

Guidelines to the Solicitors' Financial Services (Amendment) Regulations 2014 No 2

1. These Guidelines do not have any statutory or regulatory effect, but the Law Society of Northern Ireland hopes they are of some background assistance. They should be read in conjunction with the Law Society of Northern Ireland Guidelines to Financial Services Business and the Solicitors' Financial Services Regulations 2012 (the principal Regulations). There is no substitute for careful reading of the Consumer Credit Act 1974, the Financial Services and Markets Act 2000 (the FSMA) and Orders made pursuant thereto, the Solicitors (Northern Ireland) Order 1976 or the Regulations of the Law Society of Northern Ireland.
2. The Financial Conduct Authority (FCA) becomes responsible for regulation of Consumer Credit Act business from 1 April 2014.
3. From 1 April 2014, consumer credit related activities at present carried out by members of the Law Society of Northern Ireland, on foot of a Group Licence granted to the Society by the Office of Fair Trading (the OFT), will become regulated activities under the FSMA.
4. The FCA will not operate the Group Licence Scheme after 31 March 2014.
5. Thereafter, each professional firm may continue to provide credit related services, (regulated activity), under the regulation and supervision of the Law Society of Northern Ireland as its designated professional body without obtaining direct authorisation from the FCA, provided that such credit related activity is carried on in accordance with the principal Regulations.
6. No professional firm may carry on a regulated activity in the United Kingdom or purport to do so unless it is a directly authorised professional firm or exempt professional firm or is otherwise exempt: see Sections 19 and 327 of the FSMA.
7. Part 4, Regulation 20 allows professional firms to benefit from the same transitional rule from which firms authorised directly by the FCA under the FSMA who carry out credit related activities or connected activities will benefit.
8. The statutory exclusion for contentious business in relation to some Consumer Credit Act business has been carried forward as exclusions in relation to some credit related activities.

Explanatory Note

These Regulations, approved by the Financial Conduct Authority on 21 March 2014, are before Council for urgent approval where these Regulations must be in place by 31 March 2014.

These Regulations replace the Solicitors' Financial Services (Amendment) Regulations 2014 (approved by Council on 15 January 2014). While not significant, the No 2 Regulations contain additional clauses now approved by the Financial Conduct Authority.

The Financial Conduct Authority takes over regulation of consumer credit activity on 1 April 2014.

The Solicitors' Financial Services (Amendment) Regulations 2014 and Guidelines to Solicitors' Financial Services (Amendment) Regulations 2014 No 2 now include an amended definition of 'Authority', definition of 'Consumer Credit Sourcebook' (CONC), and an additional Part 4.

27 March 2014