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

Telephone: 020 7066 9346
Email: enquiries@fs-cp.org.uk

Consumer Credit Team
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

20 April 2020

By email: FCAconsumercredit@fca.org.uk

Dear Consumer Credit Team,

FCA proposals to help motor finance and high cost credit customers during Covid-19 crisis

This response sets out the Financial Services Consumer Panel's response to the FCA's proposed guidance in relation to motor finance and high cost credit.

The Panel supports the FCA's proposed measures and welcomes the speediness with which they have been brought forward. The measures have the potential to make a real difference to consumers who are experiencing financial difficulties as a result of Covid-19, some of whom are likely to be among the most vulnerable. The Panel's comments are intended to help ensure that the proposed measures deliver assistance where they are required.

The Panel's key points, which apply across the motor finance and high cost credit proposals, are as follows*:*

- **Access to the measures is critical** - the Panel is concerned that the firms in question, and particularly high cost lenders which may ordinarily rely on a branch network, may not have the appropriate infrastructure to enable large numbers of customers to call to request a payment deferral. Firms should be directed to ensure they put sufficient resource in place to deal with consumer requests and, as part of this, to consider alternative means for consumers to request assistance, where this can be shown to be appropriate for their customers. Firms should take account of difficulties faced by consumers in contacting them when determining the length of a payment deferral.
- **FCA should deploy sufficient resources to ensure fairness and consistency -** the FCA proposes that it will give firms flexibility in dealing with issues such as the payment of accrued interest. While this is an understandable approach, it opens up the prospect of big variations in firms' treatment of customers in similar situations (including unfair treatment). The Panel urges the FCA to allocate sufficient supervisory capacity to monitor how firms, particularly those which are the least well-capitalised and may have low business resilience, are implementing the temporary relief measures to ensure that customers are treated fairly.
- **Need for consistent messaging –** firms' communications with customers need to be proactive, clear and consistent in letting customers know the onus is on them to request help. Since customers may need to request payment deferrals from several different

firms, a consistent approach should apply across sectors. Past experience suggests that where the FCA allows firms to develop their own messages, consumer confusion can arise. The FCA should consider mandating the use of certain key messages.

- **Adverse impacts on credit files –** the Panel welcomes the proposal that firms should not report a worsening arrears status on the customer's credit file during the payment deferral period. However, the Panel is concerned about the negative impact on consumers' credit files, for example where a customer is unable to get through to a firm to request a payment deferral and so they miss a payment which is reported to their credit file. The FCA suggests that firms work with Credit Reference Agencies (CRAs) and customers to retrospectively correct such entries, but consumers can face difficulties in getting errors corrected under normal circumstances. The FCA should ensure that the facility to correct errors is straightforward and easy to access for consumers.
- **Temporary measures must build on, not replace, existing FCA principles, rules and guidance.** The FCA must make clear that the principles for businesses - and principle 6 (Treating Customers Fairly) in particular - and the FCA's existing forbearance rules continue to be applied. Firms must be left in no doubt that adhering solely to the newly issued guidance is unacceptable. The FCA should be proactive in investigating how the new guidance has been implemented and to identify emerging issues or unintended consequences, and take rapid and robust action to address these.
- **Need for active monitoring of measures -** the FCA should monitor closely all the temporary measures (as far as possible in the circumstances) to understand how firms have responded to the proposals and the outcomes for consumers (e.g. number of customer requests for payment deferrals; number accepted; number refused; number offered more favourable treatment etc). Collection of this information is critical to allow the FCA to plan for what should happen when the payment deferrals end.
- **Temporary relief measures should not create long-term problems.** The FCA must think carefully about what happens when the temporary measures come to an end. Currently, the FCA is rightly focused on delivering immediate assistance to consumers. However, due to the nature of high cost short term credit products, and the proposed deferral lasting only one month, the FCA needs to consult now on the exit path from its emergency measures.
- **Immediate work should start on the next phase of these proposals.** The FCA should begin to scenario plan on what will happen next, might these proposals need to be extended, what is the "glide-path" back to normality and how should consumers who take up these offers be treated in the future.

The Panel also has a number of comments on the specific proposals for high cost credit and motor finance. These are set out below:

High cost credit

- The proposed guidance says that it will only apply to agreements entered into before the enactment date. This wording does not appear to have been used in relation to the temporary measures previously announced. The Panel requests the FCA explain why certain groups of people have been included or excluded.
- High Cost Short Term Credit (HCSTC) comprises loans that can have terms from one month to 12 months, yet the proposed guidance seems to focus on the very short-term end (e.g. one to three months). The Panel has serious doubts about whether a one-month payment deferral is sufficient to allow many consumers to get on top of their immediate situation. The Panel suggests that the FCA should introduce different payment holidays based on the length of the loan term e.g. 3-month payment holidays (ideally with no interest) for longer-term loans.

- For HCSTC and Rent-To-Own (RTO) in particular, there is no mention in the proposed guidance about its application to firms that are in administration. This raises a number of questions which it would be helpful for the FCA to address in its final guidance:
    - Does the proposed guidance continue to apply to firms in administration?
    - What should occur if these firms no longer have the infrastructure (e.g. staff / call centres / branches) in place to deal with requests for payment deferrals?
    - Some customers will already have an affordability complaint against a firm which is in administration - what should customers expect in those circumstances? How do the proposals for deferred payments interact with this?

Motor finance

- The Panel suggests that the FCA should provide clarification about how consumers who currently benefit from some form of introductory offer (e.g. 0% finance for a set period) should be treated. Will they be eligible for the deferred payment or is there an expectation that the introductory offer should be extended?

The Panel hopes that this response is helpful to the FCA as it takes forward its work. Panel members would be very happy to discuss any part of this response.

Yours sincerely,

Wanda Goldwag
Chair, Financial Services Consumer Panel