Summary of ch\_07B.pdf

Summary of CONC 7 Sections 7.10-7.19

# Brief Overview

This chapter covers FCA regulations for firms dealing with customers in arrears, default, and debt recovery situations. It establishes requirements for treating vulnerable customers (particularly those with mental capacity limitations), proper disclosure practices, data accuracy, dispute handling, and specific notice requirements for P2P lending agreements.

# Key Points and Main Findings

## Treatment of Customers with Mental Capacity Limitations (7.10)

* Mandatory suspension: Firms must suspend debt recovery when notified or aware that a customer may lack mental capacity
* Customers should be given reasonable time to provide evidence of mental capacity limitations
* Recovery may continue through authorized third parties (e.g., lasting power of attorney)
* Links to vulnerable customer policies required under CONC 7.2.1R

## Disclosure Requirements (7.11)

* Prohibited misrepresentations:  
    
  Cannot falsely claim court authority or bailiff status  
  Cannot use official-looking misleading documents  
  Cannot falsely claim trade body membership  
  Cannot threaten legally impossible actions
* Cannot falsely claim court authority or bailiff status
* Cannot use official-looking misleading documents
* Cannot falsely claim trade body membership
* Cannot threaten legally impossible actions
* Must not state action has been taken when it hasn't
* Cannot threaten enforcement before obtaining necessary court orders
* Cannot falsely claim court authority or bailiff status
* Cannot use official-looking misleading documents
* Cannot falsely claim trade body membership
* Cannot threaten legally impossible actions

## Lenders' Responsibilities (7.12)

* Must not refuse to deal with:  
    
  Not-for-profit debt advice bodies  
  Customer representatives (without justifiable reason)  
  Customers developing repayment plans
* Not-for-profit debt advice bodies
* Customer representatives (without justifiable reason)
* Customers developing repayment plans
* Cannot contact customers directly when represented without consent
* Must accept payments tendered by third parties
* Cannot operate discriminatory policies against certain debt management firms
* Not-for-profit debt advice bodies
* Customer representatives (without justifiable reason)
* Customers developing repayment plans

## Data Accuracy and Outsourcing (7.13)

* Data requirements:  
    
  Maintain accurate debt and repayment history  
  Verify customer identity before pursuing debts  
  Update records when errors discovered  
  Pass accurate information to agents and credit reference agencies
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* Outsourcing obligations:  
    
  Exercise due care in selecting third parties  
  Ensure proper permissions held  
  Investigate complaints about third parties
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## Dispute and Settlement Handling (7.14)

* Dispute procedures:  
    
  Must suspend recovery when debt disputed on valid grounds  
  Firm must prove customer identity and debt amount  
  Must investigate and provide outcome information
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* Settlement requirements:  
    
  Give due consideration to reasonable repayment offers  
  Provide clear explanations for rejections  
  Cannot intimidate customers to increase offers  
  Must formally confirm accepted settlements
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## Statute Barred Debts (7.15)

* England/Wales/Northern Ireland: 6-year limitation period
* Scotland: 5-year prescriptive period (debt ceases to exist)
* Cannot pursue statute barred debts if no contact during limitation period
* Must not mislead about customer rights
* Must identify statute barred debts to prospective purchasers

## P2P Agreement Notice Requirements (7.17-7.19)

* Fixed-sum credit arrears notices:  
    
  Required when borrower misses two payments  
  Must include FCA information sheet  
  Follow-up notices every 6 months  
  Specific content requirements for borrower information
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* Running-account credit notices:  
    
  Required when last two repayments missed  
  Must accompany next statement  
  Include modified FCA arrears information sheet
* Required when last two repayments missed
* Must accompany next statement
* Include modified FCA arrears information sheet
* Default sum notices:  
    
  Required within 35 days of default sum becoming payable  
  Must specify amounts, dates, and nature of defaults
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* Must specify amounts, dates, and nature of defaults
* Required when borrower misses two payments
* Must include FCA information sheet
* Follow-up notices every 6 months
* Specific content requirements for borrower information
* Required when last two repayments missed
* Must accompany next statement
* Include modified FCA arrears information sheet
* Required within 35 days of default sum becoming payable
* Must specify amounts, dates, and nature of defaults

# Important Details and Conclusions

* Customer protection focus: The regulations prioritize protecting vulnerable customers, particularly those with mental capacity limitations, from inappropriate debt recovery practices.
* Transparency requirements: Firms must be transparent about their authority, status, and the legal position regarding debts, with strict prohibitions on misleading practices.
* Fair treatment obligations: Firms must engage constructively with customers and their representatives, consider reasonable repayment proposals, and cannot use intimidation tactics.
* Data integrity: Accurate record-keeping is essential to prevent pursuing wrong individuals or incorrect amounts, with obligations extending to information passed to third parties.
* P2P lending specifics: Detailed notice requirements ensure borrowers in P2P agreements receive appropriate information about arrears and defaults, with mandatory inclusion of FCA information sheets.
* Legal boundaries: Clear rules prevent firms from threatening or taking actions beyond their legal authority, particularly regarding statute barred debts and enforcement proceedings.

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