

The LSB's Information for Practitioners

The Standards of Lending Practice for
business customers

Product execution

October 2020

This document has been produced by the LSB and provides non-exhaustive examples of the approach Registered Firms (Firms) may wish to take into consideration when seeking to adhere to the Standards of Lending Practice for business customers (the Standards) on product execution.

Registered Firms must be able to demonstrate to the LSB that they are adhering to the Standards of Lending Practice; however the LSB does not monitor compliance with the content of this document and as such, it is not intended to be prescriptive nor binding on Registered Firms. The LSB acknowledges that each Firm will have its own way of demonstrating that it is adhering to the Standards without the need to refer to, or take account of, the content of this document.

Where a reference is made to the Consumer Credit Act 1974, as amended (the CCA), the Consumer Credit Sourcebook (CONC), other Financial Conduct Authority (FCA) requirement or wider legislation, the examples or suggestions which follow represent the LSB's view on how the Standard could be achieved.

This document will be kept under review and updated to reflect examples of good practice being undertaken across the industry in this area.

Customer outcome: information provided to business customers will be clear in terms of presentation and in clarifying any action that the customer needs to take. Business customer requests will be dealt with in a timely, secure and accurate manner

Firms will achieve this: with systems, processes and controls that aim to provide an accurate view of the customer's relationship with the firm and the relevant lending products they hold. This should be underpinned by appropriately skilled and knowledgeable staff

- 1. If a customer has been provided with product that has a promotional feature, the customer should be notified of its expiry date/withdrawal in a clear and timely manner and how this will impact, where relevant, upon the costs associated with using the product**
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A promotional feature may include: an introductory rate or feature of a credit card or loan product, such as a credit card which is 'fee-free' for the first year or a payment holiday at the outset of a loan.

Where a promotional feature is coming to an end, the customer should be notified of the expiry of this offer. For the purposes of credit card customers, the notification could be shown on the front of the customer's statement or in a separate, prominent personal notification to the customer. If there will be a change to the interest rate on the customer's credit card, they should be provided with an early warning of how this will impact upon the costs associated with using the card.

A timely reminder that the promotional rate is coming to end will prompt customers to consider whether they need to take some form of action or will act as a reminder to the business customer to consider how the end of the promotional feature will impact on the overall cost associated with the product.

When providing a credit card product to customers to whom CONC requirements apply, Firms should also refer to the work being undertaken by the FCA as part of its Credit Card Market Study.

- 2. Where a firm offers a fixed rate lending product, clear information should be provided to the customer on any breakage costs associated with the product and how this will be calculated. The customer should have access to this information during the period of the borrowing**
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This Standard is focused on ensuring the customer has the information they need to understand the financial implications associated with redeeming their loan early. Information provided to the customer during the sales process will have set out whether the product contains a breakage cost and what this means. Where a Firm offers a fixed rate lending product, it should ensure that the customer is provided with clear information setting out what a breakage cost is, how and when it will apply and how this will be calculated. During the life of the borrowing, the customer should be able to access the information required to enable them to understand how the cost will be calculated and what the cost will be.

Depending on the level of borrowing, Firms may be able to provide defined break costs. If this is not possible, Firms may wish to provide a worked example of how the fee is calculated to further aid customer's understanding of this element of their product.

3. Firms should provide customers with written notice of any changes in interest rates or charges. This requirement does not apply where the increase related to a published rate, for example, base rate or other benchmark

This Standard is seeking to ensure that business customers are better prepared to take account of changes in interest rates or charges and that they have an opportunity to consider whether this will have an impact on the business' ability to maintain its repayments. Advanced notification can enable customers to plan ahead and consider the impact a change on, for example, their variable rate loan may have on their financial situation.

Providing customers with this information can also help to identify any early indications of financial stress as it may prompt the customer to make contact with the Firm, should the business be concerned about the impact of a rate increase, or change to a charging structure may have on their ability to maintain their financial commitments. Firms may wish to consider how the provision of this information links into any monitoring work which is undertaken and, from the information the Firm has on the performance of the business, whether an increase will impact upon its ability to maintain its financial commitments. If so, Firms should engage with the customer with a view to understanding the nature of the issue for example, whether it is a short term cash flow situation or whether there is a longer term issue which will impact on their ability to maintain their commitments. Firms should encourage customers to engage with them and set out any support which may be available.

The requirement does not apply where the customer is provided with a variable rate which is linked to Bank of England base rate, LIBOR or any other benchmark. Where changes are to the customer's advantage, the LSB would expect that, in the interests of transparency, customers are advised of the change but accept that Firms may well make immediate changes in this regard.

4. Where a customer's borrowing is linked to an interest rate benchmark and this will be transitioned to an alternative rate, firms should ensure that customers are provided with timely notification of when this change will become effective

To ensure customers are provided with timely notification of a change to an alternative benchmark or reference rate, Firms will have to consider what information customers will need to be given as part of this process of transition and how best to engage a customer throughout the transition, taking into account customers' specific circumstances.

To help ensure fair customer outcomes, Firms may wish to refer to any available best practice guidance, where it is relevant. For instance, where firms are transitioning customers with LIBOR-linked products onto new reference rates, they may wish to refer to the Best Practice Guidance produced jointly by the LSB and UK Finance. This guidance can be found at: <https://www.lendingstandardsboard.org.uk/resources/best-practice-guidance-transition-from-libor-for-sme-customers/>

5. Firms should have processes in place to deal with unauthorised credit card transactions. If customer fraud is suspected, the burden of proof is on the firm to prove this is the case

When considering a customer's claim that they have not authorised a transaction on their credit card account, the burden of proof lies with the Firm and not with the customer. It is recognised that for the purpose of the business credit card product, there will be a number of cardholders linked to one account. The LSB would expect the Firm to provide proof where it has reason to believe that the customer has provided authorisation.

Firms will have policies and processes in place regarding unauthorised credit card transactions for business customers caught under CONC/CCA.

Firms should consider a customer's claim on the basis of the individual circumstances. The LSB would expect that unless the Firm can show that the customer has acted fraudulently, the customer's liability for their credit card being misused should be limited as follows:

- if someone else uses the card details without the customers/cardholder's permission, and the card has not been lost or stolen, the customer will not have to pay anything;
- if the card is used before the customer/cardholder has received it, the customer will not have to pay anything.
- in the event that card details are used by someone else without the customer's/cardholder's permission, for a transaction where the customer/cardholder does not need to be present, the customer will not have to pay anything.
- where a credit card transaction has not been authorised by the customer/cardholder, any interest or other charges that may have been applied as a result of the transaction should be refunded.

6. Firms will maintain the security of customer' data but may share information about the day-to-day running of a customer's account(s), including positive data, with credit reference agencies where the Firm has agreed to follow the principles of reciprocity

Firms can provide Credit Reference Agencies (CRAs) with default information about a customer's debts if:

- the customer has fallen behind with their payments
- the amount owed is not being disputed by the customer (a customer dispute is relevant if it refers to the amount of money owed by the customer and is genuine, reasonable and unresolved) and
- the customer has not made a proposal that satisfies the Firm for repaying the debt following the Firm's formal demand.

The customer should be given further notice of the intention to disclose the information at least 28 days before the disclosure is made, for example, when a default notice or formal demand is given. At the same time, customers should be provided with an explanation about how default information registered against them may affect their ability to obtain credit in the future. This notice means that customers have 28 days to try to repay or come to some arrangement with the Firm before default information is passed to the CRA.

The requirement to share data does not apply in specialist customer segments, where sharing CRA data is not always appropriate. Firms should ensure that data is up-to-date, accurate and complete before it is passed to credit reference agencies and where discovered, any errors are addressed and corrected promptly.

7. Firms should ensure that where an individual provides a guarantee/indemnity or other security, they are able to request information regarding their current level of liability, as long as the customer gives their permission and confidentiality is not breached

This Standard applies to situations where an individual offers some form of security such as a personal guarantee or indemnity. The intention being, that the individual providing the guarantee or security is able to access information regarding their level of liability from the Firm so that they can assess the likelihood of being called upon to pay. If the individual requests confidential financial information (with the exception of the current level of liability), such as details of balances, copy statements, etc, we would expect that Firms seek the customer's consent before providing this information. Firms should also tell the guarantor the extent of their liability, including the addition of interest and charges after demand has been made.

The customer should be made aware that if they want the Firm to accept a guarantee or other security from another individual that the Firm may ask for permission to give confidential information about the customer's finances to the person providing the guarantee or other security, or to their legal adviser.

8. Firms should comply with the customer's request to co-operate with their professional adviser(s) during the lifetime of the relationship. All communication with the customer/their adviser will be undertaken in a clear and open manner

This Standard is intended to ensure that a customer's professional advisors - legal, financial or otherwise - are not prohibited from participating in discussions with the Firm. Having a third party present can support the customer during their engagement with their lender providing, for example, explanations, clarifying points of discussion etc. The LSB would expect Firms to fully co-operate with the customer's adviser, at whichever stage of the relationship the customer is at. The LSB recognises that there may be circumstances where the customer will not be present and that the Firm may need to ask for the customer's consent to engage with the adviser.

9. Firms should ensure that any changes to the terms of the customer's agreement are fair and transparent. The customer should be provided with clear information regarding the reason for the changes and provided with a reasonable amount of time to seek further clarification, or where appropriate, alternative sources of finance

Customers should be told how they will be notified of changes to terms and conditions when they take out their borrowing. The purpose of this Standard is to ensure that customers are treated fairly and are provided with clear information, which is communicated within an appropriate timeframe, to enable them to consider how any changes will impact upon their business.

The LSB recognises that amendments to the terms of the agreement may be required for a variety of reasons and in line with PRIN, the LSB would expect a Firm to have regard to the information needs of its customers, and communicate with them in a way which is clear, fair and not misleading.

The Standards apply to a wider range of customers than its predecessor, the Lending Code, did and therefore what is a reasonable amount of time will depend on the individual circumstances and may take into account a number of factors such as, the terms of the agreement, the sophistication of the customer and the amount and complexity of the borrowing.

Where a Firm wants to make changes to a customer's agreement which has no fixed end date, for example, a credit card or bank account, and the customer can end the relationship without any charge, it should tell the customer when these changes will be made. If the customer decides to close their bank or credit card account, they should be provided with details of how to do this and any implications of doing so.

For customers caught under CONC/CCA, such notice must be given at least 30 days before the change takes effect. Further requirements in relation to this customer group is outlined within CONC/CCA, Firms may also wish to consult the Information for Practitioners on the Standards of Lending Practice for personal customers: <https://www.lendingstandardsboard.org.uk/the-standards-for-personal-customers/>

10. Where a change is made to the relationship management process which will impact on the customer, firms should provide the customer with advance notice, and the reason for the change. Where this will require action from the customer, they should be allowed sufficient time to complete this, taking into account the channel currently used

This Standard is intended capture wholesale change where the customer may be moving from a relationship managed environment to telephony based, or where a business has matured and/or undergone significant growth which warrants a relationship managed approach. It is not intending to capture changes due to a change in personnel, where there hasn't been a change in the channel through which the customer's account is managed.

As a minimum, the LSB would expect the customer to be provided with not less than two month's notice in order to provide time to consider what other options, if any, they wish to pursue. Firms may wish to take into account information which is known about the customer prior to the change in approach, this could include non exhaustive examples such as:

- whether the customer is experiencing financial stress
- whether any applications are in train and if there would be a benefit to have these concluded prior to the move
- where known, any significant changes to the overall control of the business which may warrant a longer lead in time to prevent additional impact on the business customer
- whether the Firm knows, or has reason to suspect that the customer may be vulnerable.

This information could be used to more closely manage the transition or may prompt the Firm to consider whether the customer would benefit from additional support.

The move to a new channel may require changes in the type and regularity of information provided by the business customer to the Firm. The LSB would expect that where these changes place additional obligations on the customer, that any timeline associated with this is agreed with the customer and that they are provided with an explanation of why this is required.

11. Firms should comply with a customer's request to have access to the basic information held by the Firm about their products/accounts. The request should be dealt with in a timely and efficient manner

This Standard is intended to capture the requirement for banks to respond to requests from their customers in an open and transparent manner, in relation to information it holds about the customer's products. It is not intended that the customer is provided with access to sensitive information relating to, for example, risk appetite, internal monitoring or underwriting policies, but they should be provided with sufficient amount of information to answer their query in an open and transparent way.

This could include information regarding the application or operation of covenants, guarantees, security, or other forms of information which will help the customer to understand what their obligations and liabilities are. Other examples may include repayment history, information held on the performance of the business or other information required to enable them to effectively manage their account/products with the Firm. The LSB acknowledges that not all information held by Firms is suitable for disclosure but would encourage firms to consider any request from the customer in the spirit of this Standard.

12. Firms should ensure that requests for a Deed of Priority or Wavier are dealt with quickly and efficiently, in line with the industry protocol

The protocol sets out the requirements regarding a request for Deed of Priority or Waiver which reflects the industry's commitment to making sure the process of responding to the request for a Deed of Priority or Waiver is handled as quickly and efficiently as possible, and to ensure a customer is given a response as quickly as possible as regards the agreement to proceed with the request or otherwise.

The protocol can be found at: https://www.bba.org.uk/wp-content/uploads/2014/03/BBA01-428374-v1-deeds_of_priority-final.pdf