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Following the announcements from the Chancellor last week, the FCA has now issued new guidance for mortgage providers and lenders who are taking part in the Coronavirus Business Interruption Loan Scheme ("**CBILS**"). The FCA wants to "*help firms support consumers*" and hopes that their new guidance will reassure both borrowers and lenders.

Mortgage Payment Holidays

- The FCA's new guidance makes it clear that lenders should be granting borrowers payment holidays for an initial three month period if they are experiencing payment difficulties as a result of Covid-19 and where such borrowers have suggested that they may potentially experience payment difficulties or indicated to their lender that they wish to receive one. Lenders are not expected to investigate the circumstances surrounding a request for a payment holiday.

- There should be no additional fee or charge applied to a borrower's mortgage account as a result of the payment holiday, save for the additional interest which will be applied.

- The guidance makes it clear that lenders may decide to put in place options other than a three month payment holiday and there is nothing stopping lenders from providing more favourable forms of assistance to the borrower. The FCA suggests that one alternative could be reducing or waiving interest.

- However, Lenders shouldn't be automatically granting payment holidays to all mortgage customers, given the impact payment holidays have on the total amount payable under the mortgage, the term of the mortgage and/or the amount of contractual monthly payments.

- Lenders should be keeping their TCF obligations in mind and engage with borrowers at this difficult time to help borrowers avoid financial hardship as a result of Covid-19.

- Lenders must also ensure that the payment holiday has no negative impact on the borrower's credit score.

Repossession

- The FCA has made it very clear that no responsible lender should be considering repossession as an appropriate measure at this time as it is not going to be in the best interests of the borrower at this time and expects all lenders to stop repossession action. The FCA has made it clear that this applies to all borrowers, not just those whose income has been affected by Covid-19.

- Lenders should not be commencing or continuing with possession proceedings at this time unless it can clearly demonstrate that the borrower has agreed it is in their best interest. Lenders should therefore be reviewing all ongoing possession proceedings and those which it intends to commence carefully to ensure that it could clearly demonstrate to the FCA that the proceedings are in the best interests of the borrower.

- Lenders must also ensure that borrowers are kept fully informed and discuss the impacts of suspending any possession proceedings or any moves to commence possession proceedings.

Coronavirus Business Interruption Loan Scheme

- In relation to the CBILS, the FCA wants small businesses to be confident that access to the funds promised by the Government will be based on "*how their business has performed in the past and its future prospects – not its position today.*"

- Given applicants for these loans will likely be experiencing exceptional financial pressures at the time they apply for the loan, this does not mean that lenders are prevented from making the loan. Instead, lenders should be taking into account a range of evidence (such as historic trading figures and future forecasts). The FCA confirms that it is reasonable to expect a borrower's income to increase in the future and its expenditures to decrease as the Covid-19 pandemic comes to an end. The terms of the loan will also be relevant. Importantly, if the forecasted income does not materialist then lenders should consider deferring repayments until such income does materialise.

These are uncertain times and it is clear that lenders should be working with borrowers and taking steps to support them during a time of unprecedented exceptional financial pressures.

The FCA will review its guidance in the next 3 months as the situation develops and will issue amended guidance as appropriate.

Should you wish to discuss the FCA's new guidance in more detail or if you would like further assistance or advice at this time, please do not hesitate to contact Alexander Edwards or the Partner who you normally deal with.