



Banking Conduct Regime

CONSUMER CREDIT ACT 1974 (“CCA”), FINANCIAL SERVICES AND MARKET ACT 2000 (“FSMA”) and PAYMENT SERVICES REGULATIONS 2009 (“PSRs”).

1. The purpose of this Concordat is to record our agreement to co-ordinate supervision and other actions to protect consumers and to co-operate in all ways permitted by law to ensure the effective and consistent delivery of consumer protection in relation to:
 - credit cards;
 - debit cards (but not prepaid debit);
 - current and any other accounts which offer overdraft facilities; and
 - access to payment systems (as defined in Article 28 of the Payment Services Directive (2007/64/EC)).

Division of responsibilities is summarised in the Annex and working arrangements may be developed further by agreement between the OFT and the FSA within the terms of this Concordat.
2. We agree to co-operate with each other, by sharing information and in all other ways as permitted by law, taking account of our duty to co-operate and exchange information under the PSRs.
 3. We will ensure that, in deciding upon any actions by either of us in respect of a breach or potential breach of the PSRs or the FSA’s Principles for Businesses or Banking Conduct of Business Sourcebook causing potential consumer harm (or in respect of an actual breach - as aforesaid - that has already caused consumer harm), we will have regard to the principle that regulatory activities should be carried out in a way which is proportionate, consistent, transparent, accountable and targeted only at cases in which action is needed.
 4. The OFT will exercise oversight over the CCA in line with its published statements of enforcement principles. The FSA expects to address breaches of the PSRs, the FSA’s Principles for Businesses or the Banking Conduct of Business Sourcebook using its powers under the PSRs and FSMA. The FSA’s approach to enforcement of its PSR and FSMA responsibilities is set out in

Enforcement Guide (EG) which may be found at the FSA's website. The OFT's approach to its responsibilities regarding access to payment systems in the UK is set out in Chapter 16 of the FSA's approach document: "The FSA's role under the Payment Services Regulations 2009" published at: http://www.fsa.gov.uk/pubs/other/PSD_approach.pdf.

5. The OFT and the FSA will work together to ensure that a consistent and co-ordinated approach is taken under the CCA, FSMA, the PSRs and the Handbook in relation to potential regulatory breaches and to agree which party is best placed to lead in each case. This will be the body best placed to deliver swift and effective protection of consumers having regard to its functions and powers, expertise, knowledge and priorities among other matters.
6. This concordat has effect from 1 November 2009.

Signed by.....*Sheila Nicoll*.....Date.....*29/10/09*.....
Sheila Nicoll, Director of Conduct Policy, Financial Services Authority

PP

Signed by.....*Clive Maxwell*.....Date.....*30/10/09*.....
Clive Maxwell, Senior Director, Markets and Projects, Services

Annex

The division of responsibilities between the OFT and the FSA

The FSA is responsible for prudential and conduct of business regulation in relation to all banks and building societies (in respect of their deposit taking and payment services activities), credit unions (in respect of their deposit taking) and other businesses which offer payment services (as defined in Part One of Schedule One to the PSRs) including the operation of payment accounts and the issuance of debit cards, and credit cards. Broadly speaking, where businesses offer accounts with overdrafts the FSA is responsible for regulation of deposit taking and payment services activities under FSMA and the PSRs (other than Part 8) and the OFT is responsible for regulation of the granting of credit under the CCA.

Under the CCA 1974, the OFT has the function to license and the power to take enforcement action against most businesses that offer goods or services on credit or which lend money to consumers. This includes overdrafts and the granting of credit in respect of credit cards.

The OFT has responsibility for enforcing Part 8 of the PSRs so as to ensure that firms can access relevant markets without any unnecessary barriers and to ensure that markets work well for consumers.