



Olibhia McGinley
Strategy and Competition Division
Financial Conduct Authority
25, The North Colonnade
London E14 5HS

2nd August 2016

Dear Ms McGinley

FCA SMALLER BUSINESS PRACTITIONER PANEL COMMENTS ON CP16/16

I am writing on behalf of the FCA Smaller Business Practitioner Panel in response to CP16/16, 'Minor Handbook changes related to mortgage borrowers with a payment shortfall'. Our comments relate in particular to question 1, 'Do you agree with our proposal to clarify MCOB 12.4.1BR and provide related Guidance?'.

Overall we consider the proposals in the paper to be sensible from the point of view of fees and charges. There should be appropriate charges made to people who are in arrears so that other customers are not cross-subsidising those who default on their loans. We do, however, have some concerns about the proposed amended wording of MCOB 12.4.1BR below:

'When a customer has a payment shortfall in respect of a regulated mortgage contract, a firm must ensure that no part of any payment received in respect of that contract is allocated towards paying interest or charges incurred because of a payment shortfall before the balance of the payment shortfall has been cleared.'

We do not believe that fees and charges for arrears should attract interest. If interest is to be charged we believe it must be clear that payments received in respect of arrears go to first to capital and contractual interest. Charges, admin fees and penal interest because of the arrears should then be paid once the capital and contractual interest are paid off.

We suggest the following wording clarifies this point:

'When a customer has a payment shortfall in capital and/or interest in respect of a regulated mortgage contract, a firm must ensure that no part of any payment received in respect of that contract is allocated towards paying additional interest or charges incurred because of a payment shortfall before the balance of the original payment shortfall has been cleared.'

Yours sincerely,

CLINTON ASKEW
Chair, FCA Smaller Business Practitioner Panel