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By email: lauramahoney@lstdb.org.uk

Dear Laura

Financial Services Consumer Panel response to Lending Standard Board's review of the personal lending standards

The Financial Services Consumer Panel is an independent statutory body. We represent the interests of individual and small business consumers in the development of policy and regulation of financial services in the UK.

The Panel welcomes the opportunity to respond to the Lending Standards Board's review of the personal lending standards. The Panel believes the Lending Standards Board should focus on areas that are not covered by the FCA's statutory rules so that it adds value to credit regulation and to consumers. The digital journey and financial inclusion are good examples of this broader approach.

1. How can the standards further encompass the digital journey?

The Money Management and Financial Difficulty standards should encourage firms to make better use of the data they have to help customers manage their money and identify early signs of financial difficulty, such as sudden changes to regular payments. Data analytics should be backed up by effective responses, which might include restrictions on the promotion and sale of products where there are signs of financial stress (even if customers have not yet missed any repayments).

With the advent of Open Banking, firms (with the consent of consumers) can use payments data to check affordability and assess credit risk. It would be useful for the standards to set out what is expected of firms in light of these developments, for example, that firms should explain clearly to consumers the use and application of payments data rather than rely on terms & conditions that most consumers don't read, and can't understand even when they do.

Access to payments data also means that firms can closely monitor customers' bank accounts. The standards could encourage firms to monitor payments data and intervene where there are signs that a product that was affordable when it was sold may no longer be so. The downside of account monitoring is that firms could, for example, offer revolving credit when they see low or no funds in a customer's account, at a price that falls outside the high-cost short-term credit (HCSTC) cap; or they could take repayments that leave customers with no money for essentials. The standards have a role in ensuring that lenders use these new powers appropriately and have strong product governance that puts the interests of consumers first.

The digital journey brings risks of financial exclusion, for example if firms make access to credit conditional on customers sharing their transaction data. The LSB should consider how the standards can ensure that firms do not penalise customers who can't, or prefer not to, borrow online.

2. How could the LSB seek to capture good practice in relation to financial inclusion?

The standards unhelpfully conflate financial inclusion and vulnerability – we believe these should be dealt with separately in the standards, as all consumers can benefit from better designed, inclusive products and services.

A skewed focus on consumer vulnerability means the industry concentrates its efforts on some groups of consumers who are labelled 'vulnerable' to the possible detriment of others. We want to see the industry adopt the European Commission definition of vulnerability. This explicitly acknowledges the negative impact that individual firms and the financial services industry as a whole can have on any consumer, regardless of their personal situation.[1]

The standards should clearly reflect these two different elements of vulnerability:

- That industry can make any consumer vulnerable to harm because of how it operates. This could include predatory lending, or excluding or marginalising consumers. This should be set out more explicitly in 'Governance and Oversight'.
- That consumers may experience situations or circumstances that make them particularly vulnerable to harm e.g. bereavement, mental health problems.

3. Other feedback

Under 'Governance and Oversight' the LSB should set out what it means by a 'fair outcome' in a way that can be clearly understood by consumers and does not use the industry language of Treating Customers Fairly.

Yours sincerely,

Sue Lewis
Chair, Financial Services Consumer Panel

[1] The European Commission defines a vulnerable consumer as someone who as a result of socio-demographic characteristics, behavioural characteristics, personal situation, or market environment: (1) Is at higher risk of experiencing negative outcomes in the market (2) Has limited ability to maximise his/her ability (3) Has difficulty in obtaining or assimilating information (4) Is less able to buy, choose or access suitable products or (5) Is more susceptible to certain marketing practices.