



# Less is more

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# Navigating Consumer Credit Regulation: A UK and OECD Comparison



# Background and rationale

- Perception that the UK is an outlier
  - UK regime is more complex
  - UK regime is characterised by different and conflicting ‘regimes’
    - legislative
    - conduct based rules and guidance
    - principles based regulation
    - outcomes based regulation
- Risks under the UK regime make it expensive to comply and impacts investment in UK consumer credit sector
- Current political and economic climate supportive of a review





# Scope and methodology

- **Unsecured consumer credit only**
- **Countries selected:**
  - UK (baseline)
  - France
  - Germany
  - Poland
  - Italy
  - USA/New York law
- **Work started late 2024**
  - Does not take account of CCD2 or recent announcements to UK law
- **Approach:**
  - Law and regulation of consumer credit
  - Alternative Dispute Resolution (ADR)

# Law and Regulation of Consumer Credit

- **There are similarities between the different countries**
  - Consumer credit is regulated in all jurisdictions
  - Firms providing 'in-scope' consumer credit must be authorised or registered (Poland)
  - Criminal sanctions for lending without authorisation or exceeding usury caps
  - Exemptions exist in all jurisdictions
- **There are also key differences:**
  - FCA has greater regulatory powers to order firms to provide redress
  - Only the UK has a private right of redress (section 138D of FSMA) for breach of rule
  - Only the UK has an unfair relationships regime (section 140A-C of the CCA)
  - Only the UK and Italy have unenforceability for conduct breaches
  - UK has more of a multi-faceted regime
  - No other assessed jurisdiction has consumer duty
  - No other assessed jurisdiction has a senior managers regime as extensive as SMCR
  - UK regulator requires more consumer credit specific product data
  - Authorisation process more onerous in the UK

# ADR

- Financial Ombudsman Service (FOS)
  - Established in 2001
  - Independent body that helps resolve disputes
- Growing criticism:
  - Acting as a quasi-regulator
  - Applies today's standards to actions that have taken place in the past
  - Practices that have grown over time on compensation
- Reform is being considered (further news expected summer 2025):
  - HMT review of regulators (including FOS)
  - FOS/FCA Call for Input on Modernising the Redress System
- Each AJ has an ADR system (ombudsman scheme) for resolving complaints relating to financial services and products:

**UK**

Financial  
Ombudsman  
Service

**France**

No single ombudsman  
(mandatory for firms  
to have in-house  
ombudsman or offer  
access to external  
ombudsman)

**Germany**

Multiple ombudsmen  
organised by sector  
(Bundesbank  
Ombudsman can deal  
with consumer credit)

**Italy**

Arbitro  
Bancario e  
Finanziario  
(ABF)

**Poland**

Rzecznik  
Finansowy  
(RF)

**US  
(New York)**

Consumer  
Assistance  
Unit (CAU)

FLA

[www.fla.org.uk](http://www.fla.org.uk)

# Similarities between Assessed Jurisdictions

- **Ombudsmen are independent and impartial**
- **Designed on premise that legal/professional assistance not required**
- **Primarily free for consumers**
- **Primarily funded by financial firms**
- **Ombudsmen decide case (usually in writing)**
- **Ombudsmen can make monetary award (plus interest)**
- **If complainant is not happy with the decision, it is not binding on either party, and the complainant can take it to court**
- **Ombudsmen decisions do not set legal precedent**

# Key differences

- **UK the only jurisdiction that does not have to apply the law**
- **Only UK firms required to take account of previous FOS decisions (in Italy, firms must consider)**
- **Only UK and Italian decisions are binding on firms if complainant accepts**
- **Different approaches to limitation rules. Some countries have long-stop periods tied to statutory limitation periods**
- **Only UK has a mechanism to challenge decisions**
- **Only UK has a “wider implications framework” but Italy has a ‘coordinating panel’**
- **Scale of UK complaints larger than elsewhere**
- **UK has unique culture of claims activity and utilisation of litigation funding for complaints**