Financial Services Consumer Panel
AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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2nd August 2014

Dear Diana,

Proposals for a price cap on high-cost short-term credit

This is the Financial Services Consumer Panel's response to the proposals for a cap on high-cost short-term credit (HCSTC).

The Consumer Panel believes the regulator has reached a progressive and balanced position with its proposal. The combined components of the cap should deliver greater fairness and transparency for users of this type of credit.

We welcome the extensive research and analysis the FCA has carried out to inform its proposal. This provides a good indication of how the cap is likely to impact consumers and lenders. It will be important for the FCA to monitor the market carefully to ensure that its predictions play out in reality and there are no unforeseen consequences. For example, while only 5% of people turned down for a loan may say they would not go to an illegal money lender, the true figure may turn out to be a lot higher. Not only does borrowing from an illegal money lender carry social stigma, some may not even realise that is what they are doing. Illegal money lenders aren't always easy to identify and often initially present themselves as friends of friends, happy to lend a hand. Ongoing engagement with the UK's Illegal Money Lending Teams will be essential to track increased activity and coordinate any required response.

Although we support the proposed cap we have made the point repeatedly that the current definition of high cost short-term credit is too narrow. Overdrafts, for example, can be more expensive than payday loans. "Mainstream" sources of credit are currently far more likely to lead to over-indebtedness than payday loans are. We would like to see the cap extended beyond the payday lending sector. We are pleased that the FCA has set out its intention to review the credit card market and is working with the Competition and Markets Authority on the personal current account market (including overdrafts). We look forward to seeing further details on this in due course.

Finally, the Panel has concerns about how irresponsible repeat lending will be tackled. This poses a significant challenge to the FCA and risks undermining some of the benefits the cap is intended to provide. It is unclear from the consultation paper how this can be addressed under the current and proposed provisions.

Sincerely

Sue Lewis, Chair - Financial Services Consumer Panel

Detailed responses

Question 1 – Do you have any comments on our general approach to developing our proposals for the price cap?

We welcome the substantial amount of resource and effort the FCA has put into understanding the market and developing what they believe to be the most effective solution.

Question 2 – Do you have any comments on the proposed price cap structure?

The Panel believes that the cap is structured in a way that should minimise the risk of gaming. The total cost “catch all” of 100% of amount borrowed should ensure that consumers are not subject to hidden fees. The FCA should consider how the cap should be publicised to consumers. They need to be made aware that they should never pay more than twice what they borrowed.

Question 3 – Do you have any comments on the price cap level?

Developing a cap that was universally welcomed was always a difficult task. While others will disagree the Panel believes that cap rate is appropriate and balanced.

Question 4 – Do you agree with our proposals on repeat borrowing?

As identified in 5.75 of the consultation document, repeat borrowing presents a significant risk of undermining roll-over and refinancing protections and the benefits the cap is intended to provide. If consumers are taking out loans minutes after repaying a previous one, this probably indicates they are using the funds to supplement their income and are dependent on this sort of credit.

The consultation paper suggests that irresponsible repeat lending will be mitigated by affordability requirements. However, it is not clear from the paper how this can be achieved. Ability to repay is one of the main indicators of affordability. If a person repays a loan without default and their circumstances don’t change, then they will surely present as someone able to repay the next loan they apply for. In other words they will meet affordability requirements and therefore be able to repeat their loans month after month.

Furthermore, if an individual meets affordability requirements they may argue that they are entitled to take out another loan, however short the time is from repayment of their previous one. We would like further details on how the affordability requirements will work in practice to address this area of concern.

Question 5 – Do you have any comments on the scope of the price cap?

The Panel has repeatedly made the point that definition of high cost short-term credit is too narrow. It seems strange to differentiate this activity from other areas of credit such as home credit loans, overdrafts, etc. As we stated in the summary above “mainstream” sources of credit are currently far more likely to lead to over-indebtedness than payday loans are. We would like to see the cap extended beyond payday loans.

Question 6 – Do you have any comments on our proposed Handbook rules?

No.

Question 7 – Do you agree with our proposals on unenforceability?

Yes we agree. However, if this sanction is to be effective consumers will need to be made aware that they can elect not to perform the agreement (i.e. not to repay the loan with charges). This will require the FCA to name and shame the firm in breach of the cap as soon as the misconduct is identified.

Question 8 – Do you agree that we should prevent UK-based debt administrators from enforcing HCSTC agreements on behalf of ECD lenders which include charges in excess of the price cap?

Yes, we agree.

Question 9 – Do you have any comments on the proposed approach to data sharing?

In response to the FCA's previous consultation on the consumer credit that improved affordability requirements would be of limited value without real-time data sharing. We were concerned that consumers would be able to take out multiple loans in a matter of minutes. We continue to consider this to be a significant risk given the speed at which loans can be approved. We are pleased that the FCA has indicated it will consult on introducing data sharing requirements if sufficient progress on made on this by the industry. We urge them to keep this under review.

Question 10 – Do you agree with the costs and benefits identified?

Yes, we agree.

Question 11 – Do you agree with our assessment of the impacts of our proposals on the protected groups? Are there any others we should consider?

Yes, we agree with the assessment.