the same *group* as the *firm* or not; whether the premium was financed by the credit product or not; and for a regular premium or single premium payment. It applies whether the *policy* is currently in force, was cancelled during the *policy* term or ran its full term.

(3) It does not set out how a *firm* which has received a *complaint* referred to in (1)(a) should assess:

(a) whether the *firm's* conduct of the sale was in breach of a fiduciary duty where there has been a failure to disclose either the existence of, or the level of, any commission and/or profit share paid;

(b) whether any omission (other than the omission referred to in DISP App 3.3A.2E) to disclose either the existence of, or level of, commission and/or profit share made the relationship unfair under section 140A of the *CCA*;

(c) any other issue not dealt with in step 1 or step 2 set out in this appendix.

Complaints concerning such issues should be dealt with under DISP 1.4.1R.

(4) It requires *firms* to send written communications to complainants in certain circumstances (see DISP App 3.11).

(5) There are further provisions on the application of this appendix in DISP App 3.10.

Two-step approach

App 3.1.1A E This appendix provides for a two-step approach to handling *complaints*. *Firms* should apply it as follows:

(1) a *firm* which is not a *CCA lender* should only consider step 1;

(2) a *CCA lender* which did not sell the *payment protection contract* should only consider step 2, but does not have to do so if it knows the complainant has already made a *complaint* about a breach or failing in respect of the same contract and the outcome was that the *firm* which considered that *complaint* concluded that the *complainant* would not have bought the *payment protection contract* they bought;

(3) a *CCA lender* which also sold the *payment protection contract* should:

(a) consider step 1 unless-

(i) it has already considered step 1, or

(ii) after considering DISP App 3.2.2G and DISP App 3.2.3G, it is clear that the true substance of the *complaint* is only about a failure to disclose commission; and

(b) consider step 2 in cases where it has not concluded at step 1 that the complainant would not have bought the *payment protection contract* they bought.

App 3.1.1B G In the case of a *complaint* described in DISP 2.8.9R(2)(d), the *firm* need only consider step 1 and only to the extent of the relevant grounds of rejection of the claim.

Step 1

App 3.1.2 G At step 1, the aspects of *complaint* handling dealt with in this appendix are how the *firm* should:

(1) assess a *complaint* in order to establish whether the *firm*'s conduct of the sale failed to comply with the *rules*, or was otherwise in breach of the duty of care or any other requirement of the general law (taking into account relevant materials published by the *FCA*, other relevant regulators, the *Financial Ombudsman Service* and *former schemes*). In this appendix this is referred to as a "breach or failing" by the *firm*;

(2) determine the way the complainant would have acted if a breach or failing by the *firm* had not occurred; and

(3) determine appropriate redress (if any) to offer to a complainant.

App 3.1.3 G At step 1, where the *firm* determines that there was a breach or failing, the *firm* should consider whether the complainant would have bought the *payment protection contract* in the absence of that breach or failing. This appendix establishes presumptions for the *firm* to apply about how the complainant would have acted if there had instead been no breach or failing by the *firm*. The presumptions are:

(1) for some breaches or failings (see DISP App 3.6.2 E), the *firm* should presume that the complainant would not have bought the *payment protection contract* they bought; and

(2) for certain of those breaches or failings (see DISP App 3.7.7 E), where the complainant bought a single premium *payment protection contract*, the *firm* may presume that the complainant would have bought a regular premium *payment protection contract* instead of the *payment protection contract* they bought.

App 3.1.4 G There may also be instances where a *firm* concludes after investigation at step 1 that, notwithstanding breaches or failings by the *firm*, the complainant would nevertheless still have proceeded to buy the *payment protection contract* they bought. *CCA lenders* should still go on to consider step 2 in such cases.

Step 2

App 3.1.4A G At step 2, the aspects of *complaint* handling dealt with in this appendix are how a *CCA lender* should:

(1) assess a *complaint* to establish whether failure to disclose commission gave rise to an unfair relationship under section 140A of the *CCA*; and

(2) determine the appropriate redress (if any) to offer to a complainant.

Definitions

App 3.1.5 G In this appendix:

(1) (a) at step 1, “historic interest” means the interest the complainant paid to the *firm* because a *payment protection contract* was added to a loan or credit product;

(b) at step 2, “historic interest” means in relation to any sum, the interest the complainant paid as a result of that sum being included in the loan or credit product;

(2) "simple interest" means a non-compound rate of 8% per annum;

(3) "claim" means a claim by a complainant seeking to rely upon the *policy* under the *payment protection contract* that is the subject of the *complaint*;

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(4) “actual profit share” means a reasonable estimate of the profit share that was paid under profit share arrangements and that is notionally attributable to the *payment protection contract*;

(5) “anticipated profit share” means a reasonable estimate of the profit share which it was reasonably foreseeable at the time of sale would be paid over the relevant period or periods under profit share arrangements, and that would be notionally attributable to the *payment protection contract*;

(6) “commission” means the part of the total amount paid in relation to a *payment protection contract* that was not due to be passed to and retained by the *insurer*, excluding any sums which may be payable under profit share arrangements;

(7) “failure to disclose commission’ means failure to make the disclosure at ■ DISP App 3.3A.2E;

(8) “profit share arrangements” means arrangements (including contractual) that *firms* have to potentially receive back some of the total amount paid in relation to a *payment protection contract* which had initially gone to the *insurer*. For example, these arrangements might include amounts paid to cover potential claims on policies, but which remain unspent after a fixed period, for example because actual claims did not exceed certain levels. Other arrangements might take account of variable factors other than claims, including, for example, the value of rebates paid upon early cancellations of *payment protection contracts*;

(9) “redress period” means, in relation to a regular premium *payment protection contract*, any period when the commission paid plus the amount representing actual profit share in respect of that period exceeded 50% (or such other percentage calculated under ■ DISP App 3.7A.4E) of the total amount paid in relation to the *payment protection contract* in respect of that period;

(10) “relevant period or periods” means:

(a) in relation to a single premium *payment protection contract*, the scheduled length of the contract;

(b) in relation to a regular premium *payment protection contract*, the period or periods over which commission was known or was reasonably foreseeable at the time of sale; and

(11) “total amount paid” means the total amount paid by the consumer in relation to a *payment protection contract*, including any Insurance Premium Tax payable.

App 3.1.6 G For the purposes of the definitions of “actual profit share”, “anticipated profit share” and “commission”, where the *firm* has no or incomplete records of the level of commission or profit share arrangements relevant to a particular *payment protection contract*, it should make reasonable efforts to obtain relevant information from third parties. Where no such information can be obtained, the *firm* may make reasonable assumptions based on, for example, commission levels or profit share arrangements in relation to which records are held, and general commercial trends in the industry during the period in question.

3.2 The assessment of a complaint

App 3.2.-1 G This section applies to both step 1 and step 2.

App 3.2.1 G The *firm* should consider, in the light of all the information provided by the complainant and otherwise already held by or available to the *firm*, whether (at step 1) there was a breach or failing by the *firm* or (at step 2) whether there was a failure to disclose commission.

App 3.2.2 G The *firm* should seek to establish the true substance of the *complaint*, rather than taking a narrow interpretation of the issues raised, and should not focus solely on the specific expression of the *complaint*. This is likely to require an approach to *complaint* handling that seeks to clarify the nature of the *complaint*.

App 3.2.3 G A *firm* may need to contact a complainant directly to understand fully the issues raised, even where the *firm* received the *complaint* from a third party acting on the complainant's behalf. The *firm* should not use this contact to delay the assessment of the *complaint*.

App 3.2.4 G Where a *complaint* raises (expressly or otherwise) issues that may relate to the original sale or a subsequently rejected claim then, irrespective of the main focus of the *complaint*, the *firm* should pro-actively consider whether the issues relate to both the sale and the claim, and assess the *complaint* and determine redress accordingly.

App 3.2.5 G If, during the assessment of the *complaint*, the *firm* uncovers evidence of a breach or failing, or a failure to disclose commission, that was not raised in the *complaint*, the *firm* should consider those other aspects as if they were part of the *complaint*, at step 1 or 2 as appropriate.

App 3.2.6 G The *firm* should take into account any information it already holds about the sale and consider other issues that may be relevant to the sale identified by the *firm* through other means, for example, the root cause analysis described in ■ DISP App 3.4.

App 3.2.7 G The *firm* should consider all of its sales of *payment protection contracts* to the complainant in respect of re-financed loans that were rolled up into the loan covered by the *payment protection contract* that is the subject of the *complaint*. The *firm* should consider the cumulative financial impact on the complainant of any previous breaches or failings in those sales or, where relevant, any previous failures to disclose commission.

3.3 The approach to considering evidence at step 1

App 3.3.-1 G This section applies to step 1. However, *CCA lenders* should also consider it at step 2 to the extent that it is relevant to their consideration of unfairness.

App 3.3.1 G Where a *complaint* is made, the *firm* should assess the *complaint* fairly, giving appropriate weight and balanced consideration to all available evidence, including what the complainant says and other information about the sale that the *firm* identifies. The *firm* is not expected automatically to assume that there has been a breach or failing.

App 3.3.2 G The *firm* should not rely solely on the detail within the wording of a *policy*'s terms and conditions to reject what a complainant recalls was said during the sale.

App 3.3.3 G The *firm* should recognise that oral evidence may be sufficient evidence and not dismiss evidence from the complainant solely because it is not supported by documentary proof. The *firm* should take account of a complainant's limited ability fully to articulate his *complaint* or to explain his actions or decisions made at the time of the sale.

App 3.3.4 G Where the complainant's account of events conflicts with the *firm*'s own records or leaves doubt, the *firm* should assess the reliability of the complainant's account fairly and in good faith. The *firm* should make all reasonable efforts (including by contact with the complainant where necessary) to clarify ambiguous issues or conflicts of evidence before making any finding against the complainant.

App 3.3.5 G The *firm* should not reject a complainant's account of events solely on the basis that the complainant signed documentation relevant to the purchase of the *policy*.

App 3.3.6 G The *firm* should not reject a *complaint* because the complainant failed to exercise the right to cancel the *policy*.

App 3.3.7 G The *firm* should not consider that a successful claim by the complainant is, in itself, sufficient evidence that the complainant had a need for the *policy* or had understood its terms or would have bought it regardless of any breach or failing by the *firm*.

App 3.3.8 G The *firm* should not draw a negative inference from a complainant not having kept documentation relating to the purchase of the *policy* for any particular period of time.

App 3.3.9 G In determining a particular *complaint*, the *firm* should (unless there are reasons not to because of the quality and plausibility of the respective evidence) give more weight to any specific evidence of what happened during the sale (including any relevant documentation and oral testimony) than to general evidence of selling practices at the time (such as training, instructions or sales scripts or relevant audit or compliance reports on those practices).

App 3.3.10 G The *firm* should not assume that because it was not authorised to give advice (or because it intended to sell without making a recommendation) it did not in fact give advice in a particular sale. The *firm* should consider the available evidence and assess whether or not it gave advice or made a recommendation (explicitly or implicitly) to the complainant.

App 3.3.11 G The *firm* should consider in all situations whether it communicated information to the complainant in a way that was fair, clear and not misleading and with due regard to the complainant's information needs.

App 3.3.12 G In considering the information communicated to the complainant and the complainant's information needs, the evidence to which a *firm* should have regard includes:

(1) the complainant's individual circumstances at the time of the sale (for example, the *firm* should take into account any evidence of limited financial capability or understanding on the part of the complainant);

(2) the complainant's objectives and intentions at the time of the sale;

(3) whether, from a reasonable *customer*'s perspective, the documentation provided to the complainant was sufficiently clear, concise and presented fairly (for example, was the documentation in plain and intelligible language?);

(4) in a sale that was primarily conducted orally, whether sufficient information was communicated during the sale discussion for the *customer* to make an informed decision (for example, did the *firm* give an oral explanation of the main characteristics of the *policy* or specifically draw the complainant's attention to that information on a computer screen or in a document and give the complainant time to read and consider it?);

(5) any evidence about the tone and pace of oral communication (for example, was documentation read out too quickly for the complainant to have understood it?); and

(6) any extra explanation or information given by the *firm* in response to questions raised (or information disclosed) by the complainant.

App 3.3.13 G The *firm* should not reject a *complaint* solely because the complainant had held a *payment protection contract* previously.

3.3A The approach to considering evidence at step 2

App 3.3A.1 E This section applies to a *CCA lender* at step 2.

Assessment of fairness of relationship

App 3.3A.2 E Where the *firm* did not disclose to the complainant in advance of a *payment protection contract* being entered into (and is not aware that any other *person* did so at that time):

(1) the anticipated profit share plus the commission known at the time of the sale; or

(2) the anticipated profit share plus the commission reasonably foreseeable at the time of the sale; or

(3) the likely range in which (1) or (2) would fall;

the *firm* should consider whether it can satisfy itself on reasonable grounds that this did not give rise to an unfair relationship under section 140A of the *CCA*. The *firm's* consideration of unfairness should take into account all relevant matters, including whether the non-disclosure prevented the complainant from making a properly informed judgement about the value of the *payment protection contract*.

App 3.3A.3 G ■ DISP App 3.3A.2E reflects section 140B(9) of the *CCA* which provides (in summary) that, if the debtor alleges that the relationship between the creditor and the debtor is unfair to the debtor, it is for the creditor to prove to the contrary.

Presumptions

App 3.3A.4 E (1) The *firm* should presume that failure to disclose commission gave rise to an unfair relationship under section 140A of the *CCA* if:

(a) the anticipated profit share plus the commission known at the time of the sale; or

(b) the anticipated profit share plus the commission reasonably foreseeable at the time of the sale;

was:

(c) in relation to a single premium *payment protection contract*, more than 50% of the total amount paid in relation to the *payment protection contract*; or

(d) in relation to a regular premium *payment protection contract*, at any time in the relevant period or periods more than 50% of the total amount paid in relation to the *payment protection contract* in respect of the relevant period or periods.

(2) The *firm* should presume that failure to disclose commission did not give rise to an unfair relationship under section 140A of the *CCA* if the test in (1) is not satisfied.

App 3.3A.5 G The presumption that failure to disclose commission gave rise to an unfair relationship is rebuttable. Examples of factors which may contribute to its rebuttal include:

(1) the *CCA lender* did not know and could not reasonably be expected to know or foresee the level of commission and anticipated profit share; or

(2) the complainant could reasonably be expected to be aware of the level of commission and anticipated profit share (e.g. because they worked in a role in the financial services industry which gave them such awareness); or

(3) disclosure would have made no difference whatsoever to the complainant's judgement about the value of the *payment protection contract*. This factor is only likely to be relevant in limited circumstances. If the *firm* concludes that disclosure would have at least caused the complainant to question whether the *payment protection contract* represented value for money and whether it was a sensible transaction to enter into (regardless of whether they may or may not have ultimately gone ahead with the purchase), then the presumption is unlikely to be rebutted due to this factor.

App 3.3A.6 G The presumption that failure to disclose commission did not give rise to an unfair relationship is also rebuttable. An example of a factor which may contribute to its rebuttal includes that the complainant was in particularly difficult financial circumstances at the time of the sale.

Reasonably foreseeable commission

App 3.3A.7 G For the purposes of the provisions in this section, what is reasonably foreseeable should be determined with regard to all relevant factors, including, where relevant, any agreement specifying rate changes over the first years of the *payment protection contract's* life (as in some regular premium *payment protection contracts*), and the length of time over which the commission will be governed by the agreement between lender and *insurer* that is in place at the time of sale.

3.4 Root cause analysis

App 3.4.-1 G This section applies to both step 1 and step 2, as appropriate.

App 3.4.1 G DISP 1.3.3 R requires the *firm* to put in place appropriate management controls and take reasonable steps to ensure that in handling *complaints* it identifies and remedies any recurring or systemic problems. If a *firm* receives *complaints* about its sales of *payment protection contracts* it should analyse the root causes of those *complaints* including, but not limited to, the consideration of:

(1) the concerns raised by complainants (both at the time of the sale and subsequently);

(2) the reasons for both rejected claims and *complaints*;

(3) the *firm*'s stated sales practice(s) at the relevant time(s);

(4) evidence available to the *firm* about the actual sales practice(s) at the relevant time(s) (this might include recollections of staff and complainants, compliance records, and other material produced at the time about specific transactions, for example call recordings and incentives given to *advisers*);

(5) relevant regulatory findings; and

(6) relevant decisions by the *Financial Ombudsman Service*.

App 3.4.2 G Where consideration of the root causes of *complaints* suggests recurring or systemic problems in the *firm*'s sales practices for *payment protection contracts*, the *firm* should, in assessing an individual *complaint*, consider whether the problems were likely to have contributed (at step 1) to a breach or failing or (at step 2) to a failure to disclose commission in the individual case, even if those problems were not referred to specifically by the complainant.

App 3.4.3 G Where a *firm* identifies (from its *complaints* or otherwise) recurring or systemic problems in its sales practices for a particular type of *payment protection contract*, either for its sales in general or for those from a particular location or sales channel, it should (in accordance with *Principle* 6 (Customers' interests) and to the extent that it applies), consider whether it ought to act with regard to the position of *customers* who may have suffered detriment from, or been potentially disadvantaged by such problems but who have not complained and, if so, take appropriate and proportionate measures to ensure that those *customers* are given appropriate redress or a proper opportunity to obtain it. In particular, the *firm* should:

(1) ascertain the scope and severity of the consumer detriment that might have arisen; and

(2) consider whether it is fair and reasonable for the *firm* to undertake proactively a redress or remediation exercise, which may include contacting *customers* who have not complained.

3.5 Re-assessing rejected claims at step 1

App 3.5.-1 E This section applies to step 1.

App 3.5.1 E Where a *complaint* is about the sale of a *policy*, the *firm* should, as part of its investigation of the *complaint*, determine whether any claim on that *policy* was rejected, and if so, whether the complainant may have reasonably expected that the claim would have been paid.

App 3.5.2 G For example, the complainant may have reasonably expected that the claim would have been paid where the *firm* failed to disclose appropriately an exclusion or limitation later relied on by the *insurer* to reject the claim and it should have been clear to the *firm* that that exclusion or limitation was relevant to the complainant.

3.6 Determining the effect of a breach or failing at step 1

App 3.6.-1 E This section applies to step 1.

App 3.6.1 E Where the *firm* determines that there was a breach or failing, the *firm* should consider whether the complainant would have bought the *payment protection contract* in the absence of that breach or failing.

App 3.6.2 E In the absence of evidence to the contrary, the *firm* should presume that the complainant would not have bought the *payment protection contract* he bought if the sale was substantially flawed, for example where the *firm*:

(1) pressured the complainant into purchasing the *payment protection contract*; or

(2) did not disclose to the complainant, in good time before the sale was concluded, and in a way that was fair, clear and not misleading, that the *policy* was optional; or

(3) made the sale without the complainant's explicit agreement to purchase the *policy*; or

(4) did not disclose to the complainant, in good time before the sale was concluded, and in a way that was fair, clear and not misleading, the significant exclusions and limitations, i.e. those that would tend to affect the decisions of *customers* generally to buy the *policy*; or

(5) did not, for an advised sale (including where the *firm* gave advice in a non-advised sales process) take reasonable care to ensure that the *policy* was suitable for the complainant's demands and needs taking into account all relevant factors, including level of cover, cost, and relevant exclusions, excesses, limitations and conditions; or

(6) did not take reasonable steps to ensure the complainant only bought a *policy* for which he was eligible to claim benefits; or

(7) found, while arranging the *policy*, that parts of the cover did not apply but did not disclose this to the *customer*, in good time before the sale was concluded, and in a way that was fair, clear and not misleading; or

(8) did not disclose to the complainant, in good time before the sale was concluded, and in a way that was fair, clear and not misleading, the total (not just monthly) cost of the *policy* separately from any other prices (or the basis for calculating it so that the complainant could verify it); or

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(9) recommended a single premium *payment protection contract* without taking reasonable steps, where the *policy* did not have a pro-rata refund, to establish whether there was a prospect that the complainant would repay or refinance the loan before the end of the term; or

(10) provided misleading or inaccurate information about the *policy* to the complainant; or

(11) sold the complainant a *policy* where the total cost of the *policy* (including any interest paid on the premium) would exceed the benefits payable under the *policy* (other than benefits payable under life cover); or

(12) in a sale of a single premium *payment protection contract*, failed to disclose to the complainant, in good time before the sale was concluded, and in a way that was fair, clear and not misleading:

(a) that the premium would be added to the amount provided under the credit agreement, that interest would be payable on the premium and the amount of that interest; or

(b) (if applicable) that the term of the cover was shorter than the term of the credit agreement and the consequences of that mismatch; or

(c) (if applicable) that the complainant would not receive a pro-rata refund if the complainant were to repay or refinance the loan or otherwise cancel the single premium *policy* after the cooling-off period.

App 3.6.3 E Relevant evidence might include the complainant's demands, needs and intentions at the time of the sale and any other relevant evidence, including any testimony by the complainant about his reasons at the time of the sale for purchasing the *payment protection contract*.

3.7 Approach to redress at step 1

App 3.7.-1 E This section applies to step 1.

General approach to redress: all contract types

App 3.7.1 E Where the *firm* concludes in accordance with DISP App 3.6 that the complainant would still have bought the *payment protection contract* he bought, no redress will be due to the complainant in respect of the identified breach or failing, subject to DISP App 3.7.6 E.

App 3.7.2 E Where the *firm* concludes that the complainant would not have bought the *payment protection contract* he bought, and the *firm* is not using the alternative approach to redress (set out in DISP App 3.7.7 E to 3.7.15 E) or other appropriate redress (see DISP App 3.8), the *firm* should, as far as practicable, put the complainant in the position he would have been if he had not bought any *payment protection contract*.

App 3.7.3 E In such cases the *firm* should pay to the complainant a sum equal to the total amount paid by the complainant in respect of the *payment protection contract* including historic interest where relevant (plus simple interest on that amount). If the complainant has received any rebate, for example if the *customer* cancelled a single premium *payment protection contract* before it ran full term and received a refund, the *firm* may deduct the value of this rebate from the amount otherwise payable to the complainant.

App 3.7.4 E Additionally, where a single premium was added to a loan:

(1) for live *policies*:

(a) subject to ■ DISP App 3.7.5 E, where there remains an outstanding loan balance, the *firm* should, where possible, arrange for the loan to be restructured (without charge to the complainant but using any applicable cancellation value) with the effect of:

(i) removing amounts relating to the *payment protection contract* (including any interest and charges); and

(ii) ensuring the number and amounts of any future repayments (including any interest and charges) are the same as would have applied if the complainant had taken the loan without the *payment protection contract*; or

(b) where the *firm* is not able to arrange for the loan to be restructured (e.g. because the loan is provided by a separate *firm*), it should pay the complainant an amount equal to the difference between the actual loan balance and what the loan balance would have been if the *payment protection contract* (including any interest and charges) had not been added, deducting the current cancellation value. The *firm* should offer to pay any charges incurred if the complainant uses this amount to reduce his loan balance; and

(2) for cancelled *policies*, the *firm* should pay the complainant the difference between the actual loan balance at the point of cancellation and what the loan balance would have been if no premium had been added (plus simple interest) minus any applicable cancellation value.

App 3.7.5 E Where a claim was previously paid on the *policy*, the *firm* may deduct this from redress paid in accordance with ■ DISP App 3.7.3 E. If the claim is higher than the amount to be paid under ■ DISP App 3.7.3 E then the *firm* may also deduct the excess from the amount to be paid under ■ DISP App 3.7.4 E.

App 3.7.6 E Where the *firm* concludes that the complainant may have reasonably expected that a rejected claim would have been paid (see ■ DISP App 3.5) then:

(1) if the value of the claim exceeds the amount of the redress otherwise payable to the complainant for a breach or failing identified in accordance with this appendix, the *firm* should pay to the complainant only the value of the claim (and simple interest on it as appropriate); and

(2) if the value of the claim is less than the amount of the redress otherwise payable to the complainant for a breach or failing identified in accordance with this appendix, the *firm* should pay to the complainant the value of that redress.

Alternative approach to redress: single premium policies

App 3.7.7 E Where the only breach or failing was within ■ DISP App 3.6.2 E (9) and/or ■ DISP App 3.6.2 E (12), and in the absence of evidence to the contrary, the *firm* may presume that instead of buying the single premium *payment protection contract* he bought, the complainant would have bought a regular premium *payment protection contract*.

App 3.7.8 E If a *firm* chooses to make this presumption, then it should do so fairly and for all relevant complainants in a relevant category of sale. It should not, for example, only use the approach for those complainants it views as being a lower underwriting risk or those complainants who have cancelled their *policies*.

App 3.7.9 E Where the *firm* presumes that the complainant would have purchased a regular premium *payment protection contract*, the *firm* should offer redress that puts the complainant in the position he would have been if he had bought an alternative regular premium *payment protection contract*.

App 3.7.10 E The *firm* should pay to the complainant a sum equal to the amount in ■ DISP App 3.7.3 E less the amount the complainant would have paid for the alternative regular premium *payment protection contract*.

App 3.7.11 E The *firm* should consider whether it is appropriate to deduct the value of any paid claims from the redress.

App 3.7.12 E Additionally, where a single premium was added to a loan, ■ DISP App 3.7.4 E applies except that in respect of ■ DISP App 3.7.4 E (1)(a) the cancellation value should only be used if the complainant expressly wishes to cancel the *policy*.

App 3.7.13 E The *firm* should, for the purposes of redressing the *complaint*, use the value of £9 per £100 of benefits payable as the monthly price of the alternative regular premium *payment protection contract*. For example, if the monthly repayment amount in relation to the loan only is to be £200, the price of the alternative regular premium *payment protection contract* will be £18.

App 3.7.14 E Where the *firm* presumes that the complainant would have purchased a regular premium *payment protection contract* and if the complainant expressly wishes it, the existing cover should continue until the end of the existing *policy* term. The complainant should pay the price of the alternative regular premium *payment protection contract* (at ■ DISP App 3.7.13 E) and should be able to cancel at any time. This pricing does not apply where ■ DISP App 3.7.4 E (1)(b) applies.

App 3.7.15 E So that the complainant can make the decision on the continuation of cover from an informed position, the *firm* should:

(1) offer to provide details of the existing *payment protection contract*;

(2) inform the complainant that he may be able to find similar cover more cheaply from another provider in the event that he chooses to cancel the *policy* and take an alternative but remind the complainant that if his

circumstances (for example, his health or employment prospects) have changed since the original sale, he may not be eligible for cover under any new *policy* he buys;

(3) make the complainant aware of the changes to the cancellation arrangements if cover continues;

(4) explain how the future premium will be collected and the cost of the future cover; and

(5) refer the complainant to www.moneyadviceservice.org.uk as a source of information about a range of alternative *payment protection contracts*.

Interaction with step 2

App 3.7.16 E Where the *firm* is aware that another *firm* has previously paid redress at step 2, the *firm* may deduct this from the redress due under step 1.

3.7A Approach to redress at step 2

App 3.7A.1 E This section applies to a *CCA lender* at step 2.

Duty to remedy unfairness

App 3.7A.2 E Where the *firm* concludes in accordance with DISP App 3.3A that the non-disclosure has given rise to an unfair relationship under section 140A of the *CCA*, the *firm* should remedy the unfairness.

Redress for single premium payment protection contracts

App 3.7A.3 E In relation to a single premium *payment protection contract*, the *firm* should pay to the complainant a sum equal to:

(1) the commission actually paid; plus

(2) an amount representing actual profit share; minus

(3) 50% of the total amount paid (or other percentage as in DISP App 3.7A.4E).

The *firm* should also pay historic interest in relation to that sum, where relevant. It should also pay simple interest on the whole amount.

Redress for regular premium payment protection contracts

App 3.7A.3A E In relation to a regular premium *payment protection contract*, the *firm* should pay to the complainant in respect of each redress period a sum equal to:

(1) an amount appropriately representing the commission paid in respect of that period; plus

(2) an amount appropriately representing profit share in respect of that period; minus

(3) 50% of the amount appropriately representing the total amount paid in respect of that period (or other percentage as in ■ DISP App 3.7A.4E).

A *firm* should pay the aggregate of those sums and also pay historic interest in relation to each of those sums, where relevant. It should also pay simple interest, where relevant.

Where the presumption against unfairness has been rebutted

App 3.7A.4 E In cases where the presumption that failure to disclose commission did not give rise to an unfair relationship (in ■ DISP App 3.3A.4E(2)) has been rebutted and the *firm* has concluded that the non-disclosure gave rise to an unfair relationship under section 140A of the *CCA*, the *firm* should consider what level of commission plus anticipated profit share would not have given rise to unfairness in that case, and use that amount (expressed as a percentage) at ■ DISP App 3.7A.3E(3) or ■ DISP App 3.7A.3AE(3) as appropriate.

Where the complainant has received a rebate

App 3.7A.5 E If the complainant has received any rebate, the *firm* may calculate the amount of the rebate that represents commission and actual profit share sums paid up to the point of the rebate that were more than 50% (or such other percentage determined under ■ DISP App 3.7A.4E) of the total amount paid in relation to the *payment protection contract* and deduct this from the amount of redress otherwise payable to the complainant.

Where a single premium was added to a loan

App 3.7A.6 E Additionally, where a single premium policy was added to a loan:

(1) for live *policies*, where there remains an outstanding loan balance, the *firm* should, where possible, arrange for the loan to be restructured (without charge to the complainant but using any applicable cancellation value) with the effect of ensuring the number and amounts of any future repayments (including any interest and charges) are the same as would have applied if the commission plus anticipated profit share was 50% (or such other percentage determined under ■ DISP App 3.7A.4E) of the total amount paid in relation to the *payment protection contract*; or

(2) for cancelled *policies*, the *firm* should pay the complainant the difference between the actual loan balance at the point of cancellation and what the loan balance would have been if a sum equal to that payable under ■ DISP App 3.7A.3E (before historic or simple interest) had not been added (plus simple interest) minus any applicable cancellation rebate value.

Where a regular premium policy is live

App 3.7A.7 E Additionally, for a regular premium *payment protection contract*, where the *policy* is live the *firm* should disclose the current level of known or reasonably foreseeable commission and currently anticipated profit share and give the complainant the choice of continuing with the *policy* without change or cancelling the *policy* without penalty.

App 3.7A.8 E For the purposes of ■ DISP App 3.7A.7E, currently anticipated profit share should be read as requiring a projection forwards from the date of disclosure rather than from the date of the original sale.

App 3.7A.9 G The disclosure in ■ DISP App 3.7A.7E may:

(1) be in the form of a range so long as it is sufficiently narrow to be clear and informative: and

(2) specify the current level of commission and currently anticipated profit share separately.

Where a claim was previously paid

App 3.7A.10 E Where a claim was previously paid on the *policy*, the *firm* should not deduct this from the redress paid.

3.8 Other appropriate redress at steps 1 and 2

Step 1

App 3.8.1 E The remedies in ■ DISP App 3.7 are not exhaustive.

App 3.8.2 E When applying a remedy other than those set out in ■ DISP App 3.7, the *firm* should satisfy itself that the remedy is appropriate to the matter complained of and is appropriate and fair in the individual circumstances.

Step 2

App 3.8.3 E The remedies in ■ DISP App 3.7A are not exhaustive.

App 3.8.4 E A *firm* should depart from the remedies set out in ■ DISP App 3.7A if there are factors in a particular *complaint* which require a different amount or form of redress in order to remedy the unfairness found.

3.9 Other matters concerning redress at steps 1 and 2

App 3.9.1 G Where the complainant's loan or credit card is in arrears the *firm* may, if it has the contractual right to do so, make a payment to reduce the associated loan or credit card balance, if the complainant accepts the *firm*'s offer of redress. The *firm* should act fairly and reasonably in deciding whether to make such a payment.

App 3.9.2 G In assessing redress, the *firm* should consider whether there are any other further losses that flow from its breach or failing or from its failure to disclose commission (as applicable), that were reasonably foreseeable as a consequence of the *firm*'s breach or failing or of its failure to disclose commission, for example, where the *payment protection contract*'s cost or rejected claims contributed to affordability issues for the associated loan or credit which led to arrears charges, default interest, penal interest rates or other penalties levied by the lender.

App 3.9.3 G Where, for single premium *policies*, there were previous breaches or failings or previous failures to disclose commission (see ■ DISP App 3.2.7 G) the redress to the complainant should address the cumulative financial impact.

App 3.9.4 G The *firm* should make any offer of redress to the complainant in a fair and balanced way. In particular, the *firm* should explain clearly to the complainant the basis for the redress offered including how any compensation is calculated and, where relevant, the rescheduling of the loan, and the consequences of accepting the offer of redress.

3.10 Application: evidential provisions and guidance

Step 1

App 3.10.1 E The *evidential provisions* in this appendix for step 1 apply in relation to *complaints* about sales that took place on or after 14 January 2005.

App 3.10.2 G The *guidance* in this appendix for step 1 applies in relation to *complaints* about sales whenever the sale took place. For *complaints* about sales that took place prior to 14 January 2005, a *firm* should take account of the *evidential provisions* in this appendix for step 1 as if they were *guidance*.

Step 2

App 3.10.2A E The *evidential provisions* and *guidance* for step 2 apply in relation to *complaints* received by *CCA lenders* about sales where the *payment protection contract* covers or covered or purported to cover (this includes partial coverage) a *credit agreement*.

Effect of contravention of evidential provisions

App 3.10.3 E Contravention of an *evidential provision* in this appendix may be relied upon as tending to establish contravention of DISP 1.4.1 R.

3.11 Obligation to write letters to certain rejected complainants

Definitions

App 3.11.-1 R In this section:

(1) "purported complaint" means an expression of dissatisfaction which would have been a *complaint*, had it related to an activity which comes under the jurisdiction of the *Financial Ombudsman Service*;

(2) "recurring non-disclosure of commission" means any omission of the kind described at DISP App 3.1.1G(3)(b); and

(3) "non-disclosure of commission" means "failure to disclose commission" as defined at DISP App 3.1.5G(7) or recurring non-disclosure of commission.

Letters required to be sent by 29 November 2017

App 3.11.1 R DISP App 3.11.2R and DISP App 3.11.3R apply where:

(1) a complainant has made a *complaint* to a *firm* in relation to its sale of a *payment protection contract* which covered or purported to cover a *credit agreement* (this includes partial coverage);

(2) the *complaint* was rejected by the *firm* before 29 August 2017 in that the *firm* did not offer the complainant the redress they would have been offered had the *firm* concluded that the complainant would not have bought the *payment protection contract* they bought; and

(3) any referral of the *complaint* to the *Financial Ombudsman Service* has been concluded and did not result in the *firm* offering (or being required to pay) the complainant redress on the basis that the complainant would not have bought the *payment protection contract* they bought.

App 3.11.2 R The *firm* (or, where applicable, a successor) must as soon as reasonably practicable, and no later than 29 November 2017, send a written communication to the complainant which:

(1) informs the complainant that, despite having already made a *complaint* in relation to the sale of a *payment protection contract*, they can make a further *complaint* against the *CCA lender* in relation to a failure to disclose commission;

(2) makes clear the identity of the *CCA lender*, where this is known to the seller or can be identified by them following reasonable steps;

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(3) informs the complainant of the 29 August 2019 time limit;

(4) refers to the availability of relevant further information on the *FCA's* website (whose address should be provided) or by contacting the *FCA's* PPI contact centre (whose telephone number should be provided); and

(5) where the *firm* is also the *CCA lender*, informs the complainant of its arrangements for handling further *complaints* about a failure to disclose commission.

App 3.11.3 R The obligation to send a written communication does not apply where, in relation to the relevant *payment protection contract* the *firm*, or where appropriate the *Financial Ombudsman Service*, has previously considered, or indicated to the complainant in writing that it will consider, a *complaint* on the basis of a failure to disclose profit share and/or commission.

Letters required to be sent by 29 April 2019

App 3.11.4 R DISP App 3.11.5R and DISP App 3.11.6R apply where, in relation to the sale of a *payment protection contract* which covers, covered or purported to cover a *credit agreement* (this includes partial coverage) a complainant has made:

(1) (in relation to a regular premium *payment protection contract*) a *complaint* to the *CCA lender* that was rejected before 30 January 2019 in that:

(a) it was considered under step 2 of DISP Appendix 3 but redress on the basis that an unfair relationship under section 140A of the *CCA* had arisen was not offered; or

(b) it was not considered under step 2 of DISP Appendix 3 because the *complaint* was treated as a purported complaint that did not come under the jurisdiction of the *Financial Ombudsman Service*; or

(2) a purported complaint to the selling *firm* that would otherwise have fallen to be considered under step 1 of DISP Appendix 3 but was rejected before 30 January 2019 by that *firm* on the basis that it did not come under the jurisdiction of the *Financial Ombudsman Service*.

App 3.11.5 R The *firm* that rejected the *complaint* or purported complaint (or, where applicable, its successor) must as soon as reasonably practicable, and no later than 29 April 2019, send a written communication to the complainant which:

(1) in a case falling within DISP App 3.11.4R(1), informs the complainant they can make a *complaint* against the *CCA lender* in relation to recurring non-disclosure of commission;

(2) in a case falling within DISP App 3.11.4R(2), informs the complainant they can make a *complaint* against the *CCA lender* in relation to non-disclosure of commission;

(3) where the firm is not the *CCA lender*, makes clear the identity of the *CCA lender* where this is known or can be identified by the *firm* by following reasonable steps;

(4) where the *firm* is the *CCA lender*, informs the complainant of its arrangements for handling *complaints* about non-disclosure of commission;

(5) informs the complainant of the 29 August 2019 time limit; and

(6) refers to the availability of relevant further information on the *FCA's* website (whose address should be provided) or by contacting the *FCA's* PPI contact centre (the telephone number of which should be provided).

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App 3.11.6 R The obligation to send a written communication does not apply where:

(1) the *firm* is otherwise required to send such a written communication is the *CCA lender*, and knows that no non-disclosure of commission has occurred during a time which falls within the jurisdiction of the *Financial Ombudsman Service*;

(2) the complainant has already been offered or paid redress in respect of the *payment protection contract* (either on the basis that the complainant would not have bought the *payment protection contract* they bought or on the basis that an unfair relationship under section 140A of the *CCA* had arisen) by 29 April 2019;

(3) the *CCA lender* or the *Financial Ombudsman Service* has indicated to the complainant in writing that it will consider or reconsider the *complaint* or purported complaint and that consideration is not completed by 29 April 2019; or

(4) the *CCA lender* has, when considering or reconsidering a *complaint* or purported complaint, already considered recurring non-disclosure of commission and not offered redress on the basis that an unfair relationship under section 140A of the *CCA* had arisen.

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Appendix 4 Handling pension transfer redress calculations

4.1 Definitions

App 4.1.1 R The following definitions are used in this appendix:

(1) 'additional compensation sum' is the redress sum calculated in accordance with DISP App 4.3.29R(3);

(2) 'annual allowance' is the maximum amount that can be added to an *individual's* pension each tax year without the *individual* being liable for an annual allowance tax charge;

(3) 'annual allowance tax charge' includes:

(a) the standard annual allowance limit of £40,000 saved into a pension in the current tax year; and

(b) the money purchase annual allowance which is triggered when a *consumer* has flexibly accessed their pension, which reduces their annual allowance to £4,000; and

(c) the tapered annual allowance which reduces the annual allowance for those earning above £200,000;

(4) 'assumptions' are the economic, demographic and other assumptions to be used in the redress calculation set out at DISP App 4 Annex 1;

(5) 'augmentation' is the payment of redress into the *consumer's* chosen defined contribution pension scheme;

(6) 'calculation date' is the date on which the *firm* completes the calculation at Step 3 at DISP App 4.3.19R;

(7) 'commencement date' is 1 April 2023;

(8) 'compliant pension transfer advice' is *advice to a consumer on the conversion or transfer of pension benefits* from a *defined benefit*

occupational pension scheme to a DC pension arrangement, which complies with the following:

(a) (as applicable) the suitability requirements in COBS 9 and COBS 19.1; and

(b) the common law duty in contract or tort to exercise reasonable skill and care in advising the *consumer*; and

(c) (where the advice is to remain in the *defined benefit occupational pension scheme* and the *firm* arranges the *pension transfer* or *pension conversion*) a *firm's* obligations when dealing with insistent clients (from 1 January 2018, see COBS 9.5A);

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(9) 'DC pension arrangement' means any pension arrangement holding the value of the *consumer's* pension benefits which originated from the non-compliant pension transfer advice, including where the arrangement has been subsequently changed to a new arrangement;

(10) 'defined contribution pension scheme' means an occupational or non-occupational pension scheme with a right or entitlement to *flexible benefits*;

(11) 'non-compliant pension transfer advice' is *advice to a consumer on the conversion or transfer of pension benefits* from a *defined benefit occupational pension scheme* to a DC pension arrangement, which does not comply with one or more of the following:

(a) (as applicable) the suitability requirements in COBS 9 and COBS 19.1;

(b) the common law duty in contract or tort to exercise reasonable skill and care in advising a *consumer*; or

(c) (where the advice is to remain in the *defined benefit occupational pension scheme* and the *firm* arranges the *pension transfer* or *pension conversion*) a *firm's* obligations when dealing with insistent clients (from 1 January 2018, see COBS 9.5A);

(12) 'non-joiner' is a *consumer* who declined or failed to join an *occupational pension scheme* for which they were or are eligible, while continuing in the relevant employment;

(13) 'normal retirement age' is the earliest age at which the *consumer* could have retired from the *defined benefit occupational pension scheme* without both their employer's consent and actuarial reduction;

(14) 'payment date' is the date that the redress is paid to the *consumer*;

(15) 'pension tranche' is an element of pension benefit which typically has a unique combination of revaluation increases before coming into payment and pension increases during payment, but may also have a unique payment starting age or payment end age;

(16) 'primary compensation sum' is the redress sum calculated in accordance with DISP App 4.3.20R;

(17) 'quarter' is the period of 3 *months* commencing 1 January, 1 April, 1 July and 1 October in each year;

(18) ‘redress offer’ is an offer of redress made to a *consumer* after a *firm* has determined that the *consumer* suffered loss as a result of non-compliant pension transfer advice;

(19) ‘retirement date’ is the *consumer’s* presumed or alternative retirement date determined in accordance with DISP App 4.3.15R to 4.3.18R;

(20) ‘secondary compensation sum’ is the redress sum comprising the components in DISP App 4.3.29R(2);

(21) ‘SERPS’ is the state earnings related pension scheme;

(22) ‘settlement date’ is the date on which the *firm’s* redress offer is accepted by the *consumer*;

(23) ‘unauthorised payment’ is defined in section 160 of the Finance Act 2004;

(24) ‘unauthorised payment charges’ include any tax charges levied pursuant to chapter 5, part 4 of the Finance Act 2004; and

(25) ‘valuation date’ is the date at which the benefits in the *defined benefit occupational pension scheme* and benefits in the DC pension arrangement must be valued for the calculation at Step 3 at DISP App 4.3.19R.

4.2 Application

App 4.2.1 G This appendix sets out the *rules* and *guidance* about the steps *firms* should take and the assumptions *firms* should use to:

(1) calculate the redress (if any) to offer to a *consumer*, their spouse or their dependant(s) for non-compliant pension transfer advice which resulted in the *consumer* transferring out of a *defined benefit occupational pension scheme* and into a *defined contribution pension scheme*; and

(2) make a redress offer to a *consumer* or their beneficiary.

App 4.2.2 R This appendix applies to any redress calculation and redress offer relating to non-compliant pension transfer advice arising as a result of:

(1) a *complaint* received by a *firm* on or after the commencement date;

(2) a *complaint* received before the commencement date where the *firm* has not issued a redress offer to the *consumer* on or before that date;

(3) the *FCA’s* approach to supervising *firms* (SUP 1A.3);

(4) any other redress exercise carried out by a *firm*; and

(5) a requirement in CONRED 4 (British Steel Consumer Redress Scheme).

App 4.2.3 R This appendix also applies to redress calculations and redress offers where a *firm* upholds a *complaint* received after 3 August 2016 about a *pension transfer* between 29 April 1988 and 30 June 1994 in circumstances where either:

(1) the *firm* did not review the relevant pension transaction in accordance with the regulatory standards or requirements applicable for the review of the transaction at the time; or

(2) the particular circumstances of the case were not addressed by those standards.

App 4.2.4 G Where a *firm* upholds a *complaint* concerning a non-joiner, *pension opt-out* or *FSAVC* case, the firm may use this appendix as a basis for calculating and offering redress, to the extent that it is appropriate to do so and subject to the particular circumstances of the case.

App 4.2.5 G (1) This appendix should be considered alongside applicable *rules* and *guidance* in DISP 1. Where this appendix does not address the particular and individual circumstances of a *consumer's complaint*, a *firm* should address such circumstances:

(a) in a way which is consistent with the *rules* and *guidance* in this appendix; and

(b) in accordance with their obligations in DISP 1.4.1R.

(2) *Firms* should also consider how the *Financial Ombudsman Service* has taken account of such circumstances when determining similar *complaints* (DISP 1.4.2G).

(3) To the extent that taking them into account would be consistent with a *firm's* obligations in this appendix and DISP 1.4.1R, relevant guidance in DISP 1.4.2G(3) includes the provisions designated by the Financial Services Authority in November 2001 in the Designation of Pensions Review Provisions Instrument 2001 (as amended).

(4) When calculating redress in accordance with this appendix, *firms* should:

(a) take into account all relevant factors, including any known or anticipated changes in circumstances which may impact on the value of the redress which would be appropriate; and

(b) act fairly when assessing what redress is appropriate in light of such circumstances.

(5) In DISP App 4.2.5G(4)(a), relevant changes in circumstances may include changes in the value of the *consumer's* notional rights in a ceding *defined benefit occupational pension scheme*, which are certain and quantified, and which are known, or reasonably ought to be known, by the *firm* at the calculation date.

App 4.2.6 R A *firm* must use an *actuary* or an approach approved by an *actuary* when undertaking calculations in accordance with this appendix to calculate:

(1) the valuation of the benefits in a *defined benefit occupational pension scheme* given up by a *consumer*; and

(2) the value of the *consumer's* DC pension arrangement, where adjustments are necessary to obtain the current value.

App4.2.7 G

(1) A *firm* may use actuarial software which is compliant with technical actuarial standards to undertake the relevant calculations, to the extent that they have the competence to do so.

(2) The type of adjustments where *firms* should confirm their approach with an *actuary* include removing the effect of contributions into the *consumer's* DC pension arrangement that were not part of the cash equivalent transfer value.

(3) If a *firm* has had confirmation from an *actuary* that its approach to relevant elements of the valuation is appropriate, that approach can be used for materially similar cases without needing to obtain actuarial approval each time.

(4) If a *firm* lacks competence to carry out any parts of the redress calculation in this appendix, including rolling up payments to allow for the passage of time, it should refer to an *actuary*.

App4.2.8 R

(1) Notwithstanding this appendix, a *firm* may offer to arrange for the *consumer* to be reinstated into a *defined benefit occupational pension scheme*, where it is possible to do so, or offer to set up a pension arrangement with *safeguarded benefits* for the *consumer* in place of paying redress if it is agreed to by the *consumer*.

(2) A *firm* may only offer to set up a pension arrangement with *safeguarded benefits* (such as a deferred annuity or *pension annuity*) in place of the payment of redress after the *firm* has calculated and informed the *consumer* of the redress offer which would otherwise be payable in accordance with this appendix.

(3) Any pension arrangement with *safeguarded benefits* set up by the *firm* should provide benefits to the *consumer* which are no less than the value of the benefits the *consumer* would have received from their *defined benefit occupational pension scheme*.

(4) If a *firm* offers to set up a pension arrangement with *safeguarded benefits* in place of paying redress, the *firm* must:

(a) make a *personal recommendation* to the *consumer* about the suitability of the pension arrangement with *safeguarded benefits* which complies with the *rules* on assessing suitability in COBS 9;

(b) clearly inform the *consumer* that they are not required to accept a pension arrangement with *safeguarded benefits* and can instead receive redress as a cash lump sum payment or by augmentation in accordance with DISP App 4.3.33R; and

(c) not require the payment of any *fees* or *charges* by the *consumer* in connection with either the setting up of a pension arrangement with *safeguarded benefits* or the *personal recommendation* made by the *firm*.

4.3 Steps for redress calculation

App4.3.1 R A *firm* must take the 5 steps set out in this section to carry out a redress calculation.

App4.3.2 G The diagram at ■ DISP App 4 Annex 3 explains the 5 steps for the redress calculation in diagrammatic form, with reference to the relevant sections of the *rules* and *guidance*. To the extent there is any inconsistency between the diagram and the *rules*, the *rules* will prevail.

Step 1: obtain the necessary information to calculate redress

App4.3.3 R The first step is for the *firm* to obtain the necessary information about the *consumer's*:

(1) DC pension arrangement;

(2) *defined benefit occupational pension scheme* or, if there is more than one *defined benefit occupational pension scheme*, the one which the *consumer* would most likely have had rights in if they had received compliant pension transfer advice determined in accordance with ■ DISP App 4 Annex 1 16.1G to 16.5G;

(3) personal and financial situation; and

(4) preference for redress to be paid either as a cash lump sum, or by full or partial augmentation where it is possible to do so without the *consumer* incurring a tax charge or liability,

to enable it to complete the redress calculation and make a redress offer.

App4.3.4 R A *firm* is entitled to rely on information previously provided by the *consumer* unless it is aware or ought to be aware that the information is out of date, inaccurate or incomplete.

App4.3.5 G Information that may be relevant to calculating redress is set out at ■ 2.

App4.3.6 R To obtain the necessary information required to calculate or offer redress, a *firm* must:

(1) identify whether there is any relevant information held on its client file or in publicly available records; and

(2) if the information in (1) is not sufficient or could have changed:

(a) request information from the *consumer*; and

(b) with the *consumer's* permission, contact the provider of the *consumer's* DC pension arrangement and *defined benefit occupational pension scheme* and, where relevant, HMRC or DWP to obtain the information.

App 4.3.7 **R** When offering to calculate how much redress could be paid by full or partial augmentation, the *firm* must explain to the *consumer* that:

(1) the redress offer will be calculated on the basis that the redress will be invested prudently by the *consumer*; and

(2) augmenting a defined contribution pension scheme is one way in which the redress can be invested prudently.

App 4.3.8 **R** Requests for information in DISP App 4.3.6R must be in a *durable medium*.

App 4.3.9 **R** The *firm* must only make requests for information that are necessary for the redress calculation that the *firm* is carrying out and, in relation to requests made to the *consumer*, information which the *consumer* can reasonably be expected to provide.

App 4.3.10 **R** (1) A *firm* must give a *consumer* a clear description of the information needed and explain why the information is needed to calculate redress and the consequence if the *consumer* does not provide the information.

(2) A *firm* must give a *consumer* at least 14 *days* from receipt of the request to respond to any request for information.

(3) If the *consumer* does not respond to the first request for information, or responds with insufficient information, the *firm* must make a second request for information and give the *consumer* at least 14 *days* to respond.

(4) If the *consumer* does not respond to the second request for information, or responds with insufficient information, the *firm* must contact the *consumer* again, indicating that the *firm* may have to discontinue the redress calculation if no reply is received.

(5) A *firm* may make one or more subsequent requests for information if the *consumer's* personal circumstances support the making of such further requests.

(6) A *firm* may make reasonable additional requests for information if the *consumer* requests that the *firm* calculate the redress offer by augmentation.

App 4.3.11 **G** A *firm* should take care to adapt the procedures in DISP App 4.3.6R to 4.3.10R to the individual circumstances of the *consumer* and exercise sensitivity when requesting information about a *consumer's* personal circumstances. It may be appropriate to allow the *consumer* more time to provide a response or to make more attempts to contact the *consumer*.

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App4.3.12 R If, after following the procedures in DISP App 4.3.6R to 4.3.10R, a *firm* does not have the necessary information about the *consumer's* DC pension arrangement, *defined benefit occupational pension scheme* and/or personal and financial situation to enable it to properly assess whether the *consumer* has suffered loss, the *firm* must:

(1) in the first instance, attempt to calculate redress on the basis of the information it holds; and

(2) if it is not possible to calculate redress without further information, consider whether it is appropriate to discontinue the redress calculation.

App4.3.13 G Before deciding to discontinue a redress calculation (see DISP App 4.3.12R(2)), a *firm* should consider whether it can extrapolate from information on the client file or make assumptions based on public or generic sources of information (for example, on typical retirement ages for the *consumer's* occupation) to use in the redress calculation.

App4.3.14 G A *firm* is not required to repeat a redress calculation after it has communicated a redress offer if the *consumer* subsequently provides information about their *defined benefit occupational pension scheme* or personal and financial situation which was reasonably requested by the *firm* following the procedures in DISP App 4.3.6R to 4.3.10R.

Step 2: determine when the consumer would have taken retirement benefits from the defined benefit occupational pension scheme

App4.3.15 R (1) The second step is for the *firm* to determine whether the *consumer* would have already taken retirement benefits from their *defined benefit occupational pension scheme* if, at or prior to the valuation date, they had remained a member of that scheme.

(2) To determine whether the *consumer* would have taken retirement benefits from their *defined benefit occupational pension scheme* at or prior to the valuation date, *firms* must apply the rebuttable presumption at DISP App 4.3.16R.

App4.3.16 R A *firm* must presume that a *consumer* would have taken pension benefits from their *defined benefit occupational pension scheme* at their normal retirement age in their *defined benefit occupational pension scheme* or on death if their death preceded their normal retirement age.

App4.3.17 G The presumption in DISP App 4.3.16R will be rebutted where the evidence shows that it is more likely than not that the *consumer* or a beneficiary would have taken benefits from their *defined benefit occupational pension scheme* on an alternative date. Examples of such evidence include:

(1) the *consumer* has used some or all of their transfer proceeds to purchase an annuity; or

(2) the *consumer* would have taken early or late retirement benefits from their *defined benefit occupational pension scheme*, having regard to:

(a) the *consumer's* demands, needs and intentions at the time of the *pension transfer* advice (evidence from the time of the advice is more likely to be relevant if it shows that the *consumer* had a considered plan for taking retirement benefits early from their *defined benefit occupational pension scheme*);

(b) any information gathered by the *firm* subsequently about the *consumer's* reasons or plans for accessing pension benefits from their DC pension arrangement; and

(c) any evidence that demonstrates that the *consumer* or members of their household changed or plan to change their working pattern at a similar time to the *consumer* taking regular benefits from their DC pension arrangement; or

(3) the *firm* has written confirmation that the *consumer* considers themselves to be retired from a date which is earlier than normal retirement age.

App4.3.18 G The presumption in DISP App 4.3.16R is unlikely to be rebutted where there is:

(1) evidence from the time of the *pension transfer* advice that indicates that there is a risk that the *consumer's* intentions were influenced by the *firm's* non-compliant pension transfer advice; or

(2) evidence of irregular *pension commencement lump sum* withdrawals, particularly if the *consumer* is still working; or

(3) evidence of full withdrawal of a *pension commencement lump sum* unless:

the *pension commencement lump sum* is being or has been used for regular income payments; or

the *consumer* was in financial difficulty or in ill health at the time of the non-compliant pension transfer advice.

Step 3: carry out redress calculation

App4.3.19 R The third step is for the *firm* to calculate whether (X) is greater than (Y) on the valuation date using the formula at DISP App 4.4.2R, where:

(1) (X) is the estimated value of the benefits in the *defined benefit occupational pension scheme* together with the difference in SERPS had the *consumer* remained a member; and

(2) (Y) is the value of the benefits from the *consumer's* DC pension arrangement.

App4.3.20 R Where (X) is greater than (Y), the *consumer* has suffered a loss and the amount calculated is the primary compensation sum to be used when producing a redress offer at DISP App 4.3.29R.

Dates for calculation

App4.3.21 R The valuation date must be the first day of the quarter (for calculations undertaken within that quarter).

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App4.3.22 R The redress calculation date must fall within the same quarter as the valuation date but does not have to be the same date as the valuation date.

App4.3.23 R
(1) Redress calculations must be based on the new assumptions available on the first day of each new quarter, using publicly available data from the final business day of the quarter immediately before.

(2) If a *firm* carries out a further redress calculation after expiration of the validity period in DISP App 4.3.24R and 4.3.25R, including following a settlement or award made by *Financial Ombudsman Service*, that calculation must be based on the new assumptions for the quarter in which it is carried out.

App4.3.24 R Redress calculations must remain valid for 3 *months* from the date the redress offer is sent to the *consumer*, irrespective of quarterly changes to the assumptions.

App4.3.25 R A *firm* must extend the validity of the redress calculation for a reasonable period of time if there are circumstances outside of the *consumer's* control which impact on the *consumer's* ability to accept or reject a redress offer.

App4.3.26 G
(1) Circumstances outside of the *consumer's* control for the purposes of DISP App 4.3.25R include:

(a) errors by the *firm* in the carrying out the redress calculation which mean the redress calculation needs to be repeated or amended by the *firm*; and

(b) exceptional personal circumstances experienced by the *consumer*, including bereavement or incapacity.

(2) *Firms* should ensure that they treat the *consumer* fairly when determining a reasonable time for the validity of the redress calculation to be extended by.

Step 4: work out redress offer

App4.3.27 R A *firm* must offer a *consumer* redress that, as far as possible, puts the *consumer* into the position they would have been in if they had received compliant pension transfer advice.

App4.3.28 R Redress offers must be issued to the *consumer* promptly following the calculation date and within 3 *months* of the valuation date.

Redress components

App4.3.29 R The redress must consist of the sum total of:

(1) the primary compensation sum calculated in accordance with DISP App 4.3.19R and 4.3.20R, adjusted to take account of the *consumer's* tax position and any entitlement to means-tested state benefits; and

(2) a secondary compensation sum comprising any consequential losses, including any initial *adviser charges* on the DC pension arrangement and

the primary compensation sum at (1) in accordance with ■ DISP App 4.3.32G, calculated using the formula at ■ DISP App 4.4.19R; and

(3) an additional compensation sum to compensate the *consumer* for the lapse of time between the valuation date and the payment date calculated in accordance with ■ DISP App 4 Annex 1 14.1G to 14.3G.

App 4.3.30 R A *firm* must adjust the redress offer to take account of:

(1) the *consumer's* individual tax position, including (if the *consumer* directs that all or part of the redress be paid by full or partial augmentation) allowances on pension contributions eligible for tax relief; and

(2) the *consumer's* entitlement to means-tested state benefits.

App 4.3.31 G (1) *Firms* should have regard to where the redress methodology in this appendix already factors in tax, such as when taking into account of *pension commencement lump sums*.

(2) Where redress is paid (or partially paid) by augmentation, a *consumer* will usually pay income tax when accessing their funds.

(3) A *firm* may adjust cash lump sum payments to take account of a notional deduction for tax on income from the *consumer's* pension.

(4) Where a cash lump sum payment could affect a *consumer's* entitlement to means-tested state benefits, a *firm* should take reasonable steps, with the agreement of the *consumer*, to ensure that the *consumer* does not suffer a reduction in income as a result of the redress payment. Steps that may be taken by a *firm* to prevent a *consumer* suffering a reduction in income may include:

(a) paying redress by full augmentation;

(b) paying redress as a cash lump sum up to an applicable capital or savings limit for the purposes of a state benefit eligibility means test, with the balance of the redress being paid by partial augmentation; or

(c) only after informing the *consumer* that they should seek free impartial guidance from an appropriate source, such as a Citizens Advice Bureau, cooperating with the *consumer* to put in place any arrangement, including the payment of redress in instalments over one or more future tax years:

(i) which the *consumer* has been informed would not affect their eligibility or income from means-tested state benefits;

(ii) which would not breach any regulatory requirement of the *firm*; and

(iii) if the arrangement involves the deferment of any part of the redress payable to the *consumer*, the *firm* pays an additional compensation sum in accordance with ■ DISP App 4.3.29R(3), which is calculated to the payment date in respect of the deferred part.

(5) If a *firm* has clearly informed the *consumer* of reasonable steps that may be taken to avoid a reduction in their income from means-tested state benefits, the *firm* will not be acting in breach of ■ PRIN 6 by continuing to

pay redress in accordance with this appendix if the *consumer* does not agree to any of those reasonable steps being taken.

App4.3.32 R Consequential losses must include the cost of initial *adviser charges* using the assumptions in DISP App 4 Annex 1 9.1G if the *consumer's* assumed retirement date is after the valuation date, and:

(1) the *consumer* is not in an ongoing advice arrangement with any *firm*; or

(2) the *consumer* is in an ongoing advice arrangement with the *firm* that gave the non-compliant pension transfer advice, where;

(a) the *firm* is charging the *consumer* more than the default ongoing *adviser charges* in DISP App 4 Annex 1 9.1G(2); and

(b) the *firm* will not provide an undertaking to reduce its ongoing *adviser charge* to the level of the default ongoing *adviser charge* (or lower) for the period to the *consumer's* assumed retirement date.

Means of payment

App4.3.33 R (1) A *firm* must always calculate and offer to pay the total amount of redress in DISP App 4.3.29R (with adjustments in DISP App 4.3.30R) as a cash lump sum payment.

(2) Where a *firm* has the necessary information, the *firm* may also calculate the redress offer to be paid by augmentation without receiving a request to do so from the *consumer*.

(3) If the *firm* calculates the redress that would be paid by augmentation, it must offer the *consumer* the option of the redress being paid by augmentation or by a lump sum cash payment.

(4) If, during the period in which a redress calculation remains valid in accordance with DISP App 4.3.24R to 4.3.26G, a *firm* is requested to calculate the redress payable by augmentation, it must carry out that calculation promptly.

(5) A *firm* must not charge the *consumer* for calculating how much of the redress could be paid by augmentation.

App4.3.34 G When calculating the sum that would be payable by augmentation, a *firm* must act prudently, taking account of uncertainty around the *consumer's* potential tax position at the end of the tax year, and determine the amount of the redress payment which could be paid by augmentation without exceeding the *consumer's*:

(1) allowance for personal contributions in the tax year;

(2) annual allowance, including any carry forward from previous tax years; or

(3) lifetime allowance.

App4.3.35 G (1) Factors which may be relevant to whether full or partial augmentation would result in a *consumer* exceeding their annual or lifetime allowance or allowance for personal contribution include:

(a) the *consumer's* relevant earnings in the current tax year;

(b) the value of all pension contributions already made in the current tax year;

(c) if the redress payment would result in the *consumer's* unused annual allowance in the current and previous 3 tax years being exceeded;

(d) the expected value of all pensions held by the *consumer* up to the age of 75;

(e) any lifetime allowance protections secured by the *consumer*;

(f) any applicable lifetime allowance protection enhancement factors;

(g) any benefit crystallisation events; and

(h) whether the *consumer's* money purchase annual allowance has been triggered.

(2) Unless DISP App 4.3.33R(2) applies, the *firm* may make reasonable requests for information from the *consumer* where it is necessary for the *firm* to calculate the amount of redress which could be paid by augmentation.

Step 5: communicate outcome of redress calculation

App4.3.36 R The fifth step is for the *firm* to communicate the outcome of the redress calculation and any redress offer to the *consumer*.

App4.3.37 R The communication in DISP App 4.3.36R must be in a *durable medium*.

App4.3.38 R The communication in DISP App 4.3.36R must include the following information:

(1) An explanation of the redress calculation, including:

(a) confirmation that the redress has been calculated in accordance with the *FCA's rules* and *guidance* using an approach which has been approved by an *actuary*; and

(b) an explanation that the redress calculation takes account of the market conditions at the valuation date and this could mean that the redress might be different if it was calculated on a different date; and

(c) the information and assumptions used in the redress calculation, including:

(i) the retirement date used in the calculation; and

(ii) whether the *firm* has determined that the *consumer* would have retired in their *defined benefit occupational pension scheme* at or prior to the valuation date and if so:

(A) the basis for this determination;

(B) the impact of the determination on the valuation of the *consumer's defined benefit occupational pension scheme* (including the percentage reduction applied for early retirement) and, where the actual reduction for the *consumer's defined benefit occupational pension scheme* has not been used in the calculation, an explanation of the approach used and its impact on the redress offer; and

(C) any assumptions made about the allowance for the *pension commencement lump sum* including, where the actual commutation factors for the *consumer's defined benefit occupational pension scheme* have not been used in the calculation, an explanation of the approach used and its impact on the redress offer; and

(iii) if late retirement factors for the *consumer's defined benefit occupational pension scheme* have not been used in the calculation, an explanation of the approach used in the calculation by the *firm* and its implications for the redress offer;

(iv) the value the *firm* has placed on any illiquid or unquoted assets and the reasons for that valuation;

(v) the level of future investment returns assumed by the calculation, including an invitation for the *consumer* to review their current investment strategy to ensure it is in line with this assumption; and

(vi) the level of any charges, including product, platform and *adviser charges*, that the *consumer* is currently paying compared to the level assumed in the redress calculation, including any allowance made for initial advice from a new adviser; and

(vii) any assumption made about the *consumer's* marital or civil partnership status;

(viii) if there is more than one *defined benefit occupational pension scheme* which the *consumer* could have had rights in, the information required by 1 16.1G to 16.5G;

(ix) whether the *consumer's defined benefit occupational pension scheme* has entered or is in the Pension Protection Fund assessment period and, if so, any future increases to the value of the *consumer's* benefits which are certain and quantified, and which are known, or reasonably ought to be known, by the *firm* at the calculation date; and

(x) where *RPI*, *CPI* or earnings inflation rates are used in the redress calculation, an explanation of the published rate underlying the rate used and its source (for example, the Bank of England website) where it can be checked by the *consumer*, without any adjustment for annualisation.

(2) An explanation of the redress offer, including:

(a) if there is no loss on the valuation date, a clear explanation of why this is the case; and

(b) if the result is a loss on the valuation date:

(i) the total amount of redress calculated, with the primary compensation sum and the secondary compensation sum shown separately;

(ii) confirmation that if the redress offer is accepted by the *consumer*, the redress paid by the *firm* will be increased to include the additional compensation sum;

(iii) an offer to make payment of redress as a cash lump sum;

(iv) the warning in the form at DISP App 4.3.39R;

(v) if it has not already been requested by the *consumer*, an offer to calculate free of charge the redress that would be payable by full or partial augmentation; and

(vi) an explanation of how the *consumer's* tax position and entitlement to state benefits has been taken into account, including an allowance for any tax charges for which the *consumer* will be liable (and where the *consumer* is responsible for any payment of tax, this should be made clear and a recommendation that they contact HMRC provided).

(3) The terms and conditions of any redress offer, including the following information:

(a) a statement requesting that the *consumer* review the assumptions used in the redress calculation and explaining that they may raise any questions about them with the *firm*;

(b) that the redress offer is valid for a 3-*month* period from the date it is issued to them, during which period the *consumer* can consider their options and the offer will remain open for acceptance;

(c) how to request that the *firm* calculate the redress that would be paid if the *consumer* directs for the redress to be paid by full or partial augmentation;

(d) how to accept or reject the redress offer; and

(e) the process for resolving any *complaints* about the redress calculation or redress offer.

App 4.3.39 R Where any of the redress is paid in the form of a cash lump sum to the *consumer*, a *firm* must provide:

(1) a warning that this amount, in addition to the pension value in the *consumer's* DC pension arrangement, is intended to provide the *consumer* with the equivalent retirement income they would have received if they had not transferred out of their *defined benefit occupational pension scheme*, but only as long as the *consumer* invests it prudently; and

(2) a warning that if the *consumer* does not invest the redress prudently, they risk losing out on the retirement income their redress amount is meant to provide; and

(3) information about trusted sources of free advice and guidance on making investment decisions and avoiding investment scams, such as Pension Wise, *MoneyHelper* and the *FCA's* 'Scam Smart' guidance; and

(4) an explanation of the risk and consequences of making an unauthorised payment, including the risk of unauthorised payment charges being levied.

App 4.3.40 R When a *firm* communicates a redress offer to a *consumer*, it should:

(1) take reasonable steps to communicate in a way that is fair, clear and not misleading;

(2) take into account the information needs of the *consumer*, including their understanding of financial services; and

(3) where possible, use plain language and avoid the use of jargon, unfamiliar or technical language.

4.4 Redress calculation

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App 4.4.1 G

(1) This section sets out the formula to complete the redress calculation at Step 3 (DISP App 4 Annex 1), using the assumptions in DISP App 4 Annex 1 to calculate the capitalised values of the *consumer's defined benefit occupational pension scheme* pension benefits (had they remained in the scheme) and any gains or losses arising from changes in the *consumer's* SERPS and DC pension arrangement.

(2) The formula is set out at DISP App 4.4.2R with *rules* and *guidance* for how to calculate the components (A) to (H) at DISP App 4.4.4R to 4.4.18R.

(3) There is technical guidance on the calculation of the components (A) to (H) at DISP App 4.5.

App 4.4.2 R

To complete the redress calculation at Step 3 (DISP App 4.3.19R), a *firm* must undertake the following computation at the valuation date:

(A) + (B) + (C) – (D) - (E) - (F) - (G) + (H)

where:

(1) A is the capitalised value of pension benefits which would not yet have been taken from the *defined benefit occupational scheme*;

(2) B is the capitalised value of future death benefits before the *consumer's* retirement date, to the extent not already included in A, which would have been payable from the *defined benefit occupational pension scheme*;

(3) C is the accumulated value of past payments which would have been paid to the *consumer* from the *defined benefit occupational pension scheme* between the *consumer's* retirement date and the valuation date;

(4) D is the current value of the DC pension arrangement;

(1) E is the accumulated value of past benefits paid to the *consumer* or beneficiary from the *consumer's* DC pension arrangement from the retirement date to the valuation date;

(6) F is the capitalised value of previously secured annuity benefits which will be paid from the *consumer's* DC pension arrangement after the valuation date;

(7) G is the value of any increase in SERPS as a result of the transfer; and

(8) H is the value of any reduction in SERPS as a result of the transfer

App 4.4.3 G The *consumer* has suffered a loss if the computation in DISP App 4.4.2R is greater than zero.

Calculation of value of A

App 4.4.4 G A is the capitalised value of pension benefits which would not yet have been taken from the *defined benefit occupational scheme*.

App 4.4.5 R To calculate the value of A in DISP App 4.4.2R(1):

(1) where:

(a) the *consumer's* retirement date would have been prior to the valuation date; or

(b) a beneficiary would have received benefits prior to the valuation date because the *consumer* is deceased,

use the sum of [K x L x M - (N/O)] x P x Q] across all pension tranches; or

where the retirement date is after the valuation date, use the sum of [K x LA x MA x QA x R x S] across all pension tranches.

App 4.4.6 R For the purpose of DISP App 4.4.5R(1) or (2):

(1) K is the annual value of the pension at the date on which the *consumer* left active membership, split by each pension tranche;

(2) L and LA are the cumulative revaluation factors for each pension tranche from the date of leaving active membership to the retirement date (including the date of the *consumer's* death), where:

(a) L is based on known revaluation;

(b) LA is based on known and assumed revaluation, where the assumed revaluation is based on the relevant assumptions in DISP App 4 Annex 1 3.1G to 5.1G;

(3) M and MA are the early or late retirement factor applicable to each pension tranche at the retirement date, determined in accordance with DISP App 4 Annex 1 11.1G and 11.2G;

(4) N is the assumed *pension commencement lump sum* which would have been taken from each pension tranche, determined in accordance with the technical guidance at DISP App 4.5.4G;

(5) O is the *pension commencement lump sum* commutation factor applicable to each pension tranche, determined in accordance with DISP App 4 Annex 1 11.3G;

(6) P is the cumulative known pension increases, including discretionary increases, that would have been applied to each pension tranche from the retirement date or the date beneficiary payments commenced, to the valuation date, in accordance with the scheme rules;

(7) Q is the relevant annuity factor to apply to each pension tranche at the valuation date, taking into account the guidance on relevant annuity

factors in DISP App 4.5.1G and made up of the assumptions at DISP App 4 Annex 1, including those relating to:

(a) the initial post-retirement discount rate (which allows for the annuity pricing margin) at DISP App 4 Annex 1 7.1, based on the discounted mean term at the valuation date;

(b) post-retirement pension increases, as amended by the Black Scholes model at DISP App 4 Annex 1 6.1, where relevant;

(c) mortality at DISP App 4 Annex 1 10.1G;

(8) QA is the relevant annuity factor to apply to each pension tranche at the retirement date, taking into account the guidance on relevant annuity factors in DISP App 4.5.1G and made up of the assumptions in DISP App 4 Annex 1, including those relating to:

(a) the final post-retirement discount rate (which allows for the annuity pricing margin and the adjustment for the *pension commencement lump sum*), based on the discounted mean term at the retirement date;

(b) post-retirement pension increases, as amended by the Black Scholes model, where relevant; and

(c) mortality assumptions;

(9) R is the discount factor for the period from the valuation date to the retirement date, based on the pre-retirement discount rate, netted down by product and *adviser charges*, following the technical guidance at DISP App 4.5.3G and using the relevant assumptions in DISP App 4 Annex 1; and

(10) S is the probability of survival for the period from the valuation date to the retirement date, using the relevant assumptions in DISP App 4 Annex 1 10.1G.

Calculation of value of B

App 4.4.7 G B is the capitalised value of future death benefits before the *consumer's* retirement date which may have been payable from the *defined benefit occupational pension scheme*.

App 4.4.8 R To determine the value of B in DISP App 4.4.2R(2), a *firm* must:

(1) identify the lump sum and regular pension payments that would be payable on the death of the *consumer* between the valuation date and the retirement date, based on the *defined benefit occupational scheme* rules; and

(2) calculate the present value of the potential payments:

(a) using the pre-retirement discount rate, netted down for charges, from DISP App 4 Annex 1 8.1G;

(b) allowing for the probability of each payment being made, using the mortality assumptions in DISP App 4 Annex 1 10.1G; and

(c) allowing for any pension increases in payment that would be applied to regular payments, using the assumptions in DISP App 4 Annex 1 6.1G.

Calculation of value of C

App 4.4.9 G C is the accumulated value of past payments which would have been paid to the *consumer* from the *defined benefit occupational pension scheme* between the *consumer's* retirement date and the valuation date, taking into account the guidance on taxation of past payments at DISP App 4.5.18G.

App 4.4.10 R To determine the value of C in DISP App 4.4.2R(3), a *firm* must, for each pension tranche:

(1) assume the value is zero if the retirement date is after the valuation date;

(2) if the retirement date is before the valuation date, use the factors K, L, M, N, O and P from DISP App 4.4.6R to determine the level of the *pension commencement lump sum* and each scheme pension payment which would have been made to the *consumer* or their beneficiaries;

(3) adjust each payment to reflect the tax which would have been paid, reflecting the guidance on taxation of past payments at DISP App 4.5.18G;

(4) apply an accumulation rate to each payment, at the rate specified in DISP App 4 Annex 1 12.1G between the date of payment and the valuation date, allowing for changes in the rate over time; and

(5) calculate the sum of all the accumulated payments which would have been made.

Calculation of value of D

App 4.4.11 G D is the current value of the DC pension arrangement.

App 4.4.12 R To determine the value of D in DISP App 4.4.2R(4), a *firm* must:

(1) use the value of all investments and holdings within the *consumer's* DC pension arrangement at the valuation date, in accordance with the technical guidance at DISP App 4.5.5G;

(2) where any payments were made from the DC pension arrangement prior to the retirement date:

(a) identify all payments made before the retirement date;

(b) apply an accumulation rate to each payment, at the rate specified in DISP App 4 Annex 1 12G between the date of payment and the valuation date, allowing for changes in the rate over time; and

(c) add the total of all the accumulated payments in (2)(b) to the value in (1);

(3) deduct the accumulated value of any contributions and transfers to the DC pension arrangement, allowing for investment returns, not resulting from the *pension transfer* advice; and

(4) add on the present-day value of any cash enhancements paid to the *consumer* in connection with the transfer, in accordance with the technical guidance at DISP App 4.5.5G and using the assumption at DISP App 4 Annex 1 13.1G.

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Calculation of value of E

App 4.4.13 G E is the accumulated value of past benefits paid to the *consumer* or beneficiary from the *consumer's* DC pension arrangement from the retirement date to the valuation date, taking into account the guidance on taxation of past payments at DISP App 4.5.18G;

App 4.4.14 R To determine the value of E in DISP App 4.4.2R(5), a *firm* must:

(1) identify all payments from the assumed retirement date to the valuation date, net of tax actually incurred, including:

(a) pension commencement lump sums;

(b) uncrystallised funds pension lump sums;

(c) income withdrawals; and

(d) annuity payments;

(2) apply an accumulation rate to each payment, at the rate specified in DISP App 4 Annex 1 12.1G between the date of payment and the valuation date, allowing for changes in the rate over time; and

(3) calculate the sum of all the accumulated payments which would have been made.

Calculation of value of F

App 4.4.15 G F is the capitalised value of previously secured annuity benefits which will be paid from the *consumer's* DC pension arrangement after the valuation date.

App 4.4.16 R To determine the value of F in DISP App 4.4.2R(6), a *firm* must calculate the value of:

(T) x (U)

where:

(1) T is the annual value of the annuity income at the valuation date;

(2) U is the relevant annuity factor to apply to the current level of the secured annuity income at the valuation date, following the guidance at DISP App 4.5.1G and made up of the assumptions in DISP App 4 Annex 1, including those relating to:

(a) the initial post-retirement discount rate (which allows for the annuity pricing margin) based on the discounted mean term at the valuation date;

(b) pension increases that apply to the secure annuity income, as amended by the Black Scholes model, where relevant; and

(c) mortality assumptions.

Calculation of value of G and H

App 4.4.17 G G is the value of any increase in SERPS as a result of the transfer and H is the value of any reduction in SERPS as a result of the transfer, only if the transfer took place prior to 6 April 2016.

App 4.4.18 G To determine the value of G and H a *firm* should have regard to the technical guidance in DISP App 4.5.11G.

Calculation of value of initial adviser charges (consequential loss)

App 4.4.19 R To determine the value of any initial *adviser charges*, *firms* must:

(1) calculate the value of all the elements of the computation in DISP App 4.4.2R;

(2) add the value in (1) to the current value of the *consumer's* DC pension arrangement;

(3) multiply the result by the relevant assumed percentage initial *adviser charges* in DISP App 4 Annex 1 9.1G;

(4) where the resulting initial *adviser charges*:

(a) exceed the maximum level for the *initial adviser charges* in DISP App 4 Annex 1 9.1G, set the *initial adviser charges* to the maximum level; or

(b) fall below the minimum level for the initial *adviser charges* in DISP App 4 Annex 1 9.1G, set the *initial adviser charges* to the minimum level.

4.5 Technical guidance

Annuity values

App 4.5.1 G When calculating the relevant annuity factor to value future payments from either the *defined benefit occupational pension scheme* or a guaranteed income previously secured from the proceeds of the DC pension arrangement, *firms* should allow for:

(1) the form of the payments they are valuing, such as the proportion of spouse's benefits on death, frequency and timing of payments, annual increases, remaining guaranteed payment and whether survivor payments are with or without overlap relative to the guaranteed period;

(2) the proportion married:

(a) where the presumed retirement date is after the valuation date, using the assumptions in DISP App 4 Annex 1 10.3G;

(b) where the presumed retirement date is prior to the valuation date:

(i) using the actual marital/civil partnership status; or

(ii) where the actual marital/civil partnership status is not known, using the assumption that the *consumer* is unmarried or not in a civil partnership; and

(3) the possibility that there may be other dependants who could have received benefits under the rules of the *defined benefit occupational pension scheme* or under the contract of any previously secured guaranteed income, and the same principles should be applied to such dependants.

Scheme benefits and rules

App 4.5.2 G When calculating the value of benefits in the *defined benefit occupational pension scheme*, *firms* should take account of the differences in pension tranches. This includes tranches such as bridging pensions which are payable only for a fixed period. The valuation of benefits should take account of how the *consumer's defined benefit occupational pension scheme* provided for the interaction of any guaranteed minimum pension (GMP) tranches with the rest of the scheme benefits (the excess) when pensions are revalued in deferment and increased in payment, including the impact of anti-franking legislation.

Discount factor

App 4.5.3 G When the presumed retirement date is after the valuation date, DISP App 4.4.6R(9) requires firms to use a discount factor ('R') to discount the annuity value at the future retirement date to the present day. The discount factor should be calculated as:

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where:

(1) r is the pre-retirement discount rate net of charges, as set out in DISP App 4.5.15G; and

(2) n is the term to retirement.

Pension commencement lump sums

App 4.5.4 G (1) Where the retirement date is at or prior to the valuation date, a *firm* should assume that the *consumer* would have commuted the maximum *pension commencement lump sum* permitted by legislation, using the actual lump sum commutation factors at the retirement date, unless:

(a) the *consumer* has used the full value of their DC pension arrangement to secure a guaranteed annuity income, in which case *firms* should use the actual *pension commencement lump sum* taken by the *consumer* where this is lower than the maximum permitted by legislation from the *defined benefit occupational pension scheme*; or

(b) a *pension commencement lump sum* was payable in addition to the pension benefit in which case an adjustment should be made to assume the *consumer* took the maximum lump sum permitted overall (including the additional lump sum); or

(c) the *pension commencement lump sum* could have been funded by an additional voluntary contribution fund or a defined contribution section within the *defined benefit occupational scheme*, in which case *firms* should assume that those sources would have been used first to take the maximum permitted under legislation.

(2) A *firm* should base the order of commutation on the *defined benefit occupational pension scheme* rules but, where this is not known, the commutation should be proportionate across all pension tranches, excluding any guaranteed minimum pension.

(3) A *firm* must make reasonable efforts to obtain the actual lump sum commutation factors at the retirement date from the ceding scheme.

(4) For the purposes of (3), where a *firm* has information on the commutation factors available either side of the retirement date, or other relevant information, it should use that information to derive the expected factors at the retirement date.

(5) Where the information in (4) is not available or is insufficient to determine the appropriate factors, a *firm* should use the default rate in DISP App 4 Annex 1 11.3G.

(6) Where a different tax regime (to that currently in force) would have applied at the point of a *consumer's* retirement, this should be taken into account when calculating the maximum permitted by legislation.

Valuing the DC pension arrangement

App 4.5.5 G Step 1 at DISP App 4.3.3R(1) requires a *firm* to collect the necessary information about the *consumer's* DC pension arrangement. This information should include the value of the investments and holdings within the *consumer's* DC pension arrangement at the valuation date.

App 4.5.6 G (1) If an up-to-date valuation is not readily available for an investment (for example, if the investment is held in illiquid or unquoted assets or because the manager or provider of the DC pension arrangement is unable to provide a valuation), a *firm* should take the following action to place a value on those investments:

(a) where the investment is illiquid or unquoted but there is a realistic probability of receiving value from an asset, obtain the most recent historical valuation and, unless there is clear evidence that the value has otherwise materially changed, increase it in line with the consumer price index from the date of the historical valuation to the valuation date;

(b) where the investment is liquid, such as a fund, calculate the notional value of the fund by on the valuation date using available information. For example, using the known number of units and an available unit price, or a last known value and the change in the unit price (and allowing for known charges);

(c) where the investment is illiquid or unquoted and appears to have no realisable value, and there is no recent historical valuation, the *firm* should disregard the value of the investment.

(2) When deciding what action to take to place a value on investments, a *firm* should consider the reason why a valuation is not readily available for the investment and, in particular, seek to identify whether assets could be:

(a) associated with a scam;

(b) associated with illegal activity; or

(c) subject to insolvency procedures.

(3) Where the only available valuation of an investment is the book value, a *firm* should consider whether the book value is representative of what could realistically be realised from the investment and, if appropriate, adjust the valuation accordingly, which may include disregarding 100% of the book value of the investment.

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(4) Where a *consumer* received a cash enhancement (which was paid in addition to and not as part of the cash equivalent transfer value), a *firm* should calculate the current value of the cash enhancement by increasing it in line with returns indicated in the relevant assumptions in ■ DISP App 4 Annex 1, from the date of payment to the valuation date.

Early and late retirement

App4.5.7 G When a *consumer* is presumed to have retired at a date which they would not have been able to retire in the *defined benefit occupational pension scheme*, then the retirement date used to value the *defined benefit occupational pension scheme* benefits should be the earliest date at which the *consumer* could have retired from the *defined benefit occupational pension scheme*.

App4.5.8 G Early and late retirement factors at the retirement date are key items of data and every attempt should therefore be made to obtain them. Where it is not possible to obtain the relevant information, a *firm* should use the default rates in ■ DISP App 4 Annex 1. These factors should be applied to the pension revalued to early/late retirement date.

Other policies in conjunction with the transfer

App4.5.9 G Any additional policies taken out in conjunction with the transfer (eg, life cover with a S.32) to replace life cover provided by the scheme should be taken into account. Consequently, where a claim arises under these policies, the amount paid offsets the loss. Where the investor has paid for this cover, the loss should be increased by the accumulated value of the premiums paid accumulated at bank base rates. This adjustment should be strictly limited both in terms of claims and premiums to that proportion of the benefits under the additional policies that replaced those under the scheme.

Contracted-out schemes

App4.5.10 G Where retirement took place following a transfer from a contracted-out scheme, the precise formula depends on whether the contracted-out pension rights were also transferred. If they were not transferred, then they should not be taken into account when assessing loss.

Adjustment for SERPS

App4.5.11 G (1) A SERPS adjustment is not needed when the *consumer* transferred out or opted out of their contracted-out *defined benefit occupational pension scheme* from 6 April 2016.

(2) Where contracted-out pension rights from the *defined benefit occupational pension scheme* were transferred into the DC pension arrangement/section 32 buyout plan before 6 April 2016, a *consumer's* state pension entitlement may differ from that which would have been payable had the transfer not taken place.

(3) Allowance should be made for this difference by making a SERPS adjustment which values the difference in the *consumer's* state pension entitlement before and after the transfer. A *firm* will need to obtain the detailed information on the *consumer's* state pension entitlement to assess the impact on their starting amount of state pension.

Pension increases in deferment (revaluation)

App4.5.12 G (1) When the *defined benefit occupational pension scheme* provides fixed rates of revaluation, a *firm* should use fixed rates for future revaluation.

(2) When the *defined benefit occupational pension scheme* provides revaluation increases based on *RPI*, *CPI and earnings inflation*, a *firm* should try to obtain information on how the scheme applies increases. This would include the month in which each index is both sourced and applied.

(3) A *firm* should apply increases for guaranteed minimum pensions for complete tax years.

(4) Unless the *defined benefit occupational pension scheme* provides otherwise, a *firm* should treat benefits linked to inflation as increasing by inflation over the whole period of revaluation rather than on a year-by-year basis. A *firm* should not make an adjustment for an individual year of negative inflation.

(5) When the *defined benefit occupational pension scheme* provides for pre-retirement pension increases to be capped on an annual basis, the Black-Scholes model should be applied for future revaluation assumptions, consistent with the approach for pension increases in payment in ■ DISP App 4 Annex 1 6.1G.

Pension increases in payment

App4.5.13 G Where a *firm* values income benefits with increases in payment which are:

(1) fixed, they should use those fixed rates; or

(2) dependant on *RPI* or *CPI*, they should use the relevant assumptions in ■ DISP App 4 Annex 1.

Multiple product providers

App4.5.14 G Where the transfer value was split between 2 product providers, the loss may be assessed in 2 parts, with the occupational scheme benefits split in proportion to the transfer value.

Ongoing charges

App4.5.15 G (1) Where the *consumer's* retirement date is after the valuation date, ■ DISP App 4.4.6R(9) requires a *firm* to net down the pre-retirement discount rate for the default product and *adviser charges* using the relevant assumptions in DISP App 4 Annex 1. Ongoing *adviser charges* should be included in all circumstances.

(2) When netting down the pre-retirement discount rate, a *firm* should use the following formula:

[(1 + i%) x (1 - c%)] – 1

where:

(a) i% is the pre-retirement discount rate (unadjusted for charges) each year; and

(b) c% is the sum of the default product and *adviser charges* each year.

Free standing additional voluntary contributions performance comparator

App 4.5.16 G Where *firms* need to make an assumption on returns within an in-house additional voluntary contribution arrangement, they should use the relevant assumption in DISP App 4 Annex 1.

Death of the consumer before the valuation date

App 4.5.17 G Where the *consumer* died before the valuation date, either before or after retiring, *firms* should apply the principles of the formulae in DISP App 4.4.2 to 4.4.19R.

Taxation when valuing past payments

App 4.5.18 G (1) When a *firm* is valuing past payments made before the valuation date where the *consumer* has died or would have retired if they had remained in their *defined benefit occupational pension scheme*, it should value the payments from the:

(a) DC pension arrangement net of any actual tax incurred; and

(b) notional payments from the *defined benefit occupational pension scheme* using the tax rate that would have applied if these payments had been made.

(2) App 4.5.18G(1) does not apply when a *firms* is rolling up past payments made from the DC pension arrangement to add back into the value of the DC pension arrangement where the *consumer* would not yet have retired from their *defined benefit occupational pension scheme*.

Assumptions for calculation of redress

This Annex belongs to DISP App 4.4.

1	**Assumption updates**				
1.1	R	(1)	A *firm* must use the following assumptions which are updated quarterly:		
			(a)	the *RPI* inflation rate;	
			(b)	the *CPI* inflation rate;	
			(c)	the post-retirement discount rate; and	
			(d)	the pre-retirement discount rate.	
		(2)	Redress calculations must be based on the new assumptions available on the first day of each new quarter, using publicly available data from the final business day of the quarter immediately before.		
		(3)	*Firms* must use the updated mortality assumptions in DISP App 4 Annex 1 at 10.1G from 1 April each year.		
2	**Alternative assumptions**				
2.1	R	A *firm* must not use assumptions that are less conservative than those specified in DISP App 4 Annex 1 . Where this appendix does not address the particular and individual circumstances of a *consumer's complaint*, a *firm* should address those circumstances in accordance with the guidance at DISP App 4.2.5G.			
2.2	G	Where a *consumer* is likely to be disadvantaged by applying a pre-retirement discount rate calculated in accordance with DISP App 4 Annex 1 8.1G, *firms* should apply an appropriate alternative discount rate which reasonably reflects the expected rate of return from the *consumer's* DC pension arrangement investments to avoid that disadvantage.			
3	**RPI inflation**				
3.1	G	(1)	A *firm* should use the *RPI* inflation rate which is based on the 'UK instantaneous implied inflation forward curve (gilts)' published by the Bank of England by taking:		
			(a)	the spot rate for the number of integer years to retirement, for a pre-retirement *RPI* inflation rate; or	
			(b)	a derived forward rate commencing from the date of retirement for the number of integer years indicated by the discounted mean term, for a post-retirement *RPI* inflation rate, using the approach set out in DISP App 4 Annex 1 7.1G.	
		(2)	A *firm* should use the 40-year rate where the number of integer years exceeds 40.		
		(3)	A *firm* should use the rate for the shortest term available on the curve (including half-years) where the number of integer years required is fewer than shown in the curve.		
		(4)	A *firm* should deduct an inflation risk premium of 0.2% from the pre-retirement *RPI* when deriving a *RPI* inflation rate for pre-retirement revaluation increases and the pre-retirement discount rate (but not for post-retirement increases).		

(5) A *firm* should round the *RPI* inflation rate to the nearest 0.05% unless it is being used to derive another assumption.

4 Consumer Price Index (CPI) inflation

4.1 G (1) A *firm* should deduct an unrounded *CPI* adjustment factor from the unrounded *RPI* inflation rate, then round the resulting *CPI* inflation to the nearest 0.05%.

(2) A *firm* should derive the pre-retirement *CPI* adjustment (to apply to the pre-retirement *RPI* rate) as follows:

(a) if 20YY + a ≤ 2030, an adjustment of 1.0%; or

(b) if 20YY + a > 2030, an adjustment determined by the result of the formula:

$$\frac{[1\% \text{ x } (2030 - 20YY)] + 0.5\%}{\text{a}}$$

where:

(i) the calculation has a valuation date in year 20YY;

(ii) the *consumer* has a term to retirement of x years where:

a ≤ x < b

(and a and b are the integer values either side of x); and

(iii) a > 0 (as the pre-retirement inflation assumptions are not required when a=0).

(3) A *firm* should derive the post-retirement *CPI* adjustment (to apply to the post-retirement *RPI* rate) as follows:

(a) if 20YY + a > 2030, a rate of 0%; or

(b) if 20YY + a ≤ 2030, a rate determined by the result of the formula:

$$\frac{[1\% \text{ x } (2030 - 20YY - \text{a})] + 0.5\%}{\text{d}}$$

where:

(i) the calculation has a valuation date in year 20YY;

(ii) the *consumer* has a term to retirement of x years where:

a ≤ x < b

(and a and b are the integer values either side of x); and

(iii) the *consumer* retires at an age with associated discounted mean term of d.

5 Earnings inflation

5.1 G A *firm* should use earnings inflation of CPI + 1% whenever they need to project benefits which are earnings related, such as those which increase in line with an order made under section 148 of the Social Security Administration Act 1992, by:

(1) taking the relevant *CPI* spot inflation rate, derived in line with the (unrounded) approach for setting the *CPI* assumption; and

		(2)	rounding the resulting earnings inflation rate to the nearest 0.05%.
6	**Pension increases in payment**		
6.1	G	(1)	Where a pension tranche increases in payment with either *RPI* or *CPI* and the scheme rules impose a cap and/or a floor, the pension increase assumption should be derived using a standard Black Scholes model with an inflation volatility of 1.0%.
		(2)	The final assumption in (5.1G(1)) should be rounded to the nearest 0.05%.
7	**Post retirement discount rate**		
7.1	G		To calculate the initial post-retirement discount rate, *firms* should:
		(1)	determine the relevant rate on the Bank of England nominal government bond (gilt) yield curve, using the following formula:

$$\left(\frac{(1 + r)^{(n+d)}}{(1 + rs)^{n}}\right)^{\left(\frac{1}{d}\right)} - 1$$

where:

(a) r is the spot rate for a term equal to the sum of the integer period to retirement and the relevant discounted mean term;

(b) rs is the spot rate for the integer period to retirement;

(c) n is the integer number of years to retirement; and

(d) d is the discounted mean term;

		(2)	derive an 'initial rate' by deducting 0.6% from the rate in (1) above, as an allowance for annuity pricing margins.
7.2	G	(1)	Where the *consumer's* presumed date of retirement is after the valuation date, *firms* should use the discounted mean term in the table below based on the *consumer's* age at the presumed date of retirement; otherwise, they should use the discounted mean term based on the *consumer's* age at the valuation date:

Age	Discounted mean term
55	23
60	20
65	16
70	13
75	11

		(2)	Where the *consumer's* age is in between the ages shown in the tables, *firms* should use linear interpolation to derive the discounted mean term, and round the resulting figure to the nearest integer.
		(3)	Where the *consumer's* age is higher than the ages shown in the tables, *firms* should derive the discounted mean term by extrapolation, and round the resulting figure to the nearest integer.
7.3	G		Where the consumer's date of retirement is after the valuation date, firms should derive a final post-retirement rate, as follows:
		(1)	(a) 75% of the initial rate, plus;
			(b) 25% of the initial rate plus 1.6%; or
		(2)	by modifying the approach in DISP App 4 Annex 1 7.3G(1) to reflect where a *pension commencement lump sum* was payable in addition to the pension income in the *defined benefit occupational pension scheme*.

7.4	G	*Firms* should round the final post-retirement rate to the nearest 0.05%.		
8	**Pre-retirement discount rate**			
8.1	G	(1)	Where the retirement date is after the valuation date, the pre-retirement discount rate represents the assumed rate of return for the period from the valuation date to the *consumer's* retirement date and targets a rate of return of one-half of the return on equities.	
		(2)	A *firm* should round down the period of retirement to the number of integer years remaining to the retirement date.	
		(3)	A *firm* should derive the pre-retirement discount rate as follows:	
			0.5 x [(1 + *CPI* spot inflation rate) x (1+ average dividend yield) x (1 + growth in dividends) - 1]	
			where:	
			(a)	the *CPI* spot inflation rate is derived in line with the (unrounded) approach for setting the *CPI* assumption;
			(b)	the average dividend yield is taken as the arithmetic average of the dividend yield on the FTSE All Share Index of the last business day over the last 4 quarter ends; and
			(c)	the growth in dividends is assumed to be 1.0 % each year.
		(4)	*Firms* should round the final assumption to the nearest 0.05% per annum.	
9	**Charges**			
9.1	G	(1)	Default product charges: 0.75% each year.	
		(2)	Default ongoing *adviser charges*: 0.5% each year.	
		(3)	Default initial *adviser charges*: 2.4% of investment value.	
		(4)	Minimum initial advice amount: £1,000.	
		(5)	Maximum initial advice amount: £3,000.	
10	**Demographic assumptions**			
10.1	G	A *firm* should use pre and post-retirement mortality assumptions based on:		
		(1)	the year of birth mortality rate derived from each of the Institute and Faculty of Actuaries' Continuous Mortality Investigation tables PMA16 and PFA16 and including mortality improvements derived from each of the male and female annual mortality projection models, in equal parts; and	
		(2)	mortality improvements derived from the male and female annual CMI Mortality Projections Models in the series CMI (20YY-2) M_[1.25%] and CMI (20YY-2_F)_[1.25%] in equal parts for the year commencing 1 April 20YY.	
10.2	G	A *firm* should use the actual age of a spouse or civil partner who is eligible for benefits on the *consumer's* death unless their age is unknown, in which case the *firm* should assume they are the same age as the *consumer*.		
10.3	G	(1)	Where the presumed date of retirement is after the valuation date, *firms* should use the *consumer's* current marital/civil partner status to determine which status to use at the presumed date of retirement, using the table below:	

Term to retirement (in years)	Married/Civil partner	Not married/No civil partner
0	100%	0%
5	95%	10%
10	90%	20%
15	85%	30%
20	80%	40%
25	75%	45%
30	70%	50%
35	70%	55%
40	70%	55%

(2) When deriving status rates from the table in (1), *firms* should:

(a) interpolate for terms that are not shown and round to the nearest 1%; and

(b) not apply any adjustments for mortality of the spouse/civil partner before the retirement date.

(3) Where the retirement date is prior to the valuation date, a *firm* should use the *consumer's* actual marital/civil partner status, at the valuation date, where known.

(4) Where the actual marital/civil partnership status is not known, a *firm* should use the assumption that the *consumer* is not married or in a civil partnership.

11 Default factors for early retirement, late retirement and lump sum commutation

11.1 G Where the date of retirement is at or prior to the valuation date and the actual early retirement factors are unknown, *firms* should use a default early retirement factor of 4.0% per annum compound, applied after the pension has been revalued to the assumed date of retirement, and assuming the factor is compounded for the number of years, n, to retirement as follows: $(1 - 0.04)^n$.

11.2 G Where the *consumer* has already passed their normal retirement age and the actual late retirement factors are unknown, *firms* should use a default late retirement factor of 5.0% per annum compound, applied after the pension has been revalued to the late date of retirement.

11.3 G Where the date of retirement is prior to the valuation date and the actual lump sum commutation factor is unknown and cannot be reasonably determined from other available information, *firms* should use a default lump sum commutation factor of 20.

12 Accumulation rate for rolling up past payments to the valuation date

12.1 G To calculate the accumulated value of past payments at the valuation date, a *firm* should ensure the accumulation rate from the date of payment to the valuation date reflects the cumulative return, as if each payment had been invested in line with the Bank of England Base Rate over the period.

12.2 G The cumulative return for each past payment should reflect changes in the Bank of England Base Rate over the period by compounding the relevant rates over the period, using the following approach:

$$\prod_{1}^{t}(1 + i_t)^{\left(\frac{n_t}{365}\right)}$$

where:

t is the number of different Bank of England Base Rates that applied over the period from the date of payment of a past payment to the valuation date;

it is the Bank of England Base Rate, for each t; and nt is the number of days that each Bank of England Base Rate applies in the period.

13 Cash enhancement rate of return

13.1 G The cash enhancement rate of return is: 50% of the return on the FTSE 100 Total Return Index.

14 Additional compensation sum

14.1 G Where the date of retirement is after the valuation date, *firms* should increase the redress amount using a rate equal to the pre-retirement discount rate (with an adjustment for charges) between the valuation date and the payment date.

14.2 G Where the date of retirement is at or prior to the valuation date, *firms* should increase the redress amount using a rate equal to the post retirement discount rate (with no adjustment for annuity pricing or *pension commencement lump sums*) between the valuation date and the payment date.

14.3 G To calculate the additional compensation sum, firms should derive a factor as follows:

$(1 + r)^{t/365}$

Where:

r is the rate in DISP App 4 Annex 1 14.1G or 14.2G, as appropriate; and

t is the number of days from the valuation date to the payment date, not counting the payment date itself, and where the valuation date is Day 1.

15 Free standing additional voluntary contributions comparator returns

15.1 G The benchmark index for the rate of return within an in-house additional voluntary contribution arrangement is:

(1) the CAPS 'mixed with property' fund, for returns prior to 1 January 2005; and

(2) the FTSE UK Private Investor Growth Total Return Index for returns from 1 January 2005.

16 Correct comparator scheme

16.1 G (1) For the purpose of this appendix, the *firm* must treat a *consumer* as having a *defined benefit occupational pension scheme* if immediately before the *pension transfer* or *pension conversion* the *consumer* had rights in a *defined benefit occupational scheme* but would now be entitled to rights or benefits from any of the following if they had not been transferred or converted:

(a) the Pension Protection Fund, whether during an assessment period or after the entry of the ceding *defined benefit occupational pension scheme*; or

(b) any registered pension scheme offering *safeguarded benefits*.

16.2 G (2) If there is more than one *defined benefit occupational pension scheme* that the *consumer* could have had rights in if they had not transferred to the DC pension arrangement, the *firm* should calculate the primary compensation sum using the *defined benefit occupational pension scheme* that the *consumer* would most likely have had rights in if the *firm* had provided compliant pension transfer advice.

(3) When determining which *defined benefit occupational pension scheme* the *consumer* would have had rights in, the *firm* should consider all of the evidence available to it and which it could reasonably obtain.

(4) If the *defined benefit occupational pension scheme* used by the *firm* when calculating redress is likely to produce a primary compensation sum that is lower than would be the case if another *defined benefit occupational pension scheme* had been used, the *firm* should explain:

(a) why the *firm* considers the redress offer would be higher if another *defined benefit occupational pension scheme* had been used as the comparator;

(b) why it considers the *consumer* would most likely have had rights in the *defined benefit occupational pension scheme* used over other options;

(c) the evidence and information considered by the *firm* when determining which *defined benefit occupational pension scheme* to use when calculating the primary compensation sum; and

(d) how the *consumer* can challenge the *defined benefit occupational pension scheme* used by the *firm* if they disagree with the *firm's* decision.

(5) For *consumers* who were members of the British Steel Pension Scheme, *firms* should determine the correct comparator scheme to use in accordance with CONRED 4 Annex 21 13.21R to 13.26R.

4

Information for redress calculation

This Annex belongs to DISP App 4.3.5G.

The following information may be relevant to the redress calculation:

Category	Information needed
Information about the *consumer*	•Date of birth (DOB) •Date of death (if applicable) •Marital or civil partnership status •Spouse or civil partner's DOB •Children's ages if the *consumer* has children who pension benefits would potentially be payable to •Whether the *consumer* is assumed to have retired and, if so, the date at which the *consumer* is assumed to have retired •Information to help determine any adjustment to take the *consumer's* tax position into account: oannual taxable income oexpected total contributions to *consumer's* DC pension in the tax year in which redress is being paid oannual allowance carry forward from previous years ocurrent lifetime allowance usage oexpected future lifetime allowance usage odetails of any lifetime allowance protections omarginal tax rate expected in retirement
Information about the *consumer's* former DB scheme	•Date of leaving active service in the DB scheme ('DOL') •Section •Annual DB pension at DOL split by tranche, as applicable to each section, including GMP splits •Automatic lump sum entitlement due at retirement at DOL split by tranche, as applicable to each section •Normal retirement age applying to each tranche •Early and later retirement factors

Category	Information needed
	•Confirmation of any lower unreduced retirement age that applies to any tranches due to any enhanced early retirement provision •Amount of any other associated benefits (eg, bridging pension, death benefit entitlements pre- and post-retirement) •PCLS factors in force at date of retirement •Details of any adjustment applicable to the transfer as part of a pension sharing order entered into
Information about the *consumer's* current DC pension (relating to funds from the transfer)	•Date of transfer out of the DB scheme •Fund value at valuation date •Percentage-based product charges and *adviser charges*, including annual management charges •Product and adviser non-percentage charges, including ongoing *adviser charges* •Amount of any PCLS taken and dates of payment •Amount of any funds accessed flexibly and dates of payments •Date of any annuity purchased •Annuity terms (if applicable): oamount oincreases (*RPI* linked, *CPI* linked, applicable cap, applicable floor) ospouse's pension – proportion on death oremaining guarantee period from the valuation date opayment in arrears or advance opayment frequency

Redress steps in diagrammatic form

This Annex belongs to DISP App 4.3.2G.

The diagram illustrates the steps to take to calculate redress and to make a redress offer.

/MILES/PKF/fca/graphics/Graphics/DISP_APP_4_ANNEX_3_04012023.png

Appendix 5 Relevant motor finance discretionary commission arrangement complaint handling rules

5.1 Purpose, interpretation and application

Purpose

App5.1.1 G

(1) This appendix contains *rules* and *guidance* in relation to a *relevant motor finance DCA complaint* that:

(a) apply and modify the *rules* and *guidance* in DISP 1.2 (Consumer awareness rules), DISP 1.6 (Complaints time limit rules) and DISP 2.8 (Was the complaint referred to the Financial Ombudsman Service in time?); and

(b) require *lenders* and *credit brokers* to retain and preserve relevant records.

(2) Where, in relation to a *relevant motor finance DCA complaint*, provisions in DISP 1 or 2 refer to *rules* or *guidance* that are modified by this appendix, the modified provisions apply.

(3) All *rules* and *guidance* in *DISP* continue to apply to a *relevant motor finance DCA complaint* unless otherwise stated.

Interpretation

App5.1.2 R

(1) For the purposes of this appendix, a relevant motor finance DCA complaint is a *complaint* where:

(a) the subject matter of the *complaint* relates, in whole or part, to a *regulated credit agreement* entered into before 28 January 2021;

(b) the *regulated credit agreement*, in whole or part, financed the purchase of a motor vehicle, or a motor vehicle was bailed or hired under the agreement;

(c) there were arrangements between the *lender* and a *credit broker* relating to the entering into of that agreement that included a *discretionary commission arrangement*; and

(d) the *respondent*:

received the *complaint* in the period beginning with 17 November 2023 and ending with 4 December 2025; or

sent a *final response* to the *complaint* in the period beginning with 12 July 2023 and ending with 29 January 2026.

(2) The arrangements referred to in (1)(c) are to be read as including any arrangement which would, if it had been entered into on or after 28 January 2021, have constituted a *discretionary commission arrangement*.

5

App5.1.3 G (1) The purpose of DISP App 5.1.2R(2) is to ensure that the *complaint* handling *rules* in this appendix apply in respect of motor finance commission arrangements which are in substance equivalent to a *discretionary commission arrangement* but do not (because of the time at which they were entered into) meet the *Handbook* definition.

(2) This will include such arrangements between persons undertaking equivalent activities under an Office of Fair Trading licence prior to the transfer of responsibility for the regulation of consumer credit to the *FCA* on 1 April 2014 (provided the other requirements in DISP App 5.1.2R(1) are met).

(3) The effect of DISP App 5.1.2R(2) is that a *relevant motor finance DCA complaint* includes *complaints* involving any motor finance commission arrangements which would, if they were entered into on or after the date that the prohibition in CONC 4.5.6R was introduced, fall within the definition of a *discretionary commission arrangement*.

Application

App5.1.4 R This appendix applies to:

(1) *respondents* and the *Ombudsman* in respect of a *relevant motor finance DCA complaint*; and

(2) *lenders* and *credit brokers* in respect of records relating to any *regulated credit agreement* entered into before 28 January 2021 that meets the requirements in DISP App 5.1.2R(1)(b) and (c).

App5.1.5 R Where this appendix applies or modifies provisions in DISP 2, the term *respondent* in DISP App 5.1.2R and 5.1.4R has the *glossary* meaning that applies in that chapter.

5.2 Complaint handling rules in respect of a relevant motor finance DCA complaint

Time limits for a final response, consideration by the Ombudsman and complaints records

App 5.2.1 R

(1) This *rule* applies in respect of a *relevant motor finance DCA complaint*:

(a) that is received in the period beginning with 17 November 2023 and ending with 4 December 2025; and

(b) in relation to which a *final response* has not been sent.

(2) For the purpose of calculating the eight-week period in:

(a) DISP 1.6.2R;

(b) DISP 1.6.7G;

(c) DISP 2.8.1R(2); and

(d) DISP 2.8.1R(4)(a),

time is to be treated as not running for the period beginning with 11 January 2024 and ending with 4 December 2025.

(3) The three-year period in DISP 1.9.1R(2) (Complaints record rule) is to be treated as not running for the period beginning with 11 January 2024 and ending with 4 December 2025.

App 5.2.1A G

DISP App 5.2.1R(2) has the effect of extending the period during which the eight weeks referenced in the specified provisions are not treated as running for *relevant motor finance DCA complaints* received between 17 November 2023 and 4 December 2025. For relevant *complaints* that were received between 17 November 2023 and 25 September 2024, the time period had previously been modified (see Dispute Resolution: Complaints Sourcebook (Motor Finance Discretionary Commission Arrangement Complaints) Instrument 2024 (FCA 2024/1)).

Time limits for referring a complaint to the Ombudsman

App 5.2.2 R

(1) This *rule* applies where a *final response* to a *relevant motor finance DCA complaint* is sent in the period beginning with 12 July 2023 and ending with 29 January 2026.

(2) If a *final response* is sent in the period beginning with 12 July 2023 and ending with 29 April 2025, DISP 2.8.2R(1) is modified so that the *Ombudsman* cannot consider a *complaint* if it is referred to the *Financial Ombudsman Service* on or after 30 July 2026.

(3) If a *final response* is sent in the period beginning with 30 April 2025 and ending with 29 January 2026, DISP 2.8.2R(1) is modified so that the *Ombudsman* cannot consider a *complaint* if it is referred to the *Financial Ombudsman Service* more than fifteen *months* after the date on which the *respondent* sent the complainant its *final response*.

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App5.2.2A G ■ DISP App 5.2.2R has the effect of extending the time in which a *relevant motor finance DCA complaint* can be referred to the *Financial Ombudsman Service*. This includes those *complaints* in relation to which a *final response* was sent between 12 July 2023 and 25 September 2024 where the six-*month* period in ■ DISP 2.8.2R(1) was previously extended to fifteen *months* (see Dispute Resolution: Complaints Sourcebook (Motor Finance Discretionary Commission Arrangement Complaints) Instrument 2024 (FCA 2024/1)).

App5.2.3 R [deleted]

Communicating with consumers

App5.2.4 R

(1) A *respondent* must update any information it has published pursuant to ■ DISP 1.2.1R(1) as soon as is practicable to:

(a) inform consumers of the pause to time limits for a *final response* as set out in ■ DISP App 5.2.1R(2); and

(b) refer them to fca.org.uk/carfinance, which explains the reason for the pause.

(2) This *rule* applies until 23:59 on 29 January 2026.

Communicating with complainants

App5.2.5 R [deleted]

App5.2.5A R

(1) This *rule* applies where a *respondent*:

(a) received a *relevant motor finance DCA complaint* in the period beginning with 17 November 2023 and ending with 25 September 2024; and

(b) has not sent a *final response* in relation to that *complaint*.

(2) A *respondent* must:

(a) promptly inform the complainant in writing of the extension to the pause to time limits as set out in ■ DISP App 5.2.1R(2); and

(b) direct the complainant to the information published at fca.org.uk/carfinance, which explains the reason for the pause.

App5.2.5B G ■ DISP App 5.2.5AR means that a *respondent* who sent a written acknowledgment to a *relevant motor finance DCA complaint* in the period beginning with 17 November 2023 and ending with 25 September 2024 should update the complainant that the pause to the eight-week period to send a *final response* now ends with 4 December 2025.

App5.2.5C R

(1) This *rule* applies where a *respondent* receives a *relevant motor finance DCA complaint* in the period beginning with 26 September 2024 and ending with 4 December 2025.

(2) When a *respondent* sends a written acknowledgement in accordance with ■ DISP 1.6.1R(1), they must also:

(a) inform the complainant in writing of the pause to the time limits as set out in DISP App 5.2.1R(2); and

(b) direct the complainant to the information published at fca.org.uk/carfinance, which explains the reason for the pause.

Communicating the Financial Ombudsman Service temporary time limits

App 5.2.6 R [deleted]

App 5.2.7 R

(1) This *rule* applies to a *relevant motor finance DCA complaint* where a *final response* was sent in the period beginning with 12 July 2023 and ending with 25 September 2024.

(2) A *respondent* must:

(a) promptly inform the complainant in writing that the time limit to refer the *complaint* to the *Financial Ombudsman Service* now ends with 29 July 2026; and

(b) direct the complainant to the information published at fca.org.uk/carfinance, which explains the reason for the extension.

App 5.2.8 G DISP App 5.2.7R means that a *respondent* who sent a *final response* to a complainant in the period beginning with 12 July 2023 and ending with 25 September 2024 should update that complainant that the time limit to refer the *complaint* to the *Financial Ombudsman Service* pursuant to DISP 2.8.2R(1) has been extended to 29 July 2026.

App 5.2.9 R

(1) This *rule* applies to a *relevant motor finance DCA complaint* where a *final response* is sent in the period beginning with 26 September 2024 and ending with 29 January 2026.

(2) When providing a *final response* in accordance with DISP 1.6.2R(1), a *respondent* must:

(a) inform the complainant that the time limit to refer the *complaint* to the *Financial Ombudsman Service* has been extended in accordance with DISP App 5.2.2R;

(b) set out the date by which the complainant must refer the *complaint* to the *Financial Ombudsman Service*;

(c) explain that the six-*month* time limit contained in the *Financial Ombudsman Service's* standard explanatory leaflet does not apply; and

(d) direct the complainant to the information published at fca.org.uk/carfinance, which explains the reason for the extension.

(3) For the purpose of complying with DISP 1.6.2R(1)(e) and (f) (if applicable), the wording to include in a *final response* is modified so that:

(a) references to 'within six months of the date of this letter' in DISP 1 Annex 3R(1) and (2), are substituted with either:

(i) 'on or before 29 July 2026' if a *respondent* sends a *final response* on or before 29 April 2025; or

(ii) 'within fifteen months of the date of this letter' if a *respondent* sends a *final response* on or after 30 April 2025; and

(b) the reference to 'is usually six months' in ■ DISP 1 Annex 3R(3) is substituted with either:

(i) 'is, in this case, on or before 29 July 2026' if a *respondent* sends a *final response* on or before 29 April 2025; or

(ii) 'is, in this case, fifteen months' if a *respondent* sends a *final response* on or after 30 April 2025.

5

5.3 General record retention

App 5.3.1 R

(1) *Lenders* and *credit brokers* must retain and preserve records:

(a) relating to any *regulated credit agreement* entered into before 28 January 2021;

(b) which meet the requirements in ■ DISP App 5.1.2R(1)(b) and (c); and

(c) that are or could be relevant to the handling of existing or future *complaints* or civil claims relating to *discretionary commission arrangements*.

(2) The requirement in (1) applies:

(a) regardless of whether a *relevant motor finance DCA complaint* has been made; and

(b) in the period beginning with 11 January 2024 and ending with 11 April 2026.

App 5.3.2 E

The following will be relevant records for the purposes of the requirement in ■ DISP App 5.3.1R:

(1) the *regulated credit agreement*;

(2) records of the commission arrangements relating to the *regulated credit agreement*;

(3) records of any commission, fee or other financial consideration paid (directly or indirectly) in connection with the *regulated credit agreement*, including details of its structure and calculation;

(4) customer files and records, including any agreement setting out the nature of the services offered, any customer transactions and payments; and

(5) communications with the customer.

Dispute resolution: Complaints

DISP TP 1
Transitional provisions

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
1	DISP 1.2.15 G	R	Expired		
1A	DISP 1	R	A *complaint* received by a *respondent* on or before 31 October 2007 should be handled, resolved, recorded and reported in accordance with the requirements of *DISP* as they stood at the date the *complaint* was received.	From 1 November 2007	1 November 2007
1B	DISP 2.7.9 R		In relation to a *complaint* concerning an act or omission before 1 November 2007, in DISP 2.7.9R (2) substitute "an *intermediate customer* or *market counterparty*" for "(a) a *professional client* or (b) *eligible counterparty*".	From 1 November 2007	1 November 2007
1C	*DISP* chapter 1	G	A *firm* may choose to comply with *DISP* chapter 1 as if the changes to it made by the Money and Pensions Service (Consequential Amendments) Instrument 2021 had not been made.	26 November 2021 to 25 November 2022	26 November 2021
2	DISP 1.5.4 R - DISP 1.5.7 R	R	Expired		
3	DISP 1.5.4 R - DISP 1.5.7 R	G	Expired		
6	DISP 2, DISP 3 and FEES 5	R	In DISP 2, DISP 3 and FEES 5references to a "*firm*" or "*firms*" include *unauthorised persons* subject to the *Compulsory Jurisdiction* in relation to *relevant complaints* in accordance with the *Ombudsman Transitional Order.*	From *commencement*	*Commencement*
7	DISP 2, DISP 3 and FEES 5	G	Under the *Ombudsman Transitional Order*, a *relevant complaint* is subject to the *Compulsory Jurisdiction* whether or not it is about a *firm* or an *unauthorised person*. *Unauthorised persons* are not subject to DISP 1, but references to "*firm*" in DISP 2, DISP 3 and FEES 5 include *unauthorised persons* subject to the *Compulsory Jurisdiction* in relation to *relevant complaints*, where applicable.	From *commencement*	*Commencement*

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
7A	DISP 2.8.7 R	R	Nothing in DISP 2.8.7 R affects the position of a *complaint* which, on 31 May 2004, could not have been considered by the *Ombudsman* under DISP 2.8.2 R (2); or DISP 2.8.7R (1)(b) as it then stood (as DISP 2.3.6 R (1)(b)).	From 1 June 2004	Amended with effect from 1 June 2004
7B	DISP 2.8.7 R	R	In the case of a complainant falling within DISP 2.8.7 R, (and whose time for referring a *complaint* under the *rules* as they stood before 1 June 2004 has not expired), time will expire in accordance with DISP 2.8.7 R save that if the final date would otherwise be before 30 November 2004 an explanation of the final date will be in conformity with DISP 2.8.7R (2), provided it stipulates a final date which is not less than two months from the date on which the explanation is likely to be received by the complainant.	From 1 June 2004	Amended with effect from 1 June 2004
8	DISP 1 DISP 2 DISP 3 DISP 4 and FEES 5	R	In relation to *relevant complaints*, references in DISP 1, DISP 2, DISP 3, DISP 4 and FEES 5 to an "*eligible complainant*" include a person who is to be treated as an *eligible complainant* in accordance with the *Ombudsman Transitional Order* and references to a *complaint* shall be construed accordingly.	From *commencement*	*Commencement*
9	DISP 5.5.1 R	R	Expired		
10	DISP 1.10.1 R and DISP 1.10.2 R	R	Expired		
11	DISP 1.10.1 R and DISP 1.10.2 R	R	Expired		
12	DISP 1.10.1 R and DISP 1.10.2 R	R	Expired		
13	DISP 1	R	Deleted		
14		G	Expired		
15	FEES 5.4.1 R	R	Expired		
16	FEES 5.4.1 R	G	Expired		
17	DISP 1.3.12R - DISP 1.3.17R	R	Deleted		
18	DISP 1.10.1 R	R	Expired		

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
	and DISP 1.10.2 R, DISP 1.10.4 R and DISP 1 Annex 1				
19	DISP 1.10.1C R and DISP 1.10.1D G	R	Expired		
20	DISP 1.6.4 R	R	Expired		
21	DISP 2.7.3 R	R	A *person* is also an *eligible complainant* if: (a) it is a business with a group annual turnover of less than £1 million at the time it refers the *complaint* to the *respondent*; (b) the *complaint* relates to a contract or *policy* entered into by or for the benefit of the complainant before 1 November 2009; and (c) if the *complaint* had been made immediately before 1 November 2009 the *respondent* was subject to, or participated in, the *Ombudsman*'s jurisdiction in respect of the activity to which the *complaint* relates.	From 1 November 2009	1 November 2009
22	DISP 2.7.3 R	G	Transitional provision 21R applies together with the other eligibility *rules* in DISP 2.7. So, for example, a *person* who is an *eligible complainant* under the transitional provision, will not be an *eligible complainant* if the *complaint* does not arise from matters relevant to one of the relationships set out in DISP 2.7.6 R.	From 1 November 2009	1 November 2009
23	DISP 1.10A.1 R	R	[deleted]		
24	DISP 1.10A.1 R	R	[deleted]		
25	DISP 1.11.6A R	R	[deleted]		
26	DISP 2.8.2 R	R	[deleted]		
27	DISP 1.10.5 R	R	[deleted]		

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
27A	Amendments to *DISP* made in the Consumer Redress Schemes Instrument 2011		The amendments do not apply in relation to any *consumer redress scheme* imposed before the instrument came into force on a particular *firm*, or on a particular *payment service provider* or *electronic money issuer*, as envisaged by section 404F(7) of the *Act*.	From 1 August 2011 indefinitely	1 August 2011
28	DISP 3.7.4 R	R	For a *complaint* referred to the *Financial Ombudsman Service* before 1 January 2012 the maximum money award which the *Ombudsman* may make is £100,000.	From 1 January 2012	1 January 2012
28A	The amendments to DISP 2.7.6R (12) effected by the Dispute Resolution: Complaints (Amendment No 4) Instrument 2011	R	The amendments referred to in column (2) do not affect who is an *eligible complainant* for the purpose of DISP 2.7.6 R (12)(a) in respect of complaints that relate to acts or omissions that occurred before 1 January 2012.	From 1 January 2012	1 January 2012
29	DISP 1.10.2 R and DISP 1 Annex 1	R	Where a *firm* reports information on any *complaints* closed under a two-stage procedure before 1 July 2012, the *rules* and *guidance* in DISP 1.6.6 R, DISP 1.10.3G (2), DISP 1.10.7R (3), and DISP 1.10.8 G and DISP 1 Annex 1 apply as they stood on 30 June 2012.	1 July 2012 to 31 December 2012	1 August 2009
30	DISP 1.10.2A R	R	Where a *firm*, which has a reporting period ending on or before 30 June 2013 submits its report to the *FCA* in accordance with the *complaints reporting rule* at DISP 1.10.2A R the number of *complaints* must be calculated for the period from the 31 December 2012 to the end of the *firm's* relevant reporting period.	31 December 2012 to 30 June 2013.	31 December 2012
31	DISP 1.10.6A R	R	(1) A *firm* is not liable to pay the administrative fee in DISP 1.10.6A R in respect of a failure to submit a report in accordance with DISP 1.10.5 R for a relevant reporting period ending before 1 March 2012.	From 1 March 2012	1 March 2012

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
			(2) Relevant reporting period in (1) has the meaning in DISP 1.10.4 R.		
32	The changes to DISP 1.10 and DISP 1.10A set out in Annex K of the Consumer Credit (Consequential and Supplementary Amendments) Instrument 2014	R	The changes referred to in column (2) to DISP 1.10 and DISP 1.10A do not apply until 1 October 2014.	1 April 2014 to 1 October 2014	1 April 2014
33	The changes to DISP 1.10 and DISP 1.10A set out in Annex K of the Consumer Credit (Consequential and Supplementary Amendments) Instru-	G	*Firms* are reminded that CONC 12.1.4 R provides that DISP 1.10 and DISP 1.10A (a) do not apply to a *person* with only an *interim permission*; and (b) apply to a *firm* with an *interim permission* that is treated as a variation of *permission* with respect to *credit-related regulated activity* or *operating an electronic system in relation to lending* as if the changes to DISP 1.10 and DISP 1.10A effected by the Consumer Credit (Consequential and Supplementary Amendments) Instrument 2014 had not been made. The effect of TP 32 and CONC 12.1.4 R is that: (1) for a *firm* with only an *interim permission*: (a) the reporting frequencies, submission deadlines and time limits for publication for the returns and complaints data summaries in DISP 1.10 and DISP 1.10A are calculated by reference to the *firm's* next *accounting reference date* that follows 1 October 2014 or, if later, the date on which the *firm's* applica-	1 April 2014 to the date on which *interim permission* ceases to have effect	1 April 2014

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
	ment 2014		tion for *permission* to carry on *credit-related regulated activity* or *operating an electronic system in relation to lending* is granted; (b) the first complaints return in the form in DISP 1 Annex 1 should cover *complaints* received in the period: (i) starting on either 1 October 2014 or, if later, on the date on which the *firm's* application for *permission* to carry on *credit-related regulated activity* or *operating an electronic system in relation to lending* is granted; and (ii) ending on either the *accounting reference date* or (if the frequency is twice a year and the start of the period under (i) is more than six months before the *accounting reference date*) the date that falls six months before the *firm's accounting reference date*. (2) For a *firm* with an *interim permission* that is treated as a variation of *permission*, where the relevant reporting period includes a period after the date on which the *firm's* application for a variation of *permission* to add *credit-related regulated activity* or *operating an electronic system in relation to lending* is granted (or, if that date is before 1 October 2014, where the relevant reporting period includes a period after 1 October 2014): (a) the complaints return form should be submitted in the form in DISP 1 Annex 1 as amended by Annex K of the Consumer Credit (Consequential and Supplementary Amendments) Instrument 2014); and (b) items 35 to 46 of the form should cover *complaints* received from 1 October 2014 or, if later, from the date on which the *firm's* application for *permission* to carry on *credit-related regulated activity* or *operating an electronic system in relation to lending* is granted.		
34	DISP 1.10 and DISP 1.10A	R	DISP 1.10 and DISP 1.10A do not apply to a *firm* with *permission* to carry on only one or more *credit-related regulated activities* or *operating an electronic system in relation to lending* (and no other *regulated activity*) until 1 October 2014.	1 April 2014 to 1 October 2014	1 April 2014

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
35	DISP 2.3.1 R, DISP 2.3.2A R and DISP 2.3.2B R	R	(1) Except where indicated otherwise, expressions used in this *rule* have the same meaning as they had in the Consumer Credit Act 1974 on 31 March 2014, before the amendments made to that Act by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2013, the Financial Services Act 2012 (Consumer Credit) Order 2013, the Financial Services and Markets Act 2000 (Consumer Credit) (Miscellaneous Provisions) Order 2014, the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014, the Consumer Credit Act 1974 (Green Deal) (Amendment) Order 2014, and the Financial Services and Markets Act 2000 (Consumer Credit) (Miscellaneous Provisions) (No. 2) Order 2014 came into force.	Indefinitely from 1 April 2014	1 April 2014
			(2) In DISP 2.3.1 R, DISP 2.3.2A R and DISP 2.3.2B R, references to an act or omission by a *firm*, *payment service provider* or *electronic money issuer* in carrying on *regulated activities* or *credit-related regulated activities* include an act or omission which took place before 1 April 2014 in carrying on any one of the following activities:		
			(a) providing credit or otherwise being a creditor under a regulated consumer credit agreement;		
			(b) the bailment or (in Scotland) the hiring of goods or otherwise being an owner under a regulated consumer hire agreement;		
			(c) credit brokerage in so far as it was the effecting of introductions of:		
			(i) individuals desiring to obtain credit to persons carrying on a consumer credit business; or		
			(ii) individuals desiring to obtain goods on hire to persons carrying on a consumer hire business;		
			(d) in so far as they related to regulated consumer credit agreements or regulated consumer hire agreements:		

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
			(i) debt-adjusting;		
			(ii) debt-counselling;		
			(iii) debt-collecting; or		
			(iv) debt administration;		
			(e) the provision of credit information services; or		
			(f) the operation of a credit reference agency;		
			where at the time of the act or omission complained of:		
			(g) the *firm*, *payment service provider* or *electronic money issuer* was:		
			(i) covered by a standard licence under the Consumer Credit Act 1974; or		
			(ii) authorised to carry on an activity by virtue of section 34A of that Act; or		
			(iii) in accordance with regulation 26(2) of the *Payment Services Regulations* or regulation 31 of the *Electronic Money Regulations* was not required to hold a licence for consumer credit business under section 21 of the Consumer Credit Act 1974; and		
			(h) the activity was carried on in the course of a business of a type which was specified in accordance with section 226A(2)(e) of the *Act* (now repealed).		
36	DISP 2.3.1 R	R	In DISP 2.3.1 R (4), in relation to an act or omission by a *firm* in lending *money* that took place before 1 April 2014, the reference to "(excluding *restricted credit* where that is not a *credit-related regulated activity*)" is to be read as a reference to "(excluding *restricted credit* where that is not an activity described in TP 35(2))".	Indefinitely from 1 April 2014	1 April 2014
37	DISP 2.3.1 R	R	In DISP 2.3.1 R (5), in relation to an act or omission by a *firm* in paying *money* by a *plastic card* that took place before 1 April 2014, the reference to "(excluding a *store card* where that is not a *credit-related regulated activity*)" is to be read as a reference to "(excluding a *store card* where that is not an activity described in TP 35(2))".	Indefinitely from 1 April 2014	1 April 2014

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
38	DISP 1	R	In respect of a *complaint* received by a *respondent* on or before 8 July 2015 the *respondent* must handle, resolve, record and report the *complaint* in accordance with the *rules* as they stood at the date on which the *complaint* was received by the *respondent*.	From 9 July 2015	From 9 July 2015.
39	DISP 1.5, DISP 1.10 and DISP 1.10A, DISP 1 Annex 1R, DISP 1 Annex 1BR	R	(1) In respect of reporting periods starting on or before 29 June 2016, the *rules* and *guidance* in column (2) continue to apply to a *firm* as they stood at the beginning of the relevant reporting period for the purposes of reporting information about *complaints* under DISP 1.10 and DISP 1 Annex 1R, and publishing *complaints* data under DISP 1.10A and DISP 1 Annex 1BR. (2) For reporting periods commencing on or after 30 June 2016, the *rules* and *guidance* in column (2) apply as they stood on 30 June 2016.	From 30 June 2016	From 30 June 2016
40	DISP 1.5, DISP 1.10 and DISP 1.10A, DISP 1 Annex 1R, DISP 1 Annex 1BR	G	The effect of TP 39(1) is that a *firm* with a reporting period which starts on or before 29 June 2016 should continue to use the *rules*, *guidance*, reporting forms and publication forms as they were at the start of the relevant reporting period and is not required to report or publish information about *complaints* resolved under DISP 1.5 by close of the *business day* following its receipt in such a reporting period. However, subject to that, from 30 June 2016 a *firm* must comply with the *rules* in DISP 1.5 when dealing with *complaints*, so a *firm* would need to send a *summary resolution communication* under DISP 1.5.4R in relation to any *complaint* considered to be resolved by close of the third *business day* following the day on which it is received.	From 30 June 2016	From 30 June 2016
41	DISP 1	R	With respect to a *complaint* received on or after 13 January 2018 concerning an act or omission that occurred before that date, the definition of *PSD complaint* in the *Glossary* is to be read as if the reference to Parts 6 and 7 of the *Payment Services Regulations* were a reference to Parts 5 and 6 of the Payment Services Regulations 2009 (SI 2009/209).	From 13 January 2018	13 January 2018
42	DISP 1.10B.9D	D	The first relevant reporting period is the period commencing on 13 July 2018 and ending: (i) where the *respondent* has an *accounting reference date*, the first *accounting reference date* following 30 November 2018; (ii) where the *respondent* does not have an *accounting reference date*, 31 December 2018.	13 January 2018 to 30 November 2019	13 January 2018
43	DISP 1.10B.9D	G	The effect of (42) is that, if a *firm* has an *accounting reference date* that falls shortly after 13 July 2018 (i.e. between 13 July 2018 and 30 November 2018),	13 January 2018 to 30 No-	13 January 2018

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
			the first electronic money and payment services complaints return form that it is required to submit should cover a period of more than one year, from 13 July 2018 to the *accounting reference date* in 2019.	vember 2019	
44	DISP 2.7.7AR	R	DISP 2.7.7AR applies in relation to a *complaint* concerning an act or omission which occurs on or after 26 June 2017.	1 April 2018	1 April 2018
45	DISP 2.7.6R(2A)	R	DISP 2.7.6R(2A) applies in relation to a *complaint* concerning an act or omission which occurs on or after 13 January 2018.	14 December 2018	14 December 2018
46	DISP 2.7.6R(2B)	R	DISP 2.7.6R(2B) applies in relation to a *complaint* concerning an act or omission which occurs on or after 31 January 2019.	31 January 2019	31 January 2019
46A	DISP 1 DISP 2 DISP 3 and FEES 5	R	DISP 1, DISP 2, DISP 3 and FEES 5 only apply to a *TP firm*, a *TA EMI firm*, a *TA PI firm* and a *TA RAISP firm* in respect of *complaints* under the *Compulsory Jurisdiction* about acts or omissions that occurred on or after *IP completion day*.	From *IP completion day*	Amended with effect from *IP completion day*
47	DISP 1.10.1R, DISP 1.10.4AR, DISP 1.10.5R, and DISP 1 Annex 1ABR	R	(1) This transitional provision applies where a *firm* with *permission* to carry on only *regulated claims management activities* is required to provide the *FCA* with its first report under DISP 1.10.1R in the form of DISP 1 Annex 1ABR. (2) No report is required under DISP 1.10.1R in the form of DISP 1 Annex 1ABR in respect of a period ending on an *accounting reference date* of the *firm* earlier than 1 July 2019. (3) If the *firm* does not provide a report in the form of DISP 1 Annex 1ABR under DISP 1.10.1R in respect of a period ending on an *accounting reference date* of the *firm* earlier than 1 July 2019, the first report in the form of DISP 1 Annex 1ABR provided under DISP 1.10.1R must cover the period from 1 April 2019 to the *firm's* first *accounting reference date* which occurs on or after 1 July 2019.	From 1 April 2019 to 1 July 2020	1 April 2019
48	DISP 2 and DISP 3	R	In DISP 2 and DISP 3 references to a "*firm*" or "*firms*" include unauthorised persons subject to the *Compulsory Jurisdiction* in relation to *relevant claims management complaints* in accordance with the *Claims Management Order*.	From 1 April 2019	From 1 April 2019
49	DISP 2 and DISP 3	G	Under the *Claims Management Order*, a *relevant claims management complaint* is subject to the *Compulsory Jurisdiction* whether or not it is about a *firm* or an *unauthorised person*. *Unauthorised persons* are not subject to DISP 1, but references to "*firm*" in DISP 2 and DISP 3 include *unauthorised persons* sub	From 1 April 2019	From 1 April 2019

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
			ject to the *Compulsory Jurisdiction* in relation to *relevant claims management complaints*, where applicable.		
50	DISP 1, DISP 2, DISP 3 and DISP 4	R	In relation to *relevant claims management complaints*, references in DISP 1, DISP 2, DISP 3 and DISP 4 to an "*eligible complainant*" include a person who is to be treated as an eligible complainant in accordance with the *Claims Management Order* and references to a *complaint* shall be construed accordingly.	From 1 April 2019	From 1 April 2019
51	DISP 2.7.3R(3), (4) and (6)	R	The amendments to DISP 2.7.3R(3) and (4) and new paragraph DISP 2.7.3R(6) apply only in relation to a *complaint* concerning an act or omission which occurs on or after 1 April 2019.	From 1 April 2019	From 1 April 2019
52	DISP 2.7.3R(7)	R	DISP 2.7.3R(7) applies only in relation to a *complaint* concerning a guarantee or security given on or after 1 April 2019.	From 1 April 2019	From 1 April 2019
52A	DISP 3.7.4	R	For a *complaint* referred to the *Financial Ombudsman Service* before 1 April 2019 but on or after 1 January 2012 the maximum money award which the *Ombudsman* may make is £150,000.	From 1 April 2019	1 April 2019
53	DISP 1 Annex 1AD	R	The figures for complaints relating to alleged *authorised push payment fraud* in Table 4 should only include such complaints from 1 July 2019.	1 July 2019 to 30 June 2020	1 July 2019
54	DISP 1.10.1R, DISP 1.10.4AR, DISP 1.10.5R and DISP 1 Annex 1ACR	R	(1) This transitional provision applies where a *firm* with permission to carry on only *regulated funeral plan activities* is required to provide the *FCA* with its first report under DISP 1.10.1R in the form of DISP 1 Annex 1ACR. (2) No report is required under DISP 1.10.1R in the form of DISP 1 Annex 1ACR in respect of a period ending on an *accounting reference date* of the firm earlier than 29 October 2022. (3) If the *firm* does not provide a report in the form of DISP 1 Annex 1ACR under DISP 1.10.1R in respect of a period ending on an *accounting reference date* of the *firm* earlier than 29 October 2022, the first report in the form of DISP 1 Annex 1ACR provided under DISP 1.10.1R must cover the period from 29 July 2022 to the *firm's* first *accounting reference date* which occurs on or after 29 July 2023.	From 29 July 2022	29 July 2022
55	DISP 2 and DISP 3	R	In DISP 2 and DISP 3, references to a "*firm*" or "*firms*" include unauthorised persons subject to the *Compulsory Jurisdiction* in relation to a *relevant transitional funeral plan complaint* in accordance with the *Funeral Plans Order*.	From 29 July 2022	From 29 July 2022

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
56	DISP 2 and DISP 3	G	Under the *Funeral Plans Order*, a *relevant transitional funeral plan complaint* is subject to the *Compulsory Jurisdiction* whether or not it is about a *firm* or an *unauthorised person*. *Unauthorised persons* are not subject to DISP 1, but references to "*firm*" in DISP 2 and DISP 3 include *unauthorised persons* subject to the *Compulsory Jurisdiction* in relation to a *relevant transitional funeral plan complaint*, where applicable.	From 29 July 2022	From 29 July 2022
57	DISP 1, DISP 2, DISP 3 and DISP 4	R	In relation to a *relevant transitional funeral plan complaint*, references in DISP 1, DISP 2, DISP 3 and DISP 4 to an "*eligible complainant*" include a person who is to be treated as an eligible complainant in accordance with the *Funeral Plans Order* and references to a *complaint* shall be construed accordingly.	From 29 July 2022	From 29 July 2022

1	R	This TP applies in relation to a *person* who falls within regulation 122(1) (Transitional provisions: requirement to be authorised as a payment institution) or regulation 123(1) (Transitional provisions: requirement to be registered as a small payment institution) of the *Payment Services Regulations* (a "transitioning payment institution").
2	R	This TP applies from 1 November 2009 until 30 April 2011.
3	R	DISP 1 (Treating complainants fairly) applies in relation to a transitioning payment institution as if the transitioning payment institution were a *payment institution*.
4	R	The *Ombudsman* can consider a *complaint* that relates to an act or omission by a transitioning payment institution under the *Compulsory Jurisdiction* if: (1) it could consider that *complaint* under the *Compulsory Jurisdiction* if it related to a *payment institution*; and (2) (where the transitioning payment institution is a *licensee*) the complaint relates to an act or omission in providing *payment services*.
5	G	The effect of this transitional provision is to: (1) apply to transitioning payment institutions as though they were *payment institutions* the complaints-handling requirements in DISP 1.1 to DISP 1.8; and (2) to bring them within the scope of the *Compulsory Jurisdiction* to the same extent as *payment institutions*.
6	G	*Complaints* relating to *payment services*, *consumer credit activities* or a combination of both can be considered under the *Compulsory Jurisdiction*. However, transitioning payment institutions that are *licensees* will remain subject to the *Consumer Credit Jurisdiction* for *complaints* that relate only to *consumer credit activities*.
7	R	The rules and guidance in FEES 5.5.1R, 5.5.6 R, FEES 5.5.7 R, 5.5.15 R, 5.7.2 R, 5.9.1 R and 5.9.2 G shall apply to transitioning payment institutions and *persons* that cease to be transitioning institutions in the same way as they apply to *firms* and *firms* that cease to be authorised.

Dispute resolution: Complaints

Schedule 1
Record keeping requirements

Sch 1.1 G

The aim of the *guidance* in the following table is to give the reader a quick overall view of the relevant record keeping requirements.

It is not a complete statement of those requirements and should not be relied on as if it were.

Sch 1.2 G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
DISP 1.1A.37UK	*MiFID complaints* subject to DISP 1.1A.	Each *MiFID complaint* received and the complaint handling measures taken to address the *MiFID complaint* and for its resolution [**Note:** see article 26(1), article 72, and Annex 1 of the *MiFID Org Regulation*]	Not specified [**Note:** see article 26(1), article 72 and Annex 1 of the *MiFID Org Regulation*]	Not specified [**Note:** see article 72 of the *MiFID Org Regulation*]
DISP 1.9.1 R	*Complaints* subject to DISP 1.3 - DISP 1.8.	Each *complaint* received and the measures taken for its resolution	From receipt	5 years for *complaints* relating to *collective portfolio management* services and 3 years for all other *complaints*

Dispute resolution: Complaints

Schedule 2
Notification requirements

Sch 2.1 G

The aim of the *guidance* in the following table is to give the reader a quick overall view of the relevant requirements for notification and reporting.

It is not a complete statement of those requirements and should not be relied on as if it were.

Sch 2.1 G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
DISP 1.1.12 R	*Firm* qualifies for exemption	Confirmation that a *firm* does not do business with *eligible complainants* and has no reasonable likelihood of doing so	Conditions in DISP 1.1.12 R apply	N/A
DISP 1.10.1 R (1)	Complaints report	Details	- 6 months preceding the *accounting reference date* - *accounting reference date*	30 *business days*
DISP 1.10.1 R (2)	Complaints report	Details	A year immediately following the *firm's accounting reference date*	30 *business days*
DISP 1.10.9R	Single contact point	Details	At the time of authorisation or on subsequent change	Not specified
DISP 1.10A.4 R and (where relevant) DISP 1.1A.40R	Publication of *complaints* data summary/ total number of *complaints* (as appropriate), including *MiFID complaints* where relevant	Email confirmation of publication, containing also a statement that the data summary or total number of *complaints* (as appropriate) accurately reflects the report submitted to the *FCA* and stating where the summary/ total number of *com-*	Upon publication of *complaints* data summary/ total number of *complaints* (as appropriate)	Immediately

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
		plaints has been published		
DISP 1.11.5 R (1)	*Member* of Lloyd's qualifies for exemption	Confirmation by the *Society* of Lloyd's that a specified *member* of Lloyd's does not do business with *eligible complainants* and has no reasonable likelihood of doing so	[As above]	N/A
DISP 1.11.5 R (2)	End of exemption for *member* of Lloyd's	Confirmation by the *Society* of Lloyd's that the condition in DISP 1.1.12R no longer apply to a specified *member* of Lloyd's	Conditions in DISP 1.1.12R no longer apply	Not specified
DISP 1.11.6 R	Complaints report by *Society* of Lloyd's	Details	- 30 September - 31 March each year	One *month*
DISP 1.11.6D R	Publication of *complaints* data summary	Email confirmation of publication, containing also a statement that the data summary accurately reflects the report submitted to the *FCA* and stating where the summary has been published	Upon publication of *complaints* data summary	Immediately

Dispute resolution: Complaints

Schedule 3
Fees and other required payment

Sch 3.1 G

There are no requirements for fees or other payments in *DISP*.

Sch 3.2 G

[deleted]

Dispute resolution: Complaints

Schedule 4
Powers Exercised

Sch 4.1 G
[deleted]

Sch 4.2 G
[deleted]

Sch 4.3 G
[deleted]

Sch 4.4 G
[deleted]

Sch 4.5 G
[deleted]

[**Note**: certain rules in *FEES* are made exclusively by the *FOS Ltd*. A list of those rules is set out in FEES 5.1.2AG.]

Dispute resolution: Complaints

Schedule 5
Actions for damages for contravention under section 138D of the Act

Sch 5.1 G

1	The table below sets out the *rules* in *DISP* contravention of which by an *authorised person* may be actionable under section 138D of the *Act* (Actions for damages) by a *person* who suffers loss as a result of the contravention.
2	If a "Yes" appears in the column headed "For private person?", the *rule* may be actionable by a "*private person*" under section 138D (or, in certain circumstances, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001 No 2256)). A "Yes" in the column headed "Removed" indicates that the *FCA* has removed the right of action under section 138D(3) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.
3	The column headed "For other person?" indicates whether the *rule* may be actionable by a *person* other than a *private person* (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of *person* by whom the *rule* may be actionable is given.

Sch 5.2 G

Chapter/ Appendix	Section/ Annex	Paragraph	Right of Action under s138D For private person?	Removed?	For other person?
1 Complaints handling arrangements for *firms*	All rules apart from DISP 1.11.13 R and DISP 1.11.14 R	-	Yes	-	-
1	7	14 and 15	No	Yes - DISP 1.11.21 R	No
2 Jurisdiction rules	-	-	Yes	-	-
3 Complaints handling procedures of the *Financial Ombudsman Service*	-	-	Yes	-	-
4 The *standard terms*	-	-	N/A	-	-

Dispute resolution: Complaints

Schedule 6
Rules that can be waived

Sch 6.1 G

As a result of section 138A of the *Act* (Modification or waiver of rules) the *FCA* has power to waive all its *rules*, other than *rules* made under section 137O (Threshold condition code), section 247 (Trust scheme rules), section 248 (Scheme particular rules), section 261I (Contractual scheme rules) or section 261J (Contractual scheme particulars rules) of the *Act*.