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**Validation Order (VO) Application Form for agreements entered into on or after 1 April 2014**

**Full legal entity name of applicant firm**

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| **Important information you should read before completing this form**It is important that you give accurate and complete information and disclose all relevant information. This application form relates to credit agreements made unenforceable by section 26, 26A or 27 of the Financial Services and Markets Act 2000 (FSMA) and which were entered into on or after 1 April 2014, when the FCA took over responsibility for consumer credit regulation. There is a separate application form for agreements entered into before 1 April 2014. If the agreements in respect of which you are seeking validation cover both periods, you will need to complete both application forms.The statutory test for the granting of a validation order is set out in section 28A of FSMA. The FCA can only grant a validation order if we are satisfied that it is just and equitable to do so in the circumstances of the case. We therefore expect you, as the firm seeking a validation order, to provide us with the information and analysis we require to make a decision on your application. Depending on the circumstances of the case, we may make a decision subject to conditions.As part of the assessment, the FCA is required to consider whether the relevant firm (the person who entered into the relevant agreements or a person to whom the lender’s rights under the agreements have been assigned): (i) reasonably believed that by making the agreements it was neither contravening the general prohibition in section 19 of FSMA nor contravening section 20 of FSMA; or if applicable (ii) knew that the credit broker or other third party was contravening the general prohibition in section 19. Before completing this form, you should read the accompanying Guidance Notes available at: <https://www.fca.org.uk/publication/forms/cc-validation-order-form-guidance-notes.docx>**If you provide a legal opinion or any other legal advice in support of your application, this must be provided with a waiver of all claims to legal professional privilege. In submitting your application, you agree that any legal advice or opinion is provided to us on this basis.** **You may wish to seek independent legal advice before following this course of action.**Please keep a copy of your completed form and any supporting documents for future reference.The FCA processes personal data in line with the requirements of The General Data Protection Regulation (EU) 2016/679 and the Data Protection Act 2018. For further information about the way we use personal data, please read our privacy notice at [www.fca.org.uk/privacy](http://www.fca.org.uk/privacy). |

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**Once you submit this form we will:**

* Acknowledge receipt of the application within 2 working days.
* Tell you as soon as your application has been assigned to a case officer. All communication about your application will be handled by this person. If it subsequently proves necessary to assign your case to a different case officer, you will be told as soon as the change is made.
* Review the application and request any further information and/or clarification that we may need. You can expect a substantive response within 10 working days and, where this is not possible, an update will be sent within the 10 working day period telling you when you should expect to receive a substantive response from us.
* Give clear deadlines when we ask you to submit additional information.
* Send you an update on the current status of your case at least once a month.
* Consider whether any action will need to be taken in respect of the unauthorised business.
* Communicate our view on the application once our assessment has progressed sufficiently – you will then have the opportunity to provide written submissions before we determine the application.
* Issue our written notice granting, granting subject to conditions or refusing to grant the validation order. The notice will give our reasons for the determination and include an indication of the right of any person aggrieved by the determination to have the matter referred to the Upper Tribunal and the procedure for doing so.
* Agree with you a suitable strategy for contacting affected customers under section 28B of FSMA.

**Terms in this application form**

In this application form we use the following terms:

* 'you' refers to the person(s) signing the form on behalf of the applicant firm
* 'the applicant firm' and ‘firm’ refer to the firm applying for the validation order
* ‘we’, ‘us’, ‘our’ or ‘FCA’ refers to the Financial Conduct Authority
* ‘FSMA’ refers to the Financial Services and Markets Act 2000
* ‘period covered by the application’ refers to the period in respect of which a validation order is sought, starting from the date that the first relevant agreement was entered into
* ‘relevant agreements’ refers to the agreements covered by the application
* ‘affected customers’ refers to the customers who entered into the relevant agreements
* ‘third party’ refers to a third party (typically a credit broker) involved in the making of a relevant agreement, or in matters preparatory to its making, and who was not authorised for the relevant activity

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**Filling in the form**

**1** If you are using your computer to complete this form:

* use the TAB key to move from question to question and press SHIFT TAB to move back to the previous question
* save all the parts of the form before submitting your application

**2** If you think a question is not relevant to you, write 'not applicable' and explain why.

**3** If you leave a question blank or do not attach the required supporting documents, this will increase the time taken to assess your application.

**4** If there is not enough space on the form you may use separate sheets of paper. Clearly mark each continuation sheet with your firm name and the relevant question number.

**5** Ensure you have completed this application form and paid the minimum application fee.

**6** Once you have completed the relevant sections, sign the declaration in Section 6 and email the form to AuthorisationSupportTeam@fca.org.uk. Alternatively, please post your form and payment to:

 Lending & Intermediaries

Authorisations Division

The Financial Conduct Authority
12 Endeavour Square
London
E20 1JN

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| 1 | Contact details |

 **1.1 Contact details**

|  |  |
| --- | --- |
| Title |       |

|  |  |
| --- | --- |
| First name(s) |       |

|  |  |
| --- | --- |
| Surname |       |

|  |  |
| --- | --- |
| Phone number (including STD code) |       |

|  |  |
| --- | --- |
| Mobile number |       |

|  |  |
| --- | --- |
| Email address |       |

 **1.2 Does the applicant firm have a registered number at Companies House?**

[ ]  No

[ ]  Yes4Give details below

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 **1.3 Main place of business in the UK (and any previous addresses used during the period covered by the application)**

|  |  |
| --- | --- |
| Current business address |       |
|  |
|  |
| Postcode |       |

|  |  |
| --- | --- |
| Business phone number (including STD code) |       |

|  |  |
| --- | --- |
| Business mobile number (if applicable) |       |

|  |  |
| --- | --- |
| Business email address |       |

 **Previous address**

|  |  |
| --- | --- |
| Business address |       |
|  |
|  |
| Postcode |       |

From (dd/mm/yyyy)

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To (dd/mm/yyyy)

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 **Previous address**

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| Business address |       |
|  |
|  |
| Postcode |       |

From (dd/mm/yyyy)

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To (dd/mm/yyyy)

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|  2 | The agreements you wish to validate entered into on or after 1 April 2014We need this information to help us decide whether or not to validate the agreements that you want us to consider. We will process this information in accordance with our confidentiality obligations in s348 FSMA. Please continue your answers on a separate sheet of paper where necessary.**Any legal opinion or other legal advice in support of your application must be provided with a waiver of all claims to legal professional privilege. In submitting your application, you agree that any legal advice or opinion is provided to us on this basis.** **You may wish to seek independent legal advice before following this course of action.** |

 **Section A: Period covered by the application**

**2.1 a) Period covered by the application**

This is the period in respect of which a validation order is sought, starting from the date that the first relevant agreement was entered into to the last date a relevant agreement was entered into (irrespective of whether agreements may still be ongoing).

From (dd/mm/yyyy)

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To (dd/mm/yyyy)

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 **b) Does this application cover all agreements entered into during the period covered by the application (or, if applicable, all agreements entered into during that period following introductions by the relevant credit broker or other third party)?**

[ ]  No4Please explain why you do not wish to validate these agreements

[ ]  Yes4Continue to Question 2.2

[ ]  Not known4Please explain why it is not known

Please provide as much detail as possible, which should include (but is not limited to) whether the firm has obtained legal advice. You may wish to include a copy of any relevant legal opinion (see the notes on page 1 above). If using a separate sheet of paper, here or elsewhere in the form, see notes on page 3 above.

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 **2.2 Types of agreement you wish to validate**

Please provide details, ideally in a tabular format (on a separate sheet of paper, see page 3 above), for the type or types of agreement you wish to validate (see guidance notes for meaning of ‘type of agreement’).

If there is more than one type of agreement, please provide details in respect of each type.

The details should include:

* A brief description of the type of agreement (see guidance notes);
* The total number of agreements per type of agreement;
* The total number of customers per type of agreement;
* The total value of initial credit per type of agreement;
* The total sums paid to date per type of agreement.

If a validation order is sought both under Section C below (lender unauthorised or without correct permission) and Section D (credit broker or other third party not authorised), please provide a breakdown accordingly, making clear which each set of details applies to.

 **2.3 Please provide details of any trading names the applicant firm used during the period covered by the application**

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Section B: Your business

 **2.4 Please describe the applicant firm’s current business and (if different) its business during the period covered by the application**

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 **2.5 Were any of the agreements covered by this application offered or brokered in the customer’s home or otherwise off trade premises?**

[ ]  No

[ ]  Yes

[ ]  Not known

**2.6 Did any marketing in respect of the relevant agreements indicate that credit was available to customers whose access to credit might be restricted (for example, because of a poor credit record)?**

[ ]  No

[ ]  Yes

[ ]  Not known

**2.7 Was the applicant firm authorised for lending activity, with the relevant permission, when the agreements were entered into?**

[ ]  No4Continue to Question 2.8

[ ]  Not known4Continue to Question 2.8

[ ]  Yes4Please provide the firm reference number, and continue to Section D

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 **2.8 Has the firm applied, or does it intend to apply, for authorisation or variation of permission?**

[ ]  No4 You must explain below why the firm does not consider it necessary to apply for authorisation or a variation of permission

[ ]  Yes4Please advise when the application for authorisation or variation of permission will be submitted. If already submitted, please provide date.

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**Note:** Carrying on a credit-related regulated activity without the relevant permission may be a criminal offence.

If the applicant firm was not authorised, or did not have the correct permission, at the time the relevant agreements were entered into, please complete Section C below. If the firm was authorised, with the correct permission, but a relevant third party was not authorised, please complete Section D. If validation is being sought both because the firm was not authorised or did not have the correct permission and a third party was not authorised, please complete both Section C and Section D.

Section C: Complete this section if validation is being sought because the applicant firm was not authorised or did not have the correct permission

 **2.9 Has the applicant firm previously been authorised or held an OFT Consumer Credit Licence?**

[ ]  No

[ ]  Yes4Give details below, including the name of the business (if different), the reference number (or OFT licence number) and category (or categories) held, and the period covered by the authorisation or licence

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**2.10 Please explain why the firm was not authorised, or did not have the correct permission, when the relevant agreements were entered into**

Please provide as much detail as possible, which should include (but is not limited to) whether the firm sought legal advice at the time and, in the event that it did not, the reason why. You may wish to provide a relevant legal opinion (see notes on page 1 above).

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 **2.11 If the firm reasonably believed that, by entering into the relevant agreements, it was neither contravening the general prohibition nor contravening section 20 FSMA, please explain the basis for this belief.**

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**2.12 When did the firm become aware that it was carrying on regulated activity without the necessary permission? (dd/mm/yyyy)**

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**2.13 How did the firm become aware of this?**

Please provide as much detail as possible, which should include (but is not limited to) whether this was based on legal advice received by the firm. You may wish to include a relevant legal opinion (see notes on page 1 above).

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**2.14 What has the firm done since becoming aware of this?**

Please provide as much detail as possible, which should include (but is not limited to) whether the firm has obtained legal advice. You may wish to include a relevant legal opinion (see notes on page 1 above).

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**2.15 Did the firm enter into agreements after becoming aware that it was carrying on regulated activity without the necessary permission?**

[ ]  No4Continue to Question 2.19

[ ]  Yes4You must answer Questions 2.16 and 2.17

[ ]  Not known

**2.16 Please explain why the firm continued to enter into agreements.**

Please provide as much detail as possible, which should include (but is not limited to) whether the firm has obtained legal advice. You may wish to include a relevant legal opinion (see notes on page 1 above). Please also indicate the number of agreements entered into after the firm became aware that it did not have the necessary permission, and the time period in question including the date of entry into the last such agreement.

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 **2.17 Please confirm whether all such agreements are covered by this application.**

[ ]  Yes 4Continue to Question 2.19

[ ]  No4Continue to Question 2.18

[ ]  Not known4Continue to Question 2.19

 **2.18 Please explain why you do not wish to validate the agreements.**

Please provide as much detail as possible, which should include (but is not limited to) whether the firm has obtained legal advice. You may wish to include a relevant legal opinion (see notes on page 1 above). If you are applying to validate some agreements but not others, please explain.

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Section D: Complete this section if validation is being sought because one or more third parties were not authorised

**2.19 Please provide details of the relevant third party (or third parties)**

Where there is more than one third party (typically a credit broker), giving rise to the need for validation under this application, please provide details below in respect of the third party involved in the most agreements.

Please include details in respect of any other relevant third parties, giving rise to the need for validation, on one or more continuation sheets (see notes on page 2 above). This should also include answers to Q2.19 to Q2.30 below in respect of that other third party.

|  |  |
| --- | --- |
| Name of unlicensed credit broker  |       |

|  |  |
| --- | --- |
| Any relevant trading name(s) |       |
| Firm registration number or licence number (if applicable and known) |       |
| Companies House registration number (if applicable and known) |       |

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| --- | --- |
| Main place of business |       |
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|  |
| Postcode |       |

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| Phone number (including STD code) (if known) |       |

**2.20 On what date did the applicant firm first accept introductions from the third party? (dd/mm/yyyy)**

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**2.21 What steps, if any, did the firm take to satisfy itself before doing so that the third party was authorised (or did not need to be authorised)?**

Please provide as much detail as possible, which should include (but not limited to) whether the firm had established procedures to check whether third parties from whom it received introductions were authorised (or did not need authorisation), when these were put in place, how they were implemented and monitored, and why they did not work in this case.

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**2.22 When did the firm become aware that the third party needed authorisation but was not authorised? (dd/mm/yyyy)**

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 **2.23 How did the firm become aware of this?**

Please provide as much detail as possible, which should include (but is not limited to) whether the third party notified the firm of this or whether it was based on legal advice the firm received (you may wish to include a relevant legal opinion, see notes on page 1 above).

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**2.24 What has the firm done since becoming aware of this?**

Please provide as much detail as possible, which should include (but is not limited to) whether the firm has obtained legal advice, and whether it has terminated or modified its dealings with the third party (you may wish to include a relevant legal opinion, but see notes on page 1 above).

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**2.25 Did the firm enter into agreements, following introductions by the third party, after becoming aware that it did not have the necessary authorisation?**

[ ]  No 4You must answer Questions 2.26 and 2.27

[ ]  Yes 4Continue to Question 2.29

[ ]  Not known4Continue to Question 2.29

**2.26 Please explain why the firm continued to accept business despite the third party being unauthorised.**

Please provide as much detail as possible, which should include (but is not limited to) whether the firm has obtained legal advice, and whether it has terminated or modified its dealings with the third party (you may wish to include a relevant legal opinion, but see notes on page 1 above). Please also indicate the number of agreements entered into following introductions by the third party (after becoming aware that it was unauthorised), and the time period in question including the date of entry into the last such agreement.

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 **2.27 Please confirm whether all such agreements are covered by this application.**

[ ]  Yes4Continue to Question 2.29

[ ]  No4Continue to Question 2.28

[ ]  Not known4Continue to Question 2.29

**2.28 Please explain why you do not wish to validate the agreements.**

Please provide as much detail as possible, which should include (but is not limited to) whether the firm has obtained legal advice. You may wish to include a relevant legal opinion (see notes on page 1 above). If you are applying to validate some agreements but not others, please explain.

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**2.29 Are you aware of any information (whether verbally or in writing) that the third party may have given to customers which suggested that it was authorised?**

[ ]  No

[ ]  Yes4Please provide a copy of any relevant communication (if available) or other relevant details

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**2.30 Do you know whether the third party has since applied for authorisation?**

[ ]  No

[ ]  Yes4Give details below including the date of application (if known)

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**2.31 What steps has the firm taken, or does it intend to take, to ensure that it deals only with third parties that have the appropriate permission (where needed) in the future?**

For example, in what ways (if applicable) has the firm modified its procedures?

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| 3 | Harm |

The FCA can only grant a validation order if we are satisfied that it is just and equitable to do so. We therefore expect you to be able to demonstrate that the firm has considered the impact on affected customers of the matters giving rise to this application and other relevant matters.

We would ask that you complete this section as fully as possible. Please note, however, that we may seek further information from you and this may require you to, for example, undertake further work to identify and assess whether customers have experienced, or may experience, harm from the firm’s conduct (or the conduct of any person acting on its behalf) before or after entering into the relevant agreements, and whether harm could arise if the validation order is granted.

For these purposes, ‘harm’ means any actual or potential detriment to affected customers, and is not limited to detriment arising:

* from the terms of the agreements
* during the period covered by the application, or
* due to the lack of authorisation or permission

Please answer fully each of the following questions. Where appropriate, please provide supporting evidence (which may include, for example, an internal analysis by the firm or a legal opinion by an external law firm).

**If you choose to share legal advice with us to support your application, please be aware that this must be provided with a waiver of all claims to legal professional privilege. In submitting your application, you agree that any legal advice or opinion is provided to us on this basis. You may wish to seek independent legal advice before following this course of action.**

**3.1 Please confirm whether and how an assessment was made by the applicant firm, prior to entry into the relevant agreements, regarding compliance with:**

* **the Consumer Credit Act 1974 (CCA) and its regulations**
* **applicable legislation governing unfair contract terms, or**
* **other statutory or regulatory requirements**

As part of your response, please explain the basis on which you have satisfied yourself that your answer to this question is a complete and accurate account of any assessment undertaken by the firm prior to entry into the relevant agreements (eg what enquiries have you made). Please also provide details of any non-compliance identified.

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 **3.2 Please confirm whether and to what extent any non-compliance of the kinds referred to in Question 3.1 has subsequently been identified in respect of the relevant agreements**

As part of your response, please explain the basis on which you have satisfied yourself that your answer to this question is a complete and accurate analysis such that the FCA can properly take it into account (eg what enquiries have you made). Please also provide details of any non-compliance identified.

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 **3.3 Did the applicant firm, or any person acting on its behalf, act (or fail to act) in connection with the relevant agreements such that the firm (or that person) might have:**

* **failed to comply with other aspects of the CCA and its regulations**
* **failed to comply with other consumer protection legislation**
* **acted in a way contrary to the FCA’s Principles for Businesses (in particular Principle 6 on treating customers fairly) or specific rules in the FCA’s Consumer Credit sourcebook (CONC)?**

For example, this could be in relation to conduct prior to entering into the relevant agreements (such as advertising or marketing, the sales process, customer explanations and affordability assessments) and/or conduct after entering into the relevant agreements (such as statements and notices and the handling of arrears/default or complaints).

As part of your response, please explain the basis on which you have satisfied yourself that your answer to this question is a complete and accurate analysis such that the FCA can properly take it into account (eg what enquiries have you made). Please also provide details of any non-compliance or other relevant conduct identified.

[ ]  No

[ ]  Yes4Give details below

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 **3.4 Could any non-compliance or other conduct (whether of the kinds referred to in Question 3.1 to Question 3.3 or otherwise) have given rise to harm (or risk of harm) to affected customers?**

As part of your response, please explain the basis on which you have satisfied yourself that your answer to this question is a complete and accurate analysis such that the FCA can properly take it into account (eg what enquiries have you made). Please also provide details of any harm or potential harm identified.

You should consider (amongst other relevant matters) any complaints from affected customers, or from other (non-affected) customers where root cause analysis may indicate that affected customers have suffered harm. You may wish to provide a supporting legal opinion or other document (but see the notes on page 1 above regarding waiver of legal professional privilege).

[ ]  No

[ ]  Yes4Give details below

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 **3.5 Is there any other relevant information of which the FCA should be aware that may indicate that customers have suffered, or may be at risk of, harm in connection with the relevant agreements?**

For example, issues may have been identified by the FCA, or by the firm’s internal audit or compliance functions, or other regulatory or legal reviews.

[ ]  No4 Please explain how you have satisfied yourself that affected consumers have not suffered harm.

Please provide a summary of the methodology for assessing that harm has not occurred to affected customers, including details of how senior management have satisfied themselves of the robustness and sufficiency of the work undertaken.

[ ]  Yes4Give details below

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 **3.6 If you have answered yes to Question 3.4 or Question 3.5, please provide a summary of the methodology for identifying, assessing and remediating any harm to affected customers, including details of how senior management have satisfied themselves of the robustness and sufficiency of the work undertaken.**

In particular, please specify any steps the firm has taken, or intends to take, to remedy detriment.

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 **3.7 Will there be any residual harm that will not be addressed fully by the steps (if any) set out in response to Question 3.6?**

[ ]  No

[ ]  Yes4 Please explain what this is, why and to what extent it will not be addressed and why you consider this appropriate

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 **3.8 Has the firm (or, as far as it is aware, any third party involved in the agreements) received any complaints, or notices of legal action, from affected customers in connection with the relevant agreements?**

[ ]  No

[ ]  Yes4 Please provide a breakdown, including the number of relevant complaints and, where applicable, a description of the actions taken as a result of the complaints, and any redress paid

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 **3.9 Since entering into the relevant agreements, has the firm been in communication with any affected customers regarding the legal status or enforceability of the agreements?**

Please note that this is not limited to unenforceability arising as a result of the matters that have led to the application for a validation order, but would include unenforceability under CCA provisions, where applicable.

[ ]  No

[ ]  Yes4 Please attach copies of the relevant communication(s)

[ ]  Attached

**3.10 Please explain why the firm considers the FCA can be satisfied that it would be just and equitable to grant the validation order you seek, having regard to the above matters and any other matters you consider to be relevant**

You may wish to provide a supporting legal opinion or other document (see the notes on page 1 above).

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| 4 | Fees  |

Validation orders are charged on the basis of the total value of the agreements the firm is looking to validate.

|  |  |
| --- | --- |
| **Value of agreements** | **Category** |
| Up to £500,000 | 3 |
| Above £500,000-£750,000 | 4 |
| Above £750,000-£1,000,000 | 5 |
| Above £1,000,000-£7,500,000 | 6 |
| Over £7,500,000 | 7 |

Please refer to FEES 3 Annex 1AR for the details of the amount chargeable for each category - [https://www.handbook.fca.org.uk/handbook/FEES/3/Annex1AR.html](https://www.handbook.fca.org.uk/handbook/FEES/3/Annex1A.html)

If the fee is not paid in full within **five working days** from the date you receive confirmation of receipt of your application, your application will be returned to you.

The fee is non-refundable and we do not issue invoices for it.

Cheques, banker’s drafts or postal orders should be made payable to the Financial Conduct Authority with the firm name and Firm Reference Number (FRN) (if applicable) written on the back and enclosed with this form.

Alternatively, you can pay via debit/credit card payment by calling our Fee Payment line at 0207 066 6014 from 9:00 to 17:00 Monday to Friday, following confirmation of receipt of your application.

 **4.1 Please confirm how much your payment is in the box below**

|  |
| --- |
| £       |

 **4.2 Please confirm your method of payment**

[ ]  Cheque or other payment enclosed

[ ]  Debit/credit card

|  |  |
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| 5 | Supporting documents |

**You must confirm you have attached the following documents:**

|  |  |
| --- | --- |
| A sample copy of each agreement requiring validation (This can be a pro forma agreement but must be representative of each agreement of the relevant type) | [ ]  Attached |
| Any legal opinion or advice in support of your application (if applicable)PLEASE NOTE: Any legal opinion or advice in support of your application must be provided with a waiver of all claims to legal professional privilege. In submitting your application, you agree that any legal advice or opinion is provided to us on this basis. You may wish to seek independent legal advice before following this course of action. | [ ]  Attached  |

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| 6 | Declaration and signature |

**Warning**

Knowingly or recklessly giving us information, which is false or misleading in a material particular, may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000).

Further, our rules (SUP 15.6.4R) require an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to us and to tell us immediately if materially inaccurate information has been provided. Contravening these requirements may lead to disciplinary sanctions or other enforcement action by us.

It should not be assumed that issues are known to us just because they are in the public domain or have previously been disclosed to us or another regulatory body. You should include as part of this application any information that falls to be disclosed in response to a question, irrespective of whether you consider it is publicly available or already known to us.

If you are not sure whether a piece of information is relevant, please include it anyway.

Please ensure you update us and/or provide any additional relevant information as it becomes available whilst the application is in progress. Failure to do so may delay the assessment of your application.

**Declaration**

By submitting this application form:

* I confirm that I am authorised to submit this application on behalf of the firm.
* I confirm that the information in this application is accurate and complete to the best of my/our knowledge and belief and that I/we have taken all reasonable steps to ensure that this is the case.
* I am aware that it is a criminal offence knowingly or recklessly to give the FCA information that is false or misleading in a material particular.
* I will notify the FCA immediately if there is a significant change to the information given in the application. I am aware that, if I fail to do so, this may result in a delay in the application process or enforcement action.

 **Name of signatory[[1]](#footnote-2)**

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 **Position[[2]](#footnote-3) of signatory**

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|       |

 **Individual Registration Number (if applicable)**

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 **Signature**

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|  |

 **Date (dd/mm/yyyy)**

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1. The signatory must be a suitable person of appropriate seniority at the firm. [↑](#footnote-ref-2)
2. For example, Director, Sole Trader, Compliance Officer, etc. [↑](#footnote-ref-3)