

Consultation response: FCA High Cost Credit Review: Overdrafts consultation paper and policy statement

Response by the Money Advice Trust

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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 2018, our National Debtline and Business Debtline advisers provided help to more than 204,000 people by phone and webchat, with 1.7 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 2018 we delivered this free training to over 820 organisations. Furthermore, Money Advice Trust Training and Consultancy services have worked with over 224 commercial organisations to identify and support their customers in vulnerable circumstances.

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.

Public disclosure

Please note that we consent to public disclosure of this response.

Introductory comment

We are pleased that the FCA is taking strong action to protect consumers. The proposals for an end to fixed charges and higher pricing for unarranged overdrafts should significantly reduce costs for people who use this form of borrowing. However, the option of introducing a price cap should remain firmly on the table. The FCA should set a clear end date at which it will review the impact of these new measures in bringing costs down, and must be prepared to introduce a price cap if required.

- ✓ We welcome the FCA's proposals to align the charges for arranged and unarranged overdrafts. We consider that aligning charges for arranged and unarranged overdrafts is a significant step towards simplifying overdraft charges.
- ✓ We also welcome the FCA's proposal to ban tiered pricing as it should simplify overdraft fees and allow consumers to more easily compare between different overdraft providers.
- ✓ We are disappointed that the FCA is no longer considering setting an industry-wide cap as a backstop remedy, instead leaving it to the market to keep overdraft charges at reasonable levels. We would like the FCA to set a clear review date at which it will review the impact of the new measures and be prepared to consider the introduction of an industry-wide price cap if required.
- ✓ We are concerned that presenting overdraft charges in interest rate or APR format risks confusing consumers who will not immediately know what the weekly or monthly payment will be. We expect overdraft calculators to work in a similar fashion across all firms and there should be common standards in place as to what firms must do as otherwise consumers might be just as confused as they are now.

Responses to individual questions

Question 1: Do you agree with our proposal to align the charges for arranged and unarranged overdrafts?

We support the FCA's proposal to align the charges for arranged and unarranged overdrafts. We consider that aligning charges for arranged and unarranged overdrafts is a significant step towards simplifying overdraft charges.

In our previous consultation response, in August 2018, we suggested that firms should not be able to charge more in interest rates on unarranged rather than arranged overdrafts and that these rates should be identical.

We are pleased with the FCA's proposal that *"all firms make any charges for using an unarranged overdraft the same as (or less than) charges for using an arranged overdraft"*. We also agree with the FCA that unarranged overdrafts have *"value as a customer service providing a tolerance zone for smaller payments"*.

However, we are disappointed that the FCA is no longer considering setting an industry-wide cap on overdraft fees as a backstop remedy. We are not convinced that the FCA is correct to leave it to the market to keep overdraft charges at reasonable levels.

We appreciate the FCA's concerns that *"there are risks to a price cap that it could prompt providers with low or no charges to raise prices"* and that *"it could prevent more effective competition developing"*.

However, we are concerned that prices may increase for both arranged and unarranged overdrafts in the absence of caps. Therefore, we believe that the option of introducing a price cap should remain firmly on the table.

We appreciate that competition, when working effectively, drives prices down, but we are not convinced that the competition in the market alone will have the desired result. We believe that if firms remain free to set prices for both arranged and unarranged overdrafts, they might set the prices too high and there is still risk that they may cause detriment to consumers. We understand that firms are still going to be allowed to charge different interest rates to different customers, based on risk. Therefore, even if the representative APR in advertising reflects the rate firms reasonably expect a majority of consumers responding to the advert to be offered, we are concerned that this might lead to unfair outcomes for certain groups of people.

We would like the FCA to set a clear end date after which it will review the impact of these new measures and be prepared to introduce a price cap if required.

Question 2: Do you agree with our analysis that our rules on alignment should not allow firms to charge more for unarranged overdraft use (no uplift)? If you disagree with our analysis, please provide evidence outlining the additional costs an uplift is required to cover and the level of uplift required.

We strongly agree that the FCA rules on alignment should not allow firms to charge more for unarranged overdraft use. We have no further comments to add to the FCA's analysis.

Question 3: Do you agree with our proposal that charges for unarranged overdrafts should be unenforceable if their level exceeds the level of arranged charges?

We support the FCA's proposals that if an unarranged overdraft charge exceeds the set level of arranged charges it should be unenforceable. We agree that if the customer has already paid the charge, they should be entitled to reclaim it. This should be a proactive process whereby banks should reimburse customers automatically. We do not think it is fair that customers should be asked to reclaim the charges. Such a system is likely to result in some customers missing out, as they will not be aware of their rights to claim. This is likely to impact customers in more vulnerable circumstances in particular.

We expect that the FCA will proactively look for such breaches through their standard supervisory channels and take firm action where such breaches are identified.

Question 4: Do you agree that firms should be required to charge for overdraft by a single interest rate?

We welcome the FCA's proposal to ban tiered pricing as this should simplify overdraft fees and allow consumers to compare different overdraft providers more easily.

We are pleased that the FCA has conducted qualitative and quantitative research to understand consumers' ability to understand a single interest rate and representative APR in the overdraft market. It is interesting to see that out of the options presented, that the single interest rate and APR are most easily understood.

We agree that requiring firms to charge for overdrafts using a single interest rate should help to enable consumers to easily compare between both different overdraft providers and other forms of credit.

However, as we explained in our previous consultation response in August 2018, we are concerned that people, particularly those on constrained budgets, often look at what the weekly or monthly payment will be, and whether it is affordable for them, rather than pay attention to how expensive the product might be overall. We are concerned that presenting overdraft charges in an interest rate or APR format might mislead consumers, who will not immediately know what the weekly or monthly payment will be.

We are pleased to note that the FCA is proposing that firms should provide overdraft charge calculators and better information about overdrafts to help consumers calculate the cost of their borrowing.

We believe that the calculators should work in a similar fashion across all firms. There should be common standards in place as to what firms must do. Otherwise, consumers will not be able to easily compare products and might be just as confused as they are now. In the paper, the FCA also encourages firms to include a calculator in financial promotions they provide on their website. We consider that this should actually be a requirement on firms to do so. Furthermore, we would also expect a requirement on banks to adapt this functionality to make this work for digitally excluded customers.

Question 5: Do you agree that we should require firms to disclose the representative APR in advertising where the representative example or representative APR is triggered?

We agree that firms should be required to disclose the representative APR in advertising where the representative example or representative APR is triggered.

We also agree that each item of information within the representative example must be given equal prominence and that the representative example must be given no less prominence than the financial promotion or any other cost information. We would urge the FCA to be prescriptive in its rules on prominence, to ensure that firms are unable to take a substantially different approach to how such terms are advertised. We do not want to see rules that are too vague and allow firms to be less than transparent in their advertising.

Question 6: Do you agree with our proposed guidance to help firms to calculate APR consistently?

We are of the view that firms must have a standard approach to calculating APRs for overdrafts to ensure consistency.

We agree that the FCA should provide further guidance on how firms should calculate a representative APR for arranged overdrafts which offer unconditional interest free amounts. We also agree that this guidance should explain how Personal Current Account (PCA) maintenance fees should be treated when calculating the APR for overdrafts. We also agree that the FCA should provide guidance on how personal current account maintenance fees should be treated when calculating the APR for overdrafts.

Question 7: Do you agree that in addition to existing rules in CONC regarding the disclosure and prominence of the representative example and representative APR, we should require firms to include the title ‘how does our overdraft compare’ and explain that representative APR can help consumers compare the overdraft?

Since consumers are not used to seeing an APR in relation to their overdraft and often do not consider overdrafts as a debt, we believe that it would be helpful for firms to offer more clarity. We support the FCA’s proposal that firms should include the title ‘How does our overdraft compare?’. We also agree firms should explain how the APR allows customers to compare the cost of the overdraft with other providers or with other types of borrowing.

Question 8: Do you agree that firms should report to the FCA information about their representative APR and that we should publish this information?

Yes, we support the FCA's proposals that firms should report information about the representative APR they have used in financial promotions for each of their PCAs annually to the FCA.

We also support the FCA's proposal that where firms advertise different interest rates, for different customers or at different times, to require them to tell the FCA the highest, lowest and median representative APR they have used in the financial promotion. We think that the FCA should publish this information on its website. This published information should include the real proportions of customers on each rate, and not just the range of representative APRs. This should allow the FCA to evaluate whether representative APRs are being applied fairly.

Question 9: Do you agree that it would be helpful for firms to give consumers a clear example showing what an overdraft might cost in pounds and pence if they borrowed money for a period of a day, a week, a month or a year?

We are in total agreement that it would be helpful for firms to give consumers a clear example showing what an overdraft might cost in pounds and pence if they borrowed money for a period of a day, a week, a month or a year.

Since consumers find interest rates and representative APRs harder to understand than charges in pounds and pence, firms should provide clear examples of what an overdraft might cost in pounds and pence for a period of a day, a week, a month or a year to help their understanding.

However, we consider that firms should be required to present this information in a standardised prescribed format to enable consumers to compare products more easily and include the calculator in financial promotions on their website.

Question 10: Do you agree with our proposals for guidance for recovering costs via refused payment fees? If you disagree, please set out which costs should be excluded and why, and which costs should be included and why.

We believe that there is potential for harm in the way in which refused payment fees are charged. If the FCA allows firms to set these at too high a rate, this is likely to affect more vulnerable consumers who use unauthorised overdrafts disproportionately. We would like the FCA to consider whether there should be a standard ceiling or cap on the level of fees that firms are allowed to charge to cover these costs.

We support the FCA's proposals to issue guidance on what costs can be recovered via refused payment fees. Refused payments fees should only seek to cover providers' actual costs in line with the Payment Services Regulation 2017.

We agree that automatic enrolment into arranged overdraft alerts, as well as unarranged and refused payment alerts should help to enhance consumer protection. We support the FCA's proposals that the costs associated with operating and maintaining a personal current account should not be included in the cost calculation for refused payments.

Question 11: Do you agree with our proposed application of the rules?

We agree with the FCA's proposed application of the rules.

However, we note that the paper states:

“Where a firm makes significant changes to its pricing structure in response to our proposed rules, our proposed rules require the firm to consider the impact of these changes on existing customers, including those with large arranged overdraft balances, and where appropriate, treat such customers with forbearance and due consideration.”

We are concerned that this proposal could fail to provide sufficient protections for existing customers with large arranged overdraft balances. We would ask the FCA to think further about how it could provide additional protections for customers who will need time to pay back their overdrafts. Perhaps there should be additional rules in place to ensure that interest and charges are frozen in such cases, and that firms do not attempt to close down a working current account, without an alternative basic bank account being available.

Question 12: Do you agree that firms should be given 6 months to comply with the proposed rules?

The need to address the existing consumer detriment in this market is urgent, and we would not support a prolonged delay before the point at which all firms must comply with the proposed rules. However, we are aware of technical and operational challenges facing banks in implementing the necessary changes.

We cannot comment specifically on whether 6 months is an appropriate period to accommodate these challenges. However, we would hope that the FCA will consult on a technical level with banks and set a timetable that is realistic – and that enables the necessary calculators and process changes to be implemented effectively.

Question 13: Do you have comments, observations or evidence on whether overdrafts provided to micro-business customers or products marketed to consumers as having the same function as an overdraft should be subject to similar rules to those proposed in this CP?

We think that overdrafts provided to micro-business customers or products marketed to consumers as having the same function as an overdraft should be subject to similar rules.

Our Business Debtline clients, who run micro-businesses, tend to have overdraft debts. These are usually personal account overdrafts. Overdrafts provided to micro-business customers should be subject to similar rules as it will enable consumers to make a realistic comparison between personal and business account overdraft costs.

Question 14: Do you agree with our final proposals for addressing the harm from repeat use of overdrafts?

Through our advice services, National Debtline and Business Debtline, we see the detrimental effect of repeated overdraft use on consumers who contact us for advice. People are likely to spiral further into debt through repeated overdraft use, and find it particularly difficult to escape from an overdraft once they have built one up over time.

As we set out in our previous consultation response in August 2018, we believe that firms need to use relevant triggers and more proactively identify customers who are in persistent overdraft debt or at risk of falling into persistent overdraft debt.

We agree that firms should develop a strategy to reduce repeat use and have a process in place to identify repeat users and categorise them based on their actual or potential financial difficulties.

We are pleased with the FCA proposals that if repeat overdraft users have signs of actual or potential financial difficulties, the firm must seek dialogue with the customer, and present options for reducing use. The FCA includes the following definition of “repeat use” in the rules:

“A pattern of overdraft use where the frequency and depth of use may result in high cumulative charges that are harmful to the customer or indicate that the customer is experiencing or at risk of financial difficulties.”

We are concerned that this definition might give too much discretion to firms as to when to intervene. We appreciate that it is difficult to be prescriptive in these circumstances, but we could imagine that a repeated pattern of use over more than a few months might be indicative. There must come a point where it is very hard for an individual with a long-term overdraft to financially retrench.

We appreciate that firms need to give warnings that if the issue continues, suspension or removal of the overdraft may occur. However, these warnings should only be used in specific circumstances, due to the possibility that the customer’s financial position will be adversely affected if the overdraft is suspended or removed.

In our consultation response in August 2018, we explained that removing an overdraft facility altogether either after a certain number of months or if the overdraft is above a set cumulative value is likely to have extremely unwelcome consequences for individuals in debt. It is one thing to reduce an overdraft limit over time, and where the overdraft limit is not at maximum usage, but another altogether to cut off the overdraft whilst it is in use. Therefore we would not like to see firms taking action that would worsen the customer’s financial position.

We agree that firms should provide the FCA with their strategy when the rules start to apply and after any substantial changes. The firms should implement their strategy and monitor their progress. We agree that they should report back on the outcome of their monitoring after 6 and 12 months. We are pleased to see the requirement on firms to share this strategy with the FCA who will monitor its effectiveness. We would like to see a requirement on firms to publish a summary of this strategy and/or share this with the advice sector, to allow us to better assist people in debt.

Question 15: Do you agree with the changes proposed in this chapter? (Chapter 8)

Yes, we agree with the changes proposed in this chapter. We would like these measures to take effect as soon as possible and it makes sense for the timeline for the implementation of the proposals to be aligned.

Question 16: Do you agree with our cost-benefit analysis?

We do not have any comments on the cost benefit analysis for this paper.

For more information on our response, please contact:

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