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Consumer Credit Team
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Dear team

I am writing in response to the FCA's updated proposals on temporary financial relief for overdraft, personal loan and credit card consumers impacted by coronavirus. Which? commends the FCA for proposing further measures to support those consumers financially affected, and for the pace at which the FCA has acted across a range of issues in recent months.

The need for consistency in accessing relief

While the updated guidance has been separated into three documents, we believe that the provision of credit products (including mortgages) as well as the assessment of financial difficulty, must be as consistent as possible across firms. This will minimise the risk of confusion among consumers as to whether they are eligible for support, particularly for those who hold products with multiple providers. Recognising the differences between secured and unsecured credit, there should still be as much consistency as possible across all forms of credit, as these are exceptional circumstances.

We would therefore expect that the updated guidance for consumer credit to broadly mirror the revised mortgages guidance, which clearly states what is expected from firms. However we believe there are several omissions and differences in the proposals, as well as contradictory statements within the same guidance, which poses the risk that approaches will vary wildly across providers. Consumers whose income has dramatically decreased will need the same level of support with all of their debts, and by allowing consumer credit firms to have more discretion over the financial support they give to consumers, there is a risk that this unravels the extensive support required from mortgage lenders.

The FCA should set out more cohesive and clear guidance for consumer credit products. This is particularly crucial given the time constraints, which will exacerbate challenges for firms and consumers in understanding new guidance.

The proposals state that firms can 'choose to make the enquiries they consider necessary in order to satisfy themselves that the customer is eligible for support' and that 'to ensure customers are offered quick support, firms can consider whether the offering of a payment deferral period is in customers' interests at a book or cohort level'.

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We believe that firms should not be pre-screening consumers to assess which consumers are eligible for relief. This is because the data available to firms does not provide sufficient information on a consumer's current or future circumstances, e.g. where a furloughed person discovers they are being made redundant. This proposed broad-brush approach is markedly different to the guidance for mortgage lenders.

We are already seeing instances where institutions are challenging the self-certification of consumers in seeking payment holidays which is leading to frustration, confusion and worry. It may be especially difficult for consumers to present adequate documentation at this time given pressures on their own employers as well as the difference between whether the consumer is already in financial difficulty or where they 'may expect' to be. Given the current pressure on firms' staff we also question whether challenging self-certification in this manner is the most efficient use of their limited resources.

Consumers can only be presented with clear communications, helping them to make the right decisions both in the short and long term, if the approach to these proposals is consistent across firms. This would also allow consumers to take greater advantage of online facilities, freeing up already stretched call centre resources for the really vulnerable.

Therefore, Which? urges the FCA to set out more prescriptive guidance to firms on how to assess customer suitability for payment deferral, ensuring a fairer and more consistent approach across providers.

Insufficient support for consumers still experiencing temporary payment difficulties ('exit strategy')

It is important that there is a clear exit strategy to these measures that supports consumers. It is particularly crucial that firms adopt approaches that are tailored to consumers' actual circumstances to prevent unnecessary financial hardship. Relying on incomplete data and making assumptions will have significant detrimental effects on consumers.

We are concerned that the credit card and loans proposals do not prescribe firms to make enough effort to contact consumers before resuming payments, stating that 'if the customer does not respond, the firm may proceed on the basis the customer is no longer experiencing temporary payment difficulties.' There is a significant risk that vulnerable consumers will be disproportionately affected, as those who do not engage may not be financially capable and/or may still be suffering financial hardship. Although consumers are not required to make regular payments for overdrafts, we still think that further clarification in the guidance is needed, as we are concerned that firms might be over-reliant on consumers to engage with what could be a single communication. Those who do not respond may not receive the support they need, such as a reduced interest rate.

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The guidance should therefore be expanded to ensure sufficient engagement with consumers. This would also be consistent with the guidance for mortgage lenders, which states:

'Where customers have been treated as able to resume full repayments in line with this guidance, but subsequently miss the next payment due under the mortgage, we would expect firms to make further reasonable attempts to contact them. Where the customer tells the firm they are unable to repay the missed payment and resume payments as a result of circumstances relating to coronavirus, the firm should offer them additional help in line with the following section of this guidance.'

A wider application of interest waiving and unintended consequences of preferential interest rates

We have previously raised concerns that firms can continue charging interest in the normal manner during the three month deferral period, at a time when consumers will be pushed into greater financial difficulty, particularly where they are on high interest rates.

While we are pleased that overdraft consumers will be able to request reduced interest rates on borrowing in excess of £500, the proposed guidance states that 'a preferential rate should be no higher than the customer was expected to pay (taking into account any non-contractual waivers of interest) on an overdraft balance when this revised guidance came into force and may need to be lower than it was at that time to demonstrate it is in line with this guidance.' We would hope that any pricing responses would be identified as part of the FCA's commitment to monitor overdraft pricing.

We are concerned that the guidance on interest waiving for credit cards and loans is contradictory and potentially confusing. We believe clarity is required on the circumstances in which firms should waive interest, and further guidance which sets out ways in which firms can support consumers. Firms are not able to identify emerging difficulties and it is important that as much preventative action is taken to avoid unnecessary financial hardship. The guidance for mortgage lenders explicitly states that firms should consider reducing or waiving interest for both consumers who have not yet had a payment deferral, and for those who have had a deferral but unable to resume payments. We would like to see this wider application of interest waiving in the guidance for consumer credit products, including for overdraft consumers.

Preventing fraud and clear communications

Unfortunately, we are seeing an increase in reported instances of fraud. By introducing as much consistency as possible in the application of these emergency measures we will be able to communicate them more clearly to consumers. This, in turn, will allow consumers to better protect themselves from fraud. These changes will provide fraudsters with a mass communications opportunity to members of the general public.

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It is absolutely critical that the regulator plays its part, not only in how these measures are designed but also in ensuring the FCA itself provides clear, upfront, public messaging on both what consumers can expect from their financial service providers and how they can be vigilant.

Protecting vulnerable consumers should continue to be at the centre of relief measures, recognising that those deemed vulnerable will not only include a greater proportion of the population, but also a diverse demographic. We believe that the suggestions that we have made will ensure adequate support is provided to meet vulnerable consumers' needs. We would also like to see further clarity in the guidance around firms communicating with vulnerable consumers, such as an explicit requirement, consistent with the guidance for mortgage lenders which states: 'firms should take account of the particular needs of their vulnerable customers and adapt their communications approach and support to meet these needs.'

If you have any questions regarding this response, please do not hesitate to contact me.

Yours faithfully

Aileen Lees

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