

CONSUMER CREDIT (DEBT RESPITE MORATORIUM) INSTRUMENT 2021

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the power in section 139A (Power of the FCA to give guidance) of the Financial Services and Markets Act 2000 (“the Act”).

Commencement

- B. This instrument comes into force on 4 May 2021.

Amendments to the Handbook

- C. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- D. The Consumer Credit sourcebook (CONC) is amended in accordance with Annex B to this instrument.

Citation

- E. This instrument may be cited as the Consumer Credit (Debt Respite Moratorium) Instrument 2021.

By order of the Board
25 February 2021

Annex A**Amendment to the Glossary of definitions**

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

<i>Debt Respite moratorium</i>	means a breathing space moratorium or mental health crisis moratorium under The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020.
<i>moratorium debt</i>	means a moratorium debt for the purposes of The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020.

Annex B

Amendments to the Consumer Credit sourcebook (CONC)

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

5D Overdraft repeat use

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5D.3 Interventions to be taken in the case of repeat users

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5D.3.3 G (1) ...

...

(5) (a) If an overdraft *customer* has already been identified by a *firm* as being in financial difficulties, and is already being treated with appropriate forbearance by the *firm*, the *rules* in this section do not require the *firm* to do anything which is inconsistent with the treatment that it has already adopted in respect of that *customer*.

(b) Where a *Debt Respite moratorium* is in effect for a *customer's* overdraft and a *firm* is complying with its obligations pursuant to that moratorium, the *firm* is treating the *customer* with appropriate forbearance with respect to the portion of the overdraft that is subject to the moratorium. The *firm* is not required to take the steps in relation to that *moratorium debt* under this section during the moratorium, as these steps would be inconsistent with the treatment currently being adopted in respect of that *customer*.

...

...

6 Post contractual requirements

...

6.7 Post contract: business practices

Application

6.7.1 R (1) This section applies to a *firm* with respect to *consumer credit lending*.

(2) ...

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 The action referred to in *CONC* 6.7.2R should generally include:
- (1) notifying the *customer* of the risk of escalating debt, additional interest or charges and of potential financial difficulties; and
[**Note:** paragraph 6.16 of *ILG*]
- (2) providing contact details for *not-for-profit-debt advice bodies*.
[**Note:** paragraph 6.2 (box) of *ILG*]; or
- (3) where a *Debt Respite moratorium* is in effect for the *customer's* debt for the purposes of *CONC* 6.7.2R, complying with its obligations pursuant to the moratorium, with respect to that *moratorium debt*.

Business practices: credit cards and retail revolving credit

- 6.7.3A R A *firm* must monitor a *retail revolving credit customer's* or 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 ...
- (2A) Where a *Debt Respite moratorium* is in effect for the *customer's* *retail revolving credit* or credit card debt and a *firm* is complying with its obligations pursuant to the moratorium, this is likely to constitute appropriate action in relation to that *moratorium debt* for the purposes of *CONC* 6.7.3AR.

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Credit cards and retail revolving credit: 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 *regulated credit agreement* for a credit card or *retail revolving credit*, if the *firm* assesses that the amount the *customer* has paid to

the *firm* towards the credit card balance or *retail revolving credit* balance over the immediately preceding 18-month period comprises a lower amount in principal than in interest, fees and charges.

...

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

...

(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.

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- 6.7.28 G (1) For the purposes of:
- (a) *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 or *retail revolving credit* agreement, and does not include any interest, fees or charges added to the account; and
- (b) *CONC* 6.7.27R(3)(c), *CONC* 6.7.29R(5) and *CONC* 6.7.30R(4), where a *Debt Respite moratorium* is in effect for the *customer's* *retail revolving credit* or credit card debt, and a *firm* is complying with its obligations pursuant to the moratorium, the *firm* will be taking steps equivalent to, or more favourable than, those required under *CONC* 6.7.37R with respect to that *moratorium debt*, for as long as the moratorium is in effect.

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7 Arrears, default and recovery (including repossessions)

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7.3 Treatment of customers in default or arrears (including repossessions): lenders, owners and debt collectors

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- 7.3.11 R A *firm* must suspend the active pursuit of recovery of a debt from a *customer* for a reasonable period where the *customer* informs the *firm* that a *debt counsellor* or another *person* acting on the *customer's* behalf or the *customer* is developing a repayment plan.

[Note: paragraphs 7.12 of *ILG* and 3.7m of *DCG*]

- 7.3.12 G A “reasonable period” in *CONC* 7.3.11R should generally be for thirty days where there is evidence of a genuine intention to develop a plan and the *firm* should consider extending the period for a further thirty days where there is reasonable evidence demonstrating progress to agreeing a plan. Where appropriate, a *firm* can take into account the period of time that the debt was subject to a *Debt Respite moratorium* when determining what is a reasonable period.

[Note: paragraphs 7.12 (box) *ILG* and 3.7m of *DCG*]