

Regulator Assessment: Qualifying Regulatory Provisions

Title of proposal: Thematic review – Quality of debt management advice

Lead regulator: FCA

Date of assessment: 7 March 2016

Commencement date: November 2016

Origin: Domestic

Does this include implementation of a Cutting Red Tape review? No

Which areas of the UK will be affected? Whole of UK

Brief outline of proposed new or amended regulatory activity

The Thematic Review reports the results of a review assessing the quality of advice provided by debt management firms. This review assessed the compliance of eight debt management firms with the requirements of the FCA Handbook (primarily CONC and SYSC sourcebooks).

This review was intended to assess the standard of compliance with regulatory requirements that had been in place for a considerable period of time. The review was not intended to set new standards and this is explicitly stated in the report (para 1.9), which was published on the 25 June 2015.

Which type of business will be affected? How many are estimated to be affected?

Potentially affected firms are debt management firms – those that conduct the FCA regulated activities of debt counselling and debt adjusting.

There are currently c145 such firms authorised by the FCA.

Price base year	Implementation date	Duration of policy (years)	Business Net Present Value	Net cost to business (EANDCB)	BIT score
2015	25/6/2015	10	0	0	0

Please set out the impact to business clearly with a breakdown of costs and benefits

The thematic review identified widespread non-compliance with FCA requirements and factually reported the results of this non-compliance. The resulting report explicitly stated that it did not establish any new standards.

Unlike other thematic reviews, this review did not include a call to firms to take specific action (other than an implicit requirement to ensure compliance with FCA rules). This was specifically the case because affected firms were still going through the FCA authorisation process and we wanted to avoid any suggestion that new standards were being set (which could have compromised the authorisation decision-making process).

The poor practice cited in this publication is such that no firm could reasonably have believed that the poor practice specified was compliant with our rules, with the effect that publication creates no costs for business because the expectations set out in it are wholly inherent in the existing rules and add no new obligations to those rules for any firms.

We consider this is the case because:

- The specific, prescriptive nature of the relevant CONC rules which are less open to varying interpretations.
- Prior FCA communications regarding concerns about the quality of debt management advice and our expectations of firms.
- The widespread, and public, availability of guidance and common practices regarding the provision of debt advice – including that from the Money Advice Service, The Money Advice Trust and Money Advice Scotland.

Despite stating that the review did not establish new standards, for completeness the following table contains the main sections in the review that we estimate could potentially have been interpreted by firms as providing additional guidance or clarification to existing rules. The right hand column outlines the existing rules or standards (the counterfactual).

Statement in TR	Existing rule or standard
Para 4.26/4.27 Customers in receipt of variable income – considering how variances impact on affordability. Applicable to approx. 100% of firms.	Considered common sense application of CONC 8.3.7R (in sum) <i>adequately assess the customer's financial position (including income)</i> .
Para 4.29 Failure to challenge high or low expenditure items. Applicable to 100% of firms.	Considered common sense application of CONC 8.3.7R (in sum) <i>adequately assess the customer's financial position (including expenditure)</i> .

As compliance with regulatory requirements is assumed as part of the Enterprise Act, any costs incurred by firms to bring themselves to a compliant standard are not included. Therefore we have estimated a cost to business of **zero**.

Please provide any additional information (if required) that may assist the RPC to validate the BIT Score.