

# BOCA REVIEW

Representing UK alternative lenders

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## Annual Conference & Dinner 2014

24 September  
Hyatt Regency Birmingham

Inside this edition

Authorisation tips • Zero hour contracts • Cheque imaging update

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The content of the magazine is based on BCCA Ltd's current understanding of the law/guidance and our interpretation (where applicable). All legislation and guidance is subjective and therefore open to differing interpretation, particularly in the light of experience. As with all legislation in the UK, final authoritative interpretation can be made only by the courts and is therefore subject to change. Neither BCCA Ltd, its employees or officers will accept any liability should the information provided in this magazine subsequently fail to satisfy the requirements of the FCA or any other agency or regulatory body.

## The safest way to cash a cheque...

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# WELCOME TO

# REVIEW

## A Welcome from the Chairman

“Welcome to the special Pre-Conference edition of Review. It should come as no surprise that we consider this year’s Conference to be an extremely important event. I would like to think BCCA does an excellent job of engaging members through quarterly publications, weekly Insight e-mails, training sessions, etc, but there’s something extra special about having everyone under one roof. This year’s event will take place on Wednesday, September 24 at the Hyatt Regency Hotel, Birmingham, and with speakers from the FCA, the Financial Ombudsmans Service, Trading Standards Institute, and HMRC to name but a few, the packed agenda will serve to provide a comprehensive ‘state of the union’ for our industry - it is not to be missed.

Likewise, I am looking forward to hosting my first Annual Dinner. Last year’s event was a sellout, and we were most proud to have raised over £1,200.00 for Children In Need. We are hoping to eclipse that figure this year in support of Great Ormond Street Children’s Hospital, and are still gratefully accepting donated prizes for our charity auction and raffle, so if you aren’t able to donate something yourself, feel free to hit up your suppliers and/or other contacts for something that will go towards a good cause; and they’ll get a great ‘plug’, too! The dinner is an excellent opportunity to catch up with your friends in the industry, and to make new ones as well.

Places are still available for the Conference and Dinner, so if you haven’t booked already it’s not too late!

I am hoping everyone has noticed the ‘new look’ BCCA. The re-brand is driven predominately by our view that BCCA is the ‘trade association of the future’ in our industry, and as such we wanted to create a more contemporary feel. From the website to your new window stickers, it is ‘out with the old, in with the new’. You could say it’s a reflection of the industry as a whole - the retail financial services sector of 2015 will look very different from that of 2014, which is already very different from last year. Despite all the upheaval within the HCSTC and MSB sectors, BCCA has established itself as an extremely credible industry representative in the eyes of regulators, government and consumer groups. We are confident that the work we have done will only serve to make BCCA an even stronger trade body, as we continue to take on new members, and former members rejoin.

To that point, I would like to welcome both Cash Generator and Cheque Exchange Limited (CEL) back to the fold. As industry



leaders in their respective fields, it will be great to have access to the insight and experience of these two organisations. Cash Generator and CEL join a number of recent new members, and despite the toll regulation and banking restrictions have taken on the sector, BCCA continues to take on new members who see the value in a trade body that is pro-active, responsive, accessible, forward-thinking and supportive.

Certainly, with recent publication of the FCA consultation paper CP14/10 (proposals for a price cap on high-cost short-term credit), HMRC’s updated anti-money laundering guidance for MSBs and impending FCA authorisation for firms, it is a busy and critical time for our industry. Rest assured, BCCA is firing on all cylinders and prepared to support our members every step along the way.

Another great reason then, to secure your spot at the Conference and Dinner, where I hope to see many familiar faces and make many new friends.

Richard Fuller



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# New BCCA members



We are very pleased to announce that **Cheque Exchange Limited** and **Cash Generator Franchised Stores** have recently joined BCCA. We would like to extend a warm welcome to both new members.

Mark Rooke, General Manager at Cheque Exchange Limited said

*"We at CEL recognise the good work & value the BCCA offers its members. We look forward to a successful working relationship"*

In addition Julian Minwalla, Director of Franchised Stores at Cash Generator Limited commented

*"A number of our franchisees are existing members of BCCA, and have reported that they have received excellent support through the transition to the FCA. As a result we are extending our membership to include all of our franchisees."*

*We are looking forward to working closely with all at BCCA"*



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**Proud to sponsor the BCCA Annual Conference**

Bring this advert to our stand on the 24th September at the BCCA Conference and be entered into a prize draw to win!

# COUNTDOWN TO CONFERENCE!

## “Onwards and Upwards”

Just a few short weeks now to our conference and dinner.

“Onwards and Upwards” is being held on Wednesday 24 September 2014 at the Hyatt Regency Hotel in Birmingham city centre, just five minutes from Birmingham New Street Station and a 10 minute drive from the motorway network.

### AGM and Conference

The Annual General Meeting for members only kicks off the proceedings in the Symphony Ballroom on the Mezzanine level of the hotel.

This is followed, 45 minutes later, by the opening of the Conference for all delegates with a review by our Chairman, Richard Fuller, owner of The Cash Shop.

### Speakers

We have been fortunate to secure some great speakers this year.

The conference programme can be found on page 8, but to give you a flavour of what to expect our speakers include Clare Hughes from TLT Solicitors, Louise Marfany from the Financial Conduct Authority, Leon Livermore from the Trading Standards Institute, Peter Bristow of the Financial Ombudsman Service, Brian Garcia from Her Majesty's Revenue and Customs and Richard Willett from Croner Wolters Kluwer.

### Our Event Sponsors

Our main partners are Callcredit Information Group and Experian Identity and Fraud, with lunch being supported by Realex Payments of London.

In addition the morning and afternoon breaks are being supported by PacNet Services Limited and Business Insurance Services (BIS) respectively.

The delegate pack this year is also being sponsored by SLL Capital. We thank and welcome all the above for their support of the event.

### Exhibitors

In addition to the main sponsors we have attracted a wide range of trade exhibitors for you to visit.

### All available spaces have been taken

A full A-Z list of the exhibitors can be found on page 11. As well as the return of many friends, we have some exciting new companies who want to be part of the event.

### Pre-annual dinner drinks reception

By popular request, we have moved the Annual Drinks Reception and Dinner to the evening of 24 September.

The event this year is being sponsored by CashFlows Limited and presents a fantastic opportunity to network with other delegates.

### Annual Dinner

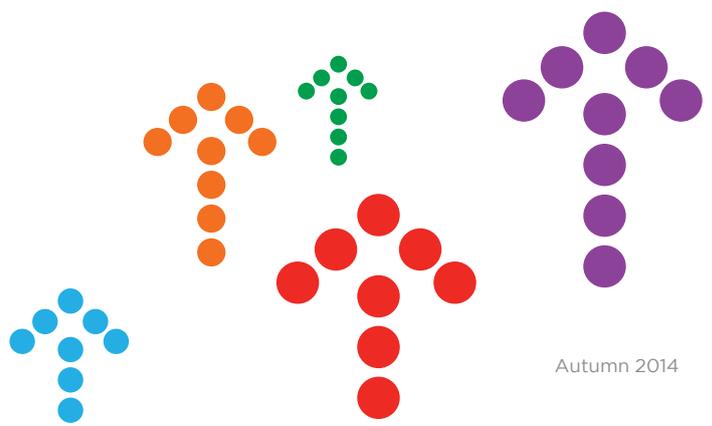
You will be invited to take your place for the sumptuous Dinner prepared by Heiko Reichel of the Hyatt Regency Hotel. CashFlows Limited have also generously agreed to sponsor this part of the evening.

During the course of the night, you will have more opportunities to network as well as the chance to support “Great Ormond Street Childrens Hospital” through a prize auction. We have a number of top class prizes up for grabs, generously donated by members and sponsors.

For more details about the auction, and indeed the charity itself, go to page 14.

For details of the menu also see page 14

All the booking forms can be found on page 15





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# Conference Programme Highlights

Registration

AGM - MEMBERS ONLY

Conference Opens

Chairman Annual Review

**Clare Hughes – TLT Solicitors**

**Louise Marfany - Financial Conduct Authority:  
Regulating Consumer Credit: “An Update from the  
Financial Conduct Authority”**

**Leon Livermore – Trading Standards Institute –  
“The future of consumer protection in the UK”**

**Peter Bristow - Financial Ombudsman Service –  
“The ombudsman’s perspective – what complaints tell us”**

**Brian Garcia – Her Majesty’s Revenue & Customs -  
“HMRC - A New Approach to Anti-Money Laundering Supervision”**

**Richard Willett – Croner Wolters Kluwer –  
“What’s Hot in Employment Law? “**

Chairman’s closing remarks



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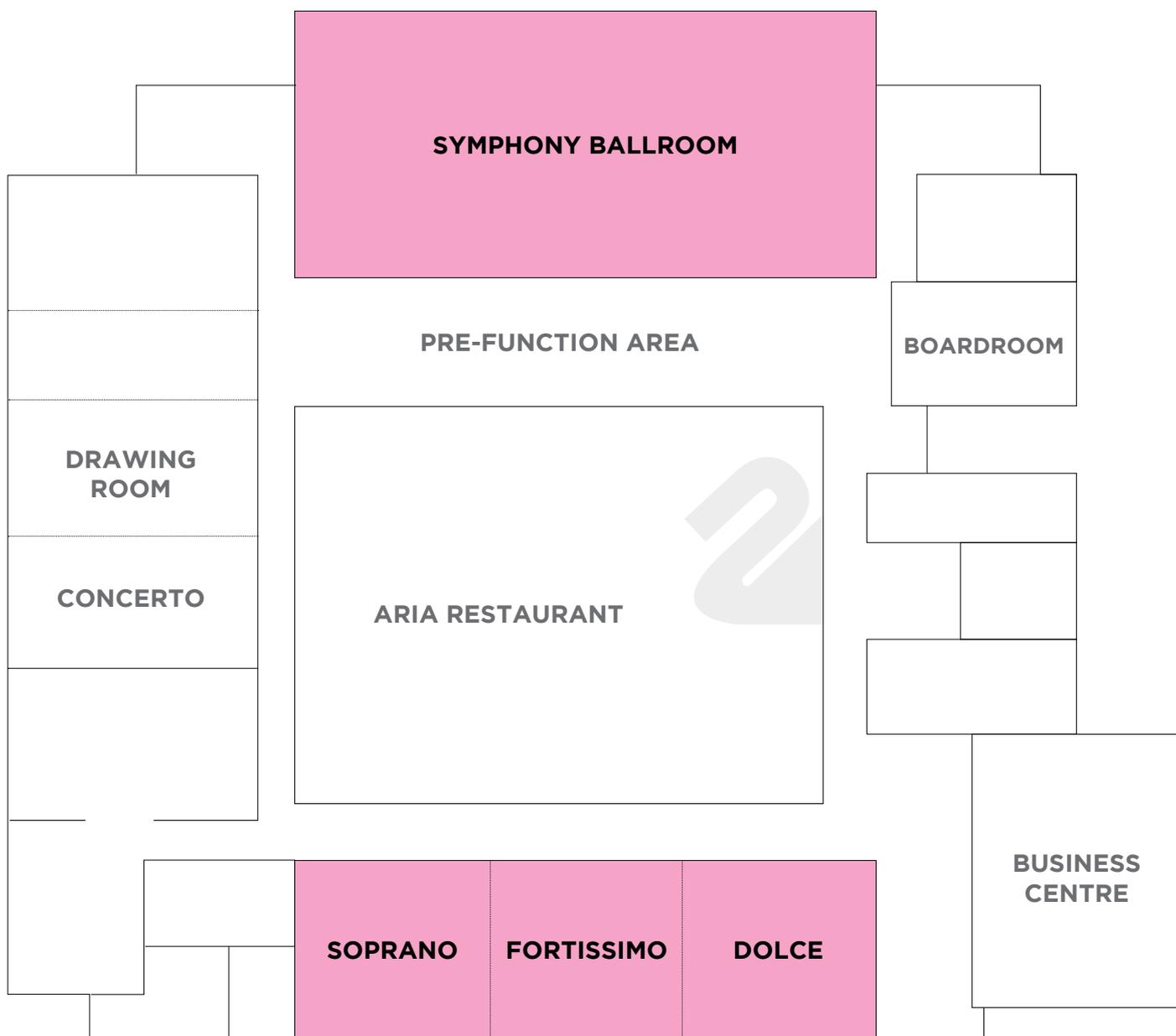
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# Exhibitors floor plan



## SOPRANO ROOM

- Lending Metrics
- PayPoint Mobile and Online
- LendFusion
- Moneygram
- Financial Conduct Authority

## FORTISSIMO ROOM

- Experian Identity and Fraud
- CashFlows Limited
- Anchor Computer Systems
- Wisteria Chartered Accountants
- PacNet Services Limited

## DOLCE ROOM

- Callcredit Information Group
- Realex Payments
- Nosco Business Systems
- CIFAS
- MotorMile Finance

# An A-Z guide

## of conference exhibitors and sponsors

### Anchor Computer Systems



Anchor Computer Systems has supplied software to the instalment credit industry for over 30 years. Our Sentinel system is used by over 200 organisations, from innovative start-ups through to well-established national businesses.

Our Sentinel system is highly flexible dealing with a wide range of finance agreements including secured and unsecured loans, leases, HP, Payday Loans, and revolving credit agreements.

The system offers an end-to-end solution from the initial application and underwriting including third party searches, through agreement administration and arrears management to settlement.

Optional web services enable applications from customers, brokers and affiliates over the internet.

Further links provide for Direct Debits and Debit Card payments alongside a number of integrations to Accounting systems.

For further details contact Mike O'Sullivan on 01248 672940 or email [enquiries@anchor.co.uk](mailto:enquiries@anchor.co.uk)

### BCCA



We are a dynamic, forward thinking full service trade association for third party cheque cashers, short-term lenders and credit brokers.

We were established in 1994. Our members operate on both the high street and online and we have a very diverse membership.

We ensure that businesses that join us operate to high levels of compliance giving us a credible voice with regulators and legislators alike.

### Callcredit Information Group - Main Sponsor



Callcredit are experts in managing consumer data for businesses across every sector, within the UK and around the world. From financial services, retail and utilities to public sector, telecoms, insurance and many more, we focus on developing innovative products and services to help business make smarter more informed decisions throughout the customer lifecycle.

Our leading edge approach to deploying consumer information enables our clients to cost effectively identify, engage and convert more new customers whilst optimising existing customer profitability.

[www.bcca.co.uk](http://www.bcca.co.uk)

### CashFlows

- Annual Drinks Reception and Dinner sponsor



CashFlows is a regulated financial services company, based in Cambridge, offering a range of innovative cloud

based business payment services, designed to help businesses manage their cash flow and make cost effective bank payments.

CashFlows are also principal members of Visa and MasterCard, enabling them to provide merchant accounts to accept credit and debit card payments and to issue prepaid cards to businesses wanting a low-cost alternative to traditional banks and card programmes.

### CIFAS



CIFAS is the UK's Fraud Prevention Service, a not-for-profit association dedicated to the prevention of financial crime and internal fraud. We provide

the most comprehensive databases of shared fraud data to over 300 public and private organisations, with over 200,000 frauds added each year. In the last 5 years, participating organisations have reported savings of billions of pounds through the use of CIFAS. We also offer a range of complementary services in fraud prevention utilising the latest technology, as well as services such as Protective Registration that safeguard members of the public who are at increased risk of fraud.

### Experian Identity and Fraud Limited

- Main Sponsor



Wouldn't it be nice if you can know who exactly your customers are to allow you to offer the right products whilst maintaining compliance, be given

the information you need to make more informed and accurate lending decisions...AND provide a seamless and secure customer experience?

With over 30 years' experience in financial services, Experian offers complete end-to-end services for short term lenders. We can help you to know your customers and lend responsibly, understand the right customers to lend to, build safe and secure relationships with your customers whilst protecting your business against fraud. Learn more at: [www.experian.co.uk/short-term-lending](http://www.experian.co.uk/short-term-lending).

## FINANCIAL CONDUCT AUTHORITY



We ensure that financial markets function well. This means ensuring that the whole financial industry is run with integrity, that firms provide consumers with appropriate products and services,

and consumers can trust that firms have their best interests at heart.

We took over the regulation of consumer credit on 1 April 2014 from the Office of Fair Trading (OFT). This includes consumer lending (eg, credit cards, payday loans and peer-to-peer lending), debt managements and collection services, and credit broking.

## LendFusion



LendFusion® is a hosted software platform that helps lenders manage the smooth running and expansion of their business.

Our software offers short-term loan companies a scalable platform that is developed by combining our vast experience, innovative technology, and creative approach to lending.

We believe LendFusion® is the easiest to use and the most efficient software platform currently available in the UK and we intend to keep it that way. Our ever-growing client list includes some of the most innovative short-term loan businesses trading in the UK short-term loan market.

## Lending Metrics



Lending Metrics is a leading provider of unique real-time data to on-line lenders to assist with the prevention of fraud live credit risk decisions via its Dynamic

Application Search (DAS). It operates in the online lending and storefront sectors and currently covers an estimated three quarters of the market since launch in 2011. In partnership with Equifax, LendingMetrics can simultaneously deliver credit, bank and anti-money laundering checks; and they recently launched Bank Vision, combining 90 days of real-time granular applicant bank account data with unrivalled industry knowledge and analysis to deliver the most powerful creditworthiness, affordability and anti-fraud product available.

## MMF UK



MMF UK is one of the fastest growing debt purchase companies in the UK, growing over 3500% in the last 3 years. It has purchased from 70

companies and holds ongoing relationships with over 35 lenders in the UK, Europe and further afield; buying non performing loans from markets as diverse as payday loans, motor finance, consumer retail, consumer finance and business to business. Situated within its HO, based in Leeds and employing over 90 staff. Providing our clients with exceptional service and long term commitment to achieve the best mutual working relationship that delivers a compliant, risk free, brand protected environment.

## MoneyGram



MoneyGram are a global Money Transfer business, operating in over 200 countries via 335,000+ worldwide Agents locations.

By offering the MoneyGram service, you can;

- Generate new Customers, cross-selling opportunities and new incremental revenues
- Earn high Commissions, payable on BOTH Fees and FX margin revenues

## NOSCO Business Systems



Nosco is a software development company specialising in innovative software to manage

all types of loans and collections, including Payday and Home Collected credit. We currently work mainly with smaller, independent lenders.

We are an Intermediary provider of Experian CAIS shared credit account data, making the benefits of shared data very accessible to smaller lenders.

We are a partner provider for CashFlows, a relationship that enables us to facilitate online card processing, including CPA and recurring collections.

We are authorised and regulated by the FCA as a Credit Reference Agency.

If you need great software, give us a call!

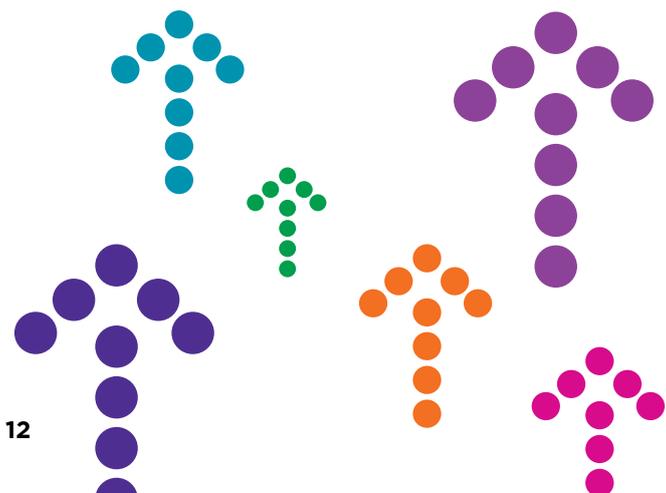
## PacNet - Morning Break Sponsor



PacNet offers specialised payment processing services to the short term lending industry.

Enjoy rapid access to the loan advance and repayment solutions you need, such as Faster Payments, Direct Debit, payment card processing and local electronic transfer services in key markets worldwide. Fast set-up, low all-inclusive commissions, personalised service and

clear, easy-to-read reports make processing loans repayments an easy part of your daily operations.



## PayPoint Group



Part of the PayPoint Group, PayPoint Mobile and Online is a leader in multi-channel payment solutions for businesses. We serve millions of customers across

Europe, USA, Canada and Australia, handling over 135 million transactions across both mobile and web channels, worth almost £5 billion in payments every year.

PayPoint Mobile and Online creates new ways to help your customers pay for goods and services online, telephone, using cash or on a mobile.

- Secure multi-channel payments – Online, Telephone, Cash
- Innovative solutions for PCI compliance and card management (including card validation)
- Competitive pricing through multiple acquirers

E: [mobileonlinesales@paypoint.com](mailto:mobileonlinesales@paypoint.com)

T: 0800 810 0136

W: [paypoint.com](http://paypoint.com)

## Realex Payments - Lunch Sponsor



Realex Payments is one of largest payments processors in the Finance sector. Our solutions, expertise and flexible approach

enables our customers to develop and maintain an efficient payments process.

We offer solutions developed specifically for the Finance sector, allowing our merchants to deploy and scale their collections strategies in a safe and controlled manner. With an in depth knowledge of card acquiring, lending platforms and decline/chargeback analysis we are best placed to advise our clients on how to develop a holistic payments and collection strategy across multiple channels.

Contact us now for further details:

W: [www.realexpayments.co.uk/solutions-corporate](http://www.realexpayments.co.uk/solutions-corporate)

T: 0203 178 5370

## SLL Capital - Delegate Pack sponsor



SLL Capital purchase historic debt up to 4 years old and can facilitate forward flow arrangements. We understand the importance of

protecting a brands reputation and the FCA requirements in treating customers fairly and customer forbearance.

We will consider all sizes of debt portfolios from 50 to 50,000 accounts, we have found that many companies prefer to “dip a toe in the water” when selling debt for the first time and we have found this approach very beneficial in getting to know each other.

Call Mark or Nigel Bryant with any debt selling queries on 020 8253 4131 or 07799 103815.

## Wisteria Chartered Accountants



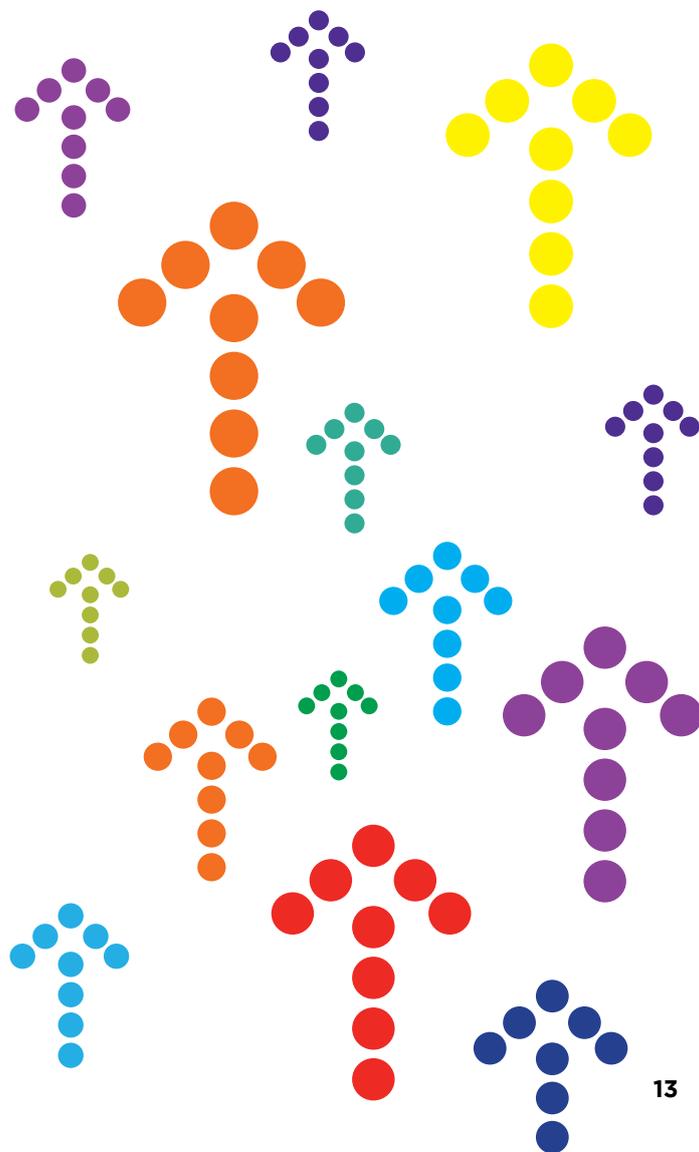
Wisteria Chartered Accountants has built up substantial experience working with different industries in the financial services sector such as lenders, lead generators, credit report agencies, money transfer agents and others.

We have worked with a large number of clients that experience a variety of challenges which include:

- Fund raising
- Writing business plans
- Advising on corporate structure
- Advising clients regarding complex corporation tax and VAT matters
- Business valuations
- Assisting with FCA and PRA returns
- Statutory audits
- Book-keeping, management accounts and back office services

## “Stop Press”

Business Insurance Services (UK) Limited will be the Afternoon Break Sponsor.



# BCCA Annual Drinks Reception & Dinner – Sponsored by CashFlows Limited.



## Charity Auction at Annual Dinner for Great Ormond Street Children’s Hospital

A tradition at our Annual Dinner has been a raffle, and latterly, an auction of prizes that have been generously donated. All money raised has been handed to nominated charities.

In 2013 the amount raised for Children In Need was in excess of £1200.00, in 2014 we aim to do much, much better!!!



### About the charity

Our chosen charity this year is the Great Ormond Street Children’s Hospital.

The hospital started life as a townhouse in the 17th century with just 10 beds and two physicians and was founded by Dr Charles West, who was shocked at the high level of

infant mortality in London. It was the first hospital dedicated solely to the treatment of children.

The charity raises money to enable the hospital to provide “world class care” and to “pioneer new treatments and cures for childhood illnesses”.

### Our Auction items

Currently we have EIGHT top prizes on offer.

- Sony television
- Case of fine Spanish wine

- Gold Sovereign
- A one year subscription to Nosco Business Systems
- Two tickets to the Credit Today awards in May 2015
- A one year subscription to Credit Today magazine
- 2 tickets to the event of your choice in the Capital FM box at the Capital FM Arena, Nottingham (T’s & C’s apply)
- And a mystery prize to be revealed on the night.

These prizes have been donated by The Cash Shop, RevUp Media LLC; Nosco Business Systems; Credit Today and CIFAS, our thanks to all.

So make this a really successful night for the children who need Great Ormond Street Hospital by bringing along your cash and cheque book, and remember it is not the winning that matters as much as taking part.



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## Chef’s Corner

Heiko Reichel is the head chef at the Hyatt Regency Birmingham. He tells us his story

### Tell me about your cooking

My style is simple but tasty. You don’t have to use expensive products, as long as they’re fresh and seasonal. I also don’t believe in there being too many flavours or ingredients on the plate.

### Describe your perfect meal

The perfect meal needs the right people to be around the table with you. The last perfect meal I had was at the end of last year in a restaurant in Hamburg called “Kuechenwerkstatt”. I dined with ten friends for seven hours and we had 16 courses, four different wines and finished off with cognac and cigars.

### What is the best thing about being a chef?

To have an international career was always a big plus point for me. I also love the creative aspect and chance to discover and study.



# Conference booking form

24 September 2014

Tick appropriate box(s)	No. of places	Names of all attendees
<b>Conference Only:</b> Member: £120.00 <input type="checkbox"/> Non-Member: £240.00 <input type="checkbox"/>		
<b>Conference Only:</b> Affiliate Member: £120.00 <input type="checkbox"/>		
<b>Annual Dinner:</b> £90.00 per person <input type="checkbox"/>		
<b>Conference &amp; Annual Dinner:</b> Member: £180 <input type="checkbox"/> Non-Member: £275 <input type="checkbox"/>		

Company name

Company address

Company telephone number

Email

Please find enclosed a cheque for £

Please state any dietary requirements you have

Please make cheques payable to BCCA Limited. If you wish to pay by BACS email [lindsay@bccca.co.uk](mailto:lindsay@bccca.co.uk) for details.

**It is important that you include a suitable reference when paying this way so that we may allocate your payment accordingly. Please tick if you wish to pay by bank transfer  To secure your place; please pay at the time of booking.** Please return this form, along with your cheque if applicable, to BCCA, Portal Business Centre, Dallam Court, Dallam Lane, Warrington, WA2 7LT. Please note that refunds can only be issued 14 days or more before the events date.

# Cheque Imaging – the future part two

In the Summer Edition of “Review” Stuart Cole, of The Cheque and Credit Clearing Company (C&CCC), gave his views on the proposal to introduce legislation to speed up the clearing of cheques.

Since that article was written there have been a number of developments so we returned to C&CCC for an update. “A process known as **cheque imaging** – where images of cheques are collected and then transferred at a touch of a button – has come a step closer following the publication of the findings of the Government’s recent consultation process looking at the future of cheque processing in the UK.

The consultation findings, published at the end of June, confirmed that there is overwhelming support from all interested parties for overhauling the cheque processing system in the UK – reflecting the importance of cheques to the UK payments landscape. Whilst there has been a steady decline in cheque volumes over the past few years, over nine in ten businesses still continue to use them. Cheques are used by sole traders, micro businesses and small businesses to make over a fifth of their outgoing payments. Nearly £580 billion of cheques were processed in 2013, accounting for over ten per cent of all payments made by individuals.

There are two main Government recommendations arising from the public consultation which will impact customers.

Firstly, the Government recognised that the existing legislation which governs the cheque payment system – some of which dates back to the 1800s – contains a number of outdated provisions that are currently blocking the banking industry from moving to a cheque imaging model. Consequently, over the coming months the government intends to introduce a set of amendments to current legislation which will allow cheque images to be transferred electronically, rather than how they are cleared at the moment where the physical paper is actually transported around the country.

The second recommendation which will impact customers is that the actual cheque clearing process will be dramatically speeded up. At the moment a cheque takes six working days to clear – a clear irritant to many customers. Under the new proposals, cheques will actually be cleared the next working day following the customer depositing the cheque. This will not only allow customers to earn interest and also gain access to their money more quickly, but it should also reduce fraud levels (including the issues connected to possible 3rd party cheque fraud) as banks will be able to alert other players (and also the customer themselves) if something is wrong far quicker than they are able to do at the moment.

The changes should make a real difference to cheque users. It will reduce the time it takes for a cheque to clear and it will also increase consumer convenience and choice of ways to pay in a cheque. While customers will still have the ability to pay in cheques at branches, cash machines, Post Offices or by post, some banks will also be able to offer customers the option of paying in cheques via smartphones or tablets. Customers will be able to photograph cheques they receive using a secure image app supplied via their on-line banking service

and then send the images electronically to their banks for paying in and processing. It is a ‘win/win’ situation for customers.

Stuart commented:

“The proposed changes will undoubtedly revolutionise cheque usage in the UK and will put cheques firmly in the 21st century. Getting the legislation that govern cheque usage changed is a huge step forward, but there is still much to be done to make cheque imaging a reality. Fundamental changes will need to be made to the infrastructure to future-proof the process whilst also safeguarding integrity. We will work with the Treasury and all the many financial organisations that issue cheques to agree a realistic timescale to deliver cheque imaging to customers as quickly as possible. Although no definite date has been agreed, we would certainly hope to deliver the proposed changes within the next three years.

A key part of our project will be to engage with all the relevant stakeholders and key users of cheques including consumer groups, charities and businesses of all sizes as well as new and smaller banks and building societies to ensure that any reservations they may have are fully addressed.”

As third party cheque cashers are directly affected by these proposals we asked Stuart what the likely impact on our members businesses would be and he replied:

‘It’s far too early to know the real impact of the new cheque clearing proposals as we are only at the start of the process – for example the new legislation hasn’t even been written or approved by the Government as yet. What is certain however is that cheque imaging, coupled with a much quicker cheque clearance cycle, will have a real impact on the way people use cheques. For example, businesses will have to factor into their cash flow projections the fact that cheques will be cleared far quicker than at present. It may also mean that some retailers who previously did not accept cheques will once again start to accept them as potential fraud levels reduce and technology is improved. It may also mean that some companies will want to amend their business models to take account of, or advantage of, the proposed changes. All of these are factors that the Cheque and Credit Clearing Company will, over the coming months, need to consider and discuss with all interested bodies.’

An explanatory fact sheet has been produced by the Cheque and Credit Clearing Company which explains some of the frequently asked questions about the proposed changes to the cheque clearing process. It can be found on their website [http://www.chequeandcredit.co.uk/files/candc/cheque\\_imaging/c&ccc\\_cheque\\_imaging\\_fact\\_sheet\\_final.pdf](http://www.chequeandcredit.co.uk/files/candc/cheque_imaging/c&ccc_cheque_imaging_fact_sheet_final.pdf)

If you would like to read the Government consultation outcome in full, it can be downloaded at: <https://www.gov.uk/government/consultations/speeding-up-cheque-payments-legislating-for-cheque-imaging>

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# The Eagle has Landed

We asked Karen Taylor, a Barrister from Themis Chambers, for a few “hints and tips” regarding the FCA authorisation process and here are her views.

“We often refer to regulators as “watchdogs” which may have reflected the biting at your heels approach of the Office of Fair Trading (OFT).

An eagle however conveys a different picture; a picture I believe accurately represents the FCA. Like an eagle, the FCA will observe from a high level and will home in. There will be no hiding in the long grass. Firms will be exposed and in turn firms need to be ready to expose their business operations.

This exposure will require the revelation and presentation of the fundamentals of all of your business functions, such as governance, acquisition and marketing policies, pre-contract explanations, agreements, post contractual matters, collections, complaints, through to systems for monitoring and reporting.



In preparation, firms seeking authorisation are advised to take a close look at some of the highest risk areas and measure where they are today and map out an action plan. This action plan will serve to evidence a firm’s intentions in the event the FCA arrives for a visit before the scheduled landing date period.

There are, in my view, ten key areas that any firm would be sensible to self-assess and put measures in place to improve where necessary. Even if all improvement measures have not been undertaken, the intent to remedy gaps should stand any business in good stead at the point of authorisation (subject to there being no fundamental and significant gaps in compliance).

Please be advised the information below provides only a snapshot of what is involved in preparing for authorisation.

## Governance

Those responsible for running the business should be clearly identified in a document and all decision making processes documented. This should apportion responsibility of the key business functions and identify who will undertake controlled functions. Those undertaking controlled functions will need to apply to be approved persons. The application process for approved person status is described in detail on the FCA website. Those running the business need to demonstrate competence and understanding of the regulatory requirements, including but not limited to CONC. Documented plans need to be in place for the loss of key staff members and disaster recovery in respect of technology platforms and/or premises.

## The Principles for Businesses (CONC 1.1.4 G)

Assess whether the business is conducting itself in compliance with the spirit and letter of the rules. CONC 1.1.4 G advises firms involved in credit related activities to pay particular attention to the principles set out therein.

## Treating customers fairly (TCF) Principle 6

All businesses need to demonstrate that this principle is considered as part of all relevant decision making in the business. In particular it must show that profit is not placed above TCF. Employees should understand the principle of TCF and its importance in the business. This may therefore require evidence of training in order to satisfy the FCA that this principle is at the heart of any business.

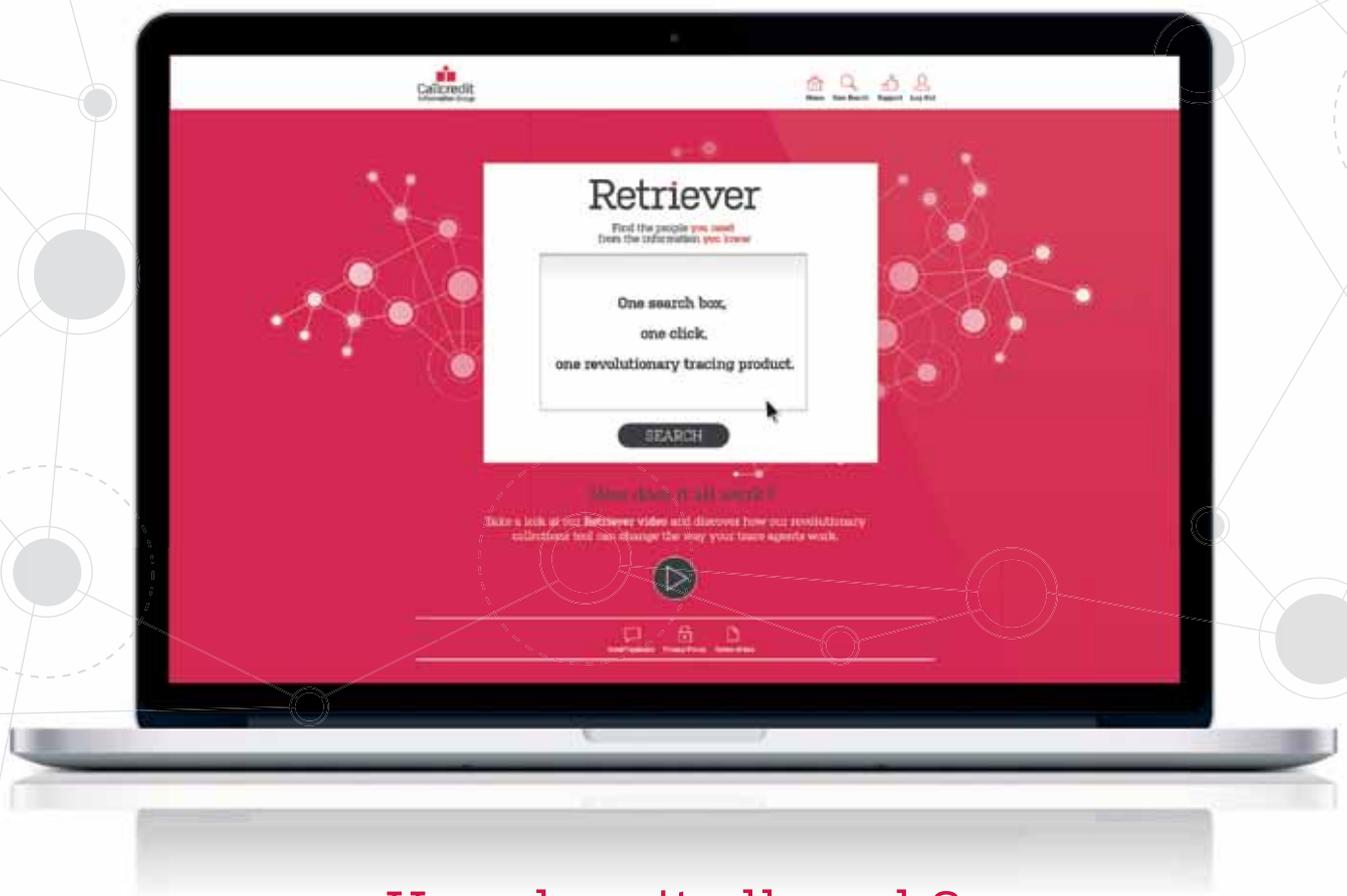
## Acquisition and Financial promotions

The manner in which products are marketed and made available should be targeted at those for whom they are suitable. This extends to ensuring those who may supply “leads” to the business are also fulfilling this requirement.

Any financial promotions are easily and readily available for scrutiny and may provide the regulator with a flavour of how you conduct your business. Businesses are urged therefore to ensure

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all promotions comply with the relevant CONC rules and in respect to high-cost short-term credit that they contain the warning. Those responsible for devising promotions should ensure they are “signed-off” as approved by those responsible for running the business and that this “sign-off” is documented. Remember compliance will not just be measured against the rules within CONC, it will also be measured against TCF and the Consumer Protection from Unfair Trading Regulations 2008.

A brief checklist may assist businesses in remembering the high risk areas and ensuring that TCF doesn't get forgotten.

Remember also to ensure that all web-sites and business documentation comply with the status disclosure requirements and state that you are Authorised and regulated by the Financial Conduct Authority.

### Business' documents / agreements

Where relevant, businesses should review their documentation, including any written adequate explanations information; SECCI and regulated agreements. Where versions have been updated, a system of version control should be implemented. This can be as simple as listing all documents in use and the timeframe they were used, together with the date any changes were made, the nature of those changes and an archive of previous versions.

### Pre-contract assessments

Businesses should assess whether its checks for credit worthiness are sufficient and reasonable. Please note credit worthiness assessments do not apply to pawn agreements (CONC 5.2.1 (4)) but pre-contract assessments do apply under CONC 5.2.2.

### Post contractual arrangements

Where relevant ensure any notices of sums in arrears, default notices and statements contain the prescribed information and are being sent as required. Also, where they need to include the FCA information sheets ensure they are being sent (and not the OFT ones).

### Arrears, default and recovery

Ensure the business has a documented policy evidencing its policy and procedures in respect of those in arrears. The regulator will not be satisfied simply by a verbal explanation that customers in difficulty are shown forbearance, they will want to see where that is evidenced. They will also want to see documents which set out the business' policy in respect of vulnerable customers, including those who may have mental health problems (See CONC 10.1).

### Complaints handling

A complaints policy (even if brief) should evidence the business' approach to complaints and evidence compliance with DISP.

The monitoring of complaints should be recorded. Complaints should be reported via GABRIEL (a web-based application allowing firms to submit data electronically). Electronic reporting is mandatory for all regulated firms, except Credit Unions.

### Record keeping and notification requirements

Once authorised most firms will need to complete the data items CCR001 – CCR006 regarding the activities they undertake as set out in SUP 16.12.29CR.

Firms undertaking high-cost short-term credit and home-collected credit will also be required to report product sales data set out in SUP16.11 Annex 20G and 20R.

Most firms with limited permission are only required to submit data item CCR007 (Key Data).”



#### Karen Taylor

Karen set up as a sole practitioner in 2009 and established her own Chambers later that same year.

Themis Chambers specialises in consumer credit, advertising, retail, commercial, consumer and regulatory law.

Karen's consumer and regulatory law experience spans in excess of 20 years. Karen trained qualified as a Trading Standards Officer and worked for various local authorities during her 13 year career as a TSO.

Karen was called to the Bar in 2004, and joined Gough Square Chambers as pupil, where she remained a tenant until 2008, when she joined Land of Leather plc as General Counsel. At Land of Leather where she was responsible for all consumer credit, advertising, product safety, sale and supply of goods, terms and conditions, online marketing and regulatory compliance. Between 2009 and 2012, Karen worked closely with Wonga.com drafting loan agreements, advising on advertising, marketing and promotions, data protection, product development and collections. Karen has consumer credit licensed clients in the UK, Israel and the US. Those in the UK range from large US backed firms offering a range of credit products, to small privately owned businesses offering cheque cashing services. The focus with US clients is exclusively lead generation and compliance in that sector. Karen also advises advertising agencies on advertising compliance, in particular web-based and direct electronic marketing. Karen has recently worked with an online white goods provider to improve its credit offering and to extend its credit to car hire purchase.

# How we can help

We'd like to remind you that as part of our commitment to help and support our members through the authorisation process, we offer the following:

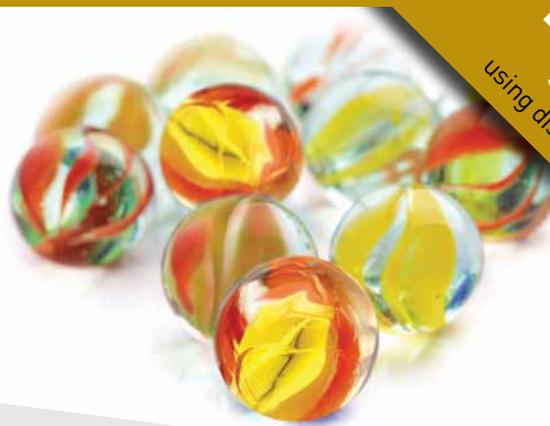
- A business plan review service;
- A website review service;
- CPD accredited FCA training courses (open to non-members);

- Guidance documents on PRIN, SYSC and GEN;
- Various checklists and an authorisation tips document;
- Compliance advice.

More details can be found on our website [www.bcca.co.uk](http://www.bcca.co.uk) or calling 01925 426090.

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- Gain a crucial understanding of how to streamline a debt portfolio to maximise value from a debt sale
- Identify the skills and expertise required to embed a culture of customer care in whilst transforming your collections and recoveries strategy

## HOT TOPICS TO BE DISCUSSED

- What the impact will be of the FCA on debt sale – will it be positive, negative or negligible?
- How lenders can truly understand the psychology of a debtor to support effective debtor profiling and improved collection rates
- How to best manage your DCA panel and optimise its success
- Funding for debt buyers; raising liquidity and maintaining funding lines to ensure a sustainable and competitive business
- Ensuring legal compliance and best practice due diligence in collections and debt sale.

## KEYNOTE ADDRESS DIRECT FROM THE FCA



FCA director **Linda Woodall** will be speaking on the FCA's careful adoption of a collaborative style whilst still robustly protecting the interests of consumers. Plus, she will further discuss the thematic reviews which have led to companies being forced to revisit product design, governance and sales strategies.

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Linda Taylor, Thornton Hope

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Nick Winterbottom, National Australia Group



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# The price cap – what it means

We asked David Geale, Director of Policy Financial Conduct Authority, for the authorities perspective of the price cap consultation.

In July the FCA published its consultation on a price cap for high-cost, short-term credit. The consultation is the culmination of six months intensive work following Parliament's decision to place a duty on the FCA to cap the cost of this type of credit. Now the consultation has closed, we are carefully considering the responses of BCCA and others.

Our proposed cap has three elements. First, a firm would not be able to charge more than 0.8% a day of the outstanding principal in interest and charges. This means a £100 loan for 14 days could never cost more than £11.20; a £100 loan for 30 days could cost no more than £24.

Firms will be able to structure the interest and charges how they like, so long as the loan doesn't cost more than the cap.

Second, if a customer defaults, they could be charged no more than £15 in fixed charges. The customer could still be charged interest after defaulting, but no more than the rate levied before default. Third, as a final back stop, no customer would ever have to pay back more than twice what they've borrowed. So if a customer borrows £100, they can be asked to pay back no more than the £100 they borrowed plus charges or interest cannot exceed £100.

To reach this proposal, we asked ourselves the following questions:

- What happens to firms and their lending decisions as a result of a cap?
- What options are there for consumers who no longer have access to this type of loan?
- Are these consumers better or worse off as a result of not getting this type of loan?

To answer them, we had to spend six months gathering and analysing evidence. We also examined data gathered by the Competition and Markets Authority. We spoke to other regulators overseas about their experiences. We analysed 16 million payday loans, surveyed over 100 firms and 2,000 consumers. We also spoke directly to a number of small firms that offer high-cost short-term credit at a roundtable we organised in Sheffield.

Considering this data allowed us to test different structures and levels of cap while measuring the potential impact on firms and their customers. The results showed that around one in ten customers may no longer get a loan, but for most of these people, they will be better off without the loan. We've tried to get the balance right by ensuring that some firms will continue to offer this type of credit, but the results suggest that many firms may not want to continue offering traditional payday loans.

As always when we propose new rules, we launched a public consultation. I hope that if your business is affected you've taken part in BCCA's online survey, or responded to us directly. We are considering all the submissions we received very carefully. The final rules will be published in early November and the price cap will be in place from 2 January 2015.

We appreciate that this is not the only change happening in the sector at the moment. New rules came into force on 1 July limiting rollovers and use of continuous payment authorities. We now require a warning to appear on financial promotions for high-cost short-term products. You may like to respond to our consultation on guidance for how firms use social media, also available on our website, which is open until 6 November. Meanwhile your business should already have received a letter telling you when we will ask you to apply for authorisation – firms will get a pack telling them what they need to prepare before they need to apply.

These changes are inevitably going to be difficult for some firms. However, we are committed to raising standards across the sector and hope to see better consumer outcomes as a result.

## David Geale – Director of Policy

David heads up the Policy area at the Financial Conduct Authority. His responsibilities include policy on Investments, Mortgages, Insurance, Banking and Distribution. David has worked in regulation for more than 12 years, spanning a number of different roles across Policy and Supervision. Prior to joining the regulator, he gained industry experience in banking, financial advice and mortgages.

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# Payday Lending

## - Recent Regulatory Developments

We asked Ray Watson of Walker Morris LLP for his views on the latest developments in the regulatory world.

“**T**he last quarter has been a busy period in the world of consumer credit regulation. As well as high profile actions against major businesses the Financial Conduct Authority (FCA) has issued its proposals for a price cap on payday loans and the Competition & Markets Authority (CMA) has published its proposed remedies as part of its investigation into the payday lending market.

### CMA Provisional Remedies and Changes to the terms of reference

On 11 June the CMA published provisional remedies in its Payday Lending market investigation. The market had been referred to the CMA by the Office of Fair Trading following an in-depth review of practices in the market by the OFT.

The remedies proposed by the CMA are designed to address detriment to consumers which stems from the lack of price competition among suppliers of payday loans. The CMA has found that on average payday consumers take out six loans a year and that, for each of these loans, they pay more than would be the case if there was effective price competition. The CMA says that a typical customer could save between £30 and £60 per year if the market were more competitive.

To address this lack of price competition the CMA proposes a set of informational remedies. These are:

- The creation of a comprehensive and independent price comparison website to allow customers to make comparisons on the cost of a loan specific to their own requirements.
- A requirement on lenders to provide clear upfront disclosure to customers of the costs and charges payable if they fail to repay their loan on time.
- Changes to help customers assess their own creditworthiness and likelihood of being accepted by a lender. These could include allowing customers to search for credit without it affecting their credit rating and requiring lenders to provide real-time updates to credit reference agencies, so that lenders have better visibility of actual loans taken out by customers.
- Periodic statements showing customers the long-term cost of their borrowing.
- Requirement for lead generators (and other credit brokers active in the sector) to explicitly state the nature of their business and the commercial relationship they have with lenders.

The CMA put these proposals out for consultation with a deadline of comments of 4 July.

At the same time as publishing its provisional remedies, the CMA panel dealing with the market investigation also announced that it had asked for a variation to the terms of reference of the investigation so that the activities of credit brokers and lead generators were explicitly brought within its remit.

### Price Cap for Payday Loans

Soon after the publication of the provisional remedies, the FCA published its proposals for a price cap for payday loans. A price cap is to be implemented by 2 January 2015.

The full FCA proposals can be obtained from the FCA website. The relevant document is CP 14/10.

The FCA proposal contains three elements:

- An initial cost cap when loans are taken out or rolled over which means that interest and fees charged must not exceed 0.8% per day of the amount borrowed
- If borrowers default firms may not charge more than £15. Firms can continue to charge interest after default but not at a higher rate than the initial rate
- An overall cap of 100% which means that a borrower can never pay back more than 100% of the amount borrowed in terms of interest and charges.

In terms of what charges are included in the cap the FCA is very clear that it covers any brokerage charges where the lender receives all or part of the brokerage charge and also where the broker is a member of the lender's group; debt collection charges made under the terms of the loan agreement, including where a third party debt collector levies a direct charge on the consumer; and charges for ancillary services, such as services related to processing the loan application, the transmission of money lent and insurance or insurance like services.

The FCA invited comments on its proposals by 1 September 2014.

If you are affected by the CMA and FCA proposals it is important that you give them full consideration and feed any concerns or comments to the FCA and/or CMA. You can do this directly or through your trade association.”



### Ray Watson

Ray joined Walker Morris in September 2012 after a 28 year career at the Office of Fair Trading. His current role involves offering advice to clients on consumer credit regulatory issues and compliance.

While with the OFT Ray held a number of senior management roles including being the Director of the Consumer Credit Group between February 2008 and April 2011. In that role he oversaw the implementation of the Consumer Credit Act 2006 and the European Consumer Credit Directive. He was also the Project Director for the OFT's review of high cost credit.

Ray's expertise offers unique insight into the UK consumer credit regulatory regime and enables the team to offer clients unrivalled resource in terms of financial advisory and audit services.



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# The new world of zero hours

Claire Brook of Aaron & Partners discusses the impact of recent Government action on zero hour contracts.

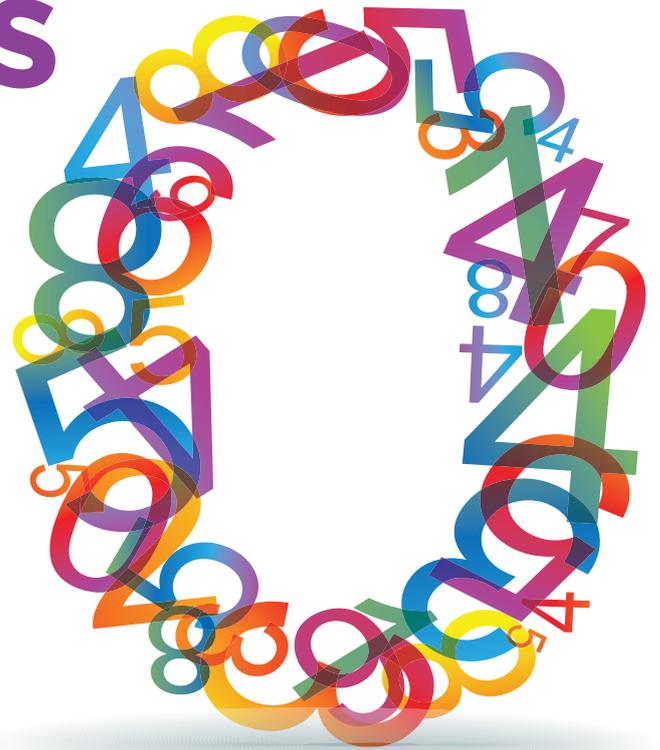
“Zero hour contracts have been a focus of media attention over recent years due to their controversial exclusivity obligation on workers and the requirement to accept work despite no guarantee of it being offered by the employer. Public opinion appears to be split on this topic; whilst many believe that zero hour contracts result in financial insecurity for workers, others assert that they offer flexible employment opportunities to workers and provide employers with a flexible workforce which is particularly valuable where the Company’s level of work is uncertain.

The intention of a typical zero hour contract is that the person under it qualifies as a worker rather than an employee. This means that a worker who works under a zero hour contract, qualifies to be entitled to rest breaks and the minimum wage (though as mentioned above, there is no entitlement to a minimum number of hours work), but the worker does not qualify for other protections or benefits afforded to an employee, such as the right not to be unfairly dismissed, the right to maternity/paternity pay and the right to statutory redundancy pay. Employers should be aware that when a worker contract comes into dispute, the courts will consider the reality of the working relationship, rather than what the contract says. Therefore, employers should be cautious that their workers who are under zero hour contracts, are not consistently offered work on a regular basis which results in a situation where the worker expects a certain minimum amount of work. If a mutual obligation of work exists between the employer and the worker under a zero hour contract, the court may determine that the worker is in fact an employee and thus entitled to all the protection and benefits that an employee is entitled to.

Owing to their controversial nature, BIS launched a consultation in 2013 into the use of zero hour contracts, which attracted a staggering 30,000 responses. One of the key issues identified as a disadvantage to zero hour contracts was the use of exclusivity clauses preventing workers from seeking additional work whilst bound by a contract offering no guaranteed minimum pay. The government issued a draft of the Small Business, Enterprise and Employment Bill (the Bill) on 25 June 2014, which seeks to ban the use of exclusivity clauses, in these arrangements, subject to further consultation.

When implemented, the exclusivity clause ban will mean that workers on zero hour contracts will be able to work for other employers (potentially even competitors) during the term of the contract without restraint. The ban on exclusivity clauses is intended to apply to all existing and future zero hour contracts.

One concern arising from the prohibition on exclusivity clauses in zero hour contracts, is that employers may refrain from offering



any contract (whether that be for a worker, employee or consultant) where they consider that they are unable to protect their legitimate interests, particularly where the worker in question has access to company secrets, confidential information or where there is a need to protect clients (by ensuring that a worker is not working for a competitor of a client at another employer).

Further consultation is now taking place in an effort to ensure that employers will not be able to evade the exclusivity clause ban by, for example, offering one-hour fixed term contracts which prevent employees from working elsewhere.

The Government is expected to impose financial penalties and/or the requirement to pay compensation to workers in the event of a contravention of the new ban.

We would recommend that employers seek legal advice when implementing any new contract (whether for a worker, employee or consultant) to ensure that new legislative requirements are met.”

For further information on Zero Hour Contracts contact Claire Brook, Partner in the Employment Law team at Aaron & Partners LLP Solicitors, on 01244 405575 or via email at [claire.brook@aaronandpartners.com](mailto:claire.brook@aaronandpartners.com)



**Claire Brook**

Claire Brook is a Partner in the Employment Law Team at Aaron & Partners LLP. She advises a wide range of employer clients on all aspects of employment law; from recruitment and during the employment relationship, through to complex dismissals and Respondent

Employment Tribunal representation. She can be contacted on 01244 405575 or via email at [claire.brook@aaronandpartners.com](mailto:claire.brook@aaronandpartners.com)

# BCCA Training & Events Plan for 2014

For booking forms go to: [www.bcca.co.uk/training-courses-2014.asp](http://www.bcca.co.uk/training-courses-2014.asp)

Date	Training	Member	Non-member	Length	Venue
18 September 2014	Assessing Affordability	£150	£225	10:00 – 12:30 (followed by lunch)	Windmill Hotel, Coventry
1 October 2014	FCA: CONC	£150	£225	10.00-12.30 (followed by Lunch)	Active Securities Limited – London EC1
1 October 2014	FCA: Handbook	£150	£225	13:30 – 16:00	Active Securities Limited – London EC1
1 October 2014	FCA: Authorisation	£150	£225	16:30 – 18:00	Active Securities Limited – London EC1
19 November 2014	Third Party Cheque Cashing Compliance Training including Anti-Money Laundering	£150	£225	10:00 – 12:30 (followed by lunch)	Portal Business Centre, Warrington
3 December 2014	FCA Rules: FCA Handbook	£150	£225	10:00 – 12:30 (followed by lunch)	Portal Business Centre, Warrington
3 December 2014	FCA Rules: Consumer Credit Sourcebook	£150	£225	13:30-15:30	Portal Business Centre, Warrington
3 December 2014	FCA Rules: Authorisation	£150	£225	15.30- 17:00	Portal Business Centre, Warrington
17 December 2014 (After Board Meeting)	'Mince Pies & Mulled Wine' Networking Event	Free	£10	14:00 – 16:30	Portal Business Centre, Warrington



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**Please note BCCA provide Certificates of Training for all attendees.**

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We will consider all sizes of debt portfolios from 50 to 50,000 accounts, we have found that many companies prefer to "dip a toe in the water" when selling debt for the first time and we have found this approach very beneficial in getting to know each other.

Call Mark or Nigel Bryant with any debt selling queries on 020 8253 4131 or 07799 103815.





## Can your Loan Management System take your customers on a journey Payday Loan • Instalment Loan Guarantor Loan • Secured Loan

Our experience and knowledge of the instalment credit market means that our Sentinel system is capable of handling a multitude of different loan agreement types as standard.

This flexibility is at its core assisting you to drive your lending business forward through the changes required by the FCA.

The adaptability means that it provides an end-to-end solution with web services enabling applications from customers, lead generators, brokers and affiliates and a back office function taking your customer from their initial application and underwriting through payment collections and arrears management to settlement.

It is already the system of choice for over 200 companies. Why not call us to see why these companies chose Sentinel.

For further information on how Sentinel can help your business contact:

Mike O'Sullivan 01248 672940  
07854 955070

Alternatively email  
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