

James Tallack,
Financial Conduct Authority,
25 The North Colonnade,
London E14 5HS

19 April 2018

Dear James,

SMALLER BUSINESS PRACTITIONER PANEL RESPONSE TO CP18/3: SME ACCESS TO FOS

The Smaller Business Practitioner Panel has some general observations to make on the subject of access to the Financial Ombudsman Service (FOS) in the context of your consultation.

Finding a mechanism to help a larger group of Small and Medium-sized Enterprises (SMEs) to be able to resolve issues with financial suppliers is a good idea. In particular, these firms need a suitable mechanism to deal with banks that may have an unequal strength in the relationship. Some form of dispute resolution that already exists would be ideal. However, placing these issues in the domain of FOS runs the risk of making the situation worse.

We understand that FOS recognises it will have to develop new expertise in the area of consumer finance to cope with this extra responsibility. It already has some expertise in these areas, although there is little information on how reliable those results are, as they are not subject to external review or oversight. Since the consultation was published, we have seen the Channel 4 Dispatches programme which raised serious questions about training and competence within the organisation. We look forward to seeing the results of the review by independent experts which FOS has commissioned, and its recommendations, which may have implications for whether the FOS should be given further responsibilities.

There is a worry that the main driver for the FCA's proposal is to give SMEs some recourse when dealing with large banks. However, the way it is written, it will also include more complex finance arrangements for a diverse range of agreements, including specialist machinery. If smaller finance providers perceive an additional risk of FOS action, which FOS will be quick to point out is not precedent-driven and therefore hard to assess, they will react either by tightening the terms of their agreements, increasing the price to reflect the risk, or ultimately withdrawing from the market.

If however there is a dispute resolution system in place that seems reasonable and balanced, then smaller financial firms would react far more positively.

This is therefore a golden opportunity to develop a much more appropriate dispute resolution system for SMEs rather than extending the FOS regime. It could indeed become the template for a better dispute resolution system in future.

We would be happy to discuss this work further if required,

Yours sincerely,

Craig Errington

Chair, FCA Smaller Business Practitioner Panel