# Chapter 5A

# Cost cap for high-cost short-term credit

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## 5A.1 Application, purpose and guidance

### Application

**5A.1.1** | R | This chapter applies to:

(1) a *firm* with respect to an agreement for *high-cost short-term credit* entered into on or after 2 January 2015; or

(2) a *firm* with respect to an agreement entered into on or after 2 January 2015 which varies or supplements an agreement for *high-cost short-term credit* which imposes one or more charges; or

(3) a *firm* with respect to the exercise of a contractual power on or after 2 January 2015 to vary or supplement an agreement for *high-cost short-term credit* which imposes one or more charges.

**5A.1.2** | G | (1) A variation or supplement of, or an exercise of a contractual power to vary or supplement, an agreement for *high-cost short-term credit* made before 2 January 2015 will be covered by this chapter if it has the result that a new charge, or an increase in an existing charge, is payable.

(2) An example of where a charge results from a variation or supplement is where the duration of an agreement made before 2 January 2015 is extended and a further charge by way of interest or otherwise is calculated by reference to the period of the extension. A variation or supplement which alters the address of the borrower stated in the agreement or which is followed by the *firm* permanently waiving any right to interest or charges which would otherwise be imposed or result does not fall within ■ CONC 5A.1.1 R (2) or ■ CONC 5A.1.1 R (3).

(3) If this chapter applies to an agreement for *high-cost short-term credit* as a result of ■ CONC 5A.1.1 R (2) or ■ CONC 5A.1.1 R (3), charges imposed under the agreement before 2 January 2015 are to be included in the calculation of the total cost cap, the initial cost cap and the default cap. If charges imposed before 2 January 2015 exceed the total cost cap, the initial cost cap or the default cap, a variation or supplement of that credit agreement on or after 2 January 2015 that results in any additional charge is not permitted.

**5A.1.3** | G | *Firms* are reminded that, as a result of ■ GEN 2.2.1 R, the provisions of this chapter have to be interpreted in the light of their purpose.

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## Statutory context and purpose

**5A.1.4** | G | Section 137C of the *Act* (FCA general rules: cost of credit and duration of credit agreements) as amended by the Financial Services (Banking Reform) Act 2013, places a duty on the *FCA* to make general rules with a view to securing an appropriate degree of protection for borrowers against excessive charges.

**5A.1.5** | G | In accordance with that duty, the purpose of this chapter is:

  (1) to specify the descriptions of *regulated credit agreement* appearing to the *FCA* to involve the provision of high-cost short-term credit to which this chapter applies by using the definition of high-cost short-term credit set out in the *Glossary*;

  (2) to secure an appropriate degree of protection for borrowers against excessive charges; and

  (3) as a result, to restrict the charges for such high-cost short-term credit.

## Guidance on application and interpretation

**5A.1.6** | G | Examples of the sorts of charge (which expression is defined in ■ CONC 5A.6) applied in connection with the provision of *credit* covered by this chapter include, but are not limited to:

  (1) interest on the *credit* provided;

  (2) a charge related to late payment by, or default of, the borrower;

  (3) a charge related to the transmission of *credit* or for using a means of payment to or from the borrower;

  (4) a charge related to early repayment, or refinancing or changing the payment date or termination of the agreement;

  (5) a charge related to the application for, or drawing down of, *credit*;

  (6) a charge imposed by a *credit broker* in the same *group* or with whom the *lender* has arrangements to share the charge;

  (7) a charge for ancillary services related to the provision of *credit*; and

  (8) interest on any of the charges referred to in (1) to (7).

**5A.1.7** | G | Certain other terms used in this chapter are defined in ■ CONC 5A.6.