MONEY ADVICE TRUST

BUSINESS DEBTLINE NATIONAL DEBTLINE WISER ADVISER

Consultation Response:

FCA proposals to further support consumer credit customers

Response by the Money Advice Trust

Date: June 2020

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Introduction

About the Money Advice Trust

The Money Advice Trust is a charity founded in 1991 to help people across the UK tackle their debts and manage their money with confidence.

The Trust's main activities are giving advice, supporting advisers and improving the UK's money and debt environment.

In 2019, our National Debtline and Business Debtline advisers provided help to more than 199,400 people by phone and webchat, with 1.97 million visits to our advice websites.

In addition to these frontline services, our Wiseradviser service provides training to free-to-client advice organisations across the UK and in 2019 we delivered this free training to over 981 organisations.

We use the intelligence and insight gained from these activities to improve the UK's money and debt environment by contributing to policy developments and public debate around these issues.

Find out more at www.moneyadvicetrust.org

Our response to Covid-19

As a result of the Covid-19 outbreak, all Money Advice Trust staff – have been working from home since Monday 23rd March. This includes all National Debtline and Business Debtline advisers, who are advising clients by phone and webchat after a significant infrastructure project to support this transformation, delivered at speed.

We have published new National Debtline and Business Debtline Coronavirus factsheets to provide information and advice to people whose household and small business finances have been affected by the Covid-19 outbreak. These are being continually updated and are available at www.nationaldebtline.org/coronavirus and www.businessdebtline.org/coronavirus

On 19th March the Money Advice Trust and StepChange Debt Charity published our joint Rescue Package proposal to Government and we continue to share evidence from National Debtline and Business Debtline to help shape the Government's, regulators' and creditors' policy responses. For more information on the Money Advice Trust's response to Covid-19 visit www.moneyadvicetrust.org/coronavirus.

Public disclosure

Please note that we consent to public disclosure of this response.

Introductory comment

We welcome the FCA's proposed decision to extend the temporary guidance protections for consumers with credit cards, revolving credit, personal loans and overdrafts to 31st October 2020.

We welcome the availability of partial payment deferrals as well as full payment deferrals. It is clear to us from talking to our advisers at National Debtline that use of the language of payment "holidays" in various reporting of these measures has not been helpful. Some of our clients are misunderstanding the nature of the payment holiday. It is vital that lenders make it very clear that the balance is still outstanding, and that interest is accruing. It is also vital that lenders explain how this will affect their customers' payments in the future.

It is important that all firms are monitored by the FCA to ensure they are complying with the letter and spirit of these rules. We have come across cases where firms have refused to help without first referring its clients for debt advice. In addition, some firms appear confused about the rules where someone was in financial difficulties before the Covid-19 outbreak struck and when to apply these payment deferral rules in those circumstances.

As we have previously outlined, we remain of the view that the guidance should be amended to require interest to be waived. Otherwise consumers will be required to resume repayments with a higher balance plus the rolled-up interest will have been added to their accounts.

We would again urge the FCA to turn its attention to business lending and how it can assist micro-businesses who have been impacted by coronavirus. It appears to us from contact to Business Debtline that our clients are at risk of receiving little help with their business lending products, business credit cards and business overdrafts. This must be addressed as a matter of urgency.

Comments on the draft guidance

Credit cards (including retail revolving credit) and coronavirus: updated temporary guidance for firms

We welcome the FCA's proposed decision to extend the temporary guidance to 31st October 2020. We welcome the availability of partial payment deferrals as well as full payment deferrals.

We are disappointed to note that the guidance does not cover business-related credit cards or other borrowing. We are yet to hear of any proposals from the FCA to assist those with small business related credit. As has been well documented, many small businesses are struggling to survive as a result of the Covid-19 outbreak and all potential support measures need to be adapted to their needs in the crisis. This is particularly important considering the widespread intertwining on business and personal finances that we see at Business Debtline, and as the FCA's Financial Lives survey has evidenced.

We welcome the continued protections given to consumers who will not have their credit facilities suspended as a result of any payment deferral. We also are relieved to see that credit reference files will not be affected.

Again, we welcome the suspension of fees and charges, but our concerns about the accrual of additional interest on the outstanding payments remain. We have raised these concerns in every consultation we have responded to in relation to the FCA's response to the covid emergency.

"1.17 A customer should have no liability to pay any charge or fee in connection with the permitting of a full or partial payment deferral, or a different solution where a payment deferral has been deemed not in the customer's interests, under this guidance. The continuing accrual of interest on sums owed under the agreement that remain unpaid would not be inconsistent with this guidance."

We are pleased to see the FCA raising the possibility of firms waiving interest. However we would like to see this as more of an instruction to firms. The FCA should be more directive to firms on freezing and waiving interest charges in these circumstances.

“1.30 This guidance does not preclude a firm from offering a more generous form of support, such as waiving of interest.”

It appears that the persistent credit card rules interact with these proposals in a complex way. It is vital that the lender acts reasonably when applying these rules once the payment deferral period expires. There is a danger of consumers receiving very mixed messages about their responsibilities to clear the balance following the payment holiday, once the persistent debt rules apply again.

We are not convinced that this guidance is strong enough in this case. We think the FCA should strengthen “it may be appropriate” to add an additional 3 months to the time allowed, to “firms **must allow** the customer” an additional 3 months to respond.

“1.37 The firm should take into account the duration of any payment deferral when considering what is a ‘reasonable period’ within which the customer should be requested to respond to the options to increase payments offered by the firm under CONC 6.7.31R(3). For example, if a customer exits a 3 month payment deferral after the 36th month, it may be appropriate to allow the customer up to an additional 3 months to respond to the 36 month communication, if such communication is required under the rules.”

It is difficult to see many situations where consumers will not have a greater overall debt burden at the end of the full or partial payment deferral period than where interest has been waived instead.

“1.54 For example, a further full or partial payment deferral would obviously not be in the customer’s interests if it would give them a greater overall debt burden compared to other solutions (that might involve reduced or waived interest for example) that could equally meet their needs and that burden would be clearly unsustainable. A payment deferral is also unlikely to be appropriate where a customer is unable to repay the deferred amounts within a reasonable time period.”

As a consequence we suspect that there may be many cases where consumers are unable to resume payments after the extended payment deferral period and forbearance measures under CONC apply instead. The retrospective interest waiver may have to be applied for a great many accounts.

“1.60 If a customer at the end this further payment deferral period is unable to resume payments, they are entitled to forbearance under CONC 6 or 7. As part of this, we expect any interest accrued during both the initial and, where relevant, further payment deferral to be waived in accordance with the section below (under ‘Interest Waiver’).”

We welcome the section on “Debt help and money guidance”. Whilst we always support signposting to sources of free debt advice, we wonder if it would be worth making it clear that firms cannot make it a requirement to seek debt advice ***before*** granting a payment deferral. We have come across cases where firms have refused to help without first referring its clients for debt advice.

We note that the FCA again refers to credit card pricing.

"1.40 Firms should review their prices to consider whether they are consistent with the obligation to treat customers fairly in the light of the exceptional circumstances arising out of coronavirus in order to ensure that they do not pose unjustifiable burdens on these customers who may be experiencing temporary payment difficulties."

We would welcome clarity on what action the FCA will take if it finds that firms are failing to review their prices and continuing to charge high interest rates regardless of this requirement.

Overdrafts and coronavirus: proposed update to temporary guidance for firms

We welcome the proposed extension to the FCA overdraft protections to allow a further three months of interest free overdraft up to the level of £500.

However, once again small business accounts are excluded from these provisions as they appear only to apply to a personal main current account. The overdraft measures should be extended to cover business overdrafts, to ensure that small business owners who are struggling with the impact of Covid-19, and whose personal and business finances are often intertwined, provide adequate protection across all of their banking products.

We are pleased to see that firms can extend this provision to all its arranged overdraft customers automatically. It would seem to us that this would be preferable than requiring people to reapply. It may not be at the forefront of peoples' minds that they need to take any action to continue the interest-free help.

Where firms require customers to reapply for the support, it is therefore very important that consumers are alerted to this requirement as stated in section 1.26 of the guidance.

"1.26 Where a firm is not automatically extending the duration of the interest free amount for all customers currently receiving it, it should communicate in an appropriate way and in good time before their initial period of support expires about:

- *when their support is ending*
- *the availability of a further period of support, and*
- *that they need to contact the firm if they require additional support."*

We note the section on "Further support for those in financial difficulty" which requires firms to grant a preferential interest rate on the portion of any overdraft that is over £500 and not, therefore, interest free.

"1.30 Firms should ensure that these customers can, on request, access a preferential interest rate in respect of any borrowing that is not interest free. This may be a standard preferential rate offered to all those experiencing temporary difficulties with their finances, or who reasonably expect to encounter temporary difficulties with their finances, due to the impact of Covid-19."

This is to be welcomed, as is the section that recognises that overdraft levels may become unsustainable for individual customers and that firms should support these customers with forbearance measures, further interest freezes and structured repayment programmes.

The paper is silent on unarranged overdrafts. The FCA should consider requiring firms to offer temporary extenuating forbearance for customers who have recently, as a result of Covid-19, fallen into unarranged overdrafts. Some of these customers may benefit from the proposed overdraft measures in respect of interest frozen on any arranged overdraft facility that they have, but no customers will benefit in respect of any new unarranged borrowing that the outbreak has caused.

Personal loans and coronavirus: updated temporary guidance for firms

We welcome the FCA's proposed decision to extend the temporary guidance for payment deferrals for personal loans. We are pleased to see the guidance is very clear that this includes unsecured (and some secured) regulated credit agreements, guarantor loans, logbook loans and home collected credit. We also are relieved to see that credit reference files will not be affected by the provisions.

As with credit cards, we are disappointed to note that the guidance does not cover business-related personal loans or other borrowing. We are yet to hear of any proposals from the FCA to assist those with small business related credit.

It is helpful that the FCA has included both full and partial payment deferrals as potential remedies in the guidance. It will make sense to most people that missing loan payments can be added to the end of the loan period-thus increasing the loan term, or paid back by extra payments over the lifetime of the loan (if the loan period is long enough to make this feasible for the consumer).

Again, we welcome the suspension of fees and charges, but our concerns about the accrual of additional interest on the outstanding payments remain. We are pleased to see the FCA raising the possibility of firms waiving interest. However we would like to see this as more of an instruction to firms. The FCA should be more directive to firms on freezing and waiving interest charges in these circumstances.

"1.30 The guidance does not preclude a firm from offering a more generous form of support, such as waiving of interest."

We welcome the section on "Debt help and money guidance". Again, we wonder if it would be worth making it clear that firms cannot make it a requirement to seek debt advice ***before*** granting a payment deferral.

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