Dear <Salutation/Officer Surname>

Payday Lending Compliance Review - Final Report

The Office of Fair Trading (OFT) has today published its final report into payday lending, setting out its action plan to tackle poor payday lending practices.

Our final report, which concludes our review, found evidence of widespread non-compliance with relevant law, including the Consumer Credit Act 1974 (the Act) alongside failures by payday lenders to meet the standards set out in relevant guidance, including the Irresponsible Lending Guidance (ILG). Payday lending is the key compliance and enforcement priority for the OFT.

The purpose of this letter, which goes to every payday lender and the trade associations, is to draw your attention to our findings and to warn you that lenders who fail to comply with relevant law and guidance, risk enforcement action. Where appropriate, we will use our power to suspend a credit licence.

You can view our report at:  www.ofot.gov.uk/payday
OFT’s expectations of the industry

On 20 November 2012 we wrote to lenders and the trade associations drawing attention to the OFT’s emerging findings of poor compliance published in our interim report. The letter warned that we expected lenders to examine their procedures and processes in the light of our concerns and take appropriate action to significantly improve standards of compliance with the law and OFT guidance.

We are now warning all lenders that they must complete that examination of their procedures and processes by reference to all the areas of concern highlighted in today’s final report.

Some of the key findings from our final report are that:

- lenders’ affordability checking is inadequate and does not sufficiently take account of each borrower’s ability to repay in a sustainable manner;

- some online advertising content omits or downplays key information about the cost of lending, and the risks if things go wrong, whilst emphasising speed and easy access to cash;

- some lenders were using aggressive debt collection practices by subjecting customers to repeated and intensive contact over short periods, often in conjunction with the use of CPA;

- lenders are failing to show forbearance when dealing with consumers experiencing financial difficulties, with debt advisers - both not-for-profit and fee-charging - reporting that lenders were often uncooperative, obstructive and difficult to negotiate with;

- one third of lenders whose websites we inspected made it possible for borrowers to enter into an agreement online without first passing through screens clearly displaying the PCI form and explanation;

- not all the key features of a credit agreement were explained to consumers and for all loans, particularly in relation to explaining up front how CPAs operate and the right to cancel;

- most lenders failed to comply with at least one of the complaint handling rules of the Financial Ombudsman Service (FOS) - complaint handling
teams were also inadequately resourced and staff were insufficiently skilled to deal with the more complex queries;

- the more significant failings in this latter area had their root causes in either a) the lack of clear complaint handling policies and procedures or b) failure to implement these consistently and to provide adequate staff training; and

- complaints about identity fraud in relation to payday lending appear to be on the increase. Lenders must do more to ensure checks are adequate to identify and prevent fraud, and must be responsive and sympathetic to consumers who are the victims of fraud.

**OFT’s compliance and enforcement strategy**

Today’s report sets out the OFT’s action plan and the immediate steps we are taking to tackle poor practice across the market, which include:

- investigating and taking action against a number of payday lenders;

- requiring 50 lenders – accounting for 90 per cent of the market – to take immediate steps to address areas of non-compliance and prove to us that they have done so within 12 weeks. Please note: if you are one of these 50 lenders, who received a compliance visit as part of our Review, you will shortly be receiving a separate letter drawing your attention to specific areas of concern and requiring production of an audit report confirming compliance in those areas within 12 weeks of the letter. This is in addition to your general obligations to ensure compliance set out in this letter;

- setting out in our final report, for the avoidance of doubt, clear statements about how our guidance applies to payday lenders;

- a provisional decision to refer the payday market to the Competition Commission (CC) for a full investigation; and

- continuing to monitor the market and work with partners such as the debt advice sector to gather evidence which supports our investigations.
Failure to comply

It is your responsibility as a consumer credit licence holder to ensure compliance with all relevant law and the standards set out in our guidance and underlined in our report. An OFT compliance visit can be undertaken at any time during the currency of a licence, which means that we could visit your business in the future.

Should we become aware of any evidence obtained during such a visit, or through consumer complaints or from any other source, that you have ignored the warning in this letter then that will be considered by the OFT, alongside any other issues, as a matter relevant to your continuing fitness under section 25 of the Act to retain your licence.

Yours sincerely

David Fisher
Director, Consumer Credit Group