

## Draft guidance

# Motor finance agreements and coronavirus: updated temporary guidance for firms

July 2020

### About this guidance

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- 1.1 This guidance applies in the exceptional circumstances arising out of the coronavirus pandemic (Covid-19) and its impact on the financial situation of motor finance agreements customers. It is not intended to have any relevance in circumstances other than those related to coronavirus.
- 1.2 The proposals in this guidance support our consumer protection objective. They are designed to protect consumers by providing them with temporary support in the light of the current exceptional circumstances arising out of coronavirus.

### Equality and Diversity

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- 1.3 We are required under the Equality Act 2010 to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, and to foster good relations between people who share a protected characteristic and those who do not.
- 1.4 As part of this, we ensure we consider the equality and diversity implications of any new policy proposals. We do not consider this guidance will adversely affect consumers with protected characteristics.

## How to respond

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- 1.5 We want to act quickly to protect consumers in these difficult times. We consider that the delay involved in publishing a formal consultation accompanied by a cost benefit analysis would be prejudicial to the interests of consumers. We are therefore not doing so. This is not a statutory consultation. There is no statutory requirement to prepare a cost benefit analysis in relation to guidance.
- 1.6 We would welcome comments from stakeholders on this draft guidance by 5pm on Monday 6 July. Please send your comments to: [FCAconsumercredit@fca.org.uk](mailto:FCAconsumercredit@fca.org.uk)

# Motor finance agreements and coronavirus: updated temporary guidance for firms

- 1.7 We originally published this guidance on 24 April 2020. This update to our guidance comes into force on [ ]. We will keep this guidance under review and update as necessary. Unless renewed or updated, this guidance expires on 31 October 2020. However, where a customer is granted a payment deferral under this guidance that continues beyond 31 October 2020, the firm should act in accordance with paragraphs 1.18-1.19, 1.22, 1.36-1.43, 1.57-1.62, 1.73-1.77, 1.79-1.80 which remain in force to the extent necessary to enable it to do so.
- 1.8 Guidance is relevant to firm behaviour only to the extent it is current at the time of the behaviour in question. Please check this page for updates to this guidance.
- 1.9 A firm that has dealt with customers at the end of a payment deferral period before this guidance came into force should review whether the outcome the customer has received is consistent with the outcome they would likely have received under this guidance. If it is not consistent, the firm should make all reasonable efforts to contact affected customers and give them an opportunity to take up any further help they may be eligible for under this guidance.
- 1.10 This guidance applies to regulated firms that issue regulated motor finance agreements. This includes hire purchase agreements (such as personal contract purchase (PCP) agreements), conditional sale agreements or other debtor-creditor-supplier agreements or restricted-use debtor-creditor agreements used to purchase a vehicle. It also applies in relation to personal contract hire (PCH) agreements. In addition, this guidance applies to firms that have acquired such agreements.
- 1.11 It does not apply to credit agreements or consumer hire agreements where they relate to other types of goods, or to products within the scope of the guidance titled 'Credit cards (including retail revolving credit) and coronavirus: temporary guidance for firms'. Nor does it apply to agreements for business purposes.
- 1.12 This guidance applies in the exceptional circumstances arising out of the coronavirus pandemic (Covid-19) and its impact on the financial situation of motor finance customers. It is not intended to have any relevance in circumstances other than those related to coronavirus. Where a customer is in longer-term payment difficulties, the firm should act in accordance with CONC 7 where it applies.
- 1.13 This guidance sets out our expectation that firms provide, for a temporary period only, exceptional and immediate support to customers facing payment difficulties due to circumstances arising out of coronavirus. It is intended to provide help to those who might be having temporary difficulty in making their finance or leasing payments due to a loss of or reduction in their income (or income of other members of their household) or to those who expect to experience such difficulties.

- 1.14 This guidance applies where customers are experiencing or reasonably expect to experience temporary payment difficulties as a result of coronavirus. Where a customer was in pre-existing financial difficulty, our existing forbearance rules and guidance in CONC 7 would continue to apply. These would include for example the firm considering suspending, reducing, waiving or cancelling any further interest or charges, deferring payment of arrears or accepting token payments for a reasonable period of time.
- 1.15 This guidance builds on Principle 6 ('A firm must pay due regard to the interests of its customers and treat them fairly') and Principle 7 ('A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading'). It sets out the FCA's expectations for firms to provide coronavirus related support for customers who are experiencing or reasonably expect to experience temporary payment difficulties.
- 1.16 The guidance is potentially relevant to enforcement cases and the FCA 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 Principles 6, Principle 7 and CONC.
- 1.17 In this guidance:
- 'Payment deferral' means an arrangement made on or after 27 April 2020, under which a firm permits the customer to make no payments or reduced payments under their agreement for a specified period without considering them to be in arrears.
  - A 'full payment deferral' is a payment deferral where the firm permits the customer to make no payments (or a token payment not exceeding £1 where firms' systems will not allow a zero payment).
  - 'Partial payment deferral' means a payment deferral where the firm permits the customer to make reduced payments of any amount.
- 1.18 As the customer would not be considered in arrears we would expect firms not to pursue relevant guarantors for payment during a deferral period, in respect of payments deferred under this guidance.
- 1.19 A customer should have no liability to pay any charge or fee in connection with the permitting of a full or partial payment deferral, or a different solution where a payment deferral has been deemed not in the customer's interests, under this guidance. The continuing accrual of interest on sums owed under the agreement that remain unpaid would not be inconsistent with this guidance.
- 1.20 When implementing this guidance, firms should take account of the particular needs of their vulnerable customers. If using digital channels, firms should make it easy for customers less able to use these to access alternatives.
- 1.21 There is no expectation under this 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. Firms can, however, choose to make the enquiries they consider necessary in order to satisfy themselves that the customer is eligible for support and to identify whether the customer would benefit from any additional support, provided that this does not delay the provision of timely support. We have disapplied CONC 6.7.18R and 6.7.19R to give effect to this.

- 1.22 Where a firm is required to send information to customers under the Consumer Credit Act 1974, such as a Notice of Sums in Arrears (NOSIA), and the firm, acting reasonably, considers this risks causing confusion for the customer due to the interaction with the payment deferral, the firm must accompany this with contextual information to reduce that risk. This information should be clear, fair and not misleading in accordance with Principle 7.
- 1.23 If you have any questions or concerns about this guidance, [contact us](#).

## Customers who have not yet had a payment deferral

- 1.24 Where a customer, who has not yet had a payment deferral, is experiencing or reasonably expects to experience temporary payment difficulties as a result of circumstances relating to coronavirus, and wishes to receive a full payment deferral, a firm should agree to this for 3 months' worth of payments. This is unless the firm determines (acting reasonably) that it is obviously not in the customer's interests to do so.
- 1.25 An example of a situation in which a payment deferral may be appropriate is where there is or will be a temporary reduction in household income that would have otherwise been used to make finance or leasing payments.
- 1.26 In determining whether a 3 month full payment deferral is obviously not in customers' interests, firms should consider both customers' need for immediate temporary support and the longer-term effects of a payment deferral on customers' situation. In particular, firms should consider customers' ability to repay any accrued interest once the payment deferral ends, and over what period. The interest rate and remaining term will be among the relevant considerations.
- 1.27 For example, a 3 month full payment deferral would obviously not be in customers' interests if it would give them a greater overall debt burden compared to other solutions (that might involve reduced or waived interest for example) that could equally meet their needs and that burden would be clearly unsustainable. A payment deferral is also unlikely to be appropriate where customers would be unable to repay the deferred amounts within a reasonable time period.
- 1.28 In determining what is in customers' interests, a firm should not have regard to its own commercial interests, including the fact that the firm would, under this guidance, be expected to waive any interest in accordance with the 'Interest Waiver' section where a customer is entitled to forbearance under CONC 7 at the end of the payment deferral period.
- 1.29 To ensure customers are offered quick support, firms can consider whether the offering of a payment deferral period is in customers' interests at a book or cohort level.
- 1.30 Where a 3 month full payment deferral is not considered appropriate, firms should without unreasonable delay, offer other ways to provide temporary relief to customers in accordance with treating customers fairly. This could include a partial payment deferral if the loss of income is partial or a payment deferral of fewer than 3 months if the loss of income is for a shorter period.
- 1.31 The guidance does not preclude a firm from offering a more generous form of support, such as waiving of interest.
- 1.32 Firms should make clear in their communications, including on their websites, that payment deferrals are available as set out above. In addition, if, during an interaction between the

firm and the customer, the customer provides information suggesting they may be experiencing - or could reasonably expect to experience - temporary payment difficulties as a result of circumstances relating to coronavirus, the firm should ask whether the customer wishes it to consider granting a full payment deferral.

- 1.33 A firm should give customers adequate information to enable them to understand the implications of a payment deferral, including the consequences of interest that is accrued as a result of the payment deferral and its effect on the balance due under the agreement and on future payments. Firms should also explain that while a worsening status will not be reported to the customer's credit file in respect of any payment deferral taken under this guidance, lenders may take into account other information when making future lending decisions, including, for example, information provided by applicants or bank account information.

## Fair treatment of customers at the end of an initial payment deferral period

- 1.34 A firm should ensure that the manner in which it seeks to recover any sums that have accrued during the payment deferral is compatible with Principle 6.
- 1.35 Customers coming to the end of an initial payment deferral period will be in different financial circumstances. Fair treatment will differ according to these. Firms should distinguish between those who:
- are able to resume full payments immediately
  - are unable to resume full payments immediately due to circumstances arising out of coronavirus
- 1.36 Firms do not need to comply with, or follow, [CONC 7.3.3G to 7.3.6G and 7.3.8G](#) when acting under this guidance except where the guidance states or indicates that firms should comply with, or follow, relevant Handbook rules or guidance. We have disapplied those provisions to that extent.

## Understanding customers' financial circumstances at the end of an initial payment deferral period

- 1.37 Firms should take reasonable steps to contact their customers in good time before the end of an initial payment deferral period about resuming payments and to engage with them about their options when it expires. This can be done through a digital or scripted process.
- 1.38 This contact should inform customers of what will happen if they do not respond, including providing information about the next payment falling due after the initial payment deferral and how the deferred amounts will be treated.
- 1.39 Many customers will be able to resume full payments at the end of a payment deferral period. If they can, it is likely to be in their interests to do so. A firm should make all reasonable attempts to contact them to find out whether this is the case. But if the customer has not responded, and provided the firm has taken all reasonable steps to establish contact with them, the firm may proceed on the basis the customer is able to resume full payments.
- 1.40 Firms may use a range of sources of information to understand the needs and circumstances of customers coming to the end of a payment deferral period, although this is not required by this guidance. These might include: information already held by the firm (such as payment history) or information provided by others (such as data from credit reference agencies or Open Banking sources).

## Customers able to resume full payments

- 1.41 Where a customer can resume full repayments after the initial payment deferral, but is unable to pay the deferred amounts immediately and in full, the firm should allow them to repay the deferred amounts over the remaining term of the agreement or allow a longer period for repayment. The firm should consider what is most in the customer's interests.
- 1.42 For example, where appropriate, the firm could lengthen the time during which the customer is allowed to make repayments by:
- the length of the initial payment deferral or
  - a period of time that enables the customer to keep the same contractual payments they had prior to the payment deferral.
- 1.43 If the firm permits the customer to repay the deferred amounts over a longer term, it should give the customer adequate information that explains they could pay more over the lifetime of the agreement, compared to an alternative means of repaying these amounts, such as



over the original remaining term. Firms should also bring to the attention of the customer in good time before an extension is granted, the need to consider wider implications of the extension – such as potential knock-on effects on insurance, warranties, breakdown cover or MOT. In considering longer repayment terms, firms should also consider the customer impact of depreciating asset values and communicate this to the customer.

- 1.44 Where customers have been treated as able to resume full repayments in line with this guidance, but subsequently miss the next payment due under the agreement after the initial payment deferral comes to an end, we would expect firms to make all reasonable attempts to contact them.
- 1.45 Where the customer responds and is unable to resume payments the firm should offer them additional help in line with the following section of this guidance. The firm should do the same where a customer who has been treated as being able to resume payments subsequently contacts the firm seeking further assistance before missing their first payment.
- 1.46 A firm may treat a customer who fails to respond to further communications after missing their first payment as being in arrears in respect of the missed payment, and proceed in accordance with CONC 7.

## Customers unable to resume full payments

- 1.47 Where, after an initial payment deferral, and at any time before their first payment is due, a customer indicates they remain in temporary payment difficulties and cannot resume full payments immediately, a firm should offer a full or partial payment deferral to reduce payments for a period of 3 months to a level the customer indicates they can afford. If the customer is in temporary payment difficulties but is unable to afford any payments, the firm should offer them a full payment deferral where this is in the customer's interests.
- 1.48 Where firms' systems prevent them from putting in place partial payment deferrals, firms may instead provide partial payment deferrals as a full payment deferral (for example by setting minimum or contractual payments to zero or £1) while reaching an informal agreement with customers to make voluntary payments at the level they indicated they can afford. For the purposes of this guidance, such arrangements should be treated as partial payment deferrals.
- 1.49 The guidance does not preclude a firm from offering a more generous form of support, such as waiving of interest.
- 1.50 This guidance also does not preclude a firm from doing one of the following, where it can demonstrate that the payment deferral sought by the customer is obviously not in the customer's interest (see also paragraph 1.71 on record keeping):
- providing the customer forbearance in accordance with CONC 7
  - granting a payment deferral of an amount different to what the customer indicated they can afford

- providing a payment deferral of less than 3 months (i.e. where the period of temporary payment difficulties is shorter than 3 months)
- 1.51 Where a debt counsellor is acting on the customer's behalf and in accordance with CONC 8.3.2R, the debt counsellor's view as to whether a payment deferral of up to 3 months is in the customer's interest, and the level of that deferral, should prevail over the firm's view.
- 1.52 In determining whether a full or partial payment deferral is obviously not in the customer's interests, firms should consider both the customer's need for immediate temporary support and the longer-term effects of a payment deferral on the customer's situation. In particular, firms should consider the customer's ability to repay any accrued interest once the payment deferral ends, and over what period. The interest rate and remaining term will be among the relevant considerations.
- 1.53 For example, a further full or partial payment deferral would obviously not be in customers' interests if it would give them a greater overall debt burden, including as a result of depreciation of the vehicle, compared to other solutions (that might involve reduced or waived interest for example) that could equally meet their needs and that burden would be clearly unsustainable. A payment deferral is also unlikely to be appropriate where a customer is unable to repay the deferred amounts within a reasonable time period.
- 1.54 In determining what is in the customer's interests, a firm should not have regard to its own commercial interests, including the fact that the firm would, under this guidance, be expected to waive any interest in accordance with the 'Interest Waiver' section where a customer is entitled to forbearance under CONC 7 at the end of the payment deferral period.
- 1.55 A firm adopting a single solution for all customers requiring further support at the end of an initial deferral period is likely to contravene Principle 6.
- 1.56 A firm should give customers adequate information to enable them to understand the implications of a further payment deferral. This includes the consequences of interest that is accrued during this period and its effect on the balance due under the agreement and on future payments. In addition, firms should explain that a worsening status will not be reported to the customer's credit file in respect of any payment deferral taken under this guidance. But lenders may take into account other information when making future lending decisions, including, for example, information provided by applicants or bank account information.
- 1.57 A firm should contact customers in good time before the end of the further payment deferral period with information about the resumption of payments and on how to access further support if needed. If the customer is able to resume full payments, the guidance on customers able to resume payments above applies.
- 1.58 If a customer who has agreed a further partial payment deferral or a further payment deferral of less than 3 months contacts the firm seeking further assistance before the end of the payment deferral period, the firm should offer them additional support in line with this section. This could include extending the payment deferral period to 3 months or reducing the payment further including to nil where this is in the customer's interests.

- 1.59 If a customer at the end of this further payment deferral period is unable to resume payments, they are entitled to forbearance under CONC 7. As part of this, we expect any interest that would not have accrued but for the initial and further payment deferrals to be waived as soon as practicable at the end of the further payment deferral period in accordance with the section below (under 'Interest Waiver').

## Interest Waiver

- 1.60 We expect a firm to waive interest as follows:
- Where the customer, at the end of an initial payment deferral period, was not given a further full or partial payment deferral of any length under this guidance and was entitled to forbearance under CONC 7, interest that would not have accrued but for the initial payment deferral should be waived as soon as reasonably practicable at the end of the initial payment deferral period.
  - Where the customer was given a further full or partial payment deferral of any length under this guidance and, at the end of that period, continues to have payment difficulties and is entitled to forbearance under CONC 7, interest that would not have accrued but for both the initial and further payment deferral should be waived as soon as practicable at the end of the further payment deferral period.
- 1.61 The effect of the interest waiver should be that a customer would not, in respect of the deferred amounts, be in a worse position, in terms of interest, than if they had paid those amounts in full in accordance with the agreement.
- 1.62 At the end of a payment deferral period, if the customer can resume payments in full and irrespective of how the deferred amounts are to be repaid, firms do not need to waive the interest accrued as a result of the payment deferral(s).

## PCP Guaranteed Minimum Future Value (GMFV), PCH Residual Value (RV) and other features of these agreements

- 1.63 When granting a payment deferral or other option for assisting customers under PCP or PCH agreements affected by coronavirus, firms should not by any means seek to modify, or seek to unilaterally alter, any aspect of the original agreement in a way that takes advantage of the customer's necessity, lack of experience or weaker bargaining position or otherwise leads to unfair outcomes.

- 1.64 For example, firms should not recalculate the GMFV or RV in a way that is based on temporarily depressed market conditions due to the effect of coronavirus in an attempt to recover more of the original car value through the periodic payments.
- 1.65 Firms should have regard to the Consumer Credit Act 1974 (CCA) unfair relationship provisions - in particular, sections 140A(1)(a-c) and 140A(2).

## PCP agreements reaching term end during the period this guidance is in force

- 1.66 Where a customer wishes to retain the vehicle, but does not have funds to cover the balloon payment due to coronavirus related financial difficulties, firms should work with the customer to find an appropriate solution. Given the increased potential for disparity between the balloon payment and the value of the vehicle in the current climate, firms should ensure that solutions do not lead to unfair outcomes. For example, refinancing the balloon payment might not be appropriate in the circumstances.
- 1.67 Where a customer wishes to return the vehicle, but this is impractical due to the coronavirus situation, firms should inform the customer that they are unable to use the vehicle once the agreement has been terminated or come to an end (if that is the case).

## Repossessions

- 1.68 Where the customer has the right to use the vehicle, firms should not take steps to terminate the agreement or seek to repossess the vehicle (whether by way of any requisite legal proceedings or otherwise) where the customer is experiencing temporary payment difficulties as a result of circumstances relating to coronavirus and needs use of the vehicle.
- 1.69 We consider that seeking to terminate the agreement or commencing or continuing repossession action as described above is very likely to contravene Principle 6 - absent exceptional circumstances (such as a customer requesting that repossession continues).
- 1.70 Firms should also ensure that their customers are kept fully informed, and should make customers aware of the potential consequences of the firm suspending any actions towards taking repossession of the vehicle(s), including on the value of the vehicle(s).
- 1.71 Government advice on social distancing and self-isolation should be consulted to establish whether, subject to 1.66 above, any proposed repossession should go ahead and if so, how it is to be carried out.
- 1.72 Firms who have issued hire purchase, conditional sale or other regulated credit agreements should have regard to the CCA unfair relationship provisions, as an unfair relationship can be established from the way in which a firm exercises or enforces their rights under the agreement (see CCA sections 140A(1)(b) and 140A(2)).

## Training, monitoring, record keeping and Credit Reference Agency reporting

- 1.73 Firms should ensure that staff are adequately trained to enable them to implement the firm's process for following this guidance.
- 1.74 Firms should keep records of how any process was designed and implemented sufficient to demonstrate that the options offered and granted were consistent with customers' interests.
- 1.75 Firms should record and monitor initial and further payment deferrals offered and granted, any alternative measures provided, as well as any issues which might impede customers' ability to access the assistance required under this guidance. Firms should use this information to keep their processes for following this guidance under review to ensure that customers' interests are being met and to refine their approach.
- 1.76 Firm supervisors may request access to a firm's records and the outcomes of a firm's customer monitoring.
- 1.77 The payment deferrals described here should be regarded as being offered in exceptional circumstances outside of the customer's control. In accordance with the relevant Coronavirus Data Reporting Guidance published by the Credit Reference Agencies (CRAs) in consultation with SCOR, firms should not report a worsening status on the customer's credit file during any initial or further payment deferral period.
- 1.78 Where customers have been unable to reach timely agreement with firms for a payment deferral because of firms' operational difficulties and subsequently miss a payment which is reported to their credit file, we would expect firms to work with customers and CRAs to ensure that any necessary rectifications are made to credit files to ensure no worsening status is recorded in respect of the payment deferral period. Firms should also ensure no default or arrears charges are levied in relation to payments missed in these circumstances.
- 1.79 Where at the end of a payment deferral period a mechanism to repay accrued amounts is agreed we would not expect this to result in any negative reporting (subject to subsequent payment performance being reported in the usual manner).
- 1.80 We expect firms to be clear about the credit file implications of other forms of support offered to customers, including at the end of payment deferral periods. We also expect firms to ensure that a reasonable period of time is afforded to determine an appropriate solution with customers before reporting any new arrears or arrangements to credit files.

## Debt help and money guidance

- 1.81 We are providing this guidance on debt help and money guidance to help firms to help their customers in financial difficulty during coronavirus.

- 1.82 Firms should have regard to Principle 7 in any communication with their customers. They should also have regard to relevant parts in CONC, in particular, CONC 7.3.7A G.
- 1.83 Customers who are considering whether a payment deferral is right for them may benefit from firms referring them to the Money Advice Service's [Navigator Tool](#).
- 1.84 When contacting a customer whose payment deferral is coming to an end and before granting a new or further payment deferral or other solution under this guidance, firms should help customers to understand what types of debt help and money guidance are available. This should include alerting customers to the availability of free and impartial debt advice and providing contact details for not-for-profit debt advice bodies.
- 1.85 Firms can do this by providing the customer with a link to our information page '[Dealing with financial difficulties during the coronavirus pandemic](#)' and signposting them to the Money Advice Service's [Navigator Tool](#). Firms should encourage customers to access the help that the customer feels best suits their circumstances.
- 1.86 If customers need help to work out what they can afford firms should aim to provide this information in time to allow that.
- 1.87 Some customers experiencing short-term difficulty may feel they are able to deal with their own debts without the need for full debt advice. For these customers, the firm may also wish to:
- Suggest the customer works out a budget. Firms may find it helpful to refer customers to resources mentioned in our [information page](#) referred to above.
  - Explain to the customer that, for most people, it makes sense to pay essential expenses and priority debts before any discretionary expenses or non-priority debts. To see if this is right for them customers can use online guides such as the [Money Advice Service 'How to prioritise your debts' page](#).
  - Recommend the customer contacts all their creditors to discuss their repayments.
- 1.88 Firms acting in line with this guidance should have regard to chapter 17 of PERG in [our Handbook](#) which provides guidance on the regulated activity of debt counselling.