



**Response from the Association of Finance Brokers
to the Financial Ombudsman Service – Rules for the new consumer credit
jurisdiction**

This response is submitted on behalf of the Association of Finance Brokers (AFB). AFB is the trade association representing intermediaries operating in the secured loan industry. In the secured personal loans market, intermediaries are by far the largest distribution channel – in 2004, intermediaries were responsible for approximately £3 billion of the £4.6 billion advanced. Intermediaries active in this market act on behalf of the consumer in selecting an appropriate lender and product from within their panel of lenders to meet the individual consumer's loan requirements. Our members also provide access to associated protection products such as payment protection insurance and life insurance.

The majority of our members are authorised by the Financial Services Authority to carry out insurance mediation activities, and therefore already fall into the compulsory jurisdiction of FOS for these activities.

Q1 Do you agree that the ombudsman service's compulsory jurisdiction (over FSA-regulated businesses) should be extended to include those consumer credit activities that are currently excluded – so that all complaints against FSA-regulated businesses can be handled under the compulsory jurisdiction and the consumer credit jurisdiction?

Yes. It would create a greater administrative burden on firms if they were required to have their complaints handled under two jurisdictions. The different systems of levy collection by the FSA and the OFT would lead to higher internal administration costs for firms who are both FSA authorised and licensed by the OFT.

Q2 Do you agree that it will be simpler for both businesses and consumers if the rules for the new consumer credit jurisdiction (e.g. on time limits and procedure) mirror, so far as possible, the current rules for the existing compulsory jurisdiction and voluntary jurisdiction?

Yes. We agree that both firms and consumers will benefit from a system where complaints handling requirements are the same across the compulsory and consumer credit jurisdictions. The administrative burden on firms would increase if they were required to implement different complaints handling standards for each jurisdiction. It would also be difficult for consumers to understand why different firms (i.e. a non authorised firm who is also a licensee, and an authorised firm) offering the same consumer credit services were subject to (or applied) different complaint handling standards.

Q3 Do you agree that the limitations on eligible complainants in the Consumer Credit Act should apply only to complaints against businesses covered by the CCJ?

Yes.

Q4 Do you agree that the rules on recording and reporting of complaints should not be applied to businesses covered by the CCJ?

No. We believe that all firms who are covered by FOS should be required to meet the same complaints recording requirements. As the regulator of firms within the CCJ, OFT may find complaints data on CCA licence holders useful for the purposes of monitoring licence holders and/or to assist with licensing decisions in relation to fitness and propriety.

Q5 Do you agree that the Financial Ombudsman Service should have the power to dispense with or modify the application of the complaint handling rules where this would be unduly burdensome or would not achieve the purpose for which they were made?

Yes. It would be helpful for firms if FOS were to publish guidance on the use of this rule, covering the process for consideration, who the process can be instigated by (e.g. individual firms, trade associations, FOS itself) and whether or not such a rule modification or dis-application would apply to just one individual firm or a group of firms within a particular sector of the industry, or all firms.

Q6 Do you agree that the most appropriate funding arrangement would be a combination of a flat-rate five-yearly levy of around £150 per firm and a case fee of around £405 to £480, depending on the number of 'free' cases offered?

Yes.

Q7 Would you in theory favour two 'free' cases per business per year and a case fee of around £405 for any additional cases, or five 'free' cases per business per year and a case fee of around £480 for any additional cases?

As our members are all already covered by the compulsory jurisdiction of FOS, we do not have any comments on the funding of the CCJ.

Q8 Do you have any information on likely numbers of complaints under the CCJ and how they will be distributed amongst businesses of different types and sizes?

We do not currently have any data on the likely number of complaints.