

CONSUMER CREDIT AND MORTGAGES (TAILORED SUPPORT) INSTRUMENT 2024

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) 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 (The FCA’s general rules);
 - (2) section 137T (General supplementary powers); and
 - (3) section 139A (Power of the FCA to give guidance).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 4 November 2024.

Amendments to the Handbook

- D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below.

(1)	(2)
Glossary of definitions	Annex A
General Provisions sourcebook (GEN)	Annex B
Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)	Annex C
Consumer Credit sourcebook (CONC)	Annex D

Notes

- E. In the Annexes to this instrument, the notes (indicated by “**Note:**”) are included for the convenience of readers, but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Consumer Credit and Mortgages (Tailored Support) Instrument 2024.

By order of the Board
28 March 2024

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

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

Amend the following definition as shown.

priority debt (in MCOB, BCOBS, CONC 5.2A, ~~and CONC 5.5A~~, CONC 5D, CONC 6 and CONC 7) an obligation on the part of a *consumer* to make a payment:

...

Annex B

Amendments to the General Provisions sourcebook (GEN)

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

2 Interpreting the Handbook

...

2.2 Interpreting the Handbook

...

Guidance applying while a firm has temporary permission

...

2.2.35A G A *TP firm* should refer to the provisions listed below, which identify the *rules* and *guidance* in their sourcebooks that came into force after *IP completion day* and in respect of which special provision has been made to apply them to *TP firms*.

...

and *SUP 16.27.8R*

CONC 5D.1.1AG

CONC 5D.3.4R to CONC 5D.3.11G

CONC 7.2.2AG

CONC 7.2.4R and CONC 7.2.5G

CONC 7.3.4AG and CONC 7.3.4BR

CONC 7.3.5AG to CONC 7.3.5JG

CONC 7.3.13AG

CONC 7.3.17AR

CONC 7.3.20G to CONC 7.3.22G and

CONC 7.7.6G

...

Annex C

Amendments to the Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)

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

1 Application and purpose

...

1.2 General application: who? what?

...

Applicability of MCOB to regulated mortgage contracts which had previously been regulated credit agreements

- 1.2.21 G (1) By virtue of amendments to articles 60B, 60C and 61 of the *Regulated Activities Order* which came into force on 21 March 2016, certain *regulated credit agreements* became *regulated mortgage contracts* (but see the transitional provisions described in (3) below). The provisions of *MCOB* that apply to these *regulated mortgage contracts* include:

...

- (c) *MCOB* 13 (~~Arrears, payment shortfalls~~ Payment difficulties and repossessions: regulated mortgage contracts and home purchase plans).

...

...

1.6 Distinguishing regulated mortgage contracts and regulated credit agreements

...

- 1.6.4 R If, notwithstanding the steps taken by a *firm* to comply with *MCOB* 1.6.3R, it transpires that a mortgage which the *firm* has treated as unregulated or as a *regulated credit agreement* is in fact a *regulated mortgage contract*, the *firm* must as soon as practicable after the correct status of the mortgage has been established:

...

- (2) apply to the *regulated mortgage contract* all relevant *MCOB* requirements, such as those on disclosure (in *MCOB* 7) or on the

treatment of *customers in arrears* who have or may have payment difficulties (in *MCOB 13*).

...

7 Disclosure at start of contract and after sale

...

7.5 Mortgages: statements

...

Annual statement – additional content for customers in arrears

- 7.5.8 G If a *firm* chooses to use the annual statement to provide a *customer* with a regular written statement in accordance with *MCOB 13.5.1R* (Statements of charges), as described in *MCOB 13.5.2G(4)*, it will need to include the actual *payment shortfall* in the annual statement.

...

7.7 Business loans and loans to high net worth mortgage customers: tailored provisions

Further advances

...

- 7.7.2 G Where a *customer* remains in breach, for more than one month, of an agreed borrowing limit or of an obligation to repay where the *regulated mortgage contract* does not have a regular repayment plan, *firms* are reminded that *MCOB 13* (~~Arrears~~ Payment difficulties and repossessions) applies.

...

12 Charges

...

12.4 Payment shortfall charges: regulated mortgage contracts

...

- 12.4.3 G *Firms* are also subject to requirements on information provision and standards relating to ~~arrears~~ payment shortfalls and *repossessions* (see *MCOB 13* (~~Arrears~~ Payment difficulties and repossessions)).

...

13 ~~Arrears, payment shortfalls~~ **Payment difficulties and repossessions:**
regulated mortgage contracts and home purchase plans

13.1 **Application**

Who?

...

13.1.2 R ...

13.1.2A R To the extent that a rule in this chapter does not already apply to Gibraltar-based firms as a result of GEN 2.3.1R, it applies to them so far as the rule would have applied were it in effect before IP completion day.

...

13.2 **Purpose**

13.2.1 G This chapter ~~amplifies Principle 6 in respect of the information and service provided to~~ sets out obligations to help ensure that customers who have or may have payment difficulties, or who face a sale shortfall, receive appropriate information and support.

...

13.3 **Dealing fairly with customers ~~with a payment shortfall~~: policy and procedures**

13.3.1 R (1) A firm must deal fairly with any customer who:

(a) ~~has a payment shortfall on~~ or may have payment difficulties in respect of a regulated mortgage contract or home purchase plan;

...

(c) ...

(1A) For the purposes of MCOB 13, a customer has or may have payment difficulties if:

(a) the customer has a payment shortfall;

(b) the customer indicates to the firm that they are at risk of falling into payment shortfall; or

(c) the firm otherwise becomes aware that the customer may be at risk of falling into payment shortfall.

(2) ...

- (3) A firm must ensure that the effectiveness of any policies and procedures put in place further to paragraph (2), and the firm's compliance with them, is reviewed at appropriate intervals.

13.3.1- G In the FCA's view, in order to comply with MCOB 13.3.1R, firms should
 A ensure that the review required by paragraph (3) includes consideration of
the full extent of support provided to some customers under this chapter,
and does not only assess individual customer interactions in isolation.

...

Vulnerable customers

13.3.1C R A firm must establish and implement clear, effective and appropriate policies and procedures for the fair and appropriate treatment of customers whom the firm understands, or reasonably suspects, to be particularly vulnerable.

13.3.1D G (1) ~~Customers who have mental health difficulties or mental capacity limitations may fall into the category of particularly vulnerable customers~~ In developing procedures and policies to comply with MCOB 13.3.1CR, a firm should have regard to the FCA's Guidance for firms on the fair treatment of vulnerable customers (FG21/1) (<https://www.fca.org.uk/publication/finalised-guidance/fg21-1.pdf>).

...

Customers ~~in~~ and payment difficulties: procedures

13.3.2A R A firm must, when dealing with any customer ~~in~~ who has or may have payment difficulties:

(-1) where appropriate:

- (a) inform a customer that free and impartial money guidance and debt advice is available, including from not-for-profit bodies;
- (b) effectively communicate the potential benefits of accessing free and impartial money guidance and debt advice, and the range of channels through which it is available; and
- (c) signpost or refer the customer to suitable sources of free and impartial money guidance or debt advice;

(1) ...

(2) liaise, if the customer makes arrangements for this, with a third party source of advice regarding ~~the~~ any payment shortfall or sale shortfall;

- (3) allow a reasonable time over which ~~the~~ any payment shortfall or sale shortfall should be repaid, having particular regard to the need to establish, where feasible, a payment plan which is practical in terms of the circumstances of the *customer*;

...

...

13.3.4A R In complying with MCOB 13.3.1R(1) and MCOB 13.3.2AR(6) in respect of customers who have or may have payment difficulties:

- (1) a *firm* must consider whether, given the individual circumstances of the *customer*, it is appropriate to do one or more of the following in relation to the *regulated mortgage contract* or *home purchase plan* with the agreement of the *customer*:

...

- (c) waive or defer payment of capital and/or interest due on the regulated mortgage contract or of sums due under the *home purchase plan* (including in either case, on any *sale shortfall*); or

- (ca) reduce the interest rate being charged to the customer, or apply simple interest instead of compound interest; or

- (d) treat ~~the~~ a payment shortfall as if it was part of the original amount provided (but a *firm* must not automatically capitalise a *payment shortfall* where the impact would be material); or

...

- (2) a *firm* must give *customers* adequate information to understand the implications of any proposed arrangement; ~~one approach may be to provide information on the new terms in line with the annual statement provisions~~ and of not agreeing an arrangement. This information must include the potential impact on the customer's overall balance and how it will be reported to the customer's credit file.

- (3) a firm must:

- (a) take into account the effect of any potential arrangements on the customer's overall balance; and

- (b) take reasonable steps to ensure that any arrangements with customers in payment shortfall remain appropriate.

- 13.3.4A R ...
A
- 13.3.4A G What is reasonable in any given case for the purposes of MCOB
B 13.3.4AR(3)(b) will depend on the customer's circumstances and the nature of the arrangements, but this is likely to involve reviewing the arrangements at appropriate intervals and responding as necessary. It will also involve reacting appropriately to any relevant information the firm is otherwise made aware of, such as correspondence from a debt adviser.
- 13.3.4A G A firm should not renew arrangements with a customer on the same basis
C without considering whether this is appropriate.
- ...
- 13.3.4C G (1) Firms should note that the list of options to consider as set out at MCOB 13.3.4AR(1) is not exhaustive. The FCA would expect firms to be able to justify a decision to offer a particular option.
- (2) Firms should take into account that customer circumstances will vary and should therefore:
- (a) ensure they employ a sufficient range of options to help customers;
- (b) offer to engage with customers through a range of channels, changing the channel if necessary to enable customers to engage with them effectively; and
- (c) be transparent with customers about the range of options they may consider and the communication channels available. This information should be set out clearly, including in a prominent location on firm websites.
- (3) Firms should take account of a customer's wider indebtedness. Where a customer indicates that they are having difficulty paying priority debts (other than payments under a regulated mortgage contract or a home purchase plan), firms should consider this and the consequences of the customer falling behind on those debts when considering potential arrangements for a customer.
- (4) Where possible, a firm should offer to provide to the customer a record of any income and expenditure assessment that the firm prepares while providing support under this chapter.
- 13.3.4D G In the FCA's view, in order to comply with Principle 6, firms should not agree to capitalise a payment shortfall save where no other option is realistically available to assist the customer. although firms must not automatically capitalise a payment shortfall where the impact would be material, it may be appropriate to agree to capitalise a payment shortfall if:

- (1) the firm reasonably considers (taking into account the root cause of the payment shortfall) that the customer can afford the capitalised monthly payments;
- (2) other options to repay the payment shortfall more quickly have been considered; and
- (3) taking account of the customer's individual circumstances, the firm reasonably considers that capitalisation is in accordance with the customer's best interests.

...

Record keeping: ~~payment shortfalls and repossessions~~

- 13.3.9 R (1) A mortgage lender or administrator must make and retain an adequate record of its dealings with a *customer* who has or may have payment difficulties, or whose account has a payment shortfall ~~or a sale shortfall~~, which will enable the *firm* to show its compliance with this chapter. That record must include a recording of all telephone conversations (including video calls) between the *firm* and the *customer* which discuss any amount in *arrears* or any amount subject to *payment shortfall* charges.

...

...

13.5 Dealing with a customer in arrears or with a sale shortfall on a regulated mortgage contract

Statements ~~of charges~~

- 13.5.1 R Where an account is in *arrears*, ~~and the payment shortfall or sale shortfall~~ (whether or not the shortfall is attracting charges), a *firm* must provide the *customer* with a regular written statement (at least once a quarter) of the payments due, the actual *payment shortfall*, ~~the charges incurred and the debt~~ and, where relevant, the charges incurred.
- 13.5.2 G (1) For the purpose of *MCOB* 13.5.1R, charges ~~that trigger the requirement for regular statements~~ include all charges and fees levied directly as a result of the account falling into *arrears*. This includes charges such as monthly administrative charges, legal fees and interest. ~~If interest is applied to the amount of the arrears, as it is applied to the rest of the mortgage, a firm need not send a written statement, unless other charges are also being made. If interest is applied to the amount of the arrears in a different manner to the rest of the mortgage then a written statement will be required.~~

...

...

13.8 Home purchase plans

Dealing fairly with customers ~~in arrears~~: policy and procedures

Note: The rules on establishing and applying a policy and procedures for dealing fairly with *customers in arrears* apply (see *MCOB* 13.3).

...

14 MCD article 3(1)(b) credit agreements**14.1 Handbook provisions which apply in respect of MCD article 3(1)(b) credit agreements**

...

14.1.3 R Subject to *MCOB* 14.1.5R and *MCOB* 14.1.7R:

- (1) *MCD article 3(1)(b) creditors* and *MCD article 3(1)(b) credit intermediaries* must comply with the following provisions in *MCOB*. These provisions apply with such changes as are necessary to apply them to *MCD article 3(1)(b) credit agreements* and activity undertaken in relation to those agreements (see *MCOB* 14.1.4G):

...

- (r) *MCOB* 13 (~~arrears, payment shortfalls~~ difficulties and reposessions) except for *MCOB* 13.3.9R;

...

...

14.1.7 R The following provisions do not apply to an *MCD article 3(1)(b) creditor* or *MCD article 3(1)(b) credit intermediary* where the conditions in *CONC* 1.2.10R(2) are fulfilled: *MCOB* 7.5 (mortgages: statements) and *MCOB* 13 (~~arrears, payment shortfalls~~ difficulties and reposessions) (except for *MCOB* 13.3.1AR to *MCOB* 13.3.1BG, *MCOB* 13.3.2AR to *MCOB* 13.3.8G, and *MCOB* 13.6.1R to *MCOB* 13.6.2G, which apply even where those conditions are fulfilled).

...

15 P2P home finance activities

...

15.3 Further provisions about the application of MCOB where agreements are facilitated by a P2P platform

...

15.3.2 R *MCOB 13 (arrears, payment shortfalls difficulties and repossessions) applies to a firm which is a P2P platform operator in respect of regulated mortgage contracts or home purchase plans. It applies as though:*

...

...

15.4 Modifications

General modifications

...

15.4.4 R ...

(2) This table belongs to (1).

MCOB provisions	Description
...	
<i>MCOB 13.5.1R</i>	Dealing with a customer in arrears or with a sale shortfall on a regulated mortgage contract: statements of charges
...	

...

Sch 1 Record keeping requirements

...

Sch 1.3 G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
...				

<p><i>MCOB</i> 13.3.9R</p>	<p>Dealings with <i>customers</i> with a <i>payment shortfall</i> who <u>have or may have payment difficulties</u>, or with a <i>sale shortfall</i></p>	<p>Details of all dealings with the <i>customer</i> (including a recording of all telephone conversations <u>(including video calls)</u> which discuss any <i>arrears</i> or any amount subject to <i>payment shortfall</i> charges); information relating to any repayment plan; date of issue of any legal proceedings; arrangements made for sale of a <i>repossessed</i> property; and the basis of any tailored information where the loan is for a business purpose.</p>	<p>The date of dealing</p>	<p>Three years from the date on which the record is made</p>
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Annex D

Amendments to the Consumer Credit sourcebook (CONC)

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

1 Application and purpose and guidance on financial difficulties

1.1 Application and purpose

...

The Principles for Businesses: a reminder

1.1.4 G The Principles for Businesses (*PRIN*) apply as a whole to *firms* with respect to *credit-related regulated activities* and *ancillary activities* in relation to *credit-related regulated activities* (see *PRIN* 3). In carrying on their activities, *firms* should pay particular attention to their obligations under:

...

(7) *Principle 10* (a *firm* must arrange adequate protection for clients' assets when it is responsible for them); ~~and~~

(8) *Principle 11* (a *firm* must deal with its regulators in an open and cooperative way, and must disclose to the *appropriate regulator* appropriately anything relating to the *firm* of which that regulator would reasonably expect notice); ~~and~~

(9) *Principle 12* (a *firm* must act to deliver good outcomes for *retail customers*), including *PRIN* 2A.

...

5 Responsible lending

...

5.2A Creditworthiness assessment

...

Scope, extent and proportionality of assessment

...

5.2A.22 G The *firm* should also have regard to information of which it is aware at the time the *creditworthiness assessment* is carried out that may indicate that:

...

- (2) the *customer* is ~~particularly~~ vulnerable, for example because the *customer* has mental health difficulties or mental capacity limitations (see *CONC 2.10* and *CONC 7.2*).

...

5.5A Creditworthiness assessment: P2P agreements

...

Scope, extent and proportionality of assessment

...

- 5.5A.23 G The *firm* should also have regard to information of which it is aware at the time the *creditworthiness assessment* is carried out that may indicate that:

...

- (2) the *borrower* is ~~particularly~~ vulnerable, for example because the *borrower* has mental health difficulties or mental capacity limitations (see *CONC 2.10* and *CONC 7.2*).

...

5D Overdraft repeat use

5D.1 Purpose and application

Purpose

- 5D.1.1 R ...

- (2) ...

- (3) Relevant information held by the *firm* includes:

(a) information from the *customer's* personal current account; and

(b) information provided by the *customer*.

- (4) In (3)(a):

(a) the personal current account is the personal current account in respect of which the overdraft is provided;

(b) information from the *customer's* personal current account may include, but is not limited to:

(i) a significant reduction in income into the account;

(ii) new periodic payments being set up to repay new borrowing commitments, where the level of payments

may suggest that the *customer* is at risk of financial hardship.

5D.1.1A G A *customer* is likely to experience financial hardship if they are unable to pay *priority debts* or essential living expenses.

...

Who and what?

5D.1.3 R ...

(2) ...

(3) To the extent that a *rule* in this chapter does not already apply to *TP firms* as a result of *GEN 2.2.26R*, it applies to them so far as the *rule* would have applied were it in effect before *IP completion day*.

(4) To the extent that a *rule* in this chapter does not already apply to *Gibraltar-based firms* as a result of *GEN 2.3.1R*, it applies to them so far as the *rule* would have applied were it in effect before *IP completion day*.

...

5D.2 Obligation to identify and monitor repeat use of overdrafts

5D.2.1 R A *firm* must establish, implement and maintain clear and effective policies, procedures and systems to:

...

(2) identify as early as possible, by reference to an appropriate collection of factors that take account of any relevant information held by the *firm*, any *customers* in respect of whom there is a pattern of repeat use, and then sub-divide those *customers* into the following two categories:

...

...

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

...

5D.3.2 R ...

(2) The *firm* must promptly communicate with the *customer* in an appropriate medium (taking into account any preferences expressed by the *customer* about the medium of communication between the *firm* and the *customer*) highlighting the *customer's* pattern of

overdraft use and indicating that the *customer* should consider whether it is resulting or may result in high avoidable costs. The *firm* must encourage the *customer* to contact the *firm* to discuss their situation and explain that doing nothing could make things worse. ~~The *firm* must also provide contact details for not for profit debt advice bodies.~~

...

(5) ~~If appropriate, in the light of the information gathered under (4), the~~
The *firm* must:

(a) promptly identify and set out suitable options, in light of all relevant information held by the *firm* (including the information gathered under (4)), designed to help the *customer*:

- (i) help the *customer* to reduce their overdraft use over a reasonable period of time; and
- (ii) provide the support required to address their actual or potential financial difficulties,

in such a way that does not adversely affect the *customer's* financial situation; and

(b) explain to the *customer* that, if the *customer* fails to engage in the discussion or fails to take appropriate action to address the situation, one of the possible consequences is that the *firm* may need to consider the suspension or removal of the overdraft facility or a reduction in the credit limit.

...

(7) ~~Sub-paragraph (6) does~~ Sub-paragraphs (5)(b) and (6) do not apply if the suspension or removal of the overdraft facility or a reduction in the credit limit would cause financial hardship to the *customer*.

5D.3.3 G (1) ...

(1A) When a *firm* identifies that CONC 5D.3.2R(1)(a) and (b) apply to a *customer*, it should:

- (a) promptly take the action specified in CONC 7.3.7AG(1)(a) to (b) (provision of information to the *customer*); and
- (b) where appropriate to the *customer's* circumstances, follow the guidance set out in CONC 7.3.7AG(2) to (6) (further communication with the *customer*).

...

- (4) Options that a *firm* could identify for the purposes of *CONC* 5D.3.2R(5)(a) may include, when assessed as appropriate for the *customer*:

...

- (b) ~~providing contact details for *not for profit debt advice bodies* and other relevant bodies (for example, one providing advice on budgeting or money management), and encouraging the *customer* to contact one of them; [deleted]~~
- (c) ~~the provision by the *firm* to the *customer* of alternative *credit* on more favourable terms (for example a fixed sum loan repayable by instalments), provided that, if this would be accompanied by suspension or removal of an existing *credit* facility, this would not cause financial hardship to the *customer*; [deleted]~~
- (d) ~~forbearance, such as reducing or waiving interest and other charges or (where applicable) allowing additional time to pay, where this does not unduly delay further help to the *customer* or permit further deterioration of the *customer's* financial position; or and other support, including doing one or more of the following:~~
- (i) reducing or waiving interest and other charges or (where applicable) allowing additional time to pay, where this does not unduly delay further help to the *customer*, or permit further deterioration of the *customer's* financial position;
- (ii) transferring the overdraft debt to an alternative *credit agreement* on more favourable terms (refinancing), provided that this would not cause financial hardship to the *customer*; or
- (iii) agreeing staged reductions in the overdraft limit and balance (agreeing a repayment plan).

...

...

- (6) ...

5D.3.4 R Where a *firm* identifies a forbearance or other support option under *CONC* 5D3.3G(4)(d), the *firm* must take all reasonable steps to ensure that any measure agreed with the *customer* is sustainable.

- 5D.3.5 G (1) A measure is unlikely to be sustainable if it has the result that the customer cannot meet their *priority debts* and essential living expenses.
- (2) *Priority debts* and essential living expenses include, but are not limited to, payments for mortgage, rent, council tax, food and utility bills.
- 5D.3.6 R A firm must take reasonable steps to ensure that any measure remains appropriate.
- 5D.3.7 G What is reasonable in any given case will depend on the customer's circumstances and the nature of the measure provided, but may include reviewing the terms of the measure at appropriate intervals and responding as necessary. It will also involve reacting appropriately to any relevant information the firm is otherwise made aware of, such as correspondence from a debt adviser.
- 5D.3.8 R Where a firm assesses income and expenditure, it must do so in an objective manner.
- 5D.3.9 G When complying with *CONC 5D.3.8R*:
- (1) the assessment should be informed by sufficiently detailed information; and
- (2) a firm may have regard to the spending guidelines in the Standard Financial Statement or an equivalent tool.
- 5D.3.10 G A firm should have clear written policies setting out how and in what circumstances it conducts income and expenditure assessments.

Information provided to customers

- 5D.3.11 G When a firm identifies that *CONC 5D.3.2R(1)(a)* and (b) apply to a customer:
- (1) when engaging with customers, firms are reminded of their obligations to communicate with customers in accordance with Principle 12 and *PRIN 2A*, or Principle 7, as applicable;
- (2) a firm should make available to customers timely, clear and understandable information which:
- (a) takes into account the individual circumstances of the customer;
- (b) is sufficient to enable the customer to understand their financial position in relation to their debt, including how it is reported to the customer's credit file; and

(c) is sufficient to enable the *customer* to understand their options in relation to their debt, including the potential impact of any forbearance or other support on their overall balance and how it will be reported to the *customer's* credit file.

(3) A *firm* should consider the most appropriate way to engage and communicate with a *customer*, and support *customers* to engage through appropriate channels, changing the channel if necessary to enable the *customer* to engage with the *firm* effectively.

...

6 Post contractual requirements

...

6.7 Post contract: business practices

...

Business practices: credit cards and retail revolving credit

...

6.7.3B G ...

(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:

...

(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~~ priority debts or other essential living expenses (such as in relation to a mortgage, rent, council tax, food bills and utility bills);

...

...

...

Credit cards and retail revolving credit: persistent debt

...

6.7.36 G Where a *firm* suspends or cancels the *customer's* use of the credit card or *retail revolving credit* facility 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 or approaching arrears or in default ~~or arrears difficulties~~ with forbearance and due consideration.

...

- 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:

...

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

...

...

7 Arrears, default and recovery (including repossessions)

7.1 Application

Who? What?

- 7.1.1 R ...

- 7.1.1A R (1) To the extent that a rule in this chapter does not already apply to TP firms as a result of GEN 2.2.26R, it applies to them so far as the rule would have applied were it in effect before IP completion day.
- (2) To the extent that a rule in this chapter does not already apply to Gibraltar-based firms as a result of GEN 2.3.1R, it applies to them so far as the rule would have applied were it in effect before IP completion day.

...

7.2 Clear, effective and appropriate arrears policies and procedures in respect of customers in or approaching arrears or in default

Arrears and default policies

- 7.2.1 R A *firm* must establish and implement clear, effective and appropriate policies and procedures for:
- (1) dealing with *customers* ~~whose accounts fall into arrears~~ who are in or approaching arrears or in default;

[Note: paragraph 7.2 of *ILG*]

- (2) the fair and appropriate treatment of *customers*, who the *firm* understands or reasonably suspects to be particularly vulnerable.

[Note: paragraphs 7.2 and 7.2 (box) of *ILG* and 2.2 (box) of *DCG*]

7.2.2 G *Customers* who have mental health difficulties or mental capacity limitations may fall into the category of particularly vulnerable *customers*.

[Note: paragraph 2.2 (box) of *DCG*]

7.2.2A G In developing policies and procedures in accordance with CONC 7.2, a firm should have regard to the FCA's Guidance for firms on the fair treatment of vulnerable customers (FG21/1) (<https://www.fca.org.uk/publication/finalised-guidance/fg21-1.pdf>).

7.2.3 G ...

7.2.4 R A firm must ensure that the effectiveness of any policies and procedures put in place further to CONC 7.2.1R, and the firm's compliance with them, is reviewed at appropriate intervals.

7.2.5 G In order to comply with its obligations under CONC 7.2, a firm should ensure that the review required by CONC 7.2.4R includes consideration of the full extent of support provided to some customers under this chapter, and does not only assess individual customer interactions in isolation.

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

...

Dealing fairly with customers in or approaching arrears or in default

7.3.2 G When dealing with *customers* in or approaching arrears or in default or in arrears difficulties, a *firm* should pay due regard to its obligations under *Principle 12* (Consumer Duty) and *PRIN 2A*, or *Principle 6* (Customers' interests) to treat its *customers* fairly, as applicable.

[Note: paragraphs 7.12 of *ILG* and 2.2 of *DCG*]

Forbearance and due consideration

7.3.2A R *CONC 7.3.3G* to *CONC 7.3.6G* and *CONC 7.3.8G* do not apply to the extent that the *firm* follows:

- (1) the guidance entitled Credit cards (including retail revolving credit) and coronavirus: Payment Deferral Guidance, the guidance entitled Personal loans and coronavirus: Payment Deferral Guidance, the guidance entitled Motor finance agreements and coronavirus: Payment Deferral Guidance, the guidance entitled High cost short-

~~term credit and coronavirus: Payment Deferral Guidance or the guidance entitled Rent to own, buy now pay later and pawnbroking agreements and coronavirus: Payment Deferral Guidance; or~~

- (2) ~~the part of the guidance entitled Coronavirus and customers in temporary financial difficulty: updated guidance for insurance and premium finance firms under the heading Payment Deferrals~~

~~except, in each case, where the guidance indicates that the *firm* should act in accordance with those *rules* or *guidance*. [deleted]~~

- 7.3.3 G Where a *customer* under a *regulated credit agreement* fails to make an occasional payment when it becomes due, a *firm* should, in accordance with *Principle 12* and *PRIN 2A*, or *Principle 6*, as applicable, allow for such unmade payments to be made within the original term of the agreement unless:
- ...
- 7.3.4 R A *firm* must treat *customers* in or approaching arrears or in default ~~or in arrears difficulties~~ with forbearance and due consideration.
[Note: paragraphs 7.3 and 7.4 of *ILG* and 2.2 of *DCG*]
- 7.3.4A G A *firm* should regard a *customer* as approaching arrears when the *customer* indicates to the *firm* that they are at risk of not meeting one or more repayments when they fall due.
- 7.3.4B R When determining appropriate forbearance and treating the *customer* with due consideration, a *firm* must take into account the individual circumstances of the *customer* of which the *firm* is or should be aware.
- 7.3.5 G Examples of treating a *customer* with forbearance and due consideration would include the *firm* doing one or more of the following, as may be ~~relevant~~ appropriate to the *customer* in the circumstances:
- (1) ~~considering~~ suspending, reducing, waiving or cancelling any further interest or charges (for example, when a *customer* provides evidence of financial difficulties and is unable to meet *repayments* as they fall due or is only able to make token *repayments*, where in either case the level of debt would continue to rise if interest and charges continue to be applied);
[Note: paragraph 7.4 (box) of *ILG*]
- ...
- (3) accepting no payments, reduced payments or 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~~ priority debts or

other essential living expenses (such as in relation to a mortgage, rent, council tax, food bills and utility bills);

- (4) agreeing a repayment arrangement with the *customer* that allows the *customer* a reasonable period of time to repay the debt;
- (5) transferring the debt to an alternative *credit agreement* (refinancing) to help the *customer* reduce the debt over a reasonable period of time in such a way that does not adversely affect the *customer's* financial situation;
- (6) in relation to a *firm* that takes any article in *pawn* under a *regulated credit agreement*:
 - (a) where the redemption period has not ended, extending the redemption period; or
 - (b) where the redemption period has ended, refraining from giving the *customer* notice of intention to sell an item of *pawn* for a reasonable further period, or if notice of intention to sell has been given, suspending the sale for a reasonable further period.

- 7.3.5-A G A *firm* should only take the steps in *CONC 7.3.5G(6)* where it is in the *customer's* interests. In considering whether it is in the *customer's* interests, a *firm* should consider the realistic prospects of a *customer* recovering the item of *pawn* and the equity in the item.
- 7.3.5A G The examples in *CONC 7.3.5G* are not exhaustive.
- 7.3.5B R A *firm* must take all reasonable steps to ensure that any repayment arrangements agreed with *customers* (see *CONC 7.3.5G(4)*) are sustainable.
- 7.3.5C G
 - (1) A repayment arrangement is unlikely to be sustainable if it has the result that the *customer* cannot meet their *priority debts* and essential living expenses.
 - (2) *Priority debts* and essential living expenses include, but are not limited to, payments for mortgage, rent, council tax, food and utility bills.
- 7.3.5D R Where a *firm* assesses income and expenditure, it must do so in an objective manner.
- 7.3.5E G When complying with *CONC 7.3.5DR*:
 - (1) the assessment should be informed by sufficiently detailed information;
 - (2) a *firm* may have regard to the spending guidelines in the Standard Financial Statement or an equivalent tool; and

- (3) where the *customer* is borrowing for business purposes, a *firm* may take into account information relating to the *customer's* business, including its cash flow.
- 7.3.5F G A *firm* should have clear written policies setting out how and in what circumstances it conducts income and expenditure assessments.
- 7.3.5G R (1) This *rule* applies where:
- (a) a *firm* has put in place a repayment arrangement as a forbearance measure; and
- (b) the *customer* is meeting the terms of that arrangement.
- (2) The *firm* must reduce, waive or cancel any further interest or charges to the extent necessary to ensure that the level of debt under the arrangement does not rise for the period of that arrangement.
- 7.3.5H G The extent to which the *firm* is required to reduce, waive or cancel any further interest or charges may vary over the term of the arrangement. If a *customer's* circumstances change so that they can pay larger amounts under the repayment arrangement, the *firm* will not be required to waive as much interest, fees or charges to prevent the balance from escalating.
- 7.3.5I R A *firm* must take reasonable steps to ensure that any forbearance or due consideration provided remains appropriate.
- 7.3.5J G What is reasonable in any given case will depend on the *customer's* circumstances and the nature of the forbearance or due consideration provided, but may include reviews at appropriate intervals and responding as necessary. It will also involve reacting appropriately to any relevant information the *firm* is otherwise made aware of, such as correspondence from a debt adviser.
- ...
- 7.3.7A G (1) If a *customer* is in or approaching arrears or in default ~~or in arrears~~ ~~difficulties~~, the *firm* should, where appropriate:
- (a) inform the *customer* that free and impartial money guidance and debt advice is available from not-for-profit debt advice bodies and can be accessed through a range of delivery channels, including digital tools; ~~and~~
- (aa) effectively communicate to the *customer* the potential benefits of accessing money guidance or free and impartial debt advice from not-for-profit debt advice bodies; and
- ...
- ...

- (3) ...
- (4) Where possible, a firm should make available to the customer a record of any income and expenditure assessment that the firm has made to enable the customer to share the record with other lenders and debt advice providers.
- (5) A firm should consider whether the customer would benefit from a specialist source of debt advice. For example, a self-employed customer may benefit from being made aware of business debt advice providers.
- (6) When considering how to provide appropriate help and support to customers, a firm may have regard to the Money and Pensions Service Strategic toolkit for creditors.

7.3.8 G An example of where a firm is likely to contravene Principle 12 and PRIN 2A, or Principle 6, as applicable, and CONC 7.3.4R is where the firm does not allow for alternative, affordable payment amounts to repay the debt due in full, where the customer is in or approaching arrears or in default or arrears difficulties and the customer makes a reasonable proposal for repaying the debt or a debt counsellor or another person acting on the customer's behalf makes such a proposal.

[Note: paragraphs 7.16 of ILG and 3.7j of DCG]

...

7.3.10A G (1) An example of behaviour by or on behalf of a firm which is likely to contravene CONC 7.3.10R and Principle 12 and PRIN 2A, or Principle 6, as applicable, is pressurising a customer to raise funds to repay a debt by arranging the receipt of a lump sum from the ~~customer's~~ customer's pension scheme.

...

...

7.3.13 G ...

Information provided to customers

- 7.3.13A G (1) When engaging with customers in or approaching arrears or in default, firms are reminded of their obligations to communicate with customers in accordance with Principle 12 and PRIN 2A, or Principle 7, as applicable.
- (2) A firm should make available to customers in or approaching arrears or in default, timely, clear and understandable information which:

- (a) takes into account the individual circumstances of the customer;
 - (b) is sufficient to enable the customer to understand their financial position in relation to their debt, including how it is reported to the customer's credit file; and
 - (c) is sufficient to enable the customer to understand their options in relation to their debt, including the potential impact of any forbearance or other support on their overall balance and how it will be reported to the customer's credit file.
- (3) A firm should consider the most appropriate way to engage and communicate with a customer, and support customers to engage through appropriate channels, changing the channel if necessary to enable the customer to engage with the firm effectively.

...

Enforcement of debts

...

- 7.3.17 R A firm must not take steps to repossess a customer's home, goods or vehicles other than as a last resort, having explored all other possible options.
[Note: paragraphs 7.14 of ILG and 3.7t of DCG]
- 7.3.17A R A firm must not commence or continue repossession action where a forbearance arrangement is in place for as long as the customer is meeting the terms of that arrangement.
- 7.3.18 R A firm must not threaten to commence court action, including an application for a charging order or (in Scotland) an inhibition or an order for sale, in order to pressurise a customer in or approaching arrears or in default of arrears difficulties to pay more than they can reasonably afford.
[Note: paragraphs 7.14 of ILG and 3.7i (box) of DCG]
- 7.3.19 G ...
- 7.3.20 G (1) Where a customer has informed the firm that they intend to access debt help or money guidance, the firm should allow the customer reasonable time to access it before considering whether to commence repossession action.
- (2) A firm may take action to repossess goods or vehicles as a last resort – for example, when the firm has made reasonable attempts to engage with the customer and the customer has not engaged.
- (3) When considering whether repossession is an appropriate course of action, a firm should have regard to all aspects of the financial impact

on the *customer*, including asset depreciation if repossession is delayed.

(4) A *firm* should inform the *customer* of the impact of the *firm* suspending any repossession actions, including on the value of *goods* or *vehicles*.

(5) A *firm* taking or considering taking enforcement action should have regard to the *FCA's* Guidance for firms on the fair treatment of vulnerable customers (FG21/1) (<https://www.fca.org.uk/publication/finalised-guidance/fg21-1.pdf>).

7.3.21 G Where it may be in the *customer's* interests to exercise their right to terminate a *hire purchase agreement* or *conditional sale agreement* under section 99 or section 100 of the *CCA*, a *firm* should make the *customer* aware of that right in good time, providing the information in a way that is clear, fair and not misleading to help the *customer* decide how to proceed.

7.3.22 G Where a *customer* intends to exercise their rights under section 99 or section 100 of the *CCA*, a *firm* should consider deferring legal liabilities associated with voluntary termination.

...

7.6 Exercise of continuous payment authority

Recovery and continuous payment authorities etc.

...

7.6.2A R ...

(3) A *firm* must not propose that a *customer* should grant a *continuous payment authority*, and must not exercise rights under such an authority, in respect of *repayments* under a *regulated credit agreement* or a *P2P agreement*, the terms of which do not already provide for a *continuous payment authority*, unless:

(a) the *customer* is in or approaching arrears or in default in respect of the agreement; and

...

7.6.2B G (1) Where a *regulated credit agreement* or a *P2P agreement* does not incorporate the terms of a *continuous payment authority*, *CONC 7.6.2AR* enables a *continuous payment authority* to be put in place (for example, for a repayment plan) without necessarily requiring an amendment to the agreement. But *CONC 7.6.2AR* applies only where the *customer* is in or approaching arrears or in default, and the creation of the *continuous payment authority* supports the fair

treatment of the *customer* and facilitates the exercise of forbearance (see *CONC 7.3.4R* and *CONC 7.3.5G*).

...

...

7.6.5 G A *firm* is likely to contravene *CONC 7.6.3R* if it:

...

(2) requests a *payment service provider* to make a payment from the *customer's* payment account where it has reason to believe that there are insufficient funds in the account or that taking the payment would leave insufficient funds for ~~priority debts~~ *priority debts* or other essential living expenses (such as in relation to a mortgage, rent, council tax, food bills or utility bills); or

...

...

7.7 Application of interest and charges

...

7.7.5 R ...

7.7.6 G When considering whether any costs may be reasonable, a *firm* may have regard to the frequency and nature of the events to which the costs relate and whether they arise directly from the *customer* being in default or arrears difficulties.

...

7.10 Treatment of customers with mental capacity limitations

...

7.10.4 G *Firms* should note *CONC 7.2.1R* (and its accompanying *guidance*) which requires *firms* to establish and implement policies and procedures for the fair and appropriate treatment of ~~particularly~~ vulnerable *customers*.

...

App 1 Total charge for credit rules; and certain exemptions

...

App 1.2 Total charge for credit rules for other agreements

...

Assumptions for calculation

1.2.5 R For the purposes of calculating the *total charge for credit* and the *annual percentage rate of charge*:

...

(l) for the purposes of (k):

...

(ii) in cases where the capital must be repaid in full; and in cases where the capital may be taken in full by the lender exercising their rights under a *continuous payment authority*, in a single payment, within or after each payment period, successive drawdowns of the maximum amount and repayments of the entire capital by the *borrower* shall, where necessary, be assumed to occur over the period of one year;

...

...

...