



# **Affordability and Treating Customers Fairly Webinar**

24 April 2018



# **Welcome and Agenda**

## **Affordability and Treating Customers Fairly Webinar**

# Agenda

- Introductions & Background – Jay Parmar
- Why is this key with the FCA and common pitfalls: to include a Quick Guide to achieving good creditworthiness, affordability and sustainability checks in asset finance – Jo Davis
- Session 2: Our compliance work & support – Adam Holt
- Questions



# **Session 1**

## **Affordability and Treating Customers Fairly Webinar**

**Jo Davis – Locke Lord**

# Affordability & TCF

**Its importance and common pitfalls**

Joanne Davis  
Locke Lord (UK) LLP

BVRLA Webinar : 24<sup>th</sup> April 2018

# Background

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- Position since 1 April 2014
  - Obligation to check both creditworthiness *and* affordability.
    - Different obligations for lenders and brokers.
- More than just one source of regulation.
  - The Consumer Credit Sourcebook (CONC)
  - The FCA's Principles of Business (PRIN)
  - The obligation to Treat Customers Fairly (TCF)

# Background

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- Creditworthiness
  - A backwards-looking test to assess the credit risk posed by the customer.
  - Assessment of whether there is anything in the customer's credit history that is indicative of them being a potential default risk.
- Affordability
  - A forwards-looking test to assess the customer's ability to repay over the length of the agreement.
  - Customer's current and foreseeable financial position considered to assess whether they will be able to afford repayments.

# Assessing Creditworthiness & Affordability

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- Sources and types of information to consider:
  - Information from a credit reference agency;
  - information provided by the customer;
  - any record of previous dealings;
  - evidence of income;
  - evidence of expenditure;
  - credit score; and
  - credit reference agency report.



# Assessing Creditworthiness & Affordability

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- Proportionate approach encouraged and to be determined by:
  - type of credit;
  - amount of credit;
  - cost of credit;
  - financial position of the customer;
  - customer's credit history;
  - customer's existing financial commitments;
  - any future financial commitments;
  - any future change in circumstances which could reasonably be expected; and
  - any vulnerability issues.

# Regulatory Expectations for Lenders

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- Expectation within CONC is that the lender will undertake the assessment of customer creditworthiness.
- Expectation within CONC is that the lender will undertake the assessment of the affordability of the product.
- Regulatory responsibility rests with the firm entering into agreement as lender to ensure that both the creditworthiness and the affordability assessments are performed.

# Regulatory Expectations for Lenders

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- Expectation from PRIN that lenders will conduct their business with due skill, care and diligence.
- Expectation from PRIN that lenders will observe proper standards of market conduct.
- Expectation from PRIN that lenders will pay due regard to the interests of its customers and treat them fairly.
- Expectation from PRIN that lenders will take reasonable care to ensure the suitability of its discretionary decisions for any customer who is entitled to rely upon its judgment.

# Regulatory Expectations for Brokers

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- Expectation from CONC that, when giving explanations or advice, brokers must pay due regard to whether the product is affordable and whether there are any factors that the broker knows, or reasonably ought to know, that may make the product unsuitable.

# Regulatory Expectations for Brokers

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- Expectation from PRIN that brokers will take reasonable care to ensure the suitability of its discretionary decisions for any customer who is entitled to rely upon its judgment.

# Credit & Hire: Different, but potentially the same

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- Expectations from CONC apply to credit products only, not hire.
  - HP
  - PCP
- Expectations from PRIN (and TCF) apply to all products.
  - Firms should not be conducting their business without due skill, care and diligence, such as by selling products without first assessing their risk and suitability.
  - Firms should not be treating customers unfairly, such as by selling products they know, or ought reasonably to know, the customer cannot afford.

# Creditworthiness & Affordability in practice

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- New deals for repeat customers: assessments have to be conducted again – cannot be presumed that customer still creditworthy and product still affordable simply because customer passed a previous assessment.
- Evidencing is key.
  - Document what is said by the customer and by you.
  - Retain documents in easily recoverable format.
  - DPA.

# Creditworthiness & Affordability in practice

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- FCA guidance available at:

<https://www.fca.org.uk/publication/consumer-credit-information/consumer%20credit-understanding-cc-creditworthiness-affordability-web.pdf>



# Upcoming Changes: CP 17/27

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- Firms will be required to determine the amount, or make a reasonable estimate, of the customer's current income unless it can be demonstrated that it is obvious in the particular circumstances that credit is affordable.
  - Self-certification of income unlikely to be sufficient
- When taking income into account in assessing affordability, only income of the customer can be considered. Income from a third party, such as a spouse or partner (household income) cannot be factored into the affordability assessment.

# Upcoming Changes: CP 17/27

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- Firms will be required to take reasonable steps to determine the amount, or make a reasonable estimate, of the customer's non-discretionary expenditure ("NDE") unless it can be demonstrated that the customer's NDE is unlikely to have a material impact on affordability risk, and so as to make such an assessment disproportionate.

# Upcoming Changes: CP 17/27

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- If customer intends to make repayments using savings/other assets, firms must take into account:
  - the purpose for which the savings or assets are or will be held;
  - the likelihood of the savings or assets being available to make repayments under the agreement; and
  - any significant adverse impact on the customer's financial situation of using those savings or assets.

# Upcoming Changes: CP 17/27

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- For joint customers, firms should assess whether to consider income separately for each customer (as well as together), taking into account the risk to that customer if they were to become solely responsible for repayments.
- Firms will need to assess the potential for the commitments under a credit agreement to have a significant negative effect on any guarantor's financial situation

# Upcoming Changes: CP 17/27 – impact for brokers

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- Likely to increase the amount of information brokers are asked by lenders to obtain from customers.
- May require brokers to interrogate information provided by customers more rigorously.



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## **Session 2**

# **Affordability and Treating Customers Fairly Webinar**

**Adam Holt – BVRLA**





# **BVRLA Governance Programme 2018**

Customer Suitability, Affordability and Vulnerability



# Changes To The Programme In 2018

The visit will extend  
to a full day visit

A more rigorous review to establish the member's regulatory  
understanding and Treating Customers Fairly culture

Random sales files and complaints logged will  
be checked to evidence the procedures in place

# Key Points To The 2018 Programme

**Funder supported** – initial cost of full day visit is paid by relevant funders

**Continuous development** – adding value for members with an evolving programme

**Cross department workings** – communicating trends found from Conciliation and identifying training

**Increased investment in personnel** – to help deliver a greater service to members and improve from 2017

**Ongoing support** – members will receive full reports, guidance and guides/fact sheets on key areas

# Checking Suitability & Affordability

## Former Inspection Checking

- Does the member have a Treating Customers Fairly Policy

## Enhanced Inspection Checking

- Evidencing what process the member has in place
- How does the firm assess affordability and suitability for the customer
- What channels do they receive this information through
- What measures are in place to safeguard against influence from staff incentives

# Checking Vulnerable Customers

## Former Inspection Checking

- Does the member have a Treating Customers Fairly Policy

## Enhanced Inspection Checking

- Evidence of a vulnerable customers policy
- How and when is it used? Does the member understand its purpose?
- Does the policy have additional measures to identify where there may be a vulnerable customer?
- Do staff complete any training regarding vulnerable customers?

# Key Areas To Consider When Assessing Affordability

**Gross income** – sourced via Credit Reference Agencies or customer proofs based on level of envisaged financial commitment/risk.

**Expenditure** – debt servicing costs can be obtained via Credit Reference Agencies, but this will not provide the true picture of 'disposable income', hence this should be declared by the customer and verified if outside benchmark metrics (Office for National Statistics provides a range of national income/expenditure benchmarks).

**Past Performance** – a common factor used for both Credit Risk and Affordability assessment; missed payments, payment plans could indicate poor financial management skills.

**Anticipated lifestyle changes** – which could result in income increase or decrease. Declared increase should be validated, whereas a forecast decrease in income should consider use of the lower figure in assessing the customers 'Creditworthiness'.

**Debt to income ratio** - A recognised metric indicating the capacity of the customer to take on more debt/financial commitment without pushing themselves into financial difficulty.

**Existence of CCJs, IVAs and bankruptcy** – as with past performance another common factor used for both Credit Risk and Affordability assessment = ‘Creditworthiness’.

**Include consideration to needs** – i.e. ownership or rental.

**Questioning the customer** – What they intend to do regarding balloon payment / next car.

# What Is Vulnerability?

Vulnerability is often a changing state (temporary) not necessarily fixed and will affect existing customers as well as new customers.

Examples:

- A recent death
- An illness
- Pending unemployment

Conversations about affordability can help identify these topics of vulnerability.

# Any questions

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# **Q&A Session**

**Facilitated by Jay Parmar – BVRLA**

# Support Available

- Specific Queries or Question – Amanda Brandon  
[amanda@bvrla.co.uk](mailto:amanda@bvrla.co.uk), Adam Holt [adam@bvrla.co.uk](mailto:adam@bvrla.co.uk) or Jay Parmar [jay@bvrla.co.uk](mailto:jay@bvrla.co.uk)
- Broader support and guidance including compliance support –  
Consumer Credit Advisory Services, Nathan Cornish,  
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- Jo Davis– Locke Lord,

# Final Thoughts

- 🅑 Thank you to our speakers and you for participating in today's webinar
- 🅑 **Feedback & Suggestions:** Please spend a few minutes to complete the online survey – Fran will send the link later today
- 🅑 **Presentations:** Fran will email the link to download these from the BVRLA website later today
- 🅑 **On-demand version:** Fran will send a link to the recorded version of today's webinar later today
- 🅑 **Previous webinars:** recorded versions are available on our [YouTube Channel](#)
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