

From: TFS Loans Limited (In Administration) ("TFS")

Firm Reference Number: 724439

Address: Allister Manson and Trevor Binyon as Joint Administrators of TFS
but without personal liability
Opus Restructuring LLP
4th Floor, Euston House
24 Eversholt Street
London
NW1 1DB

To: Financial Conduct Authority ("the FCA"), 12 Endeavour Square, London, E20
1JN (FAO: [Steve Page])

Date: 1 June 2022

VOLUNTARY APPLICATION FOR IMPOSITION OF A REQUIREMENT (THE 'REQUIREMENT')

TFS is insolvent and entered into administration pursuant to Paragraph 22 of Schedule B1 to the Insolvency Act 1986 on 08 February 2022. Allister Manson and Trevor Binyon were appointed Joint Administrators of TFS on the same day. The Joint Administrators act as agents of TFS but without personal liability.

TFS, an authorised person with a permission granted under Part 4A of the Financial Services and Markets Act 2000 ("the Act"), hereby applies under section 55L(5)(a) of the Act for the FCA to impose the requirement on the Part 4A permission of TFS in the terms set out in the Schedule below. The requirement in this application is to take effect immediately on its acceptance by the FCA and notification of such to TFS by email to the Joint Administrators.

SCHEDULE

1. General

- 1.1 TFS agrees to conduct a customer contact exercise, a Past Business Review (the '**PBR**'), and a redress programme on the terms set out herein and in detail in Section 3 below as soon as reasonably practicable following the conclusion of the Agreed upon Methodology to ensure the fair treatment of all consumers who acted as Guarantors in respect of loan agreements entered into with TFS between 2 November 2015 and 10 April 2018 (hereinafter defined as the "TFS Guarantors").
- 1.2 TFS will carry out the following steps according to its regulatory obligations and the principles set out below in Section 3:

- a) develop the Agreed upon Methodology to govern the PBR and redress programme, for review and approval by the FCA;
- b) identify, in accordance with the 'Agreed upon Methodology', which guarantors within the population of TFS's Guarantors are Called Upon Guarantors and/or CCJ Guarantors;
- c) send Customer Letter 1 & 2 to Called Upon Guarantors and CCJ Guarantors in accordance with the Agreed upon Methodology;
- d) send Customer Letter 2 to all remaining TFS Guarantors;
- e) execute the PBR and redress programme in accordance with the Agreed upon Methodology; and
- f) report regularly to the FCA on the progress and delivery of the steps set out in 1.2(a) - (e) above as the FCA reasonably requires.

2. Definitions

2.1 Terms referred to in this requirement:

- a) the '**Agreed upon Methodology**' means a PBR methodology and redress programme developed by TFS and approved by the FCA to ensure the fair treatment of all consumers who acted as TFS Guarantors in respect of loan agreements entered into with TFS between 2 November 2015 and 10 April 2018;
- b) '**Appointment Date**' means 08 February 2022;
- c) '**Customer Letter 1**' means the letter to be sent by TFS to Called Upon Guarantors and CCJ Guarantors as set out in paragraph 3.1 below;
- d) '**Customer Letter 2**' means the letter to be sent by TFS to all other TFS Guarantors, being those who do not fall in the category of Called Upon Guarantors or CCJ Guarantors and as set out in paragraph 3.2 below;
- e) '**CONC**' means the Consumer Credit sourcebook, part of the FCA's Handbook;
- f) '**Called Upon Guarantor**' means a TFS Guarantor who has been called upon by TFS to make a payment in respect of a Guarantor loan on behalf of the borrower (regardless of whether any payment has been made);
- g) '**CCJ**' means County Court Judgment;

- h) **'CCJ Guarantors'** means TFS Guarantors in relation to whom TFS has obtained a County Court Judgment arising from non-payment of a Guarantor Loan;
- i) **'TFS Guarantor'** means an individual who entered into an agreement with TFS during the Relevant Period to provide a guarantee or indemnity in respect of a regulated consumer agreement. For the avoidance of doubt, TFS Guarantors include CCJ Guarantors and Called Upon Guarantors;
- j) **'Guarantor Loans'** are regulated credit agreements with TFS under which a TFS Guarantor has provided a guarantee or indemnity; and
- k) **'the Relevant Period'** means the period from 2 November 2015 to 10 April 2018 inclusive.

3. Requirement

Customer contact

- 3.1. TFS shall identify each TFS Guarantor to whom either Customer Letter 1 or Customer Letter 2 is to be sent and provide a list of such TFS Guarantors to the FCA.
- 3.2. TFS shall use all reasonable endeavours to find an up-to-date email or postal address for each TFS Guarantor.
- 3.3. As soon as reasonably practicable after the approval by the FCA of the Agreed upon Methodology at the conclusion of Phase 1 below, TFS shall send a communication in the form and terms set out at Annex A to this Schedule (Customer Letter 1) to all Called Upon Guarantors and CCJ Guarantors. No amendment shall be made to the form and terms of Customer Letter 1 without the prior written consent of the FCA.
- 3.4. As soon as reasonably practicable after the approval by the FCA of the Agreed upon Methodology at the conclusion of Phase 1 below, TFS shall implement the Agreed upon Methodology and shall send a letter in the form and terms set out at Annex B to this Schedule (Customer Letter 2) to all TFS Guarantors. No amendment shall be made to the form and terms of Customer Letter 2 without the prior written consent of the FCA.

Redress - Design and Review

- 3.5 A plan and principles for the following will be prepared by TFS for review by the FCA:

- a) the scope of the PBR and the implementation of the redress methodology; and
- b) the consideration of all complaints that TFS may receive in respect of the PBR, the consumer contact exercise and/or the redress exercise, in accordance with the Agreed upon Methodology.

Phase 1 – Methodology

3.6 TFS shall design (for review and approval by the FCA) an appropriate methodology which will enable TFS to meet its regulatory obligations in relation to:

- a) Determining, in accordance with CONC 5.2.5R whether individual Guarantor Loans, in respect of Called Upon Guarantors and CCJ Guarantors, issued during the Relevant Period were unaffordable and therefore require redress in accordance with the Agreed upon Methodology;
- b) establishing any harm resulting from TFS's failure to carry out an adequate creditworthiness assessment, focusing in particular on affordability, in respect of the Called Upon Guarantors and CCJ Guarantors, in accordance with the Agreed upon Methodology;
- c) calculating any redress due to individual TFS Guarantors for any loss caused by an inadequate creditworthiness assessment, including consequential loss;
- d) delivering an appropriate and effective customer contact and redress programme in accordance with the requirement set out in this Schedule to enable TFS Guarantors, as applicable, to:
 - i. receive a refund of sums paid since the Appointment Date;
 - ii. prove as an unsecured creditor for all sums paid (plus any claim for consequential losses) before the Appointment Date; and
 - iii. receive confirmation of the removal of any CCJ and/or adverse credit entry and release of the guarantee.

3.7 If TFS is unable to design an appropriate methodology as described at 3.6 (a) to (d) in a timeframe to be agreed by the FCA, TFS shall release the Called Upon Guarantors and CCJ Guarantors from their repayment obligations, write to them to inform them of this and provide them a refund (for any sums paid since the Appointment Date) and reasonable assistance with their claims in the administration as if a determination had been made in the TFS Guarantor's favour. TFS shall also provide

reasonable assistance to such TFS Guarantors with their claims in the administration.

- 3.8 In executing the redress programme, TFS shall be mindful of, and ensure it meets, its obligations under the FCA's Principles for Businesses and requirements for consumer credit firms as set out in CONC at the applicable time during the Relevant Period. Particular focus and consideration should be given to the following:
- a) The creditworthiness and affordability rules in **CONC 5.2.5R, 5.3.2R, and 7.5.2R**, with a particular focus on the potential for the TFS Guarantor's obligations under the Guarantor Loan agreement to adversely impact the TFS Guarantor's financial situation.
 - b) The specific forbearance rules in **CONC 7.3.5G(1) and 7.3.4R**.
- 3.9 Phase 2 shall only commence once the FCA has confirmed in writing that it is satisfied that it is appropriate for it to proceed.

Phase 2 – TFS's application of the methodology designed in Phase 1

- 3.10 The execution of Phase 2 shall take into account and comply with the FCA's complaint handling rules in DISP and all of TFS's other regulatory obligations.
- 3.11 TFS shall execute the PBR, including any customer contact exercise that must be undertaken in connection with the PBR in a timely manner, in accordance with the Agreed upon Methodology.
- 3.12 Where the PBR determines for any transaction that the creditworthiness assessment that TFS carried out in respect of the Called Upon and CCJ Guarantors failed properly to identify that the Guarantor Loan agreement was unaffordable at the point of sale, TFS shall, in accordance with the Agreed upon Methodology, assist the TFS Guarantor in making a claim in the administration.
- 3.13 TFS shall apply the Agreed Upon Methodology in respect of any claim made by Called Upon Guarantors and CCJ Guarantors for consequential loss.
- 3.14 Phase 2 may only conclude with the FCA's written consent.

Refunds of payments made since the Appointment Date

- 3.15 TFS shall promptly repay the payments made to TFS since the Appointment Date to each of the CCJ and Called Upon Guarantors

Complaints regarding the PBR, customer contact exercise, and redress programme

- 3.16 TFS shall institute a process for managing and responding to complaints raised by TFS Guarantors regarding the PBR, customer contact exercise, and redress programme. The process shall be governed by the principles set out in the Agreed Upon Methodology described in paragraph 3.6 above.
- 3.17 The claims by those TFS Guarantors entitled to redress will be adjudicated as unsecured claims in accordance with the Insolvency Act and Rules which also provide a remedy for dissatisfied creditors. Any complaints about the Joint Administrators' conduct will be dealt with by the licensing authority for the Joint Administrators. The adjudication of claims made will not be undertaken until TFS enters into insolvent liquidation and its liquidators are in a position to make a distribution to unsecured creditors.

Future obligations of Guarantors

- 3.19 TFS shall release all CCJ Guarantors and Called Upon Guarantors who are eligible for redress from any future obligations under the Guarantor Loan agreement and make it clear to them that it has done so.
- 3.20 TFS shall not call upon any TFS Guarantor in future until it has first satisfied itself that the creditworthiness assessment it conducted in respect of any such TFS Guarantor at the outset of the lending relationship was adequate and properly considered whether the loan was affordable for the TFS Guarantor. The assessment of affordability shall be made in accordance with the Agreed Upon Methodology. Where TFS cannot conduct an appropriate assessment to determine whether the creditworthiness assessment it previously conducted was adequate, TFS shall release the TFS Guarantor from future obligations.
- 3.21 Where TFS determines that the affordability assessment it conducted in respect of a TFS Guarantor was inadequate at the time it was entered into, it shall not call upon that TFS Guarantor in the future and must notify such a TFS Guarantor that it is released from any future obligations under the Guarantor Loan agreement.
- 3.22 TFS must as soon as reasonably practicable remove any adverse entries on the credit files of any TFS Guarantor who is determined not to have been able to afford the loan at the outset of the lending relationship and of any other TFS Guarantor in respect of which it, in future, determines that the affordability assessment conducted at the relevant time was inadequate.

Recordkeeping

3.23 TFS shall maintain full records of all analysis, review work, or evidence collected in connection with the customer contact exercise, PBR, and/or redress programme. TFS shall also maintain records of any affordability assessments that it conducts in the future in respect of TFS Guarantors who have not been released from their obligations at the conclusion of the redress programme. Such records shall be held and disposed of in accordance with TFS's obligations pursuant to the UK General Data Protection Regulation.

TFS's reporting obligations to the FCA

3.24 TFS shall report to the FCA as the FCA reasonably requires from time to time.

3.25 TFS shall promptly inform the FCA in the event that any issues emerge that are material to the customer contact and redress programme.

3.26 For the avoidance of doubt, this customer contact and redress programme shall remain subject to the overall oversight, approval and jurisdiction of the FCA through TFS's FCA Supervisors in the usual way. Whilst the FCA shall retain its power to amend the customer contact and redress programme as appropriate, or substitute other arrangements in its place, if it considers it appropriate for the fair treatment of consumers or to meet its obligations or objectives generally the Joint Administrators shall only be bound to the amendments and/or substitutions to which they expressly agree as part of the Agreed upon Methodology.

3.27 Any variation from the requirement in this Schedule must be agreed in advance with the FCA.

3.28 TFS consents to the requirement being publicised by the FCA, once imposed, in any manner it sees fit, including by the inclusion of such details as the FCA considers appropriate on the Financial Services Register and on its website.

Signed:

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Allister Manson, as Joint Administrator of TFS Loans Limited (in administration) as its agent but without personal liability

ANNEX A TO SCHEDULE – CUSTOMER LETTER 1 (to be on TFS’s headed letter)

This letter is important and requires your careful consideration. We understand that you have acted as a Guarantor for a Loan Agreement entered into with TFS Loans Limited before it entered into administration, this letter relates to your rights because you have been called upon to make payments on behalf of the original borrower and/ or we have obtained a County Court Judgment (“CCJ”) against you before it entered into administration.

[Customer name and address]

[Date]

Dear [Customer name]

Your Guarantor Loan agreement with TFS Loans Limited Ref: [Customer reference]

Date of Loan Agreement (“the Loan Agreement”): [Date]

Date of Administration: 08 February 2022

- TFS Loans Limited is in administration and Allister Manson and Trevor Binyon were appointed as **Joint Administrators on 08 February 2022.**
- We are writing to you now as a Guarantor of a loan agreement because you may have been adversely affected by TFS Loans Limited’s failure to adequately assess affordability in respect of our Guarantor Loans business during the period 2 November 2015 and 11 April 2018.
- Please read this letter carefully. If you think you may be affected, we have given you information on the steps you may want to take in the section below on *‘what you should do next’* while we consider whether you are entitled to compensation.

What this means for you

If you acted as a Guarantor for a Loan Agreement entered into between 2 November 2015 and 11 April 2018, TFS Loans Limited may not have adequately assessed whether the Loan was affordable for you. As a result, you may have been disadvantaged by acting as a Guarantor for a Loan you could not afford to guarantee, and you may also have been called upon to make payments on behalf of the original borrower and/ or been subject to court action. In particular, in

assessing affordability TFS Loans Limited may not have taken appropriate account of the following:

1. All your expenses; and
2. Whether it was appropriate and fair for you to act as a guarantor given your individual financial circumstances at the time.

As a result, if you entered into a Guarantor Loan agreement with TFS Loans Limited, and you have been called upon to make payments on behalf of the original borrower and/or TFS Loans Limited have obtained a County Court Judgment against you, TFS Loans Limited have been required by its regulator, the Financial Conduct Authority ("the FCA") to conduct a review, which will be monitored by the FCA. That review will assess whether the creditworthiness assessment TFS Loans Limited conducted at the time the Loan Agreement was entered into was adequate and, if not, we will help you make a claim in the administration as an unsecured creditor and, if you have made a payment since 08 February 2022, refund the payment/s you have made since that date.

We will review your customer file to determine whether the Loan was affordable for you as Guarantor at the point of sale. **We also may contact you sometime in the coming months to ask you for information which will help us to understand your personal circumstances at the time you agreed to act as Guarantor.**

If we conclude that the creditworthiness assessment, TFS Loans Limited conducted was not adequate we will:

1. help you submit a claim in the administration for sums you have paid in respect of the agreement before TFS Loans Limited entered into administration - including interest and charges plus 8 per cent interest;
2. Refund to you all payments you have made since 08 February 2022 being the date of administration;
3. release you from any future obligations under the same agreement; and
4. remove any adverse information which we have recorded on your credit file in respect of any default or missed payment relating to the relevant agreement.

Further, where we have concluded that the creditworthiness assessment, TFS Loans Limited carried out on you was not adequate, you can also seek to claim in the administration for any other payments or detriment you may have suffered as a result of having been called upon to make payments on behalf of the borrower or as a result of TFS Loans Limited taking court action against you.

What you should do next

You do not need to do anything at this stage. As stated, we may contact you to request further information about your financial circumstances at the time you agreed to act as a Guarantor. Otherwise, you will hear further from us in due course once we have reviewed your customer file and determined whether the Loan was affordable for you as Guarantor at the point of sale.

However, if you wish to make a complaint about any aspect of the Loan Agreement, or you wish to ask us to consider any other losses as part of the above process which you may have incurred as a result of being a Guarantor, you should contact: complaints@tfsloans.co.uk or write to TFS Loans Limited (in administration) at 4th Floor, Euston House, 24 Eversholt Street, London, NW11DB as soon as possible.

Please also provide your current home or email address and contact phone number.

We understand that you may want to be sure that this letter is genuine. If you wish to check the details on the FCA's website, please go to this link:

<https://register.fca.org.uk> and search the register for our reference number: 724439_

Please note that this process will not adversely affect any Guarantee or Loan you may have with TFS.

If you have any queries about this letter, please contact us on: [Telephone number].

Yours sincerely

Allister Manson
Joint Administrator

For and on behalf of TFS Loans Limited (but without personal liability)

ANNEX B TO SCHEDULE – CUSTOMER LETTER 2 (to be on TFS’s headed letter)

This letter is important and requires your careful consideration.

If you acted as a Guarantor for Loan agreements entered into with TFS Loans Limited, this letter contains information which may affect your obligations.

[Customer name and address]

[Date]

Dear [Customer name]

Your Guarantor Loan Agreement with TFS Loan Limited Ref: [Customer reference]

Date of Loan Agreement (“the Loan Agreement”): [Date]

Date of Administration: 08 February 2022

- TFS Loans Limited is in administration and Allister Manson and Trevor Binyon were appointed as Joint Administrators on 08 February 2022.
- We are writing to you now as a Guarantor because you may be affected by TFS Loans Limited’s failure to adequately assess affordability in respect of its Guarantor Loans business between 2 November 2015 and 10 April 2018.
- Please read this letter carefully. If you think you may be affected, we have given you information on the steps you may want to take in the section below on *‘what you should do next’*.

What this means for you

If you acted as a Guarantor for a Loan Agreement entered into between 2 November 2015 and 10 April 2018, TFS Loans Limited may not have adequately assessed whether the Loan Agreement was affordable for you. As a result, you may have acted as a Guarantor for a Loan you could not afford to guarantee. In particular, in assessing affordability TFS Loans Limited may not have taken appropriate account of the following:

1. All your expenses; and
2. Whether it was appropriate and fair for you to act as a guarantor given your individual financial circumstances at the time.

Our records indicate that we have never asked you to make payments on behalf of the original borrower, nor have we obtained a County Court Judgment (“CCJ”) against you. **Please contact us if this is wrong.**

The terms of the Loan Agreement have not changed: should the original borrower fail to make payments on the loan, you remain responsible for making up those payments – provided that we adequately assessed whether the Loan Agreement was affordable for you at the time you agreed to be a Guarantor.

We may need to contact you at some point in the future to undertake a further retrospective creditworthiness assessment, in order to ascertain whether TFS Loans Limited correctly approved you to act as a Guarantor for the Loan Agreement at the time.

If we conclude that the creditworthiness assessment, TFS Loans Limited carried out at the time the Loan Agreement was entered into was incorrect, TFS Loans Limited are required by its regulator, the Financial Conduct Authority (“the FCA”) to cancel your Guarantee and release you from all obligations under it.

This means that we will only call upon you to make payments on behalf of the original borrower if we conclude that the creditworthiness assessment that TFS Loans Limited carried out when you entered into the Loan Agreement was incorrect.

What you should do next

You do not need to do anything at this stage. However, if you wish to make a complaint about any aspect of the Loan Agreement, including if you consider you have suffered detriment as a result of wrongly being approved as a Guarantor, you should contact: complaints@tfsloans.co.uk or write to TFS Loans Limited (in administration) at 4th Floor, Euston House, 24 Eversholt Street, London, NW11DB as soon as possible

Please also provide your current home or email address and contact phone number.

We understand that you may want to be sure that this letter is genuine. If you wish to check the details on the FCA’s website, please go to this link:

<https://register.fca.org.uk> and search the register for our reference number: 724439.

Please note that this process will not adversely affect any Guarantee or Loan you may have with TFS.

If you have any queries about this letter, please contact us on: [Telephone number].

Yours sincerely

Allister Manson
Joint Administrator

For and on behalf of TFS Loans Limited