

Section C: Scope of the FDRC

12. Disputes that can be brought before the FDRC

12.1 Subject to Paragraph 14.1, the FDRC will only handle the following disputes that fulfil all of the conditions of Paragraph 12.1.1 or Paragraph 12.1.2 (collectively known as “Eligible Disputes”) –

12.1.1 Standard Eligible Dispute

- (a) the dispute must be an individual Customer Claim brought by an EC or an FI with signed consent by the Parties (in the form set out at Annex X);
- (b) an EC has filed a Written Complaint to the relevant FI and received a Final Written Reply issued by the FI; or it has been more than 60 days from the date he filed the Written Complaint with the relevant FI and has not received a Final Written Reply from the relevant FI;
- (c) the financial services provider involved in the dispute must be an FI;
- (d) the dispute must be of a monetary nature (For the avoidance of doubt, the FDRC shall have the sole discretion to decide what is ‘monetary nature’);
- (e) the amount for each individual claim does not exceed Maximum Claimable Amount (For the avoidance of doubt, the FDRC shall have the sole discretion to ascertain what constitutes an ‘individual claim’); and
- (f) the dispute must arise out of a contract between the EC and the FI that was entered into or arose in Hong Kong, or any act or omission of the FI in connection with the provision of a Financial Service to an EC where the FI acted as an agent.

12.1.2 Extended Eligible Dispute

- (a) the dispute must be brought in the following situations and with signed consent by the Parties (in the form set out at Annex X):
 - (i) where an individual Customer Claim, subject to Paragraph 12.1.1 (b), which exceeds the Maximum Claimable Amount and/or is beyond the Limitation Period, is brought by an EC or an FI; or
 - (ii) where an individual FI Claim or an individual FI Counterclaim is brought by an FI.

For the avoidance of doubt, the FDRC shall have the sole discretion to ascertain what constitutes an individual Customer Claim, FI Claim or FI Counterclaim.

- (b) the financial services provider involved in the dispute must be an FI;
- (c) the dispute must be of a monetary nature (For the avoidance of doubt, the FDRC shall have the sole discretion to decide what is ‘monetary nature’); and

- (d) the dispute must arise out of a contract between the EC and the FI that was entered into or arose in Hong Kong, or any act or omission of the FI in connection with the provision of a Financial Service to an EC where the FI acted as an agent.

13. Definition of Eligible Claimant

13.1 The following persons or entities (known as 'ECs') may bring a Claim –

- (a) an individual having or who had a customer relationship with an FI or who has been provided with a Financial Service;
- (b) a sole proprietor having or who had a customer relationship with an FI or who has been provided with a Financial Service; or
- (c) an SE (including an FI that qualifies as an SE) having or who had a customer relationship with an FI or who has been provided with a Financial Service.

14. Cases outside the purview of the FDRC

14.1 Situations where Case Officers shall reject an Application are set out in the Intake Criteria at Annex II.

14.2 All disputes which have not first been raised by an EC with the relevant FI so as to give the FI an opportunity to resolve it directly, if submitted to the FDRC, shall be rejected.

14.3 The FDRC shall discontinue handling a Claim if, after the Application is lodged with the FDRC, the EC lodges a complaint against the FI with the ICB or one of the Parties commences legal proceedings against the other Party while the Claim is being processed by the FDRC unless the court has ordered a stay of the proceedings or has been provided with proper notifications for mediation and/or arbitration. There is an ongoing obligation on the part of the Parties to inform the FDRC whether any such complaint or legal proceedings in respect of the subject matter of the Eligible Dispute has been initiated.

14.4 The FDRC shall discontinue handling a Claim if, after the Application is lodged with the FDRC, it comes to the knowledge of the FDRC that the Claim has been the subject of court proceedings where there is a decided judgment.