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Submitted online: cp23-21@fca.org.uk

Dear FCA,

**Financial Services Consumer Panel response to CP 23/10
Consumer credit – Product Sales Data reporting**

We welcome the opportunity to respond to this consultation. We are not responding to the questions posed in the consultation paper as they are primarily aimed at industry respondents. However, we believe the proposals in this consultation have the potential to be an important step in the FCA holding firms to account in the consumer credit market and making more data-driven decisions, as per its desire to be a data-led regulator.

The Consumer Duty focusses on firms being able to demonstrate that they have acted to deliver good outcomes for consumers. Overall, this proposed data collection will help to monitor whether this has been done effectively and will allow for a greater degree of scrutiny and data segmentation. So, in summary, the Panel is broadly supportive of the proposals but wishes to express caution about some of the details and highlight other relevant matters:

- **Collecting date of birth (DOB) and postcode together increases the risk of harm to consumers** caused by data misuse (including discrimination) and fraud. For this reason, we would prefer that a unique identifier and/or derivative data (such as age rather than DOB) is used.

We do however acknowledge that postcode data can be aggregated to understand regional variations, such as deciles of deprivation, and this could be used as an indicator of whether firms are lending to their target market (as expected under the Consumer Duty).

- **It is not clear why overdrafts have been omitted from the Product Sales Data (PSD).** If this data is being collected elsewhere then we support the decision to exclude it, but the exclusion is not explained in the consultation document.

- In the consultation it is mentioned that currently there is a regular data collection from High-Cost Short Term Credit lenders (HCSTC) and Home Collected Credit (HCC). **It is not clear whether the frequency of data collection would be better, worse or the same if these two products were absorbed into PSD.** We would want the data collection frequency to at least be the same or enhanced as these products can pose a high level of risk to consumers.
- **The FCA should ensure it fully considers the cost to firms of some its proposals, in comparison to the likely benefit to consumers, as increases in costs are ultimately passed on to consumers.** In particular, we question whether the benefits to consumers outweigh the increased costs of the following proposals:
 - Compelling firms which fall below the £500,000 threshold to continue supplying data for PSD. This may become over-burdensome, particularly for smaller, innovative firms and responsible lenders. Therefore, we recommend the FCA keep under review:
 - Whether the £500,000 limit remains proportionate; and
 - Whether it remains right to keep firms within the reporting regime if they have been below the £500,000 threshold for 2 years running. Where there is evidence of structural change in the market or firm and it is unlikely that the firm would recover to those higher levels of credit supply in the short to medium term, it may be right to exempt them from PSD.
 - Making quicker regulatory decisions based on consumer-level data rather than product-level data. If anything, the level of granularity would mean a much larger volume of data at hand increasing processing and analysis time. So, these benefits depend on the FCA's transformation of its systems and skills that deliver its analytical capability to use data.
 - Collecting data where the credit was not advanced. The consultation mentions that this data may also include where the customer decides not to go ahead. We suggest that the FCA prioritises data on declines (rather than consumer decisions) as this will best allow the FCA to understand and analyse the lenders' decisions not to offer credit. If data on consumer decisions is to be collected, the FCA must be clear that the benefits of doing so outweigh the costs.

We also note here that in terms of borrower data collection the description "borrower characteristics" is used. It is not clear whether this means the same level of detail as proposed

for where loans and credit are granted (i.e. postcode and DOB data). If this is the case, then we refer to our earlier concerns about collecting this type of data.

- Following legal scrutiny, **the FCA should consider signalling to BNPL lenders its intention that PSD will be applied when BNPL products are brought fully into regulation.** This will ensure a level playing field between all lenders and facilitate greater comparison.
- The consultation refers to whether decisions are fully automated or whether there was human intervention. We support this data collection point as it could reveal where AI and other automated means are falling short of complex credit decision making. We would further add that **data should be collated on whether the human intervention changed the automated recommendation.** It is also useful to be reminded that consumers can now insist that their credit decision making is presided over by a human, and it would be useful to understand more about the proportion of consumers exercising this right and for which types of products.
- In paragraph 3.10 of the consultation, the FCA sets out the metrics it proposes to collect which summarise the key drivers of credit decisions. We would remind the FCA of our [recent research](#) which found evidence suggesting **that consumers with protected characteristics experienced bias due to the way financial firms are using personal data and algorithms.** The FCA should use the data it collects to assess whether harm is occurring as a result of firms' use of data in relation to credit decisions.
- **Manual Cash Payment should be added to the list of different payment methods used by consumers** (p.83 of the consultation).
- We would recommend that the **performance and back book data collection needs to extend to debt purchasers** who buy old/under-performing loans. This avoids loans falling outside of the PSD regime simply because a lender sold them. When a debt sale takes place, the performance of the loan and the consumer outcomes become the responsibility of the debt purchaser and it is essential this is monitored.
- One of the reasons given for the inadequacy of the current system to collect this data in an effortless manner is that Qualtrics cannot send out reminders. This tool is well known by one of our panel members and its functionality does allow for the setting up of reminders.

- In page 16 of the draft handbook text, the FCA lists three payment networks. We suggest the addition of American Express and Discover to this list.

In conclusion, the Panel is broadly supportive of the FCA's proposed PSD as long as the cost benefit analysis demonstrates net benefits to consumers, supports the FCA's consumer protection objective and assists in holding firms accountable under the Consumer Duty. We do have concerns about the collection of DOB and postcode together and would prefer an alternative approach of unique identifiers and/or derivative data was taken. That said, we do accept that postcode data when aggregated could provide beneficial regional analysis.

Yours sincerely,

Helen Charlton

Chair, Financial Services Consumer Panel