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14 November 2007

Our ref:CP07/14**

Dear Geaneen

CP07/14: Dispute Resolution: the Complaints sourcebook - further simplification and minor changes**

This is the Financial Services Consumer Panel's response to CP07/14: Dispute resolution the Complaints sourcebook – further simplification and minor changes. The Panel welcomes these proposals which simplify or clarify procedures and will benefit both consumers and firms. We have not responded to all the questions posed in the consultation paper. Our responses to the questions are set out below.

Q2: Do you agree with the FSA's and FOS's approach to simplifying DISP 2-4?

Yes. The Panel views the approach as a well intentioned project to slim down the rules without reducing their effectiveness.

Q3: Do you agree with our proposal to use the definition 'respondents' (as amended) in DISP 2-4 to save repetition?

Yes, as the proposed change is just a simplification.

Q4: Do you agree with our proposal to change the guidance so it more accurately reflects the wording in the Order?

Yes. The new wording makes it clear that the FSA and FOS have the jurisdiction to consider complaints and disputes involving firms (or former firms) that were subject to a similar scheme in force at the time of the relevant act or omission that gave rise to the consumer complaint.

Q5: Do you agree with our proposal to clarify that ancillary banking services includes foreign currency exchange for the purposes of DISP 2?

Yes. The Panel believes that the original intention was for foreign currency services to be covered by the term ancillary banking services; however this has been questioned by some banks. The new wording makes it crystal clear that ancillary banking services covers foreign currency exchange.

Q6: Do you agree with our proposal to change the wording so 'legislation' replaces the word 'statute'?

Yes.

Q7: Do you agree with our proposal that complainants who have acquired the right to benefit from a contract of insurance under an equitable assignment should be able to complain to the FOS?

Yes, as we believe that this will remove the illogical distinction between equitable assignments and statutory or contractual assignments and will broaden the category of policyholders able to access FOS.

Q8: Do you agree with our proposal to change the rule so it more accurately reflects the wording in the act?

Yes, we are aware that this is a tidying-up exercise caused by the extension of FOS's jurisdiction to cover consumer credit disputes.

Q9: Do you agree with the FSA's proposal to clarify its existing policy position on motor insurance claims by third parties?

Yes.

Q10: Do you agree with the FOS's proposal to reflect the legal position in communicating with one partner when dealing with a complaint against a partnership?

Yes, as it will make it clear that when FOS is handling a complaint against a partnership it need only correspond with, and speak to, one partner.

Q11: Do you agree with the FOS's proposal to clarify that the FOS may dismiss a previously-considered complaint unless material new evidence has become available to the complainant?

Yes, as it clarifies what is meant by new evidence.

Q12: Do you agree with the FOS's proposed guidance to explain how the FOS can help consumers identify the relevant respondent?

Yes as this is a consumer-friendly proposal aimed at helping people whose complaint arises from their dealings with a chain of businesses, all of which have provided part of the product or service. The proposed rule will empower FOS to point the consumer to the appropriate firm to complain to.

Q13: Do you agree with the FOS's proposed guidance to explain how the FOS will deal with complaints related to connected circumstances?

Yes. The proposed guidance clarifies that in cases where a consumer makes a complaint against two or more firms FOS will conduct one investigation and apportion responsibility and compensation between those firms found at fault.

Q14: Do you agree with the FOS's proposal that the FOS should be able to hold telephone hearings in appropriate circumstances?

Yes as this proposal will benefit those on either side faced with difficulties or disproportionate expense in travelling to London.

Q15: Do you agree with the proposed requirement to refer to the ultimate availability of FOS in non-final responses inviting the complainant's written acceptance?

Yes. At present an authorised firm's final letter/offer to a complainant must make it clear that the complainant has the right to go to FOS if the terms of the final letter are not acceptable, however there is a loophole – if a firm makes an offer and then continues correspondence with the consumer the firm can refer back to the offer made in an earlier letter without having to mention FOS and can close the complaint without drawing FOS to the consumer's attention. The proposed rule will close this loophole and ensure that complainants are informed about FOS.

Q16: Do you agree with the proposed guidance making clear our expectation that respondents set out the various information about FOS required under the different response types on the face of those responses?

Yes. This is consumer friendly measure which will ensure that firms dealing with complaints must give information about FOS in their reply letter.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'John Howard', written in a cursive style.

John Howard
Chairman