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Strengthening Protections for Borrowers in Financial Difficulty

Fair4All Finance response

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Summary

In light of the rising cost of living, the FCA is consulting on strengthening protections for borrowers in financial difficulty. Drawing on learnings from throughout the pandemic, the FCA is proposing that certain measures which helped customers during covid-19 should be incorporated into standard practice for the banks. This aims to provide banking institutions with more details on how they should act in relation to forbearance, and to give consumers a clearer expectation of the support they could get.

Recent Fair4All Finance research Banking response to covid-19 shows that many of the measures adopted for the pandemic significantly improved people's circumstances at a time of financial distress, without critical impact on banks' costs or stability. We therefore welcome plans to enhance support available from the banks to help customers in financial difficulty, regardless of the reason.

These include:

- supporting customers before, not after, they miss a payment or instalment
- offering a wide and flexible range of measures for forbearance to address each customer's personal circumstances
- communicating with customers in a clear and simple way through their preferred channel
- keeping bank policies up-to-date in light of external factors which impact people's financial situations, eg changes in the economic environment

Building on this, we also encourage financial institutions to go further by proactively looking to identify and reach out to people who may be struggling. Our recent research Banking response to covid-19, showed respondents would welcome being approach with offers of support rather than having to independently seek out help. Fair4All Finance's segmentation model can assist by helping banks to identify the points at which different people may start to experience difficulties.

Overall, this an important opportunity for the FCA and the banks to coordinate a clear approach to the increased cost-of-living: encouraging customers to ask for support and empowering firms to offer a wide ranging, proactive appropriate response.

About Fair4All Finance

Fair4All Finance is a not for profit organisation founded in early 2019 to improve the financial wellbeing of people in vulnerable circumstances by increasing access to fair, affordable and appropriate financial products and services. We have three main priority areas:

- Expanding provision of affordable credit through a scaled community finance sector
- Partnering with banks and financial services providers to support the delivery of products and services for customers in vulnerable circumstances
- New product and market development – developing and scaling products and services to address market gaps

You can find our full strategy here.

Our response

Context

The onset of Covid-19 was a highly uncertain time. Millions more people found themselves in financially vulnerable circumstances, almost overnight. The financial aspect of the pandemic needed its own emergency response. The ensuing months served to emphasise the lack of financial resilience that many people have, but also what can be achieved when the whole financial services system works together to support people in financially vulnerable circumstances.

The FCA should be praised for the speed with which they acted, publishing initial guidance for banking institutions within the same month. Tailored Support Guidance (TSG) provided consumers with a definite expectation of the support they could get, and banking institutions with a clear framework of how they should proceed in these unprecedented circumstances.

Many banking institutions are also to be commended for their responsiveness to the crisis, with many going above and beyond the FCA guidance to support their customers. Examples include proactively contacting and supporting customers to protect those in vulnerable circumstances from falling into a debt trap and deteriorating their financial situation any further.

Fair4All Finance recently conducted research on the Banking response to covid-19 exploring the support provided to customers by the FCA and retail banks during the Covid-19 pandemic. Our research shows that in general this support was seen to be very effective. A high number of customers were able to access measures implemented by banking institutions. Overall half of customers' requests received full agreement to the support measure they requested and at least 80% of requests received a partial agreement. 83.6% of participants from the research survey stated they were satisfied or very satisfied with the support they received. 76% felt the support received had positively impacted their financial situation. Customer loyalty increased by over 70% as a result.

The research also highlighted lessons that could be learned and areas of support that should be taken forward to continue supporting customers in financial difficulty. We draw on the insights and findings from this research throughout our response below.

Proposed FCA approach

We welcome FCA plans to continue appropriate measures from the approach taken during the pandemic, enhancing support available to customers in financial difficulty, regardless of the reason. We therefore agree with the intention to incorporate appropriate elements of the Tailored Support Guidance into the standard credit and mortgage sourcebooks going forward.

Everyday life events - illness, bereavement, loss of work - are a key driver of people falling into financial difficulty. In 2018, seven in ten people who went to StepChange Debt Charity for advice said the primary reason they fell into problem debt was because of a life event.

There are also important parallels between the pandemic and the cost of living crisis, with current challenges facing people bearing some resemblance to those faced during Covid-19. This is particularly so for low income customers impacted by rises in consumer prices (which have increased by 10.1% in the last year) and by domestic gas and electricity prices (which increased by 96% and 54% between July 2021 and 2022 respectively). This is against a backdrop of families on lower incomes having been more likely to have to spend more and see their savings eroded throughout the pandemic, where around 11m people built up some £25bn of debt.

Findings in our Banking response to covid-19 research suggests the measures banks put in place to support customers in vulnerable circumstances did not have a detrimental impact on operating costs, income statements or financial stability. We recognise that maintaining lending support measures at large scale may be harder to sustain in the event there are substantial increases in outstanding consumer debt or loan loss provisions. However, for now there are millions of people for whom these interventions and information will make a life-changing difference at an incredibly difficult time. As an absolute minimum, it will always be critical to engage with customers in vulnerable circumstances early to provide breathing space and to work with referral partners to support customers in greatest need and prevent levels of consumer debt rising.

Just as was achieved in the pandemic response, the FCA and banks now have an opportunity to coordinate a clear approach to the cost-of-living crisis: encouraging customers to ask for support and empowering firms to offer wide ranging and appropriate forbearance. These changes also complement measures agreed in the recent Mortgage Charter between HM Treasury and UK banks and building societies. This recent intervention similarly builds on learnings from the pandemic about the benefit of being clear on the support available, engaging before people fall behind, and overcoming the fear that reaching out for help may impact an individual's credit score.

Supporting customers at risk of payment difficulty

Q1: Do you agree with our proposed changes to the scope of:

- **CONC5&7?**
- **MCOB 13?**

Yes. We agree that it is important to support customers not just when they have actually missed a payment, but in advance of that where customers indicate they are approaching a potential missed payment, and expect to experience difficulties. Appropriate support at an earlier stage will give people a wider, clearer view of the options available to them, and the time to put measures in place which can help prevent their financial situation worsening.

We recognise that firms will not be able to identify all customers in financial difficulty, and that a customer reaching out can be one of the key triggers alerting firms that someone is experiencing financial difficulty. However, we believe that firms should be making more of a proactive attempt to identify and reach out to customers who may be struggling, and encouraging them to come forward for advice and to actively discuss their financial situation and the range of options available.

In focus groups held as part of our research Banking response to covid-19, respondents frequently cited their preference for being proactively offered support rather than having to independently seek it out. But our survey indicated that during the pandemic customers were more than twice as likely (64%) to have contacted their bank than the other way around (28%).

We would like to see firms making use of our segmentation model to better understand the needs of customers in financially vulnerable circumstances. As well as supporting the design of more appropriate products for people on lower or more volatile incomes, this would allow them to better understand and identify the points at which people may start to experience difficulties.

Reviewing the effectiveness of policies and procedures

Q2: Do you agree with our proposals to include a new Handbook rule and associated Handbook guidance, covering the reviews of the effectiveness of policies and procedures:

- **in CONC 7?**
- **in MCOB 13?**

Yes. We agree that firms should be reviewing policies and procedures at appropriate intervals. This will help ensure they can actively respond in a timely way to external factors which heavily impact people's financial situations, such as changes in the economic environment (as we are currently experiencing with higher inflation and increases in interest rates).

Customers in vulnerable circumstances

Q3: Do you have any comments on our updated references to the fair treatment of vulnerable customers:

- **for CONC 7?**
- **for MCOB 13?**

In 2022 we undertook detailed analysis to create and publish a segmentation model of people in financially vulnerable circumstances. This identified 17.5 million people as financially vulnerable, on a spectrum from precarious to fully excluded. Proactively identifying customers in vulnerable circumstances and communicating in their preferred way can ensure appropriate support is offered early before people's financial issues worsen.

We therefore agree this should be updated to ensure consistency with latest FCA guidance for firms on the fair treatment of vulnerable customers (FG21/1).

Forbearance options

Q4: Do you agree with our proposals to add to the existing list of forbearance options at:

- **CONC 7.3.5G & CONC 5D 3.3(4)G?**
- **MCOB 13.3.4AR?**

Yes. We welcome the expectation that firms consider a range of forbearance options, as well as the FCA's intention to set out a wider set of examples in this area. This is an opportunity for banks to build on the measures introduced in the pandemic for customers experiencing life events and temporary financial difficulties. Providing a wide and flexible support and forbearance offer will be the best way banking institutions can ensure they address an individual customer's personal circumstances appropriately. Many people will need additional support to get through the coming months, including those facing increased mortgage payments.

Interestingly from the range of measures offered throughout the pandemic, our research into the banks' response to Covid-19 found that payment holidays were potentially the most successful support measure that was provided. They had the highest levels of satisfaction of the surveyed support measures, with 86.9% of respondents satisfied or very satisfied with the impact on their financial situation. Customers appreciated the simplicity of the offer and widespread promotion and understanding of the measure empowered them to engage with firms at unprecedented levels. Clear guidance from the regulator also encouraged firms to be generous in their approval of requests – our survey found that 96% of payment holiday requests were approved or partially approved. While a temporary payment holiday will not be appropriate in all cases, for many people it provides the breathing space they need to get back in control of their financial situation. In contrast, our recent survey found that new overdrafts and overdraft extensions generated lower levels of satisfaction from people who were able to draw on this measure.

More widely, banking institutions could also be encouraged to widen their credit options to support customers in financially vulnerable circumstances, or at a minimum widening their referral pathways.

We know from our work with community finance providers there is significant need for small flexible loans to cover unexpected expenses. Many customers who are on low or flexible incomes need access to personal loans that are less than £1k and that can be repaid within 1 year. In Q3 2021, 86 % of new loans issued by our grantee organisations were equal to or under £1k, yet most bank loans start at a minimum of £1k. Reintroducing an offer of a £500 interest-free overdraft may also be welcomed by many where appropriate.

Transparency & accessibility / Money guidance & debt advice / Information

We support new guidance encouraging firms to engage with customers through a range of channels, changing the channel if necessary to enable the customer to engage with the firm effectively.

Our Banking response to covid-19 research found many customers struggled to understand the impact and long term consequences of certain support measures. Improved, simple and clear communications should be in plain English, strip out jargon and cut back on unnecessary content. This would increase the positive impact and reach of support measures and their ability to make good decisions.

Research last year by StepChange and Amplified Global found that there are clear opportunities to improve communications to people in financial difficulty, and that the current wording and approach to communications can be a barrier to people seeking help.

In terms of communication channels, our Banking response to covid-19 research showed phone calls were the most popular for both banking institutions and customers (and across different age demographics). Digital channels were also popular (email and webchat) and human interaction remains a valued part of broader customer service, particularly for those who may not feel safe banking online. Letters were notably less popular.

Overall, communications with customers can be improved by aligning customers with their preferred method of communication and increasing efforts to make digital channels accessible to all customers. This will also complement the new Consumer Duty requirements.

The FCA itself could also helpfully consider its role in promoting information on the kinds of support measures available. Our research showed that many people were able to benefit from payment holidays during the pandemic after reaching out to their bank as they were aware this was possible.

Q5: Do you agree with our proposals on the transparency and accessibility of forbearance options to:

- **CONC at CONC 7.3.13A, CONC 5D 3.9G and CONC 5D 3.3G(7)?**
- **MCOB 13.3.4C?**

Yes. In addition, the guidance in CONC 7.3.13A could be more prescriptive still in terms of best practice for credit (beyond stating that information should be available in the most appropriate way) to align with that proposed for overdrafts in CONC 5D (that "a firm should set out on its website, in a prominent location, the forbearance and other support options that may be considered").

Evidence from the pandemic demonstrates the more that is done to show people what help is available, the more people feel confident in coming forward to discuss options for help.

Q6: Do you agree with our proposals relating to effective customer engagement and communication around money guidance and debt advice in:

- **CONC 7.3.7A?**
- **MCOB 13.3.2AR?**

Yes

Q7: Do you agree with our proposals to include further Handbook provisions on our expectations relating to customer engagement and communication:

- **in CONC 7.3.13A and CONC 5D?**
- **in MCOB 13.3.4AR(2)?**

Yes. In addition to ensuring people are aware of any impact of forbearance on their credit file, it is important people are also made aware that the very act of proactively reaching out and discussing help available does not impact their credit file. The recent Mortgage Charter helpfully incorporate this as an explicit commitment from financial institutions, which should also be reflected within the updated guidance.

Ensuring consistency

Q8: Do you have any comments on these consequential amendments in:

- **CONC?**
- **MCOB?**

We agree that these changes appear sensible in order to ensure the sourcebooks remain consistent and up to date with the latest approaches being incorporated from the Tailored Support Guidance.

Credit and Mortgage specific proposals

Fair4AllFinance welcomes the overall approach set out in the proposed updates to the sourcebook as a means to strengthen protections for borrowers in financial difficulties. Our research into the banking response to Covid-19 has shown many of the measures adopted significantly improved people's circumstances at a time of financial distress, without critical impact on banks' costs or stability.

We therefore support the driving principles behind the proposals in questions 9 - 30. These proposals seek to address forbearance and the associated challenges and consequences in a way which gives customers that find themselves in difficult circumstances the best possible ways to resolve their financial issues.

Q9: Do you agree with our proposals to introduce requirements on escalating balances where a firm has put in place a sustainable repayment arrangement as a forbearance measure and the customer is meeting the terms of that arrangement?

Yes

Q10: Do you agree with our proposals on introducing guidance to help firms determine necessary and reasonable charges?

Yes

Q11: Do you agree with our proposals on sustainable repayment arrangements?

Yes

Q12: Do you agree with our proposals requiring firms to take reasonable steps to ensure that forbearance measures remain appropriate?

Yes

Q13: Do you agree with our proposals for firms to objectively undertake income and expenditure assessments?

Yes

Q14: Do you agree with our proposed guidance for income and expenditure assessments on clear policies, assessing whether arrangements are appropriate and sustainable and making available to the customer a record of any income and expenditure assessment made to allow them to share with other lenders and debt advice providers?

Yes

Q15: Do you agree with our proposals on repossessions?

Yes

Q16: Do you agree with our proposals on voluntary termination?

Yes

Q17: Do you agree with our proposed amendment to CONC App 1.2?

Yes

Q18: Do you have any comments on the increasing balances proposals?

No further comments

Q19: Do you agree with our proposal to change and extend the scope of the rules in MCOB 13.4.1R and MCOB 13.5.1R to ensure more timely disclosure of information on any payment shortfall?

Yes We agree with changes to the timing of disclosure of information on payment shortfall, and would also encourage consideration of the nature of this information and how it is communicated. The Mixed Messages research from StepChange and Amplified Global showed that people can find default notices threatening, whereas shortfall statements should be seen as another opportunity for people to understand the help available and direct them to appropriate advice.

Q20: Do you agree with our proposals to amend the guidance in MCOB 13.3.4DG?

Yes

Q21: Do you agree with the factors we propose a firm considers when determining whether capitalisation is appropriate?

Yes

Q22: Do you have any comments relating to determining the affordability of future capitalised payments?

No further comments

Q23: Do you agree with our proposals for firms to ensure that forbearance arrangements remain appropriate?

Yes

Q24: Do you agree with our proposed guidance on what we consider to be reasonable steps?

Yes

Q25: Do you agree with our proposals to provide additional guidance at MCOB 13.3.4CG to include taking account of wider indebtedness?

Yes

Q26: Do you agree with our proposal for firms to share income and expenditure assessments with customers where possible?

Yes. This is in-keeping with general moves within data policies to recognise customer interest in, and ownership of, data that pertains to them and their circumstances. It helps consumers to understand why certain decisions may have been taken by financial institutions, and it also has the potential to save time and effort for individuals where they may need or want to submit related information to a number of parties.

Q27: Do you agree with our proposal to extend the rule in MCOB 13.3.9R to include customers who have or may have payment difficulties?

Yes

Q28: Do you agree with our proposed clarification on recording video calls in MCOB 13.3.9R? Do you agree with our proposal not to extend this to those facing payment difficulties?

No comment

Q29: Do you have any comments on the proposed amendments to MCOB 13.8?

No further comments

Q30: Do you have any comments on the consequential impacts to:

- **MCOB 14?**
- **MCOB 15?**

No further comments