

The Financial Ombudsman Service: Publishing complaints data on individual financial businesses

Introduction

The Financial Ombudsman Service (FOS) publishes the details of many of the complaints cases it has to deal with, in order to achieve a higher degree of transparency and to bring as much information as possible to consumers. What it has never published so far is the complaint data on individual financial businesses.

Now, after considering the different circumstances and after consulting with the Financial Services Authority (FSA), the FOS plans to publish selected data on complaints against individual financial businesses, but following specific criteria.

It is hoped that this will help consumers, financial businesses and other stakeholders to identify trends in consumer concerns, and potentially highlight circumstances where financial businesses' own complaint-handling systems are not working to best effect.

Some of the benefits expected to derive from this initiative are:

- Availability of accurate information can help the markets to work more effectively;
- Transparency can improve performance by making progress visible;
- Making information accessible to the public can have a preventative effect;
- Business reputation will influence consumer choice to change market practices.

The proposal of the Financial Services Authority (FSA)

FSA-regulated firms are required to send to the FSA, twice a year, information about the number and outcome of complaints they have received – as detailed in [DISP 1.10](#), the complaints-reporting rules in the FSA handbook.

The proposal suggests that in future the FSA should publish some of that complaint data, also on a six-monthly basis, covering about 95% of reported complaints. An even wider range of data could be available if they published information about complaint-handling cases of 400 firms (covering about 99% of reported complaints).

The FOS and the FSA are working closely to find the right format and content of the data to be published.

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The principles that have driven the two financial bodies to this decision are as follows:

- there is no reason of principle to withhold complaint information about individual financial businesses.
- the outcomes of similar cases will be published to verify whether or not they are the result of comparable treatment.
- the outcomes of cases related to businesses that are broadly comparable will be published when they show relevant differences.
- the data is all derived from FOS records to guarantee that it is all prepared on a consistent basis.
- other European bodies handling financial complaints (in the Czech Republic, Finland, Poland and Spain) already publish that data.

The FOS intends to publish data about financial businesses which have handled their complaints comparatively well as well as those which have done comparatively poorly, so that both good and poor practice will be disclosed.

In the year ended 31 March 2008, the FOS received 794,648 new enquiries, giving rise to 123,089 new cases on a wide range of consumer concerns that go from full-blown complaints which are ready to become new cases, to complaints which have not yet been referred to the financial businesses concerned. Other cases relate to consumers seeking reassurance about something a financial business has said or are even issues that are outside the FOS remit.

When a complaint becomes a “case”

When challenging a firm with a complaint, a consumer must give the financial business a reasonable opportunity to resolve the complaint before it can be referred to the FOS and potentially become a "case".

The ombudsman can consider a complaint when either the financial business has issued a final response or eight weeks have elapsed since the complaint was made ([DISP 2.8.1](#)). Even then, not all complaints that are referred to the FOS become new "cases".

"New cases" are those complaints which are defined in the glossary to the FSA handbook as "**chargeable cases**", that is any complaint referred to the FOS except where it should not be considered because:

- the complainant is not an eligible complainant;
- the complaint does not fall within the jurisdiction of the Financial Ombudsman Service;
- the Ombudsman considers that the complaint should be dismissed without consideration of its merits;
- the Ombudsman considers, at any stage, that the complaint should be dismissed on the grounds that it is frivolous or vexatious ([DISP 3.3.4](#)).

The financial businesses can keep track of the number of complaints against them which have been accepted as new cases because they are informed promptly that the FOS is analysing the complaint.

The outcomes of closed cases analysed by the FOS have been different in the past:

- it was decided that the financial business had treated the consumer's case fairly (because the business had done nothing wrong or had already offered sufficient compensation);
- the financial business agreed a "goodwill payment" even though it refused to admit liability;
- the financial business had already made an offer to the consumer as a result of the case going to the ombudsman service, but a better settlement of the case was negotiated;
- the financial business had treated the consumer's complaint unfairly, and the financial business was required to pay compensation.

Since this classification of case outcomes was too complex, the FOS simplified it by creating three categories:

- the FOS accepts the financial business' response to the complaint;
- the FOS agrees with the consumer's complaint;
- mixed outcome.

The judgement of what constitutes a "mixed outcome" is necessarily a partly subjective one and it would not be appropriate for recording and publishing data about individual financial businesses.

It could be argued that an ideal approach would be for the Ombudsman Service to make (and record) more sophisticated value judgements on complaint-handling by financial businesses in order to explain thoroughly the details of the case; but the FOS, with this initiative, is aiming at passing on to consumers simple, understandable and effective information.

Proposed classification of cases

The choice is, anyway, to publish outcome data about individual businesses simply showing the percentage of closed cases where there was a change in favour of the consumer regardless of the willingness of financial businesses to compromise and avoiding a more subtle judgement on the quality of complaint-handling.

So now cases are recorded as "**no change**" (where the consumer's complaint is rejected) and as "**changed**" (where the consumer's complaint is upheld).

Where the outcome of the complaint changes in favour of the consumer it usually means that the financial business did something wrong, but its final response to the consumer's complaint is not satisfactory.

This means, for example, that the outcome of a closed case will be recorded as "changed" where:

- the financial business's final response said it had done nothing wrong but, after the complaint becomes a "case", the financial business accepts that it had done something wrong;
- the financial business's final response offered the consumer inadequate compensation but, after the complaint becomes a case, the financial business increases its offer to an appropriate level.

The clear inference is that, in a changed-outcome case, the financial business would not have altered its position if the consumer had not referred the complaint to the ombudsman service.

Financial businesses covered

With the term “financial business” the FOS identifies a distinct legal entity usually regulated by the FSA, licensed by the Office of Fair Trading (OFT) or both - more than 100,000 financial businesses come within the compulsory, consumer credit and voluntary jurisdictions of the FOS. Almost one quarter of these are regulated by the FSA, and it is a relatively small number of these FSA-regulated financial businesses that are involved in the majority of cases.

Publishing data about any financial business that has had a case with the ombudsman service including smaller businesses with occasional cases would not be proportionate and therefore the FOS set a threshold for publication. The proposal is to focus initially on those financial businesses which had **at least 30 new cases and 30 closed cases in the relevant six-month period**.

Many of the financial businesses covered by the FOS are not regulated by the FSA so the number and identity of the financial businesses for which data will be published should not necessarily be tied completely to those for which the FSA intends to publish data.

The complaint data for financial businesses is recorded against the relevant legal entity and if that legal entity is part of a larger group, which may well share the same brand-identity in the eyes of consumers then the published data should identify the group to which the financial business belongs.

There are instead other financial businesses where a single legal entity operates under a variety of brand-identities or trading names and complaint data will necessarily be recorded against the single legal entity.

The FOS intends to make the published data clear to consumers and it will specify in its publications any participation of a business in a larger group or any other major trading names or brands under which the business deals with consumers.

In relation to the size of the financial businesses concerned, the FOS will not consider any reference to features as industry developments, the structure of individual groups or the market share and product mix of individual financial businesses. A high proportion of cases upheld would suggest problems with in-house complaint-handling by a financial business, whatever its size.

If industry bodies, consumer bodies and the FSA can agree on a common way to measure market-share and to use this measure for a more detailed classification of businesses, then the FOS will take that into account in order to provide consumers with more explanatory data.

Procedural measures

When a case is closed, a letter will automatically be sent to the financial business indicating how the outcome has been recorded enabling financial businesses to check this case by case.

In order to verify that the published data is correct, auditors (currently KPMG) will audit the data prior to publication.

A proposal has been made to publish the data on the internet and since the data relates mostly to financial businesses for which the FSA publishes data, the FSA will be able to repeat it alongside the data it receives from financial businesses.

Timescale of publication

The FOS hope to be able to start with the publication of data for the first half of 2009 but if further consultation is required to define procedures and publication format it might have to delay until the second half of 2009.

Possible format

PERIOD 1 JANUARY TO 30 JUNE 2009				
Please read the important explanatory notes below				
1	2	3	4	5
Financial business	Other trading names	Part of group	Number of new cases	% of closed cases upheld
Sort ▼ ▲	Sort ▼ ▲	Sort ▼ ▲	Sort ▼ ▲	Sort ▼ ▲
Business A	Name X	Group 1		
Business B				
Business C		Group 2		
Business D	Name Z			

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