



# Modernising the Redress System

UK Finance response to FCA  
CP25/22 Consultation Paper

# Introduction

8 October 2025

Sent via email to: [cp25-22@fca.org.uk](mailto:cp25-22@fca.org.uk)

UK Finance is the collective voice for the banking and finance industry. Representing around 300 firms across the industry, we act to enhance competitiveness, support customers and facilitate innovation.

We welcome the opportunity to respond to this consultation and given the subject matter, have consulted widely across our membership to attain views from a broad range of firms, with different business models and customer bases.

Our high-level views and responses to the consultation questions are set out below and we would be happy to discuss this submission in more detail if that would be useful. Please contact [Daniel.ryall@ukfinance.org.uk](mailto:Daniel.ryall@ukfinance.org.uk) in the first instance to discuss further.

## Executive Summary

Please note we repeat these key points in our response to the HMT's Review of the Financial Ombudsman Service and this response should be read in conjunction with our response to HMT's proposals'.

### Introduction and early implementation

This is a pivotal moment for the UK's redress system, with HMT's review of the FOS running in parallel to the FCA's consultation on modernising redress. Taken together, these consultations provide an opportunity to restore consistency and fairness to the complaint's framework, while supporting the Governments growth agenda.

We strongly support HMT's ambition to ensure the FOS remains a quick, simple and impartial dispute resolution service, while also calling on the FCA and FOS to act with greater urgency in areas where DISP rule changes can bring immediate improvements. Relying solely on legislative reform risks leaving firms and consumers waiting until at least 2027 before experiencing meaningful change. Delays in implementing DISP-based reforms would hinder the industry's ability to contribute effectively towards the growth agenda and undermine confidence in the system.

To bridge this gap, we recommend a dual track approach.

- **Introduce targeted DISP changes now.** Key proposals should be implemented through DISP ahead of legislative reform, reflecting HMT's clear

direction of travel. Acting now would provide a valuable testing opportunity, making future amendments smoother. We have already previously shared with HMT and the FCA documents setting out the route to change via DISP alone and provide an updated pathway at the end of this document. *(Please see [Annex A](#), which analyses the implementation pathways for each proposal, assessing whether changes can be made through DISP rule amendments first).*

- **Test new mechanisms before roll-out** by piloting HMT’s proposals from April 2026 for complaints linked to targeted support. This would provide assurances to firms, ensure proposals work in practice and allow FCA/FOS to refine processes in a controlled environment ahead of legislation.
- **Undertake structured industry testing** - with FCA and FOS working in partnership with firms through workshop or sprint style engagement. This would enable practical learning, for example testing how real case studies raised at the CFI stage would be resolved under the new proposals.
- **Commit to future evaluation** by building in a post-implementation review to assess whether the reforms deliver the intended outcomes for consumers and firms. We recommend the Financial Services Regulation Committee ‘own’ the post implementation review.
- **Provide an indicative timetable** published jointly by HMT, FCA and FOS setting out when the reforms will take effect and how they interact with other major initiatives such as CCA reform and the introduction of targeted support under the AGRB.

We recognise the FCA may be cautious about introducing DISP reforms ahead of legislation. However, the risks are limited and the benefits of acting now are clear.

Interim rules aligned with HMT’s direction could serve as a testing ground, helping refine future legislative changes without pre-empting Parliament.

There is nothing preventing HMT, the FCA, and the FOS from agreeing now on the desired changes. Where DISP amendments are possible—either exclusively or in advance of legislation—they should be implemented promptly. Later legislative reform would simply formalise what’s already working in practice.

The FCA has already acknowledged in its consultation (paragraph 63) that waiting for legislation would cause delays and that early intervention is necessary to improve the redress system. Meanwhile, the FOS is already evolving its framework, with changes to professional representative charges and plans to revise interest rates and case fees—firms and consumers are already adapting.

Delaying DISP reform risks compounding redress costs, increasing CMC activity, operational strain, and consumer harm. It also undermines the government's growth agenda, which aims to unlock investment and innovation by improving the redress system. Early action is essential.

## Key Consultation themes

### **Fair and reasonable test**

The proposals on the fair and reasonable test are central to restoring consistency in FOS decisions. Members strongly support the principle that compliance with FCA rules should determine whether a firm has acted fairly and reasonably. This addresses the long-standing issues where firms complying with the rules have nonetheless faced divergent FOS conclusions. However, we recommend further amendments, including;

- Removing the requirement for the FOS to consider good industry practice.
- Embedding s.3B(1)(d) of FSMA 2000, emphasising consumer responsibility for decision making.
- Preventing retrospective application of new rules, guidance, or codes to historic conduct.

These reforms would provide clarity not just for the FCA rules, but also for other regimes such as PSR rules, APP fraud standards, the consumer duty and lending standards. Where principle based rules are open to interpretation, FOS should refer questions to the FCA, preserving regulatory intent and preventing de facto rule making.

### **Referral mechanisms**

Members strongly support structured mechanisms allowing complaints with wider implications, or where FCA rule interpretation requires clarification, to be escalated to the FCA. Clear, objective referral criteria are essential, but FOS should not act as gatekeepers. The FCA must be the final arbiter of referrals to ensure transparency and market confidence. Timely communication of outcomes and reasoning will be critical.

### **Absolute time limits**

Our members welcome proposals introducing a 10-year absolute time limit for complaints, with limited exceptions for long-term products, which provides certainty and reduces administrative burdens. Early implementation through DISP rules ahead of legislation is strongly encouraged.

## **Chief Ombudsman Authority**

Our members agree that giving the Chief Ombudsman authority over FOS determinations can improve internal FOS consistency, provided board level oversight includes both active industry and consumer representation.

## **Thematic Guidance**

Members support clearer, more consistent transparency from FOS to help firms and consumers understand expected outcomes. While some value access to individual decisions, others caution against their misuse—especially through AI tools that can exploit complaint trends. A preferred approach is thematic guidance, supported by anonymised case studies and improved search tools, ensuring clarity without unintended precedent effects. Enhancements like limiting older decisions and FCA-FOS collaboration on mass redress would further strengthen consistency and accessibility.

## **FCA powers and mass redress events**

Members support FCA powers to pause complaints, issue interim guidance, and direct the FOS or firms to align with mass redress schemes. Simplifying the legal test for s.404 schemes will allow the FCA to intervene more quickly, but we caution the potential erosion of legal protections. More broadly, we wish to reiterate that the authorities' overarching priority should be to avoid mass redress events (MREs) in the first place. It is vital that these steps to improve the handling of MREs do not unintentionally lead to them becoming normalised.

## **Defining Mass Redress Events (MREs)**

Members support the proposed qualitative approach, recognising it avoids rigid thresholds and better reflects cumulative and systemic risks. However, terms such as *'high number of consumers'* or *'high redress bill'* are subjective risking inconsistent interpretation. Members seek greater clarity through indicative benchmarks or illustrative examples.

Concerns remain about slow developing events, inconsistent treatment of complaints raised before designation and the role of external factors (such as media coverage). Timely decision making and transparent governance will be essential.

We also encourage the authorities to ensure they do not to create a rigid set of rules and processes that result in a mass redress event being declared when certain criteria are met, regardless of whether that is the right outcome. The framework must include a degree of discretion and expert judgement.

## **Lead Complaints Process**

Members support the introduction of a lead complaints mechanism. However, its success will depend on clear eligibility criteria, efficient prioritisation, and timely resolution.

Case studies are needed to illustrate what qualifies as a lead complaint and what types of issues can be grouped. Members also emphasise that firms and consumers must have routes to challenge lead complaint decisions and that non-parties should have access to published reasoning to ensure benefits are shared across the market.

### **Registration stage**

The principle of a registration stage is supported, with members recognising its potential to filter speculative cases, and reduce case fees. Members stress, however, that design will be critical. Minimum evidential standards should be defined but flexible, ensuring that consumers – particularly those in vulnerable circumstances – are not unfairly excluded.

Professional representatives should face higher thresholds, there should be safeguards for vulnerable consumers, clear triage by FOS as well as transparent communications.

Members agree that the ability to pause or pass back cases at registration stage would help manage mass redress events and avoid duplication. However, they stress that ‘pause’ and ‘pass back’ should be clearly distinguished and used only in defined circumstances, with transparent communication to customers.

### **Proposed DISP changes**

Members generally support measures to strengthen cooperation and improve transparency, including clear expectations on evidence provisions and timelines in acknowledgement letters. However, they stress that cooperation must remain proportionate, with evidence requests relevant to the complaint at hand, and not unnecessarily intrusive into commercial decisions.

### **FSCS Amendments (COMP Rules)**

Members are broadly supportive of the proposals to simplify eligibility, determine defaults, exercise payment discretion, and apply additional factors. They see the benefits in improved clarity, fairness, and responsiveness. However, they stress that discretion must be guided by clear criteria, transparent oversight, and illustrative examples to avoid unintended consequences.

## **Proposals not included in the consultations but worth further consideration**

## Appeals mechanism

While HMT has rejected a formal appeal route, a limited mechanism for respondent firms to challenge points of law in exceptional circumstances would improve legal accountability without undermining the FOS's quick resolution function.

## Precedent effect

Read across of FOS decisions, particularly in wider implications cases, should be limited to avoid conflicting obligations and unintended consequences.

## Quality of complaints

Poorly substantiated or speculative complaints continue to place a significant burden on firms. Mechanisms (such as the ability to pause a complaint during the 8 week process) to ensure complaints are properly supported *before* entering the FOS process are necessary.

## Publishing professional representative performance

Requiring claimant firms and the FOS to publish claims volumes, success rates, and average redress would improve transparency, deter opportunistic behaviour, and support fair outcomes.

## Binding determinations

Making FOS decisions binding on complainants could reduce tactical complaints and improve fairness across the system.

## Conclusions

HMTs proposals represent a bold and necessary step to modernise the redress system, while the FCA's consultation provides complementary but more incremental improvements. To deliver real impact, both strands must be aligned and sequenced; swift DISP changes and controlled pilots now, with legislative reforms to follow. This combination offers the best route to a redress system that is predictable, proportionate, and fair – for both consumers and firms.

## Consultation questions

### 1. Do you agree with the proposed criteria for considering whether an issue is a mass redress event?

- ▶ Members are broadly supportive of the proposed criteria for identifying mass redress events. The qualitative approach is welcomed as it avoids rigid thresholds and is better aligned with the FCA's objectives of consumer protection and maintaining trust and stability. The criteria provide a sensible

framework, but greater clarity will be needed to make them effective in practice.

- ▶ Firms are concerned that terms such as ‘high number of consumers’, ‘high redress bill’ and ‘high number of complaints’ are highly subjective. Without guidance or illustrative examples, there is a risk of inconsistent interpretation across the industry. Members do not want prescriptive thresholds but would value indicative benchmarks. The focus should also be on cumulative and systemic impact, particularly for vulnerable customers, rather than on individual cases.
- ▶ Proportionality is key, as there is a danger of premature or speculative referrals without clearer parameters. Firms also noted the need for transparency on governance and reporting, as what one firm considers significant another may not. Although the FCA has confirmed that it does not intend to require all six criteria to be met, members would welcome further clarity on how discretion will be applied in practice and how consistency will be ensured.
- ▶ There are also concerns about how slow developing events are treated, as complaints raised before designation as an MRE may be handled differently to those received afterwards. In addition, external factors such as media and public attention can themselves drive consumer behaviour and market impact and should be recognised as part of the criteria. Members would also welcome clearer timelines on how quickly the FCA will decide whether an issue meets the threshold for an MRE.

## **2. Do you agree with the guidance provided in Annex 4 of this consultation paper, for how firms can proactively identify and rectify potential issues?**

- ▶ Members are broadly in agreement with the guidance in Annex 4 and find it clear, practical and consistent with existing DISP rules and Consumer Duty principles. Many firms note that they already operate processes similar to those outlined, including root cause analysis, rectification procedures and centralised governance forums. The inclusion of examples is seen as particularly helpful, though members stress these should be updated regularly to remain relevant to emerging issues and trends.
- ▶ There are, however, calls for further clarification on the specific expectations placed on firms. The ability to implement the practices described will vary depending on systems and MI capabilities, and for some firms meeting these expectations may require significant investment. It was also noted that information sources beyond complaints should be

considered when identifying wider risks, as this would give a fuller picture of potential harm.

- ▶ Members highlighted that Annex 4 focuses on what individual firms must do when they identify issues but does not address how firms might collaborate or share early warning signs across the industry. Greater cross-industry coordination could help ensure consistency and reduce the risk of fragmented responses. There was also a suggestion to consolidate Annex 4 with existing FCA guidance on complaints and root cause analysis, in line with the FCA's commitment to streamline its rules and avoid duplication.
- ▶ Several firms also encouraged the FCA and FOS to publish more thematic analysis of upheld complaints and to provide regular joint updates on emerging trends. This would allow firms to benchmark their own observations against sector-wide intelligence and support earlier identification of systemic issues.
- ▶ In addition, members note that Annex 4 and the related good and poor practice guidance do not address the issue of *de minimis* thresholds. The FCA had previously surveyed firms on whether including guidance on *de minimis* within DISP would be helpful, this has not reappeared in Annex 4 or in the FCA's December 2024 guidance on complaints and root cause analysis. Members consider this a gap and encourage the FCA to revisit whether *de minimis* thresholds should be incorporated into future guidance to provide greater clarity and proportionality.

### **3. Do you agree with the additional guidance proposed at SUP 15.3.8G for when firms are expected to report serious redress risks or issues to the FCA?**

- ▶ Members broadly agree with the additional guidance at SUP 15.3.8G, and welcome the greater clarity it provides on when serious redress risks or issues should be notified to the FCA. The inclusion of clear criteria gives structure and transparency, but firms stress that further clarification is needed to ensure consistency and proportionality in practice.
- ▶ Several members questioned whether the proposed thresholds are indicative or mandatory, and how they should be interpreted in borderline or complex scenarios. They also emphasised that reporting obligations should only apply once firms have confirmed that the relevant conditions have been satisfied, rather than when they are merely 'likely' to be satisfied, as this could lead to premature reporting before firms have fully understood the nature and impact of the issue.

- ▶ There are also concerns that some of the triggers may not be appropriate. In particular, the proposed criterion on a 'significant spike in complaints' was seen as problematic, as volume alone is not necessarily an indicator of harm. Firms highlighted that speculative complaints, particularly from professional representatives, can generate artificially high volumes with low uphold rates. A complaints-based trigger without reference to uphold rates or redress risk could therefore lead to unnecessary reporting.

#### **4. Do you support the introduction of a 'lead complaints' process to address novel and significant complaint issues?**

- ▶ Members support the introduction of a lead complaints process as a practical way to handle novel and significant issues more consistently and efficiently. It is seen as a positive step that could improve fairness, reduce duplication, and give firms and consumers greater certainty, particularly in areas where requirements are subjective or linked to new products and services.
- ▶ Firms, however, want greater clarity on how the 'novel' and 'significant' tests will be applied, how lead cases will be selected, and whether firms can challenge these decisions. Case studies or illustrative examples would be valuable. Questions also remain about what happens to similar complaints already at the FOS once a lead case has been decided, and whether they would be returned to firms to resolve in line with the outcome. It's also not clear when or how the lead complaint determination will be made visible to those outside of the parties to the complaint.
- ▶ Firms suggested that multiple lead cases may sometimes be needed to capture nuances and stressed that the FOS should consult with parties before finalising a decision.

#### **5. Do you think that the lead complaints process will achieve its intended benefits?**

- ▶ Members believe the lead complaints process has strong potential to achieve its intended benefits. It is welcomed as a tool that could ease operational and financial burden, particularly in areas with high volumes of similar complaints.
- ▶ However, members stressed that its success would depend on clear criteria for selecting lead complaints, efficient prioritisation when multiple candidates are received, and timely resolution to avoid backlogs.
- ▶ Another concern is that complaints grouped under a lead issue must be sufficiently similar to warrant consistent treatment. More examples and

case studies will be necessary to illustrate what types of complaints can and cannot be grouped, and to ensure consistent categorisation. Members also stressed the need for clarity on what options firms and consumers have if they disagree with, or wish to challenge, a lead complaint decision. In addition, firms who are not directly party to a lead case but are experiencing similar complaints should have access to the FOS's reasoning and outcomes so that the benefits of consistency can be realised across the market.

**6. Do you agree that firms should be allowed to pause related complaints while lead cases are under investigation in the lead complaints test process?**

- ▶ Members strongly support allowing firms to pause related complaints while lead cases are under investigation, as this is essential to the effectiveness of the lead complaints process. Without the ability to pause, firms risk issuing inconsistent outcomes or having to revisit complaints later, which creates confusion for consumers, additional operational burden and unnecessary referrals to the FOS.
- ▶ Firms also emphasised the importance of prioritising urgent or time-sensitive complaints, particularly those under the PSR regime, to ensure consumer protection is not compromised.
- ▶ Communication with complainants will be key. Members suggested prescribed wording, or FCA/FOS issued standard materials, to explain the pause clearly and reassure consumers that their complaint is not being ignored or blocked. Regular updates should be provided during the pause. Paused complaints should also not attract FOS case fees if referred after resolution in line with lead case decision. Oversight and clear rules on when a pause is justified will help prevent misuse.

**7. What safeguards should there be to ensure the lead complaints process is not used to delay or avoid complaint resolution?**

- ▶ Members agree that robust safeguards are essential to ensure the lead complaints process is not exploited to delay or avoid complaint resolution. The strongest protections would be clear eligibility criteria for what qualifies as a 'novel' or 'significant' issue, strict time limits on how long related complaints can be paused, and transparent communication with consumers so they understand why their case is paused and what rights they retain.
- ▶ Members called for prescribed wording or FCA/FOS materials to explain the pause consistently, avoiding the perception that firms are blocking

escalation. Regular updates during a pause would further help maintain trust.

- ▶ Oversight by the FOS is seen as critical, both in deciding whether a case genuinely warrants the lead complaints process and in monitoring firms' use of it to spot patterns of misuse. Some members suggested penalties, reporting metrics, or firm-level tracking of requests as deterrents against abuse. Strong internal governance within firms, including senior approval before invoking the process would help prevent misuse.

#### **8. Do you agree in principle with the introduction of a new registration stage before a complaint is investigated by the Financial Ombudsman?**

- ▶ Members agree in principle with the introduction of a registration stage. They see clear potential benefits in ensuring that only well-informed and properly evidenced complaints proceed to investigation. This should reduce speculative, or incomplete referrals, support earlier identification of ineligible cases and avoid unnecessary case fees. Members also note that the stage could give firms an opportunity to resolve matters proactively at a reduced cost, where additional evidence emerges at registration.
- ▶ However, members emphasise that the design of the process will be critical. They would welcome clarity on what constitutes the minimum evidential standard, whether PSD2 complaints are within scope, and whether firms will retain the ability to challenge jurisdiction once a complaint has passed registration. Members are also concerned about how cases subject to litigation or regulatory action will be handled, and strongly believe such cases should remain on hold at registration unless there are exceptional reasons to proceed.
- ▶ Accessibility and transparency will be essential so that valid complaints, particularly from individual customers and those in vulnerable circumstances, are not deterred. At the same time, members believe professional representatives should be held to higher evidential standards and there is merit in considering whether they should bear the cost where their cases fail at registration.

#### **9. Do you agree that the registration stage will help complainants preparing and submitting complaints to the Financial Ombudsman?**

- ▶ Members agree that, if implemented carefully, a registration stage should help complainants by clarifying expectations from the outset, encouraging the submission of complete and relevant evidence, and reducing delays caused by incomplete referrals. They believe this could improve the overall

quality of complaints and lead to smoother case progression, while also deterring unnecessary escalations and speculative cases.

- ▶ At the same time, members cautioned that safeguards will be essential to ensure that the process does not create barriers for customers with genuine complaints. Clear guidance and simple communications will be critical, and evidential standards must remain proportionate to the type of complainant.
- ▶ Members also seek clarity on how long a case can remain in registration and whether this stage will count as a referral for the time limit purposes, given concerns that professional representatives might otherwise use it tactically to stop the clock.

#### **10. What safeguards should there be to ensure the registration stage does not limit access to justice, particularly for vulnerable consumers?**

- ▶ Members are clear that safeguards for vulnerable customers will be vital. They agree that minimum evidential standards must be defined, but also sufficiently flexible to account for varying levels of financial capability and the challenges faced by consumers in vulnerable circumstances. They stressed the importance of distinguishing between standards expected of professional representatives and those applied to individual complainants - where professional representatives should be required to meet a high evidential threshold. Consumers who may struggle to articulate their complaint or collate documentation should not be unfairly excluded – instead it should be a reasonable expectation that they can explain why they disagree with the firm's final response letter so that the FOS has a clear basis for considering the complaint.
- ▶ In this context, firms also highlighted that prima facie time-barred cases should be treated carefully at the registration stage. Where the event complained of occurred more than six years prior to the complaint, the complainant (or their professional representative) should be required to clearly explain when they became aware of the cause to complain and provide supporting evidence. Members noted recent instances where FOS has not sought such explanations, placing the onus entirely on the respondent to evidence when the complainant's knowledge would have been triggered, despite the subjective nature of the three-year rule.
- ▶ Members support the idea of a clear triage process within FOS for identifying and supporting vulnerable customers, with the ability to relax evidential requirements where appropriate. In many cases, they believe a firm's final response letter should be enough to allow a consumer to access

the service. They also stressed that communications will need to be clear and accessible, explaining why a complaint has not met the registration standard and signposting customers to appropriate support.

- ▶ Some members also see value in FOS collaborating with consumer advocacy groups when designing this process to ensure it is genuinely accessible to those who need it most.

**11. Do you agree that the Financial Ombudsman being able to pause or pass back cases at the new registration stage would improve respondent firms' ability to manage mass redress events or emerging regulatory issues?**

- ▶ Members agreed that the ability to pause or pass back cases at registration would be a valuable tool in managing mass redress events and emerging regulatory issues. They believe this would prevent duplication of effort, reduce unnecessary case fees, and promote consistency of outcomes when large volumes of similar complaints arise. Members also see clear benefits in managing customer expectations by ensuring that complainants are informed when their case has been paused, rather than progressing into a process that may quickly become redundant.
- ▶ However, members stressed that the process must be transparent and clearly communicated to both consumers and professional representatives. They want reassurance that pausing will not become administratively cumbersome, and that passing back to firms will only be used where necessary and in clearly defined circumstances. Members suggest that FOS should consider distinguishing between 'pause' and 'pass back' as separate statuses, to reduce confusion and avoid interchangeable use of the terms.

**12. Do you agree that the Financial Ombudsman should consider differential case fees for cases in the registration stage?**

- ▶ Members strongly agree that differential case fees should apply. They argue that it would be unfair for firms to incur a full case fee if complaints fail at registration or are withdrawn early, since these cases require far less resource from the FOS than a full investigation. Members see merit in a tiered or sliding scale of fees based on the complexity and operational burden of a case, which would better align cost with effort and incentivise early resolution.
- ▶ Members emphasised that speculative or poorly evidenced referrals - particularly those brought by professional representatives - should not attract a FOS case fee for firms, and in some circumstances professional

representatives should bear the costs themselves. Members recognised that the FOS must recover the cost of operating the registration stage, but they believe a fairer distribution of fees would reduce frustration and support higher quality complaint submissions overall.

**13. Do you agree with the proposed changes to DISP to improve the Financial Ombudsman’s operational efficiency?**

- ▶ Members broadly support the proposed DISP changes. Clarifying firms’ duty to cooperate with the FOS, particularly in providing timely and complete evidence, should help reduce delays and improve the quality of case handling. Including complaint response timelines in acknowledgment letters is also welcomed, as it should help customers understand the process and reduce premature referrals.
- ▶ Members emphasise that cooperation should be proportionate. They noted past instances where FOS requested information beyond what was needed to assess an individual complaint, such as internal policy documents, and stressed that evidence requests should be relevant, targeted and not unnecessarily intrusive into commercial decisions.
- ▶ Regarding acknowledgement letters, members had no objection but highlighted that some operational adjustments may be needed, particularly for firms using templated automated systems. The impact of complaint volumes is uncertain, but members agree that clear timelines should improve transparency and consistency for customers.

**14. Do you agree with the proposed amendments to COMP 4 and COMP 12A to simplify the list setting out who is and is not eligible to make a claim to the FSCS?**

- ▶ Members broadly agree with the proposed amendments. They consider that simplifying the eligibility criteria will make the FSCS more accessible and easier to navigate for both firms and customers. Members also highlighted that clearer criteria would reduce uncertainty and improve consistency with determining who can make a claim.

**15. Do you agree with the proposed amendments to COMP 6.3.4R to enable the FSCS to determine a relevant person in default, where they are not co-operating with the FSCS, or where personal circumstances prevent them from co-operating?**

- ▶ Members support the proposed amendments in principle and recognised that enabling the FSCS to determine defaults independently will improve responsiveness and reduce delays. However, members emphasised the

need for clear scenarios and guidance on when FSCS would exercise this power, including opportunities for firms to challenge decisions, to ensure consistency and fairness. Some members noted that while the change may be more relevant to smaller firms, it represents a useful step to maintain operational efficiency.

**16. Do you agree with the proposed amendments to COMP 11.2 to give the FSCS greater discretion over where compensation is paid under specific circumstances as described in that provision?**

- ▶ Members generally agree with the proposed amendments. They welcomed the increased discretion, noting it will allow FSCS to manage complex compensation scenarios more efficiently and tailor payments appropriately to the circumstances of individual cases. This is seen as supporting better consumer outcomes and aligning with principles of the consumer duty and vulnerable customer guidance.
- ▶ At the same time, members emphasise the need for clarity around what constitutes reasonable in these circumstances. They also highlighted the importance of transparency and oversight to prevent unintended consequences and recommended that the FSCS provide examples or guidance to help firms understand how discretion will be applied in practise.

**17. Do you agree with the proposed amendments to COMP 12.2.10R and the additional factors listed in COMP 12.2.11R that FSCS must take into account, when considering if a claimant is eligible?**

- ▶ Members broadly agree with the amendments and welcome the additional factors, noting that they provide a more detailed and nuanced framework for assessing claimant eligibility. This is expected to improve consistency and support more informed decision making.
- ▶ Members also cautioned that these factors should be applied carefully and only as a last resort, particularly where a full investigation has already been carried out by another body, such as an s.166 skilled person report. They stressed that the FSCS should retain the ability to review and verify the appropriateness of using these factors, ensuring decisions remain fair and proportionate.

**18. Do you agree with our assumptions about the sizes of the compliance and legal teams involved in familiarisation and gap analysis, and with our treatment of costs associated with changes to firms' complaint acknowledgment letters?**

- ▶ Members generally agree with the assumptions made regarding team sizes and cost treatment. While recognising that the detail may vary across firms, they consider the proposed approach reasonable and proportionate for implementing the changes to complaint acknowledgement letters and familiarisation work.

### **19. Do you agree with our analysis of the costs and benefits of these proposals?**

- ▶ Members broadly agree with the analysis of cost and benefits, noting that the proposals are generally proportionate and should deliver operational customer benefits. They recognise that clear guidance, the introduction of the registration stage, and other proposed changes could improve efficiency, reduce unnecessary referrals, and enhance complaint handling, supporting better outcomes for both firms and consumers.
- ▶ Some members, however, highlighted that the estimated cost may understate the true impact. They pointed to additional business costs that could arise from system updates, staff training, and process adjustments to accommodate the registration stage or lead complaint processes. Members noted that these changes could create additional reporting and internal review requirements, particularly if firms wish to track withdrawals or escalations at the registration stage to support root cause analysis.

## **Annex A: Assessing DISP Readiness for FOS Reform Proposals**

This annex outlines the key proposals referenced in the consultations by HM Treasury, and jointly the FCA and the FOS. It considers whether each proposal can be implemented through legislative change or by amending the DISP rules in the FCA Handbook. While it is anticipated that many of the changes will ultimately require updates to both, in several cases, implementation may be possible through one route initially.

In some cases, it is difficult to determine definitively whether a proposal requires legislative change or could be implemented solely through amendments to DISP. This uncertainty arises because the consultations set out the proposals at a relatively high level and do not always provide sufficient detail at this stage to assess the precise mechanism required for implementation.

Proposal	Comments	DISP or Legislation first?
<p>Clarify FOS’s decision-making basis – adapt the <b>Fair and Reasonable Test</b></p>	<p>Section 228(2) of FSMA 2000 provides that complaints are determined by “<i>what is, in the opinion of the ombudsman, fair and reasonable in all the circumstances of the case</i>”.</p> <p>DISP 3.6.4R then sets out what the ombudsman will take into account (e.g. relevant law and regulations, regulators’ rules, guidance and standards, codes of practice and good industry practice at the relevant time).</p> <p>The proposal to adapt the fair and reasonable test, so that there is a hierarchy of factors to consider, could be made in DISP first and mirrored in legislation afterwards if necessary. Or the legislative wording could remain the same, as the factors do not appear in legislation, only DISP.</p> <p>Note that FCA/FOS consultation (para 2.9) provides that if HMT’s proposals are taken forward, FOS/FCA will take steps to help support changes in the shorter term, which may include considering potential changes to DISP before any legislative change, to ensure the Handbook provisions align with legislation.</p>	DISP
<p><b>FOS referral to the FCA for input on wider implications complaints</b></p>	<p>FCA/FOS consultation supposes that this change will be made in legislation first.</p> <p>The extent to which legislative change is required will depend on the scope of the reform. If the change affects the statutory remit of FOS as established under FSMA – particularly in relation to its independence –</p>	DISP*

	<p>then primary legislation would be necessary before such changes could be implemented.</p> <p>As currently proposed, FOS will remain the ultimate decision-maker of a complaint and so it may be possible for the process for referral to be built in DISP (and then enshrined in legislation if necessary). Notably a process has been incorporated into the updated <a href="#">Memorandum of Understanding</a>.</p> <p>There may be a desire for this change to be made in legislation first (for example, if it is considered that section 415C FSMA 2000 (duty to co-operate) requires amendment).</p>	
<p><b>FOS referral to the FCA on the interpretation of FCA rules</b></p>	<p>FCA/FOS consultation supposes that this change will be made in legislation first.</p> <p>The extent to which legislative change is required will depend on the scope of the reform. If the change affects the statutory remit of FOS as established under FSMA – particularly in relation to its independence – then primary legislation would be necessary before such changes could be implemented.</p> <p>As currently proposed, FOS will remain the ultimate decision-maker of a complaint and so it may be possible for the process for referral to be built in DISP (and then enshrined in legislation if necessary). Notably a process has been incorporated into the updated <a href="#">Memorandum of Understanding</a>.</p> <p>There may however be a desire for this change to be made in legislation first.</p>	<p>DISP*</p>
<p><b>Introduction of limitation long-stop</b></p>	<p>We consider that change could be made in DISP first. Note that the consultation documents suppose this change will be made in legislation first.</p>	<p>DISP</p>

	Para 13(1) of schedule 17 FSMA 2000 requires the FCA to make rules regarding time limits. The detail re time limits for referring complaints to FOS is set out in DISP. We consider that the change could therefore be made in DISP first, and then enshrined in legislation if necessary.	
<b>Amend the statutory basis for FOS</b> so that the Chief Ombudsman holds overall responsibility for all FOS case determinations	Provisions in legislation (eg para 5 of schedule 17 FSMA 2000 (the Chief Ombudsman)) will need amending to reflect this proposal.	Legislation
<b>New registration stage</b>	FOS/FCA consultation refers to this proposal as a DISP change. We agree.	DISP
Give the FCA greater powers to <b>investigate and respond to MREs</b> , most notably lowering the bar for the FCA to instigate a consumer redress scheme under s404 FMSA:	FCA/FOS consultation supposes that this change will be made in legislation first. We agree as the test for a consumer redress scheme is set out in section 404 FSMA 2000.  The FCA has also said it will amend SUP 15 guidance re notification of a potential MRE.	Legislation
Transparency around the approach to FOS determinations – <b>thematic publications</b>	Unclear whether change will be captured in DISP (FOS/FCA consultation notes that FOS is considering how any approach could be implemented ahead of legislative change)).  Section 230A FSMA sets out the requirement for FOS to publish determinations. If the proposal results in a change to this process, amendment to legislation may be necessary.	TBC
Introduction of <b>'Lead Complaints'</b> process	Unclear whether change will be captured in DISP.	TBC
Introduction of <b>decision frameworks</b>	FOS/FCA consultation provides that "summary versions of the frameworks" will be published – but not the full frameworks.	N/A

	It is understood that this will be a FOS led initiative – no DISP changes necessary.	
<b>Collection of data</b>	Change to Handbook/DISP required	DISP
<b>Other changes to improve FOS and FSCS operational efficiency</b>	Draft amendments to DISP shown in Appendix 1 of FOS/FCA consultation	DISP and COMP

## Overlooked proposals included in UKF Consultation response

Proposal	Notes	DISP/Legislation
<b>Appeals mechanism</b>	Right of appeal to court/tribunal once FOS has made final determination.	Legislation
<b>Removal of precedent effect (at least in wider implications complaints)</b>	An explanatory note could be added to DISP to clarify circumstances in which it may not be appropriate to follow FOS decisions.	DISP
<b>Quality of complaints</b>	Improving quality of complaints before referral to FOS (right for firm to request further information from CMCs and CLFs and pausing of time to provide a final response)	DISP (changes to CMCOB may also be desired/required)
<b>Publishing professional representative performance</b>	Requirement for professional representatives to publish performance figures such as uphold rates	CMCOB (and SRA for law firms)
<b>Binding determinations on all parties</b>	Making FOS decisions binding on complainants, irrespective of whether FOS upholds the complaint or not.  Section 228(5) FSMA 2000 provides that a determination is binding on a firm if the complainant accepts it. Amendment to legislation will be required.	Legislation

END