SLAUGHTER AND MAY/

CLIENT BRIEFING

OCTOBER 2025

FCA PUBLISHES MOTOR FINANCE REDRESS SCHEME CONSULTATION

On 7 October 2025, the FCA published its highly anticipated consultation on a proposed motor finance redress scheme. This follows the Supreme Court finding in *Johnson*[1] on 1 August 2025 of an unfair relationship within s140A of the Consumer Credit Act 1974 (the "CCA") between a motor finance lender and its customer.

The FCA sets out a detailed proposal in its consultation for an industry-wide redress scheme intended to compensate motor finance customers who were treated unfairly. This expansive scheme will, on the FCA's estimates, apply to 44% of all agreements made since 2007 and could cost the industry approximately £11bn, assuming 85% of eligible customers were to participate.

Key features of the proposed scheme

- **Scope:** In order for the consumer to be owed redress under the scheme, at least one of the following "relevant arrangements" must have been present and must not have been adequately disclosed to the consumer:
  - a discretionary commission arrangement ("**DCA**");
  - a high commission arrangement, where the commission represents, at a minimum, 35% of the total cost of credit and 10% of the amount financed; or
  - a tied arrangement, where the lender has exclusivity such that the broker is obliged to introduce customers exclusively to that lender or where the lender has a right of first refusal or an equivalent right.

  The onus is on firms to demonstrate "adequate disclosure". Most firms are likely to find it challenging to do so, given market standard disclosures over the relevant period. Certain customers, including those with ongoing complaints with the Financial Ombudsman Service, are excluded from scope.

- **Timeframe**: The FCA has proposed a very broad timeframe of applicability; the scheme would apply to any agreement taken out between 6 April 2007 (when s140A of the CCA came into force) and 1 November 2024 (a week after the Court of Appeal judgment in *Johnson*,[2] and the point at which the FCA assumes firms would have updated disclosure practices).

- **Opt-in / opt-out**: As a first stage, lenders would be required to identify all consumers who took out a motor finance product in the scheme timeframe and to which one or more of the relevant arrangements above applied. Customers with outstanding complaints would be included in the scheme unless they opt out. Firms will be required to write to such customers within three months of the scheme starting, and separately to other consumers with relevant arrangements but without an outstanding complaint within six months, inviting them to opt in. Finally, it is proposed that firms should also write to consumers with agreements in the timeframe without relevant arrangements to inform them that they do not have a scheme case.

- **Operationalising the scheme**: The FCA has made it clear in its Dear CEO letter[3] to lenders and brokers, released alongside the publication of the consultation paper, that firms will have to act now to prepare for the implementation of the scheme. The Dear CEO letter emphasises the requirement on firms to assess whether they have adequate financial and non-financial resources as well as ensuring that they have adequate systems and controls for implementation of the scheme. Given that the scheme is proposed to take effect the day after publication of the final rules and policy statement by the FCA, firms are likely to face significant operational challenges in establishing a scheme of this scale and complexity at speed. Within 6 weeks of the start date, a delivery forecast must be published. This forecast will name the Senior Manager ("**SMF**") responsible for oversight and delivery of the scheme, as well as including an attestation from an SMF that the firm has robust process, systems and controls in place for purposes of identifying and assessing potential scheme cases and plugging any information gaps. In addition to the deadlines to identify and contact customers noted above, firms will have just 7 months from the scheme start to issue a provisional decision to customers with ongoing complaints and 15 months for all other customers.

- **Presumed unfairness and loss**: If any relevant arrangement was not adequately disclosed, the relationship is presumed to be unfair under the proposed scheme. This presumption will only be rebuttable in rare circumstances (such as where the only relevant arrangement is a DCA and the APR charged was the lowest available on the DCA scale). Once unfairness is presumed, (i) where there was a DCA, loss is conclusively presumed and (ii) in other cases, the presumption of loss can only be rebutted with specific evidence to show that the consumer could not have secured a lower APR from any other lender with whom the broker had arrangements, which is likely to be challenging for lenders to obtain. If the broker did not work with other lenders, the presumption of loss will be irrebuttable.

- **Redress calculation**: There is no de minimis threshold under the proposals. Where cases are identified as having both a tied arrangement and a very high commission (representing 50% or more of the total cost of credit and 22.5% or more of the loan, similar to the facts in *Johnson*), the full commission would have to be repaid, plus interest, as it was in *Johnson*. In most other cases, the redress awarded will be a simple average of (i) repayment of the commission and (ii) a loss-based APR-adjustment remedy (which in most cases approximates to a 17% downwards adjustment of the APR actually paid by the customer), plus interest. Where the loss-based remedy delivers a higher amount than this hybrid remedy, the loss-based remedy must be awarded instead.

- **Interest rate:** The proposed interest rate is the annual average Bank of England base rate per year plus 1 per cent. This is intended to be applied to each monthly “overpayment” by the customer from the date of that payment to the presumed date of redress payment, which is assumed to be 2 months after a provisional redress decision is sent by the firm to the customer.

While a sense of proportionality has been demonstrated in relation to some aspects of the redress calculation (particularly for arrangements that fall short of the characteristics of *Johnson* and in the proposals for interest), there are many areas in which the scheme proposed is extremely broad, with limited or in some cases no justification. In particular, the FCA provides no justification for how it can mandate a scheme extending prior to the time of its regulation of the market (which is not on its face permitted by the Financial Services and Markets Act 2000), and limited justification for why all undisclosed DCAs and tied agreements should be presumed unfair. These aspects, combined with onerous expectations around the timing for implementing and delivering the scheme, will draw strong responses from industry.

Firms will now have until 18 November 2025 to submit their responses to the FCA. Final rules are expected to be published and the scheme itself launched by early 2026.

[1] *Hopcraft and another v Close Brothers Limited* (UKSC/2024/0157), *Johnson v FirstRand Bank Limited (London Branch) t/a MotoNovo Finance* (UKSC/2024/0158) and *Wrench v FirstRand Bank Limited (London Branch) t/a MotoNovo Finance* (UKSC/2024/0159) [2025] UKSC 33.

[2] *Hopcraft and another v Close Brothers Limited* (CA-2023-001453), *Johnson v FirstRand Bank Limited (London Branch) t/a MotoNovo Finance* (CA-2024-00353) and *Wrench v FirstRand Bank Limited (London Branch) t/a MotoNovo Finance* (CA-2024-00482) [2024] EWCA Civ 1282.

[3] *Dear CEO letter: Motor finance commission redress - action we expect firms to take now (7 October 2025).*

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