

Banking Disputes Report 2026

Data-driven analysis and trends



**DATA
DRIVEN
DISPUTES**

Foreword

Welcome to the third edition of our Banking Disputes Report which looks at the latest data regarding claims and complaints in the Banking and Finance sector, and comments on hot topics affecting disputes activity.

In this 2026 edition we look at:

- The reasons why the Banking and Finance sector continues to record the highest volume of new High Court claims across all sectors by reference to recent claim form data and the subject matter of new claims.
- The uptake of alternative dispute resolution processes covering the latest statistics and trends from the Financial Ombudsman Service; key arbitration data; and the quiet demise of the British Banking Resolution Service.
- Our commentary sections cover the following hot topics:
 - The most significant reforms of the Financial Ombudsman Service since its inception in 2001.
 - The regulatory squeeze on claimant law firms and claims management companies.
 - Motor finance commission claims and why these have raised issues relevant to the above reforms.
 - The current landscape for class actions and litigation funding in the Banking and Finance sector.
 - AI in the financial services sector: is regulation keeping up and what is AI's impact on banking and finance disputes?
 - Non-bank finance (Private Credit) and the impact of economic downturns on disputes.

We hope that this report helps you benchmark your current portfolio of claims and consider what might be coming next. We look forward to discussing its content with you.



Solomonic Litigation Intelligence

In preparing this report we are pleased to have partnered with Solomonic, a market-leading litigation intelligence and analytics company dedicated to bringing structured data to the world of high-value legal disputes. Solomonic helps lawyers, litigation funders, insurers, and in-house counsel obtain competitive advantage when managing disputes. Drawing on proprietary machine learning and expert input from qualified practitioners, Solomonic analyses thousands of High Court claims, documents, and court hearings to deliver data to see trends, identify risk, and improve the quality of litigation decisions and predictions. Solomonic is the UK's most comprehensive and reliable litigation database, providing previously unseen insights and actionable information published in near real time. For further information, please visit: [Solomonic](https://solomonic.com).



Tom Dane

Partner, Finance Disputes

T +44 20 7524 6829

E tom.dane@cms-cmno.com



Kushal Gandhi

Partner, Finance Disputes

T +44 20 7367 2664

E kushal.gandhi@cms-cmno.com



Vanessa Whitman

Partner, Finance Disputes

T +44 20 7367 3198

E vanessa.whitman@cms-cmno.com



James Gliddon

Partner, Finance Disputes

T +44 20 7367 2896

E james.gliddon@cms-cmno.com

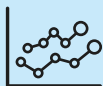
Contents

Sixty second summary	4
What is the banking litigation landscape in 2026?	6
High Court data	7
A focus on: Jurisdiction & Enforcement	12
Financial Ombudsman Service	13
British Banking Resolution Service	15
Arbitration	16
Reform of the Financial Ombudsman Service	17
Squeeze on CMCs	20
Motor finance commission claims: the story so far	23
Class actions and litigation funding	29
AI in financial services	33
Non-bank finance and what the absence of data might show...	39
Methodology	42
Annex: High Court data	43
CMS Finance Disputes team	46

Sixty second summary



Solomonic data confirms that the **Banking and Finance sector has topped the charts for new High Court claim volumes** for the last four years (2022–2025) and has either been top or second for the last six years.



FOS complaints spiked in 2024–2025 with over 300,000 (the highest since 2018–2019) due to motor finance commission claims. However, the **FOS expects complaints to drop to 190,000 in 2026–2027**.



The latest data shows LCIA arbitrations have a consistent flow of Banking and Finance sector disputes (above 15% of LCIA caseload each year between 2017–2024).



The data for Q1 2026 shows new claim volumes for the Banking and Finance sector in third place (behind Professional Services and Public Sector). However, Q1 2026 has been a busy quarter (a 15% increase on claim volumes compared to Q1 2025) and we need to wait to see where things end up with the annual data for 2026.



The FOS is undergoing its most significant reforms since its inception in 2001.

By way of example of reforms having immediate impact, the FOS's decision to start charging professional representatives to submit complaints in April 2025 has seen complaints from professional representatives drop to 4% of total complaints in Q3 2025–2026 compared to 43% in Q3 2024–2025.



There are various overlapping reasons for the consistently high claim volumes in the Banking and Finance sector that we explore below. These reasons include:

sector breadth; volume of contracts; English law and jurisdiction being favoured for international finance contracts; highly regulated sector; and the banking system being uniquely exposed to fraud, financial crime and sanctions issues.

Our review of claim forms identifies examples from recently filed claims to support these factors.



The British Banking Resolution Service, launched in 2021 as a form of ADR for larger SMEs who are ineligible for the FOS has quietly been disbanded. The government has no current plans to implement a different SME ADR service for banking disputes.



We look at motor finance claims and the story so far. **These high volume complaints have exposed a number of issues that the upcoming reforms to the FOS are intended to address and have also given rise to significant regulatory focus on claimant law firm behaviours.** We will also see the first legal challenge to a section 404 FSMA consumer redress scheme and further important appellate court precedents for group claims.



Claimant law firms and claims management companies are facing increased scrutiny from various regulators (the FCA, Solicitors Regulation Authority, Information Commissioner's Office, Advertising Standards Agency) re their approach to marketing and conducting mass consumer claims. This scrutiny has arisen in the context of motor finance disputes, but it is likely to impact behaviours more widely across future claims.



Class actions in the Banking and Finance sector remain common with **financial institutions featuring as defendants in some of the leading precedent setting cases.** UK class actions have sought over £28 billion in damages in claims involving financial products between 2016–2025. With class actions and litigation funding inextricably linked, we await to see how far the government will go in implementing the Civil Justice Council's recommended reforms of litigation funding in the UK.



Private credit has stepped in to provide funding in place of and in addition to more traditional commercial banks. We look at the collapse of some recent high profile private credit backed companies and the potential impact of an economic downturn on disputes activity.



AI use in the financial services sector is on the increase. The Treasury Select Committee has said that regulators are not doing enough to keep up with developments and manage risk. The FCA is currently consulting on the scope of regulation over AI in retail financial services (the Mills Review). **We look at the use of AI in litigation and identify a growing risk area for financial services firms in the retail sector: complaints and claims drafted by generative AI.**

What is the banking litigation landscape in 2026?

Tom Dane, Head of Finance Disputes



"It is no surprise that new claims in the Banking and Finance sector continue to top the charts for calendar year 2025 as they have done over recent years.

Claims in this sector continue to set important precedents. The much-anticipated Supreme Court ruling in the motor finance test cases in *Hopcraft v Close Brothers Ltd*; *Johnson v FirstRand Bank Ltd*; *Wrench v FirstRand Bank Ltd* in August 2025 clarified the law around secret commissions that will have important wider impact on future disclosure practices (and potential future claims) regarding intermediary remuneration across all sectors.

We continue to see the fallout from the Supreme Court's decision in *Philipp v Barclays* (2023) regarding the so-called Quincecare duty with claimants running new arguments seeking to impose a retrieval duty on banks or bringing derivative claims where shell companies have been used to facilitate fraud. There will be important further decisions and appeal cases (e.g. *Hamblin v Moorwand*) in 2026 that will continue to shape the obligations of payment service providers.

The increase in global sanctions over recent years has generated increased court activity against banks where claimants are challenging a bank's decision to refuse to perform a contract due to sanctions. The March 2026 Supreme Court judgment in *UniCredit Bank v Celestial Aviation Services*, addressing the application of Russian sanctions to English law governed payment obligations, provides important guidance in this area.

We will continue to see group litigation against financial institutions. There was an important appeal heard in April 2026 (judgment awaited) in the case of *Angel & Others v Black Horse Limited* that considered the use of "omnibus" claim forms in the context of motor finance commission claims. This appeal will clarify whether "unfair relationship" claims under s.140A Consumer Credit Act 1974, each with their own individual facts, can be brought on a group basis, in the context of motor finance commission claims – a ruling that will likely be relevant for other financial products.

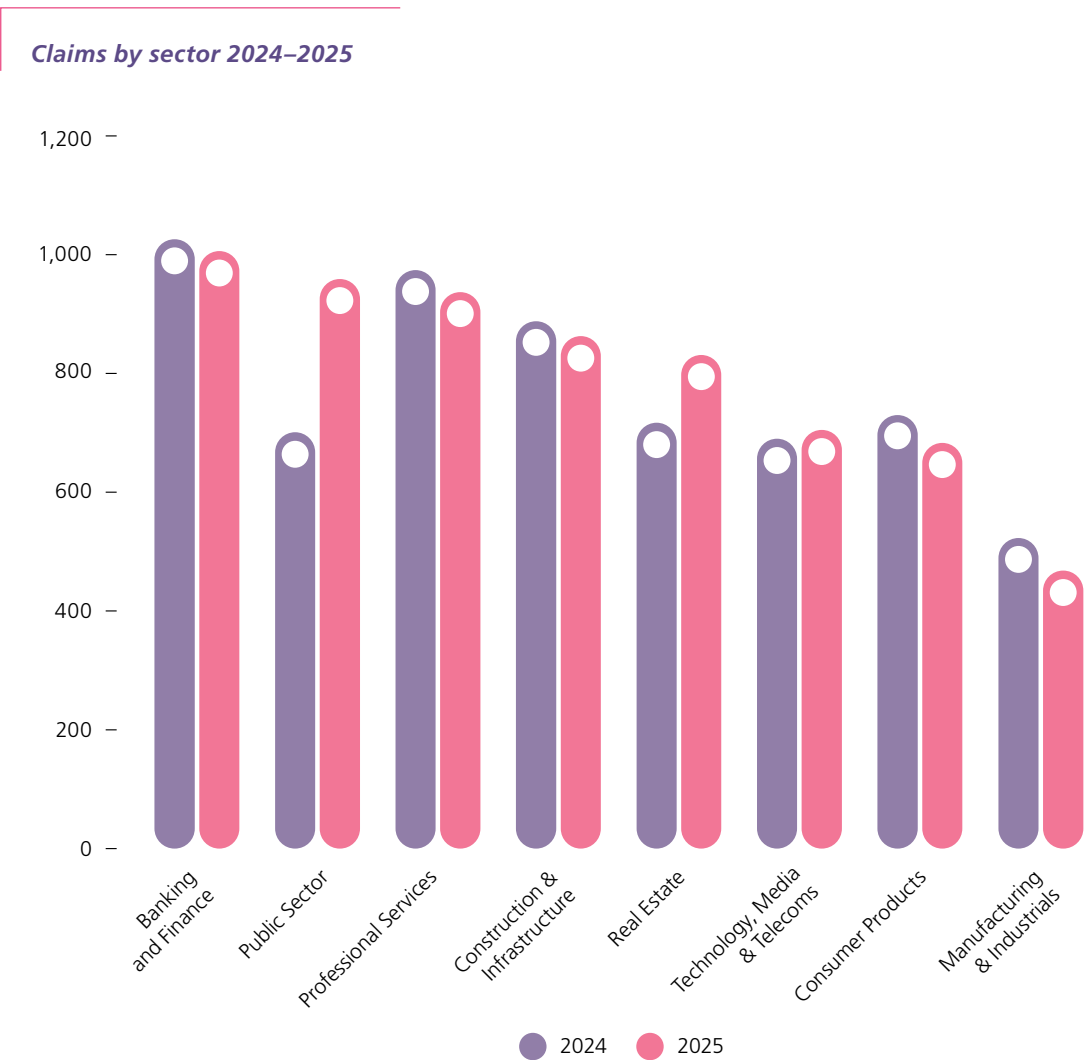
The FCA's motor finance redress scheme is currently subject to a legal challenge by both a consumer group and certain lenders. This would be the first time that the FCA's powers under section 404 of FSMA have been subject to judicial scrutiny before the Upper Tribunal and, if the challenge proceeds, the Tribunal's ruling will be important in shaping the FCA's powers in relation to future section 404 redress schemes.

As we note in the commentary sections of this report, the most significant reforms of the FOS since its inception are being implemented to ensure it remains focused on determining individual (rather than mass) complaints; it will be interesting to see the wider impact of the regulatory clamp down on CMC behaviour in the context of motor finance claims; we will continue to see the impact of AI on financial services disputes both in terms of (i) generative AI use leading to a higher volume of complaints submitted and more detailed AI-assisted complaints and (ii) ongoing developments with how AI is used in the context of managing disputes and litigation; and the Bank of England's fears of a potential "private credit crunch" could give rise to significant future disputes activity."

High Court data

Annual data

The Banking and Finance sector was the sector with the highest number of claims issued in calendar years 2024 and 2025.



The sector has now topped the charts for new claim volumes four years running (2022–2025). Even when the Banking and Finance sector did not top the charts in 2020 and 2021, it came a close second each year behind the Professional Services sector.

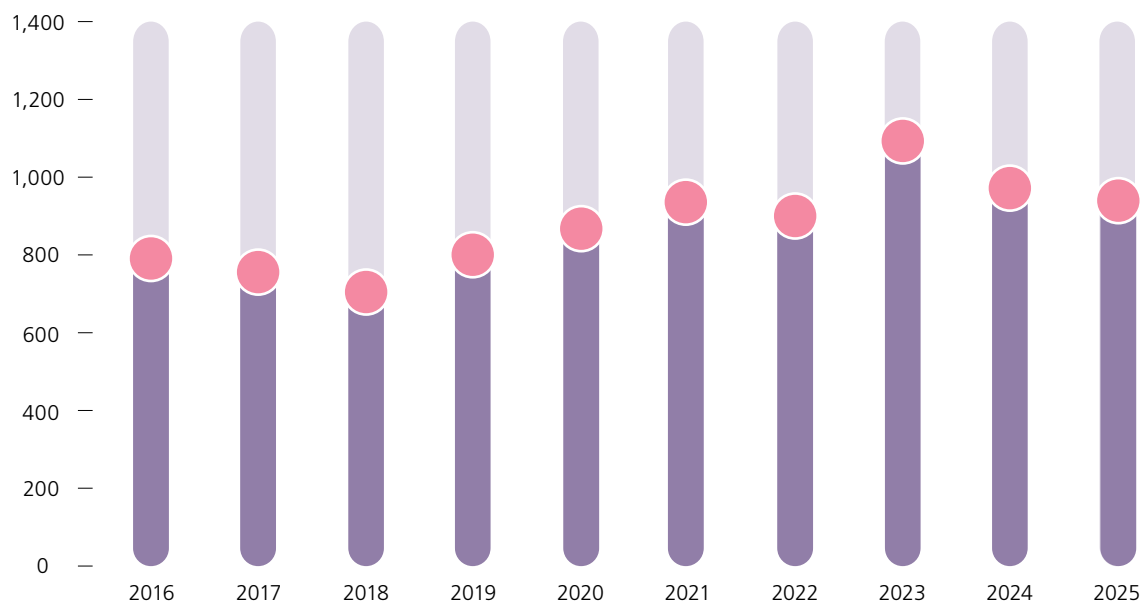
Therefore, it is no surprise that claim volumes remain high for the sector. We explore the reasons for the consistently high claim volumes below.

The graph below shows claim volumes for the Banking and Finance sector between 2016–2025. As can be seen, claim volumes were generally on an upward trend from 2019 to 2023, with 2023 (1,151 claims) seeing the highest claim volumes. Since 2023, numbers have declined slightly with 1,029 claims issued in 2024 and 996 claims issued in 2025.

However, the Banking and Finance sector remains the sector with the highest number of claims issued.

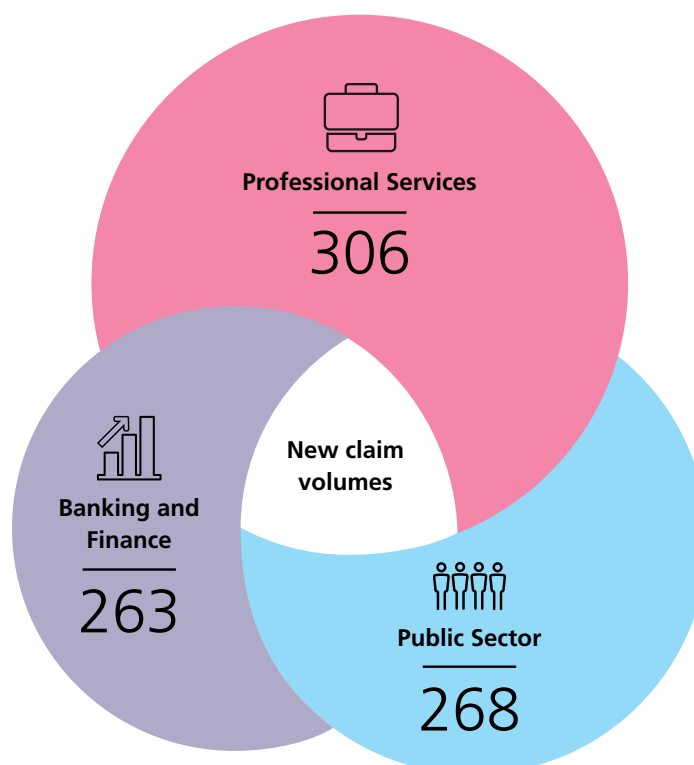
For further analysis on High Court claims data for 2024–2025 please see the [Annex](#) to this report.

Claims in Banking & Finance Sector 2016–2025



Q1 2026

The data for Q1 2026 shows new claim volumes for the Banking and Finance sector in third place (behind Professional Services and Public Sector). However, Q1 2026 has been a busy quarter (a 15% increase on claim volumes compared to Q1 2025) and we need to wait to see where things end up with the annual data for 2026.



Why does the Banking and Finance sector have high volumes of claims?

High Court claims in the Banking and Finance sector tend to be the highest volume for several interconnected reasons.



Sector breadth

The Solomononic data for the Banking and Finance sector covers all claims filed that involve at least one party within the Banking and Finance sector (excluding insolvency claims). The sector breadth inevitably gives rise to a high volume of claims.



Volume of contractual relationships

Financial institutions enter into an enormous number of contractual arrangements e.g. across retail banking customers, wholesale banking customers, and commercial contracts with third party service providers. The sheer volume of these transactions, often combined with their complexity, naturally generates a higher incidence of disputes regarding interpretation, performance, and breach.



Specialist jurisdiction and forum selection

England is a popular jurisdiction for international finance. Many cross-border finance contracts specify English law as the governing law and the English courts as the chosen forum. This attracts disputes from around the world to the High Court, particularly the Commercial Court.



Regulatory overlay

The heavily regulated nature of financial services gives rise to follow on civil claims based on regulatory action.



Fraud, financial crime and sanctions

The banking sector is uniquely exposed to handling funds in fraud claims, financial crime, and sanctions laws – all of which give rise to commercial disputes.



Value of claims and nature of defendants

Claim values will often be high, either on an individual basis or where claims are pursued together as a class action. Banks and other large financial institutions are perceived as attractive defendants with deep pockets.

Claim form review: examples of the above in action

A review of claim forms filed in 2024–2025 provides support for the above being key factors driving high claim volumes:



Sector breadth

The claim forms involve retail banks, challenger banks, investment banks and a myriad of other parties from the wider financial services sector.



Volume of contractual relationships

Claims by customers

There are high volumes of claims by customers (often against retail banks) such as the following:

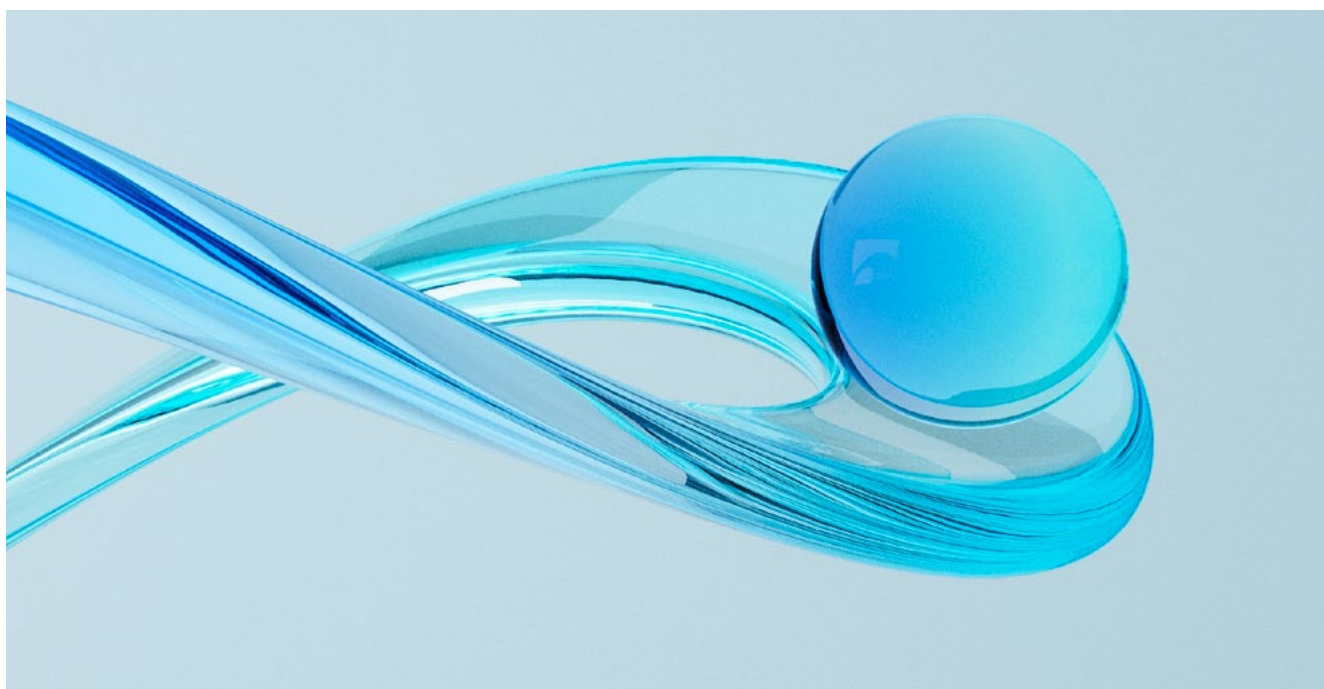
- Litigants in person continue to assert claims against retail banks. These include a continuation of arguments that borrowers are released from obligations under loans and mortgages due to securitisation/sales of loan books by lenders. As we note in the AI commentary section below, the increased use of generative AI will likely increase the volume of litigant in person claims.
- Claims for damages caused by wrongful account closure.
- Claims re fixed rate loans and break costs.

- Breach of mandate claims by customers.
- Applications for court orders requiring financial institutions to comply with a customer's DSAR.
- Mis-selling claims e.g. claims alleging negligent misrepresentation and negligent advice regarding investments.

Claims by banks against third parties

There are many examples of claims by banks against third parties such as:

- Claims against third party providers re financial technology services agreements.
- Claims against surveyors for negligent valuation of high value properties.
- Claims against construction firms regarding building works on bank properties.
- Claims between financial institutions regarding joint venture shareholder agreements and put options.
- Various examples of banks applying for anti-suit injunctions restraining foreign legal proceedings commenced in breach of jurisdiction clauses under contracts.
- Claim by a bank against a claimant law firm under the tort of causing loss by unlawful means (see our commentary regarding the "[Squeeze on CMCs](#)").





Specialist jurisdiction and forum selection

There are many examples of either one or both parties to newly issued claims being based outside of the jurisdiction. Recent claim forms provide examples of:

- Parties from Dubai, Korea, Russia, Malaysia, Singapore, US, BVI, China, Greece, Cyprus, Bahamas, Lebanon all litigating in England.
- A high number of parties from African countries including Zimbabwe, Libya, Mauritania, Egypt, South Sudan, Togo, and Nigeria.



Regulatory overlay

There are various examples of regulatory action giving rise to newly issued claims such as:

- Claim arising from Swiss regulatory intervention into Credit Suisse: is a purchaser liable to pay for Notes issued by Credit Suisse when the Swiss regulator declared a write down event re the Notes (thereby cancelling them) the day before the purchaser was due to pay for the Notes?
- Claims for declarations re the operation of contracts following the cessation of LIBOR.



Fraud, financial crime and sanctions

Fraud, financial crime and compliance with sanctions law continue to give rise to a high volume of new claims, such as:

- Various claims brought by insolvency practitioners on behalf of insolvent companies alleging a breach of the so-called “Quincecare duty” i.e. allegation that the bank was on inquiry that a former director of the company did not have authority to instruct payments from the company’s account but the bank went ahead and processed the payment instruction in breach of the bank’s duty to the company.
- Norwich Pharmacal applications seeking information on accounts/transactions (including a Norwich Pharmacal application by one bank against another).
- Claim against a receiving bank in the context of a fraud following a cyber-attack where the claimant alleges that the bank failed to operate adequate fraud protection systems in respect of its (receiving account) customer and an allegation that a bank employee was involved in the fraud.
- Claims arising from the consequences of UK sanctions law e.g. sanctions law preventing a financial institution from complying with a margin call and the legal consequences of this.

A focus on:

Jurisdiction & Enforcement



The High Court data shows that parties to international banking and finance contracts still favour adopting English law and English court jurisdiction. Given recent developments, the type of jurisdiction clause is becoming ever more important. Do you like yours, exclusive, non-exclusive, asymmetric or prefer to opt for arbitration?

The jurisdiction and enforcement framework applicable to international banking transactions has undergone significant transformation in recent years. Where previously the Brussels I Recast Regulation provided a broadly reciprocal regime between the UK and EU Member States, lenders and other finance parties must now navigate a landscape comprising multiple overlapping instruments and, in some cases, residual uncertainty particularly around asymmetric clauses.

In the absence of the Brussels I Recast Regulation, and the benefit of the Lugano Convention, the principal treaty-based mechanisms now available for the recognition and enforcement of English court judgments in EU jurisdictions and vice versa are the Hague Convention on Choice of Court Agreements 2005 ("**Hague 2005**") and the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters 2019 ("**Hague 2019**"), the latter having entered into force in the UK on 1 July 2025 and applying to the enforcement of judgments between the UK and any other contracting state in respect of proceedings issued after that date.

Crucially, the two conventions differ in scope. Hague 2005 applies only where the parties have agreed an exclusive choice of court clause, and to rely upon it there must be a written agreement designating the courts of one contracting state to the exclusion of all others. Where such an exclusive clause is in place, the named court must accept jurisdiction, may not decline it in favour of another forum, and other courts must suspend or dismiss proceedings. Hague 2019, by contrast, is not limited to exclusive jurisdiction clauses

and expressly extends to non-exclusive jurisdiction agreements, thereby providing a significantly broader basis upon which English court judgments may be enforced abroad and vice versa.

This distinction is of particular importance for financial institutions given the longstanding market preference for asymmetric jurisdiction clauses in facility agreements and other finance documents. Asymmetric clauses, which typically require obligors to bring proceedings exclusively in one court whilst affording the finance parties discretion to commence proceedings in any court of competent jurisdiction, are a standard feature of LMA-style documentation. The enforceability of such clauses has, however, been the subject of judicial criticism across European jurisdictions, which has in turn prompted market scepticism around the use of asymmetric clauses. This is particularly the case where there are obligors with assets in EU jurisdictions.

For English law transactions involving only EU obligors, consideration should be given to whether it may be appropriate to move from an asymmetric clause to an exclusive jurisdiction clause in order to bring the agreement squarely within the scope of Hague 2005, or alternatively to obtain local law advice on routes to enforcement in the relevant jurisdiction. Where the obligor group comprises a mix of UK and EU entities, exclusive jurisdiction in favour of the English courts may be appropriate, whereas for groups with a mix of EU and non-EU obligors the asymmetric formulation may be preferred, subject to the same need for local law enforcement advice. Arbitration could also be considered as an alternative enforcement mechanism in appropriate cases, particularly where obligors are situated in jurisdictions outside the Hague Convention framework.

Finally, the practical mechanics of commencing proceedings should not be overlooked. Where an overseas obligor has submitted to the jurisdiction of the English courts, the inclusion of a contractual agent for service of process within England and Wales remains an important safeguard and should be maintained as standard drafting practice.

Financial Ombudsman Service (FOS)

As we explain in our commentary section below, the FOS is to be the subject of the most significant reforms since its inception 25 years ago.

A central catalyst for the reforms has been concerns re the FOS's suitability for handling mass redress events (such as PPI and, more recently, motor finance).

A number of immediate changes have been introduced such as charging professional representatives to submit complaints (introduced in April 2025) and reducing the interest payable on redress from 8% to base rate plus 1% (January 2026).

The data shows that some of these changes are already having a significant impact on behaviours and complaint volumes.

FOS latest annual report

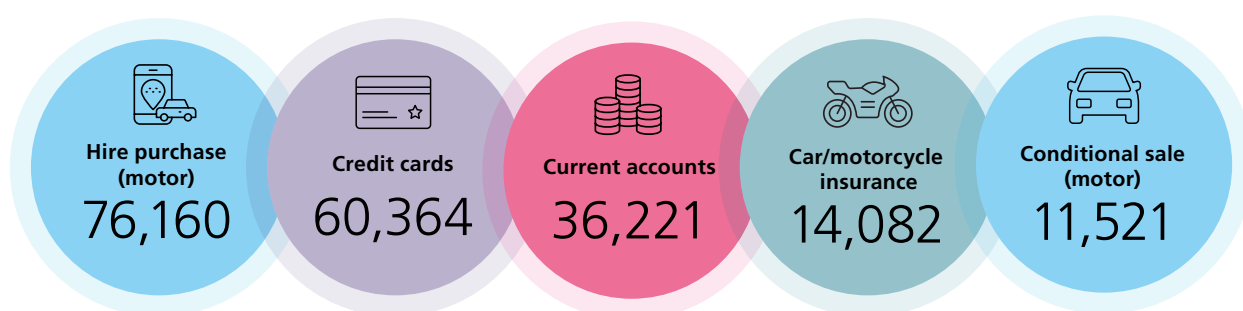
The FOS annual complaints data and insight for the 2024/25 financial year was published on 2 July 2025.

2024/25 was a bumper year for the FOS with the total number of new complaints rising to 305,726, a 54% increase on the previous year and the highest level since 2018/19. The increase was driven in large part by a 482% increase in complaints about motor finance commission and therefore this is seen as a temporary increase in volume.

The FOS noted in its Q3 2025/26 data (published on 5 February 2026) that it has seen case volumes return to 2023/24 levels and it predicts it will receive a much reduced 188,000 complaints in 2026/27. The reasons for the decrease include:

- the FCA's pause on complaint handling for motor finance complaints and its announced plans for a redress scheme;
- the FOS's significant reform to its charging regime to combat the high numbers of poorly evidenced complaints being submitted by professional representatives (see our "[Squeeze on CMCs](#)" feature below).

The most complained about financial products in 2024/25 were:



The overall percentage of complaints upheld was down slightly on the previous year, falling from 37% to 34%.

2024/25 also saw a sharp increase in the number of complaints being brought by Claims Management Companies and other professional representatives:

- Around half of all complaints in 2024/25 were brought by represented complainants, compared to 25% in 2023/24 and 18% in 2022/23.
- The uphold rate of 27% for represented complainants was materially lower than the c.41% of claims upheld for unrepresented claimants.

This trend ended abruptly following the FOS's new charging regime for professional representatives coming into effect on 1 April 2025. The regime requires professional representatives to pay £250 to refer a case to the FOS, with £175 of that amount being returned in the event the complaint is upheld. If the complaint is not upheld, the representative pays £250 and the financial institution's case fee is reduced to £475 (from £650).

As a result of this change, the proportion of complaints brought by professional representatives (as opposed to customers complaining directly) **fell to just 4% of all complaints in Q3 of 2025/26 compared to 43% in Q3 2024/25.**

In February 2026, the FOS noted that *"professional representatives are now bringing better evidenced complaints, and we are seeing fewer withdrawn and abandoned cases. For the 2024/25 financial year, more than a third of complaints from professional representatives were withdrawn and/or abandoned and so far in this financial year (April 2025 to December 2025), this figure stands at 19%."*

Following the FOS reducing its case fee from £750 to £650, it consulted on making further changes to its case fee structure in 2025 that would include differentiating case fees based on the stage at which the dispute is resolved. It is also consulting on its plans and budget for 2026/27, which include a proposal to increase its case fee to £680 and its compulsory levy to £86 million.

In relation to banking/payments complaints:



122,894
new cases in 2024/25



32%
of complaints were upheld



Credit cards were the most complained about product

60,364
complaints

with the most complained about issues being irresponsible or unaffordable lending, administration or customer service and complaints about Section 75



Current accounts were the second most complained about product

36,221
complaints

with the most complained about issue being fraud and scams



FOS saw a rise of

116%

in cases about unaffordable and irresponsible lending

(mostly against a small number of financial services firms)



FOS saw a

28%

increase in the number of complaints regarding fraud and scams;

however, complaints regarding the APP fraud mandatory reimbursement scheme have been low

British Banking Resolution Service (BBRS)

Only the eagle-eyed reader would have noticed the BBRS being introduced in 2021 and then quietly being retired at the end of 2024.

The BBRS was launched on 15 February 2021 to provide a new form of alternative dispute resolution for larger SMEs who were ineligible for the FOS but who may struggle to fund High Court litigation.

While it was originally forecast to receive c.6,000 cases during its first three years, take up was significantly lower and the BBRS was widely seen as ineffective.

A House of Commons Treasury Committee inquiry into SME finance concluded in May 2024 and recommended that the BBRS should close. The BBRS ceased accepting new complaints in December 2024.

The BBRS has been placed into liquidation, it no longer has an online presence, and there is no final data that we can locate (although an article in The Times suggested that the BBRS paid out more to its senior staff than to the 47 claimants that received an award through the scheme).

The government has confirmed that it does not intend to consult on a replacement ADR service for SMEs as it does not believe that there is a sufficient volume of customers to justify a new ADR mechanism outside the perimeter of the FOS.

Therefore, this appears to be the end of the road for an additional SME banking dispute resolution service. Customers can choose between the FOS (where eligible) or the courts.

Arbitration

The latest London Court of International Arbitration (LCIA) data shows that arbitration is consistently being used to determine disputes in the Banking and Finance sector. However, there has been a reduction in case volumes in the sector over the last three reported years (2022–2024).

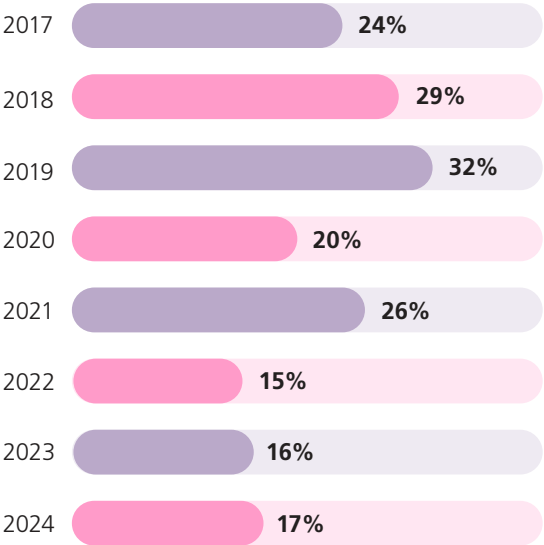
Traditionally, the Banking and Finance sector has favoured court proceedings rather than arbitration as a means of resolving disputes. There are a number of reasons for this – partly because court proceedings have been the default option and there has been no pressing need to depart from this – and partly because of certain perceived advantages of the court process over arbitration, such as a court judgment offering binding precedent and the availability of summary and default judgments in the courts.

However, arbitration remains an accepted method of dispute resolution in appropriate circumstances, such as where there may be issues with enforcement of a court judgment in the counterparty’s jurisdiction where the

New York Convention may offer a more reliable enforcement route. There has also been a concerted effort by various arbitral institutions to promote the use of arbitration in the Banking and Finance sector.

The 2024 annual data from the LCIA (being the latest sector specific data available at the time of publication) confirms that Banking and Finance disputes continue to represent a significant portion of the LCIA’s caseload, accounting for 17% of all LCIA arbitrations. This represents a slight increase from the 15% recorded in 2022 and the 16% recorded in 2023. Banking and Finance remains the second most common sector behind Transport and Commodities (29%).

LCIA annual % of Banking and Finance arbitrations



In summary

The data shows that the LCIA continues to receive a consistent level of new referrals each year from the Banking and Finance sector. While a jurisdiction clause nominating the courts in England or New York will remain the most common choice for cross border finance contracts, arbitration may be an appropriate confidential dispute forum for certain situations depending on the type of contract and counterparty.

Reform of the Financial Ombudsman Service (FOS)

The FOS will be subject to its most significant reforms for 25 years. The reforms will address issues that have been brought into sharp focus during the FOS's role in the motor finance mass redress event, with the changes aimed at returning the FOS to its originally intended role: a free service available to determine individual (rather than mass) complaints.

Background to the reforms

The FOS was established in 2001 as a simple, impartial, dispute resolution service designed to deal with complaints relating to financial services firms quickly and efficiently, as an alternative to the courts.

However, over recent years, there have been increasing concerns as to the volume of complaints submitted and how the FOS has dealt with these:

- The FOS has experienced significant pressure from mass claims. This has included PPI complaints and, more recently, motor finance complaints. These high-volume cases have raised questions about whether the FOS model is appropriate for handling systemic issues affecting large numbers of consumers.
- Financial services firms and industry bodies have raised concerns about:
 - Consistency and predictability of decision-making.
 - The retrospective application of standards.
 - The FOS assuming a role as a quasi-regulator.
 - The lack of a formal appeals mechanism (beyond judicial review).
 - The ability of claimant law firms and claims management companies (CMCs) to submit poorly articulated claims to the FOS at no cost.
 - The high interest rate (8%) applied to redress awards.
- Questions have also been raised about the relationship between the FOS and the FCA, including whether there is sufficient coordination.

The above has given rise to regulatory uncertainty for firms and inconsistent outcomes for both consumers and firms; all of which ultimately risks suppressed investment in the financial services sector.

Two immediate reforms

Charging professional representatives

As noted in the FOS data section above, from 1 April 2025 the FOS started to charge professional representatives £250 to refer a case, with £175 of that amount being returned in the event the complaint is upheld.

As a result of this change, the proportion of complaints brought by professional representatives (as opposed to customers complaining directly) fell to just 4% of all complaints in Q3 of 2025/26 compared to 43% in Q3 2024/25.

Interest rate applied to redress

For all complaints referred to the FOS from 1 January 2026, the interest rate on redress awards will no longer be 8% but instead will track the Bank of England's base (average) rate plus 1%.

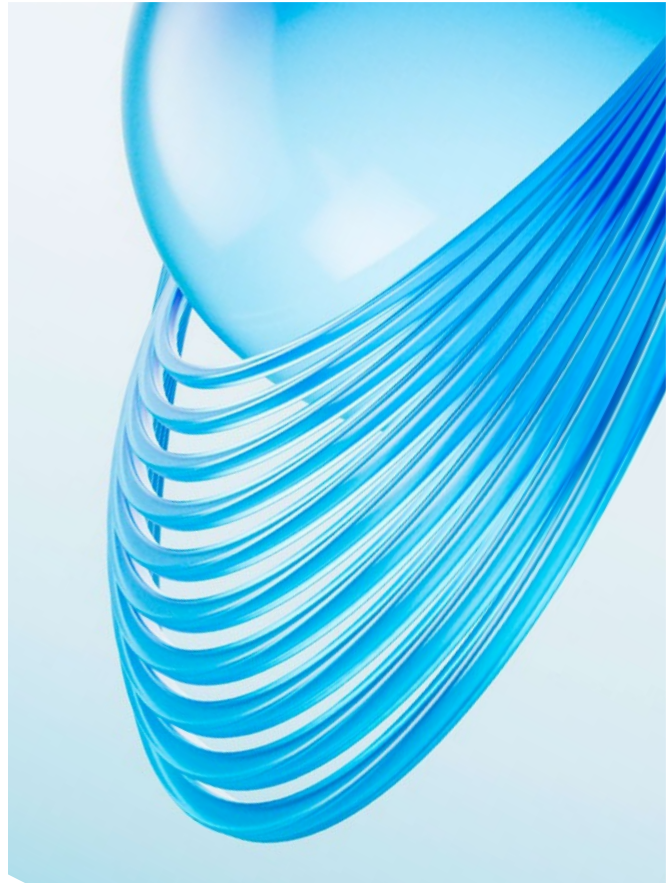
Future government reforms

On 16 March 2026, following consultations launched in July 2025, the government confirmed that it intends to legislate to:

- Adapt the “fair and reasonable” test used by the FOS to determine cases. The new standard will remove reference to the FOS being able to consider “good industry practice” and make clear that where firms have met their obligations under relevant law and regulatory rules in force at the time, firms must be found to have acted fairly and reasonably by the FOS.
- Introduce a referral mechanism between the FOS and the FCA to require the FOS to seek a view from the FCA on matters of interpretation where the FOS considers there may be ambiguity in what FCA rules require, or where it considers an issue raised may have wider implications across the financial services industry.
- Introduce an absolute time limit of 10 years from the act or omission complained of for bringing a complaint to the FOS. The FCA will have the ability to make exceptions to this time limit.
- Make structural changes to the FOS to provide greater consistency in decision making, by giving the Chief Ombudsman overall responsibility for FOS determinations.
- Make it easier for firms and consumers to understand and learn from FOS determinations by introducing a requirement for the FOS and FCA to publish regular thematic reports which provide useful information and clarification on how the FOS will consider certain types of complaint, including types of complaint covered by FCA rules.
- Ensure the FCA, as part of its responsibility for setting the regulatory response to mass redress events, has the tools it needs to respond to these events quickly and effectively, in the small number of cases where such an intervention is appropriate.

The government has confirmed that it will not be moving forward with two changes under discussion being: (i) making the FOS a subsidiary of the FCA; and (ii) introducing a formal appeal from FOS decisions to the courts (beyond the current judicial review rights).

Delivering these reforms to the FOS’s legislative framework will require primary legislation, which the government will take forward “when parliamentary time allows”.



Future regulatory reforms

Simultaneously on 16 March 2026, the FCA and the FOS issued Consultation Paper CP26/9 seeking views on proposals by the FOS to amend its rules to:

- Amend the factors it considers as part of the “fair and reasonable” test (consistent with the government’s proposals above).
- Introduce a registration phase for complaints to include (i) a “pre-registration stage” focused on early assessment and information gathering; and (ii) a “registration stage” where the full investigation begins.
- Amend its dismissal grounds. The FCA and FOS are proposing wider grounds for dismissal (prior to consideration of the merits). This would include where complaints are vexatious or are being dealt with under other schemes.

The paper also sets out the criteria the FCA intends to use to identify mass redress events which will assist the FCA in identifying emerging issues at an early stage.

The deadline for responses to the consultation is 11 May 2026.

Commentary

These are the most significant reforms of the FOS since it was established 25 years ago.

The FOS's approach to handling high volume motor finance complaints has shone a light on issues that the reforms are intended to address. The sheer number of complaints has demonstrated that the FOS is not an efficient resource for determining high volume complaints. The two Final Decisions released by the FOS in January 2024 that found against lenders raised significant questions as to whether the relatively informal FOS process, working by reference to a "fair and reasonable" test, was suitable for determining complaints that could give rise to billions of pounds of redress across complaints raising similar issues. The FOS's approach to calculating redress in those Final Decisions was also questionable (and an approach that was not supported by the FCA in the subsequent judicial review proceedings regarding the FOS's findings). The FCA had to step in and pause complaints to the FOS pending its consideration of an industry wide redress scheme. The purpose of these reforms is to ensure that the FCA is more on the front foot, taking the lead early in future Mass Redress Event scenarios.

The changes to the "fair and reasonable" test are designed to bring the FOS into closer alignment with the FCA's regulatory framework, narrowing the scope for divergent interpretation and promoting greater consistency in outcomes.

The new registration phase will help the FOS weed out unmeritorious complaints at an early stage.

The new formal referral mechanism between the FOS and the FCA should strengthen collaboration, promoting closer alignment with FCA standards and regulatory intent. It allows the FCA to shape how its rules are interpreted in practice.

Overall, the reforms are to be welcomed in returning the FOS to its intended function of being a free and informal service determining individual (rather than mass) complaints.

Squeeze on CMCs

One of the major catalysts for the “squeeze on CMCs” has been the focus on how firms have gone about marketing to consumers to sign up for the motor finance commission claims. Nobody can scroll through a website or social media platform without ads popping up offering to recover £1,000s from motor finance lenders on a “no win, no fee” basis. The high-profile collapse of major “no win, no fee” law firms has also played a part. Those acting for financial institutions who have come across the practices of the more unscrupulous firms will welcome the developments below as being long overdue.

Claims Management Companies (“**CMCs**”) and claimant law firms handling high-volume consumer claims against financial institutions are facing increased regulatory, legal, and commercial challenges.

Throughout 2025 and 2026 there have been ongoing developments involving the Financial Conduct Authority (“**FCA**”), the Solicitors Regulation Authority (“**SRA**”), the Financial Ombudsman Service (“**FOS**”) and the courts that will impact how mass consumer claims are handled.

Whilst the most recent regulatory developments below have been prompted by conduct in the context of motor finance commission claims, many other developments have arisen in the context of other types of claims, and the tightening of rules will apply to all types of mass consumer claims going forward.



CMCs and claimant law firms

CMCs are regulated by the FCA and, as such, are subject to a number of regulatory requirements, including the Claims Management Conduct of Business sourcebook (“**CMCOB**”), while law firms conducting similar activities remain subject to SRA regulation. Both regulators are increasingly coordinating their supervisory approaches in response to concerning patterns of behaviour.

Examples of concerns raised by defendant parties on the receiving end of complaints from CMCs and law firms handling high-volume consumer claims include:

- Submission of unsubstantiated complaints without due diligence.
- Failure to undertake proper identity verification, with some firms progressing cases using fictional names.
- Misleading advertising that implies urgent action is necessary for consumers and presents inflated compensation figures.
- Using electronic signatures for the purpose of progressing complaints without seeking customer authority.
- Submitting bulk complaints to the FOS before final response letters have been issued.



Regulatory supervision and enforcement

The FCA and SRA have been working together to crack down on CMC and claimant law firm bad practices.

In 2025:

- The SRA and FCA issued warnings about poor practices in motor finance commission claims. Concerns included (i) the volume and accuracy of marketing materials, and how information is shared or verified when clients are passed on from third parties; (ii) a failure to advise consumers about the availability of free-to-claim alternatives; and (iii) law firms and CMCs providing inaccurate or misleading information on the likelihood of success or potential value of a claim.
- The SRA announced the results of its Thematic Review into how law firms handle high-volume consumer claims. The results highlighted significant concerns over poor practice. The findings suggested that some firms could be failing in their duty to protect and promote clients' best interests when pursuing claims, potentially leading to direct risk and harm to the public.
- The Advertising Standards Agency (ASA) issued rulings against three law firms, banning them from continuing adverts for mass consumer claims in their current form.

In 2026:

- The SRA issued a warning notice regarding 'no win, no fee' and other fee arrangements in high-volume consumer claims. The warning notice reminded all claimant law firms of their existing obligations and urged caution when using the term 'no win, no fee' in marketing or advertising materials.

- The FCA and SRA issued a joint warning to CMCs and law firms involved in motor finance commission claims to make sure consumers don't have multiple representatives for the same claim and are not charged excessive termination fees.
- In March 2026, the FCA confirmed that over 800 misleading motor finance claim adverts had been removed or amended since January 2024 and that the FCA had intervened with 5 CMCs causing harm: 2 CMCs reduced exit fees and 4 CMCs agreed to stop taking on new clients until they could show they comply with the FCA's rules.
- Most recently, the FCA has announced that a new regulatory taskforce will tackle poor handling of motor finance claims involving co-ordinated action by the FCA, SRA, ASA and Information Commissioner's Office.

FOS charges

As noted in earlier sections of this report, in April 2025, the FOS implemented charges for professional representatives who refer a case (£250 per case from April 2025, with £175 refunded if the complaint is upheld).

This new charging structure places more commercial pressure on CMCs and claimant law firms when considering whether to submit claims to the FOS. The data shows that it has already had a dramatic impact on claim volumes submitted by professional representatives. The proportion of complaints brought by professional representatives (as opposed to customers complaining directly) fell to just 4% of all complaints in Q3 of 2025/26 compared to 43% in Q3 2024/25.

Judicial scrutiny

*Abernethy & Ors v Various Banks*¹

The *Abernethy* decision (January 2025) highlighted serious concerns about claim preparation and vetting procedures. The case involved over 5,000 claimants seeking to bring Plevin PPI claims against multiple lenders with defendants having received pre-action data subject access requests on behalf of fictional characters, including “Darth Vader”, “Michael Mouse”, “Donald Duck”, and “Rishi Sunak”. As a result, the High Court found there was a “*lack of vetting... of the cogency of claims*” and warned against “*the metaphorical ‘dumping’ of claims at the doors of the court and of defendants*”.

*Vanquis Bank Limited v TMS Legal Limited*²

The claim by Vanquis Bank against the claimant law firm TMS survived a strike-out application in June 2025. This will be an important claim to watch as it raises the prospect of a defendant party bringing a claim for damages against a CMC or claimant law firm as a result of their handling of mass complaints.

TMS submitted around 33,000 complaints to Vanquis, followed by around 17,000 complaints to the FOS. The complaints alleged that Vanquis provided unaffordable credit to its clients in breach of its regulatory obligations.

The FOS had determined that around 12,000 of the complaints by the date of the claim being filed by Vanquis, and 84% were unsuccessful (either rejected or withdrawn partway through).

Vanquis brought a claim against TMS relying on the tort of causing loss by unlawful means. Vanquis asserted that:

- the majority of the complaints should never have been brought and that the minority of complaints that succeeded only did so through the work of Vanquis or the FOS;
- in relation to complaints that were not properly arguable, TMS failed to advise its clients of this before submitting a complaint on their behalf and/or TMS’s merits representations were untrue; and
- the submission of irresponsible lending claims interfered with the relationship between Vanquis and its customers because, in line with market practice and regulatory obligations, Vanquis could not continue extending credit to the customer.

While the survival of the strike out application does not determine the ultimate merits of the claim against TMS, it demonstrates that courts may be willing to consider civil claims by financial institutions against CMCs and claimant law firms where their conduct falls significantly below expected standards.

¹ [2025] EWCC 1

² [2025] EWHC 1599 (KB)

Commentary

As the SRA has noted, “*high-volume consumer claims can provide access to justice for many when done well. However, there are widespread issues in the market, and this is harming consumers.*” It has been clear for many years that there have been problems with the marketing and conduct of mass consumer claims by certain CMCs and claimant law firms. Motor finance claims have shone a spotlight on these issues and have been a catalyst for the most recent developments above.

Going forward, CMCs and claimant law firms:

- will face increased regulatory scrutiny by the FCA, SRA, ASA and ICO as to their conduct in marketing and bringing mass consumer claims with associated risks of regulatory action;
- will have to pay to refer complaints to the FOS;
- will face increased judicial scrutiny in terms of how claims are handled; and
- depending on how the Vanquis/TMS case develops, may also face the potential threat of defendant parties being able to assert a claim for damages in the most egregious of cases where high volumes of unmeritorious complaints are submitted without proper vetting.

Motor finance commission claims: the story so far

The key background to motor finance commission claims already stretches back almost 10 years and is likely to continue for some time yet. The end result will be important for the motor finance industry, but it has already been consequential for the financial services sector more generally, having clarified the law around disclosure of commission arrangements, led to a regulatory crack down on behaviours of claimant law firms and CMCs that is likely to have a lasting impact on how future mass consumer claims are brought in the Banking and Finance sector, and provided support for the most significant reforms to the FOS since its inception.

Background

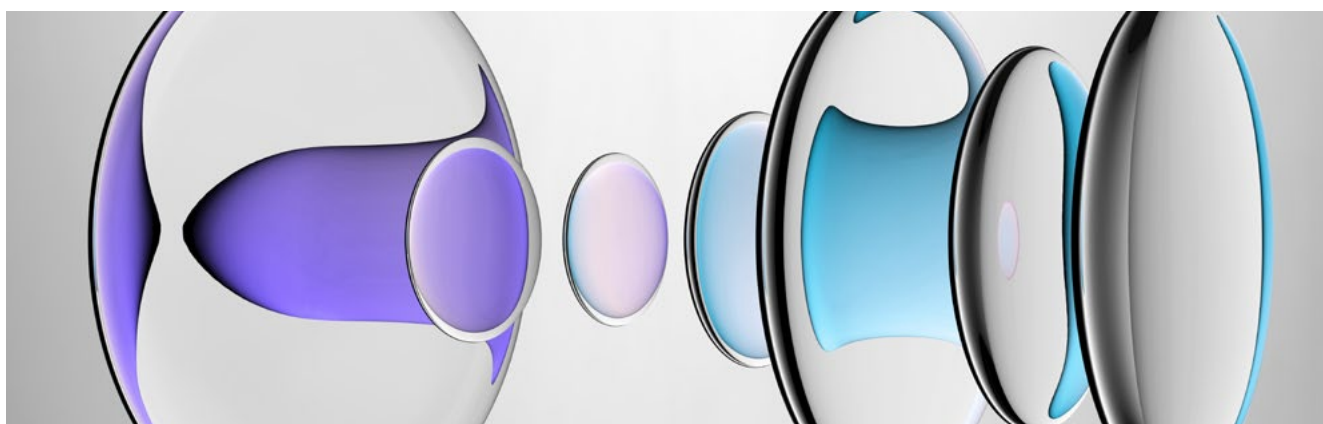
Between April 2007 and October 2024, approximately 32.5m regulated motor finance agreements were entered into. The FCA estimates that more than three-quarters of these involved a commission payment from the lender to the broker, usually a car dealer, who arranged the credit.

Early regulatory scrutiny

In April 2017, the FCA announced a review of the motor finance sector. The review assessed sales processes and the potential for conflicts of interest to arise from commissions paid by lenders to brokers.

In March 2019, the FCA published a report which identified concerns over the widespread use of “discretionary commission arrangements” (DCAs). The DCAs allowed brokers to adjust the interest rates on loans offered to customers, which incentivised car dealers to offer higher interest rates.

The FCA banned the use of DCAs in the motor finance sector from January 2021, estimating that this would save motor finance customers around £165m a year. However, the FCA did not suggest that there had been widespread harm sufficient to justify an FCA-led customer redress scheme or other regulatory intervention at that stage.



FOS complaints and County Court claims

Claims management companies and claimant law firms picked up on the FCA's findings and began to investigate potential claims against lenders and car dealers in relation to commission arrangements. Complaints were submitted to the FOS and claims were filed in the County Courts:

- Claims were advanced as “unfair relationship” claims pursuant to section 140A of the Consumer Credit Act (CCA). This gives a Court broad powers to determine whether the relationship between a lender and customer arising from a credit agreement is “unfair”. Section 140A claims need to be assessed in the round and are highly fact-specific.
- Claims were also advanced in equity and under the common law for “secret commissions”. In March 2021, the Court of Appeal handed down judgment in *Wood v Commercial First Business Ltd & Ors* and *Business Mortgage Finance 4 plc v Pengelly* regarding mortgage broker “secret commission” claims. The Court decided that it was not necessary to establish that the broker owed a fiduciary duty to the customer. It was sufficient that the broker “*was under a duty to provide information, advice or recommendation on an impartial or disinterested basis.*” This so-called “disinterested duty” test was seen at the time as materially lowering the bar for “secret commission” claims in the context of motor finance.

By the end of 2023, lenders (and some car dealers) had received tens of thousands of complaints, with claims being referred to the FOS and the County Courts in similar numbers. Outcomes across the County Courts were mixed, with lenders/dealers successfully defending a material number of claims at first instance.

In January 2024, the FOS issued two Final Decisions relating to DCA complaints. The FOS decided that the relevant brokers and lenders had breached regulatory requirements regarding commission disclosure and that a court would find that the relationship between the lender and customer was “unfair” under section 140A of the CCA.

One of the two lenders challenged the FOS Final Decision by way of judicial review.

At the same time as the FOS Final Decisions in January 2024, the FCA launched diagnostic work to review historic disclosure practices related to DCAs between 2007 and 2021 across 11 lenders, accounting for around 66% of the market. The FCA were looking to assess whether there had been widespread misconduct that might justify a consumer redress scheme or other type of regulatory intervention.

The FCA paused the 8-week deadline for firms to respond to customer motor finance commission complaints and the FOS paused their consideration of complaints to allow time for the FCA to undertake their review and for the court proceedings below to conclude.



Court proceedings: 2024–2025

There were two important sets of court proceedings during 2024–2025:

- The first set of proceedings (*Johnson v FirstRand Bank Limited*, *Wrench v FirstRand Bank Limited* and *Hopcraft v Close Brothers*) considered the proper scope and application of the law of “secret commissions” and section 140A “unfair relationship” claims in a motor finance context at the Court of Appeal and then the Supreme Court. Most County Court claims were stayed pending the outcomes of these appeals.
- The second set of proceedings (*R (Clydesdale) v FOS*) was the judicial review challenge to one of the FOS’s Final Decisions from January 2024 before the High Court.

Johnson, Wrench and Hopcraft

On 25 October 2024, the Court of Appeal found that the brokers in the three cases breached their legal duties to their customers by taking commission from the lenders without the customers’ “informed consent”, and the lenders were liable for the breach by the brokers. The Court adopted the “disinterested duty” test from *Wood & Pengelly* above. Additionally, in *Johnson*, the Court decided there was an unfair relationship between the lender and Mr Johnson under section 140A of the CCA. The practical effect of this judgment was that lenders were significantly exposed to secret commission claims across all of their commission arrangements (both DCAs and fixed rate commission). Some analysts put the high-end exposure of lenders at c. £44 billion following the Court of Appeal judgment.

The decision was appealed to the Supreme Court on an expedited basis with a hearing in April 2025.

The Supreme Court handed down its judgment on 1 August 2025. They decided that the “disinterested duty” test was not appropriate and nothing short of a fiduciary duty was required for a secret commission claim. As car dealers were trying to conclude the sale of a car from start to finish in their dealings with the customer, there was no scope for the car dealer to also owe a separate fiduciary duty of undivided loyalty to the customer at any stage. However, the Supreme Court agreed that the relationship between Mr Johnson and his lender was “unfair”, under section 140A of the CCA, albeit for different reasons from the Court of Appeal.

The Supreme Court agreed with the FCA’s proposed non-exhaustive list of relevant factors when considering an “unfair relationship”, being: the size of the commission relative to the charge for credit; the nature



of the commission (e.g. use of DCA); the characteristics of the consumer; the extent and manner of the disclosure; and compliance with regulatory rules.

When assessing the relationship in the round, the Supreme Court considered that it was unfair in Mr Johnson’s case. Relevant factors included the size of the undisclosed commission (which was 55% of the cost of credit and 26% of the loan amount) and the concealment of a contractual tie between the dealer and the lender.

Clydesdale Judicial Review

On 17 December 2024, the High Court rejected the judicial review challenge to the FOS Final Decision. Judicial review has a high threshold, with a claimant needing to demonstrate that the FOS ruling was unlawful, irrational, or suffered from some form of procedural impropriety. The Court decided that the FOS was entitled to conclude that the disclosure the broker made to the customer fell short of the standard required under the FCA rules. The Court also held that the FOS was entitled to find that the relationship was “unfair” under section 140A of the CCA and that the broker’s conduct could be attributed to the lender under section 56 of the CCA. The court also dismissed the challenge to the FOS’s approach to calculating redress.

Clydesdale obtained permission to appeal the ruling to the Court of Appeal. The appeal hearing was postponed until after the handing down of the *Johnson, Wrench and Hopcraft* Supreme Court judgment in August 2025. In light of the Supreme Court ruling (which significantly reduced overall exposure for lenders), Clydesdale withdrew the judicial review appeal in September 2025.

FCA redress scheme – Consultation

Immediately following the *Johnson, Wrench and Hopcraft* Supreme Court judgment, the FCA confirmed that it would consult on an industry-wide redress scheme to compensate motor finance customers who were treated unfairly.

On 7 October 2025, the FCA published a 360-page consultation document (CP25/27) setting out a proposed redress scheme under section 404 of the Financial Services and Markets Act 2000.

The FCA proposed that the scheme covers commission arrangements for regulated motor finance agreements entered into between 6 April 2007 and 1 November 2024.

A credit agreement with a customer would be presumed to be “unfair” due to inadequate disclosure of one or more of the following:

- Use of a DCA.
- A high commission (by reference to a defined test).
- Contractual ties giving a lender exclusivity or a right of first refusal.

The consultation provided for limited rebuttals to the above. Harm/loss would also be presumed.

The FCA estimated that around 85% of eligible customers would take part in the scheme, giving rise to estimated redress of c. £8.2 billion and estimated costs to lenders of administering the scheme of c.£2.8 billion. Average compensation is estimated at c.£700 per agreement.

Over 1,000 respondents replied to the consultation in December 2025.

FCA redress scheme – Final Rules

On 30 March 2026, the FCA published Policy Statement (PS26/3) running to 584 pages including the rules.

In an attempt to mitigate the impact of any legal challenge as to the FCA’s powers to impose a redress scheme in respect of more historic agreements (on the basis that the FCA only took on supervision of consumer credit from 1 April 2014), the FCA split the redress framework into two parallel schemes. Both schemes allow consumers who have already raised a complaint and those who have not to seek redress:

- **Scheme 1:** Agreements entered into between 6 April 2007 and 31 March 2014.
- **Scheme 2:** Agreements entered into between 1 April 2014 and 1 November 2024.

The FCA’s hope is that if a challenge to Scheme 1 does arise, it will not prevent the post-April 2014 scheme from continuing.

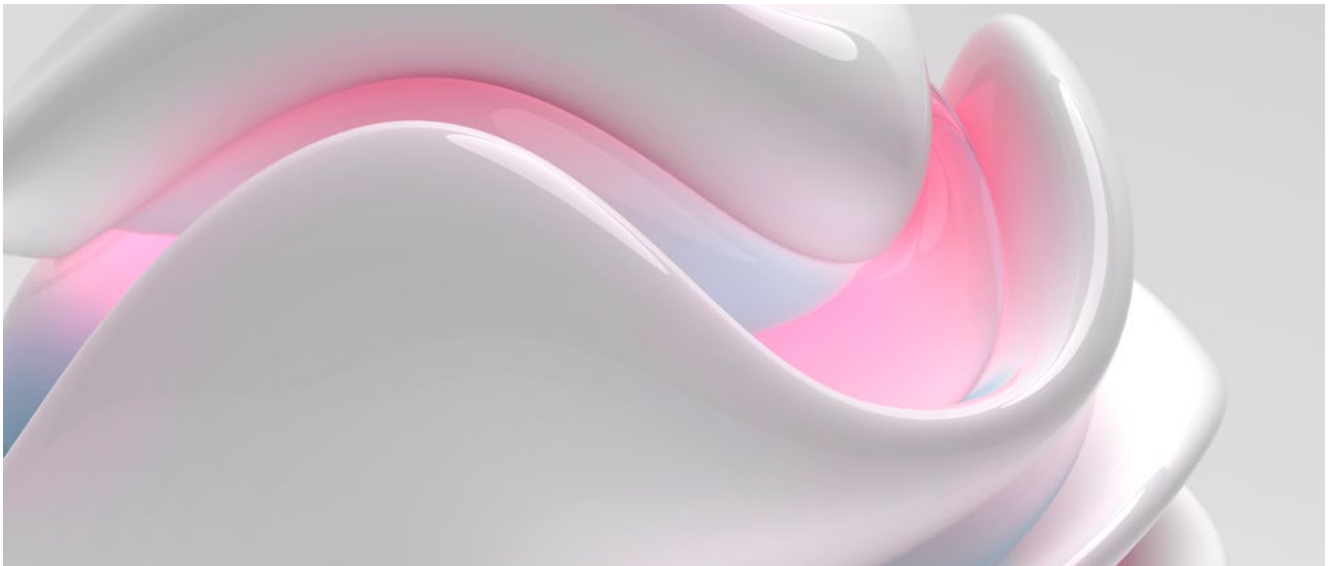
The substance of the schemes has largely remained the same i.e. if there was inadequate disclosure of any one of the three features above then an unfair relationship is presumed and there are only limited rebuttals/exclusions.

The FCA has tinkered around the edges to make various changes to the scheme originally proposed and consulted on to appease both:

- Lenders e.g. certain additional exclusions; changes aimed at reducing the operational burden.
- Consumers e.g. introducing a minimum 3% interest rate on redress.

The various changes to operational steps in the final rules mean that the FCA’s estimated costs of administering the schemes have reduced from £2.8bn in the consultation, to £1.6bn.





The FCA's estimated costs of redress are also down from £8.2bn in the consultation, to £7.5bn. However, importantly, in both cases these reductions in estimated costs are heavily influenced by the FCA assuming an 85% uptake rate in the consultation but only a 75% uptake rate in the final policy statement.

The average redress payment is estimated by the FCA per agreement to be c.£830 (up from c.£700 at the consultation stage).

Lenders have a 3 month implementation period (from 30 March 2026) for Scheme 2 and a 5 month implementation period for Scheme 1. They then have to start processing redress claims and writing to consumers who have complained or who are otherwise due redress.

Legal challenge to scheme

Just prior to this report going to press, consumer group, Consumer Voice, announced that it would be filing a legal challenge to the scheme before the Upper Tribunal to try and improve redress outcomes for consumers. At the time of going to press, many large lenders and the lender trade body (Finance & Leasing Association) have confirmed that, whilst they had concerns with aspects of the scheme, they will not be filing a legal challenge. However, media reports refer to a challenge having been filed by three lenders in addition to Consumer Voice.

If a legal challenge goes ahead, it will be the first time that a section 404 FSMA consumer redress scheme has been challenged (previous FCA redress schemes re the British Steel Pensions Scheme and Arch Cru Investment Funds were not challenged). Any final ruling by the Tribunal on a challenge will be important in determining the scope of the motor finance redress scheme and shaping the FCA's powers in relation to future section 404 redress schemes more generally.

Any legal challenge will likely take at least 6 months (assuming it is expedited) and at the time of this report going to press it remains unclear whether the scheme timetable will be held up by the challenge.

In the meantime, claimant law firms are gearing up to bring group claims in the courts (outside the FCA scheme). In this context, the outcome of the Court of Appeal hearing heard on 22-23 April 2026 (*Angel & Others v Black Horse Limited*), which will decide whether over 5,000 motor finance "unfair relationship" claims can be decided in a single set of legal proceedings, will have important potential consequences for the viability of motor finance claims to be pursued via the courts on a group basis as an alternative to any redress scheme.

Wider impact

Motor finance commission claims have had various wider impacts to date:

- They have been the catalyst for a concerted "crack down" by regulators regarding the behaviours of claims management companies and claimant law firms in terms of how they go about advertising for clients to sign up.
- Motor finance claims have brought into sharp focus various issues, such as: the undesirability of the FOS handling "mass redress events"; the need for the FOS to be more aligned with the FCA on FCA rule interpretation; challenges with the FOS looking back at very historic cases; issues with professional representatives submitting complaints to the FOS; and the fairness of the FOS's 8% interest rate. Significant changes have been introduced or are being consulted on to address the above issues.

Commentary

Having run for many years with important recent court decisions and regulatory intervention, the FCA will be hoping that the story around motor finance claims is reaching its conclusion.

The difficulty with constructing a section 404 FSMA redress scheme on the premise that customers would have an “unfair relationship” claim under section 140A CCA is that the courts have been clear that when assessing an unfair relationship claim the judge needs to consider all relevant factors. Clearly, such a holistic individual case assessment is not practical in the context of a redress scheme given the volumes of cases to be considered. However, the FCA’s approach of identifying just one feature alone (DCA; or high commission; or commercial tie) and then largely assuming an unfair relationship (with limited rebuttals available) and assuming customer harm/loss, arguably goes too far in simplifying things. These are the types of issues that are likely to be tested by a lender challenge to the scheme in looking to reduce the scope of the scheme whereas the consumer group challenge will be arguing that the scheme terms do not go far enough in terms of coverage, redress amounts, and interest.

In the meantime, as consumers can decide whether to take part in the redress scheme or pursue a claim via court proceedings, there will likely be further court activity in the County Courts and attempts by claimant law firms to pursue group claims. This all means that there will likely be a few more twists and turns in the motor finance claims story yet to come.



Class actions & litigation funding

Class action risk is on the rise in the UK generally. Financial institutions have historically featured as defendants in some of the leading UK collective redress proceedings and continue to feature in new claims issued across the different available procedures. Data shows that UK class actions have sought over £28 billion in damages regarding financial products between 2016–2025.

Class action trends

As explained in our [Class Actions Report 2025](#):

- Class actions of all types are now common in the UK with over 30 class actions having been filed in England each year between 2019–2024.
- Financial products regularly feature as the subject matter of claims and financial institutions regularly feature as defendants.
- UK class actions have sought over £28 billion in damages regarding financial products in class actions between 2016–2025.

By way of some recent examples:

Competition Appeal Tribunal (CAT)

Cases involving financial institutions continue to shape important points of principle in claims before the CAT.

Interchange fees: Merricks v Mastercard

In May 2025, after almost nine years of litigation, the CAT ruling on the *Merricks v Mastercard* class action settlement was published approving a £200m collective settlement proposal. Controversially, the settlement was opposed by the third-party litigation funder, Innsworth Capital, on the grounds that the settlement was too low and was not “just and reasonable” for all stakeholders – the claim had originally sought damages of £14bn.

In its judgment, the CAT confirmed the ‘just and reasonable’ test under section 49A(5) Competition Act 1998 was to be addressed from the perspective of the

class members; application of this test did not require considering the interests of “all stakeholders”, as the funder had argued.

In February 2026, the High Court granted Innsworth Capital permission to challenge the CAT ruling by way of judicial review. This is the first case in which the CAT’s decision on settlement of collective proceedings has been challenged and the decision in the judicial review proceedings will be important for both litigation funders and those involved in bringing or defending collective proceedings.

FX litigation: Evans v Barclays Bank Plc

In December 2025, the Supreme Court handed down judgment in *Evans (Respondent) v Barclays Bank Plc & Ors (Appellants)*. This is the first judgment of the Supreme Court setting out the parameters for certifying a class action on an opt-out basis.

The Supreme Court decided that the claims should not proceed on an opt-out basis:

- The weakness of the claims as assessed by the Tribunal was properly regarded by the Tribunal as a factor weighing strongly against opt-out proceedings.
- If it is practicable for the proceedings to be brought as opt-in proceedings, then generally speaking they should be.

This is an important ruling on CAT procedural issues that will shape how all future claims are brought.

Securities Litigation

Financial institutions have long been a target for securities litigation in the UK.

The first securities litigation claim brought under section 90 of the Financial Services and Markets Act 2000 (FSMA) was the RBS Rights Issue Litigation. Although the case did not go to trial as it settled in 2017, it has paved the way for other group actions under sections 90/s90A FSMA which are now regularly brought in the High Court.

More recent examples of securities litigation claims against financial institutions include *Various Claimants v Standard Chartered PLC* and *Allianz Funds Multi-Strategy Trust v Barclays PLC*. Both claims have now settled before trial but they produced important interim decisions e.g. determining that “passive” investors who could not show that they heard, read or otherwise were aware of published information had no real prospect of proving that they had relied on that information.

For further information on the latest securities litigation trends, see our [2025 report](#).

Group Litigation Orders

An application for a GLO against eight banks in relation to PPI “unfair relationship” claims was rejected in 2025 (*Abernethy & Others v Various Banks*).

The court decided that most of the 18 GLO issues did not meet the jurisdictional test (i.e. being common or related issues of law or fact). Unfair relationship claims are highly fact specific and involve a high level of court discretion as to remedies. The few issues that were “common” did not justify a GLO. In particular, a GLO involving several test cases would not further the overriding objective as it would not:

- resolve key issues in individual matters where those issues required individual assessment and/or evidence on the facts; or
- save time or costs.

The judge was critical of the claimant law firm’s lack of analysis and inability to confirm which individual claims had which features.

This was a helpful ruling for financial institutions by making clear that claimant law firms need to do more than simply book build large numbers of potential claimants in relation to broad issues. They will have to sort them into claims against specific defendants, the relevant products in each claim cohort will need to be governed by the same T&Cs, and they will need to

define issues which are capable of determination across the cohort with as little as possible scope for later individual assessment.

Omnibus claims

Claimants have also used “omnibus claims” against financial institutions (where multiple claimants, sometimes thousands, are named in a single claim form).

In April 2026, the Court of Appeal heard an appeal regarding an omnibus claim against multiple lenders in the context of motor finance commission claims (*Angel v Black Horse Limited*). This decision is likely to have an important bearing on how future motor finance claims are pursued via court proceedings outside of the FCA redress scheme.

A new consumer class action regime?

On 20 April 2026, the Law Commission announced that it had been asked by the government to consider a new “opt-out” consumer class action regime (separate to the currently available opt-out system in the CAT for competition-based claims). The Law Commission will consider the benefits and risks of a new regime. They have issued an Initial Scoping Questionnaire with a deadline for responses of 30 October 2026. Any broadening of the consumer class action regime will have important consequences for all consumer facing firms, including those in the financial services sector.



Litigation Funding

England and Wales is now the second largest Third Party Litigation Funding (TPLF) market in the world. Some reports project that assets under management will grow to £3.7bn by 2028. In many ways, the growth of class actions above is a proxy for the growth of the TPLF market as most class actions will rely on litigation funding.

In June 2025, the Civil Justice Council (CJC) published its 150 page report “Review of Litigation Funding”.

The Report makes 58 recommendations, including:

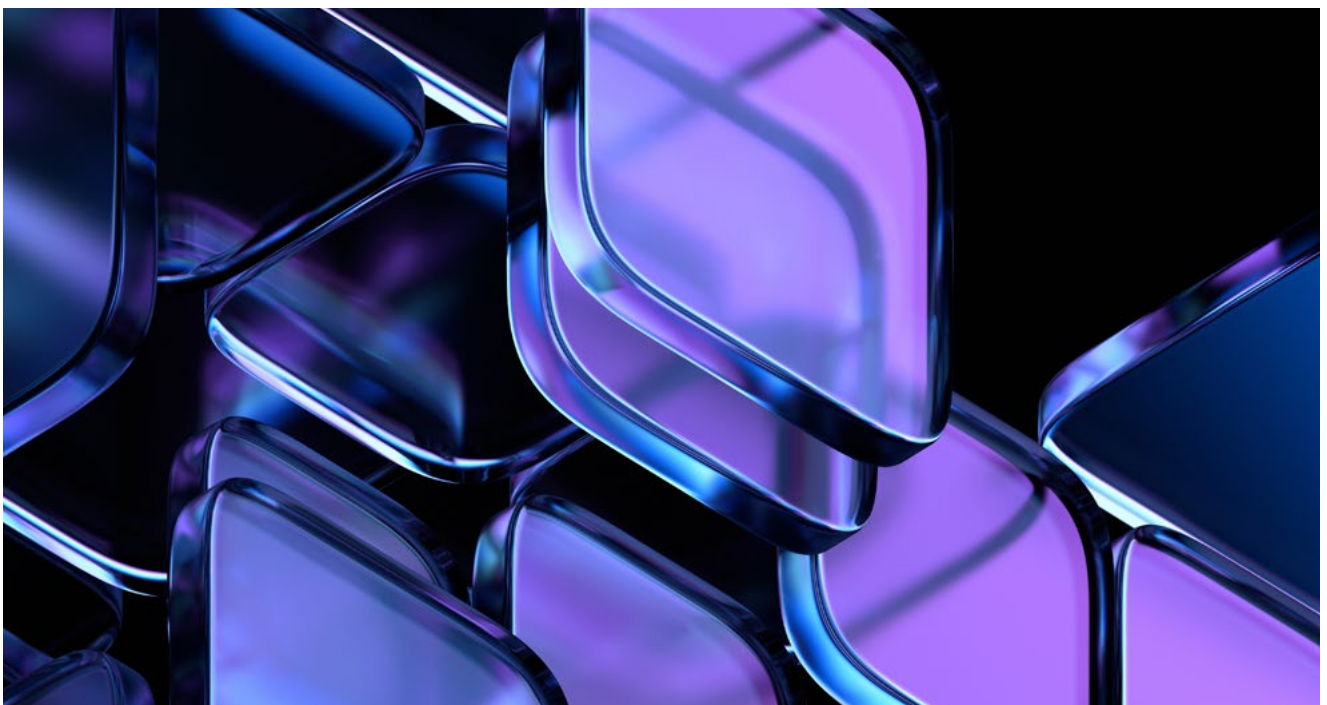
- Introduction of “light touch” statutory regulation to replace the current self-regulatory regime for litigation funding. This would involve a minimum baseline regulation for all funding e.g. case specific capital adequacy requirements; codification of “no control” of litigation by funders; conflict of interest provisions; and a requirement to disclose basic information regarding funding arrangements to the other side (but generally not a copy of the funding agreement itself).
- Recognising the lack of reliable data on the use of litigation funding, the CJC recommends establishment of a Standing Committee on Litigation Funding, responsible for collecting data on the operation of litigation funding, Conditional Fee Agreements and Damages Based Agreements. Market participants including law firms should be obliged to provide such data.

Government response

At the time of preparing this report, the government has not yet implemented any of the CJC’s recommendations. However, on 17 December 2025, the Justice Minister confirmed that the government has carefully considered the CJC’s recommendations and intends to accept the CJC’s two primary recommendations, being:

- First, to legislate to clarify that litigation funding agreements (LFAs) are not Damages Based Agreements, with prospective effect. This will mitigate the effect of the *PACCAR* judgment and improve access to justice by reassuring funders that LFAs can be used to fund cases.
- Second, to introduce proportionate regulation of LFAs. This will improve transparency and fairness for claimants. The government will introduce legislation “when parliamentary time allows”.

Once the government has implemented the above two changes, it will consider the CJC’s wider litigation funding recommendations in detail and announce any further changes in due course.



Commentary

With the rise in class actions of all types across all sectors in the UK, it is no surprise that parties from the Banking and Finance sector feature prominently in such claims. This is evidenced by many of the “precedent-setting” procedural decisions arising in cases involving banks such as securities litigation jurisprudence and decisions before the CAT.

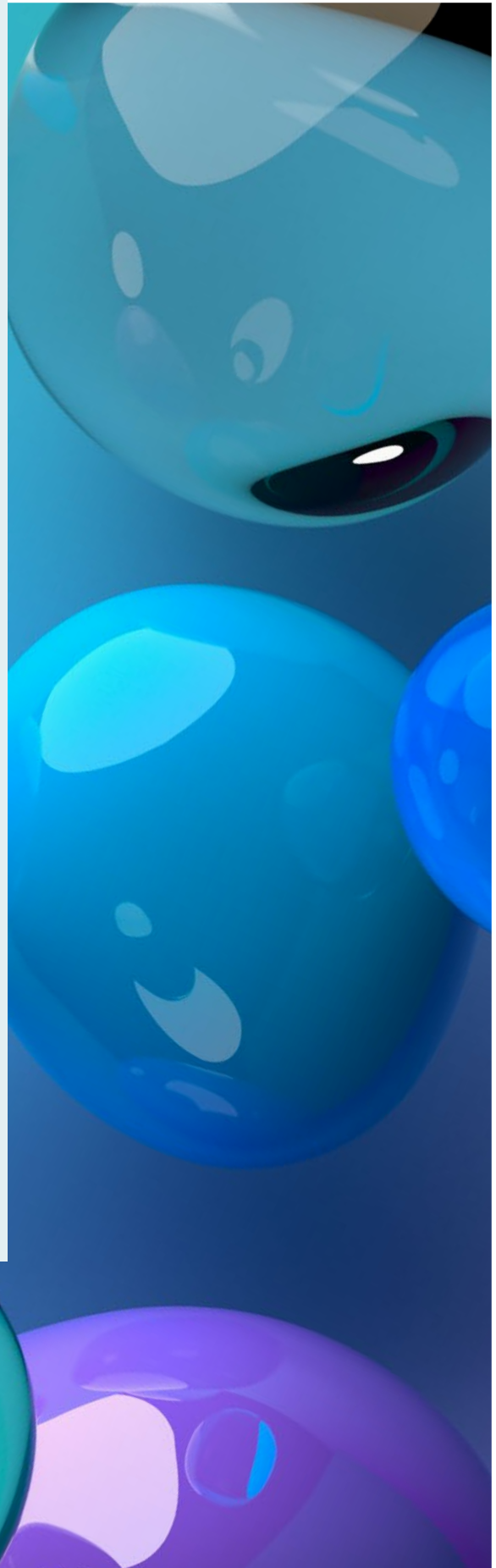
For as long as class action risk in the UK remains elevated, banks and other financial institutions are likely to find themselves on the receiving end of such claims.

The TPLF market underpins class actions in the UK. We currently await further details from the government as to how far it intends to go in implementing the recommendations of the CJC and the timing for this. However, it is clear that the government considers that the TPLF market is important for access to justice and therefore it is unlikely to be materially curtailed.

The CJC’s recommendations for reform of the TPLF market give rise to interesting cross-over with the financial services sector:

- Whilst the CJC proposes that regulation of the TPLF market will sit with the Lord Chancellor in the first instance, the CJC recommends that there should be a review after five years to consider whether regulatory responsibility should then be passed to the FCA.
- Where the funded party is a party to collective proceedings, a representative action or group action or is a consumer, the CJC proposes that the funder should be subject to “a regulatory Consumer Duty”. That duty should be included in new regulations and should be based on the FCA’s Consumer Duty. Complaints concerning the non-compliance with the duty should be referred to the FOS.

Therefore, at some point in the future, all TPLF arrangements could ultimately be regulated by the FCA. Even absent FCA regulation, qualifying TPLF arrangements could be subject to a duty equivalent to the Consumer Duty and could come within the jurisdiction of the FOS.



AI use in financial services

The financial services sector has long embraced the use of AI. The big question is whether regulation can keep up with its use? The Treasury Select Committee thinks that regulation is not keeping up and that more should be done. As regards AI and disputes, financial institutions dealing with consumers will likely face an uptick in more fully particularised complaints and claims from customers drafted by generative AI – something that the FOS has already identified in its caseload.

The Bank of England has confirmed that over 75% of UK financial services firms are using AI, with the largest take-up among insurers and international banks.

AI use in the financial services sector is not new. It has been used for some time in areas of algorithmic trading, underwriting, credit decision making, fraud detection and chatbots amongst others. However, technology is rapidly improving, and we are now seeing the use of agentic AI systems which can transform how consumers engage with firms.

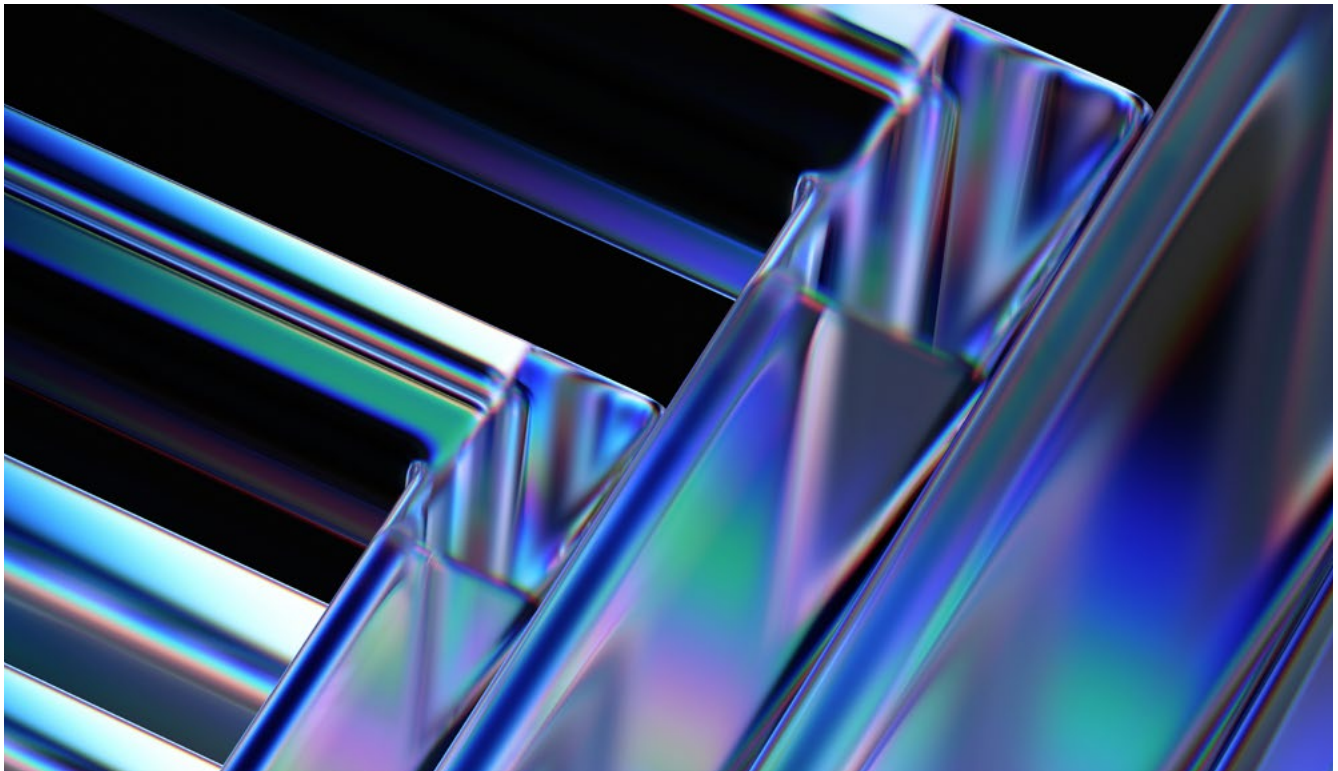
This increased use of AI gives rise to greater risks and questions as to whether regulation is keeping pace.

AI regulation in financial services

On 20 January 2026, the House of Commons Treasury Select Committee published a report on AI in financial services. The Committee had been taking evidence since February 2025. The central question under consideration was whether the financial services regulators are doing enough to manage the risks to consumers and to financial stability presented by AI use in the financial services sector.

The Committee found that the Bank of England, the FCA, and HM Treasury are not doing enough to manage the risks presented by AI.





Risks highlighted in the report include: a lack of transparency in AI-driven decision-making, unregulated consumer financial advice from AI search engines, increased cybersecurity vulnerabilities, and operational resilience issues (due to reliance on a small number of US technology firms).

The report made the following recommendations:

- The FCA should publish practical guidance for firms by the end of 2026 on: (a) the application of existing consumer protection rules (i.e. the Consumer Duty) to their use of AI; and (b) accountability and the level of assurance expected from senior managers under the SMCR for harm caused through the use of AI.
- The Bank of England and the FCA should conduct AI-specific stress testing.
- HM Treasury should designate the major AI and cloud providers as critical third parties for the purposes of the Critical Third Parties Regime.

These recommendations are not binding on the government or the regulators, but they clearly carry some weight in terms of issues that have been identified that need to be carefully considered.

A week later, on 27 January 2026, the FCA launched the “Mills Review” into how advances in AI could transform retail financial services.

The FCA has called for views on four themes:

- Future evolution of AI technology – *How AI could evolve in the future, including the development of more powerful, autonomous and agentic systems, assessing the whole AI value chain.*
- Future impact of AI on markets and firms – *How these developments could affect markets and firms, including changes to competition and market structure and UK competitiveness.*
- Future consumer trends – *The impact on consumers, including how AI could improve outcomes, create new risks, change behaviours, and alter demand for, and provision of, financial services.*
- Future regulatory approach – *How financial regulators may need to evolve to continue ensuring that retail financial markets work well.*

It appears that the FCA does not plan to introduce AI-specific regulation via “new prescriptive rules”. However, the FCA will consider whether existing frameworks (such as the Consumer Duty, SM&CR, Operational Resilience and the Critical Third Parties Regime) remain flexible and sufficiently outcomes focused for an AI-enabled future.

The deadline for responding on the above topics closed in February 2026. The FCA has said that it intends to make a series of recommendations to the FCA Board in Summer 2026, informing how the FCA can guide and respond to AI-driven transformation. This will culminate in an external publication.

The impact of AI on banking and finance disputes

A rise in claims?

An increased use of generative AI is likely to give rise to a higher number of claims and complaints in the financial services sector.

Sir Geoffrey Vos (Master of the Rolls) noted the following at a Justice for All lecture on 4 February 2026:

"AI is now being used by almost every individual litigant in person and small business. The first port of call used to be a lawyer if one was available and affordable. Now the first port of call is ChatGPT or CoPilot. Whatever answer generative AI gives, the would-be litigant in person can easily use it to transform a mass of documents and personal information into an arguable legal claim. This means that, in future, we will see many more civil claims because AI can create them free of charge, where previously claim numbers were limited by the availability and cost of lawyers."



Of course, the UK already has a free to use Financial Ombudsman Service that is intended to be "accessible" to all. However, it seems inevitable that financial services firms will see an uptick in consumer claims and complaints as a result of generative AI tools being able to more easily "package" these up for submission.

In the FOS's own response to the Mills Review (published in March 2026) they noted:

"Over the past year, we've seen a clear rise in consumers using generative AI to help draft complaints or communicate with us. Used well, AI can be a powerful enabler..... However, we're also seeing the other side of the coin, which is in some cases restricting our ability to progress cases as quickly and informally as our consumers and businesses require."

The FOS noted an emerging risk to monitor: *"Long, AI generated complaints containing inaccuracies are beginning to generate unnecessary burden and extend response times. While this is not yet a major operational issue for the sector, it is an emerging risk that warrants coordinated attention."*

AI use is not limited to consumers. The FOS also noted: *"We are also seeing evidence of claims management companies and legal professional representatives using AI to generate submissions on behalf of consumers. In the most extreme cases, these exceed 200 pages in response to a six-page provisional decision and contain many errors or misunderstandings."* The FOS says it has reported such issues to the FCA and SRA as part of their monitoring of poor practices within professional representatives.

The use of generative AI giving rise to an increased volume of more detailed complaints has already been noted in other contexts e.g. the Bar Standards Board reported an increase in AI drafted complaints in April 2026.

Will AI use itself cause more disputes?

Whilst the law in this area is still developing (see below), an increased use of AI by financial services firms is likely to give rise to more disputes.

For example, the US has already seen an increase in securities class actions and regulatory enforcement regarding so-called "AI washing" (where a party overstates their AI capabilities). The FCA introduced an anti-greenwashing rule in 2024 due to concerns as to how firms were marketing sustainability claims about their products and services. We will need to see how the concept of "AI washing" develops.



We can anticipate (i) a rise in disputes between financial services firms and AI providers; and (ii) the obvious risk of customer claims when AI related services go wrong. It is here where the law is still developing.

In January 2026, the UK Jurisdiction Taskforce (UKJT) – a taskforce, part of a UK Ministry of Justice, made up of experts in the legal and technology sectors – published a 90-page Draft Legal Statement on “Liability for AI Harms under the private law of England & Wales”.

The Draft Legal Statement notes that:

- In commercial situations, the question of whether a person is liable for a particular harm caused by AI and, if so, which person, can often be governed by contractual agreements between parties.
- Where there is no relevant governing contract, the question of whether a person is liable for physical or economic harm caused by use of AI turns on whether the law imposes a non-contractual duty on that person to protect against that harm. The primary (albeit not sole) legal framework governing liability for such harm is the law of negligence.
- Economic harm may arise where a professional uses AI, or where an AI “chatbot” or equivalent produces false statements and thereby provides false information or advice. The Draft Legal Statement considers how the law of professional negligence, negligent misstatement and defamation each apply in the context of AI.

The consultation closed in February 2026 and the UKJT intends to publish a final version of the Legal Statement in due course. Previous UKJT publications (e.g. on the legal status of digital assets) have been important resources for policy makers and the courts.

As to current complaints re AI use, the FOS confirmed in its response to the Mills Review that *“at present, we are receiving very few complaints about a firm’s use of AI.”*

However, the FOS has said that it has heard from consumer groups, such as Citizens Advice, of issues arising with people getting financial ‘advice’ from AI, and the FOS has urged firms to be transparent regarding AI use in decision making:

“The Financial Ombudsman also supports transparency being at the centre of AI adoption by financial firms. As firms adopt more autonomous decision making, we would encourage the FCA to set clear expectations for regulated firms to provide the Financial Ombudsman and the consumer with a clear rationale on how AI contributed to an outcome, as well as being able to explain how the decisions align with principles-based regulations, such as the Consumer Duty.”

AI use in court proceedings

There are significant ongoing developments in relation to the use of AI in court proceedings:

Revised guidance for Judges on use of AI

Published in October 2025 (an update on the April 2025 guidance), it sets out key risks and issues associated with using AI and some suggestions for minimising them, including guidance as to potentially useful tasks for Judges to use AI (such producing summaries); tasks where AI is not recommended (such as legal research); and key indications that work product submitted to the Court may have been produced by AI (such as unfamiliar citations).

Fake case citations

Two cases in 2025 involved fake case citations as a result of lawyers using generative AI to prepare legal submissions: *Ayinde v London Borough of Haringey* and *Hamad Al-Haroun v Qatar National Bank QPSC and QNB Capital LLC*. The courts have emphasised the professional duties owed by solicitors and barristers to not mislead the court and the importance of being accountable for the content in documents that they submit.

AI used for witness coaching

In *UAB Business Enterprise & Anor v Oneta Ltd & Others* (March 2026) a Judge rejected the evidence of a witness after he was suspected of being “coached” on how to answer questions in the witness box in real time through the use of “smart glasses” connected to his mobile phone. The suggestion was that a foreign lawyer was watching the proceedings via video link and then communicating with the witness in real time re how to respond to questions.

Use of AI for preparing court documents

In February 2026, the Civil Justice Council published an interim report and consultation on the use of AI for preparing court documents. The consultation relates to the use of AI by legal professionals in preparing statements of case, skeleton arguments, witness statements and expert reports with a view to considering whether formal rules are needed. The consultation does not extend to the use of AI by litigants in person where it is recognised that the use of AI gives rise to important “access to justice” considerations.

AI and legal professional privilege

A US court decision in February 2026 (*United States v Heppner*) held that documents generated by a party using a publicly available artificial intelligence platform were not protected “attorney-client privilege” (as the AI platform was not an attorney and the communications were not confidential) or “work product” (as they were not prepared by or at the direction of legal counsel). In England, the recent case of *UK v Secretary of State for Home Department* appears to be the first decision by an English court or tribunal to rule on the implications for legal professional privilege when confidential and privileged material is uploaded to open-source AI tools (such as ChatGPT). The tribunal confirmed that uploading documents to open-source AI tools will breach confidentiality and waive legal professional privilege, drawing a distinction between open-source AI tools and closed source AI tools (which operate within a secure network). This is consistent with the Revised Judicial Guidance referenced above which advises Judges that “*you should treat all public AI tools as being capable of making public anything entered into them*” which emphasises the risk of privilege potentially being waived when using such platforms. OpenAI’s CEO has called for the establishment of “AI Privilege” in recognition of the important resource that generative AI can play for giving people access to justice. However, we are unlikely to see that in England any time soon.



Commentary

AI is a hot topic across all sectors with a noticeable shift over the last 12 months in terms of quality of output and user uptake. As one of the biggest adopters of AI, the financial services sector is highly likely to feel the impact of downsides (litigation risk) as well as the benefits (increased efficiency).

The Treasury Select Committee has made clear its views that not enough is being done to regulate the fast moving developments re AI in financial services and all eyes will be on the output of the Mills Review in the Summer 2026 which will set out the FCA's views and next steps. We will have to wait and see if the term "AI washing" becomes used as frequently as "greenwashing".

The law will adapt to deal with claims relating to AI use, as will the courts.

The trajectory regarding AI use and legal professional privilege is clear: inputting privileged material into closed AI systems is generally OK, whereas inputting privileged material into open AI systems is likely to lose the confidential status of the material and thereby waive privilege.

Financial institutions will want to keep a close eye on the impact of generative AI use on consumer complaints and claims, both in terms of volumes and the detail of such complaints. This is a trend that the FOS has already noticed and called out by reference to its complaints caseload.



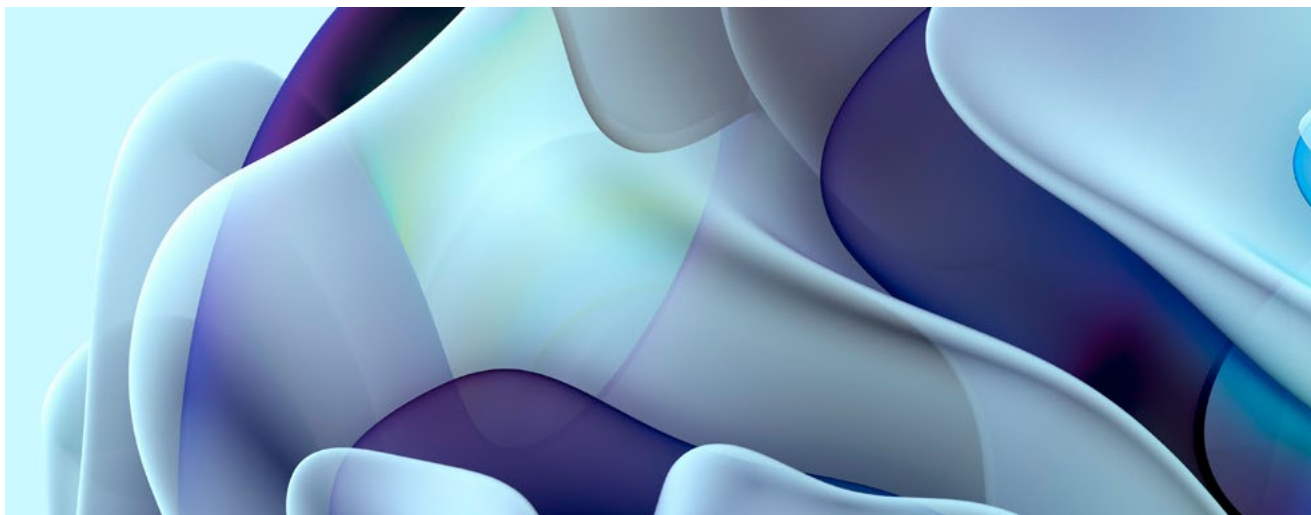
Non-bank finance and what the absence of data might show...

Whether described as 'alternative funding', 'private credit' or, more provocatively, 'shadow banking', where traditional retail and commercial banking providers have retreated since the Global Financial Crisis of 2008, it has stepped in. However, if we are entering a tightening credit cycle, the same drivers of banking disputes are likely to arise but in circumstances where regulation, legislation, jurisprudence and claims funding have taken material steps forward. Further, mainstream banks are not immune from issues such as Non-Performing Loans (NPLs), increased insolvency and falls in asset values – so often the trigger for these disputes and where private credit funders may take a different approach.



Since the Global Financial Crisis of 2008, the growth of private markets, which include non-bank finance such as private credit, has been significant with the US and UK as the leading centres of such finance. On 24 April 2026, Sarah Breeden (Deputy Governor of the Bank of England) noted: *"The thing that really keeps me awake at night is the likelihood of a number of risks crystallising at the same time – a major macroeconomic shock, confidence in private credit goes, AI and other risky valuations readjust - what happens in that environment and are we prepared for it?.....Private credit has gone from nothing to two-and-a-half trillion dollars in the last 15 to 20 years. It hasn't been tested at this scale with the degree of complexity and interconnections it has with the rest of the financial system so far. It's a private credit crunch, rather than a banking-driven credit crunch, that we're worried about."*

The collapse of US companies, First Brands and Tricolor and, more recently, UK-based MFS has given pause for thought. With all three being private credit backed, the former led the Bank of England Governor to ask *"are these cases idiosyncratic or are they what I call the canary in the coal mine?"*. The latter, MFS, is now subject to allegations of fraud and its owner subject to a worldwide freezing order as numerous insolvency practitioners move quickly to preserve assets.



Whether these collapses are indicative of a systemic risk or one-offs, it is highly likely that banking disputes will follow, involving both the private credit providers and wider finance market.

Where regulated banks may have once provided a full suite of finance products, a blend of private credit, equity and traditional banking facilities is now more common. Any single funder may therefore have less visibility on forthcoming risk and, in a declining credit market, creditors have may have to compete at pace to mitigate their exposure.

How has the banking disputes landscape changed?

Throughout this report, we have referred to developments to ADR, the regulators' approach to redress schemes and significant court decisions. However, in economically driven dispute types, if volumes rise, what other factors should parties bear in mind?

Debt Claims

The average time taken to secure a judgment in the English courts has been steadily rising since 2008. The mean time between issue and hearing is currently around 49 weeks for County Court claims and 73 weeks for High Court claims – with much longer times being experienced for complex matters. Whilst, default and summary judgment can offer opportunities to expedite, wherever a judgment is needed in addition to direct enforcement rights or for claims against a resistant surety for example, the time to secure judgment remains a material consideration.

Aside from regulated consumer debt, the growth of the private credit market and distance in time from the Global Financial Crisis has coincided with a loosening of prohibitions against debt sales within finance documentation. Whether the debt is part of a NPL

portfolio, single borrowing group or high-risk sector, there are more opportunities for the lender of record to manage away their credit risk including associated disputes. However, as can be seen from the so-called "mortgage prisoner" group action (see *Breeze & Others v TSB Bank plc* [2026] EWCA Civ 32), there can be a long tail of litigation risk after these debt sales which needs proper consideration at the outset.

Corporate Insolvency & Corporate Governance

Since their creation in 2020 in the midst of various policy responses to Covid-heightened corporate distress, Restructuring Plans under Part 26A of the Companies Act have developed a growing body of jurisprudence demonstrating when they are viable and, particularly, when unfairly impacted creditors can challenge (see *Petrofac* [2025] EWCA Civ 821 and *Re River Island Holdings Ltd* [2025] EWHC 2276 (Ch)).

The Supreme Court decision in *Sequana* ([2022] UKSC 25), was described as a "momentous decision for company law" because it confirmed that there are circumstances in which directors should consider creditors' interests and that this may arise **before** insolvent administration or liquidation becomes inevitable. Yet, until the volume of large corporate insolvencies rise, the wider application of this duty and the extent to which creditors pursue directors (and their D&O insurance) for breach of duty is to be seen.

Sequana is just one area of the growing focus on directors' duties, as the expectation of good corporate governance grows. Even businesses outside the so-called regulatory perimeter, will have exposure if their governance standards slip – due to their supply chain or funding commitments, pre-sale or listing prospectuses and the expansion of corporate criminal liability under the *Economic Crime and Corporate Transparency Act 2023* which means corporates can inherit liability for their senior manager's criminal conduct.

Professional Negligence

Post the Global Financial Crisis, the asset recovery cycle naturally led to a peak of professional negligence claims in the following years, as the security realisation process led to larger than anticipated shortfalls. In the years that followed, the PII market responded by considering excesses and liability caps and testing the extent of coverage in certain areas due to market-wide shocks, (e.g. business interruption and cladding). Whilst policy responses, like the Building Safety Act 2022, have offered some clarity, it is around the edges of application where the balance of liability still remains to be allocated and specific sectors where valuations have not stood up.

Fraud

Fraud is seen as detached from the economic cycle and, in the consumer space for APP fraud, has been largely taken out of the disputes data since a mandatory refund scheme came into force in October 2024.

However, more complex frauds involving conspiracy or investments (in real, digital or commodity assets) will have been underreported by rising asset values.

The risk to victims, including the funders of what is later revealed as a fraudulent enterprise are exacerbated where banking facilities may once have been consolidated across one or two traditional banks, are now spread across a variety of banks and/or private credit providers. As seen in the Arena TV collapse in the Asset Backed Lending (“ABL”) sector, where many different lenders are utilised, it can take many years before over-pledged (or non-existent) assets come to light. In that case, over 55 ABLs were exposed and currently await the outcome of the Liquidators’ novel *Quincecare*-adjacent claim – seeking to affix liability to the retail bank providing payment services ([2025] EWHC 3036 (Comm)). Should the substantive claim be successful it is likely insolvency practitioners, supported by the now mature funded insolvency litigation market, will look at other examples for the benefit of creditors (which often includes other banks).

Commentary

Considering types of non-consumer banking disputes which are traditionally countercyclical to the economic cycle (e.g. debt claims, professional negligence and mis-selling), experience suggests these are at historically low volumes since their high-water marks in the years post the Global Financial Crisis and spikes post-Covid.

However, as corporate insolvencies reach their highest levels for 5 years and continue to trend upwards, it would be bold to suggest that the underlying causes of those disputes have been eradicated due to improved credit risk management, compliance or regulatory oversight, rather than suppressed due sustained asset values and/or widely available alternative finance. If those mitigations are now impacted by a restricted credit market, we can expect a return of these types of disputes as refinancing options dwindle.

We will have to wait and see whether the Bank of England’s concerns regarding a “private credit crunch” come to pass.



Methodology

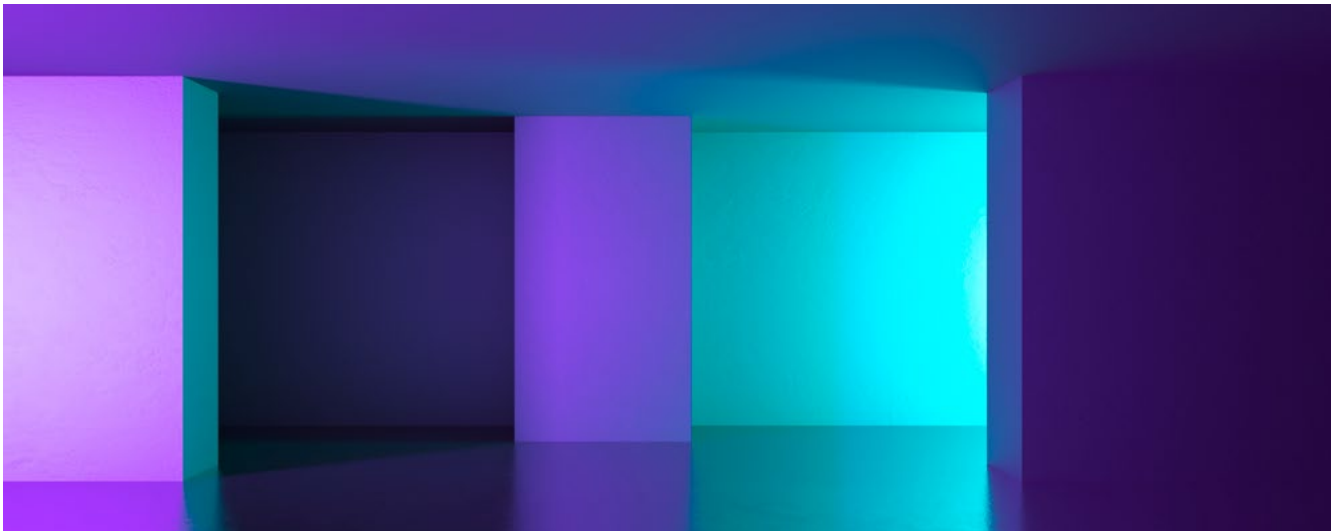
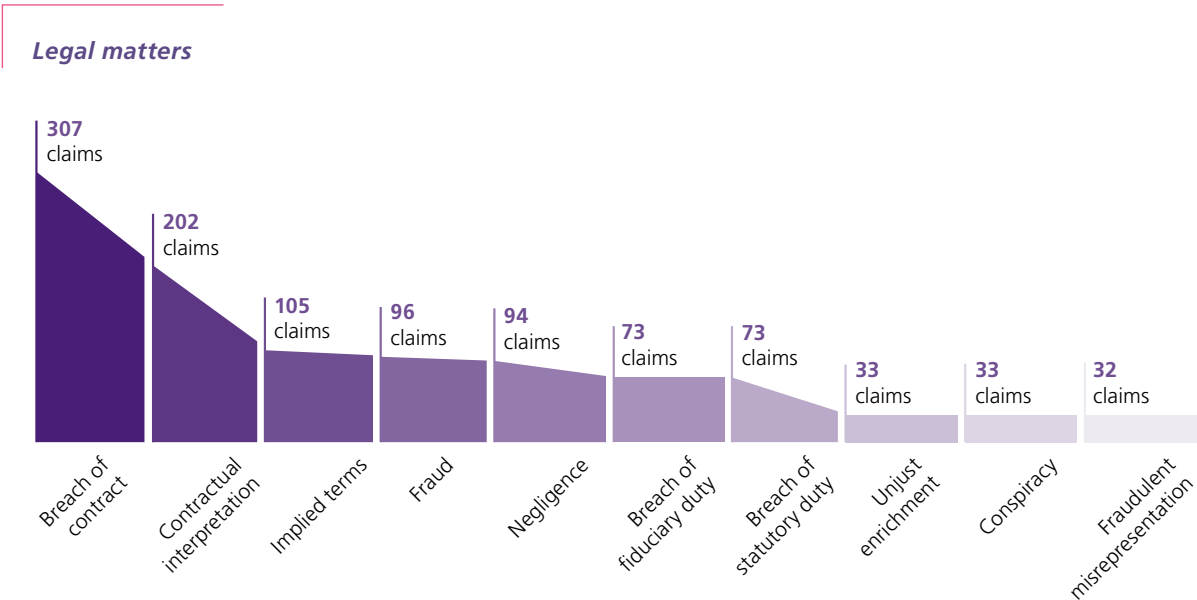
- The High Court data has been provided by Solomonic.
- The FOS data is taken from the FOS annual complaints data and insight for the 2024/25 financial year (published on 2 July 2025) and complaints data for Q3 2025/26 (published on 5 February 2026) available from the FOS website: [Financial Ombudsman Service: our homepage \(financial-ombudsman.org.uk\)](https://www.financial-ombudsman.org.uk)
- The arbitration data is taken from the LCIA Annual Casework Report 2024.

Annex: High Court Data

Annual data for 2024–2025

Types of claim

The data for 2024–2025 shows that a wide variety of claims are asserted in High Court proceedings involving the Banking and Finance sector. The majority of claims are, as expected, contractual claims. This covers claims involving breach of contract, contractual interpretation, implied terms and other contractual issues. Tortious claims also feature heavily including claims involving allegations of fraud and claims for negligence/negligent misstatement. Allegations of fraud are often asserted in a banking context to try and circumvent contractual limitations and exclusions.

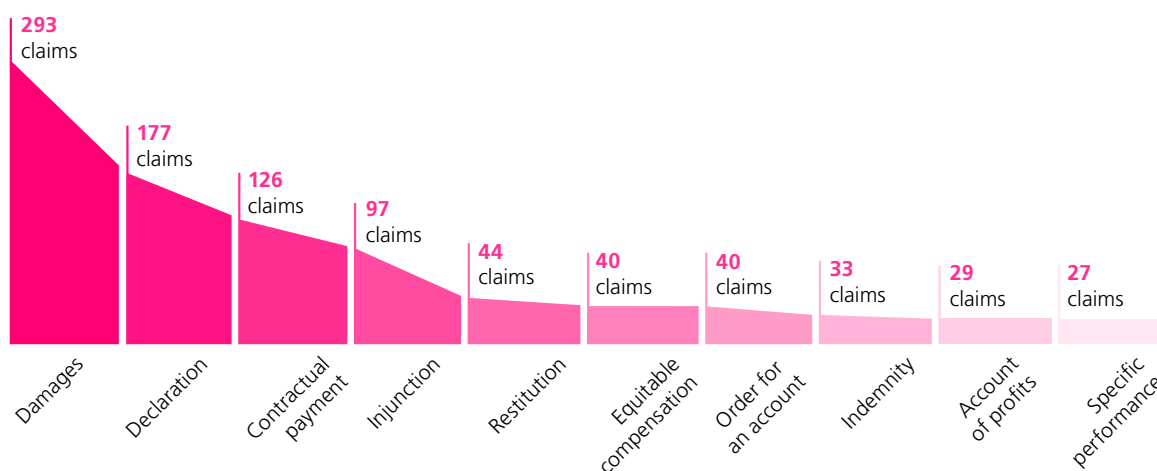


Remedy sought

The majority of claims in the Banking and Finance sector filed in 2024–2025 were seeking compensatory damages (60%). Declarations were the next most common remedy sought (36%), followed by contractual debt claims (26%) and claims seeking injunctive relief (20%).

Despite a body of opinion existing among some members of the judiciary and senior practitioners that freezing injunctions in particular are being granted too readily by the courts, applications for injunctive relief remain high with one in five claims involving Banking and Finance parties including a claim for injunctive relief.

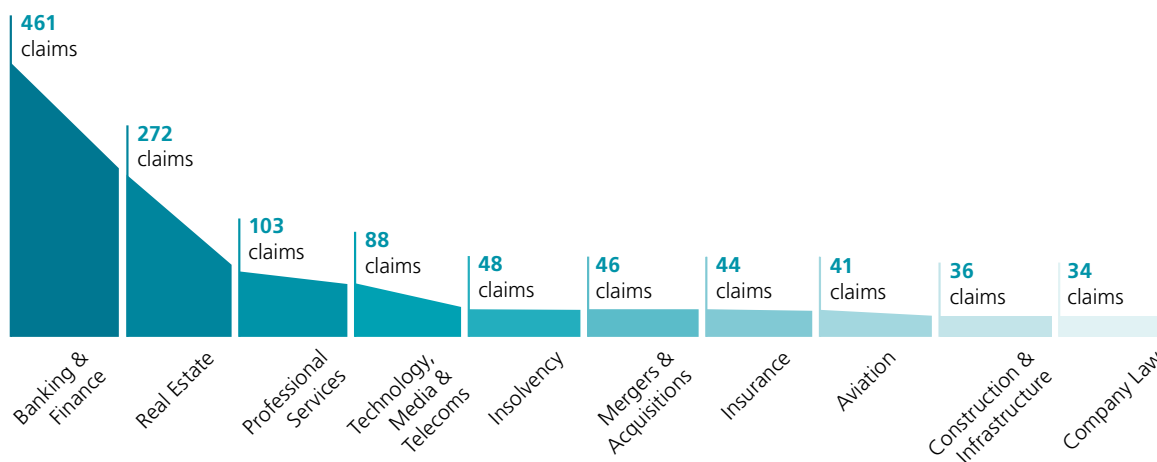
Top 10 remedies sought



Factual subject matter

A little over half of claims involving Banking and Finance parties involved factual issues relating to banking and finance. However, a significant number of claims related to other factual issues, with Real Estate (31%), Professional Services (12%) and TMT (10%) being the most common. Further details regarding the subject matter of claims filed in 2024–2025 can be found in the main body of this report.

Top 10 factual matters



Specialist Courts

Banking and Finance claims are distributed across several specialist courts within the Business and Property Courts. The Commercial Court continues to handle a significant proportion of high-value banking disputes. The Business List within the Chancery Division also receives a substantial share of banking litigation across London and the regional centres.

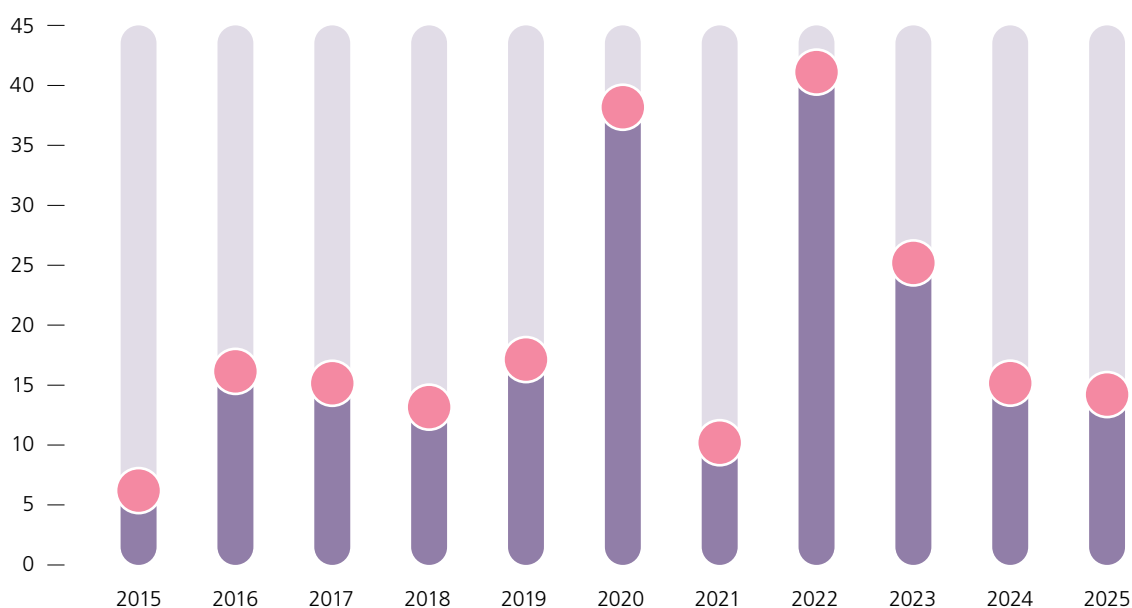
The Circuit Commercial Courts in various regional centres, including Birmingham, Leeds, Liverpool and Manchester, have seen continued activity in banking matters, reflecting the geographical spread of banking disputes beyond London.

The Financial List

The Financial List has been operational since 1 October 2015. It uses specialist judges from both the Chancery Division and the Commercial Court and is intended for (i) finance sector claims of GBP 50m or more; or (ii) cases that require particular expertise in the financial markets; or (iii) cases that raise issues of general importance to the financial markets.

The List provides for an innovative test case procedure, the aim of which is to facilitate the expeditious resolution of issues that affect the wider financial market where there is no clear English legal precedent e.g. a test case in 2021 regarding business interruption insurance during the pandemic.

Number of cases filed each year in the Financial List



There is no particular reason so far as we can see from the case data as to why a much higher volume of claims were issued in the Financial List in 2020 and 2022 compared to other years. There are examples of multiple related claims being filed but this alone does not account for the significant difference with other years. New claim volumes generally for the Banking and Finance sector have remained relatively steady between 2020–2025 and so the spikes in volumes in the Financial List will likely just be a product of the features of the underlying claims and whether they were considered suitable for the Financial List or not.

CMS Finance Disputes team

Our Finance Disputes team consists of litigation specialists who sit within our market leading Financial Services & Regulatory team ensuring that our litigators are true sector specialists.

We advise banks and other financial services firms across the full range of contentious matters from pre-action advisory work through to litigation or arbitration proceedings.

Given the overlap between regulatory action and litigation, our Finance Disputes team is integrated with and works closely alongside our FS Regulatory Supervision, Investigations and Enforcement team: **Supervision, Investigations & Enforcement | CMS UK**



Tom Dane

Partner, Finance Disputes

T +44 20 7524 6829

E tom.dane@cms-cmno.com



Kushal Gandhi

Partner, Finance Disputes

T +44 20 7367 2664

E kushal.gandhi@cms-cmno.com



Vanessa Whitman

Partner, Finance Disputes

T +44 20 7367 3198

E vanessa.whitman@cms-cmno.com



James Gliddon

Partner, Finance Disputes

T +44 20 7367 2896

E james.gliddon@cms-cmno.com

"The banking litigation team at CMS is excellent."

Chambers & Partners 2026

"The team has fantastic global reach with high calibre lawyers who are quick to grasp legal issues and issue commercial and effective legal advice."

Legal 500 2026

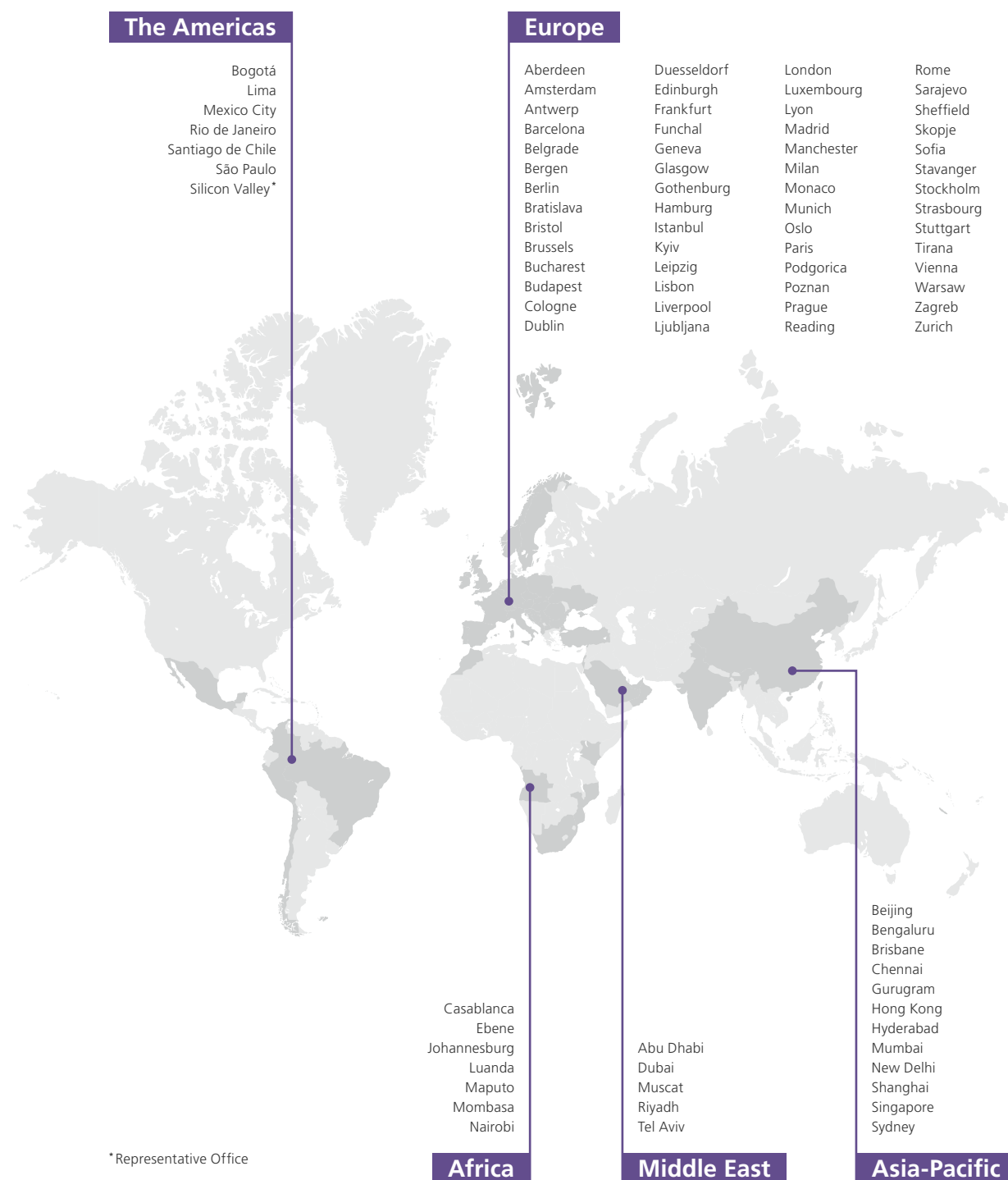
"Responsive lawyers who understand client needs and complex legal issues."

Legal 500 2026

"Their banking litigation team is first class."

Chambers & Partners 2026

CMS offices



CMS Legal Updates subscription service

Sign up now for the free online email alert service delivering commentary, analyses and insights from CMS experts on the legal issues affecting your business, directly to your inbox.

cms.law/subscription

The information held in this publication is for general purposes and guidance only and does not purport to constitute legal or professional advice.

CMS is an international organisation of independent law firms ("CMS Member Firms"). CMS LTF Limited (CMS LTF) is a company limited by guarantee incorporated in England & Wales (no. 15367752) whose registered office is at Cannon Place, 78 Cannon Street, London EC4N 6AF United Kingdom. CMS LTF coordinates the CMS Member Firms. CMS LTF provides no client services. Such services are solely provided by CMS LTF's CMS Member Firms in their respective jurisdictions. CMS LTF and each of its CMS Member Firms are separate and legally distinct entities, and no such entity has any authority to bind any other. CMS LTF and each CMS Member Firm are liable only for their own acts or omissions and not those of each other. The brand name "CMS" and the term "firm" are used to refer to some or all of the CMS Member Firms or their offices; details can be found under "legal information" in the footer of cms.law.

CMS locations:

Aberdeen, Abu Dhabi, Amsterdam, Antwerp, Barcelona, Beijing, Belgrade, Bengaluru, Bergen, Berlin, Bogotá, Bratislava, Brisbane, Bristol, Brussels, Bucharest, Budapest, Casablanca, Chennai, Cologne, Dubai, Dublin, Duesseldorf, Ebene, Edinburgh, Frankfurt, Funchal, Geneva, Glasgow, Gothenburg, Gurugram, Hamburg, Hong Kong, Hyderabad, Istanbul, Johannesburg, Kyiv, Leipzig, Lima, Lisbon, Liverpool, Ljubljana, London, Luanda, Luxembourg, Lyon, Madrid, Manchester, Maputo, Mexico City, Milan, Mombasa, Monaco, Mumbai, Munich, Muscat, Nairobi, New Delhi, Oslo, Paris, Podgorica, Poznan, Prague, Reading, Rio de Janeiro, Riyadh, Rome, Santiago de Chile, São Paulo, Sarajevo, Shanghai, Sheffield, Silicon Valley, Singapore, Skopje, Sofia, Stavanger, Stockholm, Strasbourg, Stuttgart, Sydney, Tel Aviv, Tirana, Vienna, Warsaw, Zagreb and Zurich.

Further information can be found at **cms.law**