

Financial Conduct Authority



Consultation Paper

CP14/30***

Improving complaints handling

December 2014



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We are asking for comments on this Consultation Paper by 13 March 2015.

You can send them to us using the form on our website at:
www.fca.org.uk/your-fca/documents/consultation-papers/cp14-30-response-form.

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We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

You can download this Consultation Paper from our website: www.fca.org.uk. Or contact our order line for paper copies: 0845 608 2372.

Abbreviations used in this paper

ADR	Alternative dispute resolution
CONC	Consumer Credit sourcebook
CRD Regulations	Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013
DISP	Dispute Resolution: Complaints sourcebook
FCA	Financial Conduct Authority
FSMA	Financial Services and Markets Act 2000
GABRIEL	GAthering Better Regulatory Information Electronically
MI	Management information
MiFID	Markets in Financial Instruments Directive
PPI	Payment protection insurance

1. Overview

Introduction

- 1.1** The Financial Conduct Authority (FCA) is responsible for making the rules that financial services firms must follow when handling complaints, as well as rules governing the jurisdiction of the Financial Ombudsman Service (ombudsman service).
- 1.2** The FCA is also responsible for consenting to the rules made by the ombudsman service, in relation to its procedures for dealing with complaints under the compulsory jurisdiction and for approving the ombudsman service's standard terms for the voluntary jurisdiction.
- 1.3** This paper proposes changes to our rules to improve complaints handling by, and access to the ombudsman service for customers of, firms in the compulsory jurisdiction. This paper also proposes changes to the voluntary jurisdiction and changes to the procedures of the ombudsman service.
- 1.4** Consumers of financial services are entitled to complain and to seek resolution and/or compensation from firms when things go wrong. Financial services firms report about five million complaints each year and pay out about £5 billion in redress to consumers, so any changes to those processes are significant and can have a substantial impact. We want to ensure that the process of complaining is straightforward, transparent and fair to consumers, while allowing firms to handle complaints as efficiently as possible and for consumers to have effective access to the ombudsman service if they remain dissatisfied.
- 1.5** Consumers need to be able to contact firms without significant cost when making or following up a complaint. This paper proposes a limit to the cost of calls that consumers make to firms when complaining, as well as for other post-contractual calls.
- 1.6** It is also important that there is transparent information available about how well financial firms are handling complaints, to enable us to supervise firms well and to keep consumers and other market participants informed. This paper sets out amendments we and the ombudsman service propose to make to the relevant rules.
- 1.7** This consultation also discusses the Alternative Dispute Resolution (ADR) Directive, which is intended to give European consumers, and traders, access to out-of-court schemes to help settle contractual disputes that arise out of the purchase and sale/supply of goods or services. The ombudsman service falls within the scope of this Directive. Member States have until 9 July 2015 to implement the Directive and this paper proposes how we expect this to be achieved and the impact this will have on ombudsman service procedures.

What is the background to this?

- 1.8** During 2013/14 we invited 15 major retail firms and 5 trade bodies to take part in a Complaints Thematic Review. The firms carried out self-assessments to understand how complaints received from consumers are handled in practice, as well as providing us with evidence of their policies, processes and management information (MI). We established a working group of representatives from the participating firms and trade bodies to identify and discuss issues around complaint handling, as well as discussing these issues with the ombudsman service and consumer groups. The working group made a number of recommendations to the FCA for further action and for possible changes to our rules. The Thematic Review concluded in June 2014.¹
- 1.9** We also carried out this work against the background of the recommendations made by the Parliamentary Commission on Banking Standards (PCBS).² The PCBS recommended taking steps to ensure that banks take complaints seriously, as well as recommending increasing transparency to empower consumers. The proposals in this paper form part of our response to those recommendations.
- 1.10** We have considered the Thematic Review further and developed a number of policy proposals which we are now consulting on. Prior to this consultation, we undertook some research with firms and firm representatives, as well as with consumers and consumer groups to test these proposals. We held a consumer workshop, with consumers who had made a complaint about a financial services firm, to discuss their experience of complaining and to find out what they value most about a good complaints process. Following that, we conducted an online consumer survey, with consumers who had experienced complaining against a financial services firm within the course of the last two years. The consultation paper makes reference to the results of that research, which has helped to inform our proposals.

Who does this consultation affect?

- 1.11** The proposed changes to our complaints rules affect firms across all financial services sectors. All FCA-regulated firms are required to have complaints handling processes and to follow our rules and guidance on how to respond promptly and fairly. These requirements apply to complaints relating to any business that firms carry on within the United Kingdom (as well as by certain branches of UK firms in the EEA and by branches of certain EEA firms in the UK carrying out activities in the UK).
- 1.12** The chapter on implementing the ADR Directive will be of interest to firms and participants in the voluntary jurisdiction (VJ participants) who receive complaints from eligible complainants on or after 14 May 2015 and to firms who have an eligible complainant refer a complaint to the ombudsman service on or after 9 July 2015.
- 1.13** Where relevant the proposed changes will assist VJ participants and we are consulting with the agreement of the ombudsman service in relation to these. The relevant proposals are:
- the proposals contained in the chapter on 'Identifying and Handling Complaints'
 - the proposals on call charges, where these relate to respondents

¹ www.fca.org.uk/news/thematic-reviews/tr14-18-complaint-handling

² www.parliament.uk/bankingstandards

- the proposals to implement the ADR Directive

Is this of interest to consumers?

1.14 All of the policy proposals in the consultation paper have the potential to affect consumers who wish to complain to a financial services firm. The proposal to limit the cost of post-contractual calls impacts on all existing customers of financial services firms who wish to contact a firm by telephone.

1.15 The chapter on implementing the ADR Directive will be of particular interest to:

- consumers who complain to a firm on or after 14 May 2015, and
- consumers who complain and are not satisfied with the response they receive from the firm, and so decide to refer their complaint to the ombudsman service on or after 9 July 2015.

Summary of our proposals

1.16 Chapter 2 contains three policy proposals which are intended to improve the way complaints are identified, recorded and handled. We are proposing to:

- 1. Extend the time period for dealing with a complaint** less formally, from the end of the next business day following receipt of the complaint to the end of three business days. This will mean that firms will not have to send a 'final response' letter to those complainants following receipt. We believe this will benefit consumers in a number of ways, mainly by allowing firms to handle complaints more quickly and efficiently than if those complaints entered the firms' more formal complaints processes. Firms will have longer to deal with less serious complaints informally, without escalating them to a formal complaints process
- 2. Require firms to send a written communication** to all consumers whose complaints are handled by the end of three business-day period, explaining that they have the right to refer a complaint to the ombudsman service if they are unsatisfied. We will amend our rules to allow consumers to refer their complaint immediately after they receive a response, without having to wait for the current eight-week period to elapse. This will provide consumers with important clarity and awareness about their right to refer complaints to the ombudsman service
- 3. Ensure firms report and publish all complaints** to us (not just complaints resolved after the close of the next business day, as at present). This will increase transparency around complaints handling and is important if a greater number of complaints are handled within the extended three business-day period

1.17 In Chapter 3, we propose to make more general improvements to the 'complaints return', where regulated firms are required to report to us the complaints they receive on a twice-yearly basis, and the publication where firms publish data on complaints. The key changes we are proposing are as follows:

- our approach to complaints reporting will have a greater focus on what information may be useful to the consumer, as well as what is useful for our supervisory and other functions
- the complaints return will be revised with a new list of categories of complaint, set against product/service groupings

- new metrics will be added to the complaints return, relating to the number of sales, policies and accounts, depending on the product/service grouping
- we will record and publish data on the proportion of complaints dealt with within three days, and the proportion dealt with in the four days to eight weeks period
- a simplified table for firms with fewer than 500 complaints will be available, and
- the complaints publication will be revised to include more contextual information, helping consumers to more easily compare the services provided by competing firms

1.18 We propose new rules limiting the cost of calls to financial services firms. We propose to require all post-contractual calls to financial firms to be charged to consumers at a maximum 'basic rate' (which will not permit firms to provide 'premium' rate, including 0845 numbers, but will permit mobile numbers).

1.19 In Chapter 5, the FCA and the ombudsman service set out proposals to implement the ADR Directive and an overview of the areas in which existing rules will change. We also ask for views on an amendment that we need to make to the Dispute Resolution: Complaints sourcebook (DISP) in our Handbook to implement the Mortgage Credit Directive.

Next steps

1.20 We would like to know what you think of our proposals. Please send us your comments by 13 March 2015.

2. Identifying and handling complaints

Introduction

- 2.1** This chapter discusses three proposals to improve how complaints are handled and how they are identified by firms and the FCA. These proposals are to:
- **extend the 'next business day' period** for handling complaints less formally, to increase the efficiency and speed with which complaints are resolved
 - **make all complaints reportable to us**, to ensure that the information we have and which consumers can access is more accurate and more transparent, and
 - **improve consumers' awareness** of their right to refer a complaint to ombudsman service, where they remain dissatisfied.

Background

- 2.2** Currently, we require firms to handle complaints within set timeframes. Complaints that firms judge to be more complex, or need longer to resolve, must be dealt with by the firm within eight weeks. Firms are required to write to send the complainant a 'final response' within that eight-week period explaining (in a fair, clear and not misleading way) the firm's assessment of the complaint, its decision and any offer of remedial action or redress, as well as informing them of their right to refer any complaint to the ombudsman service where they remain dissatisfied. However, if a firm resolves a complaint by the close of the next business day and obtains the consumer's agreement that the complaint has been dealt with to their satisfaction, the firm does not need to provide a formal written response or to record the complaint for reporting purposes.
- 2.3** We recognise that dealing with a complaint less formally can have a number of advantages, both for firms and for consumers. It allows less serious or less complex complaints to be dealt with relatively quickly and efficiently by the firm. In practice, this often means that the complaint can be handled at the first point of contact, by frontline staff in the relevant business unit, such as bank branch staff, without it being escalated to specialist complaints staff. Staff members at this level may already have an established relationship with the consumer and they may know about a consumer's particular circumstances and needs. Where appropriate, consumers can find it easier to deal just with these staff, rather than specialist complaints teams who may be less familiar to them and to whom they may have to repeat their complaint. In many cases, consumers are not looking to have their complaint dealt with formally, including receiving a written response – they simply want an issue resolved quickly and effectively. We discussed these preferences directly with consumers as part of our preparatory research.

Extending the 'next business day rule'

- 2.4** The Complaints Thematic Review identified a number of problems with the way complaints are handled by firms. Consequently, the working group recommended that it would benefit consumers to extend the period for handling complaints beyond the next business day. We agree with the logic of doing this and propose to extend the period to three business days, for the following reasons.
- 2.5** When firms are operating effectively, more complex complaints that may need a longer time to resolve, and where the consumer needs a formal response, are escalated to the formal complaints process. However, under current arrangements, if any complaint remains unresolved by the close of the next business day, it is automatically escalated to this process. As such, the next business-day rule can act as an artificial cut-off which escalates the complaint, whether or not there are other substantive reasons to do so. In some cases, this may arise simply because the firm has been unable to get a response from the consumer confirming that they are content with the resolution of the complaint.
- 2.6** Firms told us that they can end up 'chasing' a response from the consumer to avoid the need to escalate the complaint because it has already been dealt with. This can be inefficient and potentially cause consumer irritation. This may especially be the case where a consumer has made a complaint online, which is an increasingly popular means of complaining, and does not want to receive a phone call.
- 2.7** Once a complaint has been escalated to the formal process, a firm then has up to eight weeks to handle that complaint. The longer timeframe allows firms sufficient time to coordinate a response to a complaint, which may involve input from different parts of the business. This is justified where a complaint is more complex. However, it should be unnecessary for those less complex complaints which have tripped over into this process because of the next business day cut-off. The longer timeframe can act as a disincentive to staff to deal with the complaint in good time and sometimes complaints can end up 'at the bottom of the pile' and take longer to resolve than necessary because of the longer deadline available.
- 2.8** Given that the majority of complaints are dealt with by the close of the next business day, we believe that extending this timeframe to three business days could allow a significant proportion of complaints by consumers to be dealt with within the less formal process (and hence more quickly and effectively). Firms participating in the Thematic Review identified a number of improvements in efficiency to consumers' experiences of complaints handling. Firms have argued that consumers should benefit from their complaints being owned, investigated and handled by 'first point of contact' staff, saving their own time and effort, as well as increasing consistency in how complaints are handled.
- 2.9** We recognise that there are a number of risks of consumer detriment from extending the timeframe. There is a risk that some staff might take advantage of a longer timeframe without becoming more efficient and more minor complaints which may have been handled by the close of the next business day will now take longer to resolve. A related risk is that more complaints will end up being dealt with by frontline staff, when they may not have the appropriate skills or knowledge to deal with those complaints. However, these risks also exist under current arrangements and we believe that they are outweighed by the possible benefits arising from the proposed change.
- 2.10** The Thematic Review identified that some firms undertake different levels of root-cause analysis of complaints, depending on whether or not they are analysing next business day complaints. Root-cause analysis is one of the methods that firms can use to identify and solve issues to

improve their service to consumers, so firms will need to ensure this operates effectively across all complaints. A number of firms participating in the Thematic Review indicated that they are taking steps to make root-cause analysis more systematic across types of complaints. We will retain the requirement in our complaint handling rules for firms to undertake root-cause analysis of *all* complaints.

Q1: Do you agree that the time period for firms to resolve complaints informally should be extended from the close of the next business day to three business days (following receipt)?

Reporting all complaints

- 2.11** FCA-regulated firms are required to report to us the numbers of complaints that they receive, apart from complaints that are resolved informally by the close of the next business day. The intention behind this rule was to allow firms to resolve less serious complaints more efficiently, for example those complaints which may be of a more routine nature and not significant enough to be reported.
- 2.12** Having reviewed the proportion and types of complaints which are dealt with by the next business day, we think this approach should be revised to improve transparency and provide both us and firms with more reliable data.
- 2.13** A number of large firms resolve most complaints they receive by the close of the next business day, which means that the majority of complaints they receive are currently unreported. This provides an incomplete picture and significantly reduces our ability to make accurate comparisons between firms' complaint handling, to inform our thematic reviews or to undertake other supervisory tasks.
- 2.14** There is also a high degree of overlap between the types of complaints handled before and after the close of the next business day, which means there may be only an arbitrary distinction as to whether or not a complaint is reported. Some serious issues remain unreported simply because they are resolved quickly. We are also aware that some large firms are aiming to handle an increasing number of complaints within the next business-day unreported period – without this change we risk hearing about a diminishing fraction of overall complaints.
- 2.15** Furthermore, if we extend the next business day period to three business days, as we propose to do, a significant number of complaints that previously would have been dealt with in the formal eight-week period may now be handled within the less formal period. These complaints would also go unreported if we did not make all complaints reportable.
- 2.16** We propose to extend the next business-day rule alongside the wider changes to the complaints reporting requirements, which we discuss in the next chapter. Due to the necessary changes both to our and industry's reporting systems and processes, we would expect implementation to take approximately one year, following our policy statement, and would therefore anticipate introducing these changes in March 2016.

Q2: Do you agree that firms should report to us, and publish, all complaints that they receive?

The definition of 'complaint'

- 2.17** We define what constitutes a 'complaint' in our Handbook, for the purposes of our rules on handling and reporting complaints. Firms are required to use this definition to categorise whether or not an issue amounts to a complaint for reporting purposes, as well as for root-cause analysis and in terms of general complaints handling. We have considered whether there could be a possible impact on the definition of complaint in proposing to change the next business day rule and to make all complaints reportable.
- 2.18** The definition of a 'complaint' in our Handbook Glossary is as follows:
- Any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a person about the provision of, or failure to provide, a financial service or a redress determination, which:*
- a.** alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience; and
 - b.** relates to an activity of that respondent, or of any other respondent with whom that respondent has some connection in marketing or providing financial services or products, which comes under the jurisdiction of the ombudsman service.
- 2.19** The Thematic Review working group noted that many firms use a wider definition of complaint for their own recording purposes. Typically, firms take the meaning of a complaint to include any 'expression of dissatisfaction', regardless of whether or not the complainant has suffered (or may suffer) material distress or inconvenience. Some firms have also told us that our definition is hard to apply in practice, particularly for frontline staff, who may be unable to make a judgement about the materiality of any distress or inconvenience. For these reasons, the working group recommended that, as well as extending the next business-day rule and making all complaints reportable (regardless of whether the complainant suffered financial loss, material distress or material inconvenience), we should widen the definition of complaint so that it better matches industry practice.
- 2.20** We do not propose to take forward this recommendation because we believe it is appropriate that the definition of a complaint include whether or not the complainant has suffered financial loss, material distress or material inconvenience. The focus of our rules is to address or prevent consumer detriment so removing this element of the definition would soften this focus.
- 2.21** We also took into account the fact that widening the definition of complaint would have the effect of increasing the number of issues falling within the category of complaint, which would have to be resolved in line with the complaints resolution rules and reported.
- 2.22** Applying the definition of complaint may not always be easy in practice, as it can sometimes involve a subjective assessment of how the cause of the complaint has impacted on the complainant and whether or not that impact is 'material'. However, we continue to expect firms to be able to apply the test contained in our definition of complaint and to train staff to a level that enables them to do so.

Consumer awareness

- 2.23** As described above, we require firms to send ‘final response’ letters to consumers whose complaints have been handled within the formal eight-week period, setting out the firm’s assessment of the complaints and telling them about their right to refer a complaint to the ombudsman service. However, this is not a requirement for complaints dealt with by the close of the next business day. We are concerned that this may mean that a significant number of complainants are unaware of the complaints process or their rights. Extending the complaints period to three business days would mean more complainants would be exposed to this risk.
- 2.24** Participants in our consumer workshop said that being told about what will happen next is important for them. They also said they were less concerned if complaints take a little longer to resolve, so long as they know where they stand and are communicated with effectively. The consumer survey we undertook also suggested that consumers value a written response to their complaint over other procedural aspects of complaining. We believe that consumers need to be better informed about the process of complaining, including their right to refer a complaint to ombudsman service.
- 2.25** There is a risk that many consumers are vulnerable to pressure from firms to accept a resolution to a complaint which is not in their best interests, where they are unaware that they can pursue their complaint further with the ombudsman service. Currently, only 5-10% of all complaints received by firms are referred to the ombudsman. The ombudsman service reports evidence that only 20% of consumers think of the ombudsman service, without a prompt, when they are asked where they should refer an unresolved complaint (although a far higher proportion of consumers recognise the ombudsman service when prompted).³ It is likely that some consumers are not referring their complaints simply because they do not know they can. These observations are consistent with the results of our own survey of consumers.
- 2.26** We considered how best to raise consumer awareness and to ensure consumers know when to go to the ombudsman service. One method is general awareness-raising. The ADR Directive requires businesses to provide information about the ombudsman service on its website and in contractual documentation with consumers. From the practical experience of the ombudsman service, it is apparent that consumers are more likely to engage, if they receive information about the ombudsman service at a time when it is relevant to them. This is supported by the information consumers provided in our survey, which showed a significant proportion of respondents had found out about the ombudsman service referral process from the firm itself (although media and other channels were also very important).
- 2.27** For these reasons, we propose to require all respondent firms to send a written communication to all consumers whose complaints are resolved by the end of the three business-day period. This ‘summary resolution communication’ must, amongst other things:
- refer to the complaint and inform the complainant that the firm considers the complaint to be resolved
 - make the complainant aware that if they are dissatisfied with the resolution of the complaint, they may be able to refer it to the ombudsman service, and
 - refer to further information on the ombudsman service’s website.

³ Ombudsman service Annual Review 2013/2014 www.financial-ombudsman.org.uk/publications/ar14/index.html

- 2.28** We do not propose to be overly prescriptive about the means of communicating the resolution of a complaint and will allow firms discretion as to whether to send an email, text or letter, as appropriate to the customer. However, we do believe it is important that the communication should be in writing, particularly given that it is easy for oral communications to be circumvented or inadequately provided.
- 2.29** This is an important measure to improve transparency and will help to ensure that consumers are given the information they need, when they need it, about the complaints procedure and the options they have available. The Thematic Review reported that firms are trying to make their communications about complaints more consumer-focused and this should help support firms to achieve that.
- 2.30** This will also require a change to our current rules, where a complainant may have to wait up to eight weeks before referring a complaint to ombudsman service, to allow consumers to refer their complaint to the ombudsman service immediately after the firm has resolved a complaint.
- 2.31** We also believe this should help to incentivise firms to ensure they deal with a complaint competently at the first stage and to ensure that the consumer is satisfied, and avoiding the cost to the firm of referring the complaint to the ombudsman service. It will put consumers in a fairer negotiating position and help to lessen the likelihood of one party having far greater knowledge of how complaints work than the other. We would propose to implement this change alongside the other rule changes discussed above relating to the 'next business day' rule and reporting all complaints.

Q3: Do you have any comments on our proposals to improve consumer awareness by requiring firms to send a summary resolution communication in respect of complaints handled within three business days?

3.

Transparency – complaints data

Introduction

- 3.1** We currently require financial services firms to send us a ‘complaints return’ twice a year, reporting the number of complaints they receive. We also require firms to publish information on complaints. In light of our commitment to be a transparent regulator and our wider regulatory principles, we have carefully reviewed what information about complaints should be reported to us and published.
- 3.2** In this chapter we discuss proposals for how we think the complaints return needs to be revised and updated to:
- better reflect the categories of complaints and products to which they relate
 - allow greater contextual analysis and more meaningful comparison between firms, and
 - provide more useful information for any regulatory action, including supervision
- 3.3** The key elements of the proposal we are consulting on are:
- **more focus on information that may be useful to consumers**, as well as information that is useful for our supervisory and other functions
 - **a revised complaints return**, with a new list of categories of complaint, set against product or service groupings
 - **new metrics added to the complaints return**, relating to the number of sales, policies or accounts, depending on the product/service grouping. Our complaints publication will include some contextualisation-based information
 - **to record and publish data on how quickly complaints are dealt with**, if we proceed with changes to the next business day rule and the requirement to report all complaints, this will include the proportion of complaints resolved within three days and those within the four days to eight-week period, and
 - **a simplified complaints return**, for firms with fewer than 500 complaints, will be available

Background

- 3.4** Firms are currently required to report a range of data about the volumes of reportable complaints they receive. We also publish data on volumes and the rates by which complaints findings by firms are subsequently upheld by the ombudsman service, and the timeliness of resolution. However, we are aware that the data reported to us is not always consistent and provides insufficient context to support an objective analysis and understanding. In its current published form, there is a risk that this data may be misrepresented.
- 3.5** We are also aware that data reporting can have a significant effect on firm behaviour and how well they handle complaints and respond to consumers. Media exposure of complaints issues where data causes concern can be effective in causing firms to act to improve their media profile, and correspondingly provide a better service to consumers.
- 3.6** The Complaints Thematic Review working group found inconsistencies in the complaints data which firms report to us in the complaints return. The working group concluded that these inconsistencies were impacted both by differences in operating models and the definition of complaint which firms make use of in practice. As discussed, we do not propose to amend the definition of complaint and we continue to expect firms to apply this definition correctly, although we acknowledge that this can sometimes be difficult in practice. We also propose to make all complaints reportable and we expect firms to ensure that they have sufficiently rigorous recording and reporting mechanisms in place, improving their operating models where necessary.
- 3.7** The working group recommended that we should revise the complaints publication and to consider including more consumer-centric measures and contextualised data. The following proposals are in line with that recommendation.
- 3.8** The current complaints return is set out in Annex 1R in our Dispute Resolution: Complaints sourcebook (DISP). Firms have submitted the return in its current form since August 2009 (and since 2005 in a previous format). From then, the FSA began publishing complaints data from the returns every six months at an aggregate level. In 2010 the FSA began to require firms to publish their data every six months if they reported 500 or more opened complaints within the reporting period (DISP 1.10). The FSA then published this data on its website, usually one month after the firms were required to do so. The FCA continues to publish this data in a similar format.
- 3.9** We discussed some of the aspects of the proposals to amend the complaints return and publication with consumers, as part of our consumer workshop and survey, as well as consulting with consumer groups. We have developed the following proposals in the light of those discussions.
- 3.10** We are not proposing further changes to the complaints return for consumer credit because we recently amended this when we took over responsibility for regulating consumer credit firms in April. The complaints return for consumer credit is in Annex 1R, Part B of DISP.
- The new complaints return**
- 3.11** The complaints return continues to be an important tool for us to monitor how well firms are managing complaints handling and also whether changes in complaints data may be revealing wider changes in the marketplace which may require regulatory action. We make use of the firm-level and aggregate data we receive in a variety of ways, including to:

- identify a particular focus for supervisory or enforcement action

- inform our thematic reviews into particular areas of the market
- calculate the impact and cost of complaint handling to better inform redress policy
- provide an additional source of information which we can publish to enable market participants to make better decisions about products and providers
- help to hold firms to account and positively influence behaviour, and
- help identify possible risks and monitor how those risks evolve.

3.12 The new complaints return is set out in the draft instrument at Appendix 1. As with the current return, there are two separate sections, recording the number of complaints received or 'opened' with the firm and the number of complaints 'closed' and how they are handled. In addition, we propose to add a new section requesting various contextualisation metrics. The key features are set out at paragraph 3.3 above.

3.13 We propose to expand the complaints return to increase the number of product categories. Our intention is to provide broader product categories, to provide us with more detailed data. In choosing these categories, we have also taken into account data from the ombudsman service and held discussions with the firms which participated in the Complaints Thematic Review.

3.14 Some of the complaints data we would find most useful may relate to risks or particular product areas which are yet to be identified. The complaints return does not preclude our ability to ask for specific types of data on an occasional basis, when these risks or product areas come to light, but a regular return of data has the advantage of reducing the burden on firms in complying with such one-off requests. However, this approach does mean that we have to anticipate what categories may be most useful. We would welcome comments on whether we are focusing on the right product areas.

3.15 The complaints return will also have new categories for complaints causes, covering:

- misleading advice
- arranging a product or service
- inappropriate sales techniques
- disputes over sums/charges
- product performance/features
- product information
- general administration/customer service
- arrears-related complaints, and
- a general 'other' category

- 3.16** We are aware that it may be hard for firms to categorise complaints for reporting purpose. As such, we will consider producing some guidance or further explanation on our website, both for firms and for consumers, as to what we mean by each category. We would also welcome comments on the cause categories.
- 3.17** We propose to divide the data on redress into redress for complaints that have been upheld and complaints that have not been upheld. This will help measure levels of 'goodwill' payments by firms or, for example, where firms may be upholding a higher proportion of complaints but are concentrating redress payments on complaints that were not upheld.
- 3.18** The new return also replaces the current distinction between 'complaints closed within four weeks' and 'between four and eight weeks', to a breakdown of complaints closed within three days and between four days and eight weeks. This will give us information on complaints dealt with in the formal eight-week process and the less formal process within three business days.
- 3.19** We considered the potential administrative burden on smaller firms of the new reporting proposals and discussed this with a number of associations and industry bodies which represent their interests. We concluded that firms which open fewer than 500 complaints in a reporting period should only be required to complete a shortened complaints return. These firms receive less than 5% of the overall number of complaints against firms and we have less need of a detailed breakdown of data. We sampled 85 firms with fewer than 500 complaints and we found that an average of just over three product categories were completed, with a median of two and a maximum of fifteen categories. The spread of products completed on the current return by smaller firms is low.
- 3.20** This shorter complaints return is set out at Appendix 1. The key features to note are as follows:
- simplified product/service groupings for complaints closed, upheld and for redress paid, and
 - simplified cause categories.
- 3.21** For collecting complaints data, we expect to continue to use the 'GABRIEL' (GATHERING BETTER REGULATORY INFORMATION ELECTRONICALLY) electronic reporting system and anticipate making the relevant amendments to data fields. Firms will continue to be able to complete data fields and submit them to us online.

Q4: Do you have any comments on the proposed new complaints return?

Contextualisation

- 3.22** The publication of complaints data is an important aid to understanding how well firms are handling complaints. Although we have published guidance for the industry on how to publish contextualisation, we propose to require firms to provide us with new metrics which will also allow us to better contextualise that data when we publish it.
- 3.23** We recognise the concerns expressed to us by some firms that the current complaints data we publish does not always provide a fair comparison. The overall complaints figures for a given firm, without context, provide no indication of the size of that firm or the quantity of business it handles. The media sometimes reports 'headline' complaints figures for particular firms taking little account of the size of a business, relative to other businesses. Better and more consistently applied metrics should help to address this.

- 3.24** The proposed contextualisation metrics are different to the existing metrics (which firms have the option to provide) and we believe they have the potential to provide a more uniform measure across all product types. The metrics make a distinction between ‘provision’ (the number of accounts, loans outstanding, policies in force or distinct funds or investments provided at the reporting period end date) and ‘intermediation’ (which will relate to the relevant activity within the reporting period).
- 3.25** We will require the following information for different products:
- banking (and credit cards) products – the number of accounts, the same as the current metrics
 - home finance provision – the number of loans outstanding and for intermediation, the number of sales within the reporting period
 - insurance and pure protection and decumulation and pensions provision – the number of policies in force and policies sold for intermediation
 - investments provision – the number of distinct funds or investments provided at the reporting period end date, and the number of sales for intermediation.
- 3.26** We believe that the new metrics are more useful than the current income measures and are closer to the metrics which firms use. Overall, we have tried to relate the metrics meaningfully to the product or service group. However, we would welcome further comments on the proposed metrics.
- 3.27** Firms with fewer than 500 total opened complaints will be able to complete a simplified contextualisation metrics form, without the requirement to record these against sub-categories of products.
- 3.28** We also considered whether to alter the ‘500 complaints’ threshold to include contextualisation, to make it more proportional to particular metrics and products. However, setting a threshold for different types of products could be difficult for firms to implement and there would be an additional burden on the FCA to ensure that firms are correctly publishing data every six months. We intend to keep this under review once we have begun to collect data from the new complaints return. Finally, we would propose to introduce the new publication requirements alongside the reporting requirements.

Q5: Do you agree with our proposed approach to data contextualisation?

The new complaints publication report

- 3.29** We currently publish two different sets of complaints data:
- firm-level data every six months for individual firms that have reported 500 or more complaints within that period (which amounts to about 95% of the total number of complaints reported to us by the industry)
 - aggregate (total) data for the industry.

- 3.30** The firm-level data is broken down into complaints opened, closed, the percentage upheld and the percentage closed within eight weeks, all split into five product groups. The aggregate data is categorised in three ways: by product, by type of firm and by the nature of a complaint. We also publish the total number of complaints opened and closed by all regulated firms, the number of complaints closed within eight weeks (the time limit for firms to handle a complaint 'formally') and the total amount of redress or compensation paid by those firms.
- 3.31** The way complaints data is currently published does not always achieve the desired outcome of informing consumers and other market participants about the complaints which firms receive. By proposing to require firms to report and publish data on all complaints, we are developing a fuller, more transparent picture of complaints handling.
- 3.32** The new complaints publication will display the number of complaints opened by volume of business, set against the above contextualisation metrics. For example, it will be possible to see the number of complaints per 1000 accounts for banking or credit card products or services. The data will be broken down into the number of complaints opened and the number of complaints closed and the percentage of complaints closed within three days and after three days but within eight weeks, as well as complaints uphold rates. This will provide further information on how well and how quickly firms are handling complaints.
- 3.33** There will also be a new category of 'main causes of complaint opened', set against the different product or service groupings. This is intended to increase the transparency about the nature of complaints which firms receive and the most common types of complaints.

Q6: Do you have any comments on the new complaints publication report?

Updating the complaints data reporting form and guidance

- 3.34** In the March 2014 Quarterly Consultation Paper (CP14/4), we proposed changing the complaints return form (DISP 1 Annex 1R) so that it would:
- remind firms that the data summary they are required to publish must accurately reflect the data that has been reported to us; and
 - ask firms whether they consent to us publishing the data submitted to us.
- 3.35** We also proposed adding corresponding guidance to DISP 1.10A and 1.11.
- 3.36** We explained if the firm provided consent, the changes would permit us to publish complaints data without first cross-checking the data against those the firm itself has published. If a firm does not provide consent on the form, we said we would publish the data after the firm has published the complaints data summary and has provided us with written confirmation that it has done so as required by our rules.
- 3.37** We received three responses to the consultation, all from the industry. Respondents were concerned that if the consent was provided by firms, the FCA would publish the data before they were published by the firms themselves. Some were also concerned whether the proposed changes would affect the current data submission process.

- 3.38** The proposed changes were intended to remind firms of current requirements and to reduce the administrative burden to the FCA of cross-checking the two sets of data (those submitted to the FCA and those published on the firms' websites). We are not proposing to change the existing complaints data submission process or the timing of complaints data publication. However, under certain circumstances we may publish the data before a firm publishes its data, for example, where a firm was not able to publish its complaints data within the time limits required by our rules (DISP 1.10A.3R) and the firm had provided consent to the FCA to publish.
- 3.39** Given the other changes that are now being proposed to the complaints reporting and complaint publication rules, forms and guidance we are including the substance of the earlier proposed amendments within these proposals. This will minimise disruption for firms and enable our stakeholders to see the proposed rules and forms in their entirety.

Q7: Do you have any comments on these changes?

4. Call charges

Introduction

- 4.1** We believe that the charges for calls that consumers make to financial services firms can be too high and, therefore, we propose to introduce new requirements to reduce the cost to consumers. This will ensure that consumers are not subjected to prohibitive costs when they want to get in touch with a financial services provider.
- 4.2** We are consulting on a proposed rule to ensure that consumers contacting a firm by telephone, regarding contracts already entered into with the firm, must not be bound to pay more than a 'basic rate' (including mobile numbers).

Background

- 4.3** We have made it clear that we do not think it is fair that consumers often have to use expensive phone lines when calling firms to ask for help or to complain. Some firms provide only 'premium rate' telephone numbers to existing customers who wish to contact them after the point of sale. In some cases, firms provide a Freephone (0800) number for new business but premium rate numbers for existing customers.
- 4.4** The Complaints Thematic Review working group considered the cost of complaints calls and recommended that dedicated complaint telephone lines should not use numbers that charge consumers more than a basic rate (including mobile users). After undertaking further analysis we concluded that a requirement to limit the cost of calls should apply across the spectrum of numbers for post-contractual services.
- 4.5** We reached this conclusion partly in the light of changes that have been made in other sectors. The Consumer Rights Directive (Directive 2011/83/EU), as implemented by the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (the CRD Regulations), requires that traders do not charge consumers more than the basic rate to telephone a customer helpline about something they have bought. Whilst, this part of the Directive does not cover contracts for financial services, we believe that FCA regulated firms should meet a similar standard.

Post-contractual calls

- 4.6** Consumers make a range of post-contractual calls to financial services firms, including to:
- make use of ongoing services, such as telephone banking
 - brokerage services

- make insurance claims
- technical support lines, and
- make a complaint.

4.7 We do not think it would be practical to create specific requirements for different types of call and we have concluded that the same general principles should apply to all post-contractual calls. However, we would welcome views on whether there are any specific types of number within the provision of financial services that should be treated differently.

4.8 Providing telephone numbers after the point of sale, which have a significant disparity in rates to pre-contractual numbers, does not meet our requirement to treat customers fairly. The high cost of post-contractual calls could amount to an unreasonable post-sale barrier imposed by firms to change a product, switch a provider, submit a claim or make a complaint.

4.9 We considered whether firms should be able to cross-subsidise by charging higher rates for post-contractual calls to pay for the cost of sales calls. However, we believe that where there are costs associated with ongoing post-contractual services, these costs should be upfront and should not be 'hidden' in a call charge as a cross-subsidy.

4.10 We have also considered whether there should be differentiated costs for consumers who pay more for specific services, such as more expensive bank accounts. In principle, where consumers pay more for an enhanced service, they could expect to benefit from a better service, including cheaper calls. However, we believe that call charges should not be a means to differentiate service and should still be proportionate to the cost of the service as a whole and should not discriminate unfairly.

4.11 Lastly, the Government's implementation of the CRD Regulations for other (non-financial) consumer services does not apply a charges cap to technical support lines, provided these amount to a discrete service, and not a number to discuss problems with a purchase already made. A trader must make it clear that it is a separate service for which a separate fee (paid for through the enhanced cost of the call) is payable and not one for post-purchase problems. Examples provided are horoscope and weather lines. We do not think it is necessary to provide a similar distinction within financial services because the sector does not use a business model where a service is paid for wholly by the cost of a call, although we would be interested to hear from respondents if there are any examples of this. In this respect, our call charges requirements go further than those for other sectors.

'Basic rate'

4.12 We considered whether financial services require a different approach to other sectors but concluded that consumers of financial services should receive an equivalent level of protection. This approach should help to ensure that consumers will know what to expect when dealing with different types of businesses and what is meant by a call charged at 'basic rate'.

4.13 The following numbers, if used by firms, would amount to basic rate calls and would comply with our proposed call charges rules:

- geographic numbers or numbers which are always set at the same rate, which usually begin with the prefix 01, 02 or 03
- calls which can be free of charge to call, for example 0800 and 0808 numbers, and

- standard mobile numbers, which usually begin with the prefix 07, provided that the firm ordinarily uses a mobile number to receive telephone calls.

4.14 The following numbers would not amount to basic rate calls and would not comply with our rules:

- premium rate numbers that begin with the prefix 09
- 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 firm, such as telephone numbers that begin with the prefix 084 or 0871, 0872 or 0873, and
- 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 consumer's telephone tariff.

4.15 These requirements will apply generally across financial services. However, we do need to include some exceptions for certain types of business, which arise because there are already existing requirements resulting from EU legislation. The basic rate requirements will not apply to:

- firms providing payment services when the Payment Services Regulations apply if providing telephone lines which enable payment services users to request information or in relation to the termination of a framework contract (unless certain conditions apply), and
- telephone lines provided for contracts relating to a firm's investment business covered by the Markets in Financial Instruments Directive (MiFID).

4.16 There are existing rules relating to credit-related regulated activities which limit businesses in using premium rate numbers. The new proposed call charges rules will replace these provisions, to the extent to which they apply. However, the existing rules in the Consumer Credit sourcebook (CONC) will continue to apply in some remaining respects. The draft rules contain further details.

4.17 In terms of territorial effect, it would not be practical for us to try to impose requirements for branches of firms that are overseas. Other Member States have varied laws concerning communication and there is a range of costs for foreign telecoms firms. Therefore, our rules will not apply to telephone lines provided for regulated activities undertaken in establishments of a business which are outside the UK. We would expect the new rules to be implemented during summer 2015, taking into account time needed for firms to make relevant changes and to coordinate with any other requirements, such as those introduced by Ofcom.

Q8: Do you agree that all post-contract telephone calls to financial services firms should be charged at no more than a 'basic rate'.

5.

Implementing the Alternative Dispute Resolution Directive and the Mortgage Credit Directive

Introduction

- 5.1** The powers to make rules relating to the Financial Ombudsman Service (the ombudsman service) are shared between the FCA and the ombudsman service. So this chapter is issued jointly by the FCA and the ombudsman service and, where relevant, references to 'we' are to the FCA and the ombudsman service.
- 5.2** The Alternative Dispute Resolution Directive (the ADR Directive)⁴ is intended to give consumers and traders access to out-of-court schemes that can help settle contractual disputes that arise out of the purchase and sale/supply of goods or services. The Directive applies more broadly than financial services, and requires the UK government to ensure that dispute resolution, provided by a qualifying ADR body, is available for any dispute concerning contractual obligations between a consumer and a business, although the use of ADR is not mandatory for firms under the ADR Directive. Member States have until 9 July 2015 to implement the ADR Directive.
- 5.3** This chapter sets out our proposed approach to implementing the ADR Directive and provides an overview of the areas in which existing rules will change. This chapter covers:

Amendments to rules made by the FCA

- referring complaints to the ombudsman service
- information requirements for firms
- definition of consumer
- ombudsman service annual reports

Amendments to rules made by the ombudsman service

- definition of a chargeable case
- definition of consumer
- grounds for dismissal
- test cases

⁴ Directive 2013/11/EU The full text of the Directive is available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:165:0063:0079:EN:PDF>

- resolution of cases by the ombudsman service
- consumer redress schemes
- voluntary jurisdiction

Mortgage Credit Directive

- Complaints procedure disclosure for intermediaries within the scope of the MCD

Other rule changes

- successor firms

5.4 This chapter will be of interest to:

- firms who receive complaints from eligible complainants on or after 14 May 2015⁵;
- firms if an eligible complainant refers a complaint about the firm to the ombudsman service on or after 9 July 2015;
- consumers who complain to a firm on or after 14 May 2015; and
- consumers who complain and are not satisfied with the response they receive from the firm, and so decide to refer their complaint to the ombudsman service on or after 9 July 2015.

5.5 As explained above, Member States have until 9 July 2015 to implement the Directive. Our rules require firms to resolve complaints within 8 weeks so we are proposing to implement the rule changes for firms 8 weeks before the Directive has to be implemented (i.e. on 15 May 2015) to ensure that if firms take up to 8 weeks to resolve a complaint, firm complaint handling procedures and ombudsman service procedures will be compliant by 9 July 2015.

5.6 The proposed amendments, are set out in Appendix 1 – the draft Alternative Dispute Resolution Directive, Complaints Handling and Call Charges Instrument 2015.

5.7 The Government has recently confirmed that it intends the FCA to act as the Competent Authority for the ombudsman service. The FCA already has oversight responsibilities for the ombudsman service which are set out in FSMA. Acting as Competent Authority for the ombudsman service will mean that the FCA will have additional oversight responsibilities for the ombudsman service under the ADR Directive.

5.8 The Department for Business, Innovation & Skills (BIS) has not yet published its regulations or implementing guidance but we are consulting on these rules on the assumption that BIS will adopt a copy out approach⁶ to implementing the Directive and that its regulations will be in the form that we are expecting.

5.9 We are consulting on the proposed rule amendments set out below in light of the amendments we anticipate that Her Majesty's Treasury (HMT) will make to the Financial Services and Markets Act (FSMA).

⁵ This is the date we expect the rules to come into force.

⁶ Copy-out, as the name suggests, is where the implementing legislation adopts the same wording as that of the Directive or where it cross-refers to the relevant Directive provision

Amendments to FCA rules

Referring complaints to the ombudsman service

- 5.10** The ADR Directive sets out a complete list of grounds⁷ that ADR entities, such as the ombudsman service, can use to refuse to deal with a dispute. For example the ombudsman service could refuse to deal with a dispute if the consumer has not complained to the firm first or if the complaint is frivolous or vexatious. However, the Directive would allow member states to introduce rules that go beyond these grounds in order to achieve a higher degree of consumer protection. It is currently unclear whether the UK will apply this derogation.
- 5.11** Sometimes consumers contact the ombudsman service before making a complaint to a firm. We are proposing to amend DISP 2.8.1 to enable the ombudsman to consider complaints where the firm has not itself investigated the complaint, but only if both the firm and consumer consent. The ombudsman service is generally required to resolve complaints within 90 days (from receipt of the complete complaint file) under the ADR Directive, but our rules require firms to send consumers a final response (or a communication explaining why the firm has not been able to provide a final response and indicating when it will be able to do so) within 8 weeks. Under our proposed new rules, the ombudsman service will only be able to consider the complaint if it has informed the consumer that they can first complain to the firm and that the firm might resolve the complaint faster than the ombudsman service.
- 5.12** Firms should also be aware that even if they consent to the ombudsman service considering a complaint before they have investigated it, they still need to comply with the relevant rules in DISP 1. For example, if the ombudsman service does not resolve the complaint within 8 weeks, the firm must send the consumer a final response or other response for the purposes of DISP 1.6.2 by the end of the eight week period.

Q9: Do you agree with our proposed amendments to DISP 2.8.1?

- 5.13** Our current rules contain time limits for referring complaints to the ombudsman service and we have reviewed these rules to check whether they comply with the ADR Directive.
- 5.14** Under DISP 2.8.2R, the time limit for referring a complaint to the ombudsman service is six years from the date of the event, or (if later) three years from the date on which the consumer knew, or could reasonably have known / ought reasonably to have become aware, they had cause to complain. This rule provides that the ombudsman service cannot look at a complaint that is referred outside the specified time limits (subject to certain exceptions) and so goes beyond the procedural rules expressly allowed by the ADR Directive.
- 5.15** We have considered a number of different options to ensure that our rules comply with the Directive. One option would be to remove the time limits in the rules and to request that HMG seek amendments to FSMA to make participation in ADR voluntary for firms. This would have clear benefits for firms, who would not be required to use the ombudsman service to resolve

⁷ Article 5(4) states:

Member States may, at their discretion, permit ADR entities to maintain and introduce procedural rules that allow them to refuse to deal with a given dispute on the grounds that:

- (a) the consumer did not attempt to contact the trader concerned in order to discuss his complaint and seek, as a first step, to resolve the matter directly with the trader;
- (b) the dispute is frivolous or vexatious;
- (c) the dispute is being or has previously been considered by another ADR entity or by a court;
- (d) the value of the claim falls below or above a pre-specified monetary threshold;
- (e) the consumer has not submitted the complaint to the ADR entity within a pre-specified time limit, which shall not be set at less than one year from the date upon which the consumer submitted the complaint to the trader;
- (f) dealing with such a type of dispute would otherwise seriously impair the effective operation of the ADR entity

disputes. However, this option would not appear to comply with the spirit of the Directive and it would run contrary to our consumer protection objective. The recitals to the Directive emphasise that the Directive is “without prejudice to any national rules making the participation of traders in such procedures mandatory⁸.” We are not, therefore, proposing to ask HMG to seek to amend FSMA to make participation in ADR voluntary for firms.

- 5.16** An alternative option would be to remove the six and three year time limits for complaints referred to the ombudsman service completely. However, this would seem to us to go significantly beyond the requirement in the ADR Directive for the provision of a voluntary procedure and amount to unnecessary gold plating.
- 5.17** Our preferred option, which creates a higher level of protection for consumers than required by the ADR Directive, is to preserve the current time limits in our rules (which are jurisdictional rules rather than procedural rules). The ADR Directive does not make firm participation in ADR procedures mandatory so we propose to distinguish between complaints that are made:
- a.** within the specified time limits – firms would be required to submit to the jurisdiction of the ombudsman service for such complaints; and
 - b.** outside the specified time limits – submission to the jurisdiction of the ombudsman service for such complaints would be voluntary (i.e. the firm would need to consent to the ombudsman service considering the complaint) except for certain limited reasons such as where the failure to comply was as a result of exceptional circumstances.
- 5.18** This approach creates a higher level of protection for consumers by providing that firms are required to allow the ombudsman service to consider a complaint if the complaint is made within the specified time limits. Such an approach would, in our view, comply with the provisions of the ADR Directive. We do not consider that adopting this approach will result in additional costs for firms because the position will be very similar to the current position, which is that the ombudsman service can currently look at complaints referred outside the time limits if the firm does not object.
- 5.19** We have also reviewed the time limit in our rules which requires consumers to refer their complaint to the ombudsman service within 6 months of receiving a final response from the firm. It is our view that the current six month time limit will comply with the Directive if the changes referred to above in relation to the six and three year time limits are applied. Firms will be required to use the ombudsman service if the complaint is referred within the 6 month time limits but will be able to consent to the ombudsman service considering the complaint if it is referred outside this time limit (see the information requirements section below for further information).
- 5.20** We also propose to make a rule which will provide that if a firm consents to the ombudsman service considering a complaint outside the time limits, it may not subsequently withdraw that consent (see proposed DISP 2.8.2AR). This rule is intended to create certainty for consumers and to ensure that the ombudsman service does not waste resources reviewing when a firm could subsequently decide to withdraw consent.

⁸ Recital 49

Q10: Do you agree with our proposal to retain the existing six month and six and three year time limits for complaints made to the ombudsman service?

Q11: Do you agree that once a firm has consented to the ombudsman service considering a complaint it should not be permitted to withdraw consent?

5.21 In our 2014/15 business plan we committed to considering the case for a 15-year time limit on complaints to the ombudsman service (a 'long stop'), to review whether the current arrangements are delivering the best outcomes for consumers overall. Implementing the Directive in this way would not preclude us from introducing a long stop should we decide it was appropriate to do so in the future. This consultation paper does not ask for views on a 15-year time limit but we have committed to consider the issue and we will publish the outcome of this review in due course.

Information requirements for firms

5.22 Article 13 of the ADR Directive requires firms to inform consumers about the availability of the ombudsman service and to tell consumers whether the firm is obliged to use the ombudsman service to resolve disputes. Article 13 also requires firms to provide details of the ombudsman service's website:

1. on their own websites (if the firm has a website);
2. in the general terms and conditions of sales or services contracts between the firm and consumer; and
3. when a dispute between a consumer and a firm cannot be settled following a complaint.

5.23 The requirements are generally reflected in changes to DISP 1.2 and DISP 1.6.

5.24 Firms will need to inform consumers in final response letters (and in summary resolution communications- see Chapter 2) whether they intend to use the ombudsman service if they are not required to do so. For example, a firm might decide that it will not agree to the ombudsman service considering a complaint if it is referred outside the relevant time limits mentioned in the section above. DISP 1.6. 5R sets out the wording that firms are required to use in a final response or summary resolution communication if they intend to inform a consumer that they will or will not consent to the ombudsman service considering the complaint if it referred outside the relevant time limits.

Q12: Do you have any comments on the proposed wording firms will be required to include in final response letters?

Definition of consumer

5.25 A consumer is defined in the ADR Directive as '*any natural person who is acting for purposes which are outside his trade, business, craft or profession.*' We propose to make changes to DISP (see the proposed DISP 2.7. 9AR) to ensure that the term "eligible complainants" in our rules is widened to include all natural persons who are acting for purposes wholly or mainly outside their trade, business, craft or profession. The rule changes allow the following to be eligible complainants:

- professional clients and eligible counterparties where the person is an individual acting for purposes outside his trade, business, craft or profession.

Q13: Do you agree with our proposal to extend the definition of eligible complainant so it is consistent with the ADR Directive?

5.26 As highlighted by the Parliamentary Commission for Banking Standards (PCBS), there is concern that some small businesses are currently not able to access the ombudsman service if they are mis-sold a financial product. We are currently considering this issue and will be responding to the PCBS recommendations in due course.

Ombudsman Service annual reports

5.27 DISP 5 sets out the information that the ombudsman service's annual reports must contain. We will review whether these rules are necessary once BIS have published their regulations. The rules in this chapter transpose the relevant provisions in Article 7(2) of the ADR Directive which requires the ombudsman service to include the following information in its annual reports:

- the number of disputes received and the types of complaints to which they related;
- any systematic or significant problems that occur frequently and lead to disputes between consumers and traders; this may be accompanied by recommendations about how such problems can be avoided or resolved, to raise traders' standards and to facilitate the exchange of information and best practices;
- the rate of disputes the ADR entity has refused to deal with and the percentage share of the types of grounds for such refusal as referred to in Article 5(4);
- for procedures referred to in Article 2(2)(a), the percentage shares of solutions proposed or imposed in favour of the consumer and in favour of the trader, and of disputes resolved by an amicable solution;
- the percentage share of ADR procedures which were discontinued and, if known, the reasons for their discontinuation;
- the average time taken to resolve disputes;
- the rate of compliance, if known, with the outcomes of the ADR procedures; and
- cooperation of ADR entities within networks of ADR entities which facilitate the resolution of cross-border disputes, if applicable.

5.28 DISP 5 also requires that every second annual report must include the information required by Article 19(3) of the ADR Directive. The annual report must also include information about complaints that do not constitute disputes covered by the ADR Directive.

Q14: Do you have any comments on the new rules in DISP 5 that apply to the ombudsman service's annual reports?

Amendments to rules made by the ombudsman service

Definition of a chargeable case

- 5.29** The definition of chargeable case contains references to the dismissal grounds set out in DISP 3. We therefore propose to amend the definition to reflect the amendments we are proposing to make to these grounds.

Grounds for dismissal

- 5.30** As mentioned above, Article 5 (4) of the Directive sets out a list of grounds on which an ADR scheme may refuse to deal with the merits of a complaint.
- 5.31** DISP 3 sets out the grounds on which the ombudsman may dismiss a complaint without considering its merits and these currently go further than the grounds set out in the Directive. To ensure that we comply with the Directive, we propose to reduce the existing grounds for dismissal to seven grounds on which the ombudsman may decide to dismiss a complaint without considering its merits. The effect of the revised grounds is not materially different to what currently exists and only one of the grounds is new.⁹ We propose to introduce this in line with the grounds set out in Article 5(4).
- 5.32** We have also introduced guidance in the form of some examples of what could be considered as “seriously impairing the effective operation of the ombudsman service” under the new dismissal ground in DISP 3.3.4AR(5).
- 5.33** These examples include where it would be more suitable for the complaint to be dealt with by a court; where the subject matter of the complaint has already been dealt with by a comparable dispute resolution scheme or has previously been considered or excluded by the ombudsman service (unless material new evidence with the Ombudsman considers likely to affect the outcome has subsequently become available to the complainant); and where there are multiple eligible complainants to one complaint, ensuring that the appropriate consent is obtained before investigation.

Q15: Do you agree with our proposed revision of the dismissal grounds in order to bring them in line with the Directive?

Test cases

- 5.34** Under the existing rules the ombudsman has the power to dismiss a complaint in certain circumstances so that it may be considered a test case (DISP 3.3.5R5). This goes beyond the procedural rules expressly permitted by Article 5(4). We therefore propose to amend this rule so that the ombudsman may only invoke the test case procedures with the consumer’s consent.
- 5.35** We also propose to relocate DISP 3.3.5R to DISP 3.4 which will now relate to the referral of complaints to other complaints schemes or court.

Q16: Do you agree with the proposal to amend the test case rules in this way?

Resolution of complaints by the Ombudsman

- 5.36** We propose to amend current rules to clarify that in cases where we do not receive the requested information from the complainant, or where the complainant fails to respond within the specified time limits, we may decide to treat the complaint as withdrawn. This is broadly in

⁹ DISP 2.3.4A (7)

line with the current position where we dismiss or refuse to continue to consider a complaint where the complainant fails to supply requested information or fails to comply with time limits.

Q17: Do you have any comments on the proposed wording for this rule?

Voluntary Jurisdiction

- 5.37** The ombudsman service proposes to change the voluntary jurisdiction rules to align with the changes mentioned above and the changes that the FCA propose to make to the compulsory jurisdiction.

Mortgage Credit Directive

Complaints procedure disclosure for intermediaries within the scope of the MCD

- 5.38** Intermediaries within the scope of the new Mortgage Credit Directive (MCD) are required to provide details of both their internal complaints procedures and ADR procedures in good time before providing services to consumers¹⁰.
- 5.39** In CP14/20, we proposed that this MCD requirement be implemented into the FCA Handbook as MCOB 4A.1.1R (1)(d)¹¹.
- 5.40** DISP 1.2.1R (2)(b) requires firms to make information on their internal complaints handling procedures available in writing at, or immediately after, the point of sale. We propose to add guidance to DISP 1.2 to clarify that, if this information has been given prior to providing the service, then the intermediary will not have to provide this information again immediately after the point of sale.
- 5.41** This proposed change to DISP was included in the draft rules published with CP14/20¹²; however we invite feedback to the proposed change as part of this consultation.

Q18: Do you agree with our proposed amendment to DISP on the timing of complaints procedure disclosure for intermediaries within the scope of the MCD?

¹⁰ Article 15 (1)(f) of Directive 2014/17/EU: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0017&from=EN>

¹¹ See Annex D of Appendix 1 to CP14/20 *Implementation of the Mortgage Credit Directive and the new regime for second charge mortgages* September 2014: www.fca.org.uk/static/documents/consultation-papers/cp14-20.pdf.

¹² The amendment to DISP (proposed as DISP 1.2.2A G) is contained in Annex F of Appendix 1 to CP14/20: www.fca.org.uk/static/documents/consultation-papers/cp14-20.pdf.

Annex 1

Cost benefit analysis

Identifying and handling complaints

1. We asked firms participating in the Complaints Thematic Review to provide detailed information about the current operation of the next business-day rule, as well as estimates of how a change to the rule would impact on them. These are 15 of the largest financial firms and together they receive and handle over 90% of all complaints received by FCA-regulated firms. The impact of the proposed changes will mainly be felt by the largest firms, as they relate to high-volume complaint handling.
2. In terms of impact on how complaints are handled, the percentage of complaints currently resolved by the close of the next business day varies considerably across these firms, with the average being roughly 50-60%. Some firms already resolve a far higher proportion of complaints within this timeframe. We asked firms to estimate the percentage of complaints that would be resolved if we extended the period. Some of the responses were based on recorded figures and others were based on projections or estimates.
3. Firms estimated an approximate increase in the percentage of complaints dealt with if the timeframe is extended to three business days in the range of 1% to 10%, with a 5% increase being typical, though for some firms it may be much higher. Generally speaking, firms have been unable to find a way to handle complaints relating to payment protection insurance (PPI) by the close of the next business day so, excluding these types of complaints, 5% would equate to an increase of 111,205 complaints per year dealt with in the three-day period (based on the most recent reporting periods). It is possible that three business days might allow sufficient time for some PPI complaints to be resolved. A 5% increase of all complaints (including PPI complaints) would equate to 242,623 complaints brought within the informal period each year.
4. We considered whether the period should be extended beyond three business days (the Thematic Review working group recommended five business days). However, the firms' projected increases in the number of complaints handled did not seem sufficient in most cases to justify a further extension. When we discussed this proposal at a consumer workshop, participants generally felt this was a reasonable length of time. We concluded that three business days strikes a fair balance between permitting firms longer to obtain the information they need to resolve a complaint, communicate with customers and the need for consumers to have a quick resolution. However, we would welcome further views.
5. Sometimes complaints remain unresolved and are escalated to the formal complaints process simply because the firm has been unable to obtain confirmation from the consumer that they have resolved the complaint to their satisfaction. Estimates vary as to the number of complaints where this happens, with the average being somewhere between 10-20%. Allowing firms longer to get in touch with consumers should help to mitigate this. This would also help respond to the trend which firms tell us about for consumers to want to complain online, rather than by telephone or in person. This aligns with what consumers told us when we surveyed them, where they expressed a preference to complain by email or letter.

6. Additionally, we anticipate that there is likely to be a knock-on benefit on how more complex and serious complaints are handled by firms. Firms would be freed up to rebalance their efforts to focus their formal response processes on complaints which require more time to handle, rather than specialist complaints teams having to handle less serious complaints which have not met the next business day cut-off. This could improve the quality and efficiency of complaint handling overall, freeing up firms to put in place more effective complaints triage processes.
7. One of the main potential benefits to consumers is a reduction in the amount of time it takes (for a proportion of the overall number of complaints) to be resolved. This has to be balanced against the risks discussed in Chapter 2 that some complaints may take longer to resolve, given the extension to three business days. Firms' estimates vary on the time saved if a complaint is handled within three business days, without escalating to the formal eight-week process, with some identifying savings of three to nine working days per complaint. In some cases, rather than having to wait for a written response by post, complaints could be resolved quicker by phone, in person or online. Allowing firms longer to deal with consumers over the phone may also allow them more time to talk through a complaint and resolve it informally, to a consumer's satisfaction. We recognise that this is useful for particular types of complaints.
8. As well as the potential reduction in time for the average complaint to be resolved, consumers may also benefit from time saved in their own handling of a complaint and the effort they need to make. This potentially improves their overall experience of making a complaint. This is a fairly subjective benefit and is difficult to quantify accurately, but any saving in time and effort could translate into consumers being more willing and able to devote time and effort to pursuing complaints. Some firms have made the point that consumers would benefit from fewer points of contact, reducing the amount of time they might have to spend on the phone or in communication with the firm, particularly reducing the need to explain multiple times the nature of their complaint.
9. To explore this further, we discussed extending the next business-day rule with individual consumers, as part of a consumer workshop. Participants generally recognised that there were potential benefits to the proposal but emphasised that good communication and managing expectations about how long it would take to resolve a complaint are key in providing a good process. They were also supportive of the benefit of having a single point of contact, though they valued this less than the complaint being dealt with in a timely manner or receiving a full written response.
10. The thematic review identified that there is often a difference in the level of awards made for distress and inconvenience by frontline staff, and by specialist complaints staff. A common explanation for this is that the difference reflects the length of time the consumer has to wait for a resolution to their complaint. Some firms identify that differences in the levels of payments only reflect the timescale involved and is not necessarily linked to whether or not a complaint is dealt with by the next business-day procedure or by different staff. Based on the evidence, it is not possible to conclude that extending the rule and bringing more complaints within the informal process would reduce distress and inconvenience payments overall, though there may be a reduction in levels of awards paid for a proportion of complaints. We do not estimate that this impact is significant enough to prevent us making a change.
11. We do not believe it is reasonably practicable to calculate an estimate of the cost to all regulated firms of this proposal, though we have sought to identify a range of likely costs to individual firms. The cost of escalating a complaint to a formal complaints process, or central complaints team, varies considerably across firms, which reflects the general variation in complaints processes. Some firms have provided us with detailed unit costs per complaint and others provided estimates. These estimates ranged from £20 per complaint to £330 per complaint.

Some firms indicated that there would be no material difference as the staff costs would be broadly equivalent. We also discussed the potential impact with representatives from smaller firms. However, smaller firms typically do not have dedicated complaints functions so there is less likely to be an impact on who deals with complaints and the associated costs, although the cost of sending a final response letter would be avoided if more complaints are brought into the informal process.

12. Some firms have identified additional implementation and ongoing costs associated with IT resources and upgrading databases, but they did not believe these to be prohibitive. Others identified broader investment, including additional governance and support costs, training, quality assurance and relationship management costs. In some cases, these costs may be offset against cost-savings resulting from a fewer number of complaints being escalated. By way of example, one firm indicated that there would be an additional staff cost of £500,000 per year, but that resolving a further 8% of complaints within current next business day timescales, rather than the formal process, would result in a saving of £2.6 million per year.

Information about the ombudsman service

13. We believe that the benefits of raising consumer awareness about the complaints procedure and their rights to refer complaints to the ombudsman service are self-evident. Better informed consumers will be in a position to make better decisions about how to progress their complaints. A harder question for us to answer is to what extent a requirement for firms to send a summary resolution communication would achieve this result and would prompt consumers to complain to the ombudsman service where they remain dissatisfied. We considered evidence from the ombudsman service's Annual Review, which reports findings that a relatively low percentage of consumers currently hear about the ombudsman service from financial services businesses (17%), compared to through the media (40%) or from a friend, relative or colleague (21%). This suggests that firms can do more to raise consumer awareness. We also surveyed the firms in our Thematic Review about the rates at which complaints are currently 'reopened' by the firm (where the complainant asks the firm to reconsider a complaint after resolution). Firms generally told us that the reopen rates are relatively low (often amounting to about 1% of complaints).
14. We think it should not be necessary to allow firms a second attempt at resolving a complaint and that it is proportionate to allow consumers to refer their complaints straight to the ombudsman service after the close of the three business-day period. The ombudsman service was also involved in our discussions and was supportive of giving consumers referral rights without waiting for the eight-week period to elapse.
15. In terms of additional cost for firms, we expect that the written communication will follow a standard form and would not need to be tailored to an individual complainant. The draft rules require this communication to be in writing, but allow flexibility as to whether this is in the form of a letter, email or text message. We would expect this communication to be no more than the cost of sending a standard letter. We have estimated the overall cost to the industry to be approximately £3,871,311, based on the estimated total number of complaints, and factoring in the proportion of customers who require a letter rather than email or other form of communication.
16. We do not believe it is reasonably practicable to estimate the overall additional costs to firms, which may result from an increase in complaints or referrals to the ombudsman service, but we expect there to be an impact in terms of the cost of additional case fees at the ombudsman service and additional redress.

Complaints reporting

- 17.** The two main benefits in making all complaints reportable are to:
- make complaints data more transparent for consumers, and
 - provide us with more accurate data, reflecting a fuller picture of the complaints received against firms.
- 18.** The evidence we have about the categories of complaints handled within the current reportable and non-reportable periods suggests that there is significant overlap between the types of complaints. This means that whether or not to report a particular category of complaint cannot be justified simply on the basis of the time take to handle it. In terms of the costs associated with this change, we believe these should be considered in the wider context of the changes to complaints reporting that we are proposing. Firms are already required to record all complaints (including for root-cause analysis) and we are aware that they have systems in place to do so. The additional cost of reporting complaints handled within the proposed three-day period should be negligible once a firm has made the relevant changes to its reporting mechanism.
- 19.** Although we cannot reasonably calculate the overall cost to industry, some firms have suggested there could be a significant cost associated with additional training for frontline staff to ensure they understand how to identify and categorise complaints. However, our current rules already require firms to ensure their staff are in a position to accurately identify, handle and record complaints, so any training necessary should be in place to meet our rules.
- 20.** We have taken account of concerns raised about the reputational impact on firms of potential media coverage, particularly if a reporting all complaints results in an apparent increase of the overall number of complaints received. While we recognise that these are legitimate concerns, many of the firms we discussed this with argued that this change would still be proportionate and that any reputational damage would be outweighed by increased transparency. One large firm has indicated that, whether or not we implement this proposal, it intends to report and publish all complaints.

Transparency – complaints data

- 21.** The intended benefits of revising the complaints return are twofold, it will:
- allow us to obtain more comprehensive and reliable information about complaints handling which we can utilise in taking regulatory action, and
 - increase transparency for consumers and other market participants
- 22.** We discussed aspects of the complaints return and complaints publication at a consumer workshop, including the use of contextualisation metrics. Consumers were supportive of the introduction of metrics and being in a position to make use of complaints data more generally, when choosing a product or service provider.
- 23.** We also asked questions, as part of our survey of consumers who had complained about a financial services firm within the last two years, about how useful information on complaints is and where they look for this information. About one quarter of respondents said that they had previously used information about complaints made against a financial services firm, when

choosing which firm or product to use. About one third of respondents said they would visit our website to find out this information, which is roughly the same as the percentage who said they would look at a company's website or visit the company directly. This indicates that a significant proportion of consumers find the information we publish on complaints useful, and information we require firms to publish.

24. We do not believe the overall cost to industry of implementing these changes can be reasonably estimated, however we asked the 15 retail firms in the Thematic Review to estimate the costs of complying with the proposed changes to the complaints return. The set-up costs, including implementation of new systems to collect the data and staff training, are estimated to be between £20,000 and £500,000 per firm. Ongoing costs once new systems have been implemented should be negligible. There was wide variance in the estimated extra numbers of staff required to implement and maintain a new system, ranging from 0.25 full time employees (FTE) up to 400 FTE.
25. We expect the implementation of the new return to involve firms (depending on their size) updating data collection and recording systems to map firm product and root-cause categories to be able to submit the new FCA return, along with the collection of data required for submitting contextualisation information to the FCA. We expect that this will require extra staff training and lead-time to prepare and test new systems and processes to report the new return to the FCA.
26. Our direct costs will arise from developing, setting up and maintaining the reporting systems. Additional costs will arise from formulating our proposals and from ensuring the quality of submitted data. These include the costs of:
 - setting up changes to our reporting systems, so that firms can accurately submit the data we require – this is estimated to be around £150,000, and
 - ensuring the quality of data. This will also be minimal as many of our systems are automated. This will be managed within our existing resources.

Call charges

27. We believe that the benefits to consumers of this proposal are relatively self-evident – call charges will be capped and it will no longer be possible for consumers to be subject to 'hidden' charges for services, applied through the cost of telephone numbers.
28. To help test the proposal, we undertook some pre-consultation research and discussions both with consumer groups and with consumers directly. We have discussed our proposals with Which?, in relation to its 'Costly Calls' campaign to reduce the cost of call charges across different sectors. We also discussed the proposal with the FCA's Consumer Panel and Consumer Network.
29. Participants in our consumer workshop were generally supportive of this proposal, though some noted that there are other aspects of communicating by phone which our rule changes would not solve, e.g. being placed on hold or in a complex options menu. Some participants singled out this proposal as a preferred option among a number of possible actions we could take. We asked respondents to rate the importance which they attach to different aspects of communicating with businesses by telephone, when making a complaint. A majority said that being able to make a call charged at a basic rate was a more important factor for them than

being kept on hold for an unreasonable amount of time, or having a call-back option available so that the firm will call back within a specified amount of time.

- 30.** The proposal will result in a cost transfer from consumers to firms, so we asked the firms in the Complaints Thematic Review, to estimate the cost of implementing the proposed change. A number of firms said that the cost of implementation would be 'cost neutral' and some firms said they have already implemented Freephone numbers across the business.
- 31.** Other estimates varied. For example, one firm estimated that there would be an increase to current running costs of approximately £1.7 million per year and implementation costs of £500K per firm. Another firm estimated that there would be an additional cost to the firm of 1p per minute per call and that this would result in an additional cost of £50K, based on receiving one million calls annually, with an average call duration of five minutes. Firms were generally supportive of the proposal and continued to recognise a clear consumer benefit.
- 32.** In terms of the overall cost savings to consumers, we do not have complete information on the overall numbers of calls across the industry, so we cannot practically calculate the aggregate savings, albeit the information we have from the largest firms suggests these savings will be substantial.
- 33.** Given that several of the larger firms say they have already committed to supplying either Freephone or basic rate telephone numbers, we foresee good levels of early compliance.
- 34.** Some of the smallest firms may have only one contact number available, which may be a mobile number used for all pre and post-contractual calls with consumers. We do not think it would be proportionate in these circumstances to require firms to make available an alternative number. We consulted with membership associations representing smaller firms, which were supportive of this approach. Additionally, we noted that mobile numbers can, in some circumstances, be cheaper to call than landline numbers. They are usually included as part of 'free minutes' in mobile phone contracts and may often be free when calling from a mobile phone on the same contract. For these reasons, we believe it is proportionate to include mobile numbers within the definition of 'basic rate' numbers.
- 35.** We expect to undertake a further survey of a cross-section of smaller firms to identify whether there may be any compliance issues and to estimate any implementation costs. However, we do not anticipate the cost to smaller firms to be significant.
- 36.** In evaluating this proposal, we also took into account changes to tariffs by other bodies. Ofcom intends to simplify Freephone call charges, with numbers beginning 080 to be free from mobiles as well as landlines, and clearer pricing structures for 08, 09 and 118 numbers. Additionally, telephone users calling service numbers will be able to see the cost broken down into an 'access charge' to their phone company, as well as a 'service charge' to the company or organisation they are calling. These changes will apply to business in all sectors and are expected to come into effect in June 2015. We believe our proposals complement these changes and we will try to align the timing of measures to ensure the minimal possible disruption to businesses.
- 37.** We also considered the potential impact of our proposals on the volume of calls which firms receive. In principle, any increase in the number of calls should reflect the removal of a prohibitive cost to consumers, though it is possible that in some cases consumers will take advantage of lower costs to contact firms when unnecessary. By way of comparison, we looked at the impact in other sectors. For example, the Department for Work and Pensions found that mobile phone caller volumes increased by 45% after it agreed with mobile telephone companies that its 0800 numbers would be free. However, it found that volumes returned to historic levels over the

longer term. We recognise that a significant increase in the volume of calls could potentially result in higher overheads for firms implementing our changes – nonetheless we believe this impact is outweighed by the benefit to consumers.

- 38.** Vulnerable consumers may have specific communications requirements. For example, older consumers tend to be more likely to use landlines, rather than mobile phones. As a result they may benefit more than other types of consumers from the availability of Freephone numbers, which are free to call from landlines but tend to be chargeable from mobiles (although, as above, Ofcom is proposing to change this). Lower socio-economic groups are more likely to use pay-as-you go mobile phones, where the consumer pays the cost of calls in advance. These tend to have more expensive tariffs than contract phones, which are typically paid monthly, in arrears. For these reasons, in some circumstances, 0845 numbers and other higher rate numbers may in fact suit vulnerable consumers more than other consumers.
- 39.** We will consider further whether to follow a similar approach to the Government in producing guidance to the effect that firms may provide both a number which is charged at the basic rate, as well as a number which may not meet the definition of basic rate. In these circumstances, both numbers would have to be equally visible, allowing consumers to choose between them. This would allow vulnerable consumers an alternative, potentially less expensive means of calling a firm.

Q19: Do you have any comments on the possible impact of this proposal on vulnerable consumers?

Implementing the Alternative Dispute Resolution Directive

- 40.** Section 138 of Financial Services and Markets Act (FSMA) requires us to perform a cost benefit analysis of our proposed requirements and to publish the results, unless we consider the proposal will not give rise to any cost or to an increase in costs of minimal significance.
- 41.** We do not expect the proposal to retain the existing six and three year time limits for complaints made to the ombudsman service to have significant implications for either firms or consumers. The position will not give rise to significant additional costs for firms because the position will be very similar to the current position, which is that the ombudsman service can look at complaints referred outside the relevant time limits if the firms does not object. There will be a new requirement in the rules for firms to inform consumers in the final response letter or summary resolution communication whether they intend to use the ombudsman service to resolve disputes if they are not required to do so. This change will involve minor implementation costs for firms, who will need to add the appropriate wording set out in the rules to their letters/communications to consumers. However we think that these implementation costs will be minimal and firms will not face any ongoing costs as a result of the proposal. It is unlikely that consumer behaviour will change significantly as a result of the change. However, it is possible that consumers might be dissuaded from referring their complaint to the ombudsman service if the firm tells the consumer in the final response it will not consent to the ombudsman service considering the complaint if it is referred outside the relevant time limits. To minimise this risk, we have drafted wording that firms will be required to use in communications to consumers. We have tried to make the wording as clear as possible and the wording also explains that in certain scenarios, it will be up to the ombudsman service to decide whether or not they can consider the complaint.

- 42.** The proposals for firms to include information about the ombudsman service (and its website) on their own websites, if they have one, or in the general terms and conditions of sales or services contracts will involve some minimal implementation costs for firms but we do not consider that these costs will be significant. The benefits to consumers of firms providing information about the ombudsman service include improved consumer awareness of the ombudsman service and better informed consumers who will be in a position to make better decisions about escalating their complaint if they are unhappy with the response that they receive from the firm.
- 43.** It is unlikely that the amendments to the definition of consumer will have significant costs implications for firms, the definition of eligible complainant in our rules is already broader than the Directive and covers micro-enterprises as well as consumers.
- 44.** The proposed new rules setting out the information that the ombudsman service's annual reports must contain and how the report should be published will have no costs implications for firms but should provide consumers with additional helpful information about the ombudsman service. Costs to the ombudsman service will also be minimal, much of the information is already set out in their annual report and the ombudsman service will need to incur these costs in any event to ensure it can become a certified ADR entity under the Directive.

Q20: Do you have any comments on our cost benefit analysis?

Annex 2

Compatibility statement

1. Sections 1B (1) and 3B of the Financial Services and Markets Act 2000 (FSMA) require us to have regard to the regulatory principles. The proposed changes are expected to be in line with the regulatory principles.
2. The proposals to improve complaint handling impose a number of obligations on FCA regulated firms which we believe to be proportionate to the benefits to consumers.
3. In particular, the proposal to improve the transparency of reporting and publishing data on complaints is consistent with the principle that regulators should exercise their functions as transparently as possible. We have also taken into account the regulatory principles around publishing and information sharing.
4. We have had regard to the requirements of different types of firms across the financial services sector, in tailoring our proposals. For example, we have taken account of separate requirements for consumer credit firms in relation to complaints reporting and we have reflected the needs of smaller firms in allowing mobile phone numbers to be included within the definition of 'basic rate'.
5. The proposals relating to jurisdiction of the ombudsman service are consistent with the regulatory principle to ensure that consumers are encouraged to take responsibility for their own decisions.
6. Section 138K (2) FSMA also requires the FCA to state our opinion about the impact of the proposed rules on mutual societies. The proposed changes are not expected to have a significantly different impact on mutual societies, compared to the impact on other authorised persons.

Annex 3

List of questions

- Q1:** Do you agree that the time period for firms to resolve complaints informally should be extended from the close of the next business day to three business days (following receipt)?
- Q2:** Do you agree that firms should report to us, and publish, all complaints that they receive?
- Q3:** Do you have any comments on our proposals to improve consumer awareness by requiring firms to send a summary resolution communication in respect of complaints handled within three business days?
- Q4:** Do you have any comments on the proposed new complaints return?
- Q5:** Do you agree with our proposed approach to data contextualisation?
- Q6:** Do you have any comments on the new complaints publication report?
- Q7:** Do you have any comments on these changes?
- Q8:** Do you agree that all post-contract telephone calls to financial services firms should be charged at no more than a 'basic rate'.
- Q9:** Do you agree with our proposed amendments to DISP 2.8.1?
- Q10:** Do you agree with our proposal to retain the existing six month and six and three year time limits for complaints made to the ombudsman service?
- Q11:** Do you agree that once a firm has consented to the ombudsman service considering a complaint it should not be permitted to withdraw consent?
- Q12:** Do you have any comments on the proposed wording firms will be required to include in final response letters?

- Q13:** Do you agree with our proposal to extend the definition of eligible complainant so it is consistent with the ADR Directive?
- Q14:** Do you have any comments on the new rules in DISP 5 that apply to the ombudsman service's annual reports?
- Q15:** Do you agree with our proposed revision of the dismissal grounds in order to bring them in line with the Directive?
- Q16:** Do you agree with the proposal to amend the test case rules in this way?
- Q17:** Do you have any comments on the proposed wording for this rule?
- Q18:** Do you agree with our proposed amendment to DISP on the timing of complaints procedure disclosure for intermediaries within the scope of the MCD?
- Q19:** Do you have any comments on the possible impact of this proposal on vulnerable consumers?
- Q20:** Do you have any comments on our cost benefit analysis?

Appendix 1

Proposed rules (legal instrument)

ALTERNATIVE DISPUTE RESOLUTION DIRECTIVE, COMPLAINTS HANDLING AND CALL CHARGES INSTRUMENT 2015

Powers exercised by the Financial Ombudsman Service Limited

- A. The Financial Ombudsman Service Limited makes and amends:
- (i) the rules relating to complaints handling procedures of the Financial Ombudsman Service; and
 - (ii) the standard terms for Voluntary Jurisdiction participants;

as set out in Annex A and Parts 1, 5, 6 and 8 of Annex C of this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):

- (1) section 227 (Voluntary Jurisdiction);
 - (2) paragraph 8 (Guidance) of Schedule 17;
 - (3) paragraph 14 (The scheme operator’s rules) of Schedule 17;
 - (4) paragraph 15 (Fees) of Schedule 17;
 - (5) paragraph 18 (Terms of reference to the scheme) of Schedule 17; and
 - (6) paragraph 22 (Consultation) of Schedule 17.
- B. The making (and amendment) of the rules and standard terms in Annex A and Parts 1, 5, 6 and 8 of Annex C by the Financial Ombudsman Service Limited is subject to the consent and approval of the Financial Conduct Authority.

Powers exercised by the Financial Conduct Authority

- C. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Act:
- (1) section 137A (FCA’s general rule-making power);
 - (2) section 137T (General supplementary powers);
 - (3) section 139A (Power of the FCA to give guidance);
 - (4) section 226 (Compulsory jurisdiction);
 - (5) paragraph 7 (Annual reports) of Schedule 17 (The Ombudsman Scheme); and
 - (6) paragraph 13(1), (3) and (4) (FCA’s procedural rules) of Schedule 17.
- D. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.
- E. The Financial Conduct Authority consents and approves the rules and standard terms made and amended by the Financial Ombudsman Service Limited in Annex A and Parts 1, 5, 6 and 8 of Annex C to this instrument.

Commencement

- F. This instrument comes into force on the following dates:

Annex / Part: *[date]*.

Amendments to the Handbook

- G. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
General Provisions (GEN)	Annex B
Dispute Resolution: Complaints sourcebook (DISP)	Annex C
Consumer Credit sourcebook (CONC)	Annex D

Notes

- H. In Annexes A, C and D to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- I. This instrument may be cited as the Alternative Dispute Resolution Directive, Complaints Handling and Call Charges Instrument 2015.

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

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

Annex A

Amendments to the Glossary of definitions

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

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<u>ADR Directive</u>	<u>Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC.</u>
<u>ADR entity</u>	<u>any entity, however named or referred to, which is listed in accordance with article 20(2) of the ADR Directive¹.</u>
<u>ADR procedure</u>	<u>a procedure, which complies with the requirements set out in the ADR Directive.</u> [Note: article 4(1) of the ADR Directive]
<u>call charges rule</u>	<u>GEN 7.2.1R.</u>
<u>contractual dispute</u>	<u>a dispute falling within the scope of the ADR Directive, which arises from:</u> (a) <u>a contract under which the trader transfers or undertakes to transfer the ownership of a product to the consumer and the consumer pays or undertakes to pay the price of the product, including a contract which has as its object both goods and services; or</u> (b) <u>a contract, under which the trader supplies or undertakes to supply a service to the consumer and the consumer pays or undertakes to pay the price of the services.</u> [Note: article 4(1) of the ADR Directive]
<u>cross-border dispute</u>	<u>a contractual dispute where, at the time the consumer orders the goods or services, the consumer is resident in a Member State other than the United Kingdom.</u> [Note: article 4(1) of the ADR Directive]
<u>ODR Regulation</u>	<u>Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer</u>

¹ This provision is likely to be amended to refer to the specific Regulation to be made by BIS implementing the ADR Directive.

disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC.

summary resolution communication has the meaning given in *DISP 1.5.4R*.

trader a person acting for purposes relating to that person's trade, business, craft or profession, whether acting personally or through another person acting in his name or on his behalf.

[**Note:** article 4(1) of the *ADR Directive*]

Amend the following as shown.

chargeable case any *complaint* referred to the *Financial Ombudsman Service*, except where:

(a) the *Ombudsman* considers it apparent from the *complaint*, when it is received, and from any *final response*, summary resolution communication or *redress determination* which has been issued by the *firm* or *licensee*, that the *complaint* should not proceed because:

...

(iii) the *Ombudsman* considers that the *complaint* should be dismissed without consideration of its merits under ~~*DISP 3.3*~~ *DISP 3.3.4R* or *DISP 3.3.4AR(2)* to (5) (Dismissal of complaints without consideration of the merits ~~and test cases~~); or

(iv) 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

(b) the *Ombudsman* considers, at any stage, that the *complaint* should be dismissed under *DISP 3.3.4R(2)* or *DISP 3.3.4AR(1)* on the grounds that it is frivolous and vexatious.

consumer ...

(7) (in the definitions of *contractual dispute* and *cross-border dispute*, and in *DISP 2.7.3R* and *DISP 2.7.9AR*) any natural person acting for purposes which are wholly or mainly outside his trade, business, craft, or profession.

[**Note:** article 4(1) of the *ADR Directive*]

respondent (1) (in *DISP*, *FEES 5* and *CREDS 9* and *GEN 7*) a *firm* (except a

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UCITS qualifier), payment service provider, electronic money issuer or VJ participant covered by the Compulsory Jurisdiction, or Voluntary Jurisdiction of the Financial Ombudsman Service.

...

Annex B

Amendments to the General Provisions (GEN)

After GEN 6 insert the following new chapter. All of the text is new and is not underlined.

7 Charging consumers for telephone calls

7.1 Application

Who? Where?

- 7.1.1 R This chapter applies to a *firm* carrying on activities from an establishment in the *United Kingdom*.

What?

- 7.1.2 R This chapter applies where a *firm* operates a telephone line for the purpose of enabling a *consumer* to contact the *firm* in relation to a contract that has been entered into with the *firm* in the course of, or in connection with:

- (1) *regulated activities*; or
- (2) *payment services*.

MiFID firm exception

- 7.1.3 R This chapter does not apply for telephone lines provided in respect of contracts relating to the *MiFID business* of a *firm*.

Payment Services exception

- 7.1.4 R This chapter does not apply for telephone lines which:
- (1) enable *payment service users* to request information to which paragraph (2) of regulation 48 of the *Payment Services Regulations* applies; or
 - (2) relate to the termination of a *framework contract*, unless:
 - (a) the *framework contract* was concluded either for a fixed period of more than 12 *months* or for an indefinite period; and
 - (b) at least 12 *months* of the *framework contract* have expired.

Complaints exception

- 7.1.5 R This chapter does not apply for telephone lines provided by a *respondent* for the purpose of enabling an *eligible complainant* to submit a *complaint*.

- 7.1.6 G *DISP* 1.3 contains rules that apply for telephone lines provided by *respondents* for the purpose of enabling *eligible complainants* to submit

complaints to a respondent.

Application to firms carrying on credit-related regulated activities

- 7.1.7 G An effect of *GEN 7.1.1R* and *GEN 7.2.1R* is that this chapter applies for contracts by which a *firm* provides, or agrees to provide, *credit broking* services. In particular, this chapter applies where a telephone line is operated by a *credit broker* so that following the entry into a contract for the provision of *credit broking* services, a *customer* is able to contact the *firm* with a view to entering into a *credit agreement* or a *consumer hire agreement*.

Related consumer credit rules

- 7.1.8 G The following provisions of *CONC* continue to apply where a *firm* operates a telephone line in respect of the relevant *credit-related regulated activities* but the *call charges rule* does not apply (for example, where a telephone line is operated for the purpose of enabling a *consumer* to contact the *firm* before a contract has been entered into):
- (1) *CONC 2.5.8R* and *CONC 2.5.9G* (unfair business practices: credit broking);
 - (2) *CONC 2.6.3R* and *CONC 2.6.4G* (unfair business practices: debt counselling, debt adjusting and providing credit information services);
 - (3) *CONC 3.3.9G* (financial promotions and communications);
 - (4) *CONC 3.9.5R* and *CONC 3.9.6G* (financial promotions and communications in relation to debt counselling and debt adjusting);
 - (5) *CONC 7.9.5R* (arrears, default and recovery); and
 - (6) *CONC 8.7.6R* (charging for debt counselling, debt advice and related services).

7.2 Call charges

Call charges rule

- 7.2.1 R A *firm* which operates a telephone line for the purpose of enabling a *consumer* to contact the *firm* in relation to a contract that has been entered into with the *firm* must not bind the *consumer* to pay more than the basic rate for the telephone call.
- 7.2.2 G The contract entered into with the *firm* may be in writing or otherwise.

Meaning of basic rate

- 7.2.3 R For the purposes of the *call charges rule*, the basic rate is the simple cost of connection and must not provide the *firm* with a contribution to its costs or

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revenues.

7.2.4 R The following numbers, if used by *firms*, would comply with the *call charges rule*:

- (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 firm ordinarily uses a mobile number to receive telephone calls.

7.2.5 R The following numbers, if used by *firms*, would not comply with the *call charges rule*:

- (1) premium rate numbers that begin with the prefix 09;
- (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 *firm*, 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 *consumer's* telephone tariff.

Annex C

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

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

Part 1

INTRO 1 Introduction

...

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

Chapter 5: Financial Ombudsman Service Annual Reports

Chapter 5 sets out some of the information the *Financial Ombudsman Service's* annual reports must contain. The rules in this chapter transpose the relevant provisions of articles 7(2) and 19(3) of the *ADR Directive*.²

...

1 Treating complainants fairly

...

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:

...

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

...

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

² This Chapter of DISP is subject to the final form of the regulations to be made by BIS which implement these aspects of the ADR Directive.

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

...

(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 terms and conditions of the *respondent's* contract with the *eligible complainant*.

[**Note:** article 15 of the *UCITS Directive*, article 13(2) of the *ADR Directive* and article 14(1) of the *ODR Regulation*]

...

Content of summary details

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

...

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

...

1.3 Complaints handling rules

...

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* 1.3.1ABR 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:

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- (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;
- (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.

...

1.5 Complaints resolved by close of the next **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 ~~its receipt~~ the day on which it is received:

- (1) the *complaints time limit rules* (except *DISP 1.6.1R(1)* (Keeping the complainant informed); and
- (2) the *complaints forwarding rules*;
- (3) the *complaints reporting rules*;
- (4) the *complaints record rule*, if the *complaint* does not relate to *MiFID business* or *collective portfolio management* services for a *UCITS scheme* or an *EEA UCITS scheme*; and
- (5) the *complaints data publication rules*.

1.5.2 G *Complaints* falling within this section are still subject to the ~~*complaint 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 ~~For the purposes of this section:~~

~~(1) a complaint received on any day other than a business day, or after close of business on a business day, may be treated as received on the next business day; and~~

~~(2) 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 [deleted]~~

Summary resolution communication

1.5.4 R Where the respondent considers a complaint to be resolved under this section, the respondent must 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;

(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 1.6.5R;

(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.

1.6 Complaints time limit rules

...

Final or other response within eight weeks

1.6.2 R The respondent must, by the end of eight weeks after its receipt of the complaint, send the complainant:

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

...

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

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

(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 must do so within six months; or~~

(f) 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 1.6.5R*; or

(2) a written response which:

...

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

(ba) 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?) 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*]

...

Complainant's written acceptance

1.6.4 R *DISP 1.6.2R* 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; ~~and~~
- (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* 2.8.2R 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* 1.6.5R.

- 1.6.5 R (1) ~~[deleted]~~ Where the *respondent* does not consent to waive the six month time limit in *DISP* 2.8.2R(1) for referring a *complaint* to the *Financial Ombudsman Service*, the *respondent* must include the following statement prominently, within the text of the relevant response:

“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 it believes that the delay was as a result of exceptional circumstances.”

- (2) Where the *respondent* has reasonable grounds to be satisfied that the *complaint* would be referred to the *Ombudsman* outside the time limits set out in *DISP* 2.8.2R(2), the *respondent* must include the following statement prominently, within the text of the relevant response:

“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:

- 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. 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 it believes that the delay was as a result of exceptional

circumstances.”

- (3) Where the *complaint* relates to the sale of an endowment *policy* to which the time limits in *DISP 2.8.7R* apply and the *respondent* does not consent to waive those time limits, the *respondent* must include the following statement prominently, within the text of the relevant response:

“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. The Ombudsman will not have our permission to consider your complaint and so will only be able to do so in limited circumstances.”

- (4) Where the *respondent* consents to waive the time limits for referring a *complaint* to the *Financial Ombudsman Service*, the *respondent* must include the following statement prominently, within the text of the relevant response:

“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.”

1.6.6 R [deleted]

1.6.6A G The information regarding the *Financial Ombudsman Service* required to be provided in responses sent under *DISP 1.5.4R* (Summary resolution communication) and the *complaints* time limit rules (*DISP 1.6.2R* and *DISP 1.6.4R*) 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*]

...

1.8 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* 1.6.2R ~~and indicate that the *Ombudsman* may waive the time limits in exceptional circumstances.~~

Part 2

1.10 Complaints reporting rules

...

Information requirements

1.10.2 R ~~Part A of *DISP 1 Annex 1* 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*:
 - ~~(a) within four weeks or less of receipt;~~
 - ~~(b) more than four weeks and up to eight weeks of receipt; and~~
 - ~~(c) more than eight weeks after receipt;~~~~
- ~~(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.~~

1.10.2 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
 - (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.

...

1.10.3 G ...

- (2) Under ~~DISP 1.10.2R(3)(a)~~ DISP 1.10.2R(1)(b)(i), DISP 1.10.2R(2)(b)(i) or DISP 1.10.2-AR, a firm should report any complaint to which it has given a response which upholds the complaint, even if any redress offered is disputed by the complainant. For this purpose, 'response' includes a response under the complainant's written acceptance rule (DISP 1.6.4R), ~~and a final response and a summary resolution communication~~. 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'.
- (3) If a firm reports on the amount of redress paid under ~~DISP 1.10.2R(4), DISP 1.10.2R(1)(b)(ii), DISP 1.10.2R(2)(b)(ii), DISP 1.10.2-AR(4) or DISP 1.10.2AR~~, 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:
- ...
- (4) If a firm reports on the amount of redress paid under ~~DISP 1.10.2R(4), DISP 1.10.2R(1)(b)(ii), DISP 1.10.2R(2)(b)(ii), DISP 1.10.2-AR(4) or DISP 1.10.2AR~~, 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.

...

1.10A Complaints data publication rules

...

Mode and content of publication

...

- 1.10A.8 G (1) ~~The FCA recommends that *firms* should publish additional information alongside their *complaints* data summaries or total number of *complaints* (as appropriate) in order to relate the number of complaints to the scale of the *firm's* relevant business. *Firms* are recommended to publish the relevant standard metrics set out in the table at *DISP 1 Annex 1A G* with the summaries. Where the *complaints* data summary or total number of *complaints* (as appropriate) relates to a joint report the metrics should cover all the *firms* included in the joint report.~~
- (2) ~~If the recommended metrics do not accurately reflect the scale of the *firm's* relevant business, the FCA recommends that the *firm* should publish metrics which best reflect the scale of its business based on the number of its customers or accounts or policies. *Firms* may also publish other metrics where they consider that these would better reflect the scale of their business.~~
- (3) ~~*Firms* may also publish other information to aid understanding, for example details of their internal processes for dealing with complaints. [deleted]~~

...

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 DISP 1.10A.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 reporting 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.

...

Part 3

1.11 The Society of Lloyd's

Complaints handling procedures

...

- 1.11.2A R The Society must ensure that the arrangements which the member maintains include a requirement which corresponds to DISP 1.2.1R(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]

...

Publication of complaints data by the FCA

- 1.11.6F G To improve consumer awareness and to help firms compare their performance against their peers, the FCA publishes:

- (1) complaints data about the financial services industry as a whole; and
- (2) complaints data about the Society for those reporting periods in which the Society is required to publish a complaints data summary under DISP 1.11.6AR.

- 1.11.6G G For such reporting periods, the FCA will publish complaints data relating to the Society after it receives an email from the Society under DISP 1.11.6DR 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.

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 2.5.4G~~ DISP 2.1.7D under section 316 of the Act (Direction by Authority a regulator).

...

Part 4

1 Annex 1R Complaints return form

Illustration of the reporting requirements, referred to in *DISP* 1.10.1R

Complaints Return (DISP 1 Ann 1R)

GROUP REPORTING /NIL RETURN DECLARATION

- | | | |
|----|---|----------|
| 1 | Does the data reported in this return cover complaints <u>complaints</u> relating to more than one entity? If 'Yes', then list the firm <u>firm</u> reference numbers (FRNs) of all the entities included in this return. | Yes / No |
| 34 | <u>If 'Yes' then list the firm reference numbers (FRNs) of all of the additional entities included in this return. Use the 'add' button to add additional FRNs.</u> | 111111 |

NIL RETURN DECLARATION

- | | | |
|---|--|----------|
| 2 | We wish to declare a nil return
<u>(If 'Yes', leave all tables blank, including the contextualisation metrics in tables 3 and 6).</u> | Yes / No |
|---|--|----------|

RETURN DETAILS REQUIRED

- | | | |
|----|--|-----|
| 3 | Total complaints <u>complaints</u> outstanding at reporting period start date | 100 |
| 49 | <u>Total number of <i>complaints</i> opened during the reporting period</u> | 100 |

COMPLAINTS DATA PUBLICATION BY FCA AND FIRMS

- | | | |
|----|---|--------|
| 47 | <u>If you are reporting 500 or more <i>complaints</i> under <i>DISP</i> 1.10.1R(1) or 1000 or more <i>complaints</i> under <i>DISP</i> 1.10.1R(2), do you consent to the <i>FCA</i> publishing the <i>complaints</i> data and information on context contained in this report and due to be published under <i>DISP</i> 1.10A in advance of the <i>firm</i> publishing the data itself?</u> | Yes/No |
| 48 | <u>If 'Yes', does the <i>firm</i> confirm that the <i>complaints</i> data and information on context contained in this report accurately reflects the information to be published by the reporting <i>firm</i> under <i>DISP</i> 1.10A?</u> | Yes/No |

PART A

Complaints closed and total redress paid during the reporting period

	A	B	C	D	E
Product/service grouping	Complaints closed within 4 weeks	Complaints closed > 4 but within 8 weeks	Complaints closed > 8 weeks	Total complaints upheld by firm	Total redress paid
4 Banking and credit cards	-	-	-	-	-
5 Home finance	-	-	-	-	-
6 General insurance and pure protection	-	-	-	-	-
7 Decumulation, life and pensions	-	-	-	-	-
8 Investments	-	-	-	-	-

Complaints opened

		A	B	C	D	E
Product/service grouping	Product/service	Advising, selling and arranging	Terms and disputed sums/charges	General admin/ customer service	Arrears related	Other
9	Current accounts	-	-	-	-	-
10	Credit cards	-	-	-	-	-
46	Banking and credit cards					
11	Overdrafts	-	-	-	-	-
12	Savings (inc. Cash ISA) and other banking	-	-	-	-	-
13	Equity release products	-	-	-	-	-
14	Home finance					
14	Impaired credit mortgages	-	-	-	-	-
15	Other regulated home finance products (including second and subsequent charge mortgages)	-	-	-	-	-
16	Other unregulated home finance products					
17	General insurance & pure protection					
17	Payment protection insurance	-	-	-	-	-
18	Other general insurance	-	-	-	-	-

**FCA Restricted:
Legal Privilege**

19		Critical illness	-	-	-	-	-
20		Income protection	-	-	-	-	-
24		Other pure protection	-	-	-	-	-
22	Decumulation, life and pensions	Personal pensions and FSAVGs	-	-	-	-	-
23		Investment linked annuities	-	-	-	-	-
24		Income drawdown products	-	-	-	-	-
25		Endowments	-	-	-	-	-
26		Other decumulation, life and pensions	-	-	-	-	-
27	Investments	Investment bonds	-	-	-	-	-
28		PEPs/ISAs (exc. cash ISAs)	-	-	-	-	-
29		Investment trusts	-	-	-	-	-
30		Unit trusts/OEICs	-	-	-	-	-
34		Structured products	-	-	-	-	-
32		Other investment products/funds					
33		Investment management/services (inc. platforms)					

**FCA Restricted:
Legal Privilege**

Part A-1, DISP 1 Annex 1R for firms receiving less than 500 complaints in the reporting period

Table 1

Complaints opened in the reporting period

		A	E	I	M	N	O
<u>Product/service grouping</u>	<u>Product/service</u>	<u>Total</u>	<u>Advising, selling and arranging</u>	<u>Information, sums/charges or product performance</u>	<u>General admin/customer service</u>	<u>Arrears related</u>	<u>Other</u>
50	<u>Current accounts</u>						
51	<u>Credit cards</u>						
52	<u>Overdrafts</u>						
53	<u>Packaged accounts</u>						
54	<u>Savings (inc. ISAs)</u>						
55	<u>Other banking - please provide details of the product/service on the line below</u>						
55 X							
56	<u>Total banking and credit card</u>						
57	<u>Equity release</u>						
58	<u>Impaired credit</u>						
59	<u>Second and subsequent charge</u>	-	-	-	-	-	-
60	<u>Other regulated home finance products - please provide details of the product/service on the line below</u>	-	-	-	-	-	-
60 X							
61	<u>Other unregulated home finance products - please provide details of the</u>		-	-	-	-	-

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Legal Privilege**

61		<u>product/service on the line below</u>					
X							
62		Total home finance	-	-	-	-	-
63	Insurance & pure protection	<u>Property</u>	-	-	-	-	-
64		<u>Motor</u>	-	-	-	-	-
65		<u>Travel</u>	-	-	-	-	-
66		<u>Medical/health</u>	-	-	-	-	-
67		<u>Other general insurance - please provide details of the product/service on the line below</u>	-	-	-	-	-
67							
X							
68		<u>Payment protection insurance</u>	-	-	-	-	-
69		<u>Income protection and other accident, sickness and unemployment</u>	-	-	-	-	-
70		<u>Whole of life/term assurance</u>	-	-	-	-	-
71		<u>Other pure protection - please provide details of the product/service on the line below</u>	-	-	-	-	-
71							
X							
72		Total insurance and pure protection	-	-	-	-	-
73	Decumulation & pensions	<u>Personal pensions/ SHPs/ SIPPs</u>	-	-	-	-	-
74		<u>Workplace personal pensions</u>	-	-	-	-	-
75		<u>Other pensions - please provide details of the product/service on the line below</u>	-	-	-	-	-
75							
X							
76		<u>Annuities (inc. impaired)</u>	-	-	-	-	-
77		<u>Drawdown</u>	-	-	-	-	-
78		<u>Third way products</u>	-	-	-	-	-
79		<u>Other decumulation - please provide</u>	-	-	-	-	-

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Legal Privilege**

		<u>details of the product/service on the line below</u>					
<u>79</u>							
<u>X</u>							
<u>80</u>		<u>Total decumulation and pensions</u>	-	-	-	-	-
<u>81</u>	<u>Investments</u>	<u>Investment bonds</u>	-	-	-	-	-
<u>82</u>		<u>Endowments</u>	-	-	-	-	-
<u>83</u>		<u>ISAs (where investment held)</u>	-	-	-	-	-
<u>84</u>		<u>Investment trusts</u>	-	-	-	-	-
<u>85</u>		<u>Unit trusts/OEICs</u>	-	-	-	-	-
<u>86</u>		<u>Structured products</u>	-	-	-	-	-
<u>87</u>		<u>ETPs</u>	-	-	-	-	-
<u>88</u>		<u>Discretionary management services</u>	-	-	-	-	-
<u>89</u>		<u>Platforms</u>	-	-	-	-	-
<u>90</u>		<u>Crowdfunding / peer to peer</u>	-	-	-	-	-
<u>91</u>		<u>FX/CFD/spreadbetting</u>	-	-	-	-	-
<u>92</u>			<u>Other investment products/funds - please provide details of the product/service on the line below</u>	-	-	-	-
<u>92</u>							
<u>X</u>							
<u>93</u>		<u>Total investments</u>	-	-	-	-	-

Table 2

Complaints closed, upheld and redress paid in the reporting period

	A	B	C	D	E	F	G	H
<u>Product/service grouping</u>	<u>Complaints closed within 3 days</u>	<u>Complaints closed > 3 days but within 8 weeks</u>	<u>Complaints closed > 8 weeks</u>	<u>Total complaints closed</u>	<u>Total complaints upheld</u>	<u>Total redress paid for upheld complaints</u>	<u>Total redress paid for complaints not upheld</u>	<u>Total redress paid</u>
106 <u>Total banking and credit card</u>	-	-	-	-	-	-	-	-
112 <u>Total home finance</u>	-	-	-	-	-	-	-	-
122 <u>Total insurance and pure protection</u>	-	-	-	-	-	-	-	-
130 <u>Total decumulation and pensions</u>	-	-	-	-	-	-	-	-
143 <u>Total investments</u>	-	-	-	-	-	-	-	-

Table 3

Contextualisation metrics

<u>Product/service grouping:</u>	A <u>Provision (at reporting period end date)</u>	B <u>Intermediation (within the reporting period)</u>
154 <u>Banking and credit card</u>	<input type="text"/> <u>Number of accounts</u>	
163 <u>Home finance</u>	<input type="text"/> <u>Number of loans outstanding</u>	<input type="text"/> <u>Number of sales</u>
175 <u>Insurance and pure protection</u>	<input type="text"/> <u>Number of policies in force</u>	<input type="text"/> <u>Number of policies sold</u>
185 <u>Decumulation and pensions</u>	<input type="text"/> <u>Number of policies in force</u>	<input type="text"/> <u>Number of policies sold</u>
198 <u>Investments</u>	<input type="text"/> <u>Number of distinct</u>	<input type="text"/> <u>Number of</u>

funds or
investment
accounts

sales

**Part A-2, DISP 1 Annex 1R
for firms receiving 500 or more complaints in
the reporting period**

Table 4

**Complaints opened in the
reporting period**

		A	B			C	D		F	G	H	J	K	L	N	O
		Total	Advising, selling and arranging				Information, sums/ charges or product performance				General admin/ customer service			Arrears Related		Other
Product/ service grouping		Total	Misleading advice/guidance	Arranging	Inappropriate sales technique	Disputes over sums/charges	Product performance/features	Product information		Errors/not following instructions	Delays/timescales	Other general admin/customer service		Arrears related	Other	
5 0 5 1 5 2 5 3 5 4	Banking and credit cards															
	Current accounts	-				-	-	-						-	-	
	Credit cards	-				-	-	-						-	-	
	Overdrafts	-												-	-	
	Packaged accounts	-												-	-	
	Savings (inc. ISAs)	-												-	-	
5 5 5 5	Other banking - please provide details of the product/service on the line below	-												-	-	

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X													
5		Total banking and credit card	-	-	-	-	-	-	-	-	-	-	-
6													
5	Home finance	Equity release	-	-	-	-	-	-	-	-	-	-	-
7		Impaired credit	-	-	-	-	-	-	-	-	-	-	-
5		Second and subsequent charge	-	-	-	-	-	-	-	-	-	-	-
8		Other regulated home finance products - please provide details of the product/service on the line below	-	-	-	-	-	-	-	-	-	-	-
9													
6	Home finance	Other unregulated home finance products - please provide details of the product/service on the line below	-	-	-	-	-	-	-	-	-	-	-
0													
6													
1													
6		Total home finance	-	-	-	-	-	-	-	-	-	-	-
2													
6	Insurance & pure protection	Property	-	-	-	-	-	-	-	-	-	-	-
3		Motor	-	-	-	-	-	-	-	-	-	-	-
6		Travel	-	-	-	-	-	-	-	-	-	-	-
4		Medical/health	-	-	-	-	-	-	-	-	-	-	-
6		Other general insurance - please provide details of the product/service on the line below	-	-	-	-	-	-	-	-	-	-	-
6													
7													
6		Payment protection insurance	-	-	-	-	-	-	-	-	-	-	-
7													
X													
6		Income protection and other accident, sickness and unemployment	-	-	-	-	-	-	-	-	-	-	-
8													
6													
9													

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Legal Privilege**

7		<u>Whole of life/term assurance</u>													
0		<u>Other pure protection - please provide details of the product/service on the line below</u>													
7															
1															
7															
1															
X															
7		Total insurance and pure protection													
2															
7	Decumulation & pensions	<u>Personal pensions/ SHPs/ SIPPs</u>													
3		<u>Workplace personal pensions</u>													
7		<u>Other pensions - please provide details of the product/service on the line below</u>													
4															
7															
5															
7															
5															
X															
7			<u>Annuities (inc. impaired)</u>												
6		<u>Drawdown</u>													
7		<u>Third way products</u>													
7		<u>Other decumulation - please provide details of the product/service on the line below</u>													
8															
7															
9															
7															
9															
X															
8		Total decumulation and pensions													
0															
8	Investments	<u>Investment bonds</u>													
1		<u>Endowments</u>													
8		<u>ISAs (where investment held)</u>													
2		<u>Investment trusts</u>													
8		<u>Unit trusts/OEICs</u>													
3		<u>Structured products</u>													
8		<u>ETPs</u>													

7														
8		<u>Discretionary management services</u>												
8														
8		<u>Platforms</u>												
9														
9		<u>Crowdfunding / peer to peer</u>												
0														
9		<u>FX/CFD/spreadbetting</u>												
1														
		<u>Other investment products/funds - please provide details of the product/service on the line below</u>												
9														
2														
9														
2														
X														
9		Total Investments												
3														

Table 5

Complaints closed, upheld and redress paid in the reporting period

		<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>
	<u>Product/service grouping</u>	<u>Complaints closed within 3 days</u>	<u>Complaints closed > 3 days but within 8 weeks</u>	<u>Complaints closed > 8 weeks</u>	<u>Total complaints closed</u>	<u>Total complaints upheld</u>	<u>Total redress paid for upheld complaints</u>	<u>Total redress paid for complaints not upheld</u>	<u>Total redress paid</u>
100	<u>Banking and credit cards</u>	<u>Current accounts</u>	-	-	-	-	-	-	-
101		<u>Credit cards</u>	-	-	-	-	-	-	-
102		<u>Overdrafts</u>	-	-	-	-	-	-	-
103		<u>Packaged accounts</u>	-	-	-	-	-	-	-
104		<u>Savings (inc. ISAs)</u>	-	-	-	-	-	-	-
105		<u>Other banking</u>	-	-	-	-	-	-	-
106		Total banking and credit card	-	-	-	-	-	-	-
107	<u>Home finance</u>	<u>Equity release</u>	-	-	-	-	-	-	-
108		<u>Impaired credit</u>	-	-	-	-	-	-	-
109		<u>Second and subsequent charge</u>	-	-	-	-	-	-	-
110		<u>Other regulated home finance products</u>	-	-	-	-	-	-	-
111		<u>Other unregulated home finance products</u>	-	-	-	-	-	-	-
112	Total home finance	-	-	-	-	-	-	-	-

**FCA Restricted:
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113		Property	-	-	-	-	-	-	-	-	
114		Motor	-	-	-	-	-	-	-	-	
115		Travel	-	-	-	-	-	-	-	-	
116		Medical/health	-	-	-	-	-	-	-	-	
117		Other general insurance	-	-	-	-	-	-	-	-	
118	Insurance and pure protection	Payment protection insurance	-	-	-	-	-	-	-	-	
119		Income protection and other accident, sickness and unemployment	-	-	-	-	-	-	-	-	
120		Whole of life/term assurance	-	-	-	-	-	-	-	-	
121		Other pure protection	-	-	-	-	-	-	-	-	
122		Total insurance and pure protection	-	-	-	-	-	-	-	-	
123		Decumulation and pensions	Personal pensions/ SHPs/ SIPP	-	-	-	-	-	-	-	-
124			Workplace personal pensions	-	-	-	-	-	-	-	-
125	Other pensions		-	-	-	-	-	-	-	-	
126	Annuities (inc. impaired)		-	-	-	-	-	-	-	-	
127	Drawdown		-	-	-	-	-	-	-	-	
128	Third way products		-	-	-	-	-	-	-	-	
129	Other decumulation		-	-	-	-	-	-	-	-	
130	Total decumulation and pensions	-	-	-	-	-	-	-	-		
131	Investments	Investment bonds	-	-	-	-	-	-	-	-	
132		Endowments	-	-	-	-	-	-	-	-	
133		ISAs (where investment held)	-	-	-	-	-	-	-	-	
134		Investment trusts	-	-	-	-	-	-	-	-	
135		Unit trusts/OEICs	-	-	-	-	-	-	-	-	
136		Structured products	-	-	-	-	-	-	-	-	
137		ETPs	-	-	-	-	-	-	-	-	
138		Discretionary management services	-	-	-	-	-	-	-	-	
139		Platforms	-	-	-	-	-	-	-	-	
140		Crowdfunding /peer to peer	-	-	-	-	-	-	-	-	
141		FX/CFD/spreadbetting	-	-	-	-	-	-	-	-	
142		Other investment products/funds	-	-	-	-	-	-	-	-	
143		Total Investments	-	-	-	-	-	-	-	-	

Table 6

Contextualisation metrics

A

B

<u>Product/service grouping</u>	<u>Product/service</u>	<u>Provision (at reporting period end date)</u>	<u>Intermediation (within reporting period)</u>
1 5 0 1 5 1 1 1 5 2 1 5 3 3 1 5 4 1 5 5 1 5 6	<u>Current accounts</u>		
	<u>Credit cards</u>		
	<u>Savings (inc. ISAs)</u>		
	<u>Other banking</u>		
	<u>Total banking and credit card</u>	-	
	<u>of which have overdraft facility</u>	-	
	<u>of which are packaged accounts</u>	-	
-	-	-	-
1 5 7	<u>Banking contextualised</u>	<u>Number of complaints opened per 1000 accounts</u>	

		<u>Number of loans outstanding:</u>	<u>Number of sales</u>
1 5 8 1 5 9 1 6 0 1 6 1 1 6 2 1 6 3	<u>Equity release</u>		
	<u>Impaired credit</u>		
	<u>Second and subsequent charge</u>		
	<u>Other regulated home finance products</u>		
	<u>Other unregulated home finance products</u>		
	<u>Total home finance</u>	-	-
-	-	-	-

**FCA Restricted:
Legal Privilege**

1 6 4	<u>Home finance contextualised</u>	<u>Number of complaints opened per 1000 loans outstanding</u>		
1 6 5		<u>Number of complaints opened per 1000 sales</u>		
-		-	-	
-		-	-	
			<u>Number of policies in force</u>	<u>Number of policies sold</u>
1 6 6	<u>Insurance and pure protection</u>	<u>Property</u>		
1 6 7		<u>Motor</u>		
1 6 8		<u>Travel</u>		
1 6 9		<u>Medical/health</u>		
1 7 0		<u>Other general insurance</u>		
1 7 1		<u>Payment protection insurance</u>		
1 7 2		<u>Income protection and other accident, sickness and unemployment</u>		
1 7 3		<u>Whole of life/term assurance</u>		
1 7 4		<u>Other pure protection</u>		
1 7 5		<u>Total general insurance and pure protection</u>	-	-
-		-	-	
1 7 6	<u>Insurance and pure protection contextualised</u>	<u>Number of complaints opened per 1000 policies in force</u>		
1 7 7		<u>Number of complaints opened per 1000 policies sold</u>		
-		-	-	
-		-	-	
			<u>Number of policies in force</u>	<u>Number of policies sold</u>
1 7 8	<u>Decumulation & pensions</u>	<u>Personal pensions/ SHPs/ SIPP</u> s		
1 7		<u>Workplace personal pensions</u>		

**FCA Restricted:
Legal Privilege**

9			
1			
8			
0			
1			
8			
1			
1			
8			
2			
1			
8			
3			
1			
8			
4			
1			
8			
5			

-	-	-	-	-	-
-	-	-	-	-	-
1					
8					
6	<u>Decumulation and pensions contextualised</u>	<u>Number of complaints opened per 1000 policies in force</u>			
-		-	-	-	-
1					
8					
7		<u>Number of complaints opened per 1000 policies sold</u>			
-		-	-	-	-
-		-	-	-	-
				<u>Number of distinct fund or investment accounts</u>	<u>Number of sales</u>

1			
8			
8			
1			
8			
9			
1			
9			
0			
1			
9			
1			
1			
9	<u>Investments</u>		
2			
1			
9			
3			
1			
9			
4			
1			
9			
5			
1			
9			

**FCA Restricted:
Legal Privilege**

6			
1			
9			
7			
1			
9			
8			
1			
9			
9			
2			
0			
0			
-			
-			
2			
0			
1	<u>Investments contextualised</u>		
2			
0			
2			

PART B

...

NOTES ON THE COMPLETION OF THIS RETURN

...

Valuing data to be reported

Firms should report the actual data requested in this complaints return, using single units. When reporting information on context in Table 6 of Part A-2, lines 157, 164, 165, 176, 177, 186, 187, 201 and 202 firms may use decimals.

...

Product and cause categories

...

A *complaint* should be reported against the product/service element complained about; this may be different to the main policy itself. For example, for a term assurance policy with an attaching critical illness option, where the *complaint* relates to the term assurance element, it should be reported under '~~other pure protection~~ 'whole of life/term assurance' but where the *complaint* relates to the critical illness element, it should be reported under '~~critical illness~~ 'income protection and other accident, sickness and unemployment''.

In Table 1 of Part A-1, and Table 4 of Part A-2, in relation to *complaints* about platforms in the investments product/service grouping, firms should include *complaints* about the platform rather than the underlying funds or investments.

A *complaint* should only be reported in Part B if it is not covered by a specific category in Part A.

FCA Restricted: Legal Privilege

A lender should report *complaints* about the way in which it collects debts due under loans where it is the lender in the relevant lending category.

Contextualisation

When providing information giving context to its *complaints* data, a *firm* should choose the metric which best reflects whether the majority of business undertaken by the *firm* involves the provision of products or services by the *firm* itself or intermediation. A *firm* should only provide information on context for either provision or intermediation, not both activities.

For provision, information on context should indicate the total volume of a *firm's* relevant business at the end date of the reporting period; this is likely to include accounts opened, loans provided, policies sold and funds and investments provided, and still in force, before the commencement of the relevant reporting period.

For intermediation, information on context provided by a *firm* should indicate the number of sales within the relevant reporting period only.

In Table 6 of Part A-2:

- (1) when reporting information about the number of outstanding loans provided in the 'Home Finance' product category, *firms* should report the total number of balances outstanding (all loans) at row E.45 or E.53 of E(2) in SUP 16 Annex 19A (Mortgage Lenders and Administrators Return) as reported on the *firm's* most recent return; and
- (2) when reporting information about intermediation sales in the 'Crowdfunding / peer to peer' product category, *firms* should provide the number of funded pitches within the reporting period.

~~A *complaint* should only be reported in Part B if it is not covered by a specific category in Part A.~~

~~A lender should report *complaints* about the way in which it collects debts due under loans where it is the lender in the relevant lending category.~~

Transparency

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

- (1) *complaints* data about the financial services industry as a whole; and
- (2) *firm*-level data for *firms* required to publish their data under DISP 1.10A.1R.

The FCA also publishes *firm*-level information giving context to the *complaints* data reported where *firms* are due to publish that information under DISP 1.10A.1R. This will be the data set out in Table 6 of Part A-2, lines 157, 164, 165, 176, 177, 186, 187, 201 and 202.

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 *complaints* data of the *firm* either:

- (1) after the *firm* provides consent in the report; or
- (2) (if the *firm* does not provide consent) after the FCA receives an email from the *firm* 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 as required by DISP 1.10A.4R.

If the *firm* ticks the "Yes" box in this report consenting to the FCA publishing the *firm's* *complaints* data, it must also confirm that the data contained in the report accurately reflects the information to be published by the reporting *firm*.

**FCA Restricted:
Legal Privilege**

If the *firm* has submitted a joint report on behalf of a *group*, the *firm* should only tick the “Yes” box consenting to the *FCA* publishing the *complaints* data if the *firm* is authorised to do so by those *firms* on whose behalf it is submitting this report.

A *firm* which does not provide consent in this report must still ensure that the *complaints* data contained in this report accurately reflects the data which the *firm* is required to publish under *DISP* 1.10A.1R and confirm this to the *FCA* under *DISP* 1.10A.4R.

DISP 1

Annex **Recommended metrics**

1A-

G This table belongs to *DISP* 1.10A.8 G

Type of business	Contextualised new complaint numbers	Recommended metrics
Banking and credit cards	<i>Complaints</i> per 1,000 accounts	The tariff base (number of accounts) at row 1, column 2 of the table in <i>FEES 5 Annex 1 R</i> as reported in the <i>firm's</i> most recent statement of total amount of <i>relevant business</i> or if this tariff base is not relevant, the applicable tariff base under <i>FEES 5 Annex 1 R</i>
General insurance and pure protection (provision)	<i>Complaints</i> per £1m of annual gross premium income	The tariff base (annual gross premium income) at row 2, column 2 of the table in <i>FEES 5 Annex 1 R</i> as reported in the <i>firm's</i> most recent statement of total amount of <i>relevant business</i>
General insurance and pure protection (intermediation)	<i>Complaints</i> per £1m of annual income	The tariff base (annual income) at row 17, column 2 of the table in <i>FEES 5 Annex 1 R</i> reported in the <i>firm's</i> most recent statement of total amount of <i>relevant business</i>
Home finance	<i>Complaints</i> per 1,000 loans outstanding	The total number of balances outstanding (all loans) at row E.45 or E.53 of E(2) in <i>SUP 16 Annex 19A</i> (Mortgage Lenders and Administrators Return) as reported in the <i>firm's</i> most recent return
Investment (provision)	<i>Complaints</i> per £1m of annual eligible income	The <i>firm's</i> annual eligible income as defined in class D1 of <i>FEES 6 Annex 3 R</i>
Investment (intermediation)	<i>Complaints</i> per £1m of annual eligible income	The <i>firm's</i> annual eligible income as defined in class D2 of <i>FEES 6 Annex 3 R</i>
Decumulation, life and pensions (provision)	<i>Complaints</i> per 1,000 policyholders	The number of the <i>firm's</i> policyholders at row 3 of Forms 51 – 54 (whichever are relevant) in <i>IPRU(INS)</i> Appendix 9.3R as reported in the <i>firm's</i> most recent form

Decumulation, life and pensions (intermediation)	Complaints per £1m of annual eligible income	The firm's annual eligible income as defined in class C2 of FEES 6 Annex 3 R
Credit related activities	Complaints per £1m of annual eligible income	The applicable tariff base under FEES 5 Annex 1 R
Note 1: For the purposes of this annex the reference to <i>complaints</i> is a reference to <i>complaints</i> opened during the relevant reporting period.		
Note 2: Where a <i>firm</i> undertakes both (a) general insurance and pure protection provision and (b) general insurance and pure protection intermediation, it can choose to use the metric which forms the greater part of its business.		
Note 3: Where a <i>firm</i> undertakes both (a) fund management and (b) investment intermediation, it can choose to use the metric which forms the greater part of its business.		
Note 4: Where a <i>firm</i> undertakes both (a) decumulation, life and pensions provision and (b) decumulation, life and pensions intermediation, it can choose to use the metric which forms the greater part of its business.		
Note 5: Where a <i>firm</i> undertakes both (a) banking and credit cards and (b) other credit related activities, it can chose to use the metric which forms the greater part of its business.		
Note 6: Where a <i>firm</i> undertakes both (a) home finance and (b) credit related activities, it can chose to use the metric which forms the greater part of its business.		

1 Annex 1BR Complaints publication report

This table belongs to *DISP* 1.10A.2R.

Complaints publication report

Firm name:

Group: (if applicable):

Other firms included in this report (if any):

Period covered in this report: [e.g. 1 January – 30 June 2015 or 1 January – 31 December 2015]

Brands/trading names covered:

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	Number of complaints opened	Number of complaints closed	Complaints closed within 8 weeks (%)	Closed complaints upheld by firm (%)
Banking and credit cards				
Home finance				
General insurance and pure protection				
Decumulation, life and pensions				
Investments				
Credit-related			Not applicable	

	<u>Number of complaints opened by volume of business</u>							
<u>Product / service Grouping</u>	<u>Provision (at reporting period end date)</u>	<u>Intermediation (within the reporting period)</u>	<u>Number of complaints opened</u>	<u>Number of complaints closed</u>	<u>Percentage closed within 3 days</u>	<u>Percentage closed after 3 days but within 8 weeks</u>	<u>Percentage Upheld</u>	<u>Main cause of complaints opened</u>
<u>Banking and credit cards</u>	<u>per 1000 accounts</u>	<u>N/A</u>						
<u>Home finance</u>	<u>per 1000 loans outstanding</u>	<u>per 1000 sales</u>						
<u>Insurance and pure protection</u>	<u>per 1000 policies in force</u>	<u>per 1000 policies sold</u>						
<u>Decumulation and pensions</u>	<u>per 1000 policies in force</u>	<u>per 1000 policies sold</u>						
<u>Investments</u>	<u>per 1000 distinct fund or investment accounts</u>	<u>per 1000 sales</u>						
<u>Credit related</u>	<u>(Recommended only) per 1000 accounts/loans</u>	<u>(Recommended only) per 1000 sales</u>			<u>N/A</u>	<u>N/A</u>		<u>N/A</u>

Note 1: When providing the appropriate information on the context of complaints, a *firm* should choose the metric which best reflects whether the majority of business undertaken by the *firm* involves the provision of products or services by the *firm* itself or intermediation. A

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firm should only provide information on context in respect of either provision or intermediation, not both activities.

Note 2: For provision, information on context should relate the number of complaints opened within the reporting period to the total volume of a *firm*'s relevant business at the end date of the reporting period. This is likely to include accounts opened, loans provided, policies sold and funds and investments provided before the commencement of the relevant reporting period.

Note 3: For intermediation, information on context published by a *firm* should relate the number of complaints opened within the reporting period to the number of sales within the relevant reporting period only.

Note 4: It is recommended that *firms* publish appropriate information on context in respect of credit-related complaints. However, publication of this data is not mandatory.

Note 5: When a *firm* publishes the "main cause of complaints opened", this should be the cause category prompting the largest number of complaints for the relevant product/service grouping in Table 4 of Part A-2, *DISP* 1 Annex 1.

Part 5

In this Part, underlining indicates new text and striking through indicates deleted text.

2 Jurisdiction of the Financial Ombudsman Service

...

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*.

...

2.7 Is the complainant eligible?

...

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

...

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

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

...

(3) ...

...

(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 the *Ombudsman* has informed the *complainant*:

- (a) of his ability to complain to the *respondent*;
- (b) that the *respondent* must deal with the *complaint* within eight weeks and that it may resolve the complaint more quickly than the *Ombudsman*; and
- (c) that the complainant nevertheless wishes the *Ombudsman* to deal with the complaint without having submitted it to the *respondent*.

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*, ~~or redress determination~~ or summary resolution communication; or

...

unless:

...

- (5) the *respondent* has ~~not objected, on the grounds that the time limits in *DISP 2.8.2R* or *DISP 2.8.7R* have been exceeded,~~ consented to the *Ombudsman* considering the *complaint* where the time limits in *DISP 2.8.2R* or *DISP 2.8.7R* have expired.

2.8.2A R If a *respondent* consents to the *Ombudsman* considering a *complaint* in accordance with *DISP 2.8.2R(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*. ~~A *final response*~~ 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*.

...

Part 6

In this Part, underlining indicates new text and striking through indicates deleted text.

3 Complaint handling procedures of the Financial Ombudsman Service

...

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 he considers that:

...

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 he 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) in order that the matter may be considered under 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
- (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.

Test cases

- 3.3.5 R The *Ombudsman* may dismiss a *complaint* without considering its merits, so that a court may consider it as a test case, if:
- (1) ~~before he has made a determination, he has 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: 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 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~~
 - (b) ~~would more suitably be dealt with by a court as a test case. [deleted]~~
- 3.3.6 G Factors the *Ombudsman* may take into account in considering whether to dismiss 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;~~
 - (5) ~~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. [deleted]

3.4 Referring a complaint to another complaints scheme or court

...

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 he has made a determination, he has 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: 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 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
 - (b) 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 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;

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- (5) 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.

3.5 Resolution of complaints by the Ombudsman

...

Evidence

...

3.5.9 R The *Ombudsman* may:

...

- (4) ~~dismiss a *complaint*~~ treat the *complaint* as withdrawn and cease to consider the merits if a complainant fails to supply requested information.

...

Procedural time limits

...

3.5.15 R If a complainant fails to comply with a time limit, the *Ombudsman* may:

...

- (2) ~~dismiss~~ treat the *complaint* as withdrawn and cease to consider the merits.

Part 7

[*Editor's note:*

In this Annex, the text is all new and is not underlined

After DISP 4 insert the following new chapter.

5 Financial Ombudsman Service Annual Reports

5.1 Annual activity reports³

- 5.1.1 R The *Financial Ombudsman Service* must provide the *FCA* with an annual report which contains the information set out in article 7(2) of the *ADR Directive*.
- 5.1.2 R The annual activity report must also include the information referred to in article 7(2) of the *ADR Directive* in relation to *complaints*.

³ This Part is subject to the final form of the regulations to be made by BIS which implement these aspects of the *ADR Directive*.

Part 8

In this Part, underlining indicates new text and striking through indicates deleted text.

TP 1 Transitional Provisions

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provisions	(5) Transitional provision: dates in force	(6) Handbook provision coming into force
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...

<u>38</u>	<u>DISP 1</u>	<u>R</u>	<u>In respect of a <i>complaint</i> received by a <i>respondent</i> on or before 14 May 2015 the <i>respondent</i> must handle, resolve, record and report the <i>complaint</i> in accordance with the <i>rules</i> as they stood at the date on which the <i>complaint</i> was received by the <i>respondent</i>.</u>	<u>From 15 May 2015</u>	<u>From 15 May 2015.</u>
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Part 9

In this Part, underlining indicates new text and striking through indicates deleted text.

Sch 1 Record keeping requirements

...

Sch 1.2	G	Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
		<i>DISP</i> 1.9.1R	<i>Complaints</i> subject to <i>DISP</i> 1.3 - <i>DISP</i> 1.8 (other than <i>DISP</i> 1.5).	Each <i>complaint</i> received and the measures taken for its resolution	On receipt	5 years for <i>complaints</i> relating to <i>MiFID business</i> or <i>collective portfolio management services</i> and 3 years for all other <i>complaints</i>

Sch 2 Notification requirements

...

Sch 2.1	G	Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
		...				
		<i>DISP</i> 1.10.8 G <u><i>DISP</i> 1.10.9R</u>	Single contact point	Details	At the time of authorisation or on subsequent change	Not specified
		...				
		<i>DISP</i> 1.11.5R (2)	End of exemption for <i>member</i> of Lloyd's	Confirmation by the <i>Society</i> of Lloyd's that the condition in <i>DISP</i> 1.1.7 <u><i>DISP</i> 1.1.12R</u> no longer apply to a specified <i>member</i> of Lloyd's	Conditions in <i>DISP</i> 1.1.7 <u><i>DISP</i> 1.1.12R</u> no longer apply	Not specified

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...				
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Annex D

Amendments to the Consumer Credit sourcebook (CONC)

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

2 Conduct of business standards: general

...

2.5 Conduct of business: credit broking

...

Guidance on unfair business practices

2.5.9 G ...

(9) *Firms should note the effect of the call charges rule in GEN 7.*

...

2.6 Conduct of business: debt counselling, debt adjusting and providing credit information services

...

Guidance on unfair business practices

2.6.4 G ...

(5) *Firms should note the effect of the call charges rule in GEN 7.*

...

3.3 The clear fair and not misleading rule and general requirements

...

Guidance on clear, fair and not misleading

...

3.3.9 G A *firm* should in a *financial promotion* or other communication which includes a premium rate telephone number indicate in a prominent way the likely total cost of a premium rate call including the price per minute of a call, the likely duration of calls and the total cost a *customer* would incur if the *customer* calls for the full estimated duration. *Firms should note the effect of the call charges rule in GEN 7.*

[**Note:** paragraphs 3.9h of *CBG* and 3.18x (box) of *DMG*]

...

3.9 Financial promotions and communications: debt counsellors and debt adjusters

...

Contents of financial promotions and communications

...

3.9.6A G *Firms should note the effect of the call charges rule in GEN 7.*

...

7.9 Contact with customers

Contacting customers

...

7.9.5A G *Firms should note the effect of the call charges rule in GEN 7.*

...

8.7 Charging for debt counselling, debt advice and related services

...

8.7.7 G *Firms should note the effect of the call charges rule in GEN 7.*

Financial Conduct Authority



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