

Motor finance agreements and coronavirus: FCA draft 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 draft temporary guidance for firms on motor finance agreements and coronavirus. The consultative approach the FCA has taken on this urgent issue is appreciated and we are broadly in agreement with the approach suggested. We have some elements of concern which are highlighted below.

Many of these concerns resolve around the wider funding environment, where motor finance providers will require liquidity support in meeting the FCA's objectives. Although this provision of this support is outside of the FCA's remit, it is important that the FCA considers this liquidity issue when finalising its guidance. During this unprecedented health and economic crisis, customers need support from motor finance companies, who in turn need government support so that they can provide adequate forbearance. Without this chain, the impact of the crisis will fall unfairly.

The government and the FCA need to work in a more co-ordinated way to create a rapid and equitable solution that protects personal finances, jobs and businesses.

Crucial Support

In these exceptional times, we need quick action to ensure that consumers and business are protected through the crisis so they can resume their lives and operations once it passes. Forbearance in motor finance obligations is understandably a crucial part of this as a major household expense. For obvious reasons, the proposed forbearance goes beyond any level which would be considered reasonable under "business as usual". Some BVRLA members are simply unable to deliver the scale and cost of the forbearance required of them without government support.

Beyond forbearance, other factors mean the motor finance industry will be under extreme stress after the immediate crisis period. The current collapse in vehicle sales has reduced funder's future income streams and with no sign that demand will rapidly return all future incomes will be depressed. Additionally, funders carry the risk of residual value (RV) declines and the expected post lockdown volatility in vehicle prices could exacerbate this.

The current support schemes do not supply the funds that are needed for non-bank funders. Without additional measures, the motor financing sector will be left in a dire position post-coronavirus. It is not for these funders to carry the burden of their societal obligations of forbearance alone. Government must cover the economic loss of coronavirus related forbearance for all funders, bank, captive and non-bank owned.

A specific measure we support is a Forbearance Liquidity Funding Scheme for non-bank funders. The FLFS must enable non-bank funders to access liquidity to cover the cost of forbearance, both the lost rentals and interest, at a cost comparable to the cash banks can access through the government's

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Term Funding Scheme. In any scheme, government must underwrite the economic full loss resulting from coronavirus forbearance.

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.

Government must underwrite the full economic loss resulting from coronavirus forbearance. The underwriting should encompass all coronavirus forbearance for both regulated and unregulated customers.

Consumer Credit Act Adjustments

The Consumer Credit Act (CCA) is not currently fit for purpose to allow the easy rollout of the FCA’s envisaged forbearance approach to regulated customers. It requires urgent amendment and the BVRLA supports the emergency secondary legislation being proposed by the FLA which does this.

The issues with the CCA are twofold. At present, the process for offering forbearance requires a modifying agreement to be signed and agreed. In the current circumstances, this adds unnecessary administrative pressure and customer complexity. Firms are already administratively stretched to breaking point by the coronavirus pandemic and customers need rapid solutions to their financial challenges. This means many use informal agreements, under which lenders are obligated to send Arrears Notices which can be deeply unsettling for the consumer at what is already a worrying time.

The BVRLA supports the FLA’s suggested CCA amendments and encourages their immediate adoption.

Pre-existing Factors

For customers where there are pre-existing factors, it is important that these into account before offering forbearance or protection from repossession. Even during the current coronavirus crisis, there are still situations where repossession will be appropriate, due to pre-existing factors. So long as the correct safety precautions are in place, these should still go ahead. Customers with pre-existing factors, even if they are now impacted negatively by the coronavirus, also need to be aware that this guidance will not automatically apply to them.

The final guidance must make clear that those with pre-existing factors will not be automatically entitled to its provisions or repossession protection, even if they are now additionally impacted by coronavirus.

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Covenants

The forbearance that the FCA is requiring will push many firms to go beyond the terms of covenants on their funding. We call on the FCA to work across government to communicate that these covenants should not be enforced where firms are working to meet coronavirus crisis obligations.

Covenants cannot be enforced if they prevent firms from acting in line with the guidance.

Ongoing Customer Obligations

In circumstances where the return of an end-of-contract lease car or van has not been possible, customers should be reminded that they have an ongoing obligation to look after the vehicle. The guidance should not create the impression that, once a vehicle has been SORN'd, a customer no longer has any duty of care for it.

The guidance should make clear that customer obligations remain until vehicles are handed over.

FCA Communications

The BVRLA understands the need for clear messaging from the FCA, but asks that the nuance of the final guidelines is conveyed in the associated press releases. It is vital that consumers are not led to believe that an automatic three-month payment deferral will be the automatic response to any request for forbearance. Consumers need to understand that such a deferral may not necessarily be the best option for them. The structure and details of any payment deferral can also vary, and the customers best interests are not served by over-simplified messaging. Additionally, while some firms may not make enquiries into individuals' circumstances, customers should be encouraged to engage transparently and frankly with those that do.

FCA communications need to convey that three-month payment holidays may not be in the best interests of all customers.

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.

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- 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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