

FAQ – Judgment in respect of the Hopcraft case

What is the background to the Hopcraft case?

The case relates to a motor finance transaction undertaken in January 2014, and was originally determined in Close Brothers Limited (“CBL”)’s favour by the County Court. It was appealed by the Claimant and heard in early July 2024 by the Court of Appeal together with two separate claims made against another lender.

What is the outcome of the Hopcraft case?

On 25 October 2024, the Court of Appeal upheld the Claimants’ appeal against CBL.

The Court of Appeal determined that motor dealers acting as credit brokers owe both a disinterested duty and a duty of loyalty (“fiduciary duty”) to their customers. This sets a higher bar for the disclosure of and consent to the existence, nature, and quantum of any commission paid than that required by current FCA rules, or regulatory requirements in force at the time of the case in question.

Are you appealing the Court of Appeal’s judgment?

CBL disagrees with the Court of Appeal’s judgment. The Supreme Court confirmed on 11 December 2024 that it has granted CBL permission to appeal the Court of Appeal’s judgment.

How long will the appeal process take and when will the appeal be heard?

The timing of any appeals process is uncertain as it is at the Supreme Court’s discretion and outside of CBL’s control. The Supreme Court has announced that the appeal will be listed at a date still to be confirmed, in Hilary Term in 2025 (being the period from 13 January to 16 April 2025). CBL is liaising with the Supreme Court Registry and other parties with a view to listing the hearing of the appeal.

What are the potential implications for Close Brothers?

The financial impact of the Court of Appeal’s Judgment in the Hopcraft case in isolation is not material to the group. However, subject to the appeal to the UK Supreme Court, the judgment may set a precedent for similar claims, which may (depending on the specific facts of those cases) result in significant liabilities for the group.

The range of outcomes and potential financial impact on the group remain uncertain. Subject to the Supreme Court appeal, the overall cost to the group of this development in the law, the FCA’s ongoing review of motor finance commissions, any customer complaints and claims and related costs and liabilities will depend on a range of factors. These include the application of the Court of Appeal’s ruling and the outcome

of the Supreme Court appeal, the number of claims and complaints received, the facts and circumstances of each individual claim, any extension to the complaints pause initiated by the FCA and the level of compensation, if any, due to affected customers. Our accounting assessment in relation to these matters remains under review.

We temporarily paused UK motor finance lending on 25 October. Since 2 November, we have restarted a significant portion of this business and expect full resumption in the very near future. We are updating our documentation and processes to ensure disclosure of commission amounts on finance agreements and obtain full customer consent for all necessary issues, including credit broker commissions, before customers enter into credit agreements. We have also implemented necessary measures to verify credit brokers' compliance with these new requirements.

What remedy could be owed in similar cases?

The remedies for future or similar claims would be determined by the courts based on the facts and circumstances of each case, although they may be impacted by the outcome of the appeal to the Supreme Court.

What is the time period this judgment is applicable to?

The judgment by the Court of Appeal applies retrospectively. CBL has been granted permission to appeal the judgment to the Supreme Court.

What are the implications for the FCA's review into historical motor finance commission arrangements?

These proceedings are separate to the FCA's review of motor commissions. The FCA has issued statements on the Court of Appeal's judgment and the status of its review, which can be found on its website.

What happens next?

The Supreme Court will set a date for the hearing of CBL's appeal. The timing of the appeal is at the Supreme Court's discretion and is outside of CBL's control, as is the timing for any judgment in respect of the appeal. CBL is liaising with the Supreme Court Registry and other parties with a view to listing the hearing of the appeal.

Our focus remains on supporting our customers, protecting our valuable franchise and implementing the capital actions outlined in our FY 2024 results announcement.

Useful Links:

- Close Brothers – Permission to appeal in respect of the Hopcraft case (11 December 2024) [Click here](#)
- Close Brothers – Q1 25 Trading Update (21 November 2024): [Click here](#)
- Close Brothers – Judgment in respect of the Hopcraft case (25 October 2024): [Click here](#)
- Close Brothers Motor Finance – Close Brothers Motor Finance returned to writing new business (8 November 2024): [Click here](#)

- Supreme Court announcement (11 December 2024): [Click here](#)

- Court of Appeal’s judgment (25 October 2024): [Click here](#)

- FCA statement on Supreme Court motor finance announcement (11 December 2024): [Click here](#)
- FCA statement – FCA proposes to extend the time firms have to handle complaints relating to motor finance commission (21 November 2024): [Click here](#)
- FCA statement on Court of Appeal judgment in Hopcraft, Johnson and Wrench (25 October 2024): [Click here](#)

- FLA comments on the Supreme Court granting Permission to Appeal the motor finance commissions cases (11 December 2024): [Click here](#)
- FLA comments – FCA announces consultation on extending the complaints handling pause to non-FCA motor finance complaints (21 November 2024): [Click here](#)
- FLA comments – FCA to consult on extending motor finance complaints handling pause (13 November 2024): [Click here](#)
- FLA comments on the Court of Appeal decision on motor finance cases (25 October 2024): [Click here](#)
- FLA overview – Motor finance commission developments: [Click here](#)