

## Consultation Paper

CP24/15\*\*\*

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Extending the temporary changes  
to handling rules for motor finance  
complaints

July 2024

## How to respond

We are asking for comments on this Consultation Paper (CP) by **by 28 August 2024**.

You can send them to us using the form on our [website](#).

Or in writing to:

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Financial Conduct Authority  
12 Endeavour Square  
London E20 1JN

**Email:**

cp24-15@fca.org.uk.



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- an account of the representations we receive, and
- an account of how we have responded to the representations.

In your response, please indicate:

- if you consent to the publication of your name. If you are replying from an organisation, we will assume that the respondent is the organisation and will publish that name, unless you indicate that you are responding in an individual capacity (in which case, we will publish your name),
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## Contents by sector

This table sets out which chapters are particularly relevant for each sector. This is where you will find the most relevant chapter(s) for your firm.

Sector	Chapter
Motor finance providers	All
Motor finance credit brokers, including motor dealers	All
Professional representatives, including claims management companies	All

## Chapter 1

# Update on our work on motor finance discretionary commission arrangements

- 1.1** In 2021, we banned discretionary commission arrangements (DCAs) in the motor finance sector. This removed the incentive for brokers to increase the interest rate that a customer pays for their motor finance. We asked firms to review their practices and, where harm was identified, to address this.
- 1.2** Following a high number of complaints from customers to motor finance firms claiming compensation for firms' use of DCAs prior to the ban, we decided to use our powers under s166 of the Financial Services and Markets Act 2000 to carry out diagnostic work, involving an extensive review of historical DCAs and sales across several firms.
- 1.3** If we find widespread misconduct and that consumers have lost out, we will identify how best to make sure people who are owed compensation receive it in an orderly, consistent and efficient way and, if we consider it necessary or appropriate, to resolve contested legal issues of relevance.
- 1.4** The motor finance market, which funds the purchase of more than 2 million used and new vehicles a year, provides significant value to consumers and wider society. It is essential that the market continues to function well. In deciding on our approach, we are informed by our statutory objective to make sure financial services markets function well, along with our operational objectives to protect consumers, ensure market integrity and promote competition in the interests of consumers. We are also informed by our secondary international competitiveness and growth objective.
- 1.5** To prevent disorderly, inconsistent and inefficient outcomes for consumers and knock-on effects on firms and the market while we assess the issue, we made rules on 11 January 2024, pausing the usual 8-week deadline for motor finance firms to provide a final response to DCA complaints for 37 weeks until 25 September 2024 (approximately 9 months). These rules, which we made without consultation in reliance on [S138L of FSMA](#), were published in [Policy Statement 24/1 \(PS24/1\)](#).
- 1.6** We said when we made the rules that we would set out next steps by 24 September 2024 at the latest (ie once we had completed our diagnostic work) and that we may need to extend the rules pausing complaint handling. We committed to consulting on any extension.
- 1.7** Completing our diagnostic work depends on us receiving comprehensive data promptly from a range of firms and the speed and outcome of relevant litigation (including the Clydesdale Financial Services Limited – trading as Barclays Partner Finance judicial review of the Financial Ombudsman's decision discussed at para 1.9) that has arisen since our January intervention. For the reasons set out below, we will not be able to set out next steps by 24 September 2024. As we explain in Chapter 2, we are therefore proposing to extend the rule pausing the usual 8-week deadline for a final response until 4 December 2025, as well as other associated rule changes discussed in Chapter 4.

## Delays obtaining the data we need to complete our review

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- 1.8** In an update published in [April 2024](#), we explained that firms involved in our review have engaged constructively. It has taken longer for firms to provide the data than we hoped, with data being stored on multiple systems and / or being spread between lenders and brokers. In some older cases, firms have not retained all relevant records. The data itself has also been more complex than anticipated which has meant the review has taken longer. While firms have now told us they have provided all relevant data, the delays mean we have not yet concluded our work.

## Litigation that has commenced since our review began

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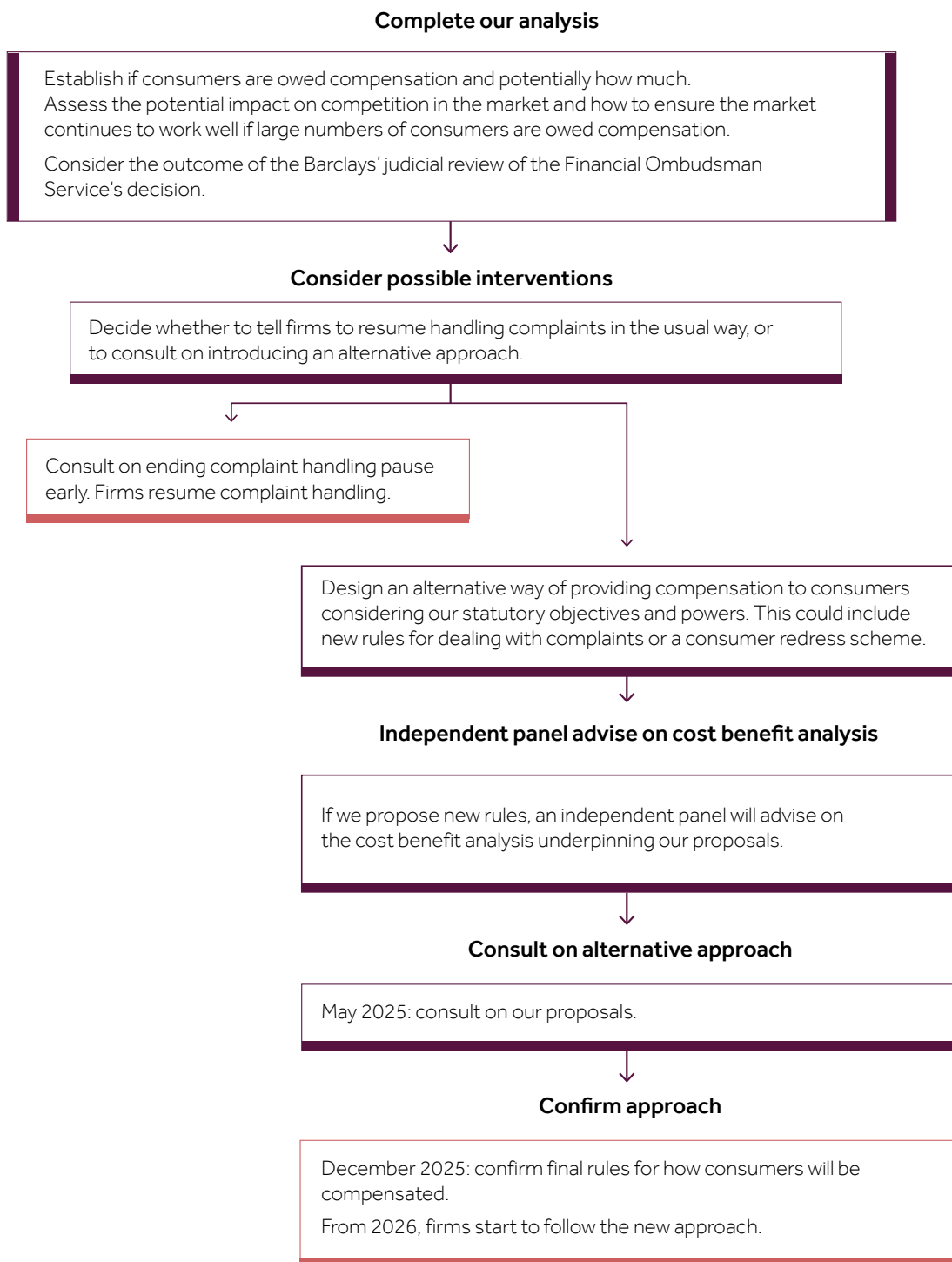
- 1.9** In addition, in April 2024, Clydesdale Financial Services Limited – trading as Barclays Partner Finance (Barclays Partner Finance) – commenced judicial review proceedings of the Financial Ombudsman Service’s decision to uphold a complaint relating to its use of a DCA. The case involves important questions of law about the proper interpretation of the FCA’s rules and the Consumer Credit Act 1974. The Court has directed a rolled-up hearing expected to take place in the Autumn at which it will consider the question of whether to grant permission and, if permission is granted, consider the substantive claim. We anticipate the court’s decision on the issues raised in the judicial review is likely to be highly relevant in informing the FCA’s next steps. The FCA is an interested party in this case.
- 1.10** We are also aware of three civil cases heard by the Court of Appeal in early July and are now awaiting judgement on the cases. These cases may also have a bearing on the relevant underlying law, the outcome of which we may need to take into account when determining the appropriate way forward.
- 1.11** The Financial Ombudsman recognises that both the judicial review and the Court of Appeal’s decisions referred to above could impact its approach to complaints that include similar issues and is unlikely to issue final decisions on affected DCA complaints pending the Courts’ decision. [www.financial-ombudsman.org.uk/news/update-car-finance-commission-complaints](http://www.financial-ombudsman.org.uk/news/update-car-finance-commission-complaints).

## Chapter 2

# Extending the temporary changes to handling rules for motor finance complaints until 4 December 2025

- 2.1** For the reasons set out in Chapter 1, we have now determined that we will not have completed our diagnostic work by 24 September, as we set out to do in January. We need to extend our temporary complaint handling rules for DCA complaints.
- 2.2** We recognise that continuing to pause complaint handling, while necessary, means that many consumers who have complained to firms about DCAs have now been waiting a long time for the outcome of their complaint.
- 2.3** In Chapter 4, we explain why it will give consumers and firms greater certainty if we extend the pause for the maximum amount of time we would need to implement a statutory consumer redress scheme, should such an intervention be necessary. That would include the design, consultation period, considering responses and making rules. Based on previous experience of designing and implementing such schemes we are, therefore, proposing to extend the pause on the requirement for firms to provide a final response to DCA complaints and the right to go to the Financial Ombudsman Service within 8 weeks until 4 December 2025. It is too early to say whether any redress intervention will be necessary, not least one that would require this amount of time, but based on our work so far we think it is more likely than when we started our review. Should we not require this amount of time, we would consult to end the pause at an earlier date.
- 2.4** We now intend to set out next steps in our review into the past use of DCAs in May 2025. By then, we expect to have analysed the data we have collected from firms, assessed the outcome of the Barclays Partner Finance judicial review of the Financial Ombudsman's decision to uphold a DCA complaint and consulted our independent panel of cost benefit analysis experts on the cost benefit analysis underpinning our proposals.

**Figure 1: Proposed work between now and December 2025**



## Who this applies to

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- 2.5** The proposals in this consultation paper are directly relevant to:
- consumers who have taken out motor finance agreements involving DCAs
  - motor finance providers
  - motor finance credit brokers, including motor dealers
  - professional representatives bringing complaints to motor finance providers and credit brokers about DCAs, including claims management companies (CMCs) regulated by the FCA.
- 2.6** This consultation paper will also interest consumer organisations and trade bodies representing the motor finance and professional representative sectors.
- 2.7** While firms have longer to deal with complaints, consumers should be aware they can still complain to firms and there are time limits for doing so. Consumers can check if our work applies to them and how to make a [complaint](#).

## What we want to change

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- 2.8** We are consulting on extending the following rules we made for DCA complaints in PS24/1:
- the pause on the requirement for firms to provide a final response to complaints and give complainants the right to go to the Financial Ombudsman within 8 weeks and associated requirements to keep consumers informed about the pause (which was due to end on 25 September 2024 and will now run until 4 December 2025)
  - the extension of the timeframe for consumers who receive a final response on relevant complaints to decide whether to refer their complaint to the Financial Ombudsman (which will now run until at least 29 July 2026)
  - the requirements to maintain and preserve relevant records (which will remain in place until 11 April 2026)

## Outcome we are seeking

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- 2.9** Extending the pause rules will ensure we can deliver the outcome we said we would deliver when we introduced the pause in January 2024. This is to prevent disorderly, inconsistent and inefficient outcomes for consumers and knock-on effects on firms and the market while we complete our assessment to determine the best way forward. Neither the original pause rules, nor the changes now proposed to extend the rules, prevent consumers or their representatives from lodging DCA complaints with firms or taking legal action against firms.



## Measuring success

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- 2.10** In PS24/1, we explained that the initial pause to the complaint handling time limits was designed to:
- mitigate the short-term impact on firms and consumers caused by the expected increase in DCA complaints
  - preserve our ability, in the longer term, to put in place, if needed, an approach to consumer redress that most appropriately balances our statutory objectives by delivering orderly, consistent and efficient outcomes
- 2.11** We said that we would use the initial pause to:
- carry out diagnostic work to assess whether the sales of motor finance agreements involving DCAs fell below applicable regulatory and legal standards, resulting in consumers being owed redress
  - if necessary, assess the costs and benefits of available alternative mechanisms for providing appropriate redress to any consumers who are owed it
- 2.12** For the reasons set out in Paragraph 1.8 above, we will not complete the work we intended to complete before the end of the initial pause. As a result, we need to extend the pause to make sure that we are able to deliver the outcomes that the initial pause was designed to deliver.
- 2.13** The success of the extended pause will, therefore, be measured in terms of whether it allowed us to deliver these outcomes.
- 2.14** We will also continue to work with the Financial Ombudsman to monitor the volume of DCA complaints referred to it.
- 2.15** We recover our costs from the firms we regulate. We will discuss our approach to cost recovery as part of our annual consultation on fees policy, which is due for publication in November.
- 2.16** The cost of the skilled person review is borne by the firms subject to the s166 review. The firms in scope have been notified by the FCA of the estimated cost.

## Next steps

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- 2.17** Please **consider our questions in Annex 1 of this paper**.
- 2.18** Please send us your comments **by 28 August 2024**.
- 2.19** We will consider your comments and publish our feedback, and our final rules, in a policy statement by **24 September 2024**.

## Chapter 3

# The wider context

## The harm we are trying to reduce/prevent

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- 3.1** The reason we made rules pausing DCA complaints in January 2024 was to break an intensifying cycle of consumers complaining to motor finance firms about DCAs and those firms rejecting almost all of those complaints (because they considered themselves to have not acted in an unfair or non-compliant way, and that their actions had not caused losses to consumers). This was subsequently leading to high rates of referrals to the Financial Ombudsman. We were concerned about an even greater intensification of this cycle (and associated costs) once the Financial Ombudsman had issued its first decisions upholding DCA complaints.
- 3.2** When we made our rules, we said that putting DCA complaints temporarily on hold would allow us to carry out urgent diagnostic work to assess whether the historical use of DCAs between lenders and credit brokers means a significant number of individuals could be due redress (compensation) from motor finance firms because they paid too much for their car loans.
- 3.3** We explained that the diagnostic work we were carrying out was to help us determine whether firms owe redress to a large number of customers. If so, we may decide that providing redress through consumer complaints does not lead to the best outcomes for consumers or the effective functioning of the market. Our diagnostic work, therefore, preserves our ability to ensure any redress owed to consumers is provided in the most orderly, consistent and efficient way.
- 3.4** The harms we aimed to mitigate through the rules we made in January pausing DCA complaints can be summarised as follows:
- disorderly outcomes and market disruptions, with firms (particularly smaller firms) incurring significant costs in the short-term to review and respond to complaints
  - given our statutory objectives are different to those of the Financial Ombudsman, a risk of inconsistent or divergent outcomes between consumers whose cases are resolved by the Financial Ombudsman and consumers whose cases are resolved by an approach that we may put in place (for example, an FCA redress scheme)
  - inefficient outcomes and delays in the correct redress being paid and potentially unnecessary administrative costs to the Financial Ombudsman and firms
- 3.5** As we explain in Chapter 1, we will not have completed our diagnostic work within the timeframe we set for ourselves in January and, therefore, need to extend the pause rules until 4 December 2025 at the latest to ensure we can continue to minimise the harms set out above.

## How it links to our objectives

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- 3.6** We said, if our work shows that large numbers of consumers require redress, we may decide a different approach to consumer complaints is needed to advance:
- our consumer protection objective, by ensuring consumers receive appropriate redress; and
  - our market integrity objective, by ensuring the provision of redress to consumers does not increase the risk of disorderly failure and its consequences
- 3.7** In summary, pausing time limits for responding to DCA complaints before they can be referred to the Financial Ombudsman has enabled management of DCA complaint volumes in a way that minimises the harms set out in paragraphs 3.1-3.5. During the period for which DCA complaints are paused, we have been working to establish whether large numbers of consumers may be owed redress because of historical motor finance agreements involving DCAs.
- 3.8** This, in turn, is helping us to assess whether the provision of any redress to consumers should continue through consumer complaints, or through an alternative approach. We consider that extending the pause will give us the time necessary to announce a decision on whether this issue should be resolved through:
- consumer complaints (with no additional interventions)
  - an alternative redress approach
- 3.9** As set out below, our rules aim to secure an appropriate degree of protection for consumers, protect and enhance the integrity of the UK financial system, and make sure that markets, in particular the motor finance market, are effective, efficient and reliable.
- 3.10** Ensuring the most orderly, consistent and efficient provision of redress by firms to any consumers who are owed it helps maintain trust and confidence in the UK's financial markets and our regulatory framework. It is also essential for sustainable economic growth and international competitiveness.

## Consumer protection

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- 3.11** In paragraphs 2.1-2.5 we have set out our view of the harms that would likely arise – and how these would adversely impact consumers – if we do not continue to pause time limits for responding to DCA complaints.

## Market integrity

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- 3.12** We consider our objective to protect and enhance the integrity of the UK financial system is advanced by assertive action to ensure that a potential major redress event is resolved in the most orderly, consistent and efficient way possible. This will maintain confidence in the regulatory framework.

- 3.13** When carrying out our functions, we must also have regard to the need for efficiency, as set out in the regulatory principle that any burden or restriction that regulation imposes on a person, or on the carrying on of an activity, should be proportionate to the benefits that are expected to result from that burden or restriction (s3B FSMA). In our view, it is consistent with this principle to take the necessary steps to determine whether there is a more efficient way overall of providing redress to consumers than through complaints.

### **Secondary international competitiveness and growth objective**

- 3.14** We consider that the proposal to extend the pause on the requirement for firms to provide a final response to DCA complaints and give complainants the right to go to the Financial Ombudsman within 8 weeks is compatible with the FCA's secondary international competitiveness and growth objective. The extension is necessary, for the reasons outlined, to allow us to ensure the most orderly, consistent and efficient provision of redress by firms to any consumers who are owed it, while at the same time helping to manage the significant operational impact on firms and the Financial Ombudsman and reduce the risk of firms failing. By meeting our primary objectives in this way we help maintain trust and confidence in the UK's financial markets, and our regulatory framework, which is essential for sustainable economic growth and international competitiveness.

### **Environmental, Social and Governance considerations**

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- 3.15** In developing this CP, we have considered the Environmental, Social and Governance (ESG) implications of our proposals and our duty under ss. 1B(5) and 3B(c) of FSMA to have regard to contributing towards the Secretary of State achieving compliance with the net zero emissions target under section 1 of the Climate Change Act 2008 [and environmental targets under s. 5 of the Environment Act 2021]. Overall, we do not consider that the proposals are relevant to contributing to those targets. We will keep this issue under review during the course of the consultation period and when considering whether to make the final rules.
- 3.16** In the meantime, we welcome your input to this consultation on this.

### **Equality and diversity considerations**

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- 3.17** We have considered the equality and diversity issues that may arise from the proposals in this CP.
- 3.18** Overall, we do not consider that the proposals materially impact any of the groups with protected characteristics under the Equality Act 2010 (in Northern Ireland, the Equality Act is not enacted but other anti discrimination legislation applies). But we will continue to consider the equality and diversity implications of the proposals during the consultation period and will revisit them when making the final rules.
- 3.19** In the meantime we welcome your input to this consultation on this.

## Chapter 4

# Our proposals

We propose not to make any changes to the definition of a DCA complaint, which we set out in Chapter 2 of PS24/1. This will ensure consistency in how firms are applying our rules.

## The pause

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- 4.1** In January 2024 temporary DCA complaint handling rules came into force so that the 8 weeks firms have under DISP 1.6.2R to send the complainant a final response was paused for a period of 37 weeks beginning 11 January 2024 and ending 25 September 2024. To deliver the outcome set out in Chapter 1, we propose extending the pause so that it now ends on 4 December 2025.
- 4.2** The pause to complaints handling will now apply to any DCA complaint received by the firm during the period beginning 17 November 2023 and ending 4 December 2025. This will mean that, unless the firm sends a final response to a DCA complaint, the Financial Ombudsman will not be able to consider DCA complaints referred to it during the pause.

## Requirements while the pause is in effect

- 4.3** In line with PS 24/1, we encourage firms, despite the pause, to continue to progress DCA complaints they receive by investigating and collecting evidence that could help with their eventual resolution. Even if we determine that such complaints should, ultimately, be resolved through an alternative approach to normal complaint handling processes, it remains highly likely that firms will need to take similar steps under that approach.
- 4.4** Extending the pause until 4 December 2025 allows us enough time to design, consult on, and implement a statutory consumer redress scheme, should we consider it necessary or desirable. It remains too early to say whether we will intervene in this way, but we consider a longer extension that accommodates the possibility of such an intervention is preferable to the lack of certainty and greater burden created by a shorter pause that may be further extended.
- 4.5** In the event we decide that the pause should come to an end earlier than 4 December 2025, we would consult on this change. In making any proposals to shorten the duration of the pause, particularly if we had decided that complaint handling should resume in some capacity, we would be mindful of the operational impact on firms, given the large number of DCA complaints that will have built up in their systems since our initial intervention, and on the Financial Ombudsman. We are monitoring the number of DCA complaints made to firms as part of a programme of regular reporting that we put in place following our initial intervention.

- Question 1:** Do you agree with our proposal to extend the pause until 4 December 2025 to allow us to complete our diagnostic work and, if necessary, allow time for us to design, consult on and implement the most appropriate redress pathways open to us?
- Question 2:** What factors, including any unforeseen consequences, should we take into account when deciding whether the pause should end early?

## Impact of the pause on consumers who have a complaint with the Financial Ombudsman

- 4.6** The Financial Ombudsman has published [an update on car finance commission complaints](#) and information on what the Judicial Review means for complaints. It will continue to keep this updated.

## Keeping complainants informed about complaint handling time limits

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- 4.7** On receiving any complaint, a firm must send the complainant a prompt written acknowledgement. We propose to maintain the requirement for the acknowledgement to include an explanation of the pause to the time limit rules in DISP 1.6.2R.
- 4.8** Where a DCA complaint was received in the period starting with 17 November 2023 and ending with 25 September 2024, and a final response has not been sent, we propose to require firms to write to the complainant to inform them of the extension to the pause and direct complainants to the FCA's website which explains the reason for the extension to the pause. This is regardless of whether the firm has already written to the complainants to explain the initial pause.
- 4.9** Firms are reminded of the obligation at DISP 1.6.1R(2) to ensure the complainant is kept informed therefore of the progress of the measures being taken for the complaint's resolution.

**Question 3:** Do you agree with the requirement that firms should inform complainants of the pause when they send a written acknowledgement?

**Question 4:** Do you agree with the proposal to require firms to write to those complainants who have already received a written acknowledgment to explain that the pause has been extended?

## Referring a complaint to the Financial Ombudsman

- 4.10** In January 2024 we decided to give consumers more time (15 months instead of the usual 6 months) to refer a DCA complaint to the Financial Ombudsman. This was because we wanted to ensure that consumers were not forced to decide whether to refer DCA complaints to the Financial Ombudsman before we have made an announcement on our approach to providing any redress (if applicable).
- 4.11** We propose to keep the rule that gives consumers more time to refer their complaint to the Financial Ombudsman. We have set out more details below but to summarise, we now propose to give consumers who receive a FRL between 12 July 2023 and 29 January 2026 until the later of 29 July 2026 or within 15 months of the date they were sent the final response letter to refer a complaint to the Financial Ombudsman. For final responses sent between 12 July 2023 and 29 April 2025, the later date will be 29 July 2026. Where a consumer receives an FRL on or after 30 January 2026 (ie 8 weeks after the end of the extended pause) the time a complainant will have to refer their complaint to the Financial Ombudsman will revert to being within six months of the date the final response is sent.
- 4.12** Table 1 below sets out the time consumers will have to refer their complaint to the Financial Ombudsman under our proposals. The effect of the proposed rule is to allow all consumers in Group A and B at least until up to and including 29 July 2026 (ie within six months after firms will revert to dealing with complaints in the usual way) to refer their complaint to the Financial Ombudsman. We also propose to require firms to write to consumers in Group A to explain that they now have until 29 July 2026 to refer their complaint to the Financial Ombudsman.

**Table 1 – Time consumers will have to refer their complaint to the Financial Ombudsman**

Group	Scenario	Time to refer a complaint to Financial Ombudsman
A	Consumer was sent a final response to their DCA complaint during the period beginning 12 July 2023 and ending 25 September 2024	Up to and including 29 July 2026
B	Consumer is sent a final response during the period beginning 26 September 2024 and ending 29 April 2025	Up to and including 29 July 2026
C	Consumer is sent a final response to their DCA complaint during period beginning 30 April 2025 and ending 29 January 2026	Within 15 months of the date the firm sends its final response to the complainant
D	Consumer is sent a final response to a DCA complaint on or after 30 January 2026	Within 6 months of the date the firm sends its final response to the complainant

**Question 5:** Do you agree with our proposal that the rules should continue to extend the time limit for referring DCA complaints to the Financial Ombudsman from 6 to 15 months (or 29 July 2026 if later) where the firm sent its final response within the timeframe specified in the rules?

**Question 6:** Do you agree with our proposal to require firms to write to complainants who have already received a final response letter if the time they have to refer a complaint to the Financial Ombudsman has been extended?

## Record keeping and record retention

**4.13** DISP 1.9.1R requires firms to keep a record of each complaint received and the measures taken for its resolution. It also requires firms to retain that record (in the case of DCA) complaints for 3 years from the date the complaint was received. We propose to apply the extended pause to this rule so that the period beginning 11 January 2024 and ending 4 December 2025 will not contribute to the 3-year period, for DCA complaints.

**4.14** We are maintaining the rule we introduced that requires lenders and credit brokers to maintain and preserve any records that are or could be relevant to the handling of existing or future complaints or civil claims relating to agreements with DCAs entered into before 28 January 2021. This is regardless of whether the customer has complained or not. This requirement applies until 11 January 2025. We propose to extend this until 11 April 2026, ie by 15 months, which is the same amount of time we are extending the pause by. Any further extensions to this rule would be subject to consultation.

**Question 7:** Do you agree with our proposal that the period of the pause should not contribute to the 3-year period that firms are required to keep records of complaints for?

**Question 8:** Do you agree with our proposal that the rule requiring lenders and credit brokers to maintain and preserve any records that are or could be relevant to the handling of existing or future complaints or civil claims relating to DCAs, is kept in place for an extra 15 months?



## Annex 1

### Questions for consultation

- Question 1:** Do you agree with our proposal to extend the pause till 4 December 2025 to allow us to complete our diagnostic work and, if necessary, allow time for us to design, consult on and implement the most appropriate redress pathways open to us?
- Question 2:** What factors, including any unforeseen consequences, should we take into account when deciding whether the pause should end early?
- Question 3:** Do you agree with the requirement that firms should inform complainants of the pause when they send a written acknowledgement?
- Question 4:** Do you agree with the proposal to require firms to write to those complainants who have already received a written acknowledgment to explain that the pause has been extended?
- Question 5:** Do you agree with our proposal that the rules should continue to extend the time limit for referring DCA complaints to the Financial Ombudsman from 6 to 15 months (or 29 July 2026 if later) where the firm sent its final response within the timeframe specified in the rules?
- Question 6:** Do you agree with our proposal to require firms to write to complainants who have already received a final response letter if the time they have to refer a complaint to the Financial Ombudsman has been extended?
- Question 7:** Do you agree with our proposal that the period of the pause should not contribute to the 3-year period that firms are required to keep records of complaints for?
- Question 8:** Do you agree with our proposal that the rule requiring lenders and credit brokers to maintain and preserve any records that are or could be relevant to the handling of existing or future complaints or civil claims relating to DCAs, is kept in place for an extra 15 months?

## Annex 2

# Cost benefit analysis

## Introduction

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1. The Financial Services and Markets Act (2000) requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made'.
2. This analysis presents estimates of the significant impacts of our proposal. We provide monetary values for the impacts where we believe it is reasonably practicable to do so. For others, we provide a qualitative explanation of their impacts. Our proposals are based on weighing up all the impacts we expect and reaching a judgement about the appropriate level of regulatory intervention.

The CBA has the following structure:

- the market
- problem and rationale for intervention
- options assessment
- our proposed intervention
- baseline and key assumptions
- summary of impacts
- benefits
- costs
- wider economic impacts
- monitoring and evaluation

## The market

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### Firms

3. Our assessment focuses on the UK motor finance market. We estimate there are 193 firms that have offered motor finance since 2007. The market is dominated by a few large firms, with a long tail of smaller firms. We have collected data from the 41 lenders making up approximately 90% of the market by total lending balances; the latest submissions from them suggest that between 2007 and the end of 2020 they made approximately 25.9m motor finance agreements, 14.6m of which were made through brokers operating a discretionary commission arrangement. These agreements solicited approximately £8.1bn of commission between 2007 and 2020 (inclusive).

4. It should be noted that when stating “c.90% of the total motor finance market”, we refer to the revenue of these firms.

## Consumers

5. To ascertain the number of consumers in the motor finance market, we use the number of motor finance agreements for firms that have been included in our previous information request; c90% of the total motor finance market. If owed, redress is per motor finance agreement. This means that if one consumer has multiple agreements, they would be owed redress for each agreement. Based on our internal research using this sample of 41 lenders from the previous information request, between 2007 and 2020 there have been approximately 14.6m DCA-based motor finance agreements. Most of these will have ended. These agreement types include increasing and decreasing difference in charges, and scaled commission models – all are types of DCAs.
6. Our assessment of impacted consumers is based on these 41 lenders, instead of the full list of 193 firms. This is due to challenges in data collection from all firms, and the time and resource that would be required for us to review information provided by all the firms in scope. For these reasons, we decided it was sensible to prioritise the firms that together make up the majority of the motor finance market. However, it should be noted that our figures will be a moderate underestimate.
7. It should be noted that the purpose of our previous information requests was to understand what work firms had already done regarding sizing the impact of commission disclosure issues to their loan book; how they were managing their back-book; and the forward-looking risks. We also wanted to understand what impact these claims would have on financial and operational resilience, and what impact the Financial Ombudsman claims would have on their terms of business and sales procedures. Our most recent information request, from which we acquired responses in June 2024, sought to understand the impact on firms, of the pause on complaint handling times introduced in January 2024.

## Problem and rationale for intervention

---

### Background

8. Between 2017 and 2019, we conducted a review of the motor finance market. This identified concerns over the widespread use of DCAs that linked the commission received by the broker to the consumer’s interest rate under the finance agreement, and allowed brokers’ wide discretion to set or adjust that rate.
9. DCAs can harm consumers because they create conflicts of interest, with incentives for the broker to earn more commission by increasing the interest rate. This is why we banned DCAs in January 2021. When our ban came into force, we stated that we expected lenders to review their systems and controls in light of our findings and address any harm or potential harm they identified.

10. A significant number of motor finance arrangements made between 2007 and our 2021 ban may have involved DCAs. This includes motor finance sales prior to us taking on the regulation of motor finance and other consumer credit firms in April 2014. Since our ban on DCAs, there has been a notable increase in complaints to firms about this issue, coupled with a similar rise in data subject access requests (DSARs) by consumers and, particularly, claims management companies (CMCs) and other professional representatives. DSARs are a common precursor to complaints.
11. Data received from major motor finance lenders showed that between January 2019 and the end of June 2023, firms closed around 30,000 motor finance commission complaints. While not all of these complaints were about DCAs, it is reasonable to assume that a large proportion of the complaints were related to DCAs given that before the DCA ban was implemented in January 2021, they were generally the most common commission arrangement. The dispute over whether firms are liable to pay redress to consumers is also reflected in the large number of cases relating to DCAs that have been referred to the county courts.

### **Problem under consideration**

12. Since our ban in 2021, firms have been rejecting almost all the DCA complaints they received. This is because they considered themselves to have not acted in an unfair or non-compliant way. They also believed their actions had not caused losses to consumers. Many consumers disagreed with firms' decisions to reject their complaints. As of the beginning of December 2023, approximately 10,000 motor finance commission complaints had been referred to the Financial Ombudsman, of which over 90% were referred since the start of 2022. While not all the motor finance commission complaints referred to the Financial Ombudsman will be about DCAs, given timings, it is reasonable to assume that a significant proportion are.

### **Our proposed intervention**

13. In January 2024, we chose to pause the 8-week deadline for motor finance firms to provide a final response to DCA complaints. We did this to prevent disorderly, inconsistent and inefficient outcomes for consumers and knock-on effects on firms and the market while we assess the issue and determine the best way forward.
14. In practice, our intervention meant that consumers could still complain to their motor finance provider, but the firm would not have to respond to their complaint until after 25 September 2024, at the earliest, when we assumed there would have been more clarity from our diagnostic work. Our consultation proposes to extend this existing temporary pause on complaint handling times for firms, and, by extension, referral to Financial Ombudsman.

### **Rationale for our intervention**

15. The reason we intervened in January 2024 was to break the intensifying cycle of consumers complaining to firms about DCAs and the firms subsequently rejecting many of those complaints because they did not accept liability. This in turn led to high

rates of referrals to the Financial Ombudsman, which alerted other consumers and their representatives to the possibility of receiving redress for the way their motor finance agreement was sold. This led to a significant increase in complaints.

16. We were concerned about an even greater intensification of that cycle (and associated costs, particularly for smaller firms) once the Financial Ombudsman had issued its first decisions upholding DCA complaints. We subsequently made the decision to put complaints on hold while we carry out diagnostic work to understand whether there has been widespread harm and, if so, preserve our ability to make sure redress is provided to consumers in the most orderly, consistent and efficient way.
17. Our extension of this initial intervention will allow us to continue our diagnostic work to give us a clear view on whether firms' conduct means large numbers of consumers are owed redress. Further, it will allow us to consider the outcome of Barclays Partner Finance's judicial review of the Financial Ombudsman Service's decision to uphold a complaint relating to its use of a DCA. Until our diagnostic work is complete, we will be unable to say whether this is the case and, therefore, what our final approach should be. As explained in earlier chapters, the aim of this work is to make sure that consumers are, in the longer term, appropriately compensated in a timely manner.
18. There is also a harm to firms that this intervention will mitigate. There are financial implications for firms having to review and respond to a considerable number of complaints within the 8-week window, and of complaints going through the Financial Ombudsman. This harm is likely to be disproportionately more significant for smaller firms.
19. The harms we are therefore aiming to mitigate through the proposed pause extension can be summarised as follows:
  - disorderly outcomes and market disruptions, with firms incurring significant costs in the short term to review and resolve complaints
  - inconsistent outcomes in consumer redress depending on whether redress is resolved through firm, the Financial Ombudsman, or FCA redress scheme (if applied)
  - inefficient outcomes and delays in the correct redress being paid and potentially unnecessary administrative costs to the Financial Ombudsman and firms

### **Drivers of harm**

20. The drivers of harm that lead to the above harms are a combination of asymmetric information, externalities, and behavioural biases.

### ***Information asymmetry and incomplete information***

21. In the absence of full information about how prices were determined, consumers now remain unaware of whether they are owed compensation by firms, and if so, how much. This makes it difficult for them to challenge a firm on their proposed resolution. The incomplete information also makes it inefficient for the Financial Ombudsman to resolve complaints about systemic issues. The Financial Ombudsman makes decisions

on a case-by-case basis, so must spend time gathering significant data and assessing the merits of each claim without the benefit of a market wide view of outcomes. Time could be saved, and case decisions could be more accurate, by resolving complaints in a systematic way, based on rules which balance the specific features of a case and the general features of all cases in order to reach an efficient and fair outcome.

- 22.** Information asymmetries can also arise if there are disparities in the understanding and interpretation of legal rules and their implications. This can give rise to disputes over liability, leading to firms rejecting virtually all DCA complaints.

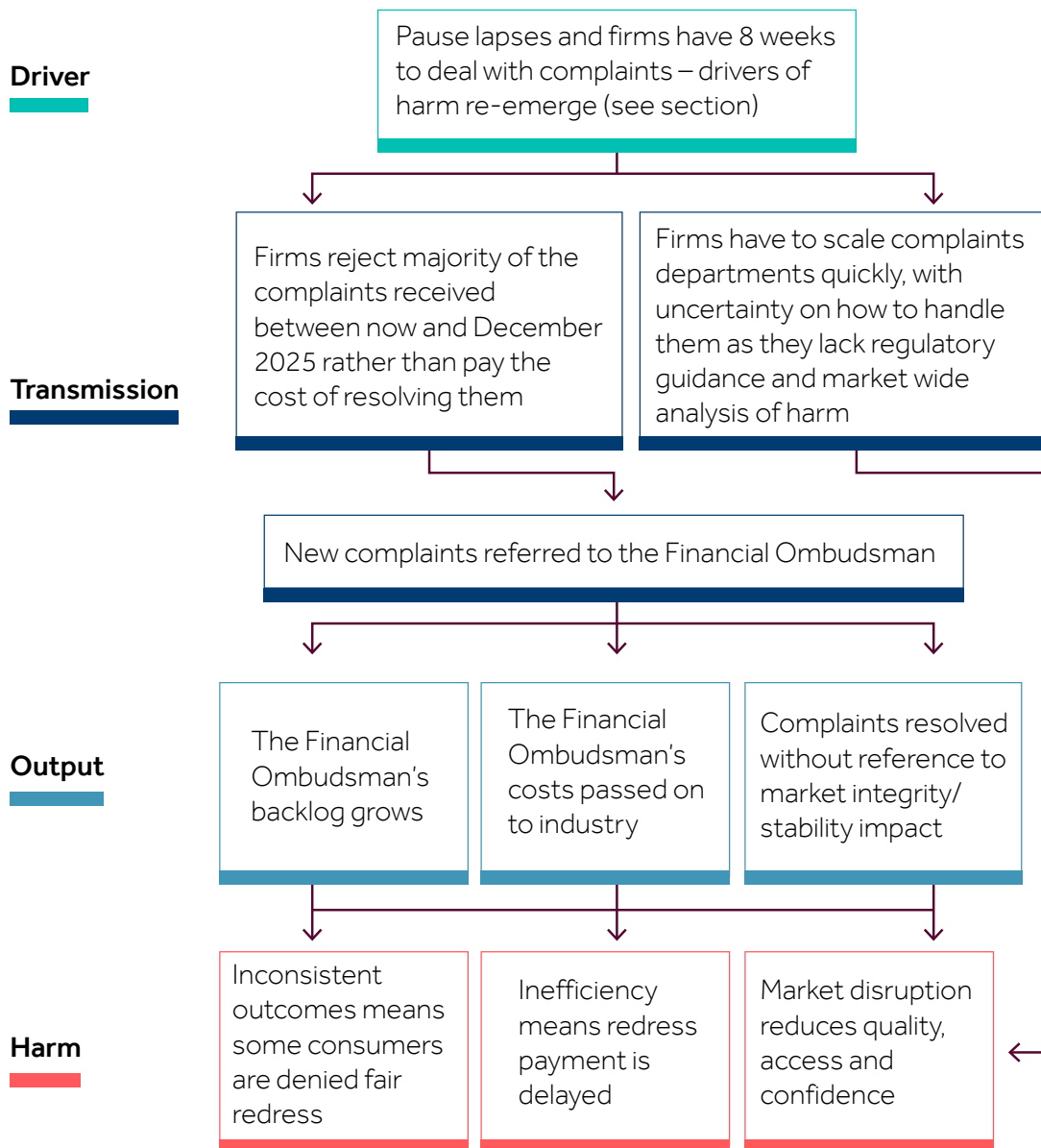
### ***Externality***

- 23.** Although firms pay a case fee where a complaint is referred to the Financial Ombudsman, some of the funding to resolve complaints comes from a levy on all firms. Given only a portion of consumers have historically referred their case to the Financial Ombudsman, firms may be incentivised to reject complaints en masse rather than spend the necessary time assessing them. This could give rise to disorderly outcomes and potentially unnecessary administrative burdens to the Financial Ombudsman. Reducing Financial Ombudsman complaints has a positive externality as it shifts the totality of the burden of resolving complaints back to the firms who have caused the harm.
- 24.** In addition, there may be an inefficient allocation of resources among firms and the Financial Ombudsman, while disputes over liability persist. Potential redress liabilities may, therefore, be compounded by the administrative costs of firms and the Financial Ombudsman having to scale up resourcing to deal with large numbers of complaints in a short space of time. In such instances, firms also face referral costs to the Financial Ombudsman, which are represented by case fees.

### ***Behavioural biases***

- 25.** In the event that firms reject consumer complaints, they could perceive this rejection as a final outcome, rather than exploring further possibilities for compensation, ie submitting their complaint to the Financial Ombudsman. As a result, consumers may not receive the compensation they are actually owed, contributing to inefficient outcomes.
- 26.** A diagrammatical causal chain of the current harm can be seen in Figure 1.

**Figure 1: Causal chain of the current harm**



## Options

27. After considering alternative lengths to the pause extension including 7- and 13-month pauses, we have chosen to consult on a pause extension lasting until December 2025 as we believe this is the optimal amount of time to conclude our diagnostic work. We have considered how long it will take us to undertake the analysis required to ensure we fully understand the impact of the range of interventions available to us to resolve the issues, consult on our chosen intervention, and give appropriate time for it to be implemented. In considering these time-consuming activities, we have to trade off the time they take (and therefore the depth with which we undertake them) against the cost to consumers

of pausing their right. The pause we are proposing in this consultation best trades off these two factors.

- 28.** If we were to proceed with a shorter pause extension length, there is a risk that we may have to limit the depth of our diagnostic work or consult again on extending the pause, creating further uncertainty.

## Our proposed intervention

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- 29.** In January 2024, we published a policy statement that set out rules which meant that firms did not have to provide final responses to DCA complaints within 8 weeks during the period beginning 11 January 2024 and ending 25 September 2024. The rules also gave complainants the right to refer their complaints to the Financial Ombudsman. We are now proposing to extend the pause to the time limits for closing complaints, and the time limit for referring DCA complaints to the Financial Ombudsman. As part of the revised critical path and to facilitate the completion of the work needed to achieve an orderly redress solution, a 15-month pause extension is being proposed. By intervening, we will continue to:

- mitigate the short-term impact on firms and consumers caused by the expected increase in DCA complaints
- preserve our ability, in the longer term, to use the approach to consumer redress that most appropriately balances our statutory objectives

- 30.** As well as reducing the likelihood of firms rejecting almost all DCA complaints they receive, by extending the pause on complaint handling time limits, we will continue to limit the number of complaints that would otherwise end up in the Financial Ombudsman's jurisdiction while we continue our diagnostic work. Once complaints are within the Financial Ombudsman's jurisdiction, there are significant legal, practical, and financial barriers to using our powers to resolve them through alternative approaches that may better meet our statutory objectives.

- 31.** We will use the extended pause to the complaint handling time limits to:

- continue conducting diagnostic work to assess whether the sales of motor finance agreements involving DCAs fell below applicable regulatory and legal standards, resulting in consumers being owed redress
- if necessary, assess the costs and benefits of available alternative mechanisms for providing appropriate redress to any consumers who are owed it

## Causal chain of the intervention

The causal chain of our intervention can be described as follows:

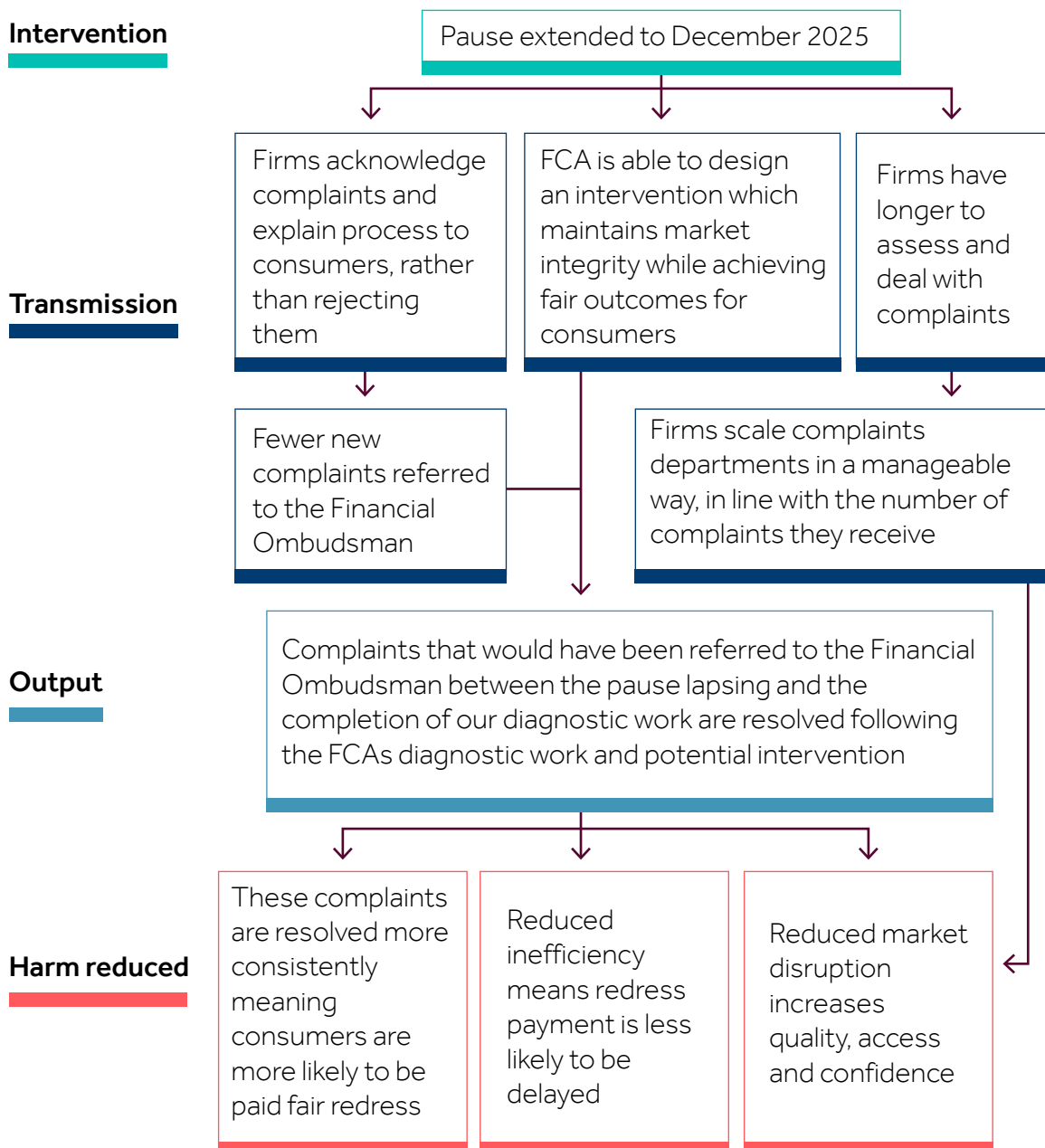
1. the pause is extended to December 2025
2. firms update consumers with existing complaints and use the time to prepare for future complaint resolutions
3. the FCA uses the time to complete its diagnostic work and potentially intervene as



- 4. as a result fewer complaints are referred to the Financial Ombudsman, and more are resolved at a faster rate, following the completion of the FCA's diagnostic work and potential intervention
- 5. for those consumers who would have had their complaint rejected if we do not extend the pause, their complaints are resolved in a more consistent and efficient manner
- 6. for firms, there is reduced disruption as they have more time to prepare

32. Figure 2 shows how our intervention would mitigate the harms presented in Figure 1.

**Figure 2: Causal chain of the intervention**



## Outcomes

- 33.** Extending the pause rules will ensure we can deliver the outcome we said we would deliver when we introduced the pause in January 2024. This is to prevent disorderly, inconsistent and inefficient outcomes for consumers and knock-on effects on firms and the market while we complete our assessment to determine the best way forward. Neither the original pause rules, nor the changes now proposed to extend the rules, prevent consumers or their representatives from lodging DCA complaints with firms or taking legal action against firms.
- 34.** Therefore, a direct outcome of the proposed intervention is that the risk of administrative and financial harm to firms and the Financial Ombudsman presented by the time limits in the complaint handling rules will be mitigated. In addition, an indirect outcome of our intervention is that the risk of harm to consumers of not receiving the appropriate redress or resolution, as a result of firms potentially having to rush through a rapid influx of consumer complaints to meet previous rule limits, is mitigated.

## Baseline and key assumptions

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- 35.** It is necessary to establish a baseline against which to assess the costs and benefits of an intervention to make sure that only those attributable to the intervention are considered. To estimate the costs of our proposed intervention, we compared the expected outcomes of the intervention against the expected outcomes without intervention. The counterfactual scenario we have considered is the pause on complaint handling times not being extended. In the absence of further FCA intervention, we expect an increase in the number of DCA-related complaints rejected by firms and referred to the Financial Ombudsman. Prior to July 2023 there were 30,000 complaints to submitted to firms. We have asked firms to update us on the number they have received since, and their submissions suggest this number has increased by a factor greater than 10. We are still validating this with firms, but this, and the representations from firms that complaints have significantly increased, support the assertion that there are now significantly more complaints with firms than there were prior to the pause.
- 36.** If the pause were to lapse then firms would have 8 weeks to respond to them, after which they would be eligible for referral to the Financial Ombudsman. If these were rejected and referred to the Financial Ombudsman at the same rate as prior to the pause, this would mean Financial Ombudsman complaints, which stood at 10,000 prior to the pause, would also increase by more than 10 times.
- 37.** We expect this to be a conservative estimate of the complaints to firms and the Financial Ombudsman cases under the baseline as we expect further complaints between now and the expiry of the pause in December 2025. We do not expect them to be made at the same rate as when we first announced the pause, so there is no robust way to estimate how many there will be between now and the end of the pause. We would also expect the the Financial Ombudsman referral rate to increase from 30% given the public and CMC attention in this area.

- 38.** We do not provide monetary values for the benefits as we believe it is not reasonably practicable or proportionate to do so, due to the broad nature of the expected benefits; instead, we provide a qualitative description of how the benefits could be derived, and some quantitative indications of the potential scale of the benefits. Unless stated otherwise, all references to 'average' are the mean average.
- 39.** In our analysis, the estimates of one-off costs and ongoing costs are based on our standardised cost model, in which costs depend on a firm's size. The model differentiates between large, medium, and small firms, basing this classification using data on firms' annual FCA fee blocks, and ranking them accordingly. We define the highest-ranking 6 firms as large, the next highest-ranking 37 firms as medium, and the remaining 150 firms as small. We report average cost estimates. As these figures are mean averages, individual firms may experience higher or lower costs than those set out below.

## Summary of impacts

**Table 1: Summary table of benefits and costs**

Group affected	Item description	Benefits (£)		Costs (£)	
		One-off	Ongoing	One-off	Ongoing
Firms	Familiarisation (Direct)			64,000	
	Delayed and avoided Financial Ombudsman case fees	Non-monetisable indirect benefit – final amount contingent on post-diagnostic work intervention			
	Avoided disorderly resolution which could threaten market stability	Non-monetisable indirect benefit			
Consumers	Fair, efficient and consistent redress in the long term	Non-monetisable indirect benefit – final amount contingent on post-diagnostic work intervention			
	A small proportion of consumers may not receive a resolution to their complaint, as quickly as they would have without the pause extension			Non-monetisable indirect cost	

Group affected	Item description	Benefits (£)		Costs (£)	
		One-off	Ongoing	One-off	Ongoing
Financial Ombudsman	Avoided unnecessary administrative burdens from fewer cases being referred to Financial Ombudsman	Non-monetisable indirect benefit			
FCA	Sufficient time to continue conducting our diagnostic work	Non-monetisable direct benefit			
<b>Total</b>				<b>64,000</b>	

## Benefits

40. As stated above, we do not consider it reasonably practicable or proportionate to monetise the benefits of the proposed intervention. Instead, in this section we will provide a qualitative description of how consumers and firms may derive benefits from our intervention.

### Benefits to firms

41. We anticipate that the incurrence of Financial Ombudsman case fees will either be delayed or avoided altogether. This pause means a greater number of complaints will be resolved following our diagnostic work and intervention rather than prior to it. We expect that our diagnostic work and intervention will help firms resolve complaints in a way which reduces the likelihood that a consumer will feel they need to refer the complaint to the Financial Ombudsman.
42. Firms have submitted to us that complaints have increased by more than 10 times, since the implementation of the pause. This is based on a sample size of 48 firms, from our June 2024 information request. While we expect further complaints between now and the expiry of the pause in December 2025, we do not expect them to be made at the same rate as when we first announced the pause. There is no analytically robust way to estimate how many there will be between now and the end of the pause, so we are using this 10 times increase as a lower bound. We anticipate that without intervention, Financial Ombudsman referrals would increase from 10,000 to over 100,000. This is based on the assumption that without the pause, Financial Ombudsman referrals would increase at the same rate as firm complaints. As a result of the pause, these complaints will be resolved by firms following our diagnostic work, rather than by the Financial Ombudsman prior to it. Taking this as a lower bound, by reducing Financial Ombudsman referrals, we reduce expenditure on Financial Ombudsman case fees by approximately £65m. It should be noted that Financial Ombudsman case fees are assumed to be £650 per case. The calculation to reach £65m is as follows:  $100,000 \times £650$ . It should be noted that this is a rough estimation based on 41 firms and unvalidated data and a number of assumptions. It is therefore likely that £65m is an underestimation.

43. We expect some of this cost saving will be offset by firms spending more on managing the complaints themselves in line with the expectation we set following our diagnostic work, so we do not include this in our net cost/benefit.

### ***Benefits to consumers***

44. We expect our intervention will protect firm financial health against the consequences of a disorderly and inconsistent approach to redress. This will benefit consumers as it will limit the consequences to consumer access to motor finance and other related credit markets, and to prices. Given the size of this, and related credit markets, the reach of this benefit is significant.
45. We expect our intervention will bring about fair, efficient and consistent redress in the longer term. This means that consumers would be more likely to be appropriately compensated if wrongdoing is identified.
46. Further, for most consumers, our intervention would also allow for a faster resolution to their complaints. In 2022/3 the Financial Ombudsman opened 165,000 complaints across all sectors. Our lower bound estimate of the number of extra referrals under the baseline, 100,000, is 60% of this amount. Therefore, we would expect it to take multiple years for the Financial Ombudsman to resolve these complaints without a significant uplift in their resources.

## **Costs**

### ***Costs to firms***

47. We expect that the 193 firms directly affected by our intervention, will incur a one-off familiarisation cost. This is based on firms reading and familiarising themselves with the proposal in this consultation paper. As our intervention is a continuation of the status quo, it is probable that familiarisation costs to firms will be minimal.
48. We use our standardised cost model to calculate familiarisation costs (more information on this can be found in Appendix 1 of our publication on [how we analyse the costs and benefits of our policies](#)). We have estimated familiarisation costs to firms based on assumptions on the time required to read 40 pages of non-legal text in the consultation paper. We assume there are 300 words per page and reading speed is 100 words per minute. We estimate that familiarisation for large firms will require 20 members of staff to read the document, with an average salary of £68 per hour, including overheads. For medium-sized firms, we assume 5 staff members with an average salary of £63 per hour, including overheads. For small firms, we assume 2 staff members with an average salary of £52 per hour, including overheads. Based on 6 large firms, 37 medium-sized firms, and 150 small firms, we expect total familiarisation costs of approximately £64,000. It should be noted that this cost is likely an overestimate of the realised cost as firms will be re-familiarising themselves with existing rules, given the proposal is to extend the current status quo, rather than familiarising themselves with new rules.

- 49.** We anticipate firms will incur an ongoing cost from dealing with consumer complaints. We are proposing to make rules that require firms to (1) write to consumers who have received an acknowledgment explaining the pause and (2) write to consumers who have received final response letters, to explain the extension. However, we do not expect the extension of the pause will create an incremental cost, as existing regulations require firms to keep complainants up to date, so they would need to reach out to consumers, should the pause lapse.

### ***Costs to consumers***

- 50.** Our intervention may inadvertently result in consumers having their right to refer a complaint to the Financial Ombudsman suspended. For some consumers, our intervention may deprive them of a quick resolution for an issue they have, which could become more serious the longer we delay a resolution from being reached. For example, if a specific case is straightforward and the consumer is near the front of the queue, the Financial Ombudsman could have passed judgement quickly. However, we expect this unintended consequence will be offset by the majority of consumers having their complaints resolved faster than if we were not to intervene.

### ***Costs to the FCA***

- 51.** We do not expect to incur any additional supervisory, communications or IT and reporting costs as a direct result of the pause extension. However, as the pause extension will enable us to continue our diagnostic work, we anticipate additional resource and time may be allocated to conduct this work, over the duration of the intervention period.

## **Wider economic impacts, including on secondary objective**

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- 52.** We consider our proposal to extend the pause requiring firms to close DCA complaints within 8 weeks is compatible with our international competitiveness and growth objective. The extension is necessary, for the reasons outlined, to allow us to ensure the most orderly, consistent and efficient provision of redress by firms to any consumers who are owed it. The extension will simultaneously manage the significant operational impact on firms and the Financial Ombudsman. In turn, this will indirectly reduce the risk of firms failing. We recognise that this pause could create uncertainty for firms and consumers. However, by meeting our operational objectives in this way, and being transparent around the timescales needed to complete our work, including committing to setting out our next steps by spring 2025, we believe the extension of the pause will contribute to maintaining trust and confidence in our financial markets, and our regulatory framework. This is essential for maintaining sustainable economic growth and international competitiveness.

## Monitoring and evaluation

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- 53.** The potential supervisory success measures, on which we are seeking views, include working jointly with the Financial Ombudsman to monitor the number of DCA complaints referred to it following the implementation of the pause extension. This volume metric will allow us to evaluate the effectiveness of our intervention relative to the number of DCA complaints referred to the Financial Ombudsman prior to our pause extension.

## Annex 3

# Compatibility statement

## Compliance with legal requirements

---

1. This Annex records the FCA's compliance with a number of legal requirements applicable to the proposals in this consultation, including an explanation of the FCA's reasons for concluding that our proposals in this consultation are compatible with certain requirements under the Financial Services and Markets Act 2000 (FSMA).
2. When consulting on new rules, the FCA is required by section 138I(2)(d) FSMA to include an explanation of why it believes making the proposed rules (a) is compatible with its general duty, under section 1B(1) FSMA, so far as reasonably possible, to act in a way which is compatible with its strategic objective and advances one or more of its operational objectives, (b) so far as reasonably possible, advances the secondary international competitiveness and growth objective, under section 1B(4A) FSMA, and (c) complies with its general duty under section 1B(5)(a) FSMA to have regard to the regulatory principles in section 3B FSMA. The FCA is also required by s 138K(2) FSMA to state its opinion on whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.
3. In addition, this Annex explains how we have considered the recommendations made by the Treasury under s 1JA FSMA about aspects of the economic policy of His Majesty's Government to which we should have regard in connection with our general duties.
4. This Annex includes our assessment of the equality and diversity implications of these proposals.
5. Under the Legislative and Regulatory Reform Act 2006 (LRRRA) the FCA is subject to requirements to have regard to a number of high-level 'Principles' in the exercise of some of our regulatory functions and to have regard to a 'Regulators' Code' when determining general policies and principles and giving general guidance (but not when exercising other legislative functions like making rules). This Annex sets out how we have complied with requirements under the LRRRA.

## The FCA's objectives and regulatory principles: Compatibility statement

---

6. The proposals set out in this consultation are primarily intended to our advance consumer protection objective, by ensuring consumers receive appropriate redress; and our market integrity objective, by ensuring the provision of redress to consumers does not increase the risk of disorderly failure and its consequences. These are explained in Chapter 3.



7. In relation to the secondary competitiveness and growth objective, the extension is necessary, for the reasons outlined in Chapter 3, to allow us to ensure the most orderly, consistent and efficient provision of redress by firms to any consumers who are owed it, while at the same time helping to manage the significant operational impact on firms and the Financial Ombudsman and reduce the risk of firms failing. By meeting our primary objectives in this way we help maintain trust and confidence in the UK's financial markets, and our regulatory framework, which is essential for sustainable economic growth and international competitiveness.
8. In preparing the proposals set out in this consultation, the FCA has had regard to the regulatory principles set out in s 3B FSMA.

### **The need to use our resources in the most efficient and economic way**

9. When carrying out our functions, we must also have regard to the need for efficiency, as set out in the regulatory principle that any burden or restriction that regulation imposes on a person, or on the carrying on of an activity, should be proportionate to the benefits that are expected to result from that burden or restriction (s3B FSMA). In our view, it is consistent with this principle to take the necessary steps to determine whether there is a more efficient way overall of providing redress to consumers than through complaints.

### **The principle that a burden or restriction should be proportionate to the benefits**

10. The cost benefit analysis in Annex 2 sets out the costs and benefits for the proposals in this CP. While we recognise there will be a cost for firms in implementing these proposals, we consider that the benefits, such as preventing disorderly, inconsistent and inefficient outcomes for consumers and knock-on effects on firms and the market while we complete our assessment to determine the best way forward, outweigh the costs.

### **The need to contribute towards achieving compliance by the Secretary of State with section 1 of the Climate Change Act 2008 (UK net zero emissions target) and section 5 of the Environment Act 2021 (environmental targets)**

11. This principle is not relevant to our proposals.

### **The general principle that consumers should take responsibility for their decisions**

12. Extending the pause rules will ensure we can deliver the outcome we said we would deliver when we introduced the pause in January 2024. Neither the original pause rules, nor the changes now proposed to extend the rules, prevent consumers or their representatives from lodging DCA complaints with firms or taking legal action against firms.

## Expected effect on mutual societies

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- 13.** The FCA does not expect the proposals in this paper to have a significantly different impact on mutual societies.

## Equality and diversity

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- 14.** We are required under the Equality Act 2010 in exercising our functions to 'have due regard' to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, and to foster good relations between people who share a protected characteristic and those who do not.

As part of this, we ensure the equality and diversity implications of any new policy proposals are considered. The outcome of our consideration in relation to these matters in this case is stated in paragraphs [2.16 to 2.18] of the CP.

## Legislative and Regulatory Reform Act 2006 (LRRRA)

---

- 15.** We have had regard to the principles in the LRRRA for the parts of the proposals that consist of general policies, principles or guidance. We consider that our proposals are consistent with LRRRA principles – that regulatory activities should be carried out in a way which is transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed

## Annex 4

# Abbreviations used in this paper

Abbreviation	Description
DCA	Discretionary Commission Arrangement
ESG	Environmental, Social and Governance
FCA	Financial Conduct Authority
Financial Ombudsman	Financial Ombudsman Service
FSMA	Financial Services and Markets Act 2000

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## Appendix 1

# Draft Handbook text

**DISPUTE RESOLUTION: COMPLAINTS SOURCEBOOK (MOTOR FINANCE  
DISCRETIONARY COMMISSION ARRANGEMENT COMPLAINTS) (AMENDMENT)  
INSTRUMENT 2024**

**Powers exercised**

- A. The Financial Conduct Authority (“FCA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
  - (2) section 137T (General supplementary powers);
  - (3) section 138D (Actions for damages);
  - (4) section 139A (Power of the FCA to give guidance);
  - (5) section 226 (Compulsory jurisdiction); and
  - (6) paragraph 13 (FCA’s rules) of Schedule 17 (The Ombudsman Service).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on [*date*].

**Amendments to the Handbook**

- D. The Dispute Resolution: Complaints sourcebook (DISP) is amended in accordance with the Annex to this instrument.

**Citation**

- F. This instrument may be cited as Dispute Resolution: Complaints Sourcebook (Motor Finance Discretionary Commission Arrangement Complaints) (Amendment) Instrument 2024.

By order of the Board  
[*date*]

## Annex

## Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

**App 5 Relevant motor finance discretionary commission arrangement complaint handling rules**

**App 5.1 Purpose, interpretation and application**

...

Interpretation

App 5.1.2 R (1) For the purposes of this appendix, a relevant motor finance DCA complaint is a *complaint* where:

...

(d) the *respondent*:

(i) received the *complaint* in the period beginning with 17 November 2023 and ending with ~~25 September 2024~~ 4 December 2025; or

(ii) sent a *final response* to the *complaint* in the period beginning with 12 July 2023 and ending with ~~20 November 2024~~ 29 January 2026.

...

...

**App 5.2 Complaint handling rules in respect of a relevant motor finance DCA complaint**

Time limits for a final response, consideration by the Ombudsman and complaints records

App 5.2.1 R (1) This *rule* applies in respect of a *relevant motor finance DCA complaint*:

(a) that is received in the period beginning with 17 November 2023 and ending with ~~25 September 2024~~ 4 December 2025; and

(b) in relation to which a *final response* has not been sent.

(2) For the purpose of calculating the eight-week period in:

- (a) *DISP* 1.6.2R;
- (b) *DISP* 1.6.7G;
- (c) *DISP* 2.8.1R(2); and
- (d) *DISP* 2.8.1R(4)(a),

time is to be treated as not running for the period of ~~thirty-seven weeks~~ beginning with 11 January 2024 and ending with ~~25 September 2024~~ 4 December 2025.

(3) The three-year period in *DISP* 1.9.1R(2) (Complaints record rule) is to be treated as not running for the period beginning with 11 January 2024 and ending with ~~25 September 2024~~ 4 December 2025.

5.2.1A G *DISP* 5.2.1R(2) has the effect of extending the period during which the eight weeks referenced in the specified provisions are not treated as running for relevant motor finance DCA complaints received between 17 November 2023 and 4 December 2025. For relevant complaints that were received between 17 November 2023 and 25 September 2024, the time period had previously been modified (see [Dispute Resolution: Complaints Sourcebook \(Motor Finance Discretionary Commission Arrangement Complaints\) Instrument 2024 \(FCA 2024/1\)](#)).

#### Time limits for referring a complaint to the Ombudsman

App 5.2.2 R (1) ~~Where This rule applies where a final response to a relevant motor finance DCA complaint is sent in the period beginning with 12 July 2023 and ending with 20 November 2024, the six-month period in *DISP* 2.8.2R(1) is extended to fifteen months~~ 29 January 2026.

(2) If a final response is sent in the period beginning with 12 July 2023 and ending with 29 April 2025, *DISP* 2.8.2R(1) is modified so that the Ombudsman cannot consider a complaint if it is referred to the Financial Ombudsman Service on or after 30 July 2026.

(3) If a final response is sent in the period beginning with 30 April 2025 and ending with 29 January 2026, *DISP* 2.8.2R(1) is modified so that the Ombudsman cannot consider a complaint if it is referred to the Financial Ombudsman Service more than fifteen months after the date on which the respondent sent the complainant its final response.

App 5.2.2A G *DISP* 5.2.2R has the effect of extending the time in which a relevant motor finance DCA complaint can be referred to the Financial Ombudsman Service. This includes those complaints in relation to which a final response was sent

between 12 July 2023 and 25 September 2024 where the six-month period in *DISP* 2.8.2R(1) was previously extended to fifteen months (see [Dispute Resolution: Complaints Sourcebook \(Motor Finance Discretionary Commission Arrangement Complaints\) Instrument 2024 \(FCA 2024/1\)](#)).

- App 5.2.3 R (1) This *rule* applies in respect of a *relevant motor finance DCA complaint* where a *final response* is sent in the period beginning with 11 January 2024 and ending with 20 November 2024.
- (2) For the purpose of complying with *DISP* 1.6.2R(1)(f), the appropriate wording to include in a *final response*, as set out in *DISP* 1 Annex 3R(1), (2) and (3), is modified so that the references to ‘six months’ in these *rules* are substituted with ‘fifteen months’. ~~[deleted]~~

#### Communicating with consumers

- App 5.2.4 R (1) A *respondent* must update any information it has published pursuant to *DISP* 1.2.1R(1) as soon as is practicable to:
- (a) inform consumers of the pause to time limits for a *final response* as set out in *DISP* App 5.2.1R(2); and
- (b) refer them to ~~fea.org.uk/car-finance-complaints~~ [fca.org.uk/carfinance](https://www.fca.org.uk/carfinance), which explains the reason for the pause.
- (2) This rule applies until 21 November 2024 23:59 on 29 January 2026.

#### Communicating with complainants

- App 5.2.5 R In relation to a *relevant motor finance DCA complaint* received in the period beginning with 11 January 2024 and ending with 25 September 2024:
- (1) ~~*DISP* 1.6.1R applies as modified by this rule.~~
- (2) ~~Where a *respondent* has:~~
- (a) ~~on or before 10 January 2024 sent a written acknowledgement in accordance with *DISP* 1.6.1R(1) but has not sent a *final response* in accordance with *DISP* 1.6.2R(1), the *respondent* must:~~
- (i) ~~promptly inform the complainant in writing of the pause to the time limits as set out in *DISP* App 5.2.1R(2); and~~
- (ii) ~~comply with (3);~~
- (b) ~~not, on or before 10 January 2024, sent a complainant a written acknowledgement in accordance with *DISP* 1.6.1R(1), and has~~



not sent a *final response* in accordance with *DISP* 1.6.2R(1), the *respondent* must:

- (i) explain the pause to time limits set out in *DISP* App 5.2.1R(2) when complying with *DISP* 1.6.1R(1); and
- (ii) comply with (3).

- (3) A *respondent* must direct the complainant to the information published at [fca.org.uk/car-finance-complaints](http://fca.org.uk/car-finance-complaints), which explains the reason for the pause. [deleted]

App  
5.2.5A

R (1) This rule applies where a *respondent*:

- (a) received a *relevant motor finance DCA complaint* in the period beginning with 17 November 2023 and ending with 25 September 2024; and
- (b) has not sent a *final response* in relation to that *complaint*.

(2) A *respondent* must:

- (a) promptly inform the complainant in writing of the extension to the pause to time limits as set out in *DISP* App 5.2.1R(2); and
- (b) direct the complainant to the information published at [fca.org.uk/carfinance](http://fca.org.uk/carfinance), which explains the reason for the pause.

App  
5.2.5B

G *DISP* App 5.2.5AR means that a *respondent* who sent a written acknowledgment to a *DCA complaint* in the period beginning with 17 November 2023 and ending with 25 September 2024 should update the complainant that the pause to the eight-week period to send a *final response* now ends with 4 December 2025.

App  
5.2.5C

R (1) This rule applies where a *respondent* receives a *relevant motor finance DCA complaint* in the period beginning with 26 September 2024 and ending with 4 December 2025.

(2) When a *respondent* sends a written acknowledgement in accordance with *DISP* 1.6.1R(1), they must also:

- (a) inform the complainant in writing of the pause to the time limits as set out in *DISP* App 5.2.1R(2); and
- (b) direct the complainant to the information published at [fca.org.uk/carfinance](http://fca.org.uk/carfinance), which explains the reason for the pause.

## Communicating the Financial Ombudsman Service temporary time limits

- App 5.2.6 R (1) ~~This rule applies to a relevant motor finance DCA complaint where a final response is sent in the period beginning with 12 July 2023 and ending with 20 November 2024.~~
- (2) ~~Where, in accordance with DISP 1.6.2R(1), a respondent has on or before 10 January 2024 sent a complainant a final response, the respondent must promptly in writing inform the complainant that:~~
- ~~(a) the time limit to refer the complaint to the Financial Ombudsman Service has been extended to fifteen months beginning with the day on which the respondent sent its final response;~~
- ~~(b) the six month time limit contained in the Financial Ombudsman Service's standard explanatory leaflet does not apply; and~~
- ~~(c) the information at [fca.org.uk/car-finance-complaints](http://fca.org.uk/car-finance-complaints) explains the reason for the extension.~~
- (3) ~~Where a respondent has not on or before 10 January 2024 sent a complainant its final response, it must, when complying with DISP 1.6.2R(1):~~
- ~~(a) explain that the time limit to refer the complaint to the Financial Ombudsman Service is fifteen months beginning with the day on which the respondent sent its final response; and~~
- ~~(b) provide the information contained in (2)(b) and (c). [deleted]~~
- App 5.2.7 R (1) This rule applies to a relevant motor finance DCA complaint where a final response was sent in the period beginning with 12 July 2023 and ending with 25 September 2024.
- (2) A respondent must:
- (a) promptly inform the complainant in writing that the time limit to refer the complaint to the Financial Ombudsman Service now ends with 29 July 2026; and
- (b) direct the complainant to the information published at [fca.org.uk/carfinance](http://fca.org.uk/carfinance), which explains the reason for the extension.
- App 5.2.8 G DISP App 5.2.7R means that a respondent who sent a final response to a complainant in the period beginning with 12 July 2023 and ending with 25 September 2024 should update that complainant that the time limit to refer

the complaint to the Financial Ombudsman Service pursuant to DISP 2.8.2R(1) has been extended to 29 July 2026.

App  
5.2.9

- R (1) This rule applies to a relevant motor finance DCA complaint where a final response is sent in the period beginning with 26 September 2024 and ending with 29 January 2026.
- (2) When providing a final response in accordance with DISP 1.6.2R(1), a respondent must:
- (a) inform the complainant that the time limit to refer the complaint to the Financial Ombudsman Service has been extended in accordance with DISP App 5.2.2R;
  - (b) set out the date by which the complainant must refer the complaint to the Financial Ombudsman Service;
  - (c) explain that the six-month time limit contained in the Financial Ombudsman Service’s standard explanatory leaflet does not apply; and
  - (d) direct the complainant to the information published at [fca.org.uk/carfinance](https://www.fca.org.uk/carfinance), which explains the reason for the extension.
- (3) For the purpose of complying with DISP 1.6.2R(1)(e) and (f) (if applicable), the wording to include in a final response is modified so that:
- (a) references to ‘within six months of the date of this letter’ in DISP 1 Annex 3R(1) and (2), are substituted with either:
    - (i) ‘on or before 29 July 2026’ if a respondent sends a final response on or before 29 April 2025; or
    - (ii) ‘within fifteen months of the date of this letter’ if a respondent sends a final response on or after 30 April 2025; and
  - (b) the reference to ‘is usually six months’ in DISP 1 Annex 3R(3) is substituted with either:
    - (i) ‘is, in this case, on or before 29 July 2026’ if a respondent sends a final response on or before 29 April 2025; or
    - (ii) ‘is, in this case, fifteen months’ if a respondent sends a final response on or after 30 April 2025.

**App 5.3 General record retention**

App  
5.3.1

R (1) *Lenders and credit brokers* must retain and preserve records:

...

(2) The requirement in (1) applies:

(a) regardless of whether a *relevant motor finance DCA complaint* has been made; and

(b) in the period beginning with 11 January 2024 and ending with ~~10 January 2025~~ 11 April 2026.

...

