

Policy Statement

PS13/7

# **FCA regime for consumer credit: interim permission fees**

**Response to Question 25 in the FSA  
consultation CP13/7 and made rules**

August 2013





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This Policy Statement covers the fees the FCA will charge firms for 'interim permission' to carry out consumer credit-related activities. This follows the consultation on this in the FSA Consultation Paper 13/7.

Please send any comments or enquiries to:

Christopher Wilson

Policy Risk and Research Division  
Financial Conduct Authority  
25 The North Colonnade  
Canary Wharf  
London E14 5HS

Email: cp13\_07@fca.org.uk

## Abbreviations used in this paper

<b>ABCUL</b>	Association of British Credit Unions Limited
<b>CCA</b>	Consumer Credit Act
<b>CDFA</b>	Community Development Finance Association
<b>FCA</b>	Financial Conduct Authority
<b>FSMA</b>	Financial Services and Markets Act
<b>FSA</b>	Financial Services Authority
<b>OFT</b>	Office of Fair Trading

# 1. Overview

## Introduction

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The Financial Conduct Authority (FCA) will take over the regulation of consumer credit from the Office of Fair Trading (OFT) on 1 April 2014.

This policy statement sets out the fees we will charge firms that register with us for 'interim permission' and which firms will not have to pay these fees.<sup>1</sup>

This follows the recent legislative<sup>2</sup> changes made by Parliament that enables the transfer of the OFT responsibilities to the FCA.

## When will we publish more details?

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This paper does not give the full details of our proposed consumer credit regime. We will do that in a consultation paper in the autumn.

That paper will also summarise the rest of the feedback we received from the FSA consultation (CP13/7) on our high-level plans.

## Who should read this policy statement?

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This paper will interest:

- firms that currently hold individual or group consumer credit licences issued by the OFT under the Consumer Credit Act 1974
- credit unions
- trade bodies representing consumer credit firms
- bodies providing non-commercial debt advice (whether alone or together with non-commercial debt adjusting and non-commercial credit information services)
- local authorities

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<sup>1</sup> The fees were proposed by our predecessor organisation, the Financial Services Authority, in Consultation Paper 13/7 ([www.fsa.gov.uk/static/pubs/cp/cp13-07.pdf](http://www.fsa.gov.uk/static/pubs/cp/cp13-07.pdf))

<sup>2</sup> [www.legislation.gov.uk/uksi/2013/1881/made](http://www.legislation.gov.uk/uksi/2013/1881/made) [www.legislation.gov.uk/uksi/2013/1882/made](http://www.legislation.gov.uk/uksi/2013/1882/made)

### **Will this interest consumers?**

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This paper is mostly relevant to firms but consumer bodies may be interested in our approach towards interim permission fees for social lenders, non-commercial bodies and credit unions.

The consultation paper in the autumn will set out our full proposed approach and will interest consumers and consumer bodies.

### **Help available for OFT licence holders**

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We have published a note on the changes to the scope of regulation<sup>3</sup> and will publish further help for licence holders in September.

- We will write to all OFT licence holders when the registration process begins in September.
- The FCA<sup>4</sup> and OFT<sup>5</sup> websites also have information for licence holders and we will update both regularly in the run-up to the transfer. You can also sign up for direct email updates from us.

3 [www.fca.org.uk/firms/firm-types/consumer-credit/scope](http://www.fca.org.uk/firms/firm-types/consumer-credit/scope)

4 [www.fca.org.uk/consumer-credit](http://www.fca.org.uk/consumer-credit)

5 [www.oft.gov.uk/consumer-credit-changes](http://www.oft.gov.uk/consumer-credit-changes)

## 2.

# Fees for FCA interim permissions

### Introduction

The FCA is funded by the firms we regulate through fees we charge them. We aim to cover our costs in a way that is as fair and efficient as possible.

Here we confirm the fees that we will charge OFT licence holders when they register for interim permission. We asked for views on these fees in FSA Consultation Paper 13/7.<sup>6</sup>

#### What is interim permission?

'Interim permission' means that firms can continue to carry out consumer credit activities before they become 'fully authorised' by us.

From September, consumer credit licence holders will need to register for interim permission if they wish to continue consumer credit activities after 1 April 2014. It is essential for licence holders to do this if they want to continue these activities as, if they do not do this, they are likely to be operating illegally. Licence holders must maintain their OFT licence until 31 March 2014.

We will write to all licence holders when the 'interim permission' registration system opens to explain exactly what they need to do.

After 1 April 2014, firms that have an interim permission will need to complete a more detailed application process for authorisation. Authorisation is our equivalent of the OFT's licensing system and firms will need to apply by a specified deadline. We will confirm when this will be for each firm next year and will publish details on our website about what this will involve.

Our aim is to use a proportionate approach to authorisation depending on size and type of firm and activities conducted.

### Fees for the full FCA authorisation regime

This paper does not cover the fees for the full authorisation regime. We set out our timetable for consulting on authorisation fees at the end of this chapter.

<sup>6</sup> The rules we have just made do not differ in substance from the proposals we published in CP13/7, except for the introduction of a discount for early registration and the exemption of credit unions from payment of interim registration fees, and so they do not alter our original compatibility statement. Under Section 138I of FSMA, the FCA is exempt from the requirement to carry out and publish a cost benefit analysis for such proposals.

## Fees for interim permission

Earlier this year we consulted on a proposed level of interim permission fees. We also asked whether we should charge firms any other fee before they applied for full FCA authorisation.

As a result of feedback we are keeping the fee rates the same as the consultation and this will be the only fee that is required for interim permission.

In addition we have decided to give firms registering on or before 30 November 2013 a discount of 30%.<sup>7</sup>

	<b>Full rate</b>	<b>Discounted rate if we receive a valid registration on or before 30 November 2013</b>
Sole traders	£150	£105
All other firms	£350	£245

### **Q25: Do you have any comments on our proposed interim permission fees?**

#### **Summary of feedback**

We had numerous responses and many respondents said that our proposed interim fees seemed reasonable, and several welcomed the lower fees for sole traders. However, some thought that the interim fees were expensive in proportion to the work we would actually do in the interim period.

Several respondents were more interested in the annual fees firms would have to pay once they were fully authorised.

One respondent argued that firms already authorised by the FCA should not pay the interim fee but should be transferred across automatically to reduce bureaucracy and costs.

Several respondents considered it unfair that they would be required to pay for FCA interim permission as in many cases they believed their OFT licence maintenance fee paid for cover beyond April 2014.

#### **Our response**

The Government, having consulted the OFT and FCA, has decided that as a result of the transfer of consumer credit regulation to the FCA in April 2014, there will be a programme of rebates to consumer credit licence holders to reflect the closure of the OFT regime at 31 March 2014. This is designed to ensure that the cost of the transfer of regulation is proportionate. Full details of how rebates will be made - including the eligibility criteria, the mechanism to be used, and when - will be announced in the autumn.

Firms must maintain a valid licence in order to continue trading legally.

<sup>7</sup> We are not applying the standard provisions of the Fees manual, except for the provisions in Fees 2.3.

**Firms that are currently authorised by the FCA or the Prudential Regulation Authority**

Neither the Government nor the FCA consider it appropriate to automatically transfer Financial Services and Markets Act (FSMA) authorised firms into the interim regime. This is because one of the objectives of the interim regime is to confirm which firms want to carry out regulated credit activities from 1 April 2014. Automatically transferring firms would mean some currently inactive firms joining the FCA regime.

**Regulating local authorities**

The Government is considering the appropriate regulatory arrangements for local authorities that carry on unsecured lending. On the basis that local authorities can get interim permission for activities which they were carrying on between 1 April 2013 and 31 March 2014 we will treat them in the same way as OFT licence holders and charge them the same fee for interim permissions.

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**Concessions for organisations with social purposes**

We consulted on whether some firms, such as standard licence holders providing debt advice on a non-commercial basis, would not have to pay the fees. We said we would look at how we charge credit unions and friendly societies.

In our previous consultation we said that not-for-profit bodies whose business was limited to carrying on non-commercial debt counselling (whether alone or together with non-commercial debt adjusting and non-commercial credit information services) would not have to pay interim permission fees. We asked whether we should continue to waive the fee for credit unions and some friendly societies. We also said that we would explore options for sharing the costs of these organisations among higher rate fee-payers when we set authorisation and annual fees for our consumer credit regime.

**Summary of feedback**

Most of the feedback we received focused on the long-term fee arrangements rather than the interim permission fees. Several not-for-profit bodies and their representatives welcomed our proposal to waive their interim fee.

A few firms objected to paying for the not-for-profit bodies, one pointing out that they and many other firms already supported a wide range of charities, and that this would be double charging. One trade body stressed that the costs should not be funded by banks alone but should be spread among all the larger lenders, such as non-bank credit card issuers, payday lenders and home-collected credit firms.

One firm pointed out that debt advice not only deals with lending under the Consumer Credit Act (CCA) but often involves other creditors, such as utilities, which were not going to be contributing towards our costs.

The Association of British Credit Unions Limited (ABCUL) objected to charging full fees to credit unions. They pointed out that this would mean the interim registration fee would be greater for small credit unions than their current full FCA authorisation fee.

The Community Development Finance Association (CDFA) drew attention to other social enterprises that provide credit to vulnerable clients as an alternative to commercial lenders. They proposed an extension of the concession to these firms.

We received no comments on the OFT exemption for friendly societies.

### Our response

To maintain the concessions the OFT currently gives licence holders, we will not charge the interim permission fee to bodies that only carry out debt counselling on a non-commercial basis (whether alone or together with debt adjusting and providing credit information services on a non-commercial basis), and we will extend this concession to credit unions. However, we have decided not to maintain the exemption for friendly societies. This is because it is based on legislation<sup>8</sup> that was made obsolete by the Friendly Societies Act 1992.

Most of the comments we received on concessions for firms with social purposes related to our arrangements for full authorisation rather than interim permission. Respondents raised important questions about cross-subsidy and the position of other creditors, such as utilities, who would not be contributing towards the costs of debt advice services, while the CDFA alerted us to the position of non-commercial bodies that we had not considered in our consultation. We are still reviewing these issues and will discuss them in-depth when we consult on our proposals for authorisation and application fees in our October fees consultation.

### Next steps

We will consult in October on the fees we will charge firms when they become fully authorised between 2014 and 2016. This will cover both application fees<sup>9</sup> and how we propose to calculate the periodic fees<sup>10</sup> that we will charge authorised firms. We will consult on the actual periodic fee rates in March 2014.

We will also set out in October our proposals for charging not-for-profit bodies and non-commercial social lenders, such as credit unions.

As mentioned earlier, there will also be a broader consultation in the autumn on the rules firms need to follow under the new FCA regime for consumer credit.

<sup>8</sup> s 7(1)(f) of the Friendly Societies Act 1974

<sup>9</sup> Application fees are one-off payments for full authorisation.

<sup>10</sup> Periodic fees are the fees firms have to pay each year to contribute towards the recovery of our operational costs.

## Annex 1: List of non-confidential respondents to Question 25 in FSA CP 13/7

Association of Chartered Certified Accountants  
Association of British Credit Unions Limited  
Association of Business Recovery Professionals  
Association of Finance Brokers  
Association of Mortgage Intermediaries  
Association of Professional Debt Solutions Intermediaries  
BBA  
BCCA  
British Vehicle Rental and Leasing Association  
Bexhill UK Limited  
British Retail Consortium  
Community Development Finance Association  
Central Loans Limited  
Christians Against Poverty  
Citizens Advice  
Coastal Loans Limited  
Consumer Credit Trade Association  
Corporate and Legal Group  
Credit Services Association  
Debt Managers Standards Association  
Debt Resolution Forum

Finance and Leasing Association  
Insolvency Practitioners Association  
Local Trust  
Money Advice Trust  
MoneyPlus Group  
National Franchised Dealers Association  
Pentagon (UK) Limited  
Provident Financial  
The Association of Professional Financial Advisers  
The Peer-to-Peer Finance Association  
Zero-Credit  
capQuest Group

## Appendix: Made rules (legal instrument)

## FEES (CONSUMER CREDIT INTERIM PERMISSION) INSTRUMENT 2013

### Powers exercised by the Financial Conduct Authority

- A. The Financial Conduct Authority makes this instrument in the exercise of:
  - (1) the following powers and related provisions in the Financial Services and Markets Act 2000 ("the Act"):
    - (a) section 137T (General supplementary powers); and
    - (b) paragraph 23(1) (Fees) of Schedule 1ZA (The Financial Conduct Authority); and
  - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the FCA's Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

### Commencement

- C. This instrument comes into force on 2 September 2013.

### Amendments to the Handbook

- D The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E The Fees manual (FEES) is amended in accordance with Annex B to this instrument.

### Citation

- F. This instrument may be cited as the Fees (Consumer Credit Interim Permission) Instrument 2013.

By order of the Board of the Financial Conduct Authority  
1 August 2013

## Annex A

### Amendments to the Glossary of definitions

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

- local authority*      (a) in England and Wales, a local authority within the meaning of the Local Government Act 1972, the Greater London Authority, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) in Scotland, a local authority within the meaning of the Local Government (Scotland) Act 1973;
- (c) in Northern Ireland, a district council within the meaning of the Local Government Act (Northern Ireland) 1972.

## Annex B

### Amendments to the Fees manual (FEES)

In this Annex, the text is all new and is not underlined.

After FEES 7 insert the following new chapter.

## **8           Interim Fees**

### **8.1       Consumer Credit permissions**

- 8.1.1     R       (1)     A *person* who notifies the *FCA* of a desire to obtain interim permission in accordance with article 56 (Interim permission) of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No 2) Order 2013 must pay to the *FCA*, in full and without deduction, a fee of :
- (a)       where the *person* is a sole trader:
    - (i)      if the notification is made on or before 30 November 2013, £105; or
    - (ii)     £150;
  - (b)       in any other case:
    - (i)      if the notification is made on or before 30 November 2013, £245; or
    - (ii)     £350.
- (2)     Paragraph (1) does not apply if, immediately before 1 April 2014, the *person* held a standard licence under the Consumer Credit Act 1974 which covered only the carrying on of:
- (a)       non-commercial debt counselling; or
  - (b)       non-commercial debt counselling and non-commercial debt adjusting; or
  - (c)       non-commercial debt counselling and non-commercial credit information services (including non-commercial credit repair); or
  - (d)       non-commercial debt counselling, non-commercial debt adjusting and non-commercial credit information services (including non-commercial credit repair);

and which did not cover any other description or type of business.

- (3) Paragraph (1) does not apply if the *person* is a *credit union*.
  - (4) Unless (5) or (6) applies, the fee required by (1) must be paid through the online system used to notify the *FCA* of the *person's* desire to obtain interim permission and must be paid by debit card (Maestro/Visa only) or credit card (Visa/Mastercard only).
  - (5) If the *person* is a *local authority*, the fee required by (1) must be paid by debit card (Maestro/Visa only), credit card (Visa/Mastercard only), bankers draft, cheque, or other payable order.
  - (6) If it appears to the *FCA* that, in the exceptional circumstances of a particular case, payment via the online system referred to in (3) would be inequitable, the *FCA* may allow payment of the fee required by (1) by bankers draft, cheque or other payable order.
  - (7) The fee required by (1) must be paid when the *person* notifies the *FCA* of a desire to obtain interim permission.
  - (8) This *rule* applies from 2 September 2013 until (and including) 14 April 2014.
- 8.1.2 R The Fees manual does not apply in respect of the fee provided for in *FEES* 8.1.1R(1), except for the rules and guidance in *FEES* 2.3 and *FEES* 8.1.

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25 The North Colonnade Canary Wharf  
London E14 5HS  
Telephone: +44 (0)20 7066 1000  
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