FS20/5: Coronavirus and customers in temporary financial difficulty: guidance for insurance and premium finance firms

14 May 2020

Contents

1 Summary

1.1 On 1 May 2020 we published draft guidance for insurance and premium finance firms on the fair treatment of customers in temporary financial difficulty as a result of coronavirus (Covid-19). This was subject to a short consultation period which closed on 5 May. This document summarises the feedback we received on our proposed measures and our response.

1.2 In the guidance, we explained that in order to act quickly to protect consumers we would not publish a formal consultation on the proposals or produce a cost benefit analysis. We considered that the delay in doing so would be prejudicial to the interests of consumers. However, we invited comments on our proposals and received 59 responses from interested stakeholders including firms, trade bodies, consumer groups, charities and individuals.

1.3 The majority of respondents supported the proposals. Some firms set out that the draft guidance reflected measures the insurance industry was already taking to support customers, such as premium reductions, discounts, waiving fees, and payment deferrals. We welcome these steps already taken by the industry to support consumers at a difficult time.

1.4 Many noted the flexibility provided through guidance rather than rules, which some felt was appropriate for providing urgent support to customers, and our approach of asking firms to work together to deliver good outcomes for customers.

1.5 Consumers, consumer representatives and businesses were also supportive as they felt that they would benefit from the actions we suggested firms should take to support those in temporary financial difficulty.

1.6 Some respondents asked for clarification on the intent of the draft guidance. Others were concerned that measures such as payment deferrals may lead to poor outcomes for both firms and consumers. We have taken the responses into account in finalising the rules and guidance, as set out below.

1.7 These rules and guidance support our consumer protection objective and are designed to protect consumers by providing them with temporary support in the light of the current, exceptional circumstances from coronavirus. We do not consider that they will adversely affect consumers with protected characteristics under the Equality Act 2010.

1.8 We are now publishing our finalised rules and guidance, subject to a small number of changes. These include amendments to:

- clarify that firms don’t have to consider an interest rate revision as a prerequisite to offering a payment deferral
- provide flexibility for firms to offer a payment deferral period of between 1 and 3 months
- clarify how the guidance applies to different types of insurance contract and customer

1.9 The rules and guidance affect a range of firms including:

- insurers
- insurance intermediaries (including appointed representatives)
- premium finance lenders that provide credit to fund the payment of insurance premiums in instalments
- premium finance brokers that carry on regulated activities relating to credit granted for the purposes of financing insurance premiums in instalments
- debt collectors
- other firms that may be involved in insurance arrangements and/or in relation to the provision of premium finance

1.10 The guidance and rules come into effect on Monday 18 May.

Next steps

1.11 The guidance, along with the related guidance on mortgages and credit, will ensure customers get support when experiencing temporary financial difficulties because of coronavirus. It is vital that, at the end of this period, customers have access to the support they need, and are clear on the options available to them. Customers should be able to request a payment deferral at any point during the period up to 18 August 2020 while the window for requesting a payment deferral is open.

1.12 We will review the guidance within 3 months of it coming into effect in light of developments around coronavirus to assess whether it is still needed.

2 General issues

Application: Eligibility of customers

2.1 In the draft guidance, we explained that the elements of the guidance that applied only to insurers and insurance intermediaries would be relevant to customers who fall within the scope of being 'eligible complainants' as defined in DISP 2.7.3R. This includes natural persons and small business customers. However, the guidance on premium finance agreements only applies for retail customers and does not extend to lending for business purposes.

2.2 Firms asked for greater clarity on which customers would be eligible to receive help as set out in the draft guidance. One noted that the terms 'consumer' and 'customer' were used interchangeably, which caused confusion.

2.3 Firms serving businesses also said there was a discrepancy where some types of business insurance could benefit from the insurance elements of the draft guidance but not those relating to premium finance. This meant that the phased approach of assessing cover before considering interest freezes or payment deferrals could not be offered in full here.

2.4 One insurer argued that business customers should not be included as this increases the liquidity risks to smaller insurers.

2.5 Some respondents asked how they should determine whether a customer is in financial distress and asked whether we could include eligibility criteria (eg people made redundant or with health issues).

Our response

2.6 We have made amendments to the guidance to clarify that we are largely referring to 'customers' rather than consumers. As we explained in the draft guidance, the sections of the guidance relating to premium finance credit agreements are not intended to capture lending for business purposes. This is the case even when the lending for business purposes is within scope of the regulated credit regime, such as non-exempt lending to a sole trader.

2.7 Our approach to exclude lending to business customers is consistent with the approach in our guidance on providing temporary support for consumer credit consumers experiencing financial difficulty as a result of coronavirus. However, we remind firms that the Principles for Business, including the obligation to treat customers fairly, applies to all business customers within the scope of the consumer credit regime. Firms may, therefore, still find the premium finance sections of the guidance helpful when considering how to comply with the Principles in relation to businesses.

2.8 We consider that the insurance elements of the guidance should apply to all customers who would be 'eligible complainants' under DISP 2.7.3R including small businesses. We expect that there may be significant impacts to both natural persons and small businesses that insurance firms can help with, such as reviewing cover. Many respondents were in favour of the inclusion of these customers.

2.9 We have not amended the guidance to include criteria on what constitutes a customer suffering temporary financial difficulties as a result of coronavirus. Firms may want to use their own criteria, but we do not intend to be prescriptive. We suggest firms provide support at the first signs of financial difficulty and make it easy for customers to access support when they ask for it.

Application: Insurance products

2.10 Some respondents asked which types of insurance contracts were within scope of the draft guidance. In particular, they asked whether investment based insurance products and re-insurance contracts were included.

2.11 There were also questions on how the guidance applies to pure protection contracts. This was particularly the case with regard to payment deferrals, where the product is structured on an ongoing monthly basis with premiums paid in advance for each month a customer is on-risk.

2.12 Respondents also asked whether cover should be maintained for pure protection contracts where payment deferrals are offered. They felt this could lead to costs and risk for firms where a customer is on-risk without a premium payment being made for this cover. Some respondents argued that this could be exploited where customers have no incentive to make payments at a later date where no risk events occurred. Alternatively, customers may not be able to make up shortfalls at the end of a deferral period. Some suggested that firms could stop or reduce cover where payment deferrals are required.

Our response

2.13 We said in the draft guidance that it would apply to non-investment insurance contracts, which include both general insurance and pure protection contracts. We do not consider it appropriate to extend the scope of the guidance to include investment-based insurance contracts or re-insurance. These products have different features and serve different target markets, and so have different regulatory protections in place. However, firms providing these contracts should consider what is required when dealing with customers who are in financial difficulties. They may want to consider providing support to customers in line with the guidance should they wish to.

2.14 We recognise that some insurers may be obliged to continue to pay premiums under contractual reinsurance arrangements while providing payment deferrals to their own customers. We note that the level of reinsurance varies across general insurance markets and product lines. Where such reinsurance arrangements are in place, we encourage firms to work together to agree an approach that ensures customers are supported in line with the guidance.

2.15 We have amended the guidance to make clearer how we expect firms to act to support customers of pure protection contracts. One of the objectives of the guidance is to ensure customers still have access to insurance that meets their needs. So, firms should consider carefully whether it is in the interests of customers to cancel cover even where a payment deferral is in place as a result of temporary financial difficulties from coronavirus. Firms will need to identify how they are able to deliver fair outcomes for affected customers and whether it is better to provide customers with a temporary limitation or suspension of cover when considering what options are available for the customer. We would urge firms to prioritise that customers have appropriate insurance in place.

2.16 We note firms' concerns around customers failing to make up payments for time on-risk which has elapsed without a claim event, and that this could increase the default rate at some cost to firms. However, we do not think this should be an impediment to offering payment deferrals and other measures, and that firms should consider the customer's best interests.

Identifying customers in need of assistance

2.17 In the draft guidance, we set out that firms should act to provide assistance where:

- customers contact the firm about temporary financial difficulties caused by coronavirus, or
- where a firm has reasonable basis for knowing, or has identified that there are customers who are suffering financial difficulties even where those customers have not contacted the firm

2.18 Some industry respondents were concerned that this placed a broad obligation on firms to proactively contact customers who may be vulnerable. They felt we should instead only expect firms to help where customers have contacted them to raise issues, given the operational challenges firms currently face in handling queries and other customer-facing issues.

2.19 Some consumer bodies argued that firms should be proactive in engaging with vulnerable groups, and signpost to relevant external support resources.

2.20 One insurer asked whether firms had to take steps to support customers or make changes to their policies without having spoken to them, eg in the event of missed payments.

2.21 One firm questioned who should be responsible for identifying and engaging with customers where insurance arrangements include multiple parties, eg insurers, lenders and brokers.

2.22 Some firms asked how we wanted them to communicate with customers to highlight that support was available for those in temporary financial distress associated with coronavirus. One firm also questioned whether it was necessary to set out in communications all the types of assistance which may be available.

Our response

2.23 This guidance is designed to ensure that customers in need of support in relation to temporary financial difficulties resulting from coronavirus can get it. But we have sought to strike a balance to avoid overburdening firms with an expectation to take very challenging measures given current demands on resources, and could even divert support from those in greatest need. We note firms' concerns that given the transactional nature of insurance the data available on vulnerability or risk of financial distress may be limited.

2.24 In response to this feedback we have amended the guidance. We now clarify that we are primarily concerned that firms provide support to customers who contact firms with issues or those that have missed payments since the Government introduced the lockdown period. In our view, this ensures that those that are in greatest need of support or forbearance can access it while enabling firms to take a proportionate approach in response to coronavirus. However, firms can still take steps to proactively engage with customers who do not meet these criteria who they suspect may be in financial difficulties if they see this as appropriate, and signpost to external support if this is necessary.

2.25 We do not consider it appropriate for firms to make changes to a customer's account or undertake forbearance measures where the firm has not had a dialogue with that customer. We want firms to work with customers to establish a solution which is in the customer's best interests.

2.26 Where there are multiple firms involved in the provision of insurance arrangements to a customer we do not want to be prescriptive as to which firms are responsible for engaging with those customers. The extent of customer interaction will depend on the commercial arrangements between firms. However, we want to see firms working together across the distribution chain to ensure customers are treated fairly and given the support they need.

2.27 Firms should make clear that support is available eg through advertising on websites. But we do not consider it necessary to be prescriptive on how firms should do this, or that firms should set out the specific types of support which may be available. Our priority is ensuring that firms communicate that support is available clearly and effectively.

Impacts on firms - systems constraints and implementation challenges

2.28 Some firms and trade bodies highlighted the difficult operational challenges presented by the guidance, including the need to implement manual workarounds to existing processes in a very short timescale. In particular, they raised concerns about how payment deferrals could be reflected in their systems.

Our response

2.29 We acknowledge the challenges firms may face in implementing changes to customers' policies and payment arrangements, while welcoming the actions taken by firms in overcoming these to support customers since the coronavirus outbreak. We consider that our approach in the guidance provides firms with some flexibility on the support they provide affected customers, reflecting that firms will have different capacity to take measures. The responses to the draft guidance were not consistent in suggesting that any particular action in the guidance would be challenging for firms to take, so we are not removing any of the suggested actions on this basis. We want to enable firms to implement options that suit business models and systems infrastructure to get support to customers quickly, rather than being prescriptive.

2.30 Wherever possible, we have sought to ensure that the guidance enables processes that can align with firms' existing systems. If a firm does not think it can implement appropriate processes in time, it should contact us at the earliest opportunity.

Impact on future pricing

2.31 A small number of firms highlighted that the measures set out in the draft guidance could result in increased premiums for the wider customer base, eg where insurance is provided by mutual societies.

2.32 One firm also suggested that customers should pay higher premiums at renewal as a result of receiving a payment deferral.

Our response

2.33 We do not think that these concerns outweigh the need to provide support to customers in temporary financial distress because of coronavirus. Firms will need to consider our rules when considering product level issues in future, including on the level of product value when assessing pricing. We also note that while payment deferrals may mean a delay in receiving a premium, it's likely that many customers will make up these repayments in due course.

Timing and implementation

2.34 We received a number of questions and observations about implementing the guidance.

2.35 One respondent asked why we are issuing guidance when the government may be in the process of lifting the lockdown, meaning customer circumstances may be returning to normality.

2.36 Some industry respondents requested clarity on the legal status of the guidance and our supervisory approach given the tight timeframes for implementation.

2.37 One firm requested that we be transparent that the guidance is temporary and that we set out the criteria we will use to determine whether the guidance should be left in place or removed.

Our response

2.38 We expect customers' individual circumstances will be affected by the pandemic for some time to come, including whether they have the same need for insurance cover and experience payment difficulties. We want to act quickly to ensure customers are protected as soon as possible. Firms should work with customers to ascertain the best outcome for them and come to a solution in their best interests.

2.39 The guidance sets our expectations of how firms can treat customers in temporary financial difficulties resulting from coronavirus fairly and meet other obligations set out in our rules during this unprecedented time. It may be relevant in enforcement cases, and we may take it into account when considering whether it could reasonably have been understood or predicted at the time that the conduct in question fell below the standards required by Principle 6 (if this happens).

2.40 However, we recognise the need to take a pragmatic approach to supervision, recognising that firms may face challenges in trying to support customers. Our priority will be ensuring that firms are taking steps to reach the right outcomes for affected customers.

2.41 The guidance is temporary and we will review it within 3 months of its implementation date.

3 Reviewing insurance cover

General feedback

3.1 Most respondents welcomed the proposed guidance on the actions firms could take to review their customers' insurance cover.

3.2 In the guidance, we said that firms should consider taking actions for all products that a customer holds with the firm. One firm requested greater clarity on this point, as reducing cover may not be appropriate for all product lines.

3.3 One respondent said we could further clarify our intent by including additional examples. For instance, that vehicle cover could be reduced from fully comprehensive to third party fire and theft where customers are currently unable to drive.

3.4 One consumer argued that we should urge firms to consider reviewing certain conditions for cover (eg home occupancy requirements)

Our response

3.5 We welcome the feedback on this element of the guidance. We have amended the guidance to include an additional example and clarified the language around the need to take action for all products where appropriate.

3.6 On reviewing conditions for cover to be provided (eg home occupancy requirements) we have previously issued guidance stating that where access is required as part of the terms of a policy, we expect insurers to treat customers fairly. For example, by taking account of a customer's temporary change in how they access premises.

Underinsurance

3.7 Some respondents thought that the guidance should be clearer in setting out that customers exercise caution in assessing their insurance needs and should be careful to ensure that they still have the cover they need

Our response

3.8 Ensuring consumers still have essential cover that meets their needs is a key objective of the guidance. We have amended the guidance to make this clearer. We also state in the guidance that firms should be cautious not to encourage customers in financial difficulties to cancel essential cover and this is a factor they should consider in assessing the appropriate support to provide.

Returns of premium

3.9 One respondent noted that reviewing cover may only result in modest returns of premium where most personal insurances (home, some level of motor) may need to remain in place.

3.10 One insurer asked if it was our expectation that firms provide a pro-rata refund for the remaining period of cover where premiums are reduced.

Our response

3.11 We note that while some customers may see material benefits from reduced or returned premiums where firms re-assess their cover, for some customers this will be less significant. Our intent is that a review of cover is part of a package of many things that firms can consider doing to support customers in temporary financial difficulties associated with coronavirus. Where reviewing cover does not alleviate these issues, or address them in the best way for a customer, firms can consider other measures such as payment deferrals.

3.12 We do not intend to be prescriptive on how firms refund any premiums lowered as a result of a reduction in cover. Firms should take a proportionate approach and consider what will be in the best interests of the customer. For example, if an immediate, one-off refund can be provided this may provide more immediate relief for the customer's financial difficulties.

Where to reduce cover

3.13 Another industry respondent argued that firms should only review and reduce cover where benefits cannot be realised under the policy, in line with our product-level guidance for insurers.

Our response

3.14 For customers in acute financial difficulties we think it is appropriate that firms consider with the customer whether there has been a change in the risk or insurance needs given their changed personal circumstances. If so, they should consider if revising the cover or the customer switching to another product would deliver an appropriate outcome. If a benefit can no longer be provided under a policy, this should also be considered in assessing what action needs to be taken at product level. This includes if there should be a change in, or rebate of, the product premiums.

Deduction of premium from claims pay-outs

3.15 One respondent asked if a customer made a claim during a payment shortfall whether firms could deduct outstanding premiums from any payment due to the customer.

Our response

3.16 Where a claim is made on a policy during a deferral period or where other forbearance measures are in place firms can deduct outstanding premiums owed from sums due to the customer. This is provided this is consistent with their obligations to treat customer's fairly and act honestly, fairly and professionally in the customer's best interests. This is in line with current practice. This applies to all insurance types and we have amended the guidance to reflect this.

Support for customers paying annually

3.17 Some respondents asked how the guidance applies to customers who have paid their premium annually. One insurer argued that where customers have paid for a year of cover they shouldn't be given any refund associated with a reduction in cover and should instead focus on reducing their outgoings. One insurer asked if annual or quarterly premiums could be refunded if a customer requests a deferral.

Our response

3.18 We expect that firms should be considering what steps they can take for customers that contact firms who have paid for a policy on an annual basis but who have subsequently fallen into financial difficulties. This includes what is set out in the guidance on reviewing cover and the potential to provide for partial refunds of the premium. However, we do not expect firms to provide payment deferrals in these circumstances. For customers approaching renewal it may be appropriate to discuss with the customer switching to a monthly payment plan, and firms may also offer payment deferrals for such customers where appropriate.

4 Premium finance

4.1 Respondents broadly supported our intention to provide exceptional and immediate relief for premium finance customers facing payment difficulties from coronavirus.

4.2 In this chapter, we set out the main points raised about our draft guidance on premium finance and our response.

Interest rates review

4.3 Our draft guidance set out our expectation for firms to consider reviewing interest rates for premium finance customers, and only consider granting a payment deferral if the customer was still in payment difficulties despite the interest rate revision and possible reduction.

4.4 Many respondents argued that reviewing and amending interest rates is unlikely to produce material savings for customers but implementing the process may have a significant cost to firms. A few suggested that, in contrast, offering payment deferrals, reduced repayments or other forbearance measures would be more beneficial to customers in temporary payment difficulties from coronavirus.

Our response

4.5 Given this feedback, we have amended the guidance to the effect that firms do not have to consider an interest rate revision as a prerequisite to offering a payment deferral or other forbearance option.

4.6 We consider that customers in temporary payment difficulties may still benefit from an interest rate reduction where possible, following an interest rate revision. So, the guidance still sets out our expectation for firms to consider reviewing interest rates to ascertain whether they are treating customers fairly in light of the current exceptional circumstances. But this should be done as part of a holistic assessment, not mandated as sequential steps.

Payment deferrals

4.7 We received a variety of comments on payment deferrals. Some respondents asked for clarity on whether the deferral period could be anything between 1 to 3 months or a minimum of 3 months. Some asked us to limit the deferral period to 1 month as any longer could leave customers with an unmanageable amount of debt.

4.8 However, several consumer representatives argued that a minimum of 1 month would be too short to help relieve financial pressure. They felt that the deferral period should be extended to a minimum of 3 months. Other respondents including lenders, brokers and insurers were concerned that a 3-month deferral period is too long, given the typical length of a premium finance credit agreement.

4.9 Some respondents asked whether firms would be required to waive interest if the customer was entitled to forbearance at the end of the payment deferral period.

4.10 Several respondents felt our guidance is confusing as firms do not need to grant a payment deferral where it obviously would not be in a customer's interest. But the guidance does not compel firms to investigate individual customer circumstances, which could be necessary to determine whether a deferral is in their interest. Some argued that there may be some situations where an assessment of a customer's circumstances would be necessary, including of their expenditure.

4.11 Some industry respondents asked for clarity on whether customers experiencing payment difficulty before the pandemic, but exacerbated by it, would be entitled to a payment deferral. One respondent asked what sort of engagement we require when we say firms should use the deferral period to engage with their customers to understand the likelihood of their being able to resume payments at the end of the deferral period.

4.12 We know that some firms are already offering affected customers payment deferrals. We were asked whether they would be required to offer a further payment deferral once our guidance comes into force.

Our response

4.13 Our primary goal is to give customers experiencing temporary payment difficulties from coronavirus immediate relief from repayments to help them manage their wider financial situation during this time.

4.14 We have amended the guidance to be clearer around the expectations on firms in granting payment deferrals. The exceptional nature of the current circumstances means that firms should provide support at the first signs of financial difficulty and should make it easy for customers to access support when they ask for it. For that reason, when a customer wants to receive a payment deferral, a firm should grant this unless the firm determines (acting reasonably) that it is obviously not in the customer's interests to do so.

4.15 There is no expectation under the guidance that the firm makes enquiries with each customer to determine the circumstances surrounding a request for a payment deferral, or whether this is not in the customer's interests. However, the guidance does provide flexibility in determining the payment deferral period of between 1 and 3 months (or longer should a firm so choose) that is appropriate. Firms can consider the payment deferral period that is in customers' interests at a book/cohort level, rather than having individual conversations with customers about their circumstances.

4.16 Factors that a firm may want to consider in determining the payment deferral period include:

- the remaining term of the credit agreement
- the customer's ability to repay the accrued debt within the remaining term once the payment deferral period ends
- whether it may be possible for the customer to get an extension to the insurance policy and credit agreement, and
- the impact of the payment deferral period on the customer's ability to get credit to pay for an insurance policy in instalments in the following year

4.17 For these reasons, it is possible that longer payment deferrals may not always be in the interest of customers. This may leave them with a significant debt built up, at a point in time where they will shortly need to renew their insurance policy. So our guidance sets the expectation that firms consider a range of measures, not just payment deferrals, that may help customers in temporary financial difficulty. It also includes flexibility on the length of any payment deferral.

4.18 Where customers cannot afford to resume payments at the end of the payment deferral period, firms should work with them to attempt to resolve these difficulties before payments are missed. This should help to reduce the likelihood of customers becoming over-indebted. The firm should treat the customer with forbearance and due consideration as is required by the rules in our Consumer Credit Sourcebook (CONC) in the FCA Handbook. For all matters relating to the end of a payment deferral period, firms should have regard to their obligations under Principle 6.

4.19 Where customers can resume repayments at the end of the payment deferral period, firms have flexibility about resuming repayments, depending on a customer’s circumstances. There will be some customers who can afford to make one lump sum payment for the deferred repayments at the end of the deferral period. There will be others for whom it would be best to reschedule the repayments across the remaining term or agree a repayment plan. There will also be some customers for whom extending both the credit agreement and the underlying insurance policy might be a preferable option, if possible. These are just examples and it is open to firms to reach a solution that is in the customer’s interests.

4.20 We recognise that payment deferrals may not be in the interest of all customers. As we set out in the guidance, where a payment deferral is obviously not in customers’ interests, firms should without unreasonable delay offer other ways to help those customers. For example, by offering reduced payments, a rescheduled term or waiving all late payment fees and charges. The guidance does not prevent firms from offering more favourable options, including writing off unpaid premiums and related fees and charges.

4.21 Where a customer was already experiencing payment difficulties unrelated to coronavirus, our existing forbearance rules and guidance in CONC would continue to apply. This could involve granting a payment deferral if appropriate in the circumstances.

4.22 Where a firm has granted a payment deferral before our guidance came into force, it will be for firms to determine whether a further payment deferral is appropriate for the customer once our guidance is in force. Firms should consider whether a payment deferral, which is intended to provide temporary relief, would be appropriate for a customer who may be facing longer term payment difficulties.

Impact of our proposals on firms – funding and income

4.23 Some firms expressed concern around the potential impact of our proposals on firms’ income and funding arrangements. They were also concerned that the recourse arrangements commonly in place between premium finance lenders and the brokers that introduce customers to them mean that the brokers may ultimately be liable for the customer’s debt.

4.24 A trade body felt that, if a payment deferral were to be granted, a maximum of a 1-month payment deferral approach would be the preferred solution, taking into account customers' needs, firms' solvency and the practicalities of repaying the loan within the policy term.

Our Response

4.25 We recognise that the current circumstances present significant financial challenges for some firms, and that widespread forbearance activity including payment deferrals may exacerbate these challenges. We also know that many firms in these sectors may be unable to access Government funding schemes and may need to seek renegotiation of existing funding arrangements. Some firms will already be affected by an increase in default rates due to coronavirus and not necessarily because of the measures set out in the guidance.

4.26 We are also aware that the recourse arrangements that are commonly in place between premium finance lenders and the brokers that introduce customers to them mean that often, brokers may ultimately be liable for the customer's debt if following a deferral, the customer cannot repay the monies owed. This risk will be relevant for the subset of customers who ultimately default where a recourse arrangement is in place, and is more material the longer a payment deferral lasts. However, as discussed above, longer payment deferrals are only likely to be in the interests of a relatively smaller number of customers.

4.27 We encourage all firms in the distribution chain to work together in a joined-up way to ensure that best outcomes are achieved. For example, lenders that have entered into recourse arrangements with brokers may want to consider whether it is appropriate to rely on the recourse arrangements during the current exceptional circumstances, where a customer is experiencing temporary payment difficulties because of coronavirus.

4.28 A 1-month payment deferral would reduce the risk of a customer accruing debt that becomes unmanageable at the end of the payment deferral and thus minimise the risk of a broker having to bear the debt burden. However, a 1- month payment deferral on its own might not be appropriate for many customers suffering temporary financial difficulties because of coronavirus. We are also aware that there are lenders offering payment deferrals of up to 2 or 3 months.

4.29 As we set out in the guidance, the obligation on firms in CONC to treat customers in default or arrears difficulties with forbearance and due consideration is unaffected by any separate arrangements or security that lenders may have for the payment of sums due under a credit agreement. For example, where a lender has entered into recourse arrangements with a broker.

4.30 We believe that our flexible approach (permitting firms to offer the payment deferral they see fit - and where it's in the customer's interest - normally within the 1 to 3-month window) reduces the risk a customer who requests a payment deferral being unable to make payments at the end of the deferral period. In turn, this reduces the risk of brokers having to bear a disproportionate burden from defaulting customers.

4.31 We expect customers to be offered appropriate forbearance in accordance with our guidance where necessary, particularly given the current exceptional circumstances.

Where firms, including those subject to insolvency procedures, are concerned about the impact of providing payment deferrals or other forbearance in accordance with the guidance, they should contact us at the earliest opportunity.

Credit Reference Agencies (CRA)

4.32 Many stakeholders sought clarity around CRA reporting for customers covered by the guidance.

4.33 One stakeholder asked whether we expected firms to write off the outstanding balance, without registering any adverse impact on the customer’s credit file and cancel the policy, if the customer cannot resume repayments at the end of the payment deferral period because of payment difficulties.

4.34 Another asked for clarity on when waivers of interest and charges or other temporary relief measures will be considered as forbearance and recorded on credit files, and how these decisions will be made.

Our response

4.35 We consider that the guidance is clear that at the end of a payment deferral period we would expect usual credit reporting to resume. This reflects our policy intention of providing temporary support to those customers entering a payment deferral as a result of the current exceptional circumstances, while also recognising the need to preserve the integrity of credit reporting processes. In practice, this means that customers who can resume repayments in accordance with contractual terms would have their accounts protected from any worsening arrears status solely because they were given a payment deferral. Credit reporting would continue as normal thereafter with any subsequent arrears being reported in the usual manner.

4.36 For customers requiring additional forbearance at the end of a payment deferral period, for example in the form of waived interest and charges, or premium write offs, we would expect this to be reflected on credit files in accordance with the usual processes. We will continue to engage with CRAs and firms to consider the impacts of the current circumstances and what, if any, further work is needed to agree common approaches to reporting during the current extraordinary circumstances.

4.37 Customers who require further forbearance at the end of a payment deferral period, and are concerned about the potential impact on their credit file, can place a ‘notice of correction’ on their credit file in accordance with the process set out in the CCA. This notice may explain the circumstances of any missed payment or forbearance arrangement and should be reviewed by lenders when undertaking a subsequent creditworthiness assessment using information from a Credit Reference Agency.

Consumer Credit Act (CCA) requirements

4.38 Some firms and trade bodies raised concerns about CCA requirements and how these may apply in the context of payment deferrals. These reflect previous industry concerns about modifying agreements (including the associated repapering) where payment terms are rescheduled. Firms also cited the requirement to issue a notice-of-sums-in-arrears (NOSIAs) as a potential barrier to effective implementation.

Our response

4.39 We covered these issues in some detail in FS20/3, where we set out our view on the scope and nature of CCA requirements and our regulatory approach. We consider that this should provide some comfort to firms that appropriate processes could be put in place which would either not trigger certain CCA requirements or could operate alongside them (for example by issuing accompanying information alongside a NOSIA)

Creditworthiness assessments

4.40 A few stakeholders asked if, given the current exceptional circumstances, we could waive the creditworthiness rules in CONC, if a customer that has experienced temporary financial difficulties because of coronavirus seeks to get further credit for a new insurance policy. They felt that this approach would avoid worsening the financial situation of those experiencing temporary financial difficulties because of coronavirus.

Response

4.41 We do not have the power to waive the creditworthiness rules for agreements that are within the scope of the Consumer Credit Directive. However, as we set out in the guidance, when undertaking creditworthiness assessments for new credit to finance a new insurance policy, firms should consider looking beyond a customer's temporary payment difficulties that led to a payment deferral or other forbearance. Firms can take into account whether the customer's financial position has improved or is reasonably likely to improve over the term of the new credit agreement.

4.42 We also remind firms that where a customer has been granted a payment deferral under the guidance, there should not be a worsening arrears status recorded on the customer's credit file during the payment deferral period. However, although an entry may be made subsequently if a customer cannot resume repayments once the payment deferral period ends.

Annex One: List of non-confidential respondents

AMI

Ardonagh Group

Association of Financial Mutual

Johnny Timpson (Cabinet Office)

ABI

Admiral

Aegon

Age UK

Altus

Avanti

AXA UK & Ireland

Bernadette McEvily

BIBA

BNP Paribas (Creation Consumer Finance)

brightside

Cardif Pinnacle

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