

## COMPLAINTS PROCEDURES FOR AFS LIMITED

### COMPLAINTS

**The definition of a 'Complaint' is: -**

*'Any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a person about the provision of, or failure to provide, a financial service or a redress determination, which:-*

- a) *alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience; and*
- b) *relates to an activity of our firm, or of any other firm with whom we have some connection in marketing or providing financial services or products, which comes under the jurisdiction of the Financial Ombudsman Service'.*

A complaint can be made via any reasonable means, including letter, telephone, email, and in person.

We operate the following telephone line for the purposes of enabling a complaint to be filed and complainants will not be bound to pay more than the 'basic rate' when using this.

01246 293 858

Any cost to the complainant will be the simple cost of connection and will not provide our firm with a contribution to our costs or revenues.

No charge will be made for handling a complaint from an eligible complainant.

### **Consumer Awareness**

A written summary of our internal procedures for dealing with complaints promptly and fairly must be given to eligible complainants on request and when acknowledging a complaint, free of charge.

An eligible complainant is: -

- a consumer;
- micro enterprise\*;
- a charity with annual income of less than £1 million;
- a trustee of a trust with a net asset value of less than £1 million;
- a CBTL consumer (in relation to CBTL business);

Unless they were classified as a professional client or eligible counterparty at the time of the act or omission and in respect of the activity which is the subject of the complaint. However professional clients and eligible counterparties who are individuals acting outside their trade business, craft or profession may still be eligible.

\* As defined in the FCA Handbook i.e. *'an enterprise which employs fewer than ten persons and has an annual turnover or annual balance sheet that does not exceed €2 million'.*

## **PROCEDURES**

### **Receiving a complaint**

We do not make a charge for filing a complaint.

All complaints, whether oral or written and made by or on behalf of a customer, must be referred immediately to the person responsible for handling complaints, even if the complaint has already been resolved by an apology.

Training will be provided to all staff (induction/annual basis) to ensure that they are able to recognise what constitutes a complaint for reporting purposes.

Any oral or written statement made by a client, which might be considered as a complaint, must be referred to Joseph Dey so that it can be determined as to whether is a complaint or not.

Once it has been established if the matter is a complaint, the complaints handler will notify the Professional Indemnity Insurers in accordance with the terms and conditions of our PII policy.

The remaining sections apply only to complaints, which meet the following definition: -

- The complaint is made by or on behalf of an eligible complainant;
- The complaint relates to a regulated activity of the firm; and
- The complaint involves an allegation that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience.

All complaints are subject to the 'Complaints resolution rules' including those resolved by close of the third business day after receipt.

### **Complaints resolved by close of the third business day after receipt**

Any complaint resolved by the firm by the close of the third business day following the day it is received must be investigated competently, diligently and impartially; be assessed fairly, consistently and promptly; taking all relevant factors into account.

Where we consider a complaint to be resolved by the close of the third business day following the day it is received, the complainant must promptly be issued our 'Summary Resolution Communication' in writing, free of charge.

In addition to sending our 'Summary Resolution Communication' in writing other methods of communication should be used where appropriate. For example where we become aware that the complainant has particular protected characteristic under equalities legislation (e.g. a complainant who may be visually impaired) or where we have already been using another method to communicate about the complaint.

Our 'Summary Resolution Communication must: -

- Be fair, clear and not misleading;
- Refer to the fact that the complainant has made a complaint and that we consider the complaint to have been resolved;
- If relevant, include any offer of remedial action or the appropriate level of redress (or both);

- Make the complainant aware that if they are dissatisfied with the resolution of the complaint, they may be able to refer it to the Financial Ombudsman Service (FOS);
- Include the contact details of the Financial Ombudsman Service (FOS), their website address and refer them to the availability of further information on the FOS website. Further information can be found in the Financial Ombudsman Service section of this document;
- Inform the complainant whether or not we will consent to the ombudsman service considering a complaint if it becomes apparent that the complaint has been made or referred outside the time limits specified under FCA rules by including the appropriate wording set out in [DISP 1 Annex 3R](#).

The information regarding the Financial Ombudsman Service should be set out clearly, comprehensibly, in an easily accessible way and prominently within the text of our summary resolution.

Unless specifically agreed with the complaints handler, if it becomes apparent that the complaint has been made or referred outside the relevant time limits specified under FCA rules we will not consent to the Ombudsman to consider the complaint so will only be able to do so in limited circumstances.

Under these rules the ombudsman service cannot normally look at a complaint from an eligible complainant if it is referred more than 6 months after our summary resolution communication or final response is issued, or, 6 years from when the act complained of happened and 3 years from when a complainant should reasonably have been aware of a problem.

### **Acknowledging a complaint**

If the complaint cannot be resolved by the close of the third business day following the day it is received the complaints handler will acknowledge the complaint in writing. The written acknowledgement will be issued promptly.

In relation to oral complaints, the written acknowledgement will set out their understanding of the complaint and will invite the complainant to contact them if their understanding is incorrect.

The acknowledgment letter will provide the complainant early reassurances that the complaint has been received and that we are dealing with it. It will also advise the complainant that: -

- They will be provided with regular progress updates;
- If our review has not been completed by the end of eight weeks after its receipt we will send them with a 'written response' explaining why we are not in a position to make a 'final response' and provide details of their rights to refer the matter to the Financial Ombudsman Service;
- On completion of our review that we will provide them with a 'final response' in writing.

A summary of our internal procedures for dealing with complaints must be forwarded in writing and free of charge with the acknowledgement letter.

## **Investigating a complaint**

Any complaint will be investigated competently, diligently and impartially, obtaining additional information as necessary.

The complaints handler will investigate all complaints and may, where appropriate, consult the adviser / member of staff whose actions or omissions gave rise to the complaint issue(s) raised.

If the complaints handler is subject to the complaint, the investigation will then be conducted by the compliance officer.

The investigation will include, as a minimum: -

- A review of the relevant client file;
- Take into account any information and / or documents submitted by the complainant (including any standard questionnaires i.e. the mortgage endowment questionnaire);
- If necessary, a request for any additional information;
- Contact with the relevant provider(s), if relevant.

## **Decision to uphold or decline**

Any complaint will be assessed fairly, consistently, and will be dealt with promptly.

Under the concept of 'TCF' the interests of the complainant will be put first, applying good judgement in all cases.

The complaints handler must take into account all available evidence, the particular circumstances of the case and any other relevant factors when making the decision to uphold or decline. This information will also drive the creation of a Final Response to the complainant and potentially a redress calculation, if considered appropriate.

If remedial action or redress (or both) is to be offered, the type of remedial action and the level of redress must be fair and appropriate to the nature of the complaint.

Decisions made by the complaints handler must be approved by the directors before issuing the 'final response' to the complainant. Any approvals must be made promptly. The complaints handler will also notify the Professional Indemnity Insurers in accordance with the terms and conditions of our PII policy.

Were we uphold a complaint concerning the sale on an endowment policy for the purposes of repaying a mortgage the guidance contained in [DISP App 1](#) on the approach to assessing financial loss and appropriate redress will be taken into account.

The approach set out in [DISP App 3](#) will be used when assessing complaints relating to the sale of payment protection contracts or when determining appropriate redress where a complaint is upheld.

## **Ombudsman decisions / guidance**

When assessing a complaint, the lessons learned as a result of determinations by the Ombudsman must be taken into account. The complaints handler must analyse and take into account prior to making a decision: -

- Determinations made by the Ombudsman on any firms complaints referred onto FOS in respect of similar complaint issues, especially when the FOS's decision differs from the firm's final decision;
- Any patterns in determinations made by the Ombudsman concerning complaints received by the firm in respect of similar complaint issues;
- Guidance produced by the FOS which is available via its own website;
- Relevant case studies contained within the FOS publication, Ombudsman News.

### **FCA / Other Relevant Regulators**

When assessing a complaint, the complaints handler must also analyse and take into account prior to making a decision relevant guidance produced by the FCA/other relevant regulators and former schemes (e.g. the FSA scheme).

### **Other Factors that may be relevant in the assessment of the complaint**

When assessing a complaint other factors that may be relevant in the assessment of the complaint must be taken into account. The complaints handler must analyse and take into account prior to making a decision: -

- Similarities with other complaints received by the firm;
- Any issues identified as a result of the firms Root Cause Analysis carried out.

### **Keeping a complainant informed**

If the complaint cannot be resolved by close of the third business day, following the day it is received, we will ensure that the complainant is regularly kept informed of our progress with regards to the investigation into their complaint.

Any progress updates will include: -

- An explanation why we are not in a position to make a final response and indicate when we expect to be able to provide one;
- What further information / documents we require to resolve their complaint; and
- When they may expect to receive a further update / our Final Response letter.

We will work towards completing our investigation into a complaint within eight weeks of its receipt.

In the event that we have been unable to conclude our investigation within the eight week period, we will write to the complainant and provide an explanation why we are not in a position to make a final response and indicate when we expect to be able to provide one.

We will also provide the complainant with: -

- Details of their right to refer the complaint to the Financial Ombudsman Service if they are dissatisfied with the progress of our review, their contact details, website address and refer them to the availability of further information on the FOS website. Further information can be found in the Financial Ombudsman Service section of this document;
- Confirmation of whether or not we will consent to the ombudsman service considering a complaint if it becomes apparent that the complaint has been made or referred outside the time limits specified under FCA rules.

If we believe that their complaint was made outside of these time limits we will notify them of this in the 'eight week response' and notify them that this is a matter for the Ombudsman to decide.

A copy of the Financial Ombudsman Service's standard explanatory leaflet must be forwarded with the 'eight week response' letter.

Unless specifically agreed with directors if it becomes apparent that the complaint has been made or referred outside the relevant time limits specified under FCA rules we will not consent to the Ombudsman to consider the complaint so will only be able to do so in limited circumstances.

## **Resolving a complaint**

All complaints require resolution.

Following the completion of the investigation, the complaints handler will issue a written Final Response letter to the complainant.

The Final Response letter will be fair, clear and not misleading and will provide the complainant with: -

- Details of complaint;
- Details of the investigation;
- The outcome of the investigation;
- If relevant, include any offer of remedial action(s) or the appropriate level of redress (or both), and the basis of calculation;
- Details of their right to refer the complaint to the Financial Ombudsman Service if they are dissatisfied with the resolution of the complaint;
- The contact details of the Financial Ombudsman Service (FOS), their website address and refer them to the availability of further information on the FOS website. Further information can be found in the Financial Ombudsman Service section of this document;
- Confirmation of whether or not we will consent to the ombudsman service considering a complaint if it becomes apparent that the complaint has been made or referred outside the time limits specified under FCA rules by including the appropriate wording set out in [DISP 1 Annex 3R](#).

If we believe that their complaint was made outside of these time limits we will notify them of this in the 'final response' and notify them that this is a matter for the Ombudsman to decide.

The information regarding the Financial Ombudsman Service should be set out clearly, comprehensibly, in an easily accessible way and prominently within the text of our summary resolution.

A copy of the Financial Ombudsman Service's standard explanatory leaflet will be forwarded with the 'final response' letter.

Unless specifically agreed with directors if it becomes apparent that the complaint has been made or referred outside the relevant time limits specified under FCA rules we will not consent to the Ombudsman to consider the complaint so will only be able to do so in limited circumstances.

If the firm receives confirmation from the complainant that they are satisfied with the findings and outcome of the investigation and/or remedial action or redress (or both) being offered, the complaint will be considered to be closed by the complaints handler.

The firm will comply promptly with any offer of remedial action or redress accepted by the complainant.

Where no confirmation has been received from the complainant within 8 weeks of the firm's Final Response, the complaint will also be considered closed. However under the concept of 'TCF', should the complainant contact the firm after 8 weeks, we will review any further correspondence accordingly.

### **Financial Ombudsman Service (FOS)**

The FOS contact details are as follows:

The Financial Ombudsman Service  
Exchange Tower  
London E14 9SR  
Telephone number: 0800 023 4 567.

Website address of the Ombudsman - <http://www.financial-ombudsman.org.uk/>

When providing the website address of the Ombudsman to complainants we will also refer them to the availability of further information on the FOS website.

If a complaint is referred to the FOS, the firm will fully co-operate with them and comply promptly with any settlement and awards made by it.

On receipt of a notification from FOS, we will respond promptly to any document/information request, quoting the allocated reference number.

The firm agrees to be bound by any awards made by the Ombudsman. Consideration will be given to any awards made which are above the Ombudsman's limit at that time.

Any cases where the FOS's decision disagrees with the firm's final decision will be summarised and analysed by the directors. Details of this analysis will be communicated to all individuals involved in complaint handling via meeting and in email correspondence.

The firm undertakes to pay promptly the fees levied by the FOS.

### **Referring a complaint to another firm**

If a complaint is received whereby we have reasonable grounds to be satisfied that another firm is solely or jointly responsible for the subject matter of a complaint, we will forward the entire complaint / relevant part of the complaint promptly, in writing, to that firm.

The firm will also inform the complainant promptly in a final response of the referral, explain why the complaint has been forwarded to the other firm and provide them with the other firms contact details.

If we are responsible on a joint basis, we will investigate those issue(s) we have not forwarded in line with our normal procedures.

## **Receiving a referred complaint from another firm**

If we receive a complaint that has been forwarded to us by another firm we will deal with it in line with our normal procedures and, as if we received it when the forwarded complaint was received.

## **Record Keeping**

Training must be provided to the complaints handler (induction training/annual basis) to ensure they are able to record a complaint effectively.

An entry of each complaint received will be made within the firms Complaints Register, which will be maintained at all times.

The firm will retain a record of each complaint received for at least 3 years from the date the complaint is received, including those resolved by close of the third business day following the day it is received. This will be held in the form of an individual file and will include as a minimum: -

- The name of the complainant;
- The substance of the complaint;
- All correspondence between the firm and complainant, including details of any remedial action and/or redress offered by the firm; and
- Documentation relating to any cases referred to another firm/provider.

## **Management Controls**

In order to ensure that all relevant factors are taken into account when assessing complaints the complaints handler will carry out the following to ensure that this information can be taken into account when investigating complaints received: -

- Relay determinations by the ombudsman to the individual who was responsible for handling the complaint, so this can be used in their training and development/applied in future complaint handling;
- Analyse and relay any patterns in determinations by the ombudsman concerning complaints received by the firm to the complaints handler;
- Summarise, analyse and communicate ombudsman decisions to the complaints handler;
- Analyse and communicate guidance produced by the FCA and other regulators to the complaints handler; and
- Analyse and communicate guidance produced by the ombudsman service to the complaints handler.

## **Recurring & Systemic problems**

For complaints, we have in place appropriate management controls and take reasonable steps to ensure that in handling complaints we can identify and remedy any recurring or systemic problems.

Recurring or systemic problems are identified/remedied by: -

- Analysing the causes of individual complaints to determine the root causes common to types of complaints;

- Considering whether such root causes may affect other processes or products, including those not directly complained about;
- Correcting where reasonable to do so, such root causes.

### **Process for identifying / remedying Recurring & Systemic problems**

- The complaints handler is responsible to ensure that transparent written procedures for the reasonable and prompt handling of complaints are established, implemented and maintained. The complaints handler will review the firm's Management Information to test the effectiveness of the firm's complaints procedures, in particular the quality of customer outcomes and whether product/service improvements have been made;
- Root cause assessments will be undertaken by the compliance office after the complaint has been settled to identify the root causes of complaints;
- The analysis of the root causes must take into account all relevant factors;
- Appropriate priority will be given to the handling of complaints and root cause analysis. We will also assess the priority of different root causes;
- We will record details of the causes of complaints and the products and services complaints relate to in the complaints register. This includes information about complaints resolved by the third business day following the day it is received;
- Information (MI) will be provided to the complaints handler so they can play their part in identifying, measuring, managing and controlling regulatory risks. A record of the analysis and decisions taken by the complaints handler (including whether and what initiative actions are required as a result) in the complaints register;
- The scope, nature and results of the actions taken, including any dealings with individual consumers included in the scope of our own initiative actions will be recorded in the complaints register;
- We will consider whether the root causes identified may affect other processes or products, including those not directly complained about;
- Any recurring and systematic problems identified will be addressed accordingly;
- regular reports will be made to the complaints handler recurring/systemic problems so they can play their part in identifying, measuring, managing and controlling regulatory risks. A record of the analysis and decisions taken by the complaints handler (including whether and what initiative actions are required as a result) in the complaints register;
- Details of any root cause analysis conducted will be communicated to all staff via staff meetings and group email update.

### **Root Cause Analysis**

Root cause assessments will be undertaken by the compliance officer when the complaint has been settled to identify the root causes of complaints.

The analysis of the root causes must take into account all relevant factors, including (but not limited to): -

- The concerns raised by complainant(s);
- The reasons for complaints and rejected claims;
- Our stated sales practices (at the relevant time(s));
- Evidence available about the actual sales practice(s) at the relevant time(s)
- Relevant regulatory guidance produced by the FCA/other relevant regulators and former schemes (e.g. the FSA scheme);
- Relevant decisions made by the Ombudsman:

- On any firms complaints referred onto FOS in respect of similar complaint issues, especially when the FOS's decision differs from the firm's final decision (i.e. the decision noted within a Final Response letter);
- Any patterns in determinations made by the Ombudsman concerning complaints received by the firm in respect of similar complaint issues; and
- Guidance produced by the FOS which is available via its own [website](#) and relevant case studies contained within the FOS publication, [Ombudsman News](#).

## **Non-Complainants**

Where the firm identifies any recurring or systematic problems (either from a complaint or otherwise) in its provision of, or failure to provide, a financial service we will (in accordance with principle 6 Customers' interests) consider whether we ought to act with regards to the position of customers who may have suffered detriment from, or may have been potentially disadvantaged by the issues identified) but who have not complained.

The compliance officer is responsible to ensure that the firm: -

- Ascertains the scope and severity of the consumer detriment that might have arisen; and
- Consider whether it is fair and reasonable for us to undertake proactively a redress or remediation exercise, which may include contacting customers who have not complained.

When considering fair and appropriate 'own initiative action' in relation to non-complainants, the compliance officer will consider what is proportionate in all the circumstances including: -

- The number, nature and seriousness of the problem(s) identified;
- The proportion and number of sales in which the problem(s) may have occurred;
- The nature and severity of the potential (or known) detriment to such consumers;
- Whether it is possible for the firm to identify, from information already available to it, which customers within a given cohort have been affected in this way; and
- The effectiveness and cost of actions which involve some form of customer contact exercise, or other alternatives, including:
  - Their likely effectiveness in ensuring that all such customers are treated fairly by being given appropriate redress or a proper opportunity to obtain it; and
  - The ability of the firm to carry out such actions (for example, given its permissions).

Prior to commencing any 'redress or remediation' exercises, the complaints handler will notify the Professional Indemnity Insurers in accordance with the terms and conditions of our PII policy.

## **Senior Management Oversight of Complaint Handling**

The directors has overall responsibility for the oversight of the firm's compliance with DISP 1 (Treating complainants fairly) and will be responsible for: -

- Ensuring transparent written procedures for the reasonable and prompt handling of complaints are established, implemented and maintained;
- Reviewing the firm's Management Information to assess the effectiveness of the firms complaints procedures, in particular the quality of customer outcomes and whether product/service improvements have been made;

- Reviewing the firm's Management Information in terms of root cause analysis so they can play their part in identifying, measuring, managing and controlling regulatory risks;
- Ensuring a record of the analysis and decisions taken by senior personnel when they respond to the management information on the root causes (whether and what initiative actions are required as a result) is compiled and retained; and
- Overseeing the scope, nature and results of any actions taken, including any dealings with individual consumers included in the scope of the firm's own initiative actions.

In the event of the directors being unable to carry out their normal responsibilities for the oversight of the compliance with DISP 1 (Treating complainants fairly) the compliance officer will be appointed until such time that the directors is able to resume their normal responsibilities.

### **Complaints reporting and data publication**

The firms will comply with the FCA's complaints reporting and complaints data publication rules for all complaints.

### **Notifications to the FCA**

We will notify the FCA within 20 working days: -

- Whenever three complaints are upheld in any 12 month rolling period against a Retail Investment Adviser (RIA);
- Where a complaint is upheld and the level of redress exceeds £50,000 (matters relating to activities when acting as RIA).

### **Training & Development**

As part of their training and development: -

- The compliance officer will relay determinations by the ombudsman to the individual who was responsible for handling the complaint so that this information can be applied in future complaint handling;
- Training will be provided to all staff (induction / annual basis) to ensure that they are able to recognise what constitutes a complaint for reporting purposes;
- Training will be provided to compliance officer (induction training/annual basis) to ensure they are able to record a complaint effectively.

### **Staff Understanding**

**ALL** staff (including all administration and secretarial staff) are to be given a copy of this document and to sign their acknowledgment of receipt, understanding and agreement to act within the requirements at all times.

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PLEASE RETURN THIS TEAR OFF SLIP TO JOSEPH DEY

### **Receipt of Complaints Procedure**

I have received, understand and agree to comply with the firms complaints procedures at all times to ensure that complainants are treated fairly.

Company Name	
Staff Member's Name	
Staff Member's Signature	
Date	