

Frequently asked questions: The transfer of consumer credit to the FCA

We have published our first consultation following the Government's proposal that the Financial Conduct Authority (FCA) takes responsibility for regulating consumer credit from April 2014.

Throughout the development of our consultation, we have been asked a number of questions. This document aims to answer those.

1. Why is the regulation of consumer credit moving from the Office of Fair Trading (OFT) to the FCA?

In January 2013 the Government announced that it would transfer responsibility for regulating consumer credit from the OFT to the FCA by 1 April 2014.

2. Will regulation under the FCA be different to that of the OFT?

Yes, regulation will be different.

The new regime will be designed to focus on higher risk firms, such as payday lenders, pawnbrokers and debt collection. Lower risk firms will not have to meet such onerous standards and will pay lower fees. These firms include not-for-profit debt counselling, retailers introducing customers purchasing goods and services to a finance provider, including motor dealers. The FCA will have different enforcement powers to the OFT.

We recommend that you read the chapter summaries to give you a flavour of the proposed regime. If there are areas of particular interest, please refer to the Consultation Paper.

3. What are key proposals in the Consultation Paper?

This is a proposed new regime for consumer credit firms and the FCA. There are a number of proposals, which include:

- An interim permission for licence holders to continue to carry on regulated consumer credit activities.
- An authorisation process for all licence holders.
- Different standards for firms that carry out specific activities.
- The supervision of credit advertising being subject to the FSMA financial promotions regime.
- Prudential requirements for debt management firms.
- The supervision of – and reporting by – firms.
- How the regime will be funded.
- Greater enforcement powers.

We encourage you to read the Consultation Paper and respond.

4. My firm has recently paid the OFT for a five year licence. Will it automatically be valid under the FCA regime in April 2014?

The Government, the FSA and the OFT are working together to determine precisely how the transfer will work in practice for firms that already hold a licence. We will ensure that affected firms are informed in good time.

5. Do I need to notify the FCA that I want to carry on using my consumer credit licence?

At this point, no, you do not.

When consumer credit moves from the OFT to the FCA in April 2014, we want to make the transition as straightforward and smooth as possible.

Licence holders that want to continue carrying on regulated activities will need to notify us before April 2014. We expect licence holders will be able to apply for an interim permission well in advance of April 2014.

6. How will a consumer credit firm be supervised?

Firms will be categorised and the category a firm is placed in will determine the way it is supervised and the intensity of that supervision. We set out in our paper the activities the FCA proposes to categorise as lower risk and those that are higher risk, and how the FCA proposes to supervise them.

7. What will be the framework for the FCA's consumer credit regulation?

The FCA's regulatory framework for consumer credit activities will be a combination of:

- existing and new FCA rules;
- FSMA and its secondary legislation; and
- the retained provisions of the Consumer Credit Act and its retained secondary legislation.

There are a number of requirements and rights for consumers set out in the Consumer Credit Act (CCA) that will be retained as part of the FCA regime. Some aspects of existing OFT guidance for credit firms will be transposed into as FCA rules and/or guidance (subject to certain changes).

The CCA regime is currently supplemented by a number of industry codes. These are designed to establish best practice standards within a sector. Some of the codes go beyond our requirements and we may want to include these in the FCA regime. We will look further into the different codes and consult further in autumn/winter 2013.

8. What other publications can we expect to be published to prepare us for the new regime?

As this is a major change, the FCA will be publishing consultations, guidance and communications all the way up to the transfer. We expect to publish a more detailed consultation, covering, for example, rules replacing repealed CCA provisions, prudential rules and, client asset rules.

We understand that firms might feel uncertain about implementing the necessary changes to their practices and procedures, but we will update you on developments throughout and leading up to the transfer, so you should have all the information you need.

9. I don't know anything about the FCA. What information is available to help me?

We understand that there could be a number of firms who may not have heard of or dealt with the FCA. We have published a short introduction to the proposed regime. You may also want to read our recent document 'Journey to the FCA' which sets out how we will regulate all firms

Further information

- Consumer credit consultation paper (CP13/7)
- Chapter summaries
- Introduction to the proposed FCA regime
- Journey to the FCA (sets out how the FCA will operate for all regulated firms)
- HMT's consultation entitled "HMT's Consultation Paper on the transfer of responsibility for regulating consumer credit from the OFT to the FCA" with their proposed draft legislation