

Consumer credit interim permission fees for local authorities

May 2014



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We are asking for comments on this Consultation Paper by 12 June 2014.

You can send them to us using the form on our website at:
www.fca.org.uk/your-fca/documents/consultation-papers/cp14-07-response-form

Or in writing to:

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We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

You can download this Consultation Paper from our website: www.fca.org.uk. Or contact our order line for paper copies: 0845 608 2372.

Abbreviations used in this paper

FCA	Financial Conduct Authority
FEES	The FEES manual
FSA	Financial Services Authority
FSMA	Financial Services and Markets Act 2000
IP	interim permission
SI	statutory instrument

1. Overview

Introduction

- 1.1** This paper proposes a small amendment to our fees rules (FEES), to facilitate the charging of interim permission (IP) fees to local authorities under proposed Government legislation, extending the IP period for local authorities.

Who does this consultation affect?

- 1.2** This paper affects local authorities that undertook consumer credit business before 31 March 2014, and which wish to continue with this business but did not notify us before 1 April 2014.
- 1.3** Our proposals are not directly of interest to consumers, although indirectly our fees are met by consumers.

Next steps

- 1.4** Please consider our proposals and send us your comments **by 12 June 2014**. We will consider your comments and publish our feedback in a Handbook notice at the end of June.

2. Interim permission fees for local authorities

Introduction

- 2.1** Local authorities did not require consumer credit licences from the Office of Fair Trading. The legislation implementing the transfer of consumer credit regulation to us provided that a local authority would be treated as having an interim permission (IP) to continue the regulated activities it had been carrying on in the year preceding 1 April 2014, provided it notified us by 31 March 2014 of its wish to obtain IP and paid the required fee of £350.¹
- 2.2** However, the legislation specifying the scope of the regulated activities for which local authorities needed permission was not made until 13 February 2014.² This did not leave sufficient time for all local authorities to notify us by 31 March 2014. The Government is expected to address this issue by introducing a statutory instrument (SI) extending the notification period for local authorities until 30 September 2014.

Proposal

- 2.3** The IP fees provisions in our fees rules (FEES) lapsed on 14 April 2014. We are therefore proposing a consequential amendment to FEES 8 to reinstate our ability to charge local authorities an IP fee on the same basis as we would have done before 14 April 2014.
- 2.4** Because we need to introduce the fees when the SI comes into effect, we are asking for responses by **12 June 2014** so that the rules can be approved at our Board meeting on 26 June and implemented from 27 June. The rules will lapse on 30 September.

Q1: Do you agree with our proposal to charge local authorities on the same basis as before April 2014?

Cost benefit analysis

- 2.5** Under section 138I of the Financial Services and Markets Act 2000 (FSMA), we are exempt from the requirement to carry out and publish a cost benefit analysis of proposed changes to our regulatory fees and levies.

¹ Article 56 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013, SI 2013/1881

² The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014, SI 2014/368

Compatibility statement

- 2.6** Section 138I of FSMA requires us to explain why we consider that proposed rules are compatible with our strategic objective, and advance one or more of our operational objectives, and promote effective competition in the interests of consumers.
- 2.7** A compatibility statement in relation to the proposed consumer credit interim regime was included in Annex 5 to the Financial Services Authority's (FSA's) CP13/7.³ Since we are simply proposing to charge the same fee to local authorities as they would have paid had they notified us by 31 March, we are satisfied that the proposed amendment remains compatible with our objectives and regulatory principles.

Mutual societies

- 2.8** Section 138K of FSMA requires us to prepare a statement about the impact of proposed rules on mutual societies, and in particular whether this will be significantly different compared to other authorised persons. We are satisfied that the proposed amendment does not impact on mutual societies.

Equality and diversity

- 2.9** We are required under the Equality Act 2010 to consider whether our proposals could have a discriminatory impact on groups with protected characteristics such as age, disability, gender or race.
- 2.10** We have reviewed the equality impact assessment we carried out in relation to the proposed consumer credit interim regime. This was included in Annex 6 to CP13/7. We are satisfied that the proposed amendment does not affect this.

³ CP13/7 *Consumer credit regulation – our proposed regime* (March 2013 – FSA)

Annex 1

List of questions

Q1: Do you agree with our proposal to charge local authorities on the same basis as before April 2014?

Appendix 1

Draft Handbook text

FEES (CONSUMER CREDIT NO 3) INSTRUMENT 2014

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137T (General supplementary powers); and
 - (2) paragraph 23(1) (Fees) of Schedule 1ZA (The Financial Conduct Authority).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act).

Commencement

- C. This instrument comes into force on *[date]*.

Amendments to the FCA Handbook

- D. The Fees manual (FEES) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Fees (Consumer Credit No 3) Instrument 2014.

By order of the Board of the Financial Conduct Authority
[date]

Annex

Amendments to the Fees manual (FFES)

In this Annex, underlining indicates new text.

8.1 Consumer Credit permissions

...

Local authority interim permission

- 8.1.3 R (1) A local authority which notifies the FCA of a desire to obtain interim permission in accordance with article 56 (Interim permission) of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No 2) Order 2013 must pay to the FCA, in full and without deduction, a fee of £350.
- (2) The fee required by (1) must be paid by debit card (Maestro/Visa only), credit card (Visa/Mastercard only), bankers draft, cheque, or other payable order.
- (3) The fee required by (1) must be paid when the local authority notifies the FCA of a desire to obtain interim permission.
- (4) This rule applies from (and including) [27 June 2014] until (and including) 30 September 2014.
- 8.1.4 R The Fees manual does not apply in respect of the fee provided in FEES 8.1.3R(1), except for FEES 8.1.3R and 8.1.4R.

Financial Conduct Authority



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