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# Creditors, IVAs and Consumer Duty

**Improving outcomes for all**

# Creditors, IVAs and Consumer Duty

## Improving outcomes for all

## Agenda

- Introduction
- Changing Landscape for IVAs and Creditor voting
- Using technology to assist with IVA changes
- Panel Discussion


Peter Wordsworth – Director - Consumer Duty Services

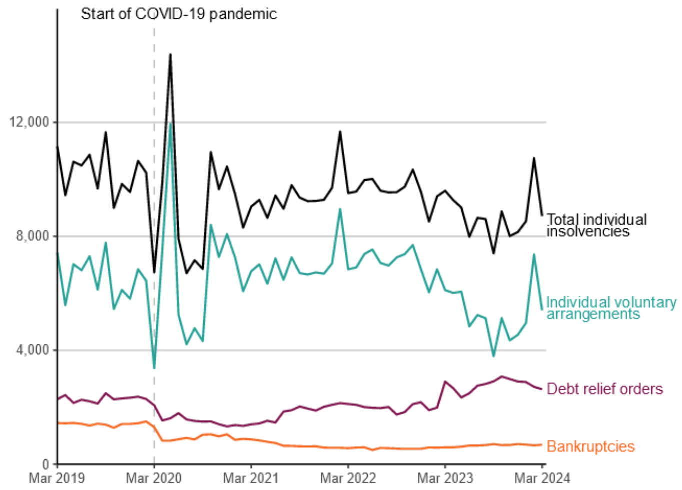

Kevin Still – Director - Consumer Duty Services


Ken Doherty – COO - Finvence


John Fairhurst – Director Risk and Policy - PayPlan

Ellie McKinnon – Insolvency Operations - PayPlan


Chris Warburton – RO-AR.com




*Lots of change impacting this area*

- Google ad requirements
- Consumer Duty, outcomes and evidence
- Debt packager referral fees ban
- DRO changes
- Outcomes message reenforced 2024
- Product sales data changes

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Creditor Event – 1/5/2024

# The changing landscape for IVAs and creditor voting under "the Duty"


**Kevin Still** MCICM

Director of Consumer Duty Services Limited


Consumer Duty Services

# FCA speech – 1/11/2023

“The Consumer Duty remains a top priority for the FCA. We will continue our work across all sectors to test firms’ implementation and embedding and will share good practice to support the industry.

“**The work to embed the Duty has only just begun**. The Consumer Duty is not a once and done exercise.  If we want to continue to see the benefits, we all need to keep a foot on the gas.

“You need to go back and review your implementation plan, and check you’ve made the changes you set out to make. Then ask yourself whether these changes go far enough. Make sure you are focused on whether you are delivering the outcomes you set out to achieve for the consumers in your target market, **especially for customers with characteristics of vulnerability**.”

**Nisha Arora, Director of Cross Cutting Policy and Strategy – speech 1/11/2023**

https://www.fca.org.uk/news/speeches/consumer-duty-not-once-and-done

# Corporate Governance Focus

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## Firms should continually be asking themselves:

Does culture align with your obligations under the Duty and support the delivery of good outcomes for customers?

Is the Duty being considered in all relevant discussions such as strategy, remuneration and risk?

**Have you made sure your remuneration & incentive structures drive good outcomes for customers?**

Are you prioritising delivering good outcomes for customers in a changing external environment?

**How do you assure ourselves this is happening from a corporate governance perspective?**

**FCA announced a Duty RFI on consumer support in their April regulatory round-up**


- Undertake a multi-firm review of how firms are supporting their consumers
- Summer 2024 - contact around 400 firms across different sectors
- Autumn 2024 - more detailed information from a smaller sample of firms
- Aim to identify and share good practices
- **Challenge firms who offer poor levels of support to customers, including those with characteristics of vulnerability**

https://www.fca.org.uk/publication/transcripts/consumer-duty-next-steps-insurance-webinar-transcript.pdf

# FCA Business Plan 2024/25 – published 19/3/2024

| Outcomes we want to achieve | Key activities we will start in 2024/25 | Key activities we will continue in 2024/25 |
|---|---|---|

- Supervisory work to test firms' implementation of the Consumer Duty and to improve firms' delivery of good consumer outcomes. This includes complaints-handling and root cause analysis, consumer support journeys, consumer understanding, fair value and closed products and services.
- Continue our work to ensure people with savings receive a fair deal and are kept informed of better rates.

PS24/2

- Finalise changes to our mortgage, consumer credit, and overdraft rules to improve outcomes for consumers in financial difficulty.
- Implement new rules to ensure consumers and businesses have reasonable access to the cash they need and continued supervision of branch closures.
- Combine insights on consumers' needs through our research and partnerships to inform our supervisory and enforcement action.
- Ongoing work exploring the role of technological solutions in enabling financial inclusion, including through a Financial Inclusion TechSprint.
- Consult on changes to our debt advice rules to improve outcomes for vulnerable consumers.
- Undertake an impact evaluation of the effect of our interventions for persistent debt following our Credit Card Market Study.
- Work with the Government and other partners to support consumer access to products and services and tackle financial exclusion. Ensure a cross-sector response to sustained cost of living pressures via the UK Regulators' Network, including for customers in financial difficulty with multiple forms of debt.

FCA Business Plan 2024/25


- https://www.fca.org.uk/publications/business-plans/2024-25
- https://www.fca.org.uk/news/news-stories/review-firms-treatment-customers-vulnerable-circumstances
- https://www.fca.org.uk/news/news-stories/fca-joins-other-regulators-warn-firms-debt-collection
- https://ukrn.org.uk/cost-of-living-working-group-joint-letter-2/
- https://www.fca.org.uk/publications/policy-statements/ps24-2-strengthening-protections-borrowers-financial-difficulty

# FG21/1 – vulnerability guidance review – 15/3

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"Our review will look at firms' understanding of **consumer needs, the skills and capability of staff, product & service design, communications and customer service**, and whether these support the fair treatment of customers in vulnerable circumstances.

"We'll also look at the outcomes consumers in **vulnerable circumstances receive and whether they're as good as the outcomes of other consumers**."

## Gaps in monitoring data – Closed Products by 31/7/2024

A key part of the Duty is that firms are able to evidence the outcomes their customers are receiving, whether that relates to **life insurance, mortgages, cash savings, funeral plans** or any other open or closed product. We know that one of the challenges firms face are out-of-date or incomplete client records for closed products.

They may not have on file the consumers' characteristics and needs, sales records, or historic performance of the product.

This could make it harder to serve consumers appropriately – **particularly those with characteristics of vulnerability.**

Where a firm can't fill gaps in its records, it should take additional steps to mitigate the risk of harm to consumers – for example through enhanced outcomes testing for these customers.

https://www.fca.org.uk/news/news-stories/review-firms-treatment-customers-vulnerable-circumstances
https://www.fca.org.uk/news/speeches/consumer-duty-art-possible-year

# Joint regulator "Dear CEO" letter

**Recognises that consumers have multiple creditor relationships:**

- FCA research in January 2023 indicates 5.6m UK adults had missed payments on any domestic bills or credit commitments in 3 or more of the previous 6 months
- Proactively raise awareness of the support available to consumers
- Early intervention can make a big difference to customer outcomes
- Make referrals and provide information at the right time so customers can access advice and support that meets their needs (such as [Money Helper ]and the Government's [Help for Households ]and websites).
- Monitoring customer outcomes is key and taking action to put things right if they go wrong – these are fundamental of the Duty
- **Use of income optimisation, benefit checkers and social tariff eligibility seem obvious actions for firms and their supply chains – reinforced in PS24/2**

> "As an immediate next step, we will also consider what our shared expectations are in relation to **debt collection** across different sectors"
>
> **Published by UKRN and FCA on 18/3/2024**

https://ukrn.org.uk/cost-of-living-working-group-joint-letter/
https://helpforhouseholds.campaign.gov.uk/
https://ukrn.org.uk/cost-of-living-working-group-joint-letter-2/

Ofcom ofgem Making a positive difference for energy consumers Ofwat FCA FINANCIAL CONDUCT AUTHORITY ukrn

28 June 2023

Dear Chief Executive Officer,

**The rising cost of living – our expectations of firms**

Consumers across the country continue to deal with increased costs of living, and we know many are already experiencing financial difficulty. FCA research in January this year indicates 11% (5.6 million) of UK adults have missed payments on any domestic bills or any of their credit commitments in 3 or more of the previous 6 months.

As regulators, we have been actively working to ensure firms within our respective sectors are supporting customers in financial difficulty, and that they can be held to account where they are not meeting the right standards.

As economic circumstances continue to change, we urge firms to show restraint on pricing, and where the prices of goods and services have risen as a direct consequence of increased input costs, we want to see firms in our respective sectors pass on any relevant reductions as soon as possible.

We will also continue working together to ensure firms in our respective sectors are supporting customers in financial difficulty recognising that consumers are dealing with multiple payments across multiple regulated sectors which can create an additional burden.

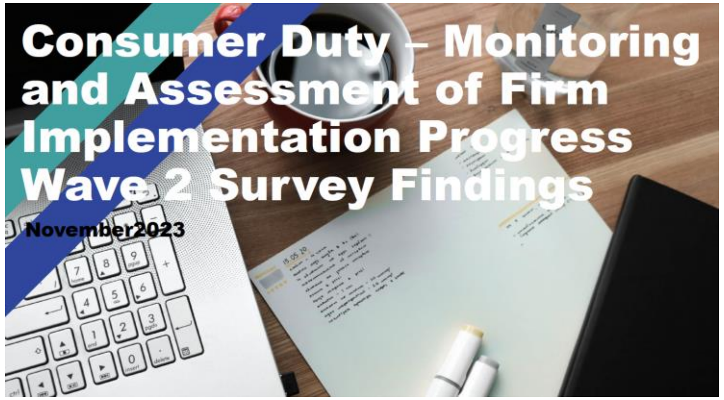
So we are setting shared expectations across our regulated sectors which make clear how we want firms to deal with customers in financial difficulty. We expect all firms across the regulated financial services, energy, water and communications sectors to:

- Consider the customer's situation, recognising that they may have multiple debts and may be dealing with multiple creditors across sectors, and reflect this in the support you offer.
- Proactively raise awareness of the support available to consumers, and, when customers reach out or indicate they are at risk of falling into financial difficulty, or you otherwise become aware of this, provide support early. This early support can make a big difference to customer outcomes.
- Make it easy for customers to get the support they need, for example by providing different channels for customers to get in touch, recognising that customers in vulnerable circumstances may have particular needs, and proactively promoting social tariff options where these are available.
- Tailor support so it is appropriate to the customer's circumstances (including their ability to pay and whether they are in vulnerable circumstances). Consider using an objective/standardised measure to assess the customer's financial circumstances to help minimise the burden of them having to provide different information to different firms.

# Consumer Duty firm survey – Autumn 2023 results

- Consumer Duty implementation – areas of improvement – published 20/2/2024
- **Question:** "To what extent do you consider the Consumer Duty relevant to your firm?" - **89%** (of 73) agreed in Wave 2, compared with **58%** (of 88) in Wave 1
- 74% of firms surveyed in Wave 2 reported that they had conducted a 'fair value' assessment
- 38% had improved significant consumer contracts and 30% had identified or made significant improvements to their marketing strategies
- Q16.3 is quite telling for debt advice firms, where **only 48% had completed the end-to-end customer journey**
- 60% had assessed the needs of customers with characteristics of vulnerability - 7% didn't think this was applicable
- **G27 around financial promotions and communications is a real worry with only 16% having completed this fully**
- **G22 is around pre-contract information and contract reviews**
- G22a suggest that most focus had been on customer understanding and support
- **Outcomes monitoring (including data and metrics) is the hardest item to implement**

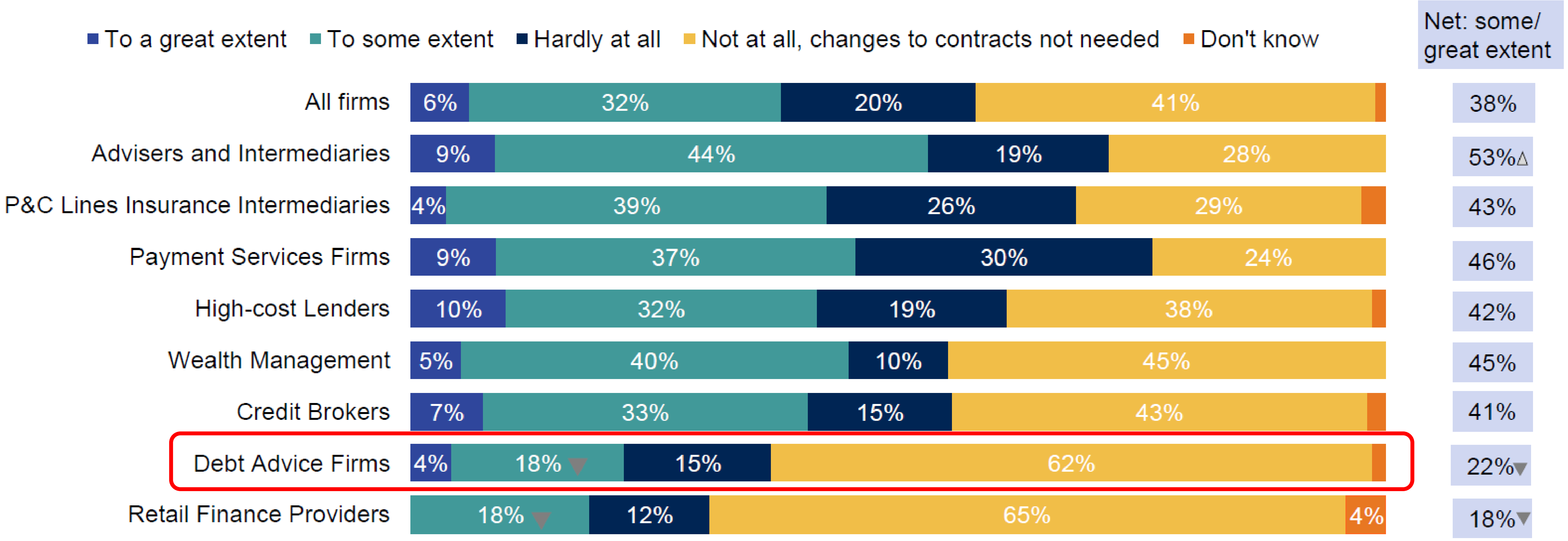
'Art of the possible' – 20/2/2024




https://www.fca.org.uk/data/consumer-duty-firm-survey-autumn-2023
https://www.fca.org.uk/news/speeches/consumer-duty-art-possible-year
**https://www.fca.org.uk/publications/good-and-poor-practice/consumer-duty-implementation-good-practice-and-areas-improvement**

# G22 To what extent, if at all, have you made changes to contracts with new or existing consumers to meet the requirements of the Consumer Duty?

*% firms that had made changes*




G22: To what extent, if at all, have you made changes to contracts with new or existing consumers to meet the requirements of the Consumer Duty?
Base: All firms 634 Base: Personal and Commercial Lines Insurance intermediaries 82, Advisers and intermediaries 81, Wealth Management 78, Debt Advice Firms 73, High-cost Lenders 72, Credit Brokers 54, Retail Finance Providers 49, Payment Services Firms 46. ▲▼ significant differences between all firms and portfolios (shown on to a great/some extent only).



https://www.fca.org.uk/data/consumer-duty-firm-survey-autumn-2023

# "Dear CEO" Letters – 20/3/2024

## Selected extracts:

- "Whilst we have seen some improvements, we remain concerned about **sludge practices** - harmful practices that create unreasonable barriers for consumers"
- "More firms are **using AI and open banking** for lending decisions, and we expect to see a further increase in the use of innovative technology as it evolves"
- "Firms **need to test** the effectiveness of these models, including benefits and risks, and ensure responsible lending practices remain at the forefront of any drives for improved consumer journeys and efficiency savings"
- "We want firms across the Consumer Lending market to be better at spotting **signs of financial crime**"
- "We want **victim-survivors of financial abuse** to receive fair and consistent treatment from firms, so that they can start rebuilding their financial wellbeing"
- **"Firms must have robust governance practices guaranteeing effective oversight and rigorous risk management protocols to identify, monitor and manage operational risks"**
- **"We will continue to use data to identify outliers and measure market outcomes"**


From:
Roma Pearson
Director
Consumer Finance
Supervision, Policy & Competition Division

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20 March 2024

Dear Chief Executive Officer,

FCA strategy for Consumer Lending

The Consumer Lending market is essential to the UK economy, providing a vital service for consumers, including millions in vulnerable circumstances. In this letter we focus on three portfolios in the Consumer Lending market: High-Cost Lending, Mainstream Consumer Credit Lending and Credit Unions. When we refer to 'Consumer Lending' throughout this letter, we are only referring to these portfolios.

Previously we have sent different letters to firms in each portfolio. We note the number of similarities in products, consumer base and potential harms posed. We have therefore chosen to assess these three portfolios as a group to share a market-level view with you through this letter.

We want to support a thriving and innovative Consumer Lending market, where consumers have access to credit which is affordable for them. We seek to support the growth of an affordable and safe credit market through increased firm and trade body engagement, to share and encourage better practice, and supporting innovation through steps such as the Regulatory Sandbox, Innovation Pathways and TechSprints. For firms which embrace change and innovation, it is important they do so safely to identify and manage the risks. The market works well when we see firms lending affordably and sustainably, mitigating the risk of poor consumer outcomes, and providing appropriate assistance to consumers facing financial hardship.

However, too often we find significant failings. For example, over the last two years we have taken supervisory action against firms where we have seen:

- Inadequate creditworthiness assessments
- Firms relying on relending to sustain business models
- Firms providing products that are designed to promote persistent use
- Inadequate support and forbearance options offered for consumers in financial difficulty
- Ineffective complaints management processes
- Firms failing to meet redress liabilities as they fall due.

This letter sets out our updated view on the key risks of harm we believe Consumer Lending firms may pose to their consumers and the markets in which they operate. This will shape our focus and engagement with the Consumer Lending market over the next two years.

# "Dear CEO" Letters – 20/3/2024

## PS24/2 (by 11/2024) landed on 10/4/2024 – PS24/3 landed on 29/4/2024

In May 2023, we published our consultation paper (CP23/13), on strengthening protections for consumers in financial difficulty, moving aspects of the Tailored Support Guidance (TSG) for Consumer Credit and Mortgages into our Handbook on a permanent basis. We also proposed targeted additional changes to support consumers in financial difficulty. These proposals reinforce our expectation that firms put consumers' needs first and support firms acting to deliver good outcomes required under our Consumer Duty. We propose to bring the rules into force in 2024 and to withdraw the TSG at the same time.

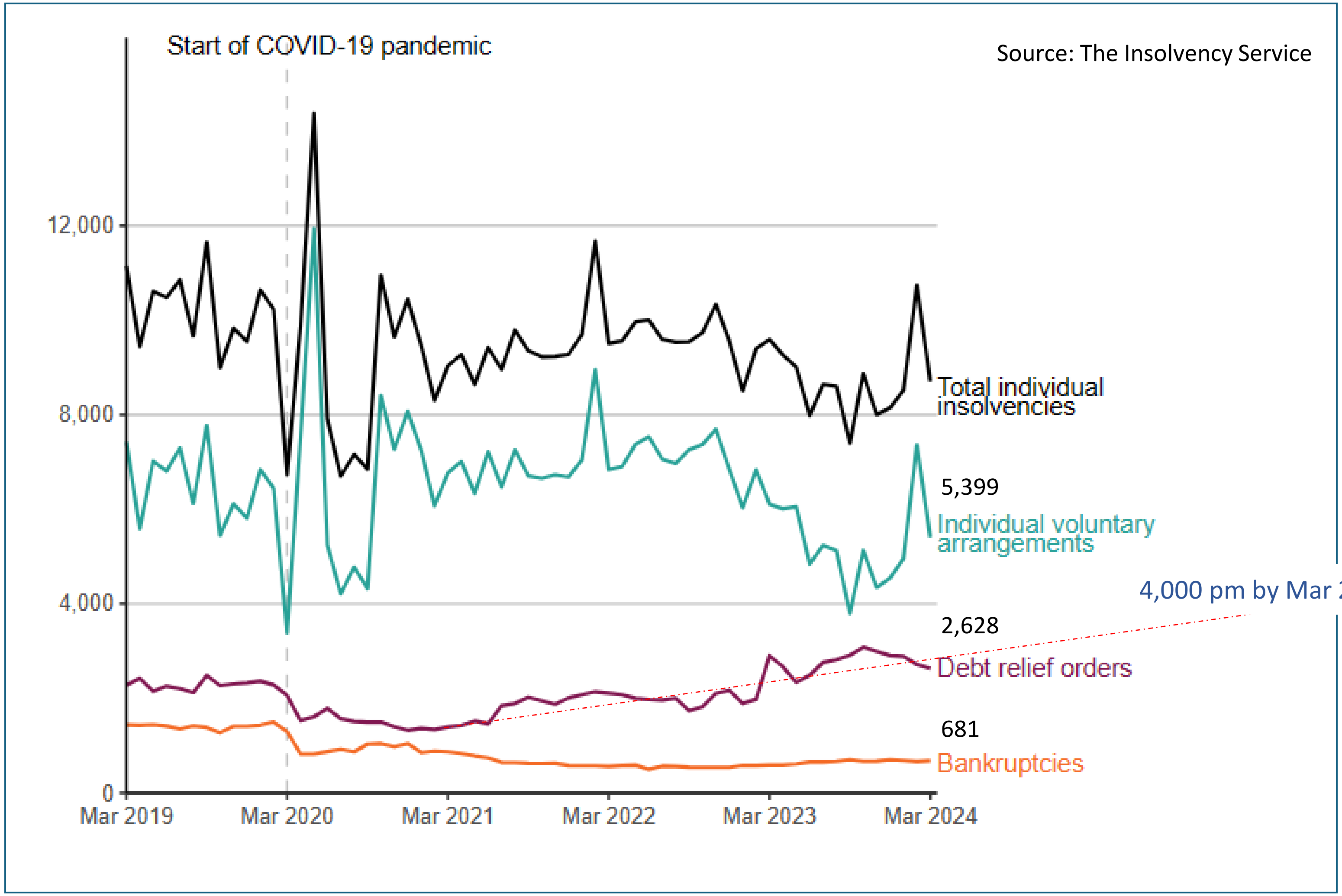
**November 2024**

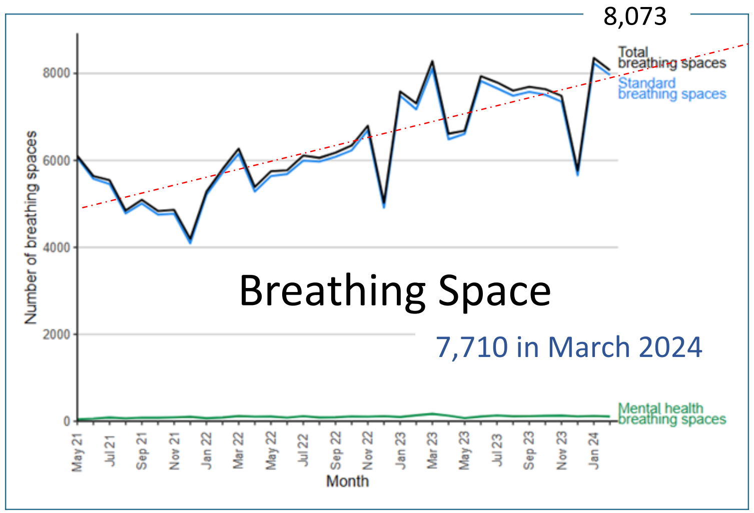
**PS24-3**

In Autumn 2023 we consulted on the proposed introduction of Product Sales Data returns for consumer credit agreements. These returns would provide agreement level data on all consumer credit agreements and enable us to take a data led approach to the way we supervise the consumer credit sector enabling us to better prioritise our work and be more targeted with our interventions, reducing harm to consumers. We expect to publish a policy statement on these returns shortly and are working through the feedback we have received before we finalise our rules. Further communications to firms in scope of this return will be issued over the course of the implementation period.

https://www.fca.org.uk/publication/correspondence/portfolio-letter-fca-strategy-for-consumer-lending.pdf
https://www.fca.org.uk/publications/policy-statements/ps24-3-consumer-credit-product-sales-data-reporting

# Personal Insolvency Statistics – March 2024




## Spring 2024 Budget

Changes to DRO criteria:

- £90 fee waived – 6/4
- £50k debt limit and £4k vehicle limit – 28/6

https://www.gov.uk/government/statistics/individual-insolvency-statistics-march-2024/commentary-individual-insolvency-statistics-march-2024

# VPR Benchmark Report

- 250,072 Protocol IVAs (Dec 2023)
- Monthly returns with 20 Data points
- £6bn under management
- £242m paid out in dividends (2023)
- Averages £125p/m £30k

Insolvency Practitioners Association

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# The changing landscape for IVAs and Creditor Voting

Peter Wordsworth

1st May 2024

# IVAs – The old landscape or … What went wrong 2016-2022?

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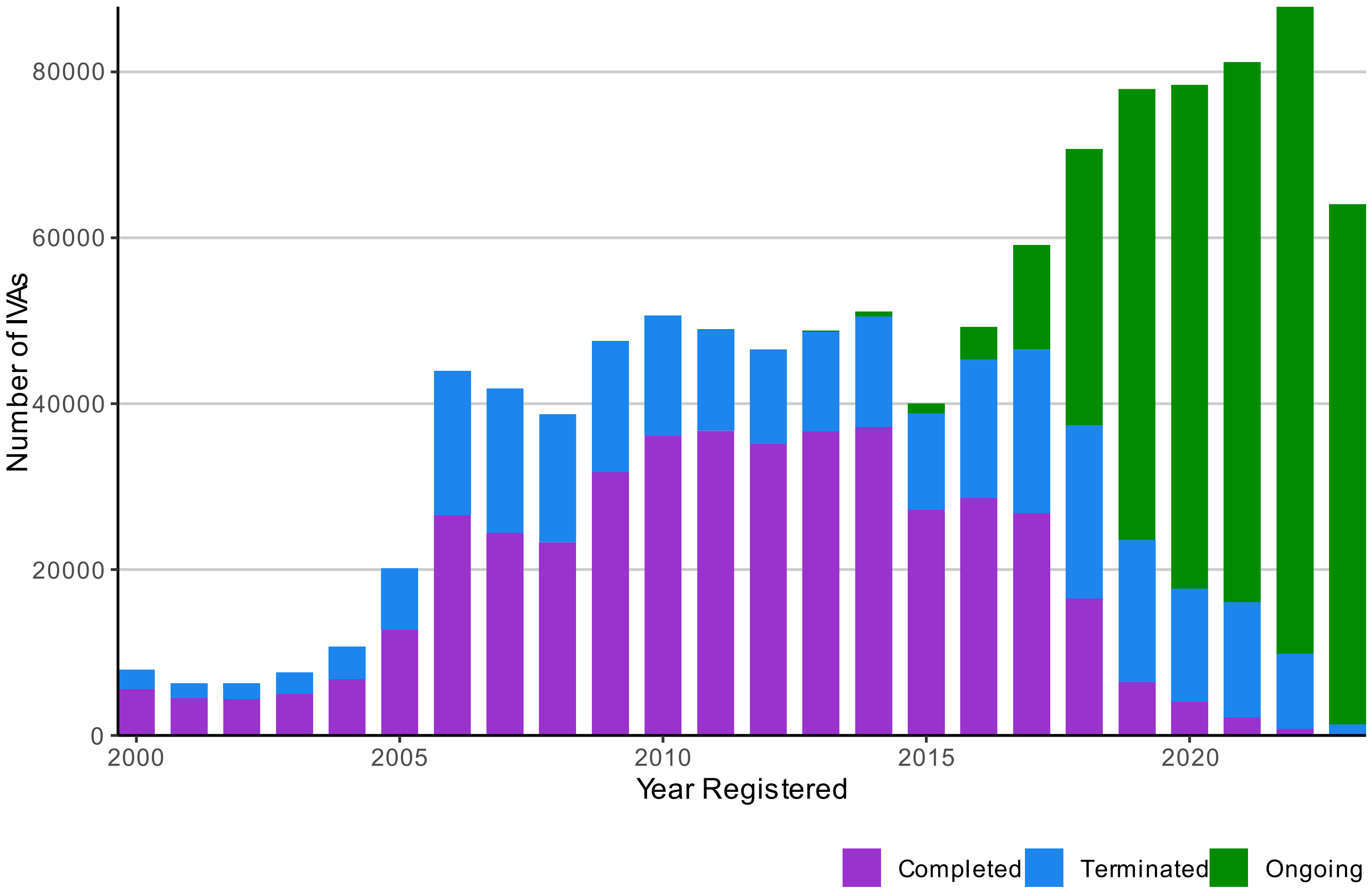
- Introducer firms
- Surge in volumes
- Lower value contributions
- Allegations of mis-selling
- Exclusion of equity cases
- Higher failure rates



# Voting – all accounts

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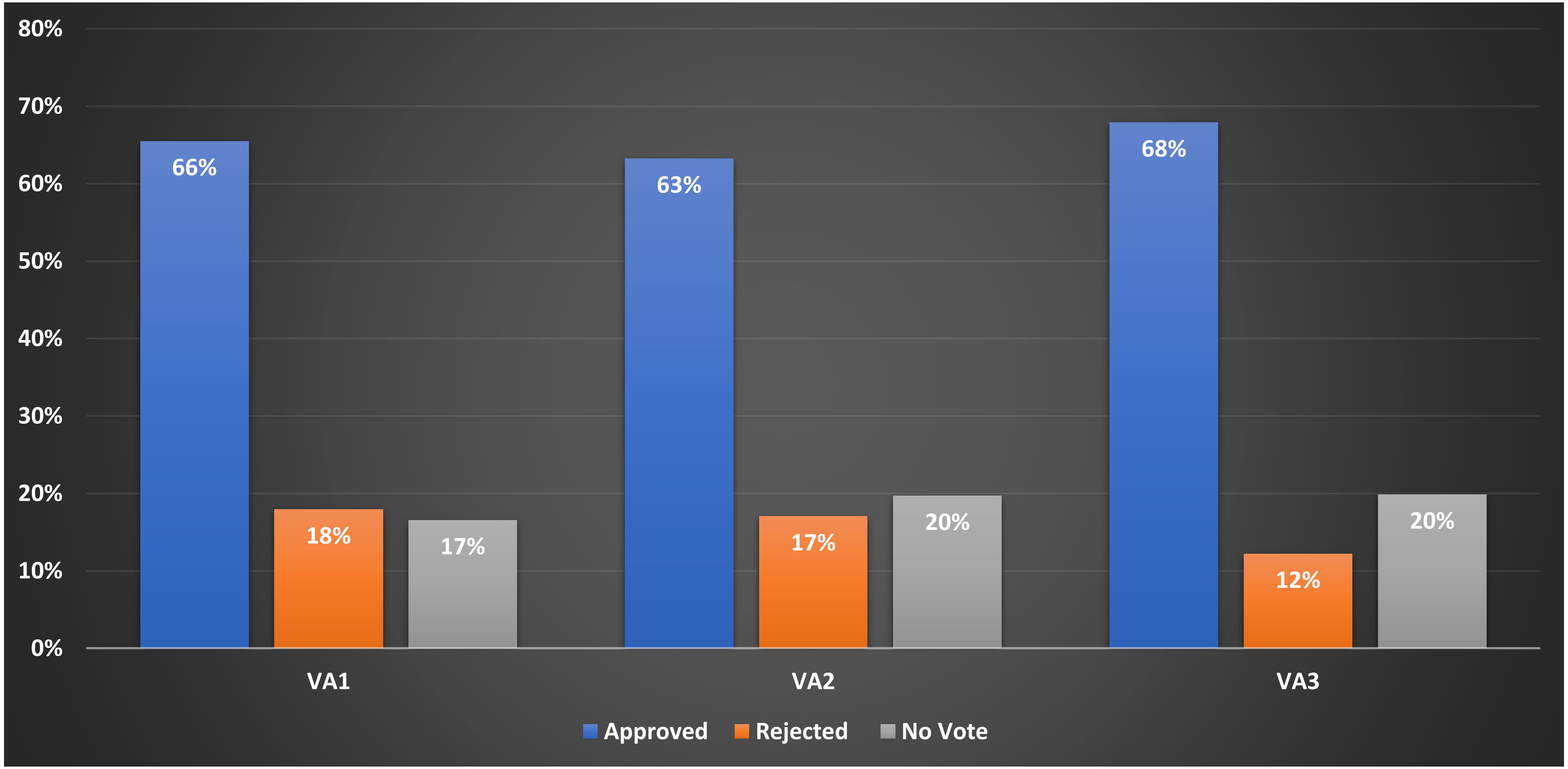

# Voting with Blocking vote

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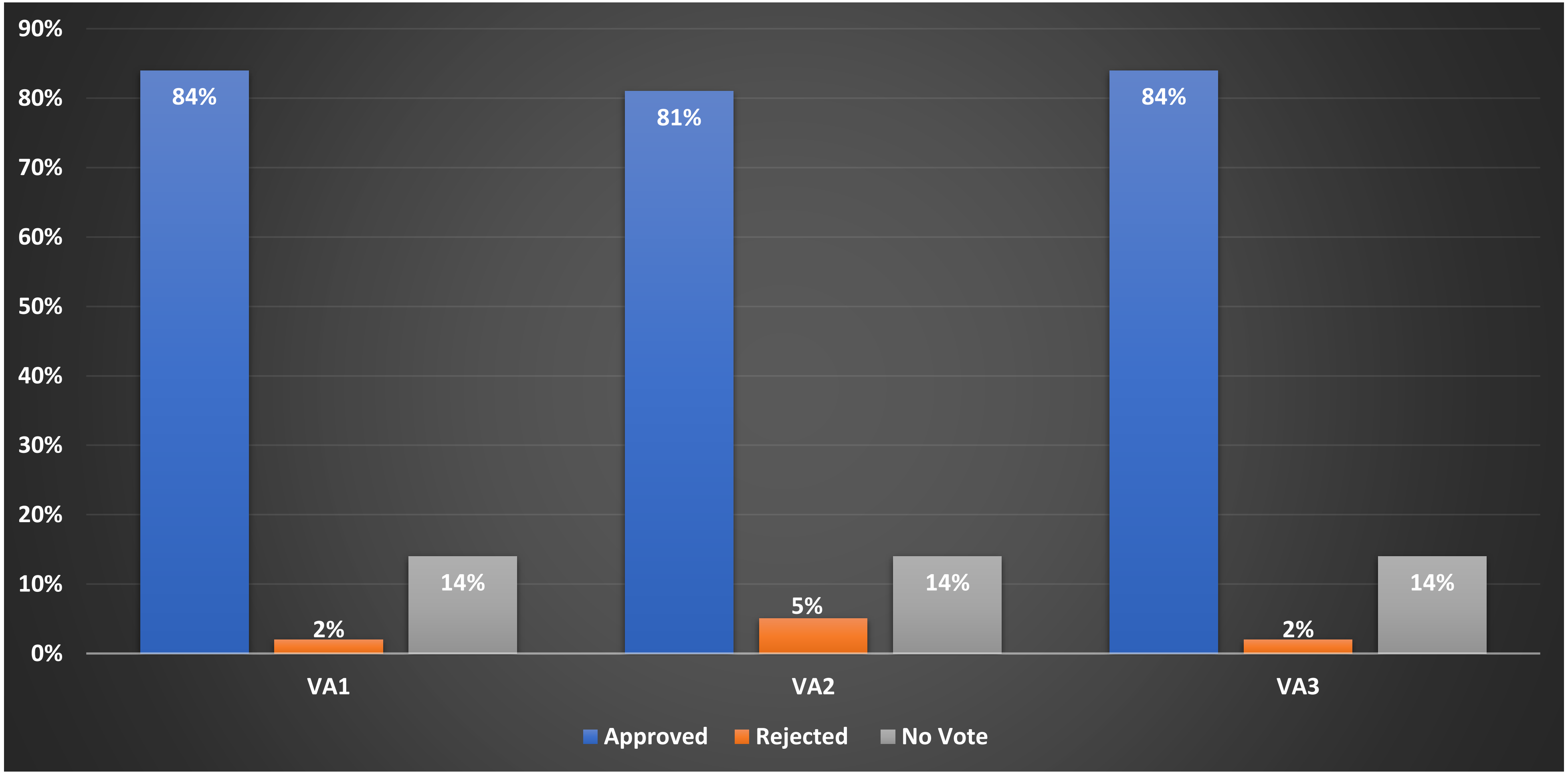
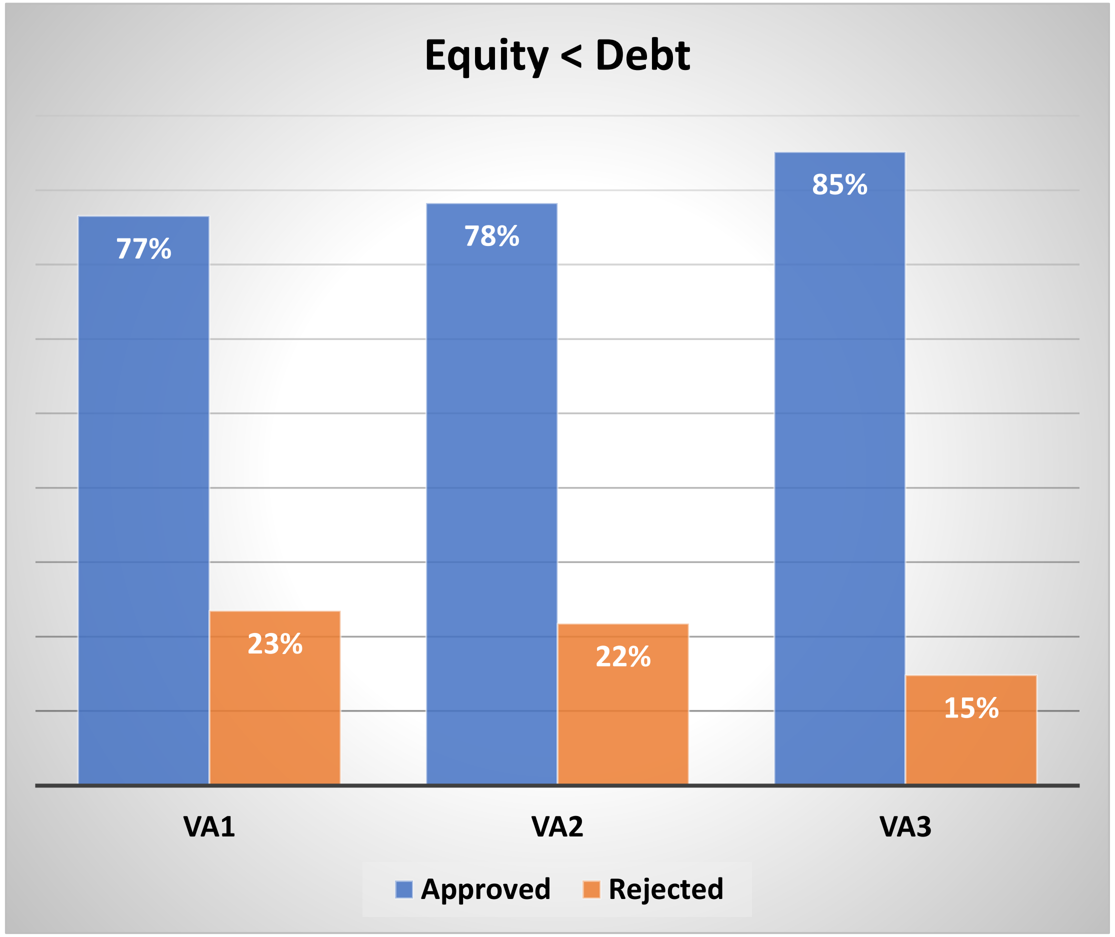
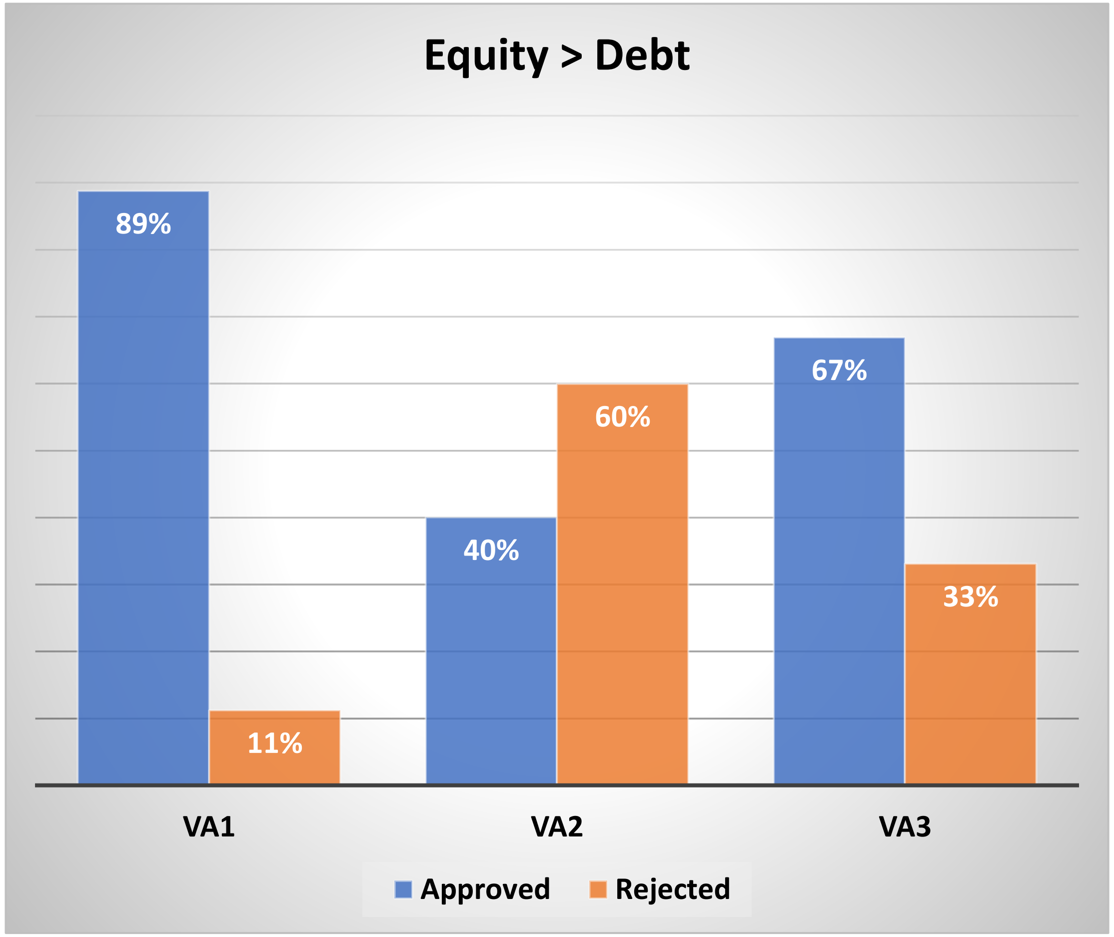


# Equity voting outcomes – Voting House Without No Votes



# Current voting practices; Time for Refresh

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- Based on well publicised policies of voting agents
- Designed to protect creditors from excesses of 2016 - 2022
- Clear (understandable) signs of creditor disengagement
- No criticism BUT…
- In light of recent changes, it is now time for a refresh

# The new landscape or..
# What has changed since 2022?

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1. Introducer firms have been banned by the FCA.
2. Insolvency Service has launched an investigation into allegations of mis-selling.
3. Volumes of IVAs have decreased by 25% in 2023 - now below 2018 levels.
4. Treatment of equity is changing.
5. DRO limits increased to £50k and fee abolished.
6. Consumer Duty introduced – What has that got to do with IVAs?

# FCA update March 2024

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We asked the FCA to confirm whether the Consumer Duty applied when regulated firms were voting on an IVA proposal or variation.

*FCA Response: The Consumer Duty does apply to FCA regulated firms when they are voting in IVA proposals or variations….*

*We expect firms to satisfy themselves that their processes take account of their obligations under the Duty to deliver good outcomes to retail customers…*

*This is in line with existing requirements (in CONC 7.3.4R) for firms to treat customers in default or arrears difficulties with forbearance and due consideration.*

# What you now need to consider before voting

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- Regulated firms need to consider Consumer outcomes
- Regulated firms need to evidence that consideration
- How can they do that without significant additional cost or administration?

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# Introducing the IVA Integrity Score

# Why incorporate an Integrity Score into your voting practices?

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- Compliance with FCA requirements
- Better consumer outcomes
- Better returns from IVA accounts

# Why use the IVA Integrity Score

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- Wholly Independent = no implied conflicts
- Highly predictive – our area of expertise
- Voting agent agnostic = consistent/single view of customer
- Supplied via your agent = no new supplier relationship / IT development. Just an updated voting protocol.
- It is already in production

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# IVA Integrity Score

## The Technical Challenge Proposed

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Finvence

# Develop an algorithm that can predict the success of a proposed IVA

A “day-zero” IVA Sustainability Forecast

# IVA Integrity Score

## Why Finvence? – Company Pedigree

Consumer Duty Services

Finvence

- Multi award-winning and innovative Data Science and FinTech specialists
- Multi-PhD qualifications in Mathematics, Nano-Physics, Machine Learning and AI
- > 35 years' joint experience in the IVA sector (both IP Firm and Voting Agent side)
- Proficient in complex algorithm development and high-end data analytics

Microsoft Accelerator

DEMSA – Debt Managers Standards Association – Raising Standards

VRS Vulnerability Registration Service

Credit & Collections Technology Awards 2022 – WINNER – Robotic Process Automation in Credit & Collections Solution

accenture FinTech Innovation Lab

**Horizon 2020 Award**

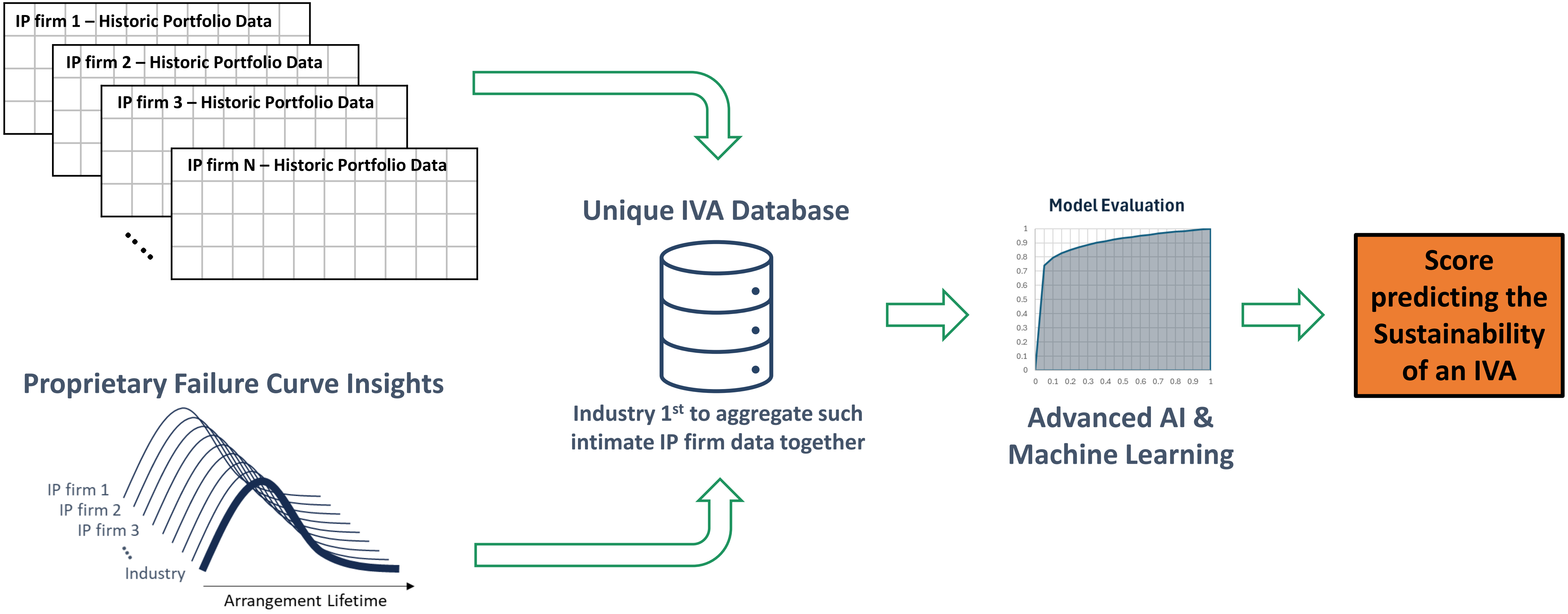
Proudly received funding from the European Union's Horizon 2020 research and innovation programme

# IVA Integrity Score

## A New Industry Offering

Consumer Duty Services

Finvence



# IVA Integrity Score
## Modelling Challenges

### Unbiasing the data
*Data must be correctly stratified to avoid biased predictions*

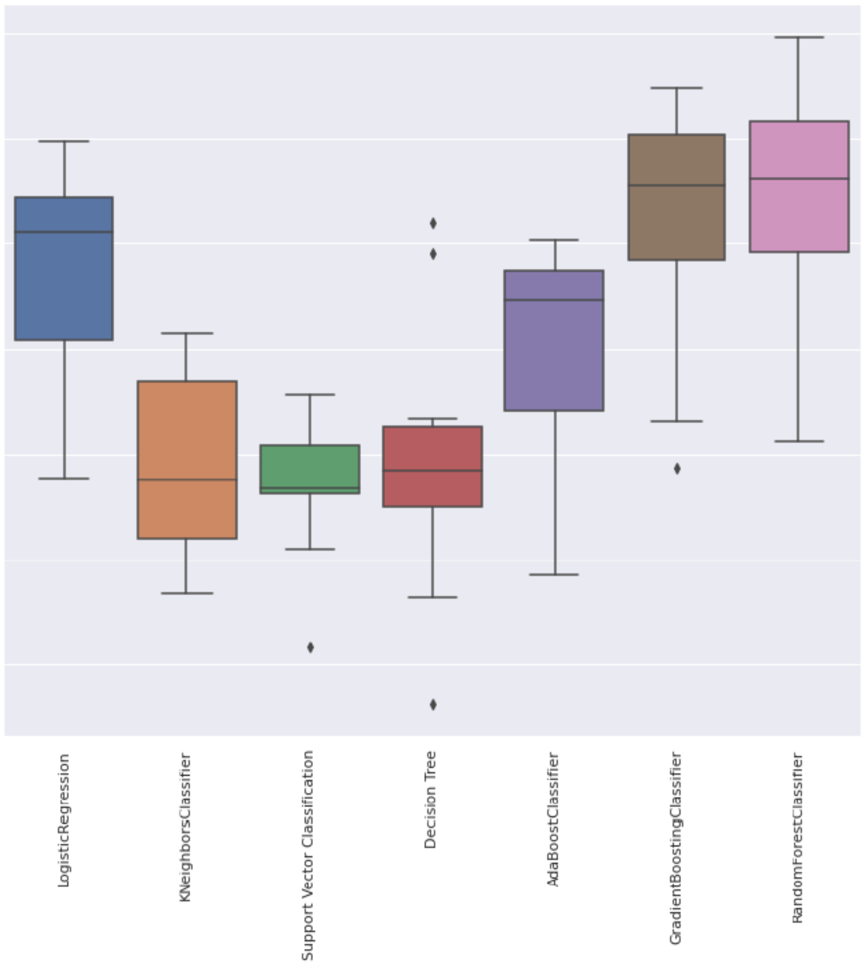
### Data Imputation
*Missing data fields inferred using advanced kNN algorithms*

### De-convolution of data
*Isolate the influence of a firms' operations on the historic results*

### Recursive Feature Elimination
*Rank the most influential features*

### Data Scaling
*Ensure each feature is fairly considered*

### Algorithm selection



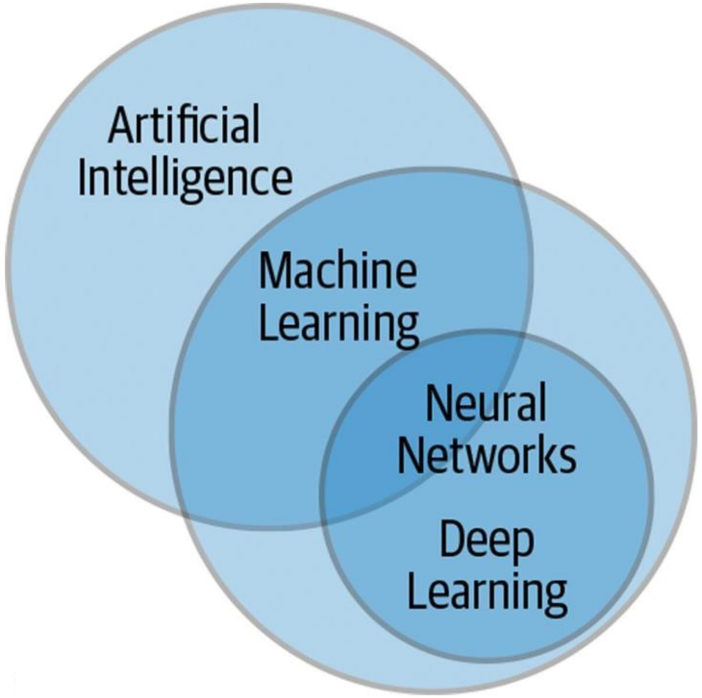
# IVA Integrity Score

## A New Industry Offering

Consumer Duty Services

Finvence

- **235,000 historic IVA cases** accessed between 2017 – 2023 (45% of the market volume)
- Data enriched with additional dataset (e.g. ONS data)
- Suite of advanced Machine Learning (ML) and Deep Learning (DL) algorithms developed and tested
- **V1 model in production** and delivering **85% accuracy** in predicting the success or failure of a proposed IVA



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# Panel Discussion

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