

Rt Hon Mel Stride MP  
Chair  
Treasury Select Committee  
House of Commons  
London  
SW1A 0AA

12 May 2020

Dear Mr Stride,

**RE: Inquiry into the Economic Impact of Coronavirus**

Thank you for following up on the recent Committee discussion with some specific questions on our package of support for borrowers, and small and medium sized enterprises (SMEs). I have addressed each of these below, and would of course be happy to discuss these further.

**Consumers**

**1. The FCA has implemented rules providing temporary financial relief for customers affected by coronavirus. Could you please clarify:**

**a. How will the FCA ensure that customers availing themselves of this temporary relief will not have their credit ratings affected?**

Our intention is to provide temporary relief for consumers during the payment deferral period, during which consumers' credit files are protected from any new arrears being reported. Our guidance therefore makes it clear that we expect firms not to report any worsening arrears status on a consumer's credit file during the agreed payment deferral period.<sup>1</sup> The Credit Reference Agencies (CRAs) have issued their own guidance to lenders which sets out how they should report accounts subject to payment deferrals.

It is important to recognise that there are a wide range of other factors which may influence credit ratings or scores during this period, which are unrelated to the agreed payment deferral. For those consumers that require additional forbearance at the end of a payment deferral period, for example in the form of waived interest and charges, we would expect this to be reflected on credit files in accordance with the usual processes.

We will continue to engage with CRAs and firms to consider the impacts of the current circumstances and what, if any, further work is needed to agree common approaches to credit reporting during the current extraordinary circumstances.

**b. Are you confident that the unwinding of, and any future repayments as a result of, these measures will not cause consumers to get into further difficulty in the future?**

Our primary goal is to provide consumers experiencing temporary payment difficulties resulting from coronavirus with immediate relief from payments, to help them manage their wider financial situation during these difficult circumstances.

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<sup>1</sup> <https://www.fca.org.uk/consumers/coronavirus-information-personal-loans-credit-cards-overdrafts>

However, we recognise that payment deferrals may not be in the interests of all consumers, and we have made this clear in our consumer communications. As interest will continue to build throughout credit payment deferral periods (with the exception of high-cost short-term credit), we have advised consumers that if they can afford to keep up repayments, either in full or a smaller sum, then they should do so.

Customers will need to agree with their lender the appropriate way to pay back the amount owed as a result of taking a payment holiday, in a way that reflects their circumstances and is in their interests. Where customers cannot afford to resume payments at the end of the payment deferral period, or subsequently experience financial difficulties for other reasons, then we would expect firms to provide appropriate forbearance.

It is vital that, at the end of these payment deferrals, customers have the advice and support they need, and are clear on the options available to them. More generally, we expect the group of people struggling with their finances to grow significantly, which means focusing on our collective capacity to support these consumers. We will work with firms, consumer and debt advice groups, and the government, to consider what other forms of support may be needed.

**c. During the session, you explained that for so-called 'mortgage prisoners' with completely unregulated lenders you expect, as a moral question, that no repossessions take place. Are you observing these customers still being subject to repossessions? Are you aware of any mortgage prisoners being refused payment holidays?**

In our recently published guidance,<sup>2</sup> we made clear that we expect mortgage lenders and administrators to treat all customers impacted by coronavirus fairly during this difficult time. This covers all borrowers, including mortgage prisoners, who are experiencing, or reasonably expect to experience, payment difficulties because of circumstances relating to coronavirus. Our guidance sets out that we expect borrowers to be able to stay in their homes and benefit from a payment holiday where they need one.

In our guidance, we made clear that where there has been an assignment of the rights under the mortgage contract to a non-authorized person, the person must still comply with general consumer protection law including the Consumer Protection from Unfair Trading Regulations 2008. A commercial practice may be unfair under those Regulations if (among other things) it contravenes the requirements of professional diligence. Professional diligence means the standard of special skill and care which a trader may reasonably be expected to exercise towards consumers. Our guidance is intended to describe the standards of skill and care we consider may reasonably be expected of lenders in the mortgages market in the current exceptional circumstances of coronavirus. If, therefore, a lender does not follow this guidance, that could call into question whether it is meeting the requirements of the 2008 Regulations, even if the lender is not regulated under the Financial Services and Markets Act 2000 (FSMA).

We have written to administrators of unregulated books and to active and inactive lenders with closed books. Our letter made it clear that we expect mortgage prisoners to benefit from the guidance. We also highlighted the recent cuts to the Bank of England base rate and our expectation that consumers would see any savings passed on. All firms contacted have confirmed that they have adopted the guidance on payment holidays and are not proceeding with repossessions. The vast majority of borrowers on variable rates are also benefitting from a 0.65% cut to their mortgage interest rate from 1 April.

We maintain regular contact with firms and have requested data from firms to monitor the uptake of payment holidays and other forbearance options. We will be able to share top level figures within the next few weeks.

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<sup>2</sup> <https://www.fca.org.uk/firms/mortgages-coronavirus-guidance-firms>

**d. How are firms judging whether to offer the temporary financial relief the FCA has recently announced, or more formal forbearance measures? Are you confident that financial firms are making the right decisions, in the longer-term interest of their customers?**

We recognise this concern, and we have always been clear that a payment deferral will not always be in a customer's best interest, and it is important that firms are able to offer an alternative where that is the case. Our guidance reflects this, and of course does not prevent firms from providing more favourable forms of assistance to their customers, such as reducing or waiving interest.

The guidance enables firms to make the enquiries they consider necessary in order to judge if a payment holiday best serves a customer's interests, although there is no expectation that firms investigate the circumstances surrounding a request for a payment holiday. Firms are also required to give customers adequate information to understand the implications of a payment holiday.

We have said that we will review the guidance, and consider whether any further intervention is necessary. However, strong supervision will also be critical to ensure customers affected by coronavirus receive the support from lenders they need. We will be closely monitoring the implementation of the guidance and testing outcomes for consumers affected by coronavirus who need a payment deferral or further forbearance after the expiry of a deferral period. We will be proactively engaging with firms on an ongoing basis, and will take action where intelligence highlights potential or actual non-compliance.

**2. What work is the FCA doing to consider what will be needed after the initial 3-month period of temporary financial relief? Will consumers still need support from the financial sector, and is the sector able to continue this support for a greater period, if required?**

Our package of extraordinary guidance is designed to provide consumers with breathing space until other forms of support from the public sector become available.

Over the coming weeks we will review our guidance and, as I set out above, work with firms, consumer and debt advice groups, and government to determine how to approach the end of payment deferrals in a way that is in the best interests of customers while managing the impact on financial services firms.

**3. The FCA is consulting on further measures to help consumers, including for the motor finance and high-cost short-term credit segments. Can you please confirm when these measures will be in force, and whether you have amended the proposals following consultation with industry?**

Since our discussion at the Committee, we have confirmed our final of measures to directly support consumers facing payment difficulties due to coronavirus. The range of targeted temporary measures covered motor finance and high cost credit agreements including: high-cost short-term credit (including payday loans), buy-now pay-later (BNPL), rent-to-own (RTO) and pawnbroking.

These include:

- a. Motor finance - firms to provide a 3-month payment freeze to customers who are having temporary difficulties meeting finance or leasing payments due to coronavirus. If customers are experiencing temporary payment difficulties due to coronavirus and need use of the vehicle, firms should not take steps to end the agreement or repossess the vehicle.

- b. High-cost short-term credit - firms to provide a 1-month payment freeze to customers facing temporary payment difficulties due to the coronavirus pandemic. No additional interest should be charged to the customer as a result of the payment freeze. This shorter period reflects the much shorter length of most of these loans and the higher interest rates compared to other high cost credit products.
- c. Firms that enter into RTO, BNPL, or pawnbroking agreements to provide a 3-month payment freeze to customers facing payment difficulties due to coronavirus.

As a result of comments received, we clarified some areas of detail, particularly in relation to high-cost short-term credit where, for example, we extended the measures to apply to new as well as existing agreements.

**a. Do these measures mark the end of FCA intervention, or have you identified further areas where the FCA needs to act to support consumers affected by Covid-19?**

We are keeping the situation under review and will of course consider further interventions if we think that they are necessary.

**4. Are you confident that the FCA's interventions to date are sufficient to ensure the fair treatment and protection of vulnerable customers affected by the Covid-19 outbreak?**

We are focussed on ensuring all consumers are protected and treated fairly across the sectors we regulate at this challenging time. We have worked quickly to identify the immediate impact of coronavirus on people's financial lives and to help those consumers who need it to get some temporary relief through our credit and mortgage measures. We recognise that many consumers are now facing new difficulties because of the impact of coronavirus, including many who may not have needed additional help before. It is crucial that our regulatory approach provides sufficient protection for consumers, including these newly-identified vulnerable consumers. In line with our current policy approach we have reminded firms that we expect them to treat all of their customers fairly, which includes exercising particular care towards customers in vulnerable circumstances.

Looking ahead, our 2020/21 Business Plan confirms that, beyond the immediate interventions, we will need to adjust to the longer-term impacts of coronavirus on society.<sup>3</sup> Ensuring we understand the implications for the most vulnerable and that consumers in vulnerable circumstances are treated fairly will be central to this. We are carrying out further work to understand the new vulnerabilities that coronavirus is creating to update our policy thinking and to introduce new interventions if we identify any gaps in protections for vulnerable consumers.

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<sup>3</sup> <https://www.fca.org.uk/publications/corporate-documents/our-business-plan-2020-21>

## **Small businesses**

### **5. The FCA has created a unit for small businesses to coordinate the activities of the FCA on small business issues. Can you expand on what this unit is seeking to achieve, what progress has been made so far, how large it is and how it will monitor and act if there is misconduct or mistreatment of small business customers?**

The Small Business Unit's objective is to work with stakeholders across the FCA and externally to gather and analyse intelligence to identify current and potential harms to SMEs and will work to mitigate them. The unit is led by a Head of Department and is accountable to the Executive Director for Supervision – Retail and Authorisations Jonathan Davidson, and the Interim Executive Director of Strategy and Competition, Sheldon Mills. This Head of Department will draw on resource across the FCA as required on a matrix basis to meet the unit's objectives.

One area of urgent focus has been assisting on the roll-out of the government loan schemes including the borrower protections in the new Bounce Back Loans Scheme (BBLs), with a focus on ensuring that SMEs are treated fairly by lenders after both the pandemic and the loans end. Another area of focus has been on the treatment of SME claims against insurance policies with coverage for Business Interruption.

The majority of insurance policies are designed to provide for physical damage to SME property and the business interruption that stems from this physical damage. These policies do not generally respond to business interruption caused by the pandemic. There are a few policies which explicitly cover for the impact of pandemic and in such cases we are making clear our expectation that insurers move quickly to provide the necessary funds to claimants.

There are also a number of policies which extend business interruption coverage to circumstances not involving physical damage, such as the incidence of infectious diseases and denial of access by a public authority. There is considerable variation of wording in such policies and there is uncertainty in some cases as to whether the contracts are triggered by the pandemic. To avoid potentially protracted litigation or other dispute processes, we have intervened to take a sample of relevant wordings to court to obtain an authoritative determination of interpretation on a shorter timescale.<sup>4</sup>

There has also been a focus on access to cash for SMEs during the crisis. Going forward, we will look to see if there are additional protections and support needed for SMEs and will take action where we believe this is necessary.

#### **a. What is the FCA doing to ensure small businesses are getting the best advice with regards to loans available?**

We continue to engage with government, the British Business Bank and a wide variety of lenders regarding standard commercial and government scheme related lending. As part of this we have focused on the information that is provided to borrowers as well as the nature of the protections. We have also issued a Dear CEO letter outlining our expectations that regulated firms treat SME customers fairly, and a further statement seeking to clarify the expectations of lenders and seeking to ensure that potential blockers in the system are removed. Our usual supervisory and enforcement functions continue throughout the coronavirus crisis, which includes the supervision of advice provided by regulated entities.

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<sup>4</sup> <https://www.fca.org.uk/news/press-releases/fca-seeks-legal-clarity-business-interruption-insurance>

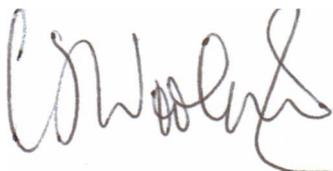
**6. Do you have any evidence as to whether financial firms are helping small businesses affected by Covid-19 with existing lending facilities, for example with repayment holidays? What would you expect of financial firms when dealing with small business customers in financial difficulty?**

The Small Business Unit continues to gather intelligence on all matters related to SMEs and the impacts the sector is suffering. We are in discussion with all major SME banking and lending providers to scope the full suite of support they are offering to SME customers. This includes many offering payment holidays in addition to other support such as payment arrangements and extending existing overdraft facilities fee free. As a minimum, we expect that any regulated business treats SME customers fairly.

**7. In your oral evidence you told the Committee that along with the PRA, the FCA is collecting data on CBILS lending, including the terms of lending, and would have a more reliable picture within a few days. I would appreciate it if you could share any insights from this data, including whether you have any concerns about the terms of lending.**

The unit is gathering information provided by the biggest CBILS lending providers and continues to analyse this information. It is clear the CBILS scheme is achieving increasing scale with lenders increasing their offering. You will be aware of the recent changes to CBILS by HM Treasury and the introduction of the new BBLs. The smooth introduction of these new and amended schemes have been the key focus in recent days and it is too early to take a view on their effectiveness. We will continue to monitor the impact of these changes and will act where we have concerns.

I hope that this is helpful.

A handwritten signature in blue ink, appearing to read 'C Woolard', written in a cursive style.

**Christopher Woolard**  
**Interim Chief Executive**