

Financial Conduct Authority – CP 13/10 – Detailed proposals for FCA regulation of consumer credit

Introduction

In March, the Financial Conduct Authority (FCA) consulted on its high-level proposals for its consumer credit regime when it takes over regulation of the sector in April 2014. This consultation takes a more detailed look at the proposed regime and how it will operate. It also confirms which elements of the proposed regime it intends to continue to pursue and which it doesn't.

The main relevance of this for credit unions is to confirm, as was set out in the earlier consultation, that the FCA has no intention to broaden the scope of their consumer credit regime and, therefore, the credit union exemption from consumer credit for most loans (other than those involving a supplier) will be retained. This is in addition to the fact that we have been successful in securing an exemption for credit unions from the £350 interim permission fee.

However, many credit unions do still hold consumer credit licences for certain activities and so will need to be aware of the new system. Many credit unions will also be keen to understand how the FCA proposes to tackle regulation of other consumer credit lenders, such as payday lenders, and this is set out in some detail here too.

[The full consultation is available at the FCA website](#). ABCUL will submit a response to this consultation based on feedback from members. Please take the time to read this briefing and let us have any questions, comments or concerns by contacting Matt Bland (matt.bland@abcul.org / 0161 832 3694) by **Friday 15 November**.

The proposals in detail

The FCA proposes the following:

- **Implementation** – The FCA proposes a two-tier system whereby firms are grouped as higher or lower risk and those categorised as lower risk are not required to seek full authorisation nor to provide as much regulatory data. Credit unions would be considered higher risk. All firms wishing to continue to operate in consumer credit will need to seek an

interim, two-year permission. Firms will then be transferred to full authorisation during these two years.

- **Authorisation** – Firms will be able to begin applying for full authorisation from April 2014 by which time the fee structure will have been decided in a separate consultation process (to which ABCUL will respond). Consumer credit firms will be required to meet the minimum Threshold Conditions and have personnel seek approval as Approved Persons in the same way that FCA-regulated firms do already.
- **FCA supervision and data collection** – from 1 October 2014, firms will be required to report data to FCA on their consumer credit activities but only for those that are by then and thereafter fully authorised. Reporting is likely to be six-monthly or annually, depending on firm size, and to be aligned to a firm’s year end. Data required is likely to cover financials, volumes, and other key indicators of the level of a firm’s activity. Firms will be supervised under the same framework that credit unions and other FCA-regulated firms are already supervised and so there should be little change for credit unions here.
- **Conduct standards** – The new consumer credit sourcebook, CONC, will incorporate the consumer protection and firm conduct standards which FCA expects of all other regulated firms as well as key items from the Consumer Credit Act. Existing OFT guidance documents on, for instance, irresponsible lending, mental capacity, credit brokers and debt management will be carried into CONC and will gain the force of other regulations in the FCA handbook. Existing financial promotions rules for FCA-regulated firms will apply to consumer creditors as they do already to credit unions.
- **Rules for high-cost credit and payday lenders** – This is a high-profile element of the proposals and involves FCA proposing to limit rollovers to two per loan, limit failed Continuous Payment Authorities to two attempts, require much more rigorous affordability assessments and require a wealth warning on high-cost and payday loan advertising.
- **Enforcement** – Enforcement arrangements and those for financial crime which currently apply under FCA will be extended to cover consumer credit firms. This should allow much stronger protections for consumers though it will mean no significant change for credit unions who are already subject to these powers.
- **Timetable** – A further consultation on fees under the new regime is expected later this month. In February or March 2014 the full details of the regime and the fee structure to fund it will then be announced. From April 2014 FCA will take over consumer credit regulation.

Conclusion

While this set of proposals represent a significant change for the regulation of consumer credit we do not expect them to impact credit unions too heavily since the credit union exemption will be retained and many elements of the new regime are already applying to credit unions since they are already regulated by FCA as deposit-takers.

In addition, those elements of the changes relating to payday lenders and high cost lenders are likely to be very popular with many credit unions given the impact that these firms have on credit union members and communities in which credit unions operate.

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