

Understanding consumer credit

Consumer credit permissions: common misunderstandings

There are some common misconceptions about consumer credit permissions. We hope this document will assist firms that hold interim permission when applying for authorisation.

It should be read alongside the Credit Ready pack and Jargon Buster – both of which are available on our website.

Where appropriate, we may consult at a later date on incorporating elements of this information into our Perimeter Guidance (PERG). We have included links to the relevant PERG provisions in the following text.

Note: ultimately, firms will need to decide for themselves what permissions they need, taking legal advice as necessary. We cannot advise on which permissions a firm needs, but individual queries can be addressed to our Contact Centre by emailing firm.queries@fca.org.uk.

In this document, we aim to address some of the misunderstandings and misconceptions people may encounter.



You can find more information about consumer credit at www.fca.org.uk

Lenders – Common misunderstandings

1. Instalment credit is exempt so I don't need authorisation

Not necessarily. There is an exemption for certain types of instalment credit, where the credit is provided without interest or other charges (such as an administration fee) and is repayable within 12 months by no more than 12 payments.

However, this does not cover all forms of instalment credit – the conditions are set out on our website: <https://small-firms.fca.org.uk/instalment-credit-agreements-consumer-credit-firms>

2. My loans weren't exempt previously but are now, so I can cancel my permission

The amendment to the instalment credit exemption came into effect on 18 March 2015; before then, the exemption was limited to 4 payments (it has been extended to 12 payments). However, the change was not retrospective. Agreements which were regulated previously remain regulated, so if you are the lender you should retain your permission to exercise, or have the right to exercise, rights and duties under the agreement until such time as the agreement ends or the debt ceases to be outstanding.

See our briefing on the website: <https://small-firms.fca.org.uk/instalment-credit-agreements-consumer-credit-firms>



3. I don't benefit from the instalment credit exemption, but as I don't charge interest I am eligible for limited permission

If any charge, whether interest or otherwise, is payable in connection with the credit, this takes you outside the limited permission regime. This is a broader concept than under the instalment credit exemption, which refers to charges payable for the provision of the credit, and in our view would include a default charge – we are consulting in CP15/6 on making this explicit as part of our threshold conditions.

In addition, the limited permission regime does not extend to lenders under hire-purchase or conditional sale agreements, or firms whose main business is not to sell goods or supply (non-financial) services.

Consultation paper CP15/6: www.fca.org.uk/news/cp15-06-consumer-credit-consultation-paper

4. I don't need permission as I only offer second charge loans

Loans that are secured by a second charge on a property are currently covered by the consumer credit regime (unless a relevant exemption applies). This will change in March 2016 when the Mortgage Credit Directive is implemented, as second charge lending and broking will become part of the Mortgage and Home Finance: Conduct of Business sourcebook (MCOB) regime. At that point you are likely to need a mortgage permission.

There will be transitional arrangements as set out in our consultation paper CP/14/20: www.fca.org.uk/your-fca/documents/consultation-papers/cp14-20



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Credit brokers – Common misunderstandings

5. I don't need a credit broking permission as I only deal with exempt agreements

The scope of 'credit broking' is broader than regulated credit agreements – it includes the broking of some exempt agreements (such as business loans above £25,000 and buy-to-let loans) but not loans which are exempt under the instalment credit exemption. It does not though include broking of loans to companies as these are not 'credit agreements'.

A broad outline of consumer credit activities is available in our Perimeter Guidance manual (PERG 2.7): www.fshandbook.info/FS/html/FCA/PERG/2/7

6. I don't need a credit broking permission as I only introduce to brokers not lenders

The regulated activity includes effecting an introduction to a lender, or to another credit broker, with a view to entry into a relevant credit agreement. It can cover all firms in a 'chain' if each is acting by way of business.

This is outlined in PERG 2.7.7E: www.fshandbook.info/FS/html/FCA/PERG/2/7

7. I don't need a credit broking permission as I don't charge a fee or commission

Some credit broking activities – such as presenting or offering credit agreements or assisting the borrower by undertaking other preparatory work – are excluded where the broker receives no fee or commission. But other broking activities – notably, effecting an introduction to a lender or broker – will require permission if they are undertaken by way of business.

More information is available in PERG 2.3: www.fshandbook.info/FS/html/FCA/PERG/2/3

8. I don't need a credit broking permission as the broking is ancillary to my main business

If you are a retailer, selling goods or services, and you arrange finance with a third party lender, you are likely to be engaged in credit broking (unless the instalment credit exemption applies). If you provide the finance yourself, you may be entering into regulated credit agreements as lender.

This is outlined in PERG 2.7.7E: www.fshandbook.info/FS/html/FCA/PERG/2/7

9. All ancillary credit brokers are limited permission

If the broking is for the purposes of, or in connection with, the sale of goods or the supply of services by the firm, and the firm's main business is not to carry on a regulated activity (other than consumer hire agreements), the firm may be eligible for limited permission (unless it is a domestic premises supplier, see below). Following recent legislative changes, the limited permission regime now extends to all broking of consumer hire or hire-purchase (but not conditional sale).

See the briefing on our website: <https://small-firms.fca.org.uk/broking-consumer-hire-and-hire-purchase-agreements>

10. I am not a domestic premises supplier as I don't sell in the home

The revised definition of a 'domestic premises supplier' includes where, during a visit to a customer's home, the broker offers to sell goods or to supply services (even if the contract is concluded subsequently online or on trade premises). An 'offer' could include providing a binding quotation to the customer, irrespective of whether this is accepted.

There are examples on our website: <https://small-firms.fca.org.uk/definition-domestic-premises-supplier-consumer-credit>

11. I am not a domestic premises supplier as I don't discuss credit in the home

The revised definition refers to selling or offering or agreeing to sell goods, or offering or contracting to supply services. If these activities are conducted in the customer's home, this is likely to make the firm a domestic premises supplier.

An explanation of this is available on our website: <https://small-firms.fca.org.uk/definition-domestic-premises-supplier-consumer-credit>

12. I am an investment adviser, and credit is ancillary to my business, so this is limited permission

If you are broking credit, this is likely to be full permission as it is not for the purposes of, or in connection with, the supply of goods or non-financial services. You may also be engaged in debt counselling and/or debt adjusting depending, for example, upon whether you go beyond merely 'generic' advice on repaying debts.

There is guidance on the scope of the regulated activities in our Handbook: www.fshandbook.info/FS/html/handbook/PERG/2

Peer-to-peer lending – Common misunderstandings

13. I operate an electronic system in relation to lending as I use a tablet/computer to broker finance

The regulated activity of operating an electronic system in relation to lending (commonly known as peer-to-peer lending) is intended only to catch platforms that match those wishing to invest with those seeking to borrow by acting as a conduit for payments and enforcing the agreements (or arranging for another to do so in each case). If the relevant conditions are not satisfied, the activity will not amount to the operation of an electronic system in relation to lending but may be credit broking instead.

More information about peer-to-peer lending is available in PERG 2.7.7H: www.fshandbook.info/FS/html/FCA/PERG/2/7

You can find more information about consumer credit at www.fca.org.uk

Debt activities – Common misunderstandings

14. I don't need debt collecting as I only collect under exempt agreements

Debt collecting includes taking steps to procure payment of a debt under a credit agreement. This is irrespective of whether the agreement is regulated or exempt. It does not though include debts under agreements which are not credit agreements (or consumer hire agreements or regulated peer-to-peer loans), such as utility bill debts, or debts owed by companies (as these are not 'credit agreements').

15. I am a motor dealer and have been told I need a debt adjusting permission

This depends upon what you do. You may require permission for debt adjusting and/or debt counselling if, for example, you advise the customer about getting rid of a debt on a trade-in vehicle, or if you negotiate with the finance company on the customer's behalf.

There is guidance on the scope of the regulated activities, with examples, in PERG 2.7.8A: www.fshandbook.info/FS/html/FCA/PERG/2/7

16. I can be a limited permission broker even if I need debt permissions

If you are a supplier broking credit for the purposes of, or in connection with, the sale of goods or the supply of non-financial services (and are not a domestic premises supplier), your limited permission can cover ancillary debt adjusting/counselling. However, this does not apply in other cases. Recent legislative changes have extended the limited permission regime to the broking of hire-purchase and consumer hire agreements, but if you engage in ancillary debt activities, and are not a supplier broking for the purposes of or in connection with goods or services as above, you will need full permission.

17. I don't offer debt management plans so don't need a debt permission

Debt management is much broader than simply setting up and running debt management plans (DMPs). If you help individuals with their debts you may be engaged in debt counselling and/or debt adjusting, and if this is with a view to entry into a particular debt solution this is likely to be 'debt management' (although this is not a separate regulated activity in its own right).

18. I offer outsourced services so don't need my own permission

In most cases, a firm providing outsourced functions to a lender is likely to be engaged in debt administration and/or debt collecting, so will need its own permission (unless it is an appointed representative of a principal with full rather than interim permission). This depends upon what it does and how it does it.

Debt administration includes taking steps to perform duties under a credit agreement on the lender's behalf and debt collecting is taking steps to procure payment of the debt. An activity cannot be both, but some outsourcers may be engaged in both types of activity.

Linked insurance – Common misunderstandings

19. As a retailer, I don't need a separate permission for linked insurance sales

You may be able to benefit from the 'connected contracts' exclusion while you have interim permission, but once you are authorised the exclusion is only available if you supply goods (other than motor vehicles) or travel-related services in the course of a business which does not otherwise consist of regulated activities. This is unlikely to be the case if, for example, most or a significant proportion of your sales are financed by credit.

More information about connected contracts is available in our consumer credit section: <https://small-firms.fca.org.uk/connected-contracts-consumer-credit-permissions-insurance>

20. If I need an insurance permission, it will mean full authorisation

You can combine limited permission for credit activities with being an appointed representative for insurance mediation. But you can't be an appointed representative if you are authorised with full credit permissions. You also can't combine limited permission for credit and full permission for insurance or other regulated activities.

Other activities – Common misunderstandings

21. I use credit reference agency data so need a credit information services permission

If you only access information from a credit reference agency (CRA) for your own purposes (e.g. in order to make a lending decision) you are unlikely to need this permission. The regulated activity applies only if you take certain steps on the individual's behalf or advise the individual to do so.



You can find more information about consumer credit at www.fca.org.uk



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