



HM TREASURY

Consultation Document

A new approach to financial regulation:

**transferring consumer credit regulation to the Financial
Conduct Authority**

Response from:

British Vehicle Rental and Leasing Association

River Lodge

Badminton Court

Amersham

BUCKS HP7 0DD

Tel: +44 1494 434747

Fax: +44 1494 434499

E-mail: info@bvrla.co.uk

Web: www.bvrla.co.uk



Response to HM Treasury

Executive Summary

We welcome the opportunity to comment on HM Treasury's (HMT) consultation on transferring consumer credit regulation to the Financial Conduct Authority (FCA).

The BVRLA and its members have a wealth of experience in the consumer credit market and recognise the importance of the Government's objectives of:

- firms meeting the standards expected of them, lending responsibly, and offering competitively designed and priced products that meet consumers' needs.
- making sure that the market is able to grow and innovate and that regulation supports, and does not stifle, a thriving market.
- Seeing consumers borrowing sensibly, able to exercise choice and having confidence in the system, secure in the knowledge that they can expect to be treated fairly by firms and that, if things do go wrong, the regulator will step in swiftly and decisively to put it right.

However, we believe that the new regulatory regime, as currently proposed, will not achieve these benefits and would call on HMT to recognise that further tailoring is required to minimise the burdens on industry. The vehicle leasing sector is one such sector where the burden of compliance far outweighs the risk to the consumer. Vehicle leasing to consumers is sold through a motor dealership, a leasing broker or directly by a vehicle leasing company. With vehicle leasing which is sold through a dealership already classified as lower risk we are calling for the FCA to put all sales channels for vehicle leasing on the same level playing field and classify vehicle leasing, defined as any finance which is secured against a vehicle, as a lower risk activity in the new regime. The sector has minimal complaints, low default rates and already operates to a very high professional standard and should therefore be treated the same regardless of the sales channel the product is sold through.

We are also calling for HMT to recognise the role of trade association's in ensuring compliance and would ask that the BVRLA's Codes of Conduct are recognised as providing a minimum level of compliance for companies.



Response to HM Treasury

Background

BVRLA members provide financial products to businesses and consumers for the leasing of vehicles. The products are low risk to the consumer in their nature as the lease is typically for a three year period and is secured against the vehicle. The potential for harm to be caused to the consumer in taking out a vehicle lease is minimal, as is shown by the low level of complaints, less than 0.02% of leases on our members' books resulted in a complaint in 2012 and the default level for our member's was 0.55%.

In addition, the BVRLA has leasing brokers in membership who offer a range of services to help customers find the most suitable vehicle lease and vehicle type for their needs.

Vehicle leasing includes:

- Personal contract hire – Personal contract hire sees a consumer hire a car for a set period of time and pre-determined mileage at fixed monthly rentals. There is no option for the consumer to purchase the vehicle and at the end of the contract it is returned to the leasing company.
- Personal contract purchase – Personal contract purchase essentially sees a consumer agree to purchase a vehicle via a series of monthly instalments. Ownership passes to the consumer either at the outset or the end of the contract, depending on whether a conditional sale or credit sale agreement is used.
- Conditional sale – Under a conditional sale agreement, legal title to the vehicle will pass to the customer at the end of the contract following a final balloon payment.
- Credit sale – Under a credit sale agreement, legal title usually passes at the outset.

Size of market

The market for new vehicle leasing to consumers is relatively small in comparison to the total amount of consumer credit offered each year. Based on figures from the Finance and Leasing Association the number of new cars financed in 2012 was 662,052. The amount of finance totalled £9,408,000,000. The average cost of finance against each car was therefore £14,000. The total amount of consumer credit offered in 2012 was £54.9 billion. Vehicle leasing is therefore less than 17% of the consumer credit market.



Response to HM Treasury

Vehicle leasing as a lower risk activity

Of the 662,052 new cars financed last year the majority of these were sold through motor dealers which as currently proposed are classified as lower risk due to the motor dealer's main business being selling goods. We fail to see why the sales channel used makes any difference to the level of risk posed to a consumer we would therefore urge HMT to ensure that all sales channel are on a parity and classify vehicle leasing as lower risk regardless of the sales channel.

The Financial Ombudsman Service (FOS), as part of their review of complaints dealt with in 2011/12¹ highlighted that they received 240 complaints relating to leasing, hiring and renting out of 7,416 complaints which FOS looked at relating to consumer credit products and services. This is less than 3% of the total complaints looked at in this area. It is important to note that FOS does not record how many of these leasing, hiring or renting complaints related to vehicles. Given that figures from the BVRLA's own conciliation service represent 10% of the above it can be assumed that 24 of the 240 complaints looked at by the FOS are relating to vehicle leasing.

The BVRLA also operates a conciliation service for customers of its members who have exhausted the member's own complaint process and not been able to come to an amicable resolution.

In 2012 the BVRLA investigated 24 complaints against its members from consumers relating to financial aspects of the lease against the 454,129 leases on our members' books in 2012.

The BVRLA has surveyed its members to understand the level of default rate from consumers with regards to vehicle leasing and the volume of complaints which members are dealing with. The survey of the members who do not sell their products through a dealer network, represent 40% of the leases on our member's books in 2012 and had a default rate level of 0.55%. The number of complaints they dealt with against the number of leases on their books was less than 0.02%.

From the above information it is evident that the vehicle leasing industry is not causing any significant consumer harm and the approach of HMT is disproportionate in regulating the sector and we believe unnecessary and excessive.

¹ [FOS Annual Review of Consumer Complaints \(2011/12\)](#)



Response to HM Treasury

As we have mentioned with vehicle leasing, financial interest is secured against the vehicle leased. To help a consumer determine how to finance their vehicle a consumer will be provided with a quotation which clearly states what the product offering is, this will include:

- Full vehicle details including: Vehicle make and model, including model year where relevant, Colour Options and accessories selected
- Mileage details including: Mileage restriction, Annual permitted mileage, Excess mileage charges (clearly stating the cost per mile)
- Maintenance - Details of whether a maintenance agreement is included and the responsibilities for maintaining the vehicle.
- Additional services and products - Details of any additional services offered, such as accident management, breakdown and recovery service and gap insurance.
- Payment details include: First payment/deposit (date to be paid and amount), Number of subsequent payments, Method of payment (ie standing order, cheque, direct debit, etc), Payment amount and frequency
- Administration charges, first registration fee, delivery/inspection fee and number plates

All of the above is clearly explained in a simple quotation document prior to the customer agreeing to the terms of the lease. The customer is therefore aware of what they are committing to prior to agreeing to the vehicle finance.

Creditworthiness is checked and the ability for the customer to afford the finance verified which is supported by the low default rate.

Without vehicle leasing being categorised as lower risk we believe that the number of businesses offering vehicle leasing to consumers will reduce significantly. We have already been advised by several leasing brokers and leasing members that if vehicle leasing is classified as higher risk they will simply stop offering their products to consumers and only deal with business customers. With less competition in the marketplace the consumer will have less choice and inevitably the cost of finance will increase all to the detriment of the consumer.



Response to HM Treasury

We note that HMT has recognised that vehicle consumer hire presents minimal risks to the consumer, given the provisions that will remain in the Consumer Credit Act that protect consumers from getting tied into long-term contracts. Vehicle leasing also presents minimal risks to the consumer as they can volunteer to terminate the agreement after half the finance payments have been made and as mentioned the finance is secured against the vehicle.

Given the size of the market, the low risk to the consumer in entering into a vehicle lease arrangement and the lack of consumer harm this sector is causing we firmly believe that vehicle leasing to consumers should be a lower risk activity. The high standards which our members operate at through the BVRLA Code of Conduct and their own professional conduct means that only customers who are credit worthy and financially sound are sold a vehicle lease.

We believe the above helps to demonstrate that leasing should be a lower risk activity. An appropriate definition for vehicle leasing would be “any finance which is secured against a vehicle will be a lower risk activity”.

BVRLA Code of Conduct

The BVRLA has two Codes of Conduct one for rental and leasing companies and one for leasing brokers.

Breaches of the Codes of Conduct are dealt with very seriously and ultimately may result in expulsion from membership of the BVRLA.

The BVRLA also audits its members when they join the association. A number of key areas are assessed as part of the application process. In terms of on-going auditing requirements the BVRLA's leasing brokers are subject to audit by the funders who they work with.

We believe that the BVRLA Codes of Conduct should be recognised by the FCA as a first level compliance and if a company applying for authorisation with the FCA is able to demonstrate that they are a member of the BVRLA then certain assumptions should be made such as they comply with the threshold conditions.

Response to HM Treasury

Timetable

We believe that the timetable for implementation is completely unrealistic and should be reviewed. Given that the Consumer Credit Directive has only just been implemented this sector will now have to reassess everything again to take into account the FCA regulation.

We are also concerned that given the likelihood of the timetable slipping this could mean that businesses are operating under an interim permission approach for a longer period than originally anticipated. This will restrict business growth because if a business wants to diversify and this requires them to have different permissions they will need to apply for full authorisation. To avoid this restriction we would suggest that interim permissions should cover all types of consumer credit activity to allow businesses to grow and continue to function as normal.

Specific Comments

Conduct requirements and rules

- 1. What are your views on the Government's proposal to carry forward CCA conduct requirements which cannot be easily replicated in FCA rules? Do you agree with the Government's intention to require the FCA to review these retained CCA provisions, with a view to moving to rules-based alternatives wherever possible?*

It seems sensible to move to a rules-based approach where possible and where regulation exists which can easily be translated into rules. However, where the Government has published guidance we would want to see careful review of how guidance is translated into rules if at all to ensure that businesses have flexibility and scope to run their operations.

- 2. How, if at all, do you think industry codes can complement FCA conduct regulation?*

The BVRLA has two Codes of Conduct one for rental and leasing companies and one for leasing brokers.

Breaches of the Codes of Conduct are dealt with very seriously and ultimately may result in expulsion from membership of the BVRLA.



Response to HM Treasury

The BVRLA also audits its members when they join the association. A number of key areas are assessed as part of the application process. In terms of on-going auditing requirements the BVRLA's leasing brokers are accredited and audited by the funders who they work with.

We believe that the BVRLA Codes of Conduct should be recognised by the FCA as a first level compliance and if a company applying for authorisation with the FCA is able to demonstrate that they are a member of the BVRLA then certain assumptions should be made such as they comply with the threshold conditions.

Authorisation

3. *What are your views on the Government's proposals for the two tier authorisation regime? Is the scope of the limited permission regime right?*

No, vehicle leasing defined as "any finance which is secured against a vehicle" should be a lower risk activity. Vehicle leasing should be lower risk for the reasons we have expressed above which include:

- There is a lack of consumer harm in the sector as demonstrated by the lack of complaints
- The sector lends responsibly
- The product is low risk over a fixed period and secured against the vehicle
- The product is similar to consumer hire in that it presents minimal risks to the consumer and there are provisions in regulation which protect consumers from getting tied into long-term contracts.
- The vast majority of vehicle leasing is sold to consumers through a motor dealer network as this is already classified by the FCA as lower risk it therefore would seem sensible to simply classify vehicle leasing as lower risk regardless of the sales channel.

4. *What are your views on the proposed changes to the appointed representatives regime?*

There is concern from our members that the responsibilities of an approved person are too onerous for many small firms and that no employee would be willing to take on that burden of responsibility. We would suggest that for lower risk activity the financial responsibilities for an approved person should be reduced and not include personal financial liability.

Response to HM Treasury

We are concerned that the timetable for the introduction of the approved person regime will not give small firms that have no previous experience operating under FSA style regulation, sufficient time to identify and train an approved person. This is exasperated by the fact that firms may not see the final approved person requirements until March 2014.

Scope of regulation

5. *What are your views on the Government's proposals for scope of regulation, including changes in respect of credit intermediation, tracing agents and credit reference agencies?*

The proposals seem sensible and the changes with regards to credit intermediation will have minimal impact on our members.

Enforcement and redress

10. *What are your views on the Government's proposal to repeal many of the criminal offences in the CCA and make breaches of these requirements, once in rules, subject to the FCA's enforcement toolkit?*

This seems a sensible approach and in line with the FCA's enforcement regime for other sectors.

Interim permissions

11. *What are your views on the proposed interim permissions regime?*

We are concerned that given the likelihood of the timetable slipping this could mean that businesses are operating under an interim permission approach for a longer period than originally anticipated. This will restrict business growth because if a business wants to diversify and this requires them to have different permissions they will need to apply for full authorisation. To avoid this restriction we would suggest that interim permissions should cover all types of consumer credit activity to allow businesses to grow and continue to function as normal.

Closing Comments

We would welcome the opportunity to continue our constructive dialogue on the new FCA regime and hope that our comments go some way to shaping and developing the regulation of consumer credit in the future.



Response to HM Treasury

Leasing Members

In general, vehicle leasing is an arrangement where the user simply hires the use of the vehicle and assumes operational responsibility for a predetermined period and mileage at fixed monthly rental from the owner (the leasing company). Legal ownership is, in the majority of cases, retained by the leasing company.

Short Term Rental Members

Rental Members offer hourly, daily, weekly and monthly rental of vehicles to corporate customers and consumers. As explained above, rental members are the owners of the vehicle.



Response to HM Treasury

Response from: British Vehicle Rental and Leasing Association
Address: River Lodge
Badminton Court
AMERSHAM
Bucks HP7 0DD

Contact: Mr Jay Parmar, legal and policy director

Phone: +44 1494 545706

Fax: +44 1494 434499

Email: jay@bvrla.co.uk

Bona-fides **BVRLA, the industry and its members**

- The BVRLA is the trade body for companies engaged in the leasing and rental of cars and commercial vehicles. Its members provide rental, leasing and fleet management services to corporate users and consumers. They operate a combined fleet of 2.75 million cars, vans and trucks, buying nearly half of all new vehicles sold in the UK.
- Through its members and their customers, the BVRLA represents the interests of more than two million business car drivers and the millions of people who use a rental vehicle each year. As well as lobbying the Government on key issues affecting the sector, the BVRLA regulates the industry through a mandatory code of conduct. www.bvrla.co.uk