

Discussion Paper Our Focus for the Future

An opportunity for stakeholders to provide input to our future plans

November 2022

Headlines

- This document provides an opportunity for all our stakeholders to provide input to the future plans of the Channel Islands Financial Ombudsman [CIFO].
 - CIFO is the joint operation of financial ombudsman bodies established by law in Jersey and the Bailiwick of Guernsey.
 - It is a key part of the arrangements designed to underpin international and local confidence in financial services provided in/from the Channel Islands.
 - From 16 Nov 2015 (when it opened for business) to 31 Dec 2021, CIFO received 3,751 complaints against financial service providers [FSPs].
 - More than half of the complaints came from international customers outside the Channel Islands, in the UK and around the world.
 - 1,563 complaints required investigation. About three-quarters were resolved by mediation, and about a quarter by an ombudsman decision.
 - An ombudsman decision, if accepted by the complainant, is legally binding on the FSP up to a maximum compensation limit of £150,000 per case.
 - From 16 Nov 2015 to 31 Dec 2021, CIFO awarded total compensation of £2,969,549 in favour of complainants. The average was £3,975.
 - CIFO engages with stakeholders to discuss new and emerging issues, and to help identify the root causes of complaints so as to reduce future complaints.
 - It publishes a yearly report, quarterly complaint statistics and regular newsletters and consultations.
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Introduction

What this document is about

Since CIFO opened for business in November 2015, it has grown into a mature institution. We welcome the support that we have received from our stakeholders, who recognise the value of effective and accessible dispute-resolution.

The founding directors are in the process of handing over to a new board. Together they have asked Antony Townsend, one of the new directors, to lead a study to consider the issues on which the board should focus in the coming years.

This paper is intended to seek comments and ideas from all of CIFO's stakeholders (including the governments, regulators, public and financial industry) on our emerging thoughts.

Its contents reflect recent face-to-face discussions with various stakeholders. But, in the interests of transparency and inclusiveness, we are publishing this paper so that anyone can comment.

We do not envisage drastic or dramatic changes. We aim for an evolutionary process that continues to enhance what has already been done – to meet the changing needs of the financial sector and its customers.

In doing so, we will take into account the unique environment of the Channel Islands, and the combined local and international nature of the financial sector.

How you can respond

We will be discussing the issues at open meetings that we will arrange in Jersey (on 24 January 2023) and Guernsey (on 26 January 2023). Details will be sent to those on our emailing list and included on our website.

If you are not already on our emailing list, you can sign up for our newsletters on the home page of our website at www.ci-fo.org.

We would also welcome any written comments sent to us at consultations@ci-fo.org by 10 February 2023.

International good practice

Financial ombudsmen exist in many countries worldwide, and there is a generally-recognised set of good practices – used, for example, by the World Bank.

Benefits

A growing and efficient market in financial services depends on, amongst other things, consumer trust and confidence.

Consumers will be more confident in financial services, and use them more, if they know there is somewhere they can get help if something goes wrong. A financial ombudsman provides consumers with a quicker, cheaper, more accessible and less formal way of resolving financial-services disputes than the courts.

FSPs benefit because: consumers are more likely to buy financial products; the cost of resolving disputes is kept to a minimum; and unscrupulous competitors who act unfairly are held to account.

The economy benefits because: feedback from an ombudsman can help improve future regulation; and confident consumers are more likely to participate in developing a sound financial market.

Compared to the courts

A financial ombudsman differs from the courts in many ways:

- It is free for complainants.
- It handles enquiries from both financial consumers and FSPs.
- It triages complaints from the outset.
- Complaints arising from misunderstandings can be resolved straight away.
- Many other complaints can be resolved by mediation – actively facilitating an agreed fair outcome.
- Typically, only a minority of cases require investigation and a formal decision.
- The financial ombudsman knows what information to ask for, and asks for it.
- The ombudsman decides the case on the basis of what is fair and reasonable in the circumstances.
- It publishes an annual report on the cases it has handled.
- This includes recommendations on how complaints could be reduced in future.
- The financial ombudsman engages with stakeholders to discuss new and emerging issues.

Complaining first to the FSP

Financial ombudsmen expect consumers to take their complaint first to the FSP, and give it an opportunity to put things right. Financial ombudsmen also expect FSPs to look into complaints properly and provide a prompt and clear response to the consumer.

If the consumer is dissatisfied with the response, or the FSP fails to respond within a reasonable time, then the consumer can refer the complaint to the financial ombudsman for an independent review.

Handling enquiries

Many of the contacts financial ombudsmen receive are enquiries from consumers. Sometimes this is because some FSPs are not good at explaining things to their customers, even when those customers complain.

An independent explanation from the financial ombudsman can often sort things out straight away – preventing the enquiry turning into a complaint, and playing a role in consumer financial education.

Some enquiries are from FSPs. An FSP may accept that it has not treated the customer well – but be unsure what redress would be fair. Advice from the financial ombudsman can help settle things.

Case-handling by the financial ombudsman

Financial ombudsmen look into the circumstances of the case and see if it is possible to facilitate a fair outcome that both the consumer and the FSP accept.

The financial ombudsman actively investigates cases and uses its specialist knowledge of financial services, so consumers are not disadvantaged by FSPs' greater resources and technical knowledge.

Neither consumers nor FSPs need to employ lawyers to make the arguments for them (though they are not prevented from doing so).

The majority of cases are likely to be resolved by actively facilitating an agreed fair outcome – through the intervention of the impartial and specialist financial ombudsman.

Where an agreed fair outcome is not possible, the financial ombudsman will take account of all the evidence and the arguments and issue a decision – giving reasons for the decision.

If the financial ombudsman's decision is in favour of the consumer, it will go on to say what the FSP should do to put things right.

The decision is based on what is fair and reasonable in the circumstances of the case, taking into account the law, regulations, any industry code and good industry practice.

Providing feedback

By reporting regularly on the trends that they see in their work, financial ombudsmen can provide independent insight. This helps governments and regulators to supervise financial services more effectively, and helps FSPs and consumers to avoid problems.

The reports can also be used by consumer advisers and the media to help improve the financial capability of the public. The reports can also help explain to consumers in plain language: what financial issues to be careful about; what their rights and liabilities are; and how they can seek redress if things go wrong.

Key principles

International good practice demonstrates that an effective financial ombudsman scheme depends on six key principles:

- Independence: *visibly objective, impartial and unbiased*
 - Effectiveness: *consistent redress in all appropriate sectors of financial services*
 - Accessibility: *well-known, easy to use and free for consumers*
 - Fairness: *processes and decisions visibly fair and equitable*
 - Efficiency: *good quality of service and value for money*
 - Openness: *clear, and open to scrutiny, about its work and the lessons that can be drawn from it*
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Channel Islands Financial Ombudsman

Established by law

CIFO is the joint operation (with the same board, staff and resources) of financial ombudsman bodies established by 2014 legislation in Jersey¹ and the Bailiwick of Guernsey.²

That legislation, and the operational arrangements established under it, successfully built on lessons from independent financial ombudsman schemes elsewhere. But CIFO faces the unique complexities of covering two separate jurisdictions and in receiving more than half its complaints from international customers.

Role

The board of directors oversees CIFO and protects its independence. CIFO's ombudsmen and staff resolve complaints against FSPs – informally, fairly, and impartially. This helps to underpin public confidence, locally and internationally, in financial services provided in and from the Channel Islands.

CIFO also publishes regular data and impartial information on issues highlighted by cases that it has handled. This is intended to help prevent potential causes of future complaints, by informing public and regulatory policy and by encouraging continuous improvement in the sector.

Mandate and powers

CIFO can handle complaints about most (but not all) retail financial services provided in or from the Channel Islands. This includes some financial services that are not currently regulated. The range of financial services covered in Jersey and Guernsey is similar, but not identical. This is shown by the table in the appendix.

Complaints can be referred to CIFO by individuals and micro-enterprises, wherever in the world they are, and also by certain Channel Island charities.

If a complaint is not resolved by mediation, an ombudsman can issue a decision. If the complainant accepts the ombudsman decision, it is legally binding on the FSP. An ombudsman who upholds a complaint can require the FSP to pay the complainant compensation up to a maximum of £150,000.

¹ www.jerseylaw.je/laws/enacted/Pages/L-14-2014.aspx

² <https://www.guernseylegalresources.gg/laws/guernsey-bailiwick/f/financial-services/financial-services-ombudsman-bailiwick-of-guernsey-law-2014>

Funding

As authorised by the relevant laws, CIFO operates a single budget. This is approved by the Jersey and Guernsey governments, but paid for by the FSPs covered by CIFO's mandate.

The budget is funded by levies and case fees, set by the CIFO board under statutory powers. These are payable (at the same rates) by FSPs in Jersey and the Bailiwick of Guernsey.

Those FSPs that are regulated by, or registered with, the relevant Financial Services Commission pay a yearly levy, unless they do not do business with retail customers. For 2022 the levy is: £12,518 for each bank licence; and £1,232 for each other sector of activity.

All FSPs³ pay a case fee for each complaint against the FSP that is referred to CIFO – unless (in the opinion of an ombudsman) on receipt of the complaint, it is apparent that it is not eligible or should be rejected; or at any time, the complaint is rejected as frivolous or vexatious.

In order to ensure fair contributions, FSPs that pay the levy are subject to a lower case fee than FSPs that do not pay the levy. Currently: if the FSP pays the levy, it pays the lower case fee of £400; and if the FSP does not pay the levy, it pays the higher case fee of £900. These figures are kept under review.

Staffing

CIFO depends upon recruiting and retaining sufficiently skilled staff to provide a fair, prompt and robust service. This is challenging for a small organisation based in a highly-competitive and restricted labour market. An additional challenge is the unpredictable and uncontrollable nature of demand for CIFO's services.

To meet these challenges, CIFO has adopted a hybrid model: permanently-employed staff, based in our Jersey offices; and contracted staff with experience from the UK Financial Ombudsman Service who can be called upon to meet surges in demand, and to share experience and expertise.

In the immediate term, we consider that this model is the only option to manage our workload, and that for the longer term some element of mix between employees and on-call contractors should remain.

We are, however, keen to continue to build a Channel Islands-based capacity. One option for us to consider is whether some degree of remote working would enhance our ability to recruit, and in particular enable us to employ Guernsey-based complaint handlers.

³ Apart from Community Savings Limited (Jersey) and Guernsey Community Savings (trading as My Money).

Issues

Looking ahead

The Board has carefully reviewed CIFO's performance and evolution over the past seven years, and looked at the environment in which consumers and providers of Channel Islands financial services operate, to see what further improvements can be made to our service, and how we should adapt to future challenges.

What follows is our initial assessment of areas on which the Board should be focussing in preparation for the next five years. We welcome comments from all stakeholders on our assessment, and will use them to refine our approach.

Working assumptions

The Board has started with the following assumptions. We believe they are justified by the experience of the past seven years, and they appear to be shared by stakeholders.

- CIFO has enabled the Channel Islands to demonstrate that customers of its FSPs have access to independent complaints resolution at least equal to that available in other comparable jurisdictions.
- The numbers of complaints that have been referred to CIFO demonstrate the need for an independent and informal service to resolve financial complaints. Those who have used CIFO generally consider that it is impartial and fair.
- The continuing need for an independent financial services complaint-resolution service in both jurisdictions, to enhance consumer confidence in the services offered by Channel Islands FSPs, is not controversial.
- The decision to establish CIFO as a pan-island body has been a success. It has enabled economies of scale, and avoided two similar bodies competing for talent in a small market. In practice, operating across two jurisdictions – while unique internationally – has proved beneficial.
- Running a service where demand is unpredictable and uncontrollable creates challenges. In particular, there is a difficult balance between ensuring that: the service remains effective and sustainable; and costs are appropriately contained.
- The current economic climate presents particular challenges. Tighter economic conditions and higher interest rates both tend to lead to an upsurge in complaints. Tighter economic conditions also place strains upon FSPs, which pay CIFO's levies and/or case fees.
- CIFO is operating in a labour market where there is strong competition, particularly in certain specialist areas in which CIFO will increasingly need expertise. This, as well as high and rising living costs, affects recruitment and retention of staff – and will place upward pressure on CIFO's operating costs.

Stakeholders

CIFO has a range of stakeholders – in particular: the legislatures and governments that set our powers; consumers of financial services in the Channel Islands and internationally; consumer groups in the Channel Islands; FSPs covered by CIFO’s mandate, who fund our activities through levies and case fees; and the Financial Services Commissions which regulate most of the FSPs.

CIFO has been fortunate in having constructive engagement with all these stakeholders, and will continue to work on strengthening these relationships. Stakeholders have told us that current arrangements for engagement appear to be working well. But we would welcome views on stakeholder engagement generally, and on the specific issues mentioned below.

Complaint-handling by FSPs

Complainants must first complain to their FSP. They can refer their complaint to CIFO if they are dissatisfied with the FSPs response, or if the FSP fails to respond in a timely fashion.

The law gives CIFO power to issue a recommended model complaint procedure, and it has done so.⁴ But it is the Financial Services Commissions that have power to set (and enforce) binding rules for FSPs about how they handle complaints.

FSP stakeholders have suggested that pressure from the Commissions would help to improve complaint-handling standards. But, in view of other demands on the Commissions’ limited resources, this appears to be a low priority for them at present.

If a complaint is referred to CIFO, it asks the FSP for its complaint file. If the FSP has fully investigated the complaint, one might expect it to have a complaint file (with all the relevant information) that it can send promptly to CIFO.

Unfortunately, that is often not the case, causing significant delay and added expense. Some FSPs appear to have under-resourced their complaint-handling. In effect, they have cut their own costs by outsourcing the work to CIFO, increasing the cost to FSPs in general.

We would welcome views on how CIFO could work with FSPs and the Commissions to ensure that all FSPs handle complaints effectively, minimising the complaints that need to be referred to CIFO and ensuring the efficient handling of those that are.

FSP stakeholders have told us that financial pressure would also be helpful, and welcomed CIFO’s recent consultation about increasing the proportion of CIFO’s funding that comes from case fees.

Some FSP stakeholders have suggested that CIFO should charge an increased case fee to FSPs with demonstrably poor internal complaint-handling. This raises issues of

⁴ www.ci-fo.org/wp-content/uploads/2016/01/151116-CIFO-model-complaint-procedure.pdf

workload (the ombudsman having to judge arguments about the quality of internal complaint-handling as well as the merits of the case) and principle (the ombudsman acting as quasi-regulator).

Outreach to consumers

We would welcome views on what steps we and others can take to improve consumer financial literacy and the visibility of the complaints system. Because of the international nature of our complainant population, and the fact that very few complainants come to CIFO more than once, establishing a dialogue with some consumers is challenging.

Stakeholders have told us that they are broadly content with what CIFO is doing already, though consumer advisers would welcome additional case studies that focus on engaging and motivating consumers.

On consumer education, there appear to be a variety of unconnected programmes (mainly provided by large FSPs). Stakeholders have told us they could see the benefit if some body were willing and able to take on a coordinating role.

That is not a role that we envisage CIFO undertaking. But we could assist by providing material and advice, and by fostering contacts.

Quality and accountability

It is essential that CIFO's Ombudsmen are able to make decisions impartially, without fear or favour. So CIFO's independence is guaranteed by law. But CIFO is committed to transparency, and accounts publicly for its work.

As well as publishing the detailed annual reports that it submits to both legislatures, CIFO publishes a wide range of information – including quarterly complaint statistics, ombudsman decisions, case studies, consultations, email alerts, board minutes, and the expenses of board members and the Principal Ombudsman.

Stakeholders have told us that they are broadly content with what CIFO does currently – save that some consider the annual report could be shorter or more clearly signposted to show which parts apply to which industry sectors.

CIFO's Board is also committed to ensuring that, while the independence of our ombudsmen is protected, there is a means of monitoring casework quality. To that end, we are minded to commission an external review of case-handling, to encompass issues of quality and timeliness.

We would welcome comments on this. There would be a cost; but to contain this, such a review could be relatively light-touch, and rely on sampling to establish how the system is working and whether there are things we could do better. We would publish any report.

Financing CIFO's work

Funding model

CIFO's work is wholly funded by levies and case fees charged to FSPs. This model has generally worked well, with modifications that were introduced from 2020 following a multi-year consultation with stakeholders.

As mentioned earlier, FSP stakeholders have welcomed CIFO's recent consultation about increasing the proportion of CIFO's funding that comes from case fees. They accepted that, because this increases the volatility of funding, it will need to be reflected in increased reserves.

However, forthcoming changes to CIFO's mandate, especially in the area of occupational pensions, may produce cases which require more extensive and expensive analysis and advice (e.g., actuarial assessment, legal opinions, etc.).

In setting the amount of the levy and case fee, the CIFO board will take into account the proportion of CIFO's resources expected to be devoted to complaints about any new areas of work, seeking to avoid cross-subsidy from FSPs already in CIFO's jurisdiction.

The amounts of the levy and case fee are reviewed every year; so, the amounts can be adjusted each year if the proportion of CIFO's resources actually devoted to any new areas of work turns out to be materially higher or lower than anticipated.

The board will also keep under review, in the light of legal/actuarial/etc. costs incurred, whether to propose a change to the law - so that the ombudsman would have a wider power to charge such expenditure to FSPs involved in particular cases.

CIFO costs

A number of factors are driving up costs. FSP stakeholders shared our view that global economic pressures are likely to lead to an increase in complaints; and some FSPs told us they were already increasing their complaint-handling staff. CIFO is a demand-led service and must staff-up to meet its expected workload.

Staff-related costs account for about 75 per cent of CIFO's costs. Stakeholders agreed that recruitment and retention are an issue in a small, competitive and restricted market – where CIFO-trained staff can be poached by others for higher-paying compliance, regulatory or legal roles. The consequent cost pressures are further increased by the current steep rise in the cost of living.

We aim to enhance CIFO's efficiency by introducing an improved case-management system, either by developing our current system or acquiring a new one – to speed case handling, help others to interact with us more easily, and improve information sharing. This will require some upfront and on-going investment.

CIFO's current policy is to retain reserves and a line of credit with its bank which, taken together, provide an appropriate buffer. This recognises that CIFO's income is not spread evenly over the year and that some expenditure (for example, legal costs) is not foreseeable. Reserves have also enabled some smoothing of annual increases in the levy.

We are no longer confident that current levels of reserves will be sufficient. With our stakeholders, we will need to consider how best to balance containment of our costs in an inflationary environment with ensuring that CIFO has the expertise, flexibility, and financial robustness to deal with any surges in complaint volumes and the risks of very expensive litigation.

This is likely to require adjusting the amount raised by the levy and/or case fees in order to increase the level of reserves, or government guarantees of temporary funding to deal with any crisis, or a combination of the two.

An additional issue may be the high and increasing cost of indemnity insurance, and CIFO will wish to explore with the governments whether there are alternatives to the current insurance arrangements.

We would welcome views on how best CIFO can balance the requirements of a demand-led service against levies and case fees in the light of the financial pressures that exist.

Mandate

CIFO's mandate is set by law. Any comments about this will be collated, analysed, and passed on to the Jersey and Guernsey authorities with any relevant data as part of our ongoing dialogue with them.

Complainants who are covered

Complaints can be referred to CIFO by individuals and micro-enterprises⁵, wherever in the world they are, and also by certain Channel Island charities. They must have been a client or had a specified relationship with the FSP. CIFO cannot handle a complaint by one FSP against another FSP.

Smaller businesses

Only microenterprises can refer complaints to CIFO. They have produced 2.7 per cent of all complaints to date. It has occasionally been suggested by others that small⁶, or even medium-sized⁷, enterprises should be able to refer complaints to CIFO.

In view of the small number of complaints from microenterprises, we are not aware of any compelling case for such an expansion generally – though we would welcome stakeholder views. But there is a separate issue about some investment-holding companies that fall outside the current definition of eligible complainants.

Investment-holding companies/corporate wrappers

Some retail consumers are advised by FSPs, for various reasons, to hold their pensions or other investments through a holding company – as a sort of corporate wrapper – without their realising that this places them outside the protection afforded by CIFO.

For example, CIFO had a mass complaint (a number of investors with similar complaints against the same FSP) where the ombudsman awarded compensation to clients who held their investments directly, but had no power to look at cases where the clients (or their pension provider) held their investments through an investment-holding company.

This is because an investment-holding company is not an enterprise⁸ within the definition of a microenterprise. There was wide agreement amongst stakeholders

⁵ Microenterprise: under 10 employees; turnover up to €2 million; balance sheet up to €2 million.

⁶ Small enterprise: under 50 employees; turnover up to €10 million; balance sheet up to €10 million.

⁷ Medium enterprise: under 250 employees; turnover up to €50 million; balance sheet up to €43 million.

⁸ Enterprise: anyone engaged in an economic activity, irrespective of legal form, including, in particular (a) self-employed and family businesses engaged in craft or other activities; and (b) partnerships or associations regularly engaged in an economic activity.

that the statutory definition of eligible complainants should include investment-holding companies that are tantamount to retail consumers.

Specified relationships

If the complainant is not a direct client or prospective client of the FSP, they must have a relationship with the FSP that is sufficiently close to give appropriate standing for CIFO's services to be available.

The law requires the Principal Ombudsman to issue guidelines on what relationships give appropriate standing. These must include certain specified relationships and may include others that the Principal Ombudsman considers appropriate.

The current guidelines⁹ are under review. We would welcome views on whether or not there are additional categories, where there is a sufficiently close relationship, to be added to the guidelines.

Financial services that are covered

Currently, CIFO can handle complaints about some unregulated financial services products, but cannot handle complaints about certain regulated products (further details are shown in the appendix). The coverage is similar, but not identical, between Jersey and the Bailiwick of Guernsey. For example –

- Both jurisdictions currently exclude, to a different extent, occupational pension schemes. But Jersey has announced its intention to bring all Jersey occupational pensions schemes (public and private) into CIFO's jurisdiction.
- Each jurisdiction has a different definition of the types of investments covered by CIFO. This was intended to include those investments usually sold to retail investors, but in practice that has not always proved to be the case.
- The result was that investors who bought a particular fund, widely sold to retail investors in the Channel Islands, were able to complain to CIFO if they bought through an intermediary in one island but not if they bought through an intermediary in the other island.

We would welcome any views on rationalisation, in order to ensure that CIFO's scope is both clear and appropriate. Areas, additional to those mentioned above, might include (for services provided in/from the Channel Islands):

- fiduciary activities of trust providers;
- other participants in the credit market in addition to lenders;
- 'investing':
 - by way of providing funds to credit providers;
 - in collectible assets (e.g. stamps and coins) through intermediaries;
 - or otherwise engaging in cryptocurrency through intermediaries.

⁹ www.ci-fo.org/wp-content/uploads/2016/01/151114-Guidelines-on-sufficiently-close-relationships.pdf and www.ci-fo.org/wp-content/uploads/210201-Close-relationship-of-Trust-beneficiaries-to-FSP-1.pdf

An alternative (customer-focused) approach

In the UK regulatory regime, customers are classified, as (1) retail clients (2) professional clients or (3) eligible counterparties – of which only retail clients have access to the UK Financial Ombudsman Service.

The regulatory regimes in the Channel Islands do not have client classification for most purposes. So, at a time when the new and unfamiliar CIFO's jurisdiction was being framed, it was based around products likely to be sold only to retail clients.

Experience of actual complaints referred to CIFO – but which have fallen outside CIFO's mandate – has shown that some of the excluded products are indeed sold to retail clients.

Stakeholders were interested in the possibility of reviewing the scope of CIFO's mandate so that it would be focused primarily on the type of customer rather than the type of product – albeit that some types of product might continue to be specifically excluded. We would welcome views on this.

Powers

CIFO's powers are also set by law. Any comments about these will also be collated, analysed, and passed on to the Jersey and Guernsey authorities with any relevant data as part of our ongoing dialogue with them.

Confidential information

CIFO's work can be adversely affected as a result of some duties of confidentiality imposed on others. These currently prevent their providing to CIFO (even in confidence) information needed to fulfil CIFO's statutory role of making a decision on the merits of a complaint, even if they want to provide it.

- Where an FSP has made a Suspicious Activity Report (SAR) to the relevant authority, the FSP may be prevented from providing CIFO with information relevant to the case, including that an SAR has been made.
- Where a regulator (or a law-enforcement agency) and CIFO are both investigating the same matter in accordance with their respective roles, CIFO can share information but the regulator (or law enforcement agency) cannot.

Stakeholders tell us that there are similar bars that prevent appropriate information-sharing between regulators dealing with financial services and those dealing with data protection.

These restrictions may produce situations that are inexplicable, especially to complainants. Stakeholders to whom we spoke were relaxed about freeing up the exchange of information where it was in the public interest. We would welcome views on how these problems might be overcome.

Compensation limit

The maximum compensation that CIFO can currently award is £150,000 per case. The complainant's losses, particularly in investment and pension cases may exceed that figure. We would welcome views on whether that figure should be reviewed and, if so, how often.

Adjusted for inflation since the limit was set (whether by Jersey RPI or Guernsey's preferred RPIX), the equivalent figure would now be over £185,000. The limit for the UK Financial Ombudsman Service is now adjusted annually in line with inflation and currently stands at £375,000.

Additionally, the capital value of a quite modest annual pension can exceed £150,000.¹⁰ As the remedy for a pension claimant may be to increase the amount of their pension, there might be a case for an alternative cap on the compensation that CIFO can award – based on annual payments not exceeding a specified amount.

¹⁰ Depending on the fund, the transfer value of a yearly pension of £6,000 at age 65 may exceed £150,000.

All the FSPs to which we spoke were relaxed about increasing CIFO's compensation limit – though one suggested checking the impact of any increase on the availability of indemnity insurance for FSPs.

Legal issues

If an ombudsman is faced with an important and contested point of law on which there is no existing case-law, CIFO currently has no legal standing for the ombudsman to refer that point of law to the appropriate Royal Court for a definitive ruling.

Currently, a definitive ruling can only be obtained by one of the parties judicially reviewing the ombudsman's decision later, involving delay and expense – and a disproportionate threat to CIFO's reserves and funding model, exacerbated by the difficulty in finding unconflicted legal representation in the Channel Islands.

We would welcome views on whether it should be possible for the ombudsman to refer such a point of law to the relevant Royal Court. Many of the stakeholders we spoke to favoured CIFO having such a power, as long as it was reserved for significant issues. Some FSPs also thought it would benefit the industry generally if legal uncertainties could be resolved authoritatively.

In Guernsey, such a power is given to the Registrar of Companies by section 508(1) of the Companies (Guernsey) Law 2008, and the Registrar of Charities by section 7(1) of The Charities etc. (Guernsey and Alderney) Ordinance 2021.

Summary of issues

We would welcome comments on any of the issues discussed in this paper. Do not feel obliged to comment on every one of them, unless you want to. Issues discussed include –

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Appendix: CIFO's current mandate

Service provided in / from	Guernsey, Alderney and Sark	Jersey		
Complainants	<ol style="list-style-type: none"> 1. Must be a consumer or microenterprise (anywhere in the world) or a Channel Islands small charity; 2. Must not be a financial services provider; 3. Must have been a client or had another specified relationship with the financial services provider. 			
Financial Services	<p>The complaint must relate to an action (or failure to act) by a person while carrying out relevant financial services business, in or from within the location. Relevant financial services business covers:</p> <ol style="list-style-type: none"> 1. Banking 2. Money service business <table border="1" data-bbox="421 831 1382 1323"> <tr> <td data-bbox="421 831 916 1323"> <ol style="list-style-type: none"> 3. Insurance, excepting commercial reinsurance; 4. Investment funds: activities relating only to Class A collective investment schemes and not other collective investment schemes; 5. Investment services such as advising, managing or dealing in Class A funds and other investments such as stocks and shares; 6. Pensions. Exemption for pension business carried on in relation to an occupational pension scheme, where the employer does not do any other pensions business; </td> <td data-bbox="916 831 1382 1323"> <ol style="list-style-type: none"> 3. Insurance; 4. Investment funds: activities relating only to recognized funds and not other collective or alternative investment funds; 5. Investment services such as advising, managing or dealing in collective investment funds and other investments such as stocks and shares; 6. Pensions. Exemption for pension business carried on by employers in relation to their occupational pension schemes, where the employer does not do any other pensions business; </td> </tr> </table> <ol style="list-style-type: none"> 7. Credit. Exclusions for informal store credit; debt-advice from a third party such as the Citizens Advice Bureau; point-of-sale credit intermediaries that are not financial services entities; 8. Related (or ancillary) services provided by the same financial services provider; 9. Providing advice or introductions to the areas above. <p>Fiduciary/trust company business is exempt unless it relates to one of the areas above.</p>		<ol style="list-style-type: none"> 3. Insurance, excepting commercial reinsurance; 4. Investment funds: activities relating only to Class A collective investment schemes and not other collective investment schemes; 5. Investment services such as advising, managing or dealing in Class A funds and other investments such as stocks and shares; 6. Pensions. Exemption for pension business carried on in relation to an occupational pension scheme, where the employer does not do any other pensions business; 	<ol style="list-style-type: none"> 3. Insurance; 4. Investment funds: activities relating only to recognized funds and not other collective or alternative investment funds; 5. Investment services such as advising, managing or dealing in collective investment funds and other investments such as stocks and shares; 6. Pensions. Exemption for pension business carried on by employers in relation to their occupational pension schemes, where the employer does not do any other pensions business;
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Timing	<ol style="list-style-type: none"> 1. 'Starting point': the act or omission that led to the complaint must not be before 2 July 2013; 2. The financial services provider must have already had a reasonable opportunity to resolve the complaint (a maximum of 3 months); 3. The complainant must refer the complaint to CIFO by the later of: <ol style="list-style-type: none"> a. 6 years from the act/omission; or b. 2 years after complainant should have known he/she had reason to complain. 4. The complainant must also refer the complaint to CIFO within 6 months of receiving the financial services provider's decision on the complaint if the financial services provider met certain conditions in handling the complaint. 	<ol style="list-style-type: none"> 1. 'Starting point': the act or omission that led to the complaint must not be before 1 January 2010; 		