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Consultation response

Which? response to the FCA consultation CP25/23 Deferred Payment Credit (unregulated Buy Now Pay Later): Proposed approach to regulation

Main points

- **Regulation remains urgently needed** - consumers have waited a long time for regulation so we welcome the FCA's swift action in issuing its consultation. Regulation cannot come soon enough given that:
    - DPC lending has grown to over £13bn in 2024;
    - 20% of UK consumers (10.9 million adults) used DPC in the 12 months leading up to May 2024 - making it the third most used consumer credit product; and
    - FCA research has found that *"DPC users are, on average, younger, less creditworthy, have higher levels of unsecured debt, and have higher levels of financial difficulty compared to the UK population. They are also almost twice as likely to be in serious financial distress than the wider UK population."*

- **We support the overall regulatory approach set out by the FCA -** In general, we are supportive of the FCA's proposed approach to regulating DPC. The FCA's proposals strike a balance between extending important protections to consumers and addressing the main consumer harms which emerged prior to regulation, whilst enabling innovative firms to continue to offer DPC products. A clear and robust regulatory framework will foster greater consumer trust and contribute to sustainable growth of the DPC sector.

- **Merchant-provided DPC must be carefully monitored and brought into regulation by HMT if it becomes more prevalent -** While we recognise that questions about the scope of regulation are for Government and Parliament to determine, we remain concerned that merchant-provided DPC will be exempt from regulation. We recommend that the FCA work closely with HMT to monitor this space in case this form of credit becomes more prevalent so that regulation can be extended, if required.

- **It is not appropriate to rely solely on the Consumer Duty to regulate DPC. Some prescription stands to benefit DPC firms and consumers -** While we are supportive of the Consumer Duty, we view it as complementary to regulatory rules and guidance. In the context of DPC, we consider that bespoke rules and guidance are required to give both firms and consumers certainty, and to ensure that DPC consumers - who are more likely to be vulnerable - can rely on receiving a consistent level of treatment. More broadly, DPC firms entering regulation for the first time may find it challenging to interpret and apply principles - a degree of prescription would provide helpful information to firms about their obligations and help to ensure consumers receive good outcomes.

Giving firms flexibility in how they apply rules will also create a degree of ambiguity and lead to different approaches. Yet it is this type of ambiguity that the current proposals to reform the Financial Ombudsman Service appear keen to avoid. The HM Treasury consultation suggests that "*where the FOS considers there is ambiguity in how those rules apply to the types of issues raised by a case, there should be a formal mechanism requiring the FOS to request a view from the FCA on the interpretation of its rules as they pertain to those issues.*" In the case of DPC, we could see the FOS seeking the FCA's view on how its flexible rules should be interpreted. It may therefore be more prudent for the FCA to provide a greater degree of prescription now when issues can be fully considered as part of the overall regulatory approach.

- **We agree the FCA should set out new rules specifying the product information that must be supplied to a consumer before they enter a DPC agreement -** This approach will provide helpful clarity on what firms must provide and enable consumers to make an informed decision about whether to take out the DPC agreement. The FCA also proposes to offer firms flexibility to tailor the way key product information is provided so they can develop innovative ways to convey information and to maximise understanding. We understand the rationale for this, but the FCA has highlighted concerns about the way online DPC journeys can pose risks to consumers through benefit framing, anchoring and obscuring information. Allowing firms flexibility over how key information is provided runs the risk of perpetuating this. The FCA should give more thought to how it can introduce greater prescription here without curtailing the ability of firms to innovate. If it decides to proceed with its proposals, the FCA should set out plans to scrutinise how firms are using this flexibility to deliver good consumer outcomes.

- **The FCA should be more prescriptive about communications sent to consumers who have missed a repayment.** Over three million DPC customers missed a payment in 2023, while 8% of UK adults (0.9m) who had used DPC paid a fee for late payment in the last 12 months. It is critical that the FCA ensures consumers in these difficult circumstances receive clear, easily understood and consistent information. Rather than give firms flexibility over how such communications are provided, the FCA should listen to debt advice charities and introduce greater prescription about the key information to be provided (e.g. signposting to free debt advice, using consistent terminology) so that it is helpful for consumers and their representatives, as well as DPC firms.

- **The regulatory regime developed for DPC should inform reform of the Consumer Credit Act (CCA) but should not be regarded as a blueprint -** the regulatory framework designed for DPC reflects the specific features of the product (e.g. its short-term nature, its 0% interest, its digital-first journeys) as well as its previous unregulated nature. As such, it must be recognised that it is not appropriate to seek to apply the DPC regime to the wider credit market.

- **The FCA should be alive to potential wider consequences of the DPC regime -** The new DPC regime would seem to offer certain advantages to DPC firms compared to the CCA regime which applies to other credit products (e.g. on disclosure). There is a risk that this could skew competition, or prompt firms to favour DPC products over other forms of credit. The FCA should be alive to this possibility, particularly negative consequences for consumers (e.g. in the availability of other credit products).

Responses to Questions

Question 1: Do you agree that our proposed rules will not have a material impact on groups with protected characteristics?

We do not agree. We consider - and indeed expect - the FCA proposals to have a material and more pronounced impact on some groups with protected characteristics, given DPC users are more likely to be women – 23% of women were DPC users, compared to 18% men - and use was higher among Black adults (26%) compared to White adults.

Given that these groups are more likely to be impacted by both the benefits of enhanced protection introduced by the extension of regulation to DPC, as well as the potential for reduced access to credit, the proposals will have a differentiated, and potentially material, impact on them. We suggest the FCA conduct robust monitoring and evaluation following the introduction of regulation to evaluate its impact on groups with protected characteristics to address any unintended negative consequences.

Question 2: Do you agree that our proposed rules for provision of information before entering a DPC agreement are appropriate?

Getting the provision of information right is essential. Currently, consumers can often be unaware of key terms, late fees, or that DPC is even a credit product, leading to impulse purchases and unexpected charges.

We support FCA proposals to require DPC lenders to disclose relevant information before a customer enters an agreement so they can make an informed decision about whether to take out the product. We agree that firms should be required to proactively give customers key product information in a clear and prominent way. The list set out by the FCA for what this information should consist of (at Paragraph 3.32) seems largely appropriate and provides helpful clarity to both firms and consumers about the information that should be provided. However, we suggest the following enhancements:

- **Emphasis on 'credit'**: The key product information should unequivocally convey that DPC is a form of credit, not just a payment option. Research shows a significant misunderstanding among consumers regarding the nature of BNPL - this needs to be addressed through the use of explicit language.
- **Consequences of missed payments**: While consequences of missing payments are listed, the severity of these, including the use of debt collection agencies and impact on credit files, must be prominent and explained in simple terms.
- **Section 75 CCA Protections:** The explanation of Section 75 CCA rights should be part of the key product information given its fundamental importance for consumer redress, rather than relegated to 'additional product information' which requires consumers to take further steps to access.

We note that the FCA does not propose requirements for *how* product information is presented. Instead, it suggests introducing guidance linked to these new rules and relying on the Consumer Duty, under which firms should consider how they communicate with their customers and seek to provide information in a way that best supports customer understanding.

We recognise that regulators may not be well-placed to design materials in a way that

maximizes consumer understanding. However, the FCA consultation highlights concerns about the way some DPC firms employ underhand tactics to influence consumer decisions such as benefit framing, anchoring, and obscuring information. Recent FCA research on digital design has also found that digital platforms can drive customers towards making quick decisions which may not be in their best interests or consistent with the Consumer Duty. In this context, and taking account of the fact that DPC users have lower resilience and are more likely to be in the bottom three deciles of the index of multiple deprivation, which could make them more at risk of increased indebtedness, the FCA should give more thought to how it can introduce greater prescription without unduly curtailing the ability of firms to innovate. If it decides to proceed with its proposals as drafted, it will be important that the FCA actively monitors activity in this space and stands ready to take swift action where firms fail to meet their obligations under the Consumer Duty.

The FCA proposes that, in addition to providing key product information, DPC providers must also make available 'additional product information'. We recognise that there are benefits to 'layering' consumer communications (e.g. to combat information overload and disengagement that can result from complex, lengthy documents). We would expect that even if information is provided in this way that the same obligations should apply to firms to provide information in a way that best supports customer understanding.

Question 3: Do you think that reliance on the Duty could deliver our policy objectives for information provided before an agreement instead? If so, how?

No, we do not believe that relying solely on the Consumer Duty would sufficiently deliver the policy objectives for information provided before a DPC agreement is entered into. The Consumer Duty sets out an overarching principle for firms to deliver good consumer outcomes and there are some high-level obligations in relation to the 'consumer understanding' outcome, but we do not consider that it provides a sufficient level of prescription to tackle the harms identified by the FCA and others, including Which?, in the DPC market. It is essential that the Consumer Duty is supplemented with rules and guidance which make clear the regulator's expectations and ensure consumer harm from DPC - which often stems from inadequate disclosure - is tackled.

We also consider that relying solely on the Consumer Duty would have the following negative impacts:

- **Lack of clarity for firms:** As the FCA acknowledges, relying solely on CONC 4.2 or the Duty would not provide firms with sufficient clarity on what key information they should provide to customers.

- **Risk of inconsistent application:** Without specific rules, firms might interpret key obligations differently, potentially leading to some firms deploying practices that exploit behavioural biases. This risk is particularly acute in the DPC market where some providers have been unregulated, and are therefore understandably not well acquainted with the obligations imposed by the Consumer Duty, and the FCA's expectations.

- **Greater onus on FCA's supervisory activities**: relying on the Consumer Duty would likely mean that the FCA would need to provide more individual support and guidance to DPC firms to clarify their obligations under the Consumer Duty, and it would also need to

undertake more onerous supervisory activities to check that DPC firms were providing adequate information to customers.

- **Premature:** There has been no comprehensive assessment of the impact of the Consumer Duty, or indeed the consumer understanding principle. More targeted reviews conducted by the FCA have revealed patchy implementation - for example, the FCA has criticised some firms for being unclear about what charges apply and when. It is therefore premature to consider how it could replace detailed rules, particularly for a product that is often used by vulnerable consumers.
- **Create two-tier obligations and skew the market**: firms offering DPC already stand to benefit from a bespoke regulatory regime which may offer them competitive advantages over providers of other types of credit. We do not think this advantage should be extended further through reliance solely on the Consumer Duty.

More broadly, we observe that giving firms flexibility in how they apply rules will create a degree of ambiguity and give rise to different approaches. Yet it is this type of ambiguity that the current proposals to reform the Financial Ombudsman Service appear keen to avoid, with the HM Treasury consultation suggesting that *"where the FOS considers there is ambiguity in how those rules apply to the types of issues raised by a case, there should be a formal mechanism requiring the FOS to request a view from the FCA on the interpretation of its rules as they pertain to those issues.*" In the case of DPC, we could see the FOS seeking the FCA's view on how DPC rules should be interpreted. It may therefore be more prudent for the FCA to provide more prescription now, when issues can be fully considered as part of the overall regulatory regime.

Question 4: Do you agree that our proposed guidance for provision of information to customers during a DPC agreement is appropriate?

We agree with the FCA that consumers must be able to understand the status of their current DPC agreements, so that they know when repayments will be due and how much they owe. We acknowledge that FCA research shows that 89% of DPC users found it 'very easy' or 'fairly easy' to keep track of repayments. Based on this, we are broadly content with the FCA's proposal to rely on guidance which reminds firms of their obligations in relation to consumer understanding when providing information to customers during their agreement.

However, we are concerned that this approach may mean consumers with multiple concurrent agreements - something which is more prevalent among DPC users compared to other fixed-sum personal loan agreements - may be at risk of losing track of their agreements, and when repayments are due. For these people, some form of proactive, standardised, and timely alerts about upcoming payments across all agreements would be beneficial, particularly where multiple concurrent agreements are entered into with different lenders who all adopt different practices and processes to keep customers informed.

We agree that it is right that a separate, prescriptive approach is required for communications to borrowers who have missed repayments or are in financial difficulty. We cover this in more detail in answering Question 5.

Our broad support for this approach is contingent on the FCA's proposed rules for provision of information before entering a DPC agreement remaining robust. Any dilution of these rules

would mean that a more prescriptive approach would likely be required for the information to be provided to a customer during the agreement.

Question 5: Do you agree that our proposed new rules on providing information to DPC borrowers who have missed a repayment are appropriate?

As the FCA's cost benefit analysis reveals, over three million DPC customers missed a payment in 2023, while the FCA's Financial Lives Survey 2024 found that 8% of UK adults (0.9m) who had used DPC paid a fee for late payment in the last 12 months. In addition, of DPC holders who had paid a fee for late payment in the last 12 months 56% recalled being contacted by the DPC provider before the fee was paid, but a further 28% said the fee was added to their account without their knowledge. In this context, it is critical that the FCA applies the appropriate rules to address the consumer harm caused.

We agree that the proposed new rules requiring firms to communicate with the customer as soon as possible after a missed payment and detail the consequences of failing to make a payment are appropriate and necessary. This addresses a gap in the unregulated market, where lack of timely information has caused, and exacerbated, consumer harm.

We support the desire for such communications to be both timely and clear, with the emphasis on communicating to DPC customers who have missed a payment "as soon as possible" and requiring clear and readily understandable information about outstanding sums, fees, and future consequences is crucial. We also welcome the requirement to provide information about free debt advice - this is vital for consumers in financial difficulty to access the support they need.

We would welcome clarity from the FCA on its expectations for DPC firms to support consumers who are approaching arrears / default but have not yet missed a payment (e.g. if a customer contacts a firm to inform it that they are struggling to make a future payment), specifically what would constitute sufficient support in this context.

We note that the FCA is giving firms flexibility when communicating to customers who have missed a repayment, since it "*wants firms to use their own judgement on what these communications should contain, and how they are delivered, so they maximise consumer understanding and support in line with the Duty*". Yet the FCA also states (at Paragraph 3.72 of the consultation paper) that "*Our proposed rules also do not generally prescribe the content of these communications, but for communications about missed repayments they do require firms to set out the following:*

- *Information that enables the consumer to understand which DPC agreement a missed repayment communication refers to.*
- *A notification about any sums which have become payable under the agreement and remain unpaid (including late fees, and any late fees that remain outstanding from any previous missed repayments under that agreement).*
- *Any immediate or future adverse consequences for the borrower from missing the repayment and, where relevant, any steps the borrower can take to alleviate those consequences"*

This is confusing. It would be clearer, and deliver better consumer outcomes, if the FCA consulted with, and listened to, debt advice charities and introduced greater prescription about the key information that should be provided (e.g. signposting to free debt advice, using consistent terminology) so that it is helpful for consumers and their representatives (e.g. debt

advisers), as well as DPC firms.

If the FCA proceeds with its proposals as currently drafted, we would expect it to adopt a proactive supervisory approach e.g. by reviewing a sample of such communications to ensure they are appropriate, include all relevant information, and deliver good outcomes for customers in difficult and challenging circumstances.

Question 6: Do you agree that our proposed new rules requiring firms to give notice before taking certain actions are appropriate?

Yes, we agree. The requirement for firms to give notice before taking actions such as terminating an agreement or enforcing terms is important. These communications will give consumers an opportunity to understand and mitigate adverse impacts, for example through contacting the DPC firm to request forbearance or make a payment, or seeking debt advice.

Question 7: Do you think that reliance on the Duty could deliver our policy objectives for our proposed new rules on firms' communications to DPC customers who have missed a repayment or where a firm intends to take certain actions instead?

No, we do not believe that reliance on the Consumer Duty could deliver the FCA's policy objectives for communications around missed payments and required follow-up actions.

As we state in our answer to Q3, the Consumer Duty sets out helpful overarching obligations to guide a firm's interaction with its customers, but it does not provide a sufficient level of prescription to direct firms' interactions with their customers and to tackle the harms associated with DPC. The need to do so is particularly acute for communications with customers who have missed a repayment. At this critical juncture, where consumers are experiencing financial difficulty, consistent and standardised communication is essential. The Duty sets high-level requirements but it does not mandate the trigger points or content necessary to ensure consumers receive vital information (e.g. immediate notification of missed payments, detailing consequences, signposting to debt advice etc) at a time of heightened vulnerability.

Question 8: Do you agree that applying our current creditworthiness rules and guidance to DPC lending is appropriate?

Yes, we strongly agree that applying current rules and guidance on creditworthiness assessments to DPC lending is appropriate and indeed absolutely vital. The current lack of robust affordability checks is a primary driver of one of the harms associated with the DPC market, and one which can lead to unaffordable borrowing and increased indebtedness.

Question 9: Do you have any views on the extent to which our approach to creditworthiness might inadvertently restrict access to DPC for customers who could afford it?

We recognise that applying robust creditworthiness rules may lead to some consumers being denied access to borrowing. However, the aim for regulation of DPC must be to ensure that borrowing is affordable. If a consumer cannot demonstrate affordability, then denying credit - while frustrating for the consumer at that moment in time - is a good, responsible outcome since it helps to prevent potential future consumer harm.

While some consumers who are denied DPC products due to failing creditworthiness assessments may be able to access other forms of credit, there will be some who are unable to access any form of credit. Since the FCA has found evidence that some consumers may be using DPC as a short-term means of bridging the gap to their next payday, highlighting its role not just in discretionary spending but also in managing cash flow, we consider that there is a case for the FCA to monitor and evaluate the impact of its regulation of DPC. This would allow it to understand the number and type of consumers excluded from accessing credit from other market-based solutions and to inform the development and provision of social policy interventions to offer credit on more affordable terms, which would be a matter for Government.

Question 10: Could we achieve appropriate outcomes if we relied substantively on the Duty instead (most notably the obligation to avoid causing foreseeable harm to consumers) rather than the creditworthiness rules in CONC 5.2A?

No, we would be firmly opposed to relying on the Consumer Duty for creditworthiness assessments as we consider this approach would not achieve appropriate outcomes.

While the Duty's obligation to avoid foreseeable harm should inform a firm's approach, it does not provide the specific methodology or expectations for conducting creditworthiness checks. Firms need clear rules (like CONC 5.2A) on what constitutes a "reasonable assessment". Without prescriptive rules, we are concerned that firms' approaches - and their interpretation of "avoiding foreseeable harm" - will vary significantly, leading to inconsistent and often inadequate affordability assessments. Proceeding with this approach would likely serve to perpetuate the harms that the introduction of regulation seeks to address. In addition, applying specific rules set out in CONC 5.2A would provide a clearer basis for FCA to take supervisory action and for consumers to seek redress via the Financial Ombudsman Service if an unaffordable loan was granted. Relying solely on the Duty would make such challenges more difficult.

We also think the FCA should strengthen and clarify its expectations on firms in relation to the creditworthiness assessments which need to be carried out for repeat borrowing. Paragraph 3.97 states that *"DPC is fixed-sum credit and under our rules requires a proportionate creditworthiness assessment before each advance of credit is provided. Successive lending of small amounts might not require as full an assessment as the original advance of credit".* We are concerned that this approach gives too much flexibility to firms in relation to repeat borrowing. Repeat use of DPC is already higher than other fixed-sum credit products, with FCA's Financial Lives data revealing that 17% of DPC holders used the product 5 to 9 times in the 12 months to May 2024, while 12% used DPC 10 to 24 times. The FCA should provide a clearer steer about its expectations for assessments in relation to repeat lending.

Finally, in developing a bespoke and proportionate regulatory framework, the Government and the FCA are giving DPC a competitive advantage compared to other forms of credit. This should not be extended further by deciding not to apply the same creditworthiness rules to DPC. Not only would this risk skewing competition further, but we are concerned that it could have the effect of undermining the wider credit reporting framework since assessments conducted for DPC - and reported to credit agencies - would not follow a consistent approach.

Question 11: Do you agree with our proposal to apply our creditworthiness rules to DPC agreements of any value, or do you have views as to alternative approaches to small sum lending (including relying on the Duty)? [59]

We strongly agree with the proposal to apply creditworthiness rules to DPC agreements of any value, including those of £50 or less. As the FCA's cost benefit analysis makes clear, *"more than half of DPC agreements are for less than £50 and we do not see any significant differences in negative consumer outcomes above and below this threshold".* We agree with the FCA that maintaining the exemption for small sum lending would lead to large numbers of consumers continuing to borrow without firms undertaking creditworthiness assessments, leaving these borrowers exposed to harm. We also note that a consistent approach across all values aligns with the preference of some firms for a single automated system so should offer efficiency savings, as well as helping to tackle consumer harm.

Question 12: Do you agree with our proposal for applying high-level standards and all other relevant Handbook provisions to DPC lenders? [64]

Yes, we agree with the proposal to apply high-level standards (PRIN, COND, SYSC, SM&CR) and all other relevant Handbook provisions to DPC lenders. This approach will ensure that DPC lenders must operate under the same fundamental obligations as other regulated firms.

Question 13: Do you agree with our overall approach to regulatory reporting? If not, why not?

Question 14: Do you agree that DPC should be subject to PSD returns? If not, what alternatives are there to requiring firms to submit PSD returns to meet our intentions?

Question 15: Do you agree that we should collect regular, predictable transaction level data? If not, why not? And how would you propose mitigating the risks of not collecting regular, predictable transaction-level data?

Question 16: Are there areas where firms may need longer implementation times? If so, how do you propose to mitigate any risks posed by a delay in firms providing us with data?

We answer Questions 13-16 together.

We agree with the overall approach to regulatory reporting, particularly the intention to collect robust data. Since the DPC market has been unregulated, there is an absence of robust data. The FCA's proposals should provide the FCA with necessary oversight of the newly regulated market, the actions of individual DPC providers, and the consumer outcomes delivered. Given the rapid growth and evolving nature of the DPC market, comprehensive and timely data is crucial for the FCA to supervise, identify emerging risks, and intervene where necessary.

We think that DPC should be subject to Product Sales Data (PSD) returns. Up to date, transaction-level data provided about DPC is essential for the FCA to gain granular insight into consumer borrowing patterns, product performance, and the prevalence of financial difficulty across the DPC sector.

We are concerned at the suggestion that some firms may need longer implementation times to comply with the reporting requirements. While we are not well-placed to provide views on the specific reporting challenges faced by firms, we would point out that regulation has been a long time coming, many vulnerable customers have been denied the regulatory protection that was deemed necessary by successive governments, and firms have already been given a lengthy lead-in time for regulation to commence. The FCA must review requests for further delay to

reporting requirements thoroughly and critically.

Question 17: Do you agree with our proposal to apply our rules in DISP Chapter 1 to DPC complaints?

Yes, we strongly agree with the proposal to apply DISP Chapter 1 rules to DPC complaints. This proposal will ensure that consumers receive fair and prompt handling of their complaints, aligning DPC with standards for other regulated credit products.

Question 18: Do you agree with:

- **The FCA's proposals to extend the Financial Ombudsman's CJ to DPC activities?**
    - Yes, we agree. The CJ provides an independent and impartial route for dispute resolution when firms do not resolve complaints.
- **The Financial Ombudsman's proposals to exclude pre-regulation DPC activities from the VJ?**
    - Since there was no recognised and commonly followed framework of standards of behaviour prior to the introduction of regulation for DPC – particularly in relation to key lending practices – we accept that the VJ will not be available for complaints arising from DPC agreements made before Regulation Day. However, this approach affirms the need for the FCA to move swiftly and introduce regulation to minimise the length of time that consumers will not benefit from access to the Financial Ombudsman for DPC activities.
- **And the Financial Ombudsman's proposals to expand the scope of the VJ to cover DPC activities carried on after regulation day from an EEA or Gibraltar establishment?**
    - Yes, we agree. This proposal will ensure that consumers dealing with firms operating from EEA or Gibraltar receive consistent access to redress as those dealing with UK-based firms

Question 19: Do you agree with the FCA's proposals to suspend complaints reporting rules for complaints arising from DPC activities for firms in the TPR until they become fully authorised?

No, we do not agree with the proposal to suspend complaints reporting rules for firms in the TPR in order to ease the burden on firms familiarising themselves with the new regime.

Complaints data is a vital early warning indicator of potential systemic issues or individual firm misconduct, something which is important in a newly regulated sector where consumer harm has occurred, and for a product often used by vulnerable consumers. Suspending reporting for firms in the TPR creates a significant blind spot during the transitional period, hindering the FCA's ability to monitor risks and identify firms that may not be meeting standards.

Question 20: Do you agree with our proposal not to extend FSCS cover to DPC activities consistently with the approach to other consumer credit activities? If not, please provide details on why you think DPC should be treated differently.

FSCS cover does not currently extend to consumer credit activities, and adopting a consistent approach would mean that it would not cover DPC. We think there would be merit in the FCA re-considering whether the exclusion of consumer credit activities from FSCS coverage remains appropriate. It has been some time since this was reviewed and in the interim there have been

several high profile lenders that have gone bust, leaving consumers with only a small proportion of the compensation they were owed due to upheld complaints about mis-sold loans. As part of this wider review, the FCA should consider whether DPC should also be covered by the FSCS.

Question 21: Do you agree with our proposals for the TPR?

We broadly agree with proposals for the TPR as a pragmatic approach to bring a large, previously unregulated market into supervision in a swift and orderly manner. Our primary concern with the TPR, as stated in our answer to Question 19, is the proposed suspension of complaints reporting which hampers effective oversight during a critical period.

Question 22: Do you agree with our assumptions and findings as set out in this CBA on the relative costs and benefits of the proposals contained in this consultation paper? Please give your reasons and provide any evidence you can.

Question 23: Do you have any views on the cost benefit analysis, including our analysis of costs and benefits to consumers, firms and the market?

We answer Questions 22 and 23 together.

We welcome the CBA, particularly given the challenges of data collection in an unregulated market and the difficulty in quantifying consumer benefits from regulatory interventions. We note that the long-term benefits of a healthier, more trustworthy credit market alongside improved consumer financial resilience should outweigh the short-term costs for firms. We also strongly support the argument that proportionate regulation leads to "sustainable growth" - growth driven by unaffordable lending is detrimental to both individuals and the wider economy in the long run.

We agree with the assumptions and findings in the CBA but comment on two specific aspects:

- **Unquantified benefits:** We recognise quantifying benefits is challenging, but we believe the CBA underestimates the positive impact of DPC regulation on consumers.
- **"Lost profits" as costs:** Framing reductions in unaffordable lending and late fees as "lost profits" for firms and merchants - while accurate in one sense - should be put in context. From a consumer standpoint, these are not "losses" but rather represent the prevention of harm and the reduction of revenue streams derived from such practices.

About Which?

Which? is the UK's consumer champion, here to make life simpler, fairer and safer for everyone. Our research gets to the heart of consumer issues, our advice is impartial, and our rigorous product tests lead to expert recommendations. We're the independent consumer voice that works with politicians and lawmakers, investigates, holds businesses to account and makes change happen. As an organisation we're not for profit and all for making consumers more powerful.

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