

The Financial Conduct Authority and the Financial Ombudsman Service: Modernising the Redress System

Responsible Finance Response

30th January 2025

Introduction

Responsible Finance welcomes the opportunity to respond to this consultation and is grateful for the Financial Conduct Authority (FCA) and Financial Ombudsman Service's (FOS) continued positive engagement with the Community Development Finance Institution (CDFI) sector.

We have consulted with our members to inform this response. Our answers are focused on questions most relevant to them. It is important to note that CDFIs receive very few complaints that go on to be referred to the FOS. We strongly support the FCA and the FOS's respective roles in protecting consumers and are supportive of outcomes-based regulation which promotes a consumer-centric mindset.

Questions and responses

- 1. Should we define what a mass redress event is? If yes, please explain how we should define it. If no, please explain how we could better identify and address mass redress events (without defining them).**

We would support the creation of a formal definition if this would enable clearer and earlier identification of events in the interest of consumers.

- 2. Do you agree with our assessment of the difficulties that mass redress events can create for firms and consumers?**

We agree with this assessment.

- 3. What other issues should we consider as part of this review?**

We support the move to outcomes-focused regulation which puts an emphasis on creating an environment with high-consumer protection. At the same time, we would encourage more collaboration between the FCA and the FOS in some areas including affordability assessments. In its response to this consultation, one CDFI highlighted some complaint cases where they felt that the FOS's decision was not consistent with the FCA's rules on affordability assessments in relation to a customer's discretionary vs. non-discretionary expenditure.

- 4. Are there any changes to the regime that we ought to consider to ensure that it remains appropriate, given the shift to outcomes focused regulation?**

The FOS receives a great amount of insight into how consumers interact with financial services. We understand it can provide the FCA with feedback on

issues it has highlighted from complaints, including through thematic reports, and we welcome this continued and thorough exchange of information. We are unsure if there are made public, but we would welcome regular thematic reviews of upheld complaints, by sector (eg. Consumer credit), that may help firms to proactively amend their own practice before they receive a direct complaint. The Financial Ombudsman Service's 'Ombudsman Decisions' database is very useful tool for financial services firms. It could be improved by enabling the decisions to be downloaded in bulk into an excel spreadsheet to allow more straightforward analysis and learning.

- 5. Do you agree that our proposals to better manage mass redress events can help ensure that the FCA acts in a way which is compatible with its statutory objectives, including the secondary international competitiveness and growth objective? Please explain why you agree or disagree.**

N/a

- 6. What, if any, further information or guidance is needed in DISP (Dispute Resolution: Complaints Sourcebook) to help firms identify and proactively address harm, given the Consumer Duty?**

The FCA's recent report on complaints and root cause analysis is a valuable resource. It provides clear insights into best practices, which can help firms strengthen their complaint-handling frameworks. However, we believe that additional guidance tailored to specific types of harm – particularly those impacting vulnerable customers – would be beneficial. For example:

- Clearer examples of proactive measures firms can adopt to identify and mitigate harm for customers with low financial resilience.
- Sector-specific scenarios that reflect the unique challenges faced by Community Development Finance Institutions (CDFIs).

While the Consumer Duty provides a solid foundation, more detailed practical advice on embedding harm-reduction strategies effectively across customer touchpoints would further support firms in meeting these expectations.

- 7. What options should we consider to ensure firms are given an appropriate opportunity to resolve complaints fairly before cases are referred to the Financial Ombudsman?**

We would welcome potential options to prevent this, however, we do not agree that introducing a 2-stage process is an appropriate solution.

- 8. Would a 2-stage process be appropriate in light of the Consumer Duty, and if implemented, how could it be effectively monitored to ensure good outcomes for consumers?**

We do not believe that re-introducing a 2-stage process would make a material difference to the number of complaints referred on to the FOS. CDFIs believe that the complainant would still be likely to refer their complaint for independent review by the FOS.

CDFIs flagged that in some cases, the information the consumer has given to the FOS has not been accurate – for example, the customer has said they haven't submitted a bank statement to the CDFI for affordability assessment –, or that the complaint sent to the FOS has been different to the complaint that the CDFI had originally received. It would be helpful to try and protect against this by underlining the importance of accuracy for complaints referred to the FOS.

9. What options should be considered to ensure firms and complainants resolve complaints fairly at the earliest opportunity before a final Ombudsman decision is taken?

N/a

10. Should the rules in DISP provide different routes to redress for represented and non-represented complainants with different expectations? If so, what factors should be considered?

N/a

11. What amendments, if any, to the Financial Ombudsman case fee rules should be considered for mass redress events?

N/a

12. Are there additional or different considerations that the Financial Ombudsman should take into account when deciding what is fair and reasonable in all the circumstances of the case?

We support the FOS's decision making and value its feedback on consumer complaints. It is important to continue to take into account the fact that repeat borrowing can be a valuable money management tool for low-income households whose financial situation hasn't changed, to enable them to smooth their budgets by purchasing one off larger items using a loan from a CDFI. In addition, it is important for consumers to understand that their applications for credit to a lender must be accurate, and for the FOS to be proportionate in relation to how much information a lender can reasonably be expected to double check where a customer has a thin digital footprint.

13. What amendments to the dismissal grounds should be considered when the Government repeals the 2015 Regulations?

N/a

14. Should the current time limits for referring complaints to the Financial Ombudsman be reviewed? If so, what alternative approaches should we consider that would provide an appropriate level of protection for consumers?

The Information Commissioner's Office says that you 'must only keep personal information for as long as you need it' and you must be able to 'justify how long you keep personal data.' Given that there is essentially no time limit on complaints, it requires firms to hold onto sensitive personal information for much longer to reflect this.

15. Are there any other short to medium term changes you think should be made to the framework?

N/a

16. Should we do more to consult each other on cases, and make our views more widely known publicly, when significant numbers of complaints on a similar issue are being made and/or interpretation of FCA rules is a key issue in the complaint?

N/a

17. Should the Financial Ombudsman be able to pause the timescales in the DISP rules while it awaits regulatory input on the interpretation of rules? Yes this approach makes sense.

N/a

18. What changes to the current rules should be considered for mass redress events?

N/a

19. Are there any other longer-term changes you think should be made to the framework, including potential legislative changes?

N/a

20. What proportionate approaches could the FCA use to collect better data on emerging redress events?

The FCA could use real-time data monitoring and reporting of FOS insights. Any data collection from firms should be tailored based on the risk profile and size of organisations.

21. In what circumstances should the FCA expect firms, including PRs, to notify it of emerging redress events?

N/a

22. What other factors should be taken into account when determining if an issue has wider implications or the potential to become a mass redress event?

N/a

23. Are there any other changes needed to make the WIF more effective?

N/a

24. How effective has the WIF been in facilitating early collaboration between its members and industry on matters with wider implications?

N/a

25. What improvements could be made to how we work under the current framework to ensure effective co-operation on matters with wider implications?

N/a

26. Do you believe that the amendments made to the WIF ToRs will improve the ability for external stakeholders to provide input on issues where wider implications are identified, and if not, why not?

We welcome the enhanced opportunities for stakeholder engagement enabled through these amendments to the WIF ToRs. We would be keen to see engagement with CDFIs as part of these structures.

27. What other improvements could be made to how we engage and communicate with stakeholders when considering issues with wider implications?

N/a