



**The Implications to Retail Core Banking  
Systems for Adhering to the UK Consumer  
Credit Act (CCA3) and the European Consumer  
Credit Directive (CCD)**

**Real Consulting Services Limited (RCS)**

## Introduction

In the UK lenders offering credit to consumers must comply with rules set out in the UK Consumer Credit Act (known as CCA3) and, from June 2010, new rules introduced by the European Consumer Credit Directive, 2008/48/EC, (known as CCD). This legislation is designed to protect consumers and create a fair and competitive market for credit<sup>1</sup>.

There is lots of information available on what the act and directive are and the legal implications but very little information is available with regards to exactly what changes financial institutions need to make to their IT systems.

Compliance with these regulations has a wide impact on the IT systems used in financial organisations that offer credit to consumers. This impact ranges from what data is stored and the content and form of documentation, to what information must be provided to customers.

In this paper Real Consulting Services Limited (RCS) consider the implications of the CCA3 and CCD for the design of Core Banking systems within UK financial organisations.

This paper includes:

- A high level overview of the new legislation
- An overview of the impact on Retail Core Banking IT Systems
- Details of other internet resources relevant to the subject.

**No portion of this paper must be used without the permission of Real Consulting Services Limited.**

---

<sup>1</sup> What is credit? "The provision of resources (e.g. a cash loan) by one party to another party where the receiving party does not reimburse the first party immediately (thereby creating a debt) but instead arranges to repay the debt at a later date.

## **Real Consulting Services Limited (RCS)**

Real Consulting Services (**RCS**) provides business, technology and consultancy services to the financial services and IT industries and has established a Centre of Competence addressing the IT implications of the UK Consumer Credit Act (CCA3) and the European Consumer Credit Directive (CCD).

The RCS Consumer Credit Centre of Competence has been established to provide practical and hands-on help and advice specifically for IT departments within UK financial institutions in the following ways:

- For institutions that *have already started CCA3 & CCD* related projects - RCS will review current project plans and identify gaps. Additionally RCS can define and help deliver projects to close the gaps
- For institutions *that have not already kicked off CCA3 & CCD* related projects - RCS will develop the project plans and schedules. Additionally RCS can help deliver the projects.

The Centre of Competence services are delivered via short, sharp, tailored workshops held at the customer site. The consultants running the workshops are, as with all RCS people, experts in their fields and are currently deeply involved in CCA3 & CCD projects and therefore know what needs to be done, what works and just as importantly, what doesn't work.

Further information on RCS can be found at:

[www.realconsultingservices.com](http://www.realconsultingservices.com).

## Overview of CCA3 and CCD

### CCA3 v CCD

Throughout this paper we describe the requirements as they will be enforced after the implementation of the CCD in 2010. In some cases these requirements are laid down by CCA3 and in some cases CCD.

CCA3 and CCD both set out rules that affect the processing of loans in a number of areas. Where CCA3 has stronger regulations than the Directive these regulations will take precedence over the Directive. Where the Directive extends or introduces new requirements these will be enforced from 2010.

### Scope - UK Consumer Credit Act (CCA3)

CCA3 applies to all credit agreements and consumer hire agreements that are:

- For individuals (personal customers) or partnerships of two or three partners not all of whom are corporate bodies. The following table summarises the scope of the regulations in relation to partnerships:

<b>Regulated</b>	<b>Not regulated</b>
Partnerships of three individuals	Partnerships of more than three partners
Partnerships of two individuals and one corporate body OR two corporate bodies and one individual	Partnerships of three corporate bodies

- Of any value (the 1974 Act applied only to credit and consumer hire agreements up to £25,000 but this threshold was removed by the 2006 Act)
- Either secured or unsecured.

The regulations therefore apply to personal loans, term loans, running-account credit (overdrafts and credit cards), home credit loans (small loans where the repayments are collected from the customer at home) and asset finance products. The regulations apply both to credit that is provided for unrestricted use and credit that is provided for a restricted use (e.g. credit provided to finance a car purchase).

The regulations do not cover:

- Mortgages
- Hire-purchase agreements
- Credit agreements for corporate bodies
- Agreements for goods or services where the customer has to repay the credit within twelve months in four payments or fewer
- Charge cards and similar agreements where the customer has to repay the outstanding balance in full at the end of each period
- Credit union agreements where the APR does not exceed 26.9 per cent
- Credit agreements offered to a limited group of borrowers where the APR does not exceed a specified 'low cost' rate (set by reference to average base rates)

- Certain agreements relating to overseas finance

There are also exemptions for:

- Lending to high net worth individuals, with net income exceeding £150,000 or net assets exceeding £500,000 (supporting documentation must be provided)
- Lending over £25,000, where the loan is wholly or predominantly for business purposes (supporting documentation must be provided).

### **Scope - European Consumer Credit Directive (CCD)**

The Directive applies to all credit agreements that are:

- Unsecured
- Between €200 and €75,000 (this refers to the facility amount, not the balance)
- Agreed on a date after the national implementing measures come into force.

The requirements therefore apply to personal loans, term loans, running-account credit (overdrafts and credit cards) and asset finance products for both personal and non-personal customers (mostly small and medium enterprises).

The Directive does not apply to:

- Credit agreements agreed before the date of implementation (May 2010)
- Mortgages or other secured lending
- Credit that has to be repaid within one month
- Hiring or leasing agreements where an obligation to purchase the object of the agreement is not laid down by the agreement.

The Consumer Credit Directive impacts the provision of information to the customer and the operation of the loan. New Terms and Conditions and documented information must be sent to the customer. Control is placed on early repayment and partial payments and provision of amortisation schedules will be required. This is all in order to provide the customer with clear information on the progress of the loan.

### **Enforcement Agencies**

The Consumer Credit Act, and associated regulations, is enforced by the Office of Fair Trading (OFT) and local trading standards departments.

The Department for Business, Innovation and Skills (BIS)<sup>2</sup> is responsible for implementing the Consumer Credit Directive in the UK.

### **Licensing**

Importantly, the Consumer Credit Act requires all businesses providing consumer credit or consumer hire agreements to be licensed by the OFT, all Banks/Building Societies offering credit in the UK must therefore be licensed. This is important for any financial organisation wishing to operate in the UK but, at a day-to-day level, it does not affect the design of systems within banks so it is not discussed further here.

---

<sup>2</sup> Formerly known as the Department for Business, Enterprise and Regulatory Risk (BERR).

# Mapping between New Legislation Requirements And the Banking Framework

**Please note:** RCS have mapped the impact of the new legislation for all areas of the Banking Operations Framework as outlined in the diagram below but **this paper focuses on the Core Banking areas ONLY**. For further information please contact RCS, in the first instance, via email at [connect@realconsultingservices.com](mailto:connect@realconsultingservices.com)

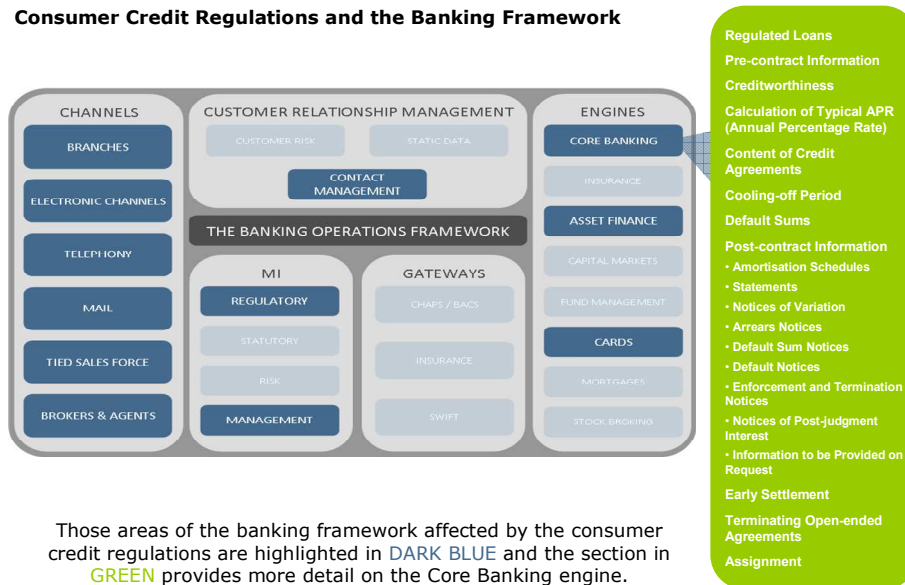
To understand the impact of the new legislation on financial institutions IT systems we have:

Broken the legislation down into manageable 'components' based on the approach taken in the Office of Fair Trading's own guidance

and

For each part of the Banking Operations Framework we describe what components of the legislation have an impact.

## Consumer Credit Regulations and the Banking Framework



Those areas of the banking framework affected by the consumer credit regulations are highlighted in **DARK BLUE** and the section in **GREEN** provides more detail on the Core Banking engine.

## Regulated Loans

Loan setup systems in banks need to be able to identify what credit agreements are regulated, either by CCA3 or CCD. In theory, it can be either CCA3 or CCD, or it can be both. It is understood that most banks will indicate the CCD status on the credit agreement.

Whether or not a credit agreement is regulated is a derived attribute that sits at the account level based on:

- The type of customer
- The nature of the credit agreement
- Value of the facility
- Date of agreement, and
- Whether or not secured

Also see the Scope section of this paper for further, useful information.

### **Pre-Contract Information**

CCD requires banks to provide the customer with certain information about a credit offer/contract before an agreement is made. This information must be provided in one of two standard forms:

- For products excluding overdrafts/credit cards – banks must provide a Standard European Consumer Credit Information (SECCI)
- For running-account credit (overdrafts / credit cards) – banks must provide an European Consumer Credit Information (ECCI).

There are different requirements for the provision of pre-contract information when a credit agreement is to be made at a distance.

### ***Agreements made face-to-face***

Banks must provide to the customer certain information about a credit offer/contract before an agreement is made.

The principal objective is that customers have access to the right information to be able to make an appropriate assessment or comparison of the credit offer, and that the information is presented in a clear way.

The Consumer Credit (Disclosure of Information) Regulations 2004 set out detailed regulations on pre-contract information for credit agreements entered into following face-to-face discussions. In summary, the regulations require banks to provide certain information to the customer in a document headed 'Pre-contract Information' which must be separate from the credit agreement. However, this standard form will be replaced by new forms that are standardised across Europe when CCD comes into force.

The new forms are called:

- The SECCI form to be used for products excluding running-account credit, and
- The ECCI form to be used for running-account credit like overdrafts/credit cards.

See Table below for details.

In the absence of further guidance in the implementing regulations, lenders may have to decide if they wish to continue to include information currently required by CCA3 (e.g. early settlement examples) either in a separate Annex to the SECCI/ECCI

or elsewhere. Any additional information should be given in a separate document which may be annexed to the standard form.

This information must be provided 'in good time' before the customer is bound by any credit agreement or offer. Generally the information would be printed and posted to the customer along with the forms for agreement relating to the loan.

The checklist that prompts staff to print the right documents should include the SECCI / ECCI. It might also be necessary to include a generic SECCI/ECCI as part of direct marketing materials, on websites and in branches.

A lender must supply the customer with a copy of the draft credit agreement free of charge if it is requested by the customer unless the bank is at the time of the request unwilling to proceed to the conclusion of the credit agreement with the customer.

Table 1: Pre-Contract Information and Forms

	<b>Pre-Contract Information (excluding running-account credit)</b>	<b>Pre-Contract Information (running-account credit)</b>
<b>Form</b>	Standard European Consumer Credit Information (SECCI)	European Consumer Credit Information (ECCI)
<b>Data</b>	<ul style="list-style-type: none"> <li>• the type of credit (e.g. personal loan)</li> <li>• the identity and the geographical address of the creditor (and broker/agent if applicable)</li> <li>• the total amount of credit and the conditions governing the drawdown</li> <li>• the duration of the credit agreement</li> <li>• if the credit is a deferred payment for a specific good or service, that good or service and its cash price</li> <li>• the borrowing rate, the conditions governing the application of the borrowing rate and, where available, any index or reference rate applicable, as well as the periods, conditions and procedure for changing the borrowing rate</li> <li>• the annual percentage rate of charge and the total amount payable by the consumer, illustrated by means of a representative example</li> </ul>	<ul style="list-style-type: none"> <li>• the type of credit</li> <li>• the identity and geographical address of the creditor (and broker/agent if applicable)</li> <li>• the total amount of credit</li> <li>• the duration of the credit agreement</li> <li>• the borrowing rate; the conditions governing the application of that rate, any index or reference rate applicable to the initial borrowing rate, the charges applicable from the time the credit agreement is concluded, and, where applicable, the conditions under which those charges may be changed;</li> <li>• the annual percentage rate of charge, illustrated by means of representative examples mentioning all the assumptions used in order to calculate that rate</li> <li>• the conditions and procedure for terminating the credit agreement;</li> <li>• where applicable, an</li> </ul>



mentioning all the assumptions used in order to calculate that rate

- The total cost of the credit to the consumer (this should comprise all the costs, including interest, commissions, taxes, fees for credit intermediaries and any other fees which the consumer has to pay in connection with the credit agreement except for notarial costs)
- the amount, number and frequency of payments to be made by the consumer
- where applicable, the existence of costs payable by the consumer to a notary on conclusion of the credit agreement
- the obligation, if any, to enter into an ancillary service contract relating to the credit agreement, in particular an insurance policy
- the interest rate applicable in the case of late payments and the arrangements for its adjustment, and, where applicable, any charges payable for default
- a warning regarding the consequences of missing payments
- where applicable, the sureties required
- the existence or absence of a right of withdrawal
- the right of early repayment, and, where applicable, information concerning the creditor's right to compensation and the way in which that compensation will be determined
- the consumer's right to be informed immediately and free of charge, of the result of a database consultation carried out for the purposes of assessing his

indication that the consumer may be requested to repay the amount of credit in full at any time

- the interest rate applicable in the case of late payments and the arrangements for its adjustment, and, where applicable, any charges payable for default
- the consumer's right to be informed immediately and free of charge, of the result of a database consultation carried out for the purposes of assessing his creditworthiness
- information about the charges applicable from the time such agreements are concluded and, if applicable, the conditions under which those charges may be changed
- if applicable, the period of time during which the creditor is bound by the pre-contractual information

- creditworthiness
- the consumer's right to be supplied, on request and free of charge, with a copy of the draft credit agreement. This provision shall not apply if the creditor is at the time of the request unwilling to proceed to the conclusion of the credit agreement with the consumer; and
- if applicable, the period of time during which the creditor is bound by the pre-contractual information.

Core systems must capture and store the information required to populate these forms and should include checklists that prompt staff to print the right pre-contract information forms following either face-to-face discussions or remote communications.

### **Creditworthiness**

CCD specifies that before the conclusion of a credit agreement, a lender must assess the customer's creditworthiness on the basis of information obtained from the customer and, where necessary, databases held by credit reference bureaus. This credit reference check needs to be part of the account opening procedure and might be prompted by an account opening checklist or system. For most banks already operating in the UK, this does not represent a change from existing practice.

If the parties agree to change the total amount of credit after the conclusion of a credit agreement, lenders must reassess the customer's creditworthiness before any significant increase in the total amount of credit. This check needs to be part of the account maintenance procedures.

CCD does not prescribe how recent a credit bureau check needs to have been. This may be defined in the UK's implementing legislation.

Credit rating providers/bureaus must ensure lenders in all EU Member States have access to databases used to assess credit-worthiness. Lenders are required to share details of credit agreements with credit referencing agencies. This may require a direct feed of data from a lender's systems to the credit referencing agency.

If a credit application is rejected on the basis of a credit reference check, the lender must inform the customer immediately and without charge. The result should be advised to the customer in all cases unless it contravenes other legislation, public policy or public security (e.g. in situations of fraud, money laundering or sanctions). Banks need to have a clear process for declining applications to conform to this requirement.

### **Calculation of Typical APR**

Detailed regulations on the calculation of typical APR are set out in the Consumer Credit (Total Charge for Credit and Rebate on Early Settlement) (Amendment) Regulations 1989. Additionally the OFT has produced a booklet, Credit Charges and APR, setting out how an APR should be calculated.

More recently, CCD also sets out a standard approach to calculating typical APR. These requirements are in line with CCA3. Importantly, lenders must make sure that the APR calculation does not include any charges for non-compliance or other charges that are not directly linked to the credit agreement (e.g. courier fees). This means that commission charges cannot be included in the APR calculation for example, they have to be stated separately.

Any costs relating to payment transactions and drawdowns should be included in the APR calculation unless they are optional.

CCD sets out the following equation for calculating typical APR:

$$\sum_{k=1}^m C_k (1 + X)^{-t_k} = \sum_{l=1}^{m'} D_l (1 + X)^{-s_l}$$

where:

- X is the APR
- m is the number of the last drawdown
- k is the number of a drawdown, thus  $1 \leq k \leq m$
- $C_k$  is the amount of drawdown k
- $t_k$  is the interval, expressed in years and fractions of a year, between the date of the first drawdown and the date of each subsequent drawdown, thus  $t_1 = 0$ ,
- $m'$  is the number of the last repayment or payment of charges,
- l is the number of a repayment or payment of charges,
- $D_l$  is the amount of a repayment or payment of charges,
- $s_l$  is the interval, expressed in years and fractions of a year, between the date of the first drawdown and the date of each repayment or payment of charges.

The typical APR calculation has to be based on the following assumptions:

- That the agreement remains valid for the stated term and the customer does not default
- In the case of variable rates and charges, these will be fixed at their initial level and will remain applicable until the end of the credit agreement.

It is important that banks make sure their loan illustration system/s and core bank systems use the same equation (or algorithm) to calculate interest so there is consistency between the two.

### **Content of Credit Agreements**

Detailed rules on the documentation of agreements were set out in the Consumer Credit (Agreements) Regulations 1983 and amended within Consumer Credit

(Miscellaneous Amendments) Regulations 2004. CCD also sets out what information should be included in a credit agreement. The requirements are largely identical so we list the information required by the (more detailed) CCD.

Banks must ensure that all Credit agreements are made available on paper or another durable medium<sup>3</sup>. Both the customer(s) and the lender must sign the agreement. A copy of the executed agreement must be given to the customer, either when he signs it or within seven days. All parties are entitled to a copy of the credit agreement. Lenders may want to provide only one copy to joint account holders residing at the same address.

If the above requirements are not met, a lender can only enforce the agreement against the customer by getting a court order.

Lenders must ensure that credit agreements contain the following information:

For Credit agreements (excluding overdrafts/credit cards):

- the type of credit
- the identities and geographical addresses of the contracting parties as well as, if applicable, the identity and geographical address of the credit intermediary involved
- the duration of the credit agreement
- the total amount of credit and the conditions governing the drawdown
- in case of a credit in the form of deferred payment for a specific good or service or in the case of linked credit agreements, that good or service and its cash price
- the borrowing rate, the conditions governing the application of that rate and, where available, any index or reference rate applicable to the initial borrowing rate, as well as the periods, conditions and procedures for changing the borrowing rate and, if different borrowing rates apply in different circumstances, the abovementioned information in respect of all the applicable rates
- the annual percentage rate of charge and the total amount payable by the consumer, calculated at the time the credit agreement is concluded; all the assumptions used in order to calculate that rate shall be mentioned
- the amount, number and frequency of payments to be made by the consumer and, where appropriate, the order in which payments will be allocated to different outstanding balances charged at different borrowing rates for the purposes of reimbursement
- where capital amortisation of a credit agreement with a fixed duration is involved, the right of the consumer to receive, on request and free of charge, at any time throughout the duration of the credit agreement, a statement of account in the form of an amortisation table. The amortisation table shall indicate the payments owing and the periods and conditions relating to the payment of such amounts; the table shall contain a breakdown of each repayment showing capital amortisation, the interest calculated on the basis of the borrowing rate and, where applicable, any additional costs; where the interest rate is not fixed or the additional costs may be changed under the

---

<sup>3</sup> Durable medium: Any instrument which enables the consumer to store information addressed personally to him in a way accessible for future reference for a period of time adequate for the purposes of information and which allows the unchanged reproduction of the information stored.

credit agreement, the amortisation table shall indicate, clearly and concisely, that the data contained in the table will remain valid only until such time as the borrowing rate or the additional costs are changed in accordance with the credit agreement

- if charges and interest are to be paid without capital amortisation, a statement showing the periods and conditions for the payment of the interest and of any associated recurrent and non-recurrent charges
- where applicable, the charges for maintaining one or several accounts recording both payment transactions and drawdowns, unless the opening of an account is optional, together with the charges for using a means of payment for both payment transactions and drawdowns, and any other charges deriving from the credit agreement and the conditions under which those charges may be changed
- the interest rate applicable in the case of late payments as applicable at the time of the conclusion of the credit agreement and the arrangements for its adjustment and, where applicable, any charges payable for default
- a warning regarding the consequences of missing payments
- where applicable, a statement that notarial fees will be payable
- the sureties and insurance required, if any
- the existence or absence of a right of withdrawal, the period during which that right may be exercised and other conditions governing the exercise thereof, including information concerning the obligation of the consumer to pay the capital drawn down and the interest and the amount of interest payable per day
- information concerning the rights resulting from the Directive's requirements on open-ended agreements as well as the conditions for the exercise of those rights
- the right of early repayment, the procedure for early repayment, as well as, where applicable, information concerning the creditor's right to compensation and the way in which that compensation will be determined
- the procedure to be followed in exercising the right of termination of the credit agreement
- whether or not there is an out-of-court complaint and redress mechanism for the consumer and, if so, the methods for having access to it
- where applicable, other contractual terms and conditions
- where applicable, the name and address of the competent supervisory authority.

For Credit agreements for overdrafts/credit cards:

- the type of credit;
- the identities and geographical addresses of the contracting parties as well as, if applicable, the identity and geographical address of the credit intermediary involved
- the duration of the credit agreement
- the total amount of the credit and the conditions governing the drawdown
- the borrowing rate, the conditions governing the application of the borrowing rate and, where available, any index or reference rate applicable to the initial borrowing rate, as well as the periods, conditions and procedure for changing the borrowing rate and, if different borrowing rates apply in different circumstances, the abovementioned information in respect of all the applicable rates

- the annual percentage rate of charge and the total cost of the credit to the consumer, calculated at the time the credit agreement is concluded; all the assumptions used in order to calculate that rate shall be mentioned
- an indication that the consumer may be requested to repay the amount of credit in full on demand at any time
- conditions governing the exercise of the right of withdrawal from the credit agreement; and
- information concerning the charges applicable from the time such agreements are concluded and, if applicable, the conditions under which those charges may be changed.

If an unplanned overdraft is possible on a current account the current account agreement must include:

- the borrowing rate,
- the conditions governing the application of that rate, any index or reference rate applicable to the initial borrowing rate,
- the charges applicable from the time the credit agreement is concluded, and
- (where applicable) the conditions under which those charges may be changed

### **Cooling-Off Period**

Customer's have the right to withdraw from a credit agreement within 14 days of concluding the credit agreement without incurring a penalty. The customer does not need to give any reason for withdrawing. This right should be included within the Terms and Conditions of a credit agreement and within any general Terms and Conditions published in direct marketing or websites.

To withdraw from a credit agreement in the cooling off period the customer must notify the lender in writing and must repay the capital and the interest accrued up to the date the capital is repaid.

A lender is not entitled to any compensation in the event of withdrawal during the cooling-off period, except compensation for any non-returnable charges paid by the lender to any public administrative body.

Account closure processes within a Bank/Building Society must take into account this provision.

### **Default Sums**

Interest on a default sum cannot be charged until the 29<sup>th</sup> day after the day the default sum notice was given to the customer. Any interest applied must be simple interest, not compounded. It should be possible to apply no interest to the default sum or to refund the interest charged on a default sum.

If an account is in recoveries, payments received must be used to clear any default sums (and interest) first.

### **Post Contract Information**

The Consumer Credit (Information Requirements and Duration of Licenses and Charges) Regulations 2007 set out what information a lender must provide to the

customer during the lifetime of a loan. Additionally OFT has published a guidance booklet on these requirements. The requirements include:

- Amortisation Schedules (this is a CCD requirement)
- Statements
- Notices of variation
- Arrears Notices
- Default Sum Notices
- Default and Enforcement Notices
- Notice of post-judgment interest
- Information to be provided on request.

In addition, the Consumer Credit Directive obliges lenders to provide an up-to-date amortisation schedule to the customer on request.

### ***Amortisation Schedules***

Lenders must provide an amortisation table to the customer at the start of the loan and must provide an up-to-date amortisation schedule to the customer on request. Bank systems must therefore be able to produce an amortisation schedule on demand throughout the duration of the credit agreement.

The schedule shows the periodic payments against the loan and reveals the amount put towards interest, as well as the specific amount put towards the principal balance, with each payment.

If the customer's credit amount is increased, an up-to-date amortisation schedule should be provided at the time of the increase, on the basis of the combined total loan amount.

### ***Statements***

#### *Fixed-Sum Loans*

Lenders must send customers with fixed-sum loans an annual statement of account. The statement must include:

- the start and end date of the statement period
- the duration of the agreement and the amount of credit provided
- the rate or rates of interest applicable, the period during which each rate applied and, if applicable, the element of the credit to which it applied
- the opening balance at the beginning of the period to which the statement relates
- the amount and date of any payment to the account during the period
- the amount and date of any interest or other charges falling due during the period
- the amount and date of any other movement in the account during the period
- the closing balance at the end of the period.

Certain prescribed forms of wording must also be included, about:

- the consequences of paying less than the agreed sum

- sources of help or advice if the debtor is having difficulties making payments
- the right to settle the agreement early
- the right to terminate a hire-purchase or conditional sale agreement
- dispute resolution and complaints to the Financial Ombudsman Service (FOS).

### *Overdrafts and Credit Cards*

Customers with a running-account credit - or revolving credit line - (e.g. overdraft, credit card, etc) must be sent a statement of account monthly (if the statement includes a demand for payment), every 6 months (if the statement does not include a demand for payment but there is a balance on the account) or every 12 months (if there is no balance on the account). The statement must include:

- the start and end date of the statement period
- any opening balance at the beginning of the period to which the statement relates
- the amount and date of any payment to the account during the period (the system should automatically calculate if the credits received are sufficient to meet the minimum repayments)
- the amount and date of any drawing on the account during the period
- the amount and date of any interest or other charges applied to the account during the period
- the closing balance at the end of the period
- the borrowing rate applied
- where applicable, the minimum amount to be paid (requirement of CCD).

The statement should also include prescribed forms of wording about:

- the consequences of making only minimum payments
- the consequences of failing to make a minimum payment
- a statement of the order of payment allocation, if the balance is not repaid in full, and the implications for future interest charges
- dispute resolution and complaints to the FOS.

A history of the 'Minimum Repayments' that have been calculated and advised to customers on each statement should be kept permanently.

If it is calculated that the customer has failed to repay the minimum repayment amounts during the statement period a warning message should be included in the statement unless the underpayment is within a given tolerance. This warning message should be standard fixed-text. The warning message (when shown) should have greater prominence than anything else in the statement other than trade names, names or parties, logos, headings or reference numbers.

### *Current Accounts*

If the balance on a current account moves into an unplanned overdraft for more than one month the lender must inform the customer immediately. The notice should include:

- notice of the overrunning
- the amount involved



- the borrowing rate
- any penalties, charges or interest on arrears applicable.

### *Triggering statements*

Core systems should trigger the printing of a regular statement of account (at the required frequency) and notices when an account moves into an unplanned overdraft for more than one month. If an ad hoc statement is issued this should reset the date of the next statement trigger. A statement should also be issued if a loan is repaid and the account is closed.

The system should trigger the printing of statements and notices in a standard format which should then be issued by post. Separate statements and notices should be sent to the current address of each account holder when they are triggered.

Systems should allow for a 'mail suppression' marker to prevent statements and notices being sent when, for example, a customer is deceased. In this situation the system should continue to operate as if the statement or notice has been issued.

Statement information should be stored indefinitely and should be accessible to Bank officers to help them respond to queries raised. A statement issue history should also be stored.

### *Statements on Joint Accounts*

For joint accounts, a customer may send the bank a 'dispensing notice' so that the banks needs only to send a statement to one of the joint account holders.

### *Home Credit Loans*

A 'home credit loan' (or 'home collected loan') is typically a small cash amount (from fifty up to a few thousand pounds), paid back over a fixed period of between 10 weeks and 2 years. An agent calls at the customer's house (normally weekly) to collect payments.

Statements relating to home credit loan agreements must also include:

- the total charge for credit under the agreement
- prescribed wording about the right to request additional statements
- a statement regarding the price comparison website set up under the terms of the Competition Commission's Home Credit Market Investigation Order 2007.

### ***Notices of Variation***

If a lender wishes to vary a regulated agreement under the terms of that agreement, the customer must be given at least 7 days notice before the variation takes effect. This includes changes to borrowing rates although, if the credit agreement links the borrowing rate to a reference rate, a lender can inform the customer periodically.

In the case of certain interest rate variations, where interest is charged daily on the basis of the outstanding balance, notice may be published in three national newspapers and (where practicable) by prominent display in branch offices.

A notice sent to a customer must state the amount of the payments to be made after the new borrowing rate comes into force and if the number or frequency of the payments will change. Notices should contain:

- The date of issue of the notice
- Bank contact details
- Customer contact details
- Account number / sort code
- Name of the product
- Details of the new borrowing rate and the date from which it comes into force
- Details of the previous borrowing rate
- If an account has different borrowing rates for different parts of the account, the rates applicable to each part of the account should be shown
- Statutory messages as set out in other regulations
- Non-statutory messages (e.g. marketing).

Core systems should trigger the delivery of a file to the printing systems when borrowing rates are changed on regulated loans.

### ***Arrears Notices***

#### *Fixed-Sum Loans*

If the value of arrears reaches the equivalent of two contractual installments the customer should be sent an initial "Arrears Sum Notice" (ASN). To trigger the generation of this notice, core systems must store and use the contractual repayment obligations for all loan accounts. The calculation of arrears can include interest accrued as a direct result of the account being in arrears. The notice should be issued no longer than 14 days after being triggered.

Core systems should allow changes to the contractual repayment schedule where this is permitted in the credit agreement (e.g. amending the monthly repayment date, extending the repayment holiday, etc) and should take these changes into account when calculating arrears.

The ASN should include:

- The balance on the account on the date the notice is generated
- The shortfall that has caused the notice to be issued
- A copy of OFT Information Sheet on Arrears.

The following statutory messages should form the opening paragraphs of the ASN:

- "This Arrears Notice is given in compliance with the Consumer Credit Act 1974 because you are behind with your payments."
- "If you have not already agreed a repayment plan and are having trouble making your payments, please call us to discuss your account further."

The following statutory messages should also be included in the ASN:

- "Default sums and interest: You may have to pay default sums and interest in relation to the missed or partly made payments referred to in this notice. Please

contact us if you would like further details. This notice does not take account of any payments received after the date of the notice."

- "Notices: For so long as you continue to be behind with your payments by any amount, you will be sent notices about this at least every six months. We are not required to send you notices more frequently than this, even if you get further behind with your payments in between notices."
- "Office of Fair Trading Information Sheet: This notice should include a copy of the current information sheet on arrears prepared by the Office of Fair Trading. This contains important information about your rights and where to go for support and advice, for example on applying for a Time Order as well as our right to charge you interest. If it is not included you should contact us to get one. Please refer to the Office of Fair Trading information sheet for more information about how to get advice on dealing with your debt."

If the arrears sum is cleared after a notice is triggered, the account should be reset in the system so that any future arrears equivalent to two contractual installments triggers an initial ASN, not a follow-up ASN (see below). Core systems should also provide an option to override the issuance of an ASN.

Core systems should also allow for a time tolerance before an ASN is issued. The notice should not be triggered if the arrears are cleared within this time tolerance period.

Core systems must store information about the shortfall, including the amounts of the sums in question, the dates on which they became due, and the amounts and dates of any part payments. This should be available to Bank staff dealing with enquiries from customers.

#### *Follow-up Arrears Notices*

If the account remains in arrears, follow-up ASNs should be issued at not more than six month intervals, even if the account gets further into arrears during that period.

They should be automatically triggered six months after the previous notice was generated if any of the arrears have not been cleared and the account is still open. ASNs should continue to be issued even if the account is in a recoveries situation.

The ongoing calculation of arrears, and the arrears figures shown on notices, must recognise any changes made to the contractual repayment schedule since the last notice was issued.

It should be possible to issue an interim notice if requested by the customer. The interval before the next notice should then be reset to six months.

Follow-up arrears notices should include:

- the opening balance at the date on which the duty to give the notice arose (corresponding to the closing balance in the last notice)
- the amount of the shortfall in the opening balance
- the amount and date of any payment to the account during the period
- the amount and date of any interest or other charges falling due during the period
- the amount and date of any other movement in the account during the period

- the closing balance at the end of the period, and the amount of the shortfall at that date.

The statutory messages described above should also be included and a copy of the OFT information sheet on arrears should be enclosed.

#### *Arrears sum notices for running-account credit agreements*

Arrears sum notices for running-account credit agreements (e.g. credit cards, overdrafts, etc) should be triggered when a customer misses or only partly pays the last two consecutive minimum monthly repayments. Core systems therefore need to store and use a history of the minimum repayments that have been calculated and advised to the customer. The notice should be generated no later than the date the next statement is due.

There is no need to send ASNs on accounts after they have entered into recoveries as there is no "Minimum monthly repayment" any more, although other notices (e.g. Termination Notices, Default Notices, etc) should still be able to be sent.

The arrears notice must include:

- the arrears balance carried forward
- the amount of each of the last two required payments
- the date on which the amount fell due
- the amount and date of any part payment during the period of the notice
- the total shortfall on the payments during the period of the notice
- the closing, total arrears balance at the end date of the notice.

The statutory messages described above should also be included with the following changes:

- "Missed and partly made payments: This notice does not give details of missed or partly missed payments previously notified whether or not they remain unpaid"
- "Default sums and interest: You may have to pay default sums and interest in relation to the missed or partly made payments referred to in this notice. Please contact us if you would like further details. This notice does not take account of any payments received after the date of the notice."

A copy of the OFT information sheet on arrears should be enclosed.

#### ***Default Sum Notices***

If a customer breaches the terms of a credit agreement a 'default sum' may become payable. It should be possible to levy this charge to an account both manually and automatically.

If a default sum becomes payable, a default sum notice (DSN) must be sent to the customer within 35 days of the charge becoming payable.

The DSN must include:

- the amount and nature of each default sum payable

- the date on which it became payable
- the total amount of default sums covered by the notice.

The following statutory message should form the opening paragraph of the DSN: "This notice is given in compliance with the Consumer Credit Act 1974 as you have been charged default sums."

The notice should also contain the following statutory messages: "Interest: We are not entitled to charge you interest on the default sums for the first 28 days after we have given you this notice. However if the sum is not paid in full by that date interest will be charged at the rate of [either 0% or the nominal, annual interest rate that will be charged on the default sum from day 29 onwards], if not paid."

If the interest rate applied to the sum is variable the following message should be included: "Since this interest rate is a variable rate, the rate which we will apply to the default sum once the 28 days have passed may be different".

A prescribed warning is required in cases where interest may be payable on the default sum. This must include a statement of the interest rate and whether it is fixed or variable.

The default sum, plus any simple interest, should be included in the overall account balance and shown on all statements and notices issued.

Core systems should include functionality to:

- control a timetable tolerance that delays the issuing of a DSN (the DSN should be printed and issued immediately after the minimum tolerance date has passed)
- suppress or override the issuing of notices.

### ***Default Notices***

If a customer breaches the terms of a credit agreement and a lender wishes to terminate the agreement, demand earlier payment of any sum, recover possession of any goods or land, treat any right conferred on the debtor as terminated, restricted or deferred, or enforce any security the lender must issue a default notice.

The default notice must include:

- the nature of the alleged breach of the agreement
- the action needed to remedy the breach or to compensate the lender, and the date by which this must be done (this must be not less than 14 days after the date of notice)
- the consequences of failure to comply with the notice
- the action intended to be taken by the creditor in the event of noncompliance
- the procedures relating to the recovery of goods under a hire-purchase or conditional sale agreement
- a statement indicating the debtor's right to apply to the court for a time order, giving more time to repay the debt
- prescribed wording regarding sources of help or advice.

A copy of the current OFT default information sheet must be enclosed with each default notice.

### ***Enforcement and Termination Notices***

Lenders must give notice if they wish to terminate a regulated agreement, or to take other enforcement actions, when a credit agreement has not been breached. A lender cannot enforce early repayment of a sum, or repossession of goods or land, unless the customer is given at least seven days notice.

Enforcement and termination notices are not needed where an agreement is for an indefinite duration or where notice is served at the end of the period specified in the agreement for its duration.

The content and wording of these notices is set out in the Consumer Credit (Enforcement, Default and Termination Notices) Regulations 1983 (amended 2004).

### ***Notices of Post-Judgement Interest***

Lenders must notify customers if they intend to charge post-judgment interest on a sum that is required to be paid under a court judgment. A lender cannot charge interest on the sum until the first required notice has been served.

Further notices must be given at intervals of not more than six months for such time as the creditor wishes to charge post-judgment interest.

The first notice must include a prescribed statement indicating the intention to charge post-judgment interest, and the procedures involved. The notice must also include:

- the amount on which post-judgment interest will be charged
- the rate of interest payable, and the date from which it will be payable,
- a statement that further notices will be given at least every six months for so long as the creditor intends to charge post-judgment interest
- prescribed statements highlighting the debtor's right to apply to the court to vary the terms of the installment order or to reduce the amount of interest payable, and that the debtor can obtain advice and information about dealing with the debt from a number of organisations (with contact details taken from the OFT default information sheet)

Subsequent notices must include:

- the total amount of post-judgment interest charged since the date of the last notice
- the dates on which interest was charged
- the rate of interest (and whether this was variable)

### ***Information to be Provided on Request***

Lenders have a legal obligation to provide the following information to customers upon request:

- a copy of the credit agreement together with a statement showing the total amount paid to date, the total amount that remains unpaid, the amounts and dates of installments that will become due
- for running-account credit agreements, the customer can request a copy of the credit agreement together with a statement showing the state of the account, the amount (if any) currently payable, the amounts and dates of any payments that will become payable if there are no further drawings on the account
- written confirmation that a loan has been repaid and an account has been closed
- a settlement statement (see below)

The request must be made in writing and be accompanied by a fee of £1.

## **Early Settlement**

### ***Consumer Rights***

CCA3 gives customers the right to fully repay (settle) a credit agreement early. The Consumer Credit Directive extends this to allow customers the right to partially repay a credit agreement at any time.

In both cases:

- the customer must give the lender notice of their intention to repay a loan in full or in part, and
- the compensation that can be claimed by a lender in the case of early repayment is limited.

The Terms and Conditions of loan agreements should take account of these provisions.

When a partial repayment is accepted a letter should be sent to the customer with an updated amortisation table.

### ***Calculating Compensation***

A lender is entitled to claim "fair and objectively justified" compensation for possible costs directly linked to early repayment of credit, provided that the early repayment falls within a period for which the borrowing rate is fixed. Compensation for early repayment cannot be claimed:

- if the repayment has been made under an insurance contract intended to provide a credit repayment guarantee
- in the case of overdraft facilities; or
- if the repayment falls within a period for which the borrowing rate is not fixed.

Such compensation may not exceed 1% of the amount of credit repaid early, if the period of time between the early repayment and the agreed termination of the credit agreement exceeds one year. If the period does not exceed one year, the compensation may not exceed 0.5% of the amount of credit repaid early. Compensation must not exceed the remaining interest due under the agreement.

Core systems should be able to charge an early settlement fee that is limited by these parameters. The UK's implementing legislation may introduce a threshold of EUR 10,000 below which repayments do not give rise to compensation, so there should be flexibility in the parameters determining compensation. For example, the legislation may state that lenders cannot charge compensation if the outstanding amount of a loan is below £7000. In this situation if a customer with a £10,000 loan wishes to settle early, and on the date of early settlement the outstanding balance is £3,000, the Bank would not be able to claim an early settlement fee.

The early settlement fee must be charged separately and not added to the principal of the loan.

### ***Settlement Statements***

Lenders have a legal obligation to provide a settlement statement to a customer upon request indicating the amount that would be required to settle an agreement early. Such a statement must be provided within seven working days of receiving the request. This statement must include:

- the total amount payable by the debtor in order to discharge his indebtedness under the agreement, before deducting any compensation
- whether the debtor will be entitled to a rebate on early settlement
- the method of calculation of any rebate (see below), and the settlement date, and the minimum amount of the rebate
- the total amount payable less any rebate (see below).

### ***Calculating a Rebate***

At the beginning of a loan, a higher proportion of each repayment goes toward the interest on the loan. Later in the term of a loan, a greater proportion of each repayment goes toward repaying the capital. If a customer chooses to settle the loan early, the lender must calculate how much of the interest paid up to the date of termination must be returned to the customer (this is known as the "rebate").

The Consumer Credit (Early Settlement) Regulations 2004 set out a method of calculation to ensure that the customer repays the outstanding capital and proportionate interest charges for the duration of the loan, but not future interest or charges.

These regulations do not apply to running-account credit agreements.

The settlement date for the purposes of calculating the rebate will generally be 28 days after the customer notifies the lender of his intention to settle early. This may be deferred by a further month in the case of agreements lasting for more than one year.

Rebate calculations set up in the core systems should take into account the guidance booklet issued by the Department for Business, Innovation and Skills (BERR).

### ***Terminating Open-ended Agreements***

CCD states that in the case of open-ended credit agreements (e.g. credit cards, revolving credit facilities, etc):



- The maximum notice period for the customer to terminate the credit agreement is one month. The minimum notice period for the lender is two months. This provision must be included in the Terms and Conditions and core systems should allow for these thresholds.
- If agreed in the credit agreement a lender may terminate the customer's right to draw down on an open-end credit agreement. The lender must inform the customer of the termination and the reasons for it on paper, where possible before the termination and at the latest immediately thereafter, unless prohibited by other legislation (e.g. Data Protection, anti-money laundering, etc). Core systems should prompt notification of the customer when the right to draw down is blocked.

### **Assignment**

If a lender assigns a credit agreement to a third party the customer must be informed of the assignment except where the original lender continues to service the credit agreement. This obligation should be reflected in the Terms and Conditions of a credit agreement.

## Related Links

The following is not a fully comprehensive list of related links but links you thru to appropriate sites which can you then explore further.

### **The Consumer Credit Act 1974**

<http://www.berr.gov.uk/whatwedo/consumers/consumer-finance/credit-act-1974/index.html>

### **The Consumer Credit Act 2004**

[http://www.opsi.gov.uk/si/si2004/uksi\\_20041481\\_en.pdf](http://www.opsi.gov.uk/si/si2004/uksi_20041481_en.pdf)

### **The Consumer Credit Act 2006**

[http://www.opsi.gov.uk/acts/acts2006/ukpga\\_20060014\\_en.pdf](http://www.opsi.gov.uk/acts/acts2006/ukpga_20060014_en.pdf)

### **The Consumer Credit Directive 2008**

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:133:0066:0092:EN:PDF>

### **The Consumer Credit (Agreements) Regulations 1983**

[http://www.opsi.gov.uk/si/si2004/uksi\\_20041482\\_en.pdf](http://www.opsi.gov.uk/si/si2004/uksi_20041482_en.pdf)

### **The Consumer Credit (Miscellaneous Amendments) Regulations 2004**

[http://www.opsi.gov.uk/si/si2004/uksi\\_20042619\\_en.pdf](http://www.opsi.gov.uk/si/si2004/uksi_20042619_en.pdf)

### **The Consumer Credit (Information Requirements & Duration of Licences and Charges) Regulation 2007**

[http://www.opsi.gov.uk/si/si2007/pdf/uksi\\_20071167\\_en.pdf](http://www.opsi.gov.uk/si/si2007/pdf/uksi_20071167_en.pdf)

### **OFT Post Contract Information Requirements Booklet**

[http://www.offt.gov.uk/shared\\_offt/business\\_leaflets/consumer\\_credit/oft1002.pdf](http://www.offt.gov.uk/shared_offt/business_leaflets/consumer_credit/oft1002.pdf)

### **OFT Information Sheets on Arrears**

[http://www.offt.gov.uk/advice\\_and\\_resources/resource\\_base/legal/cca/CCA2006/information/](http://www.offt.gov.uk/advice_and_resources/resource_base/legal/cca/CCA2006/information/)

### **Consumer Credit (Enforcement, Default and Termination Notices) Regulations 1983 (amended 2004).**

<http://www.opsi.gov.uk/si/si2004/20043237.htm>

### **The Consumer Credit (Early Settlement) Regulations 2004**

[http://www.opsi.gov.uk/si/si2004/uksi\\_20041483\\_en.pdf](http://www.opsi.gov.uk/si/si2004/uksi_20041483_en.pdf)