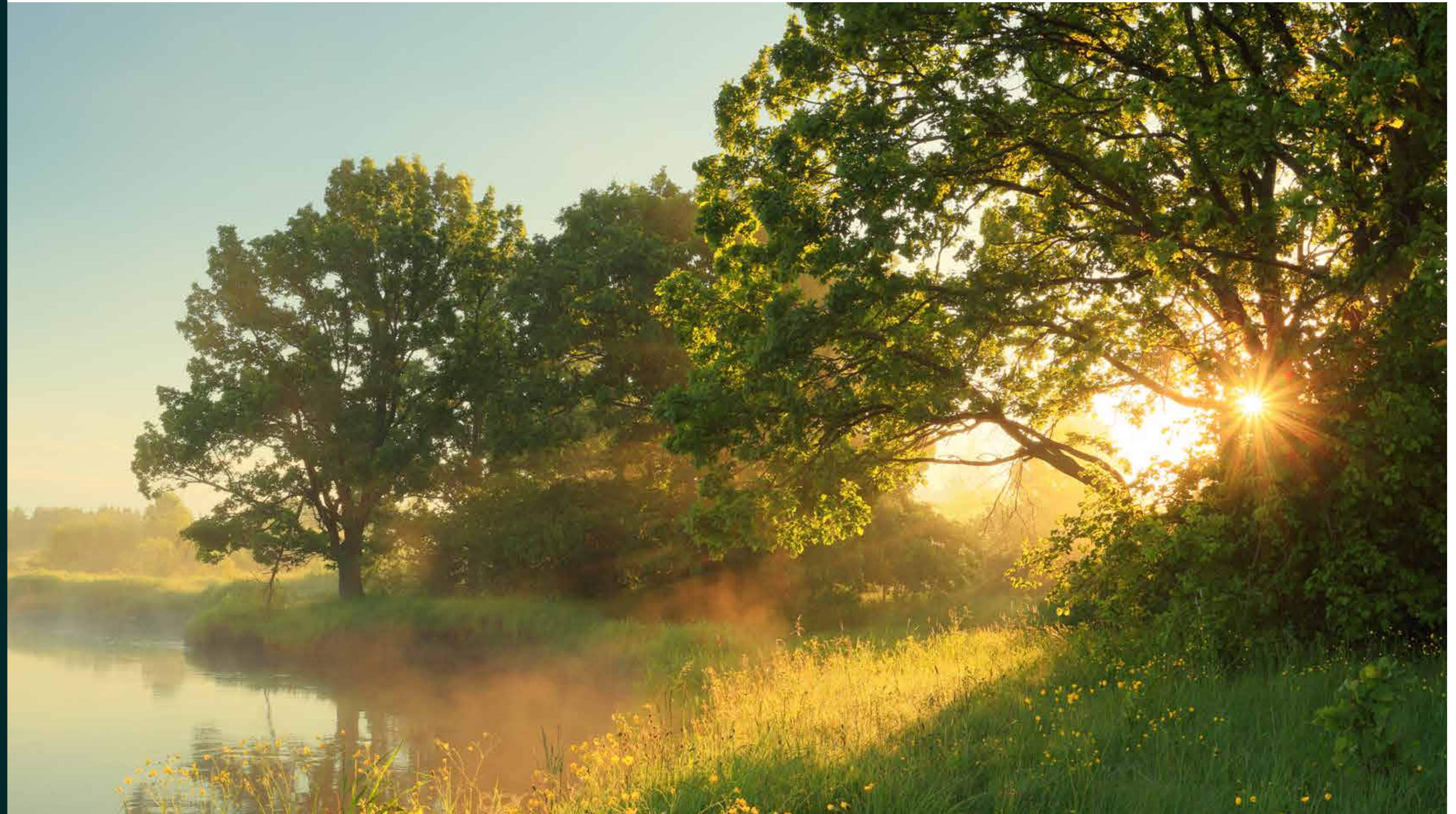


ccta

MAGAZINE



APR
2024

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CCTA
Grant Thornton

legal latest

Hill Dickinson
Walker Morris
Yuill + Kyle

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Acquired.com • Alph L&C • Aryza
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contacts

Jason Wassell | Chief Executive
jason.wassell@ccta.co.uk

Lucy Donovan | Head of Communications
lucy.donovan@ccta.co.uk

Naveed Asif | Head of Policy & Advice
naveed.asif@ccta.co.uk

Phill Harding | Head of Membership
phillip.harding@ccta.co.uk

Brian Corke | Membership Officer
brian.corke@ccta.co.uk



Lucy Donovan

Head of Communications
CCTA

editor's letter

Welcome to the latest edition of CCTA Magazine. We have updated the look and feel of the publication for 2024 so I hope you like the changes which have also improved readability.

As is often the case with a new year, we have seen a flurry of regulatory activity and statements in the recent months so there is a lot of content here.

We have tried to cover the big announcements. Inside there are pieces on the FCA's action in the motor finance market and the long-awaited review of the Consumer Credit Act. I'm delighted to say we also have contributions from two new members, Grant Thornton and Armalytix in our features section, which other members will find very informative.

It's clearly a busy time as we have a bumper issue with contributions from across the CCTA. Marsh Finance has written about dealing with fraudulent bank statements, while ALPH considers if the introduction of big tech will restrict competition in the market.

In terms of member benefits, I would like to draw your attention to the new associate directory. It's a good place to start if you are searching for new services required for your business.

You will also see mention of our Annual Conference and Dinner taking place in the autumn. We will be returning to Manchester in early October. Sponsorship packages are available and delegate bookings are now open.

industry events

**17
JUN**

Leadership Summer Dinner & Awards

Credit Strategy
Newport

[MORE INFO +](#)

**17
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Credit Week

Credit Strategy
Newport

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**27
JUN**

Collections Technology Think Tank

Credit-Connect
Online

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**01
OCT**

2024 Annual Member Dinner

CCTA
Manchester

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**02
OCT**

2024 Annual Conference

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ISSUE FEATURES

Hot topic features written from a variety of industry experts, many of which are exclusive to CCTA Magazine.



REGULATORY INFORMATION

Updates from regulatory bodies are detailed in the latest issue of CCTA Infom, a member exclusive publication.



LEGAL LATEST

A range of legal experts give their views on recent cases that have made waves in the court room.



STAKEHOLDER VIEWS

We cover all the bases with articles from the wider industry. No stone is left unturned in the search for news.



YOUR CCTA

A snapshot of recent activity from your trade association of choice. Find out what's on the horizon here first.



MEMBER ARTICLES

A range of informative articles penned by our members. See what the experts have to say.



MEMBER NEWS

Reached a milestone or hit a target? Share your news with our members at magazine@ccta.co.uk.



ASSOCIATE DIRECTORY

Browse our associate directory to find the professional help you've been looking for.

horizon scanning

THE LATEST REGULATORY ISSUES AFFECTING OUR INDUSTRY

The industry has become increasingly busy with a range of regulatory issues, which I will touch upon later in this article. To begin with though, I should start by thanking our members for their continued support.

Membership renewals

Many firms renew their CCTA membership in January. Indeed, about 35% of our fees are due at the start of the year. So, I was delighted when our renewal rate hit 98%.

It has been difficult for smaller lenders, and we have seen more leave than join the market in specific sectors. That makes our retention rate even more of a success.

CCTA Academy

I am delighted to inform readers that our online learning and development platform, CCTA Academy,

has been well-received since its launch at the end of last year.

The FCA has clarified the importance of your team members having a certain level of understanding. CCTA Academy includes those introductory modules and provides that basic information via a range of courses.

We are heading towards 300 enrolments across a range of member firms. Keep an eye on our member communications for more learning and development opportunities from the CCTA.

Access to credit campaign

Let's move back to policy and campaigns. Anyone who has heard me talk about the CCTA knows that we have a history linked with access to credit. Lenders and retailers came together over a hundred years ago because the banks didn't provide credit to these communities.

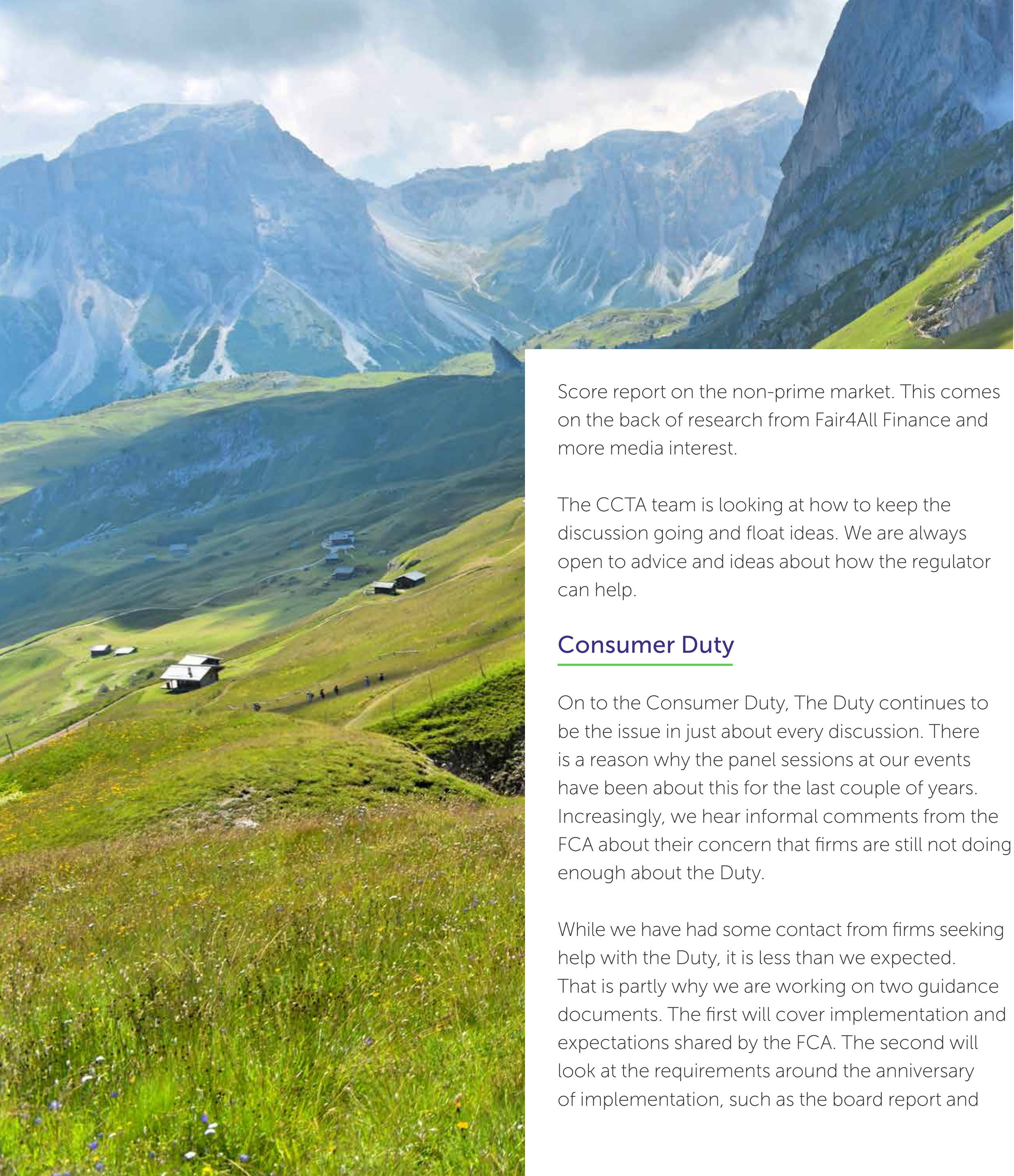
Increasingly, I am discussing the need for credit and what we have seen in the reduced supply for specific communities. You may have seen the Clear



Jason Wassell
Chief Executive
CCTA



“ Anyone who has heard me talk about the CCTA knows that we have a history linked with access to credit. ”



Score report on the non-prime market. This comes on the back of research from Fair4All Finance and more media interest.

The CCTA team is looking at how to keep the discussion going and float ideas. We are always open to advice and ideas about how the regulator can help.

Consumer Duty

On to the Consumer Duty, The Duty continues to be the issue in just about every discussion. There is a reason why the panel sessions at our events have been about this for the last couple of years. Increasingly, we hear informal comments from the FCA about their concern that firms are still not doing enough about the Duty.

While we have had some contact from firms seeking help with the Duty, it is less than we expected. That is partly why we are working on two guidance documents. The first will cover implementation and expectations shared by the FCA. The second will look at the requirements around the anniversary of implementation, such as the board report and

closed book review. Look out for these via our member emails.

Car finance commissions

Many of you will have seen the attention that Martin Lewis has brought to the issue of car finance commissions. We are already at a point where over a million people have asked for more information about their commission arrangement.

A big part of this issue is now underway behind closed doors. The FCA has paused decisions on the discretionary issue while a review is taking place, using its Section 166 powers. This should come to a close in the autumn, but it might go on further.

Why is this important to every consumer credit lender? We have said this before; In a Consumer Duty world, transparency is a critical principle. The FCA expects customers to understand where their money is going, who is getting paid what, and why.

Potential changes to FOS charges

Another area that doesn't affect everyone is a potential change at the Financial Ombudsman Service (FOS).

I have learned that even if you believe this is not an issue of interest, stick around because it soon might be. How Claims Management Companies (CMCs) carry out fishing exercises means that things can change quickly.

We have also heard that credit cards are under scrutiny. If you have read some of my weekly

updates (from our CCTA Update emails), you will have heard that the numbers are increasing quickly. Welcome to affordability.

And, of course, it was not long ago that car finance providers had limited interaction with FOS. One of the critical problems has always been the fundamental unfairness. Lenders will always pay for the cost of a case – win or lose.

The real problem is that this creates a system that rewards quantity over quality. There is nothing to be lost in submitting a claim.

For customers, this focus on volumes means your expectations can be raised and dashed if you have a poor claim. If you have a good claim, you are just in with others. You are one of many, and you will not get the support you deserve.

The FOS is now thinking about how it might charge CMCs a fee. From a practical perspective, any fee will make CMCs rightly pause and think about a poor claim.

Over thirty CCTA firms got involved in the first consultation and supported change. We know that another consultation is on the way. I hope that CCTA firms will want to get involved again when that happens.

In conclusion

We will keep members updated on all of these issues via the usual channels. If you'd like to get in touch with us to discuss anything in particular, please do so.

fail to prepare... prepare to fail

MOTOR FINANCE: FCA REVIEW OF HISTORICAL DCAs



Chris Laverty

Head of Financial Services Restructuring
Grant Thornton



Jarred Erceg

Director, Financial Services Restructuring
Grant Thornton



In January 2021, the FCA banned discretionary commission arrangements (DCAs), removing the incentive for brokers to charge customers a higher interest rate for their motor finance. A continued rise in the number of complaints from customers about DCAs in place prior to the ban and the recent decisions by the Financial Ombudsman Service (FOS) which found in favour of complainants has highlighted concerns for the sector.

Anticipating a significant increase in complaints to firms and the FOS, the FCA intervened in January 2024, appointing a skilled person to review historical sales of motor finance agreements across several firms involving DCAs. The FCA aims to

communicate a decision on next steps by the end of September 2024, and whilst the review remains ongoing, it is likely firms will continue to receive an increased level of complaints.

Similarly, the high-cost short-term credit sector (HCSTC) experienced challenges associated with a rise in complaints relating to historical unaffordable lending practices which led to several firms exiting the market or undertaking a formal restructuring procedure to deal with redress liabilities.

Whilst firms contemplate what, if any, impact the review and increased complaints will have on their business, there are several useful takeaways from

the HCSTC sector which highlight matters firms should be considering.

Financial and operational resilience

Financial and operational resilience is key. Firms should be conducting detailed scenario analysis, with cash flow and liquidity modelling, in a range of severe but plausible scenarios enabling management to understand what the business can withstand, both financially and operationally.

This will provide greater visibility of areas of potential stress or vulnerability within the business and clarity on triggers that may lead to underperformance,

such as a sudden increase in compensation levels or operational costs related to assessing complaints.

Wind-down plan

Firms should ensure they have a well-documented wind-down plan which considers the extent to which the firm may be affected by historical DCAs, including how a remediation exercise and associated liabilities may impact the operational and financial performance of the business.

A robust and deliverable wind-down plan can act as a tool to build stakeholder confidence at a time of uncertainty. It can also assist management and

advisers in developing contingency plans in a more efficient and cost-effective manner.

Remediation exercise

Should a firm need to undertake a remediation exercise, consideration will need to be given to these key elements. Whilst not an exhaustive list, it gives some indication as to how complex and expansive a remediation exercise can be:

Governance framework

This is vital to aid decision making and co-ordinate a successful remediation exercise. What will the MI reporting suite look like and how timely will it be? How will appropriate oversight be given to any outsourced processes?

Population identification

What steps have been taken to identify the population impacted and its various cohorts? Are there any gaps in data or dependency on legacy systems? Have historical debt sales included impacted consumers? Are there contractual claw-back provisions that need to be considered?

Review methodology

Does the review methodology cover all scenarios and relevant products? How will appeals, contentious cases or anomalies be dealt with?

Quality assurance

What QA will be performed to verify steps taken to identify the population, assess a complaint and calculate redress to ensure customers are receiving the right outcome? Will there be a pilot phase? What metrics will be used to measure success?

Funding, resourcing, and training

Has analysis been performed to forecast the financial impact, including operational costs, redress compensation and loan adjustments? How will the remediation exercise be funded? What are the resourcing requirements across functions and what training will be provided?

Communication and complaints handling

Has a customer communication plan been developed, including frequently asked questions and redress assessment letters?

Considering support required throughout a remediation exercise can help minimise disruption across the business and deliver a successful, cost-effective campaign.

Restructuring procedures to address financial difficulties

A number of firms in the consumer credit sector have used formal restructuring procedures, such as a scheme of arrangement, to deal with financial difficulties driven by an increase in redress liabilities.

These court-sanctioned restructuring tools can allow a firm to crystallise historical redress liabilities and reach a compromise or arrangement with their creditors which may provide a better outcome than any likely alternative.

A scheme of arrangement or restructuring plan can provide finality for firms in respect of their historical redress liabilities and allow a firm to continue to trade which can, compared to an insolvency, improve consumer outcomes.

Once there is certainty around dealing with such liabilities, future debt or equity raises become much more attractive to existing and potential investors.

Ultimately, if a business is unable to raise sufficient funds or reach a compromise to deal with any historical redress liabilities, contingency planning should be undertaken to consider other options. This is something that should be considered early to ensure the best possible outcome for all stakeholders, including customers.



Considering support required throughout a remediation exercise can help minimise disruption across the business and deliver a successful, cost-effective campaign.





Lucy Donovan
Head of Communications
CCTA



out with the old?

A review of the Consumer Credit Act is underway...

The Consumer Credit Act of 1974 covers all credit agreements in the UK, from credit cards to personal loans. There are few households across the country that will not hold some form of agreement that falls under it.

At the point of creation, to provide protection to consumers, the Act was and continues to be very prescriptive about what lenders can and cannot do. There are strict rules about consumer rights and what must be communicated with the customer. It still predates much of the current system of financial services regulation.

Fifty years on from its introduction, the credit market has changed dramatically. The advent of online lending and the exit from the European Union mean some of the rules no longer make sense or just don't work with new developments.

It is not surprising then, that for some time, there have been calls for this somewhat outdated piece of legislation to be reviewed.

Finally, in the winter of 2022 the Government issued a consultation, seeking views on how to reform the Act. The Government outlined its intentions, which seek to improve access to credit and increase consumer protection in a digital economy. A response to that consultation followed last summer including next steps.

The plan is for much of the Act to be transferred over to the Financial Conduct Authority (FCA) Handbook. The aim of this is to allow the regulator to quickly respond to emerging developments in the consumer credit market, rather than having to amend existing legislation which can be onerous and requires parliamentary time.

And there are benefits that this style of reform would bring. Hopefully changes will mean that consumers are less confused by the information lenders must provide. We often hear reports of customers questioning why they have been contacted when they requested not to be or that they don't understand the jargon they have received.

The new system should also grant credit providers more flexibility. The regulatory burden might be reduced too and may lead to some cost savings.

At a time when the Consumer Duty is also being introduced ... we are concerned that it may become more difficult and confusing for firms to understand regulatory requirements.

However, recent experiences in alternative credit, mean we as an association, have reservations about much of the Act transferring over to the FCA Handbook. There are concerns that this will leave future regulation further open to interpretation by the FCA and the Financial Ombudsman Service (FOS) in the future.

Since responsibility for regulation transferred over to the FCA, and with that the removal of rule-based regulation, we have seen the publication of short principles that are then developed and interpreted by FCA officials. The results are not always consistent and interpretation from the FOS adds a further layer of complexity, especially when rules have been applied retrospectively in some cases.

At a time when the Consumer Duty is also being introduced, providing a further regulatory tool for the FCA to use in their assessment of compliance, concerns us that it may become more difficult and confusing for firms to understand regulatory requirements - or for the regulator to quickly move the goal posts.

The Treasury is now at the stage where it is looking to engage with industry on the current proposals. An industry group has been established, bringing together a range of trade associations to assist in reviewing the Act. The first meeting has taken place, which agreed to explore the scope of the review and the sections of the Act that need to be redeveloped.

A more detailed consultation on policy proposals is expected in the second half of this year following the initial work of the industry group.

We have already begun to express our views that a more flexible system will not necessarily be helpful to credit firms. Part of this review is about ensuring access to credit but the Treasury will need to be careful that more firms do not exit as a result of a changed system of regulation.

There are other considerations such as the need to address regulation of Buy-now Pay-later products along with the well reported rise in people turning to illegal lenders.

We will of course keep members updated on the project and how the work of the industry group progresses. It is always interesting to hear your views too. If you have thoughts on how the Consumer Credit Act could be reformed for the better, please get in touch.



navigating the issues: consumer duty, forbearance and good outcomes in consumer credit

What regulations have changed for consumer credit firms?

Amidst rapid technological and social changes, the UK consumer credit sector is constantly evolving. One of the biggest shake-ups to regulation has been the introduction of the Financial Conduct Authority's (FCA) Consumer Duty regulations.

Making smart financial decisions in an uncertain economic climate can be challenging for some borrowers and in its 2022 to 2025 strategy, the FCA recognised this challenge, stating:

"Combined with greater vulnerability among consumers due to the pandemic, this (the rising cost of living) may drive greater demand for

a range of credit products. Consumers will also increasingly look for new ways to manage and make more of their money."

Consumer credit firms across the UK are facing new regulations and increased responsibility that mean they must do more to ensure that borrowers can access the right products that offer fair value. Additionally, consumer credit firms must ensure that during the process of forbearance, when borrowers are unable to repay, that greater efforts are made to understand the borrower's real financial situation and find a fair solution for both parties.

These new Consumer Duty regulations, which apply to products and services across the sector, have established higher and clearer consumer



Mike Ward
Executive Chairman
Armalytix



The new regulations, whilst important, have placed an extra burden on consumer credit firms.

protection standards across consumer credit and the wider financial services sector. They seek to ensure that borrowers receive 'good outcomes' and that firms provide evidence that these outcomes are being met. Essentially, it requires firms to put their borrowers' needs first and be aware of any vulnerability and affordability issues at every stage of the borrowing journey.

Why is this important to consumer credit firms?

Protecting borrowers from losing life-changing amounts of money and making sure clients can afford their financial commitments must be a priority. Not least because the FCA is threatening "severe penalties" for firms that are non-compliant:

'Firms which don't meet our minimum standards put consumers at risk. They also undermine trust in financial services and markets. We will act faster, challenging ourselves and testing the limits of our powers, to remove these firms from the market. Doing this will support us in reducing and preventing harm, creating a better functioning market.'

Consumer Duty has significant loan forbearance implications for consumer credit firms. This is considered particularly important to the regulators, with the Bank of England's financial policy committee (FPC) reporting an increase in borrowers falling into arrears, and the number of borrowers falling behind on their debts expected to increase.

To mitigate this, the FCA has emphasised the importance of lenders providing appropriate

support - treating borrowers in financial trouble with extra care to ensure that those who are already vulnerable do not get a worse outcome.

According to one FCA report:

- over half of borrowers have suffered a negative life event through no fault of their own and were facing financial difficulties as a result
- a significant proportion also had physical or mental health issues, which needed to be taken into consideration when seeking support on their financial difficulties
- 59% of borrowers in financial distress had missed one or more payments on credit products (including mortgages) in the last six months
- 40% of borrowers in financial difficulty had a negative or indifferent experience with their lender.

So, what do firms need to do?

It's worth taking a moment to consider the aim here to ensure borrowers receive 'good outcomes'. The specific meaning of these outcomes can vary from case to case but essentially are to not make the borrower's life significantly worse because of the loan - unsustainable debt, unmeetable repayments, homelessness and other negative results.

To achieve these good outcomes, firms must have processes in place to identify vulnerable individuals and proactively offer appropriate forbearance options to financially distressed borrowers. These processes include:

- regular monitoring and review of borrower arrangements
- having an accurate and current understanding of the borrowers' finances and circumstances
- training staff to identify vulnerability characteristics
- providing practical options beyond standard repayment plans and debt collection
- ensuring borrowers can contact them when they are in financial difficulty.

Regulators will look for evidence that these outcomes are monitored and that any issues are identified and addressed.

Some of these processes may be in place anyway but to achieve the others, consumer credit firms are going to have to understand the borrower's real financial position. This may involve new tools and intelligent Open Banking technology that is already in use across the legal, accounting, gaming and other financial sectors. This Open Banking technology will enable consumer credit firms to get accurate transaction, income and other financial data direct from the borrowers' banks and will automatically provide analysis and potential red flags to allow informed and effective decisions to meet the Consumer Duty requirements.

The new regulations, whilst important, have placed an extra burden on consumer credit firms. The right processes, technology and tools will not only lessen this burden but also ensure the costs of compliance are lower than the financial and reputational risks.

do as you would be done by

DEBT COLLECTION: REGULATORS ADDRESS THEIR CONCERNS



From time to time, I like to pick up on key regulatory matters that affect CCTA members and our sectors. I think we can all agree that there has been a lot going on in Q1 2024, from a regulatory perspective.

First, the Financial Conduct Authority (FCA) announced a review into motor finance commissions and applying temporary measures for complaint handling timeframes in the sector.

This was then followed by a warning to firms on anti-money laundering concerns, a review of firms' treatment of vulnerable customers, another 'Dear CEO' letter and, finally, a joint warning from regulators around concerns about debt collection practices. It is the last of these points that I would like to cover.

I am sure many of you will be aware that the FCA, along with other industry regulators (Ofgem, Ofcom, Ofwat) recently issued a joint letter addressing concerns, in their respective industries, about firms' debt collection practices.

Jointly, these regulators have said that consumer harms in debt collection practices result from consumers being inundated with communications when they are in financial difficulty, those communications having intimidating or threatening tones and their debt advisors/organisations having unnecessary barriers when engaging with creditors on behalf of the customer.

Contributing on behalf of the FCA, Sheldon Mills highlighted the concerns within the financial

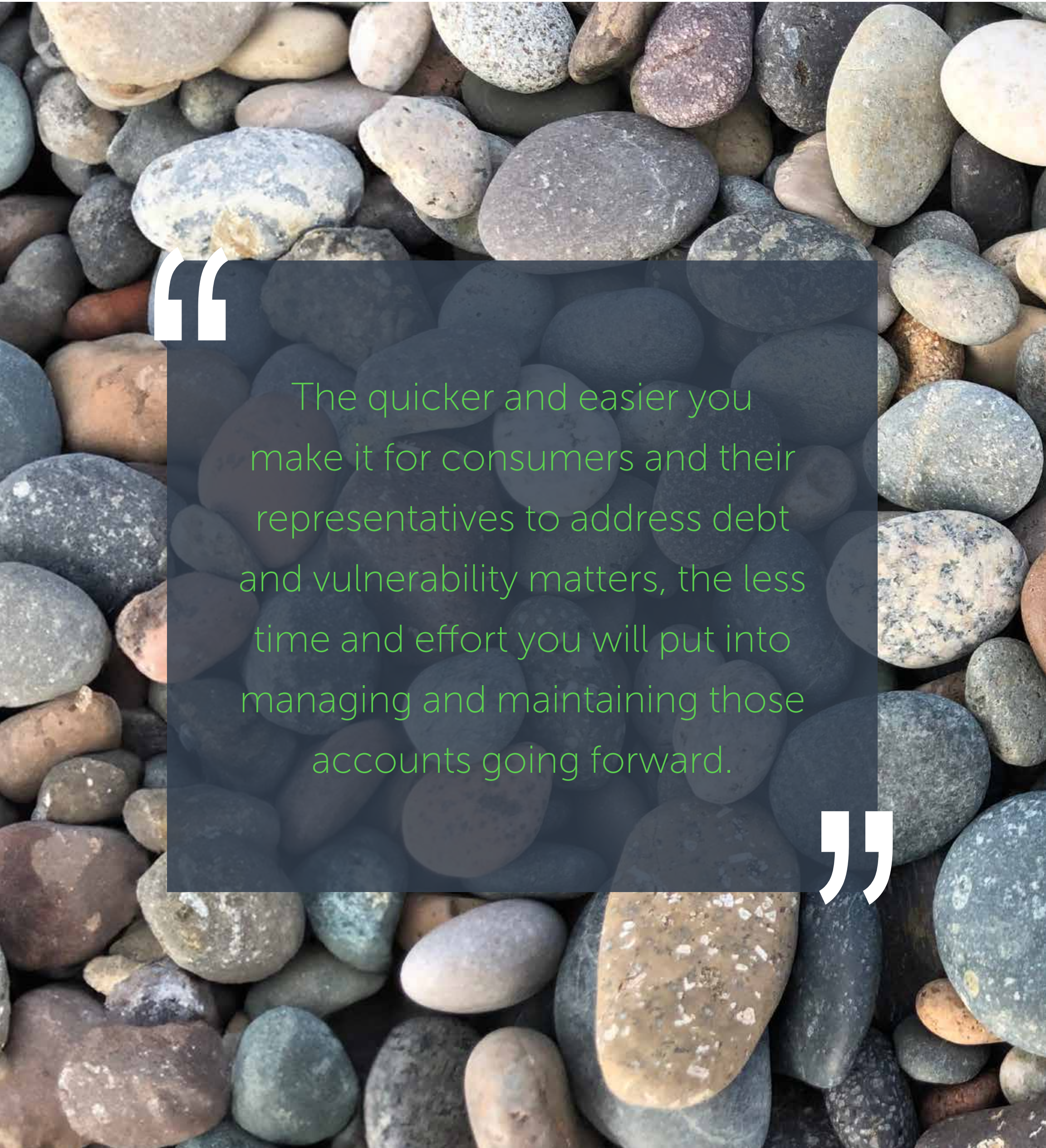
services sector. This part of the letter states that the FCA has concerns in several areas, which include, inadequate consideration for customers with characteristics of vulnerability, the perceived intimidating and unsupportive nature of communications, inappropriate testing around communications and the CONC requirements around contacting consumers at unreasonable times and intervals.

The letter fails to clarify the communications that their concerns relate to. As you will all know, there are statutory communications that creditors must issue in accordance with legal and regulatory requirements. These are documents such as Default Notices and Notice of Sums in Arrears (NOSIAs). The legal requirements in respect of such statutory



Naveed Asif
Head of Policy & Advice
CCTA





The quicker and easier you make it for consumers and their representatives to address debt and vulnerability matters, the less time and effort you will put into managing and maintaining those accounts going forward.

communications are prescribed in legislation, therefore, creditors cannot amend the frequency and tone of these communications. Timescales for issuing them and the wording contained within these are mandated.

What these regulators are therefore referring to is the communication with consumers beyond these required communications, such as additional letters, telephone calls, emails, texts/SMS, and visits (if applicable).

The letter also includes communications sent out by any outsourced debt collection services providers that a firm may use. Remember, firms have a duty to ensure that their suppliers are also meeting regulator expectations. Consequently, it is a good reminder to go back and revisit some of these aspects.

Considering this letter, firms should now be asking themselves a few specific questions. I know many firms will have reviewed their communications under the Consumer Duty implementation phase, but have you reviewed the frequency of your communications? The tone? And have you tested all these before implementing?

Yes, you may have improved the language to aid consumer understanding but are you monitoring the success of each channel of communication? Is your telephony approach working?

If applicable, are your debt collection visits working? Have you considered the frequency, tone, and success of your outsourced debt collection service providers? These matters are what the regulators

want you to get right, so that consumers who are in financial difficulty or vulnerable situations are supported and have an avenue to gain the right support and guidance.

As Sheldon Mills highlights, customers in collections are highly likely to have characteristics of vulnerability and firms should be acting in accordance with the expectations outlined in both the Consumer Duty and the FCA's Guidance for fair treatment of vulnerable customers.

For those that have not done so, test your communications, monitor their effectiveness from a consumer perspective, train staff to support consumers as much as possible and ensure third parties acting on behalf of consumers (family members, debt advisors, health professionals and so on) do not face unnecessary barriers when they attempt to engage with your firm.

My view is that the quicker and easier you make it for consumers and their representatives to address debt and vulnerability matters, the less time and effort you will put into managing and maintaining those accounts going forward.

Given the focus on debt collection practices from various regulators, we will soon be running a webinar on debt collection and meeting FCA expectations. This will be a live learning session for staff and team managers, hosted via our CCTA Academy. Look out for further details in due course.



ASKING ^{THE} QUESTIONS

GUIDING ^{THE} DISCUSSION

BEING ^{THE} VOICE

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Ian Campbell

Consultant
Hill Dickinson



Moya Clifford

Legal Director
Hill Dickinson



claimant is too small to make individual claims economically viable, pursuing claims on a collective basis brings economies of scale.

The press release refers to the role litigation funding played in supporting the high profile group claim against the Post Office which in 2019 exposed the Horizon IT scandal, which saw 900 sub-postmasters prosecuted on the basis of information provided by the faulty Horizon accounting system. It has been reported that although litigation funding was vital to the bringing of the sub-postmasters' claim, that its effect meant that the sub-postmasters each only received approximately £20,000 damages, a fraction of the total damages awarded.

The stated aim of the proposed legislation is to make it easier for members of the public to secure the financial backing of third parties (litigation funders) when launching complex claims against corporations with sizeable legal teams which they could otherwise ill-afford.

Currently we only have the wording of the press release itself to guide us as to what the proposed legislation is likely to contain and it is stated that it will restore the position that existed before the Supreme Court's decision in PACCAR last year, which may well mean that there is no requirement to comply with the DBA Regulations 2013 so that once the legislation is implemented, cases will be able to continue being funded as previously.

No exact details of the legislation have been released as yet, only an indication that the legislation will be introduced shortly. The press release does state that the Government is also

considering options for a wider review of the sector and how third-party litigation funding is carried out more generally.

This may involve consideration of whether there is a need for increased regulation or safeguards for people bringing claims to court perhaps limiting the amount funders are entitled to, particularly given the growth of the litigation funding sector over the past decade. Further details will be available and we will comment in detail in due course.

For further information on this topic, please contact **Iain Campbell** and **Moya Clifford**.

HILL DICKINSON

The Government has **recently announced** that it will introduce legislation to reverse the Supreme Court decision in **PACCAR Inc & Ors v Competition Appeal Tribunal & Ors [2023] UKSC 28**.

The PACCAR decision reverberated throughout the litigation funding industry when it was handed down, as it held that litigation funding agreements (LFAs) where the funder is to receive a percentage of the damages should be properly classified as agreements falling within the statutory definition of damages-based agreements (DBAs).

As such, LFAs were required to satisfy the statutory conditions for DBAs under the DBA Regulations 2013 failing which they would be unenforceable. Many LFAs in existence at the time were non-compliant with the DBA Regulations 2013 and were therefore unenforceable and urgent steps had to be taken by the stakeholders involved to shore up the position, often by the introduction of a multiple of funding rather than a percentage of damages.

Litigation funding is not only suitable for high value claims but can be used for smaller claims as part of a class action. Where the loss suffered by any single



litigation funding:
post-PACCAR legislation to be introduced



Stephen Cowan

Director
Yuill + Kyle



The Supreme Court has given its eagerly awaited decision in the case of Philipps against Barclays Bank UK PLC. The litigation involved an "authorised push payment" (APP) fraud.

In this type of dishonesty, the victim is persuaded to authorise their bank to send a payment to an account controlled by a fraudster. Many bank customers mistakenly think that a bank will always have a legal duty to refund them should this happen. However, the decision of this case illustrates that it will all depend on the circumstances surrounding the transfer.

Facts of the case

Mrs Philipps instructed Barclays to transfer no less than £700,000 from her current account to bank accounts in the United Arab Emirates which were controlled by fraudsters. Attempts to have the funds returned to her were fruitless.

The legal argument

Mrs Philipps argued that her bank were liable for the loss because they owed her a common law duty of care not to carry out her instructions if, as she alleged, the bank had reasonable grounds for believing that she was being defrauded. The Court of Appeal held that in principle Barclays did owe their customer a duty of care. Whether such

Bank's Liability for Customer Fraud: **Supreme Court gives its decision**

a duty existed would depend upon the particular circumstances of the case which could only be determined if evidence was led. Reversing the Court of Appeal's decision the Supreme Court held that even if the facts as stated were proved the bank did not owe such a duty.

Mrs Philipps also advanced a contractual argument by focussing on the bank's current account written terms and conditions as well as conditions implied by the common law. As far as the bank's written terms were concerned, the Supreme Court held there was nothing in them to the effect that instructions should not be implemented where the bank had reasonable grounds for believing that their customer was being tricked into making such a transfer request.

The court rejected her argument that no express term was needed. They did not agree that the bank's duty was either recognised by common law or was contractually implied. In the court's opinion such a duty would be beyond a bank's usual obligation to its customer. On the contrary. In effect the court held that if a customer instructed a bank to make a payment transfer in the circumstances presented to them by Mrs Philipps then they would have a duty to implement the order. In so doing Barclays would be acting as Mrs Philipps' agent and not have a duty to assess the transaction's risk.

The court differentiated Mrs Philipps' position with the seminal 1992 Appeal Court's decision in

"Quincare". In Quincare the bank's branch had received instructions from the customer's agent to make the transfer in circumstances where the bank had reasonable grounds for believing that the agent was defrauding their customer for the agent's own benefit. In these circumstances the Appeal Court held that the bank should have not have acted on these orders because they would be unable to rely on the agent's apparent authority to make the transfer. And because in the Philipps' litigation no agent was involved, it was she who had given a clear instruction to transfer the funds, the bank were not obliged to make any enquiry.

Conclusion

The Financial Services and Markets Act 2003 (section 72) stipulates that there should be an operable mandatory reimbursement scheme in circumstances which are similar to the Philipps' litigation. However the scheme will not apply to international payments. Many bank customers mistakenly believe a bank will have to refund them should a transfer be fraudulent.

Whilst this may be the situation where fraudulent instructions have been given by the customer's agent (and the bank should have realised that the agent was acting fraudulently) this will not apply where the transfer was directly authorised by the customer. Also customers should be aware that the statutory protection will be inapplicable to international transfers. The moral is: "gang warily".

king v black horse ltd

It's possible to use a vehicle after rejecting it

Introduction

There is often a difficult question where consumers under hire purchase or conditional sale agreements continue to use a vehicle after rejecting it. On 31 January 2024, the Court of Session allowed the consumer's appeal in King v Black Horse Limited & Another [2024] CSIH 3 and decided it is possible for a consumer to continue to use the vehicle after rejecting it.

The facts

The facts are pretty common. Alan King (the consumer) entered into a hire purchase agreement regulated by the Consumer Credit Act 1974 (the agreement) with Black Horse Limited (the lender) for a motor vehicle (the vehicle). The lender bought the vehicle from a dealer, Park's Ayr Limited.

The consumer had issues with the vehicle's diesel particulate filter. The agreement was subject to the Consumer Rights Act 2015 (the CRA). The consumer purported to reject the vehicle claiming it was not of satisfactory quality when supplied (in breach of Section 9(1)). The consumer purported to

exercise his final right to reject (rather than a short-term right to reject).

The earlier decisions

In the lower courts, the Court decided that the consumer could not continue to use the vehicle after he had rejected it. The Court said the principle in Ransan v Mitchell (1845) 7 D 813 continued to apply after the CRA's introduction. The consumer appealed.

The appeal Court's decision

The Court decided (whilst leaving the door open to 'personal bar' arguments) that:

- The proper approach to interpreting the CRA was to look at the words of the statute. The aim of the EU Consumer Rights Directive (the CRD) was "enhanced consumer protection". It was possible to introduce greater levels of protection, and the UK decided to do so.
- The scheme of the CRA "differs in substantial ways from the protection previously offered to

WALKER
MORRIS



Russell Kelsall


Partner, Head of Consumer & Motor Finance
Walker Morris



Paula Twist

Senior Associate
Walker Morris





In our view, all the decision says is that there is no absolute ban of any post-rejection use of a vehicle following its rejection.

consumers". For example, once the consumer rejects a vehicle then they are entitled to treat the contract as at an end even if the trader refuses to accept the rejection.

- But after rejecting a vehicle, the "consumer is under an obligation to make the goods available for collection". The continued use "is not incompatible with that obligation".
- The refund must be paid "without unreasonable delay and in any event within 14 days of the trader agreeing that the customer is entitled to a refund" and this "surely indicates that there must be anticipated a period of post-rejection use".
- The fact that there is no mention of immediately stopping using the vehicle following rejection in Section 24(5) of the CRA indicates it is not a requirement.
- The trader may make a deduction for the use of the vehicle "in the period since they were delivered" under Section 24(8) of the CRA. This suggests the deduction is from the period of delivery to refund (not to rejection).
- If a vehicle's use after rejection meant they lost their right to a refund, "there would be no need to qualify the trader's right to reduce a refund" as the consumer would not be due any refund at all (and so Section 24(9) would be irrelevant).

The Court therefore allowed the appeal. The fact that the consumer had continued to use the vehicle after rejecting it did not automatically mean the customer had not rejected it.

What does this mean for motor finance lenders?

There has been much noise about this decision and its impact. Consumer groups claim it is a significant win. But, in our view, all the decision says is that there is no absolute ban of any post-rejection use of a vehicle following its rejection. Such a decision is not surprising where the customer is exercising their final right to reject: the CRA expressly allows a lender to make a deduction for the vehicle's use and this can clearly include post-rejection use. The County Court in England came to the same conclusion in *Gordon v Volkswagen Financial Services (UK) Limited t/a Audi Finance* [2019] GCCR 17099 where the customer's continued use following rejection was 'inconclusive'.

But this decision does not mean that consumers can use a vehicle after purporting to reject it without any consequence. For example, it is still possible to argue (in Scotland) the concept of personal bar (which the appeal court said it had not considered) or (in England and Wales) a consumer has affirmed the breach where they communicate that affirmation in clear and unequivocal terms to the lender. It will therefore be necessary to consider the facts of each case to decide whether the consumer has lost their right to reject.

For more information

Walker Morris LLP have a dedicated and specialist consumer and motor finance team acting for a significant number of lenders across different sectors of the market.



ccta
I N F O R M

SPRING 2024 ISSUE
AVAILABLE APRIL IN THE MEMBER HUB



CCTA Spring 2024 Summit & drinks reception



Over sixty representatives from members and external stakeholders joined us for our Spring Summit and annual drinks reception, kindly sponsored by Lantern.

As part of the agenda, attendees received a presentation from James Connolly of TransUnion on recent market trends and insights. Members heard about the macro-economic situation as well as a breakdown of different areas of the alternative lending market.

After an overview of the recent developments on the FCA's Consumer Duty, a panel session followed

to discuss implementation in more detail. Panellists shared their recent experiences of implementation and steps they are taking to meet the upcoming deadlines for board reporting and closed products.

We were able to update members on our campaign around access to credit and discuss next steps with some of the stakeholders that also support this important work.

Thanks to Addleshaw Goddard for hosting the Summit once more.



welcome to our new members

We would like to welcome all of the firms who have recently joined the CCTA.

If you would like to know more about membership, take a look at our updated [CCTA Membership](#) brochure or send an email to membership@ccta.co.uk.

Armalytix • London
Whirlwind Credit Services • Maidenbower
Fondy Financial Services • Manchester
Kea Compliance Consulting • Cheshire
Car Finance Ltd • West Glamorgan
Grant Thornton UK LLP • London
Hutchinson 3G UK Ltd • Reading



Complaint handling workshop



In March we held a face-to-face workshop in London on complaints handling for members. The session was well attended with a range of CCTA members (from different sectors within alternative lending) coming together to learn more about the current complaints process and share experiences.

Clare Hughes, Partner at Addleshaw Goddard, shared insights around how best to engage with the FOS. Attendees also heard from Adam Freeman, CEO of Mr Lender about their approach to complaints handling in recent years.

If you are interested in attending a similar session in the future, please get in touch.



Motor finance roundtables CCTA member group continues to grow



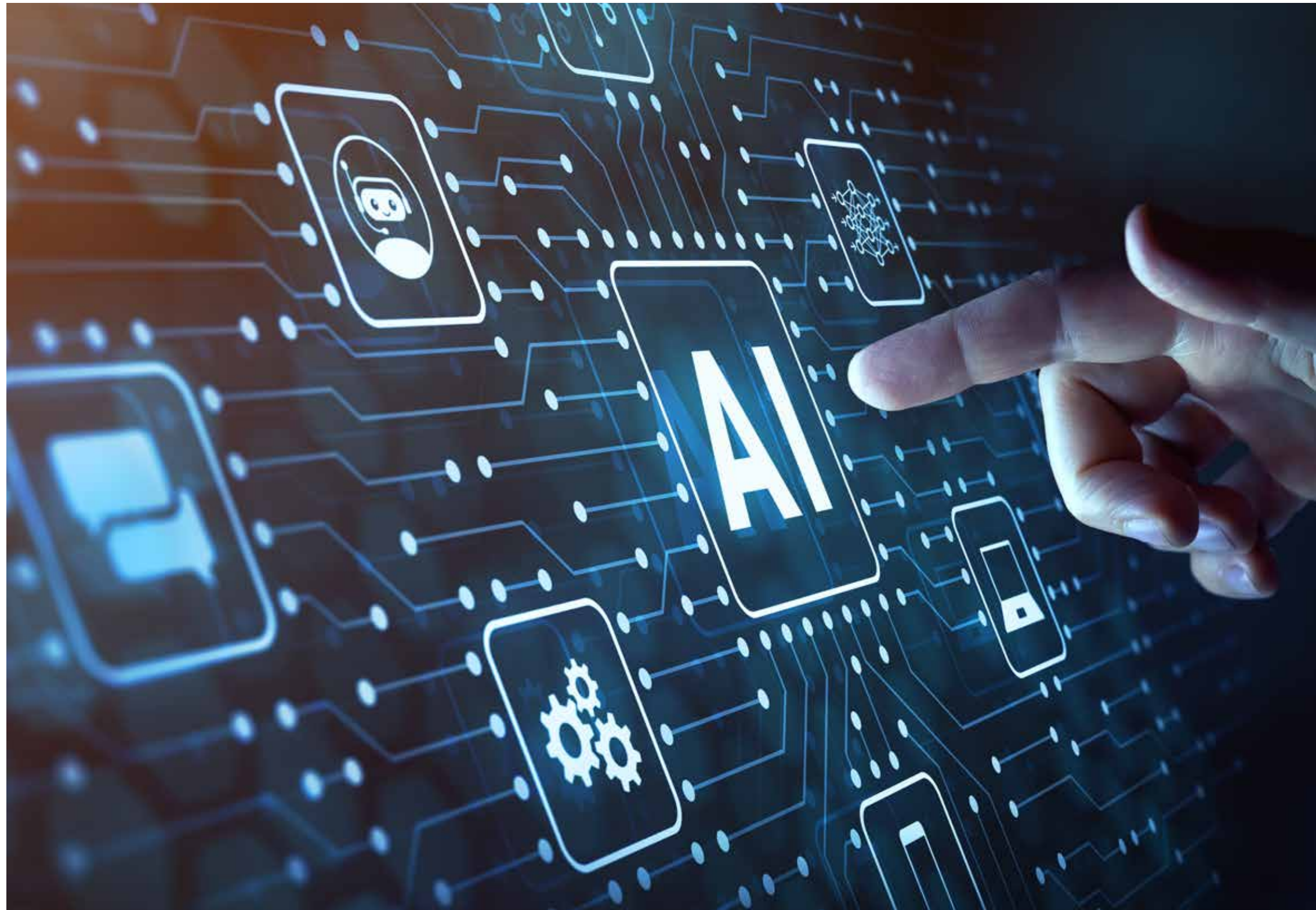
The CCTA's Motor Finance Group has continued to meet in 2024. At a roundtable event in mid-February, members were updated on recent developments including the FCA's project to look at the use of discretionary commission arrangements (DCAs) in the motor finance sector and the temporary changes introduced to the complaints system.

Jo Davis from Auxillias discussed recent legal cases that may have a bearing on the approach of the regulator and the FOS in the coming months.

Square 4 also shared some insights around their experience of s166 projects from the regulator.

Members received a guidance paper in February on the issue of DCAs and the work the regulator has announced. The paper includes implications for firms that will need to be considered.

There are plans for the group to meet again May. If you are interested in joining please contact our Head of Policy & Advice, [Naveed Asif](#).



coeo UK

Embrace AI to benefit agents and customers



coeo UK has set a new standard in customer Quality Assurance checks by deploying AI to evaluate 100% of their customer interactions.

This pioneering move ensures a level of precision and consistency that was previously unattainable in the collections industry. It will be incredibly beneficial for front-line agents and customers alike.

The ability to evaluate every customer interaction across all collection channels promises to drive improvements in various aspects, including, customer engagement, agent development as well as research and development, whilst simultaneously upholding adherence to industry regulations, company policies, and industry best practices.



Jeanette Burgess

Elected as Walker Morris' managing partner



Jeanette Burgess has been elected as Walker Morris' new managing partner and will take up the role on 1st May 2024.

Many members will know Jeanette well; she has been a CCTA council member since 2016 and is a regular speaker at CCTA events as well as advising many members on regulatory matters. Her association with the CCTA goes back much longer, however; she attended her first CCTA event back in 2003 in her capacity as an in-house lawyer with Provident Financial.

Jeanette has recently stepped down as a council member in anticipation of her new role, but we are delighted to announce that Russell Kelsall of Walker Morris has been appointed to council and

will continue to provide legal insight and support.

Jeanette commented 'The CCTA has been close to my heart for many years and although I am stepping down from council, Walker Morris will continue to play a part in supporting the association in delivering valuable support to its members.

Russell will be a great asset to council, bringing many years' experience in consumer credit law and market-leading expertise in motor finance matters. It has been an honour to serve the association and I am grateful to Jason and the rest of the council for their friendship and support over the years. I will continue to attend CCTA events and look forward to seeing the association go from strength to strength in the future.'



Acquired.com

Award winning future payments initiative



UK-based payments specialist Acquired.com has been named the winner of the Best Future Payments Initiative for their Hosted Checkout solution at The Card and Payments Awards.

Acquired.com's Hosted Checkout is an unparalleled solution that supports businesses in offering all major payment methods through a single integration, instead of requiring separate integrations for each payment type. Payment methods provided by the solution include Debit and Credit Cards, Pay by Bank, and Digital Wallets, such as Apple Pay and Google Pay.

The Hosted Checkout is effortless to integrate, using a pre-built design that integrates with existing branding through customisable design features.

Acquired.com is excited to be recognised for the Hosted Checkout solution amongst some of the best products and services in the industry.



Hill Dickinson

New Birmingham premises and hires



International commercial law firm Hill Dickinson has announced the appointment of two new partners to its national corporate team.

The hires form the vanguard of a new Birmingham-based presence for the firm, which shortly will also see real estate and real estate litigation teams join the office.

It comes as the business confirms it has secured over 2,500 sq ft of office space within the heart of the city, commencing operations in the historic Grade II-listed Louisa Ryland House.

Corporate partners Nick Dawson and Emma Callow join from Irwin Mitchell where they spearheaded their respective team offerings in Birmingham and the Midlands, with a particular focus on mergers and acquisitions and private equity transactions.

Their arrival enables Hill Dickinson to establish a dedicated presence within the city for the first time. Setting up an office in the Midlands is a logical step in the firm's regional growth strategy, connecting its rapidly growing presence across all the northern regions with London.



Stephen Wishart

Director of Fintech
TransUnion



A worthwhile puzzle

Deciphering consumer vulnerability in lending



As we continue to navigate the cost of living crisis, credit markets are seeing an ever growing number of vulnerable consumers. This is against a backdrop of the FCA's Consumer Duty obligations, ensuring good and fair consumer outcomes. As an industry, we recognise that addressing consumer vulnerability is more than a regulatory requirement, it's crucial for the health of both the credit market and consumers.

Industry responses need to be about more than just compliance. We must build a financial ecosystem that is accessible, equitable, and resilient - ensuring all consumers, especially the vulnerable, get the care and protection they deserve. This underscores a collective industry effort to foster a fairer, more inclusive credit market.

At TransUnion we've worked with industry to optimise our rich credit data to understand the scale and spectrum of consumer vulnerability, to help the industry identify consumers who need most support. Our immediate insights focused on the financial side of a consumer's life, specifically understanding the impact of pressure and stress on disposable incomes.

Recently, TransUnion have worked with non-financial vulnerability data via the Vulnerability Registration Service (VRS), who capture an array of self-declared non-financial vulnerabilities such as mental health, disability and gambling addiction.

Using VRS data, we get an idea of challenges facing the UK industry. Vulnerability is a broad concept - a significant proportion of the population are impacted in some way and classed as vulnerable at some point in their lives. However, not all vulnerabilities lead to harm, the support the consumer needs could be based around service and accessibility rather than intervention. It's therefore important to understand the consumer's position on the spectrum of vulnerability, the likelihood of future harm and the best treatment strategies and appropriate services for them.

For example, roughly 16m UK consumers live with some form of disability - for many their greatest need is appropriate access to credit, and efforts to ensure their inclusion.ⁱ When focussing solely on financial vulnerabilities, 31% of UK consumers have at least one indicator, or to be more specific, 11% of UK adults are experiencing financial distress.ⁱⁱ

TransUnion can also identify income-based vulnerabilities, with 15m working age consumers falling into the low income bracket (where income is approximately 70% of UK median income). Whilst low income doesn't always indicate vulnerability, the cost of living crisis has resulted in material stresses on customer's affordability. We've found that approximately 10m UK consumers are in severe income distress, spending everything they earn each month.ⁱⁱⁱ

We have observed good practices across the industry - examples include increased access and usage of non-financial vulnerability data; greater focus on predictive analytics, expanding outcome definitions beyond delinquency and profitability; and re-designing servicing capabilities with specific vulnerabilities in mind.

Supporting vulnerable consumers is a non-competitive industry imperative, and as such, we need to collaborate and share best practices - to improve both detection and treatment strategies.

To find out more about TransUnion's solutions, [visit the website](#).

We must build a financial ecosystem that is accessible, equitable, and resilient - ensuring all consumers, especially the vulnerable, get the care and protection they deserve.

ⁱ UK Gov, 2022 Family Resources Survey, Tavle 4.1 Disability Prevalence

ⁱⁱ TransUnion Financial Distress Index

ⁱⁱⁱ TransUnion Affordability Data and Cost of Living Model

The burning questions

How to identify and handle fraudulent bank statements



Dan Simpson
Compliance Director
Marsh Finance Ltd



Historically, the automotive finance sector was anchored in face-to-face transactions and physical verifications. However, as digital transitions became more prevalent, the door for cyber fraud and manipulation inadvertently opened wider. The evolution of digital tools has made falsification more sophisticated, with the latest battle surrounding fraudulent bank statement submissions during car finance applications.

Rising fraud cases on car finance applications

Over the last few years, Marsh Finance has noted a worrying upswing in fraudulent activities, specifically concerning bank statements in car finance applications. The integrity of financial documentation has always been paramount, but with fraudulent cases on the rise, the industry must be more vigilant than ever.

Is the rising cost of living to blame for this rise in fraudulent activity?

Several factors might be driving this surge in fraudulent activity. A significant one is the rising cost of living. As living expenses outpace wage growth, some individuals feel pressured to misrepresent their financial position to secure vehicle finance. While this is no excuse for fraud, understanding the underlying motives can help formulate strategies to address the root cause.

Common fraud trend: Doctored bank statements

Many of these fraudulent cases involve doctored bank statements. Whether through sophisticated digital manipulations or rudimentary paper alterations, applicants are presenting false records to enhance their financial standing. Such manipulations may range from inflating balances, removing evidence of financial hardship, or even entirely fabricated statements.

Spotting a fraudulent bank statement

- **Inconsistent formatting:** Mismatched fonts, varying font sizes, or irregular spacing.
- **Rounded figures:** Real bank statements often show exact amounts, not rounded numbers.
- **Missing transactions:** Suspicious gaps in transaction history.
- **Logos and branding:** An outdated or pixelated bank logo may hint at tampering.

Emerging technologies, such as AI-driven document verification systems, can play a pivotal role in detecting discrepancies in bank statements. By leveraging pattern recognition, anomaly detection, and machine learning, businesses can quickly identify and flag suspicious documents for review.

Reporting car finance application fraud to CIFAS

CIFAS (Credit Industry Fraud Avoidance System) is a not-for-profit organisation that aims to reduce financial crime. If you suspect fraudulent activity:

- gather all evidence related to the suspected fraud
- report the matter directly to CIFAS through their official channels
- notify the relevant law enforcement agencies.

Motor finance CCTA members play a pivotal role in creating a safer automotive finance ecosystem by reporting these incidents.

Open Banking: The future of secure finance assessments

Open Banking offers a more transparent, direct, and safer alternative to reviewing bank statements. By allowing regulated businesses to access financial data directly from banks (with the customer's consent), the chances of encountering fraudulent statements drop dramatically. Get a clearer view of an applicant's finances whilst streamlining the application process.



A nurturing atmosphere

coeo UK empowers staff wellbeing with workshop programme

In a bid to fortify its internal wellbeing framework, coeo UK has launched its highly anticipated 2024 staff wellbeing workshop programme. This initiative aims to build upon the notable successes achieved in the past twelve months, underscoring the company's commitment to prioritising employee welfare and fostering a supportive workplace culture.

Teaming up with former international rugby player turned mental health presenter, Robbie Hunter-Paul, coeo UK kicked off the programme with the inaugural workshop titled 'An Introduction to Wellbeing'. This session marks the beginning of an empowering journey for staff members as they embark on constructing their own wellbeing toolkit.

Speaking on the significance of the initiative, coeo UK CEO Tim Anson emphasised the paramount importance of prioritising employee wellbeing, particularly in an industry characterised by demanding interactions and emotionally taxing situations. Anson highlighted the essential role of supporting the mental and emotional health of employees in maintaining morale, enhancing productivity, and cultivating an empathetic organisational culture.

The workshop programme encompasses five comprehensive sessions covering four core pillars of wellbeing, with a dedicated focus on stress management. Hunter-Paul provided insights into

the workshop sessions, detailing how they address various aspects of wellbeing. From reframing perceptions around mental health to exploring stress management techniques, mindfulness practices, the importance of quality sleep, and the role of exercise and nutrition, the programme offers a holistic approach to promoting staff wellbeing.

Hunter-Paul further emphasised the programme's broader impact, noting that it is part of a series of staff wellbeing activities being delivered by coeo UK. Leveraging a partnership with Health Assured, the programme provides staff with access to detailed information and professional support, ensuring comprehensive coverage of all wellbeing areas addressed in the workshops. Additionally, a portion of the programme will be delivered off-site, enabling broader participation and engagement among staff member groups or sports teams.

Anson reiterated the transformative potential of investing in wellbeing initiatives, citing their positive impact on productivity, customer engagement, and overall success. He underscored the ethical importance of prioritising employee welfare, particularly in an environment marked by increasing regulation and scrutiny. With the launch of its comprehensive staff wellbeing programme, coeo UK sets a new standard in fostering a healthy and supportive workplace culture, reaffirming its commitment to empowering its workforce.



Ben Calvert
Commercial Director
coeo



Will big tech restrict competition?



Jane Blowers

Lawyer & Director
Alpha L&C



In October 2022, the FCA launched their discussion paper assessing the potential competition impacts of Big Tech entry and expansion in retail financial services (DP 22/5). Various views were invited from stakeholders, culminating in a call for input ending in January 2024. Essentially, this call for input wanted to focus on the competition impacts that may arise from Big Tech firms' data advantages potentially combining with customer financial data sources.

Over the past few years, technology has advanced to such an extent that we can now run our lives through our mobile phones, from online banking to downloading the comparison site apps to find the best insurance deal.

In the FCA's call for input in November 2023, Chapter 4 looked at potential competition impacts they wanted to explore. The FCA gave an example in that Big Tech firms with access to browsing data may be aware of the financial products that someone is searching for – particularly if they have this information in real time. They may understand an individual's financial needs better through their users' activity on social media and e-commerce platforms. As a result, Big Tech firms may be able to engage in sophisticated re-targeting using display and search advertising.

The Consumer Duty asks firms to look at their communications with customers. Challenges to

this can be Google and the character requirements within GoogleAds. Would there still be a level playing field if Big Tech could use sophisticated methods? Apps allow customers to manage their account and potentially interact with you on the go. In an ideal world, lenders may want to allow loan applications through an app, but does current tech allow this?

Short term lenders live with the FCA's price cap on credit but are you aware that if you have a product that offers personal loans through the Apple app then they limit you to a maximum APR of 36% (including costs and fees) with a repay in full date of over sixty days? Who made them a regulator?

The FCA suggests that Big Tech capabilities may assist with creditworthiness decisions by having an algorithm that analyses purchase history from their e-commerce platform against consumer behaviours and therefore the likelihood of repaying loans. They recognise concern that firms may not be able to compete on acquisition and retainment, that Big Tech could price discriminate and stifle financial services innovation.

The Digital Markets, Competition and Consumers Bill should be enacted this year and competition law will be updated, including the CMA's new powers to fine businesses akin to the ICOs based on turnover. Will this be a chance to be tough on Big Tech?



Denise Crossley

Non-Executive Chairwoman
Lantern Group



In recent weeks, the FCA joined forces with UK Regulators Network (UKRN) issuing statements around debt collection activity. This 'activity' relates to **all forms of communication** to customers in arrears, be it from lenders, creditors or their chosen third party outsourcers.

At a time when the cost of living crisis is biting hard, this is likely to go hand in hand with the ongoing campaign spearheaded by Martin Lewis, in relation to placing a cap on the number of communications allowed to be sent to a customer in any given week, including reminders and regulatory notices.

This is a rule already in place in other countries. Imagine yourself as a customer with multiple debts, being contacted by multiple creditors, multiple times a week and it's easy to see why this has been raised, and indeed where it's heading.

In essence what this means, under the umbrella of the Consumer Duty, is that messaging to customers must be fair, transparent and not misleading. This

Back to the drawing board?

Embracing change in a Consumer Duty focused industry

practice, when undertaken in the correct manner and within the spirit of the Consumer Duty can actually enable a company to control costs, whilst improving the overall customer journey.

It's about reviewing every single communication and making sure it offers assistance along the way, encouraging customers to engage.

Seven years ago, the FCA focused on the business I had joined to understand the market better, and imposed this similar rule. I can recall feeling how unfair that was when competitors were continuing under the old regime.

However, having agreed to abide by the requirement, we found over time that our bottom line improved alongside increasing our brand and reputation. I make it sound simple. It wasn't. It was painstaking and absolute commitment was required, however we were repaid tenfold.

Changing our CRM system was possibly the biggest and toughest part of the process, as we had to create a Single Customer View to ensure we complied with the new requirement, but looking back it was by far the best move we made. We also reviewed all our processes and communications and adapted them to fit our new system.

Following that, we asked our partners to do the same. Anything is possible, but it takes commitment

to undertake a thorough review and execute a plan to achieve a great outcome. I cannot stress enough how starting with a review of your systems is key to getting this right.

To review your operation effectively to allow this (expected) change to work, it's wise to look to your Consumer Duty Champion (independent of shareholders and management) who is experienced and well versed on looking at this subjectively, as this will assist the business in become a shining star, raising brand, profits and ensuring customer delight.

I make it sound simple.

It wasn't.

It was painstaking
and an absolute
commitment was
required, however we
were repaid ten fold.

Digital lending

Revolutionising financial access and efficiency



In the dynamic landscape of lending, the fusion of technology and financial services is reshaping traditional practices, ushering in an era of digital lending. Historically, the lending sector in the UK has been dominated by traditional financial institutions, however, with the advent of advanced technologies, the industry is experiencing a profound transformation.

Today, lending encompasses various categories and forms, ranging from mortgages to personal loans, each catering to diverse borrowing needs and preferences. Amidst this diversity, the shift towards digitalisation and automation is gaining momentum. Financial services providers are actively embracing automated models, propelled by the increasing prevalence of digital interactions, particularly accelerated by the COVID-19 pandemic.

The magnitude of outstanding loans underscores the critical role of lending in supporting individuals amidst financial challenges. As borrowers navigate the borrowing cycle, the need for efficient and accessible support becomes more pronounced.

Digital lending emerges as a response to these evolving needs, offering a progressive and adaptable framework that aligns with the demands of the digital age. By leveraging technology, digital lending addresses longstanding challenges encountered in traditional lending models.

One of the primary advantages of digital lending is its ability to enhance the customer experience. Through apps and online platforms, borrowers can seamlessly access credit facilities from any location, streamlining the application process. Digital lending

facilitates quality decision-making by leveraging data analytics to gain insights into individual customers, enabling lenders to make informed decisions regarding credit approvals, income verifications, credit scoring, and loan outcomes.

Cost efficiency and effective time management are additional benefits. By integrating digital solutions into their processes, lending companies can optimise operational costs and reduce processing times, thereby enhancing overall efficiency.

However, the transition to digital lending also introduces certain risks, particularly in areas such as payments, IT infrastructure, and regulatory compliance. It is imperative for lenders to implement robust risk management strategies to mitigate these risks and ensure the security and

integrity of the digital lending ecosystem. The rise of fintech lending is catalysing innovation within the industry. Fintech companies are revolutionising lending processes through the provision of cloud-based software solutions and leveraging technologies such as AI and data analytics to enhance efficiency and security.

Digital lending is not a trend but a transformative force reshaping the financial landscape, offering unprecedented opportunities for financial access and efficiency. As we navigate this digital era, embracing innovative solutions and robust risk management strategies will be crucial for ensuring sustainable growth and resilience in lending practices. By championing technology, the industry is poised to meet the evolving needs of borrowers while navigating the complexities of the digital age.



Paul O'Sullivan

Global Head of Banking & Lending
Aryza



Digital lending is not a trend
but a transformative force
reshaping the financial landscape

Navigating financial difficulty

A comprehensive guide to customer support strategies

In the face of escalating living costs, it's imperative for firms to extend support to customers grappling with financial challenges.

The Financial Conduct Authority (FCA) has been proactive in implementing interventions post-pandemic to strengthen frameworks for customer support, aligning with the Consumer Duty. Our white paper delves into these dynamics, aiming to aid firms in navigating the complexities of customer collections effectively.

Economic landscape

The economic terrain post-pandemic has been characterised by soaring inflation rates and escalating domestic expenses. With the Bank of England's consecutive base rate hikes, reaching 5.25% by November 2023, the affordability of goods and services has diminished, amplifying financial strains for many borrowers. Notably, the FCA's 2023 Financial Lives Survey revealed a significant surge in missed bill payments, underlining the pressing need for robust customer support mechanisms.

Regulatory expectations

In this economic climate, the FCA emphasises fair treatment of borrowers and proactive engagement to resolve payment issues. The implementation of the Consumer Duty underscores the necessity for firms to prioritise customer outcomes throughout the arrears and forbearance journey. However, FCA research indicates that only a fraction of borrowers in financial difficulty receive adequate support, highlighting the gap between regulatory expectations and industry practices.

Collections best practices & actionable insights

In a recent white paper on Borrowers in Financial Difficulty (BiFD) that Square 4 Partners published, we outline twelve principles encapsulating collections best practices. From proactive customer engagement to transparent fee structures, these principles serve as a roadmap for firms to ensure fair treatment and sustainable solutions for customers in financial distress. Emphasising early intervention, tailored forbearance, and effective staff training, these principles align with regulatory requirements and industry standards.

As firms gear up to tackle the impending "collections iceberg," proactive measures are paramount. We advocate for strategic initiatives encompassing education, impact assessment, governance enhancement, resource allocation, and talent acquisition. By aligning collections strategies with regulatory mandates and economic forecasts, firms can navigate the challenges ahead and mitigate potential risks effectively.

Conclusion

In a landscape stained by economic uncertainty and regulatory scrutiny, proactive customer support is non-negotiable. By embracing regulatory expectations and implementing robust strategies, firms can safeguard customer interests and foster financial resilience in turbulent times.

To dive deeper into this topic, visit our website and download our [Borrowers in Financial Difficulty white paper](#). Our comprehensive paper serves as a guide for firms, offering actionable insights, customer support strategies and best practices to navigate the complexities of collections effectively.



Tom Jeffery

Advisory Director (Operations & Remediation)
Square 4



Blue sky thinking

The latest innovations in recurring payments for collections

ACQUIRED.COM



AJ Davison

Senior Partner Manager
Acquired.com



In the collection landscape, innovative solutions are continually reshaping the way payments are processed and managed. With the emergence of technologies like Apple Pay Recurring, Open Banking payments, and Direct Debit, Debt Collection Agencies and lenders are streamlining processes and enhancing user experiences like never before.

Apple Pay Recurring

Apple Pay Recurring is just one of the ways borrowers are managing their recurring payments. Leveraging the convenience and security of Apple's ecosystem, customers can use Apple Pay Recurring through gateways such as Acquired.com. Customers sign up for a subscription using Apple Pay and have the recurring payment collected as a normal Continuous Payment Authority (CPA). Apple Pay's built-in layers of authentication allow transactions to meet all Strong Customer Authentication requirements, as well as offer a frictionless payment experience for borrowers.

Open Banking

Open Banking payments are another rapidly growing innovation for the collections landscape. Introducing the option to pay via Open Banking from a different bank account than the one linked to

their CPA or Direct Debit allows borrowers to make loan repayments from an account of their choice, enabling them to manage their cash flow more effectively. With Open Banking, debt collection becomes more transparent and efficient, benefiting consumers and collectors.

Direct Debit

Direct Debit remains a cornerstone in recurring payments, offering reliability and convenience. With Direct Debit, consumers authorise payments to be withdrawn directly from their bank accounts on specified dates, eliminating the need for manual intervention. This automation reduces the risk of missed payments and late fees, providing peace of mind for both borrowers and collectors. Additionally, Direct Debit offers flexibility, allowing consumers to adjust payment schedules as needed, further enhancing convenience.

Network Tokenisation

Acquired.com has seen a notable improvement in success rates of recurring payments with the implementation of Network Tokens, with some customers seeing up to a 4% uplift in success rates (Source: The Acquired.com Hub). If a customer's card is lost, stolen, or expires, Network Tokens remain usable and update with the new card details in real-time. For lenders processing recurring payments, it means enhanced security, better conversion, and the potential for reduced costs.

In the UK, these latest innovations in recurring payments are reshaping debt collection and lending practices, offering enhanced convenience, security, and efficiency. With solutions like Apple Pay Recurring, the option of Open Banking payments, and legacy solutions like Direct Debit, the collections industry is better equipped to navigate the complexities of payment processing, while providing a seamless experience for consumers.

These latest innovations in recurring payments are **reshaping debt collection and lending practices**, offering enhanced convenience, security, and efficiency.

ACQUIRED.COM

SYSTEMS & SOFTWARE

Acquired.com is a payments specialist who offer tailored payment processing and digital banking solutions. Our solutions are custom built to overcome the many challenges faced when processing, collecting and remitting payments, we continuously innovate and build customer-led solutions. Acquired.com's deep data expertise and consultative approach streamlines and digitises payments, enabling businesses to accelerate their growth. We have now become a single, one-stop-shop platform for all payments needs.

Customer centric and agile software development by our in-house team means businesses can rapidly integrate the solution which best suits their needs. We pride ourselves on our consultative approach, providing best in class service with a view to resolving complex payment challenges.

Acquired.com are an FCA regulated business, an EMD Agent and a licensed Payment Initiation Service Provider.

0203 982 6580
acquired.com

ADDLESHAW GODDARD

LEGAL

Depth and breadth of expertise: With 269 partners and over 900 lawyers, we have a deep understanding of our markets and sectors.

A global offering: We have thirteen offices worldwide, six UK offices and seven overseas, together with a network of likeminded law firms around the globe. Where we don't have offices, we work with firms well known to us, to deliver an international capability.

A strong client base: We have instructed over 35 FTSE 100 companies in the last twelve months. 75% of our clients who have been with us for more than ten years.

0207 606 8855
addleshawgoddard.com

ALPH

LEGAL AND COMPLIANCE

CONSULTANCY

Providing Compliance and Legal services to Consumer Credit Businesses since 2014, ALPH Legal & Compliance have worked with many firms in all aspects of their business liaising with the FCA and ICO.

As a consumer credit consultancy, compliance with the law, regulation and guidance is imperative for the survival of your business. Advice is available on: Authorisation and regulatory business planning, supervision, crisis management, s166 and communicating with the FCA, complaints reporting/root cause analysis, creditworthiness and affordability, social media/marketing.

01255 861 697
alphlegal.com

arceurope

limited

DEBT PURCHASE / COLLECTION

ARC (Europe) Limited is an industry leading debt collection agency that combines outstanding results and exceptional client service with fair customer outcomes. We use the latest technology to contact customers and offer a rich online self service website to allow customers to effectively communicate with us.

We have a great track record of successfully collecting debts in the HCSTC and Fintech sectors since 2011. We use our own bespoke CRM, which allows us to tailor our services to each client's exact requirements. Speak to us now and see how we can deliver the results and service you desire.

01932 251 010
arceuropeltd.co.uk



SYSTEMS & SOFTWARE

Armalytix, an FCA regulated firm, is making it simple for consumer credit firms to spot the customers who are vulnerable to harm.

Armalytix is a data intelligence firm that allows consumers to safely share open banking and other data to deliver financial insights, helping firms comply with their Consumer Duty obligation with consistent, fast and more effective creditworthiness and forbearance checks.



sales@armalytix.com



armalytix.com



SYSTEMS & SOFTWARE

Aryza is a pioneering technology company, we work with our customers and partners to create and deliver solutions that improve the financial health and lives of the millions of people that engage with our products every day. Our mission is to transform the financial relationship businesses have with their customers.

Focused on the credit, debt recovery and insolvency sectors. Aryza's solutions automate a wide range of activities including loan origination and management, data collection and affordability assessment, administration, recovery, and payment processing, covering every stage of the credit cycle.

Aryza's solutions are underpinned by unrivalled expertise and powerful data. Since its foundation in 2002, the business has grown rapidly. Today it has global operations across four continents.



01248 672 940



aryza.com/uk_en



ASSOCIATE

Auto Trader Group plc is the UK and Ireland's largest automotive marketplace. Our marketplace sits at the heart of the car buying process, with the largest number of buyers and the biggest choice of trusted stock.

Auto Trader exists to change how the UK shops for cars by providing the best online car buying experience and enabling all retailers to sell online. We are building stronger partnerships with our customers, using our voice and influence to drive more environmentally friendly vehicle choices and creating an inclusive and diverse culture for all of our people. Auto Trader listed on the London Stock Exchange in March 2015 and is a member of the FTSE 100 Index.



07970 002 479



plc.autotrader.co.uk



DEBT PURCHASE / COLLECTION

A market-leading collections agency offering a full suite of outsourced services with an approach that sets a new standard in customer engagement and rehabilitation.

Coeo provide technology driven credit management solutions that maximise customer engagement ensuring your bad debt volumes are kept under control.

With years of industry experience and a full suite of compliant end-to-end services, we can help with any stage of the collections cycle, leaving you to do what you do best.



01422 324 516



coeo-group.ai



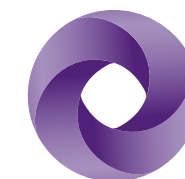
ASSOCIATE

Credit Connect is a media news and events company. The news site exists to deliver segmented relevant content and information to the lending, credit, collections and insolvency sectors.

The brand also includes a number of digital and face to face networking events including the Lending Technology Think Tank, Collections Technology Think Tank and the Credit & Collections Technology Awards plus many more.



01622 535 075
credit-connect.co.uk



Grant Thornton

LEGAL

What does business need now? An adviser that offers a different experience. A better experience. One that delivers technical expertise and a service that goes beyond. Personal, proactive, and agile. That's Grant Thornton.

The UK member firm employs over 5,000 people who operate from 23 offices, are led by 200 plus partners with a turnover in the 12 months to December 2022 of £648 million. We combine global scale with local insight and understanding to give you the assurance, tax, and advisory services you need to realise your ambitions.

We go beyond business as usual, so you can too. We make business more personal by investing in building relationships. Whether you're growing in one market or many, you consistently get a great service you can trust. We work at a pace that matters – yours – bringing both flexibility and rigour. We celebrate fresh thinking and diverse perspectives to bring you proactive insights and positive progress.



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HILL DICKINSON

LEGAL

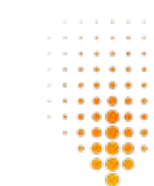
Hill Dickinson is a leading and award-winning international commercial law firm with more than 850 people, including 185 partners and legal directors.

We have a strong and experienced team of banking and finance lawyers who are spread throughout our various offices and who have expertise in advising regulated lenders, hirers, and those active in the consumer market, including representing clients in FOS/FCA issues. Our finance disputes team is highlighted by one client as 'one of the best in the industry'.

From offices in the UK, mainland Europe and Asia, we deliver advice and strategic guidance spanning the full legal spectrum.



01516 008 000
hilldickinson.com



LANTERN

DEBT WITH A HUMAN TOUCH

DEBT PURCHASE / COLLECTION

A customer champion Debt Purchaser, having been awarded the coveted GOLD accreditation from Investor In Customers for two years running. Our growing customer base of c3m is proof as to why Lantern is consistently chosen as the trusted partner to lenders looking to sell their customer portfolios where vulnerability is evident.

Lantern operates at the highest level of corporate governance and interpretation of FCA rules and guidance, with the lowest upheld complaint levels against those of our peers. Our core specialism is managing vulnerable customers carefully through the lens of our Single Customer View, across both performing and non performing debt portfolios.



07921 848 829
lanternuk.com



SYSTEMS & SOFTWARE

We are revolutionising lending. Lenvi is a fintech specialising in B2B consumer and commercial lending software and solutions. It combines global expertise, market insight and end-to-end services to provide loan management software, risk management software, mortgage and loan servicing, standby servicing, and Know Your Customer (KYC).

Built on decades of real world experience at the cutting edge of finance, we're here to help you build a better future.

Phone icon: 08448 118 039
Globe icon: lenvi.com



LEGAL

For over twenty five years Lightfoots Solicitors have delivered tailored solutions for banks, mortgage lenders and financial institutions across the UK.

We are small enough to give you a totally personalised service but big enough to always have the resource and skill to deliver, and are proud to operate in a way that truly puts our clients first.

Phone icon: 01844 212 305
Globe icon: lightfoots.co.uk



DEBT PURCHASE / COLLECTION

North-West based Perch Group offers a one-stop-shop of market-leading, data-led services across the whole debt lifecycle from debt purchase and collections to litigation and reconnection.

Our industry-leading team is able to service the full spectrum of debt types and sectors from mail order and financial services to utilities and telecoms, whatever the size, type or complexity of portfolios or accounts.

Because of our entrepreneurial culture we can make quick decisions, while our track record of regulatory compliance, award winning customer service, and digital-first solutions make us a safe pair of hands in turbulent economic times.

Phone icon: 01253 531 250
Globe icon: perchgroup.co.uk



CONSULTANCY

Product Partnerships is a compliance company solely focused on consumer credit. We ensure our clients correctly implement new procedures when regulations change, sales and complaints processes are robust and deliver excellent customer outcomes.

Our approach is bespoke to the needs of each client and whilst we have excellent online compliance systems enabling remote checking of sales and complaints, we can deliver anything from a remote support function through to acting as an in-house compliance function.

Clients can also become a Product Partnerships Appointed Representative giving added protection in maintaining an effective compliance framework.

Phone icon: 01274 921 234
Globe icon: productpartnerships.com

RESTONS^S SOLICITORS

LEGAL

Restons Solicitors Limited is a specialist law firm with over thirty years' experience of dealing with debt recovery litigation services for its clients. Our clients are almost exclusively institutional creditors within the financial services sector, being both lenders and debt purchasers.

Restons is focused on the customer; finding solutions that are fair, realistic, affordable, and sustainable. Together with our clients, employing our best in our class use of data, we support the customer's journey towards financial freedom. Our mission is to excel in customer focused collections.



01925 426 100
restons.co.uk



CONSULTANCY

Square 4 was founded with the vision to support people and businesses to grow and thrive across the evolving spectrum of conduct, financial crime and operational risk. We do this by leveraging technology and expertise to design bespoke solutions across our core service lines of: governance, risk and compliance, fraud and financial crime, technology solutions and people.

We provide an unrivalled level of interaction – service and expertise, supporting firms across a diverse and changing regulated agenda.

We have extensive experience incorporating the 'big four' professional service firms, industry regulators, leadership roles within Global Systemically Important Financial Institutions and other outsourced learning, resourcing and consultancy providers. We combine this with best-in-class technology to support firms to manage regulatory risk, ensuring clients meet the diverse needs of their stakeholders and customers.



08451 394 444
square4.com



CONSULTANCY

Personal, practical, solutions focused advice and support is what makes our bespoke consultancy stand out from the crowd. Balancing compliance, customer and commercial needs is what we say we do, and it is exactly what we deliver.

With more than four decades of experience between us, and some of that being on the battleground, we understand the challenges businesses face and the outcomes regulators want to achieve. We are confident that we can help firms deliver good customer outcomes in a commercially viable way, and support in evidencing this to the regulator.

We don't sub-contract work to others, so our clients get our full commitment and dedication. Whether you need help with a specific area, or you don't know what you don't know and would benefit from a compliance gap analysis, or you would like to know more about our services, please call us for an informal chat.



02031 266 818
themisconsultancy.co.uk



CREDIT REFERENCE AGENCY

TransUnion is a global information and insights company that makes trust possible in the modern economy, by providing a comprehensive picture of each person so they can be reliably and safely represented in the marketplace. As a result, businesses and consumers can transact with confidence and achieve great things. TransUnion calls this Information for Good®.

TransUnion provides solutions that help create economic opportunity, great experiences and personal empowerment for hundreds of millions of people. In the UK, TransUnion is a leading credit reference agency and offers specialist services in fraud, identity and risk management, automated decisioning and demographics.



03300 247 574
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WALKER
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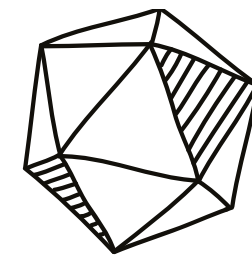
Walker Morris is a distinctive law firm that consistently delivers excellent results to its national and international client base. With a staff of 500, we are ranked by independent assessors among the top UK law firms.

The firm has an enviable breadth of expertise covering all types of retail and wholesale financial services regulation including: consumer credit, FCA regulation, anti-money laundering, and data protection. We offer a wealth of industry experience.

Our broad client base includes lenders, credit brokers, debt collection agencies, insurers, insurance intermediaries, mortgage providers, stockbrokers, private equity houses and trade associations.



01132 832 632
walkermorris.co.uk



Welcom
Digital

SYSTEMS & SOFTWARE

Welcom Digital develops end to end loan management solutions for the financial services industry.

Welcom's core platform, Financier, provides an API first fully digital automated platform for consumer and commercial credit providers providing financial products including unsecured, secured and line of credit in a single, scalable solution.

With automated decisioning, appropriate products can be offered based on affordability and vulnerability assessment including Open Banking to deliver a personalised customer experience 24/7.



08454 565 859
welcom.co.uk

YUILL
+ KYLE

LEGAL

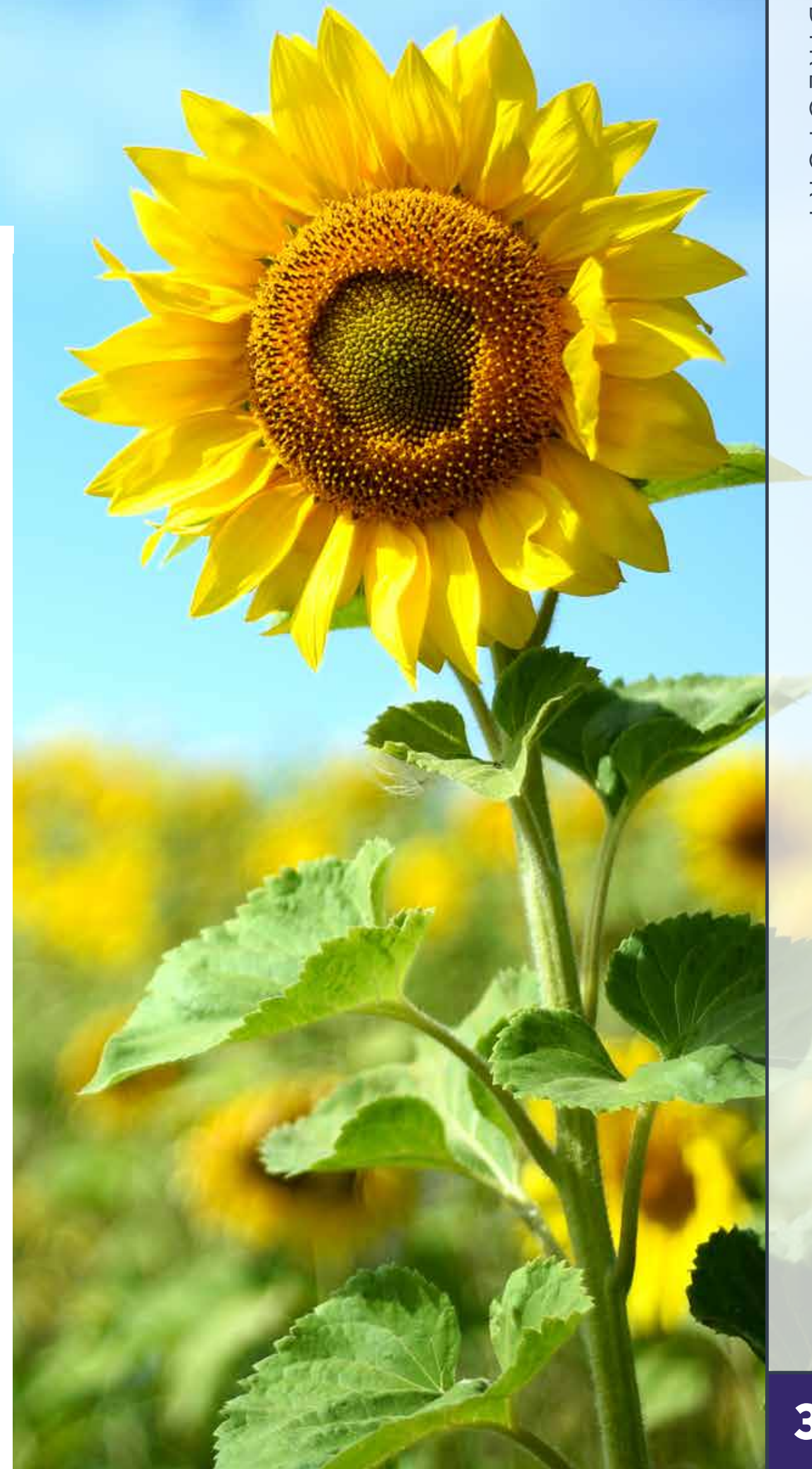
Established in Glasgow in 1908, Yuill + Kyle is one of Scotland's leading debt recovery and credit control law firms. The firm provides a vast range of tailored debt recovery and credit control facilities to SMEs, small traders, multinational corporations, international banks and debt recovery organisations.

Flexibility is the cornerstone of the firm's operations, enabling them to deal with the particular circumstances of each case in a customised fashion, and its approach is underpinned by rigorous regulatory compliance. Yuill + Kyle also holds four global International Standards Organisation accreditations for Quality Management, Business Continuity, Information Security Management and Environmental Management, ensuring that all of its debt recovery advice is delivered to the highest standards.

In 2017, Yuill + Kyle became part of the MacRoberts Group, allowing them to provide debt recovery services alongside wider and more diverse legal services throughout Scotland and further afield.



01415 724 252
yuill-kyle.co.uk





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