

Annex two: our draft rules

Rule 1 - required information

1.1 An authorised body or an individual as permitted under Rule 9.8(b)(ii) of the SRA Authorisation of Individuals Regulations providing *relevant financial services claims management activities* or activities that would be *regulated financial services claims management activities* but for the exclusion in article 89N of the *Regulated Activities Order*, whether under a *relevant financial services claims management agreement* or otherwise, must provide any *client* with the information set out in rules 1.2 to 1.5 in writing and receipt must be acknowledged by the *client*.

1.2 Before entering into a contract with a *client* to provide such services the following costs information:

- (a) The basis upon which fees will be charged and an estimate of all such fees making clear that fees could exceed the estimate unless the fee is for a fixed sum.
- (b) If either the *PPI fee restriction* or the *financial products and services fee restriction* applies or could apply to any part of the services provided:
 - i. details of the *fee cap* and an illustration of how it will apply by reference, where relevant, to each of the bands in the table in rule 22.3 of these Rules.
 - ii. an explanation and an estimate of any charges that will fall outside the *fee cap* and that the total charges may therefore exceed it.

1.3 The following pre-contract information:

- (a) Where the *claim* is in scope of a statutory ombudsman, a statutory compensation scheme or an alternative dispute resolution scheme the fact that the *client* can bring the *claim* themselves free of charge and without representation.
- (b) If the *client* is advised to proceed with a *claim* in a way which means that neither the *PPI fee restriction* or the *financial products and services fee restriction* applies, either in whole or in part, but it would be possible to proceed with a *claim* in a way which would mean that the *fee cap* applies, a clear explanation of that fact together with reasons as to why it is in the *client's* best interests to proceed as advised.

1.4 If the *claim* was initially commenced and was subject to either the *PPI fee restriction* or the *financial products and services fee restriction* and the *client* is advised to pursue the *claim* in a way which means that the *fee cap* does not apply the *client* must be informed of this before any action is taken and the additional costs consequences fully explained to the *client* at that stage.

1.5 When invoicing the *client*, if the *claim* is subject to either the *PPI fee restriction*, or the *financial products and services fee restriction* but your charges exceed the *fee cap* because

some charges fall outside it, you must specify which charges fall within the *fee cap* and those that do not.

Rule 2 - fee restrictions

2.1 If you are an authorised body, or an individual and as permitted under Rule 9.8(b)(ii) of the SRA Authorisation of Individuals Regulations, providing *regulated claims management services* or activities that would be *regulated claims management services* but for the exclusion in article 89N of the *Regulated Activities Order*, you will, subject to rule 2.2, be subject to the fee restrictions set out in rules 2.3 to 2.8

2.2 Rule 2.1 will apply to you if you enter into a *relevant financial services claims management agreement* that provides for a person to pay charges either under that agreement or a connected agreement, or you impose charges on a person for, or in connection with, *relevant financial services claims management activities*, except to the extent to which the *PPI fee restriction* applies.

2.3 The fee restriction on charges for any *claim* is the lower of:

- (a) the maximum percentage rate of charge, or
- (b) the maximum total charge

in the table below applicable to the redress awarded for that *claim* and applies to the entire *claim* even where the *claim* is based on various grounds.

Band	Redress awarded for a claim (£)	The maximum percentage rate of charge	The maximum total charge (£)
1	1-1,499	30%	420
2	1,500 - 9,999	28%	2,500
3	10,000 - 24,999	25%	5,000
4	25,000 – 49,999	20%	7,500
5	50,000 or above	15%	10,000

2.4 The fee restriction includes all expenses and other charges provided for or imposed under a *relevant financial services claims management agreement* or connected agreement, or for, or in connection with, *relevant financial services claims management activities*, but does not include VAT.

2.5 The fee restriction in 2.3 does not apply:

- (a) to any charges for *reserved legal activities*;
- (b) to charges imposed under a *relevant financial services claims management agreement* or connected agreement, or for, or in connection with, *relevant financial services claims management activities*, if the services were provided, or the agreement to provide them was entered into and instructions to pursue the *claim* were given, before these rules came into force, provided that the charges imposed were not altered after these rules came into force;
- (c) if no award for monetary redress is made in the *client's* favour in relation to the *claim*;
- (d) if the *claim* does not fall within the scope of any of the following:
 - i. the complaints resolution rules set out in the FCA Handbook DISP: dispute resolution
 - ii. any statutory ombudsman scheme including but not limited to the Financial Ombudsman Service and the Pensions Ombudsman, or
 - iii. any statutory compensation scheme including but not limited to the Financial Services Compensation Scheme.
- (e) to any charges for activities carried on in relation to actual or potential court proceedings if:
 - i. there are reasonable grounds to consider that the limitation period for issuing court proceedings may be about to expire and that it is therefore imminently necessary to issue court proceedings;
 - ii. the *claim* cannot be pursued or continued through any statutory ombudsman scheme or any statutory compensation scheme because either the *claim* has already been determined under the relevant scheme or the operator of the relevant scheme has determined that the *claim* cannot or should not be considered under the scheme;
 - iii. there are reasonable grounds to consider that the value of the *claim* may exceed the maximum redress which can be awarded by any applicable statutory compensation or statutory ombudsman scheme;
 - iv. where the *claim* is such that it raises a novel, complex or important point of law which has potential wider ramifications such as to indicate that a *representative action* or a *Group action* before a court is the appropriate course and in the *client's* best interests; or
 - v. any time limit for referring the complaint to the relevant statutory compensation or statutory ombudsman schemes has already elapsed and there are no reasonable grounds to believe that the *claim* could be brought within such scheme out of time
- (f) [to a *claim* before the Pensions Ombudsman, the Financial Ombudsman Service or Financial Services Compensation Scheme which is of an unusually complex or difficult nature such that the best interests of the client require specialist legal advice

with the result that the reasonable costs of bringing the *claim* are likely to exceed the maximum permitted total charge provided in rule 2.3]

2.6 If the fee restriction in 2.3 does not apply as a result of rule 2.5 you must not impose charges for or in connection with *relevant financial services claims management activities* or enter into a *relevant financial services claims management agreement* that provides for the payment of one or more charges, that, alone or in combination with any other charge under that agreement or a connected agreement, or otherwise imposed, exceed an amount that is reasonable in the circumstances in light of the services provided.

2.7 You must not impose any charges for or in connection with *relevant financial services claims management activities* or enter into a *relevant financial services claims management agreement* that provides for the payment of one or more charges, that, alone or in combination with any other charge under that agreement or a connected agreement, or otherwise imposed, exceed or are capable of exceeding a fee restriction applied pursuant to rule 2.3 or, as the case may be, rule 2.6.

2.8 Any charges imposed under a *relevant financial services claims management agreement* or for, or in connection with, *relevant financial services claims management activities* will be unenforceable to the extent they exceed or are capable of exceeding the fee restrictions imposed by these rules, and you must reimburse the amount of any overpayment promptly, together with interest at a rate of 8% per annum simple interest, from the date of overpayment, irrespective of whether your *client* has sought reimbursement or not.

2.9 In this rule an agreement (agreement A) is a connected agreement in relation to a *relevant financial services claims management agreement* (agreement B) if:

- a) agreement A enables a charge to be imposed on a customer in connection with a *claim*, and agreement B provides for *regulated claims management activities* in relation to that claim; or
- b) agreement A provides for services in connection with the *regulated claims management activities* provided for in agreement B; or
- c) agreement A varies, supplements, novates or replaces agreement B (or vice versa); or
- d) agreement A requires the customer to pay a fee to a lead generator in respect of the activities performed or to be performed under agreement B.

Glossary

Add the following:

Claim means any claim for compensation, restitution, repayment and/or any other remedy or relief in respect of loss or damage or in respect of an obligation, whether pursuant to an order of a competent court or court or tribunal or pursuant to a statutory redress or compensation scheme.

Fee cap means the maximum amount that may be charged under the *PPI fee restriction* or the *financial products and services fee restriction*

PPI fee restriction means the provisions in sections 29 and 31 of the Financial Guidance and Claims Act 2018.

Financial products and services fee restriction means the provisions in rules 2.3 of the Claims Management Fees Rules.

Relevant financial services claims management agreement has the meaning given by section 33(11) of the Financial Guidance and Claims Act 2018 for relevant claims management agreements but only those agreements which concern claims in relation to financial products and services.

Relevant financial services claims management activities has the meaning given by section 33(11) of the Financial Guidance and Claims Act 2018 for relevant claims management activities but only includes activities which concern claims in relation to financial products and services.

Group action means:

- a. claims pursued under a Collective Proceedings Order made under Part 5 of the Competition Appeal Tribunal Rules 2015 ;or
- b. joint claims made under one claim form in accordance with rule 7.3 of the Civil Procedures Rules 1998; or
- c. an action where a competent court has made an order consolidating multiple claims under rule 3.1(2)(g) of the Civil Procedure Rules 1998
- d. claims made under a Group Litigation Order made pursuant to rule 19.11 of the Civil Court Procedure Rules 1998; or
- e. a Financial Markets Test Case pursued in accordance with CPR Practice Direction 63AA

Representative Action means a claim brought under Rule 19, Part II of the Civil Procedure Rules 1998.