

Roles and responsibilities of the Financial Ombudsman Service and the Lending Standards Board

This statement describes the respective roles and responsibilities of the Financial Ombudsman Service and the Lending Standards Board (LSB) and the framework that exists for constructive communication and co-operation between us. It is intended to help our various stakeholders understand the differences in our roles and, where our interests coincide, how we manage them.

1 The Financial Ombudsman Service

- 1.1 The Financial Ombudsman Service is the UK's statutory, independent and informal dispute resolution scheme, established under the Financial Services and Markets Act 2000 (FSMA). It operates as an alternative to the civil courts.
- 1.2 Its role is to resolve, quickly and with minimum formality, on the basis of what is fair and reasonable in the circumstances of each case, complaints by individuals or certain small entities about the provision of (or failure to provide) a financial service by financial businesses.
- 1.3 In considering what is fair and reasonable, the Financial Ombudsman Service will take into account relevant law and regulations, relevant regulators' rules and guidance and standards, relevant codes of practice (including the Lending Code), and (where appropriate) what the ombudsman considers to have been good industry practice at the relevant time.
- 1.4 The Financial Ombudsman Service has three jurisdictions, covering nearly all financial services business:
 - **Compulsory jurisdiction**
This applies to financial services businesses authorised or registered by the Financial Services Authority (FSA) and covers complaints about FSA-regulated activities, consumer credit activities and certain other specified activities.
 - **Consumer credit jurisdiction**
The Consumer Credit Act 2006 created the consumer credit jurisdiction. This covers consumer credit complaints against any businesses with standard licences from the Office of Fair Trading (OFT) not authorised or registered by the FSA. If the licensee is also authorised or registered by the FSA, its consumer credit complaints are covered by the compulsory jurisdiction.
 - **Voluntary jurisdiction**
This applies voluntarily to financial businesses and activities that are not covered by the compulsory jurisdiction or the consumer credit jurisdiction. This could include the consumer credit activities of EEA businesses carried on from an establishment outside the UK.

- 1.5 Financial Ombudsman Service decisions, if accepted by the complainant, are binding on respondent businesses and it can make awards of up to £150,000. The service is free to consumers.

2 The Lending Code and the Lending Standards Board

- 2.1 The LSB is a not-for-profit limited company whose principal activity is to monitor and enforce the Lending Code (the Code). The LSB's key objectives are:

- To assist Code subscribers to interpret and meet the requirements of the Code;
- To monitor and enforce compliance with the Code and take enforcement action for material breaches; and
- To identify any gaps or deficiencies in the Code that could lead to consumer detriment and to advocate change.

The LSB maintains a public register of all firms who subscribe to the Code.

- 2.2 The Code sets standards of good lending practice in relation to loans, credit cards and current account overdrafts. The Code contains key commitments and detailed notes on how customers should be dealt with through the whole product life cycle, from marketing and account opening, maintenance and the provision of information on changes to terms and conditions and interest rates. Important protection is also included to help when something goes wrong, including when a customer is experiencing financial difficulties.
- 2.3 The Code covers consumers, micro-enterprises (a business employing fewer than 10 persons with a turnover or annual balance sheet that does not exceed €2 million) and charities with an annual income of less than £1 million.
- 2.4 The Lending Code covers the major banks and credit card providers and those building societies providing loans and credit cards to consumers and micro-enterprises.
- 2.5 The Lending Code is owned by the three sponsoring bodies – the British Bankers' Association (BBA), the Building Societies Association and The UK Cards Association.

3 Authorisation/licensing of Lending Code subscribers

- 3.1 Within the scope of FSMA, the FSA is responsible for the authorisation and prudential supervision of financial services firms, which include banks and building societies that subscribe to the Lending Code. The FSA also applies conduct of business regulation for the mortgage, insurance and investment activities of these firms.
- 3.2 The OFT is responsible for regulating and licensing consumer credit in the UK, under the Consumer Credit Act (CCA) 1974, as amended by the CCA 2006. Some firms that are required to apply for authorisation to the FSA, because their activities fall under FSMA, also need to apply to the OFT for a consumer credit licence.

- 3.3 The role of the LSB is to make sure the standards in the Code are met in relation to Code subscribers' conduct of business. Its aim is to ensure full adherence both to the spirit and the letter of the Code and, when things go wrong, that early corrective action is taken and customers are not disadvantaged. The Code specifically requires that Code subscribers must comply with the credit and other relevant legislation and that they should also have regard to relevant OFT guidance. The LSB does not take responsibility for the authorisation/licensing or prudential supervision of subscribers to the Lending Code.
- 3.4 Given the connections between the areas that the FSA, OFT, Financial Ombudsman Service and LSB cover, there are a number of agreements between those organisations that set out how they manage their working relationships.

4 Areas of mutual Financial Ombudsman Service/LSB interest

- 4.1 The Financial Ombudsman Service and the LSB have different, but complementary, powers and functions. They are interested in the following areas:

4.2 Content of the Lending Code

- 4.2.1 The Financial Ombudsman Service is not a regulator and the LSB polices but does not dictate the content of the Lending Code. As a voluntary code of practice, its content is decided and owned by the businesses that sign up to it, represented by the sponsoring trade associations.
- 4.2.2 However the provisions of the Code are relevant to both the Financial Ombudsman Service and the LSB in relation to their respective roles.
- 4.2.3 Both the Financial Ombudsman Service and the LSB are contributors to the review process (currently triennial and led by an Independent Reviewer) that develops the successive revisions of the Lending Code. The LSB may call for interim revisions to deal with specific urgent issues.

4.3 Dealing with complaints

- 4.3.1 The LSB cannot award compensation to individual consumers nor assist them with their complaints. That is the role of the subscriber in the first instance, operating under complaint handling rules set by the FSA, with the customer having recourse to the Financial Ombudsman Service if a satisfactory resolution is not achieved with the subscriber. The LSB signposts customers to the Financial Ombudsman Service, where appropriate.
- 4.3.2 The LSB treats information about complaints as an important source of intelligence about suspected or alleged breaches of the Code. Information about suspected non-compliance with the Code, reported by customers and consumer bodies, is used to inform the LSB's monitoring work.

4.4 Public communications

- 4.4.1 The LSB is subject to contractual confidentiality obligations to subscribers (though it may identify individual subscribers when reporting the outcome of enforcement proceedings).
- 4.4.2 Both the LSB and the Financial Ombudsman Service promote public awareness of their respective roles and the lessons to be derived from their work. They each provide websites, publications and seminars.

4.5 Sharing information

- 4.5.1 The LSB welcomes information from the Financial Ombudsman Service, subject to any confidentiality obligations, about trends in its complaint-handling experience that may indicate systemic problems involving suspected breaches of the Lending Code or gaps in their coverage.
- 4.5.2 The Financial Ombudsman Service welcomes information from the LSB, subject to the LSB's confidentiality obligations, about the results of its monitoring and enforcement activity, including trends in approaches from consumer bodies and members of the public.
- 4.5.3 The Financial Ombudsman Service and the LSB meet regularly, approximately once a quarter, to discuss developments in the financial markets and trends of mutual interest emerging from their work. In addition, good lines of communication exist between them to allow ad hoc discussion of specific issues arising including application of the Code and the Code's overarching fairness requirement.

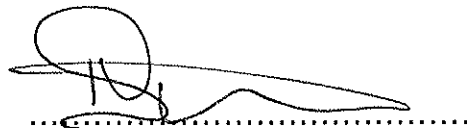
5 **Publication**

Copies of this statement will be available on the Financial Ombudsman Service and LSB websites.

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