



WALKER MORRIS



The importance of consumer credit for football clubs

April 2015

Direct contacts



Jeanette Burgess, Partner, Regulatory Services
+44 (0)113 283 2632
jeanette.burgess@walkermorris.co.uk

Walker Morris LLP
Kings Court
12 King Street
Leeds LS1 2HL
T+44 (0)113 283 2500
F+44 (0)113 245 9412
www.walkermorris.co.uk

Introduction

The UK has a strong and complex legislative regime for the regulation of consumer credit. The relevant legislation is the Consumer Credit Act 1974 (the **CCA**) and the Financial Services and Markets Act 2000 (**FSMA**). This legislation is enforced by a powerful regulator, the Financial Conduct Authority (**FCA**).

The list of regulated consumer credit activities is extensive and includes lending, acting as a broker or introducer and advising individuals regarding their repayment obligations. The regime applies to all organisations that offer credit or defer payment obligations, including football clubs – who may offer such terms for season ticket and other commercial activities.

FCA AUTHORISATION

Clubs engaging in regulated credit business must be authorised by the FCA unless their credit activities are exempt. The requirements of the regime include:

1. Applying to the FCA for full financial services authorisation, which includes submitting a business plan outlining the relevant regulated activities (assuming the club is not already authorised);
2. Paying annual regulatory fees based on turnover; and
3. Compliance with the legal and regulatory regime on an ongoing basis, including applicable statutory instruments and FCA rulebooks, which stipulate the requirements of the form and content of advertising and of season tickets or staff loans, as well as the ongoing administration of these benefits including complaints reporting.

A number of professional sports clubs hold relevant FCA authorisations, although the approach to the issue within the market is clearly mixed with many unaware certain activities are regulated while overtly undertaking what appear to be regulated business in breach of FSMA. We have recently acted for a football club that was investigated by the FCA for historic season ticket compliance issues.

WHAT DOES THIS MEAN FOR YOU?

If you allow supporters to pay for season tickets by instalment payments, offer staff loans or introduce supporters to a third party finance provider, it is prudent to take appropriate advice. For some clubs it will be possible to structure these benefits to take advantage of various regulatory exemptions and avoid the regime. Other clubs may choose to seek FCA authorisation to offer these benefits in a regulated form as they constitute valuable revenue streams. Many retailers, while not primarily financial services firms, employ full time compliance consultants to ensure they comply in practice.

Walker Morris currently acts for a number of professional sports clubs that are both regulated and exempt from the regime. This includes clubs that offer services online via websites and at the turnstiles, as well as several leading retail finance providers operating in the sports sector. We understand the importance of supporters and staff as key stakeholders and have extensive experience of delivering advice which helps firms meet the demands of the regulator without confusing loyal supporters and staff. We have also negotiated introducer commercial agreements to ensure the compliance burdens arising from the FCA regime are appropriately allocated.

THE RISKS

Since taking control of consumer credit regulation in April 2014, the FCA has been very proactive taking action against individual firms and investigating the market. It has extensive powers including the ability to levy unlimited fines, render "regulated contracts" with supporters or staff unenforceable, require clubs to administer redress and remediation schemes akin to the approach taken in relation to the miss-selling of payment protection insurance. It should also be noted that undertaking regulated business without authorisation constitutes a criminal offence and can have repercussions for individuals. Clubs are well advised to avoid these risks, which are not only potentially damaging in terms of commercial reputation but, can also disrupt takeover and investment negotiations with potential partners.

Clubs that have not evaluated the issues previously, or on an ongoing basis, need to consider and embrace the compliance requirements urgently to avoid being shown the red card by the FCA.