

Quarterly Consultation

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Consultation Paper
CP21/16

June 2021

How to respond

The Financial Conduct Authority invites comments on this Consultation Paper. Comments should reach us by 5 July 2021 for Chapters 3 and 5, and 2 August 2021 for Chapters 2 and 4.

Comments may be sent by electronic submission using the form on the FCA's website at fca.org.uk/cp21-16-response-form.

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If you are responding in writing to several chapters please send your comments to Ayesha Dayaji in the Handbook Team, who will pass your responses on as appropriate.

All responses should be sent to:

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1 Overview

| Chapter No | Proposed changes to Handbook | Consultation Closing Period |
|------------|--|-----------------------------|
| 2 | To amend the rule in CONC 6.7.4R to enable firms providing credit cards to offer instalment plans to customers without requiring a rule modification | Two months |
| 3 | To make minor consequential changes to CONC arising from our 24 May update to the statutory information sheets sent to customers in arrears and default under the Consumer Credit Act 1974 (CCA) | One month |
| 4 | Amendment to Mortgage Lenders & Administrators Return (MLAR) reporting instructions due to cessation of LIBOR | Two months |
| 5 | Amendments to DEPP and FEES as a result of a new power given in the Financial Services Act 2021 to the FCA to cancel or vary FCA-authorized firms' Part 4A permissions | One month |

2 Changes to CONC 6.7.4R

- 2.1** Our rule in the Consumer Credit sourcebook (CONC) 6.7.4R requires firms providing credit card and retail revolving credit facilities to allocate repayments received to the debt, subject to the highest rate of interest first (and then to the next highest rate of interest and so on).
- 2.2** Over the last 5 years a number of firms have been granted a modification of CONC 6.7.4R(3) to offer a credit card feature known as an instalment plan. Instalment plans allow customers to pay off eligible purchases made using their credit card over a fixed term.
- 2.3** The provision of instalment plans on credit cards for eligible purchases has now become a commonly-offered product feature, with a number of major credit card providers offering this product feature.
- 2.4** Instalment plans are typically operated on a voluntary basis and so in taking out an instalment plan the customer is agreeing to make monthly instalment plan repayments in addition to the contractual monthly minimum payment on their credit card. For the instalment plans to operate effectively, it requires a partial reversal of the allocation of payments in CONC 6.7.4R. The monthly payments need to be allocated first towards paying the instalment plan balance, even though the equivalent interest rate for instalment plans is lower than the rate of interest applicable to other types of transactions on the credit card.
- 2.5** To permit firms to allocate monthly repayments, beyond the monthly contractual minimum, to instalment plans first, firms have had to obtain a modification to CONC 6.7.4R(3) to avoid breaching this rule. We have tended to grant these modifications because instalment plans can be beneficial to customers in certain circumstances. We have attached conditions to the modifications to ensure an appropriate degree of consumer protection.
- 2.6** We propose to amend CONC 6.7.4R making it unnecessary for firms to apply for modifications to the rule.

Summary of proposals

- 2.7** The provision of instalment plans on credit cards for eligible purchases has now become a commonly-offered product feature.
- 2.8** We therefore propose to make changes to the Handbook to reflect what is now an accepted market practice. Following the rule change, firms wishing to offer instalment plans will no longer be required to apply for modifications to CONC 6.7.4R.

CONC 6.7.4R

- 2.9** Our rule in CONC 6.7.4R requires firms providing credit card and retail revolving credit facilities to allocate repayments received to the debt subject to the highest rate of interest first (and then to the next highest rate of interest and so on).
- 2.10** There is an exception to the high to low hierarchy set out in CONC 6.7.4R(3) under which monthly payments can be used first to satisfy repayments relating to a 'fixed-sum credit element'. Instalment plans allow customers to pay off eligible purchases made using their credit card in fixed instalments over a fixed term. As the eligible purchases form part of the existing running-account credit card facility, they do not fall within the exception in CONC 6.7.4R(3) which applies only to a 'fixed-sum credit' agreement element.
- 2.11** Firms will usually offer various repayment periods to suit customer needs. Instalment plan purchases form part of a customer's existing credit limit. Firms do not charge interest on instalment plans; instead, customers pay a fee for the plan. Typically, the fee is a percentage of the cost of the purchase and the chosen term of the plan. The percentage varies according to the term selected by the customer and monthly repayments are fixed for the duration of the plan. The equivalent interest rate of the fee charged on instalment plan purchases will normally be lower than the standard rate of interest for purchases on the credit card.

Proposed rule amendment

- 2.12** We propose to amend CONC 6.7.4R to permit firms to allocate the monthly contractual repayments to instalment plans first and then to reduce the main outstanding credit card balance, starting with the balances charged at the highest interest rate first and then lower interest rate balances. We propose to include new guidance which defines an instalment plan as a 'fixed instalment plan' whereby a customer is provided with the option of allocating part or the whole of an outstanding purchase or other types of transactions on their credit card or store card to one or more repayment plan repayable in fixed instalments over a fixed duration.
- 2.13** To ensure that customers are appropriately protected, we propose to include a new rule to require firms to not offer a customer an instalment plan unless it has concluded, acting reasonably, that it is likely to be in the customer's best interests. The new rule will also require firms to take reasonable steps to ensure that the customer is put in a position to make an informed decision regarding the exercise of an instalment plan option.
- 2.14** This proposed new requirement reflects conditions included in the modifications of CONC 6.7.4R that have previously been granted for this practice.
- 2.15** We also propose to include new guidance to the proposed new requirement on firms which will also reflect conditions included in the modifications of CONC 6.7.4R previously granted. The proposed new guidance will set out examples where it would not be considered reasonable for a firm to conclude that the instalment plan is likely to be in the customer's best interests. These examples will include:
- Where the customer has a significant outstanding cash transactions balance, or a recent history of carrying a significant cash transactions balance. Cash transactions include, among other things, cash withdrawals, purchases of travellers' cheques or foreign currency, gaming transactions and other cash-like transactions

obtained using a credit card or store card. As cash transactions are usually charged at higher rates of interest than other types of transactions on their credit card, this exclusion from eligibility would mitigate the risk that customers choose to repay lower cost debt ahead of higher cost debt.

- Where a customer is likely to be worse off by taking out an instalment plan than if the customer does not take out the instalment plan.

2.16 The proposed new guidance will also set out examples of reasonable steps a firm should take to ensure that a customer is put in a position to make an informed decision before taking out an instalment plan. These examples will include the firm doing the following:

- Providing customers with information, clearly and in plain language, about the features, costs and implications of an instalment plan to enable the customer to make an informed decision about whether an instalment plan meets the customer's needs and financial situation. Illustrative examples of one or more typical instalment plans will help customers to understand the effect of setting up an instalment plan and to compare costs. Examples could be personalised, where possible, to the customer's individual circumstances.
- Explaining clearly to customers the implications of failing to make an instalment plan payment. Where relevant, this should include explaining to the customer whether any failure to make an instalment plan payment would be reported to a credit reference agency as a missed payment.

Benefits of the proposal to customers and to firms

2.17 In permitting firms to offer instalment plans as a feature of their credit card products we are supporting innovation and competition in the credit card market. Instalment plans allow customers to repay some, or all, of their credit card purchases in a structured way. The cost of purchases for customers using an instalment plan is expected to be lower than the cost of other standard purchases on their card, and the setting of fixed repayment terms is likely to reduce the risk of persistent or problem card debt. Therefore, depending on the circumstances, it can be a beneficial feature for customers.

2.18 It is however important to ensure that customers are appropriately protected. Our proposal to require firms not to offer customers an instalment plan unless it is likely to be in the customer's best interests and to take reasonable steps to ensure that the customer is put in a position to make an informed decision, will ensure that customers are protected in the same way as they are under the existing rule modifications.

2.19 For credit card provider firms, the proposed rule amendment will mean they no longer have to apply for rule modifications when they wish to offer instalment plans. Existing modification directions in respect of CONC 6.7.4(3) will be revoked when this rule change comes into force. Firms holding modification directions due to expire before the anticipated coming into force date should follow usual processes to request a renewal of their direction until the rule change is effective.

Q2.1: Do you have any comments on the proposed amendment to CONC 6.7.4R?

Cost benefit analysis

- 2.20** Section 138I of the Financial Services and Markets Act 2000 (FSMA) requires us to publish a cost benefit analysis (CBA) unless, in accordance with section 138L, we believe that there will be no increase in costs or that the increase will be of minimal significance. Section 138I also requires us to publish an estimate of costs and benefits unless these cannot be reasonably estimated or it is not reasonably practicable to estimate them.
- 2.21** We are satisfied that the proposed amendment either does not increase costs to firms or consumers, or any increase will be of minimal significance.
- 2.22** Firms providing instalment plans will no longer incur costs relating to the submission of applications for modifications of CONC 6.7.4. FCA costs relating to the assessment and approval of applications to modify this rule will also be removed.

Impact on mutual societies

- 2.23** Section 138K(2) FSMA requires us to prepare a statement setting out our opinion on whether proposed rules will have an impact on mutual societies which is significantly different from the impact on other authorised persons.
- 2.24** We are satisfied that the proposed amendment does not impact on mutual societies to a greater extent than on other authorised firms.

Compatibility statement

- 2.25** When consulting on new rules, we are required by section 138I(2) FSMA to explain why we believe that making the proposed rules is consistent with our strategic objective, advances one or more of our operational objectives, and has regard to the regulatory principles in section 3B FSMA. We are also required to have regard to the principles in the Legislative and Regulatory Reform Act 2006 and the Regulators' Compliance Code.
- 2.26** We are satisfied that the proposed amendment is compatible with our objectives and regulatory principles. The amendment advances our operational objectives of securing an appropriate degree of consumer protection and promoting market integrity and helps to promote effective competition in the interests of consumers. We are satisfied that any burdens or restrictions are proportionate to the expected benefits.

Equality and diversity

- 2.27** We have considered the equality and diversity issues that may arise from the proposed amendments. We have not identified any adverse impact that the proposals in this chapter would have on any of the groups with protected characteristics under the Equality Act 2010, i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment. We will continue to consider the equality and diversity implications of the proposals during the consultation period, and will revisit them when publishing the final rules. In the meantime, we welcome comments on any equality and diversity considerations respondents believe may arise.

3 Changes to the rules creating high-cost short-term credit refinancing and peer-to-peer lending information sheets

Introduction

- 3.1** On 24 May 2021, we published new versions of the two information sheets which lenders of regulated credit agreements must send to customers in arrears or default (one for arrears, and another for default) pursuant to section 86A of the Consumer Credit Act 1974 (CCA).
- 3.2** We specified that the new sheets would take effect on 25 October 2021 (in accordance with section 86A 5-7 of the CCA) giving firms 5 months to implement. We did this to provide more targeted and useful help to customers, particularly those with mental wellbeing issues.
- 3.3** As a result of the update to the statutory arrears sheet, in this chapter we propose to make minor consequential amendments to rules in the Consumer Credit sourcebook (CONC) that require high-cost short-term credit ('HCSTC') lenders, as well as operators of electronic systems in relation to lending who do not provide credit ('peer-to-peer lending platforms'), to send information sheets to customers upon refinancing or arrears.
- 3.4** This will be of interest to firms lending HCSTC products and peer-to-peer lending platforms.

Summary of proposals

- 3.5** The FCA provides three non-statutory information sheets (the 'non-statutory sheets'). These sheets cover certain scenarios and product types, namely: refinancing high-cost short-term credit ('HCSTC'), refinancing high-cost short-term credit in a peer-to-peer agreement ('HCSTC-P2P'), and arrears in a peer-to-peer agreement ('Arrears P2P').
- 3.6** All three sheets are based on the statutory arrears sheet: we draw these up via substitutions in CONC rules which, once applied to the arrears sheet, create the three non-statutory sheets. For convenience, we make these additional sheets available on our website for firms to use directly, without having to apply the substitution rules themselves. Accordingly, at the same time as issuing the new statutory sheets, we also published new corresponding versions of the three non-statutory sheets.
- 3.7** Because we have changed the statutory arrears sheet on which they are based, some of the CONC substitution rules for creating these three sheets will no longer work

properly once the new statutory arrears sheet comes into force on 25 October 2021. It is therefore necessary to make minor changes to CONC 6.7.20R and CONC 7.17.5R(4).

- 3.8** The changes are administrative in nature (such as replacing 'bullet points' with 'numbered points'). No substantive changes are proposed to the substitutions. Please see Appendix 3 for the proposed Handbook text.

Q3.1: Do you have comments on our proposed changes rules creating these sheets?

Cost benefit analysis

- 3.9** Before making rules, section 138I of the Financial Services and Markets Act 2000 (FSMA) requires us to publish a CBA unless, in accordance with section 138L, we believe that there will be no increase in costs or that the increase will be of minimal significance.
- 3.10** These changes are consequential to the update of the statutory arrears information sheet. As this update was made pursuant to s.86A of the CCA, rather than under our rules, no statutory cost benefit analysis (CBA) was required.
- 3.11** Any costs to firms arose from that update made pursuant to the CCA. It is that update which requires firms to revise all the sheets they send to customers (the two new statutory sheets and the three non-statutory sheets based on one of them). The consequential changes to our rules we are suggesting, which will ensure the CONC rules take into account the updates made to the statutory arrears sheet, will result in no additional cost to firms. The publication of a CBA is therefore not required.

Impact on mutual societies

- 3.12** Section 138K of FSMA requires us to state whether, in our opinion, our proposed rules have a significantly different impact on authorised persons who are mutual societies, compared to other authorised persons. Our opinion is that the impact of the proposed rule changes on authorised persons which are mutual societies will not be significantly different from their impact on other authorised persons.

Compatibility statement

- 3.13** These changes support the integrity and proper functioning of CONC. As these changes are consequential to an update to the statutory sheets which aimed to improve outcomes for consumers, they support the FCA's operation objective of securing an appropriate degree of consumer protection. We are satisfied that the proposed amendment is compatible with our objectives and regulatory principles.

Equality and diversity

- 3.14** We have considered the equality and diversity issues that may arise from the proposed amendments. We have not identified any adverse impact that the proposals in this chapter would have on any of the groups with protected characteristics under the Equality Act 2010, i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment. We will continue to consider the equality and diversity implications of the proposals during the consultation period, and will revisit them when publishing the final rules. In the meantime, we welcome comments on any equality and diversity considerations respondents believe may arise.

4 Amendment to MLAR reporting instructions due to cessation of LIBOR

Introduction

- 4.1** LIBOR is an interest rate benchmark that is used as a reference to calculate pricing for a wide range of financial products, including the interest rate for some mortgages. LIBOR in its current form will cease at the end of 2021 when the voluntary agreement of panel banks to continue to submit LIBOR ends. This is with the exception of some US dollar LIBOR rates which will continue until mid-2023. Firms are identifying and utilising alternatives to LIBOR and we are involved in regulatory work related to this transition.
- 4.2** One minor aspect of this relates to the wording of our reporting rules, which provide firms with guidance on completing the Mortgage Lenders & Administrators Return (MLAR). Firms submit quarterly data about mortgages to us via this report.
- 4.3** We have identified one reference to LIBOR in the MLAR at SUP 16 Annex 19B G, Section D3. This section relates to loans and interest rates. It includes Guidance on completing data items under 'balances at end quarter' with regard to interest rates. We propose to amend this Guidance by removing the word 'LIBOR' and updating the text so that it is appropriate in the future.
- 4.4** At the same time, we propose removing the example of 'FTSE' as an index-linked rate, as it is not commonly used for mortgages. We are co-ordinating this change with the Prudential Regulation Authority (PRA).
- 4.5** The proposed amendments do not impose any additional reporting burden upon firms – they will continue to report the data as they do now - we are simply removing the examples of LIBOR and FTSE in the guidance.
- 4.6** The proposed amendment will accommodate alternative market rates such as those based upon the Bank of England Base Rate or the Sterling Overnight Index Average rate: SONIA – for further information see the working group on sterling risk free reference rates.
- 4.7** We are planning to make further changes to address outstanding LIBOR references in the Handbook, as appropriate, in due course.

Summary of proposals

- 4.8** In preparation for transitioning away from LIBOR we need to update LIBOR referencing within our MLAR reporting rules. The PRA is also undertaking this activity. We have identified one LIBOR reference within the reporting rules for completion of the MLAR 'Mortgage Lenders and Administrators Return' templates.

- 4.9** We propose removing the word 'LIBOR' and updating the text so that it is appropriate in the future and will continue to accommodate alternative market rates. We also propose removing the reference to 'FTSE' due to it not being an index which is commonly used for mortgage rate setting. The proposed text aims to accommodate future changes and alternative market rates which lenders may choose to use without further amendment.
- 4.10** The exact wording of the rule change we are proposing can be seen at Appendix 4.
- 4.11** We intend making the proposed change to our rules in Q1 2022 and it will have immediate effect. As the data which firms report is not affected, we consider there to be no need to provide any implementation period.

Q4.1: Do you agree with our suggested amendments to the MLAR guidance?

Cost benefit analysis

- 4.12** Section 138I(2)(a) of FSMA requires us to publish a cost benefit analysis (CBA) when proposing draft rules. Section 138L(3) of FSMA states that section 138I(2)(a) does not apply if we consider that there will be no increase in costs or the increase will be of minimal significance. We consider that our proposed changes will not result in an increase in costs, or that where they do this will be of minimal significance.
- 4.13** We do not plan to issue a CBA as we believe the costs of compliance with the final rules will be of minimal significance.

Impact on mutual societies

- 4.14** Section 138K of FSMA requires us to state whether, in our opinion, our proposed rules have a significantly different impact on authorised persons who are mutual societies, compared to other authorised persons. The proposed changes are not expected to have a significantly different impact on mutual societies.

Compatibility statement

- 4.15** Section 1B of FSMA requires the FCA, when discharging its general functions, so far as is reasonably possible, to act in a way that is compatible with its strategic objective and advances one or more of its operational objectives. Also, so far as is compatible with acting in a way that advances the FCA's consumer protection integrity objectives, the FCA needs to carry out its general functions in a way that promotes effective competition in the interests of consumers.
- 4.16** We are satisfied that these proposals are compatible with our general duties under section 1B of FSMA, having regard to the matters set out in section 1C(2) of FSMA and the regulatory principles in section 3B.
- 4.17** In preparing the proposals set out in this consultation, we have had regard to the recommendations made by the Treasury under section 1JA of FSMA relating to

aspects of the economic policy of Her Majesty's Government in connection with our general duties.

Equality and diversity

- 4.18** We have considered the equality and diversity issues that may arise from the proposed amendments. We have not identified any adverse impact that the proposals in this chapter would have on any of the groups with protected characteristics under the Equality Act 2010, i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment. We will continue to consider the equality and diversity implications of the proposals during the consultation period, and will revisit them when publishing the final rules. In the meantime, we welcome comments on any equality and diversity considerations respondents believe may arise.

5 Amendments to DEPP and FEES – New power to vary or cancel permission

Introduction

- 5.1** We propose to amend the Handbook relating to our variation and cancellation of the permissions given by us to firms we have authorised under Part 4A of the Financial Services and Markets Act 2000 (FSMA) to carry on activities we regulate. This will include firms deemed to have Part 4A permission under the temporary permission and supervised run-off regimes.
- 5.2** Grounds and a process for such cancellation and variation were provided in FSMA when it was first enacted but, since then, the FCA's regulated population has significantly expanded and changed, such that we now regulate the conduct of nearly 60,000 authorised firms, many of which do not carry on financial services as a core activity.
- 5.3** In the Financial Services Act 2021, which has relevantly amended FSMA, we have been provided with an additional process through which we can vary or cancel the permissions of firms we have authorised under Part 4A. The Treasury will specify the date from which this new power will apply in a commencement order. It will not apply to PRA-authorised firms.
- 5.4** The new power will allow the FCA to act more quickly than currently to cancel or vary permissions where we consider that firms are no longer carrying on any activities we regulate. We are consulting on proposed associated amendments to our Decision Procedure and Penalties manual (DEPP) and Fees manual (FEES).
- 5.5** We are requesting feedback on these proposed changes by 5 July 2021.
- 5.6** We also plan to consult separately, in due course, on associated amendments to other parts of our Handbook.

Background

Potential harms addressed by the new power

- 5.7** The new power will allow the FCA to more quickly cancel or vary the permissions of Part 4A authorised firms who appear to no longer be carrying on FCA-regulated activities and to reflect this cancellation or variation on the Financial Services Register (the Register).
- 5.8** The Register is a public record, maintained by the FCA, of firms, individuals and other bodies who or which are or have been regulated by the FCA and/or the PRA. It is a valuable source of information for anyone who wants to check the details of firms

working in regulated financial services. It can thereby help consumers to avoid financial harm such as scams.

5.9 One of a number of actions the FCA is taking in response to the review undertaken by Dame Elizabeth Gloster into its regulation of London Capital & Finance Plc is to undertake a 'use it or lose it' exercise; firms that have not used their regulatory permissions to earn any income for the last 12 months are at risk of having their authorisation cancelled, to reduce the risk of firms having a permission to carry out regulated financial services purely to add credibility to their unregulated activities.

5.10 In January 2021, we reminded firms of their obligation to regularly review regulatory permissions to ensure they are up to date and removed where not needed, noting the Government's intention to introduce the new power now granted by the Financial Services Act 2021. We intend to use the new power, where the conditions described below are satisfied, in our 'use it or lose it' exercise.

The new cancellation and variation power

5.11 The new power, provided by the Financial Services Act 2021, will allow the FCA to vary or cancel an FCA-authorized firm's Part 4A permission where:

- 1.** the firm appears to us not to be carrying on any FCA-regulated activity, including, but not only, where the firm has failed to pay a periodic fee or levy, or to provide the FCA with information, such as an annual return, required under the Handbook; and
- 2.** the FCA has served on the firm two notices and the firm has not responded or taken other steps as directed.

5.12 This new process will sit alongside the existing cancellation and variation process in FSMA.

5.13 Where the FCA uses the new power to cancel or vary a firm's permission, that firm can apply to have that decision annulled. The application for annulment must be made within 12 months of the cancellation or variation and will need to be made in the manner directed by the FCA. The FCA may annul the cancellation or variation subject to conditions but may only annul the decision where it considers it just and reasonable to do so.

5.14 Where the FCA proposes to refuse to annul, we will give the firm a warning notice and where the FCA decides to refuse to annul, we will give the firm a decision notice. Where a firm receives a warning notice, it will be given the right to respond by making representations that will be considered by the FCA decision-maker before a decision whether to annul is made.

5.15 If the FCA grants the firm's application to annul, the effect of annulment is that the cancellation or variation under the new power is treated as never having occurred. Where the FCA has relevant statutory functions and an annulment causes a person to become subject to a statutory obligation, the FCA will have a power to exercise those functions as though that person has not become subject to the statutory obligation.

5.16 Whatever the FCA's decision on an annulment application, either or both of the firm and the FCA can refer the matter to the Upper Tribunal to consider afresh and give directions on. The Upper Tribunal will be able to direct and make such provision as it

considers reasonable for placing the relevant firm and/or any other person in the same position as if there had been no variation or cancellation.

Summary of proposals

DEPP

- 5.17** We propose amending DEPP 2 Annex 1G to specify the Regulatory Decisions Committee (RDC) as the FCA's decision-maker in respect of decisions to propose to and decide to refuse to annul. In taking those decisions, the RDC will follow the warning notice and decision notice procedure set out in DEPP. As to the nature and procedure of the RDC, see DEPP 3.

Q5.1: Do you have any comments on our proposed amendments to DEPP 2 Annex 1G, as set out in Appendix 5?

FEES

- 5.18** The draft instrument in Appendix 5 sets out our proposals for FCA fees (FEES 4) and the other levies we collect – i.e. for the:

- Financial Ombudsman Service (FEES 5),
- Financial Services Compensation Scheme (FEES 6),
- Single Finance Guidance Body (SFGB - FEES 7A),
- Devolved Debt Advice Levy (FEES 7B),
- Temporary Permissions Regime and Financial Service Contracts Regime – SFGB levy (FEES 7C),
- Temporary Permissions – Devolved Authorities levy (FEES 7D), and
- Illegal Money Lending Levy (FEES 13 and 13A).

- 5.19** The key points are:

- 1. Cancellations:** We are not proposing any changes to the fees rules relating to cancellations. These provide that, when a firm's permissions are cancelled or varied, it is required to pay any outstanding fees and levies and no refunds are provided.
- 2. Liability for fees at annulment:** Since, as noted above, the effect of an annulment is that the cancellation/variation never took place, any fees and levies that arose while the firm's permissions were cancelled / varied become payable (unless the firm has previously advised us it is exempt). The amended rules ensure that the various fees and levies-related obligations of firms work once they are reinstated - for example, they delay the deadlines for providing information or payment when these deadlines passed before annulment.

Unrelated consequential changes

- 5.20** Annex A to the instrument also includes a few minor amendments which are consequential on previous changes to the Handbook, see FEES 4.3.6R(3) to (6) which update some cross-references and FEES 5.9 where a title of a previously deleted section is removed.

Q5.2: Do you have any comments on our proposals for the FCA fees and other levies in Appendix 5?

Cost benefit analysis

- 5.21** For our proposals to amend DEPP, the proposal set out in Appendix 5 does not impose additional obligations on firms. It is not related to rule changes or guidance on rules. Under section 138I of the Financial Services and Markets Act 2000 (FSMA), when the FCA wishes to introduce any new rules it must publish a cost benefit analysis along with the proposed rules. Since the requirements under section 138I are not applicable, the FCA is not required to carry out a cost benefit analysis. In any event, the FCA does not expect that the proposal will lead to any increase in costs, or the cost increase will be of minimal significance.
- 5.22** In relation to our proposals to amend FEES, under section 138I(6) of FSMA, the FCA is exempt from the requirement to carry out and publish a cost benefit analysis regarding proposals for rules regarding FCA fees.

Impact on mutual societies

- 5.23** Where a mutual society is authorised under Part 4A FSMA, the effect on them of these changes is the same as on any other firm authorised under Part 4A FSMA, as described above. If a mutual society is not authorised under Part 4A FSMA, the new power, and consequently the changes being consulted on here, will not apply.

Compatibility statement

- 5.24** Section 1B of FSMA requires the FCA, when discharging its general functions, as far as is reasonably possible, to act in a way that is compatible with its strategic objective and that advances one or more of its operational objectives. The FCA also needs to, so far as is compatible with acting in a way that advances the consumer protection objective or the integrity objective, carry out its general function in a way that promotes effective competition in the interests of consumers.
- 5.25** The FCA's general functions include its functions in relation to making rules under FSMA and the giving of general advice. In discharging its general functions, the FCA must have regard to the regulatory principles in section 3B of FSMA.
- 5.26** We are satisfied that the proposed changes are compatible with our objectives and regulatory principles.

Equality and diversity

- 5.27** We have considered the equality and diversity issues that may arise from the proposed amendments. We have not identified any adverse impact that the proposals in this chapter would have on any of the groups with protected characteristics under the Equality Act 2010, i.e. age, disability, sex, marriage or civil partnership, pregnancy

and maternity, race, religion and belief, sexual orientation and gender reassignment. We will continue to consider the equality and diversity implications of the proposals during the consultation period, and will revisit them when publishing the final rules. In the meantime, we welcome comments on any equality and diversity considerations respondents believe may arise.

Annex 1

Abbreviations used in this paper

| Abbreviation | Description |
|--------------------|---|
| Arrears P2P | Arrears in a peer-to-peer agreement |
| CBA | Cost benefit analysis |
| CCA | Consumer Credit Act 1974 |
| CONC | Consumer Credit sourcebook |
| DEPP | Decision Procedure and Penalties manual |
| FCA | Financial Conduct Authority |
| FEES | Fees manual |
| FSMA | Financial Services and Markets Act 2000 |
| FTSE | Financial Times-Stock Exchange |
| HCSTC | High-cost short-term credit |
| HCSTC-P2P | High-cost short-term credit in a peer-to-peer agreement |
| LIBOR | The London Inter-bank Offered Rate |
| MLAR | Mortgage Lenders & Administrators Return |
| PRA | Prudential Regulation Authority |
| RDC | Regulatory Decisions Committee |
| SFGB | Single Finance Guidance Body |
| SONIA | Sterling Overnight Index Average |

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.

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Appendix 1

List of questions

- Q2.1:** Do you have any comments on the proposed amendment to CONC 6.7.4R?
- Q3.1:** Do you have comments on our proposed changes to the rules creating these sheets?
- Q4.1:** Do you agree with our suggested amendments to the MLAR guidance?
- Q5.1:** Do you have any comments on our proposed amendments to DEPP 2 Annex 1G, as set out in Appendix 4?
- Q5.2:** Do you have any comments on our proposals for the FCA fees and other levies in Appendix 5?

Appendix 2

Draft Handbook text

Changes to CONC 6.7.4R

**CONSUMER CREDIT (FIXED INSTALMENT PLAN REPAYMENT
ALLOCATION) (AMENDMENT) INSTRUMENT 2021**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) 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 137A (General rule-making power);
 - (2) section 137T (General supplementary powers); and
 - (3) section 139A (The FCA’s power to give guidance).
- B. The rule-making provisions listed above are specified for the purposes 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 Consumer Credit sourcebook (CONC) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Consumer Credit (Fixed Instalment Plan Repayment Allocation) (Amendment) Instrument 2021.

By order of the Board
[*date*]

Annex

Amendments to the Consumer Credit sourcebook (CONC)

In this Annex, underlining indicates new text and striking through indicates deleted text unless otherwise stated.

6 Post contractual requirements

...

6.7 Post contract: business requirements

...

Credit card and retail revolving credit requirements

- 6.7.4 R A *firm* must first allocate a *repayment* to the debt subject to the highest rate of interest (and then to the next highest rate of interest and so on) for:
- (1) the outstanding balance on a credit card; or
 - (2) the outstanding balance on a store card; or
 - (3) a credit card or a store card, in relation to which there is a *fixed-sum credit* element, to *repayments* beyond those required to satisfy the fixed instalments; or
 - (4) a credit card or a store card, in relation to which the *customer* has opted to repay part of the outstanding balance in fixed instalments over a fixed duration, to *repayments* beyond those required to satisfy the fixed instalments.
- [**Note:** paragraph 6.3 of *ILG*]
- 6.7.4A G The rule in CONC 6.7.4R(4) applies where a regulated credit agreement for a credit card or a store card provides the *customer* with the option of allocating part or all of an outstanding purchase or other types of transactions on their credit card or store card to one or more repayment plan repayable in fixed instalments over a fixed duration (in CONC 6.7.4BR, CONC 6.7.4CG and CONC 6.7.4DG, such option to repay in fixed instalments is referred to as a “fixed instalment plan”).
- 6.7.4B R The *firm* must not offer the *customer* a fixed instalment plan unless, acting reasonably, it has concluded that such option is likely to be in the *customer*’s best interests and the *firm* has taken reasonable steps to ensure that the *customer* is put in a position to make an informed decision regarding the exercise of such option.

- 6.7.4C G Examples where it would not be considered reasonable for a *firm* to conclude that a fixed instalment plan is likely to be in the *customer's* best interests (in accordance with *CONC* 6.7.4BR) include:
- (a) where the rate of interest that applies to cash transactions (this includes, among other things, cash withdrawals, purchases of travellers' cheques or foreign currency, gaming transactions and other cash-like transactions obtained using a credit card or store card) is higher than the rate of interest applicable to other types of transactions on the *customer's* credit card or store card and the *customer* has a significant outstanding cash transactions balance or a recent history of carrying a significant cash transactions balance; and/or
 - (b) where a *customer* is likely to be worse off by taking out a fixed instalment plan than if the *customer* does not take out the fixed instalment plan.
- 6.7.4D G Examples of reasonable steps required by *CONC* 6.7.4BR to ensure that the *customer* is put in a position to make an informed decision regarding the exercise of the option to take out a fixed instalment plan would include the *firm* doing the following:
- (a) providing a *customer* with information, clearly and in plain language, about the features, costs and implications of a fixed instalment plan to enable the *customer* to make an informed decision about whether a fixed instalment plan meets the *customer's* needs and financial situation. This may include illustrative examples of one or more typical fixed instalment plans designed to help the *customer* to understand the effect of setting up a fixed instalment plan and to compare costs. Illustrative examples could, where possible, be personalised to a *customer's* individual circumstances; and
 - (b) explaining in clear terms to the *customer* the implications arising from a failure to make a fixed instalment plan payment. Where relevant, this should include explaining to the *customer* whether a failure to make a fixed instalment plan payment would be reported to a *credit reference agency* as a missed payment.

Appendix 3

Draft Handbook text

Changes to the rules creating high-cost short-term credit refinancing and peer-to-peer lending information sheets

CONSUMER CREDIT (HIGH-COST SHORT-TERM CREDIT REFINANCING AND PEER-TO-PEER LENDING INFORMATION SHEETS) INSTRUMENT 2021

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 137A (General rule-making power).
- B. The rule-making provisions listed above are specified for the purposes 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 Consumer Credit sourcebook (CONC) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Consumer Credit (High-Cost Short-Term Credit Refinancing and Peer-To-Peer Lending Information Sheets) Instrument 2021.

By order of the Board
[date]

Annex

Amendments to the Consumer Credit sourcebook (CONC)

In this Annex, underlining indicates new text and striking through indicates deleted text.

6 Post contractual requirements

...

6.7 Post contract: business practices

...

Rules on refinancing: high-cost short-term credit

6.7.20 R Before a *firm* agrees to refinance *high-cost short-term credit*, it must:

- (1) give or send an information sheet to the *customer*; and
- (2) where reasonably practicable to do so, bring the sheet to the attention of the *customer* before the refinance;

in the form of the arrears information sheet issued by the *FCA* referred to in section 86A of the *CCA* with the following modifications:

- (3) for the title and first ~~sentence~~ two sentences of the information sheet substitute:

...

- (4) for the ~~bullet points~~ numbered points, the entirety of the 'To keep in mind' box and the 'Doing nothing could make things worse' subheading, substitute:

...

...

...

7 Arrears, default and recovery (including repossessions)

...

7.17 Notice of sums in arrears under P2P agreements for fixed-sum credit

...

Notice of sums in arrears for fixed-sum credit

...

7.17.5 R (1) ...

...

(4) A *firm* must accompany the notice required by *CONC* 7.17.4R with a copy of the current arrears information sheet under section 86A of the *CCA* with the following modifications:

(a) ~~for the heading “Arrears” substitute “Arrears—peer-to-peer lending”;~~

(a) for the ~~bullet~~ numbered point headed “Work out how much money you owe” substitute:

“Work out how much money you owe. To do this, you will need to make a list of all those you owe money to. A debt adviser can help you.”;

(b) for the ~~bullet~~ numbered point headed “Contact the organisations you owe money to” substitute:

“Contact the peer-to-peer (P2P) platform which arranged your loan. Let them know you are having problems. They may be able to discuss options for paying back what you owe.”;

(ba) For the bullet point headed “If you live in England and Wales, you may be entitled to ‘breathing space’” substitute:

“You may be entitled to ‘breathing space’ – a defined period where you have protections from legal action taken against you. Speak to a debt adviser who can set out your options.”;

...

...

...

Appendix 4

Draft Handbook text

Amendment to MLAR reporting instructions
due to cessation of LIBOR

SUPERVISION MANUAL (REPORTING No 16) INSTRUMENT 2021

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) 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 139A (Power of the FCA to give guidance).

Commencement

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

Amendments to the Handbook

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

Citation

- E. This instrument may be cited as the Supervision Manual (Reporting No 16) Instrument 2021.

By order of the Board
[date]

Annex A

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

16 Reporting requirements

...

16 Annex 19B G Notes for completion of the Mortgage Lenders & Administrators Return ('MLAR')

...

SECTION D1: LENDING – BUSINESS FLOWS AND RATES

D3 Loans: Interest rates

...

(1) Balances at end quarter

...

'variable' includes all other interest rate bases (i.e. other than those defined above as 'fixed') applying to particular products, including those at, or at a discount or premium to, one of the *firm's* administered lending rates; and those linked to ~~Libor~~ (or other market rate); ~~those linked to an index (e.g. FTSE) etc.~~ However if any such loan products are subject to a 'capped rate', then treat those as 'fixed'.

...

...

Appendix 5

Draft Handbook text

Amendments to DEPP and FEES – New power to vary or cancel permission

**FEES AND DECISION-MAKING (CANCELLATION OF PERMISSION)
INSTRUMENT 2021**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions:
- (1) in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 137A (The FCA’s general rules);
 - (b) section 137T (General supplementary powers);
 - (c) section 139A (Power of the FCA to give guidance);
 - (d) section 213 (the compensation scheme);
 - (e) section 214 (General);
 - (f) paragraph 23 (Fees) of schedule 1ZA;
 - (g) section 137SA (money and pension service levy);
 - (h) section 137SB (devolved debt advice levy);
 - (i) section 333T (illegal money lending levy);
 - (j) section 395 (the FCA’s and the PRA’s procedures); and
 - (2) in regulations 206 (Meaning of “qualifying functions” in this Part) and 208 (Fees: Financial Conduct Authority) of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.
- [C. The Financial Conduct Authority exercises the powers in sections 137SA, 137SB and 333T of the Act having carried out the consultations required by those provisions and with the consent of the Secretary of State with regard to section 137SA and the Treasury with regard to sections 137SB and 333T.]

Commencement

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

Amendments to the Handbook

- E. The Fees manual (FEES) is amended in accordance with Annex A to this instrument.
- F. The Decision Procedure and Penalties manual (DEPP) is amended in accordance with Annex B to this instrument.

Citation

- G. This instrument may be cited as the Fees and Decision-Making (Cancellation of Permission) Instrument 2021.

By order of the Board
[*date*]

Annex A

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text.

4 Periodic fees

...

4.3 Periodic fee payable by firms (other than AIFM qualifiers, ICVCs and UCITS qualifiers)

...

Time of payment

4.3.6 R ...

- (3) If a *firm* has applied to cancel its *Part 4A permission* in the way set out in *SUP 6.4.5D* (Cancellation of permission), or its status as a *payment institution* under regulation 10 of the *Payment Services Regulations* (Cancellation of authorisation) or as regulation 10 is applied by regulation 14 of the *Payment Services Regulations* (Supplementary provisions), or its status as an electronic money issuer under regulation 10 of the *Electronic Money Regulations* (Cancellation of authorisation) or as regulation 10 is applied by regulation 15 of the *Electronic Money Regulations* (Supplementary provisions), or its registration as a *CBTL firm* under article 13(c) of the *MCD Order* or its authorisation as a *data reporting services provider* under regulation 11 of the *DRS Regulations*, then ~~(1) and (2)~~ (1C), (1D) and (1E) do not apply but it must pay the total amount due when the application is made.
- (4) If the *FCA* has exercised its *own-initiative powers* to cancel a *firm's Part 4A permission*, then ~~(1) and (2)~~ (1C), (1D) and (1E) do not apply but the *firm* must pay the total amount due immediately before the cancellation becomes effective.
- (4A) If the *FCA* has cancelled a *firm's* authorisation or registration under regulation 10 of the *Payment Services Regulations* or regulation 10 of the *Electronic Money Regulations* or its registration under regulation 10 as applied by regulation 14 of the *Payment Services Regulations* or its registration under regulation 10 as applied by regulation 15 of the *Electronic Money Regulations*, or its registration under article 13 (except under article 13(c)) of the *MCD Order*, or its authorisation as a *data reporting services provider* under regulation 11 or 12 of the *DRS Regulations*, then ~~(1) and (2)~~ (1C), (1D) and (1E)

do not apply but the *firm* must pay the total amount due immediately before the cancellation becomes effective.

...

(6) Paragraphs ~~(1) and (2)~~ (1C), (1D) and (1E) do not apply to any periodic fee in relation to a *firm's permission* for operating a *multilateral trading facility* or operating an *organised trading facility* and such a fee is not taken into account for the purposes of the split in ~~(1)~~ (1E). Instead any fee for this permission is payable:

- (a) on 1 August; or
- (b) 30 days from the date of the invoice in the case of a *firm* which receives *permission* to be operating a *multilateral trading facility* or to be operating an *organised trading facility* or whose *permission* is extended to include either activity in the course of the relevant financial year.

(7) Where the FCA grants a person's application for annulment of a cancellation or variation of Part 4A permission under Schedule 6A to the Act and the person falls within, as the case may be, (1C) or (2) and:

- (a) the annulment takes effect after 1 April or after the invoice referred to in (1E)(a)(ii) has been issued, then (1C), (1D) and (1E) do not apply, but the person must, where the annulment takes effect after 1 April but before 1 September, pay:
 - (i) an amount equal to 50% of the FCA periodic fee payable for the previous fee year on the date on which the annulment takes effect; and
 - (ii) the balance of the FCA periodic fee due for the current fee year by 1 September or, if later, within 30 days of the date of the invoice, in the fee year to which that sum relates; or
- (b) the annulment takes effect after 1 September or after the invoice referred to in (1E)(b)(ii) has been issued, then (1C), (1D) and (1E) do not apply, but the person must pay the total amount due on the date on which the annulment takes effect; or
- (c) the annulment takes effect after 1 August or after the invoice referred to in (2) has been issued, then (2) does not apply, but the person must pay the periodic fee in full on the date on which the annulment takes effect.

...

Firms Applying to Cancel or Vary Permission Before Start of Period

...

- 4.3.14 G The due dates for payment of periodic fees are modified by *FEES* 4.3.6R(3), *FEES* 4.3.6R(4), ~~and *FEES* 4.3.6R(4A)~~ and *FEES* 4.3.4R(7), respectively, where:

(1) ...

(2) ...

(a) ...

(aa) power to annul the cancellation or variation of a person's Part 4A permission under Schedule 6A to the Act; or

...

...

...

Cancellation and variation of Part 4A permission under Schedule 6A

- 4.3.18 G The FCA will not refund periodic fees if, after the start of the period to which they relate, a person's Part 4A permission is cancelled under Schedule 6A or the person's Part 4A permission is varied, reducing its permission under Schedule 6A (but see FEES 2.3 (Relieving Provisions)).

Effect on periodic fees of annulment of cancellation or variation of permission under Schedule 6A

- 4.3.19 G Schedule 6A to the Act sets out a procedure to enable the FCA to cancel or vary the Part 4A permission of a person who it appears to the FCA is not carrying on a regulated activity. Paragraph 5 of Schedule 6A to the Act sets out a procedure for annulment of cancellation or variation of Part 4A permission in specified circumstances. It is for the FCA to decide whether it is just and reasonable to annul the decision to cancel a person's permission or vary the permission to reduce its scope. Where the FCA grants an application for annulment, paragraph 6 of Schedule 6A sets out its effect. In particular, the cancellation or variation of Part 4A permission is treated as if it had never taken place. As a result of annulment, the periodic fees for the period during which the person's Part 4A permission was cancelled or varied apply to the person.

...

4.4 Information on which fees are calculated

...

4.4.6 R ...

4.4.6A R Where the FCA grants a person's application for annulment of a cancellation or variation of Part 4A permission under Schedule 6A to the Act and on the date the annulment has effect the date for notification to the FCA referred to in FEES 4.4.2R of the information on which a person's periodic fee is calculated has passed, the date for compliance referred to in FEES 4.4.2R does not apply, but the person must comply with FEES 4.4.1R and FEES 4.4.2R within 2 months after the date on which the annulment takes effect.

...

4A Temporary Permissions Regime (TPR) and Financial Service Contracts Regime (FSCR) – periodic fees

...

4A.2 Obligation to pay periodic fees

...

4A.2.2 R ...

4A.2.2A R Where the FCA grants a person's application for annulment of a cancellation or variation of Part 4A permission under Schedule 6A to the Act and the person falls within FEES 4A.2.1R and on the date the annulment has effect the date for payment specified in FEES 4.2.1R has passed, then that date for payment does not apply, but the person must pay the periodic fees applicable to it on the date on which the annulment takes effect.

4A.2.2B R Where the FCA grants a person's application for annulment of a cancellation or variation of Part 4A permission under Schedule 6A to the Act and the person falls within FEES 4A.2.2R and:

- (1) the annulment takes effect after 1 April, or after the invoice referred to in FEES 4A.2.2(1) has been issued, then the date for payment in FEES 4A.2.2R(1) does not apply, but the person must, where the annulment takes effect after 1 April but before 1 September, pay:
 - (a) an amount equal to 50% of the FCA periodic fee payable for the previous year on the date on which the annulment takes effect; and
 - (b) the balance of the FCA periodic fee due for the current financial year by 1 September or, if later, within 30 days of the date of the invoice, in the financial year to which that sum relates; or
- (2) the annulment takes effect after 1 September or after the invoice referred to in FEES 4A.2.2R(2) has been issued, then the date for payment in FEES 4A.2.2R(2) does not apply, but the person must pay

the total periodic fee due for the current *financial year*, on the date on which the annulment takes effect.

...

4A.2.4 R ...

4A.2.4A G Schedule 6A to the *Act* sets out a procedure to enable the *FCA* to cancel or vary the *Part 4A permission* of a *person* who it appears to the *FCA* is not carrying on a *regulated activity*. Paragraph 5 of Schedule 6A to the *Act* sets out a procedure for annulment of cancellation or variation of *Part 4A permission* in specified circumstances. It is for the *FCA* to decide whether it is just and reasonable to annul the decision to cancel a *person's permission* or vary the permission to reduce its scope. Where the *FCA* grants an application for annulment, paragraph 6 of Schedule 6A sets out its effect. In particular, the cancellation or variation of *Part 4A permission* is treated as if it had never taken place. As a result of annulment, the periodic fees for the period during which the *person's Part 4A permission* was cancelled or varied apply to the *person*.

...

4A.2.8 R ...

4A.2.8A R Where the *FCA* grants a *person's* application for annulment of a cancellation or variation of *Part 4A permission* under Schedule 6A to the *Act* and on the date the annulment takes effect the date for notification to the *FCA* referred to in *FEES* 4A.2.6R of the information on which a *person's* periodic fee is calculated has passed, the date for compliance referred to in *FEES* 4A.2.6R does not apply, but the *person* must comply with *FEES* 4A.2.5R and *FEES* 4A.2.6R within 2 *months* after the date on which the annulment takes effect.

...

5 Financial Ombudsman Service Funding

5.1 Application and Purpose

Application

...

5.1.6B G If, after the start of the period to which the *general levy* relates, a *person's Part 4A permission* is cancelled under Schedule 6A or the *person's Part 4A permission* is varied reducing its *permission* under Schedule 6A, the *person* will not receive a refund of their *general levy*, except in exceptional circumstances.

...

5.3 The general levy

...

5.3.10 R ...

5.3.11 G Schedule 6A to the Act sets out a procedure to enable the FCA to cancel or vary the Part 4A permission of a person who it appears to the FCA is not carrying on a regulated activity. Paragraph 5 of that schedule sets out a procedure for annulment of cancellation or variation of Part 4A permission in specified circumstances. Where the FCA grants an application for annulment, paragraph 6 of Schedule 6A sets out its effect. In particular, the cancellation or variation of Part 4A permission is treated as if it had never taken place. As a result of the effect of annulment under Schedule 6A, the general levy and any other levy provided for under this chapter applicable to the person, in relation to the period during which the person's Part 4A permission was cancelled or varied apply to the person, unless the exemption in FEES 5.1.4R applies.

...

5.4 Information requirement

5.4.1 R (1) ...

...

(6) Where the FCA grants a person's application for annulment of a cancellation or variation of Part 4A permission under Schedule 6A to the Act and on the date the annulment takes effect the time for providing information in this rule has passed, then that time for compliance does not apply, but a person must comply with this rule on the date on which the person's annulment takes effect.

...

5.7 Payment

5.7.1 R ...

5.7.1A R Where the FCA grants a person's application for annulment of a cancellation or variation of Part 4A permission under Schedule 6A to the Act and on the date the annulment takes effect the time for payment in FEES 5.7.1R has passed, then that time for payment in that rule does not apply, but a person must pay to the FCA the general levy on the date on which the person's annulment takes effect.

...

5.9 ~~Leaving the Financial Ombudsman Service [deleted]~~

...

6 Financial Services Compensation Scheme Funding

...

6.2 Exemption

...

6.2.6 R (1) If a *participant firm* ceases to conduct business that could give rise to a *protected claim* by an *eligible claimant* and notifies the *FSCS* of this under *FEES* 6.2.1AR, it will be treated as a *participant firm* to which *FEES* 6.7.6R applies until the end of the *financial year* of the *compensation scheme* in which the notice was given.

(2) Where the *FCA* grants a *person's* application for annulment of a cancellation or variation of *Part 4A permission* under Schedule 6A to the *Act* and when the *Part 4A permission* was cancelled or varied the *person* ceased to conduct business that could give rise to a *protected claim* by an *eligible claimant*, it will be treated as a *participant firm* to which *FEES* 6.7.6R applies until the end of the *financial year* of the *compensation scheme* in which the *person's Part 4A permission* was cancelled or varied (but for the annulment).

...

6.2.8 R ...

6.2.8A R Where the *FCA* grants a *person's* application for annulment of a cancellation or variation of *Part 4A permission* under Schedule 6A to the *Act* and when the *person's Part 4A permission* was cancelled or varied the *person* was exempt by virtue of *FEES* 6.2.1AR, the *person* remains exempt provided that the conditions in that rule (apart from notification to the *FCA*) apply for the *financial year* of the *compensation scheme* in question.

...

6.3 The FSCS's power to impose levies

...

6.3.26 G ...

Effect of annulment of cancellation or variation of permission under Schedule 6A on levies

6.3.27 G Schedule 6A to the *Act* sets out a procedure to enable the *FCA* to cancel or vary the *Part 4A permission* of a *person* who it appears to the *FCA* is not carrying on a *regulated activity*. Paragraph 5 of that schedule sets out a procedure for annulment of cancellation or variation of *Part 4A permission* in specified circumstances. Where the *FCA* grants an application for annulment, paragraph 6 of Schedule 6A sets out its effect. In particular, the

cancellation or variation of *Part 4A permission* is treated as if it had never taken place. As a result of the effect of annulment under Schedule 6A, any levy provided for under this chapter applicable to the *person*, in relation to the period during which the *person's Part 4A permission* was cancelled or varied, applies to the *person*, unless the exemption in *FEES 6.2.1AR* applies.

...

6.5 Compensation costs

...

Reporting requirements

6.5.13 R (1) ...

...

(3) ~~[deleted]~~ Where the *FCA* grants a *person's* application for annulment of a cancellation or variation of *Part 4A permission* under Schedule 6A to the *Act* and on the date the annulment takes effect the time for providing the statement in (1) has passed, then the requirement to have provided the statement does not apply, but a *person* must comply with (1) and (2), by providing the statement to the *FCA* on the date on which the *person's* annulment takes effect.

...

6.7 Payment of levies

Payments on account by certain firms

6.7.-1 R ...

6.7.-1A R Where the *FCA* grants the *person's* application for annulment of a cancellation or variation of *Part 4A permission* under Schedule 6A to the *Act* and the *person* falls within *FEES 6.7.-1R* and:

(1) the annulment takes effect after 1 April, then the date for payment referred to in *FEES 6.7.-1R(1)* does not apply, but the *person* must, where the annulment takes effect after 1 April but before 1 September, pay:

(a) on the date on which the annulment takes effect, an amount equal to 50%, or such lower percentage as the *FSCS* may determine, of the *participant firm's* share of the *annual levy* payable for the previous *financial year* of the *compensation scheme*; and

(b) by 1 September, the balance of the *annual levy* due from the *participant firm* for the current *financial year* of the *compensation scheme* year; or

- (2) the annulment takes effect after 1 September, then the date for payment referred to in FEES 6.7.-1R(2) does not apply, but the person must pay the total amount due on the date on which the annulment takes effect.

...

Firms ceasing to be a participant firm

6.7.6 R ...

6.7.7 R FEES 6.7.6R does not apply in relation to a person to whom the FCA grants an annulment of a cancellation or variation of Part 4A permission under Schedule 6A to the Act.

6.7.8 G The effect of annulment of a cancellation or variation of Part 4A permission under Schedule 6A to the Act is that the cancellation or variation of Part 4A permission is treated as if it had not taken place and the person is liable for any levies which relate to the period prior to the annulment. See further guidance in FEES 4.3.19G.

...

7A SFGB levies

...

7A.2 The SFGB levy

...

7A.2.2 G Schedule 6A to the Act sets out a procedure to enable the FCA to cancel or vary the Part 4A permission of a person who it appears to the FCA is not carrying on a regulated activity. Paragraph 5 of that schedule sets out a procedure for annulment of cancellation or variation of Part 4A permission in specified circumstances. Where the FCA grants an application for annulment, paragraph 6 of Schedule 6A sets out its effect. In particular, the cancellation or variation of Part 4A permission is treated as if it had never taken place. As a result of the effect of annulment under Schedule 6A, any part of the SFGB levy applicable to the person, in relation to the period during which the person's Part 4A permission was cancelled or varied, applies to the person.

7A.3 The SFGB money advice levy and debt advice levy

Obligation to pay money advice levy or debt advice levy

7A.3.1 R ...

7A.3.1A R Where the FCA grants a person's application for annulment of a cancellation or variation of Part 4A permission under Schedule 6A to the Act and the person falls within FEES 7A.3.1R and the annulment takes effect after 1 August or after the invoice referred to in FEES 7A.3.1R(2) has been issued,

then the date for payment referred to in *FEES 7A.3.1R(2)* does not apply, but the *person* must pay the *SFGB money advice levy* or *SFGB debt advice levy* applicable to it in full and without deduction, on the date on which the annulment takes effect.

...

7A.3.10 R ...

| FEES 4 rules incorporated into FEES 7A | Description |
|---|--|
| ... | ... |
| FEES 4.4.1R to FEES 4.4.6R <i>FEES 4.4.6AR</i> | Information on which fees are calculated |

...

7A.4 The SFGB pensions guidance advice levy

Obligation to pay SFGB pensions guidance levy

7A.4.1 R ...

7A.4.1A R Where the FCA grants a *person*'s application for annulment of a cancellation or variation of Part 4A permission under Schedule 6A to the Act and the *person* falls within *FEES 7A.4.1R* and the annulment takes effect after 1 August or after the invoice referred to in *FEES 7A.4.1R(1)* has been issued, then the date for payment referred to in *FEES 7A.4.1R(1)* does not apply, but the *person* must pay the *SFGB pensions guidance levy* applicable to it in full and without deduction, on the date on which the annulment takes effect.

...

7A.4.11 R ...

| FEES 4 incorporated into FEES 10 | Description | Modifications |
|---|--|---------------|
| ... | ... | ... |
| FEES 4.4.1R to FEES 4.4.6R <i>FEES 4.4.6AR</i> | Information on which fees are calculated | None |

...

7B The DA levy

...

7B.2 The DA levy

Obligation to pay DA levy

7B.2.1 R ...

7B.2.1A G Schedule 6A to the Act sets out a procedure to enable the FCA to cancel or vary the Part 4A permission of a person who it appears to the FCA is not carrying on a regulated activity. Paragraph 5 of that schedule sets out a procedure for annulment of cancellation or variation of Part 4A permission in specified circumstances. Where the FCA grants an application for annulment, paragraph 6 of Schedule 6A sets out its effect. In particular, the cancellation or variation of Part 4A permission is treated as if it had never taken place. As a result of the effect of annulment under Schedule 6A, the DA levy in relation to the period during which the person's Part 4A permission was cancelled or varied applies to the person.

7B.2.1B R Where the FCA grants a person's application for annulment of a cancellation or variation of Part 4A permission under Schedule 6A to the Act and the person falls within FEES 7B.2.1R and the annulment takes effect after 1 August or after the invoice referred to in FEES 7B.2.1R(2) has been issued, then the date for payment referred to in FEES 7B.2.1R(2) does not apply, but the person must pay the DA levy applicable to it in full and without deduction, on the date on which the annulment takes effect.

...

7B.2.7 R ...

| FEES 4 rules incorporated into FEES 7B | Description |
|---|--|
| ... | ... |
| FEES 4.4.1R to FEES 4.4.6R <u>FEES 4.4.6AR</u> | Information on which fees are calculated |

...

7C Temporary Permissions Regime (TPR) and Financial Service Contracts Regime (FSCR) - Single Financial Guidance Body levy

...

7C.2 The TPR SFGB levy

7C.2.1 R ...

7C.2.2 G Schedule 6A to the Act sets out a procedure to enable the FCA to cancel or vary the Part 4A permission of a person who it appears to the FCA is not carrying on a regulated activity. Paragraph 5 of that schedule sets out a

procedure for annulment of cancellation or variation of *Part 4A permission* in specified circumstances. Where the *FCA* grants an application for annulment, paragraph 6 of Schedule 6A sets out its effect. In particular, the cancellation or variation of *Part 4A permission* is treated as if it had never taken place. As a result of the effect of annulment under Schedule 6A, any part of the *TPR SFGB levy* applicable to the *person*, in relation to the period during which the *person's Part 4A permission* was cancelled or varied, applies to the *person*.

7C.3 The TPR SFGB money advice levy and debt advice levy

Obligation to pay TPR SFGB money advice levy or debt advice levy

...

7C.3.2 R ...

7C.3.2A R Where the *FCA* grants a *person's* application for annulment of a cancellation or variation of *Part 4A permission* under Schedule 6A to the *Act* and the *person* falls within *FEES 7C.3.1R* and the annulment takes effect after 1 August or after the invoice referred to in *FEES 7C.3.1R(1)*, then the date for payment referred to in *FEES 7C.3.1R(1)* does not apply, but the *person* must pay the *TPR SFGB money advice levy* or *TPR SFGB debt advice levy* applicable to it in full and without deduction, on the date on which the annulment takes effect.

7C.3.2B R Where the *FCA* grants a *person's* application for annulment of a cancellation or variation of *Part 4A permission* under Schedule 6A to the *Act* and the *person* falls within *FEES 7C.3.2R* and:

(1) the annulment takes effect after 1 April or after the invoice referred to in *FEES 7C.3.2R(1)* has been issued, then the date for payment referred to in *FEES 7C.3.2R(1)* does not apply, but the *person* must, where the annulment takes effect after 1 April but before 1 September, pay:

(a) an amount equal to 50% of the *TPR SFGB money advice levy* or *TPR debt advice levy* payable for the previous year on the date on which the annulment takes effect; and

(b) the balance of the *TPR SFGB money advice levy* or *TPR debt advice levy* due for the current *financial year* by 1 September or, if later, within 30 days of the date of the invoice, in the *financial year* to which that sum relates; or

(2) the annulment takes effect after 1 September or after the invoice referred to in *FEES 7C.3.2(2)* has been issued, then the date for payment referred to in *FEES 7C.3.2R(2)* does not apply, but the *person* must pay the total *TPR SFGB money advice levy* or *TPR debt advice levy* due for the current *financial year*, on the date on which the annulment takes effect.

...

7C.4 The TPR SFGB pensions guidance advice levy

Obligation to pay TPR SFGB pensions guidance levy

7C.4.1 R ...

7C.4.1A R Where the FCA grants a person's application for annulment of a cancellation or variation of Part 4A permission under Schedule 6A to the Act and the person falls within FEES 7C.4.1R and the annulment takes effect after 1 August or after the invoice referred to in FEES 7C.4.1R(1), then the date for payment referred to in FEES 7C.4.1R(1) does not apply, but the person must pay the TPR SFGB pensions guidance levy applicable to it in full and without deduction, on the date on which the annulment takes effect.

...

7D Temporary Permissions (TPR) – Devolved Authorities levy

...

7D.2 The TPR DA levy

Obligation to pay TPR DA levy

7D.2.1 R ...

7D.2.1A G Schedule 6A to the Act sets out a procedure to enable the FCA to cancel or vary the Part 4A permission of a person who it appears to the FCA is not carrying on a regulated activity. Paragraph 5 of that schedule sets out a procedure for annulment of cancellation or variation of Part 4A permission in specified circumstances. Where the FCA grants an application for annulment, paragraph 6 of Schedule 6A sets out its effect. In particular, the cancellation or variation of Part 4A permission is treated as if it had never taken place. As a result of the effect of annulment under Schedule 6A, the TPR DA levy in relation to the period during which the person's Part 4A permission was cancelled or varied applies to the person.

7D.2.1B R Where the FCA grants a person's application for annulment of a cancellation or variation of Part 4A permission under Schedule 6A to the Act and the person falls within FEES 7D.2.1R and the annulment takes effect after 1 August or after the invoice referred to in FEES 7D.2.1R(1) has been issued, then the date for payment referred to in FEES 7D.2.1R(1) does not apply, but the person must pay the TPR DA levy applicable to it in full and without deduction, on the date on which the annulment takes effect.

...

13 Illegal money lending levy

...

13.2 The IML levy

Obligation to pay the IML levy

13.2.1 R ...

13.2.1A G Schedule 6A to the Act sets out a procedure to enable the FCA to cancel or vary the Part 4A permission of a person who it appears to the FCA is not carrying on a regulated activity. Paragraph 5 of that schedule sets out a procedure for annulment of cancellation or variation of Part 4A permission in specified circumstances. Where the FCA grants an application for annulment, paragraph 6 of Schedule 6A sets out its effect. In particular, the cancellation or variation of Part 4A permission is treated as if it had never taken place. As a result of the effect of annulment under Schedule 6A, the IML levy in relation to the period during which the person's Part 4A permission was cancelled or varied applies to the person.

13.2.1B R Where the FCA grants a person's application for annulment of a cancellation or variation of Part 4A permission under Schedule 6A to the Act and the person falls within FEES 13.2.1R and the annulment takes effect after 1 August or after the invoice referred to in FEES 13.2.1R(1) has been issued, then that date for payment does not apply, but the person must pay the IML levy applicable to it in full and without deduction, on the date on which the annulment takes effect.

...

13.2.9 R ...

| FEES 4 rules incorporated into FEES 13 | Description |
|---|--|
| ... | ... |
| FEES 4.4.1R to FEES 4.4.6R <u>FEES 4.4.6AR</u> | Information on which fees are calculated |

...

13A Temporary Permissions Regime (TPR) and Financial Service Contracts Regime (FSCR) – Illegal money lending levy

...

13A.2 Obligation to pay the IML levy

13A.2.1 R ...

13A.2.1 G Schedule 6A to the Act sets out a procedure to enable the FCA to cancel or vary the Part 4A permission of a person who it appears to the FCA is not carrying on a regulated activity. Paragraph 5 of that schedule sets out a procedure for annulment of cancellation or variation of Part 4A permission in specified circumstances. Where the FCA grants an application for annulment, paragraph 6 of Schedule 6A sets out its effect. In particular, the cancellation or variation of Part 4A permission is treated as if it had never taken place. As a result of the effect of annulment under Schedule 6A, the TPR IML levy in relation to the period during which the person's Part 4A permission was cancelled or varied applies to the person.

13A.2.1 R Where the FCA grants a person's application for annulment of a cancellation or variation of Part 4A permission under Schedule 6A to the Act and the person falls within FEES 13A.2.1R and the annulment takes effect after 1 August or after the invoice referred to in FEES 13A.2.1R(1) has been issued, then the date for payment referred to in FEES 13A.2.1R(1) does not apply, but the person must pay the TPR IML levy applicable to it in full and without deduction, on the date on which the annulment takes effect.

Annex B

Amendments to the Decision Procedure and Penalties manual (DEPP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

2 Statutory notices and the allocation of decision making

...

2 Annex 1 Warning notices and decision notices under the Act and certain other enactments

...

| Section of the Act | Description | Handbook reference | Decision maker |
|--------------------------------------|--|--------------------|----------------|
| ... | ... | ... | ... |
| Paragraph 19(8)/ (12) of Schedule 3 | [deleted] | | |
| <u>Paragraph 5(6) of Schedule 6A</u> | <u>when the FCA is proposing to refuse to annul a decision to exercise its additional <i>own-initiative variation power</i>*</u> | | <u>RDC</u> |
| <u>Paragraph 5(7) of Schedule 6A</u> | <u>when the FCA is deciding to refuse to annul a decision to exercise its additional <i>own-initiative variation power</i>*</u> | | <u>RDC</u> |

