



COMMETH THE (OMBUDS)MAN

OCTOBER 2015

Below we offer a brief overview on the who, what, where and whens of the CIFO and how it may affect Channel Island financial services businesses.

What is it?

The CIFO is a joint initiative between Jersey and Guernsey and has required separate legislation in both Islands. The service will operate from a shared office in Jersey, with the same board, ombudsman and staff. It will adjudicate on complaints in respect of certain categories of financial services provided in and from Jersey, Guernsey, Alderney and Sark.

The scheme will be free to complainants and will be funded by financial services businesses. It will be paid for by levies on such businesses and by case fees charged to organisations in respect of complaints made against them.

Who can complain?

The CIFO is primarily aimed at those who do not have the means or expertise to resolve their complaints. As such its existence will not provide a remedy or forum for the settlements of disputes between institutions. Rather the CIFO will be available to individual consumers and micro-enterprises, whether or not they are resident in the Channel Islands and subject to consultation, small Channel Islands charities.

Micro-enterprise is a Europe-wide definition for a small business or economic enterprise (including a sole trader, partnership or company) that employs fewer than 10 people and does not have a yearly turnover or balance sheet of more than €2 million.

What types of financial services are covered?

Broadly speaking the CIFO's remit relates to financial services firms involved in banking, lending, money services, insurance, pensions and investments. Excluded are most types of trust business and funds business (other than in respect of recognised or retail funds) and occupational pensions.

When must complaints be made?

A complaint must be made to the CIFO within six years of the act to which it relates or two years after the complainant should have become aware of the cause for complaint. The complaint must relate to an act that occurred on or after 1 January 2010 (if the financial services firm was in Jersey) or 2 July 2013 (if the financial services firm was in Guernsey, Alderney or Sark). This is the general time-limit. The financial services business must have been given a reasonable opportunity (limited to three months) to consider the

WE ARE OFFSHORE LAW

BVI // Cayman // Guernsey // Jersey // London





complaint.

A complainant must also refer the complaint to the CIFO within six months of receiving the financial services firm's decision on the complaint if the financial services firm met certain conditions in handling the complaint, including telling the complainant about the CIFO and the six month time limit. This abbreviated time limit applies if all of the internal procedure conditions are met and the general time limit has not expired when the abbreviated time limit expires.

The CIFO has consulted in relation to the model complaint handling procedure to be adopted by relevant financial services providers.

What decisions can the CIFO make?

The CIFO can require specific steps to be taken which do not necessarily involve a financial award being made. However, it can also require a financial services business to compensate a complainant for their financial loss and any material distress or inconvenience up to a maximum of £150,000.

If the person making the complaint accepts the CIFO's determination, it is binding on both parties.

Further information about the CIFO can be found on its website [here](#).

Please also contact Wayne Atkinson, Nicholas Davies or Michael Adkins should you have any questions concerning the CIFO or other regulatory matters.

WE ARE OFFSHORE LAW

BVI // Cayman // Guernsey // Jersey // London





FOR MORE INFORMATION PLEASE CONTACT:



WAYNE ATKINSON

Partner // Guernsey

t:+44 (0) 1481 734225 // e:wayne.atkinson@collascrill.com



MICHAEL ADKINS

Partner // BVI

t:+1 284 852 6300 // e:michael.adkins@collascrill.com

WE ARE OFFSHORE LAW

BVI // Cayman // Guernsey // Jersey // London

