

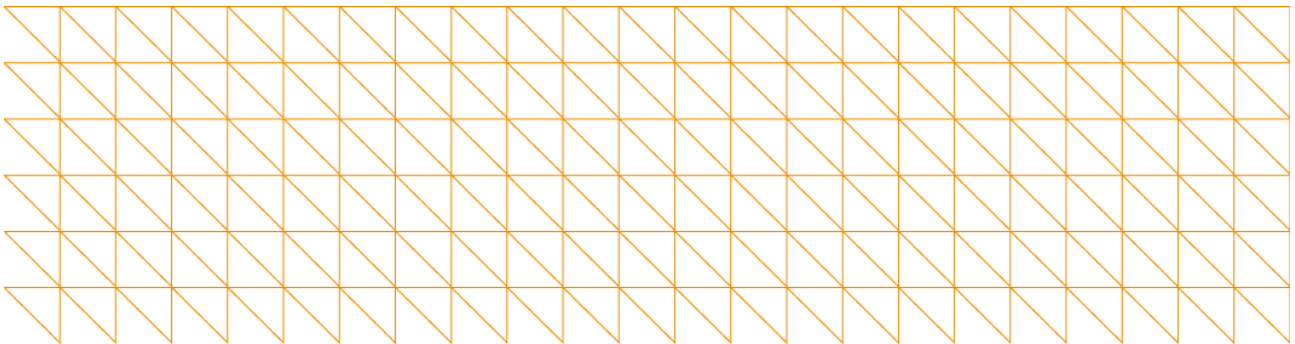


Ministry  
of Justice

# Claims Management Regulation

## Proposals to amend the Conduct of Authorised Persons Rules: The Financial Services Perspective

This response is published on 27 June 2014





Ministry  
of Justice

## **Claims Management Regulation**

Proposals to amend the Conduct of Authorised  
Persons Rules: The Financial Services Perspective

**Response to consultation carried out by the Ministry of Justice.**

**This information is also available on the Ministry of Justice website:  
<https://consult.justice.gov.uk/>**

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## Introduction and contact details

This document is the post-consultation report for the consultation paper, Proposals to amend the Conduct of Authorised Persons Rules.

It will cover:

- the background to the report
- a summary of the responses to the report
- a detailed response to the specific questions raised in the report
- the next steps following this consultation.

Further copies of this report and the consultation paper can be obtained by contacting:

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This report is also available on the Ministry's website: <https://consult.justice.gov.uk/>

Alternative format versions of this publication can be requested from [claimsmanagementregulation@justice.gsi.gov.uk](mailto:claimsmanagementregulation@justice.gsi.gov.uk)

### **Complaints or comments**

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

## Executive Summary

1. The primary objective of regulation is to provide better safeguards and protections to consumers and to promote access to justice. To reinforce the work already undertaken to protect consumers, the CMR Unit has reviewed the current Conduct of Authorised Persons Rules in order to more effectively tackle detriment reported by financial service providers. The reported issues include:
  - The failure of CMCs to undertake robust pre-complaint checks.
  - The failure of CMCs to substantiate claims and alleging breaches of the Financial Conduct Authority rules which are inappropriate or not supported by facts.
  - CMCs making numerous speculative claims or other ‘phishing’ practices.
  - The use of generic or template complaint letters.
2. To address this, CMR’s proposals for amending the Conduct of Authorised Persons Rules can be summarised as:
  - Defining the word ‘document’ in the ‘Definitions’ section of the rules.
  - Introducing a pre-amble in both the ‘General Rules’ and ‘Client Specific Rules’ reiterating that the rules must be complied with and a business should be able to demonstrate and, where practicable, document that it complies with the rules.
  - Introducing a non-exhaustive sub-set of examples of the requirement for CMCs to act ‘responsibly’.
  - Clarifying expectations around information provision.
  - Several technical amendments.
3. In respect of the outcomes that will affect the financial products and services industry, the most pertinent rule change is to the existing General Rule 2 ‘**A business shall conduct itself responsibly**’ which changes to ‘**A business shall conduct itself responsibly overall including, but not limited to, acting with professional diligence and carry out the following:**’ There then follows a new sub-set of six addendums with the following three specifically targeted at detriment in the financial services industry:
  - a) *Take all reasonable steps to investigate the existence and merits of **each element of** a potential claim before presenting it to a third party.*
  - b) *Make representations to a third party that substantiate and evidence the basis of the claim, are specific to each claim and are not fraudulent, false or misleading.*
  - c) *Claims referred to any recognised Ombudsman or dispute resolution scheme **or compensation scheme**<sup>2</sup> must comply with those organisations’ procedures, include specific, appropriate and relevant information on individual claims and take account of relevant past decisions.*

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<sup>1</sup> Text in bold is a post-consultation addition; see ‘Responses to Specific Questions’

<sup>2</sup> Text in bold is a post-consultation addition; see ‘Responses to Specific Questions’

4. As well as addressing concerns specific to the financial products and services sector, the CMR is taking the opportunity to introduce rules designed to improve conduct across the claims industry overall including an addition to address the issue of nuisance calls:
  - e) *Take all reasonable steps in relation to any arrangement with third parties to confirm that any referrals, leads or data have been obtained in accordance with the requirements of the legislation and Rules.*
5. Following the public consultation, the amendments to the proposals will be implemented with four minor amendments which are technical in nature, and do not change the regulatory position for CMCs from that which the consultation proposals set out. A full summary of post-consultation amendments can be found in 'Conclusions and Next Steps' on pages 15 and 16.
6. The responses from all respondents were overwhelmingly supportive, with only two negative from 48 responses received from CMCs that disagreed outright fearing a regulatory bias towards the financial services industry.
7. Many responses, although supportive, suggested refinements for wording or ways in which the proposals could be 'taken further'; particularly from financial service providers. The CMR Unit had ongoing discussions with responding stakeholders to discuss the suggestions and responses received to outline where and why suggestions could not be taken forward; however the CMR Unit has agreed to provide guidance to CMCs to more fully address the issues, which will be developed with further contributions from stakeholders and CMCs for publication when the rule changes are implemented in October.

## Background

1. The Ministry of Justice's Claims Management Regulation (CMR) Unit was established in 2007 under Part 2 of the Compensation Act 2006. The CMR Unit is responsible for regulating claims management companies (CMCs) that handle claims in six sectors; personal injury, financial products and services (such as mis-sold payment protection insurance (PPI)), employment matters, criminal injuries, industrial injuries disablement benefit and housing disrepair. It is an offence to provide regulated claims management services unless authorised under the Compensation Act 2006; exempt; the subject of a waiver or an individual acting other than in the course of a business.
2. The Conduct of Authorised Persons Rules are prescribed under Regulation 22 of the Compensation (Claims Management Services) Regulations 2006, with Regulation 25 providing authority for the Regulator to amend or revoke any prescribed rules and any amendment or revocation may include transitional, incidental or consequential provisions. Regulation is self-financed, funded from regulatory fees levied on claims management companies paying application and authorisation fees.
3. The consultation paper 'Proposals to amend the Conduct of Authorised Persons Rules: The Financial Services Perspective' was published on 21 November 2013. It invited comments on the CMR Unit's proposals to tighten the existing conduct rules for claims management companies to more effectively tackle the detriment reported by financial service providers.
4. The objective of the consultation was to propose amendments to the Rules that address detriment reported by the financial products and services industry and in the mis-sold payment protection insurance sector in particular, and nuisance calls and texts. Views were invited on the specific wordings of the proposals, as well as opinions on their potential effectiveness. The policy objective is to deliver a more transparent, consistent and targeted regulatory regime that will drive up the consistent application of existing industry standards and positively affect the financial services industry and stakeholders. Representatives from the whole of the claims industry including CMCs, various types of financial service providers, other regulators and stakeholders all responded to the consultation and provided opinions on how to refine the Conduct of Authorised Persons Rules.
5. Not all of the responses answered all of the questions; some respondents wrote in the form of letters or emails expressing opinions without necessarily directly addressing the specific questions. Where the responses clearly relate to a particular proposal they have been treated as answers to the questions for the purposes of analysis. The proposed rules were assessed as remaining fit for purpose and relevant to all existing claims sectors and emerging markets both prior to and following the public consultation period.
6. The consultation period closed on 9 January 2014 and this report summarises the responses, including how the consultation process influenced the further development of the proposals consulted upon. A list of respondents is at Annex A.



## Summary of responses

1. A total of 48 responses to the consultation paper were received. Of these, 55% were from claims management companies, 32% from financial services providers with the remaining 13% from other stakeholders.
2. The consultation responses were analysed for general levels of support, suggestions on how the proposals could be improved and evidence of the potential impact of the proposals on businesses. The majority of responses to the consultation from all respondents agreed with the overall objective of the rules review, with many indicating a willingness to offer further support in improving regulation, such as the development of detailed guidance on regulatory requirements when the proposals are implemented.

### **The definition of ‘document’ to make clear what standards of record keeping the CMR Unit expects, and rules pre-amble setting out the general requirement for businesses to document their compliance with the rules**

3. This proposal was welcomed by the majority of respondents, with CMCs and other stakeholders recommending that the CMR publish guidance around the requirement to ‘document’, given the importance of accurate documentation to the claims process. There were two dissenting CMCs.

### **The proposed sub-set of rules under General Rule 2, previously ‘a business shall conduct itself responsibly’, to provide a list of non-exhaustive examples of regulatory standards**

4. The new sub-set was supported by the majority of responses with some alternatives for refinement offered. There was a strong inclination from all classifications of respondents to see the CMR publish further guidance around the proposed sub-set, with definitions and examples of ‘reasonable steps’ particularly recommended. There were two dissenting CMCs.

### **The proposed expansion of General Rule 3 requiring directors to have a ‘working knowledge’ of the applicable legislation and rules**

5. The majority of responses from all respondents were supportive, with CMCs and other stakeholders offering viewpoints and opinions on what constitutes ‘working knowledge’ but no dissenting responses from any classification of respondent.

### **Amalgamation of General Rules 16 and 17 to clarify requirements and stipulate that submissions must not be false or misleading**

6. There was strong support for this proposal with few suggestions for refinement or guidance. There were no dissenting responses from any classification of respondent.

### **Estimated costs to businesses**

7. There were no precise estimates provided; however CMCs that offered opinions on anticipated costs projected that CMCs complying with existing rules would be minimally impacted by familiarisation and implementation costs. No substantial costs to compliant CMCs were anticipated.

## Responses to specific questions

### 1. The requirement to “document”

Questions asked:

- Do you have any suggestions or comments on the proposed statement that outlines how the rules should be followed?
- Do you agree with the definition of “document”?
- Would it be beneficial for the CMR Unit to issue guidance on the requirement to “document” to provide more detail on where documentary evidence is and is not required, and if so, can you anticipate any specific difficulties?

1. 81% of respondents generally supported and agreed with the CMR Unit’s proposal to codify the requirement to document evidence, and agreed overall with the proposed definition of “document”. 17% did not comment specifically on this proposal and 2% disagreed with it.
2. Several financial service providers shared examples of instances where CMCs had not retained critical information (Letters of Authority were cited in numerous examples) and believed that the proposal would positively impact those occurrences.
3. Most responding CMCs advised that they already had similar processes in place, and envisaged that the majority of CMCs would not have difficulty complying with the proposals. The majority view of CMCs was that negative impact would be, other than familiarisation and review costs, confined to non-compliant CMCs; the group these proposals target.
4. The majority of both CMCs and other stakeholder responses agreed that guidance would assist CMCs to fully comply with the proposals. The most commonly suggested topics from both CMCs and other stakeholders for the guidance include:
  - the period over which critical documents should be retained (there were various suggestions with six years most commonly advanced);
  - a definition of “document” including best-practice guidance and examples;
  - further discussion around “where practicable”; although some financial service providers considered that this wording should be removed;
  - a developed check list or pro-forma for CMCs to use to file claims;
  - Whether voice recordings are caught by ‘document’.
5. Overall there was agreement from most respondents that any guidance should not be prescriptive so that the proposals can be flexibly used. The CMR Unit received offers of assistance from CMCs and various financial services stakeholders to develop the guidance. The CMR Unit will undertake further work around this prior to implementation.

6. The minority view conveyed support for the proposals but did not consider that they merited further guidance. Only two responses, which were from CMCs, fully disagreed with the proposal, which they believed demonstrated a bias towards the financial services industry and queried whether this would mean the majority of claims, particularly mis-sold PPI claims, would not be dealt with.

**Response: The proposals will proceed as consulted upon.**

7. Suggested rule revisions could not be accommodated, particularly concerning retention periods, claim 'pro-formas' and voice recordings as the issues they would address are specific to mis-sold PPI which would not be workable in the wider claims industry. It is unlikely that any of the suggested amendments could be applied to even the financial products and services sector as a whole, notwithstanding the five other claims sectors, and the regulatory rules must remain applicable to the entire claims industry to be fit for purpose. The CMR Unit will develop and issue guidance to address these specific concerns and to assist CMCs to comply.

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## 2. General Rule 2(b) – 'substantiate and evidence' the basis of claims

Question asked:

- The proposed General Rule 2(b) amendment requires CMCs to 'substantiate and evidence' the basis of claims. The Ombudsman will consider a consumer's oral evidence and recollections where documentation cannot be located. Do you think there is a risk that financial service providers will reject claims from CMCs as a result of this proposal if they interpret 'substantiate' to mean 'documentation'? Can this be mitigated?
8. Analysis of the consultation responses showed 68% agreed with the proposal, 22% either outright disagreed or suggested an amendment, and 10% did not specifically comment on this proposal. There was a clear divide with CMCs generally concerned by the risk of claims with little or no documentary evidence being rejected out-of-hand by financial service providers as a result of this proposal.
  9. Conversely, financial service providers and other stakeholders considered that this could not be misconstrued owing to the existing requirements of both the Financial Conduct Authority and the Financial Ombudsman Service, which financial service providers comply with. Financial service providers also pointed out that unnecessary obstruction on their part may lead to them incurring additional case-management costs in the event that the claim is referred to the Financial Ombudsman Service.

Santander UK plc stated: "*Any risk of mis-interpretation among financial service providers could be mitigated by specific reference to the issue of oral evidence*".

The Building Societies Association stated: "*To us, 'substantiating' a claim means providing information that confirms the following basic information to the provider as part of that claim:*

- *The claimant had been a customer of the PPI provider.*

- *The claimant had been sold a PPI policy by them.*
- *The particular grounds on which the claimant believes that they were mis-sold PPI.*

*While product documentation etc. is the best source of evidence for the above a CMC that is focussed on getting the best result for their customer – as most are – should be able to put together a claim that delivers the above from a claimant’s oral recollections”.*

10. The Financial Ombudsman Service responded “We feel it is important to highlight here that the ombudsman service will consider oral evidence and customer testimony in addition to any other existing documents – we want to hear the complaint through the consumer’s own personal testimony and recollections whether or not there is specific documentation to support it. Where there is documentation to support this, we would expect this to be supplied also”. The ombudsman service is clear that the onus is on the CMCs to properly set out the basis of a claim as relating to the facts and circumstances of the individual complainant, and to set out the consumer’s testimony in their own words wherever possible, which will be reflected in any guidance that the CMR Unit issues.
11. Generally, stakeholders considered that a CMC should properly satisfy itself that a claim exists and seek to substantiate that as fully as possible. Most respondents including CMCs agreed that further guidance around the proposals would be beneficial. Suggestions for the guidance included an outline or examples of what constitutes substantiation, and clarification of what the CMR Unit means by ‘all reasonable steps’.
12. Both the Finance and Leasing Association and the British Bankers’ Association recommended a refinement to the proposed General Rule 2(a) suggesting that the wording ‘each element of the claim’ be added to the requirement to ‘substantiate and evidence’ given the amount of claims that are submitted by CMCs that contain multiple heads of claim. The minority view of three CMCs was that the proposal would put a ‘burden of proof’ on the consumer and obstruct redress and access to justice.

**Response: the proposal will be implemented with a further amendment to General Rule 2 (a) to include ‘each element of a potential claim’.**

13. The majority of consultation responses overwhelmingly support the implementation of this proposal with appropriate guidance around the requirements to ‘substantiate’ and ‘evidence’. This will proceed, with the CMR Unit including and expanding upon the topic within the planned guidance.
14. Additionally, as advanced by the Finance and Leasing Association and the British Bankers’ Association, there will be an amendment to the proposed General Rule 2(a) from *‘Take all reasonable steps to investigate the existence and merits of a potential claim before presenting it to a third party’* to *‘Take all reasonable steps to investigate the existence and merits of each element of a potential claim before presenting it to a third party’*. This is to address reports of financial service providers receiving claims containing a number of allegations of mis-selling where some are supported by evidence and others are assertions. The amendment will ensure that CMCs are aware that every allegation of mis-selling must be evidenced.

**3. General Rule 2 proposed sub-set – A working definition of ‘conduct itself responsibly’**

Question asked:

- The list of specifications proposed in General Rule 2 from a)–f) are common breaches of the requirement to act ‘responsibly’; is it clear that these examples are non-exhaustive?

15. 88% of respondents agreed with the proposal; 4% disagreed and 8% did not comment specifically on this measure. It was commonly felt by the majority of respondents that the rule was sufficiently clear without the need for further text.
16. Many respondents submitted opinions and suggestions around the proposed sub-set of General Rule 2 from a) to f). Financial service providers of all classifications suggested further inclusions for the sub-set such as outlining timescales; referring claims with new evidence back to the financial services provider and not immediately to the Financial Ombudsman Service; and setting a standard payment term requiring CMCs to wait a set amount of time (21 days was commonly suggested) before chasing financial service providers for payment. There were also suggestions for guidance to address the requirements of ‘appropriate records and audit trails’.
17. The Financial Services Compensation Scheme (FSCS) highlighted a concern that the list of organisations referred to under General Rule 2c) as ‘Ombudsman’ and ‘dispute resolution scheme’ may not cover that organisation.
18. The minority view of two CMCs was that the sub-set should be removed. Rebus Investment Solutions, although in agreement with the overall proposal, indicated that it is potentially unfair to penalise a CMC for a breach that is not listed.
19. Two CMCs suggested that there may be impacts regarding age and disability in terms of vulnerable consumers less able to recollect specific events. EMC Advisory Service responded *‘some CMCs may decline to handle some claims on behalf of vulnerable consumers due to a lack of evidence or poor recollection of events. This will naturally impact access to justice for this particular group of our community and so it should be made clear to regulated businesses that reasonable adjustments must be made for those consumers provided that proper records are kept to verify their decision for pursuing a claim where there is little evidence and/or recollections to support it’*.
20. There were also suggestions from several responding stakeholders for inclusions into the category of ‘vulnerable’ that were further reaching than the protected characteristics defined in the Equality Act 2010, such as consumers in debt.

**Response: The proposals will proceed as consulted upon with an addition to General Rule 2(c) to include ‘or compensation scheme’.**

21. The suggestions for further inclusions into the category of ‘vulnerable’ are noted with thanks, however the statutory foundation of the Conduct of Authorised Persons Rules (the Compensation Act 2006 and Compensation

(Claims Management Services) Regulation 2006) does not provide for this, and legislative amendments are outside the scope of this present review.

22. Implementation of this proposal will proceed as drafted incorporating the amendment as suggested by the FSCS. Respondents are thanked for their suggestions of alternate drafting, however as the majority of these were too specific to the mis-sold PPI market they cannot be accommodated, although the issues raised will be addressed in further guidance.

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#### 4. General Rule 3 – A working knowledge of the legislation and rules

Question asked:

- Do you have any comments or suggestions on the proposals to expand General Rule 3?

23. In analysis, 88% of responses agreed with this proposal; none of the responses disagreed with the proposal and 12% of respondents did not specifically comment. The majority of respondents were content with the rule wording, and agreed with the codification of this reasonable expectation of CMCs being directed by people with the necessary competence. There were suggestions of revised wording received with the responses, but none were unsupportive of the aim of this proposal.
24. Suggestions from various stakeholders to replace 'working knowledge' with 'detailed knowledge', 'detailed understanding', 'good understanding' or 'full understanding' were all posited, and also a suggestion to include a requirement regarding the 'ethics' of the director. There was a suggestion from a CMC and from an independent financial advisor for the CMR Unit to introduce a qualification, and one question from a CMC regarding requirements where a CMC has more than one director.
25. Almost all of the responding financial service providers asked questions concerning the CMR Unit's arrangements to assess and benchmark this requirement, and one raised concerns that the proposal may inadvertently narrow the talent pool for potential CMC directors, who may have considerable expertise in law, finance and management but not necessary of the regulated claims industry.

**Response: The proposals will proceed as consulted upon.**

26. There was unanimous support for the objective behind this proposal and majority support for implementation without amendment; therefore the proposal will proceed as consulted upon. The requirements of 'working knowledge' will be expanded upon in guidance along with any other concerns raised by respondents.
27. Stakeholders that queried the benchmarking and enforcement arrangements of this proposal are advised that the CMR Unit assumes that a CMC failing to comply with this rule will be non-compliant with other rules; the test is therefore the ability to operate a CMC compliantly. Given that larger CMCs often have dedicated Compliance Officers with a greater understanding of regulatory requirements than

a Director, the rule will not be audited against singularly but considered as part of an investigation where a CMC is found to be in breach of other rules. This is to avoid enforcement action against a Director that is financially and strategically competent, operates an otherwise compliant CMC with a knowledgeable Compliance Officer, but that technically breaches this rule. The implementation of the rule is intended to drive up standards of currently non-compliant CMCs and increase regulatory transparency, given that where formal enforcement action is taken all breaches are published on the CMR Unit's website.

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## 5. Technical amendments

Question asked:

- The proposals at General Rules 6, 7, 12, 13 and 14 represent either technical corrections or grammatical clarifications. Do you agree with these proposed amendments?
28. All respondents to this question agreed with the proposals, with a suggestion from three financial service providers for General Rule 6 to include an evidential element along with the signature. There were no unsupportive responses to these technical and grammatical proposals.

**Response: The proposals will proceed as consulted upon.**

29. The suggestions for the proposed General Rule 6 to include an evidential element are noted with thanks; however adoption and implementation would not directly contribute to the regulation of non-compliant CMCs.
- 

## 6. Amalgamation of General rules 16 and 17

Question asked:

- In relation to the amalgamation and clarification of General Rules 16 and 17, do you agree with the proposal?
30. All respondents to this question agreed with this proposal and there were no unsupportive responses. There was one suggestion from a CMC to expand the proposal to include a requirement to deal with the regulator in an open and cooperative manner, and two suggestions from other stakeholders to put the onus more firmly on the CMC to inform the CMR Unit of relevant organisational changes.

**Response: The proposal will proceed as consulted upon.**

31. Suggestions for amendments are noted with thanks; however would not positively contribute to the regulation of non-compliant CMCs.
-

## 7. Other questions asked

- Do you have any views on the likely benefits or costs to CMCs and particularly small to medium sized CMCs?
32. No respondents foresaw that compliance with the proposals would levy significant costs on CMCs, including the responding CMCs. There were no cost estimates of the potential financial impact supplied by the responses, however opinions were received from CMCs and other stakeholders regarding the likely impact of costs.
  33. One CMC, Gladstone Brookes, considered that there was *'always a cost to new regulation, however if it produces a more robust system to work within and clarity on how CMCs are expected to perform it will be a benefit'*.
  34. Remedium Limited, a small CMC, stated *'the benefits to CMCs are clear and valuable. The possible costs are, in our view, likely to be minor for those CMCs who act responsibly'*.
  35. Another CMC, Money Boomerang Ltd, responded *'the cost of implementing such changes would be minimal as it would be mainly based on changes to internal processes and policies hence it should not affect the overheads as such'*.
  36. The CMC trade association Professional Financial Claims Association (PFCA) stated: *'there is always a cost to amending procedures to comply with new and amended regulations. However, such changes are welcomed when the changes result in a more robust system with clearer regulation'*.
  37. Other responding stakeholders were largely in agreement with the CMCs, with Highclere Financial Services stating *'the financial cost, while unwelcome, may mean that consumers become more trusting of ethically run firms. This in itself will mitigate the cost by encouraging a healthier and more principled sector'*.
  38. The CMR Unit agrees with the majority assessment of responding CMCs, financial service providers and other stakeholders that although there are likely to be familiarisation, implementation and potentially periodically reviewing costs, they are unlikely to be significant. No Impact Assessment has been published with this consultation response as the estimated annual net cost to business (EANCB) is estimated to be below £1m.
- The CMR Unit welcomes your views on the Equality Statement in terms of the potential equality impacts of the proposals. Are there other ways in which these proposals are likely to impact on race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment or pregnancy and maternity that you are aware of? If so, please tell us how, together with any supporting extra sources of evidence.
39. There were two responses that related to 'vulnerable' consumers, and none on any other characteristics. Consideration of those responses was amalgamated with the responses to point 3 above under the proposed General Rule 2f).



## Conclusion and next steps

1. The CMR Unit is grateful to everyone who took the time to respond to the consultation paper. Although some respondents raised concerns about some of the points of detail and various types of alternate wording was proposed, the overall response to the consultation was supportive and confirmed the CMR Unit assessment that the proposals will deliver a tighter code of conduct with which to address, along with the CMR Unit's other ongoing reforms, detriment in the financial products and services sector. All points made have been considered, and as described in the individual responses, the proposals will be implemented as consulted on with several adjustments in response to the points raised. Below is a summary of the proposals which will be amended to those consulted on:
2. General Rule 2a)
  - As consulted on: 'Take all reasonable steps to investigate the existence and merits of a potential claim before presenting it to a third party'.
  - Post-consultation: 'Take all reasonable steps to investigate the existence and merits of **each element of a** potential claim before presenting it to a third party'.
3. General Rule 2c)
  - As consulted on: 'Claims referred to any recognised Ombudsman or dispute resolution scheme must comply with those organisations' procedures, include specific, appropriate and relevant information on individual claims and take account of relevant past decisions'.
  - Post-consultation: 'Claims referred to any recognised Ombudsman, dispute resolution scheme **or compensation scheme** must comply with those organisations' procedures, include specific, appropriate and relevant information on individual claims and take account of relevant past decisions'.
4. The following amendments were not included in the public consultation. An amendment to the Client Specific Rules was suggested to more accurately align the wording of Client Specific Rules 15 and 16 with the Damages-Based Agreements Regulations 2013 to benefit CMCs operating in the employment sector. This is a technical change that will not in any way change the position for the very small number of employment CMCs the amendment will apply to, but is more accurate following the legislative change that came into affect from 1 April 2013. The following amendment will be incorporated:
5. Client Specific Rule 15
  - Original rule: A business must allow a 'cooling off' period of at least 14 days after signing any agreement, during which period the client may cancel the agreement and be entitled to a refund of any payments made to the business or in connection with any insurance policy, loan or other agreement taken out in relation to the agreement.
  - Post-consultation: A business, **unless subject to Regulation 8 of the Damages-Based Agreements Regulations 2013**, must allow a 'cooling off' period of at least 14 days after signing any agreement, during which period the client may cancel the

agreement and be entitled to a refund of any payments made to the business or in connection with any insurance policy, loan or other agreement taken out in relation to the agreement.

6. Client Specific Rule 16

- Original rule: A business must permit the client to withdraw from a contract at any time. Any charge to the client shall be limited to what is reasonable in the circumstances and shall reflect work undertaken by the business.
- Post-consultation: A business, **unless subject to Regulation (8) of the Damages-Based Agreements Regulations 2013**, must permit the client to withdraw from a contract at any time. Any charge to the client shall be limited to what is reasonable in the circumstances and shall reflect work undertaken by the business.

7. The following amendment was not included in the public consultation, but is a technical amendment to capture the Direct Marketing Association's change in name of its Code of Practice. This amendment is a simple update and will keep the substantive position the same for all CMCs:

8. Client Specific Rule 4

- Original rule: 'Cold calling in person is prohibited. Any other cold calling (by telephone, e-mail, fax or text) shall be in accordance with the Direct Marketing Association's Direct Marketing Code of Practice'.
- Post-consultation: 'Cold calling in person is prohibited. Any other **marketing by telephone, email, fax or text** shall be in accordance with the Direct Marketing Association's Code and any related guidance issued by the Direct Marketing Association.

9. The next step will be the implementation of the revised Code of Authorised Persons Rules 2014. The rules will come into effect in October 2014 which is the next common commencement date for new regulation included in the Statement of New Regulation 8 published by the Department of Business, Innovation and Skills. A copy of the new rules is annexed and shall be published on the CMR Unit's website.

## Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>

## Annex A – List of respondents

AMI

Anthony Catt Ltd

APFA

Barclays Bank

British Bankers Association

Building Societies Association

Cerys-Angharad Ltd

Council of Mortgage Lenders

Credo Claims

Curly Wig

Direct Line Group

Easy Claim

ECL Home

EMCAS

Finance and Leasing Association

Financial Services Compensation Scheme

Financial Services Redress (UK) Ltd

Gladstone Brookes

Highclere Financial Services

Home Retail Group

Ifonic plc

Legal Ombudsman

Lexham Insurance Consultants Ltd

Lord Hodgson of Astley Abbotts

Michelle Cutler

Money Boomerang

Money Reclaim Direct

National Franchised Dealers Association

One Stop Services UK Limited

Philip Milton & Co plc

PJT Enterprises limited t/a Dispusolve

Professional Financial Claims Association

Rebus Investment Solutions

Remedium Ltd

Renaissance Easy Claim

RGF Compliance

Ryminster Ltd

Santander UK plc

Stake Your Claim

Stepchange

The Financial Ombudsman Service

The Mortgage Claims Bureau

The Protection Specialist

UK Cards Association

UKAR

Vanquis Bank

Whitehall Randall & Associates

We Fight Any Claim



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