

Direct line: 020 7066 6576  
Email: nisha.arora@fca.org.uk

12 Endeavour Square  
London  
E20 1JN

By email to: Geoff.Buck@dapco.co.uk

Tel: +44 (0)20 7066 1000  
Fax: +44 (0)20 7066 1099  
www.fca.org.uk

17 May 2019

Dear Geoff

### **Increasing the award limit for the Financial Ombudsman Service**

I wrote to you on 8 March following publication of [Policy Statement \(PS\) 19/8](#) explaining our decision to increase the Financial Ombudsman Service's ('the ombudsman service') award limit to £350,000.

Since we published our PS, my team has engaged with a number of stakeholders, including professional indemnity insurance (PII) insurers and brokers. I am now writing to you again to provide the information that stakeholders have asked us for in those discussions.

In the annex to this letter, you will find information about:

- the additional governance arrangements for high value complaints that have now been introduced by the ombudsman service – this meets a commitment made by the ombudsman service in our PS
- more granular data on the estimated distribution of high value awards
- how businesses should consider whether the £350,000 or £160,000 limit applies to a complaint about financial advice

We think this information will help address some of the issues or questions stakeholders have raised regarding the ombudsman service's approach to complaints, and improve professional indemnity insurance (PII) insurers' understanding of the potential distribution of high value compensation awards.

In my 8 March letter, I also said that we publish information about our view of markets that may have conduct issues and are, therefore, a concern for PII insurers. This information can help PII insurers better understand the key risks in these markets, in addition to the information they collect from insureds themselves. For example, in the coming months we will be able to publicly share more detailed information about our work in the defined benefit pension transfer advice area.

I trust you will find this information helpful. I have sent a copy of this letter to the Association of British Insurers, the International Underwriting Association, the Lloyd's Market Association, the Managing General Agents Association, the British Insurance Brokers Association, Broker Network, the Personal Investment Management and Financial Advice Association, and the Personal Finance Society. This will help ensure the widest possible audience is aware of this information.

Yours sincerely

A handwritten signature in blue ink that reads "Nisha Arora". The signature is written in a cursive, flowing style.

**Nisha Arora**  
**Director, Consumer and Retail Policy**

## ANNEX

### **Additional governance arrangements for high value complaints introduced by the Financial Ombudsman Service**

In our [Policy Statement](#) (PS), we said that the Financial Ombudsman Service ('the ombudsman service') would be introducing additional governance arrangements for high value complaints. The ombudsman service has now updated its [online technical resource on compensation](#) with a [new note on award limit governance](#).

The additional arrangements build on existing robust quality assurance principles and controls by ensuring that all cases where the potential award for compensation is more than £150,000 are reported to the ombudsman's legal team and its senior manager. This is to help ensure that all relevant sources of information and relevant points of law have been considered, and that complaints have been considered in a consistent way.

The ombudsman service will shortly be publishing examples to help stakeholders understand how it has determined in the past that a court would be better placed to deal with a particular complaint. When this information is available, it will be published on the ombudsman service's website.

### **More granular data on the estimated distribution of high value awards**

Following requests from insurers and brokers since we published our PS, we are making the following data tables available. These tables provide a breakdown of the aggregate annual total additional redress figures in our PS.

Our estimates are drawn from 3 years of data provided by the ombudsman service on the total number of complaints received, average uphold rate, and the compensation awards made by ombudsmen and case handlers (adjudicators). For more information about the data we used and the assumptions we made, please refer to paragraphs 1.27-1.31 and 2.3-2.14 of our PS.

Please read the footnotes carefully as they provide important context.

### **Table 1: Breakdown of redress values for complaints with a value over £150,000 (lower bound estimate – based on existing cases received by the ombudsman service only)**

Award band		Median award	Complaints per year [1]	Total value of redress payments (£million)	Total value of additional redress (£million) – assuming firms do not pay above the £150,000 limit)	Total value of additional redress (£million) relating to complaints against PIFs (IFAs) [3]
Lower	Upper					
£150,000	£200,000	£175,000	68	£11.94	£1.71	£0.95
£200,000	£250,000	£225,000	29	£6.58	£2.19	£0.90
£250,000	£300,000	£275,000	15	£4.02	£1.83	£0.62
£300,000	£350,000	£325,000	29	£9.51	£5.12	£2.00
£350,000	N/A	£350,000	54	£18.77	£10.72	£6.85

<b>TOTALS</b>	<b>195</b>	<b>£50.82</b>	<b>£21.57</b>	<b>£11.32</b>
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**Table 2: Breakdown of redress values for complaints with a value over £150,000 (upper bound estimate – existing ombudsman service cases plus £70 million worth of claims that may switch from the courts to the ombudsman service under the new award limit [2])**

Award band		Median award	Complaints per year [1]	Total value of redress payments (£million)	Total value of additional redress (£million) – assuming firms do not pay above the £150,000 limit)	Total value of additional redress (£million) relating to complaints against PIFs (IFAs) [3]
Lower	Upper					
£150,000	£200,000	£175,000	208	£36.44	£5.21	£4.45
£200,000	£250,000	£225,000	76	£17.08	£5.69	£4.40
£250,000	£300,000	£275,000	34	£9.27	£4.21	£3.01
£300,000	£350,000	£325,000	62	£20.01	£10.77	£7.65
£350,000	N/A	£350,000	109	£38.02	£21.72	£17.85

<b>TOTALS</b>	<b>488</b>	<b>£120.82</b>	<b>£47.61</b>	<b>£37.36</b>
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[1] The figures in this column assume all complaints are subject to the £350,000 limit. As set out in PS 19/8, the £350,000 limit only applies to complaints about acts or omissions on or after 1 April 2019. As such, the figures are likely to significantly overstate the number of complaints actually subject to the £350,000 limit for several years to come. For investment complaints, there is a particularly long lag between the act or omission and the complaint being raised.

[2] See para 2.13 of PS 19/8. The £70 million worth of legal claims is based on information from one underwriter of IFA PII. We did not receive any information on the distribution of these claims, so have assumed the same distribution as claims above the current award limit that are resolved by the ombudsman service. We do not know if this figure reflects the value of legal claims that could switch to the ombudsman service each year, or whether the figure relates to exceptional circumstances in the market at the moment. We consider insurers are better placed to evaluate this prospect than us.

[3] Calculated based on a sample of 40 high-value claims provided by the ombudsman service. For each award band, the estimated total additional redress is multiplied by the proportion of claims that are likely to be PII insured.

### **How businesses should consider which limit applies**

The Dispute Resolution (DISP) sourcebook states at 3.7.4R:

(1) The maximum money award which the Ombudsman may make is:

(a) £350,000 for a complaint concerning an act or omission which occurred on or after 1 April 2019; and

(b) £160,000 for a complaint concerning an act or omission which occurred before 1 April 2019.

We do not define “act or omission” in our rules so these words should be given their natural meaning (see the General Provisions (GEN) 2.2.9G). It is a question of fact what act or omission a complaint is about and so will depend on the individual circumstances of the case.

The ombudsman service will decide which award limit applies based on what happened in the case and the proper application of the rules to those circumstances. And if there is a question about the correct award limit, or the firm thinks there is, the firm will have an opportunity to make representations about the application of the time limits to those circumstances before the service makes a final decision.

It is worth noting that only a small minority of cases involve these kinds of issues and only a small number of these involve potential awards over the previous award limit.

Please note that the information provided above will not bind the ombudsman service and is intended only to provide an indication of how the ombudsman service may consider this scenario.