



# Four Compliance Tips

## FIVE COMPLAINT HANDLING TIPS FOR 9TH JULY 2015

**On 9 July 2015, the first round of this summer's changes to the FCA's DISP (complaint) rules comes into force.**

- The key changes cover the explanation of the complaints process on firm's websites, in client agreements and other point of sale documents, the drafting of final response letters and attempts to persuade the Financial Ombudsman Service to dismiss complaints without an investigation.
- In CP 14/30, the Financial Conduct Authority proposed two groups of changes to DISP. The first which comes into force on 9<sup>th</sup> July was intended to meet the UK Government's obligations under the Alternative Dispute Resolution (ADR) Directive. The FCA proposes to issue a Policy Statement "this summer" on the second more controversial group of changes.

**Firms who have websites must give in a clear accessible way the address of the Financial Ombudsman Service website and mention it in terms of business, policy and other product conditions.**

- This comes from an amendment to DISP 1.2.1R.
- Firms need to change their websites and any new client agreements and policy conditions issued after 9 July 2015. This is the case even if the website is nothing more than a front sheet telling the public how to locate the firm.
- The summary details of the complaints process that have to be provided to the complainant at the point of sale, on acknowledgement of the complaint and at the customer's request have been slightly tweaked by a small change to DISP 1.2.3G. They must cover how the firm handles and seeks to resolve complaints and say that if the case falls within the jurisdiction of the Financial Ombudsman Service, that the complainant may be entitled to refer the case that organization. Contractual documentation can refer to a leaflet containing the "summary details".

**Where professional clients have done business with the firm as consumers, firms will no longer be able to treat any resulting complaints as "ineligible" as a result of the new DISP 2.7.9A R.**

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## **Final response letters must contain the FOS' website address prominently in the body of the letter and the relevant time-bar provisions contained in DISP 1 Annex 3 R**

- The new DISP 1.6.2R(da) turns into a rule what has been "best practice" for many years. The final response to a complaint must state clearly the website address of the Financial Ombudsman Service.
- From 9 July onwards, firms must display the relevant paragraphs from DISP 1 Annex 3 in the body of every final response it sends. The selection of the standard paragraphs to use depends on the position taken by the firm concerning the FOS time-limits. That in turn depends on the nature of the business.
- Firms must include these standard paragraphs if they wish to rely on either of the key time-limits for bringing complaints:
  - the need for complainants to bring their complaint to FOS within 6 months of the date of the final response letter or not have their complaint considered by FOS other than in exceptional circumstances; and
  - the need for complainants to refer the complaint to the firm or FOS within 6 years of the event complained about and 3 years of the date on which the complainant knew or should have known that he or she had cause to complain.
- For most general insurers, only the first requirement will be relevant in most cases and so they must use the first set paragraph and not the others.
- Firms handling mortgage endowment complaints need to insert the specific text on that subject.

## **The grounds for seeking the summary dismissal of complaints by FOS have been significantly shortened**

- For complaints referred to FOS after 9 July, the new list of grounds in DISP 3.3.4A R will apply instead of the existing ones in DISP 3.3.4R.



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- Now, firms will have to argue that such complaints typically about product pricing are frivolous and vexatious.

## Have a compliant summer

PS Many thanks to Chris Hamblin for his help in editing this.