



April 2009

InCredit

This month's roundup of developments affecting the credit industry sees the FSA publishing the Turner Review, Gordon Brown unveiling measures to help struggling consumers, changes to the OFT Consumer Credit Licence Fees and FOS to publish complaints data

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Consumer Credit

The Turner Review

Following a request by the Chancellor of the Exchequer Alistair Darling, the chairman of the FSA, Lord Adair Turner, on 18 March produced his proposal (the "Turner Review") for a new regulatory regime for the financial services industry. The FSA Discussion Paper "A regulatory response to the global banking crisis" gives further background to those issues considered in Chapter 2 of the Review and sets out the FSA's initial thinking on how they can be translated in to practical policy proposals. The DP also summarises the steps that the FSA has taken to address some of the immediate negative effects of the financial crisis.

The Review contains a dissection of the causes of the financial crisis, blaming macro-imbalances, misplaced reliance on sophisticated maths as well as regulators failing to understand the systemic risk inherent to some of the new products which have increased substantially in volume in the time leading up to the crisis. Key points from the report include the following:



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- Capital adequacy, accounting and liquidity
- Institutional and geographic coverage of regulation
- Credit rating agencies
- Remuneration
- FSA supervisory approach
- Utility banking versus investment banking
- Cross-border issues
- Open questions for further debate

Please click [here](#) for a copy of the Turner review, click [here](#) for a copy of the Discussion Paper and click [here](#) for a copy of the FSA press release

[CML comment on Turner Review as 'a helpful assessment of the regulatory environment'](#)

The Council of Mortgage Lenders believe Lord Turner's Review provides a helpful assessment of the regulatory environment as it stands and as it is expected to change. Michael Coogan, CML Director General, commented: "We see the FSA's September paper on the future of mortgage regulation as a real opportunity to help shape a future regulatory landscape that will serve both lenders and consumers better. We look forward to working constructively and collaboratively with the industry and the FSA towards this objective." To access the CMLs comments, please click [here](#).

[BSA welcomes the Turner Review](#)

Brian Morris, Head of Savings Policy, at the Building Societies Association, said: "On product regulation, it's good to see that the FSA has identified the drawbacks of regulating mortgage products; restrictions through regulation could further stifle mortgage lending". To access more, please click [here](#).

[Prime Minister unveils plans to help struggling consumers](#)

The Prime Minister, speaking to an audience of consumer groups and money advice agencies, has announced a package of real help and protection for consumers struggling in the current financial crisis.

The measures include:

- Fair rules for debt enforcement – a consultation will be carried out and new measures introduced to provide clarity for debtors and certainty for creditors in advance

of full independent regulation of the bailiff industry.

- The implementation of Debt Relief Orders – From April 2009 people on low incomes with limited debts who could not previously afford to go bankrupt will be able to write off their debts and start again after a period of twelve months.
- National Fraud Strategy – Government is to tackle fraud and protect consumers from mass marketed frauds such as bogus lotteries, "get rich quick" schemes and investment scams.
- A commitment to a stronger regulatory regime for banks and White Paper on action to help customers including proposals to simplify and modernise consumer rights due to be published Summer 2009.
- Of particular interest are plans for credit cards. Government plans to stop lenders from raising credit card borrowing limits where customers have not requested the increase and end the practice of firms sending unsolicited credit card cheques. This reflects statements made by Gareth Thomas MP, Minister for Trade and Consumer Affairs, in the House of Commons during the Second Reading Debate on the Lending (Regulation) Bill - a Private Members' Bill introduced by Russell Brown MP. Please click [here](#) to access the BERR press release.

[Changes to OFT Consumer Credit Licence fees](#)

From May 1st 2009 fees for various licences will increase. The changes are as follows:

- Application for or renewal of a standard credit licence for sole traders will now cost £330 for a five-year period, an increase of £20 per annum.
- Application for or renewal of a licence for all other applicants will now cost £820 for a five-year period, an increase of £49 per annum.

The cost of amending details of an existing licence is unchanged (£80 for the large majority of variations) and the levy imposed on those licensees covered by the Consumer Credit Jurisdiction of the Financial Ombudsman Service remains £150 for a five-year period. Please click [here](#) for more details.



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[CCAT to be replaced by chamber of the First-tier Tribunal](#)

The Tribunals Service has announced that subject to Parliamentary approval, the CCAT will be abolished and its functions transferred to the General Regulatory Chamber (GRC) from September 2009. The GRC is a chamber that will sit within the First-tier Tribunal, a new generic tribunal established under the Tribunal, Courts and Enforcement Act 2007. The main function of the First-tier Tribunal is to hear appeals against decisions of the Government where it has been given jurisdiction. When the CCAT transfers into the GRC its existing procedural rules will be replaced by GRC-specific rules. These are currently being consulted on. It is hoped that "...having these tribunals under the one GRC umbrella will ensure a consistent and more flexible service for tribunals' users". Please click [here](#) to access the announcement from the Tribunals Service.

[OFT to lead discussion on self regulation and industry-led compliance](#)

The OFT is initiating a debate on the extent to which self regulation and industry-led compliance with consumer law can assist in making markets work well for consumers. The better regulation agenda has stimulated increasing interest across Government, regulators and business in the use of innovative approaches to achieving compliance, enforcing legislation and solving problems in markets. The OFT have commented that it wants to move the debate on and consider how the tools of self regulation and industry-led compliance can best be used to advance the goal of consumer protection. Please click [here](#) to access the explanatory press release and [here](#) to access the discussion paper.

[OFT accepts undertakings from debt management firms to improve practices](#)

The OFT has accepted written undertakings from three debt management companies in respect of the level of service they provided to vulnerable consumers. Following complaints from consumers and consumer organisations, the OFT considered that these companies were breaching key principles of the OFT's Debt Management Guidance and issued notices to the companies that it was minded to revoke their credit licences. In response, all three companies and their controllers provided written undertakings that they would comply fully with the OFT's Debt Management Guidance in future. The OFT indicated that it will work closely with Yorkshire Trading Standards to ensure that

the undertakings are being adhered to. Please click [here](#) to access the OFT press release.

[Credit and debit card fraud jumps](#)

Credit and debit card fraud increased by 14% last year as criminals beat the chip and pin system by preying on shoppers on the internet, official figures indicate. The data shows that chip and pin, introduced four years ago to combat fraud, has failed to stop a substantial rise in fraud. Losses on plastic cards totalled £610 million – or the equivalent of £13.50 for every adult in the country – during the year, up from £535 million in 2007, according to APACS, the trade body which represents the card industry. One in four people victim of card fraud last year. The main problem with chip and pin is that it has encouraged criminals to move elsewhere – stealing money from customers when they use their card to shop online, or buy goods over the telephone. Please click [here](#) to access the APACS information. *Source: Daily Telegraph, 20 March 2009.*

[OFT looks into charging orders in the consumer credit sector](#)

The OFT is monitoring the use of 'charging orders' as a method of enforcing judgment debts, where the debts originally arose under regulated consumer credit agreements. The OFT state that this is due to a significant rise in charging orders being applied for and granted over the past few years. It has written to a number of creditors seeking further information for the purposes of this work and asked that anyone wishing to share their views or pass on relevant information, contact the OFT by 30 March 2009. The OFT intends to publish its findings by the end of July 2009. Please click [here](#) for more information.

[OFT seeks closure of 'look alike' debt advice websites](#)

The OFT has told 11 financial management businesses with 'look alike' websites posing as official or charity advice sites to close them down immediately, and is warning consumers to take care when searching for debt advice online. The sites in question use similar or slightly amended domain names which imply that they are affiliated to organisations such as Citizens Advice, Advice UK, National Debtline or the Consumer Credit Counselling Service. The OFT has told the companies to stop using the trading names immediately and for those companies who were trading without a licence to stop trading completely or face prosecution. The action followed complaints from a number of debt advice



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charities including Citizens Advice. Please click [here](#) for more information.

[Nationwide urges the Government to follow the U.S. and make positive order of payments compulsory](#)

In just over a year's time, credit card providers in the U.S. will be required to allocate customers' payments to higher rate balances first, therefore reducing interest payments. This comes after the US Federal Reserve Board proposed a number of new rules to prevent unfair practices on credit cards. It has been reported that in light of this, Nationwide Building Society believes this regulation should be mirrored for UK card providers. The Society reveals that customers could save up to £213 in the first year, by taking a card that allocates payments in a positive way. Please click [here](#) to access more information.

Insurance

[ABI: Age restrictions would lead to higher insurance costs and less choice](#)

All customers are likely to face higher insurance premiums and less choice if the Equalities Bill restricts the use by insurers of age to help them assess risk, the ABI warns in a report published 2 March 2009. The cost of travel insurance alone could double if age could not be used as a risk factor. The report: Age and Insurance: Helping older customers find the cover they need shows that restricting the use of age by insurers would be unnecessary, unfair and restrictive. Nick Starling, the ABI's Director of General Insurance and Health, said:

"Insurers only use age where it is relevant, and restricting their ability to do so would rebound on all customers, through higher premiums and less choice. Any legislation should tackle genuine discrimination, not insurance where the use of age helps to ensure a wide range of products at competitive prices."

Please click [here](#) for a copy of the report. Source: [ABI press release Ref. 27/09, 2 March 2009](#).

[Claiming back PPI just got easier \(thanks to Which?\)](#)

Which? is once again leading the way in consumer redress by launching a new online PPI complaints tool, making it quicker and easier for people to claim back mis-sold PPI. The site asks for customers to input their email address and the name of the company that sold the PPI into the site and it will then link the customer

through to a tick box set of questions that the customer answers to establish if mis-selling has taken place. To see the site, please click [here](#).

Mortgages

[European Commission publishes study on equity release schemes](#)

The Commission has published a study on equity release schemes in the EU. The Commission requested the study in order to extend its knowledge of existing equity release schemes and developments. It will consider the study in assessing whether EU action is justified in this area, as part of its work on integration of the EU mortgage credit markets following its December 2007 White Paper. Please click [here](#) to access the study.

Market Watch

[Nationwide charges for using cards overseas](#)

Nationwide will pass on a fee to its customers who use its credit and debit cards abroad as a result of a change of policy. From 6 May, customers with a Nationwide visa credit card will be charged 0.84% for every foreign transaction outside continental Europe. Nationwide Mastercard's will not be affected, Please click [here](#) for more information.

[Northern Rock mortgage arrears soar](#)

Northern Rock revealed an 80% increase in the number of its customers falling behind on their mortgage repayments by more than three months. The bank said that 17,264 mortgage accounts were now in arrears up from 3,492 at the end of 2007. This was equivalent to 2.92% of its total mortgage book, which is well above the industry average of 1.88%. Source: *Times*, 3 March 2009.

[Provident sees uplift as rivals quit subprime](#)

Provident Financial has staked its claim to be the leading UK lender to low-income householders after picking up business from stumbling rivals and mainstream banks that are abandoning the subprime market. Pre-tax profits at the doorstep lender for 2008, rose 12% year-on-year from £115.2m to £128.8m on turnover up from £669m to £751m. Peter Crook, chief



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executive, said it differed from its troubled competitors such as Cattles and London & Scottish, the Manchester-based bank that is in administration. "We manage our balance sheet - we borrow long and lend short," he said. "We lend small amounts over short periods. We are very close to our customers, with an agent seeing them every other week." *Source: Financial Times, 4 March 2009.*

Standard Chartered

Standard Chartered said it made a strong start to 2009 after posting a 19% profit rise, and predicted an economic downturn in its key Asia region would be "shorter and shallower" than in the west. The bank, which gets two-thirds of its revenue from Asia, said it had made a strong start to 2009, especially in its wholesale banking division. *Source: Birmingham Post, 4 March 2009.*

Tesco Personal Finance creates 200 jobs at new Edinburgh HQ

Tesco is set to create 200 new banking jobs at a new Edinburgh headquarters for its financial services business- Tesco Personal Finance. The supermarket, which bought out the Royal Bank of Scotland to take complete control of Tesco Personal Finance in December, has signed a 15 year lease on the new headquarters in the Haymarket area of Edinburgh. Benny Higgins, chief executive, Tesco Personal Finance, says: "Tesco has made an important step by committing to expanding its financial services business from Scotland. Edinburgh is the ideal place from which to move what is already a successful business into the next stage of its development." Please click [here](#) for more information.

Richard Branson says Virgin aims to become bank

Sir Richard Branson has given his clearest hint yet that Virgin will become a high-street bank within two years. He said that Virgin would return to the mortgage market and obtain a banking licence, possibly through an acquisition. Sir Richard led a failed attempt to take over the ailing Northern Rock in late 2007, but has stayed determined to expand Virgin Money into the high street. He believes that the lack of trust in existing banks and lenders will give Virgin an opportunity to build market share quickly. *Source: Times, 9 March 2009.*

Payments

MasterCard issues 50 millionth PayPass device

The growth of contactless payments can be illustrated with MasterCard issuing its 50 millionth PayPass device late last year, a doubling of the amount in circulation in just 12 months. As of the fourth quarter of last year, the firm says it has issued over 50 million PayPass cards or other devices such as key rings, which can be used to make low value payments at specially equipped terminals in over 141,000 merchant locations around the world. Please click [here](#) for more information.

New Mobile banking developments in Africa

Africa's biggest mobile phone operator launched what it hopes will become the world's largest mobile banking service, Tom Burgis reports. MTN's new scheme, which follows the success of a similar Kenyan venture by Vodafone of the UK and local operator Safaricom, accelerates the provision of basic financial services to people long considered "unbankable". It uses the popularity of mobile phones to offset the absence of bank branches. Subscribers in an initial five countries - Uganda, Ghana, Cameroon, Nigeria and Ivory Coast - will be able to deposit, transfer and withdraw funds on handsets. The Johannesburg based group is using software from Fundamo, the world's largest specialist mobile financial services company, in a deal worth \$10m. *Source: Financial Times, 17 March 2009*

Barclays

New state of the art technology is set to make life easier for Barclays Bank customers. Customers will find paying by debit card becomes a little simpler as they will receive VISA debit cards with new built-in contactless technology. The bank is the first in the UK to roll out the new technology as a standard feature of most new and replacement debit cards. Up to three million customers are expected to be using contactless debit cards by the end of the year and the majority of Barclays debit card customers will have contactless cards by 2011. *Source: Birmingham Post, 4 March 2009.*

Citi partners up with MySpace on reward based credit card

Citi has teamed up with MySpace to launch a credit card that lets customers earn reward points for acts of financial and social responsibility. 'Citi Forward by MySpace' cardholders can earn "ThankYou Points" for



completing socially responsible acts, such as donating to food drives, going paperless, switching to energy efficient light bulbs and volunteering. The MySpace card is one variation on the Citi Forward offering, which is designed to reward responsible financial behaviour, with cardholders earning points for paying bills on time and staying under the credit line. The card also lowers the purchase interest rate by a quarter of a per cent when customers "use credit wisely". Please click [here](#) to access the article.

And Also.....

FOS to publish complaints data

Following FOS's policy statement on its strategic approach to transparency (July 2008), which set out a transparency agenda, and its September 2008 discussion paper on publication of complaint data: next steps, FOS has announced that it will be publishing its complaints data. It has announced this in a feedback statement, which explains (amongst others):

- plans to publish business-specific complaint data every six months, starting from autumn 2009.
- data will be published in respect of financial businesses with at least 30 new cases and 30 closed cases during the six-month period.
- data will comprise the numbers of new cases and the percentage of closed cases where there has been a change of outcome in favour of the consumer.

For more information, please click [here](#) to access the FOS website

FSA issues undertaking on 'valid reasons' under UTCCRs

The FSA has considered a 'valid reasons' clause in Barclays Fixed Rate Savings Bond Terms and Conditions - 2004 and 2006 versions. The FSA considered the terms under the UTCCRs (the Unfair Terms in Consumer Contract Regulations 1999) and raised two issues:

Issue 1 - Allowing firms to vary the terms of its contract with consumers for 'any other good reason' gives it excessive discretion to unilaterally vary the contract. They found that a reference to 'any other good reason'

is not a clearly and unambiguously defined valid reason.

Issue 2 - The FSA commented that the use of the word 'normally' [in condition 8.1] introduces ambiguity about the valid reasons for which the contract terms may be varied. The FSA stated that it believed that the use of the word 'normally' to qualify the list of reasons is not appropriate as it means the firm has not given an exhaustive list of valid reasons.

Valid reasons clauses are an issue for the industry generally and this undertaking gives some indication of FSA thinking on these issues. Please click [here](#) for more information.

Debt Relief Orders and the Tribunals, Courts and Enforcement Act 2007

The Tribunals, Courts and Enforcement Act 2007 s.145 provides that the Secretary of State may, amongst other things, make any transitional provision which he considers necessary or expedient for the purpose, or in consequence of any provision of that Act. The Insolvency Act 1986 permits the court, on the application of the Secretary of State or the official receiver acting on a direction of the Secretary of State, to make a debt relief restrictions order if it thinks appropriate to do so having regard to the conduct of a debtor either before or after the making of a debt relief order. However, since the provisions introducing debt relief orders and debt relief restriction orders and undertakings do not come into force until April 6, 2009, this Order prevents any conduct of the debtor before that date from being taken into account by the court so as to prevent the provisions from having any possible retrospective effect. Please click [here](#) to access the Explanatory Memorandum.

FOS appoints first head of practice

The Financial Ombudsman Service (FOS) has appointed David Baker as its first head of practice. The new role was created as part of the FOS's commitment to its accessibility and transparency agenda, launched following Lord Hunts review of FOS which began in October 2007. Mr Baker will be responsible for coordinating, consolidating and documenting information and guidance on casework and policy issues and the FOS's approach to decision-making. Please click [here](#) for more information.



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MOJ Claims Management Regulation Bulletin No. 5 March 2009

The latest Claims Management Regulation Bulletin (Number 5) has now been published on the MoJ website. The Bulletin contains important information on the use of agents, exempt introducers, telephone cold-calling and the launch of the Anonymous Reporting Hotline. To access the bulletin, please click [here](#).

EC publish report on "Driving European Recovery"

The EC has published a report which focuses on ways to restore financial stability, promote global recovery

and "support the real economy and people through the crisis" throughout Europe. Part of the proposals include outlining how they intend publish measures on responsible lending and borrowing towards the end of this year. The report mentions the need for measures to tackle over-indebtedness and repossessions. The FLA has commented that it feels that these should be dealt with separately or in a broader consultation. Please click [here](#) to access the report.

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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