

Appendix 5

Relevant motor finance discretionary commission arrangement complaint handling rules

5.1 Purpose, interpretation and application

Purpose

App5.1.1 **G**

- (1) This appendix contains *rules* and *guidance* in relation to a *relevant motor finance 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 a *relevant motor finance 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* unless otherwise stated.

Interpretation

App5.1.2 **R**

- (1) For the purposes of this appendix, a *relevant motor finance DCA complaint* is a *complaint* where:
 - (a) the subject matter of the *complaint* relates, in whole or part, to a *regulated credit agreement* entered into before 28 January 2021;
 - (b) 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;

(c) there were arrangements between the *lender* and a *credit broker* relating to the entering into of that agreement that included a *discretionary commission arrangement*; and

(d) the *respondent*:

received the *complaint* in the period beginning with 17 November 2023 and ending with 25 September 2024; or

sent a *final response* to the *complaint* in the period beginning with 12 July 2023 and ending with 20 November 2024.

(2) The arrangements referred to in (1)(c) are to be read as including any arrangement which would, if it had been entered into on or after 28 January 2021, have constituted a *discretionary commission arrangement*.

App5.1.3 G

- (1) The purpose of ■ DISP App 5.1.2R(2) is to ensure that the *complaint* handling rules in this appendix apply in respect of motor finance commission arrangements which are in substance equivalent to a *discretionary commission arrangement* but do not (because of the time at which they were entered into) meet the *Handbook* definition.
- (2) This will include such arrangements between persons undertaking equivalent activities under an Office of Fair Trading licence prior to the transfer of responsibility for the regulation of consumer credit to the FCA on 1 April 2014 (provided the other requirements in ■ DISP App 5.1.2R(1) are met).
- (3) The effect of ■ DISP App 5.1.2R(2) is that a *relevant motor finance DCA complaint* includes *complaints* involving any motor finance commission arrangements which would, if they were entered into on or after the date that the prohibition in ■ CONC 4.5.6R was introduced, fall within the definition of a *discretionary commission arrangement*.

Application

App5.1.4 R This appendix applies to:

- (1) *respondents* and the *Ombudsman* in respect of a *relevant motor finance 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).

App5.1.5 R Where this appendix applies or modifies provisions in ■ DISP 2, the term *respondent* in ■ DISP App 5.1.2R and ■ 5.1.4R has the *glossary* meaning that applies in that chapter.

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

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

- App5.2.1** **R** (1) This rule applies in respect of a *relevant motor finance DCA complaint*:
- (a) that is received in the period beginning with 17 November 2023 and ending with 25 September 2024; and
 - (b) in relation to which a *final response* has not been sent.
- (2) For the purpose of calculating the eight-week period in:
- (a) ■ DISP 1.6.2R;
 - (b) ■ DISP 1.6.7G;
 - (c) ■ DISP 2.8.1R(2); and
 - (d) ■ DISP 2.8.1R(4)(a),
- time is to be treated as not running for the period of thirty-seven weeks beginning with 11 January 2024 and ending with 25 September 2024.
- (3) The three-year period in ■ DISP 1.9.1R(2) (Complaints record rule) is to be treated as not running for the period beginning with 11 January 2024 and ending with 25 September 2024.

Time limits for referring a complaint to the Ombudsman

- App5.2.2** **R** Where a *final response* to a *relevant motor finance DCA complaint* is sent in the period beginning with 12 July 2023 and ending with 20 November 2024, the six-month period in ■ DISP 2.8.2R(1) is extended to fifteen months.

- App5.2.3** **R** (1) This rule applies in respect of a *relevant motor finance DCA complaint* where a *final response* is sent in the period beginning with 11 January 2024 and ending with 20 November 2024.
- (2) For the purpose of complying with ■ DISP 1.6.2R(1)(f), the appropriate wording to include in a *final response*, as set out in ■ DISP 1 Annex 3R(1), (2) and (3), is modified so that the references to 'six months' in these rules are substituted with 'fifteen months'.

Communicating with consumers

- App5.2.4** **R** (1) A *respondent* must update any information it has published pursuant to ■ DISP 1.2.1R(1) as soon as is practicable to:
- (a) inform consumers of the pause to time limits for a *final response* as set out in ■ DISP App 5.2.1R(2); and

- (b) refer them to fca.org.uk/car-finance-complaints, which explains the reason for the pause.

(2) This rule applies until 21 November 2024.

Communicating with complainants

App5.2.5 **R** In relation to a *relevant motor finance DCA complaint* received in the period beginning with 11 January 2024 and ending with 25 September 2024:

- (1) ■ DISP 1.6.1R applies as modified by this rule.
- (2) Where a *respondent* has:
 - (a) on or before 10 January 2024 sent a written acknowledgement in accordance with ■ DISP 1.6.1R(1) but has not sent a *final response* in accordance with ■ DISP 1.6.2R(1), the *respondent* must:
 - (i) promptly inform the complainant in writing of the pause to the time limits as set out in ■ DISP App 5.2.1R(2); and
 - (ii) comply with (3);
 - (b) not, on or before 10 January 2024, sent a complainant a written acknowledgement in accordance with ■ DISP 1.6.1R(1), and has not sent a *final response* in accordance with ■ DISP 1.6.2R(1), the *respondent* must:
 - (i) explain the pause to time limits set out in ■ DISP App 5.2.1R(2) when complying with ■ DISP 1.6.1R(1); and
 - (ii) comply with (3).
- (3) A *respondent* must direct the complainant to the information published at fca.org.uk/car-finance-complaints, which explains the reason for the pause.

Communicating the Financial Ombudsman Service temporary time limits

- App5.2.6** **R**
- (1) This rule applies to a *relevant motor finance DCA complaint* where a *final response* is sent in the period beginning with 12 July 2023 and ending with 20 November 2024.
 - (2) Where, in accordance with ■ DISP 1.6.2R(1), a *respondent* has on or before 10 January 2024 sent a complainant a *final response*, the *respondent* must promptly in writing inform the complainant that:
 - (a) the time limit to refer the *complaint* to the *Financial Ombudsman Service* has been extended to fifteen *months* beginning with the *day* on which the *respondent* sent its *final response*;
 - (b) the six-month time limit contained in the *Financial Ombudsman Service's* standard explanatory leaflet does not apply; and
 - (c) the information at fca.org.uk/car-finance-complaints explains the reason for the extension.
 - (3) Where a *respondent* has not on or before 10 January 2024 sent a complainant its *final response*, it must, when complying with ■ DISP 1.6.2R(1):

- (a) explain that the time limit to refer the *complaint* to the *Financial Ombudsman Service* is fifteen *months* beginning with the *day* on which the *respondent* sent its *final response*; and
- (b) provide the information contained in (2)(b) and (c).

5.3 General record retention

- App5.3.1** R (1) *Lenders* and *credit brokers* must retain and preserve records:
- (a) relating to any *regulated credit agreement* entered into before 28 January 2021;
 - (b) which meet the requirements in ■ DISP App 5.1.2R(1)(b) and (c); and
 - (c) that are or could be relevant to the handling of existing or future *complaints* or civil claims relating to *discretionary commission arrangements*.
- (2) The requirement in (1) applies:
- (a) regardless of whether a *relevant motor finance DCA complaint* has been made; and
 - (b) in the period beginning with 11 January 2024 and ending with 10 January 2025.

- App5.3.2** E The following will be relevant records for the purposes of the requirement in ■ DISP App 5.3.1R:
- (1) the *regulated credit agreement*;
 - (2) records of the commission arrangements relating to the *regulated credit agreement*;
 - (3) records of any commission, fee or other financial consideration paid (directly or indirectly) in connection with the *regulated credit agreement*, including details of its structure and calculation;
 - (4) customer files and records, including any agreement setting out the nature of the services offered, any customer transactions and payments; and
 - (5) communications with the customer.

