FCA Portfolio Strategy Update: Claims Management Companies (CMCs)

Regulatory focus and industry expectations

On 30 January 2025, the Financial Conduct Authority (FCA) issued a Dear Portfolio letter from Alison Walters, director of consumer finance supervision, policy and competition division. The letter outlines the FCA's approach to supervising claims management companies (CMCs), key risks within the sector and its expectations for firms over the next two years.

The FCA has reaffirmed its commitment to monitoring changes in the industry that may negatively impact customers.

Since the regulation shift in April 2019, the FCA has noticed a consistent decline in the number of CMCs with lead generators now making up over half of the market. The FCA believes that CMCs should be reliable providers of quality services that help individuals in pursuing valid claims. Over the past two years, the FCA has conducted thorough research to shape its future supervisory plans. It acknowledges improvements in standards but will focus on areas where firms are not meeting expectations.

The goal is to provide clarity on the FCA's regulatory priorities. The FCA will frequently review these priorities and may adjust them if new issues arise. If there are any changes to the main regulatory focus, the FCA will inform firms to help them plan accordingly.

FCA findings and observations – key issues identified

- **The 'halo effect' in unregulated claims:** Many claims management companies (CMCs) make claims that are not under the FCA's rules, leading customers to think these services are protected by regulations. The FCA worked with 26 CMCs that handle unregulated claims. After reviewing their practices, most of these companies stopped their unregulated claims. As a result, the FCA has seen a decrease in inquiries.

- **Client money mismanagement**: Regulatory reports indicated that many CMCs were not meeting their responsibilities regarding client assets. Specifically, historic client funds were still in client accounts, reconciliation processes were not working well and annual audits of these accounts were not done regularly. In November 2023, the FCA reached out to all CMCs managing client money. Consequently, one-third of them chose to stop managing client funds, leading to improved standards as noted by the FCA. Approximately 80% of historic client funds have now been returned.

- **Lead generation compliance failures:** The FCA worked with 30 CMCs that were either getting leads from third parties or referring them. Nearly 90% were found to not meet the standards in CMCOB 2.2. The FCA's review led to better systems and controls to stop unlawful handling of information. The FCA is happy with the progress made, but all firms should think about how these findings apply to their own operations. Additionally, the number of complaints upheld by the Claims Management Ombudsman has been decreasing, and the FCA has noticed an increase in claims reported by CMCs that were stopped due to lacking a strong arguable basis.

Regulatory priorities for the next two years

The FCA will be closely monitoring the following areas under consumer duty:

- **Service standards:** FCA plan to examine if CMCs are properly investigating each part of a potential claim before they make or pursue it or advise customers to do so. They will analyse CMCs that file complaints in large volumes with the Financial Ombudsman Service but have low success rates. This will help them to understand the effects of the Ombudsman's plans to charge representatives.

- **Lead generation practices:** The FCA recently conducted a survey of all lead generators to better understand the current claim areas they are working on. They will consider whether it is suitable to consult on updating the annual CMC001 report to collect this information on a regular basis.

Key areas of concern:

The FCA expects firms to take responsibility for identifying and addressing regulatory risks. The letter highlights:

- **Misleading advertising:** Effective advertising should be clear, fair, and not misleading. However, compliance is still lacking, and multiple rule violations in individual promotions is often seen, along with repeated issues even after FCA intervention. Recently, the FCA has raised concerns about advertising related to motor finance claims. It will keep monitoring financial promotions and marketing practices of CMCs and firms as part of its regular activities and will take action when needed. The FCA emphasises the importance of its guidance on social media advertising, expecting senior managers and compliance officers to ensure that all advertising meets the standards outlined in CMCOB 2, CMCOB 3, and the Consumer Duty.

- **Inappropriate sourcing of customers:** Some companies have taken leads from outside sources but did not perform enough checks to ensure they are valid. CMCs must process this lawfully, fairly and transparently. The FCA expects CMCs to conduct proper checks before using third-party data and to keep doing these checks regularly. It will oversee this through supervision and will look into how firms source their leads.

- **Poor service standards:** While the FCA gets few reports of false claims, it is still keeping a close eye on this issue. It expects CMCs to interact meaningfully with potential customers before contracts are signed, explaining the options available and understanding the reasons customers want to proceed. Claims should be thoroughly investigated and stopped if there is a reasonable suspicion they lack merit. The FCA encourages regulated firms and CMCs to collaborate for the benefit of customers. It will also reach out to some firms to evaluate the service provided and this monitoring will be a key focus over the next two years.

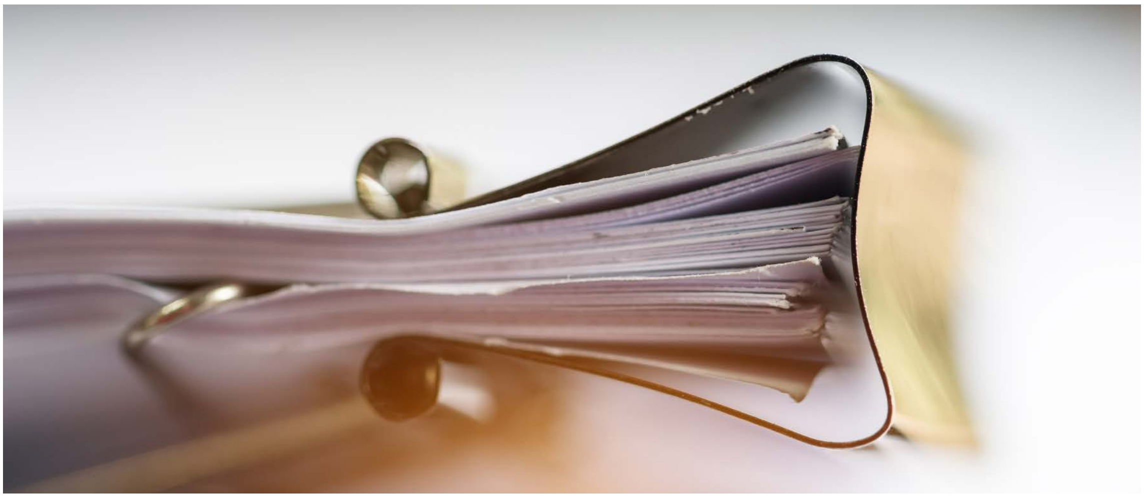
- **Consumer understanding:** The FCA expects CMCs to assist their customers so that all communications (before, during and after the sale) are clear, understandable and help customers make informed decisions. Important information should be easy to find and written in simple language. The FCA will keep checking if firms are meeting this requirement.

- **Halo effect:** The FCA wants CMCs to ensure that customers clearly understand the extent of the firm's authorisation. It expects firms to review and adjust their communications to clear up any common misunderstandings. The FCA will keep an eye on this issue as part of their supervisory work and will look into any halo effect risks that may affect customers.

- **Poor attitude to regulatory obligations:** Many CMCs have not registered a principal user on the FCA reporting platform, RegData, leading to overdue returns. The FCA will take action against any CMC that does not meet these requirements. They expect senior managers at firms to ensure that reporting is current.

- **Financial services claims:** The FCA expects CMCs to operate honestly, fairly and professionally for the benefit of their customers. Concerns about CMCs submitting many inquiries or claims quickly are widespread, which can overwhelm respondent firms. The FCA encourages collaboration between CMCs and respondent firms to better serve consumers. Although a complainant can refer to the Ombudsman after eight weeks, the FCA still expects CMCs to act responsibly. If a CMC submits large volumes of claims and does not get responses within eight weeks, escalating to the Ombudsman right away may not be in the customer's best interest.

- **Changes to rules for handling motor finance complaints:** In December 2024, the FCA introduced rules PS24/18 for managing motor finance complaints that do not involve discretionary commission arrangements (DCA). These new rules are similar to the current rules for DCA complaints. These rules allow firms more time, until after 4 December 2025, to give a final response to complaints and provide customers with extra time to take their complaints to the Ombudsman. The FCA expects claims management companies (CMCs) to help customers understand these changes before they sign any service contracts. CMCs must also make sure their advertising is clear and not misleading. Claims that lenders are 'refunding' or providing details of average claim awards that cannot be substantiated could mislead customers about the services being provided.



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Our team consists of subject matter experts from diverse backgrounds with both contentious and non-contentious experience and a unique blend of legal, compliance and risk skillsets. One thing we all have in common is significant in-house experience. This allows us to view matters from your perspective and helps us to provide holistic advice and guidance on complex regulatory and compliance matters in a business-focused and user-friendly way. Our firm's name comes from the Latin word for "a helping hand", and we embody this in our culture and ethos.

Our clients include banks, small and large finance institutions, consumer lenders, captive and independent finance houses, finance brokers and dealers, motor finance and leasing companies, fleet finance providers and a range of fintech, retail and loan service providers and credit card issuers. Auxillias has been ranked as a leading firm in Consumer Finance in Chambers and Partners since 2023.

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