CONSUMER CREDIT

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Stoking up the Economy Engine Room

What is Block Discounting?

What Cost Credit in the Future?

EU Proposes Enormous Data Reform

Refreshingly Clear

CCTA Training Schedule Annouced for 2012

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NOTE: With such a diverse membership contributing, the views expressed in this magazine are not necessarily the views of CCTA.

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Greg Stevens
Chief Executive

Welcome to the spring edition of the Consumer Credit magazine. It's good to start the year on a positive note, and fortunately, just like the winter weather, the economy over the last few months has not been as bad as either broadcast, or expected. Firm proof of the old adage, "nothing is certain except death, taxes and change."

Over in the financial Eurozone we have seen a Houdini act on an amazing scale. The European Central Banks (ECB) decision to release €500bn as the first instalment of cut-price loans (unveiled in December 2011) has unblocked the log jam, and allowed for the €130bn bailout of Greece. The pundits view of a financial Armageddon thwarted yet again. The ECB are prepared to go further with more cut price loans under the title of the Long Term Repo Operation (LTRO). Italy and Spain have already swapped expensive bonds for the cheaper ECB loans, which will both ease their immediate problems, and allow more time for austerity programmes to work.

Closer to home, the Council of Mortgage Lenders have announced that mortgage approvals were significantly up in January 2012, compared to 2011. Other good news is that Barratts (the house builders) announced that sales figures have been rising since the start of the year, and that there is positive evidence that first time buyers are back in the market. The rising prices of current rental property, is no doubt a major factor in the move to purchase. Another plus in January was a reduction in the inflation figures, and a surprise rise in retail sales.

Consumers are still reigning in their spending, but with inflation falling they could be tempted back into the shops. It may, however, take a while before we see a general increase in consumer confidence.

Change, as I have already said, is ever constant. The placing of the Financial Services Bill before Parliament will tax us all as it passes through the parliamentary process. We are travelling into the unknown with this piece of legislation, as the consumer credit regime moves away from the Office of Fair Trading (OFT), into the 'new' Financial Conduct Authority (FCA).

The major concern is that we have no clear guidance or model from HM Treasury, the Financial Services Authority (FSA), or the OFT, on how things will work in the future. We have only vague promises that consumer credit will not be harmed, and that the changes will be all about consumer protection.

CCTA will be working with Government legislators and regulators alike, collaborating with other bodies and consumer groups, to protect your interests. We will be focusing on these changes our regional Face-2-Face meetings throughout the summer.

Finally, we have recently been informed that the OFT are undertaking a market review of the payday lending sector. They have asked Trading Standard Departments to visit 50 payday lending companies. I ask any of our members who are approached to contact me for advice on the issues. As your trade association, we will be filling in a questionnaire, and hope to involve you in that process. The sector receives a lot of unwelcome, and unjust consumer group and media attention, our response will highlight the positives of the market.

Hopefully I will see you at our Face-2-Face meetings, or at the CCTA Financial Olympics National Conference on 8 November. If before then you have any problems and would like to speak to me, don't hesitate to get in touch.

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Q&A

A case in question

Joanne Davis
Partner, DWF

QUESTION:

Dear Joanne,

I understand there are some recent concerns on making manuscript amends to guarantee documents. Please could you explain why this is no longer possible?

ANSWER:

Yes it is right to say that there has been some recent case law that provides guidance to Lenders on amendments to guarantee documentation.

The case of Bibby Financial Services Ltd v Robert Magson [2011] provided an important warning to all parties involved in contracts. In this case, Bibby sent the Deed of Guarantee and Warranty to the directors of Sarcen Plant Hire Ltd to sign and return.

When the documents were received the directors made amendments to the manuscript and returned the amended documents to the finance company, with the intention that the changes would be incorporated before being returned to them again to sign.

Unfortunately, Bibby did not return the amended documents, Sarcen fell into arrears with its payments and the agreement was terminated. Under the Deed of Guarantee and Warranty, Bibby demanded payment from the directors, however, the directors failed to make the payment, and Bibby brought legal proceedings against them.

The main issue was whether the guarantees were valid and binding. The directors had made manuscript alterations to the documents that they had already signed with the expectation that the typed version would be reproduced and sent to them for re-signing. The directors claimed to have signed the original documents as a gesture of good faith, however, as the amended documents were never produced, the directors claimed that the guarantees and warranties had not been properly executed.

Here, the court considered what the directors may have been expected to follow and looked at the facts around the amendments.

The guarantees and warranties were each in the form of a deed and were therefore required to be "delivered as a deed", within the meaning of the Law of Property (Miscellaneous Provisions) Act 1989 and the Law of Property Act 1925. Critically this means that the person who signed the deed also had to separately indicate that they intended to be bound by the deed, meaning a mere signature was not enough. As the directors clearly expected to receive "clean" copies of the documents to re-sign and re-date, it followed that they couldn't have intended to be bound by the copies they had signed.

This case tells us that all lenders should be aware that they need to check for any amends to documents and especially with Deeds of Guarantees. If manuscript amends are made then it is best to query them and then if necessary, incorporate the amends into a new document and getting the documents resigned. Otherwise, there is a risk that the circumstances around the signature could override the binding nature of a signed guarantee document and invites unwanted allegations from guarantors.

If there is any uncertainty or doubt it is better to err on the side of caution, avoid manuscript amendments and ask for a fresh copy to be signed.

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Stoking up the engine room of the economy

CCTA were recently invited to the Federation of Small Businesses (FSB) Annual Dinner in London. The keynote speaker was the Chancellor, Rt Honourable George Osborne MP.

An anxious audience waited to hear at first hand whether Government is committed to business, and especially small to medium sized enterprises (SMEs), after recent issues appeared to move in the direction of anti-business, particularly certain special interest groups, and parts of the national press.

The Chancellor did not flinch from 'telling it how it is', he indicated Government support for SME funding, stability, and most importantly, better and less regulation. He stressed his concern about wailing sirens, calling for ever more regulatory intervention, at a time when the country needs enterprise, and growth from business.

At CCTA we intend to consistently remind Government of their manifesto to curtail onerous regulation. The one in, one out, approach should be appropriate, and proportionate, the impact needs to be assessed for each piece of regulation, or else we will find business models being affected.

The Chancellor presented himself as a man of the people, drawing on his experience as a child, raised in a household running a family business, to illustrate empathy with the audience. Details of his speech are below, the commitment to 'stoke up the engine room' of businesses large and small, has been made, and we will push relentlessly on behalf of our members, to ensure that commitment is met.

If you have any queries please contact Greg Stevens direct at: greg.stevens@ccta.co.uk

A commitment from the Chancellor...

"I am very grateful to the Federation of Small Businesses for inviting me to speak tonight. I want to congratulate John Walker and everyone at the FSB for your tireless work in speaking up for small businesses. When my officials and I talk to the FSB we have real confidence that you are the voice of your members. Your campaigns on issues such as rate relief and employment law have had a major influence on the Government's reforms in these areas, which are helping hundreds of thousands of small businesses every day.

I know that there are unique pressures and strains in running a small business, but also a unique sense of freedom and opportunity too. I saw that in my own upbringing, my father set up his small business in 1968 manufacturing and selling home furnishings. Growing up, the rhythms of the business's life and the rhythms of our family life were one and the same. I remember the ups and downs, the excitement when new orders were won, or new products launched, the anxiety when the economy was weak. I know the pressure that you are under to compete, to stay ahead and to make a profit, and above all I know that it isn't easy for businesses right now.

The recovery has not been as strong as anyone hoped. The weight of the debts built up in the boom is being felt across the economy, the euro zone crisis is affecting confidence, access to finance is under strain, and its small businesses that bear the brunt of this. Even though inflation is coming down, rising costs, particularly fuel, continue to put pressure on your profit margins.

Despite this, my message to you tonight is one of optimism. Together, we can ride out the storm to create a more prosperous economy for everyone.

Let me explain why:

- first, unlike so many countries, Britain is tackling its problems head on, dealing with our debts and securing the long term stability and low interest rates you need to get on with creating prosperity
- second, we are steadily restoring Britain's competitiveness, as tax rates come down and the regulatory burden is pushed back. This year, we re-entered the top ten list of the best places in the world to do business
- third, we have the ambition to broaden our horizons, and take advantage of the opportunities that the new fast growing markets around the globe present, and I want small businesses to lead the way in this.

Let me begin with long term stability. Without it, no small business can thrive and many cannot survive. There is no doubt that resolution of the euro zone crisis would provide the biggest single boost to the British economy in the short term and we are working day in, day out to bring that about. But we all know that to put our economy back on track, we need to tackle our domestic problems head on, and those problems don't get bigger than our debt problem.

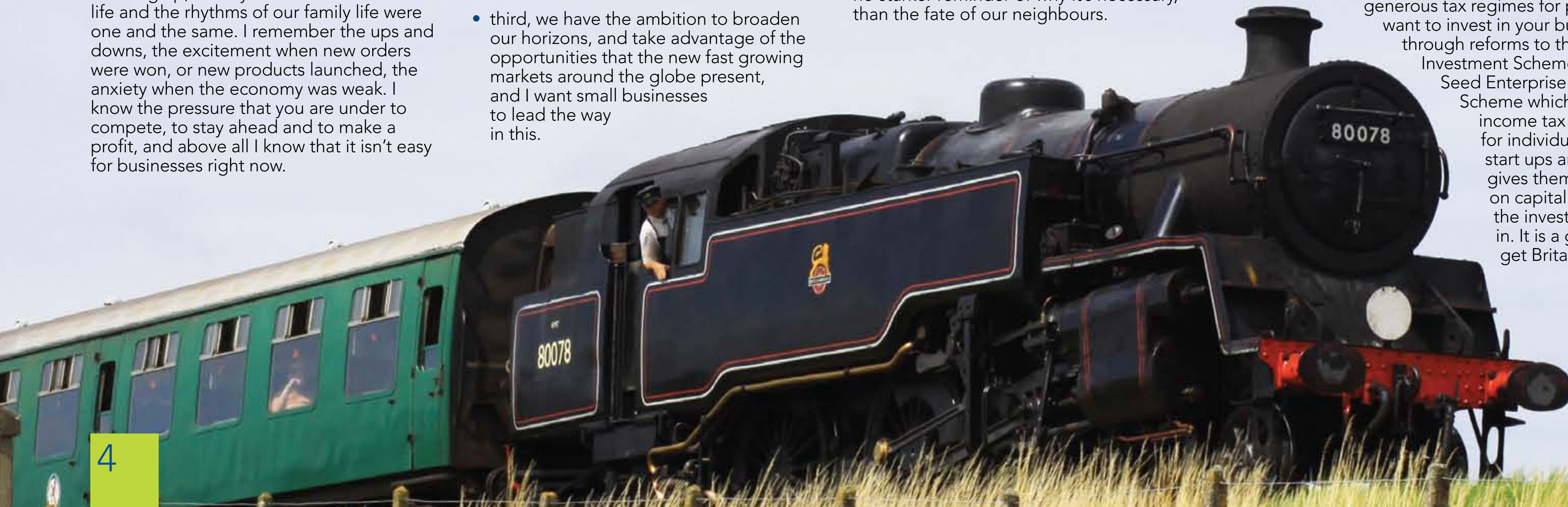
Over the last decade, Britain experienced the biggest increase in debt of any major economy. The total of household, corporate, financial and public sector debt in the UK reached five times the size of our national economy. When the Government came into office, Britain was set to have the largest budget deficit of any major economy in the world, our market interest rates were higher than Italy's. By taking the difficult decisions to get our deficit under control, we won credibility where once it was being lost. Of course, this is painful, but there is no starker reminder of why it's necessary, than the fate of our neighbours.

This week, Spain's interest rates were around 5%, Italy's around 6%, and Portugal's 14 %. In the UK, they were just over 2%. A rise in UK interest rates caused by a lack of international confidence would hit everyone hard, but it would hit small businesses hardest of all. For every 1% rise in our market interest rates, a business taking out a £100,000 overdraft would pay an additional £1000 a year. If you wanted to expand your factory and needed an £1 million pound loan, you would pay an extra £10,000 a year for every 1% increase in market interest rates. These are not numbers on the pages of the Financial Times, they are real costs that would hurt your businesses. It is low interest rates that are keeping the economy afloat at the moment.

We need to make sure these interest rates are being passed on to small businesses. That is why we are launching the Government's National Loan Guarantee Scheme. It will work on the simple principle that we use the hard won low interest rates that the Government can borrow at, to reduce the interest rates that small businesses can borrow at. New loans to businesses with a turnover of less than £50 million will be eligible for the scheme, so it stays focused on smaller and medium sized companies. We expect loans under the scheme will benefit from a reduction of up to 1 percentage point in the rate of interest charged to companies like yours. So a business facing a 7% interest rate to get a £1 million loan could instead see their rate reduced to 6% and their interest costs fall by up to £10,000. Initially, we are going to make £20 billion of these guarantees available over the next two years. Our objective is to get the National Loan Guarantee Scheme operating as soon as we have state aid clearance.

Dealing with our debts and keeping our interest rates low is a necessary requirement to get our economy back on its feet, but it's not enough. We also need to remove the obstacles that stand in the way of you growing your businesses. We will be as ambitious in tackling the forces of stagnation that stifle enterprise as we have been in tackling the deficit. I've already acted to help. Rather than going ahead with the increase in the small companies' tax rate to 22% that the previous government left me with, I have cut the rate to 20%. To support SMEs during this difficult period, I've extended the small business rate relief holiday to the end March 2013.

We're introducing one of the most generous tax regimes for people who want to invest in your businesses, through reforms to the Enterprise Investment Scheme, and a new Seed Enterprise Investment Scheme which provides income tax relief of 50% for individuals investing in start ups and for this year, gives them 100% relief on capital gains tax on the investment they put in. It is a great offer to get Britain investing.



We're also helping you to grow your business, by increasing the generosity of research and development tax credits for SMEs to 200% last year and to 225% from April, as well as increasing the gains eligible for Entrepreneurs' Relief from £5 million to £10 million.

To help small businesses recruit and train new staff, we will provide financial incentives to 40,000 small businesses who take on a first young apprentice. Of course even more damaging to your businesses than high taxes, are the burdens from regulation. This has been a major focus of FSB's campaigning.

Since entering Government, I've seen first hand the relentless pressure to regulate. It would be so easy to give in to the constant stream of vested interests demanding that you regulate a problem away, every time you are interviewed on the Today programme, or meet with the single issue lobby groups or face the trade union campaigns. Everything in politics encourages more red tape, everyone insists government must step in, "something must be done" is always the cry. We have to resist these pressures, I don't want to over claim we've not got everything right, but under this Government we have made progress. Let me give you some examples. We've challenged the culture of Whitehall with a "one in one out" rule on all new business regulation. In other words, for every new piece of regulation at least one old one has to be scrapped. For businesses with fewer than ten employees, we've introduced a moratorium on new domestic regulation for three years. It's not perfect, but it would be a lot worse without it. We're also rolling back the most damaging regulatory burdens you face.

With your help, we've been prepared to do what no Government in modern times has done, and increased the rights of employers. We're doubling the period before employees can claim unfair dismissal to two years and introducing fees to deter vexatious tribunal claims. Of course, employees have rights and they should be protected, but what about your right to start a business and not be sued out of existence? The Government will begin a call for evidence on compensated no fault dismissal to two years for micro businesses with fewer than 10 employees, and a simpler, quicker and clearer dismissal process. We'll come forward with planning rules that shift the balance in favour of growth and jobs. So instead of delay and objection every time you want to expand, the default will be "yes". We will need to go further to remove the lengthy delays and high costs of the current system, with new time limits on applications and new responsibilities for statutory consultees. Many of these changes are controversial. Some are just as politically difficult as are the tough decisions we are taking on the deficit. There are no end of people prepared to go on the TV and radio to attack them, but they've never run a small business, or sat up late worrying about a vexations claim to an employment tribunal. So with your help, I will continue to push forward on all these fronts and many more, because it's our job to stand up for small businesses.

And let me say something about the row over bonuses and pay. Of course we need to reform our banking system, and nobody has done more than this Government to address the too big to fail problem that so offends every taxpayer. Of course rewards for failure are unacceptable, and those who believe in the free market are the first to say so. But a strong, free market economy must be built on rewards for success. There are those who are trying to create an anti-business culture in Britain, and we have to stop them. At stake are not pay packages for a few but jobs and prosperity for the many. These are all important steps to restoring prosperity to Britain, but as a country we need to broaden our horizons and take advantage of the opportunities that the emerging markets present to grow and create jobs.

I remember the excitement when my father's business made its first sales in America, now, Asia is the new trade frontier. In a generation, China's middle class is forecast to be more than three times the size of that of the whole of Western Europe, and as they become richer, they'll want to buy the kind of things you make and sell. When I was in Asia earlier this month I was hugely encouraged by the enthusiasm I found for Britain, we are in the European single market without being part of the euro, we are a liberal Anglo-Saxon economy and even more open to trade and investment than the US, and we produce high value goods and services, in every sector in every part of this country that are in demand around the world.

But here's a home truth: not enough of Britain's small and medium sized businesses export, and those who do are too focused on EU markets, many of which aren't growing, this is a huge missed opportunity. In the UK, around 1 in 5 UK SMEs export, across Europe, the average is 1 in 4. If the UK got the number of small and medium sized exporters up to 1 in 4, in line with the European average, this would add approximately £40bn to total UK exports and a massive boost to our economy. We should make that our ambition, it would be good for Britain, and good for the small businesses involved.

That's why the work that Stephen Green, our trade minister is doing to help small businesses enter new markets is so exciting. His organization, the UKTI is seeking to double the number of companies it supports to around 50,000 over the next three years. Our embassies around the world are geared up to support new exporters, and UK Export Finance, formerly known as the ECGD, has launched new products that allow firms of your size to get insurance against the risk of non-payment on export orders, and help to secure the working capital needed to fulfill large orders from overseas. We are already seeing results. Our goods exports to China in the first half of this year were up by almost 20%, making China our third largest export market after the US and EU. Goods exports to India increased by 45% between January and October 2011 compared to the year before. I want many more small businesses to benefit from these opportunities.

So yes, times are difficult and you know that better than anyone. But here in Britain we are:

- dealing with our debts
- making ourselves more competitive
- broadening our horizons and exporting to new markets.

We have made good progress, but we need to go further if we are to build a more prosperous future for Britain. Every day we need to take on the forces of stagnation, who agree we need to reduce the deficit but defend every individual line item of spending. Every day, we need to take on those who say they want enterprise and growth, but oppose every regulation we cut. We need to broaden our horizons, to get out there, to create a Britain open for business and to the world. I know that with the energy, creativity, innovation and courage of Britain's small businesses we can take on the forces of stagnation and win. Let's do it together.

Just what is Block Discounting anyway?

David Pickup has been a CCTA committee member and a member of council for many years. He is Audit Manager for a major asset lender and has over 16 years experience in Block Discounting.

David Pickup
Audit Manager

Over the many years that I have been involved in the product I have lost count of the number of times I have been asked that question, and from people in the finance industry! It is true that it is a little understood product, so before the end of this article I will attempt to get a clear message across so that everyone understands the basic principles of Block Discounting. Before that, it would be remiss of me not to mention the economic climate, well everyone else does nowadays!

The present economic climate has impacted small and medium sized finance companies badly, thanks very much to the major banks that are busy mending their own balance sheets. The drying up of funding and virtual removal of all overdrafts has put many SME finance companies books into decline, which is a crying shame because there are some very good potential customers out there who need finance for their own SME businesses, not to mention the consumers who can't get loans from their banks any more either.

The Government has introduced a few 'carrots and sticks' to get the banks funding SME's again but CCTA's own polling of members shows that this is having little or no effect. So just where does a finance company go now to fund their book?

Many of course turn to family, friends and associates first and then look for those elusive private investors that are out there somewhere, a few people in the know approach the Block Discount funders.

It is true that Block Discounters haven't been shouting their wares for the last couple of years but there are signs out there that they are very much back in business. Without naming names there are five major players and a couple of smaller players that have been around for very many years, but there are now some newcomers who are making inroads into the market. The opportunities for obtaining funding from this source are growing.

So, I promised to explain exactly what Block Discounting is, and not wanting to teach 'grandmothers to suck eggs' but knowing that there are many people in credit that haven't much of an understanding, I thought that I had better get down to basics.

Block Discounting is probably the most efficient way of gearing up a finance business to maximise returns as working capital is raised against a future income stream. In essence it is the raising of funds against new and existing hire, rental, lease or credit contracts, be they commercial or consumer, asset backed or unsecured. The minimum term of an agreement to be blocked does vary from funder to funder but they prefer the longer term, as the agreement is taken as security. If it is repaid in 9 months then it is a lot of paperwork for little return.

The funder takes security by way of assignment over a 'block' of agreements from the finance company, either at a discount on the balances outstanding, or the net advance (here, net advance means the original advance less any deposit and any payments received since the agreement started). The level of discount does vary, dependant upon the quality of the book, and could range from 10% to 30%. Payout of the discounted value is normally very quick and even the slowest funder usually gets the money into the client's bank account within a couple of days. The resultant loan's term is matched to the average length of the agreements forming the block and the payments are fixed, so the income from the agreements is more than sufficient to repay the loan.

As the relationship is undisclosed, the end customer remains totally unaware of the transaction and the finance company remains in total control of the customer relationship.

The other major benefit of Block Discounting is that it is based on a revolving credit line so as you repay earlier 'blocks' you have access to more funds. Funding lines could start from as little as £100,000 for a relatively new start but for the long established company a credit line of £2,000,000 is quite possible.

At this point an example might be worthwhile. Let's consider a £100,000 block of agreements with a three year term and assume a 16% gross yield. If we then assume that 2% goes towards administration and a further 2% towards bad debt provision then the net yield over three years would be £12,000. If these agreements are 'blocked' and the finance company receives, say, £80,000 immediately against the £100,000 (20% discount) then there is a further £80,000 that can be advanced on new agreements. If these agreements were then 'blocked' and we make the same assumptions as above and we estimate 9% borrowing costs, it would leave 3% additional income or £2,400 over the lifetime of the agreements. There would then be £64,000 available to lend and again 'block', which would generate net income of £1,920... and so on.

By 'blocking' in this way the finance company can gear up at a ratio of 4:1, turning £100,000 of capital into a £500,000 book.

There are additional important matters to be taken into consideration, however, as the Block Discount funder will want to ensure that their agreements remain valid throughout their lifetimes and so will send in an Auditor on a regular basis to re-value them. The normal arrangement is that if an agreement settles early, is terminated or goes into serious arrears (usually greater than 2 payments), then the agreement will need to be replaced by another 'good' agreement of equal value to the balance that has been excluded.

Many small finance companies actually look forward to this overview by an external auditor as it helps keep them current with the changes in consumer credit law and is regarded as a free 'health-check'.

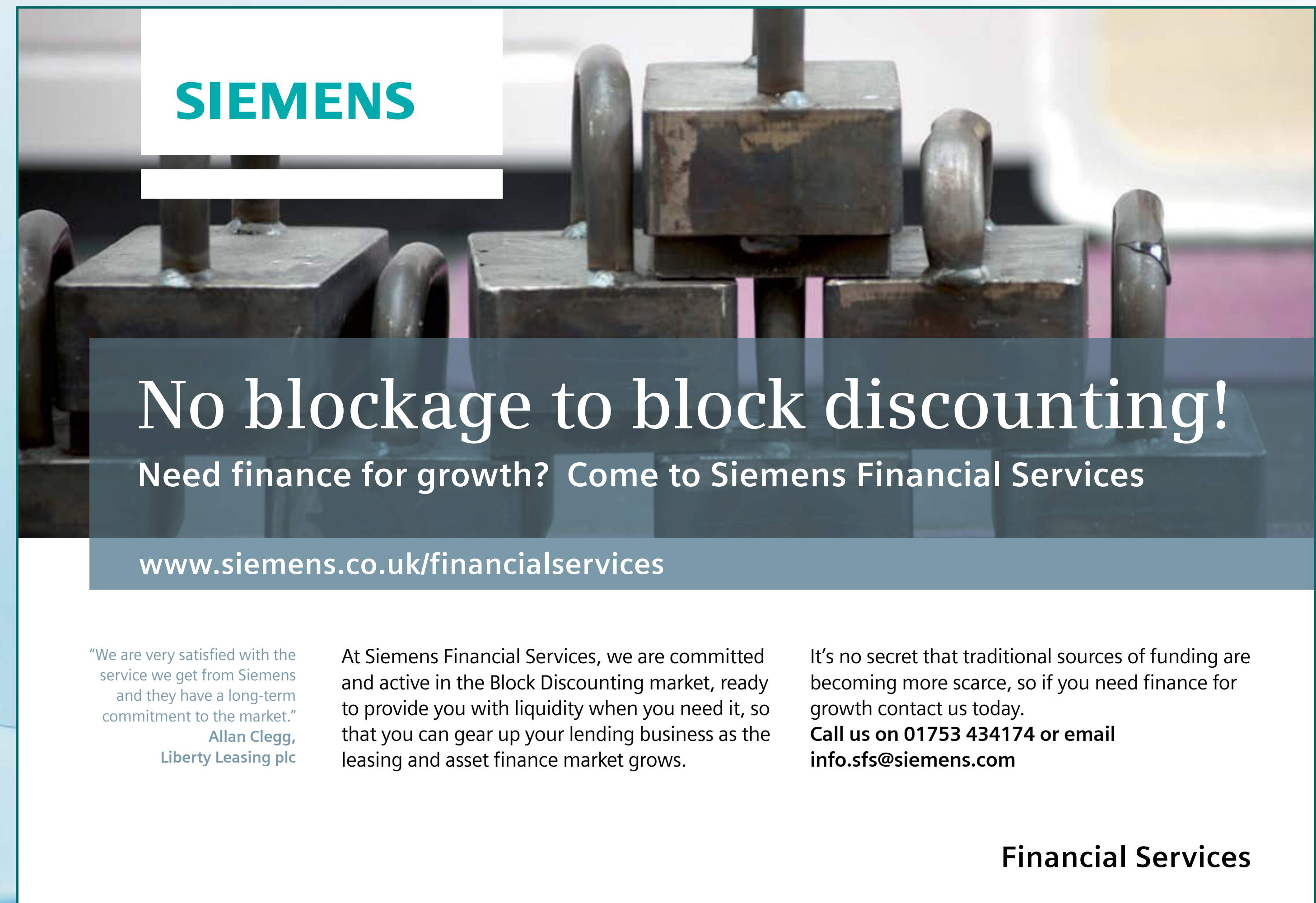
For young finance companies there is the likelihood that additional security in the form of personal guarantees will also be required.

Of course, the rates used in the example above are purely assumptions and in reality a finance company would have to look at the sums very carefully before taking on such an initiative, but, Block Discounting has been around for a good while and many a finance company has benefited from the facilities on offer, growing their books and turning in a good profit as a result.

Each of the Block Discounters have their own particular views on what types of business are good for 'blocking', some will only take asset lending, others won't touch TV Rental. The point is, no matter what type of lending, leasing or renting is done, there is likely to be at least one of the funders willing to 'block' it.

Another comforting thought is that Block Discounters rather prefer to do business with a company that already has a 'blocking' line with a competitor, so once one is in place it can be easier to obtain another facility in the future.

So, now that all the mystery has been removed, I don't expect to have to answer that question again!



Keeping the bailiffs in business...

The core of the sector of the bailiff business, small to medium sized enterprises that have been around for decades, is under pressure as never before says Colin Naylor, Managing Director of Dukes Bailiffs. "Setting aside the contrived and no doubt creatively edited 'insider' television programmes of late, we continually struggle to convince the general public that our services are both necessary and properly carried out. We hope that local authorities, themselves often caught up in negative reporting of debt collection, will join with us in calling for more open and transparent tender processes, more clarity on fees and more pressure on the Government to move matters forward.

We publish this at a time when progress with the Ministry of Justice towards an agreed fee structure seems to be meandering along in a somewhat pedestrian fashion, despite all parties accepting its end point as a desirable outcome. Some in the sector are now openly saying that they expect the industry will contract with bailiffs going out of business. Needless to say, it is the smaller companies which will be in most danger. If this should happen because of artificial pricing,the only companies able to sustain nil price loss leaders are the very biggest. No market place is secure when a very few providers are left. A near monopoly by a handful of company would be anti competitive and significantly reduce choice."

Business Information Providers Association (BIPA) launches website

The Business Information Providers Association (BIPA), an association of the five principal Commercial Credit Reference Agencies in the UK, has today launched a new website (http://www.bipa.uk.com/index.html) . The website will serve to promote the work of the Association, which was formed in March 2011, to facilitate economic growth through the promotion and protection of statutory publicly available data used by Credit Reference Agencies (CRAs) in the UK. This includes information held at Companies House, which plays an essential role in reducing the risk inherent in business transactions by ensuring credit rating assessments are founded upon accurate data relating to the financial position of businesses.

Source: BIPA News Release

HMRC's 'harassment and mistreatment' of small businesses

The Forum of Private Business (FPB) is warning firms to pay their tax bills on time or face large fines, amid criticisms that HMRC's paperwork spot checks regime is targeting them at the expense of large companies. The Forum has written to David Gauke, the Exchequer Secretary to the Treasury, to complain about HMRC's 'harassment and mistreatment' of small businesses, including imposing steep fines for even slight delays in tax bill payments as well as records errors or omissions, while at the same time agreeing 'sweetheart deals' with some of the UK's largest companies.

Recently the Public Accounts Committee estimated that unpaid taxes from big businesses could amount to more than £25 billion, prompting the Prime Minister, David Cameron, to pledge action on tax avoidance. However, in September 2011, following a pilot exercise in which just 12% of firms displayed 'seriously inadequate' paperwork, HMRC extended its small business records checks project, meaning 20,000 firms are in line for visits from the taxman in 2012/13. In addition to facing potential fines of up to £3,000 for records deemed inadequate, firms are being forced to negotiate ever more costly red tape at a time the Government is pledging to reduce bureaucracy.

The Forum's Chief Executive, Phil Orford, said:

'Small businesses want to keep proper records but struggle with the significant administrative barriers that exist in the UK. They also want to pay their tax bills on time but the reality is that many firms are struggling with cash flow in extremely tough economic conditions, yet HMRC is being completely inflexible. Entrepreneurs are crying out for a better tax regime that supports their ambitions and is conducive to growth, not one that provides constant hurdles to overcome and punishes them disproportionately.'

The Forum has called for reforms to PAYE, the speed of HMRC's internal procedures and the treatment of customers. In addition, as part of its headline Get Britain Trading campaign, the organisation wants a major root and branch simplification of the tax system to make it easier for small businesses to negotiate their tax responsibilities, which HMRC says is its 'main aim'.

HMRC said it intends to review the records checks project but would continue with a 'limited number' of pilot checks, with the results to be evaluated as part of the review.

Source: FPB Press Release

SME Support Report...

Government's business support in spotlight following demise of local Business Links

The Forum of Private Business (FPB) recently surveyed its members about changes to the business support organisation Business Link, which has been and centralised in London. They found:

- 61% deemed Business Link inadequate to aid growth
- 10% felt that the new support structure will provide them with cost effective support
- 30% consider support from Business Link to be irrelevant to their business
- 21% believe it will not provide them with cost effective support
- 40% had not required its support to date
- 22% believe public sector should not be involved in the type of business support supplied by Business Link at all

of the changes:

- 23% wanted public sector support organisations to be more contactable
- 58% said they had not used the local Business Links for a long time
- 21% had at some point in the past used their local Business Link's face-to-face service, which has now been replaced by a central website and call centre

respondents rated other sources of business support:

- 52% deemed Acas effective
- 31% deemed HM Revenue and Customs (HMRC) effective
- 29% deemed The Health and Safety Executive (HSE) effective
- 11% believed the advice from their local councils to be effective.

"It is probably true that the old Business Link services were under used and small firms do see value in some of the recent changes to public sector support, including the new website, but the removal of local advisers providing a face-to-face service has not been popular," said the Forum's Senior Policy Adviser Alex Jackman. "It is important that a streamlined, centralised service does not mean reduced support, advice and guidance overall , quality control and effective monitoring is key."

Source: FPB Press Release

Healthy Competition

Credit Unions given powers to compete with payday loans companies

New powers have been granted recently to local, non profit lenders allowing them to compete with payday loan companies. It is suggested that the relaxed rules on credit union membership will encourage co-operatives to become more prominent within the financial industry and provide a source of affordable finance for those on low incomes.

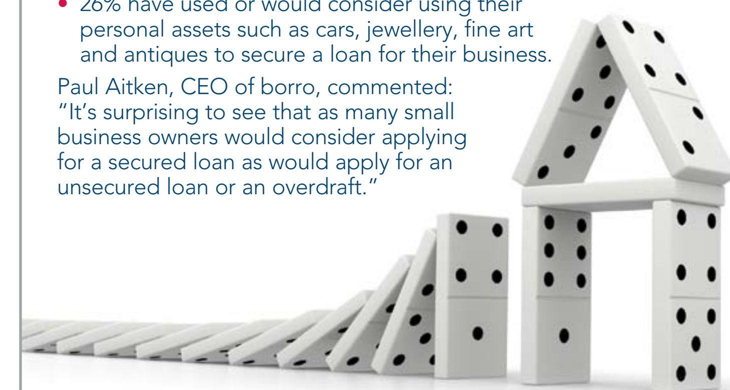
A letter outlining the key changes introduced by the Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2011 (SI 2011/2687) (LRO) and the 'Credit Unions New Sourcebook' (CREDS) has been published by the Financial Services Authority (FSA). The new rules became applicable from 8 January 2012. To read the letter in full, visit: www.fsa.gov.uk

One in ten small business owners use their home to borrow more

In 2011, 12% of small business owners in the UK put their own homes on the line as a guarantee for a loan to continue doing business, according to new research from borro, the personal asset lender. A survey of 300 owners and directors of small businesses showed:

- 33% of small businesses owners would consider using their home as a guarantee if they couldn't get any other kind of finance to help with issues such as cash flow problems, late payments from customers, tax bills and staff wages
- 57% have used their personal funds to inject capital into their business
- 17% have asked friends and family for additional funds
- 26% have used or would consider using their personal assets such as cars, jewellery, fine art and antiques to secure a loan for their business.

Paul Aitken, CEO of borro, commented: "It's surprising to see that as many small business owners would consider applying for a secured loan as would apply for an unsecured loan or an overdraft."



2012, the year of training?

With all the confusing changes in employment law, it would appear the majority of businesses are looking to cross train and up train their staff as a way of escaping the nightmare of confusion around employment law trauma and risk.

It seems that due to the changes in agency workers rights and the fear of unknown pension costs and tribunal fees, it is more sensible to keep existing staff and spend budgets on ensuring they are efficient in their own role whilst training them for new roles that any redundancies may have caused.

This is a massive move away from the Governments desired goal of decreasing unemployment figures. Judith Fiddler, CEO of Direct Law and Personnel stated that almost a third of their national retained clients are confused, and have chosen to concentrate on improving staff rather than replacing them or increasing numbers as the government predicted.

Source: Direct Law and Personnel

Getting paid on time...

To coincide with a Government drive to help business owners get paid on time, the Forum of Private Business (FSB) and Graydon UK Ltd, are to research small firms' attitudes to managing payments and cash flow.

According to a recent Graydon UK survey, 51% of businesses reported that late payment has become worse during the past year, with 45% believing it could threaten business investments and 20% that it could even threaten their ability to continue trading in 2012.

Phil Orford, the Forum of Private Business CEO comments:

'Late payment has long been the scourge of small firms, decimating cash flow, preventing growth and threatening their very survival, but there are steps business owners can take to minimise the problem. Often the problem is that they are not aware of how to implement a few practical measures that can make a big difference. That is why the Government's current drive to help business owners get paid on time, is so important.'

The Scope of FCA responsibility...

The Financial Services Bill 2010-12 (FS Bill) has had its second reading in the House of Commons. The FS Bill will now pass to the committee stage, with the Bill committed to a Public Bill Committee.

The Chancellor outlined the Government's vision to address another flaw in the system by making the Bank of England the single point of accountability when it comes to the prudential regulation of banks, large and complex investment firms and building societies.

It includes provisions enabling a full transfer of consumer credit regulation to the FCA, with retention of substantive CCA provisions. The Government will exercise these powers if and when it has identified a model of FCA regulation that is proportionate for the different segments of the consumer credit market. The accompanying policy document, A New Approach to Financial Regulation can be found at: http://www.hm-treasury.gov.uk/fin_financial_services_bill.htm.

Relevant consumer credit details and the scope of the FCA responsibility can be found in paragraphs 4.16 to 4.23

BBA welcomes the Financial Services Bill

Banks fully support, and have been working towards, the overhaul of banking regulation in the UK the British Bankers' Association said as a new era in banking came closer with the publication of the Financial Services Bill. The BBA said the Bill was an important step forward and that rigorous ground work by parliament and the industry had contributed to proposals which focused on effective, proportionate banking supervision.

British Bankers' Association Chief Executive, Angela Knight said: "Banks understand the need for change and have been working closely with government, parliament and regulators to ensure the industry operates in the best interests of the businesses, their shareholders and all their customers. The publication of the Financial Services Bill is an important milestone in rebuilding trust in the financial services sector. There are still many issues to work though and we will continue working with government so the new structures, as they emerge, help supervisors improve their decision-making."

Twin peaks...

the next stage of the reform process!

Hector Sants CEO of the Financial Services Authority (FSA) gave a speech at the British Bankers Association (BBA) briefing in London on 6 February, in which he outlined the FSA's timetable for the introduction of a 'twin peaks' regulation model. This is described as the next stage in the regulatory reform process, designed to replicate the model to be adopted by the PRA and the FCA.

According to Mr Sants, the intention is to introduce the 'twin peaks' model from 2 April 2012. Working within current operating and legal constraints, it is proposed that two independent groups of supervisors will be established, one covering prudential and the other conduct risks. Banks, insurers and major investment firms will be supervised by both groups, while all other firms that are not to be dual regulated will be solely supervised by the conduct supervisors.

He emphasised that the change will embed the forward looking, judgement based approach and accelerate the move away from the old reactive style of regulation. He argued that if this new approach is to work effectively, firms would need to change the way they thought about regulation. Firms will be expected to:

- recognise the importance of aligning their goals with those of the supervisors and society as a whole
- show a greater willingness to proactively comply with supervisory judgements
- recognise that this new approach will require greater resources and expertise and thus costs more than the old reactive model which existed prior to the crisis.

He concluded: 'It is really important that we must use this opportunity to accelerate the behavioural and cultural change needed in both regulators and firms. The new world of judgement based regulation needs to be embraced by us all.'

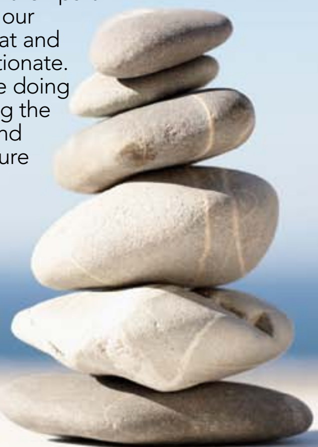
The way of the FCA... finding the right balance

In January, Martin Wheatley, managing director of the Financial Services Authority (FSA), outlined a new orthodoxy and regulatory approach for the future of conduct regulation, getting a fair deal for consumers. With just over a year to go before the successor bodies to the FSA take over, Martin who is also CEO designate of the Financial Conduct Authority (FCA), told a British Bankers' Association audience that it was time for a new approach to get the right outcomes for consumers.

"I want the culture in your firms, from your product governance to your sales, to be aligned with the best interests of your customers. I don't want to see any of the failings the FSA has had to deal with in the last few years. I want to emphasise this is not all about regulated firms. Consumers of course have a role to play, and we need a cultural change at the regulator as well." He continued "The FCA will need to ask tougher questions, and they need to be the right ones, if we are really going to discover what lies at the heart of your firms' successes and failures. The FCA then needs to make better, bolder, faster decisions. We all have to walk in the footsteps of your customers, to understand their perspective and to be able to deliver the new approach."

Martin Wheatley said, "The FCA will build on the experience of the FSA but will aim to strike a balance recognising that firms, the regulator and the consumer all have a responsibility.

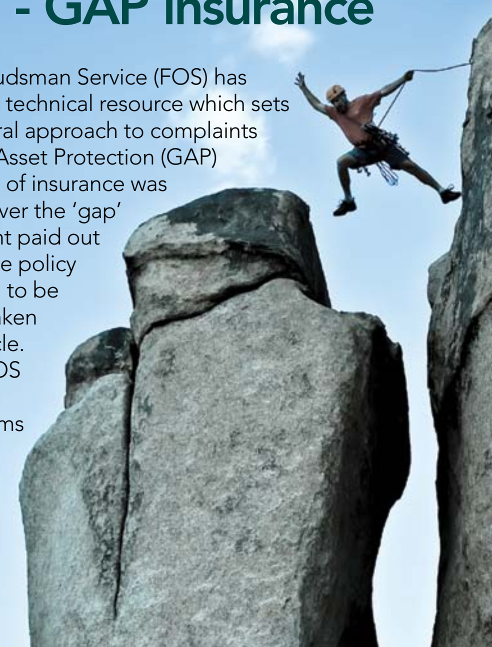
If a consumer makes a fully informed decision that subsequently goes wrong, then that is down to them, but we have to be realistic, and what this is about is balance. We have to realise that consumers aren't always in a position to take responsibility, because of their lack of financial knowledge and because we have to take a reasonable approach to what a normal person can understand about complicated products and risks. I believe that balance comes from all parties, consumers, providers, intermediaries, taking responsibility for their part in each transaction. So our approach will reflect that and be flexible and proportionate. What the FCA won't be doing is lying back then letting the market get on with it and expecting clear disclosure and a mandated sales process to do its job."



Narrowing the gap...

FOS online technical resource - GAP insurance

The Financial Ombudsman Service (FOS) has published an online technical resource which sets out the FOS's general approach to complaints about Guaranteed Asset Protection (GAP) insurance. This type of insurance was originally sold to cover the 'gap' between the amount paid out by a motor insurance policy and the amount still to be repaid on finance taken out to buy the vehicle. According to the FOS GAP insurance now takes on several forms including, Finance GAP Insurance, Return to Invoice Insurance and New Car GAP insurance.



To read the online technical resource in full, visit: **financial-ombudsman.org.uk**

FCA starting price... £54.9 million!

In February, the Financial Services Authority (FSA) announced its proposed Annual Funding Requirement (AFR) for 2012/13. This is likely to be the FSA's final AFR before it splits into the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA), in 2013. Ahead of the split in to the PRA and FCA, the FSA will reorganise internally and move to a twin peaks model that will begin to reflect the shape of the new authorities.

The FSA recognises the difficult economic circumstances for many firms and is committed to keeping any essential cost increases to a minimum. The FSA will achieve this by capping staff levels for the second year in a row and restricting core operating costs too, broadly in line with inflation.

Their core programme for the year includes:

- maintaining ongoing supervision of firms
- continuing to influence the international and European policy forums
- implementing the current EU major policy initiatives, including Solvency II
- delivering on the principal FSA initiatives to improve consumer protection
- continuing to focus on the quality of its staff
- continuing to deliver a tough and determined enforcement approach.

Overall the AFR for 2012/13 is £578.4m, up from £500.5m in 2011/12. Part of the increase in this year's AFR reflects the costs of implementing the government's reform of the UK regulatory framework. The current £32.5m costs for the restructuring are within the overall estimates set by HM Treasury last year. The AFR will also cover the costs of modernising the IT infrastructure to ensure it is a suitable platform before the transition to the FCA. This will require a £22.4m increase in the AFR.

FOS to charge £350 extra per PPI case

54% of the complaints received by the Financial Ombudsman's Service (FOS) in the last three months of 2011 concerned Payment Protection Insurance (PPI). The Omubdsman expects this to rise to 60% in the financial year from April 2012 to March 2013.

FOS described its PPI workload as "unprecedented" and added there is considerable uncertainty about the volume of these cases in future years. To date it has dealt with more than 300,000 PPI mis-selling complaints. In its latest publication, FOS stated: 'Initial feedback from stakeholders suggests that most believe we will continue to receive substantial volumes of PPI complaints for another two or three years.

The costs incurred in handling PPI cases will be significantly higher than the cost of handling other cases. So the ombudsman is proposing a supplementary case fee for PPI providers of £350, in addition to the standard case fee of £500, for each PPI mis-selling case that is referred.

The fee will be chargeable only when businesses have more than 25 PPI cases a year, reflecting where the costs are actually incurred in sorting out PPI mis-selling.

Tackling the PPI backlog...

A new report from the Financial Ombudsman Service (FOS) suggests that banks are still struggling to manage PPI mis-selling cases. FOS has said that it is receiving around 3,000 fresh cases per week from customers who have not received a response or are unhappy with the decision.

Consumer credit and analytics expert, Equifax, believes that a lack of insight into customer data across multiple products may be contributing to the delays. Their Single Customer Insight for regulatory compliance provides a solution to this problem that is quick to implement and that will help streamline the PPI claims process enhancing the experience for consumers.

The Equifax solution offers financial service firms several distinct benefits:

- correctly identify eligible claims
- identify customers with multiple products that may have PPI policies
- trace and target claimants
- develop an efficient, robust claims management system
- demonstrate best practice to customers and the FSA

Karl-Magnus Wadsack of Equifax said: "By working in partnership with the banks we are not only helping them to manage their business costs and reputation, we are also helping to improve the claims experience for consumers."

House prices dead in the water...

The latest National Housing survey of 1,500 agents and surveyors from across the country shows a slow start to the year with an extension of the seasonal slowdown and weak consumer confidence resulting in lower new buyer registrations and sales. Looking at the underlying trends a clearer picture emerges of tightening supply and weakening demand.

Concerns over the economic outlook and the impact of the Eurozone crisis resulted in an 11% drop in demand over the second half of 2011. Coupled with the extended seasonal downturn, the net result has been a 23% decline in buyers registering with agents between August and January. On the supply side there has been a steady decline in the number of homes coming to the market. The supply of homes for sales has contracted by 7% over the last 6 months. Supply has not contracted to this extent since 2009.

Given the pressure on household finances and the outlook for the wider economy as a whole, we expect only a modest improvement in levels of demand in the coming months. The net effect will be a continued negative balance between supply and demand pointing to further downward pressure on prices in the months ahead. A rise in London prices offset small falls across the rest of the country, a trend that may be heightened, by the Olympics. While overseas buyers, looking for a safe haven in the midst of global uncertainty, will continue to invest in the capital and the super prime postcodes of central London.

New mortgages on the up...

Annual growth of 1.5% in the banks' net mortgage lending continues to outstrip annual growth of 0.6% across the whole lending market in November.

BBA statistics director, David Dooks said, "December's £9bn of new mortgages was the strongest month of last year, being 12% higher than in December 2010. However, at the same time, the household sector generally is focusing on debt repayment amid inflated household expenses and a continuing air of uncertainty, so we see a reluctance to let net borrowing rise, with people preferring to use their bank account cash for expenditure. Business prospects are even more attuned to the state of the economy in the UK and in overseas trading markets, with borrowing intentions for growth or investment plans generally staying on the back burner."

A bird's eye view of the mortgage market in 2013...

The long awaited Mortgage Market Review has been generally welcomed by the mortgage industry.

Affordability has been placed at the heart of the proposals with an emphasis on good mortgage underwriting. There are three key proposals.

- firstly, lenders must assess affordability, it is not the job of a mortgage broker to do this. Intermediaries just need to find out whether the consumer meets the lender's expected eligibility criteria. Mortgages and loans should only be advanced where there is a "reasonable expectation" that the customer can repay without relying on rises in house prices
- secondly, the affordability assessment will take into account future interest rate rises. Borrowers should not enter contracts which are only affordable on the assumption that low initial interest rates will last forever
- thirdly, interest only mortgages should be assessed on a repayment basis unless there is a credible plan to repay the capital, relying on hopes of rising property values is not enough.

Lord Adair Turner, chairman of the FSA, said: "We believe that these are common sense proposals which serve the interests of both lenders and borrowers. The FSA is keen that lenders provide a detailed assessment of the likely impact of these proposed rules then the regulator will be able to make appropriate final decisions."

Paul Broadhead, head of mortgage policy at the Building Societies Association, said: "The devil is always in the detail but these proposals seem to represent a welcome shift in policy by the FSA.

No-one is looking for a regime that permits lax lending practices, however, the original proposals were in danger of locking credit worthy borrowers out of the market or imprisoning those with immaculate payment records, but non-standard profiles, in their current homes and loans. This seems to have been avoided which is good news for the self employed, those in existing self certified mortgages and people with negative equity."

HSBC reserves £15bn for mortgage borrowers this year

During 2012 HSBC intends to make available at least £15 billion in mortgages to UK homeowners, including £3 billion specifically set aside for first time buyers. With the UK mortgage market expected to shrink in 2012 to £133 billion, this commitment represents a market share of 11.3%, which will be the largest market share the bank has ever had.

Of the £15 billion HSBC will be making available for 2012, the majority will be new money into the mortgage market, effectively making the bank one of the largest providers of new mortgage funding in the UK. This commitment will help in the region of 150,000 homeowners and 27,000 first time buyers.

Martijn van der Heijden, Head of Lending at HSBC, said: "While some estimates suggest mortgage lending in the UK will fall this year, HSBC has no intention of closing its doors to customers, nor will we compromise our reputation for responsible lending."

Sale and rent back... closed for business!

The Financial Services Authority (FSA) has today published a report that shows most sale and rent back (SRB) transactions were either unaffordable or unsuitable and never should have been made.

Following a review of all regulated SRB firms, the FSA has referred one firm to its enforcement division while others have either stopped taking on new business or cancelled their permissions. Effectively, this means the entire SRB market is temporarily shut.
The FSA will now focus on working with firms conducting past business reviews to ensure any affected customers are treated fairly.

Nausicaa Delfas, the FSA's Head of Mortgage and General Insurance Supervision, commented:

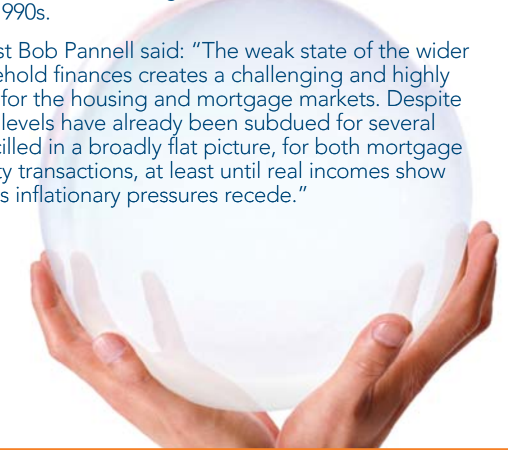
"The resulting temporary closure of this market could have been avoided if sale and rent back firms had taken the time to fully understand their regulatory responsibilities and customers' needs. It seems most were more focussed on their own commercial success rather than the welfare of the customers."

2012 crystal ball of mortgage lending...

The Council of Mortgage Lenders is tentatively predicting that mortgage lending will fall even further in 2012:

- gross lending in 2012 will be just £133 billion while net lending will plunge to £5 billion
- gross lending expectation for 2011 will be total £138 billion, with net lending at £9 billion
- housing transactions will remain at low levels, 825,000 next year, down from an estimated 852,000 transactions in 2011
- 45,000 repossessions in 2012, up from an estimated 37,000 in 2011 but still fewer than the 2009 figure, and far lower than in the downturn of the 1990s.

CML chief economist Bob Pannell said: "The weak state of the wider economy and household finances creates a challenging and highly uncertain backdrop for the housing and mortgage markets. Despite the fact that activity levels have already been subdued for several years, we have pencilled in a broadly flat picture, for both mortgage lending and property transactions, at least until real incomes show signs of stabilising as inflationary pressures recede."



Vulnerable and elderly trust betrayed...

The Financial Services Authority (FSA) has issued its largest ever retail fine of £10.5 million to HSBC because of inappropriate investment advice provided by one of its subsidiaries, NHFA Limited (NHFA) to elderly customers. HSBC estimates that the amount of compensation to be paid customers will be approximately £29.3 million in addition to the fine.

Between 2005 and 2010 NHFA advised 2,485 elderly customers to invest in asset backed investment products, to fund long term care costs. The products were sold to individuals entering, or already in, long term care. Typically these investments are recommended for a minimum period of five years and were unsuitable in a number of cases because the individual's life expectancy was below this investment period.

A review by a third party of a sample of customer files found unsuitable sales had been made to 87% of customers involving these types of investments. Tracey McDermott, Acting Director of Enforcement and Financial Crime, said: "NHFA was trusted by its vulnerable and elderly customers. It breached that trust to sell them unsuitable products. This type of behaviour undermines confidence in the financial services sector."

Buy-to-let lending to increase...

The Co-operative Bank's dedicated intermediary mortgage provider Platform, has ring fenced £600 million to provide funding to the buy-to-let lending sector this year.

Throughout 2011 Platform has been building its buy-to-let presence in response to broker feedback and continued growth in demand. They have developed its buy-to-let proposition by launching new products, including the 'Options' range with no early redemption fees, 'cashback' products designed to help new landlords with initial costs.

Lee Gladwell, Business Development Director at Platform, said: "We aim to be a preferred lender for this sector in future by continuing to provide a wide and innovative product range and great service support. Uncertainty around the economy, employment and house prices is continuing to fuel demand for the rental market and creating opportunities for landlords and brokers."

Phone fear...

60% concerned about risk of shopping with their mobile!

Mobile shopping should be set to take off, but safety fears may hold it back. Research conducted for Affinion International, a provider of protection and assistance products to many of the world's major banks, reveals that using a smartphone to surf the web and shop is where people feel most at risk of card fraud and identity theft. Although experts agree that online shopping will increasingly move to mobile devices, the thing that may hold shoppers back is a fear of crime.

- 60% believe they are at risk when using a mobile
- 26% felt using a mobile to shop and surf left them at a high risk of card crime
- 13% felt the same when using a home PC or laptop.

Bridging business set to rise...

According to a poll carried out by West One Loans:

- brokers expect to write 27% more personal bridging loans in the next twelve months
- brokers who specialise in bridging business, expect the volume of loans they write to increase by 33% over the year
- 63% of brokers are writing more bridging business than 12 months ago
- 28% are writing a similar number of loans, but only 9% said they are writing less
- 67% of brokers predict the average rate on a bridging loan will either hold steady or fall in the next six months
- 33% of all bridging loans written in the last twelve months were for buy-to-let investors
- 22% of all bridging lending went to developers.

Duncan Kreeger, chairman of West One Loans, commented: "The bridging industry has grown rapidly since 2010. Net lending is up 56%, which makes the mainstream market look turgid by comparison. The rate of growth shows no signs of slowing. Banks are looking to protect their balance sheets so are becoming more reluctant to lend to borrowers who only want to put down a small deposit. This is encouraging more investors to turn to bridging, where high Loan to Value loans are more accessible."

A family affair...

Debts soar as families struggle to save

Families in the UK are struggling to build up their savings as the impact of inflation puts pressure on incomes and debt levels, according to research from the latest Aviva Family Finances Report.

The typical monthly net income for families in the UK is now £2,066, an increase of 7% in the last year. Divorced, separated, widowed parents saw their monthly income fall significantly by 22% over this period to £1,075.

The typical family debt, excluding mortgages, has increased by 48% to £7,944. This shows that families are building on their existing debts rather than clearing them.

Families are saving slightly less each month than they were at this time last year. The typical amount saved on a monthly basis has fallen slightly from £22 to £21. Furthermore, 42% of families are now saving nothing on a monthly basis compared to 40% in January 2011. The number of families with no savings set aside has fallen from 33% to 30%, suggesting that most families are trying to build up some sort of cushion against unforeseen expenses. However, six out of ten families are still without any form of protection insurance, which suggests that many are not fully prepared against the unexpected.

Despite the impact of inflation over the past year, the average monthly family expenditure has remained steady although inflation has increased (4.88%). This trend of economising has also seen families cutting back on their non-essential spending. 22% of families claim they are not spending money on personal goods, while 30% say that they do not spend on entertainment, recreation, holidays, and 42% spend nothing on leisure goods.

Louise Colley, Head of Protection Sales and Marketing, Aviva says: "Many families appear to have acclimatised to this economic environment by shopping around and seeking to minimise their spending in certain areas. However, at the same time there are still a worrying number with insufficient savings or large debts."

Take our advice... struggling to manage debts?

Research from the Money Advice Trust shows, the number of people getting help from free debt advice agencies increased in 2011 to 1.54 million people, compared to 1.4 million in 2010.

However, the charity is warning that there is a far larger 'latent' demand for help, as figures also show around 20% of the adult UK population, find themselves in a 'constant struggle' to manage their debts.

Joanna Elson OBE, Chief Executive of the Money Advice Trust, said: "With unemployment rising and wage growth relatively flat, whilst prices are going up, it's going to take a greater proportion of household income to heat your home, put food on your table and petrol in your car. In short, day to day living will take up more and more of your money, which can make it hard to pay the bills. Our research shows people are going to extreme lengths to get on top of their finances, with some selling treasured items, such as jewellery, cars and even pets, just to make ends meet. But far too few people do the one thing that stands the best chance of making a real difference, and that is seeking free, independent advice from charitable services like National Debtline, My Money Steps or Citizens Advice."

Fraud facts...

The analysis of fraud trends during 2011 by CIFAS, the UK's Fraud Prevention Service reveals:

- over 236,500 frauds were identified during 2011
- identity fraud accounts for over 113,000 fraud cases, a 10% increase from 2010 levels and representing 48% of all frauds
- an 18% surge in facility takeover fraud, where a fraudster gains access and fraudulently uses a victim's account such as a credit card, bank account or mobile phone, meaning that this type of fraud has rocketed by nearly 300% in just five years
- a 13% rise in misuse of facility fraud, where an account, policy or other facility has been legitimately obtained but is later used fraudulently.

Communications Manager Richard Hurley, comments: "Many of these frauds will undoubtedly be committed by organised criminal elements, but many will also be committed by people who seemingly feel that their circumstances leave them no choice.

It is obvious that fraud relating to personal data is an immense criminal trade so, fundamentally, it's time for every one of us to start treating data in the same way that we would guard a prized possession, as something to be secured and protected without complacency."

Insider fraud increases in 2011...

Analysis of frauds recorded on the CIFAS Staff Fraud Database reveals an alarming increase in the level of fraud being committed by employees during 2011 (when compared with 2010), most notably:

- 14.5% overall increase in the number of insider frauds recorded in 2011 when compared with 2010
- 41% spike in the number of dishonest actions by staff to gain a benefit by theft or deception
- decrease in the number of unauthorised disclosure of data frauds
- levels of fraudulent attempts to gain employment remain relatively stable.

While organisations readily accept the danger and damage that customer fraud can inflict, many remain reluctant to recognise the risk of fraud being committed inside the organisation by its staff.

CIFAS Communications Manager, Richard Hurley, comments: "The damage done by fraudsters who sit within an organisation is not just upon a balance sheet but also on staff and customer morale, reputation and can even result in regulatory and legal sanctions. To assume that staff committing fraud will not affect your organisation is pure folly."

A jobless generation...

Unemployment rate at 17 year high

According to the Office for National Statistics, the number of people unemployed in the UK rose to 2.68 million in the three months to November 2011, up 118,000 compared to the previous quarter. The number of unemployed people has not been higher since 1994. The youth unemployment rate continues to rise, up 1%, with 22.3% of 16 to 24 year olds out of work. This equates to 1.04 million young people, up 52,000.

The TUC General Secretary Brendan Barber commented: "These figures are even worse than the bleak economic forecasts predicted, with new records achieved for youth and female unemployment. The fear is now that mass joblessness becomes a permanent scar on the UK, with unemployment rising by 1,300 a day towards the end of last year. The news for those in work isn't great either, with pay growth falling and more people having to move to into part time and insecure self employment. We are in the midst of a full blown jobs crisis that is causing misery for millions and ruining any chance of an economic recovery. Ministers must start putting forward bold solutions to address this crisis, starting with a job guarantee for any young person out of work for six months."

More please...

Consumers take home less pay in 2011 compared to 2010

Throughout the course of 2011 take home pay growth edged up on both the VocaLink FSTE 350 Take Home Pay Index and the Public Sector Index. Private sector pay has grown at a faster rate than public sector pay, with a year on year increase of 0.9% percentage points, from January's low of 0.6% growth, to reach 2.6% growth in November.

In real terms, when you consider the increasing cost of living, electricity prices are 14.9% higher than a year ago and gas prices are some 24.1% higher, consumers have faced a substantial decrease in their spending power over the course of the year.

What cost credit in the future?...

The debt mountain, the credit decision and social tenants

George Wilkinson

George Wilkinson, Independent Advisor to Big Issue Invest, and Sarah Forster, Director of Development at Big Issue Invest.

Access to credit in the UK is greatly influenced by credit scoring, this article looks at the role it plays in relation to the debt mountain. Credit scoring processes in all areas; mortgages, personal loans, credit cards, motor finance and even business loans, were designed to facilitate optimal risk forecasts and better decisions. If the debt mountain was large but considered affordable, then there would be less of a problem. One can assume that the quality of lending decisions and changes in economic circumstances are more relevant than the absolute size, this is especially true for unsecured lending.

One might say, credit scoring decisions influenced the totality of acceptances to date, so if there is a worrying debt mountain then scoring could be a contributor. Scores probably account for much but not all of past lending decisions and will increasingly influence future decisions, so it is worth looking at how they work in general and at their effects on some segments of credit in particular.

Big Issue Invest has been looking at how scoring and referencing affect social housing tenants in terms of financial exclusion.[1] The hypothesis was that social tenants might be being unfairly declined for mainstream credit, and therefore overly dependent on high cost credit, because there was insufficient information in mainstream credit scoring models to score them properly. To test this hypothesis, Big Issue Invest undertook a study involving a detailed analysis of 50,000 social housing rental accounts. Data on rent payment was added to a generic credit scoring model constructed and tested by credit reference and credit scoring firm Experian.

Scoring systems intrinsically collect, organise and compare huge volumes of past data from those who pay and those who do not pay. They are but a set of sensible, logical and measurable instruments that help to make better decisions, a tool for underwriting decisions that have to be made anyway. In an operational mode they are only as good as the stability of the past data that underpins them, but a non-score credit decision maker still has to make a judgment.

Increasingly, credit reference data has been to the fore as it is very predictive and a more up to date and verifiable component within many score cards. The scoring process is complex and methodical and the subject of much testing and validation. Ironically, the end result looks simple in that at the point of credit decision a variety of data responses to relevant questions lead to a single risk score.

But properly used, such systems strike a good balance by ranking those with different risks of repayment.

The score decision alone is not enough of itself, as other factors come into play. Benign economic conditions create a comfortable desire for credit and one that can be supplied, especially if competition is rife and if there is an abundance of money to be lent. The current concern is that the UK economy has become overly dependent on consumer spending fuelled by unsustainable levels of credit, hence the need to reduce the debt mountain to more sustainable levels and rebalance the economy away from dependency on consumer spending. However, we should be careful what we wish for. Borrowing may go too low. One European government with a tighter control over consumer credit studied the UK model in this regard because the provision of consumer credit was observed externally as a spur to economic growth! What happens if the risk mountain continues to shrink substantially?

Lender management throughout its wider processes dictates the point where more or less overall risk is allowed onto the books. Cut-off points are set or reset, often alongside policy on income eligibility and minimum loan sizes too, to reflect an organisation's risk appetite, which is related in turn to assumptions on revenue and losses likely from certain applicants. Incidentally, if a minimum loan size is set then lower income applicants can be routinely declined, especially if there are also minimum income requirements.

In strong and stable economic times, payment histories are in general good, which is reflected in the scores created. If the good times continue, this generates a confirmation in the performance outcomes of these loans. These are the conditions for a significant growth in lending. The scoring models play a part, but are they up to the job if the background economics change? These models were created in different times.

We observed in our Big Issue Invest studies that lending in the good times was provided to those on lower incomes and to social tenants, who were and are still risky compared with owners. A material number were in arrears, suggesting the possibility that the credit was a prop to an income that was too low. That is a social issue that needs to be addressed.

A critical point here is to stress that a score gives a risk forecast but does not say how much to lend. Overloading a fairly low risk borrower can lead to later problems that the score did not anticipate.

Big Issue Invest found that there was a lack of data on the credit agency files for many applicants in our social tenant study, around 30% of tenants had "thin or empty" credit reference files. So some of these lending decisions were probably based on incomplete information. Many of those with thin files were more likely to be rejected, sometimes unfairly.

The Big Issue Invest study recommends the addition of rent data to the credit reference databases, so that it can help bridge the information gap by providing a fuller picture of people's payment behaviour. Incorporating this data can improve a scoring model's capability to discriminate between those social renters who are more likely to pay for credit and those who are less so. The aim is to free up credit provision for those who can handle credit and restrict it for those than cannot. This segmented approach is invaluable.

In recent years the sheer volume of lending tended to mask high levels of arrears for both home owners and tenants. But it is clear from Bank of England figures that the mid to late 1990s saw a surge, with levels remaining high for several years. It should be noted that it is only very recently that reference agencies have become able to access an almost complete picture of individuals' bank debt. This has enabled better lending decisions to be made, but simultaneously credit policy has become increasingly tight.

Research now suggests that both the large secured mountain of mortgage lending and the smaller but still important unsecured hill are starting to shrink. Though fears of repossession of the former and the burden of being behind on loans can still bear heavily on some borrowers, arrears have been reducing too.

It is an open secret that banks and other lenders have tightened their credit policy on both secured and unsecured lending. A substantial increase in deposit is required for a mortgage, and higher credit score cut-offs on loans are playing their part. Fears continue about falls in the property values that underpin mortgages, and banks are building their capital bases to re-establish their diminished reserves. Strictures to this end are appearing from rating agencies, regulators and central banks worldwide.

Past consumer lending growth has been substantial, and some of the consequential losses have contributed to eroding the lender capital bases and inhibited profits and growth. Not all of this erosion has been due to consumer spending and borrowing, we are also seeing the impact of provision for the many losses from business, commercial property and corporate developments. That said, the amounts written off each year for consumer lending are still significant, with much of this attributable to home owners.

Retail revenues and spending on discretionary items are both falling, which is driving up closures on the high street. There have been deep cuts in employment, with more to come. All this adds up to a worried consumer, and as a result borrowing is down and declining further. Cars, sofas, new kitchens and other consumer goods are being resisted, despite frequent sales promotions and price cuts. The consumer is cutting back, which means borrowing less, and can also free up cash to pay down debts.

However, and despite historically low interest rates for some potential borrowers, it is hard for a consumer to envisage how to pay back debt in the present downturn and in such inflationary times.

But is the rationing of lending being done fairly and accurately? There is an emphasis on only lending to existing customers with known and good track records, presumably to minimise marketing and acquisition costs as well as write-offs.

It is only a short while ago that many more were gainfully employed, the economy was growing and the high street and the travel and motor industries were very happy. Loans were obtainable from a variety of sources, mortgage availability was strong and competition among lenders was rife. Now, with fewer holidays being taken and people preferring to buy older second hand cars, there is a real reduction in credit applications, in terms of both frequency and amounts being borrowed.

This is supply and demand at work, and both are weak. So, has the problem of the sheer size of the mountain changed because of the enforced low risk appetite of the lender and the lack of borrower affordability? And are some of the tighter lending policies knee jerk reactions rather than having been rationally arrived at? Are some stable and creditworthy borrowers being overly cautious?

The mountain is shrinking, due to supply and demand changes strongly related to economic influences. Borrowers are being more careful and lenders more cautious. Regulators are now keen to see lenders take into account unemployment, GDP and inflation changes in their lending policy, forecasting and provisioning processes. There seems to be a consensus that future lending should be careful and measured.

Competition in financial services is still the mantra, but could this result in an over supply once more?

Banks and lenders with low risk policies are making many rejection decisions on those with good repayment prospects. As a result, lenders in the higher risk areas are seeing an increase in higher quality applications offered to them. Are banks being rational in their decisions? Have they relied too much on automated decisions and credit scores built on data that was suitable in past years but less so now? Do they have the capability or the cost appetite to investigate deals more closely on an individual basis? Are they now too risk averse? And can we expect to see an ongoing policy of tight lending?

The Financial Services Authority (FSA) speaks of higher degrees of enforcement under the coming new regulatory regime, but stresses that it is society that ultimately decides on and pays for heavier regulation. Do we as a society aim to control the level of lending? Are we in fact able to do so? We hear complaints that past lending was excessive and too easy to get, so are we seeking tighter controls? What will be the effect of lower borrowing on GDP?

In Singapore it was once illegal to provide credit cards to those who earned less than $10,000 each year, and a German consumer advocate at a recent conference proposed the banning of credit cards. Do we wish policy to be that stringent? Control orders were once tried on car financing which required high deposits, but ways were found to get past these. Will banks soon be being encouraged to lend to consumers in the way they are being urged to for small and medium sized enterprises?

Policy makers will need to see the extent of regulators' action and if they have teeth. In the short term, we run the risk of jeopardising the completion of a very short and urgent journey by looking for a new fan belt, when driving conditions are already icy. It is the time for rational dialogue and for policy to be influenced by fact based research. We need to make sure that the true needs of the consumer and the stability of the banking system are brought into step.

Lenders are now much more likely to have to separate their consumer lending from corporate lending. This highlights the importance to them of consumer credit being both profitable and visibly fair. An excessive focus on existing customers will inhibit growth, but already incentives for new current account opening have started.

In addition to diminished lending volumes, the implied loan cross subsidy income from the unpopular Payment Protection Insurance has gone, and overheads are rising.

All this suggests that credit will become not only difficult to obtain but also more expensive.

Turning to look at some component parts of the credit mountain, the Big Issue Invest study found that social tenant applicants with little or no credit experience or history were more likely to be declined for credit, or to pay a higher price for it. Those with a number of good histories at a credit reference agency have a high probability of being accepted, but those with thin or empty files are very likely to be declined. However, given the high declension rates, and the influence of lower incomes on loan sizes, the significance of social tenant losses is small relative to those of other tenures.

Banks revealed similar levels of credit applications between tenants and home owners relative to their proportions in the population. But tenants are twice as likely to be declined as are home owners, and despite this credit screening are twice as likely to default. This makes lenders wary of the tenant market, yet interested in the potential of new data to improve credit decisions.

We estimate that over 1 million low income tenants could benefit from improvements in credit decisions if social housing rent payment data were shared (and more if private rent payment data were included). This highlights the need to look at how credit decisions are made to certain segments of the population, and to consider the use of additional data.

It is increasingly difficult for tenants to get a mortgage, so there will be more and more people with limited credit histories and a higher probability of being declined. Social tenants are increasingly aware of this, and many see the value of their utility bills and rent payment histories in establishing a fair reading of their potential creditworthiness.

This article has highlighted a number of questions that need to be directed at policy makers, regulators and lenders, and many of these relate to the position of the credit decision process itself. Rent payment data sharing will become an important component within segments of the market, and highlighted in the lending process to social tenants in particular. Implementation will require heavy investment, as sources of data are widespread, there are over 2,300 social landlords in the UK. To achieve the maximum benefit, a critical mass of data collection must be achieved, and soon.

There are lending organisations and reference agencies that will achieve modest improvements and financial benefits, but few will see massive benefits in commercial terms. The social benefits are to the fore.

Over 1 million low income tenants could benefit from greater access to mainstream credit and financial services. Given their increased prominence in the drive to improve financial inclusion, credit unions should benefit from a wider sharing of rent payment data too.

The credit decision process is an important influence on the size of the so called credit mountain, but this process is evolving and is increasingly under the scrutiny of the FSA and other regulators. Lenders need to examine and improve their scoring processes, consider new sources of data, and examine subsets of their lending more fully, so that they are lending responsibly and fairly to all consumers, including those on the lowest incomes.

Source: The Smith Institute

[1] The social tenant market is made up of 4.3 million properties in the UK, managed by over 2,300 social landlords. Around 5.2 million tenants are estimated to be "credit active" and could be affected by improvements in credit decisions if social housing rent payment data were shared (and a further 3.5 million if private rent payment data were to be included).

23 Essex St., Flat C. must be quite spacious...

[Because 26 occupants just applied for loans.]

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EU proposes enormous data reform...

The long awaited proposals to modernise data protection have been recently announced by the European Commission with the publication of their proposal for a "General Data Protection Regulation". This will replace the existing regime set out in Directive 95/46/EC, given effect in the UK by our Data Protection Act 1998.

Stephen Cowan
Managing Partner, Yuill + Kyle

Readers should be aware that the proposal will still need to be approved by the EU's member states and ratified by the European Parliament and during this period there will be much lobbying, particularly from the US. The key achievement of the regulation will be to replace the patchwork of law of the 27 Member States with a single set of data protection laws and with businesses only having to deal with a single data protection authority, there is the possibility for time and money to be saved. Some of the key changes in the proposed regulation include:

- penalties for non-compliance to be increased. Serious violations can result in the Supervisory Authority imposing fines up to 1 million, or in the case of an 'enterprise' up to 2% of global turnover. This is compared to the current maximum £500,000 fine in the UK
- an obligation will be placed on organisations to notify the National Supervisory Authority of serious data breaches without undue delay and, where possible, within 24 hours
- where a data subject's consent is required for data to be processed, such consent will need to be given explicitly. Explicit consent could be given by way of a statement or other clear affirmative action (including by ticking a box when visiting a website). It will not be acceptable to assume consent from a data subject's silence or inactivity
- public authorities and enterprises with 250 or more employees or whose core activities involve processing operations which require regular and systematic monitoring, will need to appoint an independent data protection officer
- 'privacy by design' and 'privacy by default' are concepts that will need to be incorporated into business processes. This means that privacy safeguards will have to be integrated into products as they are developed and that in social networking, the default settings must protect the privacy of individuals
- data subjects will have the "right to be forgotten". An individual will be able to ask an organisation to erase all personal data that the organisation holds on that individual, including any public links to or copies of personal data that can be found on the Internet. The organisation will be required to delete the individual's data unless there are legitimate grounds for retaining it
- data subjects will have the right to transfer personal data from one service provider to another without hindrance
- companies based outside of the EU that offer their goods or services to EU citizens (or monitor the behaviour of EU citizens) will have to apply EU data protection rules.

Whilst the intention of the proposals may create greater legal certainty new unprecedented obligations will be imposed. These will be significant and onerous. Business will have to make substantial investments to ensure their compliance. Their failure to do so could result in a significant fine as well as adverse publicity.

Mike Bradford

Huge reforms to the way data is used and stored on individuals and businesses have been proposed by the European Commission (EC). Businesses would face a single set of rules, designed to remove administrative burdens such as notification requirements, which the EU estimates will save businesses €2.3bn a year. A new Directive would apply general data protection principles and rules for police and judicial cooperation in criminal matters, which would apply to both domestic and cross border transfers of data.

Mike Bradford, Director of Consultancy at Regulatory Strategies, comments: "This is good news for pan European businesses as the rules will be the same across all countries, which means less red tape and makes it easier to move data geographically. But credit industry players need to gear up for more explicit consent, data breach reporting, mandatory data protection officers with a degree of independence, individuals having rights to transfer their data from company to company. For organisations merely processing data for another business, they will now have direct data protection responsibilities."

The proposals will now be passed on to the European Parliament and EU Member States meeting in the Council of Ministers for discussion. They will take effect two years after they have been adopted.

Legal Eagles

Unfair relationship – crying wolf?

Paragon Mortgages Ltd –v- McEwan-Peters & Anr [2011] EWHC 2491 (Comm)

Ian Norman
Partner, Lightfoots LLP

Mr McEwan-Peters (RMP) ran a buy-to-let property portfolio personally, as well as through a number of different limited companies, such as RMP Properties (Leeds) Limited and RMP Properties (Headingly) Limited. The businesses, as well as RMP's personal portfolio were funded by Paragon Mortgages Limited (Paragon). RMP gave guarantees to Paragon in respect of the loans to the RMP companies.

During 2007, the RMP businesses ran into difficulty and the portfolios fell into arrears. Paragon called in the debts and sued RMP, as follows:

- in respect of loans made to him personally
- in respect of loans made to the companies in his capacity as guarantor for such loans.

RMP sought to defend the claims, which were for:

- £3,198,061 under 10 guarantees given by RMP in respect of mortgage loans made to RMP Properties (Leeds) Ltd
- £3,654,482 in respect of 14 mortgage loans made to RMP.

The Issues

In his defence, amongst other things, RMP alleged:

- that Paragon had agreed not to enforce the loans unless the arrears reached 3 months' payments (alleged promissory estoppel)
- that the relationship between him and Paragon was unfair to him within the meaning given by section 140A of the Consumer Credit Act 1974 (the Act).

The Judgment

Mr Justice David Steel gave the judgment of the High Court. He examined the issues on the evidence and found, as follows:

That with regard to the alleged promissory estoppel, on the evidence this could not be upheld. The judge preferred the evidence given by witnesses on behalf of Paragon, over that given by RMP. The judge found that, at most, Paragon had confirmed that if the arrears reached 3 months then enforcement would be actioned. This is quite different to a promise not to enforce unless the arrears reached that 3 month threshold. RMP was not able to show that an unequivocal assurance had been given by Paragon to this effect, let alone that he had relied on it to his detriment.

With regard to the allegation of Unfair Relationship, this point could only arise in respect of loans in which RMP was debtor and not guarantor, as the guarantees did not constitute credit agreements. The demands on the personal loans were not unfair:

- the mere fact that the mortgages were repayable on demand is not unfair, such terms were commonplace in the industry
- there was no suggestion that the demand was prompted by an improper motive or an arbitrary decision
- although the original demand was made at a time when RMP's personal portfolio was not in arrears, by May 2009, when demands were made in respect of RMP's personal portfolio, it was a very different story
- the RMP Properties (Leeds) Ltd portfolio had been substantially in arrears for some time and both RMPs personal and corporate buy-to-let operation was in "terminal trouble". The intervention by way of demand could not be remotely categorised as unfair.

Conclusion

This decision is evidence of the wide range of cases in which debtors seek to invoke section 140A of the Act. It is clear that in many cases the unfair relationships provisions of the Act appeal to borrowers facing the prospect of lawful enforcement action by creditors. Whilst there will of course be legitimate circumstances in which these provisions are invoked, the temptation to use them as a shield is proving great for debtors.

Arguably, who can blame the debtor for doing so? Once the allegation of unfair relationship is made, provided the debtor can adduce some evidence of unfairness, it is for the creditor to prove that this is unfounded. This can buy the debtor time and bargaining power in the face of repossession or impending judgment on any claim. The wide scope of these provisions, so heavily criticised prior to their introduction, is causing the predicted proliferation of case law.

Creditors should be thankful for the largely pragmatic and common sense approach to these provisions that has been adopted by the courts to date, as evidenced by decisions such as this, as well as others that have been reported in recent times.

Stretch limos... Veni, Vidi, VOSA

Michael Morris
Partner, Gorvins Solicitors

Apparently, Caesar knew a thing or two about chariots, and if he were around today there can be no doubt he would have been impressed with the powers of the Vehicle and Operator Services Agency (VOSA). Fortunately, he escaped the rigours of the Public Passenger Vehicles Act 1981 (the Act) and the Public Service Vehicles (Enforcement Powers) Regulations 2009 (the Regulations).

It is common knowledge that the operator of a goods vehicle requires an operator's licence to lawfully use a vehicle, but what is the position in respect of a stretch limo?

It is not a goods vehicle. The Regulations prescribe that if a vehicle has been adapted to carry more than eight passengers for hire or reward, it becomes a public service vehicle and a PSV operator's licence is required. (Perhaps the prospect of an eight seater chariot is stretching things too far). However, if members are financing a stretch limo for its operator customer, a degree of care is required. VOSA have powers to detain unlicensed vehicles and whilst regulations permit an application for the return of the vehicle, success is far from guaranteed.

The grounds to apply for the return of the vehicle are that at the time it was detained the operator held a valid licence or the vehicle was not being used or had been used in contravention of the Act, i.e. to show that VOSA had made a mistake in detaining the vehicle. This would be unusual.

Instead the ground more often relied on is that the finance house owner did not know the vehicle was being used, or had been used, without an operator's licence. Unfortunately lack of knowledge through a failure to make proper enquiries as to the true position does not afford a ground for the return of the vehicle.

When hearing an application for return, the Traffic Commissioner will need to be satisfied not only that the finance house is the owner of the vehicle, but more importantly that steps were taken to establish the operator had a licence when the finance agreement was entered into. Members cannot simply rely upon the term of the agreement requiring the hirer (operator) to comply strictly with all legal requirements. There is very much an expectation that proper enquiries will have been made into the existence of the licence, that it is in the correct name of the operator and, of course, has not expired. This information is available on the VOSA website.

If these steps have not been taken, an application for the return of the vehicle is likely to be refused. In those circumstances, VOSA is empowered to sell or destroy the vehicle. And as Caesar was well aware, there was little point in having extensive powers, if not to use them. This may explain why it is rare to see one of Caesar's eight seater chariots today. If unclear as to the procedure, the proper course is to seek legal advice.

Satisfaction guaranteed?...

Fiona Hayles
Associate, Shoosmiths

In April 2007 Craig McGuinness ("the Borrower") obtained a mortgage from Norwich and Peterborough Building Society ("the Society") to purchase a flat. He subsequently acquired an adjoining flat (which was not charged by the Society) and amalgamated both premises into one. The Society did not consent to the works, became concerned about the value and realisability of its security and threatened to call in the loan.

To avoid this, Spencer McGuinness ("the Guarantor"), the Borrower's brother, provided a guarantee for his brother's loan. There are several different types of guarantees:

- a "see to it" obligation – an undertaking by the guarantor that the principal debtor will perform his own contract with the creditor. This gives rise to a liability in damages. The obligation undertaken by the guarantor is not one to pay, but consists of a promise that the debt will be paid by the principal debtor
- a conditional payment obligation – a promise by the guarantor to pay the instalments of the principal and interest which fall due if the principal debtor fails to make those payments
- an indemnity - this gives rise to a claim that is enforceable by way of action for unliquidated damages
- a concurrent liability with the debtor for what is due under the contract of the loan.

The Borrower failed to repay the loan to the Society, who therefore issued a statutory demand against the Guarantor in respect of the sums due from the Borrower to the Society under the terms of the guarantee. The Guarantor did not pay. The Society therefore issued a Bankruptcy Petition against him.

The Guarantor argued that his liability to the Society under the guarantee was not a debt for a liquidated sum as required under section 267(2)(b) of the Insolvency Act 1986. He claimed that the guarantee contained a "see to it" clause and created only a right for the Society to claim damages (an unliquidated sum) against him. The Guarantor argued that until the Society obtained Judgment against him, there was no liquidated sum due on which the Society could base a Bankruptcy Petition.

At first, the Court held that the guarantee included a liquidated debt allowing the Bankruptcy Petition to proceed. The decision confirmed that where there is a principal debtor obligation this will amount to a liquidated debt sufficient to bring bankruptcy proceedings.

The Guarantor appealed the decision. The Court of Appeal considered the different types of guarantees and the types of liability arising. The Court held that where the guarantee contained a promise by the guarantor to pay the principal sum due and interest in the event of the debtor failing to pay, no difficulty arises. That claim is one in debt for a liquidated sum. However, guarantees containing a "see to it" clause are claims for unliquidated damages and therefore a creditor would have to prove the amount due and obtain judgment for the debt before seeking a bankruptcy order.

The Court looked at Clause 2.1 of the guarantee which stated that:

"You guarantee that all money and liabilities owing, or becoming owing to us in the future, by the Borrower (whether actual or contingent, whether incurred alone or jointly with another and whether as principal or surety) will be paid and satisfied when due".

The Guarantor argued that this clause created a promise to "see to it" that the Borrower would perform his own obligations under the mortgage.

The Court of Appeal held that the language was ambiguous. However, looking at other clauses in the guarantee it should be read as a promise by the Guarantor to pay the sum due on the Borrower's failure to pay. The Society had a claim in debt in a liquidated sum forming a ground to issue a statutory demand and Bankruptcy Petition.

This case is useful because a bank guarantee may impose several different types of liability on the guarantor. The type of guarantee used may not entitle a creditor to immediately pursue the guarantor in bankruptcy. Thus, a creditor will have to prove the amount due and obtain judgment for the debt before seeking a bankruptcy order, delaying the process and incurring further expense. A guarantee must contain a clause imposing an immediate obligation on the guarantor for payment to allow bankruptcy proceedings to be commenced.

No second bite of the cherry for hirers?

Lenders facing claims that goods supplied under a hire purchase agreement are not of satisfactory quality and/or fit for purpose will be relieved by a recent case which finds that exercising the option to purchase the asset does not reset the clock on the limitation period.

Laura Shingler
Solicitor, DWF

In the recent case of Naresh Bhatia and Coronation Black Cabs Limited v Black Horse Finance Limited 2011, Deputy District Judge Wallis, sitting in the Central London County Court, determined that the limitation period for the statutory implied terms as to quality and fitness for purpose runs from the date of the agreement and not the later date of the option to purchase.

The hire purchase agreement, which financed Mr Bhatia's purchase of a TX2 taxi, was dated 21st January 2005. All monies due under the Agreement had been paid and in January 2006, Mr Bhatia exercised the option to purchase the vehicle. On 30th May 2006, the taxi was destroyed by fire. On 30 March 2011, more than six years after the date of the agreement, legal proceedings were issued claiming that there was a breach of the terms implied under the Supply of Goods (Implied Terms) Act 1973. An application was made by the finance company to strike out the claim. The finance company submitted that the six year limitation period in relation to the implied terms ran from the start of the Agreement in January 2005 and had, therefore, expired before the claim was issued. Counsel for the taxi driver argued that there was a separate sale agreement in January 2006 when the option to purchase was exercised and that accordingly, the claim had been made in time.

The Judge stated that "the essence of [a hire-purchase] transaction is... (i) a bailment of goods by the owner to the hirer, and (ii) an agreement by which the hirer has the option to return or purchase the goods at some time or another". The option to purchase was, therefore, a term of the agreement and not a different agreement. Accordingly, the Judge held that the implied terms must become operative from the date of the agreement, which was January 2005, and would not come into play twice. The claim for breach of the implied terms was, therefore, statute barred when the claim was issued.

This decision confirms that the limitation period for these statutory implied terms starts running from the date of the agreement and not from the date of the option to purchase. This is logical and must be correct. Hired goods will invariably be used a lot by the customer and may also be adapted or altered between the time of supply and the time the option to purchase is exercised. However, as DDJ Wallis stated: "In my view, common sense and commercial reality militates against the notion of further or varied covenants".

Lenders can breathe a sigh of relief that this judgment means there can be no second bite of the cherry when an option to purchase has been exercised. The proper approach of determining whether goods are of satisfactory quality or reasonably fit for their purpose is to look at whether they met the required standards at the date of the agreement.

A cautionary tale...

The recent case of Dickinson & Anor v Black Horse Limited allowed a lender to set off an award of costs made to the borrower in a PPI claim against an existing judgment in the lender's favour. This decision should act as a warning to solicitors who take on such claims under a Conditional Fee Agreement ("CFA"), as they may find themselves at risk of not recovering their costs.

Laura Shingler
Solicitor, DWF

The Dickinsons had taken out a credit agreement ("the Agreement") with the lender, Black Horse Limited ("Black Horse"). On 12th May 2010, the Dickinsons issued proceedings against Black Horse alleging that they had been mis-sold PPI when they took out the Agreement.

During the period of the Agreement, the Dickinsons had fallen behind with their payments. In August 2010, Black Horse issued separate possession proceedings to recover the balance outstanding under the Agreement.

Black Horse's possession claim was heard first and the Judge granted a 56 day possession order in favour of Black Horse. The order required the Dickinsons to repay £44,547.66 to Black Horse, which included sums payable in respect of the PPI ("the Original Judgment").

At the PPI hearing, the Judge found that the PPI had been mis-sold and ordered Black Horse to pay compensation of £10,717.98 ("the PPI Judgment") plus costs of £29,615.50 to the Dickinsons.

Black Horse requested that, as the liabilities of both parties arose out of the same Agreement, the PPI Judgment and costs be set-off against the Original Judgment.

The Judge agreed to set-off the PPI Judgment but not the costs on the basis that the costs were payable under a CFA. Black Horse sought permission to appeal.

HHJ Kay QC held on Appeal that the legal costs of the PPI Claim could also be set-off against the Original Judgment. If the two Claims had been consolidated, the almost inevitable result would have been that the costs could have been set-off. HHJ Kay QC applied the finding in Puddephatt v Leith that where there had been separate actions, the fact of non-consolidation was irrelevant.

HHJ Kay QC further endorsed the Courts' contention in Re A Debtor that there is no connection between a litigant and an insolvent opponent's solicitor. As such, Black Horse could not be expected to pay the Dickinsons' solicitors' costs when Black Horse was owed a substantial sum by the Dickinsons, which it was unlikely to be able to recover due to the Dickinsons' poor financial situation.

The Green Deal, a new opportunity for consumer lenders?

The Government is proposing to allow private lending companies the opportunity to offer finance packages to customers of its new Green Deal scheme under the Consumer Credit Act 1974 (CCA).

Jeanette Harwood
Partner, Walker Morris

The Green Deal aims to make energy saving packages more accessible to homes and businesses in the UK. At present, consumers wanting to make energy saving improvements to their properties are faced with the difficulty of financing installation costs and the Government is making a new form of specialist finance available to those that wish to do so.

Lenders, or 'Green Deal providers', will be encouraged to offer finance, known as Green Deal plans, of up to 25 years to those customers that have been quoted for work by an accredited energy installation adviser. Green Deal plans will be treated as a fixed term credit arrangement and therefore lenders already holding a CCA licence may benefit from a head start in the market. Green Deal providers that only offer Green Deal plans to business customers, including sole traders, small partnerships and other unincorporated groups, which are acting in the course of their trade, business or profession may benefit from a new exemption from the CCA and will not be required to hold a licence.

The Government is also proposing to adopt changes to the current consumer credit lending legislation which may provide a unique commercial opportunity for some lenders. Green Deal providers will not be responsible for collecting repayments, which will appear as a charge on the customer's energy bill to be collected by the energy supplier and then paid to the Green Deal provider. Not only does this reduce any administrative duties associated with collection repayments but also provides lenders with confidence to provide capital upfront.

The Government has identified that compensation protection currently provided by the CCA for early repayment may not be suitable for long term Green Deal plans. As part of the recently enacted Energy Act 2011, the Government has granted creditors the right to receive greater compensation in certain exceptional circumstances. If a Green Deal provider offers a Green Deal plan of 15 years or more with a fixed interest rate then the amount of recoverable compensation will be increased. The formula for calculating the compensation amount is currently under consultation.

Perhaps one of the most unique features of Green Deal plans proposed by the Government is that obligations under a Green Deal plan will remain with the property, transferring to the new bill payer in the event of a sale. Having this system in place is not only essential for the success of the Green Deal finance model but will also provide greater security to Green Deal providers in the event of a customer facing financial difficulties.

It is clear that the Government is committed to making the Green Deal a success and is therefore focussed on attracting both customers and lenders into the market. It is expected that the first Green Deal plans will appear in August 2012 and therefore lenders that wish to take advantage of this opportunity should act soon.

How to sell your business...

If moving house is one of the most stressful things a person can do, how much more daunting is the prospect of selling a business? There will not just be a property to consider but, and this list is not exhaustive, employees, contracts, intellectual property rights, customer lists and book debts to transfer.

Debbie Jackson
Walker Morris

Common mistakes, which can lead to deals collapsing, are a lack of preparation, unrealistic pricing, inadequate financial records or similar, and a failure to use specialist professional advisers. Sellers should ensure that they make their business as attractive as possible to potential buyers, in the particular context of a consumer lending business due diligence is likely to focus on:

- whether all the licences are valid
- whether there is a history of, threat of, or pending enforcement action
- whether the target's documentation is compliant with the Consumer Credit Act
- whether its processes and procedures meet the OFT's guidance standards and other legal requirements, in particular those under the Data Protection Act and the Money Laundering Regulations.

It is therefore very important that a seller ensures that the target's books and records are in order before making these available to a potential buyer. Generally, a business owner should consider preparing the business for sale at least a year in advance.

Valuing the business correctly is clearly vital. In the UK, valuations based on multiples of future earnings and the capitalisation of future cashflows are the most common. Historic profit tends to be less relevant. An accountant should be instructed to value the business, in the consumer lending sector, key factors in supporting any valuation will focus on:

- the market ranking of the lender
- its track record of effective collections
- borrower evaluations, so the existence of strong vetting procedures will be particularly important
- UK lending businesses are also particularly likely to attract overseas interest (and a premium) because what is being acquired is a valuable platform to the UK market.

Selling a business is a complex legal process and requires specialist advice. Instructed lawyers can advise at the outset how the transaction should be structured and may identify tax issues which could impact on how the transaction proceeds. The lawyers will also prepare a confidentiality agreement to prevent the prospective buyer from disclosing confidential information relating to the business, should the deal not go ahead and be able to advise on the data protection implications of making personal data available to prospective purchasers.

How the transaction is structured is particularly relevant to consumer credit businesses. The buyer can either buy the company (a share purchase) or buy the assets of the company, leaving behind those bits it does not want (sometimes called 'cherry picking' assets, although there are some liabilities that are transferred by law, such as liabilities in connection with employees involved in the target business prior to its sale). An asset sale will not be effective to transfer a Consumer Credit Act licence, this will continue to be owned by the seller. Accordingly new entrants to the market would need to apply for a licence (which could delay trading), which may mean certain buyers will insist on a share sale.

The sale negotiations usually work to a tight timetable. The documentation is complex, the main agreement (the sale and purchase agreement) can run to a hundred pages, but essentially the negotiations boil down to the allocation of risk. The more risk a buyer assumes, the more likely it is that it will insist on a reduction in price. For example, a seller will be asked to give 'warranties'. If the seller refuses to stand behind his or her business and give the warranty, the buyer may ask for a reduction in the purchase price, or even walk away from the deal altogether.

A corporate transaction is a process of discovery that continues all the way up to completion. Whilst hurdles will be identified at the outset of the transaction, inevitably others will crop up along the way and a good corporate lawyer will be able to deal with these constructively. A seller should be upfront in disclosing potentially adverse matters to a potential buyer, to avoid spending time (and money) negotiating a sale only for it to fall down at the last minute.

ADJUSTING THE BALANCE FOR PAY DAY LOAN COMPANIES

Take the headache out of debt recovery by selling your charged-off accounts to Mackenzie Hall Debt Purchase Ltd. Mackenzie Hall Debt Purchase Ltd is a market leader in consumer debt purchase and collections. We specialise in purchasing niche portfolios with the backing of our owners, Portfolio Recovery Associates, enabling Pay Day Loan companies to achieve their recovery goals and reduce costs.

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Mackenzie Hall Debt Purchase Ltd, part of the Mackenzie Hall Group
58 Portland Street, Kilmarnock KA1 1JG **www.mackenziehallgroup.com**

Payday loans... a choice not a trap!

Debt management company Payplan recently published research into payday lending completed on behalf of the ITV Tonight programme. The findings were based on a survey of 707 people, but no details of the samples demographics were provided. As a debt management company, it seems fair to assume that most of their interviewees are long term debt sufferers, not the average consumer who may take out a payday loan to smooth the peaks and troughs in their family's finances.

John Lamidey, chief executive of the CFA, said: "Payplan's research paints a pretty gloomy picture but it certainly doesn't tell the whole story. On the contrary, recent independent research into credit used by low income consumers shows that consumers will often choose payday over mainstream credit options as they can see that the short timescale for repayment is less high risk than an open ended overdraft or revolving credit facility.

The Payplan research found:

- more than half of people with payday loans owed over £500
- 69% did not know the rate of interest on their loan

This is contrary to research conducted using a nationally representative survey sample of 1,511 which found the average payday loan debt is £273.

Further research carried out by CFA members found:

- 54% of payday loan users feel that their loans make it easier to pay bills on time
- 56% say that using payday loans has prevented a one off financial difficulty from becoming a wider financial crisis.
- 90% of applicants for online loans from CFA members are turned down after checks have been carried out
- customer satisfaction levels are as high as 94%
- 97% of customers say their deal was totally transparent
- 86% say that they would recommend the service to a friend.

John added: "Our members offer small loans to consumers who have a bank account, regular income and disposable income. Our loans are popular because our customers want to avoid borrowing larger amounts over long periods of time".

"Whilst APRs appear very high on face value, it is important to note that APRs distort wildly when applied to very small loans (typically a few hundred pounds) borrowed over a very short period of time (often only a week or two). These are the factors that create the very high APRs. They bear no relation to the actual cost of the loan in cash terms (typically between £10 and £30 for a £100 loan).

"Our advice to all consumers is that if it is necessary to borrow a small sum, never borrow more than you can repay and always use a lender that is reputable and a member of a UK trade association."

Bridging the gap...

Payday loans help consumers survive January cash shortfall

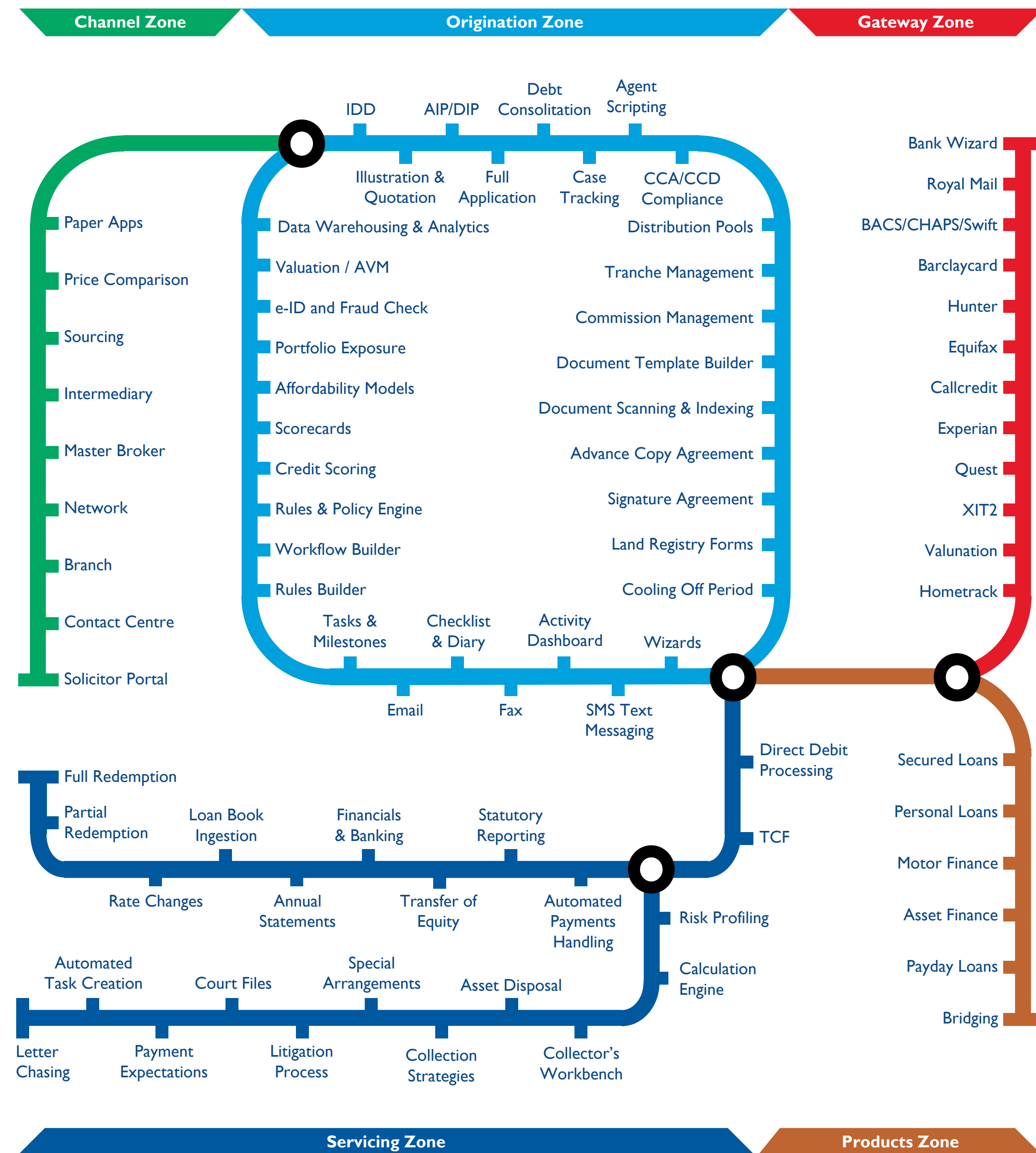
A surge in the number of people applying for payday loans has helped many consumers get through January.

Psychologists dubbed 30 January "Happy Monday" because the majority of workers had received their first post Christmas pay slip and booked their summer holiday.

However, Europe's biggest online microloan lender Ferratum, said: "The growing demand Ferratum saw during December, when four times' more people applied for loans than during November, has continued throughout January. There is no question, more consumers than ever see a payday loan as the best solution for a short term financial need. The majority of people applying for loans are aged 18-35 and more than 60% are female."

Ferratum believes that 2 million people in Britain have applied for payday loans and industry experts forecast that within six months that number will have risen to more than 3.5million.

The New Platform of Choice for Consumer Finance



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A perfect storm but is it business as usual?

Payday lending continues to attract widespread coverage with ITV's Tonight Programme airing Payback Time on 26th January focusing on the short term high cost loan sector and debt management firms. Despite this, consumer demand continues to increase and it may well be the case that any coverage is simply helping to promote the product to a much wider consumer group.

David Patel
Managing Director

Since then the Government has announced plans to move the consumer credit legislation from the OFT into the newly created FCA. It also confirmed discussions are taking place with industry, including a code of best practise on top of the independent report into the high cost credit market expected in the autumn.

The intense focus on payday lending is set to continue, but with UK personal debt standing at record levels and access to short term finance restricted from conventional channels such as banks, a growing number of consumers will look to payday lending as a viable solution. Lenders we speak to expect significant growth in the sector over the next few years, but also recognise the inherent risks to their business models created by further legislation as well as the imperative to be able to innovate in this market.

Whether you are a new lender looking to enter the market, or an established player,choosing the right provider for your loan management system has never been more important.

So how can lenders mitigate risks while maximising opportunities?

A number of lenders we are working with now see payday lending as part of a broader suite of lending solutions, which include guarantor and instalment loans. This strategy serves two main purposes, both as a way of mitigating potential risks of payday lending becoming uneconomical to offer as a result of a capping of APR or limiting the number of loans re-scheduled, whilst also broadening their revenue streams and building customer loyalty.

Our system provides lenders with this capability from day one and they are able to transition into other loans as and when required. They are also able to develop bespoke products tailored to particular customer groups or affiliate partners which can be a higher level of borrowing or a lower charging structure.

This capability should not be underestimated as it creates significant competitive advantage in what is a dynamic market set for expansion. One of the biggest constraints any lender faces in a fast moving and competitive market is an inability to innovate around products, or make changes to business rules or workflows quickly enough to take advantage opportunities. At the same time, you should be able to assess the impact of any changes made to your scorecard or business rules before implementation by running criteria against previous customer data or a live environment. Lenders'should demand control over their IT system in order to develop or launch products when needed. Many of the changes called for, such as limiting the number of roll overs on payday loans, or setting a maximum cost of credit, all have implications for lending systems and will require lenders to review existing rules, scorecards and workflows. Lenders' adopting such systems will benefit from a distinct competitive advantage over those that rely on technology partners with limited resources or priorities inconsistent with those of your business.

One bad apple... Leading payday loan firm warns consumers against rogue operators

Consumers need to be on their guard against unscrupulous payday loan lenders who are stealing money from people's accounts. The warning comes from Ferratum, Europe's largest provider of payday loans, which says the growing demand for the loans is paving the way for rogue operators.

Ian Porter, Sales and Marketing Manager with Ferratum UK, said: "We have heard horror stories from customers about bad experiences they have had with other operators. One customer called in the police after falling victim to a scam in which the payday loan company demanded £100 up front before they would process his loan. The loan never came but the company used his bank details to take further money from his account. It was only after the customer noticed the shortfall in his account that he called in the police who then launched an investigation into the company.

"Rather than focussing on the bogus issue of high rates of interest, which are not relevant to short term lenders such as ourselves, campaigners against the payday loan industry would be better served trying to root out the small number of unscrupulous operators trying to cash in on one of the fastest growing financial sectors."

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Credit Today

A mid-life crisis for the credit card... younger consumers turn to digital payments!

The uncertain economic outlook continues to play on the mind of the UK consumer, and with no improvement in confidence since the financial crisis, households continue to struggle with some of the highest levels of debt in the world according to PwC's annual report on the UK consumer credit industry 'Precious Plastic 2012'.

Levels of unsecured borrowing fell for the third successive year by over £355 per household in 2011 and it seems UK consumers are finally showing commitment to paying off their debts. However, worrying signs remain in their ability to continue to pay off their debts, particularly in the 25-34 year old age group where 25% admitted to needing to use credit to fund essential purchases in the last year.

Although overall levels of unsecured borrowing have fallen, credit card borrowing has declined at a faster rate highlighting the particular challenge faced by this section of the industry. Total outstanding credit card debt fell by 5% in 2011, leaving the average credit card balance at around £1000. Credit cards have lost market share to other payment types, most notably debit cards which have grown by 10% in 2011 and are now used more frequently than cash in payments for the first time.

Simon Westcott, Director in PwC's Financial Services practice commented:

"45 years since it was first introduced, the credit card is suffering a midlife crisis. Consumers discarded nearly one million cards in 2011, taking the number of credit cards in circulation down to levels not seen for almost a decade. The longer term trend suggests that numbers will continue to decline, with the younger generation showing a preference for debit cards and emerging digital alternatives such as mobile payments. This generation seems unlikely to switch to increased credit card usage in later life, as perhaps they would have done in the past, suggesting that debit cards, mobile payments and other innovations will force the credit card into an ever decreasing market.

"As the credit card model comes under pressure, there may be a return to annual fees as regulators push for more transparent ways of charging. Other banking products are likely to go the same way as consumers and regulators look for simpler products and the free bank account may become a thing of the past."

In addition, as consumers turn away from credit cards or are unable to obtain credit from mainstream lenders, we are seeing increasing evidence of consumers seeking alternatives such as so called 'pay-day loans'. The convenience and innovation offered by alternative lenders are encouraging a broader and more prosperous selection of consumers to choose their services over banks.

Simon Westcott, Director, continued:

"Mainstream lenders need to be aware that what may have begun as a last resort, could be an enduring relationship as consumers are pleasantly surprised at the convenient and innovative service they receive from these smaller, more agile providers. As these providers become more conventional, we are likely to see them venture further into the mainstream market with their own credit card, longer term loan products or even current accounts."

A Win... Win... Peer to peer lending on the up!

Leading online peer-to-peer lender Zopa have confirmed that January 2012 was its biggest month ever, Zopa savers lent £8.2 million to Zopa borrowers without a single banker involved. This total was 42% higher than Zopa's previous biggest month. With APRs of 6.1%, loans from Zopa are some of the cheapest in the country and allow early repayment with no charge. At the same time savers enjoyed inflation busting returns at very low risk.

Giles Andrews, CEO and co-founder of Zopa said: "With the public's disillusionment with bankers, it is not surprising that Zopa's positive 'people power' alternative continues to grow in popularity. Savers desperate to protect their money from the ravages of inflation love the fact they can lend at Zopa and enjoy returns of 6% or more at very low risk. As they grow their savings they also enable creditworthy borrowers to get on with their lives, a car to get to work or a family kitchen, by accessing loans with an interest rate well below what they can get from a bank. The fact that nearly 7 years after launch we continue to maintain a default rate of less than 1% provides even cautious people with the reassurance that Zopa's person-to-person alternative works, and to their significant financial advantage".

Peer-to-peer' lending not protected by the FSCS

The increasing popularity of 'peer-to-peer' lending as an alternative to high street savings and borrowings may be good for getting competitive rates of interest but it is not protected by the Financial Services Compensation Scheme (FSCS).

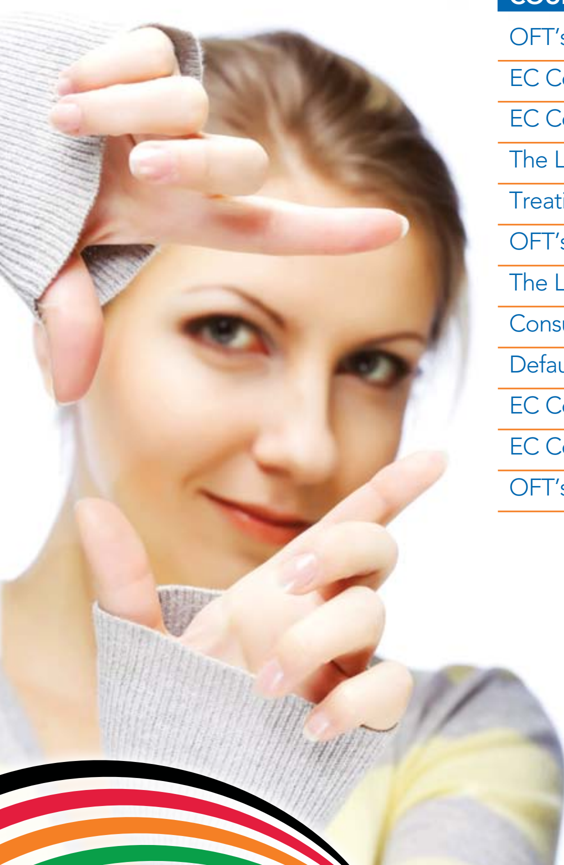
In the last 18 months savers have switched £192 million into these 'money exchange' websites, where consumers can borrow and lend money to each other. They agree the rates between themselves and avoid the charges typically laid on by banks. Mark Neale, Chief Executive of the FSCS, said: "It is important to remember though the FSCS does not protect the money invested though peer-to-peer lending companies. The FSCS protects the money held in an authorised bank, building society or credit union up to £85,000 per person or £170,000 for joint accounts."

The three largest peer-to-peer lenders are Zopa, Funding Circle and RateSetter. In August 2011 they set up their own trade body, the P2P Finance Association, primarily to ensure the sector maintains high minimum standards of protection for consumers and small business customers. They expect peer-to-peer finance to account for more than £100 million of loans to individuals and small business this year.

Your CCTA

Our 2012 Training courses will begin in April this year

For full details visit www.ccta.co.uk



COURSE NAME	LOCATION	COURSE DATE
OFT's Irresponsible Lending Guidance	Leeds	Wednesday 11 April
EC Consumer Credit Directive – The Regulations	Leeds	Wednesday 25 April
EC Consumer Credit Directive - The Guidance	Leeds	Wednesday 9 May
The Law Relating to Motor Finance	Leeds	Wednesday 23 May
Treating Your Customers Fairly	Manchester	Wednesday 6 June
OFT's Irresponsible Lending Guidance	Manchester	Wednesday 20 June
The Law Relating to Motor Finance	Manchester	Wednesday 4 July
Consumer Credit Law and Practice – A Guide	Manchester	Wednesday 18 July
Default and Litigation	Birmingham	Wednesday 12 Sept
EC Consumer Credit Directive – The Regulations	Birmingham	Wednesday 26 Sept
EC Consumer Credit Directive - The Guidance	Birmingham	Wednesday 10 Oct
OFT's Irresponsible Lending Guidance	Birmingham	Wednesday 24 Oct

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Member price = £250 VAT exempt. Non-Member price = £300 VAT exempt.

Don't forget...

Our 2012 conference, CCTA Financial Olympics, will be held on Thursday 8 November at the Nottingham Belfry Hotel.

Watch this space for more details...

Breaking News

The OFT is conducting an extensive review of the payday lending sector prompted in part by concerns that some payday lenders are taking advantage of people in financial difficulty.

Full details of the press release (24.02.12) are below

The review will investigate levels of compliance with the Consumer Credit Act and the extent to which businesses in the payday sector are meeting the standards set out in the OFT's Irresponsible Lending Guidance.

The aim of the compliance review is to gain a deeper insight into the evolving practices of payday lenders and identify those companies that are not fit to operate. The review will inform the OFT's ongoing strategy to drive up standards across the sector.

The review will involve inspections of 50 major payday lending companies including compliance work with trade associations and surveys of industry and consumer bodies. Leading up to the review the OFT has conducted a sweep of over 50 payday lending websites and written to the main trade bodies outlining areas where the OFT considers advertising standards need to be improved.

The final report of the review will be published later this year.

Irresponsible Lending Guidance (ILG)

The ILG was issued in March 2010 and updated in February 2011 and sets out the standards expected of licensees providing consumer credit, including payday lenders.

Questionnaire survey

As part of the review, the OFT is conducting questionnaire surveys of key stakeholders including consumer credit licence holders, trade bodies, local authority trading standards service and consumer organisations including free advice providers.

Information obtained will be used to assess compliance levels across the payday lending industry, identify the reasons for non-compliance and will inform the OFT's overall compliance review findings.

The deadline for responding to the survey is Friday 18 May 2012.

Consumer complaint form

The OFT is also inviting consumers to use their complaint form to tell them about their complaint against a payday lending business. Complaints should be submitted by Friday 18 May 2012.

The OFT cannot intervene in individual disputes. The information gathered from the consumer complaint form will inform the OFT's overall compliance review findings. People who are worried about their financial circumstances should seek independent debt advice. A list of organisations that offer free help and guidance on money matters is available from www.direct.gov.uk.

Contact us

If you would like to contact the Irresponsible Lending Guidance Compliance Review Team, email questions to: pdl@oft.gsi.gov.uk or write to the Office of Fair Trading, FREEPOST KE6260, London, EC4B 4AH.

Keep in touch... I ask any of our members who are approached to contact me for advice on this issue. As your trade association, we will be filling in a questionnaire, and hope to involve you in that process. The sector receives a lot of unwelcome and unjust consumer group and media attention, our response will highlight the positives of the market.

Tel: 01274 714 959
Email: greg.stevens@ccta.co.uk

CCTA welcomes a new council member...

Frank Johnstone a partner with McClure Naismith LLP has agreed to become a council member of the Consumer Credit Trade Association. Frank heads the consumer finance and recoveries unit of McClure Naismith LLP and has specialised in consumer credit, debt and asset recovery for over 25 years. He is convenor of the Law Society of Scotland's consumer law committee and has been appointed the convenor of the panel of the Law Society of Scotland's debt and asset recovery accredited specialism. He is an editor of the Scottish section of "Goode: Consumer Credit Law and Practice" and "Goode: Consumer Credit Reports.

NEW MEMBERS

CCTA would like to officially welcome the following new members to the association

Infinity Finance Management Ltd
Kent

Norton Financial Services Ltd
Rotherham

First Class Lending Limited t/a www.smart-pig.com
Hemel Hempstead

IWOCA
London

DPM Finance LLP
County Durham

M&M Finance Ltd
Swansea

PayBreak Ltd
Bolton

Cash 365 Ltd
Isle of Man

J&R Naylors of Wakefield Ltd
West Yorkshire

Heritage Asset Finance Ltd c/o Energas Ltd
Hull

Moneylender Ltd
London

Freshbond Ltd t/a Aztec Finance
Swansea

Simple Online Solution Ltd
Guernsey

Care Knight Group Ltd
Stoke-on-Trent

Wessex West Country Finance Ltd
Somerset

Orange Money Ltd
London

Copperfield Home Improvements
Essex

Lending Stream LLC
California USA

Chevington Finance & Leasing
Bury St Edmunds

Direct Financial Helpline
Manchester

Hermes Property Services
London

Betterpace Ltd
Norwich

Lending Software Solutions Ltd t/a Forum 3
Fareham

Secure Trust Bank signs deal with Callcredit

Secure Trust Bank, who specialise in offering lending and banking solutions to UK customers who may not be adequately served by other banks, has selected Callcredit Information Group to provide a tailored identity verification service to assist them in fulfilling 'Anti-Money Laundering' (AML) requirements.

Developing a risk based approach to AML in line with Joint Money Laundering Steering Group (JMLSG) guidelines is a legislative requirement for the banking sector.

Callcredit's intelligent system will process Secure Trust Bank's customer applications and give a confident pass/fail decision, using data drawn from UK records, including court judgements, insolvency data and the electoral register. The service is designed to work in real time while maintaining high verification rates, reducing the costs and time involved in validating the identity of prospective customers.

Noddle pushes full steam ahead...

Noddle, the pioneering 'free for life' credit report service from Callcredit has launched, following a successful trial this summer with over 20,000 people. For the launch, Noddle has teamed up with the UK's largest price comparison site MoneySupermarket.com who will now offer its SmartSearch credit card customers the facility to sign up to the service.

Noddle offers consumers access to their monthly credit report for free for life and enables people to use their credit rating to see a shortlist of money savings deals on financial products they are most likely to qualify for. The service also offers consumers access to a range of vouchers and offers that will suit their lifestyle.

Tom Ilube, founder of Noddle, commented:

"We have had a great response to our trial from consumers, beating initial targets for the number of sign ups by over 100%. It has confirmed our belief that the market was ready for a step change and that people don't want to pay to access their personal information. By pushing ahead with the roll out of Noddle, we want to encourage 40 million Britons to be more aware of their credit rating and to put that information to good use, whether it's improving their credit position or hunting down money saving deals."

Zenith selects Callcredit as its Credit Reference Agency

Specialist fleet solutions provider Zenith has selected Callcredit Information Group as its preferred Credit Reference Agency (CRA), to help assess applications for car salary sacrifice funding.

Zenith, which is one of the leading providers of employee car salary sacrifice schemes in the UK, will use Callcredit's SHAREReport service to quickly identify potentially high risk applications for car finance.

Total Conveyancing Services chooses Equifax

CCTA member Equifax, the ID Fraud and anti-money laundering expert, has secured a new contract with Total Conveyancing Services (TCS). Under the new agreement, Equifax is providing its market leading anti-money laundering and ID verification solutions, following a successful trial which saw a 20% rise in successful applications, helping to create a quicker, smoother and more accurate application process.

TCS is part of Legal Marketing Services which is a web based quotation and instruction service, available to estate agents, allowing them to source and compare quotes from a nationwide network of law firms, quickly and easily. With a reputation for reliability, TCS wanted to streamline its applications process, whilst meeting anti-money laundering compliance.

"We are very aware of the need to protect against the risk of identity fraud and Equifax offers us the most robust identity verification tools without compromising the speed of our applications," says Lee Hartshorn, Director of Total Conveyancing Services.

Industry expert, Geoff Greensmith, to strengthen senior management team

Equifax, a leading provider of consumer credit and business risk management services, is investing in its wealth and investment intelligence services in the UK. Industry expert, Geoff Greensmith, has joined the UK management team to support the strategic development of the business.

Geoff Greensmith is joining Equifax UK's wealth data business as Strategic Development Director of Workload. With a career spanning over 27 years, he brings vast experience and industry knowledge across all the company's current and target markets. At Legal & General for 27 years, Geoff's most recent position was as Head of IFA Wealth Sales.

"Geoff is a key addition to the senior management team for our wealth intelligence business", said Neil Cunningham, Director & General Manager, Workload. "In particular his extensive hands on experience in the wealth and investment marketplace gives us market leading insight for our future strategic development."

Auto Union Finance plc chooses CCTA member Oyster Bay Systems in its plans to expand

As one of the UK's largest independent vehicle and finance brokerage to both personal and corporate customers, Auto Union Finance plc (AUF) embarked on a programme of expansion at a time when many of its competitors were scaling back their operations. "We see this is as a bold statement of intent in the current economic climate," explains Jarrod Bradley, AUF Director.

Jarrod Bradley, Auto Union Finance — John Harman, Oyster Bay Systems

To underpin its plans for growth, the Warrington based company reviewed software companies and operating systems as it sought a new IT platform to match its specific requirements.

"We chose Oyster Bay and its Vienna system as it meant we could have a web based dealer portal, allowing authorised introducers to key applications straight into its underwriting queues, and have a vital two way link to our main funders.

"In practice, it has meant that legal agreements and finance documents are delivered via the portal for the dealer to print for the customer at the dealership. It has maximised efficiencies, and paperwork related delays have been eliminated."

Vienna's integrated business processes provide automation throughout the entire life of an agreement.

Business booming...

Anchor Computer Systems have seen a 30% increase in sales to both new and existing customers in 2011. This significant growth has been achieved as a result of extending services to a number of existing customers, but also as a result of a number of new customers choosing Sentinel as their system of choice.

Peter England, Director and founder of Anchor Computer Systems: "We have over 300 customers already using our systems. With this experience in credit we are able to deliver to our customers a flexible system that offers significant efficiencies, something of importance when margins within the credit industry are being squeezed. This is demonstrated not only by the costs saved when customers choose our hosted solution, but also by the ability of Sentinel to link up with third parties offering further savings on many existing systems.

"Our Sentinel system is a complete solution whether you are a small business or indeed a larger multi-national organisation. Offering full flexibility, the system can be used to manage all or just parts of your business. It will also manage your agreements from the first enquiry through to the final settlement of the agreement."

CCTA member CDL improve FREE vehicle checking service

CDL VIS are the premier vehicle checking company of choice for the consumer with its brands that include mycarcheck, Wisebuyers and mytextcheck. In 2010 they made over 2.2 million individual checks amounting to 27% of vehicles that changed hands in the year.

CDL VIS continue to seek data from finance houses and have over the last few months had very positive responses. Finance houses see the benefits in supplying data and continue to support CDL in this process. To enable this process to be seamless for CCTA members we have now committed to joining the data exchange. This will allow us to share finance data with Experian and HPI which means there is no extra work involved, other than authorising the supply, and to start is extremely simple. The data is shared on a daily basis which means the data bases are kept updated. The process to use this facility is free to lenders and only takes an authorised signature to start the procedure. The rest is taken care of by us.

For more details please contact Karan Ridgard at karan.ridgard@cdl.co.uk

Neil Warman joins The Nostrum Group as new CFO

Neil Warman has joined The Nostrum Group as its new Chief Financial Officer. Neil started his career at Andersen, qualifying as a chartered accountant in 1998 before becoming a senior manager in their financial services practice.

He then joined Bear Stearns in 2001 where as a Managing Director he helped develop and run the European Mortgage and Consumer Asset Finance trading desk. His capital markets expertise led him to join Bank of America before being recruited by HML. At HML, the UK's foremost provider of systems and process outsourcing solutions in the mortgage sector with £45bn of assets under administration, Neil was CFO and Deputy Chief Executive.

Richard Carter, Chief Executive of Nostrum said: "Neil has outstanding credentials both in UK BPO and as a CFO. His experience and skillset will be invaluable to the Group as we prepare for the next evolution of growth." Commenting on his appointment, Neil Warman said: "I am hugely excited to be joining a fast paced and dynamic business such as Nostrum. It has built itself a solid brand in its sector and I look forward to helping develop the brand over the coming years".

Whatever your experience or position in the credit management industry, the Institute of Credit Management (ICM) has a membership grade to suit you.

As a Member of the ICM, one of the largest credit management organisations in the world, you will benefit from our increasing range of essential services, all geared to aid your own personal development and to ensure that you and your team deliver real value to your business.

The Institute's mission is clear: to equip credit professionals with the relevant information, training, qualifications and essential support they need to deliver real value, and to deliver cash for business.

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- Cr£ditWho? Directory of Services
- Member benefits and discounts
- Credit Management Helpline
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- CV reviews
- Jobs Direct website
- Quality in Credit Management (QiCM)
- Annual Industry Awards
- Consultancy
- Bookshop

Email: **icmmembership@icm.org.uk** or call **01780 722903** to see how the ICM can help you.

Saving time and saving money...

Oyster Bay Systems announces its upgraded Profile Data Services. They have developed the first credit reference submission consortium, Profile Data Services, for delivery of reciprocal data to all three major credit reference agencies.

John Harman
Oyster Bay Systems

Now Oyster Bay Systems' software engineers have upgraded the bureau's service so that monthly data sent to agencies is checked in electronically, immediately subjected to approximately 50 validation checks and then reported back to the subscriber within minutes, accompanied by an SMS or email alert.

The validation checks pre-empt many that would otherwise be performed by the agencies, so that incorrect formatting, missing data, unmatched actives, and month on month movement inconsistencies can be trapped at this early stage of the process.

Subscribers will have access to any records that have been flagged up for correction via an online portal, providing the opportunity to improve the quality of submitted data and eliminate the costs of correction.

Chris Usher, bureau co-ordinator at Oyster Bay said: "When I took over the bureau service, it still relied on a degree of manual intervention. Now, thanks to our software development team, the service has been enhanced beyond recognition.

"We are now able to turn round data for subscribers almost instantaneously, at any time of the day or night, and provide the chance to correct data before it reaches the agencies."

Profile Data Services can accept data via the online service or as a monthly feed in any file format. Once configured, records can be sent to any, or all, of the major agencies as required, with data from any product type including weekly loans, HP, rentals, commercial mortgages and purchased debt being accepted.

Consumer and commercial data can be managed with ease, and submitting to the agencies via Profile Data Services has never been simpler. Potential users agree to an initial set up fee then a monthly fee that is linked to the number of records processed.

Michael Breach, Managing Director of Oyster Bay Systems said: "Our aim is to continue to improve the service we offer our customer partners. With that in mind we will shortly be adding optional analytics to the user portal that will give subscribers the opportunity not only to monitor their own new business and collections trends but, more importantly, allow them to benchmark their performance against industry wide and multiple sector averages.

"This type of feedback is not currently available to finance companies on a regular basis and we believe it will prove invaluable to our customer partners as they streamline and improve their credit and finance management processes."

We are delighted to say that the number of CCTA members supplying data to us has increased again during the last quarter, so we are able to protect still more finance companies from having their cars sold on without their knowledge and agreement.

To enable this process to be seamless for CCTA members we have now committed to joining the data exchange. This will allow us to share finance data with Experian and HPI which means there is no extra work involved, other than authorising the supply, and to start is extremely simple.

The data is shared on a daily basis which means the data bases are kept updated. The process to use this facility is free to lenders and only takes an authorised signature to start the procedure. The rest is taken care of by us.

For further information, please email **karan.ridgard@cdl.co.uk** or telephone **07970 002 479.**

Survey results

We recently carried out a survey of some of our customers to find out at what point in the car-buying process they carried out a check with us. Surprisingly, 20% said they did so after they had bought the car, presumably hoping that the check would affirm their purchase decision.

CDL Vehicle Information Services (CDL VIS) is a member of the CDL Group of companies, which began life in 1978 with a deal to write an insurance administration system for a high street insurance broker. It has grown steadily since then and in August 2006, it moved its expanding workforce into new prestigious headquarters, Strata House, in Stockport, which now houses over 360 people. Around the same time, CDL VIS acquired a licence to supply DVLA data as a fully hosted VRM lookup service to allow a variety of organisations, including Tesco, Moneysupermarket, Swintons, Hastings, Go-Compare, and Compare the Market, to improve the speed and quality of the input of vehicle information into their applications. CDL VIS now provides access to a range of UK vehicle data including data from the DVLA, ABI, MIAFTR, PNC, and SMMT. It also has access to vehicle keeper details for mileage checking and to guard against the practice of ÒclockingÓ. In 2009, CDL VIS purchased VIP Vehicle Valuations and it now supplies vehicle valuation data to consumers and to many large, well-known organisations including WhatCar, Autocar, AA, RAC, Autoexpress and Swiftcover.com. CDL VIS has also been working closely with the police in various forces throughout the UK, to help reduce vehicle crime.

CDL Vehicle Information Services Ltd, Strata House, Kings Reach Road, Stockport, SK4 2HD

HPI Receipts Summary January 2012

CATEGORY		TOTAL MARKET JANUARY NEW	TOTAL MARKET JANUARY USED	TOTAL MARKET JANUARY TOTAL	TOTAL MARKET YEAR TO DATE NEW	TOTAL MARKET YEAR TO DATE USED	TOTAL MARKET YEAR TO DATE TOTAL
PASSENGER CAR	2012	140954	171192	312146	140954	171192	312146
	2011	125684	161975	287659	125684	161975	287659
	% Change	**12.15**	**5.69**	**8.51**	**12.15**	**5.69**	**8.51**
LIGHT COMMERCIAL VEHICLE	2012	7052	8142	15194	7052	8142	15194
	2011	6196	6702	12898	6196	6702	12898
	% Change	**13.82**	**21.49**	**17.80**	**13.82**	**21.49**	**17.80**
HEAVY COMMERCIAL VEHICLE +3500	2012	2886	1451	4337	2886	1451	4337
	2011	1990	1680	3670	1990	1680	3670
	% Change	**45.03**	**13.63-**	**18.17**	**45.03**	**13.63-**	**18.17**
COACH	2012	162	292	454	162	292	454
	2011	107	245	352	107	245	352
	% Change	**51.40**	**19.18**	**28.98**	**51.40**	**19.18**	**28.98**
MOTORCYCLE	2012	2358	1577	3935	2358	1577	3935
	2011	2135	1338	3473	2135	1338	3473
	% Change	**10.44**	**17.86**	**13.30**	**10.4**	**17.86**	**13.30**
MOTOR CARAVAN	2012	214	65	279	214	65	279
	2011	245	63	308	245	63	308
	% Change	**12.65-**	**3.17**	**9.42-**	**12.65-**	**3.17**	**9.42-**
TOURING CARAVAN	2012	1356	442	1798	1356	442	1798
	2011	1861	419	2280	1861	419	2280
	% Change	**27.14-**	**5.49**	**21.14-**	**27.14-**	**5.49**	**21.14-**
STATIC CARAVAN	2012	63	12	75	63	12	75
	2011	58	3	61	58	3	61
	% Change	**8.62**	**300.00**	**22.95**	**8.62**	**300.00**	**22.95**
AGRICULTURAL TRACTOR	2012	837	365	1202	837	365	1202
	2011	716	244	960	716	244	960
	% Change	**16.90**	**49.59**	**25.21**	**16.90**	**49.59**	**25.21**
MISCELLANEOUS	2012	8106	4293	12399	8106	4293	12399
	2011	8259	4019	12278	8259	4019	12278
	% Change	**1.85-**	**6.82**	**0.99**	**1.85-**	**6.82**	**0.99**
Grand Total	**2012**	**163988**	**187831**	**351819**	**163988**	**187831**	**351819**
	2011	**147251**	**176688**	**323939**	**147251**	**176688**	**323939**
	% Change	**11.37**	**6.31**	**8.6**	**11.37**	**6.31**	**8.61**

UK Personal Debt

Outstanding personal debt stood at £1.451 trillion at the end of December 2011. This is down from £1.454 trillion at the end of December 2010.

Individuals owed nearly as much as the entire country produced in the four quarters between Q4 2010 and Q3 2011.

Outstanding secured (mortgage) lending stood at £1.245 trillion at the end of December 2011. This is up from £1.238 trillion at the end of December 2010.

Outstanding unsecured (consumer credit) lending stood at £207 billion at the end of December 2011. This is down from £216 billion at the end of December 2010.

Average household debt in the UK (excluding mortgages) was £7,948 in December. This is down from a revised £7,972 in November.

Average household debt in the UK (including mortgages) was £55,823 in December. This is up from a revised £55,818 in November.

The average amount owed per UK adult (including mortgages) was £29,547 in December. This was around 122% of average earnings.

Average consumer borrowing (including credit cards, motor and retail finance deals, overdrafts and unsecured loans) per UK adult was £4,207 in December.

The estimated average outstanding mortgage for the 11.2m households that carry mortgage debt stood at £110,703 in December.

The Office for Budget Responsibility (OBR) predicts that total household debt will reach £2.045 trillion in Q1 2017. The average household debt would reach £78,669 (assuming that the number of households in the UK remained the same between now and Q1 2017).

Net lending by UK Banks and Building Societies rose by £0.4 billion in total in December 2011. Net secured lending rose by £0.7 billion in the month. Net consumer credit lending fell by £0.4 billion.

UK Banks and Building Societies wrote-off £7.6 billion of loans to individuals over the 4 quarters to Q3 2011. In Q3 2011 itself they wrote-off £1.43 billion (of which £716 million was credit card debt) amounting to a daily write-off of £15.68m.

Every Day in the UK

331 people are declared insolvent or bankrupt every day (based on Q3 2011 trends). This is equivalent to 1 person every 60 seconds during each working day.

1,779 Consumer County Court Judgements (CCJs) are issued every day (based on Q3 2011 trends). The average value of a CCJ in Q3 2011 was £2,816.

Citizens Advice Bureaux in England and Wales dealt with 8,652 new debt problems every working day during the year ending September 2011.

It costs an average of £28.44 per day to raise a child from birth to the age of 21.

101 properties are repossessed every day (based on Q3 2011 trends).

68 new people a day became unemployed for over 12 months during the year ending November 2011.

The Government's Public Sector Net Debt (including financial interventions) will grow by an average of £199,700,000 today, equivalent to £2,312 per second (based on December 2011 data).

1,797 people a day reported they had become redundant between September and November 2011.

The Government pays an estimated £138,080,000 of interest each day on the UK's Public Sector Net Debt of £2329.9bn (including financial interventions).

193 mortgage possession claims are issued every day.

402 landlord possession claims are issued and 274 landlord possession orders are made every day.

The UK population is projected to grow by 1,205 people a day over the next decade.

26.2m plastic card purchase transactions were made every day in November 2011 with a total value of £1.252 billion.

8.0m cash withdrawals will be made daily with a total value of £531m (based on Q3 2011 trends).

The average car costs £18.33 per day to run.

It costs £66.75 to fill a 50 litre tank with unleaded petrol in January.

Home-A-Loan 3

FSA Mortgage Lending Data

Key statistics for Q3 2011 are details below:

- the total value of outstanding loans at the end of Q3 was £1,218bn, an increase of 0.2% on last quarter
- new advances in the quarter amounted to £44bn, 19% higher than in Q2 and some 7% higher than the amount advanced in Q3 2010
- the overall average rate on new advances fell back during the quarter from 3.81% in Q2 to 3.59%, a series low. There were reductions in the rates for both fixed and variable rate lending
- new commitments of £42bn were made in the quarter, 6% up on Q2 and 10% higher than a year ago. It is the first time in the series there has been an increase in the third quarter of the year
- lending for house purchase accounted for 60% of both new advances and new commitments, very similar proportions to last quarter. The proportion of remortgage business was also much as in Q2
- the proportion of new lending done at an Loan to Value (LTV) of more than 90% remained below 2%, as it has been all this year
- new lending with a combination of high LTV and high income multiple has also been unchanged throughout this year, accounting for less than 1% of new lending
- the proportion of loans to borrowers with an impaired credit history was 0.4% for the second quarter in succession. It has been below 1% for the past three years
- there were 34,900 new arrears cases in Q3, this was down 2% on last quarter and 9% below Q3 2010
- the total number of accounts in arrears at the end of the quarter also fell and at 324,200 was 3% down on Q2 and 6% below Q3 last year
- the proportion of the residential loan book that is in arrears, and hence not fully performing, continued to fall, as it has for the last three years, to 2.72%
- the number of new possessions in the quarter rose by 2% to 9,670
- arrears totalling £38m on 10,811 accounts were capitalised in Q3.

Bad payers – help to grow car sales

With the new car market back 15% in 2011, and the economy forecast to slow, making the most from every retail opportunity has never been more vital. High levels of car loan default have seen many sub-prime finance companies cease trading over the last 5 years. Many "near prime" finance applicants now find that prime lenders are unable to help and are being scooped up in abundance from the few remaining sub-prime finance companies. The sub-prime client of old and non-qualifiers have very few avenues available hindering both new and used unit sales.

However, a mix of some 100 UK Car dealerships and finance operations have started lending to these previously excluded clients with the use of the Prompt Pay System, stimulating both finance revenue and vehicle sales. Essentially, the loan provider utilises a technology that reminds the borrower when a car payment becomes due and prevents the car from starting if payment is not received.

"Since the market withdrawal of so many sub-prime finance companies, we started lending 18 months ago with the Prompt Pay System and have just recorded our best ever trading year," comments Martin Bamber, Proprietor at Manchester Specialist Vehicle Marques.

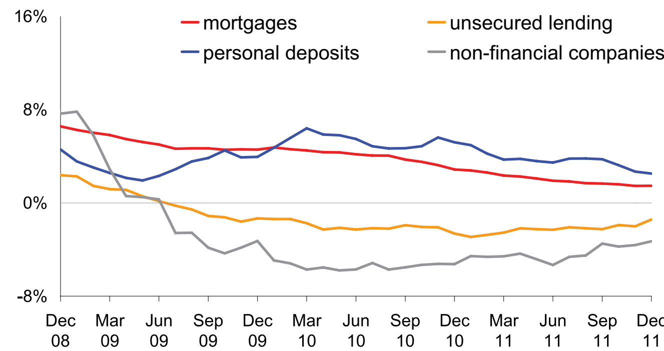
Prompt Pay joined CCTA in October 2011. Joanna Murray, Operations Director for Prompt Pay comments: "Since this time we have seen a very significant increase in the level of interest from fellow CCTA members. We have found the level of support and information available from CCTA to be a highly supportive arm to our business."

High Street Banking Statistics [BBA] – December 2011

BBA statistics director, David Dooks said:

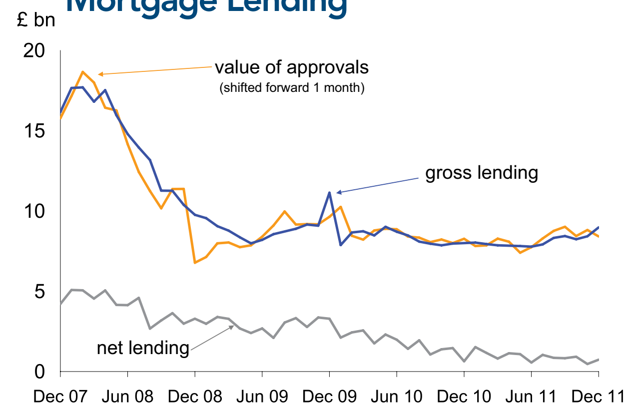
"December's £9bn of new mortgages was the strongest month of last year, being 12% higher than in December 2010. However, at the same time, the household sector generally is focusing on debt repayment amid inflated household expenses and a continuing air of uncertainty, so we see a reluctance to let net borrowing rise, with people preferring to use their bank account cash for expenditure. Business prospects are even more attuned to the state of the economy in the UK and in overseas trading markets, with borrowing intentions for growth or investment plans generally staying on the back burner."

Annual Growth Rates



Annual growth of 1.5% in the banks' net mortgage lending continues to outstrip annual growth of 0.6% across the whole lending market in November. Unsecured lending contracted by 1.4% in 2011, while personal deposits rose by only 2.5%. Throughout 2011, deposits and savings increased by a net £16bn compared with £31bn in 2010, as the incentive for holding bank deposits gave way to paying down debt and using cash for household expenditure.

Mortgage Lending



Gross mortgage lending of £9.0bn in December was the strongest month of last year, some 12% higher than in December 2010. The small upturn in house purchase approvals over the second half of 2011 led to stronger gross mortgage lending, but with capital repayment by householders remaining at a high level, net mortgage lending increased by only £0.7bn in December and continues to be very subdued by historical comparison.

Card expenditure statistics [CES] – December 2011

Spending on plastic cards in December amounted to £37.9 billion, £0.2 billion above the monthly average of the previous 12 months. The **number of purchases**, however, at 804 million was 34 million or 4.8% higher than the average of the previous 12 months.

The key figures above show the stronger annual growth in plastic card spending compared to December 2010, with weaker credit card spending more than offset by greater debit card spending. Measured by the number of purchases, the increase over the year is more marked with the December 2011 total of 804 million almost 100 million more than the previous December, an annual growth rate of 9.8%, and reflecting the continued penetration of plastic cards into the lower value end of the payment markets and the increased use of online channels. This stronger growth in the number of purchases compared with their total value has exerted downward pressure on the all cards **average transaction value** (see Chart 3) that fell in December 2011 to its lowest level since mid-2004.

With the **plastic card share of total retail sales** (including automotive fuels)[1] at 68.5% in December (see Chart 2), the mixed Christmas results reported by some of the major retailers are too disparate to have influenced the aggregated data. Although total plastic card retail sales were greater in May, August, September and October, December 2011 was £1.2 billion higher than December 2010.

In **food & drink** plastic cards accounted for 63.0% of all spending, and for **automotive fuel** the share was 61.7%. Both of these sectors continued to show strong growth in plastic card usage with the total number of plastic card food & drink purchases up by 10.8% and those for automotive fuel up by 8.7% during the course of 2011.

At a glance key figures for December

	Total spending £ billions		Annual growth rates for spending		Number of purchases millions	
	2011	2010	2011	2010	2011	2010
All plastic cards	37.9	35.3	8.7%	7.1%	804	719
Debit cards	27.2	24.8	12.0%	9.4%	630	556
Credit cards	10.7	10.5	1.3%	2.2%	174	163

Chart 1
Spending on plastic cards
Annual growth rates

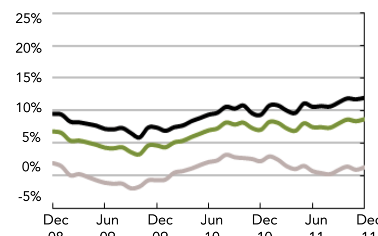


Chart 2
Percent of retail sales made on plastic cards (including automotive fuel)
Three-month moving average

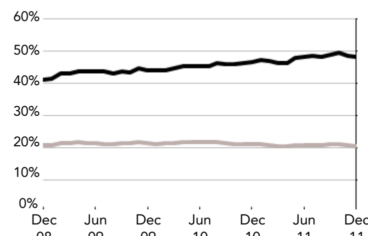


Chart 3
Average transaction values
Three-month moving average

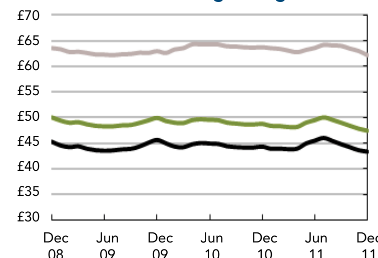
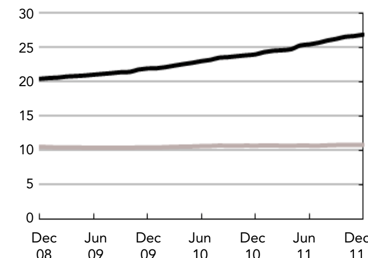
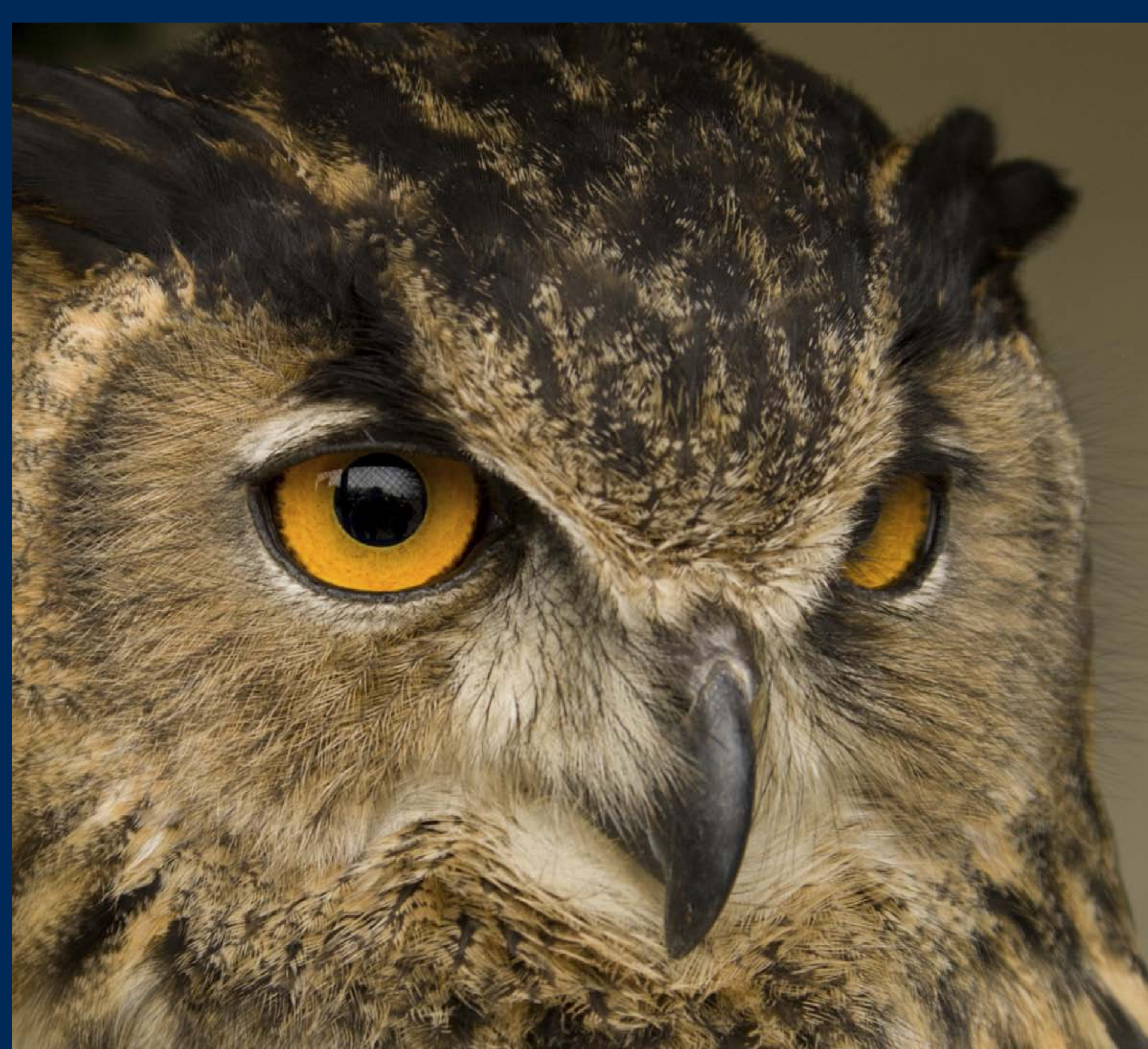


Chart 4
Average monthly expenditure
£ billions



Debit cards — Credit cards — All plastic cards

[1] CES 3-month moving average spending for December of £19.9 billion expressed as a percentage of a similar 3-month moving average for National Statistics 'All retailing including automotive fuel' (J5BU) that gives a figure of £29.0 billion.



insight guaranteed

At Nostrum, we provide a unique combination of a highly functional loan management system teamed with a skilled call centre to provide a rapid, cost effective and flexible outsourcing solution to the consumer finance market.

Our expertise in payment processing, recovery, compliance and much more allows you to raise your game, without raising your overheads.

To find out more about how we can help you, contact us on T +44 (0)8448 118 039 or email enquiry@nostrumgroup.com

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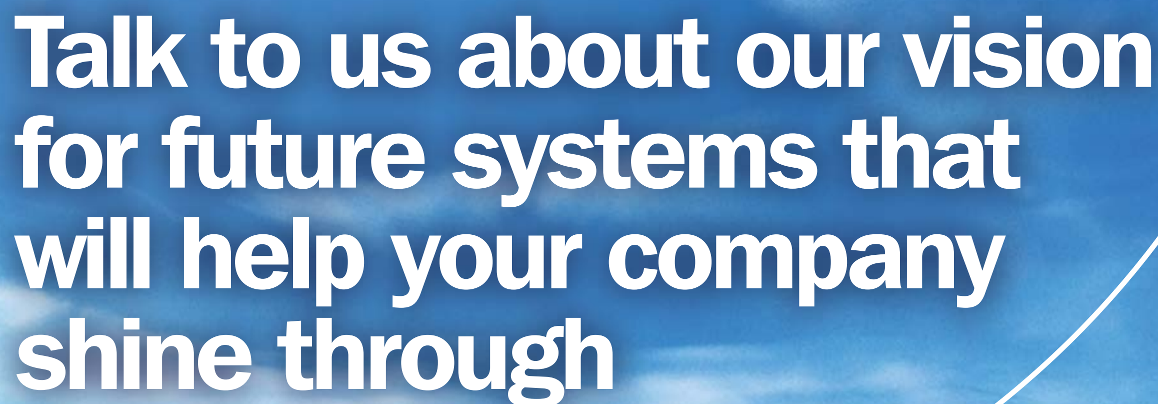
OYSTER BAY SYSTEMS



For over 25 years Oyster Bay Systems has developed bespoke systems for the finance industry. During this time we have developed a reputation for quality, innovation and most importantly customer service.

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