

Motor finance complaints on hold: Why now is the time for strategic action

10 September 2024

Many motor finance firms will be glad that the deadline for final responses to customer complaints on discretionary commission arrangements (DCA) has been extended to at least 4 December 2025.

Nevertheless, firms should be mindful of the potential wider range of regulatory requirements and should use the time available to reflect on compliance. We explain below how this can be done.

Background

Responding to an increase in complaints about motor finance, the FCA is assessing whether a significant volume of consumers are due redress from motor finance firms because they paid too much for car loans as a result of a DCA.

Complaints about DCAs are being hailed as the new PPI. Whilst comparisons with PPI have previously been made in respect of various financial products, the commercial and regulatory effects have not been as extensive. However, the scale of the motor finance market (serving 2 million customers a year) and an increase of 10,000 complaints to the Financial Services Ombudsman (FOS) between May and July 2024 suggests that this time, the analogy may be apt.

The recent consultation

The FCA reported that many firms struggled to supply the necessary data within the original timescale. In a consultation that closed on 28 August 2024, consumers who had taken out motor finance agreements, motor finance providers and others in the industry were invited to consult on various questions, including whether:

- the complaint response pause should be extended until at least 4 December 2025;
- the time limit for referring DCA complaints to FOS should be extended until at least 29 July 2026;
- firms should be required to inform complainants of the pause when acknowledging a complaint in writing, and should update customers who have already been made aware of the proposed extension;
- firms and brokers should be required to keep relevant records for longer to account for the pause.

The FCA has indicated that feedback and final rules will be published in a final policy statement by 24 September 2024.

Next steps

The industry must await further guidance until May 2025. By then, the FCA expects to have assessed the outcome of Barclays Partner Finance's judicial review action in respect of the Financial Ombudsman Service's decision to uphold a particular DCA complaint, along with other relevant Court of Appeal judgments and analysed firms' data.

The FCA has indicated that next steps could involve consulting on a redress scheme and/or asking firms to resume dealing with complaints in the usual way. Early signs are that the FCA is expecting to make a substantial supervisory or enforcement intervention in the motor finance market, and redress seems likely. Whether this will be similar to the PPI scheme introduced following the decision in

Plevin, also concerned with secret commission, remains to be seen. Firms involved in that scheme will remember well the time that it took to clear the backlog of complaints which built from a similar pause.

Be proactive

As set out above, under modified Dispute Resolution: Complaints (DISP) Rules, firms have additional time to respond to qualifying motor finance complaints. Customers have extra time to refer their complaint decision to FOS.

Notwithstanding the extended deadlines, firms can continue to review motor finance complaints with a view to understanding trends and wider ramifications (including for governance, operational, risk and compliance systems and controls) and taking appropriate action before formal responses are prepared. As a minimum first step, firms need to ensure that the modified DISP Rules (and the extended timescales) apply to any complaint that has been put on pause.

Rather than wait for the next FCA update, it is prudent for firms to be proactive in collating and analysing their business records on DCAs. Browne Jacobson's specialist complaints team can help firms ensure that systems and processes are in place to assess complaints so that swift action can be taken when the FCA publishes its next steps.

Stay informed

Helen and Lisa are happy to discuss any questions or queries you may have, so please don't hesitate to contact either on the contact details below.

Alternatively, please email motorfinance@brownejacobson.com to register your interest in future events and to receive further information direct to your inbox.

Key contact

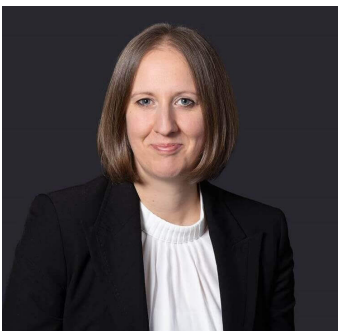


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