

Effective from 1 January 2014

New text is highlighted in **yellow**.

13.1 Debt recovery or other proceedings

- a) Subject to paragraph b), where an Applicant lodges a Dispute with FOS, the Financial Services Provider:
 - i. must not instigate legal proceedings against the Applicant relating to any aspect of the subject matter of the Dispute;
 - ii. must not pursue legal proceedings relating to debt recovery instituted prior to the lodging of the Dispute with FOS save to the minimum extent necessary to preserve the Financial Services Provider's legal rights and, in particular, must not seek judgment in the proceedings provided the Dispute is lodged before the Applicant takes a step in those legal proceedings beyond lodging a defence or a defence and counterclaim (however described); or
 - iii. must not take any action to recover a debt the subject of the Dispute, to protect any assets securing that debt or to assign any right to recover that debt,
while FOS is dealing with the Dispute.
- b) Notwithstanding paragraph a), with FOS's agreement and on such terms as FOS may require, the Financial Services Provider may:
 - i. issue proceedings where the relevant limitation period for such proceedings will shortly expire – but those proceedings may not be pursued beyond the minimum necessary to preserve the Financial Services Provider's legal rights; or
 - ii. exercise any rights it might have to freeze or otherwise preserve assets the subject of the Dispute.
- c) If the Dispute is subsequently decided by FOS and becomes binding upon the Financial Services Provider, the Financial Services Provider will abandon any aspect of proceedings against the Applicant that are inconsistent with that decision.
- d) Paragraph 13.1(a)(ii) does not apply to legal proceedings relating to debt recovery against a small business where the contract provides for a credit facility of more than \$2,000,000.