Credit card market study:
Persistent debt and earlier intervention – feedback to CP17/43 and final rules

Policy Statement
PS18/4

February 2018

This relates to

Consultation Paper 17/43, which is available on our website at www.fca.org.uk/publications.

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1 Summary

Introduction

1.1 In this policy statement (PS), we set out our responses to the feedback we received to consultation paper (CP) 17/43: *Credit card market study: persistent debt and earlier intervention remedies - feedback on CP17/10 and further consultation* (December 2017)[1]. We also explain the changes we have made to our proposals and publish the final rules and guidance on persistent credit card debt and earlier intervention.

Who this affects

1.2 This paper affects:

- firms that offer credit cards to consumers
- consumers who hold credit cards, specifically those who carry a balance over a long period of time without making significant repayments and customers at risk of financial difficulties
- firms that provide debt advice

1.3 It will also be of interest to trade bodies representing credit card firms, consumers and consumer representative organisations.

Context

1.4 In July 2016, we published the final findings report from our credit card market study (CCMS)[2]. We found that competition was working fairly well for most of the 30 million consumers who have a credit card (60% of the adult population). However, we had significant concerns about the scale, extent and nature of problem credit card debt and firms' limited incentives to reduce this.

1.5 In particular, our analysis of the CCMS dataset found that in 2014 around 5.6 million people were potentially in problematic debt. This includes 2 million people who were either in arrears or had defaulted, a further 2 million who had held a balance above 90% of their credit limit for at least 1 year, and a further 1.6 million people who were only making the minimum repayments.

1.6 We recognised that some bad debt is a feature of all credit activity. Borrowing is never risk free as the ability to repay can be affected by major life events which cannot be known in advance when deciding to borrow or lend.

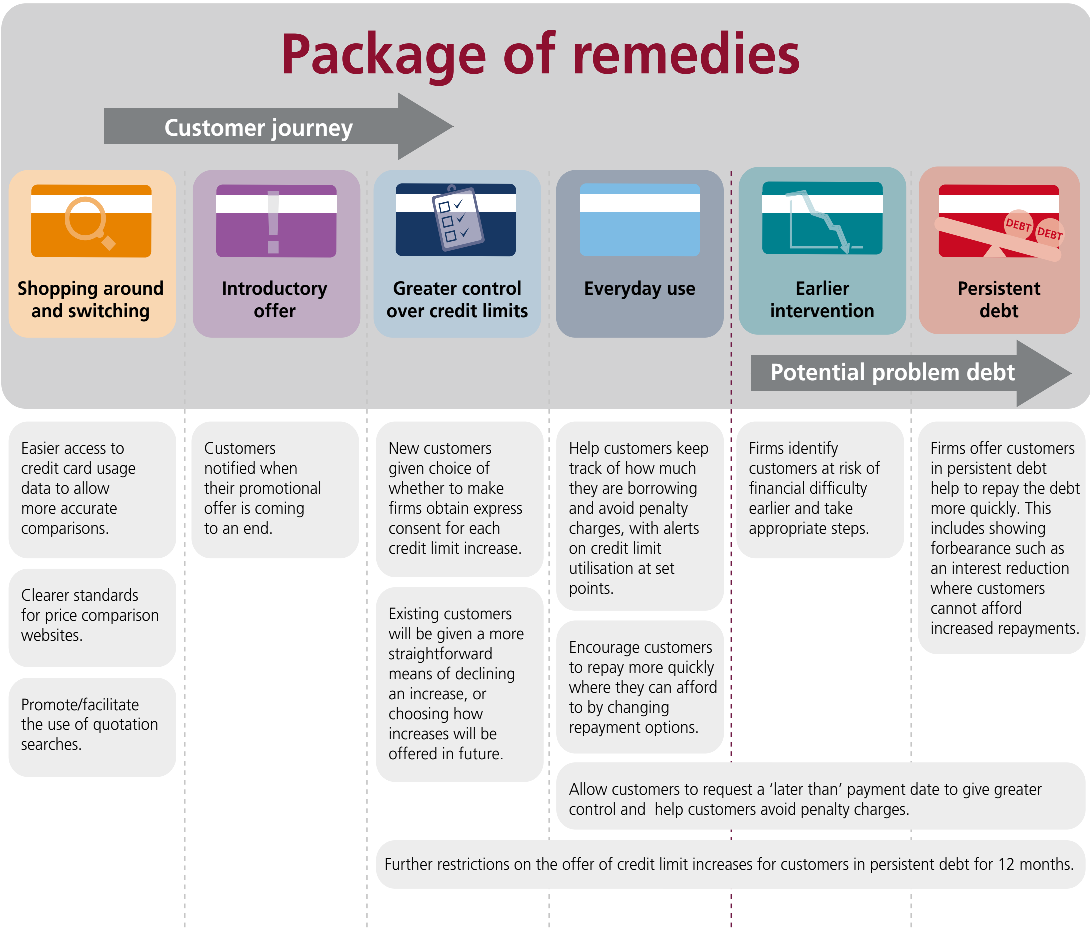
1 www.fca.org.uk/publication/consultation/cp17-43.pdf
2 www.fca.org.uk/publication/market-studies/ms14-6-3-credit-card-market-study-final-findings-report.pdf

1.7 We also recognised that the flexible nature of credit cards is one of their most positive features valued by millions of consumers. They can benefit consumers by helping to defer payment and spreading its costs over a number of months. They are also an effective way to smooth payments and outgoings in response to temporary shocks to income or unexpected expenses and avoid transaction costs associated with multiple transactions.

1.8 But the downside of this flexibility is that consumers can accumulate and sustain debt over a long period without making significant contributions to repaying the outstanding balance. Such customers are profitable for lenders, meaning firms have an incentive to allow this to continue. This harms customers because it can be an expensive way to carry longer-term borrowing and can hide deeper financial difficulties.

1.9 We announced a package of remedies (see figure 1 below) to address the issues we had identified and put consumers in greater control of their borrowing while keeping the flexibility of credit cards. With the publication of this PS, this package is now largely in place with only the work on repayment options continuing (see paragraphs 1.31 – 1.32 below).

Figure 1: Package of remedies



Persistent debt and earlier intervention

1.10 As part of this package, in April 2017 we published CP17/10[3] proposing new rules and guidance on the treatment of customers whose credit card debt persists over 18 to 36 months.

1.11 To address the problem of credit cards being inappropriately used to service expensive, longer-term borrowing, and firms' limited incentives to address this problem, we proposed requiring firms to intervene and help customers repay more quickly. Where customers cannot afford to do this, firms must exercise forbearance to help the customer to repay the debt more quickly.

1.12 Specifically, we proposed:

- **To define persistent debt** as where, over a period of 18 months, a customer pays more in interest, fees and charges than they have repaid of the principal.
- **At 18 months**, firms would need to prompt customers in persistent debt to change their repayment behaviour if they can afford to.
- **At 27 months** firms would send another reminder if payments indicate a customer is still likely to be in persistent debt at the 36 month point. Customers would be made aware that, if they do not change their repayment behaviour, their card may be suspended, which may be reported to credit reference agencies (CRAs). The customer would also get contact details for debt advice services.
- **At 36 months** firms would need to intervene again if a customer remained in persistent debt. We estimated that around 2 million accounts are possibly in this position. Firms would need to help the customer by proposing ways of repaying more quickly over a reasonable period, usually between 3 and 4 years. For example, by transferring the balance on the credit card to a lower-interest personal loan. Where the customer is unable to repay more quickly, the firm must show forbearance (for example, by reducing, waiving or cancelling any interest or charges). We would expect firms to suspend the cards of customers that have been shown forbearance, and those who do not respond.

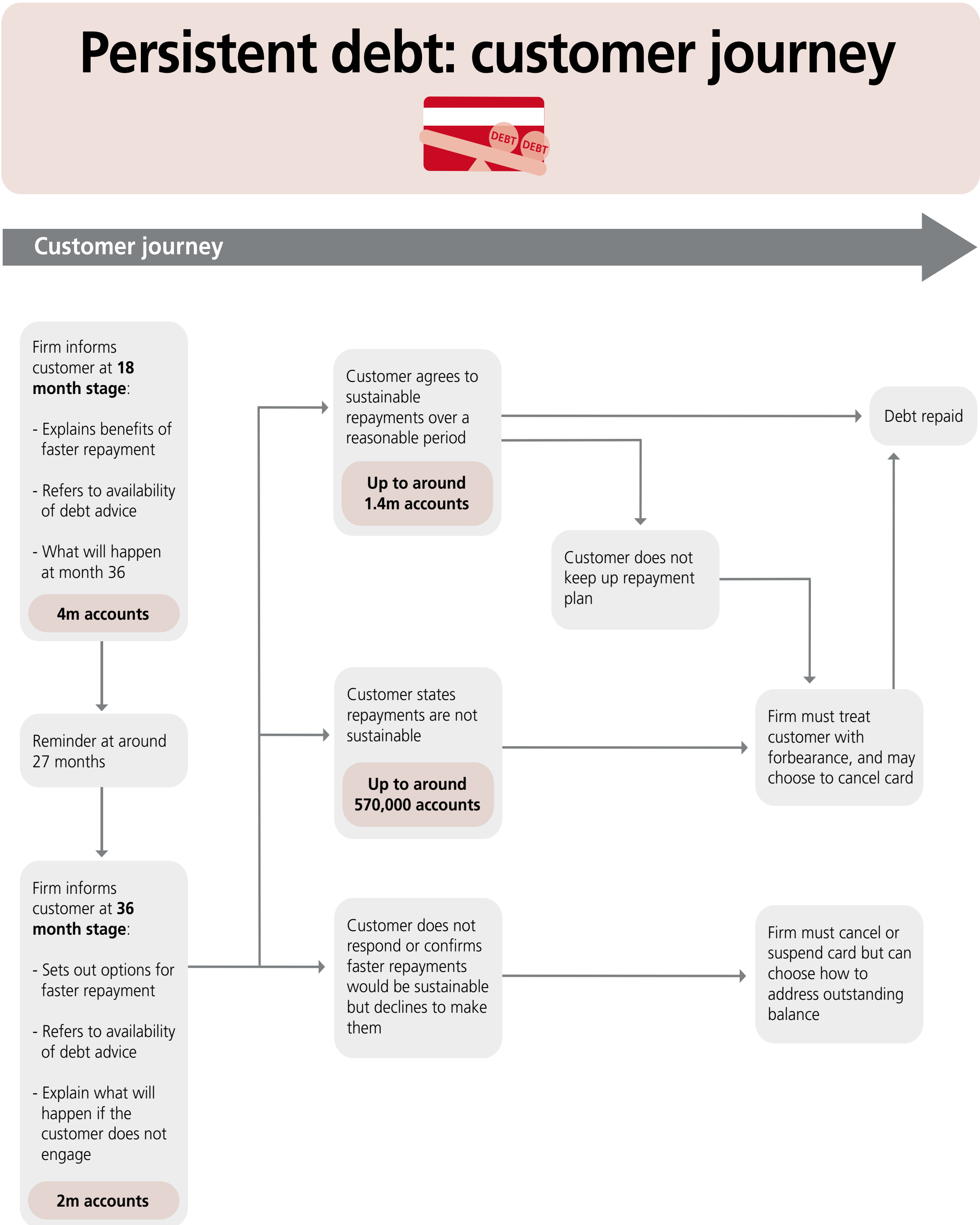
1.13 We estimated our proposals would save consumers money with lower interest payments, which means lower revenues for firms. We estimated that this will peak at between £310m and £1.3bn per year. Furthermore, consumer stress and related financial difficulties would be reduced by resolving debt problems sooner. The total cost savings were expected to have reached between £3 billion and £13 billion by 2030[4].

1.14 Figure 2 below is an overview of how the persistent debt intervention works at a high level, with our estimates of the number of customers that could be affected at each stage.

3 www.fca.org.uk/publication/consultation/cp17-10.pdf

4 The breadth of these ranges reflects uncertainty about how customers will behave. For example, the more customers react by increasing their level of repayment but offset this with increased borrowing on their cards, the lower the savings through reduced interest payments will be. Further detail of this analysis can be found in Annex 2 of CP17/10.

Figure 2: Persistent debt customer journey



1.15 In CP17/10, we also proposed rules and guidance on earlier intervention which would require firms to use the considerable data they hold to assess whether customers are at risk of potential financial difficulties. Firms would need to take appropriate action and establish an adequate policy to help customers who show signs of actual or possible financial difficulties – even though they may not have missed a payment. Signs include, for example, adverse accurate entries on a credit file which have not been disputed or agreement to a debt management plan or other debt solution.

1.16 Our proposals were primarily intended to advance the FCA's objective of achieving appropriate protection for consumers.

1.17 In December 2017, we published CP17/43 which explained the changes we were making to our proposed persistent debt rules and guidance as a result of responses received to CP17/10. We also set out revisions to our cost benefit analysis (CBA). In line with our statutory and public law consultation duties, we considered it appropriate to seek further views before finalising our proposals.

1.18 The changes we proposed were:

- **Content of communications to customers at 18, 27 and 36 months:** we proposed that firms would have flexibility to tailor the content, language and tone of the 18, 27 and 36 months persistent debt communications to the circumstances of the customer.

- **Warning to customers that card suspension may be reported to CRAs:** we replaced the proposal that firms warn customers in their communications that card suspension may be reported to CRAs with a proposal for a high-level requirement that firms tell customers about the potential implications of continuing with low repayments; these should include the possibility that the account may be suspended, as well as any other steps that the firm might take, and the possible impact on the customer's credit file. We did not propose to prescribe the specific circumstances that would lead to CRA reporting or the content of that reporting as this is for the industry and CRAs to determine.

- **Referrals to not-for-profit debt advice:** we proposed that firms, in their communications, may also provide a customer with the name and contact details of one or more authorised persons with permission for debt counselling, provided that doing so is consistent with the firm's wider regulatory obligations, for example, Principle 7: Communications with clients and Principle 8: Conflicts of interest.

- **3-4 year repayment period:** we proposed guidance that, while we expect 3-4 years to be a reasonable timeframe for customers to repay, a period slightly longer than this may be reasonable but in exceptional circumstances and where this results in no additional cost to the customer. The general expectation, though, is that if the debt cannot be repaid over 3-4 years, it is appropriate to give forbearance.

- **Implementation period:** we proposed to give firms up to 6 months to comply with the new rules, an increase of 3 months on our original proposal. This was so they can take the necessary steps to change their contracts to reflect the new rules and provide any necessary advance notices to customers. It may also provide an opportunity for firms to phase implementation, where firms are able to begin contacting customers before the 6 months implementation period has ended. We did not propose to extend the implementation period to 12 or 18 months, as some firms suggested, as this would significantly delay getting help to customers already in persistent debt, many of whom have been in persistent debt for an extended period of time.

1.19 We did not make any changes to our earlier intervention proposals.

1.20 CP17/43 also updated on the voluntary remedies agreed with industry on credit limit increases, designed to give customers greater control over their credit limits and make sure that those in persistent debt are not offered credit limit increases. We expect this to result in approximately 1.4 million accounts per year not being eligible for offers of credit limit increases.

Summary of feedback and our response

1.21 Consultation closed on 25 January 2018 and we received 15 responses. Annex 1 provides a list of the non-confidential respondents to CP17/43.

1.22 Many respondents acknowledged that the changes we had made addressed some of their main points of concern. However, some requested further clarification on the detail of our proposals. Others suggested ways in which our proposals could be more flexible, particularly at the 36 month stage intervention. There was a concern about the scope of our proposals and how they apply to business credit cards. It was also suggested that firms be given an extra 2-3 months to phase their initial 18 month communications to customers. Some repeated points already made to us in their response to CP17/10. There were no significant comments on our revised CBA.

1.23 As a result of the responses received, we have amended our proposals to carve out business credit card products from the scope of our rules. The rules we have made do not apply to credit card products promoted solely for the purposes of the customer's business. But the rules will apply to personal credit cards being used by businesses. We discuss this further in paragraphs 2.4 – 2.6.

1.24 There are no other changes to our proposals and we have not further extended the period for implementation. Chapter 2 provides further details on the responses we received, our feedback and the final rules and guidance we are making.

Equality and diversity considerations

1.25 We have considered the equality and diversity issues that may arise from the new rules in this PS.

1.26 Overall, we do not consider our rules adversely impact any of the groups with protected characteristics i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.

1.27 Our new rules focus on helping customers who are in financial difficulties or at risk of developing them. We received no comments from respondents to CP17/43 on this issue.

Next steps

What you need to do next

1.28 The final rules and guidance we have made, for insertion in the Consumer Credit sourcebook (CONC), are in Appendix 1. These come into force on 1 March 2018 and firms have 6 months, so until 1 September 2018, to be fully compliant. If your firm is affected you should consider the changes you need to make.

1.29 Chapter 3 provides an update on our current and planned future consumer credit policy work.

What we will we do

1.30 The next key steps for the implementation of our CCMS remedies are to:

- **Assess** the effectiveness of the industry voluntary remedies. If any of these measures prove to be ineffective, we will consider further action.

- **Monitor** our persistent debt and earlier intervention remedies by looking at, for example, the number of customers contacted at the 18 month intervention stage, the proportion of those that reach the 36 month stage and the actions firms take at 36 months.

- **Review** how effective our remedies are after they have been fully implemented by firms and in operation for long enough to assess consumer outcomes. We expect this to be in 2022 or 2023.

Testing behavioural remedies to address under-repayment

1.31 CP17/43 explained that we are currently carrying out behavioural trials with some credit card firms to test different ways of presenting repayment options, to find ways to encourage customers making low repayments to repay more where they can afford it.

1.32 We have now completed our behavioural trials work and are currently considering the results and options such as proposing changes to how repayment options are presented to customers, or increases to minimum repayments. If we decide the most appropriate way to achieve the outcomes we are seeking would be new rules and guidance, this will be subject to cost benefit analysis and consultation. We expect to complete our analysis and announce further details later this year.

2 Summary of feedback and our response

2.1 In this chapter, we summarise the responses we received to each of the questions we asked in CP17/43. We also set out our feedback to the comments received and the changes we have made to our final rules and guidance.

2.2 Some respondents repeated points they had already made to us in response to CP17/10. For example, some felt firms should intervene sooner, at 12 months rather than at 18 months. Others requested further prescription on forbearance and earlier intervention. A few called for a ban on unsolicited credit limit increases.

2.3 As we have considered these points and set out our feedback to them in CP17/43, this chapter does not repeat our views in these areas and focuses on new points raised by respondents.

Q1: ***Do you have any further comments on our amended proposals and the draft Handbook text in Appendix 1?***

Scope of our proposals

2.4 UK Finance suggested in feedback to CP17/10 that we should amend the draft Instrument so that our rules would not apply to business customers. We responded to this in CP17/43, observing that the proposed rules already did not apply to companies but, in common with existing rules on credit cards, they would apply in relation to regulated credit agreements under which the borrower is a 'relevant recipient of credit', which could include certain small partnerships and unincorporated bodies in addition to individuals.

2.5 In responding to CP17/43, a number of industry respondents suggested that, instead of carving out particular kinds of business borrowers, we should amend the rules to exclude 'business' credit card products. They argued that these products could be subject to the persistent debt rules where they are under a regulated credit agreement but were not included in the CCMS data request or subsequent policy analysis when developing our proposals.

2.6 They also argued that business credit cards are different to 'personal' credit cards as they are intended and promoted for customers to use for business purposes, to help to manage cash flows and expenses rather than for personal finances. Suspending a business credit card at 36 months would also have different consequences than for a personal customer and could result in significant issues for small businesses, threatening their viability.

Our response:

During the CCMS we did not intend to consider business credit cards or include them in our analysis. These cards were explicitly excluded from the scope of the market study at the outset. However, because the rules as drafted applied to all credit cards, they would apply to any business credit card product where the agreement is a regulated credit agreement.

We have considered whether the concept of persistent debt is relevant to businesses. Although a business credit card is promoted for business purposes, where it is provided under a regulated credit agreement the individual who holds the account will still be personally liable for the debt.

On balance, it seems less likely that a business credit card would meet the definition of persistent debt than a personal credit card, given that they would typically be used for staff expenses and short term cash flow. We understand there to be around 500,000 business credit card accounts so the number of businesses who would meet the definition of persistent debt is likely to be relatively small.

In addition, it is more likely that a business which did use its credit card in a way that met the definition of persistent debt would be acting deliberately and rationally than would be the case for an individual. For example, a business customer, particularly a recent start-up, may have high initial costs followed by low revenue for an extended period, but reasonably expect to be profitable within a number of years.

While there may be other ways of funding one-off or up-front business costs, we accept that requiring such businesses to repay their credit card balance more quickly or face having their use of the card suspended could cause a business to encounter unnecessary trading difficulties.

We have therefore decided not to apply the persistent debt rules to business credit cards; for this purpose, we have defined a business credit card as one which is promoted solely for the purposes of the customer's business (see CONC 6.7.1R in Appendix 1).

We are satisfied this approach does not undermine our policy intention or the effectiveness of our rules given the substantive distinction between personal and business credit card products as operated by firms.

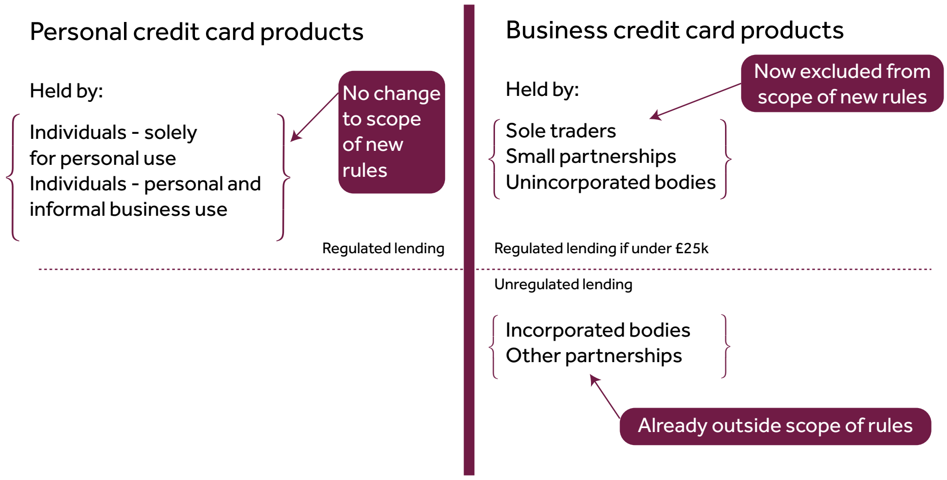
For the avoidance of doubt, this change does not affect the application of the rules where a customer with a personal credit card is using it for business purposes – these accounts will still be caught by the persistent debt rules if the agreement in question is a regulated credit agreement. Such accounts were included in our CCMS dataset analysis[5].

The effect of this change is illustrated in the figure below.

We have also decided for the same reasons to amend the new rules on earlier intervention so that the existing rule (at CONC 6.7.2R) requiring firms to monitor repayment records and take appropriate action where there are signs of actual or possible repayment difficulties continues to apply to business credit card products rather than the new, more detailed rules that will apply to personal credit card products (see CONC 6.7.2R(2) in Appendix 1).

5 See paragraph 2.4 of the Credit Card Market Study final findings report.

Figure 3: Scope of our proposals



Closed and pay down customers

2.7 Some industry respondents requested clarity on how such customers (whose agreement has been terminated but who may choose to continue to pay the minimum payment) should be treated. It was felt that the measures open to firms to help these customers repay more quickly and to provide assistance where this is not affordable (particularly at the 36 month stage) would be limited. It was suggested that an industry working group should be set up, with input from the Finance & Leasing Association and the Lending Standards Board, to discuss best practice in managing these customers.

2.8 One respondent felt our rules should explicitly require firms to offer 'closed and pay down' customers forbearance and discuss the consequences of this, for example adverse CRA reporting. If customers are happy to accept these consequences, then firms should provide forbearance. However, if they do not accept the consequences and do not want to take advantage of forbearance, they should be allowed to continue with their current minimum repayments.

Our response:

We explained in CP17/43 that closed and pay down customers meeting the definition of persistent debt should still receive the persistent debt communications (which firms can tailor to avoid any confusion) encouraging them to repay faster as they may be in a position to either increase their repayments or agree to a more suitable repayment mechanism.

We expect that firms would put in place appropriate arrangements following engagement with the customer, which would include discussing available options, what is affordable and, where relevant, the consequences for that customer.

Where such a customer is unable to afford to increase repayments or a more suitable repayment plan, then our expectation is that firms should offer forbearance.

Where such a customer does not engage, we consider that there are a number of options the firm could consider, for example, allowing them to repay at their current level or treating customers in line with our earlier intervention rules. We do not agree our rules need further amendment as they already give firms flexibility to decide if they want to treat customers who do not engage differently.

It would be for the industry to determine if an industry working group to discuss best practice in this area should be established.

CRA reporting

2.9 One respondent expressed concern about the changes to our proposals on CRA reporting. They considered the incentives for customers to repay faster had been weakened and that the absence of CRA reporting would also mean alternative loans would be easily obtained. This respondent also suggested we delete, from CONC 6.7.28G(2), reference to communicating the impact of reporting to CRAs as this requirement had been removed from our proposals.

2.10 One debt charity felt our rules had been diluted and the lack of prescription could lead to inconsistent practice by firms, resulting in customer confusion. Another debt charity expressed support for the industry coming together to develop an agreed standard and form of words that encourages customers to seek help where appropriate.

Our response:

As stated in CP17/43, we replaced the previous proposal that firms warn customers in their communications that card suspension may be reported to CRAs with a proposal for a high-level requirement that firms tell customers of the potential implications of continuing with low repayments; these should include the possibility that the account may be suspended, as well as any other steps that the firm might take, and the possible impact on the customer's credit file.

We made this change to better reflect our original policy intention. It was not our intention to require firms to word their communications using the precise language in our rules, but the guidance makes it clear that firms are still required to make customers aware of the possible impact on their credit file if they continue making low repayments as well as the possibility of card suspension. As part of our post-implementation review, we plan to look at the persistent debt communications firms are sending to customers.

Referrals to debt advice

2.11 One debt charity felt our rules on referring customers to debt advice should require firms to give prominence to free debt advice and detail what the costs associated with using debt counselling services are. This would ensure customers can make an informed choice about where they turn to for support with their debt problems. Another felt that allowing firms the option to include the details of commercial debt advice firms in their communications would cause confusion and detriment.

Our response:

We consider our proposals are consistent with the approach we currently take in CONC 7.3.7AG (which is drafted in the same way) and reflect current practice. When making any referrals in their communications, our rules require firms to make sure they are not breaching any of our other existing requirements. These include, for example, the requirement to communicate information in a way which is clear, fair and not misleading and to manage conflicts of interest fairly.

Interventions at 18, 27 and 36 months

2.12 One debt charity thought a fast-track approach was needed when these rules came into effect for customers who, at the 18 month stage, had already been in persistent debt for longer than 36 months. They suggested that we require firms to proactively identify such customers, monitor them closely for signs of financial difficulty and consider intervening earlier, for example by applying forbearance. They also felt we should amend our rules on earlier intervention so that 'signs of financial difficulty' include customers being in persistent debt for 18 months.

Our response:

We have not made any changes to the timings of the persistent debt interventions.

Our rules on earlier intervention are complementary to our rules on persistent debt and are designed to work together and alongside our existing forbearance rules in CONC 7.3.4R (the requirement to treat customers in default or in arrears difficulties with forbearance and due consideration).

So, firms are not prevented from using the data they hold to identify, contact and take additional steps to help those customers who have already been in persistent debt for a significant length of time (for example, over 36 months) at the initial 18 month intervention stage and are showing signs of being in financial difficulty.

We do not consider it would be appropriate to further prescribe the actions firms must take for these customers (for example, bringing forward the 36 month interventions) as they are probably in need of time to adjust their behaviour in response to the persistent debt communications rather than a more substantive intervention.

2.13 Some suggested again that customers who respond to the persistent debt communications by making appropriate changes to their repayment behaviour following either the 18 or 27 month communications, and sustain these repayments for the preceding 6 or 9 months but not to the extent that would take them outside the definition of persistent debt at 36 months, should be exempt from any further interventions.

2.14 One respondent added they were particularly concerned about unintended and potentially unfair consequences for such customers. It was suggested these customers would benefit from a pause on the 36 month interventions. Should they fall back into persistent debt, they would re-enter at the point before their payments increased (rather than returning to the 18 month intervention stage).

2.15 Another asked how customers meeting the definition at 36 months but appearing on track to fall outside the definition in the following 6 months (because they have sustained increased repayments in the last 12 months) should be treated.

Our response:

We have not changed our proposals to allow for a different approach for customers who have sustained increased repayments for a period of time but not to an extent that they fall outside the definition of persistent debt.

We maintain that introducing exceptions for customers who have increased repayments but not enough to get them out of persistent debt has the potential to prolong their persistent debt situation and may mask the overall persistence of the customer's debt.

Regarding the concerns about the unintended and potentially unfair consequences for these customers, we would reiterate that the specific circumstances that would lead to reporting to CRAs, the content of that reporting and the impact of this information on credit files will be for firms and CRAs to determine.

2.16 One respondent asked us to clarify how customers exiting the definition at 27 and 36 months should be treated if they fell back into the definition of persistent debt.

Our response:

As stated in CP17/43, due to the rolling basis of the persistent debt assessment, customers may fall in and out of the definition at various points. We gave, as an example, a customer in persistent debt who receives an 18 month and 27 month communication from the firm after which they increase repayments or make a lump sum payment sufficient to have taken them out of persistent debt at the next assessment period (the 36 months stage). The customer could then be identified by the firm as being in persistent debt again (because, for example they have reverted to their low repayment behaviour), in which case the persistent debt interventions at 18 months would start again.

We consider that this approach of 'restarting the clock' once a customer exits persistent debt makes sure that our interventions (and in particular the stronger intervention at 36 months) are targeted at those customers who are unequivocally carrying credit card debt over a prolonged period of time without making meaningful reductions in their balance.

As stated in Chapter 1, we intend to review the effectiveness of our remedies and monitor their implementation and consumer outcomes.

2.17 Another commented that the rules allow for the 27 month communication to be skipped if a customer appears to be moving out of persistent debt in the 9 months after the first communication (removing the need for 27 month communication) but then ends up meeting the definition at 36 months. To avoid this, the 36 month communication should be contingent on receiving the 27 month communication. If at the 36 month point the customer meets the definition of persistent debt but hasn't received the 27 month communication then the 27 month equivalent should be sent in lieu. The customer would then receive a 36 month communication if their repayment behaviour did not change sufficiently over the following 9 months.

Our response:

We do not consider we need to amend our rules to make the 36 month intervention contingent on receiving the 27 month communication. Our rules do not prevent firms from issuing additional reminders at other times if they feel this would be appropriate, particularly where such additional reminders would assist customers in paying down the principal on their card balance, incurring lower interest charges, and avoiding falling into persistent debt.

Allocation of payments

2.18 In CP17/43, we explained that, where repayments are allocated entirely to new balances or the persistent debt balance as a result of our allocation of payment rules, firms have options such as seeking increased payments from the customer to repay the higher-interest balance in full or much more quickly, offering forbearance, applying the same rate of interest to any new spend or limiting the extent of any new spending.

2.19 One respondent disagreed with our view that our existing rules on allocation of payments (which require payments to be applied to balances in the order of highest to lowest interest rate) did not need to be amended. They maintained that, without any changes, the consequence would be that repayments would be allocated in their entirety to new spending or to the persistent debt balance if there was a portion of the balance with a higher interest rate.

2.20 They argued that applying forbearance would be inappropriate as the customer would have agreed to a repayment plan and so was not in need of further forbearance, or would not have required any forbearance in the first place. They felt applying the same rate of interest to any new spend would require a change to the customer's contract and there may be 'treating customers fairly' concerns if they are charging customers in persistent debt less than those not in persistent debt for transactions such as cash withdrawals.

Our response:

We continue to consider our rules on the allocation of payments do not need modification.

We accept an issue could arise where the customer makes new transactions after 36 months that attract a higher level of interest – for example, where the customer withdraws cash – or where a portion of the persistent debt balance attracts a higher level of interest than new balances.

It could also arise where the firm provides interest rate forbearance on the persistent debt balance but allows the customer to continue using their card for new purchases. In these circumstances, we would expect it to be necessary to suspend the card except where this would cause significant financial difficulty. If the card is suspended, this issue does not arise.

Whilst we understand the reasons why there may be some circumstances where a firm may consider it not to be desirable (or effective) to seek an increased repayment or offer more forbearance, firms do have the flexibility to limit any new spend or apply the same rate to any new spend so that the order of payments rule becomes irrelevant. While this may require firms to vary customers' terms and conditions to allow for these options, we do not consider this in itself poses a significant barrier or would be problematic. Firms would not need to do this until the 36 month intervention stage first comes into effect.

We do not consider that offering customers in persistent debt a cheaper interest rate, for example on cash withdrawals where such customers are allowed to make these, would necessarily raise 'treating customers fairly' concerns. This is because doing so would be consistent with the aim of our persistent debt interventions to ensure that firms intervene and help customers repay their persistent debt balance in a reasonable period.

3-4 year repayment period

2.21 One debt charity commented on the guidance we consulted on to clarify that in exceptional circumstances a firm may agree a repayment period slightly longer than 4 years, provided this was at no additional cost to the customer.

2.22 They argued that this guidance would allow firms to avoid giving a customer the level of forbearance necessary to enable them to repay over 4 years by spreading payments over a slightly longer period. While this could be at no additional cost, such an arrangement could cost the customer more than they would have paid over 4 years if the firm offered more forbearance.

2.23 One firm queried whether it would be acceptable to increase the 3-4 year repayment period if:

- a customer confirms they are unable to increase monthly repayments but can accept a repayment plan
- the payment is fixed at the existing level
- the card is suspended
- the total to be repaid by the customer over the total repayment period is not greater than the equivalent of the 4 year period.

Our response:

We disagree with this analysis of the guidance. The persistent debt rules state that firms must agree a repayment plan that would see the persistent debt balance repaid in a reasonable period. Customers who cannot afford to repay the debt in a reasonable period must be offered forbearance in order to enable them to do so. In guidance we have set out that we consider between 3 - 4 years to be a reasonable period and that only in *exceptional circumstances* would a period slightly longer than 4 years be reasonable.

Firms might, for example, set out for customers how much they would have to pay each month in order to repay their debt within 1, 2, 3 or 4 years. If a customer cannot afford to repay the debt within a reasonable period of 4 years, a firm would effectively be required to offer whatever forbearance is necessary to enable the customer to do so. Only after offering the forbearance necessary to enable the customer to repay the debt within 4 years, in exceptional circumstances and at no additional cost to the customer, would we consider it reasonable to extend the repayment period slightly beyond 4 years.

We intend to consider how this is working in practice through supervisory work and our effectiveness review in due course.

Forbearance

2.24 The Financial Services Consumer Panel (FSCP) thought our proposal for customers to retain the use of their card if suspension or cancellation would have a significant adverse impact on their financial situation was not clear. They questioned how firms would apply this proposal in practice and added that such customers need rapid referral to independent debt advice.

Our response:

Our expectation is that firms in these circumstances would consider, for example, whether there is evidence that the customer is dependent on the credit card for meeting essential living expenses (such as mortgage, rent, council tax, food and utility bills). This is reflected in our guidance at CONC 6.7.38G(2). Our requirements on the content of the persistent debt communications already make clear that at each stage of the interventions, firms must make customers aware of the availability of debt advice.

Comments on draft Instrument

2.25 We received some comments on the draft Instrument which we address below, following the order of the draft rules and guidance in the Instrument published in CP17/43.

2.26 One respondent asked us to amend our rules on the persistent debt assessment period in CONC 6.7.27R(2) to refer to 'once per billing cycle' rather than 'once per month'. This was to account for the circumstances when the length of a customer's billing cycle varies due to a change in their statement date. They suggested this would be a more appropriate approach given that fees and charges are typically allocated only once per billing cycle rather than on a strict calendar month basis.

Our response:

We have not made any changes to this rule. It is open to firms to decide at which point in the month it would be appropriate to assess whether customers have paid more in interest and charges than principal over the 18 months prior to the date on which the assessment is being carried out.

2.27 One respondent suggested we delete the wording in brackets from CONC 6.7.27R(4) which referred to communicating with customers in 'an appropriate medium (taking into account any preferences expressed by the customer about the medium of communication between the firm and the customer)'. They felt this was not consistent with other rules in CONC and that simply referring to 'in an appropriate medium' was sufficient.

Our response:

We have not made any changes to this rule as we consider it reflects our normal expectations of firms when communicating with their customers.

2.28 One respondent asked for further clarification on CONC 6.7.35R. They queried whether a customer who had increased repayments, but not enough to get them out of persistent debt at 36 months, could still use their credit card.

Our response:

We have not made any changes to this rule as we consider our proposals are already clear. Where a customer remains in persistent debt at 36 months, a firm must put in place an appropriate repayment plan following engagement with the customer. The requirements on card suspension only start to apply where a customer does not respond to the firm (either to say that none of the repayment options offered are affordable or to agree to one of the options). Additionally, we would expect a card to be cancelled or suspended where the firm treats the customer with forbearance unless this would have a significant adverse impact on the customer's financial situation.

Implementation

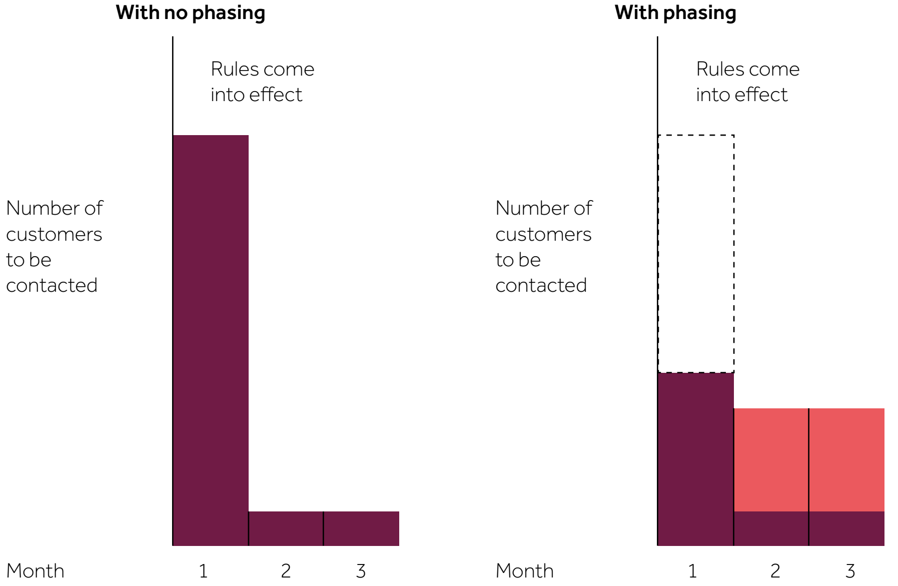
2.29 A number of industry respondents welcomed the additional 3 months implementation period proposed in CP17/43 but were concerned that this would not be enough to allow them to phase the initial implementation across 2 or more months. These respondents were keen to phase implementation to ease the administrative burden of contacting potentially very large numbers of customers over a short period of time.

2.30 Respondents making this point also argued that the staff dealing with customers that respond to the 18 month communications are likely to be the same staff who are also responsible for assisting customers in arrears and financial difficulties. There could be unintended consequences for those customers – such as being unable to contact the firm because of high call volumes. They argued that the impact of high call volumes against a fixed resource of adequately trained staff could also have a material impact on debt charities receiving queries.

2.31 To avoid this perceived risk, these respondents proposed that the implementation period remain at 6 months but there be a short additional period of up to 2-3 months to allow firms to phase contacting the initial tranche of customers. In doing so, they proposed to prioritise contacting the customers who have been in persistent debt for the longest period.

2.32 The practical effect of phasing implementation is illustrated in the figure below.

Figure 4: Phasing implementation



Our response:

The figure above shows that phasing implementation over 3 months could significantly reduce the number of customers needing to be contacted in the first month the rules are in effect.

We are concerned that extending the implementation timetable further would delay getting help to customers in persistent debt. We took into account feedback to CP17/10 regarding the difficulties for the industry to implement the rules within 3 months, which led us to propose a 6 month implementation period. The issue being raised now appears not to be in relation to the ability to comply with the rules by the end of that period, but the operational burden of contacting all customers in persistent debt within the month the rules first come into effect.

Only a small minority of firms asked for more time to phase implementation, suggesting this is not an issue for firms generally. In our view, this undermines the case for providing additional time for phasing for all firms, given that this could lead to unnecessary delays for customers of some firms.

On balance, we have decided not to allow additional time for firms to phase contacting the initial tranche of customers.

The final rules and guidance we have made in Appendix 1 come into force on 1 March 2018. Firms have until 1 September 2018 to be fully compliant.

This means that firms have a total implementation period of 6 months in which to complete any necessary preparations and systems changes and begin to issue their 18 month communications to customers.

The rules require firms to comply in full following the implementation period. Should any individual firm find it is unable to contact all affected customers in the relevant period we would expect that the firm would alert the appropriate FCA contact as soon as possible.

Post implementation and effectiveness review

2.33 The FSCP and one debt charity agreed it would be important to evaluate our proposals, including any unintended consequences, and to address any issues identified promptly. They asked for further information on our plans and details about our minimum repayments work and whether this will necessitate further rule changes. It was suggested we could, additionally, track and publish trends in problem debt over time or consider the messaging around credit cards as a suitable product for borrowers needs.

Our response:

Chapter 1 contains our plans to monitor and review the effectiveness of our rules once they have been in place for long enough to assess how they are working in practice. We hope to announce further details about our review in due course.

Q2: ***Do you have any comments on our revised assessment of the costs and benefits of our proposals in Annex 2?***

2.34 One respondent said that, while there were compliance costs for implementing our proposals, overall their effect should result in a decrease in defaults and arrears which would have a positive impact on firms, reducing the cost of arrears and collections. Another said that firms could reduce their compliance costs by aligning these changes with others they are making as a result of regulatory changes elsewhere.

2.35 Another asked for more specific analysis on the different solutions that firms could offer at the 36 month stage intervention and the associated costs. They also felt firms should be encouraged to offer solutions that do not require contractual changes.

Our response:

Our CBA in CP17/10 included illustrative examples of repayment schedules at paragraphs 83-92.

We did not include more specific analysis than this as we do not propose to prescribe the specific mechanisms of repayment to be offered at the 36 month stage intervention. The approach firms take will depend on a number of factors such as what the customer confirms they can afford, the options firms are able to offer, the firms' business models and the nature of any forbearance being exercised.

It will also be for firms to determine how best to implement and document the repayment option selected. It would not be appropriate for us to encourage options that do not require contractual changes and we recognise that some firms may wish to make such changes as a way of being transparent with customers.

2.36 It was suggested the cost of making contractual changes could be higher as our revised CBA acknowledged that a small number of firms were still considering their legal options. One firm commented that a 6 month implementation period would require extra resource to deal with a potentially large increase in call centre volumes. This firm did not provide any alternative cost estimates in relation to this, however. It was felt applying our proposals to business credit cards would significantly increase compliance costs for firms but again no cost estimates were provided.

2.37 One firm felt the revised CBA did not take account of the costs of increased missed payments and defaults due to customers being asked to increase repayments (for example, the emotional and financial implications of customers finding themselves in unexpected difficulty and the increased cost of future credit or inability to access credit). They felt that allowing customers to fix repayments at their current level so that they repay their debt in less than 5 years would alleviate this.

2.38 They also felt our proposals could have impacts on the availability of credit to some customers and pricing across the market.

Our response:

Our CBA in CP17/43, which adopted the CBA included in CP17/10 except for the changes that were flagged in CP17/43, considered the potential impacts on customers of increasing repayments, the availability of credit and pricing across the market (see paragraphs 84, 89, 90, 100 and 105 of the CBA in CP17/10). Firms are required to propose arrangements to make repayments affordable, applying forbearance where appropriate. We consider these requirements will help to mitigate customer harm.

2.39 One respondent felt that encouraging customers to repay more quickly could have the unintended consequence of customers prioritising credit card repayments over essential expenditure. They queried whether firms would be prepared to consider the customer's other expenditure in discussions with customers about increasing repayments.

Our response:

Our rules do not stop firms from discussing other expenditure with customers or from undertaking an assessment of affordability in order to determine the appropriate repayment options and forbearance to offer customers. Additionally, we expect that firms would put in place appropriate arrangements following engagement with the customer and exploration of the available options and what is affordable.

2.40 The rules we have made do not differ from the version that we consulted on in a way which is, in our opinion, significant and we are therefore not required by section 138I of the Financial Services and Markets Act 2000 to publish details of the difference and a new CBA.

3 Next steps

This policy statement

3.1 The final rules and guidance on persistent debt and earlier intervention that we have made are in Appendix 1. These come into force on 1 March 2018, but firms have until 1 September 2018 to be fully compliant.

3.2 We set out our plans to review the effectiveness of our rules and monitor implementation and outcomes in Chapter 1.

0% credit card deals

3.3 We said in CP17/10 that we would have concerns if the headline rate or period for 0% credit card introductory deals were not available to a significant number of consumers or if any limitations on their availability were not made clear in financial promotions. We said this is an area where we would be undertaking further work to look at the issue and consider the case for additional rules or guidance if necessary.

3.4 We are currently analysing the results of a survey of firms' practices in this area. Once completed, we will consider whether, in the light of the data and information we have collected, it would be appropriate to take any further action.

Industry work on quotation searches

3.5 The cross-sector work being undertaken by the industry on quotation search tools is developing and the industry plans to consult relevant stakeholders in due course, taking into account wider related initiatives.

Other consumer credit policy work

Review of retained provisions of the Consumer Credit Act

3.6 We are required to review retained provisions of the Consumer Credit Act 1974. We must report to the Treasury on whether their repeal would adversely affect the appropriate degree of protection for consumers and which provisions could be replaced by FCA rules or guidance. The review is an opportunity to consider the future model of consumer credit regulation.

3.7 We published a Call for Input[6] in February 2016, inviting initial views on planning the review. The responses formed the basis of our scoping work for the review. We will publish an Interim Report in the summer of 2018 and will seek input from stakeholders on our initial views on the review. The Interim Report will include the feedback from the Call for Input and will set out how this helped us to define our approach.

3.8 In addition to providing the opportunity to respond to the Interim Report, on publication we will seek to engage further with stakeholders, including through a series

6 www.fca.org.uk/news/news-stories/call-input-review-retained-provisions-consumer-credit-act

of roundtable discussions, during the second half of this year before we issue the final report by 1 April 2019.

Staff incentives, remuneration and performance management

3.9 In August 2015, we announced that we would undertake a thematic review to better understand the nature of staff incentives, remuneration and performance management in consumer credit firms[7]. In July 2017, we published CP17/20 in which we set out the findings of the review and consulted on a proposed new rule and guidance to address concerns about how consumer credit firms pay and incentivise their staff and manage the risks to customers that may arise from these arrangements[8]. We also consulted on non-Handbook guidance to help firms better understand our expectations and improve how they identify and manage the risks.

3.10 We aim to publish a PS with final rules, guidance and non-Handbook guidance around the end of March 2018.

High-cost credit review

3.11 On 31 January 2018, we published an update on our work on the high-cost credit sector[9]. We intend to publish in May 2018 our conclusions and proposals for consultation for rent-to-own products, home-collected credit and catalogue credit, and set out the actions we are taking to promote alternatives to high-cost credit.

3.12 On overdrafts, we aim to consult in May on measures to promote competition and consumer engagement following the Competition and Markets Authority's retail banking investigation. We will also set out the conclusions from our analysis of potential consumer harm and the nature of any remedies that we consider might be warranted in the light of that analysis. A consultation will follow later in 2018 taking into account the findings of the FCA's Strategic Review of Retail Banking Business Models.

Creditworthiness

3.13 In July 2017, we published CP17/27 which proposed changes to our rules and guidance on firms' assessments of creditworthiness, including affordability[10]. The aim of our proposals was to clarify our expectations of firms.

3.14 The consultation closed on 31 October and we aim to publish a PS with final rules and guidance in summer 2018.

7 www.fca.org.uk/publications/thematic-reviews/tr-staff-remuneration-and-incentives
8 www.fca.org.uk/publications/consultation-papers/cp17-20-staff-incentives-remuneration-performance-management
9 www.fca.org.uk/publication/feedback/high-cost-credit-review-update.pdf
10 www.fca.org.uk/publications/consultation-papers/cp17-27-assessing-creditworthiness-consumer-credit

Annex 1
List of non-confidential respondents

Chartered Institute of Credit Management

Citizens Advice Manchester

Financial Services Consumer Panel

Money Advice Trust

Optima Consultancy

StepChange

The Lending Standards Board

Virgin Money

Annex 2
Abbreviations used in this paper

CCMS	Credit card market study
CBA	Cost benefit analysis
CRA	Credit reference agency
CONC	Consumer Credit sourcebook
CP	Consultation Paper
EU	European Union
FCA	Financial Conduct Authority
FSCP	Financial Services Consumer Panel
PS	Policy Statement

We have developed the policy in this Policy Statement in the context of the existing UK and EU regulatory framework. The Government has made clear that it will continue to implement and apply EU law until the UK has left the EU. We will keep the proposals under review to assess whether any amendments may be required in the event of changes in the UK regulatory framework in the future.

All our publications are available to download from www.fca.org.uk. If you would like to receive this paper in an alternative format, please call 020 7066 9644 or email: publications_graphics@fca.org.uk or write to: Editorial and Digital team, Financial Conduct Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS

Appendix 1
Made rules (legal instrument)

CONSUMER CREDIT (EARLIER INTERVENTION AND PERSISTENT DEBT) INSTRUMENT 2018

Powers exercised

A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the "Act"):

(1) section 137A (General rule-making power);
(2) section 137T (General supplementary powers); and
(3) section 139A (The FCA's power to give guidance).

B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on 1 March 2018.

Amendments to the Handbook

D. The Consumer Credit sourcebook (CONC) is amended in accordance with the Annex to this instrument.

Citation

E. This instrument may be cited as the Consumer Credit (Earlier Intervention and Persistent Debt) Instrument 2018.

By order of the Board
22 February 2018

Annex

Amendments to the Consumer Credit sourcebook (CONC)

In this Annex, underlining indicates new text and striking through indicates deleted text unless otherwise stated.

6 Post contractual requirements

…

6.7 Post contract: business practices

Application

6.7.1 R …

(3) *CONC* 6.7.3AR to *CONC* 6.7.3DG and *CONC* 6.7.27R to *CONC* 6.7.40G do not apply in relation to a credit card of a type that the *firm* promotes to *customers* solely for the purposes in each case of the *customer's* business (a "business credit card").

Business practices

6.7.2 R (1) A *firm* must monitor a *customer's* repayment record and take appropriate action where there are signs of actual or possible repayment difficulties.

(2) This *rule* does not apply in relation to a credit card unless the card is a business credit card (see *CONC* 6.7.1R(3)).

[**Note:** paragraph 6.2 of *ILG*]

6.7.3 G …

Business practices: credit cards

6.7.3A R A *firm* must monitor a credit card *customer's* repayment record and any other relevant information held by the *firm* and take appropriate action where there are signs of actual or possible financial difficulties.

6.7.3B G (1) Circumstances in which there are signs of actual or possible financial difficulties include where there is a significant risk of one or more of the matters set out in *CONC* 1.3.1G(1) to (7) (Guidance on financial difficulties) occurring in relation to the credit card *customer*.

(2) Examples of appropriate action as referred to in *CONC* 6.7.3AR would include the *firm* doing one or more of the following, as may be relevant in the circumstances:

(a) considering suspending, reducing, waiving or cancelling any further interest, fees or charges (for example, when a *customer* provides evidence of financial difficulties and is likely to be unable to meet payments as they fall due or is only able to make token payments, where in either case the level of debt would continue to rise if interest, fees and charges continue to be applied);

(b) accepting token payments for a reasonable period of time in order to allow a *customer* to recover from an unexpected income shock, from a *customer* who demonstrates that meeting the *customer's* existing debts would mean not being able to meet the *customer's* priority debts or other essential living expenses (such as in relation to a mortgage, rent, council tax, food bills and utility bills);

(c) notifying the *customer* of the risk of escalating debt, additional interest, fees or charges and of potential financial difficulties; and

(d) providing contact details for *not-for-profit debt advice bodies* and encouraging the *customer* to contact one of them.

(3) A *customer* paying the minimum amount required under the agreement is not, by itself, a sign of possible or actual financial difficulties under *CONC* 6.7.3AR. It may, however, be such a sign where, for example, a *customer* with a pattern of paying more than the minimum required payment reduces the payments to the minimum required payment due, but their pattern of drawing down *credit* on the card does not materially change.

(4) In determining what is "appropriate action" under *CONC* 6.7.3AR, a *firm* should take into account any steps it has taken under *CONC* 6.7.30R, *CONC* 6.7.31R or *CONC* 6.7.37R.

6.7.3C R A *firm* must establish, implement and maintain an adequate policy for identifying and dealing with *customers* showing signs of actual or possible financial difficulties, even though they may have not missed a payment.

6.7.3D G The policy referred to in *CONC* 6.7.3CR is in addition to the policy required under *CONC* 7.2.1R.

…

Credit cards: persistent debt

6.7.27 R (1) This *rule* applies to a *firm* with respect to communicating with a *customer* about, and receiving payments or exercising rights under, a credit card agreement if the *firm* assesses that the amount the *customer* has paid to the *firm* towards the credit card balance over the immediately preceding 18 *month* period comprises a lower amount in principal than in interest, fees and charges.

(2) A *firm* must assess whether the condition in paragraph (1) is met at least once a *month*.

(3) The *rule* in paragraph (1) does not apply:

(a) where the balance on the credit card was below £200 at any point in the 18 *month* period; or

(b) where the *firm* has sent a communication to the *customer* in accordance with paragraph (4) in the preceding 18 *months* in relation to the credit card; or

(c) where the *firm* is taking steps to treat the *customer* with forbearance under *CONC* 6.7.37R, is otherwise taking equivalent or more favourable steps in relation to the *customer's* account, or *CONC* 6.7.39R applies.

(4) Where the *rule* in paragraph (1) applies in relation to a credit card *customer*, a *firm* must, in an appropriate medium (taking into account any preferences expressed by the *customer* about the medium of communication between the *firm* and the *customer*) and in plain language:

(a) notify the *customer* that, in the preceding 18 *months*, the amount the *customer* paid comprised a lower amount in principal than in interest, fees and charges;

(b) explain that increasing this level of payment would reduce the cost of borrowing and the amount of time it would take to repay the balance;

(c) encourage the *customer* to contact the *firm* to discuss the *customer's* financial circumstances and whether the *customer* can increase the amount of payments without an adverse effect on the *customer's* financial situation;

(d) warn the *customer* of the potential implications if the *customer's* payments comprise a lower amount in principal than in interest, fees and charges in two consecutive 18-*month* periods; and

(e) provide contact details for *not-for-profit debt advice bodies* and encourage the *customer* to contact one of them.

6.7.28 G (1) For the purposes of *CONC* 6.7.27R, *CONC* 6.7.30R, *CONC* 6.7.34G, *CONC* 6.7.39R and *CONC* TP 8,"principal" comprises only the amount of *credit* drawn down by the *customer* under the credit card agreement, and does not include any interest, fees or charges added to the account.

(2) The potential implications of which the *firm* should warn the *customer* under *CONC* 6.7.27R(4)(d) include the possibility that the account may be suspended, as well as any other steps that the *firm* might take, and the possible impact on the *customer's* credit file.

(3) *CONC* 6.7.27R(4) does not specify a particular form of words to be used, and *firms* have discretion to tailor the language and tone of the communication required by that *rule* to the circumstances of the individual *customer*.

(4) Where the *firm* complies with 6.7.27R(4)(e), the *firm* may in addition provide the *customer* with the name and contact details of one or more other *authorised persons* who have *permission* to carry on *debt counselling*, provided that to do so is consistent with the *firm*'s obligations under the *regulatory system*.

6.7.29 R (1) This *rule* applies in respect of a credit card *customer* to whom a *firm* is required to have sent a communication under *CONC* 6.7.27R(4).

(2) The steps required under paragraphs (3) and (4) must be taken:

(a) no earlier than nine *months* after; and

(b) no later than 10 *months* after,

the date on which the requirement to send a communication under *CONC* 6.7.27R arose.

(3) The *firm* must:

(a) consider the pattern of payments made by the *customer* over the period beginning on the date on which the requirement to send a communication under *CONC* 6.7.27R(1) arose and ending on the date the *firm* takes steps under paragraph (2); and

(b) assume that this will be representative of the *customer's* payment pattern in the entire 18-*month* period immediately following the date on which the requirement to send a communication under *CONC* 6.7.27R(1) arose.

(4) If the analysis in (3) indicates that it is likely that *CONC* 6.7.30R will apply with respect to the *customer*, the *firm* must repeat the steps required under *CONC* 6.7.27R(4).

(5) The *rule* in paragraph (1) does not apply where the *firm* is already taking steps equivalent to, or more favourable than, those required under *CONC* 6.7.37R.

6.7.30 R (1) This *rule* applies:

(a) in respect of a credit card *customer* to whom a *firm* is required to have sent a communication under *CONC* 6.7.27R (1); and

(b) where the amount that the *customer* has paid to the *firm* towards the credit card balance, over the 18-*month* period immediately following the date on which the requirement to send a communication under *CONC* 6.7.27R(1) arose, comprises a lower amount in principal than in interest, fees and charges.

(2) This *rule* does not apply:

(a) where the balance on the credit card was below £200 at any point in the 18-*month* period;

(b) to any part of the balance on the credit card that has previously been subject to the requirements of paragraph (3).

(3) A *firm* must take reasonable steps to assist a credit card *customer* who falls under paragraph (1) to repay the balance on their credit card as it stands at the end of the period specified in that paragraph more quickly and in a way that does not adversely affect the *customer's* financial situation.

(4) The *firm* is not required to take steps under (3) or *CONC* 6.7.31R where the *firm* is already taking steps equivalent to, or more favourable than, those required under *CONC* 6.7.37R, provided that the *firm* continues to take those steps.

6.7.31 R Where a *firm* is required to assist a *customer* to repay more quickly under *CONC* 6.7.30R(3), a *firm* must contact the *customer* to:

(1) explain that increasing this level of payment would reduce the cost of borrowing and the amount of time it would take to repay the balance;

(2) provide contact details for *not-for-profit debt advice bodies* and encourage the *customer* to contact one of them;

(3) set out options for the *customer* to increase payments and request that the *customer*, within a specified reasonable period, respond to either:

(a) confirm that the *customer* will increase payments in accordance with one of the options; or

(b) where applicable, confirm that the options proposed are not *sustainable* for the *customer*; and

(4) inform the *customer* that if the *firm* does not receive a response to

the request under paragraph (3) in the time specified, the *firm* will suspend or cancel the use of the credit card.

6.7.32 G (1) The options a *firm* may set out under *CONC* 6.7.31R(3) include, for example, increasing the amount of *monthly* payments on the credit card under a repayment plan, or transferring the balance on the credit card to a fixed-sum unsecured personal loan.

(2) *CONC* 6.7.31R does not prevent a *firm* from treating the *customer* more favourably, for example by writing off the balance on the account.

(3) *CONC* 6.7.31R does not specify a particular form of words to be used, and *firms* have discretion to tailor the language and tone of the communication required by that *rule* to the circumstances of the individual *customer*.

(4) Where the *firm* complies with *CONC* 6.7.31R(2), the *firm* may in addition provide the *customer* with the name and contact details of one or more other *authorised persons* who have *permission* to carry on *debt counselling*, provided that to do so is consistent with the *firm's* obligations under the *regulatory system*.

6.7.33 G (1) The aim of the options a *firm* sets out under *CONC* 6.7.31R(3) should be that the *customer* repays the balance in a reasonable period.

(2) The *FCA* expects a "reasonable period" under paragraph (1), *CONC* 6.7.37R and *CONC* 6.7.38G to usually be between three and four years. Only in exceptional circumstances should the repayment period extend beyond four years; and even in such cases, the extension should not be significant and there should be no additional cost to the *customer* as a result of the repayment period extending beyond four years.

6.7.34 G References in *CONC* 6.7.27R, *CONC* 6.7.31R(3) and *CONC* 6.7.32G(1) to a *customer* increasing payments to the *firm* include circumstances where the amount a *customer* pays remains fixed at the same amount the *customer* was previously paying but, assuming there is no further spending on the card, represents an increase in the percentage of the outstanding principal that is repaid each *month* as the balance reduces.

6.7.35 R (1) Where a *customer* does not respond to a *firm's* request under *CONC* 6.7.31R(3), a *firm* must, at the end of the period specified in the request, suspend or cancel the *customer's* use of the credit card.

(2) Where a *customer* confirms that one or more of the options proposed under *CONC* 6.7.31 R(3) is *sustainable*, but states that they will not make the increased payments, a *firm* must suspend or cancel the *customer's* use of the credit card.

(3) Where a *firm* suspends the *customer's* use of the credit card under paragraph (1) and the *customer* subsequently responds to the *firm's* request under *CONC* 6.7.31R(3), the *firm* may withdraw the suspension if this would be in line with the other provisions in this section.

6.7.36 G Where a *firm* suspends or cancels the *customer's* use of the credit card under *CONC* 6.7.35R the *firm* is not, unless the *customer* responds to the *firm's* request under *CONC* 6.7.31R(3), required to take further steps under *CONC* 6.7.37R to *CONC* 6.7.39R. *Firms* are however reminded of *CONC* 6.7.3AR, which requires *firms* to take appropriate action where there are signs of actual or possible financial difficulties, and *CONC* 7.3.4R, which requires *firms* to treat *customers* in default or arrears difficulties with forbearance and due consideration.

6.7.37 R Where a *customer*:

(1) confirms to the *firm* that the options set out under *CONC* 6.7.31R(3) are *unsustainable*; or

(2) informs the *firm* that they will increase payments in accordance with one of the options proposed under *CONC* 6.7.31G(3) but the patterns of payments actually made under the repayment plan after it is put in place, or other indicators, show that the *customer* is unlikely to repay the balance in a reasonable period,

the *firm* must treat the *customer* with forbearance and due consideration.

6.7.38 G (1) The steps a *firm* takes to treat a *customer* with forbearance under *CONC* 6.7.37R should have the aim of assisting the *customer* to make *sustainable repayments* to repay the outstanding balance in a reasonable period, and may include reducing, waiving or cancelling any interest, fees or charges.

(2) The *FCA* expects that it will generally be necessary for *firms* to suspend or cancel the use of the credit card of a *customer* that the *firm* is required to treat with forbearance under *CONC* 6.7.37R with a view to ensuring the *customer* repays the outstanding balance in a reasonable period. This expectation does not apply, however, where the suspension or cancellation of use of the credit card would cause a significant adverse impact on the *customer's* financial situation, for example where the *customer* depends on the credit card for meeting essential living expenses (such as in relation to a mortgage, rent, council tax, food bills and utility bills). Equally, the *FCA* considers that it will generally not be appropriate to withdraw the suspension of the use of a *customer's* credit card under *CONC* 6.7.35R(3) if the *firm* is required to treat the *customer* with forbearance under *CONC* 6.7.37R.

6.7.39 R Where a *firm* does not suspend or cancel the use of the credit card of a *customer* falling under *CONC* 6.7.30R, the *firm* must take reasonable steps to ensure that the *customer* does not, in the 18-*month* period immediately following, repay an amount to the *firm* towards the credit card balance that comprises a lower amount in principal than in interest, fees and charges in relation to any spending on the card in this period.

6.7.40 G Compliance with any of the requirements in *CONC* 6.7.27R to *CONC* 6.7.39R does not remove or reduce the obligation on a *firm* to:

(1) take appropriate action where there are signs of actual or possible financial difficulties under *CONC* 6.7.3AR; or

(2) treat *customers* in default or arrears difficulties with forbearance and due consideration under *CONC* 7.3.4R,

and vice versa.

After CONC TP 7 (Transitional provision in relation to the Consumer Credit (Amendment No 2) Instrument 2015) insert the following new transitional provisions. The text is not underlined.

TP 7A Transitional provisions in relation to the Consumer Credit (Earlier Intervention and Persistent Debt) Instrument 2018

(1)	**(2) Material to which the transitional provision applies**	**(3)**	**(4) Transitional provision**	**(5) Transitional provision: dates in force**	**(6) Handbook provision: coming into force**
7A.1	*CONC* 6.7.2R, *CONC* 6.7.3AR to *CONC* 6.7.3DR, and *CONC* 6.7.27R to *CONC* 6.7.40G	R	A *firm* may comply with *CONC* as if the changes made by the Consumer Credit (Earlier Intervention and Persistent Debt) Instrument 2018 had not been made until (but not including) 1 September 2018. But where a *firm* elects, in relation to a credit card agreement, to comply before that date with *CONC* as amended by that Instrument, it must comply with the relevant provisions in full. Consequently, the time periods set out in the	1 March 2018 to 31 August 2018	1 March 2018

			rules to which this transitional provision applies are to be determined by reference to the date on which the *firm* first acted in compliance (or purported compliance) with those *rules*.		
7A.2	*CONC* 6.7.27R to *CONC* 6.7.40G	G	The effect of TP 7A.1 is that no later than 1 September 2018 *firms* must start to look back at credit card *customers'* repayment records over the preceding 18-*month* period and identify any *customers* that fall within the application of *CONC* 6.7.27R (and must thereafter continue to do so on at least a *monthly* basis). *Firms* must then send those *customers* a communication in accordance with *CONC* 6.7.27R(3). Between 9 and 10 *months* after this communication is required to be sent, *CONC* 6.7.29R requires *firms* to take the additional steps set out in that *rule* with respect to that group of *customers*. 18 *months* after this *CONC* 6.7.27R communication is required to be sent, *CONC* 6.7.30R to *CONC* 6.7.40G potentially require the *firm* to take the further steps described in those *rules* in relation to that group of *customers* where *CONC* 6.7.30R applies. *CONC* 6.7.30R applies only where the amount that *customer* has paid to the *firm* towards the credit card balance, over the 18-*month* period following the date on which the *CONC* 6.7.27R	1 March 2018 to 31 August 2018	1 March 2018

			communication was triggered, comprises a lower amount in principal than in interest, fees and charges. This means that the earliest date on which a *firm* may have obligations under *CONC* 6.7.30R is 1 March 2020 (except as mentioned below). However, *firms* are not required to delay implementation to the end of the six-*month* period set out in TP 7A.1: where a *firm* takes a step in compliance with one of the *rules* in question before 1 September 2018 in relation to a particular credit card agreement (for example, carrying out the 18-*month* review), the time for taking all subsequent steps required to be taken under those *rules* is to be determined by reference to the date of that first step, and not by reference to 1 September 2018 (or some later date).		

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