CDFA Response

CP 15/6 – Consumer credit – proposed changes to our rules and guidance

Q.1

Do you agree that the rules in PS14/18 should be retained? If not, please explain what changes you would propose and why.

N/A

Q.2

Do you agree with our proposed minor amendment to the reporting requirements?

N/A

Q.3

Do you have any comments on our proposed minor changes to the CONC rules on credit brokers?

N/A

Q.4

Do you have any views on remuneration processes for brokers, or on the specific issues raised in this chapter?

N/A

Q.5

Do you have any comments on our proposed changes to CONC rules in relation to guarantor lending, or suggestions for further changes?

The CDFA supports the proposed changes to CONC rules in relation to guarantor lending. Generally, the principles of Treating Customers Fairly should be applied to third party guarantors. In addition to the existing proposals, it is important for the firm to consider and evidence affordability with regard to guarantors. Finally, in addition to the proposed changes to CONC 5.2.5R and CONC 7.1.4R, the FCA should consider that if a guarantor is unable to pay, their homes could be at risk depending on the agreement, so it is important that the firm exercises fair and proportionate policies towards recovery.

Separate to these proposals, we request that the FCA clarify in CONC whether or not guarantors for lending to limited companies (non CCA regulated) is considered a regulated activity. When lending to companies limited by guarantee firms may take a personal guarantee from the Director as security. As the underlying activity is not regulated we would welcome clarification if the guarantor element of these agreements is considered a regulated activity.

Q.6

Do you have any comments on our proposed changes to CONC rules in relation to joint borrowers?

The CDFA supports the proposed changes to CONC rules in relation to joint borrowers.

Q.7
Do you agree with the deletion of CONC 9 on credit reference information?
N/A

Q.8
Do you have any comments on our proposed changes to other rules for lenders and guidance for firms?

The CDFA supports the proposed changes to CONC rules and guidance.

Q.9
Do you agree with the removal of the exemption from the HCSTC risk warning requirement?
N/A

Q.10
Do you have any comments on our proposed changes in relation to 'clear, fair and not misleading'?
N/A

Q.11
Do you have any comments on our proposed changes in relation to prominence?

The CDFA generally supports the principles behind the proposed changes in relation to prominence. However, with regard to the prominence of the "trigger information" and representative APR we ask that the FCA consider our concerns and proposals in Question 12. Specifically that the trigger information proposed would capture the majority of our members (Community Development Finance Institutions) – as the inclusive and affordable products and services are a core part of their offer. Second, the prominence of a representative APR may not reflect the true cost of credit of some of the shorter term products our members provide, and the prominence of that figure may mislead the customer.

Therefore we request that the FCA consider these factors of prominence with regard to the CDFI sector, and that changing the prominence of the inclusivity and affordability of their products (potential trigger information) and not accurately presenting their cost of credit (through the use of a representative APR) both may result in the consumer not being presented with full and complete information on firm and credit options.

Q.12
Do you have any comments on our proposed changes to the triggers for a representative APR?

The CDFA supports the principle that consumers should be fully aware and understand the product, including its cost and terms, before entering the agreement. However, a proposal of presenting that information only when triggered will mean that there is not the same transparency across all firms. We have concerns with this proposal for two reasons:

First, the use of a Representative APR as a measure of cost. The APR is a complex calculation that does not reflect the total cost of credit. A number of our members (Community Development Finance Institutions) provide short term products – loan terms of 12 weeks or more – to consumers facing financial exclusion. Presenting the annualised percentage rate of a short term product is not an accurate reflection of the total cost of credit to the client. A representative example – including the total cost of credit and weekly repayments, on the other hand, does provide a total cost figure, based on the specific product the consumer is considering.

Second, given that all of our members aim to tackle financial exclusion in their communities, they exclusively serve customers whose access to credit would otherwise be restricted and often include comparative rates to providers that are higher cost in order to indicate that they are an affordable alternative. The proposed trigger points would require them, but not all other firms, to include a representative APR in all financial promotions, which as mentioned above might not accurately reflect their total cost of credit, which is not in line with the FCA's objectives of proportionality.

Given these concerns, we do not think that the proposed triggers will achieve the objective of presenting complete information on the cost of credit to the consumer. We ask the FCA to consider the representative example as a measure of cost of credit in financial promotions, particularly for the CDFI sector where the representative APR does not reflect the total cost of a shorter term product support and the inclusive service that consumers receive alongside a CDFI loan. In addition we propose that the FCA expects the same level of transparency across consumer credit firms.

Q.13
Do you have any comments on our proposed changes to other rules and guidance on financial promotions?

The CDFA generally agrees with the proposed changes to other rules and guidance on financial promotions, with a note that firms are treated proportionately.

Q.14
Do you have any comments on our proposed changes to guidance regarding referrals to debt advice?

The CDFA agrees with the proposed changes to guidance regarding referrals to debt advice, as this referral process will help the consumer and raise awareness of the availability of free debt advice options.

Q.15
Do you have any comments on our proposals to allow the introduction of CPA without a modifying agreement in certain circumstances?
N/A

Q.16
Do you have any comments on our proposal to add guidance on the duration of debt management plans?
N/A

Q.17
Do you have any comments about our proposals to amend rules relating to not-for-profit debt advice bodies and referring customers to information about complaints procedures?
N/A

Q.18
Do you have any comments on our other proposals relating to debt?
N/A

Q.19
Do you have any comments on the proposed changes to CONC resulting from the transfer of the second charge regime?

N/A

Q.20
Do you agree with our approach to implementing the MCD for lending not secured on the home?
N/A

Q.21
Do you agree with the additional MCD changes proposed?
N/A

Q.22
Do you have any comments on the cost benefit analysis?
N/A

Q.23
Do you agree with our initial assessment of the impacts of our proposals on the protected groups? Are there any potential impacts we should consider?
N/A