CONSUMER CREDIT

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Greg Stevens
Chief Executive, CCTA

- less than 190 working days to the FCA
- 31 March 2014 - OFT ceases to exist
- no trading after 31 March 2014 without interim permission

We are all familiar with the Hans Christian Anderson tale the Ugly Duckling. The story tells of a homely bird separated from his flock, taken to a barnyard where he suffers much abuse from the others around him until, to his delight (and to general surprise), he matures into a beautiful swan. The story is a classical tale of weathering abuse, being different, and in maturity achieving positive personal transformation.

With the announcement of recent changes at the Financial Conduct Authority (FCA), and less than 200 working days before the implementation of the FCA regulatory framework and rules, it would be easy to view the new regulator as an 'ugly duckling'. Bearing in mind we do not know the eventual shape and plumage of the organisation, we can't know whether it will emerge as a pristine white swan in April 2014. We are sure that it will be different, and that there will be supervision in greater or lesser degrees, depending on the size of firm that it is dealing with. Politically the new regulator will be out to prove itself in the consumer credit landscape.

CCTA has been working with the Stakeholder Forum Group which comprises of the of the regulatory and consumer stakeholder groups under the lead of HM Treasury. We have pointed out in every consultation response, that the credit regime under the 1974 Consumer Credit Act (CCA) provided certainty to consumers, and that the OFT with the powers it has gained recently, could regulate the sector.

Our stance has been that the FCA with its different approach of supervision and rules, for many firms would, be inappropriate and disproportionate in the consumer credit space. We also feel that the unintended consequences could be distortion and deletion in the marketplace. Access to credit would probably become more difficult for consumers with less product choice.

In our latest consultation response we are still lobbying against the same criteria, obviously accepting that the OFT ceases to exist on 31 March 2014. There is a separate article on page six that refers to the Access2Credit lobbying platform.

And so, we move onto the boiling frog, a widespread anecdote. The premise is that if a frog is placed in boiling water, it will jump out, but if it is placed in cold water that is slowly heated, it will not perceive the danger and will eventually be cooked alive. Generally told in a metaphorical context, the upshot is that people should make themselves aware of gradual change, lest they suffer eventual undesirable consequences. It is also used in business to illustrate the idea that change needs to be gradual to be accepted.

CCTA is running several 'Journey to the Financial Conduct Authority' training courses throughout the rest of the year. We are using the remaining 2013 Face2Face meetings, as additional FCA briefing sessions to impart ongoing regulatory information to members. By the time you read this magazine there will be less than 190 working days before the implementation of the FCA regulatory framework and rules. You need to understand the lens that they will be looking at your business through, in order to start your planning.

The FCA will be calling companies forward in September 2013 to complete the Interim Permission (IP) application online. The information required will be found on your current CCL licence, plus additional 'limited' details. After your IP has been granted you will be called forward for full authorisation at a later stage, when you need to provide details of Approved Persons to meet Threshold Conditions. Please note you cannot trade after 31 March 2014 unless you already have Interim Permission from the FCA.

The FCA will be running Roadshows in the autumn, and we will make sure that all members are aware of when and where. We recommend that you attend one. We will be setting up a notice board on the new CCTA website which will be live early in July 2013, under an 'Idiots Guide to the FCA' .

Our new regulators want to engage with as many firms as possible, but it is unlikely that any significant changes will take place before they produce their response to the Consultation Papers, forwarded to them in May 2013.

We will continue lobbying, and liaising until the production of the rules in March 2014, feeding back any concerns and questions to our members. After April 2014 when the rules become 'business as usual' , we will work with the FCA to ensure there is minimal detrimental impact on the consumer, or on company choice.

So, will our regulator arrive as a beautiful white swan, or will the unintended consequences deliver a black swan? A black swan event describes a surprise (to the observer, in our case the regulator), that has a major effect, and is often inappropriately rationalised with the benefit of hindsight.

The 'black swan' theory was developed by Nassim Nicholas Taleb to explain:

The disproportionate role of high profile, hard to predict, and rare events that are beyond the realm of normal expectations in history, science, technology and finance.

The non-computability of the probability of the consequential rare events, using scientific methods, owing to the very nature of small probabilities.

The psychological biases that make people individually and collectively blind to uncertainty, and unaware of the rare events in historical affairs.

He introduced them in his 2001 book Fooled by Randomness which concerned financial events. Taleb contended that banks and trading firms are/were very vulnerable to hazardous 'black swans', and exposed to losses beyond those predicted by their defective models, unlike consumer credit.

Consumer credit does not expose the country, the taxpayer or the consumer, to financial losses in its provision. Losses of capital are borne by the company providing the loan. A transparent and certain legal process has existed since the 1974 CCA, which has stood the test of time. As Donald Rumsfeld stated, a fixed model considers the 'known unknowns', but ignores the 'unknown unknowns'. Will our new regulator apply disproportionate and inappropriate rules to the consumer credit sector? Will they distort and delete parts of the market through unintended consequences? These are the areas that will colour the regulation.

So when our duckling fully emerges, which swan will it be?

Greg Stevens
Chief Executive
June 2013

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an elephant by definition?

Where do we stand with payday loans?

When the former Master of the Rolls, Lord Denning, was asked to define an elephant, he said that he could not do so, but that he would be able to identify an elephant if he was shown one.

John Lamidey

It is very much the same with a payday loans. They appear to be seen everywhere as a scourge of society, a cause of unmanageable rising consumer debt, as preying on the poor and attracting vulnerable consumers. They are said to be sold irresponsibly, with lenders who do not undertake credit checks and who issue loans 'willy nilly' and within a minute, to those who cannot afford to repay. But no one actually seems to know what these payday loans are, nor indeed if there is much in the way of verifiable evidence on the purported damage they cause.

There is certainly no definition of what constitutes a payday loan. The FCA is 'reported' to be planning draconian rules to control the arena, although I cannot find any actual evidence of this, many others appear to be promising this in their behalf. Before it does, it will have to define what a 'payday loan' is, that it needs such stringent control. I would not wish to be the official charged with that task.

If the payday loan is so bad, how is it that so little regulatory action has been taken to date? The OFT's Payday Loan Compliance Review commenced on 24th February 2012. The final report was published on 6th March 2013 and maintained that the OFT found evidence of widespread non-compliance with the Consumer Credit Act 1974 and other legislation, and that payday lenders are not meeting the standards set out in the OFT Irresponsible Lending Guidance.

If the Police had conducted a year long investigation and found breaches of the law, do you think that they would have just written a letter to those felons they had uncovered? You might have expected a bit of legal action. The OFT has however, sent to each of the 50 leading lenders it inspected, which it maintains, together account for 90% of the market, a letter which includes an annex setting out details of the specific concerns regarding their behaviour and practices. It requires these lenders to take immediate steps to address concerns and ensure full compliance with the standards set out in the law and guidance, within 12 weeks. The OFT has also made much of the fact that is has revoked the licences of two payday lenders, because an associate of both companies had been convicted of offences involving violence and fraud, not because of bad payday lending practices.

The letters were issued on a rolling programme from 6 March 2013 to 3 May 2013. The final lender's deadline for compliance is 29 July 2013. But as to actual regulatory action for failing to comply with legal requirements, the OFT says it is 'actively investigating' three payday loan companies. Not much formal evidence of legal breaches appears to have come from the review, and the OFT is now looking for some, with three lenders anyway. At the same time, the OFT is also 'actively investigating' thirty other businesses that are not payday lenders:

- five debt collection companies
- eighteen debt management companies
- four unsecured lenders
- five secured lenders.

Whilst the OFT says that payday loan issues are its top priority, it appears to be finding more problems in other sectors. The evidence that the payday loan is such a monster appears to be rather lacking.

Interestingly the OFT has announced a u-turn on its intention to refer bank current accounts to the Competition Commission. It has said that it intends to refer the payday loan industry to the Competition Commission.

The Financial Ombudsman Service had 19,560 complaints about current accounts between April 2012 and March 2013, up 34% on the previous year. There were just 542 complaints about payday loans. Indeed, there were more (651) complaints to the Financial Ombudsman about Direct Debits and Standing Order problems, so if any market needs investigating by the Competition Commission...

We have a perplexing situation. The OFT market study of high cost credit published in June 2010 said that the market was working reasonably well, yet by March 2013 they felt the payday market was working so badly that it should be referred to the Competition Commission. Precious little actual evidence (but lots of assertion) has come out of the OFT Payday Compliance Review. Formal investigation is being undertaken of fewer payday lenders than other unsecured and secured lenders, not to mention debt collection and debt management companies. The wheels on the 'knock payday loan' bandwagon that is supporting so many activists, politicians, consumer organisations and the media, look to be loosening. If the Competition Commission does look into the market, the results may not be dissimilar to its inquiry into home credit published in 2006, where most of the assertions about that industry could not be verified when evidence was called for.

On 1 July 2013 the Department for Business, Innovation and Skills, HM Treasury, the Department for Work and Pensions, along with the CEOs of the FCA and the OFT held a summit, as an opportunity for trade associations and consumer groups to input into the FCA's thinking on payday lending regulation, in advance of its consultation on the future consumer credit rulebook in the Autumn.

The FCA has an interesting task if it wishes to write special rules for payday loans. Since 1974, we in the UK and subsequently throughout the EU, have regulated the lending process rather than particular products. The reason is obvious. Regulate process and you cover all current and future products, regulate products and you encounter the definitional quicksand mentioned at the beginning of this article. Markets, of course, always move from the most regulated products to the least, so product specific regulation is counter productive.

We 'used' to have evidenced based Government policy making, it is to be hoped that the FCA will write its rules based on actual evidence, rather than the unverifiable and unattributable material that is regularly produced in the media, and indeed by some consumer organisations. It was noteworthy that despite all the furore accompanying the Citizens Advice report in May, damning the payday lenders' Good Practice Customer Charter, which is underwritten by the Consumer Credit Trade Association and three other trade bodies, it appears that none of the cases cited had actually been reported as complaints (which would then have been investigated and verified) either to the lender concerned, or to the relevant trade association. It is somewhat disingenuous to say that the Charter is not working without actually producing evidence for the trade associations to check. There is a pervading aroma of propaganda.

We are told that we shall see the draft FCA rulebook in the Autumn for consultation. By 1 April 2014 all those who currently have a consumer credit licence from the OFT, and who wish to stay in business, will have had to apply for an interim permission, which will last until:

- the FCA grants full authorisation (required by all lenders)
- the FCA grants limited permission (for lower risk businesses)
- the FCA refuses to do so, preventing any further trading.

The authorisation process starts on 1 October 2014 and is to be completed by 1 April 2016. Interim permissions will expire by 1 April 2016, or when the FCA determines the application for authorisation, which could potentially be a bit later.

Firms will also need to have Approved Persons, 'approved' by the FCA that is. Given that the FCA Impact Assessment reckons there will be 38,600 assessments for full authorisation or limited permissions and each firm will require between one and three Authorised Persons, around 100,000 individuals may be needed. It will be interesting to see where they all come from. There is no pool of experienced people in the credit industry, as Approved Persons have not been required before. It seems that the FCA in every one of the 380 working days for 18 months must complete the applications from around 100 firms and 260 Approved Persons. I wonder if there is a Plan B!

According to recent Policis research:

- 65% of mainstream lenders think the new regime will reduce credit supply
- 82% of large lenders think it will reduce access for high risk borrowers, presumably those who have impaired credit histories.

Given that uneven repayments show on a credit file for six years and the credit crunch commenced in 2008, that is going to be very large number of people, possibly around 12 million. Policis says that access to credit for low income and non standard consumers is fragile now and will become more so under the FCA regime. Tight regulatory intervention in the mortgage market has led to such a shortage and constriction of supply that the Chancellor of the Exchequer had to announce in his Budget on 20th March 2013 Government backed (and funded) stimuli to reinvigorate the market. Will those in Government in 2016 find consumers clamouring for Government backed consumer credit, because their access to commercial operations has been throttled?

It is an old Chinese curse to wish you 'to live in interesting times'.

John Lamidey was Director of the Consumer Credit Association (UK) from 1995 to 2006. His consultancy Arminius Associates helped set up the Consumer Finance Association in 2008 and John was CEO of the CFA until August 2012. He specialises in small sum short term consumer credit supplied by non-bank lenders and is currently providing regulatory and public affairs consultancy support to eNova Financial, the online lending arm of Cash America International Inc.

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Elsewhere in financial services...

One of the consequences of the Retail Distribution Review, which requires financial advisers to hold better qualifications and charge fees for investment and pensions advice rather than receiving commissions, is that many high street banks have now closed their doors to personalized investment advice.

Moreover, many financial institutions have been launching and promoting 'execution only' investment trading platforms.

They do not give advice and leave investing consumers to make their own (potentially poorly informed) decisions.

Many institutions seem to be concluding that the regulatory framework and the costs of doing business are such that personalised advice cannot be delivered profitably and compliantly to the mass market.

Is this really where we are heading? Consumers who want to borrow a small sum having great difficulty in being able to, and those who want to invest a small sum not being able to get proper advice?

Are not regulators supposed to help, support and protect consumers, rather than put them out of the market?

The British way of life

CCTA have raised the burning issue of accessibility to responsible credit with all pertinent Government departments over the last two years of regulatory discussion.

Greg Stevens
Chief Executive, CCTA

We rightly believed that informed experts in those departments would not risk damaging the continuing delicate state of the economy by harming the consumer credit sector. In every consultation response, and meeting with Government departments we have clearly pointed out that consumer credit is the enabling product that allows the nation to smooth their finances, through life's peaks and troughs. It also enables responsible borrowers to aspire to contemporary living, with new goods and services for themselves and their families.

We still travel in hope that even at this late stage there will be movement to avoid a cull in the provision of consumer credit. Realistically after replying to the latest consultation responses we have come to the conclusion that we need to step up our lobbying. We will still work closely with the new Financial Conduct Authority (FCA), and trust that we can collaborate with them on the protection of member businesses. A truly proportionate and appropriate regulatory regime, would assist in providing consumers with ongoing consumer credit products, from a modern competitive market place.

In the recent Government Impact Assessments, they are envisaging a 25% reduction in consumer credit providers post FCA implementation (April 2014). There are widely held views that the banks would 'mop up' any excess in demand, and that currently there is little latent demand for consumer credit.

The cull that will occur during the transfer of the consumer credit regime from the OFT to the FCA will lead to financial exclusion for ordinary people with a patchy credit record. it will hit hard many of those in the squeezed middle, and the strivers category, who are more likely to vote Conservative or Liberal Democrat.

The current macro-economic landscape is a two tier Britain, where the London & Home Counties economy is slightly improving, but in many areas never felt the recession. In the rest of the country however real recession pain is still being felt. Consumers are being perceived as over indebted, creating distortions to the market especially in the motor finance sector, where people are making unwise choices.

CCTA Access2Credit lobbying will be directed at all parties concerned in protecting the British way of life, where wide access to responsible credit has been the norm since the late 60's. We will be lobbying MP's, as they have the accountability and responsibility to protect these standards for their constituents, constituents who would be upset if their Government representative was narrowing their financial choices, or putting a brake on their future aspirations. We believe that there is a real danger of the unintended consequences of that happening.

During July we will begin our Access2Credit lobbying attack in earnest, with the view of having a wider communication reach in September once the FCA Consultation Response on the regulatory framework, and rules is provided. At that stage, depending on the feedback from the FCA, we will decide whether to launch an e-petition, and social websites to engage consumers directly.

We are aware that funding remains a major problem for many of our members, and certainly that is the case for the start-up companies that we have recently spoken to. We are therefore also introducing an Access2 Funding lobbying campaign, and will be looking for further feedback from interested members on their current findings. Lobbying of Government departments will be key in this exercise, where mixed messages are still the order of the day, from them and the banks.

Our desired aim is to work closely with Government and the banks, but we have to lobby hard in other quarters as well, to protect our members and the consumer credit Industry.

We will be looking to work closely with you on both of the campaigns, and would ideally like member representatives to join us in our meetings with key MP's. The key MP's will be those who we know have an interest in the finance sectors, either on current or past Working Parties or Committees. We will also be targeting MP's in marginal constituencies with small majorities. With the next General Election in May 2015, if the current coalition Government goes full term, the unintended consequences of poor access to credit could be felt by that stage. With our Access2Credit lobbying well under way it could present a factor in those marginals.

Greg Stevens
Chief Executive
June 2013

CCTA 2013 The Year of the Climb

Annual Conference & Gala Dinner In Search of Excellence

Wednesday 6 November
Dedicated Payday Lending Conference

Thursday 7 November
Main CCTA Conference & Gala Dinner

Nottingham Belfry Hotel
NG8 6PY www.qhotels.co.uk

In 2012 we set off on the 'best practice' trail. In 2013 our continuing focus will be on the survival and growth of your business under the new regime. The path to the implementation of the FCA is steep, but we are already on the way to ensuring our industry is well prepared for the climb, and has its sights on the top.

After a sell out event last year, we have introduced an additional conference, dealing exclusively with the high profile activity surrounding the payday lending arena. You are welcome to join us for either or both summits. We will be taking bookings from early July onward. To register your interest, and avoid being left at base camp:

email: events@ccta.co.uk call: +44 (0) 1274 714959

Stand and deliver...

OFT announces market study on SME banking

On 19 June OFT announced a market study on competition in banking for small and medium sized businesses (SMEs) and is seeking views on its scope.

The SME banking study will cover England, Northern Ireland, Scotland and Wales. The OFT has launched the first step of this work and is seeking views on its proposed scope, in particular on:

- competition in the supply of banking services to SMEs - whether SMEs have access to services that meet their needs and represent good value
- competition in the supply of lending or other finance to SMEs - such as whether any lack of competition between banks is holding back SME lending or other finance to SMEs
- whether there are types of SME (for example, start ups or small financial firms) that face particular difficulties, and if so why.

Clive Maxwell, OFT Chief Executive, said:

"A competitive banking system and access to finance is vital to businesses and to economic growth. Our review of SME banking is part of an ongoing planned programme of work in this area to allow the Competition and Markets Authority to decide whether or not to make a market investigation reference by 2015."

It would also like to hear from SME customers and anyone who wants to submit views can contact the OFT at retailbanking@oft.gsi.gov.uk.

Hike in store closures predicted

One in five high street shops will close over the next five years according to a new survey.

The Centre for Retail Research is warning that 20% of stores could disappear altogether from UK high streets as more people turn to shopping online. The report says that retailers selling music, books, gifts and DIY are in the most danger of closure.

Meanwhile, the report predicts that the proportion of shopping done on the internet will double to 22%, which could lead to over 316,000 job losses.

Dan Wagner, CEO of Powa Technologies said: "Forward thinking high street stores are treating the current sea-change in shopping as an opportunity to overhaul the way they do business. Instead of mourning the demise of our favourite stores, there should be a more concerted effort to save them using new approaches, not just aggressive discounting."

SMEs

A pound of flesh...

Bank charges the latest concern for SMEs

New research carried out by the Forum of Private Business (FPB) suggests, high bank charges are damaging small businesses already struggling with cash flow issues. The study also saw an increase in firms reporting banks asking for harmful levels of collateral in return for finance. Further results:

- 42% say their main financial concern remains the rising cost of doing business. This was, however, significantly lower compared to last year's results which saw the figure at 54%
- concern around cash flow and late payment are on the up, from 33% last year to 38%
- concern around access to finance also increased, from 17% to 23% this year
- the actual cost of finance, from 6% to 8%
- lack of choice for finance at 19% was down marginally from 20%

The Forum's Chief Executive, Phil Orford commented: "As a financial concern the rising cost of doing business has abated slightly, which perhaps ties in with inflation having fallen recently, but it's clearly still a real and present issue for small firms. Overall though these results are more alarming simply by the picture of deterioration they paint with regards to SME finances. There's little doubt that this is being driven by the banks ongoing failure to deliver affordable finance to small firms, and it seems the banks are also now making even greater demands on SMEs to secure loans. The data also suggests there is a growing feeling of unease around cash flow and late payment among business owners, and there's certainly an argument that this is also being driven by the banks' lending dip. It stands to reason if finance is difficult to come by, cash flow becomes harder to manage, and the effect of this can be felt right through the supply chain. Our research shows 38% of businesses still reporting late payment as a problem despite the Government's recent efforts to address this bad practice. We know the banks are still shy to lend, and now this research reveals a palpable fear among business owners that their credit could be withdrawn. If a business overdraft is withdrawn or reduced, it's the removal of a safety net which then exposes the business to charges if they run in to unexpected cash flow issues at a later date."

Source: FPB Press Release

The right score...

Credit history in small business lending decisions

A new report published 13 June by the British Bankers Association (BBA) has highlighted that the personal credit history of owners is being taken into account when small companies and start ups are applying for funding, as well as business plans. According to the BBA report, of rejected applications for business loans of less than £25,000, more than half were turned down because of credit scores. The author of the report, Professor Russel Griggs, is calling for business owners to be educated by lenders and advisers about the impact their personal credit score has on applications for finance.

"Without a previous financial track record in business, lenders are increasingly looking at the applicant's personal credit file to help assess a new business loan application", explained Neil Munroe, External Affairs Director, Equifax. "Anyone planning to apply for finance for a business should therefore check their personal credit history, as well as putting together a strong business plan.

Tips on improving a credit score

- make sure you are registered on the Electoral Roll
- if you believe there is any incorrect information on your file contact the credit reference agency that provided the report and you can log a Notice of Dispute. This has to be resolved within 28 days
- make sure any accounts you don't need or use are closed, dormant accounts could affect your credit score
- avoid carrying a balance that is more than 30% of your credit limit. Lenders may view this as excessive debt and that you may not be able to keep up with repayments
- if you have had difficulties keeping up with credit payments in the past but are now on top of them, you can add a Notice of Correction to explain the circumstances
- if you've had a CCJ and it is now settled make sure the settlement is recorded on your credit file

Might oaks from little acorns grow...

Government on the side of small business

At an event at 10 Downing Street on 6 June to celebrate the massive contribution that small businesses make to the economy, the Prime Minister announced that all the recommendations made in a recent report by his Enterprise Advisor Lord Young will be accepted, including lifting the cap on start up loans so that over 30's who aspire to set up their own business will be able to access funds and get on in life. It will also be made easier for these people, and other small businesses owners, to access the right advice and support to succeed in the global race.

The recommendations from Lord Young's report will also inform the work BIS is leading with the small business community to refresh the 2011 small and medium sized business strategy 'Bigger, Better Business'. The publication, expected in the autumn, will look at making it easier for small and medium sized businesses to access the right support, and to improve the way Government communicates with firms.

Source: GOV.UK Press Release

The elephant in the room...

SMEs miss a trick with compensation for late payment

The proportion of claims for late payment that include compensation has risen only marginally over the last two years, despite the late payment issues small and medium sized firms are facing, according to debt recovery law firm Lovetts Plc. In 2010 just 25% of claims handled by Lovetts included compensation, this rose to 27% in 2011 and 31% in 2012. From the start of 2013, 33% of claims have included compensation. Many SMEs may be missing out on the opportunity to claim compensation because they haven't laid down any firm ground rules at the outset of new business relationships.

Charles Wilson, CEO said: "New late payment regulation was introduced in March but based on the poor use of existing legislation, I have very little faith in the EU directive making any impact on late payment practices. It comes down to business relationships and ensuring that in the early stages SMEs make clear that they won't stand for any delays and will claim costs if necessary. With suggestions that the economy is starting to pick up, we would urge the small and medium sized firms to tackle the issue of payment upfront, as new customers come on board. Don't let it become the elephant in the room."

Source: Lovetts Press Release

A return to growth for the asset finance sector

New figures released in June show the strongest April performance in five years for the asset finance market, with new business of £1.84 billion. This represents growth of 11% compared with the same month in 2012.

Commenting on the figures, Julian Rose, Head of Asset Finance at the FLA, said: "In a confidence survey of senior executives in May, 92% expected business investment to increase over the next 12 months, the most optimistic the industry has been since the launch of the survey in 2011.

"There is absolutely no question that this kind of funding can help support the economy. The Department for Business Innovation and Skills reported last week that growing businesses, particularly high growth businesses, are more likely to use leasing or hire purchase than other SMEs."

Sugar icing...

Red tape freeze extended to more small businesses

On 6 June Business Minister Michael Fallon announced that the freeze exempting businesses with fewer than 10 employees from burdensome new regulations will now be extended to firms with up to 50 staff, and will continue from 2014.

Under a rigorous cross Government assessment process, firms will also be exempted from new regulations if there is any evidence that they will result in disproportionate burdens that could impede growth. Business Minister Michael Fallon said: "We all want faster growth. As Britain recovers, small businesses are leading the generation of ideas, the creation of new jobs and the shift towards a balanced economy. We cannot afford to hold them back with more rules and regulations. On my watch, new regulations will now only extend to small businesses if they are essential, justified, and where disproportionate burdens are fully mitigated. Where regulation is not fit for purpose it will be reformed or binned".

This is the latest initiative in Michael Fallon's drive to change the culture of Government, so that regulation is introduced only as a last resort. Under the One-in, Two-out rule introduced in January, any new regulations must be offset by savings equal to twice the costs they will impose on business.

The front line...

Financial Conduct Authority Board members confirmed

On 23 March HM Treasury named the members of the Financial Conduct Authority (FCA) Board. The Board became effective from 1 April 2013 when the FCA began operating. The full FCA Board is therefore as follows:

John Griffith-Jones Chairman

Martin Wheatley Executive Member, CEO FCA

Tracey McDermott Executive Member, Director of Enforcement and Financial Crime FCA

Clive Adamson Executive Member, Director of Supervision FCA

Lesley Titcomb Executive Member, Chief Operating Officer

Andrew Bailey Non-Executive Director, CEO PRA

Sir Brian Pomeroy Non-Executive Director, FSA Board Member

Mick McAteer Non-Executive Director, FSA Board Member

Amanda Davidson Non-Executive Director, FSA Board Member

Jane Platt Non-Executive Director, new appointment

David Harker CBE Non-Executive Director, new appointment

Amelia Fletcher Non-Executive Director, new appointment

OFT appoints four new directors

The OFT has appointed four new directors as part of its continued focus on delivery and enforcement.

Juliette Enser has been appointed Director of the OFT's Cartels Group, on temporary promotion.

Nelson Jung has been appointed Director of Mergers.

Nenad Njegovan has been appointed Economics Director in the Office of the Chief Economist, on temporary promotion.

Natalie Timan has been appointed Economics Director in the Goods and Consumer Group, on temporary promotion.

BoE appoints ex-Experian MD to new role

The former Managing Director of Experian has been named as the Bank of England's (BoE) new Chief Operating Officer. Charlotte Hogg, who is currently head of retail distribution and intermediaries at Santander UK, took up the newly created role at the Bank on 1 July. In her role, Hogg will take responsibility for all day-to-day management of the Bank, including human resources, finance, property, IT and security.

REGs

Rouges gallery

A bridge too far?

Five licences revoked after OFT decision upheld

The licence of a family run bridging lender based in Glasgow, Bridging Loans Limited, has been revoked by the OFT together with the licences of four associated lending companies, after the First-Tier Tribunal dismissed their appeals. The Tribunal agreed with the OFT that none of the five appellants is fit to hold a consumer credit licence. The Tribunal's decision means that Bridging Loans Limited, Commercial Loans Limited, Residential Loans Limited, Development Finance Limited and Deaconsbank Limited no longer hold a consumer credit licence.

Bridging loans are usually used to secure a purchase of a property, while the buyer owns another property. The term of a bridging loan is normally around the time it takes to sell the other property or to secure a mortgage on the new property. David Fisher, Senior Director of Consumer Credit, said: 'These businesses did not meet the standards we require to hold a consumer credit licence. We took this action to protect consumers.'

Not so appealing?

Three OFT decisions upheld, including against businesses offering payday loans

These wins mean that the OFT has revoked the licences of two cheque cashing businesses that offer payday loans, B2B International UK Ltd and Loansdirect2u.com.Ltd, after it came to light that Neil Evans, an associate of both companies, had been convicted for offences involving violence and fraud. Both businesses are based on Middle Street, Brighton.

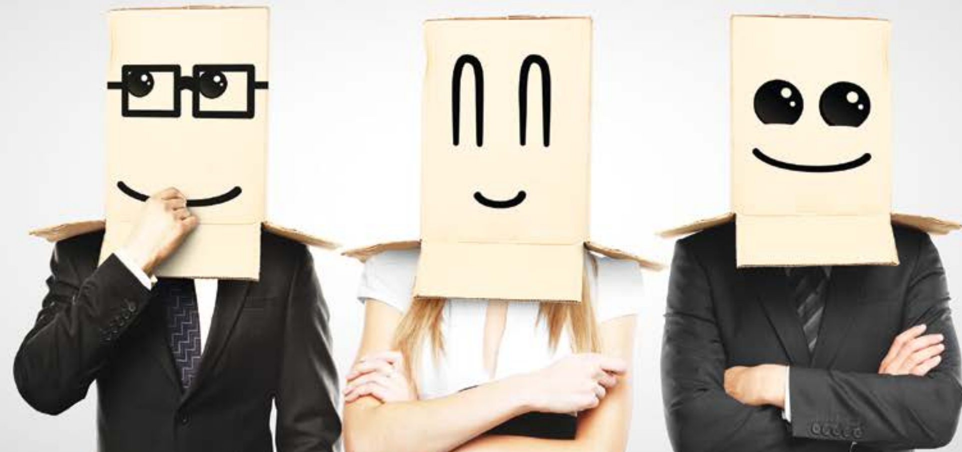
The Tribunal also upheld the OFT's decision that Hatfield based business, VK Money Lifestyle, should not be licensed to provide debt management services, including debt adjusting and debt counselling, because the applicant, Miss Kissias, lacks the knowledge, experience and skills to run a debt management business.

No means no...

ICO fines two companies £225,000 for PECR breaches

The Information Commissioner's Office (ICO) has targeted companies that do not honour individuals' opt out from marketing calls through the Telephone Preference Service.

Nationwide Energy Services has received a penalty of £125,000, and We Claim You Gain £100,000. Both companies are part of Save Britain Money Ltd. These companies' behaviour prompted some 2,700 complaints to the Telephone Preference Service or reports to the ICO. The ICO has set up an online reporting tool for this purpose, and is currently investigating another 10 companies for potential PECR breaches. The ICO has received over 200,000 responses since the survey was set up in March last year.



Insolvency ad banned after R3 complaint

An 'advertorial' has been banned by the Advertising Standards Authority (ASA) for denigrating insolvency practitioners

The advertising watchdog upheld a complaint made against the 'insolvency advice' firm Mark Liddle LLP by The Association of Business Recovery Professionals (R3). R3 claimed the advertorial:

- misrepresented the work of IPs
- implied that practitioners could not advise business owners and were only involved in shutting down companies.

The ASA upheld both complaints. In its summary ruling banning the repeat use of the advertisement, the ASA said the advertorial had breached the CAP Code (edition 12) rules 3.1, 3.3 and 3.6 (Misleading advertising), 3.7 (Substantiation), 3.38 (Other comparisons) and 3.42 (Imitation and denigration).

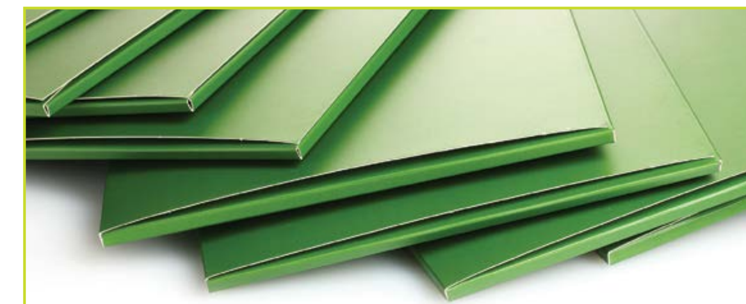
FCA secures commitment from high street banks to use a 'retry system'

The Financial Conduct Authority (FCA) has reached an agreement with seven of the UK's biggest high street banks that will see them use a same day 'retry system' when processing direct debits, standing orders and future dated bill payments.

The new approach has been adopted by Barclays, The Co-operative, HSBC, Nationwide, RBS Group, Santander and National Australia Group (which owns Clydesdale and Yorkshire banks) and will improve the experience of everyday banking for millions of consumers. Lloyds Banking Group currently operates a same day retry process on many of its transactions, but is updating its systems to ensure it is used for all transactions. Until this occurs customers will be able to claim a refund for related late payment charges.

Banks generally process incoming and outgoing payments early in the morning. This means that when a customer makes a deposit or receives their salary after this process they can be left with an unpaid item fee. It is estimated that these penalty fees incurred through the old system cost customers as much as £200m a year. With the retry process in place, if the deposited money is not present when a debit is being taken, the bank will retry the payment in the afternoon before finalising the transaction. This will allow deposits to clear and the outgoing payment to be made.

In addition, the banks will now also be clear with their customers about the time by which money must be in their account to meet outgoing payments.



FCA publishes policy development update no.2

The FCA has published policy development update no 2, summarising the publications that it intends to publish. It also highlights changes in the FCA's publishing schedule. Of particular interest will be updates in relation to:

- the Mortgage Market Review – Data Reporting (CP13/2)
- Mortgage Market Review: Arrears and Approved Persons
- Final Rules for CP10/2 (PS10/9)
- payments to platform service providers and cash rebates from providers to consumers (CP13/1)
- investment-based crowdfunding and peer-to-peer lending (the CP of which will be published in October 2013)
- an update on the FCA's proposals in regards to the consumer credit regime – PS to CP13/7)
- the transparency of the FCA
- an update on the conduct and prudential consumer credit rules.

Pull your socks up...

Accounts committee slams OFT

The Public Accounts Committee (PAC) which is chaired by Labour MP Margaret Hodge, has accused the OFT of missing serious problems in the consumer credit industry.

MPs said that the Office of Fair Trading (OFT) does not have the information on lenders to regulate them effectively and pointed out that it has never given a fine to a company, and very rarely revokes a company's licence, and urged the regulatory body to be more proactive.

A spokesperson for the OFT said: "Far from being timid, the OFT has taken strong, targeted action to tackle the areas of greatest risk to consumers. In the last financial year alone the OFT has revoked the licences of some of the UK's largest credit brokers and debt management firms, and taken formal action in more than 85 other cases. Since 2011, around 100 debt management companies have left or been refused entry to the market. The OFT recently wrote to 50 payday lenders, giving them 12 weeks to change their business practices or risk losing their licences.

It added: "We are disappointed that the committee has not acknowledged the constraints of the legislation under which the OFT currently operates which, as the NAO found, was not designed to provide a supervisory approach to addressing potential consumer harm. As the NAO recognised, these constraints include a lack of regulatory powers and the ability to impose fines only in very limited circumstances."

OFT Chief Executive Clive Maxwell and David Fisher, Director of Consumer Credit, went up in front of the PAC on 23 January this year to answer questions.

Source: Insolvency Today

Superpower...

OFT uses power to suspend a credit licence for the first time

On 17 June the OFT suspended, with immediate effect, the consumer credit licence of Staffordshire based Donegal Finance Limited (DFL), trading as Donegal Finance, Donegal Investigations and Donegal Recovery. This is the first time the OFT has used its new power to suspend a credit licence. It concluded that suspending DFL's licence is urgently necessary to protect consumers.

DFL was licensed to offer consumer credit, credit brokerage and debt collecting services. The suspension means it is now a criminal offence for DFL or any of its directors, employees or agents to engage in any of these activities using DFL's licence.

No competiton comission for banks

In January 2013 the OFT published a review of the PCA market in the UK. The review, published as part of the OFT's ongoing programme of work on retail banking, found that since the OFT's last detailed look at this market in 2008, concentration among the large providers has increased, new entry remains infrequent and switching rates are still low. The review found there had been some specific improvements, in particular from a substantial fall in unarranged overdraft charges. However, overdraft charging structures are still complex, comparing products is still challenging and consumers lack confidence in the switching process. Ultimately, a combination of consumer apathy, a lack of competition and low levels of innovation make this a market that does not work well for consumers or the economy.

There are a number of major developments expected over the coming months, including the State Aid divestment of branches from both Lloyds Banking Group and Royal Bank of Scotland, a new account switching service and the completion of recent initiatives which will make it easier for customers to compare products and services. The OFTconsulted on its provisional decision that now was not the right time to make a Market Investigation Reference to the Competition Commission from 25 January to 8 March 2013. The OFT's final decision confirmed the provisional decision above. Further details of the consultation responses and the reasoning for the final decision can be found in the Final decision on a Market Investigation Reference.

Announcement of LIBOR changes

On 14 June, BBA LIBOR announced that following the recommendations set out in the Wheatley Review, with effect from 1st July 2013, the publication of individual bank's submissions to LIBOR will be embargoed for 3 months. The BBA also announced that the publication of 'same day' EURO LIBOR rates for 1 week and 1 month, will cease from 31st July 2013. These 2 rates were supplemental to the 'spot' EURO LIBOR rates for all seven LIBOR tenors, which will continue as usual.

Individual bank submissions will remain available in real time to the LIBOR benchmark administrators for the purposes of calculating the rate and for monitoring and surveillance. The information will also remain available to the FCA for the purpose of supervision. Individual submissions will be published after a period of 3 months. The daily publication of the final LIBOR rates will not be affected.

BANKs

Consumer spending to grow at a snail's pace for six more years

Consumer spending is set to stagnate for the next six years, according to leading economic forecasters Cebr. This follows rapid spending growth before the financial crisis and sharp falls in spending during its aftermath.

Over the years from 2002 to 2007 real consumer spending per household rose by 10.4% as the economy performed robustly. Rapid real wage increases and low unemployment meant consumers were happy to spend freely and use borrowing extensively as unsecured lending increased from £150 billion to £193 billion alongside large increases in secured borrowing. Over those five years the savings ratio declined from 5.1% to 1.7% as households saved less of their income to fund consumption increases.

Real consumption then plummeted by 7.1% on a per-household basis between 2007 and 2013 as the financial and Eurozone crises tore through the economy. The free flow of credit dried to a trickle, consumers tightened their belts as real incomes declined and unemployment rose. This pushed the savings ratio up to 6.9% in 2013, over three times the rate in 2008, and caused sharp falls in consumption.

Now that the dust has partly settled, the think tank forecasts real consumer spending per household will rise, on average, by under 0.4% per year between 2013 and 2018, consumer spending will grow, but at a lacklustre pace. Households are working hard to save more, guarding against weak pay growth, high unemployment, elevated inflation and Government fiscal austerity which have pushed the median household's real spending power down by 5.1% since the financial crisis.

We expect the savings ratio will hold steady at around the 7% mark until 2018 at the earliest, going hand in hand with weak spending growth. Despite low interest rates meaning that returns are poor, consumers are saving more to guard against the post crisis threats of slow wage growth and unemployment as tight credit conditions also militate against borrowing.

Daniel Solomon, Cebr Economist and main author of the report, said:

"The free fall in consumer spending seen during and immediately after the financial crisis has ended and retailers will be relieved that consumer spending is starting to rise again."

"That said, consumption is expected to grow at a snail's pace over the next six years meaning the British consumer cannot be relied upon to pull the economy up by its bootstraps. Retailers won't be opening the champagne just yet."

Source: Money4Media

The bread line... Poverty statistics

Ministers are now looking to develop wider measures to better reflect the reality of child poverty in the UK today, to include income but also address the root causes such as worklessness, educational failure and family breakdown.

New annual poverty statistics published 14 June (Households below average income), show how the number of children in workless poor families has reduced by 100,000 over the past year. The statistics for relative poverty, the most commonly used poverty line, also show that the most vulnerable groups have been protected as pensioner poverty fell by 100,000 and disability poverty by 100,000.

Work remains the best route out poverty, these statistics show how children in workless households are around 3 times more likely to be in poverty than those in working families.

The number and proportion of working age adults in relative poverty has also remained at about the same level and overall, the number and proportion of all individuals in relative poverty stayed level. Children in households experiencing low income and material deprivation fell slightly.

'Building' – Societies!

Latest Funding for Lending Scheme data shows strong lending by mutuals

The latest FLS data from the Bank of England shows that mutual lenders who are signed up for the scheme increased the amount of lending to the real economy by £2.3 billion in the first quarter of 2013, while the other banks and lenders in the scheme reduced the loans on their books by £2.6 billion. Since the FLS reference period started at the end of June 2012, mutual lenders have increased the loans they have made to 'households and businesses' by £7.3 billion, in contrast to a reduction of £9.1 billion by other lenders. The amounts drawn from the scheme in the first quarter of 2013 by mutuals totalled £2.3 billion, compared to £0.3 billion by other lenders. Since the FLS opened, mutuals have drawn down a total of £4.6 billion compared to £11.8 billion by other lenders.

Fell at the first fence...

Lloyds' failure to address PPI pandemic compounds mistrust in banks

Consumers could be thousands of pounds out of pocket, and even more distrustful of banks, due to Lloyds rejecting PPI claims first time says Citizens Advice.

An investigation found that staff at a Lloyds PPI complaints handling centre were advised that most customers would give up if the claim was not successful first time. Lloyds has since terminated the contract of the company responsible for running the claims unit and is now retraining staff.

Cyber threat...

Varonis welcomes Bank of England's high levels of concern on cyberattacks

Andrew Haldane the Bank of England's Director of Financial Stability has pushed cybercriminal and allied hacking attacks up the agenda, ahead, even of the Eurozone crisis, this indicates the growing value that organisations are placing on their data. David Gibson, Vice President with the Veronis data governance software specialist, said: "In the results of a survey we released in April of this year, we found that 91% of people trust businesses to keep their data safe, despite Price Waterhouse Coopers reported data breaches for 93% of large organisations and 87% of small businesses being seen so far this year. More than half of respondents to the Varonis survey said they would pay a premium for data protection. Our survey results suggest that the vast number of breaches occurring on an almost daily basis indicates that business, just like individuals are still struggling to get the basics right when it comes to securing their data. For this reason, all businesses, and not just banks, have a role to play in eradicating their bad digital habits and taking more control of their security by implementing basic security best practices, such as ensuring that staff only have access to the data they need, that all access to all data is monitored, and abuse is investigated.

The listening banks?

Financial Ombudsman Services reports record levels of complaints from bank customers

Dissatisfaction with the big banks has reached record levels with half a million new complaints, a 92% increase on last year. Four of the UK's biggest banks, Lloyds, Barclays, HSBC and Royal Bank of Scotland, accounted for 62% of all complaints received, increasing their share from 52% the previous year. Although PPI complaints accounted for the majority of the increase, a new trend has emerged with complaints about current accounts also skyrocketing by over a third.

Laura Willoughby MBE, Chief Executive of campaigning website www.moveyourmoney,org.uk said:

"These figures show that when hard times hit, the big banks simply are not standing by their loyal customers. Despite all the public support they have received they are still putting their own pay packets before the needs of their customers. This isn't just about being stuck on the phone to a call centre for hours. In these tough economic conditions cancelling someone's overdraft without informing them or failing to change payments on time can mean the difference between making it through the month and falling into debt. The big banks need to put customer relationships at the heart of everything they do, and that means going back to basics. Looking after people's money, making loans to real companies and families and supporting the economy. It may be boring, it may not deliver astronomical bonuses and dividends but it's what the UK needs."

Raising the roof...

Credit union interest rate cap to be raised

ABCUL has welcomed HM Treasury's decision to introduce legislation to raise the interest rate ceiling on credit union loans. The cap is set to increase next April from 2% to 3% a month on the reducing balance of the loan (around 42.6% APR), allowing credit unions to choose whether to increase the rate they charge on small, short term loans for which they may currently struggle to cover their costs. ABCUL Chief Executive Mark Lyonette said: "It is clear from the range of interest rates credit unions currently charge that this won't mean a blanket rise in the cost of all loans, credit unions' loan rates currently start at around 8% APR for larger loans and as low as 4.25% for mortgages, and many credit unions won't change their rates at all. But some credit unions may choose to raise the interest rate on smaller, short term loans if this will enable them to sustainably offer an affordable and ethical alternative to more people whose only other choice may be doorstep loans at 400% APR or payday loans at 4000% APR."

Source: ABCUL Press Release

New report shows cash usage on the up

A new report published 10 June shows cash use increased in the UK last year, with consumers and businesses making 20.8 billion cash payments in 2012, compared with 20.6 billion in 2011. This breaks the longer term trend of falling cash volumes year on year seen over most of the last decade.

More people are turning to cash exclusively, possibly to help them monitor the amount they are spending on a day to day basis. In 2012 7.2 million adults made all of their day to day purchases by cash, an increase of around 700,000 compared with 2011.

The cash machine remains the most popular way for people to access their cash. This, coupled with an industry initiative to increase the number of ATMs in deprived areas, has seen the number of cash machines in the UK rise to an all time high of 66,134. Out of those 46,069 are free to use, and 97.2% of withdrawals were from free to use machines. On average we withdrew £66 per transaction using debit cards.

Better the devil you know?

Two thirds of Britons have kept the same current account for a decade

The findings, from the Moneywise Consumer Opinion Survey of 20,000 people, reveal that apathy still reigns supreme when it comes to everyday banking, with 67.5% of people claiming they have been with their current provider for at least a decade.

It indicates that recent banking problems such as the IT meltdown at Royal Bank of Scotland, mis-selling, and poor customer service have had little effect on consumers. The research shows that just 4% of people have switched their primary current account provider in the last year. But this may be set to change in the near future, the Moneywise findings indicate that 14% of people are currently considering switching to a new provider. New entrants, such as the Post Office, are helping to shake up the current account market in 2013.

Clive Maxwell, OFT Chief Executive, said: "Customers still find it difficult to assess which account offers the best deal and lack confidence that they can switch accounts easily. This prevents them from driving effective competition between providers."

EXTRAs

UK Gainfully Employed...

1.3 million more private sector jobs across the UK in the last 3 years

Figures from the Office of National Statistics show that there are 432,000 more people in work than the same time last year. The statistics also show:

- employment has risen by 24,000 over the last 3 months, with the majority being full time jobs
- unemployment is down by 5,000 over the quarter with the number of people claiming Jobseeker's Allowance falling for the seventh month in a row
- the number of people claiming the main out of work benefits is now 300,000 lower than it was in May 2010
- youth unemployment is down 43,000, with the youth claimant count lower than in May 2010 and the number of young people claiming JSA has fallen every month over the last year.

Grant Shapps, Chairman of the Conservative Party, commented: "These numbers are a credit to British businesses, with 1.3 million new private sector jobs created in the last three years. There are now more people in work than ever before. Of course there is always more to do and we are not complacent. Our priority now is to carry on getting more people into work, and to help everyone who wants to work hard and get on in life."

You're hired...

A Million Jobs for a Stronger Economy

On 14 June Liberal Democrat Leader and Deputy Prime Minister, Nick Clegg launched the 'A Million Jobs for a Stronger Economy' campaign. The first phase of the campaign is a major apprenticeship drive. The party's ambition is to double the number of companies offering apprenticeships from 100,000 to 200,000.

Commenting, Liberal Democrat Leader and Deputy Prime Minister, Nick Clegg said: "We want more jobs for young people, more jobs outside of London, more jobs in high skilled manufacturing and the high growth industries of the future, more green jobs and more rural jobs too. We've already done a lot, investing billions in science, advance manufacturing and renewable energy, as well as creating work by investing in roads, railways and homes. Our Regional Growth Fund is providing money to firms around the country. And we're offering £2,000 cash back to employers on the tax they pay on their employees, making it easier to take people on. We have nearly five million businesses in the UK, but little over 100,000 currently offer apprenticeships. We need to be more ambitious, I want to see that number double to 200,000. Over time, I want to see apprenticeships viewed as a much more mainstream route to work. They're a crucial building block for the stronger economy and fairer society we all seek, enabling everyone to get on in life."

Around the clock...

Britons launch businesses to supplement income

Over one and a half Britons launched their own business in addition to working their main job over the past six months, according to data published 17 June. Research from insurer Direct Line Home Business found that a further three million people have taken on a second job to supplement their income to get through difficult times.

Jazz Gakhal, head of Direct Line Home Business, said people are exploring creative avenues to make extra money. People are looking to supplement their monthly income be it selling online, freelancing, or starting their own business.

The research found 36% of people have undertaken additional activities in the past six months to increase their earnings, with 11.5 million people making extra money online, potentially selling merchandise through online auction sites or taking on freelance design work. Approximately 800,000 people have launched local businesses in their local area to earn extra income in the past six months.

Source: Insolvency Today

Power to the people

New bill of rights to help businesses and consumers

Measures to enhance consumer rights and make them easier to understand, which will boost the economy by £4 billion over the next decade, were unveiled on 14 June by Consumer Minister Jo Swinson. The proposals, outlined in the draft Consumer Rights Bill, streamline overlapping and complicated areas from eight pieces of legislation into one consumer Bill. They also introduce new rights for consumers and businesses.

Under the draft Bill consumers will have the right to:

- get some money back after one failed repair of faulty goods, or one faulty replacement
- demand that substandard services are redone or failing that get a price reduction
- get a repair or a replacement of faulty digital content such as film and music downloads, online games and e-books.

New measures in the draft Bill that will benefit businesses include:

- a new requirement for enforcers such as Trading Standards Officers to give reasonable notice to businesses when carrying out routine inspections, reducing costs to business
- faster and lower cost remedies for businesses who have been disadvantaged from breaches in competition law
- a reduction in on going training costs, businesses will spend less time understanding their obligations or considering different scenarios when training staff.

Burning the night oil...

Over 10,000 have sought debt help in middle of the night this year

Over 10,000 people have sought help with their debts in the middle of the night since the start of the year. So far this year, 11,357 people have used StepChange Debt Charity's online debt help tool Debt Remedy between midnight and 7am, the peak time for using the online tool was between midnight and 1am.

The charity says that many people are likely to be using the free advice tool at this time because they have been kept awake worrying about their debts. It says that the anonymity of the tool and the fact that it can be used in the middle of the night are another reason why people are using it at this time as many do not want those closest to them to know that they are struggling with their debts.

Commenting on the findings, Delroy Corinaldi, external affairs director at StepChange Debt Charity, said: "We know that debt worries can leave people struggling to sleep and it is good that so many are doing something about their debt problems, whatever the time of day or night."

Source: StepChange Debt Charity

The key to the door...

Government to unlock thousands of new homes

Thousands of homes at stalled housing sites will be unlocked through a multi-million pound package of Government support. Major schemes at 14 sites have been earmarked for Government investment, so they can start building up to 38,000 new homes, Housing Minister Mark Prisk announced 5 June 2013. The projects will now proceed to a due diligence process to receive a share of the Local Infrastructure Fund, which has a total budget of £474 million.

Mr Prisk said the funding support will get spades in the ground and create thousands of jobs for local communities across the country.

The Homes and Communities Agency will now commence due diligence with the shortlisted bidders as soon as possible. This process will determine the final investment, the numbers of homes at each site supported through the funding and terms of any investment made.

Details of the shortlisted bidders can be found on the Homes and Communities Agency website.

Back to school...

Young people entering adult life with 'dangerous gaps' in financial knowledge

A recent My Money Week survey of 14-25 year olds, conducted as part of the latest Barclays Youth Barometer, finds a shocking misunderstanding of many basic principles of money management and underlines the case for all schools to deliver financial education. 1,898 young people answered questions testing basic financial knowledge:

- 42% cannot interpret the difference between being in credit and overdrawn on a bank account statement
- 36% do not know the correct meaning of APR in relation to interest charges on loans or credit cards
- 28% do not know that a lower APR is more attractive than a higher one when taking out credit
- 13% do not know what an overdraft is, with 8% thinking it is a low cost one off loan from a bank

Tracey Bleakley, pfeg (Personal Finance Education Group) Chief Executive, said: "It is clear that many young people are entering adult life with dangerous gaps in their financial knowledge that could lead them into serious financial difficulty. These findings underline the need for all schools to teach their pupils about personal finance, to equip them with the skills, knowledge and confidence they need to manage their money well."

Source: pfeg Press Release

Still water runs deep... in-depth software for the finance industry

Anchor Computer Systems have been providing flexible instalment credit solutions to the finance industry for over 30 years.

Our experience and knowledge of the instalment credit market means that our **Sentinel** system is capable of dealing with the full range of financial products whilst being both highly adaptable and affordable.

It is already the system of choice for a wide range of organisations from innovative start-ups through to large multi-national operations.

For further information on how Sentinel can help your business contact

Peter England – 01248 672940
Mike O'Sullivan- 07854 955070

Alternatively email
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SHOOSMITHS MALG Money Advice Liaison Group

Mental health and best practice

Appropriately processing data from individuals with mental health problems under the Data Protection Act (1998)

Jenny Ogden
Shoosmiths

The Money Advice Liaison Group (MALG)'s briefing note on the best practice for appropriately processing data from individuals with mental health problems was released 5 April 2013.

Briefing Note 4 sets out recommended best practice for dealing with sensitive personal data about an individual's mental health, and contains very useful quotes from the Information Commissioner's Office (ICO), as well as input from interested groups such as the Office of Fair Trading (OFT).

While the briefing note is 'guidance' only, firms which take that guidance on board are more likely to be viewed favourably when Treating Customers Fairly and Irresponsible Lending are being evaluated. It also contains an insight into the way the ICO is likely to view best practice in processing personal data should the matter be referred, so it is worth reading for that alone. It recommends:

- firms must be very transparent about how they are going to process sensitive personal data concerning a person's mental health
- best practice is to obtain explicit consent from an individual before processing data about their mental health
- firms should be able to explain in a consistent and accurate way how such information is to be recorded and processed, through a written mental health policy. Firms should also train their staff in how to explain the policy and to obtain explicit consent
- a firm should not assume that it will be reasonably obvious to an individual, who shares information about their mental health, how that data will be processed, and should not, therefore, conclude that an explanation is not required.

So firms are on notice that if they continue to assume understanding and consent, rather than explain and obtain explicit consent, they will be in danger of the ICO saying the processing of that information is unfair, due to the way it was obtained.

If you are processing data for debt collection, and thinking that you do not need to get explicit consent because it is exempt (as the processing is necessary for legal action), you may not be correct. The ICO has stated that this is a very narrow exemption and that it could easily be misinterpreted to mean something wider. The exemption needs 'more than just the possibility of legal action, it requires the decision to take legal action to have already been made'. The safest option, therefore, may be to review your general policy and change it so that explicit consent is sought as a matter of course. Only where it cannot be obtained should firms look at whether the legal or any other exemption applies.

Firms will also need to review their process for evaluating what information is recorded, and for ensuring that that information remains pertinent and up-to-date. The briefing note makes clear that:

- only the minimum necessary information should be held
- that it should be held for only so long as is necessary
- if that requires information to be held over an extended period, it should be routinely checked to ensure it remains accurate and up-to-date.

A word to the wise...

Money Advice Service commits over £30m to fund delivery of free debt advice

On 11 April, the Money Advice Service announced over £30 million to fund the delivery of free debt advice across the UK in 2013/14. The largest funding agreement is with Citizens Advice for £23 million.

The Service has signed grant agreements worth over £26 million with six lead debt advice partners in England and Wales. Overall, during 2013/14 150,000 people will benefit from free debt advice provided by the partners. They will also allocate £2.35 million through a partnership with the Scottish Legal Aid Board (SLAB), and in addition will commit £350,000 to other projects in Scotland. Finally, the Service will commit almost £800,000 to extend its partnership with the Department of Enterprise, Trade and Investment in order to continue advice delivered by Advice Northern Ireland last year.

Caroline Siarkiewicz, Head of Money Advice Service's Debt Advice programme said: "In a time of turbulence in the debt advice sector, when many organisations are withdrawing or cutting back funding, we are proud to continue our support for the essential services provided by our debt advice partners. We know that the services we fund make a huge difference to the life of over indebted people. We want to thank our partners who have worked tirelessly with us over the last year and we look forward to continuing our work together."

A case in question

Joanne Davis
Partner in Asset & Consumer Finance, DWF LLP

Question: About 12 months ago I leased some photocopier equipment to a customer who has since defaulted on payments. Upon contacting the customer to discuss payment terms, I have been informed that the landlord of the premises where the goods are situated is holding the goods as security for unpaid rent that the customer has also failed to pay. He has informed the customer that he intends to seize the equipment if the rent is not paid. Can the landlord do this?

Answer:

In short, yes. Landlords do have the right to seize any goods that are on their property for the payment of unpaid rent. This is a right that is in the process of being abolished under the Tribunals, Courts and Enforcement Act 2007, although this has not yet come into force.

How then can you, the lessor, prevent this from happening and get your property back? Firstly, there are certain goods that cannot be seized, including items that cannot be returned in the same condition, such as perishable items, goods held in the course of business that are on the premises for some temporary purpose, such as sale or repair; public utility fittings, such as gas metres and water pipes, tools and implements of a man's trade, items in use at the time of distress, such as clothing, and agricultural machinery.

Whether the scope of the 'tools and implements' exemption could be applied to a photocopier is uncertain. Caselaw on this issue has tended to rely on a more direct nexus between the tools and the profession of the lessee. A photocopier is likely to be seen as an ancillary tool, unless of course the lessee's trade is photocopying. However, caselaw has not previously made this direct link an explicit requirement for the exemption to apply, so a lessor may be able to successfully present an argument that a photocopier does fall under the tools and implement exemption.

There are also additional rules that exclude certain 'exempt' goods from having exempt status, principally, goods that are in the possession of the tenant with the consent of the owner and, goods that are subject to a hire purchase or consumer hire agreement.

Taking the question of consent first, if you have terminated the agreement ahead of the landlord distraining, then they may no longer have the right to distrain your goods. The difficulty of this of course, is that the landlord is unlikely to have had such notice of termination and may have simply seized the goods obliviously. However, if you have terminated the agreement then you are in a position to injunct him from disposing of the goods. That said, the landlord will retain the right to distrain the goods, even if the exemption is applicable, if there are no other goods on the property commensurate to the value of the debt.

Where goods are subject to a hire purchase agreement, you also cannot rely on exemptions, unless certain requirements are met, mainly that the agreement has been terminated. If the agreement is regulated lessors can also rely on a valid default notice if the agreement has not yet been terminated. If this condition is met then a lessor may rely on the exemption, following which, again, you could successfully injunct the landlord from disposing of the goods.

Did I hear that right?

Advertising & APRs – "It's not what you say, it's the way you say it!"

John Virgo
Gately LLP

A recent ruling from the Advertising Standards Authority illustrates the need to ensure that when presenting APRs in adverts, the information is not only correct, but also communicated in a sufficiently clear manner. A radio ad for Peachy Loans (a payday loan company otherwise known as Cash On Go Limited) stated that the representative APR for their loans was 1918% but this was actually read as "nineteen eighteen percent". Two complainants challenged the ad as misleading as they believed that it was likely to confuse listeners.

Peachy Loans said they were satisfied that the ad met the requirements of the Consumer Credit (Advertisements) Regulations 2010 and did not dispute that the APR was read as 'nineteen eighteen per cent'. However, Peachy Loans contested that this was a commonly used phrasing for reading numbers and that they had no intention of misleading customers.

The ASA ruled that the ad was in breach of the BCAP Code rules 3.1 and 3.2 (relating to misleading advertising) but failed to comment as to whether a breach of the Consumer Credit (Advertisements) Regulations 2010 had occurred. BCAP Code rule 3.2 states 'Advertisements must not mislead consumers by omitting material information. They must not mislead by hiding material information or presenting it in an unclear, unintelligible, ambiguous or untimely manner'. The ASA held that although it may be common to read some numbers, such as telephone numbers, in the manner heard in the ad, it was ambiguous and unclear to read the APR in such a way.

The ASA ruled that the ad should not be broadcast in its current form which should have little effect on Peachy Loans (they had already agreed to read the APR in the normal manner!).

Innocent Purchasers

Clarification Of Dispositions Under The Hire Purchase Act 1964

Martin Ward
Shoosmiths

At common law, a person who does not own an asset cannot pass good title to a third party. Part III of the Hire Purchase Act 1964 ('HPA 1964') reverses this common law principle for dispositions of motor vehicles in specific circumstances.

However, this is not necessarily the case. A point that was recently illustrated in VFS Financial Services Limited v J F Plant Tyres Limited (2013).

VFS Financial Services Limited ('VFS') had let a Volvo FM420 8x4 truck on hire purchase terms first to Slingsby Plant Hire Limited ('Slingsby') and then, by way of novation, to another related company, Doncaster Aggregates Limited ('Doncaster'). VFS subsequently terminated the agreement for non-payment of rental instalments. It then transpired that Doncaster had parted with possession of the vehicle to JF Plant Tyres Limited ('JF Plant'), which refused to return the vehicle.

JF Plant contended that Doncaster gave the vehicle to it in satisfaction of debts owed by Slingsby and Doncaster, alleged to amount to around £45,000, entitling it to the innocent purchaser protections under the HPA 1964. To formalise the arrangement, Doncaster issued a purported invoice for the sale of the vehicle to JF Plant for £89,896.79 (including VAT).

VFS subsequently issued a claim for conversion and applied for an injunction against JF Plant for the immediate delivery up of the vehicle. Prior to the injunction application being heard, JF Plant agreed to deliver up the vehicle to VFS, with the vehicle to be sold by VFS and the proceeds of sale held on trust until the outcome of the legal proceedings.

Once the vehicle was secured and sold, VFS applied for summary judgment against JF Plant on the basis that its taking of the vehicle in settlement of the debts of Doncaster and Slingsby did not amount to a 'disposition' within the meaning of s.29(1) HPA 1964.

In granting VFS's application for summary judgment, the Court held, without there being an element of money consideration, an agreement whereby a vehicle is transferred cannot amount to a sale or a disposition for the purposes of the HPA 1964. It is for this reason that gifts, contracts of exchange or barter are not contracts of sale. Fatally to JF Plant's case, nor are arrangements whereby property is taken in settlement of a debt.

Analysis

This is a decision of note for motor financiers. An innocent purchaser can only claim the protections of the HPA 1964 where the disposition of the vehicle constitutes a sale or an analogous transaction. Where a vehicle is given as a gift, exchanged for other goods (or another vehicle), or given to settle a debt, the third party will not be entitled to the protections of the HPA 1964, and the finance company will retain title to the vehicle. However, if the vehicle is part exchanged for another vehicle with some cash element, the third party will be entitled to claim title to the vehicle under the HPA 1964.

Charging Orders

When a Charging Order does not guarantee security

Jeremy Bouchier
Restons Solicitors

A Charging Order needs to be registered at the Land Registry otherwise it could be ignored when the property is sold. Despite having a Court Order, creditors should not always assume the registration will be automatic.

The Order only attaches to a debtor's beneficial interest in a property. Beneficial interests are not usually shown by a Land Registry search, but the assumption that they are also owned by the legal proprietor(s) is usually correct. However, it is a possibility that beneficial and legal interests can be held by different people which provides scope for objecting to a Charging Order.

Land Registry procedures allow any interested party to oppose registration of the Charging Order against the property. Typically it is alleged the debtor had already transferred his/her beneficial interest to a family member and so no longer has an interest in the property against which the Charging Order can attach. The reason for and timing of such a transfer is something a creditor will want to investigate.

Unless settled amicably, any objection to registration of a Charging Order is determined by proceedings before the Adjudicator to Her Majesty's Land Registry. To allow the registration, the Adjudicator has to be satisfied that the debtor had a beneficial interest in the property.

However, in principle this question was already considered by the District Judge when the Charging Order was made. Prior notice of the Charging Order hearing has to be given to any person who has an interest in the property. That person can then argue before the court that the debtor had no beneficial interest.

Is an Adjudicator bound by an earlier Charging Order? In 2005 an Adjudicator refused to register a Charging Order on the grounds that ownership of the beneficial interest had not been fully considered by the court. However, in 2012 another Adjudicator said "I do not see how… it is open to the Adjudicator to go behind the decision of the District Judge and hold that the Judgment Debtors have no beneficial interest".

Decisions this year show that different approaches still exist. Generally there is reluctance to make a ruling which contradicts the earlier Charging Order, thus underlining that it is the court which should determine the issue of beneficial ownership. However, an Adjudicator recently refused to allow registration of a Charging Order on the basis the debtor had previously assigned her interest to her father. Despite her opposition (in the earlier court proceedings) the District Judge made the Charging Order, but specifically left open, the issue of beneficial ownership. That allowed the Adjudicator to rule in her favour.

These decisions show that sometimes creditors face the prospect of having to prove their case both before a court and the Adjudicator. Where the Charging Order is opposed, creditors are well advised to seek a declaration from the District Judge concerning the beneficial interest.

Chubb v Dean

Interest rates, unfair relationship and appropriation of the proceeds of sale

David Bailey
SGH Martineau

A finance company made short term bridging loans to its customers secured upon property but subsequently went into administration. One of its borrowers, a Mr Dean fell into arrears and the Joint Administrators obtained an order for possession of the security property and a money judgement. It soon became apparent that the proceeds of sale of the security property would be insufficient to redeem the charge in full. So the Administrators obtained a Charging order over Mr Dean's adjoining property, a flat.

Following the sale of the security property the administrators, after redeeming the first charge applied the proceeds of sale to the loan however this was not sufficient to discharge his indebtedness. They applied for and obtained an Order for Sale of the second property but three separate issues arising out of the application were adjourned for consideration:-

1. Could the administrators claim interest at the contractual rate? Here the contractual rate was higher than the applicable interest rate of 8% under the County Courts Act 1984 s.74 and the Judgments Act 1838.

The court decided that it had no power to vary the statutory rate of interest under the Judgments Act 1838: it had no power to award post judgment interest at the contractual rate. The Judge went on to say that in any event even if the relevant power did exist, it did not assist the Administrators as it would act to order post judgment interest in the original claim but the instant claim was for enforcement which was a distinct and separate claim, and the court did not have the power to vary an order made by a court in the earlier proceedings.

Comment: It is important to ensure that mortgage terms and conditions include an entitlement to claim contractual interest before and after judgement.

2. Did the combination of the facility fees and the contractual interest rate give rise to an unfair relationship under the Consumer Credit Act 1974 (s104B). The administrators had waived the claim to the facility fees.

The court decided that the fact that the facility fees had been waived was not a complete answer as to whether the facility fees, and the contractual interest rate, gave rise to an unfair relationship. Nonetheless the Court held that the parties' relationship was not rendered unfair because:

- The rate had been clearly marked on the face of the mortgage documentation; it had not been in small print and had been legible.
- The borrower had been legally advised, and a certificate had been issued by a solicitor attesting to the fact that he had been so advised.
- The borrower had to be taken to have known of the bargain that they had made
- The borrower was unable to say that he had been misled or that he had misunderstood the mortgage documentation.
- Although the interest rate was high it represented a "stiff commercial bargain".

Comment: This is another example of a borrower arguing that the lender should have protected the borrower from entering into a bargain that he may later regret. It is another useful case for those defending mis-selling claims.

3. Were the Administrators free to appropriate the proceeds of sale of the flat as they saw fit

In this case there was an express power under the mortgage agreement that (after other charges or securities taking priority had been discharged) the lender was entitled to allocate funds as to capital or interest as it saw fit. Further the lender was entitled to do so under the s.105 of the Law of Property Act 1925. The shortfall on the judgment debt had been secured by the charging order over the flat, which attracted the statutory rate of interest of 8%.

Comment: A useful decision that reinforces the lenders entitlement to allocate receipts to interest or capital as it sees fit. This is a particularly important issue on the issue of limitation where a lender may claim interest for up to 12 years (avoiding the 6 year rule under s20(5) of the Limitation Act) by arguing that payments received from the sale of the security property have been appropriated to discharge the outstanding interest rather than the capital. If the mortgage terms contain a capitalisation provision, the lender will be entitled to interest for the whole 12 year period.

Contract negotiations

Pitfalls to avoid, an eight point plan...

Stephen Cowan
Yuill & Kyle

Most companies enter into contracts without any real thought as to what the legal consequences may be. This handy checklist list will remind everyone what some of the pitfalls may be and some of the more important points to look out for.

1. Who is negotiating for the other party?

Does the person representing the other party have the authority to negotiate for that other party?

2. Should negotiations be kept confidential?

If negotiations should be kept confidential, get the other party to sign a confidentiality agreement before starting negotiations. A confidentiality agreement should be signed before giving away any business sensitive information. The agreement should explain that the information given:

- is confidential
- should only be used for a stated purpose
- should not be shown to anyone else
- should be returned or destroyed if the deal does not go ahead.

3. Is the company sharing business sensitive information?

- take legal advice before handing over any business sensitive information. It can be unlawful to hand over certain types of information, such as personal data about customers or employees
- a confidentiality agreement may give some protection, but it must be signed before anything is handed over
- consider whether the other party actually needs the information or whether they are simply on a fishing expedition.

4. Do not exaggerate or mislead the other party

If the business exaggerates or mislead the other party during negotiations, the contract may be undone and compensation payable.

5. Do not offer or accept bribes or inducements

The Bribery Act 2010 sets out offences, the penalties for which can be very significant. For example, failing to prevent bribery can lead to an unlimited fine.

6. Might the other party try to poach employees or customers?

If the other party has access to the business' customers or employees, consider getting them to sign a non-poaching agreement.

7. Take care before signing any pre-contractual agreements

- if a business is negotiating a big or complex deal, it may be asked to sign a summary of the main terms before the main contract is agreed ie. heads of terms, a term sheet or a memorandum of understanding.
- take legal advice before signing any pre-contractual agreement. Even if the agreement is not meant to be legally binding, it may create legal obligations.

8. Do not enter into a contract by mistake

- a contract does not need to be signed and in writing to be binding. For example, a business can enter into a binding contract over the phone or by e-mail. To help clarify that negotiations are still ongoing, mark all correspondence "subject to contract" or "not legally binding".

Reasons to be cheerful

Consumer Hire

Frank Johnstone
McClure Naismith

It has been indicated that under the new regulatory regime from 1 April 2014 businesses conducting consumer hire business may be considered by the Financial Conduct Authority (FCA) to be 'low risk' and may therefore be subject to a more limited degree of scrutiny by the FCA than certain other licensed activities. This prompted me to consider other advantages of conducting business by way of consumer hire agreements rather than by regulated hire-purchase or regulated conditional sale agreements, which in turn brought to mind Ian Drury's hit single 'Reasons to be cheerful...'

This article is not intended as an exhaustive comparative review of regulated consumer hire agreements with regulated hire-purchase and conditional sale agreements, but seeks only to highlight some of the differences between these types of agreements generally when they are regulated by the Consumer Credit Act 1974 (CCA) . I am restricting my comments to where these types of agreement are used in relation to moveable goods and I am not commenting on any tax issues that may be relevant to these types of agreement.

While a hire-purchase agreement is a contract of hire with an option to purchase the goods which are the subject matter of the agreement, the fundamental difference with a hire agreement is that title or ownership of the goods, which are the subject matter of a hire agreement, never transfers to the lessee under the agreement. This can be contrasted with a conditional sale agreement which broadly speaking is an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, although title in the goods remains with the seller, notwithstanding that the buyer is to be in possession of the goods, until title passes to the buyer in accordance with the terms of the agreement.

Reasons to be cheerful

Firstly, consumer hire agreements are not caught by the unfair relationships provisions in section 140A of the CCA. The unfair relationship provisions are restricted to credit agreements and a consumer hire agreement is not a consumer credit agreement. In other words, a lessee under a consumer hire agreement is not entitled to attack the enforceability or any other aspect of the hire agreement on the basis that there is an unfair relationship in terms of section 140A of the CCA.

Secondly, sections 90 and 91 of the CCA only apply to regulated hire-purchase and regulated conditional sale agreements they do not apply to consumer hire agreements. Section 90 provides that where the debtor or hirer (the debtor) has paid one third or more of the total price of the goods, then the goods are deemed to be protected goods and, when the debtor is in breach of the regulated hire purchase or conditional sale agreement, the protected goods can only be repossessed under an order of the court. Section 91 provides for the draconian sanction, which applies when protected goods are repossessed in contravention of section 90 namely, that the agreement shall terminate and "the debtor shall be released from all liability under the agreement and shall be entitled to recover from the creditor all sums paid by the debtor under the agreement". As sections 90 and 91 of the CCA do not apply to consumer hire agreements it is impossible for there to be a wrongful repossession within the meaning of section 90 in relation to goods which are the subject matter of a consumer hire agreement.

Thirdly, there can never be a 'private purchaser' of a motor vehicle which is the subject matter of a consumer hire agreement, or hire agreement. Section 27 of the Hire Purchase Act 1964, as substituted by Schedule 4 of the CCA, only applies where a motor vehicle has been hired under a hire-purchase agreement or has been agreed to be sold under a conditional sale agreement.

Fourthly, section 25(2B) of the CCA provides that business practices which the Office of Fair Trading (OFT) may consider to be deceitful or oppressive or otherwise unfair or improper include practices in the carrying on of a 'consumer credit business' that appear to the OFT to involve irresponsible lending. Prima facia a 'consumer hire business' is not a consumer credit business and a consumer hire agreement does not involve the lending of money, it relates to the hire or bailment of goods. Logically, therefore, the OFT's Guidance on irresponsible lending does not apply to consumer hire agreements. Clearly it might be imprudent, however, to ignore it. Business practices carried out under a consumer credit business licence might very well be considered in relation to the issue of 'fitness' to hold another category of consumer credit licence.

Fifthly, as consumer hire agreements were not 'caught' by the Consumer Credit Directive (CCD) section 66A of the CCA which provides for a right of withdrawal from the consumer credit agreement does not apply to consumer hire agreements. In addition, other CCD related provisions, such as section 55A of the CCA, which imposes an obligation on the creditor to provide the debtor with pre-contractual explanations in relation to consumer credit agreements, does not apply to consumer hire agreements. A lessee, under a consumer hire agreement, unlike a debtor under a regulated consumer credit agreement, does not have a right to complete payments ahead of time, or to make partial early settlement as provided for by section 94 of the CCA.

Sixthly, section 56(2) of the CCA deems the supplying dealer, in a typical three party motor dealer, finance house, hire-purchase or conditional sale agreement transaction, to be the agent of the creditor, in relation to 'antecedent negotiations'. The term 'antecedent negotiations', however, is restricted to where the negotiations are antecedent to a debtor/creditor/supplier agreement, not a consumer hire agreement. Misrepresentations which are made by the supplying dealer during negotiations which are antecedent to a regulated hire-purchase or regulated conditional sale agreement are, therefore, deemed under section 56(2) to also be made on behalf of the creditor. This deemed agency does not apply to a consumer hire agreement.

Businesses using consumer hire agreements will still be, in many cases, required to treat their customers fairly and reasonably, positively, sympathetically and with forbearance, where they are subject to code of practice and relevant OFT guidance but in terms of customer care and improving customer outcomes these can also be reasons to be cheerful.

HITEC LABORATORIES

Stepping stones...

The five critical stages of Policy Management

Policy creation and deployment can fail to meet today's compliance and regulatory requirements leading to severe penalties in a heavily controlled market. To support companies in creating a successful policy lifecycle management programme, there are five basic stages of policy management that can help:

Jeremy Crame
Hitec Laboratories Ltd, CEO & Founder

Assessing the level of understanding of a policy among the workforce is a contributory factor in failing and, even if individuals have been made to agree that they will abide by the policy, there is no way of knowing if they really appreciate what they must do in order to comply. This can increase risk to the organisation.

For a company seeking to drive a positive culture or avoid compliance breaches, this is a critical issue.

Stage One – establish policy requirements

Any policy document issued by an organisation should be compatible with, and a reflection of, all applicable laws, regulatory requirements and Best Practice. Information navigation is the key to success here. The Internet, trade publications and third party professionals can all assist in setting the parameters for what should and should not be in the policy. Regulatory bodies may also issue some kind of standard advice. It is important to establish a balance between any external requirements with the needs and culture of an organisation.

The final decision as to what goes into a policy is a matter of commercial judgement as, in reality, a policy that sets out to be too comprehensive is more likely to fail as a usable document.

Checklist for Stage One:

- research requirements of policy, laws, regulations, best practice etc
- find sources of information and advice to establish compliant procedures
- consult the internet, trade associations and publications, industry bodies and external experts
- consider the requirements of your organisation, including the cultural needs.

Stage Two – drafting policies

Whoever is responsible for drafting a policy will have to take into account the fact that different organisations have different ways of expressing themselves, tone, language etc.

The policy creator should try and achieve consistency of style across a suite of policies.

Above all, the creators of policies should strive to use plain English at all times and avoid legalese or needless jargon.

Before a policy is deployed for the first time, the organisation should consider whether a consultation process needs to be carried out either directly with those affected by the policy, or via a staff consultative body.

Checklist for Stage Two:

- who is responsible for writing policy?
- who will ensure consistency of language?
- ensure that policy style and approach is consistent with company culture
- check that a policy is written in plain English and is understood by all relevant employees
- consider a consultation phase (with either a focus group or an employee representative group).

Stage Three – deployment and communication

A process should be designed that includes being able to effectively send the right policy to the right people regardless of their location. If you have already organised the company into groups using directory services, the policy deployment system should be capable of integrating with it.

For some policies, a passive approach may be acceptable, such policies are usually those which bestow a benefit on the employee and where it is safe to assume the policy will be sought out. For other, 'mandatory' policies, i.e. those requiring something for the employee in behavioural terms, the deployment will need to be compelling and unavoidable.

Checklist for Stage Three:

- for which policies do employees need to be actively informed ofin a way they can't be ignored, or just be made aware that the policy is available?
- which employees need to understand and accept the policy, which locations and which languages?
- how will you ensure staff successfully receive and read the policy?
- how much impact will your deployment model have on the organisation (management time, network, existing systems, bandwidth etc.)?
- decide where to store the policy so it is available once deployed.

Stage Four – testing, understanding and affirming acceptance

For sensitive policies, the organisation needs to be in a position to track the penetration of the policy across the enterprise. Critical to this is the collection of evidence to prove that employees have signed their acceptance to abide by the policy. However, some recent court cases have shown that an employee's acceptance of a policy can still be brought in to question if the employer is not able to demonstrate that the employee understood exactly what he had signed up to.

Stage four is therefore a two fold process. One of the most accurate ways to assess whether employees have fully understood a policy or not is to ask them questions on it. Obviously, it is not an effective use of time to hand out and mark questionnaires, but there are electronic alternatives which present questions on screen and automatically score responses.

In the event of failing to demonstrate policy comprehension, you need then to be able to determine appropriate steps, deny system access, alert a line manager and or point to training options.

Only once the organisation has encouraged the employee to think about the policy should they then make any attempt to record the acceptance of it. Many deployment methodologies make some provision for recording acceptance but the chosen method must make it clear to employees that they are making a legally binding agreement, which will be recorded by their employer for future reference.

Checklist for Stage Four:

- is the policy vital to the operation of the company or critical to compliance? If yes, you need to ensure that staff understand the policy, agree to abide by it and understand that by accepting a policy they are entering into a legally binding contract
- is the policy well written enough that there is just one 'correct' answer to any questions?
- how will you reliably audit policy acceptance without using precious management time?
- put steps in place to deal with any demonstrated lack of understanding.

Stage Five – auditing policy penetration

Finally, those charged with deploying policy need to be in a position to readily generate reports from the deployment process. Boards and regulatory bodies with stringent requirements increasingly demand accurate, time stamped information on policy deployment and acceptance.

On a macro level, management reports to show compliance at a glance are essential to those leading an organisation, to what extent had policy been accepted and understood? If not, by which groups? Which policies are proving hard to understand? What potential risks are highlighted? What trend is visible since the previous policy deployment?

Moving down to the micro level, it may be an unfortunate necessity (e.g. disciplinary action) to be able to identify a particular individual to who a policy had been deployed and ascertain whether and when they agreed to abide by the policy and exactly what was included in that agreement.

Checklist for Stage Five:

- can you easily build a view of compliance in the organisation?
- management reports should give directors instant snapshot views of compliance
- audit acceptance and understanding on both a macro and micro level
- positive compliance reports can have advantages when tendering for contracts etc.

Conclusion:

Corporate policies are no longer just a 'nice to have' culture shaping tool for large businesses. With the introduction of increasingly strict legislation and the attentions of industry watchdogs focusing in on compliance, policies are now essential for organisations.

The five stages outlined in this guide have been developed to help organisations develop a 'best practice' approach to policy.

Preparing for the FCA and heading off conduct risk

The clamp down on conduct

"Conduct risk, which places emphasis on providers of credit to treat customers fairly, will challenge them to deliver higher standards of customer support across the whole relationship", says Jonathan Westley, Managing Director of Experian's Consumer Information Services.

"Lenders now face tough new standards for customer interaction as the Financial Conduct Authority (FCA), begin to apply measures to reduce 'conduct risk', placing customer needs at the heart of finance strategy.

Several elements of this concept are already being dealt with by banks as part of other disciplines, such as the Know Your Customer regulations, operational risk, and the Treating Customers Fairly initiative. Bringing them together under one umbrella will require firms to take a more active role in creating what the British Bankers Association (BBA) calls 'a stable, customer focused banking system that can regain public trust'.

Whilst these procedures and guidelines are in place for good reason, there is a reputational risk for lenders. The FCA will be seeking to act in a more preventative manner, able to announce that it has begun formal disciplinary proceedings against a firm or individual by publishing details of a 'warning notice'. The warning notice will be published at an early stage of investigation and, most worryingly for lenders, before they have been proven guilty of misconduct. In doing this, the FCA aims to improve transparency about its enforcement processes.

It will also have the ability to intervene on products prior to their sale and ahead of concerns being raised by third parties. That makes it imperative for regulated firms to protect themselves from such actions and get checks in place for both established products and new product sales, in a way that minimises disruption to the customer experience. Firms will be expected to be able to demonstrate that decisions are made in the interest of consumers and reviews of governance, culture and controls will be carried out periodically. The way to reduce risk significantly, is by monitoring and spotting the warning signs of pre-delinquency and acting early enough. The longer lenders wait to take action, the less likely customers are to recover. Signs of pre-delinquency can be easily recognised, by understanding and using the right indicators. Providing the best possible services and creating stronger relationships with customers is key and opportunities exist to develop systems using customer data that helps predict requirements and changes in personal circumstances.

There are three strands to this:

- sales will require a detailed Know Your Customer exercise, to avoid the potential for mis-selling and not just a fraud and anti money laundering check, but a full detailed suitability check
- the online marketing of products will have to be managed carefully, with the right rules applied to each customer
- the lender must ensure the on going suitability of products for consumers, even as circumstances and products change.

Getting tough with the sales process could make things slower and more expensive. Managing existing relationships more closely will require greater administration. Clearly, regulators are not trying to reduce the scope of products available to the consumer, but recent experience of mis-selling suggests that lenders will have to think more carefully about applying greater rigor to client interactions if they are to maintain revenues from current lines of business and avoid large fines and damaging publicity."

new website arrives

At CCTA we don't believe in change for changes sake, but in any business, standing still is not really an option. In 2012 we introduced a fresh logo and corporate colours, as a celebration of our continuing growth. This month we will be launching our new website.

Instep with the, ever changing, needs of our members, we have kept things clean, contemporary, and easy to use.

We have listened to your comments and acted on your requests to ensure that you get the most out us, with the least effort.

We have introduced a News page, where we will keep you up to date with our lobbying progress, and fully informed about the constantly changing face of the credit industry.

we've been kissed...

Through your CCTA login, you will now be able to...

manage your membership online...

- update your contact details
- update your compliance details
- request a new membership certificate

see at a glance...

- when your membership renewal is due
- which band you are currently in
- the codes of practice you have signed up to
- details of the copyright documents you hold and their renewal date

other new 'member only' features include direct links to:

- legal advice line
- complaint and conciliation service
- All CCTA codes of practice
- CCTA logos
- APR calculator – offered in conjunction with Oyster Bay Systems

online bookings and full payment options for all our events:

- training courses
- conference and gala dinner
- face2face meeting
- expert group meetings
- briefing seminars

online copies and a fully downloadable back catalogue of:

- consumer credit magazine
- regulatory inform

Don't worry we haven't thrown the baby out with the bath water. The member database search, document and copyright ordering, and all the 'usuals' are still there.

In fact, the CCTA ethos is one thing that hasn't changed. We remain, as ever, a dynamic and forward thinking association. We pride ourselves on a strong independent voice and we will continue to serve our members with friendly professionalism and integrity.

We will be in touch soon with all the details – embrace the change!

Pounds to Pocket joins CCTA

Pounds to Pocket, one of the UK's leading personal loan providers, have announced their membership to the Consumer Credit Trade Association (CCTA), one of the longest serving credit trade associations in the UK.

This affiliation will see Pounds to Pocket operate in line with the reputable CCTA Code of Practice, one of the most stringent in the sector, and reaffirms to customers and other businesses the credibility and reliability of the business.

Speaking of the association, Alex King, managing director of Pounds to Pocket said, "Our business is founded on the core value of providing customers with the necessary resources to make informed decisions when using our products, making us a trusted and preferred option for people who need it. We are committed to responsible lending and we are proud to announce this membership with the CCTA."

Greg Stevens, chief executive of the CCTA said, "We warmly welcome Pounds to Pocket as an association member. We believe that with their business experience and industry knowledge they will be able to greatly assist us in our overall lobbying, to continue to protect and enhance the consumer credit market. We look forward to working closely with them in the future as we set the cultural benchmark for our members."

NEW MEMBERS

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

- Loans & Finance Solutions Ltd
- Universal Trading Company (Leic) Ltd
- Chandler Hart Ltd
- Eremurus Ltd
- M&K Financial Services Ltd
- Logbook Lending Ltd
- Faith Debt Recovery Ltd
- Trade Exchange Braintree LLP
- Casheuronet UK LLC t/a Pounds to Pocket
- Beddows Motor Company
- Icelolly Loans Ltd
- MBB (UK) Ltd
- Yes Solutions Ltd
- UK Trust Loans Ltd
- Moneynet Ltd
- CashQ Ltd
- Evermile Ltd
- Stop Go Networks Ltd
- Gold & Silver Exchange Ltd
- Claire Hassan t/a EEZI LOANS
- Paxtons

The lending market shifts to term loans...

One of the top UK micro loan lenders, Cash 365 has launched a six month term loan product with Welcom Software that offers the consumer more choice on a new website

Peter Richmond
Business Development Director

Welcom recently launched the new Cash365 website, which clearly advises the six monthly payments with reduced interest on each payment.

Charges are visibly explained so the borrower knows precisely how much the repayments will be on a month by month basis. Affordability checks are performed within Financier and externally with Callcredit Information Group.

The customer will also have access to a 'My Account' area offering the functionality to manage their own account including an online statement of all transactions on the account.

Welcom designed and developed Cash 365's new mobile and tablet optimised website, the recent growth of the use of devices to apply for loans has highlighted the need to serve customers any time, any place and on any device. For the launch of the new lending product Cash 365 has joined with one of the leading credit reference and ID verification companies to provide identity verification, payment validation and credit risk data.

Welcom Software has also implemented some unique credit risk policy rules that will enable automated decisions to be made on the majority of applications.

Terry O'Hare, Founder and CEO of Cash 365 said, "I have been impressed with the level of service and market knowledge Welcom Software has offered since I first opened my payday loan company with them almost one year ago. Cash 365's new product is a sign of where the market is heading, as lenders we need to react to market changes and Welcom Software has allowed me to roll out my new product very quickly and efficiently with the use of the modular Financier software system. Their in-house digital design team produced a remarkable new mobile optimised website, which, as we all know, is an extremely important offering in today's market.

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Going the extra mile

Setting the right tone for payday collections

"Encouraging customers to see you as fair but determined sets an important professional image in the market"

Neil Petty
Motormile Finance UK, Managing Director

The payday loan market, in the UK, really began to develop in 2008, after which first tier debt sale began to happen in 2009. At that time MMF took a strategic decision to seriously look into the market, build alliances, network, and educate ourselves in its ways, but to wait until a second tier market developed, which happened in 2010.

It was our opinion then, and it remains our opinion today, that very different skills are needed to collect payday debts which are three months out of date, compared with those that are a year overdue. It all comes down to the short term nature of the loan. The borrower has taken on a one month loan to get over a temporary financial crisis, so it is unlikely, three months down the line, that this crisis will have passed. However, after a year, things might be very different, and they might, financially, be in a position where they can sensibly discuss a way forward.

Of course, the other side of this is that it is very likely that, after a year or 18 months, a debtor might have no desire to face up to their responsibility of paying a one month loan that is long in the past. They will, almost certainly, not have budgeted for its repayment or planned for it. So we decided that the first key to success would be to build our collections model around the debtor's cash flow. As a result, we allow our agents the authority to offer a 10 month repayment plan and we instil in them an understanding that it is better for us and for the debtor to establish a reasonable payment plan, that will last, rather than pushing for too much in the first instance, and then needing to be back on the telephone to them when it has fallen through.

Of course, this is the responsible way to behave, but it is also very practical, given the nature of many people who take out payday loans. Most people who take out a payday loan are very savvy about the products. They have often had a loan before and they will do research online, both about the product and about potential consequences for non-payment. They will also discuss their experiences online and more generally. So we need to send a message to the customer base as a whole that, if they receive a communication from us, then they should react to it, because they will be dealt with in a fair way.

Equally, we run a field force of 80 agents and, after a debt has been through our in house collections cycle, it will automatically be outsourced to an agent. Every debt is sent to an agent, even one of just £50, because, again, it is about setting an expectation amongst the debtors that this will happen. Of course, this has additional benefits up the chain. If a fraudster knows that they will be traced and an agent will call if they do not pay a certain payday lender, then they are more likely to avoid that lender. Likewise, if a customer's situation changes and they find themselves in debt, they are more likely to answer the first letter or telephone call from the lender and come to an arrangement. It really is the case that, by getting things right at the back end of the process, we can improve collections and fraud avoidance rates at the front end.

It is all about knowing the market and acting in a responsible way. As our agents, we employ current or former county court bailiffs, that way they know the local area, often know the debtors, and come from that background of working for the court and so doing things in the right way. This has compliance benefits, last year we only had four complaints to the Financial Ombudsman Service, none of which were upheld.

In the payday loan sector, it really is worth going that extra mile to establish your reputation, to set an expectation of fair dealing and professionalism, so that, should any queries arise, they can be dealt with by an honest, straightforward conversation and a solution found.

"So we need to send a message to the customer base a whole that, if they receive a communication from us, then they should react to it, because they will be dealt with in a fair way."

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Despite the Government's Funding for Lending scheme, demand for unsecured loans continues to outstrip the supply of available products, particularly outside of the prime high street market. Payday and peer-to-peer lenders have quickly cemented themselves as convenient alternatives to conventional loans and secured loan applications have started to show a steady increase, but funding is still constrained across the sector.

Peter Constance
Pancredit

Meanwhile, consumers are increasingly looking to the internet, in particular price comparison sites, to source loan products. The upshot is that acceptance rates are at rock bottom, leading to a frustrating customer experience for consumers, high acquisition costs for lenders and potential reputational damage for the online intermediaries.

High street lenders have also been beaten pillar to post by the financial crisis and PPI mis-selling scandal, and are faced with the challenge of restoring consumer confidence in their brands and services. Add to this the increasing need across the board to demonstrate a commitment to 'responsible lending', while meeting the market's expectations for rapid service and online convenience, not to mention the need to cut costs, and we can see that the challenges are considerable.

Thankfully, help is available in the form of intelligent technologies that are designed specifically to help lenders meet these challenges. By evaluating a customer's financial circumstances automatically at the point of initial enquiry, according to the lender's qualifying criteria, they steer applicants toward the financial products that they can afford and are likely to be granted, and away from those that are unsuited to their borrowing profile. Increasingly, comparison sites are also allowing consumers to consent to the use of their credit file in sourcing products, without impacting their credit rating, making the results even more accurate. Over time, the accumulation of outcome data will improve the accuracy still further.

These solutions save consumers hours of needless frustration by preventing them from applying for products that they never stood a chance of qualifying for in the first place. The knock on effect for lenders is also significant, with increased conversion rates and a corresponding reduction in the cost of acquisition.

The price comparison sites, can benefit too. They earn a referral fee each time they channel a successful application to the lender. By integrating these technologies into their loan search functions, they become far more than a 'shop window' for loans, filtering the products they display according to the profile of their visitors and thus improving the quality of the applications they generate for lenders together with the quality of the online experience they deliver.

2013 may prove to be a watershed moment in the development of these technologies. The leading price comparison sites are already trialling and rolling out these intelligent search functions and by this time next year they will be regarded as the norm.

As more business shifts to the online channel, all lenders will need to focus on delivering the best possible online experience. This means ensuring that their customers and prospects are easily connected to the most appropriate products for them. Responsible lending will also become an increasing obligation for lenders. When interest rates finally do rise, as they inevitably will, the need for more accurate affordability checks will also increase. Those yet to investigate how technology can help them make up for lost ground should take every opportunity to explore tools that can weave this ethos into their day to day operations.

Callcredit research finds 50% increase in those over 35 taking out credit to cover household bills

Research published in April by Callcredit Information Group found that there has been a 50% increase in consumers over the age of 35 taking out credit to cover household bills in the last two years. Whilst historically debt consolidation, car purchases and unforeseen circumstances had been the key reasons for taking out credit, the last two years have seen the 'squeezed middle' struggling to make ends meet and the requirement for additional credit to cover household bills has become more prominent.

- 24% of consumers have taken out credit in the past 2 years for debt consolidation, a 6% increase
- 18% have taken out credit due to unforeseen circumstances
- 15% have used credit to purchase household goods
- 12% have taken out credit in order to pay household bills

As household incomes continue to be challenged and as more people are unable to put aside any money each month, the research also highlighted that debt consolidation and unforeseen circumstances were the next most prevalent reasons for taking out credit.

Once again it was the older age groups suffering most with 30% of 45 to 54 year olds taking out credit to consolidate debt, whilst 13% of those in the same age bracket are taking out credit to pay household bills.

Going from strength to strength...

On 7 May 2013, Callcredit Information Group demonstrated the strength of its business, in what have been continued difficult market conditions, by releasing its annual results for 2012.

The Group has continued to see excellent growth, with profits from operations increasing 40% on the previous year to show full year profits of £17.3 million. Revenues increased by 25% year on year. The Group continued to expand and now has a workforce of close to 900.

John McAndrew, CEO of Callcredit Information Group said, "These results demonstrate that Callcredit continues to 'buck the trend' enabling us to grow our business in uncertain trading conditions. The fact that we have achieved this in a year where we renewed a substantial proportion of our IT infrastructure, relocated parts of our business and opened a new IT development operation is nothing less than remarkable. 2013 is set to be another year of change within the marketplace which will provide ever evolving challenges for our business, but challenges which I am confident we are well placed to meet".

A birds eye view...

TFS Loans implements Oyster Bay's Vienna system

TFS Loans Limited is an alternative lender based in Leigh-on-Sea. It was established in 2009 and specialises in providing guarantor personal loans.

John Harman
Sales Director

TFS's success has grown rapidly since it was established, despite the prevailing challenging economic conditions, and the ever growing compliance burden faced by the industry. To support its growth, TFS needed a back office system that could manage its operations at each stage of its development, not just for the first few years. They chose Oyster Bay because of its in depth understanding of companies who are looking to grow, and the technology that these growing financial services organisations need to succeed.

Paul Auger, Director at TFS Loans, commented: "since our initial requirements were relatively straightforward we were able to make a speedy decision in favour of the LoanStar system. LoanStar was a system specifically designed for companies like ours who were looking to start up their own loan book. LoanStar enabled us to manage our growing loan portfolio in the early days, whilst allowing us to standardise our processes, and manage risk. It was evident that due to our aggressive growth plans, it would not be long before we moved into Oyster Bay's flagship system Vienna, a decision we made two years later. It is Vienna's scalability that has enabled TFS loans to grow so significantly in recent years, the company currently turns over between £4m and £5m new business each month, this is especially impressive since our average balance financed is around £4,500".

John Harman, Sales Director at Oyster Bay Systems explains the priorities. "TFS needed Vienna's ability to use the most up to date technology to service high volumes of customers and brokers in the most efficient way, minimising cost to serve through efficient automation, reducing decision times and improving deal conversion rates, whilst always focusing on improving the customers' experience across the different channels. Most of all they needed a system that would meet their needs for the long term.

Vienna has enabled TFS to deliver their aggressive growth strategy through a system that is truly specific to their requirements, they have embraced the myriad of capabilities that Vienna has to offer and capitalised on its automated processing, sophisticated document management and integrated e-signature technology to create a streamlined and paperless environment.

Oyster Bay has also developed a bespoke consumer web portal for TFS that is fully integrated with the Vienna system and is focused on capturing new business directly from the consumer. This has enabled TFS to provide a 24 hour application process that today's consumers expect. Vienna has also provided TFS' brokers with their own web based portal, which combined with the consumer portal and Vienna functionality provides a solid new business platform to drive TFS' growth.

The introduction of the broker portal and customer website have of course increased customer demands on the business. Paul explains "With the advent of online applications we find that potential borrowers want decisions 24 hours a day and seven days a week, Vienna is able to provide this functionality admirably."

Vienna's risk management is an integral component of the process that can be utilised by its users to develop a significant competitive advantage, with its flexible and sophisticated campaigns and underwriting rules, which incorporate automated links to multiple credit reference agencies. Critically Vienna's credit gateway uses TFS' own bespoke business rules to pre-select a suite of loan products so that acceptance levels are maximised.

The credit gateway is central to TFS' success, the gateway manages the process of taking a finance application through pre-configured business rules and will begin by sequentially evaluating all the business rules set up within the gateway to create the appropriate underwriting status/decision of accept, refer to underwriter or decline. These decisions are based according to TFS' requirements, however the parameters surrounding these rules can be tweaked by TFS themselves, enabling them to fine tune their automated underwriting decisions.

Paul notes "Since we receive a large amount of applications, but are only able to accept a limited percentage of these, Vienna's ability to screen and filter large volumes of proposals, and accept speedily those that are acceptable, is crucial."

Oyster Bay has provided a specialist team to oversee the ongoing development and the training of TFS staff to maximise the benefits and utilisation of Vienna's functionality. Vienna provides users with a comprehensive single view of the different customer relationships and products. Users can also access CRM functionally through intuitive screens and easy to use wizards that allow complex tasks within Vienna to be managed and controlled by authorised users to support customers through the term of their loan. Proposal management and collections are managed through workflow queues that allows a 'bird's eye view' of the whole operation".

John comments "TFS are a fantastic partner who are constantly looking at ways to improve their processes and drive their business forward, which everyone at Oyster Bay is very excited to be a part of and fits perfectly with our own ethos. It is clear that TFS are investing in creating their tailored system for their business model with current developments focusing on expanding TFS' offerings into new markets, all of which can be managed within one single Vienna system.

The face of the payday consumer...

On 15 May the UK payday industry launched its inaugural 'Credit Crunched' report at an event at the Houses of Parliament. Credit Crunched provides an in depth look at the payday customer base identifying challenges and issues faced by consumers against a continued backdrop of economic uncertainty and lessons that the industry must learn. The report has uncovered how three particular types of households have adapted the way they approach financial management post 2008, these are:

1. Tech-savvy 25-35 year olds who have grown up with the credit crunch as their normality. 61% of this group are single.They don't have a mortgage, however borrow small amounts for car expenses, holidays, last minute gifts or to pay outstanding utility bills.
2. 35-44 year olds who are more likely to use the high street to deal with their finances. 63% of this group have children and 81% are employed either full or part time. These are the most squeezed group by rising costs of living and therefore use the loans to pay off outstanding utility bills and food shopping.
3. 45-55 year olds with grown up children who are increasingly calling on the 'bank of Mum and Dad' and ageing parents that need financial assistance. 40% earn more than £20,000 a year. Sandwiched between their children and parents, it is also the group that has the highest proportion of family emergencies to pay for. They may well enjoy two holidays a year, but spending what they earn means they have no spare capacity for unexpected or emergency costs.

Russell Hamblin-Boone told MPs:

"Each of the groups identified in the report need to access money at short notice. UK households have reassessed their finances and are looking for new ways to manage their money. Smartphones and online services are such a big part of life that it is inevitable that technology is having an increasing impact."

Source: CFA News Release

Breaking the code...

Call for action on non-conforming payday lenders

Paul Blomfield, Labour MP for Sheffield Central, has proposed a private members bill against payday lenders following evidence from Citizens Advice which found that some payday lenders are not checking if people can afford to pay back loans or freezing interest rates and charges for those struggling to repay.

Gillian Guy, Chief Executive of the Citizens Advice, said her organisation has exposed the failure of payday lenders to stand by their own commitments to treat people fairly.

"This private members bill is a step towards protecting people from predatory practices and overcoming the problems payday lenders failed to address by breaking their promises to customers."

Source: Insolvency Today

University challenge...

NUS launches nationwide campaign to ban payday lender advertising on campus

On 11 June the National Union of Students (NUS) announced that three universities have committed to never allowing payday lenders to advertise on their campuses and launched a nationwide campaign to encourage more colleges and universities to do the same.

The three universities who gave a commitment to their students' union to never allow payday lenders to advertise on their campuses were University of Northampton, Northumbria University and Swansea University.

Pete Mercer, NUS National Vice President (Welfare), said: "It's clear that at least some payday lenders are targeting vulnerable students and the Government has so far failed to act so it's important we do everything we can to limit their ability to reach our campuses."

Source: NUS Press Release

The Payday APR conundrum

We have had a number of enquiries about APR calculations for short term loans that have a similar thread. In essence, the question is, 'If the lender is charging £1 per £100 borrowed per day, shouldn't the APR simply be 365% irrespective of the number of days the loan is over?

Intuitively, that may feel right, but the mathematics do not quite work out that way. It is true only if the term is exactly a year, but otherwise, if the daily interest rate remains constant, the shorter the term, the higher the APR. The important factor in this equation is the timing of the capital repayment, not the daily interest charged. For example, a £100 loan at 1% per day would be repayable after 12 months by a single repayment of £465, and the APR would be 365.0%. The same loan at 1% per day would be repayable after 28 days by a single repayment of £128, and the APR would be 2397.8%.

Shortly available through CCTA membership, and directly from us, we can offer professional calculators that are compliant with UK and European legislation.

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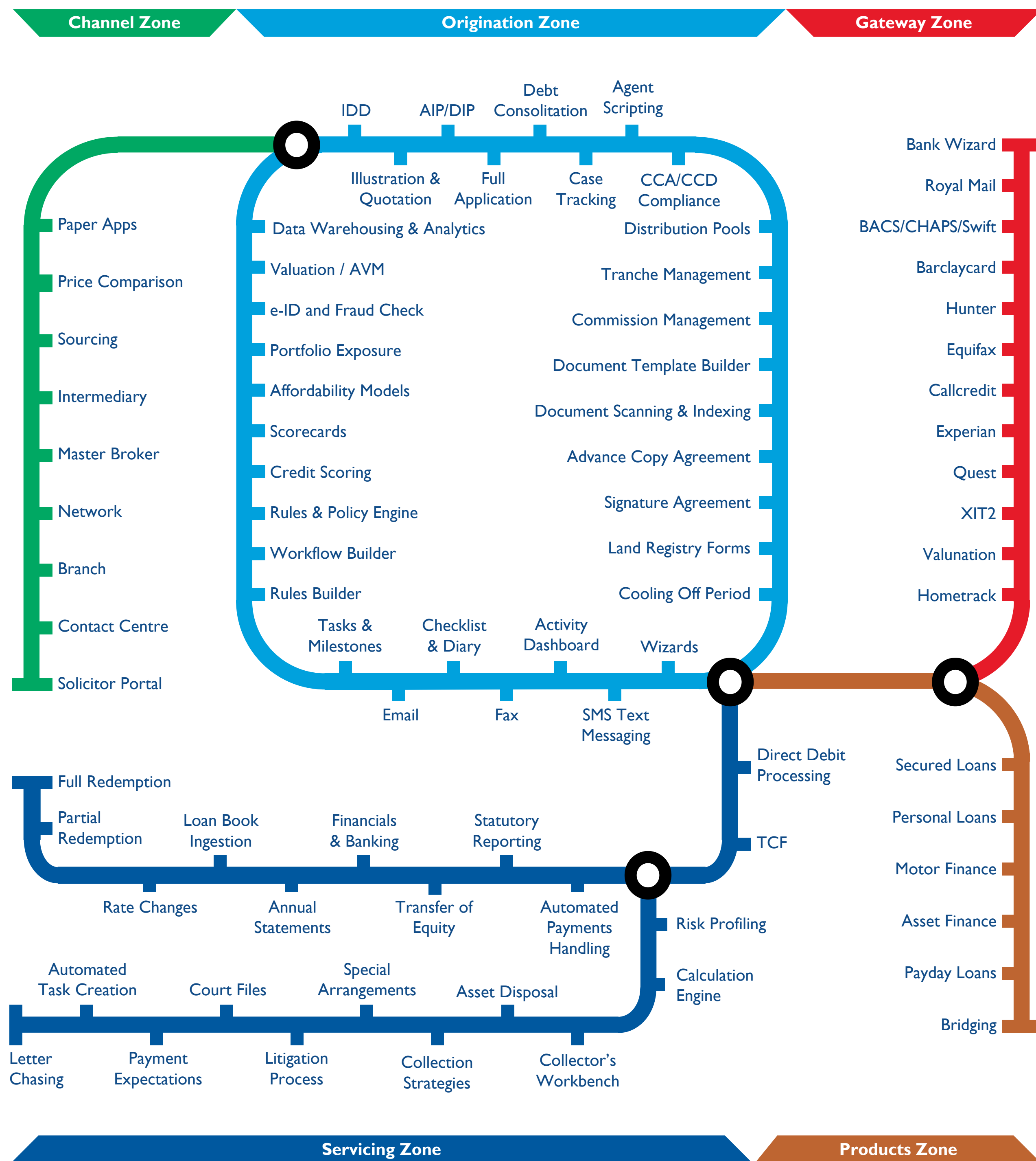

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A sinking ship?

Taking stock – short term lending in transition

Despite attempts by some of the trade bodies who announced enhanced standards and monitoring of their members, the sector just can't get away from the negative publicity which continues to linger around it, whether this is further OFT action against lenders or yet another press release headlining payday loans it never seems to end.

David Patel
Managing Director

The prospect of tighter regulation by the FCA should lead to better regulation and therefore much less criticism of the sector moving forward, and naturally this is good news for those lenders who are able or willing to keep lending. Since publication of transitional arrangements over to the FCA a number of lenders have taken the decision to either exit the industry immediately, or are actively looking to sell. This is of no surprise and consolidation will continue over the next 18 months as lenders initially begin to understand the implications of the challenges that lay ahead and then after April 2014 when they experience it first hand.

The referral of the sector to the competition commission is a positive move and should help identify structural issues and hopefully lead to genuine competition and sustainable business models.

We are starting to see more lenders reviewing their current lending platforms, as they assess the implications of the new regulatory regime and their new requirements against current capabilities. DPR has many years of experience operating in the highly regulated mortgage market and like many modern technology providers understands and has adapted its solutions to help lenders operate with greater levels of automation, auditable compliance and agility to minimise risks.

Whilst technology may not have been the highest priority of lenders in the past, they will be central to their success moving forward.

General Stats

UK Personal Debt

Outstanding personal debt stood at £1.424 trillion at the end of April 2013. This is up from £1.410 trillion at the end of April 2012. At the end of April 2013, individuals owed nearly as much as the entire country produced during the whole of 2012.

Outstanding secured (mortgage) lending stood at £1.266 trillion at the end of April 2013. This is up from £1.252 trillion at the end of April 2012.

Outstanding unsecured (consumer credit) lending stood at £157 billion at the end of April 2013. This is down from £158 billion at the end of April 2012.

Average household debt in the UK (excluding mortgages) was £5,971 in April. This is down from a revised £5,972 in March.

Average household debt in the UK (including mortgages) was £54,015 in April. This is up from a revised £53,991 in March.

The average amount owed per UK adult (including mortgages) was £28,980 in April. This is up from a revised £28,967 in March, and was around 120% of average earnings.

Average consumer borrowing (including credit cards, motor and retail finance deals, overdrafts and unsecured loans) per UK adult was £3,204 in April. This is unchanged from a revised £3,204 in March.

The estimated average outstanding mortgage for the 11.3m households that carry mortgage debt stood at £112,459 in April.

Based on April 2013 trends, the UK's total interest repayments on personal debt over a 12 month period would have been £60.1 billion. This is equivalent to £165 million per day. This means that UK households would have paid an average of £2,279 in annual interest repayments.

The Office for Budget Responsibility (OBR) predicted in March 2013 that total household debt will reach £1.931 trillion in Q1 2018. This would mean that average household debt would reach £73,284 (assuming that the number of households in the UK remained the same between now and Q1 2018).

Net lending to individuals by UK Banks and Building Societies rose by £1.4 billion in total in April 2013. Net secured lending rose by £0.9 billion in the month. Net consumer credit lending rose by £0.5 billion.

UK Banks and Building Societies wrote off £4.1 billion of loans to individuals over the 4 quarters to Q1 2013. In Q1 2013 itself they wrote off £932 million (of which £385 million was credit card debt) amounting to a daily write off of £10.21m.

Every Day in the UK

274 people are declared insolvent or bankrupt every day (based on Q1 2013 trends). This is equivalent to one person every 5 minutes 15 seconds.

1,373 Consumer County Court Judgements (CCJs) are issued every day (based on Q1 2013 trends). The average value of a Consumer CCJ in Q1 2013 was £2,442.

Citizens Advice Bureaux in England and Wales dealt with 8,192 new debt problems every working day during the year ending December 2012.

It costs an average of £29.02 per day to raise a child from birth to the age of 21.

88 properties are repossessed every day (based on Q1 2013 trends).

58 new people a day became unemployed for over 12 months during the year ending March 2013.

1,534 people a day reported they had become redundant between January and March 2013.

Public Sector Net Borrowing (excluding financial interventions) was £6.3bn in April 2013, meaning that the Government borrowed an average of £210m per day during the month (equivalent to £2,431 per second).

112 mortgage possession orders are made every day.

312 landlord possession orders are made every day.

The UK population is growing by an estimated 1,342 people a day.

27.5m plastic card purchase transactions were made every day in March 2013 with a total value of £1.355 billion.

8.7m cash machine transactions were made every day in April 2013 with a total value of £341m.

The average new car costs £18.33 per day to run.

It cost £66.70 to fill a 50 litre tank with unleaded petrol in May.

£54,015 was the average household debt (including mortgages) in April.

£165m was the daily amount of interest paid on personal debt in April

8,192 new debt problems were dealt with by the CAB each working day over the year to December.

HPI Receipts Summary May 2013

CATEGORY		TOTAL MARKET NEW	TOTAL MARKET USED	TOTAL MARKET TOTAL	TOTAL MARKET YEAR TO DATE NEW	TOTAL MARKET YEAR TO DATE USED	TOTAL MARKET YEAR TO DATE TOTAL
PASSENGER CAR	2013	222696	220345	443041	1225869	1104866	2330735
	2012	199626	189463	389089	937579	950734	1888313
	% Change	11.56	16.30	13.87	30.75	16.21	23.43
LIGHT COMMERCIAL VEHICLE	2013	13344	9157	22501	69770	49355	119125
	2012	10269	8301	18570	46066	40563	86629
	% Change	29.94	10.31	21.17	51.46	21.67	37.51
HEAVY COMMERCIAL VEHICLE +3500	2013	2259	1676	3935	10906	8197	19103
	2012	2335	1407	3742	12833	7081	19914
	% Change	3.25-	19.12	5.16	15.02-	15.76	4.07-
COACH	2013	152	298	450	929	1883	2812
	2012	234	357	591	1307	1667	2974
	% Change	35.04-	16.53-	23.86-	28.92-	12.96	5.45-
MOTORCYCLE	2013	4926	2622	7548	19587	10977	30564
	2012	4568	2454	7022	19901	10366	30267
	% Change	7.84	6.85	7.49	1.58-	5.89	0.98
MOTOR CARAVAN	2013	348	220	568	1797	705	2502
	2012	366	139	505	1709	506	2215
	% Change	4.92-	58.27	12.48	5.15	39.33	12.96
TOURING CARAVAN	2013	2075	1256	3331	10285	4289	14574
	2012	2286	1223	3509	9368	4208	13576
	% Change	9.23-	2.70	5.07-	9.79	1.92	7.35
STATIC CARAVAN	2013	94	66	160	710	154	864
	2012	196	24	220	636	148	784
	% Change	52.04-	175.00	27.27-	11.64	4.05	10.20
AGRICULTURAL TRACTOR	2013	663	467	1130	4031	2384	6415
	2012	1080	489	1569	5135	2226	7361
	% Change	38.61-	4.50-	27.98-	21.50-	7.10	12.85-
MISCELLANEOUS	2013	10359	5898	16257	52851	29358	82209
	2012	9850	5450	15300	54527	25135	79662
	% Change	5.17	8.22	6.25	3.07-	16.80	3.20
Grand Total	**2013**	**256916**	**242005**	**498921**	**1396735**	**1212168**	**2608903**
	2012	**230810**	**209307**	**440117**	**1089061**	**1042634**	**2131695**
	% Change	**11.31**	**15.62**	**13.36**	**28.25**	**16.26**	**22.39**

Billing Finance 30th Anniversary Celebrations

In May Billing Finance Ltd celebrated its 30th birthday in the glorious surroundings of Rudding Park near Harrogate

Oliver Mackaness
Billing Finance Ltd

The party started with a bang when a group of Billing staff, brokers and suppliers spent the afternoon at a nearby carting track. Before Carl Eccles from Car Loans 4 U was declared the overall winner, two cars had been completely written off while a third was driven headlong into a tree.

James Mackaness, who established the company in 1983, demolished a picnic table and dented a trailer while behind the wheel of a go kart. Happily, his piloting of Billing Finance has been a much smoother affair. It is very much a family business with a personal and can do approach. All underwriting is done manually, and Billing has firm and friendly links with its brokers, including AUF, New Look Loans, Car Loans Express and Car Loans 4 U.

In the last five years the company has concentrated on the near prime second hand car finance market under the guidance of Oliver Mackaness, James' son. At a dinner at Rudding Park in the evening, Oliver warmly thanked the brokers and key suppliers, such as Lloyds TSB, Experian, G3 and Crystal and Oyster Bay Systems with whom Billing Finance enjoys such good relationships. This was illustrated by Andy Shuter from Frontline Solutions leading the guests in an enthusiastic rendition of Ilkey Moor Bah Tat.

According to Oliver Mackaness, the success of the company is due largely to the commitment of the staff. He praised their hard work and highlighted the achievements of Gary Hill, Billing's Sales Manager, who came 12th in Motor Finance magazine's most influential 50 people in the car finance industry. Also this year Charlie Lackin, who will be greatly missed when she goes on maternity leave later in the summer, was shortlisted by Credit Today as Credit Manager of The Year.

"Billing Finance continues to grow at a rate of 10 to 20% a year. We are really looking forward to the next 30 years but let's hope our business proves better than most of the driving skills we saw earlier," he joked.

Wishing Billing Finance Ltd a very
Happy 30th Birthday

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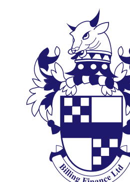
Great Billing, Northampton NN3 9EX.

Telephone: 08448 463463. Fax: 08448 469 024.
Email: info@billingfinance.co.uk
Website: www.billingfinance.co.uk



Credit Today The Rise of Short Term Credit Report 2013

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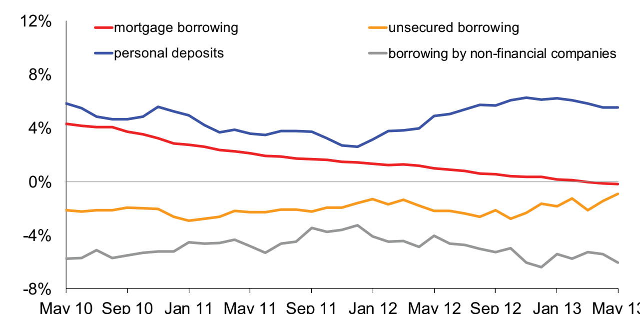
High Street Banking Statistics [BBA] – May 2013

BBA statistics director, David Dooks said:

"New mortgage borrowing from the high street banks strengthened in May and approvals for both house purchase and remortgaging continued to rise. Unsecured consumer borrowing also saw a small net rise overall, in line with improved retail sales volumes."

"SMEs use of their own high levels of cash resources and large companies' use of alternative finance, means demand for bank borrowing is subdued and a reflection of challenging trading conditions."

Annual Growth Rates

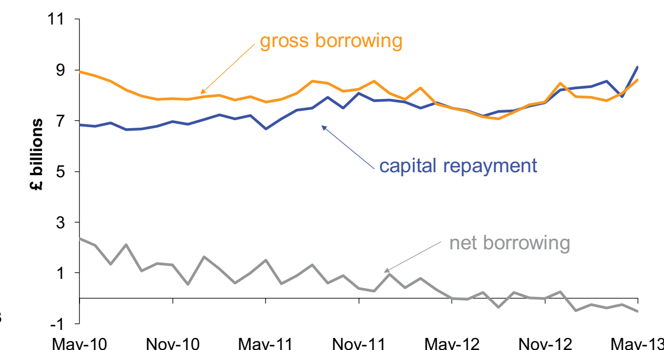


Personal deposits have risen by 5.5% over the year to May.

Stock levels of mortgage borrowing from the banks fell by 0.2% over the year.

The outstanding level of unsecured borrowing contracted by 0.9% over the year but within that, annual growth in credit card borrowing of 6.5% is masked by a contraction of 6.7%.in personal loans and overdrafts.

Gross borrowing, net borrowing and capital repayment



Gross mortgage borrowing of £8.6bn in May was 7.5% higher than the recent monthly average.

Higher capital repayment (notably including more full redemptions, as homeowners move between lenders) continue to generate the contractions in borrowing stocks seen over the past year.

Card Expenditure Statistics [CES] – April 2013

Plastic card spending in April amounted to £43.6 billion from 883 million purchases. This monthly increase in transaction activity between March and April owed more to some spending in the last weekend of March being processed in April. Despite this, the **annual** growth rate in plastic card spending continued to decelerate, falling to 2.8% in April, with debit and credit growing by 4.2% and -0.4% respectively. Corresponding figures for March were 3.1%, 4.6% and -0.2% respectively.

Spending on **retail sales** during the month grew by 1.1% to £21.5 billion, an increase that was spread across most retail sales sub-sectors. One exception was **food & drink** where spending decreased by 4.1% to £7.9 billion – the lowest figure since June 2012. Price competition between some major supermarket chains was the likely driver of this decline. **Mixed Business** was the other sub-sector, which registered a decrease in spending, falling by 1.3% to £2.1 billion.

Spending on **services** increased by 6.0% to £22.1 billion with all sub-sectors registering growth. **Other services** grew by 7.5% to £6.3 billion, while **vehicle sales & services** grew by 9.4% to £2.9 billion. Meanwhile **financial services** increased by 2.2% to £5.1 billion, possibly due to increased investments in ISA's at the beginning of the month.

The **plastic card share of total retail sales** (including automotive fuels)[1] was 73.3% in April – split 50.4% debit and 22.9% credit. In the **food & drink** and **automotive fuels** sub-sectors, this share stood at 66.5% and 84.2% respectively.

At a glance key figures for April 2013

	Total spending £ billions		Annual growth rates for spending		Number of purchases millions	
	2013	2012	**2013**	2012	**2013**	2012
All plastic cards	**43.6**	41.3	**2.8%**	6.2%	**883**	848
Debit cards	**30.7**	28.7	**4.2%**	7.1%	**683**	652
Credit cards	**12.9**	12.6	**-0.4%**	4.1%	**200**	197

[1]CES 3-month moving average spend of £21.6 billion expressed as a percentage of a similar 3-month moving average for ONS Retail Sales - All retailing including automotive fuel (J5A3) - that gives a figure of £29.5 billion.

The reporting population changed with effect of January 2011. This distorted the year-on-year growth rates, which are based on a rolling 12-month period. This distortion ceased in December 2012.

Chart 1
Spending on plastic cards
Year-on-year growth rates

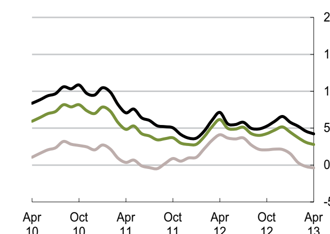


Chart 2
Percent of retail sales made on plastic cards (including automotive fuel)
Three-month moving average

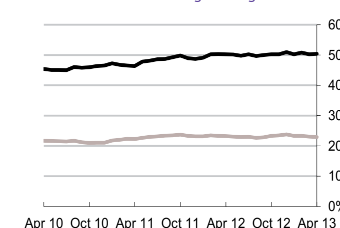


Chart 3
Average transaction values
Three-month moving average

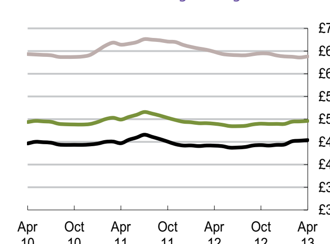
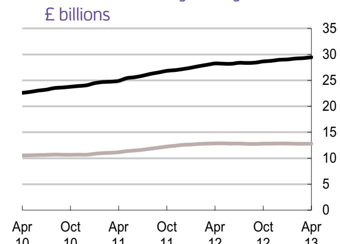


Chart 4
Average monthly expenditure
12 months moving average
£ billions



Debit cards — Credit cards — All plastic cards

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Richard Carter
Nostrum, Chief Executive

New consumer lenders aren't lenders

The entrance of non traditional businesses to the banking and finance sector isn't new, a number of supermarket brands launched their own financial services businesses many years ago, typically partnering with mainstream banks such as HBoS, RBS and HSBC before, in the case of Marks & Spencer, striking out on their own. Similarly, motor manufacturers ride the pendulum swing from having their own in house finance arm to partnering with a specialist motor finance business such as Santander.

But now we are seeing businesses with limited exposure to financial services looking to enter the consumer lending sector to capitalise on some of their key strengths and competitive differentiation, notably access to market and, just as importantly, access to cash.

The lack of liquidity from the mainstream banks has not only impacted their ability to lend as they seek to conserve capital, it has also prevented existing non bank lenders from gaining much needed funding lines to ramp up their own operations, without which it is virtually impossible to tap bond markets or securitization. These lenders are forced to target high net worth individuals or some private equity houses with the promise of strong returns on cash invested.

This lack of supply to consumer demand is readily apparent in the marketplace with a shortage of mid market unsecured loans, and it is this disconnect that is tempting larger consumer facing businesses to enter the lending sector, leveraging their cash and core competencies.

Whilst a number of these businesses are in the implementation or pilot stages, some have already launched and have strong growth aspirations backed up by access to funding.

Interestingly, it is difficult to predict who the new entrants will be and I suspect that unless you sit across the board room table, the earliest you will hear of them is when the actually launch. In my experience though, the primary criteria are access to market and funding. Some recent examples of businesses that have launched are The Green Deal Finance Company, created to support the installation of energy efficient measures for consumers which has raised significant funding from a number of different stakeholders, and mobile phone operators such as O2 using lending to provide consumers with increased flexibility. The next wave of lenders are more likely to be offering direct to consumer personal loans filling the void left by mainstream lenders.

So what will the future look like? I predict that the historic model of supply coming from mainstream banks and the (ultimately) bank funded finance companies will be transformed into one where those operations still have market share, though will increasingly be challenged by non traditional lenders and peer-to-peer lenders, some of whom already have in excess of £100m live consumer loans under their belts making them contenders.

Whatever happens, one thing is certain, the revolution in consumer lending in the UK is here.

> "The next wave of lenders are more likely to be offering direct to consumer personal loans filling the void left by mainstream lenders."

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