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ADVICE TRUST

BUSINESS
DEBTLINE

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ADVISER

Consultation Response:

FCA further proposals for temporary financial relief for customers impacted by Coronavirus

Response by the Money Advice Trust

Date: April 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.

Responses to questions

Executive summary

The FCA is right to step in to extend payment freezes to motor finance hire purchase agreements, high-cost short-term credit and rent-to-own, buy-now pay-later and pawn broking agreements. We and others have been calling for these measures following on from the FCA's intervention in relation to credit cards, unsecured loans and overdrafts, and we are pleased that the FCA is acting in these sectors.

This is a proportionate and appropriate way of ensuring that unsecured credit customers receive support to help them through the unprecedented impact of Covid-19 on household finances.

However, we see no reason why the payment deferral period for high-cost short-term credit (HCSTC) should be only one month, rather than three, and therefore out of step with other forms of consumer credit.

The problem of interest being accrued during the payment deferral period remains and we would urge the FCA to resolve this as soon as possible, in order to prevent debt problems further down the line. We welcome the regulator's seeming acceptance of the principle of freezing interest in the case of HCSTC, but we would urge this principle be extended to all forms of consumer credit.

Summary of our key points

- ✓ As we have expressed in our response to the emergency guidance in the context of credit cards and personal loans, **we remain concerned that interest will continue to accrue** – and in the context of this consultation, on hire purchase (including motor finance) and rent-to-own agreements in particular.
- ✓ As hire purchase and rent-to-own agreements are forms of secured lending, the **FCA should pay close attention to any firm that continues to threaten to take repossession action** or actually takes such action during this period. This should include scrutiny of communications that threaten repossession action where there is no possibility of this happening under the present circumstances.
- ✓ We are concerned that the FCA has taken a very different approach to high-cost short-term credit (HCSTC) in its draft guidance, with a more limited a payment deferral to a period of one month.
- ✓ **We would like to see the period of payment deferral to be changed in relation to HCSTC to three months.** We would like to see the recognition that no interest should accrue, seemingly accepted by the FCA in the case of HCSTS, extended to other forms of credit including hire purchase, credit cards, unsecured loans and so on.

We would also take this opportunity to re-iterate the outstanding issues from our response to the FCA's previous consultation on temporary relief measures on credit cards, loans and overdrafts. These are as follows.

- ✓ **We would 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.
- ✓ As the impact of the Covid-19 outbreak develops, **the FCA should be prepared to extend these measures beyond three months** if necessary.
- ✓ **The FCA should issue a formal reminder to all firms on their responsibilities in relation to vulnerable customers in the specific context of the Covid-19 outbreak** and encouraging firms to take into account the long-term effects of the outbreak into their future planning on vulnerability. In many cases existing vulnerable circumstances are being exacerbated, and more customers are becoming vulnerable, as a direct and indirect result of the impact of the outbreak and firms need to take tailored, bespoke action to ensure both groups of vulnerable customers are supported at this difficult time.

- ✓ **The FCA needs to consider what effect these temporary crisis provisions will have in the longer term, including considering ‘off ramp’ approaches to avoid unwelcome effects of removing temporary support overnight.** Once the measures are no longer required, there will still be extra knock-on effects from the measures that will have an impact on individual consumer finances. These may need further forbearance measures which may need to be absorbed into longer-term rules to deal with the extra debt and interest that has accrued as a result.

Consultation questions: Do you have any comments on this draft guidance and rules?

Motor finance agreements

We welcome the proposals set out in the guidance but we are concerned that they do not go far enough in relation to interest accruing on deferred payments. There should be every reason to grant a payment break in such circumstances, as the finance agreement remains secured by an asset. This means there is little risk to the lender who is in possession of a secured finance agreement.

We also welcome the commitment to review the guidance in the next three months in the light of developments relating to coronavirus.

As we have expressed in our response to the emergency guidance relating to credit cards and unsecured credit, we are concerned that interest will continue to accrue.

“In determining whether a 3 month payment deferral is obviously not in customers’ interests, firms should consider both customers’ need for immediate temporary support and the longer-term effects of a payment deferral on the customer’s situation, in particular the customer’s ability to repay any accrued interest once the payment deferral ends, and over what period. The interest rate and remaining term will be among the relevant considerations. For example, a payment deferral would obviously not be in customers’ interests if it would give the firms’ customers a greater overall debt burden compared to other solutions (that might involve reduced or waived interest for example) that could equally meet customers’ needs and that debt burden would be clearly unsustainable.”

This does not seem to make sense in relation to hire purchase agreements. Surely there will be greater overall debt burden for anyone where interest continues to accrue in such circumstances as compared to reduced or waived interest. This section of the guidance could lead firms to conclude that a payment deferral is not in the customer’s best interests. However, if interest was to be waived for all, then adding three payments to the end of the agreement would be likely to be beneficial for most customers-if they can afford the normal monthly payments when they resume.

This element of the guidance is welcome.

“Customers should be able to request a payment deferral at any point after the guidance comes into force for a period of 3 months. This means that a payment deferral could go beyond the point where the 3 month window for requesting a payment deferral expires.”

We also welcome the expectation that firms “should make it as easy as possible for their customers to contact them both online and by phone”.

The section in the guidance that stops any additional charges or fees being added as a result of the payment deferral is also to be welcomed.

“A customer should have no liability to pay a charge or fee in connection with the permitting of a payment deferral, or a different solution where a payment deferral has been deemed not in the customer’s interests, under this guidance.”

It is very helpful that the FCA has set out clearly that *“firms should not report a worsening arrears status on the customer’s credit file during the payment deferral period”*.

We think the strong wording used by the FCA about modifying agreements is merited. We would not like to see any firms modifying agreements in a way that leads to unfair outcomes for consumers.

“Firms should not by means of such an agreement modify, or seek to unilaterally alter, any aspect of the original agreement in a way that takes advantage of the customer’s necessity, lack of experience or weaker bargaining position or otherwise leads to unfair outcomes.”

The FCA should bear in mind the nature of hire purchase agreements which means that the firm has a great deal of power in any negotiations given the threat of terminating the agreement and repossession of a vehicle that might be vital to that customer and their household.

Therefore, the section on repossessions in the draft guidance is vital. We wonder if it goes far enough to protect consumers, as it seems to suggest that some repossessions can still take place. The guidance is also silent on firms using threats of termination or repossession in their communications.

“Where the customer has the right to use the vehicle, firms should not take steps to terminate the agreement or seek to repossess the vehicle (whether by way of any requisite legal proceedings or otherwise) where the customer is experiencing temporary payment difficulties as a result of circumstances relating to coronavirus and needs use of the vehicle.

We consider that seeking to terminate the agreement or commencing or continuing repossession action as described above is very likely to contravene Principle 6 - absent exceptional circumstances (such as a customer requesting that repossession continues).

Government advice on social distancing and self-isolation should be consulted to establish whether any proposed repossession should go ahead and if so, how it is to be carried out.”

The FCA should pay close attention to any firm that continues to threaten to take repossession action or actually takes such action during this period. This should include scrutiny of communications that threaten repossession action where there is no possibility of this happening under the present circumstances.

Rent-to-own, buy-now pay-later and pawnbroking agreements

We welcome the proposals set out in the draft guidance in relation to rent-to-own, buy-now pay-later, and pawnbroking agreements.

We also welcome the commitment to review the guidance in the next three months in the light of developments relating to coronavirus.

We do not have any specific comments on the buy-now pay-later proposals.

We predict there may be some problems relating to warranties and insurance on rent-to-own agreements. The draft guidance says that the firm should “*consider the impact on warranties or insurance sold or arranged by the firm*”.

The draft guidance goes on to say:

“We expect firms to take steps at least as favourable to those it has taken, or would take, where customers are in a similar position due to our standard forbearance rules, for example, by allowing the customer to continue to be able to rely on insurance and warranties during a payment deferral or an extension to the RTO agreement. Where this is not possible, firms should make customers aware of the implications.”

However, firms may not be able to extend the warranties or insurance in these circumstances, which means that the customer could be left without extended cover. We think firms should be required to be very clear with their customer about the consequences of this.

“In determining whether a 3 month payment deferral is obviously not in customers’ interests, firms should consider both a customer’s need for immediate temporary support and the longer-term effects of a payment deferral on the customer’s situation, in particular the customer’s ability to repay any accrued interest once the payment deferral ends, and over what period. The interest rate and remaining term will be among the relevant considerations. Whether the agreement is subject to a price cap that would limit the accrual of additional interest may also be relevant, for example an RTO agreement entered into after 1 April or 1 July 2019 (as determined by CONC 5B). A payment deferral would obviously not be in customers’ interests if it would give the firms’ customers a greater overall debt burden compared to other solutions (that might involve reduced or waived interest for example) that could equally meet customers’ needs and that burden would be clearly unsustainable.”

Again, we have concerns over the draft guidance proposals allow for the charging of contractual interest on rent-to-own agreements. Surely there will be greater overall debt burden for anyone where interest continues to accrue in such circumstances as compared to reduced or waived interest. This section of the guidance could lead firms to conclude that a payment deferral is not in the customer’s best interests. However, if interest was to be waived for all, then adding three payments to the end of the agreement would be likely to be beneficial for most customers-if they can afford the normal monthly payments when they resume.

“In all cases, a payment deferral or other way to provide temporary relief should both provide the necessary immediate temporary support to customers and avoid the build-up of unsustainable debt as a result of interest, fees or charges.”

We would expect it to be a much more straightforward judgment to take that the measures would avoid the “*build-up of unsustainable debt*” if interest is frozen.

This element of the guidance is welcome.

“Customers should be able to request a payment deferral at any point after the guidance comes into force for a period of 3 months. This means that a payment deferral could go beyond the point where the 3 month window for requesting a payment deferral expires.”

We also welcome the expectation that firms “*should make it as easy as possible for their customers to contact them both online and by phone*”.

This point is vital to the success of the temporary measures.

“The firm should allow the customer to repay the deferred payments and any accrued interest over such period and in such amount as the customer can reasonably afford, including over a period that extends beyond the original period of the loan.”

However, the effect of the additional powers to repossess goods under a rent-to-own agreement is not reflected in this section of the guidance. What part of the guidance or rules will require a firm to allow the customer to repay the deferred payments back over an extended period, without resorting to using or threatening to use their repossession powers? We have commented on repossession measures during coronavirus below. The section in the guidance that stops any additional charges or fees being added as a result of the payment deferral is also to be welcomed.

“A customer should have no liability to pay a charge or fee in connection with the permitting of a payment deferral, or a different solution where a payment deferral has been deemed not in the customer’s interests, under this guidance.”

It is very helpful that the FCA has set out clearly that “*firms should not report a worsening arrears status on the customer’s credit file during the payment deferral period*”.

With regards to repossession of goods under rent-to-own agreements during coronavirus, we think this statement is helpful.

“Where a customer is experiencing temporary difficulties related to coronavirus and needs the goods, we consider that commencing or continuing repossession action is very likely to contravene Principle 6 – absent exceptional circumstances (such as a customer requesting that repossession continues).”

The FCA should pay close attention to any firm that continues to threaten to take repossession action or actually takes such action during this period. This should include scrutiny of communications that threaten repossession action where there is no possibility of this happening under the present circumstances.

High-cost short-term credit

We are concerned that the FCA has taken a very different approach to high-cost short-term credit (HCSTC) in its draft guidance which has limited a payment deferral to a period of one month.

“Where a customer is already experiencing or reasonably expects to experience temporary payment difficulties as a result of circumstances relating to coronavirus, and wishes to receive a payment deferral, a firm should grant the customer a payment deferral for one month.”

As it has been widely accepted in other forms of credit that an initial period of payment deferral should be granted for three months, we are not clear why HCSTC is being treated so differently. We welcome the statement:

“An example of a situation in which a payment deferral may be appropriate is where there is or will be a temporary reduction in household income that would have otherwise been used to make loan payments.”

However, the period of temporary reduction in household income is likely to extend for a period that is substantially beyond one month.

We welcome, however, the draft guidance on HCSTC in so far as it relates to interest charges – this appears to be an acceptance of this principle by the regulator, which could reasonably be applied across all forms of consumer credit as we have previously called for.

“In order to treat customers fairly in the current exceptional circumstances, no interest should accrue in respect of the period of deferral.”

We would like to see the period of payment deferral to be changed in relation to HCSTC to three months, to bring this into line with other forms of consumer credit – and the FCA’s recognition that no interest should accrue on HCSTC should be extended to other forms of credit including hire purchase, credit cards, unsecured loans and so on.

The draft guidance goes on to say:

“The firm should allow the customer to repay the deferred payment over such period and in such amount as the customer can reasonably afford, including over a period that extends beyond the original period of the loan. For example, in some circumstances the payment could be repaid in a single amount one month after the end of the term or in others, over an extended period by smaller amounts.”

This seems to recognise that the consumer may well not be able to afford to pay the payment of the missed instalment in one lump sum. However, where the HCSTC agreement allows for a succession of monthly payments, the guidance is silent on the impact. Does this mean that each time a new payment falls due, the customer can request a months’ deferral on that payment until all the payments are included in the provisions set out above e.g. allowing payment of the whole agreement “over an extended period by smaller amounts”.

Again we welcome this element of the guidance.

“Customers should be able to request a payment deferral at any point after the guidance comes into force for a period of 3 months. This means that a payment deferral could go beyond the point where the 3 month window for requesting a payment deferral expires.”

We also welcome the expectation that firms *“should make it as easy as possible for their customers to contact them both online and by phone”*.

We support the guidance’s statement that:

“A customer should have no liability to pay any charge or fee in connection with the permitting of a payment deferral under this guidance.”

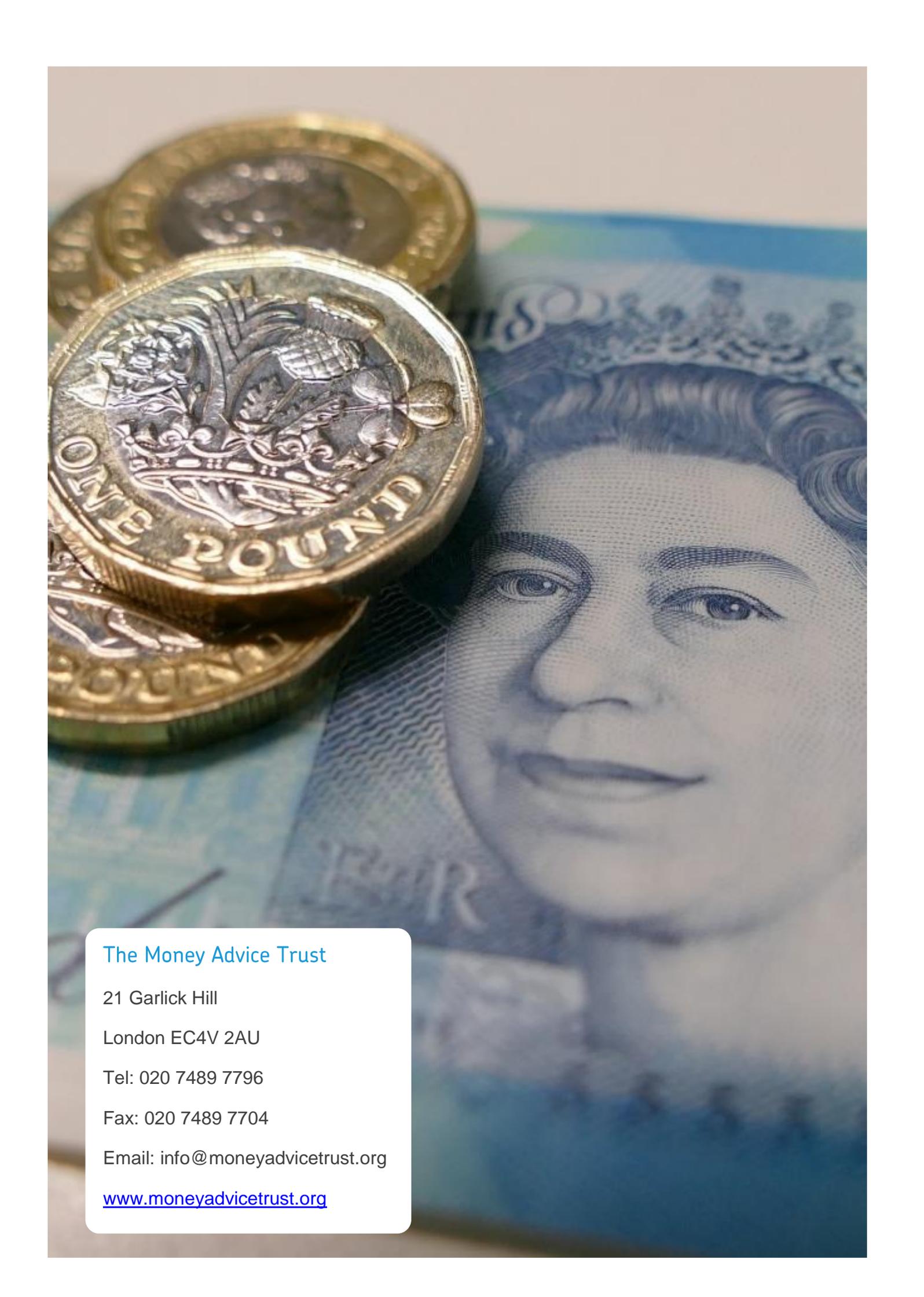
Again, it is very helpful that the FCA has set out clearly that *“firms should not report a worsening arrears status on the customer’s credit file during the payment deferral period”*.

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