



# TRANSFER TO THE FCA: WHAT YOU NEED TO KNOW

Consumer Credit Compliance  
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## 1 WHEN WILL THE TRANSFER TAKE PLACE?

The transfer to the FCA will be effective from **1 April 2019**.

If you are currently authorised or exempt (because you are a Scottish-based CMC that only provides services in Scotland or because you only deal with section 75 claims) you will need to apply for temporary permission between **1 Jan and 31 March 2019** to continue trading.

Once you obtain temporary permission you will be allocated to one of the follow landing slots to prepare and submit an authorisation application to the FCA:

- **1 April 2019 until the end of May 2019** – for financial products and services CMCs, Scottish CMCs and section 75 CMCs
- **1 June 2019 until the end of July 2019** – for all other CMCs (i.e. employment CMCs, PI CMCs etc.).

## 2 WHAT ARE THE KEY CONDUCT RULE CHANGES?

Pre-contract requirements – CMCs will be required to give prospects a one-page summary document setting out prescribed content such as fees and alternative options.

Record keeping – CMCs will be required to have call recordings and maintain a record of all communications with prospects and customers for, at least, 12 months.

Updating customers – CMCs will be required to update customers, at least, every six months. CMCs will be required to forward information from clients to relevant third parties (e.g. lenders, insurers) within 10 working days of receiving the same from customers.

Client account(s) – CMCs that operate client accounts will be required to obtain a countersigned client account acknowledgement letter from its bank, receive client money directly into its client account, maintain an internal ledger to record each customers'

individual client money balance, conduct daily reconciliations of its internal ledger and bank statements and commission an external audit annually.

### **3 WHAT ARE THE KEY GOVERNANCE CHANGES?**

Senior Managers & Certification Regime (SM&CR) – senior managers (e.g. directors) and individuals who hold key functions in providing your claims management service would need to be approved by the FCA or certified by you. Approved individuals will require a written statement of responsibilities. Senior managers and certified individuals will be personally accountable for compliance in their respective roles and within their respective departments.

### **4 WHAT ARE THE KEY COMPLAINTS HANDLING CHANGES?**

CMCs will fall under the jurisdiction of the FOS. This means that from 1<sup>st</sup> April 2019 complaints about CMCs will be made to FOS as opposed to LeO.

### **5 WHAT ARE THE KEY CHANGES IF WE USE LEAD GENERATORS?**

You will be required to conduct documented due diligence on lead generators to establish that they are FCA authorised (or exempt) and that the provenance of data is compliant with the GDPR and PECR.

### **6 ANY COMMERCIAL CONSIDERATIONS WE SHOULD BE AWARE OF?**

In addition to the costs associated with the above changes, CMCs will be required to meet the FCA's capital resources requirement (i.e. demonstrate a minimum amount of capital) in order to become authorised. The categories of capital resources requirements are as follows:

- The higher of 2 months' worth of your fixed overhead costs or £10,000 for CMCs with annual total income of £1 million or above (or £30,000 if the CMC operates a client account);
- The higher of 2 months' worth of your fixed overhead costs or £5,000 for CMCs with annual total income below £1 million (or £25,000 if the CMC operates a client account).

## **7 WILL WE BE SUBJECT TO ANY REPORTING REQUIREMENTS?**

CMCs will be required to submit three regulatory reports to the FCA on an annual basis, namely complaints data (i.e. details about complaints made against the CMC), standing data (i.e. confirmation of business details such as address and contact details) and key data (i.e. information on staff numbers, maintenance of financial resources, lead generation details).

## **8 HOW CAN WE HELP?**

We are able to assist you in your preparations for the transfer to the FCA through our Claims Management Compliance (CMC) brand. For further information on our services please contact us on [info@consumercreditcompliance.co.uk](mailto:info@consumercreditcompliance.co.uk).

The FCA are due to publish their finalised rules in Q4 2018.

Please let us know if you want to receive a similar update when the FCA publish more information.



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