

Extending our voluntary jurisdiction: **National Savings and Investments**

Feedback on consultation by
Financial Ombudsman Service

September 2004

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The Financial Ombudsman Service was established under the Financial Services and Markets Act 2000 (FSMA) to provide a 'one-stop-shop' for resolving complaints about a broad range of financial services activities. The ombudsman service has:

- a *compulsory* jurisdiction, which applies to unresolved complaints about specified activities in relation to financial firms that are regulated by the Financial Services Authority (FSA); and
- a *voluntary* jurisdiction, which applies to unresolved complaints about specified financial services activities in relation to financial firms (whether or not regulated by FSA), if the firms concerned choose to join.

Currently, the Financial Ombudsman Service does not cover financial services provided by National Savings and Investments (NS&I). Instead, under the relevant statutory provisions:

- the Independent Adjudicator for National Savings and Investments (the Adjudicator) deals with unresolved complaints about contractual matters; and
- the Parliamentary Commissioner for Administration (the Parliamentary Ombudsman) deals with unresolved complaints about maladministration.

To provide some harmonisation between the treatment of unresolved complaints against NS&I and unresolved complaints against financial firms, an ombudsman from the Financial Ombudsman Service was appointed as the Adjudicator in May 2002. But, as the Adjudicator, he has to operate under different rules and with different powers.

The government is now considering the possibility of further harmonisation by moving NS&I into the voluntary jurisdiction of the Financial Ombudsman Service. That required some prior modifications to the rules concerning the ombudsman service's voluntary jurisdiction, which are made by the Financial Ombudsman Service and approved by the FSA.

[The Financial Ombudsman Service issued a consultation paper about these changes in May 2004.](#) The consultation period closed on 11 August 2004. Only one response was received, which was from a large FSA-regulated firm that fully welcomed the proposed changes.

The Board of the Financial Ombudsman Service has now made – and the FSA Board has now approved – modifications to the rules concerning the voluntary jurisdiction of the Financial Ombudsman Service. These are set out in the annex to this feedback statement, and are identical to those in the consultation paper. The modifications come into effect on 1 October 2004.

The consultation was about the modifications required to the rules concerning the voluntary jurisdiction of the Financial Ombudsman Service, to make it suitable for NS&I to join. The consultation was *not* about whether (and when) NS&I should actually join the voluntary jurisdiction, and whether the existing roles of the Adjudicator and the Parliamentary Ombudsman in relation to NS&I should be removed. These are matters for government and parliament to decide.

Appendix: Rule changes

Note:

- Proposed amendments are underlined.
- Words in italics are defined in the glossary to the handbook.
- VJ means FOS's voluntary jurisdiction

[Eligible complainants in the VJ – in DISP 2.4]

2.4.12A R In respect of a complaint under the *Voluntary Jurisdiction* relating to National Savings and Investments' business under DISP 2.6.9 R (9), where the complainant is not otherwise eligible in accordance with DISP 2.4, the *Ombudsman* may, nonetheless, if he considers it appropriate, treat the complainant as an *eligible complainant* if he or she would have been entitled to refer an equivalent complaint to the Adjudicator for National Savings or, as the case may be, the Parliamentary Commissioner for Administration immediately before the *Voluntary Jurisdiction* began to cover National Savings and Investments' business, provided that the complainant wishes to have the complaint dealt with under the *Financial Ombudsman Service*.

[Activities covered in the VJ – in DISP 2.6]

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 or one or more of the following activities by a *VJ participant*:

- (1) *general insurance business*;¹
- (2) *accepting deposits*;⁴
- (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*;

¹ If carried out in or from the UK, these are FSA-regulated activities and covered by the compulsory jurisdiction of the Financial Ombudsman Service. If directed at the UK from elsewhere in the European Economic Area, they are (subject to the conditions in DISP 2.7.2 R) covered by the voluntary jurisdiction.

- (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 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;
- (9) National Savings and Investments' business;
- or activities ancillary to them (see DISP 2.6.11R).

[VJ funding – in the VJ tariff]

| | Voluntary Jurisdiction industry block | Tariff base | General levy payable by firm | Minimum general levy per firm | Case fee |
|----|---------------------------------------------------|-----------------------|-------------------------------------|--------------------------------------|-----------------|
| 8V | <u>National Savings and Investments' business</u> | <u>Not applicable</u> | <u>Not applicable</u> | <u>£10,000</u> | <u>£360</u> |

End