



Consumer Credit Authorisation: Are you ready?

Many firms will need to apply for consumer credit authorisation under the new Financial Conduct Authority (FCA) regime in the coming months. This note covers the different types of authorisation available, the process of application and what it will mean to be regulated by the FCA.

Background

The FCA took over the regulation of consumer credit activities from the Office of Fair Trading (OFT) in April 2014 and introduced an 'interim permission' system under which firms who were authorised by the OFT could continue their activities under the FCA.

Now, the interim permission stage is coming to an end and firms will need to decide whether to continue their consumer credit activities and if they need to apply for authorisation.

Who needs to apply?

- Firms with interim permission who wish to carry on consumer credit activities.
- Firms looking to carry out consumer credit activities for the first time.
- Firms already authorised by the FCA who want to vary their permissions to carry out consumer credit activities.

Which type of authorisation do you need?

Under the new system, the FCA offers either Full Permission or Limited Permission status. Firms will need to look at the types of activity they are carrying out and analyse which category they fall into. In our experience, it is likely that the majority of firms will require Full Permission. However, some firms may choose to structure their business model around activities within the Limited Permission remit to lessen the regulatory burden.

Examples of Full Permission activities	Examples of Limited Permission activities
<ul style="list-style-type: none"> ■ Credit broking with sales in the customer's home ■ Administering, adjusting or collecting debt ■ Credit information or reference agency services ■ Lending where personal loans, credit cards, overdrafts, pawnbroking, hire-purchase or conditional sale agreements are offered ■ Peer-to-peer lending 	<ul style="list-style-type: none"> ■ Consumer hire ■ Credit broking to help finance the purchase of goods or services ■ Credit broking in relation to vehicle hire ■ Lending where the sale of goods or non-financial services is the main business (sales finance) ■ Consumer credit lending by local authorities ■ Not-for-profit bodies providing debt counselling and debt adjusting and/or credit information services ■ Activities that relate to agreements secured by legal mortgages of land

How do you apply?

If you are a firm with interim permission, you will have been informed by the FCA when your three month application window is open¹. Your interim permission will continue until the assessment of your application is complete unless you do not apply within your time window, in which instance your

permission will lapse on the last day of the window and you will not be authorised to carry out any consumer credit activities.

Even if you are not able to apply immediately, there is a lot you can do in preparation.

¹ If you have not received a letter then refer to <http://www.fca.org.uk/firms/firm-types/consumer-credit/authorisation/when-to-apply> for more information.

Applications for both full and limited authorisation should be made through the 'Connect' system² and to accompany the application you will need various documents (listed in the FCA's checklist³).

They include:

- a regulatory business plan;
- policies for compliance with the FCA's Treating Customers Fairly (TCF) obligations;
- business continuity and disaster recovery plans; and
- compliance procedures and monitoring.

Preparing these documents in advance will not only save you time when your application window opens but will mean you can resolve any issues in advance.

Controlled functions

One new aspect of FCA regulation which was not required under the OFT is the need for individuals carrying out 'controlled functions' to be individually approved. This forms part of the application process but firms should ensure that any individuals captured under the definition are included as failure to be obtained approval could result in public censure and even penalties from the FCA.

What will it mean to be FCA regulated?

Completing your application and being granted authorisation is just the first step. For firms new to FCA regulation, and even those authorised for other activities, there are ongoing regulatory requirements which might come as a surprise to the unprepared.

The time before application is the perfect opportunity to make sure all of the reporting, policies and systems are in place to ensure a smooth transition after authorisation.

The FCA has produced a guide to the ongoing regulatory obligations for consumer credit firms⁴. Consumer credit firms will be subject to different areas of the FCA handbook but the majority of the regulation is set out in the Consumer Credit Sourcebook (CONC).

The detailed requirements of CONC are beyond the scope of this briefing but do include requirements covering assessing credit worthiness before lending and dealing with arrears, default and recovery.

Firms carrying out consumer credit activities should also be aware of the requirements of the Consumer Credit Act in relation to their business.

Will you need help?

If you need further guidance to decide which authorisation is for you, help in compiling your application or assistance in preparing for the ongoing regulatory requirements, our team is able to help.

Contacts

For further information, please contact:



Richard Clark

Legal Director

+44 (0) 117 902 6626

richard.clark@burges-salmon.com



Anna Briggs

Senior Associate

+44 (0) 117 902 2718

anna.briggs@burges-salmon.com

² https://connect.fca.org.uk/firms/aupo_sitelogin?startURL=%2Fapex%2FAuPo_ApplicationList

³ <http://www.fca.org.uk/your-fca/documents/credit-ready-full-permission-checklist>

⁴ <http://www.fca.org.uk/your-fca/documents/consumer-credit-being-regulated>