Summary of ch\_07A.pdf

Chapter 7: Arrears, Default and Recovery (Including Repossessions) - Summary

# Overview

This chapter of the Consumer Credit sourcebook (CONC 7) establishes comprehensive rules and guidance for firms dealing with customers in arrears, default, or requiring debt recovery. It applies to consumer credit lending, consumer hiring, P2P lending platforms, and debt collecting activities, emphasizing fair treatment, forbearance, and appropriate customer support throughout the debt recovery process.

# Key Points and Main Findings

## Application and Scope

* Applies to firms engaged in consumer credit lending, consumer hiring, P2P lending operations, and debt collecting
* Includes provisions for guarantors and indemnifiers under credit agreements
* Extends to Gibraltar-based firms and TP firms under specific conditions
* Employees and agents must comply with all CONC requirements

## Core Requirements for Customer Treatment

### Policies and Procedures (Section 7.2)

* Mandatory establishment of clear, effective policies for customers in/approaching arrears
* Special provisions for vulnerable customers, including those with mental health difficulties
* Regular review requirements to ensure policy effectiveness and compliance
* Reference to FCA's Guidance on fair treatment of vulnerable customers (FG21/1)

### Forbearance and Due Consideration (Section 7.3)

* Fundamental requirement to treat customers with forbearance and due consideration
* Individual assessment of customer circumstances required
* Sustainable repayment arrangements must be established
* Interest/charge reduction required when forbearance arrangements are in place

### Specific Forbearance Measures Include:

* Suspending, reducing, or cancelling interest and charges
* Accepting reduced or token payments
* Deferring payment of arrears
* Refinancing to more manageable terms
* Extending pawn redemption periods

## Continuous Payment Authorities (Section 7.6)

* Strict controls on exercise of continuous payment authorities
* Two-attempt limit for high-cost short-term credit collection
* Prohibition on exercising CPAs when customers are in financial difficulties
* Clear explanation requirements before establishing new CPAs
* Customer rights to cancel must not be inhibited

## Communication and Contact Standards (Section 7.9)

* Clear identification requirements for all customer contact
* Reasonable timing restrictions on customer contact
* Privacy protection to prevent third-party awareness of debt
* Debt collection visits must be conducted appropriately with proper notice
* Prohibition on premium rate contact numbers

## Enforcement and Recovery Actions

* Repossession as last resort only after exploring all alternatives
* Suspension of enforcement during active forbearance arrangements
* Proportionality requirement for all recovery actions
* Court action restrictions to prevent pressuring customers
* Compliance with pre-action protocols for property repossession

## Information and Support Obligations

* Signposting to free debt advice and money guidance services
* Clear communication about debt status, options, and consequences
* Income/expenditure assessments must be objective and detailed
* Record sharing to facilitate debt advice provision

# Important Details and Conclusions

## Key Protections for Customers

* Financial difficulty recognition: Firms must identify and respond appropriately to customers experiencing financial hardship
* Sustainable solutions priority: All arrangements must consider priority debts and essential living expenses
* Vulnerable customer safeguards: Enhanced protections for those with mental health issues or capacity limitations
* Transparency requirements: Clear information about rights, options, and consequences throughout the process

## Regulatory Emphasis

* Strong focus on treating customers fairly aligned with FCA Principles 6 and 12 (Consumer Duty)
* Prevention of debt escalation through appropriate forbearance measures
* Protection from aggressive practices in debt collection
* Support for customer engagement with debt advice services

## Compliance Implications

* Firms must maintain comprehensive records of all customer interactions and decisions
* Regular policy reviews required to ensure ongoing effectiveness
* Staff training implied to ensure consistent application of requirements
* Cross-jurisdictional considerations for customers in different UK regions

This chapter represents a comprehensive framework designed to ensure fair, proportionate, and supportive treatment of customers experiencing financial difficulties, with particular emphasis on preventing harm through inappropriate debt recovery practices while facilitating sustainable resolution of arrears situations.