

## Regulator Assessment: Qualifying Regulatory Provisions

**Title of proposal:** Consumer Credit: Protecting your business from financial crime

**Lead regulator:** FCA

**Date of assessment:** 7 March 2016

**Commencement date:** November 2016

**Origin:** Domestic

**Does this include implementation of a Cutting Red Tape review?** No

**Which areas of the UK will be affected?** Whole of UK

### Brief outline of proposed new or amended regulatory activity

On 15 August 2014, the Divisional Supervision and Risk Committee (DSRC) agreed to the Financial Crime Department (FCD) conducting a thematic review of the consumer credit industry in relation to financial crime. The project was to consider the nature, scale and extent of financial crime risks in consumer credit (CC), as well as the adequacy of steps CC firms are taking to mitigate these risks. FCD Specialist Supervision (FCSS) visited eight firms out of its sample of 20. In December 2014, the project was suspended due to priority work on a major bank, authorised by the Executive Planning and Risk Committee (ERIC).

Throughout Q4 of 2015, FCD worked with internal stakeholders to conclude this thematic work by way of a knowledge sharing/awareness raising initiative. This comprised a one off webinar, which was delivered in March 2016, and the publication of a CC focused financial crime 'booklet', which includes self-assessment questions taken from the existing Financial Crime: a guide for firms\*. The booklet was signed off by the FCD Head of Department and their director\*\* and published in November 2016 .

This booklet is the subject matter of this Impact Assessment

\* [https://www.handbook.fca.org.uk/handbook/document/FC1\\_FCA\\_20150427.pdf](https://www.handbook.fca.org.uk/handbook/document/FC1_FCA_20150427.pdf)

\*\* Rob Gruppetta, FCD and Nausicaa Delfas, Director SIWS

### Which type of business will be affected? How many are estimated to be affected?

Any authorised firm subject to the Money Laundering Regulations 2007, with regulatory permissions to provide consumer credit products in the UK. The number of firms impacted is approximately 3,500. The number was obtained from an FCA database of registered firms.

Price base year	Implementation date	Duration of policy (years)	Business Net Present Value	Net cost to business (EANDCB)	BIT score
2016	Nov 2016	10	-0.17	0	0

**Please set out the impact to business clearly with a breakdown of costs and benefits**

The booklet provides a simplified set of self-assessment questions and examples of good and poor practice. It does not set out any new obligations on consumer credit firms. Below we demonstrate how the booklet self-assessment questions are linked to existing rules and guidance set out in our Financial Crime: a guide for firms. Where the exact text in the booklet differs to that in the guide, we have adopted a common sense approach in linking the two together. The FCA would expect a compliance officer within a consumer credit firm to be familiar with the Financial Crime guide.

The material guide, and therefore the booklet, does not form part of the FCA Handbook. However, the Financial Crime guide does contain guidance on Handbook rules and principles, particularly:

- SYSC 3.2.6R and SYSC 6.1.1R, which require firms to establish and maintain effective systems and controls to prevent the risk that they might be used to further financial crime;
- Principles 1 (integrity), 2 (skill, care and diligence), 3 (management and control) and 11 (relations with regulators) of our Principles for Businesses, which are set out in PRIN 2.1.1R;
- The Statements of Principle for Approved Persons set out in APER 2.1.2P; and
- In relation to guidance on money laundering, the rules in SYSC 3.2.6AR to SYSC 3.2.6JG and SYSC 6.3 (Financial crime).

The booklet reminded firms of existing requirements. As such, where firms incurred costs, in most part this would have been in relation to non-compliance with existing rules. As compliance with existing regulatory requirements is assumed as part of the Enterprise Act, any costs incurred by firms to bring themselves to a compliant standard have not been considered.

Areas of self-assessment set out in booklet	Existing Rules & Guidance
<p>Risk Assessment (p6)</p> <p>What are the main financial crime risks to your business?</p> <p>Does the risk assessment enable you to apply the appropriate level of due diligence to manage the identified risks?</p> <p>When did your firm last update its risk assessment?</p>	<p>p15 - 16 of guide</p> <p>What are the main financial crime risks to the business?</p> <p>Firms should build on their business-wide risk assessment or risk assessments to determine the level of risk associated with individual relationships. This should enable the firm to apply the appropriate level of due diligence to manage the risks identified.</p> <p>When did the firm last update its risk assessment?</p>
<p>Policies &amp; Procedures (p7)</p> <p>How often are your firm's policies and procedures reviewed?</p> <p>What steps does your firm take to ensure that staff understand your policies and</p>	<p>p17 &amp; p34 of guide</p> <p>How often are your firm's policies and procedures reviewed, and at what level of seniority?</p> <p>What steps does the firm take to ensure</p>

<p>procedures, and understand how to report suspicious transactions (where relevant)?</p>	<p>that staff understand its policies and procedures?</p> <p>How does the decision-making process related to SARs work in the firm? Are procedures clear to staff?</p>
<p>Governance (p8)</p> <p>Who has overall responsibility for establishing and maintaining effective financial crime controls?</p> <p>Are they sufficiently senior?</p> <p>How are senior management kept up to date on financial crime issues?</p>	<p>p12 of guide</p> <p>We expect senior management to take clear responsibility for managing financial crime risks, which should be treated in the same manner as other risks faced by the business.</p> <p>When did senior management, including the board or appropriate sub-committees, last consider financial crime issues? What action followed discussions?</p> <p>How are senior management kept up to date on financial crime issues?</p>
<p>Staff Awareness (p9)</p> <p>How does your firm ensure that its employees are aware of financial crime risks, their obligations in relation to those risks, and how to report suspicious transactions?</p> <p>Do your staff have access to training on an appropriate range of financial crime risks?</p>	<p>p18 -19, 34 of guide</p> <p>How does your firm ensure that its employees are aware of financial crime risks and of their obligations in relation to those risks?</p> <p>How does the decision-making process related to SARs work in the firm? Are procedures clear to staff?</p> <p>Do staff have access to training on an appropriate range of financial crime risks?</p>
<p>Data Security (p10)</p> <p>Who has overall responsibility for maintaining effective data security controls?</p> <p>Are they sufficiently senior?</p> <p>How does the firm monitor that suppliers of outsourced services treat customer data appropriately?</p>	<p>p49 – 52 of guide, Data Protection Act, Schedule 1</p> <p>How is responsibility for data security apportioned?</p> <p>There is a clear figurehead championing the issue of data security.</p> <p>How does the firm monitor that suppliers of outsourced services treat customer data appropriately?</p>
<p>Anti-Money Laundering (AML) &amp; Customer Due Diligence (CDD) (p11)</p> <p>Do your CDD processes provide you with a comprehensive understanding of the risk associated with individuals and their business relationships?</p> <p>How are issues that are flagged during</p>	<p>p27 of guide</p> <p>Do your CDD processes provide you with a comprehensive understanding of the risk associated with individual business relationships?</p> <p>Staff who approve new or ongoing business relationships must satisfy</p>

<p>the due diligence process followed up and resolved?</p>	<p>themselves that the firm has obtained adequate CDD information before doing so.</p> <p>Where a firm cannot apply customer due diligence measures, including where a firm cannot be satisfied that it knows who the beneficial owner is, it must not enter into, or continue, the business relationship.</p>
<p>Enhanced Due Diligence (EDD) (p12)</p> <p>How does EDD differ from standard CDD?</p> <p>How is EDD information gathered and analysed? Is this adequately documented?</p> <p>What involvement do senior management or committees have in approving high risk customers?</p>	<p>p31 – 32 of guide</p> <p>How does EDD differ from standard CDD?</p> <p>How is EDD information gathered, analysed, used and stored? Is this adequately documented?</p> <p>What involvement do senior management or committees have in approving high-risk customers?</p>
<p>Ongoing Monitoring &amp; Suspicious Activity Reporting (p13)</p> <p>Do your staff know to whom they should report suspicious activity?</p> <p>How are transactions monitored to spot potential money laundering?</p> <p>How are unusual transactions reviewed? How does your firm decide whether behaviour really is suspicious?</p> <p>Do you review higher risk relationships regularly to ensure you are comfortable with how they are operating?</p>	<p>p28, p33 – 34 of guide</p> <p>Do staff report suspicions to the nominated officer? If not, does the nominated officer take steps to identify why reports are not being made? How does the nominated officer deal with reports received?</p> <p>How are transactions monitored to spot potential money laundering?</p> <p>How are unusual transactions reviewed? (Many alerts will be false alarms, particularly when generated by automated systems. How does your firm decide whether behaviour really is suspicious?)</p> <p>How does your firm monitor its high-risk business relationships? How does enhanced ongoing monitoring differ from ongoing monitoring of other business relationships?</p>
<p>Record Keeping (p14)</p> <p>Are customer records readily available to assist on-going monitoring of customer relationships?</p> <p>Can your firm retrieve records promptly in response to a regulatory or law enforcement request?</p>	<p>p34 - 35 of guide</p> <p>Records of customer ID and transaction data can be retrieved quickly and without delay.</p> <p>Can your firm retrieve records promptly in response to a Production Order?</p> <p>Is there a documented process for responding to Production Orders, with clear timetables?</p>

### **Familiarisation and gap analysis costs**

We would expect Consumer Credit firms to read the publication in order to re-familiarise themselves with their obligations under the FCA Handbook, Money Laundering Regulations and the Proceeds of Crime Act. Firms should also already be familiar with the financial crime guide. Given this, it would be disproportionate to gather cost data from consumer credit firms. As compliance with regulatory requirements is assumed as part of the Enterprise Act, only familiarisation costs incurred by firms to understand whether they are compliant are included. Implementation and on-going costs are zero as the self-assessment questions in the booklet are based on rules and obligations that are clear and longstanding.

We estimate that it will take at most an hour at a reading rate of 100 words per minute at an estimated rate of £48/hour to read the report for each of 3,500 principal firms in the consumer credit sector **(£168K)**.

We arrived at the one hour estimate based on the following calculation. The document contains approximately 2,200 words. The speed of reading technical text is 50-100 words per minute based on EFTEC (2013), "Evaluating the cost savings to business revised EA guidance -method paper" the time remaining to digest, disseminate the information and if necessary update the relevant procedures is based on our broader supervisory knowledge of how firms respond to our publications and also on supervisory conversations with firms about their procedures relating to this specific issue.

For all cost estimates we have assumed the changes will be applied by experienced compliance staff at an estimated rate of £48/hour. The 2016 Robert Half salary guide estimates that a compliance manager in the risk and compliance function of a financial services company based in London earns between £70,000 and £104,000 per annum. Based on working 8 hours per day for 260 days each year our rate equates to £100,000 per annum and is therefore considered a suitably prudent figure for the purposes of our estimates.

The EANDCB is 0 because the cost of £168k spread over 10 years (to the nearest £100k) is 0. This is then multiplied by 5 to obtain the BIT score, which in this case is also 0.

### **Ongoing benefit**

A key government priority is to make UK financial services a hostile environment for criminals. The booklet provides a reminder to consumer credit firms on actions they can take to counter the risk that they might be used to further financial crime. Effective systems and controls can help firms to detect, prevent and deter financial crime.

**Please provide any additional information (if required) that may assist the RPC to validate the BIT Score.**

<https://www.fca.org.uk/publication/consumer-credit-information/consumer-credit-protecting-business-financial-crime.pdf>

[https://www.handbook.fca.org.uk/handbook/document/FC1\\_FCA\\_20150427.pdf](https://www.handbook.fca.org.uk/handbook/document/FC1_FCA_20150427.pdf)