DEFINITIONS

In these Codes and Disciplinary Procedures the term “Advertisement” means anything indicating that credit (this includes mortgages and remortgages) is available. It may be written, spoken or in visual form. It includes an implication that credit is available even if there is no direct statement.

In these Codes and Disciplinary Procedures the terms “Board” or “FISA Board of Directors” means a quorum of the Board of Directors (as notified from time to time) of The Finance Industry Standards Association a company Limited by Guarantee. Company number 2177048.

In these Codes and Disciplinary Procedures the term “Consumer” (in both the singular and plural) shall include any debtor or proposed debtor, customer, client, or applicant for a loan.

In these Codes and Disciplinary Procedures the term “Consumer Credit Act” means The Consumer Credit Act 1974 (as amended).

In these Codes and Disciplinary Procedures the term “Directive” (in both the singular and plural) means a formal notification issued by the Association after specific authorisation by the Board and stated to be a Directive in any communication through which it is promulgated.

In these Codes and Disciplinary Procedures the term “Intermediary” (in both the singular and plural) means any firm or person involved in the procurement of business (other than as the Lender in any particular case) and includes, but is not restricted to, packaging agents, brokers, master brokers, sub brokers, agents and representatives.

In these Codes and Disciplinary Procedures the term “Lender” (in both the singular and plural) shall include any firm or company in the business of providing credit to consumers.

In these Codes and Disciplinary Procedures the term “Member” (in both the singular and plural) shall mean Registered Member firms or persons Registered with the Association.

In these Codes and Disciplinary Procedures the term “serious breach” in respect of any failure to comply with the Codes or general law means a breach of substantive legal provisions or of these codes which is likely to cause prejudice to the consumer or to result in financial loss to the consumer or lender. Any breach which is not a serious breach shall be regarded as a minor breach.
Members and their Intermediaries will at all times comply with all legislative requirements and with all Directives issued by the Association relating to their conduct or the manner in which business is handled.

Where a Member accepts business from a supporting or subordinate Intermediary or Intermediaries, it will ensure that the supporting or subordinate Intermediary or Intermediaries complies with the Association’s Code of Conduct and Code of Advertising Practice.

No Member or its Intermediary shall act in a way which is likely to bring the Association or credit industry into disrepute.

No Member or its Intermediary will, either actively or tacitly, condone any improper or illegal activity conducted by any supporting or subordinate Intermediary.

Members and their Intermediaries will at all times be transparent in their dealings with potential and actual consumers and provide full and early disclosure of all contract terms and conditions.

No Member or its Intermediary will misrepresent, even by implication or omission, any term or condition of a proposed contract.

Members and their Intermediaries will comply at all times with the principles of responsible lending. They will give proper assessment to the consumer’s ability to repay, and take account of all relevant circumstances in order to ensure that consumers do not take on any commitment which they are unlikely to be able to fulfil. In assessing ability to repay, Members and their Intermediaries must ensure that there is sufficient evidence regarding the consumer’s income and other financial details, and that all sales staff are properly trained and supervised.

Members and their Intermediaries will at all times act in the interest of their consumers including full consideration being given to the consumers’ ability to repay and other facts including job security and other relevant matters.

Members and their Intermediaries must take all reasonable steps to verify the accuracy of all information provided in support of a loan application (from any source). They must use their best endeavours to ensure that all information provided by consumers or from third parties offered in support of an application for credit are full and correct. Information so supplied must be communicated to the lending company without embellishment or addition and must not be tampered with in any way. Original documentation must be supplied.

Members and their Intermediaries will use their best endeavours to establish the identity of consumers making an application for credit before processing any application to a Lender.

Members and their Intermediaries will ensure that details provided in support of an application for credit are full, correct and represent the true position of the consumer’s status. All information requested on any application form, including the purpose of the loan, shall be given in full.

Members and their Intermediaries will not permit consumers to sign blank forms or any form or document which has not been fully completed in ink.

Members and their Intermediaries must provide their consumers with appropriate and accurate advice which must be neither false or misleading.

Members and their Intermediaries must notify the Association of the identity of any intermediary from whom they receive business. Intermediaries so notified will be included in the Association’s listing of sub-agents.

Members and their Intermediaries must obtain evidence that all parties with whom they deal as an Intermediary are properly licenced in all respects and will notify the Association of any defect in the licensing position of any such party which comes to their notice.
No Member or its Intermediary will submit a loan application to any Lender unless the application has originated from a correctly licenced source.

Members and their Intermediaries will not encourage prospective consumers to commit themselves to expenditure in anticipation of the loan being granted nor will they indicate that an application for credit has been accepted for payment by a lender when this is not the case.

Members and their Intermediaries must be able to demonstrate that any consolidation of existing credit, either secured or unsecured, was in the consumer's interest or was in response to the consumer's specific request. Members and/or their Intermediaries must not encourage the consumer to take out a loan which is higher than requested unless it is demonstrably in the consumer's best interest particularly where such an increase may remove the protection of “regulated loan” status.

Members and their Intermediaries will not use sales techniques relating to optional insurance products such as payment protection policies which might encourage consumers to take out such cover in inappropriate circumstances. In complying with this requirement Members and their Intermediaries shall have regard to the consumer's circumstances and have particular regard to restrictions or exclusions contained within the relevant insurance policy.

Members and their Intermediaries will use their best endeavours to ensure their consumers fully understand the terms and conditions of any contract, in particular the consequences in event of default. Where there is doubt as to the consumer's ability to fully understand the nature of the contract the Member and/or their Intermediary will ensure the proposed Lender is fully informed of that doubt and the reasons therefore. Members and their Intermediaries must explain clearly the consequences of failure to abide by the terms of a proposed agreement or to maintain satisfactory repayments and should invite their consumer to seek impartial advice.

No Member or its Intermediary will illegally canvass credit agreements or the services of a credit brokerage off trade premises. No visit to the consumer's home will take place prior to the receipt of the consumer's specific request to do so and where the loan is regulated that request must be in writing. The consumer must be aware, prior to the visit taking place, that the purpose of any visit is to promote and sell credit or mortgage facilities and/or other related products.

Members and their Intermediaries will encourage consumers to read documentation carefully and consumers must be allowed sufficient time to consider any agreement and to obtain independent advice. Copies of any contract and any “customer booklet” must be provided to the consumer at an early stage.

Members and their Intermediaries should not discourage their consumer from seeking impartial advice or from “shopping around”.

No Member will employ, nor permit the use by any supporting or subordinate Intermediary, any high pressure selling techniques or selling techniques unacceptable (as notified from time to time) to the FISA Board of Directors. (this will require consumers to have time to reflect on any term offered and be able to seek independent advice).

Neither Members nor their Intermediaries will register priorities at H.M. Land Registry other than in the name of a Lender firm and then only if the Lender has indicated there is a genuine likelihood of it making a loan to the consumer.

Members and their Intermediaries will ensure that all parties participating in the procuring of loan business are fully conversant with the product being offered.

Members and their Intermediaries should not, when offering advice to local authority tenants on “right to buy” schemes, purport to be acting on behalf of a local authority, when this is not the case.
28. Members and their Intermediaries must provide prospective consumers with, both verbally and in writing, full and comprehensive details of all fees or costs to be paid by them (the consumers) prior to any commitment being entered into, to include all or any payments to any supporting or third party Intermediary engaged in the transaction. All fees must be reflected within the APR. The APR must be correctly calculated in accordance with the Consumer Credit (Total Charge for Credit) Regulations 1980 (as amended).

29. Members and their Intermediaries are required to advise the consumer whether, in regard to the consumer's transaction, they are to be remunerated by the Lender alone, or the Lender and the consumer, or by the consumer alone.

30. Members and their Intermediaries will in the event of the consumer having paid any money in advance of receipt of any credit repay the money to the consumer if the consumer does not enter into any proposed credit agreement. Members and their Intermediaries will comply fully with the provisions of sections 155 and 145 of the Consumer Credit Act. They must not seek to evade these provisions by introducing terms (either written or verbal) which purport to contract out of these provisions. Any money repayable must be returned promptly.

31. Members and their Intermediaries will not disburse brokerage fees (or other fees paid by the consumer) to other independent Intermediaries on behalf of the consumer without the consumer's written request. Such request must confirm the fact that the requirement to pay was disclosed by any introducing Intermediary and that payment is authorised by the consumer.

32. Members and their Intermediaries will not impose processing costs in respect of any personal credit agreement upon any other Intermediary in a way which may induce such Intermediary to obtain those costs from prospective consumers in a manner contrary to the Association's Codes.

33. Members and their Intermediaries will adopt a responsible and professional attitude when promoting facilities to any other Intermediary ensuring that any promotion is factual and does not make extravagant or exaggerated claims.

34. Members and their Intermediaries will ensure prior to introducing a consumer, directly or indirectly, to any Lender source of credit, that the Lender is currently proffering and completing loans of the type offered and on the terms advertised.

35. Neither Members nor their Intermediaries will countenance any infringement of the Association's Code of Conduct, Code of Advertising or Disciplinary Procedures and will, upon discovery of any such infringement notify the General Secretary of same.

36. Members and their Intermediaries will maintain such records as may be necessary to prove their compliance with all provisions of the Association's codes and rules and all relevant legislation.

37. Members and their Intermediaries will assist the General Secretary (and duly authorised officers of the Association) in the pursuit of their duties and will afford all reasonable access to all relevant documentation, computer records, literature or personnel when called upon to do so by the Association.

38. Any report of an infringement by a Member or their Intermediary of any article of the Association's Code of Conduct or Code of Advertising will lead to immediate examination in accordance with the Association's Disciplinary Procedures.

39. Any Member or its Intermediary who fails to observe this Code will be liable to action under the Association's Disciplinary Procedure.

40. Members, and their Intermediaries listed with the Association, agree to be bound by the decisions of the FISA Board of Directors on all disciplinary matters.

41. All Members, and their Intermediaries listed with the Association, must remain in a position to meet their obligations.
Members and their Intermediaries will maintain records sufficient to permit the checking of present or past advertisements by a duly authorised officer of the Association.

No Member or its Intermediary’s advertisement shall contain or omit any information if to do so will contravene the provision of the Consumer Credit (Advertisements) Regulations 1989 as amended; i.e. all advertisements must be legal.

No Member or its Intermediary’s advertisement shall convey any information which in a material respect is false or misleading; i.e. The spirit of the regulations will be observed as well as the letter.

No Member or its Intermediary’s advertisement shall contain any information stating or implying an intention on the advertisers’ part which he does not have.

No Member or its Intermediary’s advertisement will make reference to “special products” such as “cashbacks”, “payment free periods?” or “interest refunds” unless and until the Association’s Secretariat has been provided with satisfactory evidence that such a product exists and that it has the full support of at least one Lender.

Members and their Intermediaries will, when publishing an advertisement, ensure that all APRs in the advertisement are representative of business likely to be, or historically shown to be, written as a result of the advertisement. The Member or Intermediary will have to justify the reasons for not completing an advance at the advertised rate if challenged.

Members and their Intermediaries will ensure that where a selection of rates is shown within an advertisement, the APR appropriate to each rate will be shown and no APR will be given greater prominence either in size or position or frequency of mention. Differing APRs for the same amount (or band of finance) will specify prominently the Lender’s conditions or other restrictions which may apply and those conditions or restrictions will be shown adjacent to the APR. If a rate other than the APR is shown, the APR appropriate to that rate will also be shown immediately adjacent to that rate (or rates) and with greater prominence.

When applying these rules on prominence Members and their Intermediaries will give consideration not only to the size of letters and figures but to other ways in which the rate might be given prominence; for example the colour or kind of type used, the position of the rate within the advertisement and the number of times the rate is repeated.

No advertisement by a Member or its Intermediary should be constructed in a manner designed primarily to attract distress business either by text or graphic display. No text relating to distress included within an advertisement may be given greater prominence than other credit information or the statutory prescribed statements.

No advertisement by a Member or its Intermediary will indicate either expressly or by implication that loans will be made available without a proper assessment of the borrower’s ability to repay the loan.

No advertisement by a Member or its Intermediaries will place undue emphasis upon the speed with which a loan can be obtained.

Members and their Intermediaries will ensure that where an advertisement portrays repayments that only contractual repayments are portrayed. No non-contractual equivalent repayment relating to any other period may be portrayed e.g. Weekly payments must not be shown if the contract calls for monthly payments to be made.

Advertisements by Members and their Intermediaries which offer secured loans must contain a clear statement that “loans are secured on property”. This is in addition to any statement required by statute.

Members and their intermediaries will not, either intentionally or by omission, employ unfair or unethical methods to obtain enquiries or credit applications on any website or internet advertisement or promotion. Unfair or unethical methods will include, but not be restricted to, both so called “web spiking” and/or “page napping”.

FISA

CODES AND DISCIPLINARY PROCEDURES
CODE OF ADVERTISING PRACTICE

Members and their intermediaries will ensure that no consumer is misled into believing they are providing or obtaining information from a particular company when in fact they are not.

Where a Member accepts business from an Intermediary, the Member will ensure the intermediary complies with this Code of Advertising.

INVESTIGATION AND DISCIPLINARY PROCEDURES

The General Secretary shall monitor the general conduct and trading practices of all those engaged in the provision of credit and will also monitor credit advertising placed in any medium by whatever means he thinks fit. He may take action under these Rules either of his own volition or in response to a complaint received.

The General Secretary shall consider in every case whether any conduct identified by him or alleged as having occurred shall be reported to a relevant division of the Office of Fair Trading. Where appropriate, in procedures relating to members, the Board shall be asked to give a ruling on this point. If there is any doubt as to whether conduct should be reported to the Office of Fair Trading, a report shall be made with a qualification that the Association is not convinced that it is necessary for licensing action to be taken.

PROCEEDINGS RELATING TO NON MEMBERS OF THE ASSOCIATION

The General Secretary may take action when any act contrary to the requirements of the Consumer Credit Act and its subordinate Regulations as amended is identified.

The General Secretary shall contact the firm or person concerned pointing out the identified infringement and invite the transgressor to make the necessary corrections to permit compliance with statutory requirements.

If no response or no satisfactory response is received from the transgressor the General Secretary shall act as set out in paragraphs 63 to 65 below:

In the event of a serious breach, the matter shall immediately be reported to the relevant Trading Standards Department(s). Where appropriate, a report shall also be issued to the Office of Fair Trading, the Department of Trade and Industry and/or the Police.

If the breach is of a minor nature and is the first breach recorded for the transgressor concerned, the transgressor shall be advised that a record is being kept and that further breaches may result in a report being made to the relevant enforcement authorities.

If the breach is of a minor nature but is not the first breach then the General Secretary shall, if in his opinion he considers it appropriate, report the matter to the relevant Trading Standards Department and any enforcement authority as he sees fit.
Action shall be taken in respect of any breach of the Association’s Code of Conduct or Code of Advertising Practice.

The General Secretary shall write to the Member pointing out the breach concerned and request them to remedy it.

If no response, or no satisfactory response, is received from the Member concerned the General Secretary shall write advising the Member that he is referring the matter to the FISA Board of Directors. When advising the Member of this the General Secretary shall provide the Member with a copy of all material which is to be placed before the Board, including any original complaints, all relevant correspondence and any report which the General Secretary proposes to make.

If the Member wishes to present his views to the Board in person, or through a representative, he may do so provided he notifies the General Secretary of his desire to do so within 7 days of receiving the General Secretary’s letter stating that the matter and any supporting evidence shall be referred to the Board. The General Secretary shall advise every Member of his right when notifying him that the matter is to be placed before the Board.

If the Member does not wish to attend the Board meeting he may make written representations and shall in any event have the right to put forward such evidence as he wishes in response to the evidence supplied to him by the General Secretary.

If on investigating the matter and in the light of any representations made by the Member the Board feels that the Association’s Codes or other statutory legal requirements have been broken then it may expel the Member or take such action as it thinks fit. This action may include, but is not restricted to, the imposition of a fine, suspension of the Member’s membership rights or the referral of the Member’s conduct to the relevant regulatory or public bodies.

Once a Member has been expelled then the Disciplinary Procedure applicable to Non-Members shall have immediate effect as from the date when the board orders the expulsion. If other penalties are applied the Member shall be advised at the time of imposing the penalty of the impact, if any, which the punishment will have on future disciplinary complaints affecting him.

If, in the Board’s view, such action is appropriate the breach giving rise to expulsion may be immediately reported to the relevant authority under Rule 63. In any other case the breach giving rise to expulsion shall rank as a minor breach under Rule 64.

The Board shall state on any expulsion which Rule is to be applied to the breach and the expelled Member shall be advised accordingly.

All Members will be informed of any Member who is being expelled from the Association and the reasons thereof.

Members are expected not to trade with an expelled Member or any other person who has been found by the Board to have committed a breach of the Association’s Codes or Rules.