

Complaints Sourcebook (Financial Ombudsman Voluntary Jurisdiction Mortgage and Insurance Intermediaries) Instrument 2003

Powers exercised

A The Financial Ombudsman Service Limited amends its Voluntary Jurisdiction rules, set out in the Financial Services Authority's Complaints sourcebook (DISP), in the exercise of the following powers in the Financial Services and Markets Act 2000:

- (1) section 227 (Voluntary Jurisdiction);
- (2) Schedule 17 paragraph 8 (Guidance);
- (3) Schedule 17 paragraph 18 (Terms of Reference to the scheme).

Approval

B The amendments have not yet been approved by the Financial Services Authority. They are therefore made subject to the approval of the Financial Services Authority.

Commencement

C This instrument comes into force on 1 April 2003 subject to the approval of the Financial Services Authority having been received before that time.

Amendment of the Voluntary Jurisdiction rules

D The Voluntary Jurisdiction rules are amended in accordance with the Annex to this instrument.

By order of the Board of the Financial Ombudsman Service Limited:
7th March 2003

Annex Amendments to the Complaints sourcebook

In this Annex underlining indicates new text and striking through indicates deleted text. Where an entirely new section is inserted, the place for insertion is indicated and new text is not underlined.

- 2.6.9 R The *Ombudsman* can consider a complaint under the *Voluntary Jurisdiction* only if it is not covered by the *Compulsory Jurisdiction* and it relates to an act or omission in the carrying on of one or more of the following activities by a *VJ participant*:
- (1) *general insurance business*;
 - (2) *accepting deposits*;
 - (3) lending *money* secured by a charge over land;
 - (4) lending *money* (other than *restricted credit*);
 - (5) paying *money* by a *plastic card* (other than a *store card*);
 - (6) the provision of ancillary banking services;
 - (6A) acting as an intermediary for a loan secured by a charge over land;
 - (6B) acting as an intermediary for *general insurance business* or *long-term insurance business*;
 - (7) a financial services activity carried on after *commencement* and which had been covered by a *former scheme* in so far as the *VJ participant* was a member of that *former scheme*, in respect of that activity, immediately before the *commencement day*;
 - (8) an activity carried on on or after 29 April 1988 which was a regulated activity when the *VJ participant* joined the *Voluntary Jurisdiction* (or became an authorised person if later) but which was not a *regulated activity* at the time of the act or omission;
- or activities ancillary to them (see *DISP* 2.6.11R).

After *DISP* 2.6.9R, insert the following:

- 2.6.9A G A complaint may be covered by the *Voluntary Jurisdiction* under one or more of the subparagraphs of *DISP* 2.6.9R

Acting as an intermediary for a loan secured by a charge over land

- 2.6.9B G *DISP* 2.6.9R(6A) includes:
- (1) making arrangements for a borrower or potential borrower to enter into, or vary the terms of, a loan secured by a charge over land;
 - (2) making arrangements with a view to a borrower or potential borrower who participates in the arrangements entering into a loan secured over land; and
 - (3) advising a borrower or potential borrower on the merits of entering into, or varying the terms of, a loan secured by a charge over land.

Acting as an intermediary for *general insurance business* or *long-term insurance business*

- 2.6.9C G *DISP 2.6.9R(6B)* includes:
- (1) introducing, proposing or carrying out other work preparatory to the conclusion of contracts of *general insurance business* or *long-term insurance business* or reinsurance;
 - (2) concluding such contracts;
 - (3) assisting in the administration and performance of such contracts, in particular in the event of a claim;
 - (4) dealing as an agent, or arranging deals, in such contracts (or rights in them);
 - (5) managing, safeguarding or administering assets consisting of, or including, such contracts (or rights in them); and
 - (6) advising on the merits of buying, selling, subscribing for or underwriting such contracts (or rights in them).
- But customers of reinsurance intermediaries are unlikely to be *eligible complainants*.

After *DISP 2.6.10A G* insert the following:

- 2.6.10B G *DISP 2.6.9R(8)* enables a *firm* that is subject to the *compulsory jurisdiction* for *regulated activities* to become a *VJ participant* in order to cover complaints about earlier events relating to those activities before they became *regulated activities*.

...

- 2.6.13 G The provisions of *DISP 2.6.12R* are made under the power in sections 227(13) and 227(14) of the *Act*. Those sections allows for a complaint relating to an act or omission occurring either before *commencement* or before the *VJ participant* joined the *Voluntary Jurisdiction* (or both) to be dealt with under the *Financial Ombudsman Service*. Under section 227(13), the act or omission must be one which could have been dealt with under a *former scheme*. Under section 227(14), the *VJ participant* must agree; but that agreement is provided by *DISP 2.6.12 R(2)* and *DISP 4.2.5R*. Where complaints in this category are not already covered by the *Compulsory Jurisdiction* as *relevant complaints*, they can, therefore, be included in the *Voluntary Jurisdiction* under *DISP 2.6.12R*.

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After *DISP 4.2.12R*, insert the following:

- 4.2.12A R Subject to *DISP 4.2.12B R*, any case fee for which a *VJ participant* falling into either *industry block 4V* (mortgage intermediaries) or *industry block 5V* (insurance intermediaries) becomes liable before 1

April 2004 will be the case fee as specified in part 4 of *DISP 5 Ann1R*.

- 4.2.12B R If an organisation which covers a significant number of *VJ participants* who would otherwise fall into either *industry block 4V* (mortgage intermediaries) or *industry block 5V* (insurance intermediaries) and *FOS Ltd* both agree in writing that the organisation will make a payment in lieu of a *general levy* and any *supplementary levy*, calculated by *FOS Ltd* for the *VJ participants* covered by that organisation, the *VJ participants* covered by the organisation must pay the standard case fee specified in part 3 of *DISP 5 Ann 1R*

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Part 4: VJ participants

8 Table Fee tariffs and case fees for VJ participants

Voluntary jurisdiction industry block	Tariff base	General levy payable by firm	Minimum general levy per firm	Case fee
...				
<u>4</u> <u>Mortgage</u> <u>V</u> <u>intermediaries</u>	<u>not</u> <u>applica</u> <u>ble</u>	<u>£0</u>	<u>£0</u>	<u>£600</u>
<u>5</u> <u>Insurance</u> <u>V</u> <u>intermediaries</u>	<u>not</u> <u>applica</u> <u>ble</u>	<u>£0</u>	<u>£0</u>	<u>£600</u>

