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Date: 10 August 2020
Response to *FCA call for input: Ongoing support for consumers affected by coronavirus: mortgages and consumer credit*

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Summary

- Which? welcomes the opportunity to respond to the FCA's call for input on how support can be provided to consumers after temporary relief measures come to an end on 31 October 2020. We commend the pace at which the FCA has acted across a range of issues in recent months.
- We are concerned that the call for input suggests a preference to end payment holidays after 31 October, as we are seeing evidence of financial distress among those whose incomes have been affected by the pandemic. We also expect this to rise as consumers who have not needed to defer payments so far might require support following a loss of employment and income after October.
- **Which? recommends that the FCA**:
    - **does not revert to existing forbearance rules after 31 October** as we are likely to see a rise in consumer detriment. MCOB and CONC rules are less prescriptive around the support that firms should provide and we are concerned about the ability of firms to provide the tailored support that would be required, given the difficulties that consumers are currently experiencing when contacting lenders.
    - **extends the current support by a further three months** to ease the impact of the Job Retention Scheme (JRS) ending. While we acknowledge that payment holidays are not a long-term solution and it remains in a consumer's best interest to repay where they can, this extension is particularly needed for these products as the risk of harm can be significant. Forbearance should also be widened (where another deferral is not in the consumer's best interests) to require lenders to offer a rescheduling of payments or freezing interest, rather than just considering these options. Longer term measures to support consumers impacted by coronavirus should be considered when the impact of the JRS ending will be more known, and with a longer consultation process. Therefore we do not consider it appropriate for the FCA to move forward on many of the proposals in the call for input, to which such little time has been afforded.
    - **does not allow normal Credit Reference Agency reporting to resume**. The principle that these extenuating circumstances have created temporary financial difficulties should continue to apply, therefore under the extended guidance access to payment deferrals (for those already in place and for those newly granted over the next three months) should not have a long term impact on creditworthiness.
    - **temporarily reduces timescales relating to forbearance complaints** to ensure that consumers get the urgent support that they need. We have seen instances where the timeliness of resolving complaints has negatively impacted consumers' financial circumstances.

Introduction

1. While some consumers may be able to resume repayments at the end of their deferral, these expectations are based on the current landscape where consumers are still being supported by the government's Coronavirus Job Retention Scheme (JRS). A British Chambers of Commerce's recent survey[1] of 7,400 employers found that 29% expect to decrease the size of their workforce before the furlough scheme ends (the highest that has ever been reported through their quarterly recruitment survey). It is highly likely that many consumers' financial situations will worsen due to a loss of employment income after October, therefore we should expect to see a spike in consumers who will need to access temporary support. The current rate of unemployment is 3.9%[2] and in its 4 August meeting the Monetary Policy Committee projected that the rate will "rise materially, to around 7.5% by the end of the year."

2. The pandemic has exacerbated the distributional imbalance, by increasing the challenges experienced by many already vulnerable people and also by making more people vulnerable who may not have been before. StepChange research[3] has found that of those in severe problem debt before the outbreak, 45% have been negatively affected financially by coronavirus compared to 25% of those not in financial difficulty. While the JRS has been broadly successful in supporting some households financially through the crisis to this point, people from ethnic minority groups have been less able to benefit from government policies as they focus on full-time employees[4]. This is because BME groups are more likely to be in insecure employment or to become unemployed. Levels of savings contribute to financial resilience when experiencing a loss of household income, which will have been particularly felt by black African and Pakistani households during the pandemic who typically hold 10p of every £1 of savings held by white British households. Those who continue to need support (even if these are deemed a "significant minority"[5]) should therefore be at the centre of relief measures, recognising that those who are vulnerable will not only include a greater proportion of the population, but also a diverse demographic.

3. Which? research[6] found that 13% of those furloughed have defaulted on one of their bills in the last month. According to StepChange[7], since the beginning of the lockdown period, 2.8 million people have fallen into arrears and 17% of adults are worried about paying for essentials such as a healthy diet and clothing appropriate for the weather later this year. The impact of missed payments for consumers who are in temporary financial difficulty is long-lasting, as it will affect

[1] BCC quarterly recruitment survey July 2020
https://www.britishchambers.org.uk/news/2020/07/bcctotaljobs-almost-a-third-of-firms-will-decrease-size-of-workforce-in-next-three-months
[2] Monetary Policy Committee Minutes, August 2020
https://www.bankofengland.co.uk/-/media/boe/files/monetary-policy-summary-and-minutes/2020/august-2020.pdf
[3] StepChange: Coronavirus and personal debt, June 2020
https://www.stepchange.org/Portals/0/assets/pdf/coronavirus-policy-briefing-stepchange.pdf
[4] Runnymede Trust: The colour of money - race and economic inequality, April 2020
https://www.runnymedetrust.org/blog/the-colour-of-money-race-and-economic-inequality
[5] FCA Call for Input Paragraph 2.2.
[6] Which?: Consumer confidence and financial difficulty, July 2020
https://consumerinsight.which.co.uk/articles/consumer-sentiment-july-2020
[7] StepChange: Coronavirus and personal debt, June 2020

consumers' ability to access credit for the next 6 years. Greater awareness of available support, together with closer supervision of lenders, are needed to prevent an unnecessary expected increase in defaults.

4. Both short-term and longer term solutions to support consumers should be considered in the context of the wider landscape. High-cost short-term credit and overdrafts are the only products on which interest has been frozen under the temporary forbearance measures. The breathing space scheme, due to be implemented May 2021, will however prevent interest accruing for 60 days across all financial services products (as well as utilities and government debts). Given the delay in the scheme's introduction, firms should be *required* to provide wider support earlier rather than to just 'consider' options such as freezing interest and rescheduling payments, and across a wider range of products.

5. Making credit available at the earliest opportunity is fundamental to supporting consumers, particularly as we are likely to see a sharp uptake in credit in the coming months. There needs to be recognition that consumers do not 'deserve' credit, but fundamentally need it.

It will be detrimental if forbearance rules are reverted to in October

6. The current temporary measures set out specific requirements on firms around the support that they should provide to consumers. We are concerned about whether lenders will apply these regulatory expectations when reverting to the forbearance rules under MCOB and CONC, which are not written to reflect the circumstances around coronavirus. For example, many people are dealing with changing and uncertain financial circumstances. Under MCOB and CONC, firms need to obtain clear income and expenditure details but as this may be difficult given these circumstances, there is a risk that consumers will not be able to access the support they need.

7. We continue to see instances where firms have not acted in the spirit of the temporary guidance. Over the last two months some lenders have:
   - treated payment deferrals as arrears, despite having agreed a deferral, which has led to consumers being chased for payment and their credit files being negatively impacted;
   - ignored payment deferral arrangements, despite having been agreed, and have continued to take payments resulting in consumers being overdrawn;
   - been inflexible with support, denying a request for a further payment deferral despite a reduction in a consumer's income; and
   - charged consumers who have requested a deferral and 'frozen' their account.

8. We therefore believe greater supervision of firms to ensure compliance with temporary measures is needed, rather than removing these measures entirely. Reinstating less prescriptive forbearance rules at the same time that government support ends will only exacerbate the difficulties that consumers are facing.

9. Given the scale of the impact of the pandemic on people's finances, we cannot see how all firms will be able to adequately provide the tailored support that is required under MCOB and CONC. Many firms' resources are already stretched, and consumers have experienced difficulties in contacting their lender either to request or extend a payment deferral. With these issues present when lenders are offering deferrals at a book or cohort level, we cannot see how firms will be able to dedicate the extra time that will be needed to investigate individual circumstances.

10. We also question how lenders will ensure provision of support is not delayed, with such limited resources. The timing of relief will be crucial given the varying notice that consumers will receive regarding their employment.

11. While we are pleased to see the FCA is considering changes to the existing forbearance rules, we believe further time should be spent not only to ensure that proposals are fully considered, but that stakeholders have sufficient time to analyse and respond to such significant changes. We also note the current open consultation on vulnerable consumers and we believe the responses and regulatory work in this area should inform the FCA's approach in the context of coronavirus support. With timing key, we believe that the FCA should extend temporary support by a further three months now, which will also allow for a proper consultation process to consider more permanent changes to the regulatory framework post-January. This would also mitigate the risk of duplication and inconsistency which can arise with concurrent regulatory changes.

The current temporary support needs to be extended for all types of consumers

12. We agree with the FCA's assessment that many individuals will have more certainty around their circumstances after October, however the widespread availability of payment deferrals have been aimed to help unnecessary financial hardship for those affected by coronavirus. These unprecedented circumstances should shift what is considered 'temporary', and we would not want to see these protections come to an end after an arbitrary period of time.

13. It is particularly risky for all temporary support schemes to sharply end at the same time as the negative financial impact on consumers will be exacerbated. We believe ending the current protections risks undoing the support that has been provided so far, particularly where consumers' circumstances worsen (for example, from losing their job) and relief is removed at the same time.

14. There will be a new group of consumers who will need to be provided with temporary support. For example, there will be some furloughed consumers who will have not needed to access relief, however if they then lose their job on 1 November due to the JRS ending and can no longer afford their debts, the support will no longer be available to them. It seems unfair and against the FCA's own messaging that in this scenario the consumer should have asked for a payment holiday 6 months ago if they had known their situation was going to worsen, as they could have used this as a buffer for future difficulties.

15. The guidance should be extended until 31 January 2021 as a minimum and apply to consumers who have had or are receiving payment deferrals, as well as to those who have not yet accessed this support. We do not believe it is appropriate to segment consumers as a loss of income after October will affect all types of consumers in a new and different way. Access to help should be universal which will not only ensure fair and inclusive treatment of consumers, but also avoid complexity and confusion among consumers and within firms. While we acknowledge that deferrals are not in the best interests of all consumers, the potential harm by removing this option for those who need it the most is significant, thereby outweighing the distributional impact against consumers who may not 'need' a deferral but will be able to access one. Lenders should be readily able to identify consumers who have already had two payment deferrals, and extending the guidance should not prevent lenders from discussing whether a further payment deferral for consumers in these circumstances is appropriate. We will continue to work with the regulator, industry and other consumer organisations in reiterating to consumers that if they can afford to resume payments, they should do so.

16. The FCA should consider extending the forbearance options in the temporary guidance so that consumers can access: a reduction in the overall payment burden; protection from collections and enforcement action by creditors; protection from unduly escalating debt balances and; protection from a negative longer-term impact to their credit status.

17. It is crucial that support is extended across all products, not just mortgages and consumer credit. Non-payment of motor finance can also result in repossession. Advice given to consumers from debt charities and the Money Advice Service[8] focuses on paying off 'priority' debts first, which includes hire purchase agreements.

18. Consumers may be deterred from seeking support as they are worried about credit reporting. With nearly a million consumers having used at least one form of high-cost short-term credit since the beginning of the lockdown period[9], awareness and accessibility of payment deferrals is greatly needed, as consumers are being pushed into products which are not affordable on a long-term basis.

19. Continuing to prevent lenders commencing or continuing repossession proceedings is also crucial in the support that consumers will need after October. With over £500m of council tax having been unpaid during the pandemic[10] and councils needing as much as £6 billion more to cover the costs of coping with the pandemic during this financial year, we are very likely to see a rise in council tax enforcement when bailiffs are allowed to recover debts from 23 August.

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[8] Money Advice Service guide: How to prioritise your debts
https://www.moneyadviceservice.org.uk/en/articles/how-to-prioritise-your-debts#what-are-priority-debts
[9] StepChange: Coronavirus and personal debt, June 2020
[10] Local Government Association analysis, May 2020
https://www.local.gov.uk/coronavirus-certainty-needed-over-ongoing-covid-19-funding-vital-local-services

Debt charities estimate that 1.3 million households are in council tax arrears[11] and with debt collection practices moving quickly in this sector[12], the protections afforded by financial services firms, which are within the FCA's gift to extend, are crucial to ultimately prevent homelessness.

Payment deferrals due to coronavirus should not have a longer term impact on creditworthiness

20. Under our call for the extension of existing temporary support and guidance to 31 January 2021, payment deferrals (and other temporary forbearance) should continue to not have a negative impact on credit files. An impaired credit status can have long term negative consequences for consumers in terms where they access credit and the price they have to pay for it.

21. The temporary guidance allows for lenders to obtain data using alternative methods to assess affordability, for example, open banking. Open banking is intended to empower consumers to have ownership over their data, as well as providing lenders with a more accurate and up to date picture of a consumer's finances. Credit Reference Agency (CRA) reporting however does not provide consumers with the same level of control over their data, and it can have a disproportionate negative effect as it does not take into account wider circumstances, such as consumer engagement with creditors and any commitment to make debt repayments.

22. These unprecedented circumstances should also bring existing mechanisms into question more broadly, therefore even under any amendment or additions to the forbearance rules, we would not want to see temporary forbearance due to the impact of coronavirus be marked in a permanent way. The FCA has an opportunity to address potential unfair outcomes through steps to minimise the harm CRA reporting can cause consumers facing financial difficulties.

Forbearance complaints need to be resolved quickly to prevent unnecessary financial hardship

23. Given the urgent nature of (and expected increase in) forbearance complaints, timescales should be temporarily reduced to enable consumers get the help they need quickly. For example, as highlighted above, consumers who become overdrawn as a result of a lender not properly implementing a payment deferral will need a quick resolution. With many consumers not being able to get in touch with their lender, they are resorting to raising complaints but are then experiencing further delays in these being handled.

24. Making consumers wait up to 8 weeks for a response or resolution in these pressing circumstances is not appropriate and will only exacerbate financial difficulties. There also needs to be a streamlined process for these types of complaints being escalated to the Financial Ombudsman Service, so that FOS can also commit to handle these complaints efficiently.

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[11] According to Citizens Advice, StepChange and the Money Advice Trust, June 2020 https://www.citizensadvice.org.uk/about-us/how-citizens-advice-works/media/press-releases/charities-call-for-council-tax-reform-ahead-of-august-debt-d-day/

[12] If a consumer misses a council tax payment, two weeks after the missed payment the consumer will receive a reminder. If payment is not made within 7 days of the reminder, the council issues a final notice giving a further 7 days to pay before it can apply to the courts for recovery (where consumers will also be liable to pay court and bailiff fees).

About Which?

Which? is the largest consumer organisation in the UK with more than 1.5 million members and supporters. We operate as an independent, a-political, social enterprise working for all consumers and funded solely by our commercial ventures. We receive no government money, public donations, or other fundraising income. Which?'s mission is to make individuals as powerful as the organisations they have to deal with in their daily lives, by empowering them to make informed decisions and by campaigning to make people's lives fairer, simpler and safer.

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August 2020