

SRA response

High-level proposals for an FCA regime for consumer credit, Financial Conduct Authority consultation (FCA CP 13/7)

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The Solicitors Regulation Authority

1. The Solicitors Regulation Authority (SRA) is the independent regulatory body of the Law Society of England and Wales. We protect the public by regulating law firms and individuals who provide legal services. These include some 125,000 solicitors practising in nearly 11,000 firms.
2. Solicitors who undertake work under the Consumer Credit Act 1974 do so in reliance on a Group Licence granted to the Law Society, as a Designated Professional Body, by the Office of Fair Trading. The licence covers carrying on the business of consumer credit, credit brokerage, debt-adjusting, debt-counselling, debt collecting, debt administration and the provision of credit information services (including credit report). The SRA operates the group licence, held by the Law Society, which currently applies to our regulated community.
3. We welcome the opportunity to respond to the Financial Conduct Authority's consultation on the high-level proposals for an FCA regime for consumer credit.

Response to consultation

Chapter 2 - The proposed framework for the new regime

We support the proposals. The balance is sufficient to ensure that consumer interests are protected.

Of the regulated community that falls under the Law Society Group Licence it is unlikely that the activities branded as lower-risk are undertaken by those firms. However, we agree that the higher-risk activities referred to should be included and closely monitored as this is where concerns have been highlighted with regard to businesses adopting aggressive activities and allowing work to go unsupervised.

Chapter 3 - Transition: the interim permission regime

The SRA is currently developing its approach to licensing organisations that may fall within the definition of "not-for-profit bodies" and we will continue to work with the FCA to ensure that our views and approach to regulation of those bodies is fully informed.

Chapter 4 - Authorisation

We support the risk based approach to authorisation and the Threshold Conditions referred to which will hopefully provide the FCA with sufficient information to approve or reject any application for authorisation.

In relation to the views expressed in connection with not-for-profit bodies, as stated previously, we will continue to work with the FCA to ensure that our approach is fully informed.

Chapter 5 - Alternatives to authorisation

Our interest is in relation to exempt professional firms and we are satisfied that the regulatory framework we have in place sufficiently manages those firms and associated risks.

As part of the change in regulation of consumer credit activities we will be reviewing the SRA Financial Services (Conduct of Business) Rules 2001 and the SRA Financial Services (Scope) Rules 2001 to ensure they are in line with FCA requirements.

Chapter 6 - Prudential standards for debt management firms

Our experience of consumer credit activities has primarily been in relation to those carrying out debt collection. Therefore, any contact a firm will have with a member of the public will be deemed to be a third party and hence not entitled to consumer redress. However, we support the FCA's proposed approach in an attempt to ensure that the interests of vulnerable consumers are sufficiently protected.

Chapter 7 - Conduct standards

The Principles for Businesses are akin to the SRA's Principles and therefore we support the position. We look forward to working with the FCA in relation to the proposed conduct standards as these are developed.

In relation to guidance previously issued by the OFT in respect of debt collection, misleading or otherwise undesirable names and payment protection guidance the SRA actively responded to the consultations and reviews issued by the OFT and our response is attached for information.

Chapter 8 - Conduct standards: specific activities

Of those firms that fall under the group licence regime very few will have been involved in providing debt advice and, therefore, unlikely to hold client assets. However, those involved in debt collection would be subject to the SRA Accounts Rules where money was received from a third party which was due to the instructing client either in part or in its entirety.

In connection with third party tracing agents we support the proposed approach and agree that the authorised firm should remain responsible for the carrying on of the outsourced activity.

Chapter 9 & 10 - Supervision and reporting

We support the approach suggested. We will continue to work with the FCA going forward where there is a need for the sharing of information regarding exempt professional firms and those likely to be dually regulated.

Chapter 11 - Complaints and redress

In relation to those firms and/or agencies involved in debt advice/counselling we would suggest that the FCA works closely with the Legal Ombudsman and other consumer agencies to ensure that there is a coherent approach and consumers are not confused as to rights of redress.

Chapter 12 - Preventing financial crime

The SRA operates a robust framework in respect of financial crime and has in place an established relationship with SOCA and other crime prevention/enforcement agencies. Firms which are regulated by the SRA are subject to the Money Laundering Regulations and, therefore, the transfer of regulation from the OFT to the FCA should not have any negative impact on our regulated community.

Chapter 13 - Fees

We are neutral in respect of the proposal.