

Motor finance agreements and coronavirus: updated temporary guidance for firms

British Vehicle Rental and Leasing Association (BVRLA) Response

Introduction

BVRLA members are responsible for a fleet of over five million vehicles, that's 1-in-8 cars, 1-in-5 vans and 1-in-4 trucks on UK roads. The vehicle rental and leasing industry supports over 465,000 jobs, adds £7.6bn in tax revenues and contributes £49bn to the UK economy each year.

The BVRLA welcomes the opportunity to comment on the FCA's updated temporary guidance on support for motor finance users who continue to face payment difficulties due to coronavirus. The consultative approach the FCA continues to take on this urgent issue is appreciated.

It is important that motor finance companies provide customers with the support and flexibility that they need during this crisis period. This flexibility must ensure that firms take individual circumstances into account and provide the most appropriate forbearance measures to achieve the best customer outcome. At the same time, the FCA needs to recognise the extreme forbearance burden that motor finance providers are under and work with lenders to address this.

Crucial juncture for sector

As the long-term economic impacts of the coronavirus pandemic take root "temporary payment difficulties" are more likely to transition into "permanent payment difficulties". Motor finance involves a depreciating asset, which means firms will see losses widen for every month of forbearance, often being crystallised at the point of default. Even the largest firms could be under significant pressure if extended forbearance leads to a wave of hugely expensive defaults in October. The impact on level of competition in the market and diversity of offering will be profound.

To continue to provide forbearance at these heightened levels, the sector needs Government support.

Coronavirus Lending Forbearance Guarantee

We repeat our request for the Government to work with the FCA in underwriting 80% of the economic losses resulting from coronavirus forbearance (the proposal is fully detailed in the Annex).

Without support, the sector will not be able to return to "business as usual" once the coronavirus pandemic ends. The loss of the current diverse range of finance providers and their specialisms will severely undermine both the consumer and SME offerings available post-crisis.

A Coronavirus Lending Forbearance Guarantee would safeguard the sector while allowing it to meet the government's requirement to offer unprecedented and unsustainable support to customers in this extraordinary period.

Access to funding

There are a number of non-bank finance firms that are unable to access Government or Bank of England funding schemes. These lenders provide vital finance to a wide range of SMEs and

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consumers and the Government should support them by extending the eligibility criteria for existing funding schemes or by guaranteeing forbearance losses.

Across all funders, bank and non-bank, the huge liquidity pressure of forbearance and loss of income from the lockdown months will mean that there will be tightened criteria and limited liquidity for new lending. For the sector to facilitate the recovery and not have to offer fewer customers finance at higher prices, support is required.

Government support for funders is needed to protect the market and economic recovery.

Protecting customers' best interests

The best interest of the customer is rightly at the centre of the proposed updated guidance. This presents a challenge in balancing the need for short term relief in the form of a payment holiday with the longer-term impact of an overall increased debt burden. There are several considerations around this weighing up where the draft updated guidance is either not prescriptive enough or too prescriptive to fully protect customer best interests.

FCA communication and customer expectations

It is always in customers interest to resume their payments if able to. The FCA has a duty to ensure that this messaging runs throughout all communications, press releases and guidance documents.

The FCA needs to make clear to customers and consumer media that if an individual can resume payments they should.

Consumer evidence

A second three-month deferral of payments on a depreciating asset will substantially increase the debt burden of customers. The three-month deferral should not be portrayed in the guidance as the default or preferred option for customers. Instead, all forbearance options should be equally weighted, including CONC 7 forbearance, with the option that is genuinely in the customer's best interest preferred.

To accurately determine what is in a customer's best interest, a firm will need sufficient information from the customer. The final guidance must include more detail on what information customers can be expected to provide. Where customer information is not forthcoming, firms need guidance as to what actions they should take. This could remove pressure on firms wishing to comply with the guidance from offering, in cases of insufficient customer information, the most apparently generous form of immediate relief, which could be detrimental to the customer in the longer term.

All forbearance options should be equally prioritised and customer information expectations expanded in the final guidance.

Debt counselling

Given the impact on an individual's personal finances of requiring an additional three-month payment holiday, we welcome the FCA's mention of debt counselling in the guidance. This point should be taken further. Customers who are looking to secure another three months of forbearance

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on their motor finance will not have taken this decision in isolation of their broader financial circumstances and a range of priority payments, such as mortgages and utilities. After the coronavirus period, these customers could be facing extremely challenging and complex personal finance situations.

We believe these individuals should engage with regulated debt counsellors as soon as possible to ensure they are best able to cope with their situation. Given the longer-term impact of the most generous immediate reliefs, these should only be applicable to consumers who have engaged with a debt counsellor, or at least demonstrated clearly that they are making progress towards a plan for dealing with their debt.

We welcome the sentiment of paragraph 1.51 but believe that customers seeking extended payment deferrals should have engaged with a regulated debt counsellor

Definition of temporary

Much of the coronavirus pandemic's impacts on individuals' personal finances are no longer temporary. It is important that the FCA recognises this and provides additional clarity on the definition of "temporary financial difficulties due to COVID" which entitles a customer to access the continued relief.

Without more detailed guidance we risk a gap developing between what a customer may anecdotally view as "temporary" and what is a permanent fundamental change in their situation. It is not in any customer's interest to accrue more debt before their eventual default.

As the coronavirus pandemic impacts harden, it is necessary for the FCA to give greater clarity on when a customer "remains in temporary payment difficulties".

Repossessions

In some cases, it will be in the longer-term best interest of a customer for their vehicle to be repossessed. This will often be linked to circumstances from before the coronavirus pandemic which have worsened. Allowing these customers to continue to possess the vehicles will likely only to increase their indebtedness as the underlying asset depreciates in value. The final guidance needs to include an acceptable process for firms to follow if they want to initiate termination procedures and repossessions in these circumstances

This is especially important in cases where the customer can no longer afford their vehicle's insurance. Leaving these customers with access to their vehicle is irresponsible. If a customer fails to insure the car, they can only be acting illegally with the vehicle. Firms must have the ability to repossess these vehicles.

The FCA needs to create a procedure for firms to repossess vehicles when it is in the customer best interest and crucially if a customer has ceased insurance payments.

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ANNEX - CORONAVIRUS LENDING FORBEARANCE GUARANTEE

The objectives of the Coronavirus Lending Forbearance Guarantee would be to:

- ensure support can continue to be provided by lenders to consumers and business customers;
- enable the FCA to deliver its integrity objective under FSMA, in particular by protecting and enhancing the soundness, stability and resilience of the UK financial system, and
- enable the FCA to deliver its consumer protection and competition objectives.

Scope	Description	Explanation
Firms covered	FCA-regulated lenders and owners	<ul style="list-style-type: none">• Providers of regulated credit or hire agreements (bank and non-bank)
Products covered	Regulated credit and hire agreements live at 23 rd March 2020 and under which no forbearance had previously been requested or offered	<ul style="list-style-type: none">• Non-coronavirus related credit risk should remain with the lender or owner• The above includes non-coronavirus related credit risk which crystallises before, during or after the temporary guidance period introduced by the FCA
Duration of cover	The remaining lifetime of the agreements above	<ul style="list-style-type: none">• Compliance cost losses brought about by the forbearance offered in accordance with the temporary FCA guidance could crystallise either during or after the guidance period
Extent of cover	Guarantee covers [80%] of exceptional compliance costs suffered by lenders and owners as a consequence of forbearance offered in accordance with FCA temporary guidance	<ul style="list-style-type: none">• Lender / owner retention of 20% of risk prevents moral hazard and incentivises them to provide forbearance responsibly• 100% cover disincentivises cost-effective forbearance and could be inflationary• Lower cover disincentivises provision of forbearance

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Limitation of cover	Cover excludes compliance costs below a threshold ('excess') set by the FCA	<ul style="list-style-type: none"> • Compliance costs of forbearance that are not exceptional should not be covered. • The 'exceptional' threshold to be set by the FCA, taking into account its integrity and competition objectives. • Factors to take into account in setting the threshold include: <ul style="list-style-type: none"> ○ retention of diverse and viable lending and hiring provision which ensures effective ongoing competition in the interests of consumers and business customers; ○ the ability of the financial system to serve and meet the needs of diverse consumer and business segments (including SMEs non-prime, self-employed, low-income, gig economy and key workers), and ○ the ability of the financial system to enable acquisition by consumers and businesses of assets, including in particular green assets.
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About the BVRLA

- Established in 1967, the BVRLA is the UK trade body for companies engaged in vehicle rental, leasing and fleet management.
- BVRLA members are responsible for a combined fleet of over five million cars, vans and trucks on UK roads, that's 1-in-8 cars, 1-in-5 vans and 1-in-4 trucks. The vehicle rental and leasing industry supports over 465,000 jobs, adds £7.6bn in tax revenues and contributes £49bn to the UK economy each year.
- On behalf of its 1,000+ member organisations, the BVRLA works with governments, public sector agencies, industry associations and key business influencers across a wide range of road transport, environmental, taxation, technology and finance-related issues.
- BVRLA membership provides customers with the reassurance that the company they are dealing with adheres to the highest standards of professionalism and fairness.
- The association achieves this by maintaining industry standards and regulatory compliance via its mandatory Codes of Conduct, inspection and governance programme and government-approved Alternative Dispute Resolution service. To support this work, the BVRLA promotes best practice through its extensive range of training, events and information-sharing activities.

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