FCA Permissions

NASMA workshop

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What we’ll cover

- Jargon buster
- How to work out if a firm **needs** to be authorised
- Money advice and regulated activities
- The boundary between advice and guidance
- How to check if your organisation needs authorisation
- Which individuals need to hold Senior Management Functions (SMF)
- Who needs to register as a Directory Person
- Applying for permission
- Being supervised

Jargon buster – what is he talking about?

Firm: I will use the term 'firm' to mean any type of organisation whether that's a charity, a religious foundation, a University or a major international bank

Individual: I will use this term to mean anyone working at a firm

Consumer/Customer: I will use these interchangeably to mean Student, service user etc. Basically anyone using the services of a firm

A permission: I will use this interchangeably with 'regulated activity' to refer to the activities listed in the Regulated Activities Order (RAO)

The register: I will use this term to mean the Financial Services Register

Not for profit debt advice body: I use this term to mean the same as our glossary definition, which is:

'a body that engages in debt counselling, debt adjusting and providing credit information services, which by virtue of its constitution or any enactment: (a) is required (after payment of outgoings) to apply the whole of its income, and any capital which it expends, for charitable or public purposes; and (b) is prohibited from directly or indirectly distributing among its members any part of its assets (otherwise than for charitable or public purposes)'

Who needs to be authorised

Doing a regulated activity (e.g. debt counselling)

+

Doing it 'by way of business' (e.g. on a regular basis)

=

Requires authorisation

Money advice and regulated activities

Debt counselling

- Giving advice to a borrower about the liquidation of a debt due under a credit agreement is a regulated activity. Giving advice to a hirer about the liquidation of a debt due under a consumer hire agreement is a regulated activity.

Debt adjusting

- Negotiating with the lender or owner, on behalf of the borrower or hirer, terms for the discharge of a debt

Providing Credit Information Services

- Ascertaining whether a credit information agency holds information relevant to the financial standing of an individual
- Ascertaining the contents of such information
- Securing the correction of such information
- Arranging for a CRA to stop holding and sharing such information

The boundary between generic advice and debt counselling

(14) Adviser: "I recommend you prioritise the repayment of your electricity bill over all other debts"	This is likely to constitute *debt counselling* if, having considered all of a debtor's outstanding debts, an adviser advises the debtor to prioritise the repayment of a utility bill (e.g. an electricity bill) over his other outstanding debts (including debts arising under *credit agreements* or *consumer hire agreements*). This constitutes advising on the liquidation of debts due, since there is an implied recommendation that the debtor should postpone repaying his consumer credit related debts until he has repaid another debt or debts.

The boundary between generic advice and debt counselling (2)

(15) A *person* (for example, a money adviser) helps a debtor to draw up a budget, e.g. providing a budget planner to see how much disposable income the client has each month or how long the client's money could last over a particular period.	This is not *debt counselling* if all the adviser does is to provide a debtor with information about his budget and the process is limited to, and likely to be perceived by the debtor as, assisting him to make his own choice as to a course of action he might take in liquidating his consumer credit-related debts. It may not be advice at all, in that it just puts into a convenient form information that the consumer has himself supplied. Even if it goes beyond just organising information supplied by the debtor, as long as the adviser gives the information in a balanced and neutral way, the adviser should be seen as providing information rather than advice. The adviser is supplying material that could be used for the purposes of deciding how to liquidate debts but not advising on liquidating them.

The boundary between generic advice and debt counselling (3)

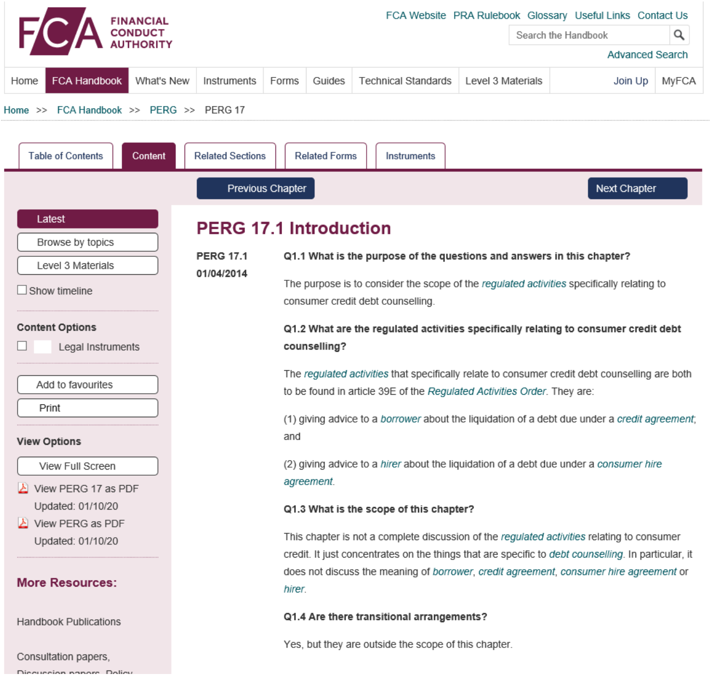
(16) An adviser gives budgetary advice	This is *debt counselling* if the adviser goes beyond the services in example (15) and advises the debtor on how to match income and debts. For example, the adviser may advise the debtor to reduce discretionary spending to a set amount each month to enable him to pay off a certain amount of a large credit card bill each month. It does not matter if the result of the advice is that the debtor should pay off his debts in full, rather than by instalments over a period of time or by entering into some sort of repayment plan, as *debt counselling* is not limited to advice about being released from paying the debt in full or rescheduling.

How can we check if we need permission

We know it can be difficult to work out if you need to be authorised

The perimeter guidance section of handbook (PERG) explains what the regulated activities are and when firms and individuals might be exempt

Section 17 of PERG uses examples to explain when we think Money Advice does and doesn’t stray into regulated debt advice



Which individuals need to hold Senior Management Functions (SMF)

The Senior Managers and Certification Regime (SM&CR) sets a new standard of conduct in financial services, ensuring:

- greater personal accountability at all levels
- minimum standards of conduct
- staff in key jobs are fit and proper to perform their roles

The regime consists of 3 key parts: the Certification Regime, the Conduct Rules and the Senior Managers Regime

Not-for-profit debt advice bodies are NOT required to have any SMF holders

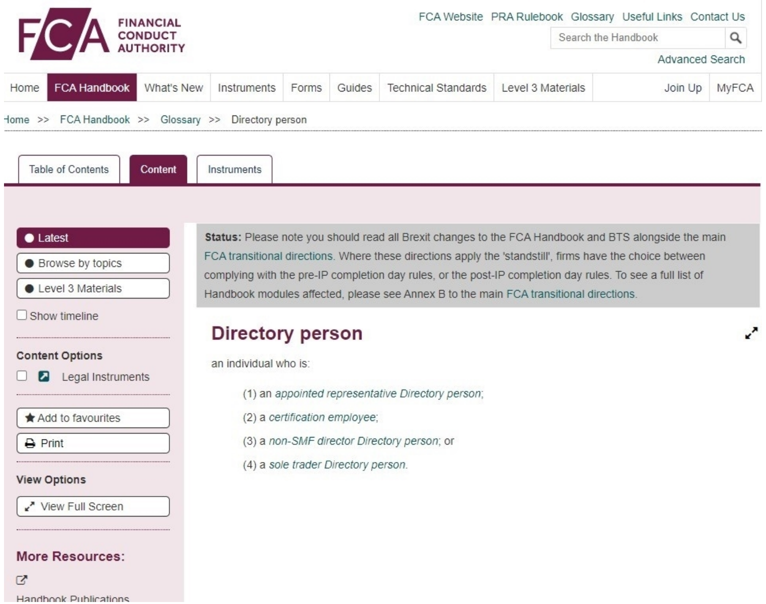
Who needs to register as a Directory Person

SM&CR requires the FCA to publish and maintain a directory of certified and assessed persons on the Financial Services Register,

This is so consumers and professionals can check the details of key individuals working in financial services.

The overall aim is to ensure the individuals making decisions can be held responsible for those decisions

For a not-for-profit debt advice body we would expect all the directors or, if it is a charity, all the trustees to be registered as Directory Persons.



Applying for permission

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Authorisation: what's involved

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Financial services providers, investment firms and consumer credit firms have to be authorised by us. Here's a summary of what you need to know.

According to provisions made under the Financial Services and Markets Act (FSMA) 2000, financial activities have to be regulated by the FCA. Any firm (whether a business, a not-for-profit or a sole trader) carrying out a regulated activity must be authorised or registered by us, unless they are exempt.

Banks, credit unions and insurance companies are regulated by us and the Bank of England's Prudential Regulation Authority (PRA).

In this section

- Authorisation application fee
- How to apply for authorisation
- How to cancel an authorisation
- Our authorisation process
- Firms that need authorisation

Fees – not-for-profit debt advice bodies don't pay fees

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Annual fees: consumer credit

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A firm must pay an annual fee – which we also call a periodic fee – each year it is authorised.

We will invoice a firm for its first annual fee shortly after it becomes authorised to carry out consumer credit regulated activities.

Our annual fee cycle runs from April to March. Your first annual fee will be a pro-rata fee from the date the firm becomes authorised.

We set the fees payable at the end of June and issue invoices from July each year. See our annual fee cycle for more information.

If you are not registered for online invoicing, you should email fcafees@fca.org.uk for a unique validation code which you will need to use the service.

Your annual fee invoice will include fees and levies on behalf of other regulatory bodies, such as the Financial Services Compensation Scheme, Financial Ombudsman Service, Money and Pensions Service (Financial Guidance Levy) and the Illegal Money Lending Team on behalf of HM Treasury.

You should pay your annual fee within 30 days of the invoice date, otherwise you may incur a late payment charge. We prefer firms to pay by direct debit as this helps reduce the cost of fee collection, but other payment methods are available.

Credit unions and community finance organisations with an annual income under £250,000, and all not-for-profit debt advice bodies, are exempt from annual fees for consumer credit activities.

Limited permission application

Consumer credit income	Up to £50k	Over £50k
Straightforward	£100	£500

Community finance organisations (CFOs), credit unions and not-for-profit(NFP) debt advice bodies

Credit unions pay £200 to register a common bond and £300 for authorisation as a deposit taker. They are jointly regulated by the PRA so their fees are split between the two regulators.

CFOs pay the financial services fees listed in the first table above or £300 for authorisation as a home finance provider or home finance administrator.

Credit unions and CFOs pay £200 for full consumer credit permission. Since credit unions have to be authorised as deposit takers, they are only eligible for full permission.

CFOs applying for limited consumer credit permission pay:

- £100 if they have consumer credit income up to £50,000
- £200 if they have consumer credit income above £50,000

NFP debt advice bodies pay no consumer credit application fee.

Change of legal status

If your application involves only a change of legal status, your authorisation fee will be:

Ready, willing and organised

We have up to 12 months to determine an application. We can do it much quicker if the applicant is ready, willing and organised, which to us means:

Ready: what the applicant has done when preparing to submit their application. Positive indicators can include:
- reading information on our website
- making enquiries of the contact centre
- seeking legal/compliance advice
- being able to clearly articulate their regulatory obligations

Willing: the attitude of the applicant during the authorisations process. Positive indicators include:
- being open and honest in all their dealings with us
- being proactive about getting information to us
- demonstrating initiative to understand their regulatory duties
- timeliness and availability of staff to deal with queries about the application

We know firms will be willing to correct mistakes or gaps in their application. But we don't believe it's sufficient for an applicant to submit a poor application but show they are willing, with help from Authorisations, to address any deficiencies.

Organised: firms should ensure they have all the supporting documentation and other arrangements necessary to comply with regulations in place so they are ready to go from the day they are authorised. Indeed their case officer will be thinking:
- why have they applied now?
- what's left outstanding?
- would this prevent them from carrying on the activity they have applied for if the application was approved today?

That said we appreciate some investments, purchases or recruitment can only take place once the firm knows we are minded to approve their application.

Getting authorised

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Apply to become a debt firm

First published: 27/04/2020 | Last updated: 19/12/2023 | See all updates

Find out how to apply to us for authorisation if you're a debt advice, debt collection or debt purchaser firm, or if you conduct debt administration.

1. **Read everything listed below**
   Start with our main 'how to apply' page for all applicants
2. **Prepare your application**
   Include your business plan and other supporting material
3. **Pay the application fee**
   You must pay this in order to apply
4. **Submit your application**
   You'll do this on our Connect system, so please register first

Limited vs Full Permission

- Certain regulated activities are *lower risk* than others
- To reflect this we have the limited permission regime
- For limited permission firms, we don't assess their business model and we only expect them to have sufficient financial resources to pay their debts as they fall due
- Debt counselling, debt adjusting and providing credit information services are all *limited permission* if they are done on a 'not-for-profit' basis
- You can't 'mix' limited and full permissions – you are either one or the other
- If you add a *full permission* activity (eg lending) to your permissions you will no longer by limited permission

Being Supervised

- Authorisation is for the life of the organisation – so you don't need to re-new your permissions
- Instead, you will become an authorised entity and you will move into our Supervision division
- You will need to submit certain data on an annual basis
- You will won't have to pay a fee if you are a 'not-for-profit' debt advice body
- You probably won't hear from Supervision unless you have done something wrong or you are included in a study they are carrying out
- Every 3 years Supervision write to all authorised firms to explain what their priorities are for the next 3 years

QUESTIONS?

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