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This statement describes the respective roles and responsibilities of the Financial Ombudsman Service (FOS) and the Banking Code Standards Board (BCSB) 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 FOS 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 small businesses about the provision of (or failure to provide) a financial service by financial businesses.
- 1.3 In considering what is fair and reasonable, the FOS will take into account relevant law and regulations, relevant regulators' rules and guidance and standards, relevant codes of practice (including the Banking Codes), and (where appropriate) what the ombudsman considers to have been good industry practice at the relevant time.
- 1.4 The FOS has three jurisdictions, covering nearly all financial services business:
  - **Compulsory jurisdiction**  
This applies to financial services firms authorised by the Financial Services Authority (FSA) and covers consumer 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 by the FSA. If the licensee is also authorised 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. It covers consumer complaints about certain financial activities of these businesses, for example National Savings & Investments and the Post Office, which are subscribers to the Banking Code.
- 1.5 FOS decisions, if accepted by the complainant, are binding on respondent businesses and it can make awards of up to £100,000. The service is free to consumers.

## **2 The Banking Codes and the Banking Code Standards Board**

- 2.1 For deposit-taking business, including current accounts and payment services, overdrafts, credit cards and non-mortgage loans, conduct of business standards are applied by the Banking Code and the Business Banking Code (self-regulatory industry codes that set standards of good banking practice).
- 2.2 The first Code of Banking Practice for personal customers became effective on 16 March 1992. The first Business Banking Code for small business customers came into effect on 31 March 2002. The Business Banking Code covers customers with an annual turnover of under £1

million, the same turnover limit that is set for a business to be eligible to refer a complaint to the FOS.

- 2.3 Compliance with the Codes is monitored and enforced by the Banking Code Standards Board, which maintains a public register of organisations ('subscribers') that have applied to be recognised as adhering to one or both of the Codes and have been approved by the BCSB Board of Directors.
- 2.4 The BCSB is a voluntary and non-statutory body established by the banking industry. It is a company limited by guarantee, formed in 1999. Its monitoring role and enforcement powers derive from the legal contracts with the BCSB signed by all subscribers, obliging them to comply with the Codes and Guidance for subscribers ('the Guidance') and the Banking Code Rules, Compliance Policy and Disciplinary Procedure.
- 2.5 The Banking Codes cover all the major banks and building societies and the majority of smaller providers of banking services to personal and small business customers in the UK.
- 2.6 The Banking Code is owned by the three sponsoring bodies – the British Bankers' Association (BBA), the Building Societies Association and APACS. The Business Banking Code is owned by the BBA and APACS.

### **3 Authorisation/licensing of Banking 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, building societies, and credit unions that subscribe to the Banking Codes. 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 BCSB does not take responsibility for the authorisation/licensing or prudential supervision (eg as to capital adequacy) of subscribers to the Banking Codes. All subscribers on the BCSB's register meet one or more of the following criteria:
  - FSA-authorized under FSMA or EEA-authorized ('passport'), and/or
  - OFT-licensed under CCA, and/or
  - UK Government-owned
- 3.4 Given the connections between the areas that the FSA, OFT, FOS and BCSB cover, there are a number of agreements between those organisations that set out how they manage their working relationships.

### **4 Areas of mutual FOS/BCSB interest**

- 4.1 The FOS and the BCSB have different, but complementary, powers and functions. They are interested in the following areas:
- 4.2 Content of the Banking Codes
  - 4.2.1 The FOS is not a regulator and the BCSB polices but does not dictate the content of the Banking Codes. As voluntary codes of practice, their content is decided and owned by the businesses that sign up to them, represented by the sponsoring trade associations.
  - 4.2.2 However the provisions of the Codes are relevant to both the FOS and the BCSB in relation to their respective roles.

4.2.3 Both the FOS and the BCSB are major contributors to the review process (currently triennial and led by an Independent Reviewer) that develops the successive revisions of the Banking Codes and the Guidance. They also advise on, and the BCSB may call for, interim revisions to deal with specific urgent issues.

#### 4.3 Dealing with complaints

4.3.1 The BCSB 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 FOS if a satisfactory resolution is not achieved with the subscriber.

4.3.2 The BCSB does treat information about complaints as an important source of intelligence about suspected or alleged breaches of the Codes. It operates a 'helpdesk' through which members of the public can report instances of non-compliance, and can in addition obtain general advice or be sign-posted or transferred to the FOS or other organisations.

#### 4.4 Public communications

4.4.1 The BCSB is subject to contractual confidentiality obligations to subscribers [though it may identify individual subscribers when reporting the outcome of enforcement proceedings].

4.4.2 In practice, the FOS does not currently name individual complainants or respondents. But its approach to this issue has been the subject of an independent review by Lord Hunt of Wirral and the recommendations of that review are being considered by the FOS.

4.4.3 Both the BCSB and the FOS 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 BCSB welcomes information from the FOS, subject to any FOS confidentiality obligations, about trends in its complaint-handling experience that may indicate systemic banking problems involving suspected breaches of the Banking Codes or gaps in their coverage.

4.5.2 The FOS welcomes information from the BCSB, subject to the BCSB's confidentiality obligations, about the results of its monitoring and enforcement activity, including trends in approaches to the BCSB helpdesk.

4.5.3 The FOS and the BCSB 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 Codes and the Codes' fairness requirement.

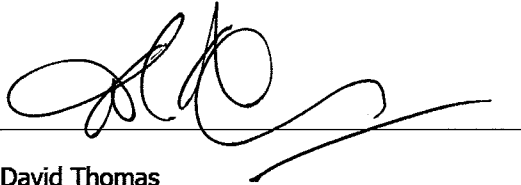
#### 4.6 Wider implications process

The FOS, FSA and OFT have a published process for issues with wider implications [[www.wider-implications.info](http://www.wider-implications.info)]. It explains how they manage any overlaps in their respective statutory roles and responsibilities, and the circumstances in which they may involve third parties (such as the BCSB) where systemic issues arise.

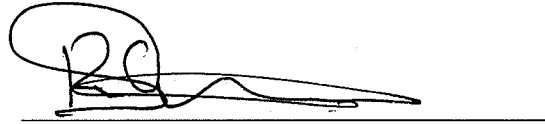
## 5 **Publication**

Copies of this statement will be available on the FOS and BCSB websites.

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