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Financial Conduct Authority
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6 November 2020

Dear team

I am writing in response to the updated FCA's guidance on payment deferrals and tailored support for consumer credit firms to support consumers in financial difficulty as a result of coronavirus.

We strongly support the extension of payment deferrals as it reflects the ongoing and evolving nature of the crisis. We are pleased that consumers who will need to access temporary support for the first time will now be treated fairly. We are concerned however about the eligibility criteria and the inconsistency with mortgage payment deferrals.

The FCA has stated¹ that consumers who have already benefited from an initial payment deferral would not be eligible for a further deferral if they have since been able to resume payments. This exclusion is however not explicit in the guidance documents. It is also unclear whether an 'initial' payment deferral comprises one lasting 3 or 6 months. If it is the former, we believe that the ability to resume payments should not preclude a consumer from accessing another payment deferral, as they may fall back into temporary difficulty due to a different change in circumstances. This exclusion quite rightly does not apply to mortgage deferrals. There needs to be as much consistency as possible across sectors to minimise the risk of confusion and unfairness among consumers who hold products with multiple providers.

In any case, we note the policy intent expressed by HM Treasury and FCA for consumers to access a 6 month mortgage payment deferral, and we believe this should also apply to consumer credit products. We note from Nikhil Rathi's letter² to the Treasury Select Committee on 4 November that this is the FCA's intention, however it is unclear how this has been enacted in the proposed guidance. The payment deferral guidance is proposed to be disapplied from 31 January, and its provisions only allow for a deferral of up to 3 months to be granted at any time. Therefore we cannot see how a consumer who has not yet needed financial support would be able to access a payment deferral for longer than 3 months. We would like the guidance to be clearer around consumer entitlement to a total deferral period of 6 months.

We support the continued application of the principle that temporary difficulties should not be marked permanently on credit files. We agree that consumers who are in longer term financial difficulties should receive tailored support from their lender, and are likely to need full debt advice.

¹ Consumer credit and coronavirus: additional guidance for firms
<https://www.fca.org.uk/publications/guidance-consultations/consumer-credit-and-coronavirus-additional-guidance-firms-november-2020>

² <https://committees.parliament.uk/publications/3314/documents/31217/default/>



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We have previously raised concerns about the need for forbearance complaints to be resolved quickly to prevent unnecessary hardship, and have provided the FCA with examples³ where consumers have suffered financially as a result of delays. This is particularly crucial given that we have already seen issues with firm capacity. Our recent consumer research⁴ found that 22% of mortgage holders had contacted, or attempted to contact, their lender since the start of the pandemic and 61% of those requested a payment holiday. Of those who had contacted or attempted to contact their lender:

- 56% reported having a problem,
- 29% customers saying they had to wait on the phone for a long time
- 17% left a phone message but didn't hear back
- 12% emailed but also never heard back from their provider

Whilst this research focused on mortgage firms, our concerns around capacity are not limited to this sector. We urge the FCA to consult on a temporary amendment to its rules so that complaints relating to forbearance are resolved quicker than 8 weeks. This will enable firms to identify and streamline cases where there is the most significant risk of harm, and in particular ensure that those who are vulnerable are swiftly and appropriately dealt with.

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

Yours faithfully,

Aileen Lees
Senior Policy Adviser, Money
Which?

³ Which? response to the FCA call for input on ongoing support for consumers affected by coronavirus: mortgages and consumer credit, August 2020

⁴ Which? survey of 3,625 UK adults between 26 June and 13 July (weighted to be nationally representative) <https://press.which.co.uk/whichpressreleases/which-reveals-best-mortgage-lenders-as-coronavirus-hits-customer-service/>