Consumer Credit sourcebook

Chapter 5A

Cost cap for high-cost shortterm credit



5A.1 Application, purpose and guidance

Application

5A.1.1

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

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.

CONC 5A/2

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.