Summary of ch\_05.pdf

Chapter 5: Responsible Lending - Summary

# Overview

This chapter of the Consumer Credit sourcebook (CONC 5) establishes comprehensive rules and guidance for responsible lending practices, focusing primarily on creditworthiness assessments for consumer credit agreements and peer-to-peer (P2P) lending arrangements. The chapter has been significantly revised, with several sections deleted and replaced by detailed requirements in sections 5.2A and 5.5A.

# Key Points and Main Findings

## Creditworthiness Assessment Requirements (Section 5.2A)

* Mandatory assessment required before:  
    
  Entering into regulated credit agreements  
  Significantly increasing credit amounts  
  Significantly increasing credit limits for running-account credit
* Entering into regulated credit agreements
* Significantly increasing credit amounts
* Significantly increasing credit limits for running-account credit
* Dual risk consideration:  
    
  Credit risk (likelihood of non-repayment)  
  Affordability risk (customer's ability to repay without financial hardship)
* Credit risk (likelihood of non-repayment)
* Affordability risk (customer's ability to repay without financial hardship)
* Income and expenditure analysis must include:  
    
  Current income determination or reasonable estimates  
  Non-discretionary expenditure assessment  
  Consideration of foreseeable changes in financial circumstances
* Current income determination or reasonable estimates
* Non-discretionary expenditure assessment
* Consideration of foreseeable changes in financial circumstances
* Prohibited practices:  
    
  Cannot rely on guarantees/security when assessing affordability  
  Must not complete application forms without customer consent  
  Must reject applications where customer dishonesty is suspected
* Cannot rely on guarantees/security when assessing affordability
* Must not complete application forms without customer consent
* Must reject applications where customer dishonesty is suspected
* Entering into regulated credit agreements
* Significantly increasing credit amounts
* Significantly increasing credit limits for running-account credit
* Credit risk (likelihood of non-repayment)
* Affordability risk (customer's ability to repay without financial hardship)
* Current income determination or reasonable estimates
* Non-discretionary expenditure assessment
* Consideration of foreseeable changes in financial circumstances
* Cannot rely on guarantees/security when assessing affordability
* Must not complete application forms without customer consent
* Must reject applications where customer dishonesty is suspected

## P2P Lending Requirements (Section 5.5A)

* Parallel obligations for P2P platforms operating electronic lending systems
* Similar assessment framework to traditional lending with adaptations for P2P context
* Platform responsibilities include:  
    
  Conducting creditworthiness assessments for borrowers  
  Assessing guarantors where applicable  
  Informing lenders of suspected borrower dishonesty
* Conducting creditworthiness assessments for borrowers
* Assessing guarantors where applicable
* Informing lenders of suspected borrower dishonesty
* Specific considerations for business borrowers and joint borrowers
* Conducting creditworthiness assessments for borrowers
* Assessing guarantors where applicable
* Informing lenders of suspected borrower dishonesty

## Proportionality Principle

* Assessment scope must be proportionate to:  
    
  Credit amount and duration  
  Total cost of credit  
  Customer's financial circumstances  
  Potential adverse consequences of non-payment
* Credit amount and duration
* Total cost of credit
* Customer's financial circumstances
* Potential adverse consequences of non-payment
* Information requirements vary based on:  
    
  Level of affordability risk  
  Complexity of the credit product  
  Customer vulnerability indicators
* Level of affordability risk
* Complexity of the credit product
* Customer vulnerability indicators
* Credit amount and duration
* Total cost of credit
* Customer's financial circumstances
* Potential adverse consequences of non-payment
* Level of affordability risk
* Complexity of the credit product
* Customer vulnerability indicators

## Credit Broker Conduct (Section 5.4)

* Customer-focused approach required when giving advice or recommendations
* Due regard to affordability and suitability factors
* Market search obligations when undertaking to search product markets

# Important Details and Conclusions

## Governance and Record-keeping

* Firms must establish written policies and procedures for creditworthiness assessments
* Regular review and assessment of policy effectiveness required
* Comprehensive record-keeping to demonstrate compliance with assessment requirements
* Senior management approval needed for policies (except sole traders)

## Special Circumstances

* Vulnerable customers: Enhanced consideration for those with mental health difficulties or capacity limitations
* Joint borrowers: May require individual assessments for each borrower
* Business lending: Can consider business plans and resources, but assessments cannot rely solely on projections
* Guarantor assessments: Separate evaluation required focusing on potential financial impact

## Exemptions

The rules do not apply to:  
- Certain pawn agreements with limited liability  
- Current account overrunning situations  
- Non-commercial agreements  
- Small borrower-lender-supplier restricted-use credit agreements

## Key Compliance Themes

* Evidence-based decision making: Assessments must be based on sufficient, verified information
* Forward-looking analysis: Must consider likely future changes in customer circumstances
* Holistic evaluation: Cannot ignore non-discretionary expenditure or rely solely on income statements
* Proportionate approach: More rigorous assessment for higher-risk credit products
* Consumer protection focus: Preventing lending that would cause financial hardship

The chapter establishes a comprehensive framework ensuring responsible lending practices while maintaining flexibility for firms to adapt their approaches to different credit products and customer circumstances.