Financial Conduct Authority

Quick guide to our consumer credit regime

Background – what's happening?

On 1 April 2014 we take over from the Office of Fair Trading (OFT) to become the regulator for the consumer credit industry.

We already have a Handbook of rules and guidance for financial services firms we regulate, and we are now preparing to bring consumer credit firms into that same regulatory system. We are currently consulting on exactly how we plan to do that and how we think it will affect firms and consumers. The consultation paper includes detailed draft rules and guidance which we propose to add to the Handbook.

See below for information on how we will regulate you and our proposals.

You can find more details on all our proposals for consumer credit firms in our full consumer credit consultation paper. In particular, there are some differences between the scope of our regime and the current regime, which we've explained on our website.

How the transfer will work

Firms with up to date OFT licences can register with us now for an 'interim permission'. This will allow you to continue trading until you get full authorisation from the FCA. You must obtain an interim permission before 1 April 2014.

The cost of interim permission is £150 for sole traders, and £350 for limited companies, partnerships and other types of business. There is a discount of 30% on the standard fees for firms that apply for interim permission before 30 November 2013.

For further information and to apply for your interim permission go to www.fca.org.uk/clicked.

The interim permission will be valid until: (i) we require you to apply for full authorisation; or (ii) you make arrangements to become an appointed representative (see below).

Authorisation – our gateway

Before a financial services firm can carry out any new regulated activity, it must become authorised by us.

Our authorisation process is a gateway that firms must pass through to be allowed to operate in markets we regulate. By guarding this gateway, we can check that a firm meets the standards required and conducts itself in a way that puts consumers at the heart of its business.

Consumer credit firms will eventually have to follow the same authorisation process that other financial firms do. This means they will have to comply with certain standards. For example, we may check how much money a firm holds, its internal processes and controls (including compliance procedures) and its management structure.

We will direct firms that have an interim permission to apply for full authorisation in stages, between 1 October 2014 and 1 April 2016. Different categories of firms will be asked to apply by different deadlines.

We will have a different approach according to the types of credit activities firms carry out – depending on whether a firm's activities fall into our 'lower-risk' or 'higher-risk' categories. Firms carrying out lower-risk activities will receive a 'limited permission'.

For more information on what this means and who this will apply to, see the Authorisation FAQs on our website. http://www.fca.org.uk/news/cp13-10-consumer-credit-detailed-proposals

For a list of the conditions that you will have to fulfil to become authorised see Chapter 3 of our full paper.

Some firms may instead be able to use an alternative to full authorisation (for example, by being an appointed representative of an authorised firm), and Chapter 3 also covers these alternatives (and firms may find also the guidance on our website helpful).

Authorisation fees

We charge firms that are fully authorised fees when they apply to become authorised and every year they are authorised (known as the periodic fee).

Under the new regime, not all firms will pay the same amount. The fee payable will be proportionate to the size of the firm's business and the type of authorisation. Firms with 'limited permission' are likely to have lower fees than those of higher-risk firms.

We will consult on our fees structure for the new regime later in October, and on the level of periodic fees next March.

How we will supervise firms to protect consumers

When we agree to authorise a firm, we decide how we are going to supervise it.

Our teams will have more contact with large firms that have a significant impact on the market. These large firms will meet with a dedicated supervisor regularly and provide us with a wide range of information about their business.

Smaller firms that have less of an impact will be supervised in a way that is appropriate to the size of their business – for example, they may be supervised by a team rather than an individual, and they may not need to send us as much information.

Consumer credit firms will go through the same supervisory process as other financial services firms. For more details on this see Chapter 4 of our full paper.

Summary of our new proposals

In our Consultation Paper we are consulting on the following main areas.

- How we propose to carry across the provisions of the Consumer Credit Act (CCA) that will be repealed in April 2014, and OFT guidance (including in relation to responsible lending, affordability assessments and debt collection), into our rules and guidance (Chapter 5)[1]
- Requirements relating to the people who run your business and are responsible for certain aspects of it. These are called 'approved persons' (Chapter 3) (you should note that the Parliamentary Commission on Banking Standards (PCBS) made recommendations on changing the approach to 'approved persons' in general, so these proposals may change in the future).
- New rules for high-cost short-term credit (ie payday loans), to address concerns about how this market is operating (Chapter 6)
- Prudential and conduct standards for debt management firms, including the minimum capital that they will have to hold and how they should separate their customers' money from their own (Chapters 7 and 9)
- What information and how frequently firms will have to report to us, including on complaints (Chapters 4 and 11)
- Our approach to enforcing the retained CCA provisions (Chapter 5)
- Our approach to applying our rules regarding becoming an appointed representative for an authorised firm (Chapter 3)

High-level standards we have confirmed

Our main paper also includes a policy statement confirming changes to our high-level standards, on which we consulted earlier in the year in CP13/7.

FCA principles

Our 11 fundamental principles that firms must comply with at all times will apply to all authorised consumer credit firms and those with interim permission.

Most will be familiar for well-run firms as they are generally similar to concepts the OFT applies when deciding whether to grant a consumer credit licence, and to those set out in OFT guidance.

Systems and controls rules

---

[1] Our policy statement PS13/8 (August 2013) included rules carrying across some CCA secondary legislation, relating to exemptions and total charge for credit.

These expand on one of our principles, Principle 3, which states that a firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.

We will apply these systems and controls rules to all authorised consumer credit firms and those with interim permission, although there will be some exceptions.

Disclosure wording

We have set wording that firms will need to use to make it clear to consumers that they are regulated by us.

For more details see Part B of our full paper.

Enforcing our rules

When firms break our rules, we have the power to punish them in a range of ways – for example fining them, banning them from carrying out certain activities or making them do the right thing. Our enforcement powers are wider than the OFT's.

For more information on how we enforce our rules, see our website's enforcement pages.

Making complaints and claiming compensation

If a consumer feels they've been treated badly by a financial services firm, they can complain to the Financial Ombudsman Service who can investigate the complaint. Most consumer credit firms are already subject to the ombudsman's jurisdiction.

The Financial Services Compensation Scheme (FSCS) can pay compensation where a firm is unable to. Consumer credit will not be covered by the FSCS straight away. We will review this when all firms are authorised by us.