

Memorandum of Understanding between the Financial Conduct Authority (the FCA) and Cifas

Introduction

1. This Memorandum of Understanding (MoU):
 - establishes a framework for co-operation between the FCA and Cifas. It sets out the role of each party in relation to the Immigration Act 2014 (IA) and the Immigration Act 2014 (Bank Accounts) Regulations 2014 (the Regulations);
 - explains how the two organisations work together. Its aim is to lay out procedures for providing information under the Regulations and for discussing matters arising from the obligations imposed on the parties; and
 - has effect from 12 December 2014, which is the date the Regulations come into force.
2. The parties acknowledge that they may only provide information under this MoU if permitted or not prevented under any applicable laws, regulations and requirements.
3. This memorandum has no legislative effect. It is a statement of intent, is not legally binding and does not create any enforceable rights.

Roles and responsibilities of the FCA and Cifas

The FCA

4. Under the IA the FCA is responsible for maintaining arrangements for monitoring and enforcing compliance with the prohibition on opening current accounts for disqualified persons. This prohibition is imposed by section 40 of the IA.
5. Section 40 of the IA provides that a bank or building society must not open a current account for a person who is in the United Kingdom and who requires leave to enter or remain in the United Kingdom but does not have it, unless it has first carried out a status check which indicates that the individual is not a disqualified person. A disqualified person is a person within this group for whom the Secretary of State considers that a current account should not be opened by a bank or building society.
6. The Regulations enable the FCA to monitor and enforce the prohibition in section 40 of the IA.

Cifas

7. Cifas has been specified by the Secretary of State as an anti-fraud organisation for the purposes of section 40(3)(a) of the IA. This has been done using the Immigration Act 2014 (Specified Anti-Fraud Organisation) Order (SI 2014/1798).
8. An anti-fraud organisation is defined in section 68(8) of the Serious Crime Act 2007 as an organisation which enables or facilitates any sharing of information to prevent fraud or a particular kind of fraud or which has any of these functions as its purpose or one of its purposes.
9. Cifas' function under the IA is to maintain a database of disqualified persons from information supplied to it by the Secretary of State. Banks and building societies will use this database for status checks against disqualified persons.

Monitoring and enforcing the section 40 prohibition

10. Regulation 11 of the Regulations provides that Cifas shall give the FCA such information within its possession or under its control in respect of –
 - a. disqualified persons, and
 - b. status checks carried out by current account authorised persons for the purposes of section 40 of the IA

at such time and in such form as the FCA may direct.

Quarterly reports

11. Cifas agrees to provide the FCA with a quarterly report that contains the information set out below. It agrees to provide this information within a month of the end of each calendar quarter.
12. Cifas and the FCA agree that Cifas' quarterly report will include:

- the number of Home Office Immigration (HOI) records available through Cifas (broken down by monthly values)

For CIP Users:

- the number of searches undertaken by each bank and building society against HOI data (broken down by monthly values)

For CIP Users and Cifas Members

- the number of matches against HOI data received by each bank and building society (broken down by monthly values)
- the number of same individual matches against HOI data received by each bank and building society (broken down by monthly values)

13. Cifas agrees to provide the quarterly information without further prompt or requirement from the FCA, except where the FCA wishes to amend the standard quarterly report information provided by Cifas.

Individual requests

14. The FCA may also from time to time request additional information from Cifas. These requests are likely to relate to individual searches undertaken of the Cifas database by banks and specific building societies, together with the date and time each search took place and the results returned by that search or those searches.
15. Cifas agrees to respond to any requests for additional information without delay.

Notification if database is unavailable

16. Cifas agrees to notify the FCA without delay if banks or building societies are unable to search its database of disqualified persons for reasons relating to Cifas' provision of the service.

Data and confidentiality

17. The FCA and Cifas will protect the confidentiality and sensitivity of all unpublished regulatory and other confidential information received from the other party. They will maintain effective controls designed to minimise the risk of inappropriate disclosures being made.
18. In particular, Cifas agrees that, where the FCA shares information that is not yet publicly available, that information may not be disclosed to any third party without prior consent from the FCA, or until such time as it becomes publicly available.
19. The FCA will abide by the restrictions imposed on it by the IA and FSMA on disclosing confidential information (as defined in FSMA) that it receives in the course of carrying out its functions under the IA.
20. The importance of data security and accuracy is recognised and the approach of both parties should maintain that security. In particular, Cifas agrees to provide data to the FCA in a secure way.

Principles for the relationship

21. The FCA and Cifas will each take steps as they consider appropriate to co-operate and help the other in the exercise of their functions. The approach should be as efficient as possible for both the FCA and Cifas.
22. The FCA and Cifas will consult each other on issues which may be of significance to the other party.
23. Both organisations will work together to aid compliance with section 40 of the IA. In particular, they agree, where appropriate, to work together on information aimed at banks and building societies in relation to the IA.

24. The FCA will include information on Cifas on its website in the pages on the IA and in any relevant information that it publishes on the IA.
25. Each organisation will appoint a senior executive responsible for the co-ordination set out in this MoU.
26. This is the first memorandum of understanding between the FCA and Cifas. The FCA and Cifas will continue to monitor its operation and review its effectiveness from time to time as necessary.
27. The FCA and Cifas agree to publish this MOU on their respective websites.

December 2014