

DISPUTE RESOLUTION: COMPLAINTS (PUBLICATION OF COMPLAINTS DATA) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 149 (Evidential provisions);
 - (3) section 156 (General supplementary powers); and
 - (4) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 April 2010.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Dispute Resolution: Complaints sourcebook (DISP) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Dispute Resolution: Complaints (Publication of Complaints Data) Instrument 2010.

By order of the Board
28 January 2010

Annex A

Amendments to the Glossary of definitions

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

complaints data publication rules *DISP 1.10A.*

Annex B

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

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

Application to firms

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1.1.3 R (1) ...

...

(3) The complaints data publication rules do not apply in respect of activities carried on from a branch of an EEA firm in the United Kingdom.

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Application to payment service providers

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

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FSAVC Review

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

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Application to licensees and VJ participants

1.1.14 R This chapter (except the *complaints record rule*, ~~and~~ the *complaints reporting rules* and the complaints data publication rules) applies to *licensees* for *complaints* from *eligible complainants*.

1.1.15 R This chapter (except the *complaints record rule*, ~~and~~ the *complaints*

reporting rules and the complaints data publication rules) applies to *VJ participants* for *complaints* from *eligible complainants* as part of the *standard terms*.

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1.5 Complaints resolved by close of the next 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 *business day* following its receipt:

...

- (3) the *complaints reporting rules*; ~~and~~
- (4) the *complaints record rule*, if the *complaint* does not relate to *MiFID business*; and
- (5) the *complaints data publication rules*.

After DISP 1.10 insert the following new section. The text is not underlined.

1.10A Complaints data publication rules

Obligation to publish summary of complaints data

- 1.10A.1 R (1) Where, in accordance with *DISP 1.10.1R*, a *firm* submits a report to the *FSA* reporting 500 or more *complaints*, it must publish a summary of the *complaints* data contained in that report (the *complaints* data summary).
- (2) Where, in accordance with *DISP 1.10.1CR*, a *firm* submits a joint report on behalf of itself and other *firms* within a *group* and that report reports 500 or more *complaints*, it must publish a summary of the *complaints* data contained in the joint report (the *complaints* data summary).

Format of publication

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

Time limits for publication

- 1.10A.3 R (1) Where the *firm*'s relevant reporting period (as defined in *DISP 1.10.4R*) ends between 1 January and 30 June, the *firm* must publish the *complaints* data summary no later than 31 August of the same year.

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

Confirmation of publication

- 1.10A.4 R A *firm* must immediately confirm to the *FSA*, in an email submitted to complaintsdatasummary@fsa.gov.uk, that the *complaints* data summary accurately reflects the report submitted to the *FSA*, that the summary has been published and where it has been published.

Publication on behalf of the firm

- 1.10A.5 E A *firm* will be taken to have complied with *DISP* 1.10A.1R(1) or (2) if within the relevant time limit set out in *DISP* 1.10A.3R the *firm*:
- (1) ensures that another *person* publishes the *complaints* data summary on its behalf; and
 - (2) publishes details of where this summary is published.

Joint reports: provision of information to third party on request

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

Mode and content of publication

- 1.10A.7 G *Firms* may choose how they publish the *complaints* data summary. However, the summary should be readily available. For this reason, the *FSA* recommends that *firms* should publish the summary on their websites.
- 1.10A.8 G
- (1) The *FSA* recommends that *firms* should publish additional information alongside their *complaints* data summaries 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 1AG with the summaries. Where the *complaints* data summary 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 *FSA* 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.

Amend the following as shown.

1.11 The Society of Lloyd's

Complaints handling procedures

1.11.1 R ...

...

Referral to the Financial Ombudsman Service

1.11.4 R ...

Exemptions for members

1.11.5 R ...

Complaints reporting rule

1.11.6 R ...

Obligation to publish summary of complaints data

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

Format of publication

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

Time limits for publication

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

- (1) 28 February for the summary of its report relating to the reporting period ending on 31 December of the previous year; and
- (2) 31 August for the summary of its report relating to the reporting period ending on 30 June of the same year.

Confirmation of publication

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

Mode and content of publication

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

Application to members

- 1.11.7 G ...

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Complaints about the activities of members' advisers

- 1.11.10 R ...

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Complaints from members or former members

- 1.11.12 G

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After DISP 1 Annex 1G insert the following new Annexes. The text is not underlined.

1 Annex 1AG Recommended metrics

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

Type of business	Contextualised new complaint numbers	Recommended metrics
Banking and loans	<i>Complaints</i> per 1,000 accounts	The tariff base (number of accounts) at row 1, column 2 of the table in <i>FEES</i> 5 Annex 1R as reported in the <i>firm's</i> most recent statement of total amount of <i>relevant business</i>
General insurance	<i>Complaints</i> per	The tariff base (annual gross premium income) at

and pure protection (provision)	£1m of annual gross premium income	row 2, column 2 of the table in <i>FEES 5 Annex 1R</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 1R</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 19AR</i> (Mortgage Lenders and Administrators Return) as reported in the <i>firm's</i> most recent return
Investment (fund management)	<i>Complaints</i> per £1m of annual eligible income	The <i>firm's</i> annual eligible income as defined in sub-class D1 of <i>FEES 6 Annex 3R</i>
Investment (intermediation)	<i>Complaints</i> per £1m of annual eligible income	The <i>firm's</i> annual eligible income as defined in sub-class D2 of <i>FEES 6 Annex 3R</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) Appendix 9.3R</i> as reported in the <i>firm's</i> most recent form
Decumulation, life and pensions (intermediation)	<i>Complaints</i> per £1m of annual eligible income	The <i>firm's</i> annual eligible income as defined in sub-class C2 of <i>FEES 6 Annex 3R</i>
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.		

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 2010]

Brands/trading names covered:

1	A	B	C	D	E
		Number of complaints opened	Number of complaints closed	Complaints closed within 8 weeks (%)	Closed complaints upheld by firm (%)
2	Banking				
3	Home finance				
4	General insurance and pure protection				
5	Decumulation, life and pensions				
6	Investments				

Amend the following as shown.

1 Annex 2G Application of DISP 1 to type of respondent

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Type of respondent	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 – 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	<u>DISP 1.10A Complaints data publication rules</u>
<i>firm in relation to complaints concerning non-MiFID business</i>	<i><u>Applies for eligible complainants</u></i>
<i>firm in relation to complaints concerning</i>	<i><u>Applies for eligible complainants</u></i>

<i>MiFID business</i>						
<i>branch of a UK firm in another EEA State in relation to complaints concerning non-MiFID business</i>	...	...	...	...	...	<u>Does not apply</u>
<i>branch of a UK firm in another EEA State in relation to complaints concerning MiFID business</i>	...	...	...	...	...	<u>Does not apply</u>
<i>incoming branch of an EEA firm in relation to complaints concerning non-MiFID business</i>	...	...	...	...	...	<u>Does not apply</u>
<i>incoming branch of an EEA firm in relation to complaints concerning MiFID business</i>	...	...	...	...	...	<u>Does not apply</u>
<i>incoming EEA firm providing cross-border services from outside the UK</i>	...	...	...	...	...	<u>Does not apply</u>
<i>branch of an overseas firm (in relation to all complaints)</i>	...	...	...	...	...	<u>Applies for eligible complainants</u>
<i>payment service provider in relation to</i>	...	...	...	...	...	<u>Does not apply</u>

<i>complaints concerning payment services</i>						
<i>EEA branch of a UK payment service provider in relation to complaints concerning payment services</i>	...	...	...	...	...	<u>Does not apply</u>
<i>incoming branch of an EEA authorised payment institution in relation to complaints concerning payment services</i>	...	...	...	...	...	<u>Does not apply</u>
<i>incoming EEA authorised payment institution providing cross border payment services from outside the UK</i>	...	...	...	...	...	<u>Does not apply</u>
<i>licensee</i>	...	...	...	...	...	<u>Does not apply</u>
<i>VJ participant</i>	...	...	...	...	...	<u>Does not apply</u>

...

TP1.1 Transitional provisions

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
<u>23</u>	<u>DISP 1.10A.1R</u>	R	<u>No firm is required to publish a complaints data summary in accordance with DISP 1.10A.1R(1) or (2) if that summary would relate to a reporting period ending on or before 31 December 2009.</u>	<u>6 April 2010 to 31 August 2010</u>	<u>6 April 2010</u>
<u>24</u>	<u>DISP 1.10A.1R</u>	R	<u>Where a firm, which has a reporting period ending on or after 1 January 2010, submits its report to the FSA in accordance with the complaints reporting rule between 1 January 2010 and 5 April 2010, the firm must publish a complaints data summary in accordance with DISP 1.10A.1R no later than 31 August 2010.</u>	<u>6 April 2010 to 31 August 2010</u>	<u>6 April 2010</u>
<u>25</u>	<u>DISP 1.11.6AR</u>	R	<u>The Society is not required to publish a complaints data summary in accordance with DISP 1.11.6AR if that summary would relate to a reporting period ending on or before 31 December 2009.</u>	<u>6 April 2010 to 31 August 2010</u>	<u>6 April 2010</u>

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Schedule 2 Notification requirements

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Sch 2.1G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
...				
<u>DISP 1.10.8G</u>

<u>DISP 1.10A.4R</u>	<u>Publication of complaints data summary</u>	<u>Email confirmation of publication, containing also a statement that the data summary accurately reflects the report submitted to the FSA and stating where the summary has been published</u>	<u>Upon publication of complaints data summary</u>	<u>Immediately</u>
...				
<u>DISP 1.11.6R</u>	...	...	...	...
<u>DISP 1.11.6DR</u>	<u>Publication of complaints data summary</u>	<u>Email confirmation of publication, containing also a statement that the data summary accurately reflects the report submitted to the FSA and stating where the summary has been published</u>	<u>Upon publication of complaints data summary</u>	<u>Immediately</u>