



**Finance & Leasing Association
Non-binding Guidance for
intermediaries**

Introduction

- 1.** Finance & Leasing Association (FLA) members are committed to treating customers fairly and achieving good outcomes on their customers' behalf. This guidance is intended to support intermediaries who work with funders by helping them to deliver on these commitments. For the purposes of this document, intermediaries should be understood as including credit brokers, equipment suppliers, and dealers.
- 2.** Firms carrying out credit-related regulated activities must follow certain statutory requirements and regulatory rules about how they manage their businesses and treat their customers. In April 2014 responsibility for the regulation of firms carrying out credit-related activity passed from the Office of Fair Trading (OFT) to the Financial Conduct Authority (FCA).
- 3.** Most of the rules made by the FCA when it took over regulatory responsibility were based on existing standards contained in the Consumer Credit Act (CCA). These rules can be found in the **Consumer Credit Sourcebook**¹ (CONC) which itself is part of the Financial Conduct Authority (FCA) **Handbook**². In addition to specific regulatory rules, firms are also required to adhere to **FCA principles**³ when they conduct business.
- 4.** This operational good practice guidance is designed to help intermediaries understand these regulatory rules and what funders may expect of them. It is not binding on FLA members or the intermediaries they work with. It seeks to provide intermediaries with high level information about funders' general expectations which may help inform their business practices. Each FLA member will also continue to determine their own requirements.
- 5.** This paper does not constitute advice and should not be relied upon. Firms should seek appropriate legal or regulatory advice on their compliance process where necessary. The FLA will also periodically review this paper.

¹ <https://www.handbook.fca.org.uk/handbook/CONC/>

² <https://www.handbook.fca.org.uk/handbook/>

³ <https://fshandbook.info/FS/html/FCA/PRIN/2>

Initial customer contact

- 6.** Funders will expect intermediaries to have appropriate records of their contact with customers.
- 7.** Contact with a customer may arise from:
 - Unsolicited customer contact;
 - Introduction through an authorised firm;
 - Introduction through a third party where there is no business relationship (e.g. another equipment supplier);
 - Introduction through an appointed representative, introducer appointed representative or an agent.
- 8.** Where a customer had been introduced to an intermediary, funders expect intermediaries to be able to satisfy themselves that those making the introduction have the relevant regulatory permissions and have acted appropriately. Funders may also ask intermediaries to demonstrate how they are satisfying themselves that this is the case to meet internal compliance requirements.

Initiating a proposal

- 9.** When making a proposal to supply finance to a customer, intermediaries should ensure they identify a product that is suitable to the customer's circumstances.
- 10.** Intermediaries will generally speak or correspond with their customers about their requirements and circumstances before making a proposal to a funder. Gathering information on a customer's circumstances, financial and otherwise, helps to ensure funders are lending responsibly. When looking to determine whether a product is suitable, an intermediary may wish to consider whether:
 - The product is appropriate for the customer's needs (e.g. right type of equipment and likely to be useful for the length of time required);
 - The credit product is affordable and appropriate to the customer's circumstances; and
 - If the proposal involves refinancing, the implications of this have been made clear to the customer and the customer has confirmed their understanding.
- 11.** Intermediaries may wish to check the facts they have used to make the assessment by describing to the customer the information they have used to make the proposal. This can be a useful way of confirming the customer's needs and checking that the customer understands how the proposal meets their requirements.
- 12.** Some customers may be covered by the provisions of the Consumer Credit Act (CCA) whilst others may not. Intermediaries may wish to inform customers whether they're covered by the CCA or not and provide a brief description of what this means in practical terms for the customer.

- 13.** Where an intermediary knows, or reasonably believes, that the customer is vulnerable it is good practice for intermediaries to take this into account when making a proposal. This may involve taking extra care to ensure the customer has understood the proposal, is aware of their responsibilities under the agreement and that the proposal takes into account the customer's vulnerability.
- 14.** Where an intermediary is aware of a customer's vulnerability they should also make the funder aware of this to help inform any interaction they have with the customer.

Identifying a customer

- 15.** Intermediaries should check the identity of their customers and verify this information using an appropriate level of due diligence.
- 16.** Financial services firms are expected to understand the nature and purpose of their relationship with the customer. This involves the collection and verification of information about the customer's identity and their business activities.
- 17.** When collecting this type of information, intermediaries should consider what level of due diligence is appropriate for the customer. For example, verifying the identity of a customer based in a country subject to sanctions may require more due diligence than a customer based in the UK. Regardless of the approach they use undertake to identify a customer, intermediaries may wish to consider whether:
 - The information provided or collected is accurate;
 - They have appropriate information to demonstrate the risk profile of the business both at the point of sale and as part of any subsequent business relationship; and
 - They can verify the beneficial owners of a business.
- 18.** Funders may also ask intermediaries to confirm this information with them as a means to satisfy internal risk management and know your customer (KYC) requirements.
- 19.** Funders may also carry out their own due diligence in instances where they are unable to rely on the information provided by an intermediary. Although this can appear unnecessary, it is often required to satisfy a funder's internal compliance processes.
- 20.** Intermediaries should also ensure they comply with any relevant data protection or privacy laws.

Providing relevant information

- 21.** Intermediaries should communicate relevant information about their independence, relationship with other firms, and impartiality in clear terms that a customer can understand.
- 22.** There has been a strong trend towards improving the disclosure of information by financial services firms to their customers. This includes information about a funder's relationship with intermediaries where there is a commercial interest between the two parties. This is to provide greater transparency and support the customer's ability to exercise their consumer choice.
- 23.** When describing themselves and their products, intermediaries may therefore want to make clear:
- Whether they work with a wide or limited range of finance companies;
 - How they consider the customer's requirements when identifying a suitable funder;
 - Whether they will receive a payment or commission from the lender and whether this will vary depending on the lender and the agreement; and
 - That the customer can also purchase the equipment for cash.
- 24.** Intermediaries may also want to ensure that both the customer and the lender are aware if there are any additional fees or charges that the customer may be required to pay to the intermediary.
- 25.** As part of their dialogue with customers, intermediaries should also be able to:
- Demonstrate how they have considered other sources of finance available in the market; and
 - Justify the choice of lender based on the customers' requirements.
- 26.** Funders are likely to be interested in how intermediaries communicate this information to customers and whether this is provided in clear and comprehensible terms rather than jargon that may make it harder for the customer to understand.

Finalising an agreement

- 27.** When finalising an agreement, intermediaries should ensure that the customer has been provided with an adequate explanation of the agreement in terms that the customer can understand.
- 28.** It is likely that funders will ask whether intermediaries have advised customers to consider all relevant information and given them the opportunity to seek additional information where anything is unclear. In practical terms this could involve checking with the customer that they:
- Received the pre-contract information where appropriate;
 - Understand the key features of the agreement;
 - Understand who will own the equipment at the end of the lease;
 - Have read and understood the terms and conditions;
 - Know whom to contact should they have any subsequent questions; and
 - Understand the principal consequences which will arise from failing to make payments due under the terms of the agreement including, where applicable, the risk of repossession.
- 29.** Intermediaries may also want to ask the customer to confirm each of these as a means to demonstrate to funders that the customer understood the terms of the agreement when it was finalised.
- 30.** Intermediaries should also ensure that they retain all necessary documentation relating to the agreement. Where agreements have been made via online channels or using electronic documentation, intermediaries may wish to confirm with the customer that they are comfortable finalising the agreement in this manner.

Complaints

- 31.** Intermediaries should ensure complaints processes are accessible to customers and take reasonable steps to assist the customer and resolve any dispute.
- 32.** Intermediaries should have an appropriate complaints process in place to handle customer enquiries. It would also be considered good practice for information about the complaints process to be clearly signposted and communicated in a manner that the customer can understand.
- 33.** If customers indicate that they wish to make a complaint, firms may also want to consider how they direct the customer to the most appropriate means and method of doing so. This may include, where necessary, signposting to the Financial Ombudsman Service or other relevant bodies.

34. When dealing with complaints, intermediaries should:

- Adopt a constructive approach towards the customer's complaint;
- Co-operate with the funder or other parties where necessary; and
- Aim to resolve the matter in a reasonable timeframe.

35. Intermediaries may also want to record the complaints they receive, as this can provide useful management information about the service they are providing to customers which can also be shared with funders.



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