



May 2009

## InCredit

This month's roundup of developments affecting the credit industry, include the FSA issuing PSD Regulations and Guidance, BERR publishing its consultation on the implementation of the Consumer Credit Directive, the new retail banking regulation BCOBS being published and finally the Homeowners Mortgage Support Scheme being launched.....

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### In this issue:

#### Consumer Credit

- OFT v Foxtons appeal
- BERR publish its Consultation on proposals for implementing the Consumer Credit Directive
- OFT Review of Consumer Credit and Financial Services
- CCAT reject appeal against the OFT's decision not to issue a new consumer credit licence
- OFT to focus investigation into unarranged overdraft charges on three banks
- Banks given leave to appeal in bank charges test case
- SRA investigating ten firms over bogus debt claims
- Financial Ombudsman Service warns Claims Management Committees against poor complaints handling practices
- OFT imposes requirements on credit card issuer and a debt collection company
- Student Loans to refer debtors to Credit Reference Agencies

#### Insurance

- Competition Commission talk to BBA on the PPI remedies process
- FSA writes to FOS with interim formal response on wider implications of PPI misselling complaints
- Barclays challenges restrictions on PPI selling
- FSA Implements Changes To Simplify Financial Services Compensation Scheme

#### Advertising

- The CAP and BCAP Code Review
- ASA to focus on financial services advertising in 2009

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- ASA Adjudications:
- Capital One Bank (Europe) plc
- CC Automotive Group Ltd t/a Carcraft  
The Insolvency Advisory Service LLP

#### Mortgages

- Homeowners Mortgage Support Scheme launched
- Future regulation of mortgages in the UK
- OFT is investigating several second charge lenders' activities
- FSA bans mortgage adviser for fraudulent mortgage application
- FSA bans mortgage brokers for serious regulatory failures

#### Market Watch

#### Payments

- FSA publishes Payment Services Regulations guidance
- FSA begins accepting PSD applications
- FOS launch webpage for its new role under the PSD
- MasterCard agrees to lower cross-border fees
- Parliament adopts report on Commission's proposal to amend the Electronic Money Directive
- SEPA Business to Business Direct Debit Scheme Rulebook
- European Commission updates its Payment Services Directive Q&As
- Payment Industry reveals 2008 spending data
- European Commission sets up Payment Systems Market Expert Group

#### And Also.....

- OFT update on the use of CPRs in a suspected pyramid scheme
  - Debt Relief Orders
  - New retail banking regulation BCOBS rules published
  - FOS updates table of accessibility and transparency projects and initiatives
  - FSA consults on extra deposit protection for temporary high balances
- 

## Consumer Credit

#### OFT v Foxtons appeal

The OFT commenced High Court proceedings against Foxtons in February 2008 seeking an injunction under



the Unfair Terms in Consumer Contract Regulations 1999 (UTCCRs) preventing the estate agency using terms that the OFT considered to be unfair in its lettings agreements with landlords. During the preliminary stages of these proceedings the OFT appealed against a ruling by Mr Justice Morgan which accepted arguments from Foxtons that any injunction on unfair terms could only apply to future contracts, rather than preventing the use or enforcement of unfair terms in existing ones. The Court of Appeal has overturned this ruling, confirming that the OFT can take enforcement action under the UTCCRs to protect consumers in relation to both existing and future contracts. Please click [here](#) to access the judgment and [here](#) to access the OFT's press release.

## [BERR publish its consultation on proposals for implementing the Consumer Credit Directive](#)

BERR has published a consultation on implementation of the European Consumer Credit Directive. The consultation period will run for 8 weeks, and the closing date for responses is 10 June 2009. This consultation is running for 8 rather than the normal 12 weeks due to the nature of the CCD, and the need for the implementing regulations to be made as early as possible because of the lead-time lenders need in order to prepare for the new legislation. The FLA has reported that although there will be a Consumer White paper in the Summer, the Government has indicated that this CCD consultation will also be a useful opportunity to consider some further improvements to the consumer credit legislation. Please click [here](#) to access the consultation.

## [OFT Review of Consumer Credit and Financial Services](#)

The OFT has published two separate consultations on the OFT's Financial Services Strategy and a review of unsecured credit. The consultation document outlines two key themes:

- Promoting fairness and responsibility between the credit industry (that is, banks and debt businesses) and their customers, to address the immediate issues facing consumers.
- Advocating choice and competition in the UK and internationally to ensure that public decisions taken to deal with the current crisis do not harm competition in the long term to the detriment of consumers and the UK economy.

The consultation closes to responses on 12 June 2009. The OFT will use consultation responses to develop a final financial services plan, which it intends to publish in July 2009. The Strategy also announced that the OFT will conduct a review of the unsecured credit market. The OFT's review will also look at:

- Consumer behaviour and decision-making.
- The degree of transparency in pricing.
- How risk-based pricing operates.
- Whether the right incentives are in place for suppliers, to provide the right products for consumers.

As a first stage of this review, The OFT invited written comments on the proposed scope of the review by 8 May 2009. It intends to formally launch the review in summer 2009 and will publish interim findings in Autumn 2009 and final recommendations by the end of the year. Please click [here](#) to access the OFT's consultation document on the Financial Services strategy.

## [CCAT reject appeal against the OFT's decision not to issue a new consumer credit licence](#)

In the case of Vrajilal Laxmidas Sodha (trading as V L Sodha, M N S Financial and M N S Consultancy) v the Office of Fair Trading, the appellant argued against the OFT's decision not to renew his standard consumer credit licence in order to carry on credit broking activities regulated under the Consumer Credit Act 1974. The CCAT dismissed Mr Sodha's appeal and upheld the OFT's determination, noting its "considerable concerns as to both Mr Sodha's honesty and his competence". Please click [here](#) to access the decision.

## [OFT to focus investigation into unarranged overdraft charges on three banks](#)

The OFT has announced that it is to streamline its investigation into unarranged overdraft charges by focusing on the terms of three banks - Lloyds TSB, HSBC and Clydesdale. The OFT believes that the terms of the three selected banks provide the best representative selection of all the banks' unarranged overdraft charging terms, and therefore the outcome of this more focused investigation will be relevant to the assessment of other banks' terms. The OFT expects to reach final conclusions on its investigation later in 2009. If the banks dispute the OFT conclusions it could lead



# ADDLESHAW GODDARD

to litigation. Please click [here](#) to access the OFT press release and [here](#) to access the OFT Q&A document which explains the investigation in more detail.

## Banks given leave to appeal in bank charges test case

The House of Lords has ruled that the banks involved in the Office of Fair Trading's bank charges test case have been given leave to appeal. The last date for the petition of appeal to be lodged was 15 April 2009. Please click [here](#) to access the article in the Guardian which discusses the issue.

## SRA investigating ten firms over bogus debt claims

The Solicitors Journal has reported that ten law firms are being investigated by the Solicitors Regulation Authority for accepting business from claims management companies deriving from misleading statements about consumer credit agreements. Citizens Advice Bureau's have reported that claims managers are charging members of the public up to £500 to check credit agreements and, where there are several debts, as much as several thousand pounds. This follows warnings that the SRA gave in February this year stating that solicitors risked disciplinary action and possible prosecution if they bought claims based on false or exaggerated statements that debts could be written off. Please click [here](#) to read the full article.

## Financial Ombudsman Service warns Claims Management Committees against poor complaints handling practices

At a recent Claims Management Committee meeting, the Ministry of Justice informed members of a letter from the FOS to CMCs that use their service. The letter highlights FOS's concerns and how it plans to address them with CMCs. The key points of interest are:

- Some CMCs may need to change their approach to referring complaints to the FOS - a failure to meet FOS requirements may result in the FOS declining to handle the case.
- FOS reminded CMCs that the financial businesses that are being complained about should have had the opportunity to see and assess the evidence.
- FOS noted concern with some CMC practices in relation to final responses and the timing of referral's to the ombudsman. They reminded CMCs to wait for a formal final response from the financial business before referring complaints to the ombudsman service. Where

this does not occur the FOS say they may not progress the case. They are also concerned where CMCs deliberately cause delays in responding. *Source: FLA, 30 April 2009*

## OFT imposes requirements on credit card issuer and debt collection company

The Office of Fair Trading has imposed requirements on Citifinancial Europe plc (Citi) after its terms and conditions had wrongly claimed it did not share joint liability for overseas credit card transactions. Following an investigation, the OFT found that up until 1 December 2008, Citi had expressly stated in the terms and conditions of several of its credit cards that use of the cards abroad would not be covered by the provisions of section 75 of the Consumer Credit Act 1974. The OFT has also taken action against Mackenzie Hall Ltd, a debt collection company. An investigation following an application to renew a consumer credit licence revealed that some of its business processes failed to meet satisfactory standards. Failure to comply with a requirement could lead to a fine of up to £50,000 and / or possible revocation of its consumer credit licence. *Source: Office of Fair Trading, April 2009.* Please click [here](#) to access the Citi requirements. Please click [here](#) to access the Mackenzie Hall requirements.

## Student Loans to refer debtors to Credit Reference Agencies

The Student Loans Company now has the option of registering a default against a student who has not been repaying their student loans. The initiative, which targets only those customers who took out loans before 1998, will refer debtors to credit reference agencies such as Experian when they fail to reply to letters asking them to get in contact to discuss their options. *Source: FLA*

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## Insurance

### Competition Commission talk to BBA on the PPI remedies process

Peter Davis, Deputy Chairman and Inquiry Group Chairman of the Competition Commission, gave a talk to the British Bankers Association on the Competition Commission's investigation into payment protection insurance and the remedies process. The remedies package will be implemented under a document known



# ADDLESHAW GODDARD

as the PPI Order. Dr Davis said that, between April and May 2009, the CC intends to consult informally (with the main parties and key third parties) on a draft PPI Order. Please click [here](#) to access the speech

## [FSA writes to FOS with interim formal response on wider implications of PPI misselling complaints](#)

A wider implication case was initiated in July 2008 between FOS and the FSA in relation to PPI. The Wider Implications system is used when it is acknowledged that more than one regulator has an interest in an area of the industry – PPI is a good example of this. The FSA letter provides the FSA's formal interim response to FOS's letter of 1 July 2008. The letter summarises some of the actions that the FSA has taken towards tackling PPI misselling. Please click [here](#) to access the letter and [here](#) to access the PPI case on the Wider Implications website.

## [Barclays challenges restrictions on PPI selling](#)

Reports out state that Barclays has launched an appeal against the Competition Commission's findings following its two-year investigation into the sale of payment protection insurance (PPI). Barclays has lodged its appeal with the Competition Appeal, and is reportedly challenging proposals set out by the Commission that from 2010 banks and retailers making a loan or credit offer must wait a week before they can sell PPI to the borrower. Barclays has asked for a judicial review of the proposal arguing that it is not justified by the evidence that the commission has provided. Please click [here](#) for more information.

Furthermore, the Competition Appeal Tribunal (CAT) has since received applications to intervene by different parties - Lloyds Banking Group, the Financial Services Authority, a individual and Shop Direct Group Financial Services Limited. It has been decided by the CAT that all have sufficient interest to intervene apart from the application by an individual. This was declined due to a lack of sufficient interest. The CAT has also published a transcript of the first case management conference and a subsequent order setting out the next stages in the proceedings. Please click [here](#) to access the application, [here](#) to access the case management conference and [here](#) to access the order.

## [FSA Implements Changes To Simplify Financial Services Compensation Scheme](#)

On 24 April 2009 the FSA published PS 09/7 'Financial Services Compensation Scheme: Review of limits' setting out the final rules of the scheme. The changes

to compensation limits were proposed in [CP 08/15](#) published in October 2008. The changes, which come into effect from 1 January 2010, mean the compensation limit for investments, home finance advice and deposits will be the same at £50,000 and all claims for non-compulsory insurance will be paid at 90%, with no upper limit. [PS 09/7](#) can be found on the FSA website. Source: [FSA press release](#),

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## Advertising

### [The CAP and BCAP Code Review](#)

CAP and BCAP have published a consultation review on its Codes that regulate broadcast and non-broadcast advertisements. The consultation sets out a review of the existing Codes and its proposals to ensure that the new Codes are relevant and fit for purpose. One of the most significant proposals is to introduce a general principle of social responsibility to the BCAP Code, a principle that gives the ASA the flexibility to clamp down on all forms of irresponsible advertising in both broadcast and non-broadcast media. The consultation will be open for three months until 19 June. Please click [here](#) for a copy of the consultation.

### [ASA to focus on financial services advertising in 2009](#)

On 29 April 2009, the Advertising Standards Authority (ASA) published its 2008 report in which Financial Services were identified as a sensitive sector. The report highlighted that for the first time, broadcast advertisements will have to comply with a specific social responsibility clause under the Broadcast Committee of Advertising Practice Codes (BCAP Codes). This brings the broadcast regime into line with the Committee of Advertising Practice Code (CAP Code). In an interview with the Independent, ASA Chairman, Lord Smith, said the revised BCAP Codes will be used "to stamp out reckless consumer credit promotions, consigning to history the tempting offer to "combine all your existing debts into one easy monthly payment". Please click [here](#) to access the ASA Annual Report 2008.

### [ASA Adjudications](#)

#### [Capital One Bank \(Europe\) plc - \*\*Complaint upheld\*\*](#)

A banner ad showed the Capital One logo at the top, above on-screen text that stated "You don't need to



# ADDLESHAW GODDARD

jump through hoops to get a credit card", then "Last year we accepted a customer every minute ... From £100 to £2,500 ... Easy to apply" and then, below a picture of the Capital One card, "Click to Apply ... 1 minute response guarantee". The complainant objected that the ad was misleading because he was expecting a response within the time guaranteed in the ad, which would confirm whether his application had been accepted or rejected. However, when he clicked through and entered his details, he received an on screen message that said he would have a response to his application in seven days.

ASA noted that some applicants received a lending decision within one minute, but that more applicants than not were shown an on screen holding message.

Capital One Bank Europe plc (Capital One) said they would not repeat the claim "Last year we accepted a customer every minute". However, they stated the claim "1 minute response guarantee" was central to their messaging plan and did not believe it was misleading. They said that "response" did not mean "decision" and pointed out that all applicants received a response within one minute. They said the response could be an immediate lending decision, but an immediate decision was not always possible, because the applicant might have provided insufficient information.

Because ASA considered that applicants were likely to expect a lending decision within one minute, and because the majority of applicants did not receive a lending decision within that time, it was concluded the ad was misleading.

**PRINCIPLE:** ensure not to mislead when using a time limit to a response, such as "Last year we accepted a customer every minute" and "1 minute response guarantee" which is likely to lead applicants to understand they would receive a lending decision, accepting or rejecting their application, within 60 seconds. Please click [here](#) for a copy of the adjudication.

## *CC Automotive Group Ltd t/a Carcraft – Complainant upheld*

A radio ad for Carcraft stated "Finance subject to status. Terms and conditions apply. APR 12.6%. Example cash price £3,499. £99 deposit. Credit £3,400. 260 weekly payments of £16.67. Admin fee £250. Total amount payable £4,683.20. Typical

19.9%APR". Another voice then stated "Fuel Costs up. Road tax up. Insurance, MOTs, car repairs up". Music began to play as the voice-over continued " Its not all bad news, at Carcraft buying one of our nearly new cars could actually cost less than running your old car ... Cars from under £20 a week ... Just £99 or your old car as deposit ... Where the savings you make could help pay for your next car ... Drive away in an hour. Just bring your driving licence and two proofs of address ... Easy to find and nearer than you think. Carcraft Wednesbury Birmingham ... open till nine tonight". A listener believed the presentation of the ad was confusing and misleading, because details of the available credit terms, which were more commonly stated at the end of an ad, were stated at the beginning, before its main message. They believed it was unclear whether those finance details applied to the current or previous ad. Carcraft explained that radio ads were frequently broadcast as standard practice with finance details at the beginning.

ASA noted advertisers were legally obliged to include specific terms of any finance package they advertised, for example a typical APR in most cases, and considered that on this occasion the finance details were clearly audible. They considered, however, that the link between the finance details and the remainder of this ad might not be instantly recognised, partly because the voice-over between the two sections differed in tone; the finance details were spoken in a businesslike way, whereas the rest of the ad was more lighthearted, and the two were spoken by different voices. In addition, no reference was made to Carcraft at the start of the ad, when the finance details were spoken, to indicate to listeners that the two parts of the ad were connected. ASA considered, therefore, that listeners were unlikely to realise that the finance details were connected to the subsequent material.

ASA noted that the second part of the ad claimed "Cars from under £20 a week ... Just £99 or your old car as deposit". We considered, therefore, that the finance details (which included the typical APR, example cash price, monthly repayments and admin fee) were important information for listeners in deciding whether to partake of the offer. ASA concluded that it was not clear that the finance details related to the Carcraft offer of a car for under £20 a week and the ad was misleading.

**PRINCIPLE:** advertisers must clearly include specific terms of any finance package advertised. Please click [here](#) for a copy of the adjudication



## The Insolvency Advisory Service LLP – *complaint upheld*

A fax, for The Insolvency Advisory Service, was headed with an official looking crest and text stating "This could be a PAYMENT DEMAND From HM Revenue and Customs". Below, it stated "Financial difficulties - Money Problems - salaries to pay - these are all reasons why you may need help. Debts to creditors mount up daily at an alarming speed - what can you do to stop this? .... Our role is to protect you, however the role of an Insolvency Practitioner when acting as liquidator or trustee is to defend the rights of everybody who is owed money by you - in addition they have a duty to investigate all your dealings! And .... he can make you personally liable for all the debts even if your business is a limited company! We are duty bound and licensed to protect you - your business and your family! ...". Text near the bottom of the fax stated "This may not reflect your circumstances or indeed be of any relevance to you - if that is the case we apologise for taki [sic]".

1. Two recipients believed the fax was misleading, because it gave the impression that it was from HM Revenue and Customs (HMRC) and appeared to be an official demand for payment.
2. One of the complainants believed the fax was alarmist and likely to cause distress to recipients, particularly those in financial difficulties.

The Insolvency Advisory Service (IAS) denied that the fax received by the complainants had originated from them. They did, however, confirm that the fax was similar to some they had used in the past.

ASA noted IASs assertion that the fax did not originate from them. However, we also noted that, in their initial response, they had not denied the fax was theirs. Because the complainants believed the fax was from IAS, IAS had used similar faxes in the past and there seemed to be no reason why anyone else would send a fax advertising the services of IAS, we continued with our investigation on the assumption that IAS sent the fax. We considered that, because it was not immediately clear that the fax was advertising material, it was likely to mislead recipients into believing that they had received a payment demand from HMRC. We considered that, because the fax appeared to be a payment demand from HMRC, it was likely to cause undue fear and distress to recipients.

**PRINCIPLE:** Ensure that all advertising does not appear to look like an official demand for payment as this can cause distress to customers. Please click [here](#) for a copy of the adjudication.

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## Mortgages

### Homeowners Mortgage Support Scheme launched

On 21 April 2009, Prime Minister, Gordon Brown, announced the launch of Homeowners Mortgage Support Scheme. The Scheme will allow eligible borrowers to reduce their monthly mortgage interest payments for up to 2 years. The Government has identified the major high street lenders who will be offering their customers the Scheme as Lloyds Bank Group, Northern Rock, RBS, Bradford and Bingley and National Australia Bank Group. Various banks, building societies and specialist lenders who have also confirmed they will offer the Scheme are the Bank of Ireland, GMAC, GE Money, Kensington Mortgages, the Post Office and Standard Life Bank. Lenders offering the Scheme will have the security of a Government guarantee if the borrower defaults. Barclays, HSBC, Nationwide and Santander have all confirmed that they will offer comparable arrangements, but will not be taking up the Government guarantee. Please click [here](#) to read the Communities and Local Government press release. *Source: Number10.gov.uk, 21 April 2009.*

### Future regulation of mortgages in the UK

The FSA is working towards its September discussion paper which will set out its proposals for the future regulation of mortgages in the UK. Meanwhile, regulators in Europe are working to a similar timetable, and will be publishing their own proposals for legislative intervention later this year. The onset of the credit crunch and banking crisis initially led the Commission to hold back its plans for a white paper on mortgages. Now, it seems certain that the Commission will no longer accept that markets will deliver the right outcome for consumers without some form of cross-border regulatory intervention, based on its initial response to the credit crunch. The European Mortgage Federation warns that if the industry is not able to come up with a satisfactory level of support for voluntary measures that ensure, for example, that borrowers receive adequate information when taking out loans,



the likely alternative will be the imposition of rules on firms by the Commission. The Framework will not establish any detailed rules but will set high-level principles for lenders to apply in line with their individual commercial policies. Source: *Council of Mortgage Lenders*, 7 April 2009.

## [OFT is investigating several second charge lenders' activities](#)

On 28 April 2009, the OFT announced that it has launched an investigation into certain second charge lenders. The OFT has decided to launch the investigation following concerns regarding the practices of a number of second charge lenders and will be looking into the whole second charge lending process and lenders' compliance with the Civil Justice Council's pre-action protocol for possession claims. The OFT will publish an update on its investigation by the end of August 2009. Please click [here](#) for more information.

## [FSA bans mortgage adviser for fraudulent mortgage application](#)

The FSA has banned Tower Hamlets based mortgage adviser Zia Chowdhury for certifying client identities for fraudulent mortgage applications. He also operated his firm Express Financial without being approved by the FSA as required. Jonathan Phelan, head of retail enforcement at the FSA, said: "Mr Chowdhury's actions posed a serious risk to lenders. Our crackdown on mortgage fraud is gathering pace - we have banned more than 40 mortgage brokers over the last two years, and we will continue to ban people who become involved in mortgage fraud, in order to stamp out this behaviour." Please click [here](#) to read the press release.

## [FSA bans mortgage brokers for serious regulatory failures](#)

The FSA has banned mortgage brokers Peter and James Dean for failing to prevent their firm from being used to perpetrate financial crime and for other serious regulatory failures. Peter Dean has also been fined £17,500. Georgina Philippou, head of retail enforcement at the FSA, said: "The actions of Peter and James Dean posed a serious risk to lenders and consumers. As part of our crackdown on financial crime in the mortgage market we have banned a number of mortgage brokers and others in the last year and we will continue to make examples of people, including by bans and fines, who either commit mortgage fraud or fail to prevent their firm from being used to further financial crime." Please click [here](#) to read the FSA press release.

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## Market Watch

**Halifax** has reported a fall in house prices, dampening brief hopes of a recovery in the market that had been prompted by the rise noted by Nationwide. Halifax said prices had fallen by 1.9% in March, but that the annual rate of decline slowed slightly. Nationwide's report showed a 0.9% rise in house prices over the month but this is not the first time the indices have disagreed. In January, Halifax reported a price rise while Nationwide said prices had dropped - and such volatility is common when transaction levels are so low. The three-monthly figures from both lenders, which are a better reflection of the state of the market, both show price falls. David Smith, senior partner at Dreweatt Neate estate agents, said the figures were proof that Nationwide's figures should not be viewed as the beginning of an upturn. "There is an inherent volatility to house prices right now and because of this a sideways-moving market remains the most likely course for the rest of 2009." Source: *Guardian*, 4 April 2009.

**HSBC** has launched a new range of competitive mortgage products with loan-to-value (LTV) maximums of up to 90 per cent, backed with £1billion of funding. This is part of HSBC's £15 billion fund it has allocated for new mortgage lending in 2009: twice what the bank lent in 2007. Remortgage customers will be unable to apply for this range of 90% products, however many borrowers will find their existing lender's standard variable rate to be their cheapest option when they roll off their fixed, tracker or discount deals. In addition these new mortgages will only be available from HSBC's branch network and customers will be taken through the implications of borrowing in detail. Source: *Easier*, 8 April 2009.

Sir Richard Branson's **Virgin Money** has revived its interest in a potential purchase of the healthiest parts of Northern Rock, the mortgage lender tried to buy last year before the government decided to nationalise it. Alistair Darling, chancellor, ordered Northern Rock to be split into a "good" and "bad" bank, with the separation due to be completed before the end of the year. Credit Suisse, the Treasury's adviser, has sounded out a number of potential purchasers about possibly buying the "good" part of the bank, including its 70 branches, and a business that includes



# ADDLESHAW GODDARD

about £20bn in customer savings, new mortgage lending and some older home loans. *Source: Financial Times, 27 April 2009*

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## Payments

### FSA publishes Payment Services Regulations guidance

The FSA has issued its [Approach Document](#) in relation to the Payment Services Regulations (the Regulations) - *'The FSA's role under the Payment Services Regulations 2009: Our approach'*. The Regulations implement the EC Payment Services Directive in the UK. The Approach Document provides guidance on the new requirements and offers an insight into how firms will experience regulatory supervision. The FSA has also published [Perimeter Guidance](#), which provides further information to help firms consider whether their activities fall within the scope of the Regulations. A [Policy Statement](#) detailing the changes that will be made to the FSA Handbook to implement some aspects of the Regulations, has also been published.

### FSA begins accepting PSD applications

As from 1 May 2009, firms may now submit applications to:

- register as a small payment institution;
- become an authorised payment institution; or
- register agents

Complete applications must be received by 1 August 2009 so that they can be processed in time. Please click [here](#) for a link to the forms and guidance on the application process.

### FOS launch webpage for its new role under the PSD

From 1 November 2009, money-transfer operators will need to be regulated by the FSA and will, as a result, be automatically covered by the Financial Ombudsman Service. FOS has launched a webpage which outlines its new role in this area. To access the webpage, please click [here](#).

### MasterCard agrees to lower cross-border fees

MasterCard has announced plans to reduce its charges on card payments made across Europe. MasterCard has agreed to bring cross-border Multilateral

interchange fees (MIFs) on credit card transactions down to 0.3% from the current range of 0.8% to 1.9%. On the Maestro network of debit card transactions, MasterCard has agreed to cut charges to 0.20% from the current range of 0.4% to above 0.75%. Both sets of measures will enter into force from July 2009. Competition Commissioner Neelie Kroes commented: "I am satisfied that these undertakings will not only improve the efficiency and transparency of the MasterCard payment card scheme but also provide a fair share of the benefits to consumers and retailers." Please click [here](#) to access the MasterCard statement and [here](#) to access the Competition Commissioner's statement.

### Parliament adopts report on Commission's proposal to amend the Electronic Money Directive

The European Parliament has published a press release announcing that it has adopted a report on the European Commission's legislative proposal to update the existing EU legislation on e-money business. The Commission published its initial proposal to amend the Electronic Money Directive in October last year. The press release states that "Parliament considers that the Commission's proposal is a significant step in achieving a true single market that will enable the e-money sector to expand". Please click [here](#) to access the press release.

### SEPA Business to Business Direct Debit Scheme Rulebook

The B2B Direct Debit Rulebook has been updated to include the e-Mandate feature. Prior to its planned publication in June 2009, it is open for public consultation until 14 May 2009. The main body of the Rulebook was approved by Plenary in December 2006 after public consultation in late 2006. This consultation will only cover Appendix VII which contains the e-Mandate feature. Please click [here](#) to view the SEPA Business to Business Direct Debit Scheme Rulebook.

### European Commission updates its Payment Services Directive Q&As

on 16 April 2009, the European Commission updated its Payment Services Directive Q&A paper. The new answers are highlighted in the document in red. Updated sections include answers to provision of payment services in money remittance - Article 29 and Article 63 and the refunds of direct debits. Please click [here](#) to access the updated Q&A document.



# ADDLESHAW GODDARD

On 27 April 2009, it added further updates to include answers to questions on Article 2(1) PSD: Scope - geographical application, Article 37(1)(a) PSD: Information requirements - Foreign exchange rates, Article 62(1) PSD: Payment transactions - Difference between direct debit and payment transaction initiated by a payee and Article 68(2) PSD: Execution time - Intra-community transactions. Please click [here](#) to access the PSD Q&As Paper.

## Payment Industry reveals 2008 spending data

On 28 April 2009, APACS published a review of UK consumers' spending habits last year: in which plastic cards accounted for 66% of all UK retail spending last year, debit cards accounted for two thirds of all retail spending on cards and cheque usage on the high street continued to decline and spending fell by 4%. Last March the UK's Payments Council delivered its first national payments plan which included proposals for the "managed decline" of paper-based cheques. Many of the UK's biggest retailers have stopped accepting cheques for payments over the last couple of years. Supermarkets Sainsbury's, Morrisons, Asda and Tesco along with retailers Boots and Marks and Spencer, are either phasing out or have already stopped taking cheques. *Source: APACS, 28 April 2009.*

## European Commission sets up Payment Systems Market Expert Group

The European Commission has set up a Payment Systems Market Expert Group to assist in the preparation of its policy in the field of payments. Further to a call for applications ([IP/09/17](#)), in January this year, the Commission has appointed 50 members to form the group. The members all have a broad range of expertise and were chosen in order to achieve a balanced representation of the interests of all relevant stakeholders. Please click [here](#) for more information.

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## And Also.....

### OFT update on the use of CPRs in a suspected pyramid scheme

The OFT has published an update on its criminal investigation into a suspected pyramid scheme operating in the Bristol area this follows on from the announcement in February 2009. The investigation marks the first use by the OFT of its new criminal

powers under the Consumer Protection from Unfair Trading Regulations 2008 (the CPRs) which came into force on 26 May 2008. The OFT is working closely with local Trading Standards on the investigation. Please click [here](#) to access the press release.

### Debt Relief Orders

Monday 6 April 2009 saw the introduction of Debt Relief Orders (DROs), which will allow consumers with debts of less than £15,000 to write off their debts without entering into bankruptcy. Consumer Affairs Minister Gareth Thomas welcomes the DROs: "We want anyone in difficulty to be able to access the help they need. We know that many people are already struggling to stay on top of their bills and pay their debts so we are taking action to ensure consumers are in control of their finances and are treated fairly. This is not an easy option for people in debt - the insolvency will be a matter of public record and creditors will be able to apply to have the order revoked. But it will help those trapped in poverty." Please click [here](#) for more information,

### New retail banking regulation BCOBS rules published

On 24 April 2009 the FSA published Policy Statement [PS09/6](#) which provides feedback on CP08/19 *Regulating retail banking conduct of business* and sets out the final rules. Currently, the Banking Code Standards Board monitors and enforces voluntary Banking Codes which govern banks' day to day relationships with their customers. From November 2009, these arrangements will be replaced by new FSA rules which all banks, building societies and credit unions must follow. Notable changes for consumers will include the requirement to provide a prompt and efficient service to help customers switch accounts and the provision of information. The new Banking Conduct of Business sourcebook is detailed in the [Policy Statement](#). *Source: [FSA press release, FSA/PN/053/2009, 24 April 2009.](#)*

### FOS updates table of accessibility and transparency projects and initiatives

The Financial Ombudsman Service (FOS) has published an updated version of a table setting out the various projects and initiatives the FOS has launched under its accessibility and transparency agenda, which was an outcome from the Hunt Review. This version replaces the February version. Please click [here](#) to access the amended table.



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## FSA consults on extra deposit protection for temporary high balances

The FSA has issued a consultation paper seeking views on whether the Financial Services Compensation Scheme should provide extra protection for holders of temporary high deposit balances in the event of the failure of a UK bank, if the EU Deposit Guarantee Schemes Directive provides the UK with the scope to provide such protection. This would be to protect those who temporarily have a large balance due to an asset sale, an inheritance or divorce settlement (not exhaustive). There would be a monetary limit of £500,000 and a time limit of six months for claims. Please click [here](#) for more information.

**If you wish to discuss any of the above, or for more information, please contact one of the Financial Regulation Group**



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