Promoting finance that works for the economy, environment, and society

HM Treasury

Consumer Credit Act Reform – Phase 1 Consultation

Submission by The Financial Inclusion and Markets Centre

INTRODUCTION

The Financial Inclusion and Markets Centre is a new unit of the Financial Inclusion Centre created to focus on: financial services policy and regulation; financial market reform; evaluating the economic, environmental, and social utility of finance; and understanding the implications of the intersection between finance and technology including developments in AI, big data, and other technologies. [The Financial Inclusion and Markets Centre | The Financial Inclusion Centre]

We are pleased to submit a response to this important consultation on the reform of the CCA. For further information please contact:

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SUMMARY OF FIMC POSITION

We very much support the government's overall aim to update the system of legislation and regulation relating to consumer credit. We agree with the general thrust of the government's approach to move, where appropriate, core elements of consumer protection from legislation to regulation. We agree that regulation can be more flexible and agile than legislation. The Consumer Duty, ***if*** robustly supervised and enforced with enhanced regulatory transparency, could be effective.[1]

However, there are some very important specific aspects of the consumer protection regime which should be left in legislation either because those aspects are not possible to replicate in regulation or the deterrence effect supplied by the threat of legal action. We are very concerned that the Government has sided with industry on sanctions.

The secondary growth and competitiveness objective (which is now a *de facto* primary objective) is putting pressure on the FCA to promote the interests of the financial services industry. We have seen this on the pensions and investment side with the proposals for 'targeted support' which represents a weakening of consumer protection to enable firms to sell higher risk investment products to consumers with liability for redress reduced. We are concerned that the FCA will also come under pressure to adopt a weaker approach to consumer protection in consumer credit based on the misguided view that this will promote the growth and competitiveness of consumer credit markets and, in turn, help promote economic growth. In this new pro-growth environment, the removal of sanctions as a disciplining force on the consumer credit market is risky.

[1] See: FCA consultation on a new Consumer Duty | The Financial Inclusion Centre

More generally, we are concerned that the current regulatory regime and approach is not agile enough to protect consumers from financial 'innovation' generally but particularly at the intersection of finance and technology (especially now with the increased use of AI) and from the harms caused by embedded finance. We have a system which relies on government legislating new activities within the FCA's perimeter followed by what can be a long period when the FCA consults on regulations, rules, and guidance. Buy now, pay later is a case in point. The proposed reforms seem like a missed opportunity to make the regulatory system more responsive to and effective at dealing with the harmful effects of financial innovation.

The CCA reform is also an opportunity to improve the data held on the Register of Judgments, Orders, and Fines to promote fairer, more responsible consumer credit markets and to protect vulnerable consumers from harm. There are 5.4 million judgments on the Register.[2] It is estimated that there are 4.6 million individuals and small businesses with at least one CCJ outstanding on the Register.[3] The data held on the Register can have a significant impact on access to credit and consumer financial wellbeing generally.

Yet, only 12% of CCJs are marked as 'satisfied'.[4] We argue that, when a debt has been settled, the claimant (the creditor) should be required to send proof of payment to the courts rather than the defendant as is the case now. This would not be an onerous requirement for creditor firms but could make a difference to consumers' credit files and help repair their finances. In addition, it seems against the interests of natural justice that the fact that a person has actually settled an outstanding debt is not acknowledged in the public register and other data sets used by the market. Influential market actors such as credit reference agencies should also have to reflect this in their credit scoring algorithms.

We are particularly concerned about victims and survivors of economic abuse and coerced debt having county court judgments (CCJs) registered against them. We would urge the Government to include provisions in any revised regime requiring the removal of CCJs resulting from economic abuse/coerced debt from the Register. More details can be found in Q7, 8, and 9 below.

[2] Q2 2025 Statistics
[3] See: The Data That Matters Note, for disclosure, as well as Co-Director of FIMC, I am also Chair of Registry Trust which operates the Register of Judgments on behalf of the Ministry of Justice.
[4] It is not widely known that for a judgment to be marked as satisfied, the outstanding debt has to be settled and the defendant has to send proof of payment sent to the courts. For a number of reasons, the defendant may neglect to send this proof of payment.

RESPONSE TO SPECIFIC QUESTIONS

Question 1: Do you agree with our vision for a reformed regime?

We very much support the government's overall aim to update the system of legislation and regulation relating to consumer credit. We agree with the general thrust of the Government's approach to move, where appropriate, core elements of consumer protection from legislation to regulation. We agree that regulation can be more flexible and agile than legislation. The Consumer Duty, ***if*** robustly supervised and enforced with enhanced regulatory transparency, could be very effective.[5]

However, there are some very important specific aspects of the consumer protection regime which should be left in legislation either because those aspects are not possible to replicate in regulation or the deterrence effect supplied by the threat of legal action. We are very concerned that the Government has sided with industry arguments on sanctions.

The secondary growth and competitiveness objective (which is now a *de facto* primary objective) is putting pressure on the FCA to promote the interests of the financial services industry. We have seen this on the pensions and investment side with the proposals for 'targeted support' which represents a weakening of consumer protection to enable firms to sell higher risk investment products to consumers. We are concerned that the FCA will also come under pressure to support the growth of the consumer credit industry. In this environment, the removal of sanctions as a disciplining force on the consumer credit market is risky.

Question 2: Do you agree with our preferred approach to legislation?

Yes, we agree with the overall timing, phasing, and approach to legislative reform. However, as outlined above, we would urge the Government to include measures to reform the data held on the Register of Judgment, Orders, and Fines. The Government should also use this opportunity to consider ways of making legislation and regulation more agile and responsive to emerging consumer harm caused by financial innovation.

Question 3: Do you think the challenges in relation to the transitional provisions have been captured and what further thoughts do you have on possible appropriate transitional provisions?

We think the Government has captured very well the challenges in relation to the transitional provisions. We particularly welcome the emphasis in para 3.15 placed on ensuring that important consumer protections are not lost in transition. There is a risk that certain consumer protections could inadvertently 'fall between the gaps'. To this end, we would urge Government to engage closely and actively with consumer advocates, especially

[5] See: FCA consultation on a new Consumer Duty | The Financial Inclusion Centre

those working in the debt advice and rights sector, over and above the usual consultation process to identify these potential gaps.

Question 4: Do you agree with our proposal to repeal the information provisions from the legislation and for these to be recast as appropriate into FCA rules?

We very much support the view that in principle most of the information requirements could be replaced by FCA rules. This should provide for a more flexible, agile approach to the provision of key information.

But, it is important that this should not undermine the ability of consumers to exercise certain key rights in the CCA and should not remove the options of legal sanctions for failing to comply with requirements on information provision.

The details relating to the provision of information will very much depend on the FCA's approach to rule making. However, we would warn against the idea of allowing firms too much discretion as to how to present key information. The risks of allowing lenders and intermediaries flexibility and discretion on the presentation of information is all too obvious. It is sensible to assume that less scrupulous firms will game the opportunities provided by flexibility. This will harm consumers and those firms who do behave responsibly. Moreover, allowing too much discretion on presenting information is likely to add to consumer confusion and make it harder for consumers to compare offers and make effective choices.

Ensuring consistency on core information and timing would not prevent firms from using digital technology to make the consumer journey more engaging and consumer outcomes more effective. In some areas of personal finance, it is positive if the consumer journey is smooth. For example, it is productive if we can support consumers into making regular savings to help build financial resilience.

However, it is different with consumer credit where firms take advantage of consumers' propensity to borrow to fulfil immediate wants. This is particularly problematic with the advent of digital technologies and big data which allows firms to profile and target consumers in real time. It is very important that friction is injected into the consumer journey when taking out consumer credit, particularly with embedded finance, so that consumers are encouraged to think twice before taking on debt.

Technology should allow firms to better understand consumer behaviours and vulnerability before, during, and after the point of sale and ensure that friction points and safeguards are in place to protect against negative outcomes.

We are very much of the view that consistency on the form, content, and timing of information provision is needed. This needs to be mandated and prescribed along the product supply chain from initial marketing to consumers, selling of the credit, during the ongoing relationship and especially at times when consumers may be in financial difficulty and need support. It should cover the key risks associated with the product including important terms and conditions, consumers' rights, information about redress, and sources of independent support.

Question 5: Do you agree with our conclusion that the FCA regime without sanctions provides a robust consumer protection?

We very much disagree with the view that an FCA regime without sanctions would provide the same level of protection as a regime with sanctions. We agree with the points made by consumer organisations set out in para 5.29.

We do not understand the Government's approach to sanctions. It is not at all clear from the Government's argument what benefit there is from removing the option of sanctions. It does not matter that sanctions are rarely used. It is reasonable to assume that sanctions act as a deterrent. If they are rarely used then this should not be a problem from the industry.

There is no evidence that sanctions prevent genuinely socially useful financial innovation. The history of consumer harm in the consumer credit sector surely points to the need to adopt a precautionary approach to consumer protection – that is, the presumption should be to retain measures unless there is clear evidence that removing those measures would have a net positive effect on consumer protection. But, the government has not presented a convincing case that removing sanctions would deliver net benefits.

The Government says that the automatic sanctions attaching to the prescriptive information requirements often prevents firms from utilising digital technology to continue to improve consumer outcomes. But, this is not a reason to remove sanctions. This could be addressed by updating the provisions relating to the provision of information to accommodate technological changes and different communication channels.

The Government also says that removing the sanctions regime will mean that firms' liability for redress in the event of any wrongdoing is commensurate with the level of consumer harm. It is not clear what point the Government is making here or how it can back up that statement about redress being commensurate with the harm caused.

Effective regulation requires: i. the effective disciplining of market practices and behaviours to deter and prevent consumer harm; and ii. consumers having access to necessary redress in the event of harm occurring.

Consumers may well have access to redress under the FCA/FOS regime. But, there is obvious merit in retaining both the protections provided by regulation and the current sanctions as a back stop.

Moreover, as outlined above, the secondary growth and competitiveness objective (which is now a *de facto* primary objective) is putting pressure on the FCA to promote the interests of the financial services industry. We have seen this on the pensions and investment side with the proposals for 'targeted support' which represents a weakening of consumer protection to enable firms to sell higher risk investment products to consumers. We are concerned that the FCA will also come under pressure to adopt a weaker approach to consumer protection in the misguided view that this will promote the growth and competitiveness of the consumer credit industry and, in doing so, help promote economic growth. In this pro-growth environment, the removal of sanctions as a disciplining force on the consumer credit market is risky, particularly given that measures are also in train to curtail the powers of FOS.

Overall, we cannot see what merit there is in taking the risk of removing sanctions. We are disappointed that the Government has sided with the industry arguments on sanctions.

Question 6: What are your views on the following approaches for criminal offences? Officials would need to review these options in the context of the wider CCA Reform proposals. (a) Repealing all the criminal offences in the CCA, allowing the FCA to take enforcement action where possible; (b) Keeping all the criminal offences in the CCA; (c) Repealing all criminal offences (allowing the FCA to take enforcement action where possible) except those that relate to minors and canvassing off trade premises where criminal offences would remain.

We think option C is the most sensible option given that where unauthorised firms carry out such practices, they would be in breach of Section 19 of FSMA, which makes it a criminal offence to carry out a regulated activity without authorisation.

Question 7: a: Has this paper captured the key issues and barriers for each of the cross-cutting themes of: • Green Finance: [Yes/No] • Islamic Finance: [Yes/No] • Technology: [Yes/No]

<u>Islamic Finance:</u> We are unable to comment knowledgably on Islamic Finance. Others will be better placed to do. Although we very much support the Government's intention to address the barriers that are preventing the development of a well-functioning market.

<u>Green Finance:</u> With regards to Green Finance, we are also very keen to see the development of this market as long as it delivers real value for consumers and complements, but does not displace, much needed Government funding for green home improvement schemes. Developing a retail lending market for green home improvement loans could benefit better off households. But, if experience of the general retail lending market is anything to go by, a retail green finance market is unlikely to deliver much benefit for lower income households even though financially vulnerable households would stand to benefit from green home improvement schemes that cut energy costs. Potential providers are unlikely to be interested in this segment of the population, or only be willing to supply finance on punitive terms.

Government should work in partnership with local authorities to develop grants and low cost loan schemes for lower income households. Details of our work on these schemes can be found here**.** [Home Improvement Finance Schemes – Financial Inclusion Centre working with local government | The Financial Inclusion Centre]

We support the view of consumer groups that consumer protections like Section 75 (connected lender liability) will be critical to promoting consumer confidence in purchasing green finance products where firms are less established or products involve new technology.

Technology: With regards to technology, we are concerned that the current regulatory regime and approach is not agile enough to protect consumers from financial 'innovation' generally but particularly at the intersection of finance and technology (especially now with the increased use of AI) and from the harms caused by embedded finance. We have a system which relies on government legislating new activities within the FCA's perimeter followed by what can be a long period when the FCA consults on regulations, rules, and guidance.

Buy now, pay later (BNPL) is a case in point. Government has finally published (on 14th July 2025) the legislation bringing BNPL with FCA regulation.[6] We very much welcome this decision even if the decision to only include third party lenders leaves consumers at serious risk from tech platforms entering the market in their own right but not falling within the FCA regime.

However, the key point we want to make here is in relation to the length of time consumers were left unprotected from practices in the BNPL market due to the slowness of the system used to regulate innovations. The Woolard Review which recommended regulating BNPL was published in February 2021.[7] The FCA intention is that affected firms will come under FCA regulation in July 2026. This is comparatively quick by usual FCA regulatory consultation process timelines and we welcome the ambition to consult and agree rules within this time frame.

However, it will have been five and a half years from the point at which the Woolard Review recommended regulation and regulation actually happening. And, of course, consumer advocates had been raising concerns about this innovation prior to the Woolard Review. So, the length of time between concerns being raised about BNPL and the product being regulated is even greater than five and a half years.

We can understand that the Government wants to develop a regime which encourages innovation given its plans to promote the growth of the finance sector. But, we already have a very permissive approach in the UK which actively encourages innovation (the FCA is

[6] CP25/23: Deferred Payment Credit: Proposed approach to regulation
[7] The Woolard Review - A review of change and innovation in the unsecured credit market

highly regarded internationally on this point) but which is very slow to respond to emerging detriment.

In sectors such as financial services, the potential for harm is so great and the tendency of market culture and practices to cause harm is entrenched. The current approach, which is at the same time permissive and slow to respond, has left consumers exposed to repeated harms caused by financial innovations over the years. A different approach is needed particular with the increased use of technology in financial services which exposes consumers to even greater risks. A more agile approach is need to ensure that innovations are rapidly brought with the regulatory perimeter. Once within the regulatory perimeter, a more precautionary approach is needed to protect vulnerable consumers.

It is unfortunate that the Government has not taken the opportunity provided by the CCA reform to consider how to make the regulatory approach more agile and responsive to emerging harm caused by financial innovation particularly in the consumer credit market with its history of causing consumer detriment.

b: Is there anything else you think needs to be considered in our Phase 2 policy work?

As mentioned above in the summary of our position, the CCA reform is also an opportunity to improve the data held on the Register of Judgments, Orders, and Fines to promote fairer, more responsible consumer credit markets and to protect vulnerable consumers from harm. There are 5.4 million county court judgments (CCJs) on the Register.[8] It is estimated that there are 4.6 million individuals and small businesses with at least one CCJ outstanding on the Register.[9]

Only 12% of CCJs are marked as 'satisfied'. It is not widely known that for a judgment to be marked as satisfied, the outstanding debt has to be settled and the defendant has to send proof of payment sent to the courts. For a number of reasons, including stress and anxiety caused by problem debts, the defendant may neglect to send this proof of payment.

It would be much better if the claimant (the creditor) was required to send proof of payment to the courts. This would not be an onerous requirement for creditor firms but could make a difference to consumers' credit files and help repair their finances. In addition, it seems against the interests of natural justice that the fact that a person has actually settled an outstanding debt is not acknowledged in the public register and other data sets used by the market.

For this small intervention to have the greatest positive impact on consumer welfare, it would need to be applied to all types of creditor firms such as utilities and telecoms

[8] Q2 2025 Statistics
[9] See: The Data That Matters Note, for disclosure, as well as Co-Director of FIMC, I am also Chair of Registry Trust which operates the Register of Judgments on behalf of the Ministry of Justice

companies, not just to FCA regulated firms. Influential market actors such as credit reference agencies would also have to reflect this in their credit scoring algorithms.

Therefore, to help promote better functioning consumer credit markets we would urge the Government to pressure:

- the members of the UK Regulators Network (UKRN) to require regulated firms within their remit to adopt this small measure to protect vulnerable consumers; and
- the FCA to require CRAs to adapt their policies and algorithms to reflect satisfied judgments.

For creditor firms that are not regulated by statutory regulators, an alternative approach would be needed. Car parking companies are a case in point. In this case, government could ensure that industry codes of practice include a requirement to notify the courts that a CCJ has been satisfied.

Of course, getting individual regulators to act could take some time. Ideally, a general provision could be included in a revised CCA requiring claimants to notify the courts that a judgment has been satisfied.

We are also very concerned about victim-survivors of economic abuse and coerced debt having CCJs registered against them. We would urge the Government to include provisions in any revised regime requiring the removal of CCJs resulting from economic abuse/coerced debt from the Register.

According to research, 16% of adults in the UK (8.7 million) say they have faced economic abuse. Women are more likely to report experiencing financial abuse than men: one in five women experience financial abuse compared to one in seven men.[10] On average, a victim-survivor of economic abuse in debt owes £3,272 with one in four having debts in excess of £5,000 (24%). This equates to £14.4 billion of UK debt directly due to economic abuse.[11] Other research estimates that 1.6 million UK adults have experienced coerced debt in the last 12 months, most commonly involving consumer credit.[12]

It is not possible to say how many CCJs on the Register are as a result of economic abuse/coerced debt. But, given the numbers of judgments on the Register and the numbers affected by economic abuse/coerced debt, we think it is reasonable to assume that a significant number are.

Economic abuse/coerced debt is a criminal offence. It is surely against the interests of natural justice to allow judgments arising from economic abuse/coerced debt to stay on the

[10] Statistics-on-economic-abuse_March-2020.pdf
[11] Know Economic Abuse, Refuge https://refuge.org.uk/wp-content/uploads/2020/10/Know-Economic-Abuse-Report-2020.pdf
[12] Too close to home - StepChange Debt Charity

public Register. It means the financial system penalises people for being victims of abuse, for being victims of criminal acts, as their financial wellbeing is seriously adversely affected.

Indeed, it is not clear what the legal position is of enforcing debts, using CCJs, that have arisen from criminal offences.

The CCA reform could provide a good opportunity to lay the ground to ensure that judgments arising from economic abuse/coerced debt are removed from the Register (and never registered in the first place) and any harm done unwound.

Question 8: Do you agree with the provisional assessment that, on balance, the Government's proposed proportionate approach to reform mitigates the negative impacts on those sharing particular protected characteristics and retain the positive equalities impacts of the products?

Question 9: Do you have any further data you can provide on the potential impacts on persons sharing any of the protected characteristics?

The reforms are unlikely to encourage consumer credit providers to serve households facing exclusion or discrimination in the consumer credit market. The market is unable to serve, or is not interested in serving, millions of households on terms that make sense for households and firms. The reforms are unlikely to address that basic fact.

Unfortunately, the proposed reforms could further harm the interests of people with protected characteristics. The Government's decision to remove the deterrent effect of sanctions is likely to more harmful to people with protected characteristics as they tend to be more affected by detrimental practices and market failure in the consumer credit sector.

We do not think the Government proposals go far enough to protect the interests of people with protected characteristics. Our proposals to reform the public Register of CCJs would benefit financially vulnerable consumers generally. But, these could produce particular benefits for BAME communities, people with a disability, and women given the particular barriers they face engaging with retail financial services.

According to data presented by the Registry Trust, the 50 areas with the highest density of consumer CCJs, adjusted for population, have a higher proportion of BAME households.[13]

Moreover, other research shows that minority ethnic households are: more likely to be rejected for financial products; less likely to say they are coping financially; and more likely to need debt advice to deal with financial problems.

People with a disability are more likely to be struggling financially and are less well served by retail financial services.

[13] Data presented at the Registry Trust Annual Review, 19th June 2025

Women, who are more likely to be on low or uncertain particularly as they are more likely to have caring responsibilities face similar disadvantages when dealing with financial services, as well as being much more likely to be victims of economic abuse/coerced debt.[14]

This marks the end of our submission
Financial Inclusion and Markets Centre
July 2025

[14] See: Proposals to protect consumers, and promote financial inclusion and resilience p11/12 for data