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Motor Finance Complaints – An Update on the FCA's Recent Activity

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Introduction

On 30 July 2024, the United Kingdom Financial Conduct Authority ("**FCA**") published a number of updates in relation to its work on complaints against motor finance firms.

In particular, the FCA published an update announcement on its website and a consultation paper (CP24/15) (the "**Consultation Paper**"), on a potential extension of its temporary complaint handling rules for discretionary commission arrangement ("**DCA**") complaints. The FCA also published the transcript of a podcast with the FCA CEO, commenting on the motor finance market.

Background

Consumers have been claiming compensation against motor finance firms and credit brokers for DCAs in agreements made before the FCA banned DCAs on 28 January 2021. These claims are being handled by the UK County Courts and the Financial Ombudsman Service ("**FOS**").

On 11 January 2024, the FOS upheld two complaints against lenders using DCAs, awarding compensation. Compensation was calculated as the difference between the interest rate the customer paid and the lowest interest rate which the lender would have been prepared to offer them under the DCA model plus interest at 8%. One of the FOS decisions is under judicial review, expected in Autumn 2024, and a Court of Appeal judgment on related cases from July 2024 is awaited.

On the same date, the FCA announced via a policy statement (PS24/1) that it was carrying out diagnostic work via a "skilled person's" report under Section 166 of the Financial Services and Markets Act 2000 ("**FSMA**"), to review historic finance commission arrangements and sales across several firms. To allow time for this, the FCA paused the 8-week complaint response deadline until 25 September 2024. The FCA also extended the deadline for consumers to refer complaints to the FOS from 6 months to 15 months, for final responses issued between 12 July 2023 and 21 November 2024.

Key Updates

- The FCA announced that it will outline its next steps regarding the review of past use of DCAs in May 2025. This may include consulting on a redress scheme and, as such, the FCA is proposing (in the Consultation Paper) to pause complaint handling until later in 2024, as it may take until then to confirm how firms would implement the scheme.
- If the FCA decides not to introduce an alternative way of dealing with complaints, it will consult on ending the pause earlier. In this case, firms would start dealing with complaints again in the usual way.
- In the Consultation Paper, the FCA proposes extending temporary complaint handling rules for DCA complaints in the motor finance industry, due to delays in data collection and ongoing litigation (as set out above). The proposals include:
    - Extending the complaint handling pause until 4 December 2024 (from 25 September 2024); and
    - Allowing complainants until at least 29 July 2026 to refer their complaints to the FOS after receiving a final response.
- One of the reasons the FCA is consulting on this change is because, while it considers it necessary to continue the complaint handling pause, the FCA acknowledges the long ongoing delay for consumers who have made complaints.

Next Steps

Responses to CP24/15 are due by 28 August 2024, with the FCA planning to publish feedback and final rules by 24 September 2024.

For further information, please reach out to the Proskauer UK Regulatory team.

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