

Finalised Guidance

Bounce Back Loan Scheme: guidance for firms on use of Pay as You Grow options

January 2021

1 About this guidance

- 1.1 This guidance is for firms collecting payments under a Bounce Back Loan where the collection of that debt is a regulated activity.
- 1.2 The FCA has rules to support the fair treatment of customers through the collections and recoveries process. In particular, our [Consumer Credit Sourcebook](#) Chapter 7 (CONC 7) sets out our rules for the treatment of customers who are in default or arrears difficulties. Under Principle 6, a firm must pay due regard to the interests of its customers and treat them fairly. Following this guidance will also help firms to demonstrate that they have treated their customers fairly.
- 1.3 CONC 7 applies to firms when they carry out regulated debt collection under the Bounce Back Loan Scheme (BBLs). Collecting debts under BBLs may be a regulated activity where the borrower is a sole trader or small partnership. This means that CONC 7 and Principle 6 can apply to these types of borrowers. This guidance aims to explain how firms can:
 - use and offer Pay As You Grow (PAYG) options in a way that complies with CONC 7
 - recognise vulnerability and respond to the needs of vulnerable customers
 - help borrowers who need debt advice

- 1.4 It is important for firms to understand our expectations before collecting debts under BBLs.
- 1.5 Where CONC 7 does not apply to debt collection under BBLs, firms should refer to Chapter 5 of this guidance on the Lending Standards Board's Standards of Lending practice for business customers.
- 1.6 In helping customers in default or arrears difficulties, we want firms to deliver the following outcomes which align with CONC 7 outcomes:
- Firms have due regard to the interests of their customers and treat them fairly.
 - Customers are treated with forbearance and due consideration.
 - 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.
 - Customers are allowed time to consider their options and, if necessary, seek debt advice before making a decision on the support they take. Firms refer customers to debt advice if this is appropriate. Firms do not pressure customers into repaying their debt within an unreasonably short period of time.
- 1.7 In **Chapter 2** we set out how firms may comply with CONC 7 when offering PAYG options to borrowers.
- 1.8 In **Chapter 3** we provide guidance on how firms can recognise vulnerability and respond to the particular needs of vulnerable customers.
- 1.9 In **Chapter 4** we set out the steps that firms can take to help borrowers who need debt advice.
- 1.10 In **Chapter 5** we remind firms that we recognise the Lending Standards Board's (LSB) Standards of Lending Practice for business customers.
- 1.11 This guidance will apply to:
- firms providing Bounce Back Loans
 - debt collection firms working on behalf of lenders collecting and recovering Bounce Back Loans
- 1.12 This guidance will come into force on 27 January 2020 and remains in force unless we vary or revoke it. Guidance is relevant to firm behaviour only to the extent it is current at the time of the behaviour in question.
- 1.13 This guidance is without prejudice to the application of CONC 7 more generally.

2 Providing CONC 7 compliant outcomes for borrowers

- 2.1 The Chancellor has set out that PAYG options will be available to all BLS borrowers. This includes those whose payments are up to date, or not yet due, as well as those who are in default or arrears difficulties for the purposes of CONC 7. This guidance sets out how firms can comply with CONC 7 when providing PAYG options to borrowers who are in default or arrears difficulties.
- 2.2 Under Principle 6, a firm must pay due regard to the interests of its customers and treat them fairly. Following this guidance will help firms demonstrate they have treated their customers fairly. The delivery of fair and appropriate outcomes for BLS borrowers is our key objective in this guidance.

CONC 7.3.4R provision of forbearance and due consideration

- 2.3 Under our rules (CONC 7.3.4R), firms are required to treat customers in default or arrears difficulties with forbearance and due consideration. For the purposes of this chapter and Chapter 3, '**customers**' refers to customers who are in default or arrears difficulties.
- 2.4 In this section, we set out our expectations of how firms can provide forbearance and due consideration when offering their customers PAYG options (where CONC 7 applies). We outline how firms should approach offering forbearance and support for customers. We also outline the need to support these customers to choose between PAYG options and enable them to opt out of any automated online journey if needed.
- 2.5 Firms can use PAYG options to give customers appropriate forbearance and support. For many customers, PAYG options will provide the appropriate forbearance they need. But these options may not on their own be sufficient for all customers or in all circumstances. In some situations, firms may need to provide customers with additional support. So, in order to meet CONC 7.3.4R obligations, firms should give thought to how their processes can be designed to pick up and consider cases where it may be necessary to offer additional forbearance options.
- 2.6 When considering what additional support customers might require, firms should have regard to the examples of treating customers with forbearance in CONC 7.3.5G. Examples could include the firm, as relevant in the circumstances:
 - Considering suspending, reducing, waiving or cancelling any further interest. For example, when a customer provides evidence of financial difficulties and cannot make repayments as they fall due or can only make token payments, and their level of debt would continue to rise if a firm continues to apply interest.
 - Accepting token payments for a reasonable period of time to allow a customer to recover from an unexpected shock to their income. For example, a sole trader who demonstrates that meeting their existing debts would mean not being able to meet priority debts or other essential living expenses (such as mortgage, rent, council tax, food and utility bills).

- 2.7 Firms should have clear, effective and appropriate policies and procedures for dealing with customers. Regardless of the delivery channel or the communication channel used, firms should treat all customers in a manner that supports them and leads to appropriate and fair outcomes.
- 2.8 We know that firms may want to design systems to help support the potentially large number of customers needing support through periods of financial difficulties. One way to do this would be to use an automated online journey through which borrowers can access the different PAYG options before they fall into arrears and appropriate forbearance when in arrears, which may also include the PAYG options.
- 2.9 An automated journey can be compatible with our rules, provided it identifies, and offers further support to, customers who may need forbearance options in addition to PAYG. It also needs to support customers to make informed choices and should support vulnerable customers. All customers should have the option to opt out of the automated customer journey if they choose to, and be able to have an interactive conversation or engagement with the firm.

Identifying and supporting customers in financial difficulties

- 2.10 Under our rules – CONC 7.2.1R(1) – firms must establish and implement clear, effective and appropriate policies and procedures for dealing with customers whose accounts fall into arrears.
- 2.11 Regardless of the delivery channel for PAYG options, the identification of borrowers in default or arrears difficulties would be assisted by firms having a policy of getting in touch with a customer when they miss a payment on their loan. This could include not only the first occasion on which they miss a payment (which might be after having already taken a PAYG option at the pre-arrears stage) but also subsequent occasions they miss a payment, for example if they fall behind under a forbearance option put in place to deal with earlier arrears. Such an approach would be part of a firm meeting its obligations under CONC 7.3.4R and 7.2.1R(1).
- 2.12 Firms may choose to automate all or part of the process for accessing PAYG options. In doing so, they should ensure that the digital journey has processes to identify borrowers in default or arrears difficulties and ensure that there is a mechanism for these borrowers to request a bespoke conversation or engagement with the firm so it can offer appropriate forbearance and support. This will help firms to demonstrate that they have treated customers with due consideration – a key part of CONC 7.3.4R – and allow them to act promptly and efficiently to address the customer’s situation.
- 2.13 As well as identifying customers facing difficulty repaying their BLS loans, these processes should also try to identify any wider financial difficulties those borrowers may have, particularly where the lender holds little background information about them.
- 2.14 Firms may need to use filtering, or triaging, whereby customers are asked questions about their financial situation, to identify customers who need a bespoke conversation or engagement with the lender. Where, through filtering questions or other engagement, the firm becomes aware that the customer may need additional forbearance, they should advise the customer that additional support may be available to them.

- 2.15 Appropriate filtering, the provision of appropriate bespoke discussions, and offers of additional forbearance when needed, will help firms to demonstrate that customers have been given due consideration, and have been treated fairly. Discussions with borrowers about financial difficulties are likely to require firms to investigate the borrower's overall circumstances and should not be restricted to only discussing the BBLs loan.
- 2.16 Where a customer requests a PAYG option but does not indicate that they might need additional support, or, if they are offered additional support, does not wish to avail themselves of it, then the lender can provide the PAYG option without needing to consider the customer's particular circumstances and should make the changes to the repayment terms promptly.
- 2.17 Obligations under CONC 7 will continue to apply. If firms become aware that customers are likely to need forbearance additional to a PAYG option, as we outline in 2.11, they should contact the customer and advise them that additional support may be available to them. In these circumstances, firms should not limit the type of forbearance they can provide to PAYG options only, but should have regard to the requirements in CONC 7.
- 2.18 The most likely scenario where further support would need to be offered is when a PAYG option is in place but payments are missed. Firms in this situation should contact customers who default or fall into arrears, to determine whether they are in financial difficulty and whether they require additional support. This will be part of how firms can demonstrate the provision of due consideration to customers in default or arrears difficulties.

Helping customers make informed choices before selecting PAYG

- 2.19 We know that for many customers, PAYG options will provide the appropriate forbearance they need.
- 2.20 Helping customers to make informed choices when selecting PAYG options is one part of demonstrating that firms have treated customers with due consideration. It may also help firms to demonstrate that they have treated their customers fairly. Notwithstanding the delivery channel that the lender is using to offer PAYG, firms should inform customers of any changes in monthly payments and changes to the total cost of the loan that will result from using the PAYG options. They should personalise this to illustrate changes to customers' monthly payments and total amount to repay. If personalised information is not available as part of any online process, firms should clearly direct customers to how and when such information will be made available (such as by directing the customer to a repayment calculator).
- 2.21 For customers who would like more information about an option, are uncertain as to which option might be most suitable for them, or consider they may require additional support, any online or automated journey should make it possible for them to have an interactive engagement with their lender to discuss their options. Firms should also clearly communicate to customers in financial difficulties that additional support may be available to them.
- 2.22 Any digital or automated process should also highlight to customers how debt advice support can be obtained. Where considered appropriate, firms engaging with

customers who are concerned about their financial position should refer customers for debt advice support, as covered in Chapter 4 of this guidance.

Ability to opt out of automated journeys

- 2.23 Firms should keep in mind that there will be customers who, due to their complex financial situation, vulnerability, or personal choice, will need to have an interactive conversation or engagement with their lender to help them make an informed choice, before selecting a PAYG option.
- 2.24 Where firms are automating the process, providing clear opt out options for customers to use will help firms to demonstrate they have treated their customers fairly and with due consideration. Opt outs should be available for customers who decide that they do not want to continue with the automated process or some aspects of it at a particular time, or they wish to have additional support by communicating with a member of the firm's staff.
- 2.25 Although some firms operate primarily through automated digital channels, some customers may not wish to engage with some aspects of the automated digital journey, particularly when they are in financial difficulties or are vulnerable. So, firms should consider how they can provide support through non-automated channels.

Provision of repayment plans

- 2.26 As discussed in paragraph 2.5 while lenders can use PAYG options to provide appropriate forbearance and support for many customers, for some customers they may not be sufficient without additional support. So, customers, and those assisting them, may approach firms asking them to consider alternative repayment proposals.
- 2.27 Debt counsellors or another person acting on the customer's behalf, should be able to request PAYG options and other options for the customer. They may also help the customer to develop an alternative repayment plan or another reasonable proposal for repaying the debt.
- 2.28 We remind firms that they must not operate a policy of refusing to negotiate with a customer who is developing a repayment plan (CONC 7.3.9R) and that they should allow customers reasonable time and opportunity to repay the debt (CONC 7.3.6G). Firms must suspend recovery action for a reasonable period where they have been told that a repayment plan is being developed (CONC 7.3.11R).
- 2.29 We also remind firms that they must not pressurise a customer to repay a debt within an unreasonably short period of time or in unreasonably large amounts (CONC 7.3.10R). Firms should ensure that any formal demand for the full outstanding balance also encourages borrowers to get in touch with the firm to discuss a repayment plan.

Effective oversight of third-party debt collection agents

- 2.30 We remind lenders that where they use a third-party debt collection firm to collect payments under BBLS loan on their behalf, they should comply with our rules and guidance on outsourcing in SYSC 8.1, as well as CONC 1.2.2(2) and 7.12.3G(1) and other provisions as appropriate. They should also oversee the conduct of these third parties as set out in CONC 7.13.8G to 7.13.13R.

3 Support for vulnerable customers

- 3.1 For the purposes of this chapter, '**customers**' refers to customers who are in default or arrears difficulties.
- 3.2 Our expectation is that firms will embed the fair treatment of vulnerable consumers into their culture, policies and processes. This expectation is the same whatever the choice of delivery channel used. Firms should understand the impact of vulnerability on the needs of their borrowers and how this may affect borrowers' individual experiences and outcomes.
- 3.3 Customers in financial difficulties may have characteristics of vulnerability, particularly low financial resilience. However, not all customers in default or arrears difficulties will be vulnerable, while some customers with characteristics of vulnerability will be at greater risk of harm than others.
- 3.4 Firms should take particular care to ensure they respond to the needs of customers at the greatest risk of harm. Firms could take a risk-based approach to developing their processes which recognises that some customers or groups of customers will require more support than others. Doing so is in line with CONC 7.2.1R(2) which provides that a firm must establish and implement clear, effective and appropriate policies and procedures for customers who the firm understands or reasonably suspects to be particularly vulnerable customers and to deal with such customers appropriately.
- 3.5 To understand and respond to the needs of vulnerable customers, firms are encouraged to consider the following factors when developing their policies and procedures for the BBLs loan product:
 - How to identify vulnerable customer needs and the ease with which customers can disclose their needs. In some cases, customers may not recognise they are in vulnerable circumstances or may be reluctant to disclose their circumstances.
 - How to provide communication channels that best meet customer needs.
 - How to use communication channels, including digital channels, to proactively tell vulnerable customers about the support available to them.
- 3.6 Firms will need to comply with their obligations under the Equality Act 2010 including those customers with protected characteristics. In Northern Ireland, where the Equality Act 2010 does not generally apply, firms should ensure that they comply with any applicable legislation and FCA rules and guidance.
- 3.7 Firms may want to have regard to the principles outlined in the Money Advice Liaison Group (MALG) Guidelines 'Good Practice Awareness Guidelines for Customers with Mental Health Problems and Debt'. Firms should also have regard to the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 (the Breathing Space Regulations) which will provide protection from creditor action for a borrower for the duration of any mental health crisis. These regulations are expected to come into force in May 2021. The regulations will also provide protection for a borrower for the duration of any mental health crisis treatment.

4 Referring customers for debt advice support

- 4.1 Customers who are in default or arrears difficulties may benefit from help to manage their credit payments, including BBLs repayments, or their business finances more generally.
- 4.2 Our guidance in CONC 7.3.7AG provides that if a customer is in default or arrears difficulties, a firm should where appropriate, tell the customer that free and impartial debt advice is available from not-for-profit debt advice bodies and refer the customer to one.
- 4.3 Firms should try to make such referrals as effective as possible, and should consider:
 - encouraging customers to use digital tools, where appropriate
 - offering to transfer a customer's call directly to a debt advice provider or providing the ability for the customer to access debt advice providers directly from the lender's own website, mobile phone app, or other channel that is being used by the customer
 - whether the customer would benefit from a specialist source of debt advice – which may well be the case for a self-employed person, or a person running a business
 - the debt advice referral strategies highlighted in the Money Advice Service 'Strategic toolkit for creditors' – when dealing with non-corporate borrowers
- 4.4 Firms should tell customers that they can get not-for-profit debt advice and guidance through both digital and telephone services. We would expect signposting and referral processes to take the full range of delivery channels into account. Firms should also highlight the availability of face-to-face services, where this is appropriate, but should help the customer, in line with the paragraph above, to get debt advice through alternative means if face-to-face services are not available.
- 4.5 Where firms handle customers through a digital or scripted process, we expect this to include appropriate signposting or referrals to debt advice or money guidance, as appropriate to the customer's needs.

5 Lending Standards Board's (LSB) Standards of Lending Practice for business customers

- 5.1 The LSB is a self-regulatory body providing independent oversight of its registered firms' adherence to voluntary standards, with sanctions for material breaches.
- 5.2 Where CONC 7 does not apply to debt collection under BBLs, firms should, where required, take account of how the LSB Standards of Lending practice for business customers apply.
- 5.3 The FCA has recognised the LSB Standards of Lending practice for business customers as being a code of conduct, which sets proper standards of market conduct for regulated firms undertaking unregulated activities within financial markets.
- 5.4 The LSB Standards outline the way firms are expected to deal with their customers throughout the entire product life cycle. This includes expectations about the treatment of customers approaching – and in – financial difficulty, together with customers in vulnerable circumstances.
- 5.5 Our Handbook explains that, in the context of unregulated activities, behaviour that is in line with an FCA-recognised industry code will tend to indicate compliance with rules that reference 'proper standards of market conduct' – see the Decision Procedure and Penalties Manual (DEPP) 6.2.1G(4A). So, for example, following a recognised code will be one of the ways for a person to establish that they have observed proper standards of market conduct for unregulated activities for the purpose of our Code of Conduct Sourcebook (COCON) 2.1.5R.