

FS 20/15 Consumer credit (including overdrafts) and coronavirus: Additional guidance for firms - Feedback on draft guidance

30 September 2020

Contents

1	Summary	2
2	Consumer Credit	6
3	Overdrafts	16

1 Summary

- 1.1 The effects of the coronavirus (Covid-19) pandemic are profound, and have been felt within every industry, affecting millions of consumers and businesses. In the past months, we have intervened to support both consumers and businesses during this period of uncertainty.
- 1.2 This included temporary guidance first published in April 2020 and updated in July (the July Guidance) setting out how we expect firms to support consumer credit and overdraft customers who were facing temporary payment difficulties because of the exceptional circumstances arising out of coronavirus.
- 1.3 For consumer credit customers, this temporary support was primarily through a payment deferral. For overdraft customers, the temporary support was primarily through an interest free overdraft (with further support where needed).
- 1.4 Our guidance was designed to enable firms to act quickly to deliver immediate and temporary support to their customers, at unprecedented scale, as the coronavirus pandemic and the Government's response to it evolved. This temporary support was designed to help consumers bridge the crisis and get back on their feet. It will continue to provide support for those newly affected by coronavirus until 31 October 2020 – with consumers able to apply for an initial or further 3-month payment deferral, or support with the cost of their overdraft, from that date that would last until 31 January 2021.
- 1.5 On 31 July, we published a Call for Input seeking views on what support would be needed by consumers who had already had a second payment deferral under the July Guidance or who were experiencing payment difficulties as a result of circumstances relating to coronavirus once the July guidance was no longer in effect.
- 1.6 On 16 September, we published additional draft guidance for consumer credit firms setting out that:
 - firms should provide tailored support to customers facing payment difficulty as a result of coronavirus
 - this should apply both to customers who have been granted payment deferrals under the July guidance and remain in payment difficulty, as well as those who are affected by coronavirus when payment deferrals are no longer available under the July guidance, and
 - this support provided should reflect the uncertainties and challenges that many customers will face in the coming months.
- 1.7 The draft guidance also set out
 - **the key outcomes that we want firms to deliver** including that:
 - firms have due regard to the interests of their customers and treat them fairly

- customers are treated with forbearance and due consideration
- customers are given sustainable arrangements, taking into account their other debts and essential living costs, which give them reasonable time and opportunity to repay their debt.
- customers are not pressurised into repaying their debt within an unreasonably short period of time.
- customers are protected from escalating debt once they have entered in to a forbearance arrangement with a firm based on what they can afford to pay.
- firms recognise vulnerability and respond to the particular needs of vulnerable customers
- firms have clear, effective and appropriate policies and procedures for dealing with customers in payment difficulties and for those who the firm understands or reasonably suspects to be vulnerable, and have adequately trained staff to provide their customers with the help they need
- customers are allowed time to consider their options and, if necessary, seek debt advice before deciding on the support they take
- customers are referred to debt advice if this is appropriate.
- The guidance also set out **what we want firms to do to deliver effective forbearance** in the current environment, drawing on examples of good and bad practice. This is intended to support firms in delivering fair outcomes to customers affected by circumstances relating to coronavirus.
- Where borrowers require further support from lenders, either at the end of payment deferrals under our July guidance, or where they need support for the first time after payment deferrals are no longer available under our July guidance, this should be **reflected on credit files** in accordance with normal reporting processes.

1.8 We also published draft guidance on 16 September setting out that firms should provide tailored support to customers with arranged overdrafts who continue to face payment difficulties due to coronavirus.

1.9 We wanted to act quickly to protect consumers in these difficult times and provide clarity to firms on the fair treatment of customers unable to resume full payments at the end of a payment deferral. So we did not formally consult on the proposals or produce a cost benefit analysis because the delay would be prejudicial to the interests of consumers. However, we invited comments on our proposals and received 22 responses from consumer organisations, firms and trade bodies. Most respondents supported our proposals. This document summarises the feedback we received on our proposed measures and our response.

1.10 The guidance advances our consumer protection objective and is designed to protect consumers by providing them with ongoing support in the light of the current exceptional circumstances. In developing the policy and considering responses, we have had regard to our consumer protection objective, and our market integrity and

competition objectives, in particular in considering the different impacts on firms of the proposals.

- 1.11 We do not consider our guidance will adversely affect consumers with protected characteristics under the Equality Act 2010.
- 1.12 We are now publishing our **final guidance**, subject to several changes. These include amendments to clarify
 - the scope and application of the guidance on preventing escalating balances
 - the treatment of deferred amounts
 - how firms may put in place sustainable arrangements, including the assessment of income and expenditure and multiple debts
 - how the guidance applies to certain consumer credit products
 - various issues raised in response to our overdraft proposals
- 1.13 We have also made a number of other minor clarificatory amendments principally to address technical comments made by respondents and set out our rationale for retaining the current scope of the guidance.
- 1.14 The guidance affects firms providing consumer credit products within the scope of our July guidance, including overdrafts.

Supporting borrowers beyond 31 October

- 1.15 All respondents to our Call for Input agreed that, once the July guidance ends, firms would need to be flexible and provide a range of short and long-term support to help customers affected by circumstances relating to coronavirus. This flexibility would be particularly important in the case of, for example, further local lockdowns, or in response to changes in employment when the Government's coronavirus job retention scheme ends.
- 1.16 Lenders, their trade bodies and some consumer and debt advice groups felt our draft guidance would provide the necessary support. Other consumer groups, though supportive of the aims of our draft guidance, said we should extend the window for people to apply for a payment deferral under our July guidance beyond 31 October.
- 1.17 We consider that beyond 31 October customers will best be protected by firms providing tailored support appropriate to customer circumstances rather than through further blanket payment deferrals. The final guidance published today sets out in detail what we expect to see, and how we expect firms to take account of, and respond to, the changing environment. The July guidance will therefore expire on 31 October.
- 1.18 Customers who have not yet benefitted from an initial or further payment deferral, or support with their overdraft, can still request this support until 31 October under our July guidance. Customers who have already received support under the July guidance and who continue to face financial difficulty, and those who face financial difficulty due to coronavirus after 31 October, will receive tailored support under our new guidance.

- 1.19 Given ongoing uncertainties arising from the impact of coronavirus, we will keep our position under regular review and will update or amend our guidance, or provide new guidance, if it is required. We will also review this guidance within six months of it coming into effect to determine whether it remains relevant given the coronavirus crisis or whether it needs to be amended, withdrawn or replaced. If we were minded to broaden the application of the guidance beyond the exceptional circumstances arising out of coronavirus or to amend our Consumer Credit sourcebook (CONC), this would be undertaken with full public consultation, and an appropriate cost-benefit analysis.
- 1.20 Monitoring how firms are responding to the changing environment, and the extent to which they are acting in line with our guidance, will also be a supervisory priority.

Next steps

- 1.21 The guidance comes into effect on 2 October 2020.
- 1.22 The guidance applies in the exceptional circumstances arising out of the coronavirus pandemic and its impact on the financial situation of consumer credit and overdraft customers. It is not intended to have any relevance in circumstances other than those related to coronavirus. It remains in force until varied or revoked.

2 Consumer Credit

General

- 2.1 Most respondents agreed that payment deferrals were unlikely to be the right solution for all consumers continuing to face payment difficulties or those newly affected by coronavirus. They agreed it was appropriate for firms to move to providing support that reflected a customer's individual circumstances. As part of this, most respondents agreed that firms would need to consider a range of short and long-term forms of support.
- 2.2 Consumer bodies emphasised the need for firms to be flexible and employ a full range of short and long-term forbearance options to support their customers and minimise avoidable financial distress, stress and anxiety experienced by customers in financial difficulty. This includes firms considering the appropriateness of short term arrangements under which the firm permits the customer to make no or reduced payments for a specified period as a forbearance option.
- 2.3 Many respondents noted that there were significant differences between mortgages and consumer credit, and that it was right for our approach to reflect these differences.
- 2.4 We set out below the key issues raised by respondents and our response.

Preventing escalating balances

Issues raised

- 2.5 Our draft guidance set out that, where a firm was treating a customer with forbearance, the firm should waive, reduce or suspend interest and charges to ensure that the customer's debt did not escalate during the period of forbearance. This built on our existing CONC guidance that firms should consider suspending, reducing, waiving or cancelling further interest or charges in certain circumstances, including where debts would otherwise escalate.
- 2.6 Consumer bodies welcomed the proposal. Some respondents asked when the expectation to prevent escalating balances would begin – for example, whether it would begin when customers advised firms that they intended to seek debt advice.
- 2.7 Industry respondents raised concerns that the proposal would be disproportionate given that some customers who required forbearance after two payment deferrals would, under our July guidance, have already had additional interest accrued during those payment deferrals waived. One industry body raised concerns that the guidance could have a significant financial impact on certain firms.
- 2.8 An industry body asked for clarification on whether our expectation applied in the case of a revolving credit product, such as a credit card, where forbearance was being offered but the customer still has use of, and room to spend on, the credit facility.

- 2.9 One firm asked whether waiving 'loss of interest' charges due at the end of a hire purchase agreement, where interest is front-loaded and no late payment interest is charged, would meet with the FCA's policy intention.

Our response

- 2.10 The intention of our draft guidance was that, where a customer has requested support from their lender, and a repayment arrangement is put in place, the customer's debt should not continue to rise during the period of the arrangement.
- 2.11 We expect the current environment to be characterised by consumers experiencing an increase in temporary but severe difficulties. We want to give borrowers the best chance of being able to address the underlying cause of their financial difficulty and recover their position.
- 2.12 We accept that this could have a financial impact for firms. However, firms are already expected to consider waiving, reducing or suspending interest and charges, in appropriate cases, under CONC. And we anticipate that short-term costs to firms will be at least in part offset by the enhanced prospects of customers recovering their position, thereby reducing the risk of an increase in bad debt. We also understand that this approach reflects a common market practice.
- 2.13 We have amended our guidance to clarify that, where a customer is making payments at a level they can afford, firms are not expected to waive all interest, fees and charges that would otherwise have been applied to the account. Firms will only be expected to waive interest, fees and charges where they have put in place a repayment arrangement, and to the extent necessary to ensure that the account balance does not escalate, where the customer makes the agreed level of payments.
- 2.14 We have also clarified that the amount of interest, fees and charges to be waived may vary from time to time reflecting any changes in the level of payments a customer is expected to make under a repayment arrangement. We have also clarified that this expectation does not apply before a repayment arrangement is put in place.
- 2.15 We recognise that in cases where a customer is still able to borrow on a credit facility firms will not be able to prevent the balance from escalating. Our expectation of firms to prevent escalating balances therefore does not apply where customers are able to access further credit, for example where customers have not reached their credit limit on a credit card or retail revolving credit facility. Our expectations would apply where a customer has borrowed up to their credit limit on the credit facility or where the use of the credit facility is suspended.
- 2.16 Where a firm waives 'loss of interest' charges, and depending precisely on how the agreement works, this can help to meet our intended outcomes.

Scope

Issues raised

- 2.17 Consumer body and lender respondents highlighted that our guidance could result in consumers who are experiencing or who expect to experience financial difficulty as a result of circumstances relating to coronavirus receiving different treatment to those

experiencing payment difficulties for other reasons. They also suggested that, over time, it would become increasingly difficult to determine whether payment difficulties were caused by coronavirus or other factors.

- 2.18 In the light of this and the open-ended nature of the guidance, some suggested that it should be subject to review after a specified period. Other respondents questioned how and when the July guidance would cease to have effect.
- 2.19 Industry respondents also questioned the extent to which the guidance applies to business lending.

Our response

- 2.20 Our expectations set out in the guidance broadly reflect CONC requirements. However, certain specific expectations, including the expectation that firms, as a minimum, waive, reduce or suspend interest and charges to ensure that a customer's debt does not escalate, do go further. We recognise this creates the possibility of different treatment of customers who receive support under our guidance and those who receive support under CONC.
- 2.21 However, our guidance is intended to be read broadly - supporting those consumers who experience, or who expect to experience, payment difficulties because of circumstances relating to coronavirus. This follows the approach we took in our previous guidance, where we have acted quickly in these exceptional circumstances to ensure that this group of consumers is provided with the immediate support they need, without formally consulting.
- 2.22 In practice, we think it likely that many of those consumers experiencing, or expecting to experience, payment difficulties over the coming months will do so because of circumstances related to coronavirus. Those that do not will continue to be protected by our CONC rules.
- 2.23 The guidance will be kept under review and if circumstances change significantly, consideration will be given to any further measures that may be needed to support consumers during the ongoing pandemic.
- 2.24 We will also review this guidance within six months of it coming into effect to determine whether it remains relevant given the coronavirus crisis or whether it needs to be amended, withdrawn or replaced. If we consider broadening the application of the guidance beyond the exceptional circumstances arising out of coronavirus or amending our Consumer Credit sourcebook (CONC), this would be undertaken with full public consultation and an appropriate cost-benefit analysis.
- 2.25 While it is open to firms to adopt different approaches by reference to the nature of a customer's payment difficulties, firms are also free to implement processes in accordance with this guidance for all customers, removing the need to determine whether a customer's payment difficulties are related to coronavirus.
- 2.26 The July guidance will no longer be generally in effect after 31 October. This means that consumers can apply for a payment deferral up until this date. Some of these consumers will have payment deferrals which extend beyond 31 October. The July guidance therefore remains in effect for these consumers to the extent necessary to ensure they are treated appropriately at the end of their payment deferrals.

- 2.27 This guidance supplements the July guidance, so that those in payment difficulties who have had payment deferrals under that guidance and are no longer entitled to further support under that guidance, or others who experience payment difficulties after 31 October as a result of circumstances relating to coronavirus, are provided with appropriate support.
- 2.28 We confirm that the expectations contained in this guidance do not apply to agreements made for business purposes, and have clarified our guidance to this effect.

Treatment of deferred amounts

Issues raised

- 2.29 In our July guidance, we said that payment deferrals provided under that guidance should not ordinarily be treated as arrears for the purposes of CONC during the payment deferral period. Our draft guidance set out that, in certain cases, deferred amounts could constitute arrears under CONC once the payment deferral has ended. Our draft guidance therefore set out specific protections for consumers in relation to those arrears.
- 2.30 Industry respondents highlighted that firms have taken a variety of approaches when giving effect to payment deferrals offered under our July guidance, including contractual variations and other mechanisms. They suggested that the guidance did not sufficiently reflect the different approaches taken by firms, and that there could be operational implications for firms and different outcomes for customers if some approaches were deemed to result in arrears arising whereas others did not. They also suggested that there could be implications for credit file reporting.

Our response

- 2.31 There will be cases where a customer has technically incurred arrears because of a payment deferral. However, the arrears arose in unique circumstances and we do not want consumers to be confused or unduly concerned about any negative implications (in terms of Credit Reference Agency (CRA) reporting or repossession) as a result of those arrears. The draft guidance therefore included specific provisions on how the shortfall is communicated to the customer, how a firm should deal with the shortfall for the purposes of repossession, and CRA reporting.
- 2.32 Our guidance confirms that where arrears have arisen, firms should advise customers that no worsening status has been reported to their credit file in respect of the deferred amounts or the payment deferral period(s).
- 2.33 We recognise that firms have taken a variety of approaches and implemented processes at pace in order to provide appropriate support to customers. We have therefore amended our guidance to take account of this, which also recognises that arrears may, or may not, have arisen depending on the mechanism used to give effect to a payment deferral. We have provided non-exhaustive examples of when arrears may not have arisen. We have also clarified that our expectation in the July guidance to waive certain interest applies irrespective of the mechanism used by the firm to achieve a payment deferral.
- 2.34 We agree that customers should receive consistent outcomes irrespective of the mechanism used to give effect to payment deferrals taken under our guidance. Our

intention is also to ensure that customers are treated appropriately, and that all customers who require further support at the end of payment deferrals are provided with appropriate support.

Credit Reference Agency (CRA) reporting

Issues raised

- 2.35 Most firms and trade bodies, along with some consumer bodies, supported a return to normal reporting to consumers' credit files. However, some consumer bodies opposed this, particularly in cases where firms offer further short term reduced payment arrangements as a forbearance option. These respondents felt that temporary forbearance relating to coronavirus should not be reported to credit files and that this should continue beyond October 2020.
- 2.36 An industry respondent questioned whether, if firms were unable to agree appropriate forbearance with customers because of operational difficulties, they should update the credit file to reflect the forbearance that would have been offered, rather than protect the customer from the reporting of any worsening status during this period.
- 2.37 Some industry respondents also questioned the approach that should be taken to deferred amounts where these were not reflected in future contractual payments and where no other agreement to repay them was reached. They questioned whether firms should be able to report missed payments to credit files in these circumstances. Industry respondents also highlighted that firms would be unable to provide detailed information to customers around how different forbearance options might impact credit scores produced by CRAs, and that information provided to customers should focus on the nature of information being reported to CRAs.

Our response

- 2.38 We recognise the concerns raised by consumer bodies. However, suspending normal credit file reporting was an exceptional temporary measure and we consider that it should not continue indefinitely. Accurate credit reporting is essential to responsible lending and preventing individual over-indebtedness. It is important that firms have confidence in the integrity of the credit reporting system in order to have the confidence to lend in future.
- 2.39 The guidance therefore confirms that, where a customer has had payment deferrals under our July guidance or where a customer receives support after 31 October, firms should report that further support or forbearance as normal on that customer's credit file. The guidance also sets out the broad principles under which we consider normal credit reporting should resume once payment deferrals taken under the July guidance come to an end. This includes that we expect future reporting to resume from the 'frozen' status.
- 2.40 Where firms are unable to agree appropriate forbearance with customers because of operational difficulties, we do not think it is appropriate for credit files to be retrospectively amended to reflect the forbearance that would have been offered at that time. As set out in our guidance, no worsening status should be reported to

credit files during this period, which we would not generally expect to relate to more than a single monthly payment.

- 2.41 We agree that information provided by firms around the potential credit file implications of different forms of support should focus on the nature of information being reported by firms to CRAs. We do not expect firms to provide detailed information on the likely impact on credit scores produced by CRAs or on how credit files may be seen by users in future. However, firms may wish to consider signposting customers to relevant guidance and support, including that provided by CRAs, where appropriate.
- 2.42 We recognise that payment deferrals taken under our guidance may give rise to scenarios that are not specifically catered for by normal reporting processes, including in relation to the treatment of deferred amounts. However, we consider that the principles set out in our guidance provide the appropriate framework for the resumption of normal credit reporting. As set out in FS 20/14, we will continue to work with CRAs and industry to address any issues that arise to ensure that consumers receive fair and consistent outcomes.

Reviewing previous approaches

Issues raised

- 2.43 Some industry respondents questioned the extent to which firms would be expected to review and revisit forbearance arrangements put into place prior to the guidance coming into effect. They highlighted that reviewing individual customer outcomes would be disproportionate and potentially confusing for customers if changes were made to arrangements already put in place.
- 2.44 Industry respondents also wanted clarity on what level of monitoring and review of arrangements we expected for repayment arrangements provided under our draft guidance. Some firms argued that they should be able to rely on their existing processes for reviewing arrangements.

Our response

- 2.45 We recognise that many customers will have come to the end of payment deferrals taken under our July guidance before our new guidance comes into effect, and that firms may have already provided various forms of further support to customers in line with their usual forbearance processes. While we do expect firms to review their approach to such customers, we acknowledge that to do so on an individual basis may be unduly burdensome. Firms may therefore consider their overall approach with a view to assessing whether it is broadly in line with the expectations in this guidance. We would expect firms to make changes to arrangements already put in place where outcomes are likely to materially differ from these expectations.
- 2.46 We expect firms to ensure that arrangements remain sustainable. In the current environment, customers' circumstances may change more quickly than they would otherwise. Arrangements are therefore likely to require more regular monitoring and

review. If a firm intends to rely on its existing processes, it will need to satisfy itself that they are sufficient.

Automation

Issues raised

- 2.47 While there was broad support for firms to be able to adopt streamlined and automated processes to deal with significant customer volumes, some consumer bodies highlighted concerns around the extent to which firms may rely on automated or digital processes, particularly where customers are more vulnerable or have unusual or complex financial circumstances.

Our response

- 2.48 We recognise that firms may wish to automate processes to meet the challenge of many customers needing help at the same time. Firms are responsible for ensuring that all customers get fair and appropriate outcomes, irrespective of the channel of engagement, and should have appropriate systems and controls to ensure compliance with our guidance or CONC.
- 2.49 However, we agree that there may be heightened risks to customers in the current circumstances, in particular where they may be vulnerable or have complex financial circumstances. We have therefore amended our guidance to clarify that firms should ensure there is the possibility of manual intervention, (rather than the process being conducted entirely online), for example for the most complex cases or where it is necessary to cater for the particular needs of vulnerable customers. Where a customer wants to use a non-digital channel, the firm should allow them to do so.

Sustainable arrangements

Issues raised

- 2.50 Respondents broadly welcomed our expectations that firms provide sustainable arrangements but highlighted several issues relating to the assessment of income and expenditure. These included the definition of priority debts and how firms should determine a proportionate share of disposable income.
- 2.51 Industry respondents questioned whether firms would always be required to accept repayment arrangements proposed by customers, and highlighted operational limitations that may prevent the provision of income and expenditure information to third parties. Consumer bodies highlighted the potential for poor outcomes where customers proposed repayment arrangements that were accepted by firms without an assessment of income and expenditure. They suggested that customers may not always be in a position to make realistic and sustainable proposals.

Our response

- 2.52 We have amended the guidance to clarify a number of these matters. We have set out in more detail the factors that firms should consider when assessing priority debts, including in relation to secured goods. We have also clarified that firms may choose an appropriate basis to determine a proportionate share of disposable income, for example through reference to the total outstanding balance or the

contractual monthly payment, and take into account any preferences of the customer.

- 2.53 We do not expect firms to always accept repayment proposals made by customers. Where firms do wish to refuse proposals, however, they should only do so where they can demonstrate that the customer can afford to make a higher repayment that is sustainable based on an objective assessment of income and expenditure. However, we have amended our guidance to clarify that firms are also able to refuse proposals where the customer has failed to engage with the firm in a reasonable way to enable the firm to make such an assessment.
- 2.54 We recognise that not all firms may be able to provide income and expenditure information to customers due to operational limitations, and that this information may not necessarily be sufficiently fulsome or in a form that could be relied on by third parties. However, we still consider that there are benefits to this information being shared wherever possible. We have amended our guidance to clarify that firms are only expected to share this information where systems permit, and that firms are not expected to rely on information collected by third parties when undertaking income and expenditure assessments.
- 2.55 We agree that, where firms accept repayment proposals made by customers without undertaking an assessment of income and expenditure, there is a heightened risk of such arrangements being unsustainable. We expect firms to monitor such arrangements to ensure that they are sustainable, and have amended our guidance to clarify that where there are evident signs that the arrangement may be unsustainable, firms should put in place a sustainable arrangement on the basis of an objective assessment of income and expenditure. We have also set out that firms should contact these customers within 60 days to confirm that the arrangement remains sustainable and make it clear to customers that they can contact the firm to request a review of the arrangement at any time.

Repossessions

Issues raised

- 2.56 While the July guidance is in effect, we expect firms to refrain from repossessing consumers' goods and vehicles except in specified circumstances. Our draft guidance sets out the standards we would expect from firms considering repossession once the July guidance was no longer generally in effect. Respondents raised several specific issues, particularly in relation to vehicle repossessions. A consumer body felt that firms should be prevented from repossessing for a longer period, particularly during any national or local lockdowns. Some industry respondents argued that only 'reasonable' forbearance options should be considered prior to taking possession.
- 2.57 One firm suggested that, in addition to instances where all forbearance options had been considered, repossession could also be appropriate where attempts to engage with the customer have been exhausted.
- 2.58 Our draft guidance set out that firms should not take possession of goods where the customer was self-isolating or subject to lockdown. One firm did not think this was appropriate if 'Covid-safe' processes are used. Another was concerned that customers could avoid repossession without providing evidence of the need to self-isolate.

Our response

- 2.59 The final guidance sets out what we expect from firms considering repossession after 31 October. We accept that preventing repossession of a depreciating asset where there is no realistic prospect of a customer recovering their position will lead to further harm due to equity erosion. However, our guidance is intended to ensure that repossession is a last resort. We do not think allowing firms to only consider 'reasonable' forbearance options will have any practical effect – firms would still need to be able to demonstrate why they have considered particular options to be unreasonable. We have therefore not changed our guidance in this respect.
- 2.60 We have amended the guidance to allow firms to commence repossession where a customer is not engaging. However, firms should take all reasonable steps to get the customer to engage.
- 2.61 We have also amended the guidance to allow repossessions where the firm is able to follow relevant public health guidelines in the event of a lockdown. We expect firms to take an approach aligned with our expectations of the fair treatment of customers under Principle 6, including taking account of any relevant customer vulnerabilities, for example in considering how to treat a customer who is shielding.

Product-specific issues

Credit cards

- 2.62 As part of the July guidance we dis-applied CONC 6.7.5R(1) which requires firms to set a minimum repayment amount equal to at least the interest, fees and charges that have been applied to the account, plus one percentage of the amount outstanding. Some industry respondents requested this rule disapplication be continued as they felt that it would allow firms flexibility in how to deliver further support as it would allow for a clearer customer journey, particularly as customers would not be sent notices of sums in arrears (NOSIAs).
- 2.63 We have not continued the disapplication of this rule as we do not consider that it prevents firms from delivering appropriate support under the guidance. As we set out in the July guidance, where a firm considers that NOSIAs risk confusing the customer, the firm should provide contextual information to reduce that risk.
- 2.64 If firms find compliance with CONC 6.7.5R(1) unduly burdensome they can apply for a waiver or modification under FSMA s138A.

Buy-now pay-later (BNPL)

- 2.65 The guidance is only relevant to BNPL agreements where these are not in a promotional period, although we have reminded firms that they should continue to follow the July guidance where applicable. The expectation to waive interest, fees and charges under the no escalating balance policy does not apply to interest or charges payable in respect of the promotional period.

Voluntary terminations (hire purchase and conditional sale)

2.66 Some industry bodies felt it would be impractical for firms to present individualised information on the legal liabilities arising from voluntary terminations compared to repossession. We have amended the guidance to make clear that firms should present information that is clear, fair and not misleading and which enables the customer to make an informed decision.

3 Overdrafts

- 3.1 Respondents agreed with our proposed approach that firms should be preparing to move back to providing their customers with the tailored support that we would normally expect.
- 3.2 Consumer bodies welcomed the guidance on delivering good forbearance in the current environment. CRAs were also supportive of the guidance and emphasised the importance of transparency and clear communication by lenders with consumers regarding information being reported to CRAs.
- 3.3 We set out below the key issues raised by respondents and our response.

Differentiated customer treatment

Issues raised

- 3.4 An industry respondent highlighted that customers might receive different treatment and outcomes based upon the perceived causation of their financial difficulties. They also suggested that the guidance could inadvertently set an expectation that firms develop additional repeat use triggers specific to those customers who are impacted by coronavirus.

Our response

- 3.5 We do not expect firms to amend their repeat use triggers specifically to identify customers who have received temporary support under our July guidance but who have not responded when firms contact them at the end of that support. We expect firms to continue to pro-actively identify and contact all customers experiencing financial difficulty, including because of circumstances relating to coronavirus, through effective repeat use strategies in accordance with CONC 5D. Where a firms' repeat use strategy identifies a customer who has previously benefited from support under the July guidance, this contact should begin as soon as reasonably possible after the expiry of that support.
- 3.6 CONC 5D.4 requires firms to monitor and review their repeat use strategies and update or adjust them as appropriate. The current crisis will have financial impacts on many borrowers and we expect firms to be reviewing their strategies and triggers to reflect that. This will help ensure that firms are able to identify and support all overdraft customers who display signs of actual or potential financial difficulties, including as a result of circumstances relating to coronavirus.
- 3.7 For example, we would expect that firms who have assessed a customer's pattern of overdraft usage over a 6-month period would look to significantly shorten further review periods, to reflect that customers can move into financial difficulty over a very short period.
- 3.8 We do not expect the guidance to result in differentiated treatment for customers, as the forbearance options we expect firms to provide customers under the guidance reflect those that are set out in CONC 5D.

Firms' operational difficulties

Issues raised

- 3.9 A consumer body sought clarification on the approach firms should take where they are experiencing operational difficulties and are unable to consider the customer's individual circumstances. They also asked whether customers had to specifically request the provision of interest free, or reduced cost, overdrafts in these circumstances.

Our response

- 3.10 Where a customer experiencing financial difficulty as a result of coronavirus requests assistance from their lender, and the firm is not in a position to consider the individual circumstances of the customer at that point in time, then they should provide an interest free, or reduced cost, overdraft to the customer.
- 3.11 The customer does not need to have specifically requested interest free, or reduced cost borrowing. We expect that this help with the cost of overdraft borrowing should remain in place until the firm is able to consider the customer's individual circumstances and offer appropriate forbearance.

Delivering good forbearance

Issues raised

- 3.12 An industry body sought further clarification on a number of issues relevant to forbearance options, including the provision of information and refinancing arrangements.

Our response

- 3.13 We set out below our response to these issues.
- Provision of information - discussing a range of options – a firm is not required to provide to customers details of options that the firm does not believe are appropriate to the customer's situation.
 - Provision of information- record keeping – where firms have not offered forbearance options as detailed in the guidance, we would expect the firm to keep a record of why this is the case and why it deemed the chosen course of action appropriate.
 - Provision of information - display of total cost of credit – display of total cost of credit is applicable only to forbearance options involving a refinancing loan. Total cost of credit is not applicable to a repayment plan, as usage of the overdraft facility will fluctuate.
 - Refinancing to an alternative product 'on more favourable terms' – Our guidance outlines the forbearance options firms can provide when appropriate to do so and refers to 'transferring the overdraft debt to an alternative credit product on more favourable terms'. This terminology is consistent with that used in CONC 5D and will depend on the specific circumstances of each customer.

- Reducing or waiving interest - Our guidance sets out that reducing or waiving interest will often be an appropriate solution for many customers. It does not follow that the solution must be applied to all overdraft customers experiencing financial difficulty. Our expectation remains that firms will offer a customer a forbearance option, or options, which it has identified as appropriate to the customer's individual circumstances and get the customer's agreement to it. We have made minor amendments to the guidance to clarify this.

Reduction or removal of overdraft limits

Issues raised

- 3.14 Consumer bodies reiterated previous concerns that firms may look to reduce or remove overdraft limits from customers who are in financial difficulty.

Our response

- 3.15 CONC 5D.3.2 R (5)(7) sets out that firms should not reduce the credit limit or suspend or remove the overdraft facility of a customer if that reduction, suspension or removal would cause financial hardship to the customer. We restated this requirement in our July temporary guidance and have done so again in our final guidance.

Firms' commercial interests

Issues raised

- 3.16 A consumer body suggested we include in our guidance a provision that when a firm is considering refinancing and what is in a customer's best interest, it should not have regard to its own commercial interest.

Our response

- 3.17 We have amended the final guidance to make clear that when determining whether refinancing is in a customer's interest, a firm should not have regard to its own commercial interests.