

Introduction to the Consumer Credit Regime

Proposed legislation for consumers

Julie Keir, Government of Jersey

13 July 2023





What is consumer credit?

Definition:

- Consumer credit is money that consumers borrow to pay for goods or services. Access to credit allows consumers to make purchases today and pay for them over a period of time. Banks, financial institutions, businesses and private citizens make credit available to consumers.
- Typically, “credit” considered to be cash loans or any other form of financial accommodation*

* Provision of loans, credit (including overdrafts), bill facilities, leases, mortgages, bills of sale or any other security arrangements



Examples of consumer credit

- Examples include:
 - Credit/store cards
 - Mortgages
 - Car loans
 - Pay day loans
 - Hire purchase
 - Overdrafts
 - Buy-Now-Pay-Later (BNPL)



Who is a consumer?

- Consumers are:
 - Individuals (natural persons), irrespective of personal wealth or circumstances provided they are acting wholly or mainly outside of their trade, business or profession
 - Persons (which may include legal persons) acting by way of business where the person employs less than 10 FTEs and which have a balance sheet or turnover that doesn't exceed £2m (“**micro-enterprise**”)
- **LIMIT** for micro-enterprises = £30,000

Current protections...

- Consumer Protection (Unfair Practices) Law 2018 = Trading Standards
 - Unfair commercial practices
 - Aggressive selling techniques
 - Misinforming or misleading people about products and services
- Financial Services Ombudsman (Jersey) Law 2014 = CIFO for complaints re
 - Provision of credit under credit agreements
 - CRAs
 - Debt adjusting, counselling, collecting, administration
- Proceeds of Crime (Jersey) Law 1999
 - AML/CFT/CPF
- Voluntary Code of Practice for Consumer Lending
- Voluntary Code of Practice for Debt Collection





What's missing...?

- Conduct codes are only voluntary
- Need a set of rules that govern how lenders and those providing services ancillary to lending act and how they engage with consumers = conduct regulation



Why are we proposing this legislation?

- For consumers, the proposed legislation aims to:
 - Provide protection:
 - Transparency of information and certainty around loans
 - Prevent discrimination for non-financial reasons
 - Enable continued and improved customer choice:
 - Greater certainty for businesses will encourage more to the marketplace and create level playing field increasing competition



What will the law cover?

- **ALL** lending or any business ancillary to lending, e.g., credit broking, debt collecting, debt management etc.
- Includes:
 - Credit agreements
 - Hire agreements
 - Mortgages (Jersey resident's primary residence)
- Businesses will require a licence from JFSC to operate
- Punishment if don't obtain licence is 7 years imprisonment and/or a fine



Will not include...

- Agreements with deferred payment mechanisms, e.g.:
 - Club memberships
 - Insurance payments
- BUT....have we caught everything you think we should have?



Who will be regulated?



Lenders = anyone lending by way of business (institutions, businesses + private citizens)



Those who advise, administer or arrange credit and hire agreements and/or mortgages



Credit broking for credit and hire agreements and/or mortgages



Debt related activities:

- Debt adjusting
- Debt counselling
- Debt collecting
- Debt administration



What is not covered?

- Certain types of business – over £30,000
- Certain trade agreements
- Advice given in newspapers
- Activities carried on by trustees
- Advice given in the course of a profession or business
- Agreements for the supply of essential services
- Activities carried on by members of the legal profession
- Activities carried on by liquidators
- Buy-to-let mortgages

Regulation of overseas lenders and/or agents



- Possible light touch regime - to be consulted on by JFSC later:
 - Overseas lenders not registered in Jersey and with no operations in Jersey (Revolute/Starling/UK credit card providers)
 - Lending by overseas lenders with agents in Jersey (car finance provided by UK companies through Jersey garages, e.g., Ford/Honda etc.)
 - Agents of Jersey registered lenders (e.g., Post Office which offers loans from Reto)



What are we proposing?

Amending the Financial Services (Jersey) Law 1998 to include consumer credit business so that it is regulated by the Jersey Financial Services Commission.

The proposed regime sets out the rules we think should govern those who lend or engage in ancillary services, e.g., credit broking, debt collection, debt management etc.

- 9 core principles
- Pre-contract and contractual requirements
- Unfair Terms
- Additional exemptions



9 core governing principles

Integrity

Due skill, care
and diligence

Good
governance

Treat
customers
fairly

Be clear, fair
and not
misleading

Suitability

Managing
conflicts

Adequate
protection of
customer assets

Open and co-
operative with
regulators

Pre-Contractual Requirements



Disclosure of information

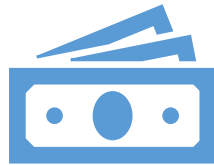


Features of agreements or arrangements

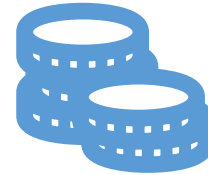
Contractual Requirements



Vulnerability checks



Affordability checks



No high set up costs, high
interest rates or unfair
fees



Cooling-off periods



Unfair Terms

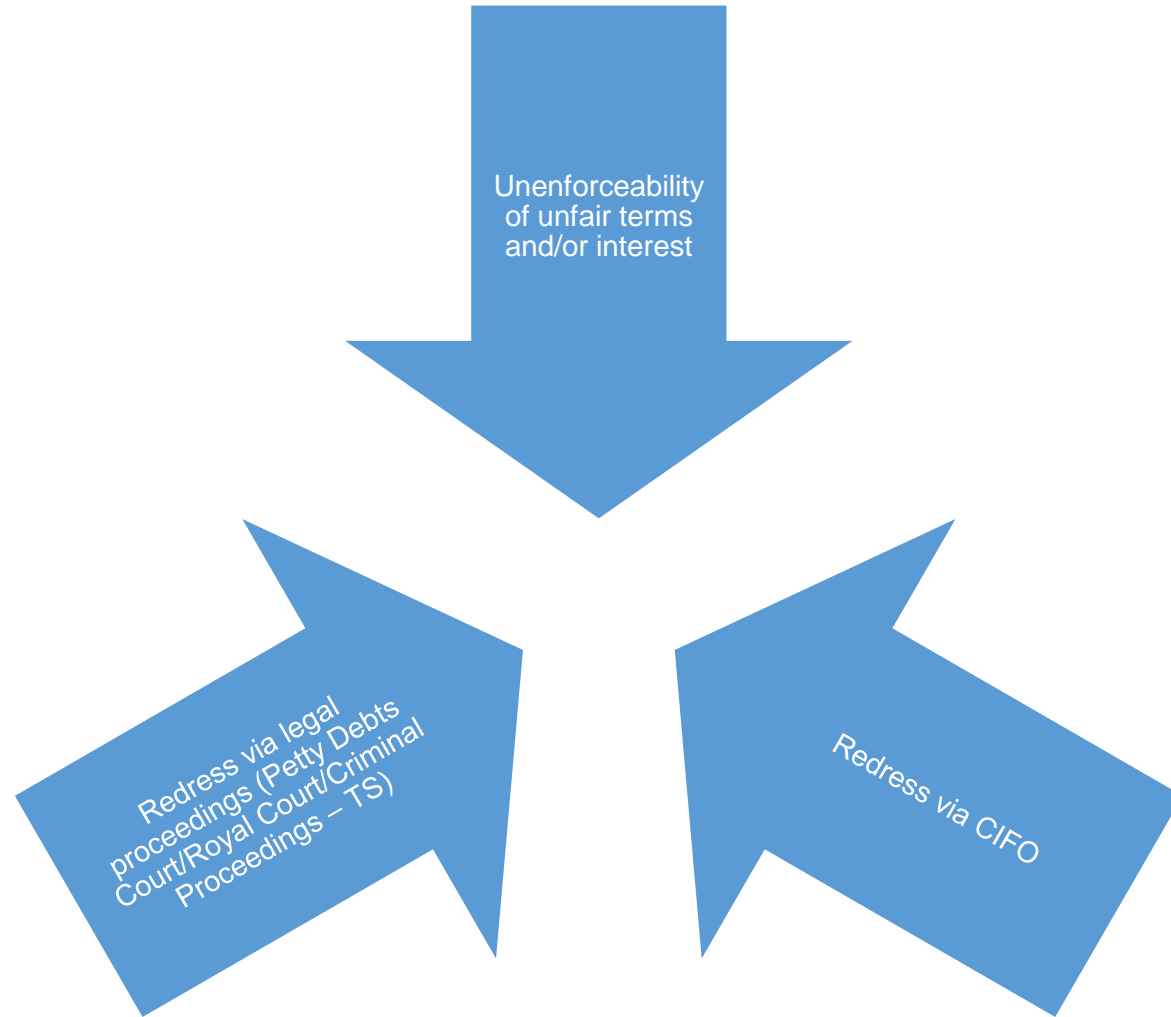
- Prescribed list – to be consulted on by JFSC (ref Guernsey)
- Will require Consumer Credit Firms to consider:
 - Consumer's legitimate interests
 - Whether a contract term may be unfair in all the circumstances
 - Developments in legislation and guidance



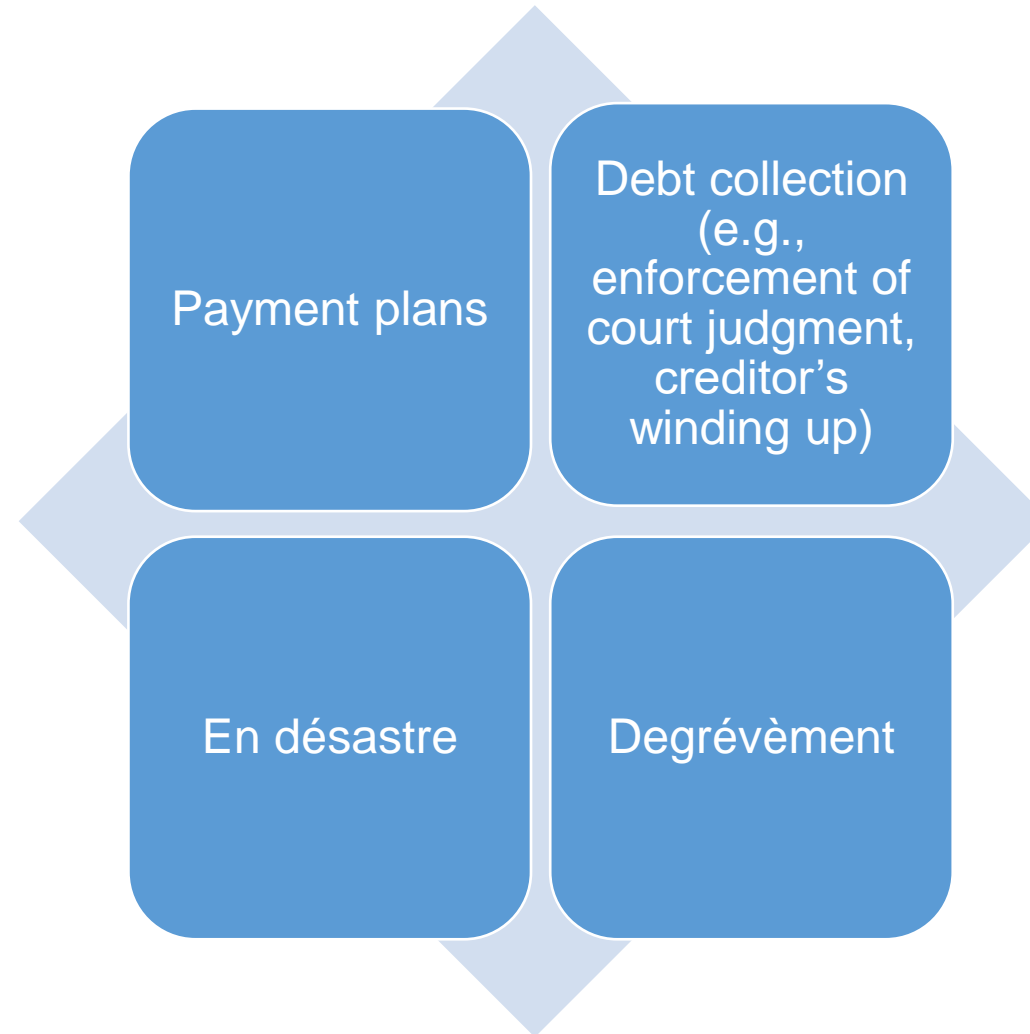
Future exemptions?

- To be consulted on by the JFSC later:
 - Investment business
 - Non-profit organisations/charity activities for which no fee is paid
 - Transaction to which the broker is a party
 - Activities where a person has a connection to the agreement
 - Enabling parties to communicate
 - Arranging mortgages/secured lending where arranger is a party

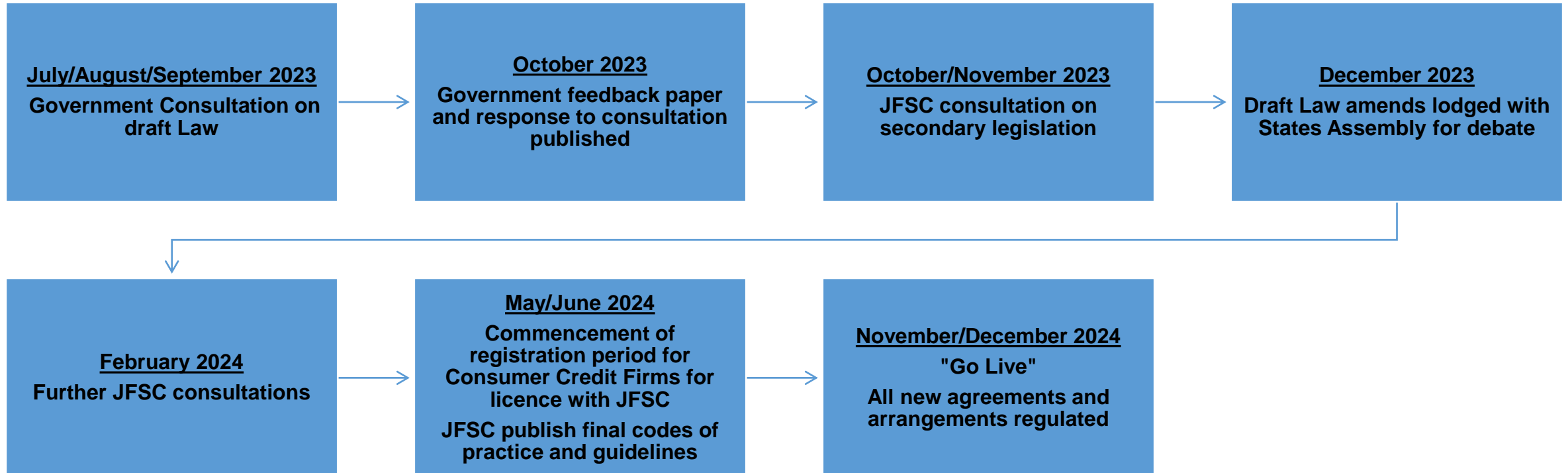
Remedies available to consumers



Enforcement remedies available to consumer credit firms



When will this come into force?





Multiple ways to provide feedback

- www.consultations.gov.je
 - Short questionnaire for consumers
 - Short questionnaire for businesses
 - Long form more detailed questions
- By email to economy@gov.je
- By post to Julie Keir, Associate Director of Financial Services,
Department for Economy, Government of Jersey, 19-21 Broad Street, St Helier, JE2 3RR





Economy

Thank you!

Gouvernement d'Jèrri

