

Consultation Paper CP24/22***

Further temporary changes to
handling rules for motor finance
complaints

November 2024

How to respond

We are asking for comments on this Consultation Paper (CP) by **5 December 2024**.

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

Or in writing to:

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

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Chapter 1

Update on our work on motor finance commission arrangements following the Court of Appeal's judgment

- 1.1** Following the Court of Appeal's recent judgment on motor finance commission, we are proposing new complaint handling rules. Our proposed rules apply to any complaint about a motor finance regulated credit agreement where there was a commission arrangement not already subject to the rules we introduced earlier this year for complaints about discretionary commission arrangements (DCAs). In this Consultation Paper (CP) and in our draft rules, we refer to this type of complaint as a "motor finance non-DCA commission complaint". Our proposed rules for motor finance non-DCA commission complaints mirror, as far as possible, the DCA complaint handling rules. This includes extending the time firms have to deal with complaints. However, this consultation also considers whether our proposed rules should have a different end date for the extension.
- 1.2** As we explain in more detail in Chapter 3, our proposals will help to protect consumers who may be owed redress, while ensuring the motor finance market continues to function well for consumers in the future.

The Court of Appeal's judgment in Johnson and others

- 1.3** The 3 joined appeals to the Court of Appeal of Johnson v FirstRand Bank Ltd, Wrench v FirstRand Bank Ltd and Hopcraft v Close Brothers Ltd ("Johnson and others") involved commission arrangements of those motor finance lenders. The Court of Appeal's judgment, handed down on 25 October 2024, represents a significant development in the case law in this area.
- 1.4** The judgment sets out how the law concerning "secret commissions" and fiduciary duties can create specific obligations on firms in the motor finance sector. Importantly, the case is relevant not only to DCAs but also to non-discretionary commission arrangements, such as fixed commission. The judgment also discusses remedies for the breaches it found in those cases. The basis of the judgment is common law and equitable principles, rather than FCA rules. The interpretation of common law is rightly for the courts.
- 1.5** It is likely that the judgment will result in an increase in motor finance non-DCA commission complaints. This will create additional pressures on firms and the Financial Ombudsman Service (Financial Ombudsman). We are concerned this could undermine our ability to ensure that, in the longer term, those complaints are also dealt with in an orderly, consistent and efficient way, as we are seeking to ensure for DCA complaints.

- 1.6** In Chapter 3 we give our analysis of the immediate impact of the Court of Appeal's judgment on complaint volumes. On balance, we consider there is a strong case for introducing complaint handling rules that give firms extra time to deal with motor finance non-DCA commission complaints not currently covered by the DCA complaint handling rules. This would ensure consistent treatment of complaints about all types of motor finance commission.
- 1.7** Extending the time firms have to deal with these complaints will also allow time to see the outcome of any appeal by FirstRand Bank or Close Brothers for permission to appeal the Court of Appeal's judgment to the Supreme Court. This will help ensure the way that these complaints are resolved in the longer term can take account of future developments in the legal position on liability. The firms have publicly stated their intention to apply for permission, so we have assumed for the purposes of this CP that they will do so. Once this has happened, we will write to the Supreme Court to request that it decides the application as quickly as possible.
- 1.8** In Chapter 4, we have proposed 2 options for how long we should extend the time limits for motor finance non-DCA commission complaints. One option is to simply align the time limits with the DCA complaint handling rules, which are due to end on 4 December 2025. This option would include the same commitment as for the DCA complaint handling rules to bring this date forward if we do not need all this time to ensure an orderly, consistent and efficient resolution to affected complaints. A second option is an end date of 31 May 2025. This reflects our current best estimate for how long it could take to find out if the Supreme Court has granted permission to any application to appeal the Court of Appeal's judgment and, if necessary, respond by putting further measures in place.

Background

- 1.9** In January, we started our review of the use of DCAs between motor finance lenders and brokers. This followed our decision to ban DCAs in 2021 because of the harmful incentive they gave brokers to increase the interest rate a customer pays for their motor finance.
- 1.10** The objectives of our review are:
- To identify whether there had been widespread misconduct in using DCAs that caused consumers to lose out. This included, if we considered it necessary or appropriate, to resolve contested legal issues of relevance.
 - If consumers have lost out, to decide how to best make sure those owed compensation get it in an orderly, consistent and efficient way. This would also take into account the importance of securing the ongoing effective functioning of the motor finance market, which provides significant value to consumers and wider society.
- 1.11** It is important to prevent disorderly, inconsistent and inefficient outcomes for consumers and knock-on effects on firms, the Financial Ombudsman, and the market while we assess and decide these issues. To do this we made special complaint handling

rules on January 20 2024. Among other things, the rules extended the usual 8-week deadline for motor finance firms to provide a final response to DCA complaints until 25 September 2024. The rules are in Appendix 5 the Dispute Resolution: Complaints sourcebook of the FCA Handbook (DISP App 5).

- 1.12** On 24 September 2024, following public consultation, we made rules that extended this period until 4 December 2025. We explained this was necessary because it had taken us longer than expected to get the data we needed from firms for our review. Extending until 4 December 2025 was a precautionary measure. It was based on the amount of time we would need to potentially implement the most resource intensive redress intervention - a statutory consumer redress scheme, if we decided this was appropriate. We said we would bring this date forward if we decided that such an intervention or any intervention at all was not needed and that we would update stakeholders on next steps in May 2025.
- 1.13** We also said the extra time would mean we could assess the outcome of several cases in the courts involving legal issues that appeared highly relevant to our work. These were a judicial review launched by Clydesdale Financial Services Limited trading as Barclays Partner Finance (BPF) of the Financial Ombudsman's decision to uphold a complaint about BPF's use of a DCA and the 3 appeals to the Court of Appeal discussed above.
- 1.14** The Barclays judicial review was heard by the Administrative Court on 15-17 October. We are awaiting the outcome. As set out above, the Court of Appeal handed down its judgment in Johnson and others on 25 October 2024.

Chapter 2

Further temporary changes to handling rules for motor finance complaints

2.1 This chapter summarises our proposed rules for motor finance non-DCA commission complaints, following the Court of Appeal's judgment in Johnson and others. Chapter 4 gives more detailed explanation including discussing if we should extend the time limit for responding to motor finance non-DCA commission complaints to 31 May 2025 or 4 December 2025. However, in substance, the proposed rules would work in the same way as the DCA complaint handling rules, with which many stakeholders will already be familiar.

Who this applies to

2.2 The proposals in this CP are directly relevant to:

- consumers who have taken out motor finance agreements involving commission arrangements
- motor finance providers
- motor finance credit brokers, including motor dealers
- professional representatives bringing complaints about commission to motor finance providers and credit brokers, including claims management companies (CMCs) regulated by the FCA

2.3 This CP will also interest consumer organisations and trade bodies representing the motor finance and professional representative sectors.

2.4 While the proposed rules would give firms longer to deal with motor finance non-DCA commission complaints, consumers can still complain to firms and there are time limits for doing so. Consumers can find out on [our website](#) how our work applies to them and how to make a complaint. Our proposed rules do not prevent consumers taking legal action against firms through the courts.

Consumers who have been told their motor finance agreement did not involve a DCA

Following our announcement on DCA complaints, many consumers contacted their motor finance provider to find out, before submitting a complaint, if their agreement involved a DCA. Any consumer who was told that they did not have a DCA and so did not submit a complaint may now want to make a motor finance non-DCA commission complaint following the Court of Appeal's judgment.

Some consumers may have made a complaint without being entirely sure if their agreement involved a DCA. These consumers may also have received a

final response rejecting their complaint because their complaint was about DCA commission but their agreement did not involve a DCA. In these cases, we expect firms to allow consumers to make a new complaint about commission. This should give consumers the opportunity to have their complaint investigated by the firm in line with the complaint handling rules in DISP, taking account of the Court of Appeal's judgment, before deciding whether to refer the matter to the Financial Ombudsman. Any new complaint would be covered by the complaint handling rules proposed in this consultation.

If a consumer has already received a final decision from the Financial Ombudsman, whether the Financial Ombudsman will consider the complaint again will depend on whether material new evidence, which the Ombudsman considers likely to affect the outcome, has subsequently become available to the consumer.

What we want to change

- 2.5** We propose to mirror, as far as possible, the DCA complaint handling rules in DISP App 5 for motor finance non-DCA commission complaints (ie complaints about agreements that did not involve a DCA).
- 2.6** The main changes we propose are:
- The requirement to provide a final response to such complaints and give complainants the right to go to the Financial Ombudsman within 8 weeks would be suspended until either 31 May 2025 or 4 December 2025 (see paragraphs 4.7-4.22).
 - Consumers who receive a final response to such complaints will have until the later of 15 months from when the final response is sent or 29 July 2026 to decide whether to refer their complaint to the Financial Ombudsman.
 - Firms will have to maintain and preserve relevant records.
- 2.7** The DCA complaint handling rules will not be affected by these proposals. Until we understand more about any appeal of the Court of Appeal's judgment to the Supreme Court, it is appropriate to keep the DCA complaint handling rules separate from the rules for motor finance non-DCA commission complaints proposed in this CP.

Outcome we are seeking

- 2.8** Our proposed rules would help make sure that, following the Court of Appeal's judgment and the expected sharp and significant increase in complaints to firms, consumers receive an orderly, consistent and efficient outcome in the longer term. As we explain in Chapter 3, all motor finance market participants, as well as wider society, have an interest in this outcome. As with our work on DCA complaints, securing this longer-term outcome may require further regulatory intervention. For example, a statutory consumer redress scheme or special complaint handling rules and guidance for all motor finance commission complaints. At this stage, it is still too early to say whether we will intervene and, if we do, which complaints any intervention would apply to.

- 2.9** The proposed rules will reduce the risks to good longer-term outcomes caused by the short-term operational and financial challenges that firms and the Financial Ombudsman would face if they had to respond to a significant increase in motor finance non-DCA commission complaints within the 8-week period currently required. They would also address the risk of inconsistent treatment of complaints about different types of motor finance commission affected by the Court of Appeal's judgment.

Progressing complaints while our proposed rules are in force

- 2.10** As with our DCA complaint handling rules, the main effect of the proposed rules in this CP is to extend the time limits for firms responding to motor finance non-DCA commission complaints and providing referral rights to the Financial Ombudsman. The rules would not remove the obligations on firms to progress complaints under the DISP rules. This includes continuing to investigate and collect evidence to help with the eventual resolution of these complaints, taking into account all relevant factors (including the Court of Appeal's judgment).
- 2.11** We propose to define a motor finance non-DCA commission complaint in a broad way. We define it as a non-DCA complaint that was received or responded to by a firm within the periods specified in the rules (see Chapter 4), which is about a regulated credit agreement for the purchase, hire or bailment of a motor vehicle, where the lender paid commission of any kind to the credit broker. This means our proposed rules would apply in principle to complaints that are not expressly about motor finance commission.
- 2.12** We have opted for a broad definition because we want to make the rules as straightforward as possible and easy for firms and the Financial Ombudsman to implement. This was also why we defined DCA complaints in a similarly broad way. As we explain in paragraphs 3.27-3.29, in practice, we expect firms to progress complaints where commission is not a relevant consideration to the complaint under DISP, as they normally would. We do not expect them to apply the extension, as this would deprive consumers with these complaints of a timely response

Maintaining financial resources to cover debts and liabilities

- 2.13** The proposed rules in this CP do not change the requirement for firms to comply with the threshold conditions, including the need to have appropriate financial resources to cover their debts and liabilities. In light of the clarification from the Court of Appeal's judgment, firms should consider, as a number have already done, any provisions they need to make to deal with potential administrative and redress costs. We recognise that this will be a matter considered by firms' boards, audit committees and external auditors as they finalise their year-end accounts.

Measuring success

- 2.14** Our cost benefit analysis (CBA) of the proposed rules (Annex 2) explains that, a key measure of success will be whether, compared to a scenario in which we took no action, it reduces the number of motor finance non-DCA commission complaints referred

to the Financial Ombudsman and increases the number of complaints firms deal with themselves. We have been working closely with the Financial Ombudsman to monitor the volume of DCA complaints it receives and will expand this cooperation to cover motor finance non-DCA commission complaints.

- 2.15** Ultimately, we will judge the success of our proposed rules in terms of whether they enable us to deliver an orderly, consistent and efficient outcome for all motor finance non-DCA commission complaints (see paragraph 2.8).
- 2.16** Our proposed rules are consistent with the objectives that we and the Financial Ombudsman set out in our recent [call for input on modernising the redress framework](#). In our call for input, we recognised that the current redress framework works well for individual customer complaints about specific issues. However, challenges can occur when there are large numbers of complaints about the same issue.

Next steps

- 2.17** Please consider our questions in Annex 1 of this paper and send us your responses by 5 December 2024.
- 2.18** We hope to publish our feedback and our policy statement by 19 December 2024.

Chapter 3

The wider context

The harm we are trying to reduce/prevent

- 3.1** We want to ensure that, in the longer term, firms meet their due liabilities to consumers in an orderly, consistent, and efficient way. Because of the Court of Appeal's judgment, these liabilities may be greater than firms were expecting.
- 3.2** Our proposed rules will give firms more time to respond to motor finance non-DCA commission complaints than currently permitted, before they become eligible for referral to the Financial Ombudsman. This will reduce the risks to achieving this longer-term outcome caused by significantly increased complaint volumes in the short term. As we explain in this chapter, our proposals will help to protect consumers who may be owed redress, while ensuring the motor finance market continues to function well for consumers in the future.

Why we expect complaints to firms to increase

- 3.3** Following the Court of Appeal's judgment we expect volumes of all motor finance complaints to increase sharply and significantly. The judgment has received considerable media coverage and attention from high profile consumer advocates. CMCs and other professional representatives have also started to refer to the judgment in their marketing. Based on data from the Financial Ombudsman about complaints it has seen to date, we estimate that approximately 90% of motor finance complainants have professional representation.
- 3.4** We expect to see the largest increase in complaints about motor finance agreements that did not involve a DCA. As DCAs were banned in 2021, there have also been more motor finance agreements that did not involve a DCA made since 2007 (the year that complaints about motor finance business came under the Financial Ombudsman's jurisdiction). Non-DCA agreements represent around 57% of the 31.7m regulated motor finance agreements brokered on behalf of authorised lenders since 2007, with the rest being DCA agreements.
- 3.5** The best indicator of what could happen to these complaints is what happened to DCA complaints made to firms in the first 3 months from January 2024, after the Financial Ombudsman issued its first decisions upholding them. By the end of March, the major banks and non-bank lenders in our sample (representing 82% of the motor finance market) had received around 335,000 DCA complaints. As set out in Table 1, between the end of January and the end of February, volumes increased more than fivefold.

Table 1: DCA complaints received by firms January-March 2024

	Number of DCA complaints received		
	January 2024	February 2024	March 2024
Banks	10,957	54,463	93,681
Non-bank lenders	11,306	93,724	70,615
Total	22,263	148,187 (+565%)	164,296 (+11%)

Source: FCA analysis of complaints data provided by major bank and non-bank lenders

3.6 Using data on DCA complaints from firms since January and information we hold about the wider market, we have estimated in our CBA (Annex 2) that the banks and non-bank lenders in our sample could receive similar, if not greater, numbers of motor finance non-DCA commission complaints by the end of January 2025. We think numbers could be greater because there are more non-DCA agreements than DCA agreements, as set out in paragraph 3.4.

How rising complaints will affect firms, the Financial Ombudsman, consumers and the motor finance market

3.7 Without our proposed rules, firms would have 8 weeks to acknowledge, investigate, and provide a final, substantive response to these complaints. In our [call for input on modernising the redress framework](#), we discussed the significant operational challenges that processing significant numbers of complaints within this time period can cause firms. In this case, as well as the difficulties of managing these complaint volumes, we would expect the age of many of the agreements in question to cause firms significant extra challenges. Firms may need to carry out extensive searches of their archives to find the information needed to consider the complaints and/or have to request it from brokers with whom they may no longer have commercial relationships.

3.8 Alternatively, firms could, in line with our rules, send a holding response asking consumers for more time to resolve the complaint. We consider this a distinct possibility, given the stated intention of the 2 lenders affected to seek permission to appeal the Court of Appeal's judgment to the Supreme Court. Both firms and the Financial Ombudsman will be better placed to appropriately resolve complaints once there is a definitive ruling from the Supreme Court.

3.9 Under our rules, the consumer has the right to refer their complaint to the Financial Ombudsman 8 weeks after they complained to their firm. This happens regardless of whether a consumer has been given a holding response or no response. Without any intervention, we think many firms will face the prospect of large numbers of these complaints being referred to the Financial Ombudsman. This is because, on current resourcing, firms are unlikely to be able to provide a final, substantive response to these complaints within 8 weeks. Where firms issue holding responses, we think professional representatives will be increasingly less likely to agree to give firms extra time to resolve complaints. This is particularly likely given the expectation that the Financial Ombudsman will introduce fees next financial year for professional representatives bringing complaints.

Why we want to prevent large numbers of complaints being referred to the Financial Ombudsman

- 3.10** If just half of the complaints we have estimated firms could receive in the next 3 months were referred to the Financial Ombudsman, this would be similar to the number of new complaints the Financial Ombudsman typically expects to receive overall a full year.
- 3.11** We know the Financial Ombudsman has established casework procedures to deal efficiently with large numbers of complaints presenting similar issues and that it can scale up its operations to deal with a significant and sustained influx of complaints about a particular type of product.
- 3.12** However, receiving exceptional and significant volumes of complaints because firms are not operationally ready to deal with them would place significant and unnecessary pressure on the Financial Ombudsman. This would be compounded by the uncertainty around whether the Court of Appeal's decision will be appealed to the Supreme Court. This could result in even longer resolution times for consumers than is the case today.
- 3.13** Additionally, as a general principle, the costs of dealing with large-scale consumer redress issues should be met by the firms who may need to provide redress to consumers. However, the Financial Ombudsman's funding model means that around 35% of the costs of handling cases are funded by all firms that pay the Financial Ombudsman's levy.
- 3.14** Once cases are in the Financial Ombudsman's jurisdiction, they become chargeable at £650 per case. Case fees, along with the administrative costs of participating in the Financial Ombudsman's procedures, will increase firms' potentially significant liabilities following the judgment.
- 3.15** We know that firms will have to meet their obligations under the law. In these circumstances, some aspects of our complaint handling arrangements, particularly timeframes for resolving complaints before Financial Ombudsman referral rights (and case fee and other administrative costs) are triggered, risk significantly worsening the financial pressures firms already face from redress liabilities. It is in nobody's interests for firms to incur significant costs that increase the risk of them failing (and so not being able to meet their legal obligations) if those costs can be avoided without unduly harming consumers.
- 3.16** In the short term, firm failure could mean individual consumers not getting back all the redress they are owed. If this happens, consumers will have to absorb some of their losses, as consumer credit lending is not protected by the Financial Services Compensation Scheme (FSCS). In the longer term, if firm failure or exit leads to a less competitive motor finance market, this could harm consumers through higher borrowing costs and/or reduced access to credit in a market that provides significant benefits to consumers and the wider economy.
- 3.17** We are also concerned about the risk of inconsistent outcomes for consumers if we did not introduce our proposed rules. If large numbers of individuals are owed redress because of failings by motor finance firms, it is essential for public confidence in regulation, as well as to satisfy principles of fairness and justice, that as many of those

consumers as possible are treated equally and consistently. However, without our proposed rules, we risk not achieving this outcome because:

- there could be a 'first mover advantage', with consumers who complained first potentially receiving more redress than others if firms fail
- consumers whose credit agreement involved a DCA would be treated differently from those whose credit agreement did not involve a DCA, despite both groups of consumers having complaints about commission

3.18 Finally, throughout this CP, we note we may need to consider if it would be appropriate for us to intervene further to ensure the orderly, consistent, and efficient resolution of motor finance non-DCA commission complaints. Taking steps that limit the number of complaints that would otherwise end up in the Financial Ombudsman's jurisdiction is key to this. This is because once complaints are within the Ombudsman's jurisdiction, there are significant legal, practical and financial barriers to using our powers to resolve them through alternative approaches if we decide in the future that this would deliver better outcomes.

3.19 However, we recognise that, where consumers have referred motor finance commission cases to the Financial Ombudsman, it will seek to resolve those complaints quickly and with minimum formality. This includes where firms have failed to inform a consumer that they intend to handle their complaint in line with our proposed rules.

How it links to our objectives

Consumer protection

3.20 Our proposed rules will further our consumer protection objective by reducing the risk of firm failure or exit caused by the impact of avoidable costs.

3.21 We recognise our proposed rules could mean more consumers having to wait longer to receive any redress they are owed. However, on balance, we consider ensuring a greater chance of all consumers receiving the redress they are due is preferable to some consumers receiving redress relatively quickly, but with a higher risk of avoidable failure or exit. As we note at paragraph 2.4, our proposed rules would not affect consumers' ability to seek redress by taking legal action through the courts.

Market integrity

3.22 Our proposed rules will further our objective to protect and enhance the integrity of the UK financial system by reducing the risk of firm failure and exit in the short term. This is because our proposals will minimise the additional costs firms face on top of their potential redress liabilities.

3.23 In the longer term, our proposed rules will further our market integrity objective by giving us the opportunity to take assertive action to ensure we can resolve a potential major redress event in the most orderly, consistent, and efficient way possible. This will maintain confidence in the regulatory framework.

- 3.24** When carrying out our functions, we must also have regard to the need for efficiency (section 3B 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.

Competition

- 3.25** Our proposed rules will further our objective to promote competition in the interests of consumers by reducing the risk of firm failure or exit that could create a less competitive motor finance market in the longer term. This could harm consumers through higher borrowing costs and/or reduced access to credit in a market that provides significant benefits to consumers and the wider economy.

Secondary international competitiveness and growth objective

- 3.26** We consider our proposed rules are compatible with our secondary international competitiveness and growth objective. The rules are necessary, for the reasons outlined, to allow us to reduce the risks of disorderly, inconsistent and inefficient outcomes. At the same time, our rules could help to manage the significant operational impact on firms and the Financial Ombudsman and reduce the risk of firms failing. The proposed rules also provide clarity and certainty to firms, consumers and the wider market during a period of considerable uncertainty. 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.

Wider effects of this consultation

Unintended consequences of our intervention

- 3.27** As Chapter 4 sets out, we propose a wide definition for a complaint that would be subject to our rules. We consider this is preferable to adopting a narrower definition that risks not capturing all the complaints we want to and could be circumvented by consumers or professional representatives. This could prevent us from achieving our policy objective.
- 3.28** A wide definition will enable firms to easily identify the complaints our proposed rules apply to, making them less burdensome to implement. This is also important as we intend for our proposed rules to come into force immediately when we publish our policy statement, with no implementation period.
- 3.29** The downside of a wide definition is that it could catch complaints involving motor finance agreements where considering commission is clearly not relevant to the resolution of the complaint. However, firms should apply a purposive approach to interpreting our rules, ie have regard to the purpose for why the rule is made rather than taking a literal interpretation. For example, a firm may be able to resolve a complaint about customer service or a problem with the vehicle without considering the

commission arrangements. As paragraph 2.12 explains where firms can identify that commission is not a relevant consideration then they should treat these complaints under DISP as they normally would and make reasonable efforts to provide a final response within 8 weeks.

Environmental, social & governance considerations

3.30 In developing this CP, we have considered the environmental, social and governance (ESG) implications of our proposals and our duty under sections 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 section 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.

3.31 In the meantime, we welcome your input to this consultation on this.

Equality and diversity considerations

3.32 We have considered the equality and diversity issues that may arise from the proposals in this CP.

3.33 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 antidiscrimination 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.

3.34 In the meantime, we welcome your input to this consultation on this.

Chapter 4

Our proposals

- 4.1** We propose that the rules in this chapter will be added to DISP App 5, alongside the complaint handling rules for motor finance DCA complaints.
- 4.2** Subject to considering consultation responses, we hope to publish our policy statement on 19 December 2024. However, this date may change. For the purpose of illustrating the effect of our proposed rules we have used 19 December 2024 as the commencement date.

Complaint definition

- 4.3** We propose defining a motor finance non-DCA commission complaint as a complaint:
- that is not a relevant motor finance DCA complaint, as defined in DISP App 5.1.2R
 - that is about a regulated credit agreement that wholly or partly, financed the purchase of a motor vehicle, and
 - where there was an arrangement for the payment of commission between the lender and the broker for entering into that agreement.
- 4.4** We think this proposed definition will enable firms to easily identify complaints that the rules will apply to, making them less burdensome to implement. As set out in paragraphs 3.27-3.29, we expect firms to take a purposive approach to our rules. This means that we would not expect firms to apply the extension to complaints where commission is not a relevant consideration, such as a customer service complaint, even if these complaints would technically fall within the definition.
- 4.5** The proposed definition would not apply to complaints about non-discretionary commission for agreements where arrangements between the lender and the broker allowed for both discretionary and non-discretionary commission. These mixed commission complaints come under the DCA complaint handling rules. This is because the definition of a motor finance DCA complaint includes complaints where the subject matter of it relates in whole or part to a DCA. This will be mirrored in the proposed rules as the proposed definition for a motor finance non-DCA commission complaint will expressly exclude any complaint that falls within the definition of a DCA complaint.

Excluding complaints relating to regulated consumer hire agreements

- 4.6** Currently, we do not think complaints about regulated motor finance consumer hire agreements, including personal contract hire (PCH) agreements, should be part of our definition of a motor finance non-DCA commission complaint. This is because the Court of Appeal's judgment involved cases where commission was paid for a regulated lending agreement rather than a regulated consumer hire agreement.

Question 1: Do you agree with how we propose defining the scope of complaint to which our proposed rules will apply? If not, what definition would you suggest?

Extending the complaint handling time limits

- 4.7** In accordance with DISP 1.6.2R, when responding to complaints, firms must, by the end of 8 weeks after receipt of a complaint, send the complainant a final response (DISP 1.6.2R(1)) or a written response explaining why they cannot issue a final response (DISP 1.6.2R(2)). After 8 weeks, complainants have the right to refer their complaint to the Financial Ombudsman if either they are not satisfied with how the firm has resolved the complaint or if it has not issued a final response.
- 4.8** We are consulting on 2 options for extending the time firms will have to provide final responses to motor finance non-DCA commission complaints:
- Option 1: a longer extension until 4 December 2025 to align with rules for firms dealing with motor finance DCA complaints.
 - Option 2: a shorter extension until 31 May 2025 to reflect our best estimate for how long it could take to hear whether the Supreme Court has granted permission to any application for the Court of Appeal's judgment to be appealed. This includes additional time for us to respond to the Supreme Court's decision on any appeal applications by putting further measures in place (eg a further extension), if necessary.
- 4.9** At this stage, the outcome of any application to the Supreme Court to appeal the Court of Appeal's judgment is unknown. Until the Supreme Court has made its decision on permission, we cannot know whether the judgment will continue to stand as handed down (ie permission refused) or whether it remains open to being overruled in whole or in part by the Supreme Court (ie permission granted).
- 4.10** Under each option, the extension will apply to motor finance non-DCA commission complaints, as defined above. More specifically, we propose that it will apply to:
- A 'new' motor finance non-DCA commission complaint, ie one received by the firm on or after the proposed rules come into force. This includes a complaint which has, following DISP 1.7.2R, been forwarded to the firm by another firm, on or after 19 December 2024.
 - A motor finance non-DCA commission complaint received by the firm on or after 25 October 2024 (as these complaints will be less than 8 weeks old if the proposed rules come into force on 19 December 2024), where the firm has not sent the complainant a final response. As with new motor finance commissions complaints, where a complaint has been forwarded to the firm by another firm, this includes forwarded complaints received by the firm on or after 25 October 2024.
- 4.11** Once the extension period has expired under our proposals, the 8-week time limit will resume. For example, if a firm receives a motor finance non-DCA commission complaint 3 weeks before 19 December 2024, it will have 5 weeks from the date the extension

ends to provide a final response or a written holding response if a final response is not possible. For complaints received during the period the extension is in place, the 8 weeks will start to run from either 1 June 2025 or 5 December 2025, depending on the option chosen. We are proposing this approach to help ensure firms prioritise complaints from complainants who have been waiting the longest.

- 4.12** Our proposed rules will not prevent firms from responding to motor finance non-DCA commission complaints where commission is clearly not relevant to resolving the complaint. As explained at paragraphs 3.27-3.29, we do not expect firms to apply the rules to motor finance non-DCA commission complaints in these circumstances.

Rationale for a longer extension until 4 December 2025 (Option 1)

- 4.13** Aligning the extra time firms will have to respond to motor finance non-DCA commission complaints with the rules for DCA complaints should help minimise confusion for consumers and the burden on firms. This is especially the case for firms already managing complaints under the DCA complaint handling rules.
- 4.14** Option 1 will also ensure that motor finance complaints about discretionary commission and motor finance complaints about other types of commission are treated consistently. This reflects the fact that the Court of Appeal's judgment applies to motor finance commission generally.
- 4.15** In addition to the simplicity and consistency benefits set out above, Option 1 may be a better option should the Supreme Court grant permission to the application to appeal the Court of Appeal's judgment. This is because an extension to 4 December 2025 could allow enough time for the Supreme Court to hear the appeal and potentially determine it.
- 4.16** We have already committed to providing an update to stakeholders in May 2025 on our next steps on DCA complaints. If we were to follow Option 1, and, subject to the outcome of any Supreme Court application, we would update on motor finance non-DCA commission complaints at the same time. At this point we would be able to give an indication as to whether:
- our proposed rules could be brought to an earlier conclusion,
 - the time to December 2025 is still needed to secure an orderly, consistent, and efficient outcome, or
 - we may need to extend the rules further
- 4.17** However, Option 1 could, on the face of it, delay complaint resolution for consumers for a longer period than Option 2 (see further below). However, this risk would be reduced by being able to bring the proposed extension to an earlier conclusion if this is appropriate (see paragraph 4.16). In either event, we expect consumers to face delays getting their complaint resolved. For example, as we explain in Chapter 3, if we did not introduce our proposed rules, large numbers of complaints would be referred to the Financial Ombudsman, which could result in even longer resolution times than is the case today. Nonetheless, delaying complaint resolution through the measures we are taking is a significant step and we recognise that, all things being equal, we should only delay by the minimum time that we know to be necessary.

Rationale for a shorter extension until 31 May 2025 (Option 2)

- 4.18** 31 May 2025 represents our best estimate for how long it could take to hear whether the Supreme Court has granted permission to any application to appeal the Court of Appeal's judgment and, if necessary, respond by putting further measures in place.
- 4.19** Option 2 recognises more explicitly than Option 1 that the next key milestone in our work is the outcome of any application to seek permission to appeal. The insight we get from the Supreme Court's decision on any permission application will give us greater certainty about our longer-term approach than we have today.
- 4.20** By giving firms less time to deal with complaints, Option 2 recognises more clearly than Option 1 the importance of ensuring resolution of consumer complaints is not delayed for any longer than it needs to be. Option 2 may, therefore, be a better option than Option 1 if the Supreme Court decided not to grant permission. This is because, with the extension set to expire sooner after the estimated time of any permission decision, we would have to decide – following a consultation exercise – on how firms should proceed now the courts have had their final word on the legal position. The greater time pressure imposed by Option 2 may, therefore, promote greater scrutiny and accountability compared to Option 1. This would also be the case if the Supreme Court decided to grant permission and we needed to consult on proposals to extend the rules further.
- 4.21** For similar reasons as those set out in paragraph 4.20, Option 2 provides greater incentives for firms to ensure they are ready for a scenario in which normal complaint handling could resume on 1 June 2025, or have, at a minimum, completed analysis to support any case they may wish to make to us for a further extension.
- 4.22** However, different extension end dates for motor finance non-DCA commission complaints and motor finance DCA complaints could cause additional complexity for consumers and firms, when arguably they should be treated the same way, as both are affected by the Court of Appeal's judgment. This may be particularly pronounced for mixed commission complaints (see paragraph 4.5). This is because the DCA complaint handling rules (which extend handling time until 4 December 2025) continue to apply to non-discretionary commission elements of such complaints, even if the time extension for motor finance non-DCA commission complaints ended before the extension for DCA complaints. That said, we note our commitment to update stakeholders in May 2025 on our next steps on DCA complaints, which may provide an opportunity to align our approach for both types of motor finance commission complaints.

Question 2: **Do you agree with our proposal that our rules should apply to motor finance non-DCA commission complaints referred to firms up to 8 weeks before the rules coming into force, as long as no final response has been sent to the complainant? If not, what alternative approaches would you suggest?**

Question 3: Do you prefer Option 1 (extension until 4 December 2025, which could be ended early) or Option 2 (extension until 31 May 2025, which could be extended further)? If you have no clear preference for either option, please say so in your response.

The Financial Ombudsman's jurisdiction

4.23 DISP 2.8.1R says, in summary, that the Financial Ombudsman can only consider a complaint if:

- the respondent (the firm) has already sent the complainant its final response or summary resolution communication (DISP 2.8.1R(1)), or
- for a complaint that is not an electronic money to payment services complaint (to which different time limits apply), 8 weeks have elapsed since the respondent received the complaint (DISP 2.8.1R(2)).

unless

- the respondent consents and:
 - the Financial Ombudsman has informed the complainant that the respondent must deal with the complaint within 8 weeks and that it may resolve the complaint more quickly than the Financial Ombudsman (DISP 2.8.1R(4)(a)), and
 - the complainant nevertheless wishes the Financial Ombudsman to deal with the complaint (DISP 2.8.1R(4)(b)).

4.24 We propose these rules should continue to apply to motor finance non-DCA commission complaints. However, to maintain consistency with the rules for motor finance DCA complaints, we propose to make changes to include the extension when calculating the 8 weeks in DISP 2.8.1R(2). We also propose to modify the application of DISP 2.8.1R(4)(a). The modification would mean that, assuming the rules started from 19 December 2024, the 8 weeks do not run for the period beginning with 25 October 2024 and ending with either 31 May 2025 or 4 December 2025, depending on the option.

Requirements while the extension to time limits is in place

4.25 Under our proposals, DISP 1.4.1R will continue to apply. This rule requires firms to, among other things, assess and investigate complaints properly and diligently. Where possible, we propose that firms should progress motor finance non-DCA commission complaints by investigating and collecting evidence that could help with their eventual resolution.

4.26 Our proposals recognise that it might not be appropriate for firms to have to provide final responses to motor finance non-DCA commission complaints and referral rights to the Financial Ombudsman during the time the extension is in place. However, we will not prevent firms that want to respond to motor finance non-DCA commission complaints from sending final responses during the period of the extension. Any response would

give the complainant the right to ask the Financial Ombudsman to consider their complaint. Nor do we propose to prevent firms from responding to a complaint in line with the provisions in DISP 1.6.4R, which provides an alternative approach to that set out in DISP 1.6.2R.

- 4.27** The complaint handling rules in DISP 1.3 have further requirements for all respondents that will continue to apply under our proposals. We consider that the proposed extension should not prevent firms from considering their obligations under:
- DISP 1.3.3R to put in place appropriate management controls and take reasonable steps to ensure that in handling complaints they identify and remedy any recurring or systemic problems. We know firms will be considering how to ensure their motor finance sales practices comply with the law, as clarified by the Court of Appeal's judgment.
 - DISP 1.3.6G to consider the position of customers who may have suffered detriment or been potentially disadvantaged by recurring or systemic problems in a financial service, but who have not complained. Our proposed rules will mean firms do not need to provide final responses to motor finance non-DCA commission complaints for a period of time, although they should continue to investigate those complaints, as set out in paragraph 4.25. To ensure both complainants and non-complainants are treated consistently, it may be reasonable for firms to consider the position of non-complainants by assessing the scope and severity of potential detriment, but not take steps to undertake a proactive redress or remediation exercise at this stage.

- 4.28** If firms choose to provide final responses to motor finance non-DCA commission complaints or make offers of redress while the extension is in place, they should ensure they are complying with the usual requirements in DISP. This includes the complaints resolution rules in DISP 1.4. These rules cover investigating, assessing and resolving complaints (taking into account all relevant factors, which may include the Court of Appeal's judgment) and cooperating with the Financial Ombudsman.

Question 4: **Do you agree with our proposal that DISP 1.4.1R should continue to apply while the extension to time limits is in place? If you do not agree, please explain why.**

Communicating the complaint handling time limits

- 4.29** We propose that firms should tell complainants with a motor finance non-DCA commission complaint about the extension to the time limits for dealing with their complaint and the reason for the extension. The rules allow firms to send such communications electronically. If a firm knows that a complainant could have difficulty accessing information electronically, it should take reasonable steps to communicate in an alternative format.
- 4.30** We would expect firms who wish to use the proposed extended time to provide a response to a motor finance non-DCA commission complaint to send an

acknowledgement within 8 weeks to help prevent complaints being unnecessarily referred to the Financial Ombudsman and the potential incurrence of case fees.

- 4.31** We also propose to require firms to update currently published consumer-facing information about their current complaint-handling procedures, such as information on their websites, to reflect the changes to the time limits. We propose to share information on our website directly with firms to help with this.
- 4.32** On receiving any complaint, a firm must send the complainant a prompt written acknowledgement. We propose requiring that the acknowledgement includes an explanation of the extension to the time limit rules in DISP 1.6.2R.
- 4.33** When the proposed rules come into force (eg 19 December 2024), a firm may have already sent a written acknowledgement to a motor finance non-DCA commission complaint. If the 8 weeks for responding has not yet expired and the firm has not sent a final response, we propose a requirement that firms must promptly inform the complainant of the extension and the reason for it.
- 4.34** For all complaints within the scope of the extension we propose that firms must:
- direct the complainant to information published on the FCA website that explains the reason for the rules
 - ensure they subsequently keep the complainant informed of the progress of the measures being taken for the complaint's resolution
- 4.35** One scenario where it might be appropriate for a firm to keep a complainant informed is if there has been a significant development on the complaint. Once a complainant has been informed of the extension, we would not expect firms to continue to remind them of it.

Question 5: Do you agree with our proposal that firms must include an explanation of the extension to the time limit rules when acknowledging new complaints that would be subject to the proposed rules? If you do not agree, please explain why.

Question 6: Do you agree with our proposal that firms must contact complainants whose complaints have already been acknowledged (but are less than 8 weeks old) to inform them of the extension to the time limit rules? If you do not agree, please explain why.

Question 7: Do you agree with our proposal that firms must direct the complainant to information published on the FCA website that explains the reason for the rules? If you do not agree, please explain why.

Question 8: Do you agree with our proposal that firms must ensure that the complainant is kept informed thereafter of the progress of the measures being taken for the complaint’s resolution? If you do not agree, please explain why.

Referring a complaint to the Financial Ombudsman

4.36 DISP 2.8.2R(1) states that the Financial Ombudsman cannot consider a complaint made to it more than 6 months after the firm sent the complainant its final response (or its ‘summary resolution communication’).

4.37 As shown in Table 2, we propose to extend this period for final responses to a motor finance non-DCA commission complaint sent during the period beginning with 20 June 2024 (ie 6 months before our proposed rules come into force) and ending with either:

- 26 July 2025 (if we proceeded with Option 2, see paragraphs 4.18-4.22), or
- 29 January 2026 (Option 1, see paragraphs 4.13-4.17)

These dates fall 8 weeks after the date that the relevant proposed extension will end, with the complainant being able to refer their complaint to the Financial Ombudsman until the later of:

- 29 July 2026 (if a final response is sent on or before 29 April 2025)
- 15 months from the date the final response was sent (if a final response is sent on or after 30 April 2025)

Table 2: Time to refer a complaint to the Financial Ombudsman

Group	Scenario	Time to refer a complaint to the Financial Ombudsman
A	Consumer is sent a final response during period beginning 20 June 2024 and ending 18 December 2024	Up to and including 29 July 2026
B	Consumer is sent a final response during period beginning 19 December 2024 and ending 29 April 2025	Up to and including 29 July 2026
C	Consumer is sent a final response during period beginning 30 April 2025 and ending 29 January 2026 if Option 1 is chosen or 26 July 2025 if Option 2 is chosen	Within 15 months of the date the firm sends its final response
D	Consumer is sent a final response on or after 30 January 2026 if Option 1 is chosen or 27 July 2025 if Option 2 is chosen.	Within 6 months of the date the firm sends its final response

4.38 Introducing a rule to give consumers more time to decide whether to refer a complaint to the Financial Ombudsman would be consistent with the rules we introduced for DCA complaints. To that end, we are consulting on the same referral periods as apply

to DCA complaints. This means any final responses sent from 20 June 2024 until 29 April 2025 will give the consumer until 29 July 2026 to refer the complaint to the Financial Ombudsman, irrespective of whether Option 1 or Option 2 is chosen. Any final responses sent from 30 April 2025 to either 26 July 2025 (if Option 2 is chosen) or 29 January 2026 (if Option 1 is chosen) will have 15 months from the date the firm sends the final response. After this, we propose to revert to the normal 6-month referral period. In our view, replicating the dates that apply to referrals of DCA complaints to help minimise confusion for consumers and ease the burden on firms dealing with motor finance DCA complaints as well as motor finance non-DCA commission complaints.

4.39 We propose to require firms to write to consumers who have been sent a final response between 20 June 2024 and 18 December 2024 to let them know that the deadline has been extended to 29 July 2026 as this will be later than 15 months from the date the final response was sent.

Question 9: **Do you agree with our proposal that the rules should extend the time limit for referring 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? If you do not agree, please explain why.**

Question 10: **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? If you do not agree, please explain why.**

Record keeping and retention

4.40 DISP 1.9.1R requires firms to keep a record of each complaint received and the measures they have taken to resolve it. Firms should keep this record for 3 years from the date they received the complaint. We propose that the period beginning with 25 October 2024 and ending with either 31 May 2025 or 4 December 2025 (depending, respectively, on whether we proceed with Option 2 or Option 1) will not contribute to the 3-year period. We would expect firms to be able to give us the information collected in complying with DISP 1.9.1R on request.

4.41 We also propose to introduce a rule to require 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 for motor finance non-DCA commission complaints. This is regardless of whether the customer has complained or not. We are also proposing to modify the associated evidential provision in DISP App 5.3.2E. To maintain consistency with the rules for motor finance DCA complaints, we propose this rule remain in place until 11 April 2026. The purpose of this rule will be to supplement the general rules on record keeping in SYSC 9 and clarify that certain records must be kept.

Question 11: Do you agree with our proposal that the period of the extension should not contribute to the 3-year period that firms are required to keep records of complaints for? If you do not agree, please explain why.

Question 12: Do you agree with our proposal that lenders and credit brokers must maintain and preserve any records that are or could be relevant to the handling of existing or future complaints or civil claims until 11 April 2026? If you do not agree, please explain why.

Annex 1

Questions in this paper

- Question 1:** Do you agree with how we propose defining the scope of complaint to which our proposed rules will apply? If not, what definition would you suggest?
- Question 2:** Do you agree with our proposal that our rules should apply to motor finance non-DCA commission complaints referred to firms up to 8 weeks before the rules coming into force, as long as no final response has been sent to the complainant? If not, what alternative approaches would you suggest?
- Question 3:** Do you prefer Option 1 (extension until 4 December 2025, which could be ended early) or Option 2 (extension until 31 May 2025, which could be extended further)? If you have no clear preference for either option, please say so in your response.
- Question 4:** Do you agree with our proposal that DISP 1.4.1R should continue to apply while the extension to time limits is in place? If you do not agree, please explain why.
- Question 5:** Do you agree with our proposal that firms must include an explanation of the extension to the time limit rules when acknowledging new complaints that would be subject to the proposed rules? If you do not agree, please explain why.
- Question 6:** Do you agree with our proposal that firms must contact complainants whose complaints have already been acknowledged (but are less than 8 weeks old) to inform them of the extension to the time limit rules? If you do not agree, please explain why.
- Question 7:** Do you agree with our proposal that firms must direct the complainant to information published on the FCA website that explains the reason for the rules? If you do not agree, please explain why.
- Question 8:** Do you agree with our proposal that firms must ensure that the complainant is kept informed thereafter of the progress of the measures being taken for the complaint's resolution? If you do not agree, please explain why.

- Question 9:** Do you agree with our proposal that the rules should extend the time limit for referring 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? If you do not agree, please explain why.
- Question 10:** 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? If you do not agree, please explain why.
- Question 11:** Do you agree with our proposal that the period of the extension should not contribute to the 3-year period that firms are required to keep records of complaints for? If you do not agree, please explain why.
- Question 12:** Do you agree with our proposal that lenders and credit brokers must maintain and preserve any records that are or could be relevant to the handling of existing or future complaints or civil claims until 11 April 2026? If you do not agree, please explain why.
- Question 13:** Do you agree with our analysis of the costs and benefits of these proposals? If you do not agree, please explain why.

Annex 2

Cost benefit analysis

Introduction

1. The Financial Services and Markets Act 2000 (FSMA) 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. Otherwise, we provide a qualitative explanation of their impacts. Our proposals are based on weighing up all the impacts we expect and reaching a judgment about the appropriate level of regulatory intervention.
3. The CBA has the following structure:
 - the market
 - problem and rationale for intervention
 - our proposed intervention
 - baseline and key assumptions
 - summary of impacts
 - benefits
 - costs
 - wider economic impacts, including on secondary objective
 - monitoring and evaluation

The market

4. Motor finance is an important consumer credit market that helps over 2 million consumers a year spread the cost of purchasing a motor vehicle.
5. The motor finance market consists of three main parties: consumers, brokers, and lenders. Consumers typically purchase motor finance through a broker who sources offers from lenders (tied brokers will present agreements from a single lender only). These brokers may only offer motor finance or also be part of a dealership offering both motor vehicles and brokering services.
6. The vast majority of complaints have been made against lenders, therefore, we have focused this context section and the subsequent CBA on consumers and lenders only.

Consumers

7. According to the Finance and Leasing Association (FLA), in the 12 months to September 2024 consumers purchased 625,000 new cars using regulated motor finance borrowing £17.4bn, and 1.4m used cars, borrowing £21.3bn. For new cars, the average value of funds advanced is around £28,000, while for used cars it is around £15,000.
8. Motor finance is a key component of the wider motor industry in the UK, with around 80% of new car purchases and a substantial minority of used car sales being funded through finance in 2023.
9. We estimate that consumers have entered into approximately 31.7m regulated motor finance agreements with lenders since 2007 (when complaint handling rules came into force for motor finance and these complaints entered the Financial Ombudsman's jurisdiction). Many of these agreements will now have ended. The value of these individual agreements varies significantly.
10. A consumer may have, or have had, more than one agreement, so the number of consumers (directly) affected may be lower than the number of agreements. However, it should be noted that if redress is owed, it is owed in relation to a particular agreement. If a consumer has multiple agreements, they could, therefore, be owed redress for each agreement.

Lenders

11. Firms providing motor finance include traditional lenders, like high street banks, the lending arm of car manufacturers and other specialist motor finance lenders. We estimate that 193 lenders have offered regulated motor finance since 2007. We have high-level data on the whole market and supplementary data on the largest 41 lenders, who account for over 90% of the market by the value of outstanding agreements at the end of 2022. There is a long tail of smaller firms making up the rest of the market.
12. We estimate almost 99% of the 31.7m motor finance agreements made since 2007 involved a commission payment to a broker. The arrangements by which commission is calculated and paid fall into two broad buckets:
 - Discretionary commission arrangements (DCAs) allow brokers to vary aspects of the loan (like the interest rate) to earn more commission.
 - Non-discretionary commission arrangements (non-DCAs) do not allow brokers to do this. The most common non-DCA is a flat fee model where the broker is paid the same commission regardless of the features of the loan. Just over 17.9m (approximately 57%) were non-DCA agreements.
13. The FCA banned DCAs in 2021; prior to this, flat fee and other non-DCA arrangements were more common in the sub-prime and new car segments of the market.

Problem and rationale for intervention

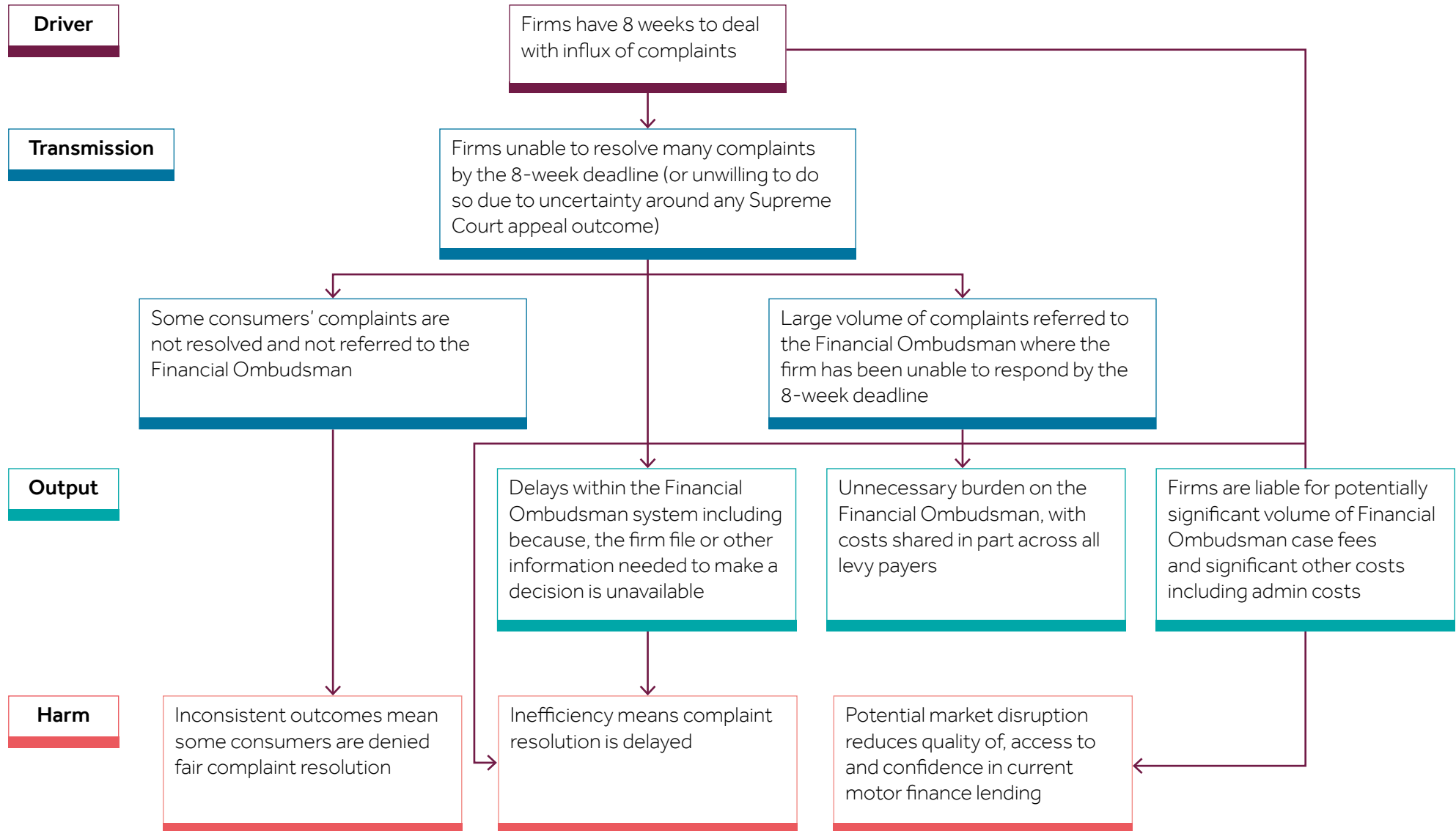
Problem under consideration

14. In its recent judgment in *Johnson v FirstRand Bank Ltd*, *Wrench v FirstRand Bank Ltd* and *Hopcraft v Close Brothers Ltd* ("Johnson and others") on 25 October 2024, the Court of Appeal decided that, in light of the duties owed by the brokers to the customers in those cases, it was unlawful for the brokers to receive a commission from the lender providing motor finance to the customers without obtaining the consumer's informed consent to the payment.
15. We anticipate that these decisions will lead to rising complaints about commissions paid to brokers on motor finance commission agreements not involving a DCA. Other recent developments in relation to motor finance DCA complaints provide evidence for this expectation, as in the months following the Financial Ombudsman's first decisions upholding DCA complaints in January 2024 there was a significant rise in complaints about DCAs.
16. We provide more detail on the Court of Appeal's judgment and background to the FCA's work in motor finance in Chapter 1 of the CP.

Rationale for intervention

17. Without intervention, firms will have 8 weeks to provide a final substantive response to complainants, after which point consumers can refer their complaint to the Financial Ombudsman. If we did not intervene, we expect to see a significant surge in complaints about motor finance agreements not involving a DCA (referred to as "motor finance non-DCA commission complaints" in the CP and in this CBA) that may exceed firms' capacity to resolve them in an orderly, consistent, and efficient way, leading to the following harms:
 - disruption to the market, including significant costs to firms and increased caseload for the Financial Ombudsman
 - inconsistent outcomes for consumers in comparable situations
 - delays in complaints being resolved and, where appropriate, redress being paid
18. A causal chain describing the harm absent intervention can be seen in Figure 1.

Figure 1: Causal chain of harm absent intervention



19. We provide more detail on the harm we expect, how it arises and why we want to prevent it in chapter 3 of the CP.

Drivers of harm

20. The drivers of harm outlined below describe how disorderly, inconsistent and inefficient outcomes for consumers can arise when firms receive large volumes of complaints about the same issue with no consistent, systemic approach to resolving that harm. The proposed extension seeks to mitigate harm by addressing these drivers to the extent possible at this current time.
- **The standard complaints handling framework may produce suboptimal outcomes in the context of a large rise in complaints:** as described in chapter 3 of the CP and in our [call for input on modernising the redress system](#), firms and the Financial Ombudsman can experience operational difficulties in the event of large numbers of complaints about the same issue. Firms' difficulties in scaling up complaints departments in order to deal with a large volume of complaints within the 8-week deadline can cause delays for consumers and lead to an unwarranted burden on the Financial Ombudsman. Where complaints are referred to the Financial Ombudsman because a firm has been unable to respond, the Financial Ombudsman may not have the information they need to assess the complaint (including the firm file). This can result in further delays for consumers as that information is gathered.
 - **Externalities:** The Financial Ombudsman case fee is designed to cover the marginal cost to FOS of resolving a complaint under normal market conditions. There are broader operational costs for the Financial Ombudsman, which we would expect to arise following a large rise in complaints. For example, expanding resources, and dealing with more firm, consumer, legal and press enquiries. These overhead costs are spread across industry through a levy; around 35% of the Financial Ombudsman's income in its 2024/25 budget was funded by all firms that pay the Financial Ombudsman's levy. Therefore, the firms who cause the harm are not solely responsible for paying for the resolution of that harm. Some firms may therefore choose to not thoroughly investigate complaints when they receive a large influx, to save the cost, and expect other financial services firms help pay for the resolution of the harm they have caused. The Financial Ombudsman introduced a supplementary case fee for payment protection insurance (PPI) complaints in order to ensure that firms not involved in the selling of PPI did not have to bear the costs associated with the large volumes of PPI complaints it received.
 - **Information asymmetry and incomplete information:** we observe this market failure in two areas:
 - Often when complaining, consumers do not have full information about the validity of their complaint and rely on the firm and Financial Ombudsman to resolve the complaint fairly. In this case, consumers do not have full information about any commission arrangements associated with their motor finance agreement. As such, they may not know if they are entitled to compensation and how much that compensation should be and, therefore, whether or not they should complain and escalate rejected complaints. This problem is

exacerbated by the complex and evolving nature of common law with respect to commission. This may lead to consumers not receiving the right outcomes for their complaint, and consumers in comparable situations receiving different outcomes, depending on how they choose to proceed.

- As described in our call for input on modernising the redress system, the FCA may, based on market-wide information and analysis, choose to move forward with a regulatory solution to an issue that is different to what the Financial Ombudsman may have decided when considering individual complaints on a case-by-case basis. While this is anticipated in FSMA and understood by the courts, it may cause perceptions of inconsistency.
- Behavioural biases: some groups of consumers, potentially due to a lack of understanding of the process, may interpret the rejection of a complaint as a final outcome, and therefore not escalate or challenge the complaint. We expect firms to struggle to resolve a higher proportion of valid complaints within the 8-week deadline because of the increase in complaints. Such consumers, who in these circumstances might be regarded as vulnerable, may therefore miss out on redress they are owed, leading to inconsistent outcomes for consumers in comparable circumstances.

21. These drivers of harm create the conditions for the transmission of harm we stylise Figure 2.

Our proposed intervention

Options

- 22.** Following the Court of Appeal's judgment on partially disclosed and undisclosed commissions, we are consulting on two options for managing the immediate adverse impact of the continued operation of the existing complaint handling rules for motor finance non-DCA commission complaints.
- Option 1: a longer extension until 4 December 2025 to align with rules for firms dealing with motor finance DCA complaints.
 - Option 2: a shorter extension until 31 May 2025 to reflect our best estimate for how long it could take to hear whether the Supreme Court has granted permission to any application for the Court of Appeal's judgment to be appealed. This includes additional time for us to respond to the Supreme Court's decision on any appeal applications by putting further measures in place (eg a further extension), if necessary.
- 23.** More detail and the rationale for these options and how the rules would be applied can be found in Chapter 4 of the CP.
- 24.** We have considered and rejected alternative options including:
- Not intervening: given what we observed with the surge in DCA complaints earlier in the year, we expect the harm caused by rising motor finance non-DCA

commission complaints would outweigh any benefit to some consumers of not intervening.

- Other extension lengths: we are considering options which minimise the number of times we need to update firms and consumers while maximising the certainty we can give them. The dates we are considering for the end of the extension in our options are tied to: (1) when our current extension for DCA complaints ends; (2) when the market is anticipating an update from the Supreme Court on any application by the defendant firms to appeal the Court of Appeal's judgment. Therefore, tying the end of the extension (and further update) to these dates will reduce the number of times firms and consumers need to hear from us.

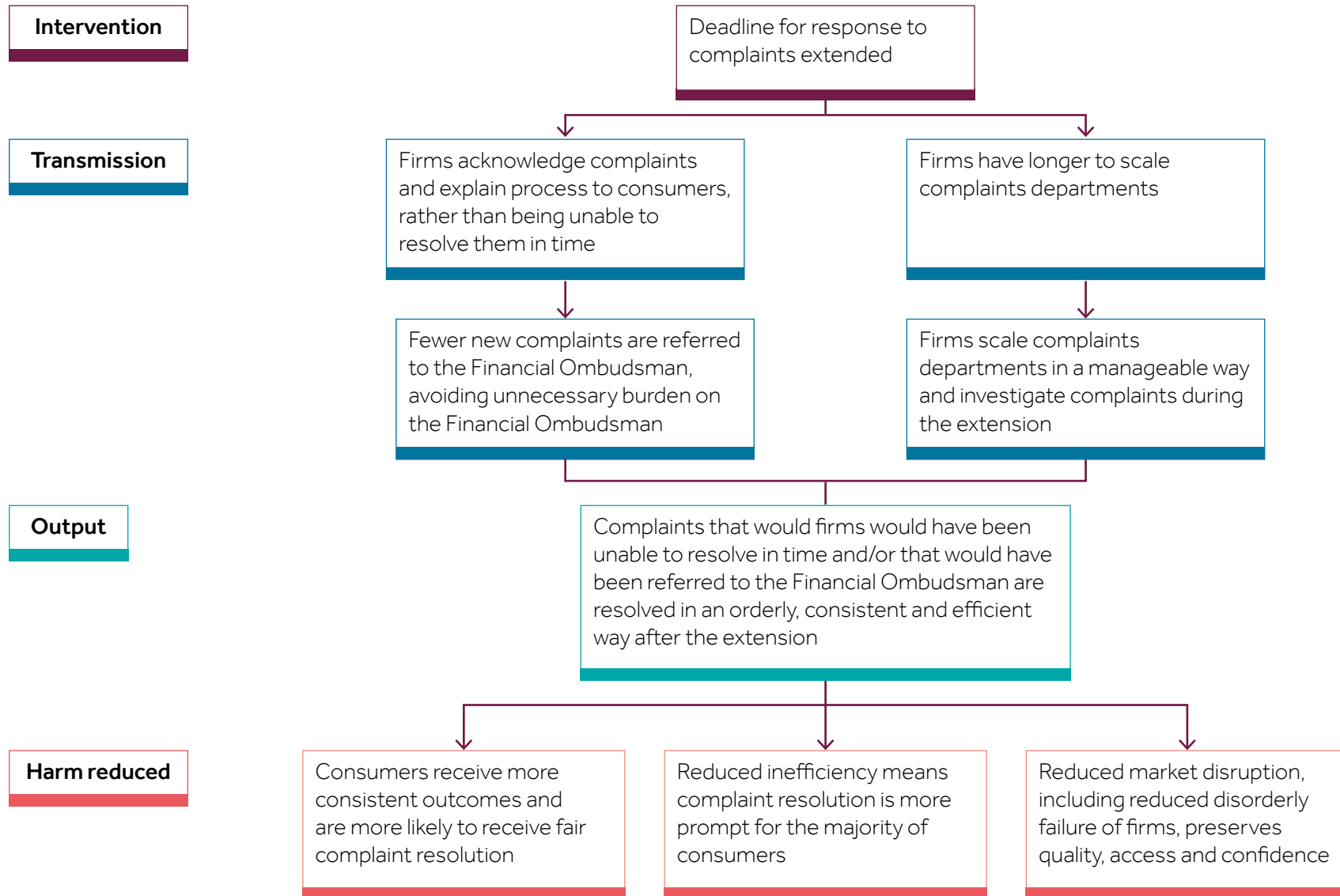
Outcomes

- 25.** Our proposals will prevent disorderly, inconsistent and inefficient outcomes for consumers and knock-on effects on firms and the market. The extension will not prevent consumers or their representatives from lodging motor finance commission complaints with firms or taking legal action against firms.
- 26.** Our proposals will mitigate the harms identified above, so that:
- consumers in comparable situations receive comparable outcomes
 - for the majority of consumers, delays in complaints being resolved are reduced
 - disruption to the market, including significant costs to firms and unnecessary burden on the Financial Ombudsman, is reduced

Causal chain

- 27.** The causal chain of our intervention can be described as follows:
- 1.** the extension on complaint handling times is applied to motor finance non-DCA commission complaints, until either May 2025 or December 2025
 - 2.** firms update consumers with existing complaints on how their complaint is now being processed, and use the time to continue to investigate the complaints received and prepare for future complaint resolutions
 - 3.** as a result, fewer complaints are referred to the Financial Ombudsman, and more are resolved at a faster rate
 - 4.** consumers have their complaints resolved in a more orderly, consistent and efficient manner with the introduction of the extension
 - 5.** for firms, there is reduced disruption as they have more time to prepare and investigate the expected significant increase in complaints
- 28.** Figure 2 shows how our intervention, irrespective of which length of extension we proceed with, would mitigate the harms presented in Figure 1: Causal chain of harm absent intervention.

Figure 2: Causal chain of our proposed intervention (for both Option 1 and Option 2)



Baseline and key assumptions

- 29.** To assess the costs and benefits of our proposed intervention, we compare the expected outcomes of the intervention against our baseline, which is the expected outcomes without intervention. The counterfactual baseline scenario we have considered is the extension to complaint handling times not being extended to motor finance non-DCA commission complaints.
- 30.** In the absence of further FCA intervention as proposed, we expect a sharp and substantial increase in the number of motor finance non-DCA commission complaints. Due to firms facing operational challenges with scaling up their operations and investigating complaints within the 8-week deadline, without intervention, these complainants will be given referral rights to the Financial Ombudsman, increasing its case load significantly. To understand the potential scale of such an increase, we have analysed the volume of DCA complaints in the first 3 months of this year, following the Financial Ombudsman's decision to uphold DCA complaints in favour of the complainant and our decision to extend the 8-week deadline on DCA complaints.
- 31.** After the Financial Ombudsman issued its first decisions upholding DCA complaints in January 2024, there was a substantial increase in DCA complaints. Our sample of firms accounting for over 90% of the market reported having received over 22,000 DCA complaints in January 2024, which increased sharply to over 148,000 in February and then rose to 164,000 in March. In total, those major lenders reported having received approximately 335,000 DCA complaints in the three months from January 2024.
- 32.** We expect a similar surge in motor finance non-DCA commission complaints. Assuming consumers will complain at a similar rate about motor agreements not involving a DCA as they did about DCA agreements following the Financial Ombudsman's decisions. We estimate that lenders in our sample could receive over 440,000 motor finance non-DCA commission complaints in the three months to the end of January 2025. Scaling to the whole market this could mean over 470,000 complaints.
- 33.** Around 30% of rejected DCA complaints pre-July 2023 were referred to the Financial Ombudsman. Assuming that, absent intervention almost all of the expected motor finance non-DCA commission complaints referred in the three months to January 2025 would not be resolved (due to firms' capacity to respond to complaints being overwhelmed) and applying this referral rate implies around 141,000 referrals. We have seen increased claims management company (CMC) activity in this space, with data from the Financial Ombudsman about complaints it has seen to date suggesting that approximately 90% of motor finance complainants have professional representation. Further, the Financial Ombudsman has consulted on the introduction of a charge for complaints made by professional representatives on behalf of consumers. This may create an incentive for these representatives to refer complaints to Financial Ombudsman before this charge is introduced, compressing the timeframe in which this wave of complaints will be made. We might, therefore, reasonably expect a higher referral rate than 30%, particularly in the short term. If, for example, the referral rate reached 50%, this would imply over 235,000 referrals of complaints received in the three months to the end of January 2025.

- 34.** We do not provide monetary values for the benefits from our intervention 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.
- 35.** 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

- 36.** Table 1 below summarises the costs and benefits that we expect our proposal to have. The monetary cost estimates presented in the table apply both for Option 1 and for Option 2. Non-monetisable costs and benefits exist under both options relative to the baseline. We provide an indication of under which option they are likely to be greater.
- 37.** We expect the monetisable costs (familiarisation, communication with customers, retention of records) to be broadly equal under both options. However, the scale of non-monetisable costs and benefits to consumers, the Financial Ombudsman and the FCA are expected to be greater under option 1 (extension to 4 December 2025) than Option 2 (extension to 31 May 2025). Option 1 implies a longer extension and a longer delay in complaint resolution for a minority of consumers. However, under Option 2 further action may be necessary at the end of the extension, which could create further uncertainty and reduce the extent to which orderly, consistent, and efficient outcomes are achieved. The net position across the two options is not certain.
- 38.** In subsequent sections we discuss these expected costs and benefits in further detail, including how and why the magnitude of the non-monetisable costs and benefits may vary between Option 1 and Option 2.
- 39.** Based on our past experience of mass complaint events (for example, PPI, unsuitable advice to transfer guaranteed pension benefits, including from the British Steel Pension Scheme, and related work on motor finance DCA complaints) we judge that under either option, the benefits to firms, consumers, the Financial Ombudsman and the FCA, if needed, of an orderly, consistent and efficient resolution to motor finance non-DCA commission complaints are significant. We consider, therefore, that the benefits will outweigh the costs associated with our proposal.

Table 1: Summary table of benefits and costs of Option 1 and Option 2

Group affected	Item description	One-off benefits (£m)	One-off costs (£m)	Impact likely to be larger under...			
				Option 1	Option 2	Equal	Uncertain
Firms	Costs						
	Familiarisation (direct)		0.1			✓	
	Communication (direct)		5.1			✓	
	Cost of maintaining records for longer (direct)		1.1			✓	
	Potential increase in value of compensatory interest on redress		Non-monetisable indirect cost				✓
	Benefits						
	Delayed and avoided Financial Ombudsman case fees	Non-monetisable indirect benefit			✓		
	Avoided disorderly resolution which could threaten market stability	Non-monetisable indirect benefit			✓		

Group affected	Item description	One-off benefits (£m)	One-off costs (£m)	Impact likely to be larger under...			
				Option 1	Option 2	Equal	Uncertain
Consumers	Costs						
	A small proportion of consumers may not receive a resolution to their complaint as quickly as they would have without the extension		Non-monetisable indirect cost	✓			
	Benefits						
	Fair, efficient and consistent complaint resolution and (where appropriate) redress in the long term	Non-monetisable indirect benefit		✓			
	Reduced losses from firms failing or exiting the market with liabilities owed	Non-monetisable indirect benefit		✓			
Financial Ombudsman	Benefits						
	Avoided unnecessary administrative burdens (because of fewer cases being referred to Financial Ombudsman)	Non-monetisable indirect benefit		✓			
FCA	Benefits						
	Sufficient time to assess the best way forward, if needed	Non-monetisable direct benefit		✓			
Total (£m)			6.2				

Note: numbers may not sum due to rounding.

Benefits

- 40.** In this section, we provide a qualitative description of the benefits that we expect our proposals to have for firms, for consumers, for the Financial Ombudsman and for the FCA. As indicated above, we do not consider that it is reasonably practicable or proportionate to produce monetary estimates of these benefits.

Benefits to firms

- 41.** We expect that our proposals will delay and significantly reduce the number of motor finance non-DCA commission complaints referred by consumers to the Financial Ombudsman. The proposed extension will provide firms with more time in which to scale up their complaint operations while continuing to progress complaints during the extension and will help to ensure the orderly, consistent and efficient resolution of complaints.
- 42.** Firms will benefit from a reduction in the value of the Financial Ombudsman case fees they are required to pay. We do not have data to robustly quantify the value of case fees avoided, but we can illustrate the scale of the potential saving. We estimate that firms could receive over 470,000 motor finance non-DCA commission complaints in the three months to the end of January 2025 (see Chapter 3 of the CP). If 50% of these were referred to the Financial Ombudsman, this would represent over 235,000 cases being referred. The associated case fee burden would be over £150m. If half of these referrals and the associated case fees are avoided because of our intervention, this would mean a cost saving to firms of over £75m, which exceeds our estimates of the direct costs to firms of complying with the proposal.
- 43.** We expect that some of this cost saving will be offset by firms spending more time and resource (relative to the counterfactual where there is no extension) on resolving complaints themselves. Because of this and the uncertainty associated with the estimate, we do not include this cost saving in our summary table of costs and benefits above.
- 44.** Under our proposal, firms will also benefit from a more orderly resolution of complaints. The extension would allow firms more time in which to scale up their complaints departments and to investigate and prepare to resolve the expected large volume of complaints. A disorderly resolution of complaints may increase the risk of firms failing or exiting the market, which could damage the consumer confidence in the market and reduce consumer participation in it.
- 45.** We expect this benefit to be greater under Option 1 than Option 2 because a longer extension will allow firms more time in which to scale up their complaints departments and investigate the complaints during the period of the extension, for example they may use this time to retrieve more information and materials from their archives for older agreements. extension. A longer extension would also, in principle, be more conducive to the orderly, consistent, and efficient resolution of complaints at the end of the extension.

Benefits to consumers

- 46.** We expect that our proposals will bring about a more orderly, efficient, and consistent resolution of consumers' motor finance non-DCA commission complaints in the longer term. This means that consumers will be more likely to see their complaints resolved in the right way and to receive the appropriate redress where it is owed. Most consumers are likely to see their complaints resolved more quickly if an extension is introduced since the extension will allow firms, the Financial Ombudsman and, if needed, the FCA to put in place systems and processes to deal with the expected surge in complaints and allow time for the legal matters discussed in the Court of Appeal judgment to be settled.
- 47.** As described above, we expect that our proposals will reduce the likelihood of firm failure or exit from the market as a result of the disorderly resolution of a surge in complaints and associated costs. This will benefit consumers as it can mitigate adverse impacts on the supply of motor finance. Given the size of the motor finance market, which serves over 2 million customers each year and financing a large proportion of new car purchases, this is a significant benefit. Moreover, a reduction in the number of firms failing with unmet liabilities will reduce consumer losses given that motor finance is not protected by the Financial Services Compensation Scheme (FSCS).
- 48.** We expect these benefits to be greater under Option 1 than Option 2. Under Option 1, the extension is more likely to end at the same time for DCA and motor finance non-DCA commission complaints, reducing the risk of (perceived or actual) inconsistent outcomes between consumers with similar complaints but different commission models. A longer extension would also, in principle, be more conducive to the orderly, consistent and efficient resolution of consumer complaints in the longer term, for the reasons stated above.

Benefits to the Financial Ombudsman and the FCA

- 49.** The Financial Ombudsman will benefit as, for the reasons described above, it will see fewer referrals of motor finance non-DCA commission complaints. The potential 235,000 cases estimated in paragraph 41 above is more than the total number of new complaints the Financial Ombudsman said that it expected to receive in 2024/25 in its budget for that year. The avoidance of such a surge in referrals will help to manage the Financial Ombudsman's caseload and reduce administrative costs.
- 50.** The proposed extension will also provide the FCA with time in which to assess the situation and to determine what action, if any, it ought to take in order to secure orderly, consistent and efficient outcomes in the longer term.
- 51.** We expect these benefits to be greater under Option 1 than Option 2 because a longer extension will provide more time for the Financial Ombudsman and, if necessary, the FCA, to prepare for the end of the extension and identify and implement any systems and processes needed to facilitate orderly, consistent and efficient resolutions of consumer complaints. The orderly, consistent and efficient resolution of complaints by firms will, in turn, reduce the number of referrals to FOS.

Costs

- 52.** In this section, we describe the costs we expect our proposals to have for firms, consumers and the FCA. We present monetary estimates of the direct compliance cost to firms. For other costs we anticipate, we provide a qualitative assessment as we do not consider that it is reasonably practicable or proportionate to produce monetary estimates of them.

Costs to firms

- 53.** We have estimated costs to firms arising from our proposals in three areas. First, we expect that the 193 firms directly affected by our intervention will incur a one-off familiarisation cost in reading and familiarising themselves with the proposals in this consultation paper. Second, we expect that firms will incur communication costs associated with: (1) writing to consumers who have received an acknowledgment of their complaint but who have not received a final response to explain the extension; and (2) writing to consumers who have received final responses if the time they have to refer the case to the Financial Ombudsman has been extended. Third, we expect firms to incur costs associated with retaining records for longer.
- 54.** We estimated these costs using our standardised cost model (SCM). More information on the SCM can be found in Appendix 1 of our publication on [how we analyse the costs and benefits of our policies](#). In the absence of evidence from firms on the changes they would need to make in order to comply with this proposal and the costs of those changes, we have made assumptions about the changes they would need to make and how long these changes would take.
- 55.** We assume that to familiarise themselves with the proposals, firms will need to read 40 pages of non-legal text in the consultation paper. We assume there are 300 words per page and a reading speed of 100 words per minute. We assume that the document will be read only by compliance staff; 20 staff in large firms, 5 in medium and 2 in small. Our assumption for the hourly cost of compliance staff is based on the Willis Towers Watson 2022 Financial Services Report, adjusted for subsequent annual wage inflation, and adding overheads of 17.9%. These assumptions imply a total familiarisation cost of £69,000 across all of the firms in scope.¹ Given that this proposal affects the same firms as the extension introduced for DCA complaints in PS24/1 and is similar in nature, this estimate is likely to overstate the costs of familiarisation.
- 56.** In estimating the communication costs firms will incur because of our proposal, we consider the number of motor finance non-DCA commission complaints that we expect firms to receive in the 8 weeks prior to the publication of the policy statement containing our final rules. We focus on complaints in this period because it is only those complaints where we expect the extension to require additional communications. Our proposed rules will not require firms to write to consumers who lodged complaints more than 8 weeks prior to them coming into force (since the 8-week deadline will have passed by then). Once our rules are in force, we do not expect incremental communication costs to firms, since existing rules require firms to keep complainants informed. We

¹ This estimate differs from the corresponding estimate in CP24/15 because of an update of the salary assumptions in the SCM in light of a recent data release from the ONS.

expect that incremental communication costs will only exist for complaints made in the 8 weeks prior to the extension coming into force, since firms will need to write additional communications to the consumers who lodged these complaints to notify them of the extension. We estimate this number of complaints in the same way as in Chapter 3 of the CP above. The Financial Ombudsman issued its first decisions upholding DCA complaints in January 2024. In January and February 2024, firms accounting for over 90% of the market received around 170,000 DCA complaints. Scaling this up by just over 30% to account for the greater number of motor finance agreements not involving a DCA relative to DCA agreements and to account for firms not in our sample, we estimate that firms could receive around 240,000 motor finance non-DCA commission complaints in the period between the Court of Appeal judgment and the publication of our policy statement. We assume that writing the required communications to consumers will take 30 minutes for each of these complaints and that this task will be done by staff in a customer or client management function. Based on these assumptions, we estimate a cost of approximately £5.1 million across the affected firms.

- 57.** To estimate the costs associated with retaining records for longer to comply with our proposals, we again consider only motor finance non-DCA commission complaints that we expect firms to receive in the 8 weeks prior to our rules coming into force. We assume that for each of these complaints, firms' compliance staff will need to update the retention labels that apply to the complaint and the records of the measures taken to resolve it. We assume that this will take (on average) 5 minutes for each complaint. Assuming firms will receive 240,000 complaints in this period, this implies a total cost of just under £1.1 million. We have not estimated the incremental cost of actually storing these complaints, as we do not think it is reasonably practicable to disentangle the marginal cost of a longer storage period from the fixed costs associated with employing and maintaining a record storage system. However, logically, if there is a cost difference, Option 1 implements a longer extension so is likely to be more costly.
- 58.** Besides the incremental storage cost, we expect these costs to be the same under Option 1 and Option 2 as both options require the same one-off, immediate actions.
- 59.** Compensatory interest can be added to redress awards in order to compensate consumers for the loss of the use of the money they are owed in the period before they receive whatever redress they are owed. We have not estimated the cost to firms of any increase in compensatory interest that may be added to redress bills as a result of the proposed extension. This is because the extent of any such increase, and whether any such increase materialises, will depend on the longer-term arrangements for the resolution of motor finance non-DCA commission complaints.
- 60.** It is uncertain whether any cost to firms of a potential increase in the value of compensatory interest would be greater or more likely under Option 1 or Option 2. The size of any increase in the amount of compensatory interest owed by firms would depend on the total size of any final redress bill and on the nature of any longer-term approach to the resolution of motor finance non-DCA commission complaints. Moreover, we do not expect Option 1 to cause a delay in any redress being paid to consumers relative to Option 2. This is because we have committed to bringing the end of the extension forward if we do not need the time to December to put a longer-term approach in place.

Costs to consumers

- 61.** Our proposals may mean that some consumers see their complaint resolved, and any redress owed paid to them, later than would otherwise be the case. This is more likely for consumers who have straightforward cases and who complain early (and so are 'at the front of the queue'). We consider that the delay experienced by a minority of consumers as a result of the extension is outweighed by faster and more orderly resolution of complaints for the majority of consumers. During the extension, consumers will retain the ability to seek redress from firms through legal action.
- 62.** We expect this cost to be greater under Option 1 than Option 2 because for those consumers whose see a delay in the resolution of their complaint as a result of the extension, this delay is likely to be longer under Option 1 than Option 2. We expect this to be a minority of consumers (likely to be those whose complaints represent more simple cases and who complain early). We expect that the majority of consumers will see their complaints resolved and, where appropriate, redress paid more quickly under either option than in the counterfactual. As noted above, for that majority of consumers, we do not consider that Option 1 is likely to cause a delay in the resolution of their claims relative to Option 2.

Costs to the FCA

- 63.** Irrespective of which option we proceed with, we do not expect to incur any additional supervisory, communications, or IT and reporting costs as a direct result of this proposal. However, we expect that over the duration of the extension additional resource and time may be allocated to work aimed at determining the best way forward.

Wider economic impacts, including on secondary objective

- 64.** We consider that our proposal is compatible with our international competitiveness and growth objective. The extension is necessary, for the reasons set out above, to facilitate the most orderly, consistent, and efficient resolution of consumer complaints and provision of redress to any consumers who are owed it in line with the finalised view of common law. The extension will mitigate the operational impact of the anticipated increase in the volume of motor finance non-DCA commission complaints on firms and on the Financial Ombudsman, which could otherwise be significant. In turn, this will reduce the risk of firms failing in a disorderly manner.
- 65.** While we recognise that this extension could create uncertainty for firms and consumers, we believe that by ensuring orderly, consistent, and efficient resolutions to consumer complaints it will contribute to the maintenance of trust and confidence in the UK's financial markets and our regulatory framework. Trust and confidence in financial markets and their regulation is essential for supporting sustainable economic growth and international competitiveness.

Monitoring and evaluation

- 66.** We propose to work jointly with the Financial Ombudsman to monitor the number of complaints referred to it relating to motor finance agreements not involving a DCA following the implementation of this proposal. We will be able to compare this metric to the number of such complaints referred to the Financial Ombudsman prior to this intervention in order to assess the effectiveness of our intervention in reducing the number of complaints referred to the Financial Ombudsman during the extension.

Question 13: Do you agree with our analysis of the costs and benefits of these proposals? If you do not agree, please explain why.

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 section 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 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. 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 section 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 (section 3B 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 the current complaint handling arrangements.

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. Neither the original motor finance DCA complaint handling rules, nor the proposals for motor finance non-DCA complaints, prevent consumers or their representatives from lodging motor finance non-DCA commission complaints with firms or taking legal action against firms, should they decide to do so.

Expected effect on mutual societies

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

Compatibility with the duty to promote effective competition in the interests of consumers

- 14.** In preparing the proposals as set out in this consultation, we have had regard to the FCA's duty to promote effective competition in the interests of consumers.

Equality and diversity

- 15.** 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, to and foster good relations between people who share a protected characteristic and those who do not.
- 16.** 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 3.32-3.34 of this consultation paper.

Legislative and Regulatory Reform Act 2006 (LRRRA)

- 17.** 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 in this document

Abbreviation	Description
CP	Consultation Paper
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
NON-DISCRETIONARY COMMISSION ARRANGEMENT COMPLAINTS)
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 139A (Power of the FCA to give guidance);
 - (4) section 226 (Compulsory jurisdiction); and
 - (5) paragraph 13 (FCA’s rules) of Schedule 17 (The Ombudsman Scheme).
- 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 Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Dispute Resolution: Complaints sourcebook (DISP) is amended in accordance with Annex B to this instrument.

Notes

- F. In the Annexes to this instrument, the notes (indicated by “*Editor’s note:*”) are included for the convenience of readers but do not form part of the legislative text.

Citation

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

By order of the Board
[date]

Annex A

Amendments to the Glossary of definitions

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

motor finance non-DCA complaint (in *DISP*) has the meaning in *DISP* App 5.1.3AR.

Annex B

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

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

1 Treating complainants fairly

1.1 Purpose and application

...

Application to firms in relation to a relevant motor finance discretionary commission arrangement complaint and a motor finance non-discretionary commission arrangement complaint

1.1.10M R In relation to a *relevant motor finance DCA complaint* or a motor finance non-DCA complaint:

(1) *DISP* 1.6; and

(2) *DISP* 1.9,

apply as modified by *DISP* App 5 (~~Relevant motor finance discretionary commission arrangement complaint handling rules~~).

1.1.10N G *DISP* App 5 contains *complaint handling rules* and guidance in respect of a *relevant motor finance DCA complaint* and a motor finance non-DCA complaint.

...

1.2 Consumer awareness rules

...

Relevant motor finance discretionary commission arrangement complaints and motor finance non-discretionary commission arrangement complaints

1.2.1A G *DISP* App 5.2.4R requires a *respondent* to update the information it has published pursuant to *DISP* 1.2.1R(1) in relation to the *complaint* handling time limits that apply to a *relevant motor finance DCA complaint* and a motor finance non-DCA complaint.

...

2 Jurisdiction of the Financial Ombudsman Service

2.1 Purpose, interpretation and application

...

Application to the Ombudsman and respondents in relation to a relevant motor finance discretionary commission arrangement complaint and a motor finance non-discretionary commission arrangement complaint

- 2.1.6B R In relation to a *relevant motor finance DCA complaint* or a motor finance non-DCA complaint:
- (1) *DISP* 2.8.1R(2);
 - (2) *DISP* 2.8.1R(4)(a); and
 - (3) *DISP* 2.8.2R(1),
- apply as modified by *DISP* App 5 (~~Relevant motor finance discretionary commission arrangement complaint handling rules~~).
- 2.1.6C G *DISP* App 5 contains *complaint handling rules* and *guidance* in respect of a *relevant motor finance DCA complaint* and a motor finance non-DCA complaint.

...

App 5 Relevant motor finance discretionary commission arrangement complaint and motor finance non-discretionary commission arrangement complaint handling rules

App 5.1 Purpose, interpretation and application

Purpose

- App 5.1.1 G (1) This appendix contains *rules* and *guidance* in relation to a *relevant motor finance DCA complaint* and a motor finance non-DCA complaint that:
- (a) apply and modify the *rules* and *guidance* in *DISP* 1.2 (Consumer awareness rules), *DISP* 1.6 (Complaints time limit rules) and *DISP* 2.8 (Was the complaint referred to the Financial Ombudsman Service in time?); and
 - (b) require *lenders* and *credit brokers* to retain and preserve relevant records.
- (2) Where, in relation to either a relevant motor finance DCA complaint or a motor finance non-DCA complaint, provisions in *DISP* 1 or 2 refer to *rules* or *guidance* that are modified by this appendix, the modified provisions apply.
- (3) All *rules* and *guidance* in *DISP* continue to apply to a *relevant motor finance DCA complaint* and a motor finance non-DCA complaint unless otherwise stated.

Interpretation

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

...

App 5.1.3 G ...

App 5.1.3A R A motor finance non-DCA complaint is a *complaint* where:

- (1) the subject matter of the *complaint* relates, in whole or part, to a *regulated credit agreement*;
- (2) the *regulated credit agreement*, in whole or part, financed the purchase of a motor vehicle, or a motor vehicle was bailed or hired under the agreement;
- (3) there were arrangements between the *lender* and a *credit broker* relating to the entering into of that agreement that provided for the payment (directly or indirectly) of any commission, fee or other financial consideration or remuneration including a benefit of any kind to the *credit broker*;
- (4) the *complaint* is not a *relevant motor finance DCA complaint* as defined in *DISP* App 5.1.2R; and
- (5) the *respondent*:
 - (a) received the *complaint* in the period beginning with [25 October 2024] and ending with [31 May 2025/4 December 2025]; or
 - (b) sent a *final response* to the *complaint* in the period beginning with [20 June 2024] and ending with [26 July 2025/29 January 2026].

[*Editor's note:* At *DISP* App 5.1.3AR(5)(a), the end date of 31 May 2025 reflects option 2 as set out in CP24/22, while the end date of 4 December 2025 reflects option 1 as set out at CP24/22. At *DISP* App 5.1.3AR(5)(b), the end date of 26 July 2025 reflects option 2 as set out in CP24/22, while the end date of 29 January 2026 reflects option 1 as set out in CP24/22.]

Application

App 5.1.4 R This appendix applies to:

- (1) *respondents* and the *Ombudsman* in respect of a *relevant motor finance DCA complaint* or a motor finance non-DCA complaint; ~~and~~
- (2) *lenders* and *credit brokers* in respect of records relating to any *regulated credit agreement* entered into before 28 January 2021 that meets the requirements in *DISP* App 5.1.2R(1)(b) and (c); and
- (3) *lenders* and *credit brokers* in respect of records relating to any *regulated credit agreement* that meets the requirements in *DISP* App 5.1.3AR(2) and (3).

App 5.1.5 R Where this appendix applies or modifies provisions in *DISP* 2, the term *respondent* in *DISP* App 5.1.2R, 5.1.3AR and 5.1.4R has the ~~*glossary*~~ *Glossary* meaning that applies in that chapter.

App 5.2 **Complaint handling rules in respect of a relevant motor finance DCA complaint and a motor finance non-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 by the *respondent* in the period beginning with 17 November 2023 and ending with 4 December 2025; and

...

...

App 5.2.1A G ...

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

- (a) that is received by the *respondent* in the period beginning with [25 October 2024] and ending with [31 May 2025/4 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 beginning with [25 October 2024] and ending with [31 May 2025/4 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 [25 October 2024] and ending with [31 May 2025/4 December 2025].

[*Editor's note:* In *DISP* App 5.2.1BR(1)(a), (2) and (3), the end date of 31 May 2025 reflects option 2 as set out in CP24/22, while the end date of 4 December 2025 reflects option 1 as set out at CP24/22.]

Time limits for referring a complaint to the Ombudsman

...

App 5.2.2A G ...

App 5.2.2B R (1) This rule applies where a *final response* to a *motor finance non-DCA complaint* is sent in the period beginning with [20 June 2024] and ending with [26 July 2025/29 January 2026].

(2) If a *final response* is sent in the period beginning with [20 June 2024] 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 [26 July 2025/29 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*.

[*Editor's note:* At *DISP* App 5.2.2BR(1) and (3), the end date of 26 July 2025 reflects option 2 as set out in CP24/22, while the end date of 29 January 2026 reflects option 1 as set out in CP24/22.]

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* to a *relevant motor finance DCA complaint* and a *motor finance non-DCA complaint* as set out in *DISP* App 5.2.1R(2) and *DISP* App 5.2.1BR(2); and

...

...

Communicating with complainants

...

App
5.2.5C

R ...

App
5.2.5DR

- (1) This rule applies where a respondent receives a motor finance non-DCA complaint in the period beginning with [25 October 2024] and ending with [31 May 2025/4 December 2025].
- (2) Where a respondent has on or before [19 December 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:
- (a) promptly inform the complainant in writing of the pause to the time limits as set out in DISP App 5.2.1BR(2); and
- (b) comply with (4).
- (3) Where a respondent has not, on or before [19 December 2024], sent a complainant a written acknowledgement in accordance with DISP 1.6.1R(1), it must, when complying with that rule:
- (a) inform the complainant of the pause to time limits set out in DISP App 5.2.1BR(2); and
- (b) comply with (4).
- (4) A respondent must direct the complainant to the information published at fca.org.uk/carfinance, which explains the reason for the pause.

[Editor's note: In DISP App 5.2.5DR(1), the end date of 31 May 2025 reflects option 2 as set out in CP24/22, while the end date of 4 December 2025 reflects option 1 as set out at CP24/22.]

Communicating the Financial Ombudsman Service temporary time limits

...

App
5.2.9

R ...

App
5.2.10R

- (1) This rule applies to a motor finance non-DCA complaint where a final response is sent in the period beginning with [20 June 2024] and ending with [26 July 2025/29 January 2026].

- (2) Where, in accordance with DISP 1.6.2R(1), a respondent has on or before [19 December 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 end with 29 July 2026;
 - (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/carfinance explains the reason for the extension.
- (3) Where a respondent has not on or before [19 December 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 has been extended in accordance with DISP App 5.2.2BR;
 - (b) provide the information contained in (2)(b) and (c); and
 - (c) modify the wording required by DISP 1.6.2R(1)(e) and (f) (if applicable) so that:
 - (i) references to 'within six months of the date of this letter' in DISP 1 Annex 3R(1) and (2) are substituted with:
 - (A) 'on or before 29 July 2026' if a respondent sends a final response on or before 29 April 2025; or
 - (B) 'within fifteen months of the date of this letter' if a respondent sends a final response on or after 30 April 2025; and
 - (ii) the reference to 'is usually six months' in DISP 1 Annex 3R(3) is substituted with:
 - (A) 'is, in this case, on or before 29 July 2026' if a respondent sends a final response on or before 29 April 2025; or
 - (B) 'is, in this case, fifteen months' if a respondent sends a final response on or after 30 April 2025.

[Editor's note: At DISP App 5.2.10R(1), the end date of 26 July 2025 reflects option 2 as set out in CP24/22, while the end date of 29 January 2026 reflects option 1 as set out in CP24/22.]

App 5.3 General record retention

App 5.3.1 R ...

App 5.3.1A R (1) Lenders and credit brokers must also retain and preserve records:

- (a) relating to any regulated credit agreement where that regulated credit agreement, in whole or part, financed the purchase of a motor vehicle, or a motor vehicle was bailed or hired under the agreement; and
- (b) where they are or could be relevant to the handling of existing or future complaints or civil claims relating to the payment (directly or indirectly) of any commission, fee or other financial consideration or remuneration including a benefit of any kind to a credit broker.

(2) The requirement in (1) applies:

- (a) regardless of whether a motor finance non-DCA complaint or a relevant motor finance DCA complaint has been made; and
- (b) in the period beginning with [19 December 2024] and ending with 11 April 2026.

App 5.3.2 E The following will be relevant records for the purposes of the ~~requirement~~ requirements in *DISP* App 5.3.1R and 5.3.1AR:

- (1) the *regulated credit agreement*;
- (2) records of the commission and/or remuneration arrangements relating to the *regulated credit agreement*;
- (3) records of the payment (directly or indirectly) of any commission, fee or other financial consideration paid (directly or indirectly) or remuneration including a benefit of any kind to the broker in connection with the regulated credit agreement, including details of its structure, amount and calculation;

...

