

PS24/2 - Strengthening protections for borrowers in financial difficulty: Consumer credit and mortgages

The FCA has published its final rules and guidance aimed at strengthening protections for borrowers in financial difficulty, incorporating aspects of the Tailored Support Guidance (TSG) introduced during the COVID-19 pandemic into its Consumer Credit (CONC) sourcebook.

There are also targeted additional changes to support consumers in financial difficulty.

The changes are designed to reinforce the FCA's expectation that firms put customers' needs first, aligning with its strategy, and support firms acting to deliver good outcomes for customers under the Consumer Duty.

The new requirements will come into force on **4 November 2024**.

Key Highlights

On 10 April 2024, the FCA published PS24/2: Strengthening protections for borrowers in financial difficulty: Consumer credit and mortgages.

Most of the final rules and guidance are being introduced largely as consulted on in CP23/13.

The requirements of the new rules/requirements are summarized as follows:

- broadening the scope of CONC 7 to make clear to firms that appropriate support should be provided to customers in, or at risk of, payment difficulty;
- enhancing the FCA's expectations around customer engagement and providing information including on money guidance and debt advice; and
- expecting firms to consider a range of forbearance options and take reasonable steps to ensure arrangements remain appropriate;
- expecting firms to consider the customer's individual circumstances when providing forbearance;
- introducing guidance to help firms determine their necessary and reasonable costs in setting fees and charges;

Firms will be required to consider a range of forbearance options (that will not be exhaustive) and take account of customer's individual circumstances when providing support including:

- Guidance will also be added to CONC 7 to support with the transparency and accessibility of forbearance options.
- CONC 7.2 – a firm must establish and implement clear, effective and appropriate policies and procedures for: (1) dealing with customers who are in or approaching arrears or in default.
- Examples of forbearance will be added to CONC 7.3.5G - suspending, reducing, waiving or cancelling any further interest or charges, agreeing a repayment arrangement with the customer that allows the customer a reasonable period of time to repay the debt; transferring the debt to an alternative credit agreement (refinancing) to help the customer reduce the debt over a reasonable period of

- time in such a way that does not adversely affect the customer's financial situation, accepting no payments, reduced payments or token payments for a
- reasonable period of time in order to allow a customer to recover from an unexpected income shock, from a customer who demonstrates that meeting the customer's existing debts would mean not being able to meet the customer's priority debts or other essential living expenses.
 - CONC 7.3.4R will be updated with further guidance to support customers - When determining appropriate forbearance and treating the customer with due consideration, a firm must take into account the individual circumstances of the customer of which the firm is or should be aware.

There are some amendments as well as further clarification on certain points including:

On providing information to customers for both credit (including overdrafts) and mortgages, the relevant provisions have been amended to clarify that information given to customers to help them understand the implications of any proposed arrangement must include how it will be reported to their credit file in factual terms, and not anything on the broader implications for credit files.

The FCA is introducing the proposed new rule in CONC that where a firm assesses income and expenditure it must do so in an objective manner, along with some accompanying guidance.

There are two amendments to the guidance in light of feedback on CP23/13:

CONC 7.3.5E G(2) and CONC 5D.3.9 G(2) will be revised to 'a firm may have regard to the spending guidelines in the Standard Financial Statement *or an equivalent tool*'.

The guidance at CONC 7.3.7AG(4) is to be amended to clarify that 'where possible, firms should make available to the customer a record of any income and expenditure assessment that the firm has made to enable the customer to share the record with other lenders and debt advice providers.'

What do firms need to do?

The FCA considers that giving firms just over 6 months to implement the changes is sufficient, however firms will still need to carry out a review and gap analysis of the new requirements against current practices to identify required changes.

Firms will need to amend their current framework/processes re the treatment of customers in financial difficulty e.g. in relation to how they will change how they will communicate with customers.

Firms will also need to consider how they will determine whether a customer may be at risk of falling into payment shortfall and include this in their written policy and procedures.

In relation to existing staff training programmes, where new training may be required on how to meet the requirements of enhanced engagement with customers on money guidance and debt advice i.e. helping customers understand what types of debt advice and money guidance are available and signposting them to it as appropriate.