

AG FS UPDATE

COVID-19: FCA ADDITIONAL GUIDANCE ON
MORTGAGES AND CORONAVIRUS

SEPTEMBER 2020



INTRODUCTION

Since March this year the Financial Conduct Authority (**FCA**) has introduced a range of targeted temporary measures and guidance to help consumers negatively impacted and struggling with mortgage payments in light of Covid.

The guidance issued for mortgages are:

- [March 2020](#) which set out the initial requirements granting 3 month payment deferrals (**PD**) for mortgage borrowers; and
- 4 June and 16 June 2020 ([June Guidance](#)) which set out expectations for firms for supporting borrowers coming to the end of a PD including the option of obtaining a further 3 month PD.

The ability for borrowers to request a new or subsequent PD under the June Guidance expires on 31 October 2020.

On 14 September 2020 the FCA published [guidance](#) on the next steps on mortgages including what support should be offered to borrowers who have already an initial and/or subsequent PD but are still in financial difficulty.

This latest guidance is effective from 16 September 2020.

KEY TAKE AWAYS

The key points for firms are:

More tailored support- From 31 October firms should move back to providing their customers with the tailored support that the FCA normally expects and consider the appropriateness and utility of a range of different short- and long-term support options to reflect the specific circumstances of the customer.

Continued short term support- The guidance recognises that some customers may continue to face payment difficulties and for some customer cohorts continued short term support may be appropriate with firms being able to act on more limited information from customers than they would otherwise gather when assessing the appropriateness of forbearance options under MCOB 13. If firms do offer short term support in this way they must have a written policy and must review the forbearance offered to the customers in accordance with MCOB 13 within 60 days of agreeing it.

Forbearance- Given the changing and fluid nature of the current Covid situation and uncertainty as to the continued impact of Covid at a national and local level, firms' treatment of borrowers and provision of support need to adapt to reflect the ongoing uncertainties and challenges that customers will continue to face. The combination of a changing and specific impact of Covid on individual customers coupled with the volume of customers impacted creates a real challenge for firms to guarantee that they have the resources and oversight to ensure forbearance is offered to customer which takes account of individual customer needs and circumstances.

Second charge lenders- the restriction on capitalisation of certain PD amounts seen in the original draft of the September guidance has not made it into the final guidance. This will be a relief for second charge firms. However, the final guidance does set out particular considerations for second charge lenders in relation to the forbearance options available to firms (including applying simple interest or 0% interest on PD amounts) and highlights the particular concerns the FCA sees with this segment of the market.

Customer engagement and communications- customer engagement and communication is key. Firms need to consider both online and offline channels, ensure clear communication strategies are implemented and staff are appropriately trained. Firms should ensure that customers are not required to repeat information to multiple people and ensure customers aren't required to complete detailed questionnaires to avoid them becoming disengaged.

QA, T&C and Governance- The QA of cases, training of staff and appropriate governance around processes are significant considerations for firms.

CONTINUED SHORT TERM SUPPORT

The latest guidance recognises that firms may want to offer customers who are coming off PDs short term support that they consider are broadly appropriate for certain types of customer. This assessment can therefore be made at a cohort level.

This means that the firm can act on more limited information from customers than they would otherwise gather when assessing the appropriateness of forbearance options under MCOB 13.

Points to note

- Short term support is not suitable for all borrowers and firms will need to ensure processes identify those borrowers for whom continued short term support on a cohort level is not suitable. The guidance lists the types of borrowers it is not suitable for including: customers with a payment shortfall; customers with a short term left on their mortgage and no or limited scope to extend; the unemployed or those who have seen a significant loss of earnings; and customers with high levels of overall debt or other problem debt.
- Firms offering short term forbearance must have a written policy setting out the options offered and how customers will be directed to the options; the customers it is not suitable for and how these customers will receive forbearance that is appropriate to their individual circumstances.
- If firms offer forbearance in this way it must be reviewed in accordance with the requirements of MCOB 13 within 60 days of agreeing it.

FORBEARANCE

The guidance recognises the continued fluid nature of the current situation in relation to Covid with the continued impact on the UK economy including the impact of national and local responses which will continue to evolve and the impact these will have on customers.

The FCA expects firms to be flexible and employ a full range of short and long term forbearance options to support customers. Firms are expected to consider individual customer circumstances and offer forbearance including consideration of the full range of forbearance tools set out in MCOB 13.2.4AR. Firms should not adopt a "one size fits all" approach.

This presents a significant challenge for firms given the volume of borrowers and nuanced and developing circumstances they will find themselves in. Firms may need to recruit further staff to support their teams, these staff need to be appropriately trained and supervised to ensure the requirements of the FCA are met.

Firms should review arrangements regularly, this is particularly important given the fluid nature of the current situation.

TREATMENT OF ACCRUED AMOUNTS DURING PD

These amounts should not be considered payment shortfall amounts during the PD period.

At the end of the PD period these amounts will not be considered payment shortfall amounts for the purposes of MCOB 13 where the accrued amounts are repaid before the next payment is due. The amounts can be repaid:

- in a lump sum
- via capitalisation either:
 - by default; or
 - as part of the support agreed with the customer to resolve their payment difficulties

In other cases, the accrued amounts should be treated as payment shortfall once the next payment falls due. Communications with borrowers prior to the end of the PD should explain that future communications about payment shortfalls and arrears will include the deferred amounts but that a worsening status has not been reported on their credit file.

Points to note

- Firms' communications to customers coming to the end of a PD need to highlight the treatment of accrued amounts and when these will be treated as payment shortfall/arrears.

- Firms must keep a record of the amount added to the shortfall (the guidance refers to this as the deferral shortfall).
- Firms should use reasonable efforts to reach agreement with customers to pay back the shortfall in accordance with MCOB 13.
- Firms should not typically repossess the customer's house solely because of a deferral shortfall.
- Firms' arrears and forbearance policies will need to be updated accordingly.

SECOND CHARGE MORTGAGES

There has been a significant shift in approach under the finalised September guidance and the September guidance as originally consulted on in relation to the particular requirements for second charge mortgages.

What is clear from the draft September guidance is the particular concerns the FCA has in relation to the second charge market. In particular in relation to: the typically high level of interest rates applicable in that market; the potentially over indebted nature of the borrowers (by virtue of the very fact they have a second charge mortgage this will have a first charge mortgage which they are likely to also be experiencing financial distress in relation to); and the impact of the auto capitalisation of interest on second charge loans.

The original draft of the September guidance had therefore reflected these concerns in relation to particular requirements for second charge mortgages. A lot of these particular requirements have not made it into the finalised September guidance which will be a relief for many second charge lenders and will allow them to adopt an approach consistent with the first charge market.

However, the FCA does emphasise for second charge lenders the importance of considering the full range of forbearance options including options beyond those listed in MCOB (for example applying simple interest rather than compound interest or reducing the rate of interest to 0%).

CUSTOMER ENGAGEMENT AND COMMUNICATIONS

Customer engagement and communication is key.

- Customers should be given a consistent point of contact. Case handlers must have clear records of interactions with customers, including their individual circumstances and any judgements made to ensure customers are given continuity and support. Firms need to put in place sufficient resources to enable them to meet their obligations.
- Customers should be given timely information to enable them to understand their financial position and options with firms being clear with customers on the impact of forbearance options.
- Customers can become disengaged where they are required to complete detailed forms.
- Some customers with characteristics of vulnerability may find it more difficult to interact online whilst others may not have access to online channels or find digital interactions difficult.
- Customers should be sign posted or referred to appropriate debt help and money guidance resources.

AUTOMATION OF PROCESSES

The guidance does not impose prescriptive requirements about how firms collate information about a customer's individual circumstances or how firms ensure any forbearance option is appropriate for that customer.

Given the volume of customers who are coming to the end of a PD many firms will need to use automation or digital tools. Helpfully, the guidance recognises this and sets out how it envisages firms may use automation or digital tools to:

- automate processes for collating income and expenditure information on customers;
- offer a customer a forbearance option the firm has identified as appropriate and/or a range of options the firm has identified as appropriate; and
- obtain the customer's agreement to forbearance options.

If firms are using automated or digital tools it is very important that the firm has appropriate systems and controls to ensure compliance and that customers are receiving appropriate outcomes.

If a firm is using digital channels it must allow the customer to ask for support through a non-digital channel.

CRA REPORTING

Firms are expected to resume normal CRA reporting.

The Coronavirus Data Reporting Guidance issued by the CRAs in consultation with the Steering Committee on Reciprocity gives detailed reporting guidance for typical scenarios at the end of PD and firms should consider the guidance.

Firms must ensure they are clear about the credit file implications of any forms of support offered to customers.

QA, T&C AND GOVERNANCE

End to end QA should be adopted to allow firms to evaluate the fairness of customer outcomes. Many firms will require additional staff to provide support to customers, the training and oversight of these staff are important. The Senior Manager accountable for providing support to customers should critically review policies, procedures and controls. Executive committees and boards should ensure teams are appropriately resourced and demonstrate a customer-focussed culture. Firms should keep appropriate records of generic and personalised information provided.

WHO TO CONTACT

If you would like to know more or would like to discuss anything further, please contact:



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