

Undertaking

Introduction

As a qualifying body, the FSA can challenge firms using terms which it views as unfair under the Unfair Terms in Consumer Contracts Regulations 1999 (the Regulations). The FSA has been reviewing contract terms which have been referred to us by consumers, enforcement bodies and consumer organisations. This has led to the following firms undertaking not to use terms which may be considered unfair.

We have a duty under the Regulations to notify the Office of Fair Trading (OFT) of the undertakings we receive. The OFT has a duty to publish details of these undertakings. The OFT does so on its Consumer Regulation Website. The FSA policy is to publish details of the undertakings and the undertakings on its website. Both publications will name the firms and identify the specific term and the part of the Regulations, which relate to the term's fairness.

In general, firms should regularly assess whether their terms and conditions in consumer contracts meet the standards of fairness set out in the Regulations and consider what steps they need to take to comply with the Regulations.

Please be aware that the publication of the undertakings may attract more consumer complaints both to the FSA and direct to firms, which will need to be addressed. We encourage firms to consider the undertakings that the FSA publishes in the review of their terms and conditions.

Intelligent Finance undertaking

Name of business	Intelligent Finance, a division of Halifax Plc	Lead organisation	FSA
Trading sector	Mortgages	Contract identifier	Intelligent Finance Mortgage Conditions October 2004
Original term	Application of the Regulations (Schedule 2 paragraph or as indicated)	How changed	New term
A9.5	<p>The term allowed the firm to unilaterally increase a charge for 'valid' reasons in relation to mortgages within the firm's all-in-one account.</p> <p>Customers were also charged a fee when exiting the contract meaning they were not free to exit the contract.</p> <p>The term therefore appears to breach Paragraphs 1(j) & 2(b).</p>	Withdrawn from Intelligent Finance Conditions 2004 in relation to mortgages in its all-in-one mortgage and financial services account.	None
Other information	Firm was co-operative.		

**Undertaking
accepted**

October 2004