Finance & Leasing Association

Representing Business and Consumer Finance

What's included in this resource:

Introduction

Find out how to use this material

Finance Product Knowledge

Learn about the different types of finance products that are offered to potential car buyers.

Regulatory Knowledge

Learn about the regulation and rules which surround the sale of car finance products.

Contents

How to use this material

The Finance & Leasing Association (FLA) is the trade association for the UK motor finance industry.

Our motor finance members include banks, subsidiaries of banks, the captive finance companies of motor manufacturers and independent lenders. FLA members fund the purchase or use of around 90% of all private new car registrations in the UK.

Specialist Automotive Finance (SAF) has been introduced by the FLA to raise professional standards and improve the knowledge of motor dealership staff involved in the sale of motor finance

SAF Expert helps to boost consumer confidence in motor finance by providing better information and advice in showrooms where relevant on which finance product is right for them.

How to use this material (continued)

The SAF logo is a kite-mark to help car buyers seek out reliable information and advice on motor finance.

SAF recognises dealers and their employees who have voluntarily raised their standard of knowledge on motor finance for the benefit of customers.

This SAF Expert training material aims to help dealership and finance staff to:

- improve their knowledge and expertise on motor finance and relevant surrounding regulation;
- pass the SAF Expert competence test; and
- maintain their knowledge on motor finance by revisiting the material.

Specialist Automotive Finance

Why should I review this material?

Individuals who successfully pass the SAF Expert competence test are awarded with a certificate.

For dealership staff, the SAF Expert certificate is a real advantage. It is clear recognition of your professionalism and expertise and gives customers confidence in the quality of your advice on motor finance options. This will hopefully mean that customers continue to come back to your showroom to buy the vehicles you sell.

This SAF Expert training material provides you with the core knowledge that will enable you to improve customers knowledge of the pros and cons of motor finance and increase their confidence in the specialist advice they will receive. For example, you will be able to provide valuable information in the customer scenarios illustrated here.

PCP

HP

Which finance product will be best for me?

What are PCP and HP, and how are they different?

What protection do I get if I take finance from the dealership?

Benefits of SAF Expert

SAF Expert is the recommended standard of learning for customer facing staff involved in the sale of motor finance

Over 46,000 industry staff working at over 2,000 firms across the motor retail, finance and broker sectors take the annual SAF Expert competence test.

Your SAF Expert certificate will

- Improve customer confidence in any information and advice received on finance in dealerships.
- Enable you to provide the right information to customers so they can evaluate which is the best finance product for their needs.
- Help improve customer retention – satisfied customers guided to the right product will return to your showroom again and again.

Your SAF Expert certificate will also

- Provide you with a certificate recognised throughout the automotive retail and finance industries.
- Promote your professionalism to customers when displaying your certificate.
- Help you to maintain certification and your motor finance knowledge by prompting you to retake the test every 12 months.

SAF Approved status

- Once all the eligible members of staff within your business have passed the SAF Expert test, your business can apply to the FLA to become ‘SAF Approved’.
- SAF Approved status provides recognition that your business has voluntarily improved its professional standards linked to the sale of motor finance for the benefit of customers. The FLA will promote your business as SAF Approved.

SAF training material overview

This training material is divided into two main sections, plus useful links and a glossary.

- Finance Products (core and peripheral products).
- Regulatory Knowledge.
- Glossary.

The main learning sections are formed of smaller, more manageable topics to make the material easier to digest. This is useful if you are unable to review the entire training material in one sitting.

Finance Product Knowledge

- Finance Structures
- Hire Purchase
- Personal Contract Purchase
- Personal Loan
- Contract Hire
- Conditional Sale
- Credit Sale
- Lease Purchase
- Finance Lease
- Secured Loans
- Interest Rates – Fixed and Variable

Regulatory Knowledge

- Changes to consumer credit regulation
- The Financial Conduct Authority (FCA) and principle-based regulation
- FCA interim permission and authorisation
- Financial promotions and communications with customers
- Pre-contractual requirements including adequate explanations
- Post-Contract information and rights
- Responsible Lending
- Vulnerable customers and mental capacity
- Financial incentives
- Unfair relationships and the Unfair Trading Regulations
- Distance selling
- Asset registration
- Data protection
- Anti-money laundering
- The FLA Lending Code and dispute resolution

Useful Links

This module provides links to other sources of helpful information related to motor finance and this material.

Glossary

This contains simple, plain English definitions of terms and phrases that are commonly used in the motor finance market.

There may be terms in the main modules that are new to you – the definition will be in the Glossary.

How to use this material

This material has been designed to reflect the questions asked in the SAF Expert competence test.

You will need to cover all sections to ensure you are fully prepared to take the test.

If you are using this material for the first time we recommend that you proceed through it in the order set out.

The automotive finance market

Over the past 50 years the automotive industry has opened up vehicle ownership to the majority of the population to the extent that, by Q1 2022, there were 40.3m vehicles licensed for use on the roads in Great Britain. Of these 82% were cars; with 35% of households in England having two cars or vans registered to the same address. 57.2% of all new car registrations were made by companies.

Uptake of vehicle ownership can also be linked directly with the availability of finance.

For example, in 2022 Finance & Leasing Association (FLA) members provided £51bn in new finance to help individuals and businesses acquire cars. Additionally, over 83% of all private new car registrations in the UK were financed by FLA members.

There are many economic factors that affect the availability and cost of vehicle finance including:

- **Interest rates** – the cost of finance - see module 11.
- **Inflation** – increases in the prices of goods and services.
- **Growth in wages and job security** – the affordability of finance and risk of the customer not repaying.
- **Economic growth and stability** – determined by all the factors above. A stable and growing economy results in consumers and businesses having the confidence to spend.

How automotive finance is offered

Automotive finance is primarily sold as part of the vehicle sale, typically through a dealership. A customer will discuss the vehicle with a sales executive, and their budget and financial requirements will form part of the conversation. Customers may also gain access to finance directly from finance companies and brokers.

The majority of automotive finance providers fall into these categories:

- **manufacturers** which lend through their own captive finance company;
- **independent finance companies** some of which may be wholly owned subsidiaries of major banks; and
- **contract hire and leasing companies** that specialise in the provision of leasing agreements for a range of customers and vehicles.

Finance offers are commonly used as a part of manufacturers' marketing strategies. Attractive terms such as low deposits, low interest rates, free servicing and deposit contributions are designed to attract customers to visit dealerships, with a view to turning that initial interest into a purchase.

Customers can also approach banks and other high street/direct lenders independently of the purchase to obtain finance. This leads to funds being paid to customer's bank accounts which are used for the purchase of vehicles and other goods.

Benefits of automotive finance to customers

These are the key benefits of automotive finance to customers:

- The means to acquire a vehicle and in many cases a higher value vehicle than would otherwise be affordable.
- The means to acquire insurance, warranty and protection products and other services such as maintenance and servicing products.
- Low initial payment/deposit and affordable regular payments, to suit individual cashflow requirements.
- Fixed interest rates – to aid predictable budgeting.
- Additional benefits through financial campaigns, such as low interest rates and other incentives.
- Additional regulatory protection for regulated customers provided by legislation and Financial Conduct Authority (FCA) rules.
- Some finance products remove the risks associated with depreciation.

Inflation

Motor vehicles are an expensive purchase and many prospective owners are unable or unwilling to save enough to cover their cost.

Borrowing can 'hedge' or protect against rising prices, known as inflation.
Inflation has the effect of reducing the buying power of money over time, so savers lose out during periods of high inflation because the value of their savings reduces (i.e. they can buy less with their savings because goods and services have become more expensive) .

Conversely, borrowers benefit from high inflation because the value of the debt they need to repay reduces when accounting for inflation (known as in 'real terms'). This is because when inflation increases average wages tend to increase also. High levels of borrowing give consumers and businesses the funds to spend. This in turn leads to higher levels of inflation.

Attractive features of automotive finance

Using the facilities of an automotive finance provider can enable customers to achieve their wants and needs sooner rather than later.

Manufacturers know that lower monthly payments or low interest rates will attract customers by reducing the perceived cost of ownership.

The attractive features that manufacturers promote include:

- low interest rates, interest-free in some cases;
- deposit contributions;
- Flexibility - longer terms, or the deferral of part of the vehicle's cost to the agreement's end - so long as the customer understands how these changes affect them.

Paying for a vehicle outright (in cash) vs using automotive finance

It is often less costly to use savings to fund a purchase than to borrow money. Interest rates on a personal deposit account are usually lower than rates charged for credit. The customer may pay more interest on the credit they receive compared to the interest they would gain from their savings. But vehicles are worth less over time (they depreciate) and some finance products protect against lower than expected vehicle values at the end of the term.

Automotive finance – purchase plans

A purchase (or ownership) plan is a credit or loan product that allows the customer to take title (ownership) to the vehicle. The key purchase plan products are summarised below:

- **Hire Purchase** and **Conditional Sale** agreements - the purchaser borrows the required amount from a finance company and agrees to make regular payments over a set term. The lender retains legal ownership of the vehicle until the full amount is repaid ('secured'). The borrower hires the vehicle from the lender until the loan and all charges are repaid (along with an 'option to purchase fee' if using hire purchase).

- **Personal Contract Purchase (PCP)** – a form of Hire Purchase (or Conditional Sale) where some of the capital cost of the vehicle is deferred to the end of the agreement in the form of a large, final balloon payment. At the end of the agreement the customer has the option to:
  - pay the balloon payment and keep the vehicle;
  - hand back the vehicle without incurring further costs; or
  - trade in the vehicle for a replacement.

- **Lease Purchase** – is a similar product to Hire Purchase or Conditional Sale, except that payments are structured like a lease agreement - where the customer makes a number of payments in advance rather than a deposit.

- **Personal Loans** – loans provided to consumers that are typically offered by banks, building societies and lenders directly. The borrower makes regular monthly payments and once the loan is repaid has no further obligations to the lender. The customer owns the vehicle (which means they have legal title) as soon as they buy it, and the lender has no rights over it ('unsecured').

Automotive finance – lease plans

Lease plans enable customers to hire or use vehicles without giving the opportunity to take ownership. The key leasing products are summarised below:

Contract Hire (operating lease) and **Personal Contract Hire (PCH)** – funds the use of a vehicle for a set period of time, instead of the overall ownership (or cost of ownership) of the vehicle. Since there is no intention for the customer (lessee) to own the vehicle, this removes the risk of depreciation costs. At the end of the agreement the customer hands back the vehicle to the leasing company (lessor).

Finance Lease – funds the use of a vehicle for business customers. Agreements can be structured to include a balloon payment at the end of the agreement to enable lower monthly payments over the term. The customer is usually responsible for selling the vehicle as an agent of the finance provider or leasing company at the end of the agreement.

More detail on both purchase and lease plan products are provided in the modules that follow.

1. Finance Structures

This topic dealswith Finance Structures and Profiles.

Tri-partite Transactions

Baloon Payments

Baloon PaymentSchedule

Advance Rentals/Payments

TerminalPause

Spread Rental

Summary

Tri-partite Transactions

This is a term used to describe a finance agreement where there are three parties involved in the process of its provision.

Supplier (Dealer)

The dealer sends the completed finance proposal to the finance company. If the customer is accepted for finance, the dealer (after providing any explanation it is required to provide) asks the customer to review and sign the finance contract (including the terms and conditions) and invoices the finance company for the cost of the vehicle. The finance company then pays the dealer. It is the finance company which buys and owns the vehicle and the customer who uses it.

Debtor (Customer)

The customer chooses a vehicle from a dealer and completes the necessary documents to apply for finance to purchase/ lease the vehicle. Documents to be completed include the vehicle order form and the finance proposal.

Creditor (Lender)

1. The finance company sells or hires the vehicle to the customer for an agreed period of time and when all the payments have been made in accordance with the finance agreement,
2. The customer will either gain ownership of the vehicle on a purchase plan or complete the contract on a lease and hand the vehicle back.

Q.

What are examples of tri-partite transactions?

A.

Hire Purchase, Conditional Sale, Contract Hire (Operating Lease), Lease Purchase and Finance Lease are all tri-partite transactions.

Baloon Payment

A `balloonpayment` is a large payment that is normallymade at the end of a financeagreement.
It is also referred to as a lump sum and is a portion of the capital cost/value of the vehicle that the customer is not paying for within the regular payments that they make to the finance company.

A balloon payment benefits the customer because, by deferring payment of a lump sum to the end of the agreement, the customer can enjoy lower monthly payments or a shorter term.

Financerepaymentcycle:

Deposit > Fees > RegularPayments > Balloon Payment

Contractual Requirements

A balloon payment can be optional or mandatory depending on the terms of the finance agreement. The amount of the balloon is usually calculated based on the estimated value of the vehicle on disposal (when the finance agreement ends).

Balloon Calculation

It is important for finance companies to be conservative when determining the actual value/amount of the balloon payment. If the value-of the vehicle is overestimated then the balloon that is due to be paid will be higher than the actual market value of the vehicle and the customer may be left in negative equity (see Glossary).

Balloon Implications

The balloon also attracts interest from the lender and because the amount is not being repaid by the customer until the very end of the finance agreement, the lender may charge a higher overall rate of interest to compensate for the higher risk it is exposed to in providing this facility.

Guaranteed Minimum Future Value

A Guaranteed Minimum Future Value (GMFV) – see Personal Contract Purchase module – is a balloon payment that is guaranteed by a third party – normally a finance company or vehicle manufacturer. This means that the balloon amount is fixed.

Balloon Payment Schedule

Here is an example of a finance agreement which is structured to include a baloon payment.

Under a Personal Contract Purchase (PCP) agreement an optional balloon payment is referred to as the vehicle's Guaranteed Minimum Future Value (GMFV).

	Vehicle Cost:	**£12,500**
Less:	Deposit:	£2500
=	Balance:	£10,000
Less:	Balloon or GMFV:	£4,000
=		£6,000
+	(Interest on £10,000)	£1,884
=	Balance for monthly payments	£7,884
Divided by Term (36 Months/3 Years)	Monthly payments	£219
Administration Fee	£100 included with 1st payment	
Option to Purchase Fee	£100 included with balloon/GMFV	

Payment Schedule

Here is the payment schedule for the PCP with a balloon payment (known as the GMFV).

1	Deposit	£2500
2	1st payment (£219 + £100)	£319
3	35 payments	£219
4	Balloon/GMFV + £100	£4,100
5	Total amount to be paid including interest	£14,584

Advance Rentals/Payments

Advance Rentals/Payments is the term used when payments are made by the customer to the finance company \`in advance\` of a fixed period in time.

Standard ('Arrears') Payment Profile

Deposit paid in January followed by 12 monthly payments starting in February and ending January next year.

The standard payment profile of finance agreements is \`in arrears\`, where a customer pays for the use of the vehicle retrospectively.

January	Deposit
February	Monthly Payment
March	Monthly Payment
April	Monthly Payment
May	Monthly Payment
June	Monthly Payment
July	Monthly Payment
August	Monthly Payment
September	Monthly Payment
October	Monthly Payment
Novemnber	Monthly Payment
December	Monthly Payment
January	Monthly Payment

Advance Rentals/Payments

Advance Rentals/Payments is the term used when payments are made by the customer to the finance company `in advance` of a fixed period in time.

Advance Payment Profile

Deposit and first payment in January followed by 11 more payments starting in February and ending in December.

Here, payments are received in January for the use of the vehicle in February.

January	Deposit & 1st Payment
February	Monthly Payment
March	Monthly Payment
April	Monthly Payment
May	Monthly Payment
June	Monthly Payment
July	Monthly Payment
August	Monthly Payment
September	Monthly Payment
October	Monthly Payment
November	Monthly Payment
December	Monthly Payment

Advance Rentals/Payments

Advance Rentals/Payments is the term used when payments are made by the customer to the finance company \`in advance\` of a fixed period in time.

A Comparison

The main difference is that under an advance rental/payment profile one or more of the monthly payments due under the agreement have been paid in advance of the customer taking possession of the vehicle.

In the example above the customer will conclude all payments due under the agreement in 11months rather than 12 months under an arrears profile.

Under an advance/rental payment profile therefore customers usually pay a lower interest charge.

The number of advance rentals/payments is agreed between the lender and customer ahead of any agreement. It is common for some lease agreements to require three advance payments before an agreement starts.

See Glossary for further information.

Terminal Pause

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2021	3	1	1	1	1	1	1	1	1	1	1	1
2022	1	1	1	1	1	1	1	1	1	1	1	1
2023	1	1	1	1	1	1	1	1	1	1	Terminal Pause	

The contract ends in January 2024

A terminal pause or "payment holiday" is a period at the end of an agreement (usually a lease agreement) where the customer has finished making all payments required but remains in possession of the vehicle. The terminal pause period is designed to allow the customer to save funds to put towards advance payments for the next lease agreement.

A terminal pause is therefore a term that reflects a specific payment profile of a finance agreement.

Terminal Pause Example

Rental in Advance Profile – 3+33 Terminal Pause

- First three rentals made in January 2021.
- 33 more rentals starting in February 2021 and ending in October 2023.
- Terminal pause/payment holiday for two months.

For example, a three year agreement with a profile of three advance rentals followed by 33 monthly rentals (3+33) of £570 per month. The vehicle is supplied on 1st January 2021. The total rentals over the agreement = £ 20,520.

Spread Rental

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2021	3	1	1	1	1	1	1	1	1	1	1	1
2022	1	1	1	1	1	1	1	1	1	1	1	1
2023	1	1	1	1	1	1	1	1	1	1	1	1

The contract ends in January 2024

Spread Rental is a term that reflects a specific payment profile of a finance agreement. It requires the customer to make payments over every month of the agreement term.

A Spread Rental agreement lowers the cost of payments made by the customer, compared to a terminal pause profile.

SpreadRental Example

For example, the regular rentals for a vehicle supplied on a three year contract with a profile of three advance rentals followed by 35 monthly rentals (3+35)are £540 per month. This is compared to £570 per month under a terminal pause profile. The vehicle is supplied on 1st January 2021. The total amount to be paid over three years =£ 20,520.

Rental in Advance Profile – 3+35SpreadRental

First three rentals in January 2021 followed by 35 more payments starting in February 2021 and ending in December 2023. Payments are now due in November and December 2023.

Summary

This topic covered Finance Structures and Profiles.

- A tri-partite transaction describes a finance agreement where there are three parties involved in the provision of a financed vehicle.
- A `balloon payment` is a large payment that is normally made at the end of a finance agreement. It is also referred to as a lump sum and is a portion of the capital cost/value of the vehicle that the customer is not paying for within the regular payments that they make to the finance company.
- Personal Contract Purchases refer to the Balloon as the Guaranteed Minimum Future Value (GMFV).
- Advance Rentals/Payments is the term used when payments are made by the customer to the finance company `in advance` of a fixed period in time.
- A terminal pause is a period at the end of an agreement (usually a lease agreement) where no payments are required to be made by the customer.
- Spread Rental is a term that reflects a specific payment profile of a finance agreement. It is very common in lease agreements. It uses the `terminal pause` period of a finance agreement and allows payments to be made during this time.

2. Hire Purchase

This topicdeals with Hire Purchase agreements.

Definition

Structure

CommonProfiles

Ending the Agreement

Summary

Q.

What is the correct definition of a Hire Purchase agreement?

A.

Hire Purchase is...a hiring agreement between a customer and a finance company secured against the vehicle, where the customer has the option to own the vehicle at some point during or after the agreement.

The finance company HIRES the vehicle to the customer for an agreed period of time at an agreed monthly sum. The customer can gain ownership (title to the car) by paying an additional sum called the Option to Purchase Fee. The customer must, however, have paid everything else off to get title to the vehicle.

Structure

A Hire Purchase (HP) agreement is one of the most common ways of funding a vehicle purchase.

It is normally a fixed cost, fixed period loan linked (or secured) to the purchase of a vehicle.

The agreement is a `Tri-Partite Transaction` (see Finance Structures module) and may be regulated, exempt or unregulated.

Debtor (Customer)

The debtor (customer) decides how much of an initial deposit to put down (unless pre-determined by the lender) and then pays off the amount borrowed (known as the balance) plus interest in instalments (normally monthly) over an agreed period of time.

HP agreements are typically for 2-3 years, but can last for up to 5 years.

At the end of this period, and once the Option to Purchase fee has been paid (and assuming everything else has been paid under the agreement), title to the vehicle is transferred to the customer who then becomes the legal owner.

Supplier (Dealer)

The facility is usually offered at the Point of Sale. The dealer supplies the vehicle to the customer, but it is financed by the creditor/lender (see Finance Structures module).

Creditor (Lender)

The creditor (finance company) retains title to the goods (legal ownership) until all the payments and the Option to Purchase fee is paid by the debtor (customer).

Common Profiles

Hire Purchase facilities typically include the following factors:

Deposit

A deposit is normally optional (or a minimum/ maximum amount may be set by the lender) and can be paid in cash or if the customer trades in an old vehicle(s) as a part-exchange. This reduces the finance company's risk and also reduces the amount borrowed (and payments) by the customer.

Fees

There can be an arrangement fee charged by the lender and any fees can be included as part of the regular repayments. The fee amount is set by the individual lender.

Regular Payments

The customer agrees to make regular payments to the finance company under the terms and conditions of the agreement and should keep the vehicle fully insured and in roadworthy condition.

There are no mileage restrictions under an HP agreement. However, lenders may impose certain restrictions on the use and location of the vehicle. For example, the vehicle may not be used by certain businesses or taken outside the European Union.

Option to Purchase fee

The Option to Purchase fee (determined before the agreement is entered into) transfers title to the customer after all payments have been made.

The amount is set by the individual lender and is usually paid by the customer with the final payment. However, if the customer chooses not to exercise this option the lender will retain title to the vehicle.

Ending the Agreement

Deposit > Fees > Regular Payments > Option to purchase fee

Early Settlement

An HP agreement can be settled at any time by the customer by paying the balance of finance outstanding and the Option to Purchase fee to the lender.

The lender may allow the customer a rebate of the interest if the outstanding finance balance is settled before the agreement end date. If the HP agreement is a regulated credit agreement, the amount of the rebate will be calculated according to provisions set out in regulations made under the Consumer Credit Act 1974 (but the lender may be entitled to compensation in certain circumstances). If the agreement is regulated, the customer may also have the right to voluntarily terminate the agreement before the final payment falls due and hand it back under the Consumer Credit Act 1974.

End of Term

At the end of an HP agreement, once all the contracted payments have been made, the customer will normally pay an Option to Purchase fee which enables them to take legal title to the vehicle. However, the customer may decide not to pay the Option to Purchase fee and return the vehicle to the finance company if they wish, even though the vehicle has effectively been paid for by this time. Once the customer has taken legal title they are entitled to sell the vehicle.

Summary

This module covered Hire Purchase agreements.

- HP is one of the most common motor finance products on the market.
- The finance loaned to the customer is secured against the vehicle sold. Title to the vehicle remains with the finance company until the Option to Purchase fee has been paid. Title then passes to the customer.
- Agreements are simply structured, normally up to a maximum of 5 years.
- Flexible deposits and periods are set to meet a customer's budget.
- Retaining title until the end of agreements gives lenders more security in the event of payment problems. The lender can also offer the customer more attractive terms and conditions because it retains title until the customer has paid off the agreement/vehicle in full.
- Agreements can be regulated, exempt or unregulated. This all depends on the type of customer, the amount borrowed and the purpose of the lending.

3. Personal Contract Purchase

This topic deals with Personal Contract Purchase (PCP) agreements.

- PCP versus HP Agreements
- Structure
- Common Profiles
- Ending the Agreement
- Summary

Q.

Do you know how a Personal Contract Purchase (PCP) differs from a Hire Purchase Agreement?

A.

A PCP is a purchase agreement like Hire Purchase. However, under a PCP, for the customer to own the vehicle at the end of the agreement they must make a balloon payment, the value of which is fixed or guaranteed by the finance company when the agreement is made.

A PCP balloon payment is therefore referred to as the Guaranteed Minimum Future Value (GMFV) or ‘optional final payment’ and is based on the value the finance company predicts the vehicle to be at the end of the agreement.

Unlike Hire Purchase a PCP offers the customer the option to own, hand back or trade the vehicle in for another at the end of the agreement.

Structure

A Personal Contract Purchase (PCP) is a tripartite agreement similar to Hire Purchase. PCP is one of the most popular forms of vehicle financing because it gives the customer flexibility at the end of the agreement and initially a lower monthly payment compared to alternative products like Hire Purchase. It is available to both private and business customers. PCP is different from Hire Purchase because of its payment profile and structure. The customer's repayments are determined by the size of the deposit, the predicted mileage and the length of the agreement.

PCP always defers some of the capital costs to the end of the agreement in the form of a balloon payment (which is bigger than a single monthly instalment). This amount is set by the finance company before the customer enters into the agreement. The balloon payment due under a PCP agreement is known as a 'Guaranteed Minimum Future Value' (GMFV) or Optional Final Payment (OFP).

The agreement can be regulated, exempt or un-regulated. This all depends on the type of customer and the amount borrowed.

Supplier (Dealer)

The finance facility is usually offered at the Point of Sale (dealer showroom) by the Sales Executive or Business Manager. The dealer will also supply the vehicle to the customer.

Debtor (Customer)

The debtor/customer agrees to make regular payments to the creditor.

Creditor (Lender)

The finance company guarantees the minimum the vehicle will be worth at the point in time when the agreement ends (subject to mileage and condition). This GMFV is determined based on existing market intelligence on vehicle valuations, the customer's anticipated mileage over the life of the finance agreement and the length of the agreement itself.

Common Profiles

The deposit is deducted from the price of the vehicle at the start of the agreement.

The customer is then required to pay fixed monthly payments over the term of the agreement and then pay the final GMFV before taking title to the vehicle. The fixed monthly payments include interest on the full amount including the GMFV (and any Option to Purchase fee) but excluding the deposit paid. Typically a PCP agreement will be between 2 and 4years long.

Deposit

Each lender will advertise any minimum or maximum deposit requirements for their own PCP – it is common for this to be very low to help attract customers.

Regular Payments

The customer agrees to make regular payments to the finance company and must keep the vehicle fully insured and in roadworthy condition.

Fees

There can be an arrangement fee charged by the lender that can be paid at the start of the agreement or included as part of regular repayments for the term of the agreement. The fee amount is set by the individual lender (If the PCP is based on a HP contract, there will also be an Option to Purchase fee to pay if the customer wants to keep the vehicle at the end of the agreement). Any fees charged must be stated in the terms and conditions of the agreement.

Mileage Allowance

The customer is asked how many miles they expect to travel in the vehicle on a yearly basis and agrees a mileage allowance applied to the agreement. The higher the number of miles travelled in the vehicle the less it will be worth at the end of the agreement. Therefore the higher the mileage allowance set by the customer the less the GMFV of the vehicle will be resulting in more capital paid up front - higher monthly payments.

Option to Purchase fee

The Option to Purchase fee (determined before the agreement is entered into) transfers title to the customer.

The amount is set by the individual lender and is usually paid by the customer with the final payment. However, this is a genuine option for the customer.

GMFV

The GMFV is calculated after taking into account the term of the facility, the anticipated mileage and the type of vehicle and specification.

It assumes that the vehicle will be kept in good condition and serviced and maintained according to the manufacturer's recommendations.

See Finance Structures module for an example of a balloon payment.

At the end of the agreed term, the customer decides whether to keep, hand-back or part exchange the vehicle.

Ending the Agreement

A PCP can be settled by the customer at any time if they pay the balance outstanding, including the GMFV, to the lender.

The lender may allow the customer a rebate of the interest remaining on the agreement. However, if the agreement is regulated, the customer may also have the right to voluntarily terminate the agreement before the final payment falls due and hand the vehicle back. Under the Consumer Credit Act 1974, the minimum amount of rebate is laid down by law.

At the end of the PCP agreement the customer has three options:

Keep

The customer can pay the GMFV (plus any Option to Purchase fee that is part of the agreement) and keep the vehicle. At this point the customer will take title to the vehicle and become its legal owner. Many finance companies allow the GMFV to be refinanced to avoid the customer having to find a large amount of cash.

Hand-Back

If the vehicle is worth less than the GMFV, the customer can return the car and walk away – subject to mileage and condition. The GMFV guarantees that the lender will take the car back from the customer at the end of the agreement with no further payment due, assuming all the monthly repayments have been made. If the vehicle is worth less than the GMFV, the lender absorbs the loss. If the vehicle has exceeded the agreed mileage then the customer will be required to pay an additional charge calculated on the basis of a pence per mile charge + VAT (the exact charge to be applied will have been made clear at the outset of the agreement). Also, if the car has not been maintained or serviced according to the manufacturer's recommendations, or if the condition is worse than `fair wear and tear`, the lender will charge the customer to compensate for the condition. All charges are laid out in the terms and conditions of the agreement.

Part Exchange

Where the dealer's part exchange value for the car is greater than the GMFV, the difference (also referred to as equity) can be used as part or all of the deposit on their replacement vehicle. Any of this difference not used as a deposit is paid to the customer. Alternatively, the customer can sell the vehicle privately, settle the GMFV by paying the outstanding amount to the finance company and keep any profit, although the dealer and lender should be made aware of a private sale.

Summary

This topic covered Personal Contract Purchases (PCP)

- PCP is a very popular and flexible way of purchasing a vehicle.
- Like a Hire Purchase agreement, title to the vehicle under a PCP agreement is kept by the lender until everything is paid off.
- It allows the customer to know the 'least amount' tthe car will be worth at the end of the agreement (the Guaranteed Minimum Future Value or GMFV)
- It requires the customer to agree a mileage allowance based on their expected usage which affects the GMFV. The higher the allowance is set to the more miles the customer is expected to drive, which serves to lower the GMFV and increase the size of the monthly payment.
- If the vehicle is worth less than the GMFV at the end of the agreement (assuming it has been kept in good condition and hasn't exceeded the agreed mileage), the customer can simply hand the vehicle back with nothing more to pay.
- PCP offers customers flexible options at the end of the agreement
- Agreements can be regulated, exempt or unregulated. This all depends on the type of customer and the amount borrowed.

4. Personal Loans

This topic deals with Personal Loans.

Personal loans

Structure

Common Profiles

Ending the Agreements

Summary

Q.

Which of these statements are true of personal loans?

a) Personal loans are not specifically secured on a vehicle

b) Personal loans are unregulated

A.

a) is the correct answer

Personal loans are an unsecured lending facility that can be used for almost any purpose such as home improvements or to buy a car.

A personal loan is normally a fixed cost, fixed period loan of money to purchase any item the customer wants – including vehicles.

Personal loan agreements can be regulated, exempt or unregulated. This depends on the customer, amount borrowed and purpose of lending.

Structure

A personal loan is normally a fixed cost, fixed period loan of money to purchase any item the customer wants – including vehicles.

A personal loan is not a tri- partite transaction: the lender provides the loan facility but does not take ownership of the vehicle. The customer buys the vehicle directly from the dealership using the loan amount borrowed. The customer will immediately take title/ownership of the vehicle.

There are a few lenders who offer what is called a 'restricted-use' personal loan agreement. This is one where the purpose of the loan is specifically for vehicle purchase.

Creditor (Lender)

Unsecured loans are widely offered by banks, building societies, direct lenders and finance companies.

Unsecured personal loans are usually offered by direct advertising in the press and other media by banks and direct lending organisations (where there is no credit intermediary involved).

Some motor finance companies also offer personal loans in motor dealerships.

Debtor (Customer)

If the customer could not afford to keep making the repayments owed, the lender would not specifically look to repossess the vehicle that was funded with the loan. Instead, all of the customer's personal assets may be at risk. This is one of the disadvantages of unrestricted personal loans compared to other agreements where the finance company buys the vehicle from the dealership (like Hire Purchase, conditional sale and PCP).

Personal Loans are normally aimed at employed individuals, but may also be available to sole traders and small partnerships for business purposes.

Common Profiles

The minimum and maximum loan amounts are determined by the individual lender and do not usually exceed £25,000, as the lending is unsecured and would pose a high commercial risk to the lender.

The customer owns the vehicle from day one, as they are buying it outright using the loan amount. They therefore immediately take title to the vehicle.

The customer agrees to make regular payments to the lender until the amount borrowed plus interest is repaid in full, and there are no mileage or usage restrictions on the vehicle.

No Deposit

No deposit is necessary from the customer at the start of the agreement as the full balance to be financed by the customer to the lender (including interest charges) will be paid over a fixed period of time – normally a maximum of 5 years However, terms of 7 and 10 years are becoming more common for larger loans.

Fees

There may be an arrangement fee charged by the lender that can be paid at the start of the agreement or included as part of regular repayments for the term of the agreement. The fee amount is set by the individual lender.

Settling the agreement early may also incur a fee.

Regular Payments

Generally speaking, the higher the amount loaned to the customer the higher the risk to the lender.

The payments are usually made monthly in arrears, but `holiday` periods (for example, three months when no repayments are due) at certain times of the year may be advertised to attract customers.

The length of the term would normally be tailored to suit the monthly budget of the customer.

Ending the Agreement

A personal loan agreement can be settled at any time by the customer by paying the balance outstanding to the lender, although a fee may be charged for early settlement.

The lender may allow the customer a rebate of the interest remaining on the agreement. If the loan is regulated under CONC, the minimum amount of rebate is set out in the FCA's rules.

The agreement ends when all the contracted repayments have been made to the finance company. The customer already has title to the vehicle.

Summary

This topic covered Personal Loans.

- A personal loan is an unsecured funding facility and can be used for almost any purpose.
- A personal loan to an individual will normally be a regulated agreement.
- The minimum and maximum loan amount is determined by the individual lender based on the risk they are prepared to bear.
- An arrangement or administration fee may be charged by the lender.
- The loan amount can be settled at any time by the customer.
- No deposit is necessary from the customer.
- The loan is paid over a fixed period of time (normally a maximum of 5 years).
- The customer immediately becomes the legal owner of the vehicle funded by the loan.

5. Contract Hire

This topic deals with Contract Hire.

Before you move on, consider:
What is Contract Hire?

Contract Hire: Lessees and Lessors

Structure

During an Agreement

Ending the Agreement

Personal Contract Hire

What is contract hire?

In simple terms, Contract Hire (or Operating Lease) is a method of funding the USE of a vehicle for a set period of time (known as the primary period of hire), but not the overal ownership (or cost of ownership) of it.

It allows a customer (known as the lessee) to choose the vehicle they want, use it for a set period of time and an anticipated mileage and then give it back to the leasing company (known as the lessor) at the end of the period of hire. The risks and rewards are therefore with the lessor under contract hire agreements. And the lessee is renting the vehicle from the lessor for a fixed period of time and pays a fixed (normally monthly) rental for the use

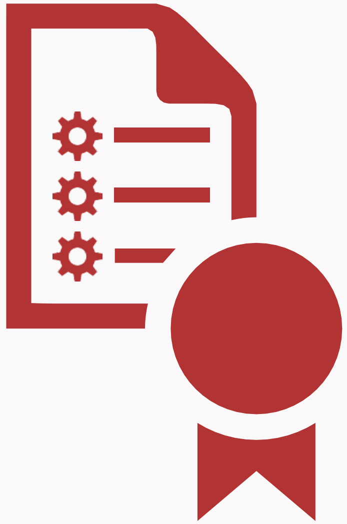
The lessee is not responsible for the disposal or sale price of the vehicle at the end of the contract – which makes it a very easy and risk-free way to run a vehicle.

The key risk to the lessee is where the agreed mileage limit is exceeded or if the vehicle is not maintained and kept in good condition.

Contract Hire: Lessees and Lessors

Contract Hire is available to any type of customer (lessee) – whether business or private – but, because of its structure and form, it is idealy suited to VAT-registered businesses because the VAT that rentals attract can be claimed back from Her Majesty's Revenue and Customs (HMRC).

The facility is offered by direct advertising in the press and other media (especially the internet) by Contract Hire companies or via finance brokers who offer agreements on behalf of finance providers. It is also becoming a more popular option at the Point of Sale within dealerships.



The structure of Contract Hire agreements

Rentals

What do the rentals cover?

The rentals paid to the lessor should cover the depreciation costs of the vehicle over the term of the agreement plus interest, but not the full cost of the vehicle – the lessor will have a residual value risk at the end of the term (similar to a balloon payment).

Risk

How is the residual value risk calculated?

The amount of the residual value risk (future vehicle value) is set by the lessor and the calculation is based upon a number of factors including the type of vehicle, the primary period of hire and the lessee's anticipated mileage.

VAT

What are the VAT implications?

- Contract Hire rentals are based on the price of the vehicle excluding VAT.
- Interest is added to the ex-VAT price of the vehicle and the balance, less the leasing company residual value risk / balloon payment, being paid over a fixed period.
- The rentals will attract VAT at the current rate.

Payments

- Deposits are not taken, however Advance Rentals are usually paid at the start of the agreement. The exact amounts are normally agreed by the lessor and lessee but 3 advance rentals are most common.
- The payments are based on the price of the vehicle, the term of the lease and mileage.
- The rentals during the remainder of the Primary Period of Hire will be `spread` equally over the term or there may be a `terminal pause` (see Finance Structures section).
- All the rentals will attract VAT at the current rate.

Fees

Lessor's may charge additional fees, such as arrangement fees. However, this is less common than in purchase agreements such as HP.

During an agreement

The lessee agrees to make regular rental payments to the lessor in accordance with the contract hire agreement and must keep the vehicle fuly insured as wel as in roadworthy and good general condition.

The lessor may seek to recover some or all of the cost of the Annual Vehicle Excise Duty (road tax) applicable to the vehicle by including an amount for this in the rental cost: this should be included in the terms and conditions set out by the lessor.

Service and maintenance plans are often incorporated into contract hire agreements to provide the lessee with fixed-cost motoring. This helps planning and budgeting.

Technical Considerations

- The lease will always be shown on the balance sheet of the lessor's company accounts, but the lessee might also need to include on its balance sheet too. This depends on the accounting standard used by the business customer:
  - IFRS 16 – an accounting standard which came into effect from January 2019. The standard requires both lessor and lessee to report all leases of more than 12 month's duration on the balance sheet. This is to ensure companies better reflect their financial position by showing the "right of use" it has to assets such as vehicles. The standard has mostly been adopted by large multi-national businesses.
  - FRS 102 – a UK accounting standard that only requires the lessor to report the lease on its balance sheet and not the lessee. Most small and medium-sized UK businesses continue to use this standard.
- Where the lease is not shown on the balance sheet the rentals need to be set out in the notes to the accounts and will be a cost shown in the profit and loss account of the lessee.
- If the lessee is VAT registered, the VAT on the rentals can be wholly or partially reclaimed by the lessee depending on the type of vehicle and how it is used:

1. Commercial vehicle – all of the VAT on the rentals can be reclaimed.
2. Car – all of the VAT on the rentals can be reclaimed if the car is 100% for business use or 50% if there is any private use.

The end of the agreement

End of Contract

At the end of the primary period of hire, the lessee will have paid for the anticipated depreciation of the vehicle and all the interest charged.

The vehicle is returned to the lessor and the lessee is not responsible for the sale of the vehicle.

If the vehicle has exceeded the agreed mileage then a pence per mile charge plus VAT will apply to each mile over the contracted amount.

If the vehicle has not been maintained or serviced according to the manufacturers recommendations, or if the condition is worse than `fair wear and tear`, the lessor will charge the lessee to compensate for the poor condition in accordance with the terms and conditions of the agreement.

Early Settlement

A contract hire agreement can be settled at any point during the agreement. However, penalties for doing so are often high and will be detailed by the lessor in the agreement.

Extensions

The lessor may allow the lessee to extend the length of the contract past the Primary Period of Hire, if requested by the lessee. There may be a change in the rental amounts for this additional period.

Summary

This topic covered Contract Hire.

- It is a tri-partite transaction involving a supplier (dealer), lessor (lender) and lessee (customer).
- Contract Hire is a method of funding the use of a vehicle for a set period of time but not the ownership of it.
- The rentals cover the depreciation of the vehicle and interest costs only during the primary period of the lease.
- The interest is calculated on the ex-VAT price of the vehicle.
- The rentals attract VAT at the current rate.
- Contract Hire agreements can be both regulated and unregulated depending on the nature of the customer and the total amount of rental payments.
- Contract Hire is applicable to private and business customers. However, as the rentals attract VAT, Contract Hire has the greatest benefit for VAT registered companies.

Personal Contract Hire

In recent years there has been a growth in the popularity of Personal Contract Hire (PCH) – aimed at private customers (non-corporate and non-VAT registered).

The agreement allows anyone to experience the benefits of driving a new vehicle on a regular change-cycle basis without the often large depreciation costs associated with owning new vehicles outright.

As a lessor (leasing company) is able to reclaim the input VAT on the purchase of the vehicle (whether a car or commercial vehicle), it means that the interest is added to the ex-VAT price of the vehicle and results in lower payments than traditional finance agreements such as Hire Purchase.

It must be noted, however, that all personal contract hire rentals attract VAT and that the majority of lessees, especially private individuals, will not be able to recover this as they will not be VAT-registered.

The structure, and features associated with PCH are the same contract hire for business customers.

6. Conditional Sale

This topic deals with Conditional Sale.

Conditional Sale versus Hire Purchase

Structure

CommonProfiles

Ending the Agreements

Summary

Q.

What is the main difference between a Conditional Sale and a Hire Purchase Agreement?

A.

The customer is obliged to buy the vehicle at the end of the agreement

The key difference between Hire Purchase and Conditional Sale is that the customer is obliged to buy the vehicle outright at the end of the agreement. There is no Option to Purchase Fee to be paid, as there is with Hire Purchase.

Structure

ConditionalSale is a purchase agreementbetween the financecompany and the customer, where the customer agreesto buy the vehicle

Conditional Sale agreements are very similar to Hire Purchase, but they are different products. The key difference is that in entering a Conditional Sale agreement the customer commits to becoming the legal owner of the vehicle, once all repayments have been made to the lender. Under Hire Purchase, the customer has a genuine choice on whether to take legal title at the end. Balloon payments are also used under Conditional Sale agreements.

Conditional Sale is a form of tri-partite transaction usually available to both private and business customers.

Conditional sale agreements can be regulated, exempt or unregulated. This all depends on the type of customer, the amount borrowed and the purpose of the lending.

Supplier (Dealer)

The product is usually offered at the Point of Sale (motor dealerships) by the Sales Executive or Business Manager.

Debtor (Customer)

Customers acquire title (legal ownership of the vehicle) when certain conditions have been met. These are normally:

- All the payments have been made
- The vehicle is kept insured and in good condition.

Creditor (Lender)

The finance provided is secured against the vehicle. It is a secured finance agreement.

Common Profiles

Conditional Sale normally involves a fixed interest rate and fixed period of repayments, similar to a Hire Purchase contract.

The customer agrees to make regular payments to the finance company and should keep the vehicle fully insured and in roadworthy condition.

There are no mileage restrictions for customers. However, lenders may impose certain restrictions on the use and location of the vehicle. For example, the customer may be prohibited from taking the vehicle outside the EU.

Deposit

A deposit is normally optional, but the lender may set either a minimum or maximum amount. It can be paid with cash or by using any part- exchange equity from an old vehicle.

Where the lender has not specified a minimum amount, the customer can decide how much of an initial deposit to put down.

Fees

The lender may charge an arrangement fee that can be paid at the start of the agreement or included as part of regular repayments for the term of the agreement.

Regular monthly payments including interest

Customers pay off the amount borrowed (the balance) plus interest in monthly instalments over an agreed period of time (usually up to 5 years).

At the end of the agreement and when all payments have been made, title to the vehicle automatically passes to the customer.

Balloon payment

It is possible to include a balloon payment (lump-sum) in the agreement, which the customer would be required to pay at the end of the term. However, this is uncommon.

Ending the Agreement

The agreement can be settled at any time by the customer by paying the total balance outstanding to the lender.

The lender may allow the customer a rebate of the unused interest – and if the agreement is regulated, the legislation provides for the minimum amount of rebate which should be paid. It may also allow the customer to voluntarily terminate the agreement before the final payment falls due and hand the vehicle back.

At the end of a Conditional Sale agreement, once all repayments have been made, title to the vehicle passes to the customer

Summary

This topic covered Conditional Sale.

- Simple product, with a straightforward structure and payment profile.
- Flexible deposits and periods to meet a customer's budget.
- Title to the vehicle remains with the finance company until all the payments are made.
- Unlike Hire Purchase, there is no Option to Purchase Fee to pay.
- Conditional Sale agreements can be regulated, exempt or unregulated depending on the nature of the customer and the amount of credit.

7. Credit Sale

This topic deals with Credit Sale.

Credit Sale

Structure

Common Profiles

Ending the Agreements

Summary

Q.

Which situation do you think credit sale is idealy suited for?

A.

Low value items, where recovery would be impractical

It is ideally suited for the purchase of goods where security in the goods is not required or is not practical for the lender, for example, in relation to goods with little or no second-hand value or where vehicles are to be taken abroad (and recovery of the asset would be impractical) or where legal title is required immediately by the customer.

Credit sale is therefore an unsecured finance agreement.

Structure

A Credit Sale is a contract between the finance company and the customer where the customer agrees to buy specific goods – such as a vehicle from a dealer- and repay to the lender the amount of money borrowed to buy those goods.

Credit Sale are another form of `tri-partite` transaction usually available to both private and business customers.

Credit Sale agreements can be regulated, exempt or unregulated. This all depends on the type of customer and the amount borrowed.

Supplier (Dealer)

The facility is usually offered at the Point of Sale. The dealer supplies the vehicle to the customer, but it is financed by the creditor/lender.

Debtor (Customer)

With Credit Sale, there is no deferment of title to the goods. The buyer of the vehicle immediately becomes the owner. Under a Hire Purchase or Conditional Sale agreement the customer does not obtain title to the vehicle until the terms of agreement have been fulfilled - repayment of all of the outstanding credit and any fees due.

The structure of a Credit Sale agreement will be similar to Hire Purchase (without an Option to Purchase Fee) or Conditional Sale.

Creditor (Lender)

The finance company is providing the finance to the customer in order to make a specific purchase.

Credit Sale: Common Profiles

Credit Sale is normally a fixed cost, fixed term loan.

Deposit

Payment of a deposit or advance rentals is normally optional (or a minimum/maximum amount is set by the lender) and can be made with cash or using any part-exchange equity.

Fees

There may be an arrangement fee charged by the lender that can be paid at the start of the agreement or included as part of regular repayments for the term of the agreement.

The fee amount is set by the individual lender.

Regular monthly payments including interest

The customer agrees to make regular payments to the finance company and should keep the vehicle fully insured and in good condition.

The vehicle immediately becomes the property of the customer and cannot be repossessed if payments fall behind.

There are also no termination rights on Credit Sale or restrictions on mileage or use of the vehicle, as the title is immediately transferred to the customer.

Balloon payment

It is possible to include in the agreement a balloon payment that the customer is liable to pay at the end of the term, but this is not common.

Ending the Agreement

The agreement can be settled at any time by the customer by paying the balance outstanding to the lender.

The lender may allow the customer a rebate of the unused interest, however if it is a regulated agreement, the minimum amount of rebate is laid down by law.

The customer will already have title to the vehicle under a Credit Sale agreement.

Summary

This topic covered Credit Sale.

- A Credit Sale agreement is a `purchase`agreement where title to the goods passes immediately to the customer.
- It has a structure similar to HP or Conditional Sale in that it has flexible deposits and periods to meet a customer's budget.
- However, a Credit Sale is an unsecured finance agreement which is not directly linked/secured to a vehicle.
- Under a Credit Sale, there are no restrictions on mileage or usage of the vehicle, since the customer is the legal owner.
- Credit Sale agreements can be regulated, exempt or unregulated depending on the nature of the customer and the amount of credit.

8. Lease Purchase

This topic deals with Lease Purchase.

Lease Purchase

Structure

Common Profiles

Ending the Agreements

Summary

Q.

What factor means that lease purchase is a type of purchase agreement?

A.

The customer can buy the vehicle outright and take legal title.

It is because lease purchase offers the opportunity for the customer to purchase the vehicle that makes it a form of purchase agreement.

Structure

The term `Lease Purchase` was introduced into to describe a Hire Purchase or Conditional Sale contract, but with a payment structure that is similar to a lease, where instead of a deposit being paid, a customer may be required to make `advance payments`.

This means regular repayments are made 'up front' by the customer.

Lease Purchase agreements are purchase agreements that can be regulated, exempt or unregulated. This all depends on the type of customer, the amount borrowed and the purpose of the lending.

Supplier (Dealer)

The facility is usually offered at the Point of Sale (showroom) by a Sales Executive or Business Manager. The dealer also supplies the vehicle purchased to the customer.

Debtor (Customer)

The customer will automatically become the legal owner of the vehicle once all payments have been made to the lender.

The benefit of a Lease Purchase agreement is that a customer can enjoy the payment profile of a lease (ie advance and balloon payments) while still having ownership (title) of the vehicle) at the end of the agreement. (see Finance Structures Module).

As this type of agreement is a purchase plan the payments do not attract VAT.

Creditor (Lender)

The customer agrees to make regular payments to the finance company and must keep the vehicle fully insured and in roadworthy condition.

Lease Purchase: Common Profiles

There are no mileage restrictions.

However, lenders may impose certain restrictions on the use and location of the vehicle. For example, the vehicle cannot be used for business purposes if bought by a private consumer or taken outside the European Union.

Deposit

A deposit and/or advance payments are normally optional (or the minimum/maximum amount is set by the lender) and can be paid in cash or by using any equity from a vehicle that has been part-exchanged.

Fees

There may be an arrangement fee charged by the lender that can be paid at the start of the agreement or included as part of regular repayments for the term of the agreement. The fee amount is set by the individual lender (plus an Option to Purchase fee at the end of the agreement if it is based on a Hire Purchase contract).

Regular monthly payments including interest

The customer pays off the amount borrowed plus interest in monthly instalments over an agreed period of time (usually up to five years).

At the end of this period (and once the Option to Purchase fee has been paid if the Lease Purchase plan is based on a Hire Purchase contract), title to the vehicle passes to the customer.

Balloon payment

A balloon payment at the end of a Lease Purchase may also be included. If a Lease Purchase contract is based on a Conditional Sale agreement then there is no Option to Purchase Fee to be paid.

Ending the Agreement

An agreement can be settled at any time by the customer by paying the finance outstanding (and the Option to Purchase fee, if required) to the lender.

If the agreement is regulated, the lender may allow the customer a rebate of the interest that has been avoided by paying early.

At the end of a contract, once all the contracted payments have been made (plus the Option to Purchase fee) the customer has legal title to the vehicle and becomes its legal owner.

Summary

This topic covered Lease Purchase.

- A Lease Purchase is similar to a Hire Purchase or Conditional Sale agreement except that payments are structured like a lease agreement where the customer makes a number of payments in advance rather than a deposit.
- A balloon payment can also be incorporated into an agreement, which represents the future residual value of the vehicle.
- As it is a purchase plan, the payments do not attract VAT and the customer can take title/ownership of the vehicle at the end of the agreement.
- Lease Purchase agreements can be regulated, exempt or unregulated depending on the type of customer and the amout of credit.

9. Finance Lease

This topic deals with Finance Lease.

Structure

Finance Lease versus Contract Hire

Common Profiles

Ending the Agreements

Summary

Q.

What best describes a Finance Lease?

A.

Customer 'rents' vehicle and either sells it on behalf of the lessor at the end of the agreement or enters into a secondary period of hire.

It is a traditional lease arrangement where the customer 'rents' the vehicle for an agreed term.

Structure

A Finance Lease is a form of flexible leasing to fund the use, but not the ownership, of a vehicle and is ideally suited to VAT-registered businesses.

The leasing company (lessor) hires the vehicle to the customer (lessee) for an agreed period of time (the primary period of hire) for an agreed monthly sum.

Finance Lease agreements can be regulated or unregulated. This all depends on the type of customer and the total amount of the rentals.

Finance Lease is a tri-partite transaction (see Finance Structures module).

Supplier (Dealer)

Finance Leases are also available at the Point of Sale within a dealership and are offered by the Sales Executive or Business Manager. The dealer will supply the vehicle to the customer.

Lessee (Customer)

The Lessee agrees to make regular rentals to the Lessor and must keep the vehicle fully insured and in roadworthy condition

Lessor (Lease Company)

The facility is typically offered directly by leasing companies or via brokers.

The dealer sells the vehicle to the leasing company who become the owner. The owner/leasing company hires the vehicle to the customer (lessee) for an agreed period of time (the primary period of hire) for an agreed monthly sum.

Finance Lease versus Contract Hire

A Finance Lease transfers the majority of the "risks and rewards" of ownership to the lessee/customer.

There are two main differences between a Finance Lease and Contract Hire (also known as an Operating Lease) agreement:

A Finance Lease can be structured with or without a balloon payment. However, a Contract Hire agreement always takes into account a residual value set by the leasing company, but this residual value is not visible to the customer nor is it their responsibility.

A Finance Lease often requires, or provides an option for. the customer to sell the car as an agent of the leasing company (lessor) at the end of the agreement. Under a Contract Hire agreement the customer will always hand back the vehicle to the lessor.

Finance Lease: Common Profiles

Rentals in a Finance Lease are based on interest being added to the price of the vehicle excluding VAT, and the balance (less any balloon payment) is paid over a fixed period.

All the rentals attract VAT.

The usual length of agreements (the primary period of hire) is between two and five years on vehicles.

Advance Rentals

Deposits are not taken under a Finance Lease. However, advance rentals are usually paid at the start of the agreement with the exact amounts agreed by the lessor and lessee.

The minimum and maximum advance rentals are determined by the individual lender (lessor). However, three advance rentals is a common amount.

Fees

Lessors may charge administration fees for arranging the agreement, but fees are less common than in purchase agreements such as Hire Purchase.

Regular Rentals

The rentals during the remainder of the primary period of hire will be either `spread` over the term or there will be a `terminal pause` (see Finance Structures module). Service and maintenance packages can be incorporated into the cost of rentals paid by the customer. Although such packages will increase the cost of rentals, they provide the customer with fixed-cost motoring and will cover the customer in the event of problems developing with the vehicle that need to be repaired.

There are no mileage restrictions. However, lenders may impose certain restrictions on the use and location of the vehicle. For example, the vehicle may not be able to be used for certain business purposes or taken outside the European Union.

Balloon payment

A balloon payment at the end of a Finance Lease may also be included. If a Finance Lease contract is based on a Conditional Sale agreement then there is no Option to Purchase Fee to be paid.

Ending the Agreement

A Finance Lease can be settled at any point during the term (although sometimes only after the first 12 months).

However, penalties for doing so can often be high: details will be set out in the terms and conditions of the agreement.

At the end of the primary period of the agreement, the customer must have fully paid all the rentals, including any balloon. The customer then has three options:

Return vehicle

Return the vehicle to the Lessor; who will sell it and refund any surplus sale proceeds to the customer as a rebate of rentals (this figure is usually around 95% of the surplus sale proceeds with some of the surplus being retained by the Lessor to cover administration costs). If the value of the vehicle is in negative equity (only likely to happen if there is a balloon) then the Lessee is liable for any shortfall.

Lessee arranges sale as an agent

The Lessee can act as an agent of the Lessor and arrange for the sale of the vehicle to an `independent third party`. The Lessor receives the full sale proceeds and refunds the Lessee a fixed percentage (as above) of any surplus that is generated as a rebate of rentals.

Continue to use

The Lessee can continue to use the vehicle for as long as they want on payment of an annual secondary period rental (commonly known as a peppercorn rental). This is normally the equivalent of one monthly rental. This option is not normally available where there is a balloon rental payable.

Summary

This topic covered Finance Leases.

- A Finance Lease is a tri-partite transaction with the rentals covering the full cost of the vehicle during the primary period of the lease.
- The rentals cover the capital cost of the vehicle excluding VAT, plus the interest that is charged by the lessor. Finance Lease payments attract VAT. The vehicle associated with the agreement appears on the balance sheet of both the lessor and the lessee.
- Finance Lease agreements can be regulated or unregulated depending on the type of customer and the total amount of rentals.

10. Secured Loans

This topic deals with Secured Loans.

Users

Structure

Common Profiles

Ending the Agreement

Summary

Q.

Secured loans are typicaly only used for borrowings over what amount?

A.

£25,000

The minimum limit is usually set at £25,000. However, the exact amount will depend on the specific lender. Lending policy is closely linked to the loan amount requested, the asset(s) that the loan is being secured against, the length of the agreement and the risk posed by the customer applying for the loan. In comparison, an unsecured loan – where the finance is not tied to any asset or property – is typically for borrowings below £25,000.

Structure

A secured loan is a finance agreement that is secured against a tangible asset or land, regardless of what the loan wil be used to purchase.

By using the asset as "security" (collateral) for the loan the lender reduces the risk associated in providing the finance to the customer: if the customer is unable to repay the loan, the lender can take possession of the asset and sell it.

Where all or part of a secured loan is used to purchase a vehicle the customer owns the vehicle from day one – there is no deferment of title.

The secured loan agreement usually takes the form of:

- A mortgage.
- A second mortgage.
- A loan secured against another asset of value.

A secured loan involves the supply of finance by the creditor to the debtor who will make repayments over the duration of the agreement until the full amount is repaid.

Creditor

The facility is usually offered by direct advertising in the press and other media by banks, brokers and direct lending organisations.

Secured Loans are provided by banks, building societies and specialist lenders.

Secured Loans are not normally available via motor dealerships.

Debtor

If the customer fails to maintain payments to the lender in accordance with the terms and conditions of the agreement then the lender may – as a last resort – seek to recover that asset or land to cover its losses. The customer immediately takes title to a vehicle purchased using a Secured Loan as the loan amount can be used for any purpose.

These loans are normally only available to people in full-time employment and property owners that have equity in the property, particularly Second Mortgages.

Secured Loans: Common Profiles

A Secured Loan is normally:

• structured over a longer period of time (5 – 30 years).
• linked to the amount of equity in a customer's house (although not always).

Fees

Lenders usualy charge fees for providing a secured loan and these will be disclosed to the customer before signing any agreement. It is usual for customers to pay a fee at the start of the agreement and a valuation fee to estimate the value of the property. These fees are usually added to the loan or are paid up-front by the customer.

Regular Payments

The customer agrees to make regular payments to the lender until the total amount owed has been repaid over the term of the agreement.

There are no mileage or usage restrictions on the vehicle that has been purchased using the loan as the customer is the legal owner.

Payments are based on a variable rate of interest (some lenders will structure a loan that has initial periods at a fixed rate). The rate of interest may well be linked to the Bank of England Base Rate.

The minimum and maximum payments to be made by the customer are set by the individual lender and are usually determined based on the equity in the customer's property and the customer's ability to make repayments.

Ending the Agreement

A secured loan agreement can be settled at any time by the customer paying the outstanding balance to the lender. How this is dealt with by the lender (for example, if there are any charges or any rebate) will depend on:

a) the nature of the security;

b) the terms of the agreement and;

c) whether the agreement is regulated or not.

The agreement ends when all the contracted payments have been made.

Summary

This topic covered Secured Loans.

- A secured loan can be used for almost any purpose.
- The minimum and maximum loan amount is determined by the individual lender.
- It can be settled at any time by the customer (but there may be charges to do so)
- No deposit is necessary from the customer, but fees may be charged.
- The security for the lender is in the customer's property or assets, not the vehicle that has been bought using the loan.

11. Interest Rates

This topic deals with interest rates.

- What is a Fixed Rate?
- Fixed interest payment structure
- Variable Interest
- Components of a Variable Rate
- Variable Interest Payment Structure

What is a Fixed Rate?

A fixed rate of interest is where the proportion (percentage) of money payable annually in relation to an amount borrowed does not change during the life of the agreement.

It is also referred to as `flat rate` of interest and is the most widely used and understood method of calculating interest.

Annual Interest

A fixed interest rate is normally calculated on an annual basis and does not take into account any reduction in the capital amount that has been borrowed by the customer and that is being repaid every month.

A fixed rate of interest applies to the capital amount borrowed only (unlike the Annual Percentage Rate (APR) which reflects all interest and fees/charges to be paid by the customer).

Fixed Interest Repayments

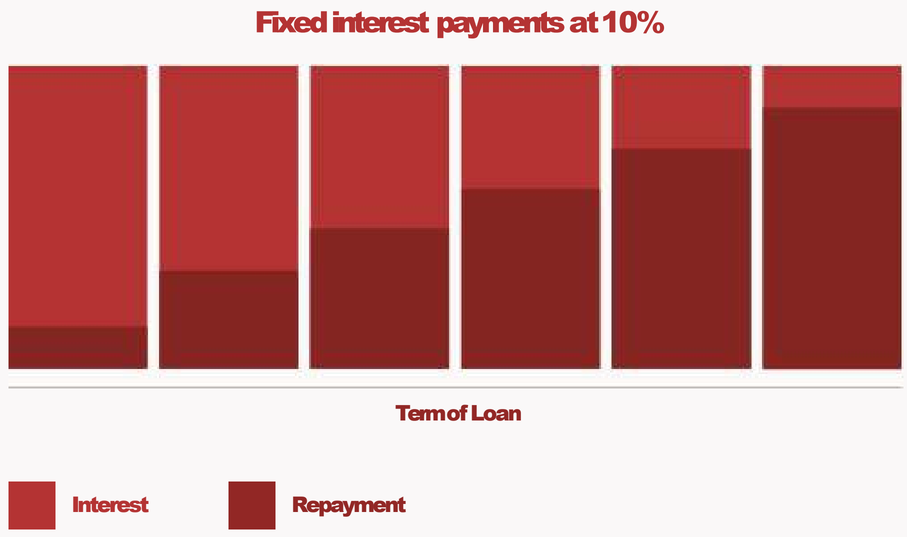
The fixed rate of interest is calculated on the total amount borrowed and will not change during the life of the agreement, regardless of changes in the Bank of England base rate.

Regular payments that the customer makes to the finance company will remain the same throughout the term of the agreement. There will be no payment fluctuations for the customer, which helps planning.

Fixed interest payment structure

With a fixed rate of interest, customer payments are comprised of both capital repayment and the interest.

Although the customer payment remains the same for the term of the loan, the actual amount of capital repaid in each payment will progressively get larger and the interest element will get smaller as the agreement reaches the end of its term.



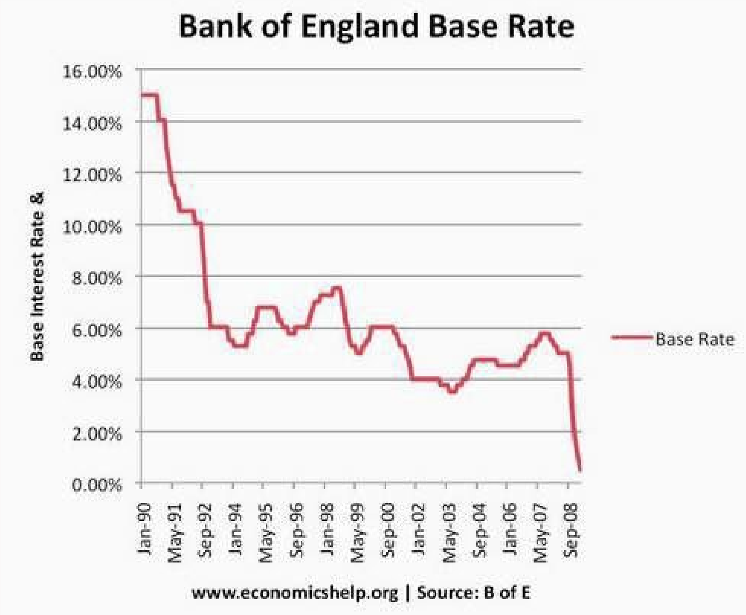
Variable Interest

A variable rate of interest, unlike `fixed rate`, may change during the life of an agreement in line with current market conditions.

For example, some agreements – particularly mortgages – 'track' the Bank of England base rate which will change over time.

This means the rate could go up – costing the customer more; or go down – costing the customer less. This is a risk that is evaluated by the customer before entering into an agreement.

Most secured motor finance agreements charge a fixed rate of interest. Variable rate agreements are less common when interest rates are low or increasing.



Components of a Variable Rate

The actual rate of interest charged is a commercial decision, but in the case of a variable rate there are two component parts to the rate – the underlying cost of finance and the margin the lender adds to cover its costs and make a profit

Cost of finance

Lenders often need to borrow significant funds from the marketplace to give them the capital with which to lend to their customers. The cost of finance borrowed is often linked to a benchmark interest rate that indicates borrowing costs between banks. Benchmark rates fluctuate depending on market conditions and are calculated and published daily.

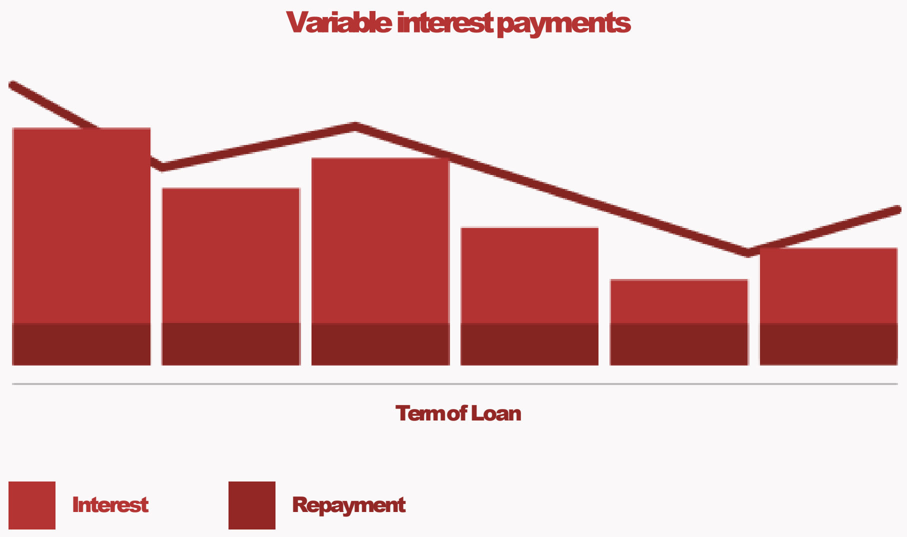
Margin

Lenders will also include a margin (a fixed amount) to cover all the known costs to them, such as overheads and wages, which is added to the profit and commission margin. For example, finance costs (6%) + margin (4.5%) = Total Annual Interest (10.5%).

Variable Interest Payment Structure

The amount of capital being repaid with each payment will be the same amount with each repayment.

However, the amount of interest charged within each repayment will fluctuate to reflect the reducing balance of capital outstanding and the prevailing interest rates.



Summary

This topic covered Interest Rates.

Fixed Rates:

- Fixed interest rates apply to the total amount borrowed and do not change during the term of the loan.
- The proportion of repayments made up of capital repayment increases toward loan maturity.

Variable Rates:

- Variable rates of interest change with market conditions.
- Usually, customer repayments will go up or down during the term of the loan as interest rates vary.
- The actual rate charged depends on the lender's costs and the margin they add.
- The amount of capital repaid is the same in each repayment, but the interest fluctuates.

1 Changes to Consumer credit regulation

This module covers the change in responsibility for the regulation of consumer credit in the UK.

In this module you will learn about the following areas:

The roe of the Financial Conduct Authority.

The aims of the consumer credit regulatory regime.

Who is and is not covered by the legislation.

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FCA review of motor finance

The Consumer Credit Act

The Consumer Credit Act (CCA) was initialy introduced in 1974 to protect consumers and some smal businesses which used credit to buy goods and services in the UK.

Numerous provisions were made under the CCA, which was reviewed and amended in 2006, and further provisions were brought into force in the UK in 2010 as a result of the European Consumer Credit Directive (which had been adopted in Europe in 2008).

Until 1 April 2014, the Office of Fair Trading (OFT) was responsible for overseeing the CCA. It issued licenses to firms, such as credit providers and motor dealers, who engaged in regulated consumer credit activities and ensured compliance with the Act's provisions to help protect consumer credit customers. Enforcement work at local level was carried by Trading Standards Offices.

With effect from 1 April 2014, the Financial Conduct Authority (FCA), assumed responsibility for regulating consumer credit (see 'The Financial Conduct Authority (FCA)' module). The specific rules for firms carrying our consumer credit activities are set out in the FCA's Consumer Credit Sourcebook (referred to as 'CONC'). CONC is available **here**.

Aims and protections of the consumer credit regime

The legislation and CONC sourcebook require specified credit and hire agreements to be sold in a certain way.

Specific information must also be provided to customers before, during and after an agreement is signed.

Consumer finance agreements are either:

Regulated

In which case the customer enjoys the full protection of the legislation; or

Unregulated

In which case the customer does not have any protection under the legislation.

Customers who are protected

Customers who are protected are:

Private individuals

Private individuals (unless the loan is for more than £60,260, in which case the customer can, if eligible, opt to use the High Net Worth Exemption).

Sole traders and partnerships

Sole traders and partnerships of up to three partners (provided the loan is for personal use and does not exceed £25,000).

Legislation

The legislation does not apply to:

- Limited companies.
- Local authorities.
- Charities.
- Partnerships of four or more partners.

These entities are therefore not protected under CONC.

Where legislation does not apply

The legislation does not apply to the following forms of lending:

First charge mortgages

Which are regulated by the FCA under its MCOB (Mortgages and Home Finance - Conduct of Business) rules.

The sale of General Insurance

Which is regulated by the FCA under its ICOBS (Insurance Conduct of Business) rules.

Lending to "high net worth individuals"

Lending to "high net worth individuals" (those with a net income of £150,000 or net assets of £500,000) who can opt whether or not to have the protection of the legislation in relation to loans which exceed £60,260.

FCA review of motor finance

In 2017 the In 2017 the FCA announced an exploratory review of the motor finance sector. It wanted to understand the use of motor finance products, and assess the sales process employed by firms and whether the products could cause consumer harm.

The review focused on four key areas:

Customer information – The FCA undertook 122 mystery shops of dealerships and brokers to see if the information provided to consumers was sufficiently clear and transparent. The FCA were testing to see if customers were presented with the risks and features associated with finance products.

Commission arrangements – The FCA analysed commission agreements and data provided by lenders. It wanted to see if commission provided by lenders to dealers incentivised behaviours that led to consumer harm. For example: higher APRs and the sale of products that did not meet the customer's needs.

Responsible lending – The FCA undertook a survey of lenders and analysed data from the Credit Reference Agencies. It assessed the extent to which lenders were checking that customers could afford the motor finance being offered and were creditworthy enough to meet the monthly payments.

Unfair business practices – The mystery shops were also used to establish if dealerships were using any unfair business practices to sell motor finance to customers.

Final findings

In March 2019, the FCA issued its final report, which can be viewed here. The key findings were as follows:

Customer information – the mystery shopping results raised a number of concerns about the pre-contractual information (PCI) and explanations provided to consumers and when and how commission is disclosed.

Commission – the FCA found that commission arrangements that provided control to dealers and brokers to set interest rates led to increased costs for consumers.

Responsible lending – some issues were found with the way in which lenders assessed affordability and creditworthiness. Firms were asked to revisit their lending criteria to ensure it complied with the FCA's new responsible lending rules.

Unfair business practices – the FCA's review did not highlight any widespread evidence of other poor practices.

New rules on commission and commission disclosure

The FCA consulted on new rules to prohibit commission arrangements that enable dealers and brokers to change interest rates on credit products. The new rules came into effect in January 2021, these are explained in module 9 Financial Incentives.

2 The Financial Conduct Authority (FCA)

This module explains the role of the Financial Conduct Authority (FCA) – the regulatory authority for consumer credit in the UK.

In this module you will learn about the following areas:

- The FCA's operational objectives.
- The FCA's regulatory toolkit.
- How the FCA supervises consumer credit firms.
- Which FCA provisions apply to motor finance.

Responsibility for regulating consumer credit

With effect from 1 April 2014, responsibility for regulating consumer credit in the UK passed to the Financial Conduct Authority (FCA).

The FCA supervises the conduct of over 50,000 firms, and regulates the prudential standards of those firms which are not regulated by the Prudential Regulation Authority (PRA). The PRA regulates around 1,700 of the largest financial firms including banks, building societies and major investment firms.

The FCA has an over-arching strategic objective to ensure that the financial markets it regulates function well.

To support this, the FCA has three statutory objectives:

- to secure an appropriate degree of protection for consumers;
- to protect and enhance the integrity of the UK financial system; and
- to promote effective competition in the interests of consumers.

The FCA's "regulatory toolkit"

The FCA uses a range of tools to carry out its responsibilities and meet its objectives.

The FCA is a principles-based regulator and it expects regulated firms not only to follow its prescribed Rules, but also to follow the 'spirit' of what the FCA is seeking to achieve. For example, it expects regulated firms to treat their customers fairly in all that they do.

Underpinning the FCA's principles-based approach, are the FCA's Principles for Businesses **here** (referred to as 'PRIN') which set out the fundamental obligations for firms under the regulatory regime. The 11 over-arching Principles have the force of Rules and firms are required to demonstrate compliance with them.

The FCA has now introduced an important new principle, which is the Consumer Duty (Principle 12). This sets a new and higher standard for firms providing financial services (see the next slide - 'Consumer Duty').

Conduct risk is a key theme of the FCA's regulatory regime, where it will use intelligence gathered from its supervisory work to identify potential or actual consumer harm caused by the actions of firms or markets and take action to address that conduct (see below). A key Principle for firms related to conduct risk is:

Principle 3 - "a firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems".

Broadly, this obligation extends to a firm's:

- Robust governance arrangements
- Skills, knowledge and expertise of staff
- Outsourcing responsibilities
- Record-keeping
- Any conflicts of interest

Consumer Duty

The FCA's Consumer Duty sets clearer and higher expectations for firms' standards of care towards consumers. The FCA aims to ensure firms consistently focus on consumer outcomes, and put customers in a position where they can act and make decisions based on their own needs and interests.

The Consumer Duty requires firms to:

- Put themselves in the customer's shoes and ask 'would I recommend my firm's products and services to my friends and family?'
- act to enable rather than hinder these outcomes
- assess the effectiveness of their actions

Why introduce a new Consumer Duty?

The FCA has seen, across various markets, that consumers don't always get the products and services that meet their needs, or outcomes they might reasonably expect. The FCA highlights these key factors:

- **Weaker bargaining position** – such as where the customer is in a market or environment where they are unable to negotiate – particularly in less competitive markets.
- **Asymmetries of information –** where the customer has less information about products and services than the sales person and this is used to exploit the customer.
- **Behavioural biases and 'sludge practices'–** where a customer's behaviour is taken advantage of, particularly if they are vulnerable. Sludge practices are those that hinder consumers from making decisions that are in their interests, for example, where information is deliberately withheld about their rights under a finance agreement.

The new Consumer Duty and FCA rules

The Consumer Duty is structured around three key elements:

- **Consumer Principle** – a firm must act to deliver ***good outcomes for retail customers***. More information on the principles-based regulation is provided in the next Chapter [link here for online version and online slides]

- **Cross-cutting Rules –** Firms must:
    1. act in ***good faith*** toward retail customers
    2. avoid ***foreseeable harm*** to retail customers
    3. enable and support retail customers to pursue their ***financial objectives***

- **Four outcomes:**
    1. **Products and services** – that are specifically designed to meet the needs of consumers and sold to those whose needs they meet.
    2. **Price and value** – the price of products and services represents fair value for consumers.
    3. **Consumer understanding –** communications should support and enable consumers to make informed decisions.
    4. **Consumer support** – that meets the needs of consumers throughout their relationship with the firm.

Consumer Duty example – armed forces customers

Armed forces personnel and their families seek, and are eligible for, motor finance in much the same way as the rest of the UK population. However, unlike much of the rest of the population, armed forces personnel can be redeployed mandatorily, including overseas, on a regular basis, and the destination of the redeployment is not often known significantly in advance. Unless this is taken into account in how motor finance agreements are sold and operated, this can have costly consequences for both armed forces personnel and motor finance providers, for example if an agreement has to be terminated early.

The Consumer Duty shows how such customers should be served. The overall duty is to act to deliver good outcomes for armed forces customers. And the cross-cutting rules require dealers, brokers and lenders to act in good faith, avoid foreseeable harm and enable and support armed forces customers to pursue their financial objectives. Armed forces customers' financial objectives would include not just accessing affordable finance for their car. They also include avoiding a large bill if they get posted abroad before their finance agreement has ended and knowing whether their agreement allows them to take their car abroad with them.

If a customer says that they are from an armed forces family, dealers and brokers should therefore:

- discuss with the customer what the consequences might be if they get deployed overseas and thus what the best finance options for them might be (taking into account the term of the agreement and the likely costs of terminating it early);
- pass on to lenders the information that they are armed forces personnel and what they have been told about the likelihood and timing of an overseas deployment;
- take into account the timing and likelihood of an overseas deployment when considering both finance product suitability and agreement length, and
- ensure that the features and requirements of the proposed motor finance agreement are clearly explained to armed forces personnel, including the options and impacts if they are deployed overseas.

Lenders should:

- take into account, in their underwriting and collections policies, the specific circumstances that apply to armed forces personnel, including in particular the possibility of an overseas deployment;
- when armed forces personnel are deployed overseas, permit the vehicle to be taken overseas for the remaining duration of a finance agreement. The industry standard is to allow this, subject to evidence being provided of the deployment, the vehicle being comprehensively insured while overseas, and to consider whether any mileage limit should be adjusted;
- when armed forces personnel are deployed overseas before the end of a motor finance agreement, and where they do not wish to or are unable to take the vehicle with them, use best endeavours to find a solution that that is affordable and acceptable to the customer.

Another key principle of the FCA regime

Another key principle of the FCA regime - and one that all regulated firms must follow in all their consumer credit activities where the Consumer Duty does not apply (for example when dealing with business customers) - is Principle 6 "a firm must pay due regard to the interests of its customers and treat them fairly".

This is commonly referred to as Treating Customers Fairly or 'TCF'. The FCA expects firms to put the well-being of their customers at the very heart of how they run their business. A firm's approach to TCF helps inform the FCA's view of their potential conduct risk.

The FCA has published six 'consumer outcomes' **here** to help explain how firms can demonstrate compliance with TCF, along with examples of good and poor practice.

The six outcomes are outlined on the next page.

The six outcomes:

Outcome 1

Consumers can be confident that they are dealing with firms where the fair treatment of customers is central to the corporate culture.

Outcome 2

Products and services marketed and sold in the retail market are designed to meet the needs of identified consumer groups and are targeted accordingly.

Outcome 3

Consumers are provided with clear information and are kept appropriately informed before, during and after the point of sale.

Outcome 4

Where consumers receive advice, the advice is suitable and takes account of their circumstances.

Outcome 5

Consumers are provided with products that perform as firms have led them to expect, and the associated service is of an acceptable standard and as they have been led to expect.

Outcome 6

Consumers do not face unreasonable post-sale barriers imposed by firms to change product, switch provider, submit a claim or make a complaint.

Beyond PRIN

In addition to PRIN, firms are also expected to adhere to other high-level principles including:

General Provisions (GEN)

General Provisions (GEN) set out firms' responsibilities regarding such issues as disclosing their regulatory status and the use of the regulators logo.

SYSC

SYSC sets out a firm's responsibilities in relation to the arrangements which must be in place for senior management, systems and controls. For example, firms must ensure that senior management have the necessary expertise to perform the responsibilities allocated to them.

DISP

DISP sets out detailed requirements for firms to handle customer complaints, including working with the Financial Ombudsman Service.

FIT

FIT sets out the minimum standards for becoming and remaining an Approved Person (see the next module for more information on Approved Persons).

TC

TC sets out the commitments and requirements for firms concerning staff competency related to consumer credit activities.

Requirements

The exact requirements that need to be met by an individual firm will depend on their specific consumer credit activities and their FCA authorisation status.

See the ‘FCA permission and authorisation’ module for more information. Beyond the principles of the FCA regime, CONC sets out the specific Rules and Guidance which the FCA expects firms carrying out consumer credit activities to follow.

The distinction between Rules and Guidance in CONC is important for firms as the FCA will fully enforce its Rules, while firms have some discretion to interpret Guidance provided it is in accordance with the FCA’s Principles and the spirit of the regulatory regime.

In addition, the FCA conduct Market Studies and Thematic Reviews which examine in detail particular products or markets as a whole. For example, in 2013/14 the FCA conducted a Market Study on General Insurance Add-On products. This included reviewing how GAP (Guaranteed Asset Protection) insurance was sold to consumers in motor dealerships. The outcome of the Review were new rules introduced for the sale of GAP insurance which we cover under module 5.

Status disclosures

The FCA rules require firms to disclose their FCA regulatory status in a durable medium (e.g. in writing). This disclosure should be on all customer facing documentation (i.e. letter, e-mail, marketing flyers, websites, etc.).

A simple example of how this would look is shown below:

[Firm] is directly authorised by the Financial Conduct Authority (FCA) for consumer credit activities. Our Firm Reference Number (FRN) is [123456].

The full rules can be found within the FCA’s GEN sourcebook.

Firms are also required to ensure they meet their obligations in regard to the Senior Managers and Certification Regime (SM&CR) especially in relation to its code of conduct and acting in the best interests of customers. See Senior Managers and Certification Regime below.

How the FCA supervises firms and enforces the consumer credit regime

The FCA supervises and enforces its regulatory regime by providing a 'credible deterrence' to firms. The FCA achieves this credible deterrence by:

1. bringing more enforcement cases and pressing for tough penalties for infringements of rules to reset conduct standards;
2. pursuing more cases against individuals and holding members of senior management accountable for their actions;
3. pursuing criminal prosecutions, including for insider dealing and market manipulation;
4. taking action to tackle unauthorised businesses and
5. continuing to prioritise getting compensation for consumers.

The FCA will focusses its resource on firms, products or markets which carry the greatest potential consumer harm and where its intervention could most benefit consumers.

The FCA's day-to-day supervision of regulated firms

The FCA's day-to-day supervision of regulated firms is based on three key 'pillars':

Pillar one

Pillar one is all about the proactive supervision of firms. The FCA will directly supervise firms through the use of intelligence and visits to identify and then mitigate the key drivers of conduct risk within firms.
It will focus on firms whose activities are causing poor outcomes for consumers, for example, by failing to properly disclose information related to products or interest rates to consumers, or any other behaviours that could impact the integrity of the market and consumer protection.

Pillar two

Pillar two is reactive supervision. The FCA will rapidly deal with events that could result, or are already resulting, in poor outcomes for consumers or, detriment to market integrity.

Pillar three

Pillar three is basically forward-looking - carrying out in-depth thematic reviews of issues or products in a sector where there could be increased risks to consumers.

Classification of regulated firms

The FCA will put all regulated firms into one of four "conduct categories" – C1, C2, C3 or C4. These broadly reflect a firm's size and customer numbers, and the corresponding level of risk to consumers.

Firms in category C1 (typically, banks) will receive the most intensive level of attention from the FCA, firms in C4 the least. Firms in categories C1 and C2 have a named supervisor at the FCA; firms in categories C3 and C4 are supervised by flexible teams.

The vast majority of consumer credit firms – including motor finance providers, credit brokers and motor dealers – are likely to be in categories C3 or C4. The FCA will inform a firm which category they will be in when they apply for authorisation.

Enforcement action

The FCA can reprimand and fine firms for failure to meet its regulatory standards and requirements.

It can remove permissions to undertake certain activities and require firms to take specified action. The ultimate sanction is to remove a firm's permissions entirely, meaning it cannot remain in the business of conducting regulated activities (but a motor dealer could, for example, still sell a car but not introduce customers to a finance provider).

3 FCA permission and authorisation

This module explains the requirements for firms wishing to become directly authorised by the FCA.

In this module you will learn about the following areas:

- **The process for firms to apply for FCA authorisation, and the difference between a Limited or Ful Permission.**
- **Appointed Representatives.**
- **The FCA's threshold conditions for firms wishing to become authorised.**
- **FCA reporting requirements**
- **Senior Managers & Certification Regime and Controled Functions**

What is authorisation?

FCA 'authorisation' is the formal process of becoming directly regulated by the FCA.

If firms they want to conduct any regulated activities they will need an authorisation from the FCA. There are two types of authorisation (see information on Full and Limited Permissions below).

Appointed Representatives

Firms may not carry out any regulated consumer credit activity unless they are either directly authorised by the FCA or exempt from authorisation.

A firm cannot be both authorised and exempt. It may choose to become the Appointed Representative (AR) of a directly authorised firm, in which case the directly authorised firm – known as the “Principal” – will take full responsibility for the AR’s compliance with the FCA’s rules. The FCA will have no direct relationship with ARs - the Principal firm will act on behalf of the AR.

There is no limit to the number of ARs which a Principal may have: there are some restrictions on how many Principals an AR may have (however, multi-Principals are permitted), but these restrictions relate to the activities which the ARs are carrying out. They do not generally apply to motor finance providers or motor dealers.

A motor dealer may act as an AR for one or more motor finance company Principals – or motor insurance company Principals – and therefore will not need to be directly authorised by the FCA.

Principals are required to have written contracts with their ARs which document the commercial arrangements between them. Before entering into an agreement with an AR, a Principal must:

- carry out sufficient checks to ensure that the firm or individual is financially stable and maintains a satisfactory level of competence;
- approve any individual carrying out a controlled function in the AR firm; and
- notify the FCA of any firm it appoints as an AR.

Once the Principal/AR arrangement is in place, the Principal assumes responsibility for a range of activities carried out by its ARs, including:

- the products they sell and arrange;
- any advice they give to customers; and
- ensuring they deliver the Consumer Duty outcomes in the same way that a directly authorised firm would (see ‘The Financial Conduct Authority (FCA) module).

"Full" or "Limited" Permission?

There are two types of FCA authorisation. A consumer credit firm must choose whether to apply to the FCA for a "Full" or a "Limited" permission.

The type of authorisation that a firm should apply for is determined by the type of activities it carries out. The table below explains which activities fall into each category:

Activities requiring a Limited Permission
Consumer hire (such as tool and car hire)
credit broking (other than by a domestic premises supplier) where the sale of goods or nonfinancial services is the main business, and broking is a secondary activity designed to help finance the purchase of those goods or services (e.g. motor dealerships and high-street retailers that introduce customers to a finance provider)
Credit broking in relation to consumer hire or Hire Purchase agreements
lending where the sale of goods or non-financial services is the main business, and there is no interest or charges and the agreements are not hire-purchase or conditional sale agreements (e.g. certain golf clubs or gyms allowing deferred payment for membership)
Consumer credit lending by local authorities (where lending is within the scope of the Consumer Credit Directive)
Not-for-profit bodies providing debt counselling and/or debt adjusting, including those who also provide credit information services

Activities requiring a Full Permission
Credit broking where introducing customers to lenders or brokers is a main business activity
Credit broking where the sale of goods or services takes place in the customer's home (such a supplier is known as a 'domestic premises supplier')
Debt administration and debt collection
Debt counselling and debt adjusting on a commercial basis
Lending which is not limited permission (such as lending in relation to personal loans, credit cards, over-drafts, pawnbroking, hire-Purchase or conditional sale agreements)
Providing credit information services
Providing credit reference agency services
Operating an electronic system (peer-to-peer lending)

Motor finance providers will require Full Permission from the FCA as consumer credit lending is deemed a higher-risk activity (i.e. there is a greater potential risk of consumer detriment). Firms applying for a Full Permission are required to comply with all of the FCA's consumer credit rules (see 'The Financial Conduct Authority (FCA)' module), have greater FCA reporting requirements, higher annual authorisation fees and more stringent Threshold Conditions and Approved Person requirements.

Motor dealers can apply to the FCA for a Limited Permission for their consumer credit activities, as providing credit is secondary to their primary activity of selling cars. There are less onerous regulatory requirements for firms holding a Limited Permission. However, a motor dealer (or any other type for firm) cannot hold a Limited Permission for consumer credit if it is directly authorised with the FCA for general insurance. A dealer must either apply for a Full Permission for consumer credit (to maintain direct authorisation for general insurance) or the firm must act as an Appointed Representative (AR) for general insurance if it wishes to apply for a Limited Permission.

Meeting the FCA's Threshold Conditions

All firms which apply for authorisation have to meet the FCA's minimum standards to become authorised – known as the "Threshold Conditions". These conditions are that the firm:

- is registered with Companies House and has the appropriate legal status to carry out regulated activities;
- is a "body corporate" constituted under UK law, with its "mind and management" (directors, compliance and audit functions) located in the UK;
- must be capable of being effectively supervised by the FCA: this means that in most cases it should have a UK establishment;
- must demonstrate that it has appropriate resources – including financial, management, staff and systems and controls;
- must demonstrate the competence and ability of management, and that the firm's affairs are conducted in an appropriate manner regarding the interests of consumers and the integrity of the UK financial system; and
- must have a business model which is suitable for its regulated activities and has regard to the FCA's operational objectives.

Once a firm is authorised, it will also have to meet the FCA's requirements on Approved Persons/Controlled Functions, and regulatory reporting.

Senior Managers and Certification Regime (SM&CR)

SM&CR requires lenders, motor dealers and brokers to:

- Encourage a culture for staff of all levels to take responsibility for their actions.

- Make sure firms and staff clearly understand and can demonstrate where responsibility lies with regards to acting in the interests of customers.

SM&CR categories

Firms may fall under one of three categories under the SM&CR:

Limited scope: this will apply to firms who already have exemptions under the Approved Persons Regime. These firms will be exempt from some baseline requirements and will typically have fewer senior management functions.

Core: firms in this tier will have to comply with the FCA baseline requirements.

Enhanced: this will apply to a small number of firms whose size, complexity and potential impact on consumers or markets warrant more attention. These firms will have extra requirements, for example, lenders and investment firms.

Most motor dealers will fall within Core or Limited Scope, however firms should check this on the FCA website here.

The SM&CR won't apply to Appointed Representatives. They will continue to be subject to the Approved Persons regime.

The Senior Managers Regime

The FCA has designated a number of Senior Management Functions (SMF) to cover the individuals deemed by the regulator to pose the greatest potential risk to customers or market integrity. SMFs cover a narrower group of people than the current Approved Person Regime. Firms are required to undertake the following activities:

- **Pre-approval:** Those individuals who hold an SMF position must be approved by the FCA before they are appointed to their new role. This is currently applicable under Approved Person Regime;

- **Regular Assessment of Fitness and Propriety:** Firms need to take responsibility for their staff being fit and proper to perform their role. Assessments must be conducted on an ongoing basis, and at least once a year;

- **Statements of Responsibility:** Every Senior Manager will require a document that states what they are responsible and accountable for;

- **Prescribed Responsibilities:** In addition to the inherent responsibilities of a Senior Manager that relate to their SMF function, the FCA proposes that firms must allocate 'prescribed responsibilities' to their Senior Managers. These will vary depending on the size and complexity of the firm.

The Certification Regime

The Certification Regime applies to specific functions that are not SMF but can have a significant impact on customers, the firm or market integrity. These individuals do not have to be approved like SMF, but firms will need to confirm (certify) they are suitably qualified to carry out their role annually. The FCA have defined a list of Certified Functions which will apply to a much larger group of people than the previous APER regime.

A Senior Manager is personally responsible for this obligation as part of their prescribed responsibilities.

Conduct rules

The conduct rules under SM&CR are principles designed to ensure a high standard of behaviour for all staff, and extend to all individuals in the regulated company, except for ancillary roles, for example, receptionists, cleaners, HR administrators.

There are two tiers of Conduct Rules.

- First tier rules apply to all staff, while tier 2 applies to Senior Managers such as heads of departments and directors only.

It is the responsibility of firms to ensure that their employees fully understand the Conduct Rules and receive specific training on how they comply with them. Any breaches of the Conduct Rules must be formally notified to FCA.

The FCA Principles for Businesses underpin the rules that apply to all regulated firms, regardless of their business area.

First tier rules – Individual Conduct Rules

- You must act with integrity
- You must act with due care, skill and diligence
- You must be open and cooperative with the FCA, the Prudential Regulation Authority (PRA) and other regulators
- You must pay due regards to the interests of customers and treat them fairly
- You must observe proper standards of market conduct

Second tier rules – Senior Manager Conduct Rules

SC1. You must take reasonable steps to ensure that the business of the firm for which you are responsible is controlled effectively.

SC2. You must take reasonable steps to ensure that the business of the firm for which you are responsible complies with the relevant requirements and standards of the regulatory system.

SC3. You must take reasonable steps to ensure that any delegation of your responsibilities is to an appropriate person and that you oversee the discharge of the delegated responsibility effectively.

SC4. You must disclose appropriately any information of which the FCA or PRA would reasonably expect notice.

A Senior Manager is personally responsible for these obligations as part of their prescribed responsibilities

Approved Persons: Controlled Functions and the new Senior Manager Functions

An "Approved Person" is an individual who is directly approved by the FCA to perform one or more activities on behalf of an authorised firm. They are to be approved under the Senior Manager and Certification Regime (SM&CR).

The majority of controlled functions have automatically been converted to Senior Manager Functions (SMF) by the FCA, but it is the firm's responsibility to ensure the individuals hold the correct SMF. See function mapping table below.

Firms with a Limited Permission – for example, motor dealers who are not directly authorised for general insurance – will normally only require one Approved Person.

When considering a candidate for approval under SM&CR, the firm must satisfy itself that a person is Fit and Proper (FIT) before applying for them to be approved as an SMF. The FCA will look at the individual's:

- Honesty
- Integrity and reputation
- Competence and capability
- Financial soundness

Individuals can hold more than one SMF function and be an Approved Person for more than one firm so long as they are satisfied the person is FIT to undertake the role.

Function mapping for Core and Limited Scope firms (including branches)

Previous Controled Function	Corresponding Senior Management Function(s)
CF1 – Director	SMF3 – Executive Director
CF2 – Non-Executive Director	SMF9 – Chair
CF3 – Chief Executive	SMF1 – Chief Executive SMF19 – Head of Third Country Branch
CF4 – Partner	SMF3 – Executive Director SMF27 – Partner
CF5 – Unincorporated Association	SMF3 – Executive Director
CF6 – Small Friendly Society Function	SMF3 – Executive Director
CF8 – Apportionment & oversight	SMF29 – Limited Scope
CF10 – Compliance & Oversight	SMF16 – Compliance Oversight
CF11– Money Laundering Reporting Officer (MLRO)	SMF17 – Money Laundering Reporting Officer (MLRO)
CF29 – Significant Management Function	SMF21 – EEA Branch Senior Management Function

Senior Managers are required to comply with the FCA's conduct rules under SM&CR

Regulatory reporting requirements

Firms will be required to submit a suite of regular reports to the FCA to ensure their on-going authorisation.

Firms with a Limited Permission will not be required to submit all of these reports, which are summarised below:

Reporting form	Which firms?	Summary of content
Financial data CCR001	Full Permission	Key financial figures including capital, assets, liabilities, exposures, income and profits.
Volumes CCR002	Full Permission	Revenue, customer and transaction volume, together with an indication of the main method used to generate income.
Lenders CCR003	All lender firms	Breakdown of value and amount of loans, arrears and interest rates.
Debt management CCR004	Debt management firms and large not-for-profit debt advice bodies.	Capital requirement and capital resources. Number of debt management plans ending early.
Client money and assets CCR005	Debt management firms and not-for-profit debt advice bodies.	Highest balance and number of clients. Amount of client money held for longer than 5 days.
Debt collection CCR006	Firms undertaking debt collecting including peer-to-peer lending platforms that collect debts due under the loans they facilitate.	Breakdown of number and value of debts by stage of placement.
Key data CCR007	Limited Permission	Credit-related income, total revenue, number of transactions and complaints, main credit-related regulated activity.
Credit broking websites CCR008	Brokers who may or will charge a fee in connection with credit broking activities.	To notify about the address for websites.

Frequency of reporting

Firms with annual revenue from credit-related regulated activities of up to and including £5m wil need to report annualy. This will include complaints reporting.

Firms with annual revenue from credit-related regulated activities of more than £5m will need to report every six months, with the exception of CCR007 – which applies to Limited Permissions firms, such as motor dealers – and will only be required annually. But if a firm is credit broking for a fee, it will need to report quarterly.

General insurance regulation

In addition to applying for permission to undertake regulated consumer credit activities, some motor finance firms and dealers may need to have permissions in relation to regulated insurance activities.

The Insurance: Conduct of Business Sourcebook (ICOBS) applies to:

- insurance intermediaries;
- insurance providers; and
- motor vehicle liability insurers.

In the motor market, some of the relevant insurance products regulated under ICOBS include:

- payment protection insurance (PPI);
- Guaranteed Asset Protection (GAP) insurance products such as Return To Invoice (RTI) GAP insurance
- Cosmetic repair (SMART) insurance;
- tyre and alloy insurance, and
- some breakdown, recovery and warranty products

FCA authorisation for general insurance is needed by firms and individuals if they either sell directly or act as an intermediary for these products.

Motor dealers who are not authorised for general insurance cannot even discuss or comment on regulated insurance products and it is a criminal offence to conduct any business which is defined as “regulated”.

There is a cost to finance companies and motor dealerships to apply to become FCA authorised.

The penalties which the FCA can impose on firms for non-compliance are severe, ranging from heavy fines to the restriction of business practices, for example a complete ban on a company’s ability to advise on and sell insurance products.

Firms which undertake regulated activities in relation to insurance should already hold the necessary permissions: firms entering this market will need to make sure they apply for the appropriate permissions before commencing any regulated activity.

FCA rules for the sale of Guaranteed Asset Protection (GAP) insurance

In 2014 the FCA published their final findings report following a thematic review of the General Insurance Add-ons market. The FCA were concerned about the lack of competition in the GAP insurance market which their research suggested:

- led to inflated prices at the point of sale;
- consumers were not always well informed about the GAP policies they were purchasing;
- consumers were often not getting value for money.

On 1st September 2015 the FCA introduced new rules (which form chapter 6 under ICOBS) aimed at addressing these concerns by installing a process outlining how GAP insurance had to be sold. The rules fall under two distinct remedies:

1) Prescribed information

Before a GAP contract is concluded, a firm must draw to the customer's attention the following information:

- the total premium of the GAP contract, separate from any other prices;
- the significant benefits and unusual exclusions or limitations, and cross-reference to the relevant policy document provisions;
- the fact that GAP contracts are sold by other distributors (whether or not the GAP contract is sold in connection with vehicle finance);
- the duration of the policy;
- whether the GAP contract is optional or compulsory;
- when the GAP contract can be concluded by the firm;
- the date the above information has been provided to the customer.

2) Deferred opt-in

The new rules also state that a GAP contract cannot be concluded by a firm with a customer until at least 2 clear days have passed since the prescribed information has been given to the customer, unless the customer initiates contact earlier (see below). An example of the timings are provided below:

- Day One: Prescribed information is provided to the customer
- Day Two: First clear day
- Day Three: Second clear day
- Day Four: GAP contract can be concluded with the customer

GAP insurance continued

Customer initiates the conclusion of the contract

A GAP contract can be concluded faster – on the day after the prescribed information has been provided – if the customer initiates the conclusion of the contract, and confirms that they understand, and accept, that they are choosing not to be subject to the deferred opt-in period.

GAP premiums funded by the finance agreement

It is not uncommon for the payment of GAP and other insurance products to be packaged as part of the monthly finance payment i.e. the customer would pay a single regular monthly payment which includes repayment of the loan and GAP premium.

The new rules make no exceptions for GAP policies structured in this way and would require the total cost of GAP to be provided under the prescribed information and a deferred opt-in period to be implemented prior to the conclusion of the GAP agreement.

Intended outcome of the remedies

"The rules no longer allow GAP insurance to be sold on the same day the customer enters the dealership. This gives customers time to read the prescribed information, compare features of a policy and its cost against alternatives offered by other providers before concluding the sale. The FCA therefore aims to empower customers when making decisions about purchasing GAP insurance and increase competition between GAP insurance providers resulting in better customer outcomes."

4 Financial promotions and communications with customers

This module covers financial promotions and communications with customers.

In this module you will learn about the following areas:

The definition of "financial promotions and communications"

The FCA's rules on financial promotions

Factors for firms to consider

The Annual Percentage Rate (APR)

Definitions

A financial promotion is defined as "an invitation or inducement, communicated in the course of business, to enter or offer to enter into an agreement in relation to a "controled" (regulated) activity."

This includes advertisements and other promotions linked to the provision of consumer credit agreements.

A financial "communication" is the provision of financial information using any form of media, for example:

- social media adverts
- radio
- brochures
- signs written on vehicles
- adverts in showrooms
- emails
- phones calls
- websites
- SMS (text messages)

The FCA's rules on financial promotions

The FCA's rules on financial promotions and communications relating to consumer credit are set out in Chapter 3 (here) of the CONC Sourcebook.

The rules apply to all financial promotions and communications aimed at consumers in the UK published by all FCA authorised firms (or those they are responsible for, like appointed representatives), including motor finance companies and motor dealers.

The FCA rules do not apply if a financial promotion or communication consists of only one or more of the following:

- The firm's name
- A logo
- A contact point (address/email/phone or fax number/website)
- A brief, factual description of the type of product or service provided by the firm

All financial promotions and communications must be clear, fair and not misleading. This means they must:

- be accurate and not emphasis any potential benefits of a product or service without also giving a fair and prominent indication of any relevant risks;
- be presented in a way that is likely to be understood by the average members of the group to whom they are directed, or by whom they are likely to be received; and
- not disguise, diminish or obscure important information, statements or warnings.

Factors for firms to consider when preparing financial promotions and communications

In communicating information, firms should:

- consider whether the omission of any relevant facts will result in the customer being given information which is not clear, fair and not misleading;
- consider whether any comparison of products or services (whether or not provided by the firm) is fair and balanced;
- provide general disclosures on any commission arrangements associated with the promotion (see chapter on financial incentives here);
- use plain and intelligible language;
- ensure the promotion or communication is easily legible (or for information given orally, clearly audible);
- specify the name of the firm making the communication or the firm on whose behalf it is being made;
- show the name of the lender (where it is known) if the communication or promotion relates to credit broking.

Financial communications must not:

- state or imply that the firm is a lender if it is not;
- suggest or state that credit is available regardless of the customer's financial circumstances or credit status;
- mislead the customer as to the availability of a particular credit product;
- conceal or misrepresent the identity or name of the firm;
- use false testimonials, endorsements or case studies; or
- use false or unsubstantiated claims as to the firm's size, experience or pre-eminence.

Credit brokers – including motor dealers – must indicate, in their financial promotions and communications:

- the extent and limitations of their powers and in particular whether they work exclusively with one or more lenders, or work independently; and
- the existence of any financial arrangements with a lender which might impact on their impartiality in promoting a credit product to a customer.

Annual Percentage Rate

The APR is an annualised rate which reflects the total cost of borrowing for the customer – and thereby helps customers to compare the cost of different credit deals.

The APR must be shown as "% APR" to one decimal place. Where it is subject to change it must be accompanied by the word "variable" but where it is fixed, it is good practice to state this.

Where a financial communication includes a rate of interest or an amount relating to the total, it must also include a **representative example** containing the nature and amount of any other charge(s) included in the total cost of credit to the borrower:

- the rate of interest and whether it is fixed or variable or both, expressed as a fixed or variable percentage applied on an annual basis to the amount of credit drawn down;
- the nature and amount of any other charge included in the total charge for credit drawn down;
- the total amount of credit;
- the representative APR;
- in the case of credit in the form of a deferred payment for specific goods, services, land or other things, the cash price and the amount of any advanced payment;
- the duration of the agreement;
- the total amount payable; and
- the amount of each repayment of credit.

How should a representative example be provided?

The information provided in the representative example must be clear and concise, and presented so that each item of information is easy to understand. As a whole, the information must be given greater prominence than any other information relating to the cost of credit in the communication/promotion. Typically, promotions for lease and hire agreements do not need to provide an APR under CONC.

When should a representative example be provided?

The content of a promotion will determine whether a Representative APR can be shown alone or whether it must be shown as part of the Representative Example.

Examples of when and where to include either the representative APR or the representative example can be quite complex. As a general rule of thumb, if any financial promotion contains a monthly payment (with the exception of true 0% APR) then a full representative example must also be included.

Full details relating to financial promotions can be found in CONC 3 here.

Annual Percentage Rate and written examples

There are two main ways in which a lender can calculate interest charges:

Flat rate

With a flat interest rate, interest is charged throughout the term on the full, original amount of the loan, and ignores the fact that regular payments are being made to reduce the capital outstanding. **The flat rate method is used to calculate interest charges for the vast majority of motor finance products.**

The effect of this arrangement is that the customer gains no benefit from paying off some of the capital each month. The true rate (the APR) is far higher than the quoted rate. In the example below, based purely on the interest paid without taking into account any other financing costs, the APR would be approximately 7.8%. If there was a £100 documentation fee paid with the first repayment, and a £100 option-to-purchase fee with the final repayment, the APR would increase to 8.9%.

Example:

A customer borrows £10,800 over 3 years at 4% per annum (flat rate) and pays the loan back in 36 regular monthly payments.

- Capital borrowed £10,800
- Total interest 4% pa x 3 years = 12%*£1,296
- Total capital + interest £12,096
- 36 monthly payments £336
- Total interest is charged on the original capital borrowed.

Declining balance

With a declining balance calculation, interest is charged each month on the outstanding balance rather than the initial loan.

The borrower makes a fixed payment each month, and with each payment some capital is repaid, while interest is based on the reduced capital.

This is sometimes referred to as an 'APR loan', because it reflects the true interest rate paid throughout the term. **Declining balance interest is not commonly used with motor finance products, it is the standard way of charging interest for credit cards and store cards.**

Example:

Using our previous example with a nominal interest rate of 4%, we can see how the declining balance method works in the borrower's favour:

- Capital borrowed £10,800
- Total interest 4% pa x 3 years* £691
- Total capital + interest £11,491
- 36 monthly payments £319
- Interest is charged on the capital outstanding at each payment date.

5 Pre-contractual requirements including adequate explanations

This module explains the information which firms are required to give customers before they enter into a regulated consumer credit agreement.

In this module you will learn about the following areas:

The factors lenders and brokers need to take into account when giving customers explanations about proposed credit agreements

The documentation which must be given to customers

Digital onboarding and customer verification

Decisions regarding a finance package

It is important that customers are sure they are making the right decision regarding a finance package before they sign a legally binding contract.

Lenders have always been required to provide the customer with a copy of the agreement. From 2005, the law was changed requiring pre-contract information to be provided also. For many credit agreements since 2010/11, the pre-contract information has been issued in the form of a 'Standard European Consumer Credit Information' sheet (called a SECCI). But in preparation for the UK to leave the European Union new regulations came into force on 30 December 2020 requiring references to the 'SECCI' to be removed by 30 May 2021.

Lenders must continue providing pre-contract information and adequate explanations to customers with regards to regulated credit agreements (but not for regulated consumer hire agreements). This is contained within CONC 4 (here). CONC requires either the lender or the dealer to:

- provide the customer with an adequate explanation and assess whether the agreement is adapted to the customer's needs and financial situation;
- advise the customer;
  - to consider the pre-contract information; and
  - where the information is disclosed in person, that the customer is able to take it away;
- provide the customer with an opportunity to ask questions about the agreement; and
- advise the customer how to ask the lender or the dealer for further information and explanation.

In order to be "adequate" the explanations given should be tailored to the customer's ability to understand the proposed agreement: in deciding what level of explanation is appropriate in each case, lenders and brokers should have regard to:

- the type of credit being sought;
- the amount of credit to be provided and the associated cost and risk to the customer;
- the customer's understanding of the explanation provided (insofar as it is possible to judge this); and
- the channel or medium through which the credit transaction takes place.

Pre-contract information document

Customers are legaly entitled to be given certain information before entering into a finance agreement.

For most regulated credit agreements firms are required to provide this information in a format which captures the key features of the proposed credit agreement. The format is set out in the Consumer Credit (Disclosure of Information) Regulations 2010.

Lenders must provide all of the information set out in the regulations as a minimum: they may provide additional information to potential customers on a separate information sheet.

For regulated consumer hire agreements, and some regulated credit agreements, the form and content of the pre-contract information is prescribed by the Consumer Credit (Disclosure of Information) Regulations 2004. This usually requires pre-contract disclosure (taking the customer through the pre-contract information) before the customer signs or approves the agreement.

The pre-contract information must be provided in “good time” before the customer becomes bound by the agreement. The definition of “In good time” is likely to mean that the finance provider cannot unreasonably delay the provision of pre-contractual information and that the customer must have the opportunity to take the information linked to a proposed regulated agreement away for further consideration. The customer is not obliged to take the pre-contract informaion away if he/she wants to proceed with an application straight away.

All contractual information must be presented to customers in a clear and concise way.

Pre-contractual explanation for regulated credit agreements

Customers must be provided with a pre-contractual explanation even if they state they do not need one (CONC 4.2.9R). Lenders and brokers must not encourage or induce customers to waive their right to receive the required information (CONC 4.2.10R), which must include explanations of:

- the existence and nature of any commission arrangements with lenders and how this may affect the amounts payable (see chapter on financial incentives here);
- any features of the agreement which may mean it is unsuitable for particular types of use;
- how much the customer will have to pay periodically and, where the amount can be determined, in total under the agreement;
- any features of the agreement which might have a significant adverse effect on the customer which the customer is unlikely to foresee, e.g. conditions and timing of the transfer of legal title to the vehicle to the customer;
- the principal consequences for the customer of failing to make payments under the agreement at the required times including, for example, any legal proceedings leading to the default of the agreement or repossession of the vehicle;
- the effect of the right to withdraw from the agreement (and any other cancellation rights) and how and when these rights may be exercised (see below);
- the type of credit being sought;
- the amount of credit to be provided and the associated cost and risk to the customer; and
- the customer's understanding of the explanation provided (where it is possible to judge this).

Documentation/Agreement

An agreement is normally (unless one of the exemptions applies) regulated when it is entered into with a private individual, sole trader or partnership of up to 3 partners.

A customer entering into a regulated agreement must be made aware of their rights and obligations. Agreements should include details relating to the customer, vehicle and finance arrangements and make clear all contractual terms, in particular:

- The amount and timing of repayments.
- The Annual Percentage Rate (APR) on purchase agreements.
- The protection and remedies available to the customer under the agreement.

An unregulated agreement gives no additional statutory protections to the customer. They can be signed on or off trade premises and there is no requirement to show an APR. There are also no statutory termination or repossession rights or protections for the customer.

An exempt agreement is one which would normally be regulated but falls into one of the exemptions. The customer will not receive the same level of protection as if the agreement were regulated, but will still have some protection under the unfair relationship provisions in Sections 140A to 140C of the Consumer Credit Act 1974.

Copies

When the customer enters into the credit agreement, the Consumer Credit Act sets out when and how many copies of an agreement the customer should receive and prescribes in detail the information that must be included in an agreement.

Unexecuted Agreements

Two copies should be provided. The majority of agreements fall under this category.
When a customer signs an agreement at the supplier's premises (including the dealership), one copy is normally given to them immediately. The agreement will then normally be sent to the finance company for execution (but in some cases it may have pre-signed the agreement). Depending on the type of the agreement, there is either a requirement to send a second copy of the agreement within 7 days of execution or tell the customer it has been executed and either offer to provide a copy of it (if the customer asks) or provide a copy of it.

Executed Agreements

One copy is provided when the supplier is authorised to conclude finance agreements on the spot and sign on behalf of the finance company.

Status

Whether an agreement is regulated, exempt or unregulated (see 'Financial Conduct Authority (FCA)' module for more information), the legislation places certain requirements on both the finance company and the motor dealership.

Know your customer

Formaly identifying the customer is an important anti-money laundering (AML) requirement (see section 14 for more detail). This process – known as know your customer or KYC – aims to prevent fraud and money laundering and prove the customer is the person they purport to be.

FLA standard for the prevention of financial crime

In 2017 motor finance providers that are members of the FLA agreed a new minimum standard of KYC checks to prevent financial crime in line with new money laundering regulations.

All finance providers must identify and verify the identity of all new private customers and carry out checks on new business customers. This is referred to as customer due diligence (CDD).

To successfully carry out CDD, finance providers require retail staff and brokers to obtain some key information and/or documentation from the customer:

Using physical forms of identification

1. Obtain a photocopy of one form of photo ID:
   a. Passport
   b. Photocard driving licence
   c. National identity card / HM Forces ID card; or
   d. Request the customer shares their driving licence details through the DVLA's Share Driving Licence service (and retain a pdf/print out)

2. Stamp the photocopy and sign to confirm the photo is a fair and true likeness of the individual.

3. Finance companies such as banks and other independent lenders that do not operate in the same group as the retailer should additionally request one form of non-photo ID that contains the customer's address:
   a. Old style driving licence
   b. Evidence of state or local authority benefit
   c. Bank or credit card statement
   d. Utility or telephone bill

Using Electronic Identification and Verification (EID&V)

Many finance providers and brokers now use EID&V to conduct CDD. Dealer staff might only need to obtain basic information from the customer such as name, date of birth, address and may not always be required to ask for ID documentation confirming the validity of these details. It is best practice for dealers to check photo ID and if necessary non-photo ID and take copies, even where lenders do not request this information.

Preventing fraud

While identifying and verifying the customer's identity ensures lenders and dealers are meeting their AML obligations, these checks do not always prevent sophisticated impersonation fraud – where fraudsters steal the identity, and other credentials, typically from individuals with good credit records to gain access to finance and a vehicle.

Non-face-to-face sales

There are higher risks of impersonation and other types of fraud where the sale of the vehicle and finance is undertaken at a distance without any face-to-face contact with the customer. Online and telephone sales, click and collect and vehicle delivery service channels have become commonly used approaches of buying and selling vehicles. The key risks include:

- **Sales process** – the true likeness of the customer cannot as easily be checked against their identity documentation compared to a buying process in a showroom.
- **Delivery services** – vehicles may be delivered in a contactless way to impersonating fraudsters.
- **Part exchanges** – lighter checks on part-exchanged vehicles may lead to the acceptance of cloned vehicles (where a stolen vehicle has been fitted with a different number plate/VRM to avoid detection).

Measures to prevent fraud

The National Vehicle Crime Intelligence Service (NaVCIS) – a police unit specialising in the detection and prevention of vehicle crime – suggests that taking these steps will significantly help to prevent fraud:

Customer photo – obtaining a selfie or taking a photo of the customer, in addition to obtaining a copy of their photocard driving licence, will deter fraudsters and enable enhanced checks to be made that reduce the risk of impersonation fraud.

ID customer on delivery – requesting that delivery agents take a photo of the customer's ID, or at the least undertake a visual likeness check of the customer based on a photograph or photo ID provided through the sales process.

Confirm the customer resides at the delivery address – ensuring that delivery agents are satisfied this is the case.

Challenge requests to deliver to third parties – only the customer should receive the vehicle. Any requests for delivery to be taken by someone else or to a different address to the customer's should be investigated before the vehicle is released, or the request should be rejected at the outset.

Fully check part-exchanged vehicles – ensuring the vehicle's VIN plates are checked against the V5C provided by the customer and/or vehicle provenance report.

The digital experience: Click to sign/ eSignatures

Many lenders have now introduced the ability for consumers to review and agree their finance documentation by electronic means, both on or off dealer premises.

EID&V is often incorporated into the customer journey with lenders using a range of methods to authenticate the customer including:

- **Knowledge Based Authentication (KBA)** – requiring the customer to answer questions only they know the answer to.
- **Credit Reference Agency checks** on the information the customer provides.
- **Facial recognition checks** – where an image(s) of the customer is checked against validated images stored in secure databases.

Benefits and restrictions of using an electronic onboarding process

Benefits	Restrictions
Consistency of explanations / process	Not always available for all types of agreement or provided by all lenders
Convenient and time efficient	Technology failure – which sometimes requires a manual process to be reverted to
Paperless	False positives – where an EID&V system rejects valid prospective customers, requiring manual processes
Fully auditable	
Improved security	
Reduction in errors	

A typical digital customer journey will involve the following inputs and actions:

Dealer:

- Creates and processes the consumer proposal via the lender's online system.
- Confirms with the customer that they are happy to proceed with the e-signature process
- Where the customer is on-site, the lender usually requires the dealer to hand over their device (e.g. laptop / iPad) to the customer for them to proceed.
- Where the process is undertaken off-site, the dealer will inform the customer that they will receive communication (usually in the form of an e-mail link) where the process is similar to the above (on-site) process.
- Dealer staff should always follow the guidance provided to them by the relevant lender.

Customer:

- Will need to successfully pass an EID&V check or provide identity documentation such as a driving licence if identity cannot be verified electronically.
- The customer then receives the full set of pre-contract documents (adequate explanation and pre-contract information) to read and review online before they electronically sign the agreement.

Lender:

- Where the customer fails a check or there is a fall down in the process the lender may need to provide guidance to the dealer or customer.
- If the e-sign and/or EID&V process cannot be completed then manual checks will need to be undertaken and/or a paper version of the agreement might need to be signed.

6 Post-contract information and rights

This module explains the information which firms are required to give after a customer has entered into a regulated consumer credit agreement, and other customer rights.

In this module you will learn about the following areas:

- **Information which must be provided post-contract**
- **Rights of withdrawal /cancellation**
- **Early settlement**

Information which must be provided post-contract

The legislation requires lenders to provide customers with information after they have entered into a credit agreement.

This information includes:

- periodic statements relating to the fixed-sum credit agreement;
- a notice of sums in arrears if two or more payments have been missed. (if relevant); and
- a notice of default sums (if relevant).
- Sending a settlement figure within seven days of this being requested by the customer.

Rights of withdrawal/cancellation

There are a number of pieces of legislation that give consumers the right to either withdraw or cancel depending on how the agreement is entered into (such as face to face, distance or doorstep selling) or the nature of the agreement.

The right to withdraw from most credit agreements after entering into them comes from the CCA (see **Section 66A of the CCA**). This gives the customer a right to withdraw after entering into many regulated credit agreements, without giving any reason, within 14days of the day after execution by both parties of the regulated credit agreement.

The 14day period begins the day after the date the agreement is made (signed by both parties) or the day on which the consumer receives either a copy of the executed agreement (or confirmation of execution in some cases) whichever is the later. Notice of withdrawal can be given in any way and, if the consumer does withdraw, they must repay the credit and any interest that has accrued for the time that has had the credit within 30 days. In withdrawing from the finance agreement the customer does not, however, withdraw from the contract to acquire the vehicle, which must be paid for using other funds.

This right does not apply where:

- the agreement is for credit in excess of £60,260 (the maximum introduced by the European Consumer Credit Directive);
- the agreement is secured on land;
- the agreement is a restricted credit agreement to finance the purchase of land;
- the agreement is for a bridging loan in connection with purchase of land.

The right of withdrawal under the CCA

The right of withdrawal under the CCA applies only to the credit agreement – it is not intended to end any linked contract for the supply of goods or services that the credit is paying for, such as a vehicle.

By withdrawing from the credit agreement the consumer will still be required to pay for the goods (vehicle) some other way, unless that linked contract has a separate right of withdrawal or cancellation, so must find a source of alternative funding. In the case of finance agreements like Hire Purchase or conditional sale by withdrawing and repaying using alternative credit the consumer is effectively paying for the goods in full (plus some interest), so title to the vehicle passes to the customer from the original credit provider.

Where the CCA right of withdrawal does not apply the consumer may still have a right to withdraw or cancel the credit agreement or the linked supply agreement (which in effect cancels the credit agreement as well) some other way if:

- the agreement comes within scope of the Distance Marketing Regulations, which allow customers to withdraw within 14 days of entering into (signing) the agreement (see CONC 11 (here) of the FCA Handbook);

- the agreement comes under the scope of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations, which allow customers a 14-day cooling-off period to withdraw from an agreement to buy goods: where this right is exercised, any linked credit/Hire Purchase agreement is automatically cancelled;

Once a customer has exercised a right of withdrawal, this decision cannot be reversed. The customer cannot re-enter into the original credit agreement, and so must find alternative funding for the vehicle.

Early settlement

Customers have the right to settle some or al of the credit agreement ("early settlement") at any time. This might lead to a rebate in the interest the customer owes and therefore a reduction in the total cost of credit.

There is no minimum early settlement amount or maximum number of partial early payments which may be made.

Where the amount of the early repayment exceeds £8,000, lenders are entitled to compensation for costs provided that such repayment falls within a period for which the borrowing rate is fixed. The compensation cannot exceed 1% of the amount repaid early, or 0.5% if the outstanding period of the loan is less than one year. Lenders must disclose the early settlement compensation to the customer in both the pre-contract information and the actual credit agreement.

Voluntary terminations (the Halves Rule)

The CCA allows customers with a regulated Hire Purchase or regulated Conditional Sale agreement to terminate the agreement before the end of the contractual term. It does not apply to lease agreements.

Voluntary termination, or VT, is also referred to as the "Halves Rule" because, in order to terminate the contract, the customer must pay or have paid at least half of the total amount owed to the finance company,

Termination is not the same as settlement, because title to the good does not pass to the customer if they decide to terminate.

Whilst voluntary termination is available to all customers who have Hire Purchase or Conditional Sale agreements (including PCP), it may be used by customers who can no longer afford repayments because they are in financial hardship.

Customers who elect voluntarily to terminate a contract must comply with the following:

- Pay or have paid at least 50% of the total amount owed to the finance company. The amount owed comprises everything the customer would have paid if the agreement had run its full course including the deposit, amount borrowed, interest and all fees and charges.
- Bring up to date any arrears that are owed to the finance company, even if this results in more than the 50% being paid.
- Return the goods/vehicle in a reasonable condition for their age and mileage.
- Write to the finance company to explain the option they wish to take - this is known as the "surrender" or "voluntary surrender" letter.

Provided the customer has paid at least half the total amount payable and is up to date with his/her payments and taken reasonable care of the goods, then the goods can be returned to the finance company with no further liability.

Arrears and default

The CONC rules require firms to have "clear, effective and appropriate policies and procedures" for dealing with customers whose accounts fall into arrears. These rules are set out in CONC7 (here).

Firms must treat such customers fairly, exercising forbearance and due consideration where appropriate. This might include:

- allowing a longer period for repayment;
- considering suspending, reducing, waiving or cancelling any further interest or charges where a customer provides evidence of financial difficulties and is unable to make repayments as they fall due or is only able to make token repayments;
- accepting token payments for a reasonable period of time in order to allow a customer to recover from an unexpected income shock;
- directing the customer to an appropriate source of free and independent debt advice; and
- negotiating with a customer who is developing a repayment plan.

Lenders should deal with not-for-profit debt advice bodies or other persons who are assisting or acting on a customer's behalf unless there is a justifiable reason for refusing to do so.

A firm must not pressurise a customer:

- to pay a debt in one single or very few repayments or in unreasonably large amounts, when to do so would have an adverse effect on the customer's circumstances;
- to pay a debt within an unreasonably short period of time; or
- to raise funds to repay the debt by selling their property, borrowing money or increasing existing borrowing.

Enforcing debts

Firms should not seek to enforce debts where they are aware that the customer is subject to a Bankruptcy Order (or in Scotland where sequestration is awarded in relation to the customer), a Debt Relief Order or an Individual Voluntary Arrangement (or in Scotland a protected trust deed or a Debt Arrangement Scheme).

Firms seeking to recover debts under regulated credit agreements should have regard to the requirements of the relevant pre-action protocol (PAP) issued by the Civil Justice Council. This seeks to ensure that firms and customers are acting fairly and reasonably with each other in resolving any matter concerning arrears and to encourage more pre-action contact in an effort to seek agreement between the parties on alternatives to repossession.

A firm must provide a customer or person acting on the customer's behalf with information on the amount of any arrears and the balance owing.

Where a customer offers to pay less than the total amount owing, or the lender decides to stop pursuing a customer in respect of a debt arising under the credit agreement, but the debt continues to exist, the lender must make sure that the following is clearly explained to the customer:

- the fact that the debt continues to exist; and
- the customer could be pursued for payment if another firm purchases the debt.

Firms may not levy charges on customers for debt recovery or arrears unless they have a contractual right to do so. Where there is such a contractual right, the charges and the conditions for making them must be set out in the credit agreement. The actual charges imposed must be no higher than is necessary to cover the firm's reasonable costs.

Firms must not unfairly disclose or threaten to disclose information relating to the customer's debt to a third party. When contacting a customer about a debt, a firm must make sure that it does not act in a way which could be publicly embarrassing to the customer and should take reasonable steps to make sure that third parties do not become aware that the customer is being pursued in respect of a debt.

Collections

If a firm arranges for someone to visit a customer in relation to debt collection it must give the customer adequate notice of the date and likely time (which must be reasonable) of the visit and clearly explain the purpose and intended outcome of the proposed visit to the customer.

The person making the visit must not:

- act in a threatening manner towards the customer;
- visit at a time when they know or suspect that the customer is or may be particularly vulnerable;
- visit at an inappropriate location (such as the customer's place of work or in hospital, if the customer is a patient) unless the customer has expressly consented to the visit;
- enter the customer's property without the consent or appropriate court order;
- refuse to leave the customer's property when it becomes apparent that the customer is unduly distressed or might not have the mental capacity to make an informed decision regarding repayment or to engage in the debt recovery process;
- refuse to leave the customer's property when reasonably asked to do so; or
- visit or threaten to visit a customer without the customer's prior agreement when a debt is deadlocked or reasonably queried or disputed.

Where a firm uses a third party to trace a customer it must make sure that any information held about the customer is accurate and is being properly held according to the provisions of the Data Protection Act. If a firm passes on any information to a third party for the purposes of tracing the customer or recovering the debt, it must take every reasonable step to ensure that the information is accurate and adequate, so that the true customer is pursued, and for the correct amount.

Repossession restrictions (the Thirds Rule)

The legislation gives the customer protection against the lender in the case of default.

If a vehicle is sold to a customer under a regulated Hire Purchase or Conditional Sale agreement, there are provisions in the CCA which prevent the vehicle being recovered without a Court Order in certain circumstances. These are specified in the finance agreement. Once a customer has paid more than one third of the total amount payable (this comprises everything the customer would have paid if the agreement had run its full course, including the deposit, amount borrowed, interest and all fees and charges) the goods are classed as protected and cannot be repossessed by the lender without a Return of Goods Order.

However, there is no need for a Court Order to recover goods which are protected if either: the lender has the customer's informed consent or; the goods are to be repossessed from someone other than the debtor (or someone the debtor has authorised to have the goods).

If the finance company were to take the goods back without either the customer's consent or a Court Order, it would be in "breach of contract". The agreement would be terminated and the customer released from all liability as well as being able to reclaim all the monies paid under the agreement.

Rights to reject, repair and replace (Consumer Rights Act 2015)

On 1st October 2015 the Consumer Rights Act (CRA) came into force, replacing existing legislation relating to business-to-consumer transactions, including the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982. The changes were made to make it clearer and easier to understand what rights consumers have when purchasing goods or services, allowing businesses to sel to them with confidence.

Definition of the 'trader'

The legislation refers to the 'trader' – that is, the business that is responsible for responding to the consumer if they choose to exercise their rights under the Consumer Rights Act. If a vehicle is purchased under a finance agreement the trader is defined as the finance provider. But under a tripartite relationship the dealership would source and sell the vehicle and have a role in assisting the consumer with repairs or arranging for a replacement.

The CRA extends the list of expectations beyond that provided for in previous legislation, thereby giving the consumer more protection. It is therefore important that dealerships meet what consumers can reasonably expect, namely that:

- The vehicle is of satisfactory quality
- The vehicle is fit for purpose
- The vehicle is as described
- The pre-contract information provided is included as a term in the contract
- The vehicle matches the sample
- The vehicle must match the model seen or examined – the consumer must be aware of any difference in the specification or quality of the model delivered if different to that advertised or demonstrated
- Installation as part of conformity of goods within the contract – the vehicle, including any instruments or digital devices have to be ready to use on delivery
- Any goods included with the purchase of the vehicle, such as a sat nav, onboard computer, phone etc. should be in good working order

Remedies

The CRA specifies a number of remedies for the consumer if the vehicle they are in the possession of is found to have a fault:

1. **Short term right to reject** – The consumer can reject the vehicle and receive a full refund if a fault exists, or that any of the expectations have not been met within 30 days from the later of:

- The transfer of ownership (or possession, if hired or under a purchase or lease agreement) as stated in the agreement
- Delivery of the vehicle
- Notification of installation

2. **Repair or replacement** – If there is a fault within the first 6 months the consumer can demand that the trader repairs or replaces the vehicle. The trader has "one shot" at repairing the vehicle, this must be actioned "at no cost to the consumer, within a reasonable time and without causing the consumer significant inconvenience."

3. **Rejection or price reduction** – If the repair is not successful or another fault appears the consumer can reject the vehicle and receive a refund. The trader is allowed to make a deduction for use of the vehicle, the calculation of which must be consistent for all customers. Alternatively the consumer can keep the vehicle but the trader must apply an "appropriate" price reduction agreed to by the consumer.

4. **No legal remedy** – There is no legal remedy for a consumer if they find fault with a vehicle 6 years or more after the date of delivery, even if they have proof that the fault was there within the first 6 months.

The burden of proof

The burden of proof on the consumer in order for them to exercise their rights varies depending on how long they have been in possession of the vehicle:

Within 6 months from date of delivery - it is presumed the defect was there at the time of delivery regardless of the remedy the consumer chooses to pursue, unless the trader can prove otherwise.

After 6 months of date of delivery (and up to 6 years) – the consumer has to prove the defect was there at the time of delivery. In some instances it would be recognised that defects take time to appear and in these cases it would be presumed that there was an underlying hidden defect at that time.

Considerations under a tripartite arrangement

If the vehicle is leased or purchased on finance the finance provider will have a legal duty to respond to the consumer if there is a defect with the vehicle. However, in this situation the consumer is likely to be in contact with both the finance provider and dealership. It is therefore good practice to make sure that:

1. There are policies and processes in place for evidencing the consumer's decision, managing a repair process and obtaining feedback.
2. The dealer group and finance provider are jointly aware of how each other responds and their roles in assisting consumers under the CRA. It would be prudent for this to be reflected in any agreements between the two.

7 Responsible Lending

This module covers responsible lending.

In this module you will learn about the following areas:

- The FCA's rules on responsible lending
- Factors which lenders should take into account
- Sources of information to help lenders
- Prohibited actions
- Use of credit reference agencies

The FCA's rules on responsible lending

The FCA's rules on responsible lending are set out in CONC 5 which were last updated in 2018.

Before entering into a credit agreement with a customer, a lender must make a reasonable assessment of the customer's creditworthiness and how affordable and sustainable the credit is – the risk to both the lender (credit risk) and customer (affordability risk). This assessment must include considering the customer's financial wellbeing – that is, the potential for the commitments under the credit agreement to have an adverse impact on the customer's financial situation.

The assessment is intended to determine the customer's ability to make repayments as they fall due over the life of the credit agreement. It must be based on sufficient information, which may be obtained from the customer, where appropriate, and from a credit reference agency, to establish the customer's credit history.

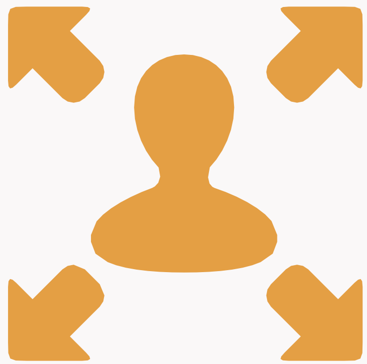
Factors which lenders should take into account when assessing a customer's ability to make repayments

Firms should gather sufficient information, carry out checks and base their underwriting decisions as they consider appropriate and proportionate to the individual circumstances of each customer in order to assess:

- **creditworthiness** - the extent to which the customer is suitable to receive the credit, based on how they have repaid credit previously.
- **Affordability and sustainability** – the ability for the customer to afford the repayments through the period of the agreement.

They may wish to take account of one or more of the following factors:

- the type of credit;
- the amount, frequency and duration of the credit;
- the cost of the credit;
- the financial position of the customer at the time of seeking the credit and the ability to make repayments, from income, as they fall due;
- the customer's credit history, including any indications that the customer is experiencing or has experienced financial difficulties;
- the customer's existing and future financial commitments (for example, student loans) and the potential for the commitments under the agreement to negatively affect the customer's financial situation;
- any future changes in circumstances which could be reasonably expected to have a significant adverse financial impact on the customer (for example, reduced income in retirement); and
- the vulnerability of the customer, in particular, where the firm understands the customer has some form of mental capacity limitation.



Sources of information

In considering the types and sources of information which it wishes to use in its creditworthiness and affordability assessments, a finance company may include some or all of the following:

- its record of previous dealings with the customer; but making sure the data reflects the customer's current situation;
- evidence of income and expenditure;
- a credit score;
- a credit reference agency report; and
- any other information provided by the customer.

Income and expenditure

CONC 5 requires that finance companies must take reasonable steps to determine the amount, or make a reasonable estimate of, the customer's income and non-discretionary expenditure. These rules do not apply only where:

- Lenders can demonstrate that it is obvious in the circumstances the customer is able to make repayments.
- The customer has indicated an intention to repay wholly using savings or other assets.

Sustainable repayments

The customer's ability to make repayments should be "sustainable" – that is, the customer should be able to make the repayments from income (or savings or other assets where the customer makes this clear). The payments should be made on time without undue difficulties, whilst meeting other reasonable commitments.

The customer should not have to borrow or sell assets in order to meet the repayments.

Proportionate approach

Finance companies should adopt a proportionate approach to establishing whether a customer can afford credit. This means tailoring the checks they undertake and information they collect to the level of credit and affordability risk exhibited by customers. The FCA's rules on obtaining a reasonable estimate of income and expenditure are a good example of proportionality, for example where income and expenditure data does not need to be collected where it is obvious the customer can make

repayments. Although the finance company will need to set out why this is the case.

Prohibited actions

A firm must not:

- advise or encourage a customer to enter into a credit agreement for an amount of credit which is higher than the customer initially requested if the creditworthiness assessment indicates that repayments of the higher amount would not be sustainable, or the firm ought reasonably to suspect that this is the case;
- complete some or all parts of a credit application which are intended to be completed by the customer without the customer's consent, unless the customer checks the application before signing the agreement; or
- accept an application for credit where it knows or ought reasonably to suspect that the customer has not been truthful in completing the application. (For example, information supplied by the customer concerning income or employment status might not be consistent with other available information.)

Use of credit reference agencies

Credit reference agencies (CRAs) are required to be authorised by the FCA because they undertake the regulated activity of providing credit references.

Where a lender or credit broker consults a CRA in relation to a customer, it must on request give the customer the name and address of the CRA.

When a customer's application for credit is rejected as a result of information on their credit file with the Credit Reference Agencies, the customer must be given the contact details for the CRA in case the customer wishes to query their credit record.

8 Vulnerable customers and mental capacity

This module covers vulnerable customers and mental capacity.

In this module you will learn about the following areas:

- **Identifying and assisting vulnerable customers**
- **The relevance of mental capacity to borrowing and lending decisions**
- **FCA rules and guidance on mental capacity and vulnerable customers**
- **Risks**
- **Using the BRUCE tool to support customers**
- **Do's and Don'ts**
- **Firms' responsibilities under CONC**
- **Data protection implications**

Mental capacity and vulnerable customers

The FCA's rules and guidance on mental capacity surrounding the sale of consumer credit are set out in CONC 2.10 and draw on guidance which was initially published by the OFT in October 2011

The new Consumer Duty further emphasises the importance of suitability of products and services to their customers.

The Duty makes explicit reference to firms paying attention to the needs of customers with characteristics of vulnerability, who have additional needs or be at greater risk of harm.

Mental capacity is about whether a person has the ability to understand, remember and consider information which is presented to them and make an informed decision. It should not be confused with mental health: a person with a mental health condition may still have the capacity to make an informed decision.

Vulnerability is a much broader concept, defined by the FCA as *'someone who, due to their personal circumstances, is especially susceptible to harm, particularly where a firm is not acting with appropriate levels of care'*. A survey undertaken by the regulator established that half of UK adults display one or more characteristics of being potentially vulnerable.

FCA guidance for firms on the fair treatment of vulnerable customers

In February 2021 the FCA published new vulnerability guidance to help drive improvements in the way firms treat vulnerable customers. The guidance here sets out the standards expected of firms for the fair treatment of vulnerable customers, by taking action to:

- **understand the needs** of their target market/customer base
- Make sure staff have the right **skills and capability** to recognise and respond to the needs of vulnerable customers.
- **respond to customer needs** throughout the way finance products are designed and how customer service and communications are undertaken.
- **Monitor and assess** whether they are meeting and responding to the needs of customers with characteristics of vulnerability, and make improvements where this is not happening.

The FCA's key drivers of vulnerability

The FCA advises firms to consider vulnerability as a spectrum of risks where all customers are at risk of becoming vulnerable. This risk increases with the presence of vulnerability characteristics.

These characteristics relate to four key drivers of vulnerability:

Health - any condition or illness that affects the ability to carry out daily tasks
Life events - these events include bereavement, job loss or retirement
Resilience - reduced ability to withstand financial or emotional shock
Capability - low confidence and confidence in managing money/financial matters. This driver includes low capability in areas such as literacy and numeracy.

The FCA has identified seven harms that vulnerable customers can face:

- Financial exclusion
- Difficulty accessing services
- Disengagement with the market
- Inability to manage a product or service
- Over indebtedness
- Buying inappropriate products or service and exposure to mis-selling
- Scams and financial abuse

Research into the experiences of consumers with characteristics of vulnerability has provided further evidence that the way firms respond to vulnerability can increase or reduce the risk of harm.

The relevance of mental capacity to borrowing and lending decisions

Customers' mental capacity will vary and an individual's capacity may vary according to what is being discussed.

Some customers may find certain concepts and information more difficult to understand than others – for example, the interest rate under a finance agreement might be more difficult to understand than information about the duration of an agreement. If a firm suspects that a customer might not have sufficient mental capacity to make a fully informed borrowing decision, it should consider the following:

- whether or not the customer appears able to understand, remember and weigh up the information and explanations provided in the showroom and therefore be able to make an informed decision on the finance agreement being offered;
- whether the customer appears able to afford to make repayments under the credit agreement in a sustainable manner, without adverse consequences to their finances;
- whether the finance product being sought is suitable for the customer's needs and individual circumstances; and
- in particular, whether the customer appears to understand the key risks posed by the finance agreement – for example, the risk of default and possible repossession of the vehicle – and appreciate the commitment associated with entering into the agreement.

It is imperative that the firm weighs up all the information available to it to determine whether a customer may have a mental capacity issue and may need further assistance before progressing a finance application. Such customers should not automatically be denied access to finance agreements – but further steps may need to be taken.

Identifying and assisting vulnerable customers

Most customers will be able to make decisions without difficulty. However, a surprising number will encounter serious problems. It is important that dealers and lenders are alert to these problems, and provide support to overcome them.

Decisions

Customers often need to make a number of decisions or choices when they buy a vehicle. It is important that they are provided with clear information to help inform these choices and are given the space and time they need to make careful decisions.

Four parts to a decision

Customers must be able to do four things when making a decision:

1. **Understand** the information provided to them (this could be about the vehicle, contract, or other issues).
2. **Recall** key information about the vehicle, contract arrangement or their own personal information.
3. **Evaluate** ('weigh-up') any options or choices they have been given.
4. **Communicate** any questions they have, and their final decision to go ahead with the purchase.

Recognising vulnerability

The FCA's vulnerability guidance makes it clear that it expects firms to ensure that staff have the skills and capabilities to recognise vulnerability and respond appropriately to individual customers' needs so they can treat them fairly.

Staff should be capable of recognising and responding to needs:

- where the consumer has told the firm about a need
- where there are clear indicators of vulnerability
- where there is relevant information noted on the consumer's file that indicates an additional need or vulnerability.

There are a number of common potential causes of mental capacity leaving the customer vulnerable and unable to make decisions:

- a mental health condition
- Dementia
- a learning disability
- a development disorder
- a neurological disability or brain injury
- alcohol or drug use – including intoxication or use of prescribed drugs
- language and literacy – inability to speak English and read/review paperwork or information

Vulnerability and CONC

According to FCA CONC rules a firm's primary focus should be on:

- taking action to assess whether a customer can understand, remember and weigh-up information;
- providing reasonable support to help customers make a decision;
- providing customers with clear information and explanations about credit and the associated risks;
- giving customers adequate time to consider the information and explanations provided and ask any questions.
- giving customers the opportunity to take information away to consider explanations, enabling them to make informed decisions at a later date;
- carrying out appropriately robust assessments of the customer's ability to afford to make repayments. Such assessments should not rely unduly on the information provided by the customer.

Risks to firms

In England, Wales and Northern Ireland, where a party to a contract lacks mental capacity the contract may be unenforceable if it can be shown that a firm knew – or should reasonably have known – that the customer lacked capacity at the time he/she entered into the contract.

In Scotland, if it can be shown that the customer lacked the capacity to enter into an informed contract (regardless of what the firm knew or ought to have known) then the contract could be declared unenforceable.

Using the BRUCE tool to support customers

The Money Advice Trust, a debt advice charity, have produced guidance to help dealership staff identify customers that have problems with making decisions. The guidance uses BRUCE - a tool or protocol to remind staff of the key aspects of decision making:

Behaviour

Think about your own behaviour:

- Know your products, arrangements, and offers to ensure explanations given to the customer are clear.
- Use simple language and break down explanations into easy to understand chunks – check customer understanding then move on to the next feature.
- Never make decisions for a customer.

Remembering

Think about how to overcome any problems with memory by:

- Repeating key information, or simplifying information.
- Using alternative ways of giving information (e.g. rephrasing or using a written summary if an oral explanation has been given).
- Asking whether a friend or family member can help them.
- Asking if there is anything else that could be done to help.

Understanding

Understanding is key – support can be provided to customers by:

- Asking the customer to summarise what they have been told (to identify what they might not have understood).
- Repeating information to customers in different ways.
- Summarising and simplifying information where possible (but continuing to provide any regulatory or legal detail that is required).

Communication

The following could also be considered:

- Offering the involvement of a third party to assist.
- Allowing more time for the customer to communicate.

Evaluation (weighing-up)

Discuss each option available to the customer individually.
Take the customer through a series of steps to aid their thought process.

Additional resources

A dealership guide to helping customers make decisions is available on the Money Advice Trust's vulnerability resource hub here.

The FLA in partnership with the University of Bristol has also produced Vulnerability: A guide for lending available here.

Do’s and Don’t’s

The key principles when dealing with vulnerable customers

Do

- Always look out for problems.
- Presume that customers have the ability to make a decision.
- Ensure you understand the finance product, terms and conditions and offers thoroughly.
- Provide the customer with a clear and simple product presentation.
- Use different types of explanation to help explain difficult concepts.
- Ask if a relative, friend or other reliable source is able to support it they are struggling to understand.
- Ensure the customer makes the decisions even if you think this is unwise.
- Act if you see the customer is having difficulties.
- Refer to your manager if you are unsure how best to proceed with the customer.

Don’t

- Reject the customer.
- Make up an explanation if you don’t understand it yourself
- Rush explanations.
- Ignore or “side-step” the customer’s questions.
- Ignore problems.
- Make decisions for the customer.
- Pressure the customer to sign an agreement.
- Conclude the agreement on your own if you are not sure how to proceed.

Firms' responsibilities under CONC

The CONC rules require firms to undertake an assessment of customers' creditworthiness before entering into credit agreements with them.

Motor dealers must work with finance companies to make a reasonable assessment of whether customers can afford to sustain regular payments under a finance agreement. It is reasonable to expect a motor dealer to pass pertinent information on a customer's circumstances to a finance company when that information has not and will not be captured on a finance application.

When assessing affordability in respect of a customer who may have a mental capacity limitation, firms must consider:

- if the customer does not have the capacity to make a decision at the time that it needs to be made, the risk of the customer inappropriately taking on an unsustainable credit commitment is increased;
- if it is suspected that the customer is having difficulty understanding, dealers should mitigate these risks by applying a particularly high level of scrutiny to the customer's purchase decision;
- product explanations – including the key feature and risks – should be provided in clear, jargon-free language in a way that makes it as easy as possible for the customer to understand;
- the customer's right to make a decision must be balanced with their right to safety and protection when they are unable to make decisions to protect themselves. Achieving this balance is not a simple task, but the risk to such customers can be significantly mitigated by introducing effective affordability assessments;
- dealers are expected to undertake a robust affordability assessment of the customer to facilitate an informed and appropriate lending decision regarding future affordability and possible change of circumstances.

Any action or decision made to take account of a customer's mental capacity limitation should always have the customer's best interests at heart and be specific to their personal circumstances.

Data protection implications

Firms must make sure they comply fully with the General Data Protection Regulation (GDPR) at all times. A customer's data must be processed in line with one of the lawful bases set out under the Regulation.

Firms will need to take particular care to make sure those customers who may have mental capacity issues understand when they are being asked to give consent to their personal data being captured and processed.

Further information on the provisions of the GDPR - which apply to all customers, not just those who may have mental capacity issues – is set out in module 13.

9 Financial incentives

This module covers financial incentives, including the information that must be disclosed to customers in relation to commission earned by credit brokers (including motor dealers) and the risks which could be posed to customers by firms' incentive schemes if those schemes are not properly managed.

In this module you will learn about the following areas:

The information which a credit broker must disclose to a customer about fees.

Risks posed to customers by firms' incentive schemes.

Examples of good and poor practice

Commission and other fees received by a motor dealer

A Court of Appeal judgment in October 2024 (full text can be found here) found that car dealers, when selling finance alongside the car, owed their customer a duty of undivided loyalty (or 'fiduciary' duty). This means that the law requires that the customer must be given clear information about the existence, nature and amount of commission the dealer could receive from the sale, and that the customer must give informed written consent to this before the commission can be received. This is the law of the land unless and until the Supreme Court or Parliament overturns this.

This requirement is in addition to the requirement in FCA rules (at CONC 4.5.3R) which already required the existence and nature of commission to be disclosed to the customer.

Consistent with the Consumer Duty, this should lead to a good customer outcome. The customer should clearly understand what they are being offered and have the information they need to make an informed decision about what is right for them and about whether to consent to the commission.

Rules on disclosing commission

- These rules apply to commission received by both dealers and brokers.
- Where commission is payable, there is a duty to disclose the existence, nature and amount of commission to the customer and to obtain the customer's informed consent to the payment of commission.
- This relates to all commission models.

Areas to consider for dealers/brokers

What amounts should be disclosed?

Any remuneration connected to the agreement, directly or indirectly, should now be disclosed. This includes not only commission but also other forms of remuneration such as administration fees, panel fees or any other remuneration that passes from a lender to an intermediary. This would typically not include, for example, separate funding streams from an OEM to a retailer to support asset sales, but it would include payments made by a lender to an intermediary as a consequence or reward for the volume of finance business referred.

Which remuneration should be disclosed and by whom?

All the remuneration paid as part of the tri-partite agreement should be disclosed to the customer, including where there is both a primary broker and a secondary broker. This means:

- Lenders should disclose the remuneration that they pay to the intermediary, as above.
- The intermediary should disclose the remuneration that they receive. This includes scenarios where the intermediary receives remuneration from a party other than the lender, such as a broker. This means that the broker and retailer are each responsible for disclosing the remuneration they receive.

Commissionand other fees receivedby a motordealer cont....

How should the remuneration be described in the disclosure?
The disclosure should be displayed as a single monetary figure, alongside the method of calculation. Where appropriate, the remuneration amounts should be itemised. For example, commission on the agreement and a panel fee or flat administration fee for processing the application on behalf of the lender should be disclosed separately.

Consistent with CONC 4.5.4R, if the precise amount to be paid is not known at the time of disclosure, disclosure should be made of the method of calculation and likely amount of the remuneration instead, as long as the estimate of the amount is reasonable and the customer is informed that it is an estimate. This would include disclosing, for example, the amount of any future volume-linked payments where these are likely to be paid. If disclosing an estimate of the likely amount, it should be acceptable also to disclose this as a range of amounts, as a maximum amount or as a maximum and minimum amount.

When should the commission be disclosed?
The key regulatory considerations are that disclosures are made in good time before the agreement is signed and that they are prominent.

The lender must ensure that they implement and monitor compliance with the disclosure requirements (both regulatory and commercial); there should be consistency with intermediaries' own businesses processes for disclosure.

In many cases this will mean making these disclosures at the pre-contractual explanation or earlier quotation stage or, as long as the disclosures are in good enough time and prominent, at the later document signature stage. However, alternatives to this may be more appropriate in some markets (e.g. the non-prime market) where additional considerations will be to ensure that a good overall customer journey is maintained.

Consent
An effective and compliant disclosure is, of course, a necessary prerequisite for an informed and complaint consent.

The consent form should not be long or onerous. The shorter and clearer the form is, the more likely it is to lead to an authentic and informed consent. In practical terms, the following are examples of elements on a consent form that are likely to lead to effective and compliant consent:

- acknowledgement of the role of the intermediary and that the commission arrangements have been explained;
- a description of the role of the intermediary e.g. whether they are impartial, on whose behalf they are working, how their panel works, whether independent advice is being given;
- a description of the nature of the commission arrangement and a statement of the amount (or likely amount) of commission;
- an explanation as to whether the fee payable does or does not impact the amount to be paid by the customer;
- a statement whether a fee is payable by the customer, and
- signatures by both parties.

Risks posed to customers from incentive schemes

The FCA continued the review work started by the Financial Services Authority (FSA) into firms' remuneration and incentive schemes, and the risks which these may pose to customers.

In 2017 the FCA published findings of its Thematic Review on staff remuneration and incentives, for example how dealers and finance providers pay commission to their own staff, and issued a consultation on changes to CONC along with draft guidance.

As part of its exploratory work on motor finance, the FCA reviewed commission arrangements between motor finance providers and dealers. Its findings, published in March 2019, showed that the use of some commission products had led to consumers paying higher interest costs than they should have done.

The findings showed a strong connection between commission that gave dealers the flexibility to vary the interest rate or APR for each customer and higher interest costs. The FCA had estimated that 'discretionary' commission products of this kind, on average, led to additional costs of £1,100 to the average customer affected, and £300m overall.

Prohibition of discretionary motor finance commission

On 28 January 2021, as a result of its final findings, the FCA implemented rules that ban commission, fees and other incentives where:

- dealers or brokers decide or negotiate the amount of any item included in the total charge for credit for a regulated credit agreement; and
- the amount of commission, fee or other financial incentive is affected by such changes to the total charge for credit, ie there is an incentive for brokers/dealers to change the deal.

The FCA has effectively broken the link between the commission a dealer or broker earns and the cost of credit to the customer. Commission products that give discretion for dealers and brokers to change the interest rate offered by a finance company, and receive renumeration based on that rate, have therefore been banned.

Fair treatment of customers

All of the guidance and publications that have been released by the FSA and FCA provide a clear and consistent message: firms should aim to deliver the best outcomes for their customers, providing the most appropriate products for their needs at the best value. The Consumer Duty builds on this by requiring that firms ensure that they deliver fair value to their customers.

The remainder of this module focuses on ways to identify and manage the risks associated with incentives, including how firms remunerate their staff.

Managing the risks to consumers

Good and poor practice:

Good Practice

Action is taken when the quality of sales is found to be poor – bonus payments are reduced or, in serious cases, individuals removed from the incentive scheme immediately.

Poor Practice

- Failure to apply sanctions despite problems occurring (quality standards not met).
- Staff giving poor advice that needed corrective action are penalised by losing their quarterly bonus but still receive a (larger) monthly bonus.
- A "quality gateway" intended to stop staff receiving bonuses if certain sales quality standards are not met is ineffective because staff can still qualify for a bonus if other categories being measured meet the required standards.
- Doubling the monthly bonus of staff who meet a high standard of compliance as long as there is only one mistake: staff can therefore receive a double bonus even though they may have mis-sold a product.

Management information

Good and poor practice:

Good Practice

• A wide range of information is used to monitor the sales patterns of individual sales staff, analysing trends and causes, with particular attention paid to those staff selling the most products and other staff who may be at a higher risk of mis-selling.

• Face-to-face sales conversations are monitored.

• Non-advised sales are monitored to ensure that staff who are incentivised to sell do not give personal recommendations.

• Incentives used by Appointed Representatives are approved.

• Recognition that the risk of mis-selling may increase where remuneration is effectively 100% variable pay based on sales volumes.

Poor Practice

• MI does not take account of the specific features of a firm's incentive scheme and does not identify trends or spikes in sales patterns.

• MI is not available at individual staff level.

• Firms selling insurance products do not review claim repudiation rates and the reasons for rejected claims.

Business quality monitoring

Good and poor practice:

Good Practice

MI is used to identify sales patterns of individual staff where trends or spikes indicate an increased risk of mis-selling.

Poor Practice

- Inconsistent monitoring focuses on the more risky products but not on those with highest sales, or those which attract large bonuses for selling.
- Monitoring concentrates on whether the sales process complies with the firm's guidelines rather than identifying where there have been poor customer outcomes.
- No extra monitoring is carried out on sales staff achieving higher sales volumes, or other staff who may be under pressure due, for example, to fear of disciplinary action.
- No extra monitoring is carried out on individuals with higher than normal rates of cross-selling different products.
- Monitoring gives the same weight to minor administrative errors as to mistakes in the sales process.

Controlling inappropriate behaviour

Good and poor practice:

Good Practice

- Monitor recorded sales.
- Conduct mystery shopping.
- Check that key features of products have been properly explained – via a programme of outbound calls to customers.

Poor Practice

- Information collected from customers relies on "yes/no" questions relating to satisfaction rather than establishing whether key features have been clearly explained.
- Firm relies on observations of sales conversations carried out as part of training – when staff know they are being assessed.

Governance arrangements

Good and poor practice:

Good Practice

Senior manager made accountable for representing customers' interests in the design and review of incentive schemes.

Poor Practice

- Senior managers unaware of risks to customers posed by features of incentive schemes.
- Failure to carry out regular reviews of the effectiveness of controls in mitigating the risks arising from the incentive schemes.

Appointed Representatives

Where an appointed representative has its own sales staff or advisers, its Principal remains responsible for managing the risk of misseling as a result of incentive schemes.

The Principal therefore needs to have sufficient understanding of any incentive arrangements in place in order to manage any potential risks to consumers.

10 Unfair relationships and the Unfair Trading Regulations

This module covers the "unfair relationships" provisions in the Consumer Credit Act and the Consumer Protection from Unfair Trading Regulations.

In this module you will learn about the following areas:

- **What are unfair relationships?**
- **The Consumer Credit Act's unfair relationships provisions**
- **The Consumer Protection from Unfair Trading Regulations**

What are unfair relationships?

The Consumer Credit Act introduced "unfair relationships" provisions in 2007.

This allows customers to challenge loan agreements that could create an unfair relationship between them and the lender.

A Court may rule that a credit agreement may create an unfair relationship between a lender and its customer if:

- any of the terms of the credit agreement or a related agreement creates an unfair relationship;
- the way in which the lender has exercised or enforced its rights under the credit agreement creates an unfair relationship; or
- any other thing done (or not done) by or on behalf of the lender either before or after the credit agreement is entered into creates an unfair relationship.

The Courts have a wide range of powers where a relationship is found to be unfair, including:

- altering the terms of the credit agreement;
- reducing the amount payable by the customer;
- requiring the lender to refund money to the customer; and
- removing any duty placed on the customer under the agreement.

Once a customer complains, the lender will have to prove that it did not act unfairly. A customer's claim or complaint can include allegations of things done, or not done, by a lender's agent (which may include a motor dealer under Section 56 of the CCA).

If a consumer feels that they have not received a satisfactory response to their complaint, they can refer it to the Financial Ombudsman Service (FOS) for investigation and adjudication, or go to court. The FOS can help with complaints about most matters involving financial products and services provided in (or from) the UK. This includes:

- banking;
- credit cards and store cards;
- loans and credit;
- Hire Purchase;
- pawn broking; and
- financial advice.

Further information on the FOS is set out in the 'FLA Lending Code and dispute resolution' module.

The Consumer Protection from Unfair Trading Regulations

Until 2008 there were various pieces of legislation covering areas that could be deemed as regulating "unfair trading."

These included legislation relating to trade description, advertising and misleading practice. They were consolidated in and replaced by the Unfair Trading Regulations, which protect customers by enabling enforcement action to be taken against bad practices such as aggressive selling, and misleading sales information.

The Regulations are now monitored and enforced by the Competition and Markets Authority, in partnership with local Trading Standards Offices.

The vast majority of UK businesses already trade fairly and should not have had to change their business practices in order to comply with the Regulations, which are focused on tackling a minority of businesses which cause customer detriment through poor practices.

The Regulations:

- introduce a general duty not to trade "unfairly" and seek to ensure that traders act honestly and fairly towards their customers at all times;
- apply primarily to the sales and marketing activities of businesses that apply to customers, but certain business-to-business practices are also covered where they affect or are likely to affect customers.

How the Regulations affect the motor industry

The Regulations apply to all retailers whose practices could be deemed as unfair.

An unfair practice is one which either harms or is likely to harm the economic interests of the average customer. For example, if a customer is given inaccurate information, or is put under pressure, they may make a decision to buy that they would not have made had they been given accurate information and not been put under pressure.

The Regulations define the following types of conduct as unfair:

Dishonest practices

The Regulations state that customers should reasonably expect businesses to act at all times in good faith and follow honest market practices.

Misleading practices

Under the Regulations it is illegal for businesses to carry out misleading practices where they provide consumers with false information, leave out information that is important to a purchasing decision, or give messages that seek to deceive the customer.

Aggressive sales techniques

The Regulations state that businesses must not use harassment, coercion or undue influence when dealing with customers.

Banned practices

The Regulations outline 31 specific practices that are banned outright. These fall under one of five broad headings:

- falsely claiming accreditation or credentials (claiming to be what you are not);
- misleading pricing and product information (too good to be true/referring to different goods etc);

promotional activities (incorrect goods/ misleading packaging/sales etc)

Competitions and prize draws (pyramid schemes /competitions with no winners etc); and

Sales and aftersales services (forcing a sale/pestering /implying guilt/broken promises etc).

Banned Practices

There are 31 sales practices that the unfair trading regulations have banned. We list those relevant to the sale of motor finance below:

- Claiming to be a signatory to a code of conduct when the trader is not.
- Displaying a trust mark, quality mark or equivalent without having obtained the necessary authorisation.
- Wrongly claiming that a trader (including its commercial practices) or a product has been approved, endorsed or authorised by a public or private body or making such a claim without complying with the terms of the approval, endorsement or authorisation.
- Making an invitation to purchase products at a specified price without disclosing the existence of any reasonable grounds the trader may have for believing that they will not be able to offer, supply or procure those products or equivalent products at that price and for a reasonable period.
- Making an invitation to purchase products at a specified price and then:
  (a) refusing to show the advertised item to consumers
  (b) refusing to take orders for it or deliver it within reasonable time, or
  (c) demonstrating a defective sample of it, with the intention of promoting a different product (bait and switch).
- Falsely stating that a product will only be available for a very limited time, or that it will only be available on particular terms for a very limited time, in order to elicit an immediate decision and deprive consumers of sufficient opportunity or time to make an informed choice.
- Stating or otherwise creating the impression that a product can legally be sold when it cannot.
- Presenting rights given to consumers in law as a distinctive feature of the trader's offer.
- Using editorial content in the media to promote a product where a trader has paid for the promotion without making that clear in the content or by images or sounds clearly identifiable by the consumer (advertorial).
- Making a materially inaccurate claim concerning the nature and extent of the risk to the personal security of the consumer or their family if the consumer does not purchase the product.
- Promoting a product similar to a product made by a particular manufacturer in such a manner as deliberately to mislead the consumer into believing that the product is made by that same manufacturer when it is not.
- Claiming that the trader is about to cease trading or move premises when they are not.

Banned Practices (continued)

- Passing on materially inaccurate information on market conditions or on the possibility of finding the product with the intention of inducing the consumer to acquire the product at conditions less favourable than normal market conditions.
- Claiming in a commercial practice to offer a competition or prize promotion without awarding the prizes described or a reasonable equivalent.
- Describing a product as 'gratis', 'free', 'without charge' or similar if the consumer has to pay anything other than the unavoidable cost of responding to the commercial practice and collecting or paying for delivery of the item.
- Falsely claiming or creating the impression that the trader is not acting for purposes relating to their trade, business, craft or profession, or falsely representing oneself as a consumer.
- Creating the impression that the consumer cannot leave the premises until a contract is formed.
- Conducting personal visits to the consumer's home ignoring the consumer's request to leave or not to return except in circumstances and to the extent justified to enforce a contractual obligation.
- Making persistent and unwanted solicitations by telephone, fax, e-mail or other remote media except in circumstances and to the extent justified to enforce a contractual obligation.
- Requiring a consumer who wishes to claim on an insurance policy to produce documents which could not reasonably be considered relevant as to whether the claim was valid, or failing systematically to respond to pertinent correspondence, in order to dissuade a consumer from exercising their contractual rights.
- Demanding immediate or deferred payment for or the return or safekeeping of products supplied by the trader, but not solicited by the consumer, except where the product is a substitute supplied in accordance with regulation 19(7) of the consumer Protection (Distance Selling) Regulations 2000 (inertia selling).
- Explicitly informing a consumer that if they do not buy the product or service, the trader's job or livelihood will be in jeopardy.
- Creating the false impression that the consumer has already won, will win, or will on doing a particular act win, a prize or other equivalent benefit, when in fact either:

  a) there is no prize or other equivalent benefit, or
  b) taking any action in relation to claiming the prize or other equivalent benefit is subject to the consumer paying money or incurring a cost.

The full 31 Banned Practices can be found here.

Impact in motor dealerships

Within the showroom, all actions with a consumer must be fair and not misleading.

Special attention must be given to the Regulations and the spirit of the law to ensure that good practices are always maintained.

The following must be avoided:

- the **31 specific practices** (see above) which are banned and therefore considered unfair;
- **misleading actions** (the dealer/sales executive does something misleading which may cause an average customer to enter into a contract);
- **misleading omissions** (the dealer/sales executive fails to disclose something which is important for a customer to be told about); and
- **aggressive sales techniques** such as use of coercion, harassment or undue influence (for example, pressure selling in a showroom).

11 Distance Selling

This module covers the Consumer Contracts (Information, Cancelation and Additional Charges) Regulations 2013, including distance selling.

In this module you will learn about the following areas:

distance seling and the regulations governing it;

the difference between distance seling, on-premises seling and off-premises selling;

how the rules and regulations change for distance credit and hire agreements.

What are distance sales?

Distance sales are those where a trader, such as a dealer, makes exclusive use of distance communication (for example the internet, e-mail or telephone) up to and including the point at which a contract is entered into with the customer.

During the Covid-19 pandemic, online vehicle purchase, delivery and collection services provided at a distance allowed many dealers to continue operating while their forecourts were closed. Distance sales regulations have therefore become an increasingly important area for SAF learners to be competent in.

What regulates distance sales?

Distance sales in the UK of most goods and services, where the customer is a consumer, are governed by the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, which came into force on 13 June 2014.

Among other things, the Consumer Contracts Regulations set out:

- the information a trader must give to a consumer before and after making a salethe right for consumers to change their minds when buying at a distance or off-premises;
- delivery times and passing of risk; and
- a ban on consumers having to pay more than the basic rate for post-contract customer helplines.

Distance selling, on-premises selling and off-premises selling

What is the difference between distance selling, on-premises selling and off-premises selling?

Distance contracts

If a customer orders a car by telephone or online, would this be considered distance selling? Yes, because the customer and the dealer have made exclusive use of one or more means of distance communication up to and including the time at which the contract is concluded.

On-premises contracts

On-premises contracts are those concluded face to face at a firm's main or regular business premise, such as when a customer visits a car showroom. The majority of new and used car (and car finance) sales are likely to be on-premises sales contracts.

Off-premises contracts

Off-premises contracts are sales made face to face away from a firm's business premise, such as sales concluded between a firm and a customer in the customer's home. This is unlikely to be relevant to sales conducted by motor dealerships.

Providing clear information

The Consumer Contract Regulations state that a customer who wishes to buy a vehicle "at a distance" has the right to receive clear information from the dealer.

This must include:

- The dealership's name and address
- An accurate description of the vehicle
- Price – including any taxes and delivery costs – and how long the price quoted is valid
- Delivery arrangements and terms
- Payments – how and when
- Cancellation – the customer's right to cancel the arrangement
- Liability – for delivery, collection and condition

Further information on general cancellation rights is provided in the module on Post-contract information and rights.

The Consumer Contracts Regulations also state what information should be sent to the customer **after the sale** (but before the vehicle is delivered). This includes:

- Written confirmation of the order (by letter, email or fax) including the pre-purchase information if this hasn't already been provided.
- Written information about how to cancel the arrangement, a postal address and details of any guarantees, warranties or after-sales services, if applicable.

Cancellations and refunds

The time limits for order cancellations are as follows:

- The contract must be cancelled within **14days** after delivery of the vehicle. The vehicle must then (depending on the dealer's terms) be made available for collection.

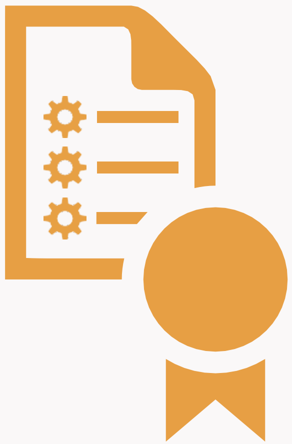
- A customer who decides to return the vehicle within these time limits is entitled to expect the full amount to be refunded within **14days**

Ancillary contracts

An ancilary contract is a contract related to the main contract but is subordinate to it.

Under the CCR, if a customer cancels the main contract, the ancillary contract is automatically cancelled and it is the trader's responsibility to notify any relevant party. For example, if a customer decided to cancel their purchase of a new car then it is the dealer's responsibility to contact any finance company who has provided finance to help fund the purchase and advise them that the finance contract has also been cancelled. Any deposits paid by the customer must also be returned.

This would normally only apply to finance contracts that instantly transfer vehicle ownership to the customer, such as a personal loan or other forms of unsecured finance. Secured distance credit and hire agreements such as hire purchase, personal contract purchase and personal contract hire cannot usually be cancelled, as explained at the end of this module.



Ordering time

Unless otherwise agreed, the dealer should supply the vehicle within 30 days from the day after the customer placed his/her order.

Customer Helplines

If a firm offers a post-sale helpline for its customers then there should be a telephone number available which they can call which charges at no more than the basic telephone rate.

For example, free of charge numbers such as 0800 or geographic numbers such as those starting with the prefix 01, 02 or 03 should be used: a premium rate number would not comply.

Distance credit and hire contracts

The Consumer Contracts Regulations do not apply to regulated credit agreements such as hire purchase, conditional sale or personal contract purchase because an outright purchase is not being made (i.e. the customer does not become the legal owner at the outset) and services of a credit nature are not covered by the regulations.

The rules and regulations governing distance credit agreements are complex, with varying aspects governed separately by the:

- Financial Services (Distance Marketing) Regulations 2004;
- FCA rules: CONC 2.7;
- Consumer Credit (Disclosure of Information) Regulations 2010.

Areas for consideration

The requirements differ depending on whether the finance agreement is concluded over the telephone or by other means such as online, and the amount of credit financed. These are the key areas for consideration:

- **Provision of information** – more information needs to be provided to consumers for distance contracts.
  - For credit agreements this includes information on:
    - the lender's authorisation from the FCA;
    - the provision of pre-contract information.

- **For hire agreements** this requires the information set out under section 2 of the Consumer Contracts Regulations (here) to be provided to the customer.

- **Communication between lenders and intermediaries** – lenders, dealers and brokers must ensure the correct distance sales documentation and contracts for credit and hire agreements are provided. If the customer is given the wrong information, this could lead to the agreement being unenforceable – leaving the lender without any ownership rights to the vehicle.

- **Hybrid sales and the right to cancel** – where some of the sales process is undertaken at a distance and other aspects are conducted at the point of sale, the agreement may be cancellable under the Consumer Credit Act 1974 where either:
  - it is a regulated consumer hire agreement; or
  - there is no right to withdraw.
- **Right to withdraw replaces right to cancel** – for regulated credit agreements where the customer has the right to withdraw, they will not have the right to cancel the agreement. The right to withdraw only allows the customer to withdraw from the finance agreement, not from the purchase of the vehicle.

Rights to redress

Where there are satisfactory quality issues with a vehicle purchased using a distance credit or hire agreement, the customer has the same rights to reject, repair and replace under the Consumer Rights Act 2015 and additional rights under the Consumer Protection from Unfair Trading Regulations 2008 as they do with an on-premises contract.

12 Asset registration

This module covers assetsecurity and registration.

In this module you will learn about the following areas:

Asset registration and recording ownership

Industry best practice

Asset registration and recording ownership

The vast majority of motor finance agreements are secured against the vehicle being financed, for example, under Hire Purchase or Personal Contract Purchase agreements.

Rather than being given a lump-sum loan, the customer is given the use of a vehicle, which must be paid for. The vehicle is the property of the lender and acts as its "security" in the event of the customer experiencing any problems and not being able to meet their contractual repayments. A finance company will generally remain the legal owner of the vehicle until all finance repayments have been made.

Any vehicle (security) which is purchased on a secured finance agreement must be capable of being identified and correctly valued using the latest market intelligence.

In the motor industry, all cars have a unique Vehicle Registration Mark (number plate) and a Vehicle Identification Number (VIN), which allow firms to determine the detailed specification of the vehicle. Finance companies will usually rely on motor dealers to accurately record the details of the vehicle on their showroom systems.

Finance companies will then register their financial interests in those vehicles with the asset registration agencies, such as cap hpi, CDL and Experian so that there is a clear and public record of ownership. This record helps finance companies to protect their valuable assets from any unauthorised sale. A lender's list of financial interests in vehicles is sent to agencies on a daily basis, so that when a dealer or customer carries out a vehicle history check the record confirms any outstanding finance. This usually protects the customer from being sold a vehicle which is not the seller's to sell.

Industry best practice

It is entirely voluntary for lenders to register the vehicles they own with the asset registration agencies.

However, with the average value of a new vehicle standing at over £10,000, it is in the lenders' best interests to keep an accurate and up-to-date record of their vehicles and the customers who are using them.

The consequences of failing to register financial interests can be serious, such as a finance company ultimately losing ownership of its expensive asset. More generally, a failure to record a new interest or delete an expired one can result in customer complaints, reputational damage and costly legal proceedings.

The FLA has developed some non-binding best practice on asset registration which provides helpful information to lenders and agencies on how to best go about recording financial interests and managing the supply of that data.

For lenders who are members of the FLA it is now a requirement under the Lending Code for them to register their vehicle financial interests with each of the primary asset registration agencies (currently cap hpi, CDL, Experian and AutoTrader).

13 The General Data Protection Regulation

This module covers the Genera Data Protection Regulation (GDPR).

In this module you will learn about the following areas:

- **The Regulation**
- **Who and what does GDPR apply to?**
- **The Information Commissioner's Office (ICO)**
- **The six data protection principles**
- **Rights for individuals**

The Regulation

The EU General Data Protection Regulation (GDPR) replaced the EU Data Protection Directive and the UK Data Protection Act 1998 (DPA) on 25th May 2018. The Data Protection Act 2018 is the UK's implementation of GDPR.

This legislation continues to apply in the UK following the UK's departure from the EU.

The Regulation is designed to harmonise data privacy laws across the EU, protect and empower all EU citizens' data privacy and reshape the way organisations approach data privacy. Compliance with GDPR in the UK is overseen by the Information Commissioner's Office.

The GDPR sets out a legal framework of rights and duties which are designed to help safeguard personal data. This framework balances the legitimate needs of organisations to collect and use personal data for their business, and the rights of individuals to have their personal details protected and not misused. It ensures that organisations recording personal data:

- Have a lawful basis for processing data.
- Are accountable under GDPR and can demonstrate compliance with the Regulation.
- Process data securely.

The GDPR is much larger in scope than the Data Protection Act since it applies to all companies processing the personal data of data subjects residing in the EU, regardless of a company's location. The Regulation also covers most forms of personal and sensitive data used in modern day society.

Who does GDPR apply to?

The personal data rules apply to manual (hard/paper copies) and electronic information about any living individual (the "data subject").

The GDPR applies to both data 'controllers' and 'processors'. A controller determines the purposes and means of processing personal data. The processor is responsible for processing data on behalf of a controller.

Both controllers and processors have legal responsibilities under GDPR. Processors must ensure they maintain records of personal data and processing activities and are legally liable for any breaches of the way in which data is handled. Additionally, controllers must ensure that their contracts with processors comply with GDPR.

Motor retailers, lenders and brokers can be data controllers, data processors or both depending on how they use the data provided by the customer.

Personal data

Any information that can directly or indirectly lead to the identification of a person such as name, ID number, mobile phone location and online data. GDPR applies to all formats in which data can be stored such as electronic and manually held data (hard/paper copies).

Sensitive personal data

There are specific provisions relating to special categories of personal data such as: race or ethnic origin; political opinions; religious beliefs; trade union membership; health; sexual orientation; genetic and biometric data; and criminal proceedings or convictions.

Sensitive personal data can only be processed with the explicit consent of the individual, if it is required by law for employment purposes, or if dealing with the administration of justice or legal proceedings. It can also be processed if it is necessary to protect the interests of the individual or another individual.

Marketing

The data subject's express consent should be obtained before any data is used for marketing purposes. Unsolicited marketing by mail should not be undertaken if an individual is registered with the Mailing Preference Service or by telephone if an individual is registered with the Telephone Preference Service.

The Information Commissioner's Office (ICO)

The ICO is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

The ICO is responsible for:

- **Promoting good practice** in handling personal data and giving advice and guidance on data protection
- **Ensuring data controllers pay the appropriate data protection fee** and provide and update basic information about their firm.
- Helping to **resolve disputes** by deciding whether it is likely or unlikely that an organisation has complied with the GDPR when processing personal data.
- Taking action to **enforce compliance** with GDPR, where appropriate.
- Bringing **prosecutions for offences** committed under GDPR (except in Scotland, where the Procurator Fiscal brings prosecutions).

Under GDPR data controllers must pay the ICO a data protection fee unless they are exempt. The new data protection fee replaces the requirement to 'notify' or (register) under the DPA. Since all firms hold responsibilities under GDPR, the ICO requires less information than was required under the DPA. Data controllers must provide:

- The name and address of the controller
- The number of members of staff the firm has
- The turnover for the financial year
- Any other trading names the firm has
- Contact details for the person completing the fee registration process and the Data Protection Officer (if the firm is required to have a member of staff with that particular designation under GDPR).

The Six Data Protection Principles

The GDPR updates and modifies the main responsibilities for organisations set out by the DPA.

Although all are applicable to the sale of motor finance, some are more relevant than others. The six principles are:

Principle 1

Data must be processed lawfully, fairly and in a transparent manner with the data subject's consent. For motor finance, personal data is required to complete an application for motor finance.

Principle 2

Data shall be collected for specified, explicit and legitimate purposes (i.e. entering into a finance contract) and not further processed in a manner that is incompatible with those purposes. When information is requested industry staff must establish whom they are talking to, and whether they are authorised to disclose specific information to that party.

Principle 3

Personal data must be adequate, relevant and limited to what is necessary. Only sufficient information should be collected for the purposes of the transaction, e.g. completing an application for finance.

The Six Data Protection Principles

Continued

Principle 4

Personal data shall be accurate and where necessary kept up to date. Ensuring that the information collected for a transaction is accurate and continually updated and recorded.

Principle 5

Personal data must be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes of which the personal data are processed. Information that is of no use after the transaction should be securely destroyed – examples in the showroom could be proofs of address, copies of credit cards or copies of identification documents.

Principle 6

Personal data shall be processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

Rights for individuals

One of the key changes brought about by GDPR is the introduction of new rights and the strengthening of existing rights to give individuals more control on how organisations process their data. The rights GDPR provides to individuals are:

Right to be informed – individuals have the right to be informed about the collection and use of their personal data. ‘Privacy information’ explaining how an individual’s data is processed, how long it is retained for and who it is shared with must be provided at the time data is collected, for example, on or in conjunction with, the sales and finance agreement. This information is usually known as a ‘Data Privacy Notice’ or DPN.

Right of access – individuals have the right to access their personal data and any supplementary information that is held or has been processed by an organisation. A reasonable fee can be charged only if the request is unfounded or excessive, otherwise it must be provided free of charge without undue delay, within one month of the request being made.

Right to rectification – individuals have the right to have inaccurate personal data rectified, or completed if inaccurate. A request can be made verbally or in writing and must be responded to within one month. In certain circumstances requests can be refused.

Right to erasure – individuals have a right to ask to have their personal data erased. This is known as the ‘right to be forgotten’. A request can be made verbally or in writing and must be responded to within one month.

Right to restrict processing – individuals have the right to request the restriction or suppression of their personal data. This allows for their data to be stored but not used. A request can be made verbally or in writing and must be responded to within one month.

Right to data portability – individuals have the right to obtain and reuse their personal data for their own purposes across different services. This allows them to move, copy or transfer personal data across IT platforms for convenience in a way that is portable and safe. This information must be provided free of charge, without undue delay, and within one month of being requested.

Right to object – individuals have the right to object to their personal data being processed for direct marketing purposes (including profiling). The right to object must be included in the initial privacy notice provided to the individual.

Rights related to automated decision making and profiling – individuals have a right not to be subject to an automated decision making process or profiling unless the decision is necessary for the entry into or performance of a contract. Since affordability and creditworthiness checks are a requirement for finance providers to undertake, individuals would not always be entitled to exercise this right where data is being used for a credit application.

14 Anti-money laundering

This module covers anti-money laundering.

In this module you will learn about the following areas:

- **The definition of money laundering**
- **The objectives of the UK Money Laundering Regulations**
- **Bodies responsible for enforcing the Regulations**
- **Firms' responsibilities under the Regulations**
- **Individual liability**
- **How to prevent money laundering**

Definition

Money laundering is a phenomenon that has resulted from the sophistication of criminal activities.

It is the criminal act of changing the identity of illegally-obtained money so that it appears to have originated from a legitimate (or "clean") source.

The term "money laundering" is typically applied to any financial transaction which generates money or an asset as the direct result of an illegal act, such as tax evasion or false accounting.

Given that an arrangement for car finance results in the customer receiving a vehicle rather than funds from the lender, the initial transaction is less susceptible to money laundering. The main risk arises if the customer seeks to accelerate the agreed repayment schedule, by means of lump sum (cash) payments and/or early termination. Early repayment can also be indicative of funds being used which have emanated from a criminal lifestyle.

Money laundering is generally carried out by organised criminal gangs, but it can be just as easily committed by opportunistic individuals or small and large businesses.

Although money laundering is often associated by the public with drug trafficking or organised crime, it may also be the result of other criminal conduct including:

- terrorist activity
- theft and fraud
- forgery and counterfeiting
- blackmail and extortion
- tax evasion

Objectives of the Money Laundering Regulations

The Money Laundering Regulations are designed to protect the UK financial system and outlaw certain activities.

The UK already had certain provisions in place (in relation to anti-terrorism measures) when the first EU Directive on Money Laundering was adopted in 1991. This was transposed in 1993 into UK Money Laundering Regulations, which have subsequently been revised and amended.

The Fifth EU Money Laundering Directive was adopted in April 2018 and has been implemented into the UK by Regulations which came into effect on 10 January 2020.

The Regulations require businesses including credit institutions and "high value dealers" to be registered (authorised) by the appropriate authority – in the UK, this is either HM Revenue and Customs (HMRC) or the FCA depending on the type of business. "High value dealers" are defined as firms which accept payments of over €10,000 in cash (currently approx. £9,000) either in one instalment or through a series of linked payments: this definition may therefore apply to motor dealers who accept cash.

Firms must put in place certain controls to prevent themselves from being used for money laundering by criminals and terrorists. These controls include appointing a designated Money Laundering Reporting Officer (MLRO), checking the identity of customers and keeping all relevant documents linked to that transaction.

Regulators

The main supervisory authorities that monitor businesses' compliance with the Regulations are:

- HM Revenue & Customs
- The National Crime Agency
- The Financial Conduct Authority

Whilst the main statutory requirements on firms are set out in the Regulations, detailed guidance notes are published by the Joint Money Laundering Steering Group (JMLSG). The JMLSG is an industry group that works alongside the Government and regulatory bodies to interpret the Regulations and help industry implement them. The FLA is represented on the JMLSG. The **guidance** is regularly reviewed and updated and all firms are expected to take note of it.

Motor finance providers, that are members of the FLA, agreed a minimum standard of due diligence checks to prevent money laundering and financial crime. The 'FLA Standard' has been adopted by the JMLSG and incorporated into its guidance. Further information about the FLA Standard and what checks should be undertaken when customers are being sold a finance product is provided in section 5: pre-contractual requirements.

Responsibilities

The Regulations make it a criminal offence for regulated businesses not to have in place formal procedures to combat money laundering.

Firms' responsibilities include:

Appointing a nominated officer

Most firms which carry out a consumer credit activity must appoint a nominated Money Laundering Reporting Officer (MLRO) who is responsible for receiving disclosures of suspicious transactions and activity and deciding whether these reports should be reported to the National Crime Agency (NCA).

Carrying out "due diligence" on customers (checking their identity)

Customer due diligence may be carried out where the annual payments do not exceed €15,000 and the legal and beneficial title of the asset(s) is not transferred to the customer until the end of the contract (this would include a motor finance deal). Enhanced due diligence – increased levels of checking – should be carried out in cases where the customer has not been physically present for identification purposes. If a firm is unable to identify a customer it should not continue with the transaction.

Record keeping

Copies of documents obtained during the process of identifying customers, together with details of all transactions on the account, must be kept for five years after the transaction or finance agreement has ended.

Monitoring the business relationship

The lender should monitor the customer's repayments to check that they are normal and in line with the agreement.

Reporting suspicions

The Regulations place a legal obligation on all staff working in all finance companies and motor dealerships to report any suspicions to their nominated Money Laundering Reporting Officer or directly to the National Crime Agency (NCA). Once a report has been made to the firm's MLRO, it is an offence to make any further disclosure that is likely to prejudice an investigation.

Training staff

All staff who are involved in customer transactions - including those in motor finance providers and motor dealerships – must receive ongoing training on the requirements of the Money Laundering Regulations. This training must include requirements for identifying suspicious activity, reporting any such activity and keeping accurate records of transactions that may need to be investigated at a later date. The FLA offers such training.

Individual liability

The penalties for businesses and individuals not complying with the Regulations can be severe, for example:

Assisting

Up to 14 years' imprisonment and/or an unlimited fine for giving assistance to a money launderer to obtain, conceal, retain or invest funds if you know or suspect that the funds are the proceeds of criminal activity.

Tipping-off

Up to five years' imprisonment and/or an unlimited fine for "tipping off" i.e. alerting a customer to the fact that they have been or will be reported to or investigated by the police.

Failure to report

Up to 5 years' imprisonment and/or an unlimited fine for failing to report suspicions of money laundering.

Prevention

Motor finance companies and other institutions are susceptible to attempted money laundering because of the large sums of money that are involved in the purchase of cars (a high-value asset).

In addition to the need to carry out sufficient Due Diligence to establish customers' identity, firms should be alert to:

Early Settlement

The main money laundering risks arise where a customer seeks to speed up an agreed repayment schedule, either by means of lump sum repayments, early termination or settlement. Early repayments carry a risk that the funds have emanated from a criminal lifestyle.

Third Party Payments

Staff should query all cash payments from third parties who are not related to the primary customer.

Large cash transactions

If an individual seeks to pay for goods and services in cash, rather than by cheque or credit/debit card, this may be an indication that they are trying to "launder" the cash. Staff should be wary of large cash transactions, rather than payments via Direct Debit or cheque, particularly if the customer has not paid in cash previously.

Some customers might take out a loan for a vehicle and then seek to pay it off early with cash or pay a large cash deposit.

15 The FLA Lending Code and dispute resolution

This module covers the FLA's Codes of Practice and consumer credit dispute resolution.

In this module you will learn about the following areas:

- **What the FLA is, and who it represents.**
- **The FLA's two Codes of Practice.**
- **The FCA's complaint handling requirements and the Financial Ombudsman Service.**

The Finance & Leasing Association (FLA)

The FLA is the representative body for the UK motor finance industry.

Its members consist of the captive finance arms of motor manufacturers, the motor finance subsidiaries of major banks and other independent lenders. The FLA's member finance companies represent over 90% of the UK's retail motor finance sector. FLA members fund around 90% of all private new car registrations.

All finance company members of the FLA must adhere to the **FLA Lending Code** which sets out standards of best practice in how the finance and leasing industry offers and sells finance to customers. This includes how finance is sold in motor dealerships, where the associated finance company is an FLA member.

The FLA's Codes of Practice

The FLA has two Codes of Practice: the **Lending Code** covers lending to consumers and the **Business Finance Code** covers lending to businesses. This material refers only to the Lending Code.

The FLA Lending Code reassures anyone applying for finance from an FLA member that they are doing business with a reputable lender. The Code clearly sets out all the key commitments and principles of lending which FLA member finance companies are expected to follow. Although following the Code is not a legal requirement for lenders – it is best practice – a business cannot become an FLA member if it does not comply.

SAF Approved and the FLA Lending Code

In 2021 the FLA agreed a new provision requiring that members only arrange finance through SAF Approved intermediaries, or with firms that undertake equivalent training. The provision comes into effect from 1st January 2023 in relation to franchised dealer groups and brokers and from 1st January 2025 in relation to independent dealer groups.

The action taken aims to raise professional standards by requiring all industry staff, that arrange finance products, to undertake SAF learning or equivalent.

The FCA's complaint handling requirements and the Financial Ombudsman Service (FOS)

The FOS is the statutory independent adjudicator of consumer complaints linked to the supply of finance.

Firms must have their own internal complaints handling procedures and comply with rules (set out in the **DISP** chapter of the FCA Handbook) which set out timescales within which responses to complaints must be given to customers.

If, at the end of a firm's internal complaints-handling process (generally eight weeks), the customer remains dissatisfied, they have the right to refer the complaint to the FOS for adjudication and resolution. FOS's decision is not binding on customers, who remain free to pursue their complaint in the courts if they wish: the decisions are however binding on firms if the consumer accepts them and FOS can order firms to take corrective action and where appropriate pay redress up to £355,000.

FOS is funded by a levy paid by all finance companies according to their size and sector:
in most cases they also pay a 'case fee' for every unresolved complaint which is referred to the FOS. The FOS can help with complaints about most financial matters involving products and services provided in (or from) the UK including:

- Banking
- Credit cards and store cards
- Loans
- Hire Purchase and other motor finance products
- Pawn broking
- Financial advice

Toolbox

The following links may be useful to further enhance your motor finance knowledge

FLA resources

- FLA's Specialist Automotive Finance (including a link to a PDF of this Reference Material) - www.specialistautomotivefinance.co.uk
- FLA - www.fla.org.uk
- FLA's motor finance site for car buyers - www.financingyourcar.org.uk
- FLA Lending Code - https://www.fla.org.uk/consumer-information/lending-code/

Other resources

- Consumer Credit Act 2006 www.legislation.gov.uk/ukpga/2006/14/contents
- Information on the EU consumer credit law https://ec.europa.eu/info/business-economy-euro/banking-and-finance/consumer-finance-and-payments/retail-financial-services/credit/consumer-credit_en
- The Consumer Protection from Unfair Trading Regulations www.gov.uk/government/publications/consumer-protection-from-unfair-trading-regulations-traders
- Online and distance selling https://www.gov.uk/online-and-distance-selling-for-businesses
- Financial Conduct Authority (FCA) - www.fca.org.uk
- HM Revenue & Customs - www.hmrc.gov.uk
- Joint Money Laundering Steering Group - www.jmlsg.org.uk
- The Driver and Vehicle Licensing Agency (DVLA) www.gov.uk/government/organisations/driver-and-vehicle-licensing-agency

A B C D E F G H I L M N O P R S T U V W

A

AcceptanceFee

An additional charge – usually to cover the costs of administration - that is sometimes made by the lender (finance company) and is in addition to the interest charged to the customer.

Administration Fee

An additional charge – usually to cover the costs of administration - that is sometimes made by the lender (finance company) and is in addition to the interest charged to the customer.

Advertising Regulations

Specific legal requirements that are set out in the Consumer Credit Act regarding the form, content and style of advertisements for finance, when the associated finance agreements are regulated by the Act.

Amortise

Process whereby the initial cost of an asset is written off over a period. A fully amortising loan is therefore fully paid off at the end of the loan period – there is no balloon payment of residual value. It is also known as "full payout".

Annual Percentage Rate (APR)

Officially defined as `That rate at which the amount of credit advanced is equal to the sum of the present values of each repayment of capital and of each payment in respect of the total charge for credit`.

An APR is the total percentage rate of interest that is charged against the advance/amount of finance borrowed by a customer. The APR includes the flat/fixed interest rate charged by the lender, plus any other administration fees or charges incorporated into the agreement.

APRs were introduced as a means to give the customer the chance to compare the cost of one finance facility with another on a fair basis.

Asset

Any item of value that is owned by an individual or company. Motor finance can be referred to asset-backed lending because the vehicle is provided to the customer alongside the supply

of finance.

Accessories

Items added to a vehicle, e.g. a tow-bar, roof rack etc.

Advance

The amount of finance that is loaned to a customer. This is the invoice price of a vehicle, minus any deposit. Interest is charged on the advance.

Agreement

The document that legally binds a customer, following an application to obtain goods on credit or hire. The customer (or hirer) and lender (or owner) must sign an agreement for it to be legally binding.

Arrangement Fee

An additional charge – usually to cover the cost of setting up a finance facility - that is sometimes made by the lender (finance company). It is in addition to the interest charged to the customer.

A B C D E F G H I L M N O P R S T U V W

B

Balance

The remaining amount of finance that is due to be paid by the customer to the lender under a finance agreement or the difference between the total amount of credit and total amount of debit in an account. The balance changes with every transaction/ payment.

BalanceFinanced

The total invoice price less deposit paid – see Advance.

BalanceSheet

A statement provided by a business or organisation in their annual company accounts which sets out its assets, liabilities and capital at a particular point in time. A balance sheet essentially provides a snapshot of what the company owns and owes.

Baloon Payment

Under certain agreements (e.g. Hire Purchase) the consumer can negotiate a larger, single payment (also referred to as a lump sum) at the end of the agreement to reduce the cost of regular payments. This is known as a Balloon Payment. See Finance Structures section.

Business Manager

The person in a motor dealership who is generally responsible for handling the sale of Finance and Insurance (F&I)products.

BaseRate

The published rate of interest offered by a financial institution. Also known as a flat rate of interest. The Bank Base Rate is issued by the Bank of England.

Broker

Sometimes known as Secondary Brokers. They differ from primary brokers (motor dealerships) by acting as a more traditional broker (eg a mortgage broker). A car finance broker will contact several lenders to get the several potential deals for the customer organise the finance on their behalf. A broker typically seeks the best available finance from their panel of lenders and arranges the finance agreement on their behalf.

C

Cancelable Agreement

A finance agreement that is regulated by the Consumer Credit Act, but one that is signed off `Trade Premises'. This gives the customer the right to cancel (in writing) a finance agreement within a specific number of days of signing it. The cancellation terms are shown in the agreement. See Distance Selling section.

Capital

Simply the amount of finance that is borrowed and due to be repaid. Capital excludes any interest charged and can be repaid in a lump sum or by instalments.

Certificate of SAF Competence

Specialist Automotive Finance (SAF) has been introduced by the Finance & Leasing Association (see FLA). The Certificate of SAF Competence is clear recognition to consumers which dealership staff have attained the professional standard on motor finance set by the SAF Competence Test (online testing).

Charges

Generally the term 'charges' refers to the interest charged by the lender to the customer for providing finance, although it can also mean other charges such as arrangement fees included in agreements.

Compliance

A measure to decide if the customer/lender/dealer is acting in accordance with their obligations or acceptable standards. Regulatory compliance refers to systems or departments at businesses and public agencies that ensure that staff are aware of and take steps to comply with relevant laws and regulations that affect the way in which they operate.

Conditional Sale

A type of purchase agreement where title/ownership to the associated goods (for example, a vehicle) passes from the finance company to the customer once all payments have been made.

Contract Hire (or Operating Lease)

This is a method of funding the use but not the ownership of a vehicle. The customer (Lessee) is renting the vehicle for a fixed rental from a leasing company (Lessor) for an agreed period. At the end of the contract the vehicle is handed back to the leasing company. A Contract Hire lease effectively transfers all the Risks and Rewards of ownership to the Lessor and is an `Off-Balance Sheet' method of funding.

Contract

A legally binding agreement between two or more persons for the purchase of financial products.

Credit Protection Insurance (CPI)

An insurance policy to ensure that the customer's contractual payments will be made in the event of personal circumstances changing. (Death, sickness, accident, redundancy etc.) – see PPI.

Credit Reference Agency

An organisation that collects, stores and provides information about customers' past and current credit history. Main agencies are: CallCredit, Equifax and Experian.

Credit Sale

An agreement for the sale of goods which allows the customer to pay all or part of the cost of the goods in instalments. It differs from Hire Purchase and Conditional Sale in that the title (ownership) passes to the customer at the start of the contract.

A B C D E F G H I L M N O P R S T U V W

D

Data Protection Act (DPA)

The Data Protection Act is an Act of Parliament intended to protect the privacy of the individual person and regulate the use of personal data by laying down eight legally enforceable Data Protection Principles. Any business that processes personal information must notify the Information Commissioner (previously called Data Protection Registrar) and comply with all sections of the Act.

Debtor

The customer, company or individual entering into the agreement to borrow money from a lender or a person who has an obligation to pay a debt.

Deposit

An initial payment of a portion of the capital cost of the vehicle. This usually takes the form of cash / cheque or equity in a part-exchange vehicle.

Discretionary commission

incentive schemes provided by finance providers that give dealer and broker staff the discretion to change the total cost of finance payable by the customer. Typically this would allow the dealer or broker to change the interest rate or APR within a set range. The FCA estimated that discretionary commission models led to £300m of additional interest costs paid by consumers in 2017/18.

Distance Selling

The sale of goods or services to consumers via the telephone, fax, mail-order and (increasingly) by the internet or a digital TV is protected by the Consumer Contracts Regulations. There are certain exceptions (for example, goods ordered from a public payphone) but the Regulations do apply to motor vehicles.

Documentation Fee

An additional charge that is sometimes made by the lender and is in additionto the interest.

E

Early Settlement

Payment of the balance owing on a credit agreement, including interest, before the final payment is due. If the agreement is regulated under the Consumer Credit Act, there is a legally specified rebate that the customer must be given.

Economic growth

An increase in the amount of goods and services produced in the economy over a period of time.

Electronic Identification and Verification (EID&V)

The use of electronic systems to verify the customer's identity. The information provided by the customer such as personal details, biometric data, forms of ID and responses to questions is verified against a number of databases to check the customer is who they say they are.

End of Agreement / Contract

When all the contracted payments have been made (including any fees) on an agreement. For Hire Purchase and Conditional Sale agreements, this is when title is transferred to the customer.

Equity

The `positive` difference between the value of a vehicle and any money owed on that vehicle.

Executed Agreement

When a contract (document) containing all the written terms of an agreement is signed by all the people involved in it – customer and finance company.

Extras

See Accessories.

A B C D E F G H I L M N O P R S T U V W

F

Finance & Leasing Association (FLA)

The FLA is the representative body for the UK motor finance industry and its Lending Code sets out standards of good practice for the finance and leasing industry. Full FLA membership requires compliance with the Lending Code.

Finance Contract

A document that details all the terms and conditions of a financial arrangement as well as vehicle and customer details.

Finance Lease

This is a method of funding the use but not the ownership of a vehicle. The customer (Lessee) is renting the vehicle for a fixed amount from a leasing company (Lessor) for an agreed period.

With this type of lease, the customer is responsible to the leasing company for the whole cost of the asset and will share in any profit when the asset is sold. The `Risk and Reward` are with the Lessee.

Fixed rate of Interest

A rate of interest which cannot be altered during the term of a financial transaction.

Flat Rate of Interest

A `flat` interest rate is the most common method used to calculate interest charges payable on a finance agreement. It is normally on a per annum basis and the total interest is calculated on the amount of money borrowed and the term of the loan.

Interest is charged on the full amount of a loan throughout its entire term. The flat rate takes no account of the fact that periodic repayments, which include both interest and capital, gradually reduce the amount owed. See also Fixed Rate of Interest.

G

GAP

An insurance policy that bridges the gap between the insurance company payout and finance company settlement (or original vehicle cost) in the event of total loss or theft of the vehicle.

Guarantee

A form of security used in support of a finance agreement where a third party guarantees to make the repayments owed to the the finance company by the customer in the event that the customer is unable to make them.

Guaranteed Minimum Future Value (GMFV)

This is set by the manufacturer or finance company and allows the customer to know the least amount the car will be worth at a point in the future. It is normally the guaranteed maximum “balloon” payment, or Optional Final Payment a customer would need to make in order to gain title to a vehicle on a Personal Contract Purchase (PCP). The GMFV is calculated after taking into consideration the retail price of the vehicle, the length of time the customer wants to keep the vehicle and the mileage they will cover during that time.

H

Hire Purchase

A Hire Purchase Agreement is a fixed cost, fixed period loan of money to purchase goods. It is a `Tri-Partite` agreement where a finance company HIRES the vehicle to the customer for an agreed period at an agreed monthly sum; the customer can gain ownership (title) by paying an additional sum called the Option to Purchase Fee or Purchase Fee.

Hirer

The person to whom goods are hired under a hire agreement.

I

Instalments

Amounts payable at regular intervals under a credit agreement - same as Rentals and Payments.

Inflation

An increase in the prices of products and services over time.

Interest

An amount of money payable to the lender in addition to the amount of capital borrowed. This reflects the cost of money, the term over which it is lent and the degree of risk to the lender involved - see Charges. The rate of interest can be either Fixed or Variable.

Invoice

A document that details vehicle and purchaser information as well as the price paid.

A B C D E F G H I L M N O P R S T U V W

L

Lease

A contract between a Lessor and a Lessee for the hire of a specific asset (vehicle) where the title to the asset is retained by the finance company

LeasePurchase

A Lease Purchase is a purchase agreement (similar to a Hire Purchase or Conditional Sale). The term `Lease Purchase` was introduced into the finance industry to describe a Hire Purchase or Conditional Sale contract with a payment structure similar to a lease. Instead of a deposit, `Advance Payments` may be paid and it is usual to have a balloon payment.

Lending Code

The FLA's Lending Code sets out the key commitments and principles which members are expected to follow at all times.

Lessor

The owner of leased goods (Finance House / Bank / Leasing Company).

Lessee

The user of leased goods (Customer)

Liability

A customer's obligations under a credit or hire agreement

Loan

A sum of borrowed money that is generally repaid withinterest.

M

Money Laundering

This is the criminal process of changing the identity of illegally obtained money so that it appears to have originated from a legitimate `clean` source. Finance companies and dealers have a duty to be alert to possible money laundering and an obligationto report suspicious activities to the National Crime Agency.

Mortgages

A legal process whereby the value of property or land is used as security for a loan. Where it is used for property purchase, the term is commonly used as meaning the loan itself. . See Second Mortgage / Loan.

A B C D E F G H I L M N O P R S T U V W

N

Negative Equity

Where the money owed on a vehicle is greaterthan what the vehicle is worth.

Non-discretionary expenditure

Priority payments needed to meet debts and other essential living expenses. Non-discretionary expenditure is therefore a consumer's core monthly expenditure that finance companies must establish or estimate to ensure the credit being applied for is affordable (unless it is obvious that the credit is affordable).

Non-Regulated Agreement

A credit or hire agreement that is not governed by the Consumer Credit Act.

O

Operating Lease

This is a method of funding the use but not the ownership of a vehicle. The customer (Lessee) is renting the vehicle for a fixed rental from a leasing company (Lessor) for an agreed period. At the end of the contract the vehicle is handed back to the leasing company. An Operating Lease transfers substantially all the Risks and Rewards of ownership to the Lessor and is an `Off-Balance Sheet `method of funding.

Option to Purchase Fee

The fee that is only applicable on a Hire Purchase Agreement (usually payable with the final payment) that officially transfers title from the finance company to the customer.

Overdraft

A banking facility that allows an account to be operated, up to an agreed limit, when no credit funds are in that account.

A B C D E F G H I L M N O P R S T U V W

P

PartExchange

The process when a customer exchanges their car with a motor dealer to form part or all of a deposit towards the price of their next new vehicle.

PaymentHoliday

A period during the agreement when the customer does not make any payments.

PaymentProtection Insurance (PPI)

Also known as Payment Protection Plan (PPP), PPI is an insurance policy intended to pay the customer's contractual payments in the event of personal circumstances changing (death, sickness, accident, redundancy etc.) – see CPI.

PersonalContract Purchase(PCP)

A PCP is in essence a Purchase agreement (similar to a Hire Purchase or Conditional Sale) that is governed by vehicle mileage and term, where a predicted minimum value (GMFV) is offset until the end of the agreement. At the end of the agreement the customer has three options:

1.Part exchange for another car;

2. Pay the final payment and keep the car;

3. Return the car and walk away.

PersonalLoans

A loan of money to purchase any consumer item – including vehicles. The facility is widely offered by Banks, Building Societies Direct Lenders and Finance Companies.

PrimaryPeriod of Hire

The initial period of a lease. On a Contract Hire agreement the vehicle is due to be returned at the end of the Primary Period of Hire.

Prudential Regulation Authority

Part of the Bank of England that is responsible for ensuring firms are being run in a safe and sound way. The PRA is the regulator for banks, building societies, credit unions and investment firms, making sure they hold sufficient funds and have adequate risk controls in place to protect their customers, themselves and the UK economy. The PRA works closely with the FCA.

R

Rebate(EarlySettlement)

A sum of money returned to a customer following the early payment of a finance agreement. For agreements regulated by the Consumer Credit Act, the minimum amount of rebate is legally specified.

Regulated Agreement

An agreement regulated by the CCA.

Rentals

The term used for instalments or payments especially in leasing.

Repossession

The taking back by the owner of goods which are the subject of a credit or consumer hire agreement usually because instalments or rental payments have not been kept up-to-date.

Repossession Rights - The rights of customers and finance houses relating to when goods can be repossessed in the event of default.

Once a consumer has paid more than one third of the Total Amount Payable, the goods are classed as protected and cannot be repossessed without a court order. In Scotland a Court Order is always required. This is detailedunder the CCA as the 'thirds rule'.

Residual Value

The value of goods at a point in the future – normally the end of a finance agreement. It can generally only be predicted at the start of an agreement, since the exact figure will be unknown at that point.

A B C D E F G H I L M N O P R S T U V W

S

SAF Expert Competence Test

The SAF Expert Competence Test is an annual online test aimed at all customer-facing staff in motor dealerships. The online test consists of 60 challenging multiple-choice questions and must be completed in 60 minutes. The system is simple to operate and will help dealerships manage finance-related issues more effectively.

SAF Training Material

The SAF Reference Material is available to all motor dealerships that do not have access to alternative motor finance training to assist them in taking the SAF Competence Test. Staff may visit the material as often as they like to help complete the test.

Second Mortgage / Secured Loan

A loan secured on property or land, regardless of the purpose of the loan. It can take the form of:

- Mortgage
- Second Mortgage
- Secured Loan.

It is usually for borrowing in excess of £25,000 and is provided by banks, building societies and specialist lenders. Secured loans are structured over a longer period of time (5 – 25 years), linked to the amount of equity in a customer's home and based on a variable rate of interest (some lenders will do interim periods at a fixed rate).

Secondary Period of Hire

The period after the end of the Primary Period on a Finance Lease, where the lease is extended. Rentals in this period are usually at a much-reduced rate – sometimes termed `peppercorn rentals`

Security

In any form of lending, the lender is seeking to recover its capital outlay plus interest. Anything less may be regarded as a loss and the lender may seek to recover all or part of the property or asset in order to cover that loss.

Secured finance agreement

An agreement where the lender owns the vehicle throughout the term and has the right to repossess it if the customer does not meet repayments. Hire Purchase, Conditional Sale and Personal Contract Purchase are types of secured finance agreements.

Service Contract

A specially tailored service contract which can be included in finance packages to cater for service, repair and maintenance costs of a vehicle.

Settlement

The finalizing of a financial transaction.

Settlement Penalty

An amount charged to customers who settle an agreement early. Any customer has a statutory right to complete payments under an agreement early, if they so desire. When this happens, the customer is entitled to a rebate of the outstanding interest if the agreement is regulated under the Consumer Credit Act. Early settlement may result in the finance company losing money and it is therefore allowed to charge a penalty to compensate for the contract being broken earlier than anticipated – this is typically one month's penalty interest.

Specialist Automotive Finance (SAF)

SAF is a kitemark developed by the FLA to raise standards and improve skills for those involved in the sale of motor finance. SAF will improve consumer confidence and change consumer awareness of showroom finance.

Spread Rentals

This refers to a payment profile for a contract. The capital and interest is being paid for `spread` over the whole period (as opposed to having a `terminal pause`).

Supplier

The invoicing dealership.

T

Terminalpause

This refers to a payment profile for a contract or agreement, i.e. 3+33. A Terminal Pause is the time between the date of the last payment and the end of the initial agreement period which in the 3+33 example could be month 36. The capital and interest is therefore being paid over a shorter period and the customer has no payments to make during the final months.

Termination

The ending of certain types of credit agreement according to the terms and conditions of the individual agreement.

TerminationRights

Detailed under the Consumer Credit Act as the `halves rule`. The legal rights of the customer to end an agreement and return the goods.

The CCA allows the consumer to terminate the agreement before the end of the contractual term. Termination is not the same as settlement, because title to the goods does not pass to the customer.

Title

Legal ownership of an asset - for example, a vehicle.

Total AmountPayable

The total amount a customer pays for goods including all charges and fees.

TradeIn

A vehicle offered as part-payment in respect of the purchase of another vehicle. See also Part-Exchange.

Tri-partite` agreement

An agreement involving three parties, for example, a customer; a dealer and a finance company.

U

Unregulated Agreement

Another term for an agreement not covered by the CCA

Unsecured finance agreement

An agreement where the customer owns the vehicle (or any other asset) as soon as they take possession of it. The lender therefore has no right to repossess the vehicle if the customer fails to repay the loan. Personal loans and Credit Sale are types of unsecured finance agreement.

A B C D E F G H I L M N O P R S T U V W

V

V5 (Registration Certificate)

A document provided by the Driver and Vehicle Licensing Agency (DVLA) that sets out details relating to the vehicle (specification) and Registered keeper (name and address).

Value Added Tax (VAT)

A general tax on goods and services which was introduced into the UK in 1973. The National HMRC VAT Helpline can be contacted on 0300 200 3719.

Each EU country has its own rates of VAT. In the UK there are three rates:

- Standard rate - currently 20 percent.
- Reduced rate – this applies to certain items such as, for example, children's car seats and domestic fuel or power – currently 5%.
- Zero rate - There are some goods on which VAT is not levied, for example; food, books, newspapers and magazines, children's clothes.

Variable Rate of Interest

A rate of interest charged that changes in response to movements in – generally – the Bank of England's base rate. A variable rate may also change during the life of an agreement in line with current market conditions. This means it could go up – costing the customer more; or go down – costing the customer less.

Vehicle Identification Number (VIN)

A unique number that is attached to vehicles in order for them to be identified.

W

Wear & Tear

The deterioration in vehicle condition (and value) due to ordinary and normal use.