



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY



Consultation Paper | FCA CP16/6*
| PRA CP5/16

Complaints against the Regulators (the Bank of England, the Financial Conduct Authority and the Prudential Regulation Authority)

February 2016

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We are asking for comments on this Consultation Paper by 9 March 2016.

Should you wish to provide any comments on this paper you can do so via the contact details below.

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Please address all responses to the contact details stated above.

Abbreviations used in this paper

FCA	Financial Conduct Authority
PRA	Prudential Regulation Authority
the 2012 Act	Financial Services Act 2012
the Act	Small Business, Enterprises and Employment Act 2015
the Bank	Bank of England
the Scheme	Complaints Scheme

1.

Proposed changes to the Complaints Scheme

- 1.1** The financial services regulators (the regulators) are the Prudential Regulation Authority, the Financial Conduct Authority and the Bank of England. Under the Financial Services Act 2012 (the 2012 Act) the regulators operate a Complaints Scheme (the Scheme) to investigate complaints against them. Section 20 of the Small Business, Enterprise and Employment Act 2015 (the Act) inserts new subsections 9A and 9B into Section 87 of the 2012 Act (investigations of complaints against regulators). These new subsections require the investigator (the Complaints Commissioner) for the regulators' Scheme to produce an annual report on his or her investigations.
- 1.2** The Complaints Commissioner is an independent person appointed by the regulators, with the approval of Her Majesty's Treasury. The Complaints Commissioner is responsible for conducting investigations in accordance with the provisions of the Scheme. The current Scheme has been run by the regulators since April 2013 and prior to this very similar arrangements were operated for over a decade by the Financial Services Authority.
- 1.3** Under new subsection 9A of section 87 of the 2012 Act, the Complaints Commissioner must now provide an annual report. New subsections 9A(a)-(c) require the Complaints Commissioner to prepare and publish the annual report and send a copy of the report to each regulator and the Treasury. If the report makes recommendations or criticisms about the regulators' handling of complaints, each regulator must respond, publish the response and send a copy of its response to both the Complaints Commissioner and the Treasury. The Treasury must lay the annual report and any responses before Parliament.
- 1.4** New subsection 9B of section 87 of the 2012 Act provides express power for the Complaints Commissioner to determine the period to which each annual report must relate, and the contents of the annual report.
- 1.5** In particular, under new subsection 9B the report must include:
 - Information concerning any general trends emerging from the investigations undertaken by the Complaints Commissioner during the reporting period (new subsection 9B(a)).
 - Any recommendations the Complaints Commissioner considers appropriate as to how the regulators should respond to such trends (new subsection 9B(b)).
 - A review of the effectiveness during the reporting period of the regulators' procedures for handling and resolving complaints investigated by the Complaints Commissioner (new subsection 9B(c)).
 - An assessment of how accessible and fair those procedures were. This must include, where appropriate, an assessment of how the procedures affected different categories of complainant such as businesses and individuals (new subsection 9B(d)).

- Any recommendations about how those procedures could be improved (new subsection 9B(e)).
- 1.6** The Complaints Commissioner already publishes an annual report, the contents of which are set out in paragraph 7.16 of the Scheme and include:
- information concerning trends in complaints and on general lessons which the Complaints Commissioner considers the regulators should learn.
 - information on the regulators' activities during the last year including, for example, the approach they adopted to handling different types of complaint.
- 1.7** Section 87 of the 2012 Act sets out more detailed requirements regarding the production of the annual report and therefore it is necessary to amend the Scheme to reflect these.

2. What do you need to do next?

- 2.1 The changes to the Scheme discussed in this paper implement the new legislative requirements and so it is not expected that there are any actions for the reader in this instance.
- 2.2 Part 6 of the 2012 Act requires the regulators to consult on any changes to the Scheme. This joint paper from the FCA, PRA and the Bank fulfils this requirement.
- 2.3 However, the regulators are committed to reviewing the substance of the Scheme now that it has been in operation for almost three years. This review may result in a further consultation on the Scheme in 2016.

How?

- 2.4 Should you wish to provide any comments to the regulators you can do so via the contact details provided on page 2 of this document.

What will we do?

- 2.5 We will publish the new legislative requirements, set out in the appendix to this paper, as part of the Scheme in a Policy Statement in March 2016.

Appendix 1

Draft Complaints Scheme text

In the following text a strikethrough indicates deleted text and underlined indicates new text.

Reports

- 7.16** ~~The Complaints Commissioner will each year submit to the regulators, for publication:~~
- ~~a. A report on investigations concluded during the 12-month period ending 31 March. The report may include information concerning trends in the subject matter of complaints and on the general lessons which he considers the regulators should learn.~~
 - ~~b. And information on their activities during that year, including such matters as the approach they adopted to handling different types of complaint and the extent to which they met his service standards for dealing with complaints. (The Complaints Commissioner will set these standards.)~~
 - a.** The Complaints Commissioner will prepare a report on their investigations under the Scheme concluded during the 12-month period ending 31 March (the annual report), publish it and send a copy to each regulator and to the Treasury.
 - b.** Each regulator will respond to any recommendations or criticisms relating to it in the report, publish the response and send a copy of it to the Complaints Commissioner and the Treasury.
 - c.** The Treasury will lay the annual report and any response to it before Parliament.
- 7.17** The annual report must in particular include:
- a.** information concerning any general trends emerging from the investigations undertaken during the reporting period;
 - b.** any recommendations which the investigator considers appropriate as to the steps a regulator should take in response to such trends;
 - c.** a review of the effectiveness during the reporting period of the procedures (both formal and informal) of each regulator for handling and resolving complaints which have been investigated by the investigator during the reporting period;
 - d.** an assessment of the extent to which those procedures were accessible and fair, including where appropriate an assessment for different categories of complainant; and
 - e.** any recommendations about how those procedures, or the way in which they are operated, could be improved.

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