Summary of ch\_06.pdf

Chapter 6: Post Contractual Requirements - Summary

# Brief Overview

This chapter of the Consumer Credit sourcebook (CONC 6) establishes comprehensive requirements for firms after entering into consumer credit agreements. It covers obligations related to current account overdrafts, payment appropriation, pawn broking, credit cards, refinancing practices, and credit broker refunds, with particular emphasis on treating customers fairly and addressing financial difficulties.

# Key Points and Main Findings

## Application and Scope

* Applies to firms engaged in consumer credit lending and consumer hiring
* Includes specific provisions for P2P lending platforms and credit brokers
* Contains targeted rules for credit cards, retail revolving credit, and current accounts with overdraft facilities

## Current Account Information Requirements (Section 6.3)

* Annual written disclosure requirements for accounts with overdraft possibilities
* Mandatory notification when customers significantly overdraw for over one month
* Must inform customers of overdraft amounts, interest rates, and applicable charges

## Payment Management (Section 6.4)

* Customers must be allowed to allocate payments across multiple agreements
* Specific proportional allocation rules when customers don't specify preferences
* Priority given to hire-purchase, conditional sale, and secured agreements

## Credit Cards and Retail Revolving Credit (Section 6.7)

* Interest allocation: Payments must first apply to highest interest rate debts
* Minimum payments: Must cover at least interest, fees, charges plus 1% of outstanding balance
* Credit limit increases:   
    
  30-day advance notice required (28 days for retail revolving credit)  
  Cannot increase for customers at risk of financial difficulties  
  Customers must have opt-out options
* 30-day advance notice required (28 days for retail revolving credit)
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## Persistent Debt Rules

* Monitoring required when customers pay more in interest/fees than principal over 18 months
* Three-stage intervention process:  
    
  Initial warning and encouragement to increase payments  
  Mid-point review at 9-10 months  
  Mandatory assistance after 36 months of persistent debt
* Initial warning and encouragement to increase payments
* Mid-point review at 9-10 months
* Mandatory assistance after 36 months of persistent debt
* Suspension/cancellation of facilities may be required for non-responsive customers
* Initial warning and encouragement to increase payments
* Mid-point review at 9-10 months
* Mandatory assistance after 36 months of persistent debt

## Refinancing Restrictions

* High-cost short-term credit cannot be refinanced more than twice
* Must provide information sheets before refinancing
* Refinancing must not result in unsustainable commitments
* Customer consent required for all refinancing except forbearance

## Pawn Broking Requirements (Section 6.6)

* Detailed record-keeping obligations for all pawned articles
* Must maintain records for 5 years minimum
* Comprehensive documentation of redemptions and sales

## Credit Broker Refunds (Section 6.8)

* Customers entitled to fee refunds (less £5) if no agreement entered within 6 months
* Firms must proactively notify customers of refund rights
* Prompt response to refund requests required

# Important Details and Conclusions

## Financial Difficulty Indicators

* Two or more missed payments
* Agreed repayment plans
* Ongoing debt counselling discussions
* Paying only minimum amounts (contextually)

## Forbearance Obligations

* Firms must monitor for signs of financial difficulties even without missed payments
* Required to consider suspending/reducing interest and charges
* Must provide debt advice contact details
* Special provisions during Debt Respite moratoriums

## Consumer Protection Focus

* Emphasis on sustainable lending and repayment practices
* "Reasonable period" for debt repayment typically 3-4 years
* Protection against debt spiral through persistent debt interventions
* Clear communication requirements in plain language

## COVID-19 Considerations

* Multiple references to coronavirus payment deferral guidance
* Temporary modifications to standard requirements during pandemic periods
* Specific exemptions for firms following FCA COVID guidance

## Enforcement and Compliance

* Firms must establish adequate policies for identifying financial difficulties
* Record-keeping requirements are legally mandated
* Failure to comply may result in FCA disciplinary action
* Customer's statutory rights under CCA remain protected

This chapter represents a comprehensive framework designed to protect consumers after credit agreements are established, with particular emphasis on preventing debt spirals and ensuring fair treatment of customers experiencing financial difficulties.