LSB
STANDARDS OF LENDING PRACTICE
BUSINESS CUSTOMERS

Review of the Standards of Lending Practice for business customers

Consultation response and next steps
February 2024

Contents

1. Executive summary

The Standards of Lending Practice for business customers (the business Standards) are the only regulatory framework in place specifically focused on ensuring good outcomes for business customers accessing and using finance.

In June 2023, as part of our regular cycle of reviews of our Standards and Codes, we launched a review of the business Standards with a public consultation to consider:

- How changes in the regulatory, social and economic environment should be taken into account within the Standards.
- Whether the protections in the Standards continue to reflect industry best practice both in terms of emerging areas of focus such as sustainability and inclusion, as well as how products are delivered to business customers.
- Whether the products covered by our business Standards, or wider Standards framework, remain appropriate or whether the product scope could be expanded to ensure consistent protections for business customers when accessing products outside of the current scope.

Feedback received from stakeholders indicated that the existing framework and content of the Standards continues to set appropriate levels of protections for business customers. As UK businesses continue to face challenges from high inflation, lower levels of consumer spending and interest rates that are higher than have been seen for more than a decade, it was noted that the Standards set clear requirements on monitoring customers to identify signs of financial stress, the treatment of business customers in financial difficulty, and those in vulnerable circumstances.

While feedback to the consultation highlighted areas where there would be a benefit in further guidance, such as in the application of the business Standards within the digital journey, no substantive changes to the current requirements were identified. However, the review identified there was a gap in good practice to enable firms to better support business customers to achieve their sustainability ambitions and that more could be done to ensure that all customers are able to access and use their products in a way that suits their particular needs. Throughout the report we have set out the steps will be taking to address the findings of the consultation.

Stakeholders highlighted that at the time of the consultation, there were a number of regulatory activities that were yet to reach their conclusion which have read across to business customers, such as HM Treasury's review on the reform of the Consumer Credit Act; the embedding of the Financial Conduct Authority's (FCA) Consumer Duty for new products and ongoing implementation for closed products; as well as its consultation on the thresholds for SME access to the Financial Ombudsman Service (FOS). We are also mindful that shortly after the launch of the consultation, the Treasury Committee announced its inquiry into SME finance and this review is ongoing.

This report provides a summary of the consultation responses received and sets out the next steps for the LSB across the following areas:

- The ongoing monitoring of regulatory developments, and the output of our oversight work, to ensure the business Standards continue to reflect wider regulatory requirements.
- Exploration of how the business Standards and/or supporting guidance can be updated to reflect the emergence and provision of sustainability linked lending, and support firms to deliver good customer outcomes in this space.
- Taking forward further exploratory work on how the Standards framework could be extended to a wider range of products and sectors to ensure a consistency of protection for business customers.
- The development of guidance to support the application of the business Standards within the digital journey, as well keeping a watching brief over the business lending landscape to inform our view as to whether amendments may be required to reflect the range of business finance providers.
- The development, or enhancement of existing guidance to:
    - o support firms to consider a broad range of customer circumstances and needs throughout the product design, approval and review stages to ensure that products and services work well for all business customers; and
    - o support the application of the Standards in areas such as personal guarantees and declined applications.

2. About the LSB

The LSB is the primary self-regulatory body for the banking and lending industry. We drive fair customer outcomes across financial services firms to ensure that when providing lending products and payment services to consumers and businesses, there is a clear focus on good outcomes throughout the customer journey. We have an agile approach to regulation, and we set and maintain pioneering Standards and Codes which are focused on setting appropriate protections for personal and business customers. Our work to prevent customer harm is underpinned by a robust and independent oversight framework, and accompanied by exceptional market intelligence and the ability to identify emerging risks.

a. Background

The business Standards set the benchmark for good lending practice. Launched in 2017 and superseding the relevant micro-enterprise provisions of the Lending Code,[1] the Standards set out a framework of protections across the lifecycle of lending products provided to small and medium sized enterprises (SMEs) with a turnover of up to £6.5m.

Further enhancements to the business Standards took place in 2019, with the scope of the protections being extended to businesses with a consolidated turnover of up to £25m. Commercial mortgages and provisions relating to portfolio management and use of turnaround units were also brought within the protections of the Standards.

The framework of protections provided across commercial mortgage, loan, overdraft and credit card products for business customers, are the only one of its kind in place specifically focused on ensuring good outcomes for business customers accessing and using finance.

Although out of scope for the purposes of this review, there are also a set of Standards focused on asset finance which provide protections for business customers with a consolidated turnover of up to £6.5m when accessing asset finance products.

1 The Lending Code was in place between 2009-2017 and comprised rules-based provisions for personal and micro-enterprise customers.

b. Application of the Standards

There are currently 17 registered firms comprising 34 brands signed up to the business Standards, with further firms in the registration pipeline. Registered firms include the largest retail banking groups, specialist lenders and debt collection firms currently lending to, or carrying out related activities for business customers.

The Standards have been drafted to recognise the range of business types, structures and sophistication of the businesses which fall under their protection. For those with a turnover of up to £6.5m, and which do not have a complex ownership structure (for example, businesses with overseas, multiple, or layered ownership structures), the Standards apply in full. The £6.5m threshold recognises the varying degrees of sophistication of businesses included within this group which can comprise sole traders, partnerships and incorporated entities.

For lending to businesses above the £6.5m turnover threshold, as lending is more bespoke at this stage, registered firms are expected to be able to evidence how they are achieving the required customer outcome for each stage of the customer journey. This approach enables firms to evidence that the required outcome has been achieved when lending to businesses who will typically have more complex and bespoke lending needs.

c. Supporting the delivery of government Covid-19 lending schemes

We undertake a regular cycle of reviews to ensure the Standards and Codes which sit within our remit remain effective and continue to set appropriate levels of protections for the relevant customer base.

In 2020, we delivered, at pace, temporary updates to the Standards to support the roll out of the Coronavirus Business Interruption Loan Scheme (CBILS) and the Bounce Back Loan Scheme (BBLS). In designing the lending schemes, HM Treasury and the British Business Bank recognised the value and impact of the business Standards setting out good practice in the treatment of businesses in financial difficulty. The requirements of the financial difficulty provisions of the Standards were taken into account when developing guidance for firms to support customers as they began to repay their borrowing.

The temporary updates were designed to support firms in delivering products to business customers under the government lending schemes and to ensure that registered firms were able to give effect to the way the schemes operated but without breaching the requirements of the Standards.

d. Financial Conduct Authority recognition

The Standards were recognised by the FCA in early 2020 under its framework to support and encourage the development and adoption of good quality industry codes of conduct. This process formally recognises industry codes covering certain unregulated activities, in this case business lending. The Senior Managers and Certification Regime (SM&CR) requires relevant individuals within firms to 'observe proper standards of market conduct'. Under the FCA's recognition process, behaviour that is in line with an FCA-recognised industry code will generally indicate that the obligation to observe 'proper standards of market conduct' in relation to unregulated activities is being met. Therefore, in adhering to the business Standards, registered firms are demonstrating that they are meeting the expectations of the FCA and SMCR regime. Re-recognition of the Standards was successfully obtained at the start of 2023 for a further three years.

3. 2023 review of the Standards of Lending Practice for business customers

The review was launched with the publication of a consultation paper in June 2023. This sought the views of our registered firms, wider industry and stakeholders to understand whether the Standards continue to set the appropriate framework of protections for business customers, with consideration given to a number of areas:

- **The impact of economic and regulatory developments;** whether any changes in the business lending landscape should be taken into account when setting best practice on the treatment of business customers.
- **The protections provided by the business Standards;** whether the protections in the Standards continue to reflect industry best practice.

- **Opportunities to develop new best practice and guidance;** exploring whether the business Standards could build on more recent areas of focus for the industry, such as inclusion and sustainability. This also considered whether the way in which products are provided to customers is fully reflected within the Standards.

- **The scope of the business Standards;** looking at whether the products covered by our business Standards, or wider Standards framework, are appropriate or whether the product scope could be expanded to ensure consistent protections for business customers when accessing and using finance.

The consultation closed in early August 2023, with a total of 15 responses received from lenders, trade bodies, business representatives and other interested stakeholders.[2]

This report provides a summary of responses received to the consultation and sets out our next steps. In addition to submissions to the consultation, where relevant, we have also drawn on the findings from our insight and oversight activity; engagement with relevant industry and SME representatives; and other relevant available sources of information.

4. Summary of feedback received and next steps

a. Economic and regulatory developments

We sought views on whether amendments were required to the Standards to take account of developments in the wider regulatory and economic environment.

SMEs are vital to the UK economy; they drive growth, provide employment opportunities and open new markets. These range from local shops to hospitality, construction, motor trade, retail, real estate, manufacturing, agriculture, forestry and fisheries, tech firms and start ups and beyond. At the start of 2023, there were an estimated 5.6 million UK private sector businesses. 1.4 million (26%) businesses had employees and 4.1 million (74%) did not employ anyone aside from the owner(s). SMEs account for 99.9% of the business population.[3]

2 The 15 responses also included the views of firms who elected to respond via their respective trade bodies.

3 [Business population estimates for the UK and regions 2023: statistical release]

The events of recent years have had a significant impact on the way in which SMEs operate, and whatever their size, all have been impacted by a range of social, economic and political changes. These include the Covid-19 pandemic, Brexit, supply chain and labour shortages and cost-of-living challenges. UK businesses continue to face challenges from high inflation, lower levels of consumer spending and interest rates that are higher than have been seen for more than a decade.

Given the significant role that private sector businesses play in the economy, the shocks that businesses have had to weather over the past few years, and in the absence of statutory regulation that covers the full breadth of the business population, we wanted to understand whether the Standards framework continued to set the appropriate level of protections for business customers.

The general view from stakeholders was that the Standards under their current approach, set an appropriate level of protection when it comes to business lending. The view expressed by a majority of respondents was that substantive changes to the current content of the Standards was not required at this time. It was noted that the Standards set clear requirements on monitoring customers to identify signs of financial stress, the treatment of business customers in financial difficulty, and those in vulnerable circumstances.

However, feedback highlighted the regulatory developments which have taken place since the last review of the Standards such as the introduction of the Consumer Duty in July 2023, and that there would be a benefit to ensuring there is consistency of terminology, between the Standards and the Duty. This would be with a view to ensuring there is no ambiguity between the definition of terms used and to ensure consistency between the outcomes that they aim to achieve. HM Treasury's review of the Consumer Credit Act (which would capture some elements of business lending), and the FCA's review of SMEs' access to the FOS were also raised. Responses received from firms highlighted the importance of the Standards taking account of any new changes that are introduced once this regulatory work has concluded with a view to ensuring that the Standards are complementary of any new regulation that is introduced.

A suggestion was also raised for additional engagement, beyond that which currently takes place across the LSB's policy, compliance and insight teams, with registered firms and industry stakeholders in the form of a forum to consider ongoing legislative, regulatory or other changes that may impact and necessitate changes to the Standards.

It was suggested that this would provide benefit to all parties in terms of regular discussions on the business lending space which could help shape the future of the Standards as and where economic, regulatory and technological developments required it.

Our response

The business Standards form part of a continuingly evolving regulatory landscape and since they were last reviewed in 2020, we are cognisant that the Consumer Duty has been implemented. While focused on firms' regulated activities, we are aware that some firms have adopted the requirements of the Duty beyond the elements of business lending captured within the FCA's regulatory perimeter.

We recognise that the business Standards form part of a wider regulatory landscape and alongside other requirements, firms continue to navigate their way through what is a significant transformation in the regulatory space in the form of the Consumer Duty. However, it is important to note that the Duty and the supporting guidance as it applies to lending, has been drafted from the perspective of lending to consumers and while there will be read across to business lending, the Standards are entirely business customer focused. To support with the application of the Duty in this area, we have previously issued updates to firms to outline how adherence to the Standards enables firms to further evidence how they are meeting the requirements of the Duty, as applicable to the business customer journey.

The Standards operate within a wider regulatory background and for non-statutory regulation to be most effective it has to reflect, and be responsive to, the evolution of statutory regulation and developments in the wider economic and regulatory environment. We therefore undertake regular horizon scanning activity and internal reviews of our Standards and Codes against new and emerging regulatory developments and in light of the findings of our oversight and insight led activity. This is supported by an external review process, comprising a public consultation, which provides an opportunity for stakeholders to input into the shape and form of non-statutory regulation so that it remains responsive and reflects changes in the relevant market.

Shortly after the consultation was launched, the Treasury Committee launched an inquiry into SME finance.

In responding to the Treasury Committee inquiry, drawing on our experience of developing and overseeing the business Standards, we set out the impact the Standards have had in setting a robust and proportionate framework of protections for business customers. Highlighting that being signed up to the business Standards sends a powerful statement of intent to customers, industry and regulators, that a firm is committed to delivering good customer outcomes when it comes to providing finance products to business customers.

In December 2023, the Federation of Small Businesses (FSB), in its capacity as a designated consumer body, issued a super-complaint to the FCA on its concerns regarding the use of personal guarantees in business lending.[4] In order to address its concerns, the FSB has called on the FCA to expand the regulatory perimeter to capture lending to incorporated entities and to create rules for lenders regarding the use of personal guarantees in lending to companies. We sought views within our consultation paper on the use of personal guarantees as the business Standards set protections for individuals providing guarantees to support any borrowing and received some limited feedback on this topic. Further information on this can be found in section 4f of this report.

The flexibility of the Standards enables us to introduce changes where there is a need to address emerging or potential areas of customer detriment, to close gaps or clarify existing expectations. While we believe the terminology used within the Standards is well aligned with that used within the Duty and its overall expectations, we will continue to monitor regulatory developments to ensure the Standards continue to reflect wider industry requirements. This will be used to inform whether any amendments are required.

We are engaging with the FCA's process on the super-complaint, and other stakeholders including the FSB, to provide our input on the issues raised. We will take into account the content of the super-complaint and the FCA's response to it as we deliver the activity set out in this report.

We have considered the feedback around regular discussion forums being held between the LSB, registered firms and industry stakeholders. Each registered firm has a dedicated LSB Compliance Manager with regular engagement taking place with firms through this model and via cyclical and thematic review work. Our Insight team also hold both emerging risk and business lending specific forums which encourage attendance by firms and stakeholders.

4 A personal guarantee is an agreement between a lender and the business owner/director that they will be responsible for the repayment of outstanding borrowing if the business is unable to meet its obligations under the lending agreement. FSB super-complaint – December 2023

They provide an opportunity to discuss emerging areas for SMEs, regulatory developments, and the impact of the Standards more generally. Having considered the suggestion, we agree that as part of our external engagement activity, there would be benefit for firms, stakeholders and the LSB in creating a forum which supports wider engagement across industry, bringing together firms and stakeholders to discuss developments in the business lending regulatory landscape and how these impact upon the business Standards. We will seek to introduce this during the course of 2024.

b. Application of the Standards - thresholds

The business Standards set out best practice for lending to business customers with a consolidated annual turnover of up to £25m, with firms given discretion to apply the Standards more flexibly for larger customers with turnovers between £6.5m and £25m. We wanted to understand whether the turnover thresholds remained appropriate based on the range and types of SMEs captured by the scope of the Standards.

Feedback to this question broadly indicated that the thresholds remained appropriate along with the approach taken to the application of the Standards for larger SMEs. This was because businesses with a higher turnover will typically, but not always, have corporate structures to manage the running of the business. Other stakeholders queried whether the £6.5m turnover threshold should be raised or if the Standards should apply in full to all businesses within scope, as turnover is not a proxy for sophistication.

Our response

We are in the process of completing an end-to-end review of all firms signed up to the business Standards. This review work, being undertaken in four tranches, is due to complete later this year and considers how firms are meeting the requirements set out in the business Standards. The first two tranches of work have been completed, and the third is underway. We will consider whether the output of this work indicates that the current thresholds should be revisited.

We are mindful of the outcome of the FCA's recent review of SMEs' access to FOS. Currently, SMEs with a turnover of less than £6.5 million and fewer than 50 employees, or a balance sheet total of less than £5m are able to access FOS. The FCA's review stated that as these thresholds cover 99% of the private sector businesses in the UK, it had reached the decision that this level of coverage remained appropriate and that it would not be proportionate to extend access to SMEs larger than the current criteria.

Having considered the feedback received, and the output of the FCA's review above, we are of the view that the thresholds in the Standards remain appropriate. The Standards acknowledge that the sophistication and complexity of businesses over the £6.5m turnover threshold can vary and when considered in isolation, turnover cannot always be taken as a proxy for sophistication. Should the outcome of our end-to-end reviews indicate that our position on this merits revisiting, we will engage with relevant stakeholders to inform any further review.

c. Digital lending journeys

We recognise that SMEs are increasingly managing their borrowing via digital channels. Through the consultation we sought to understand whether amendments were required to ensure the Standards support a full range of lenders, including smaller firms, newer market entrants, and digital-first lenders to work towards ensuring good outcomes for their business customers.

Reponses focusing on whether further work was required to take account of the different channels through which lending is delivered to business customers were relatively low, with the feedback provided indicating that the outcomes focused approach of the Standards enabled them to be applied to a range of distribution channels. There was some limited support for further work to be undertaken to explore whether amendments were required to take account of the differences between lenders (e.g. full-service firms and smaller firms or start-ups providing lending via digital channels). However, it was generally felt that enhancing existing guidance to reflect the nuances of the digital journey rather than making changes to the Standards themselves would be a more appropriate approach.

Digital journeys are designed to facilitate a speedy and efficient way for customers to manage their bank account, make payments and apply for lending. Given the increasing transition to delivering lending products via digital channels, especially since the pandemic, there is a risk that customers do not receive the additional support they need to manage their business banking and lending effectively.

Our recent customer vulnerability review, which comprised both personal and business lending and considered the digital journey from a vulnerable customer perspective, identified that the level of vulnerability disclosed by customers and identified by the lender through digital channels was much lower than that in other channels.

Feedback from some stakeholders on this question considered the challenges posed by the ongoing closure of bank branches and the increase in products and services being delivered via digital channels. It was felt that the decrease in opportunities for business customers, particularly those at the smaller end of the scale, to conduct their day-to-day banking in person could impact firms' understanding of the different industries within which their customers operate. As well as impacting businesses which use branches for cash floats and depositing takings, it was noted that the move away from a relationship managed model towards online propositions may not always suit the needs of all business customers, particularly those who would typically have had a dedicated relationship manager.

Feedback suggested that given the increasing movement towards the use of digital journeys within the SME lending space, consideration should be given to where further guidance can be provided to take account of how products are, and should be, delivered. This could, in some part, address concerns raised by SME customers in particular, being moved into the digital space and the loss of the relationship management model.

Our response

The continued emergence of digital first, FinTechs and alternative lenders will, inevitably, drive change in the business lending landscape. Fintech solutions for SMEs include digital credit and equity products such as loans, supply chain finance, secured revolving lines of credit, merchant receivables finance, P2P/marketplace lending, as well as equity crowdfunding.[5]

5 World Bank Document, World Bank Group, 2022

As set out above, we undertake regular horizon scanning activity and internal reviews of our Standards and Codes against new and emerging industry developments which are informed by stakeholder engagement, the output of our oversight and insight activity.

We agree that there is a space for further guidance focused on digital journeys in the business lending space. Our Compliance team will shortly begin a thematic review which will consider the full customer journey from a digital perspective. The purpose of the review is to ensure that customers are able to access products and receive support through a purely digital channel as aligned to the Standards, whilst ensuring they still receive a good outcome. While this review will be focused on personal customers, there will be read across to the business lending space. The learnings from this review would feed into the development of business lending specific guidance and we will seek to engage with registered firms and stakeholders in due course on our approach to this work.

We will take forward work to develop guidance to support the application of the Standards within the digital journey and maintain a watching brief over the business lending landscape with a view to informing our view as to whether the Standards require further amendments to reflect the range of providers of business finance.

d. New and emerging areas within the business lending landscape

We wanted to understand whether there are areas of new or emerging best practice which could be taken account of within the Standards or accompanying guidance for firms. The feedback received focused on sustainable/green finance and inclusion and diversity.

i. Sustainable/green finance

Green banking practices aim to improve the carbon footprint of customers of financial services providers by promoting positive environmental practices and to reduce the carbon footprint linked to a firm's financial activities.

Sustainability continues to be a key topic for government, regulators, firms and customers alike as each seeks to play their part in supporting a transition to net-zero.

In 2023, we released our business customers and green finance report which focused on the use of green finance and the products on offer to SMEs to support them to achieve their sustainability ambitions. The report also set out areas of consideration for firms and how they can most effectively support business customers seeking sustainable finance.

As financial services firms continue to develop green propositions across their lending and investment arms, they are doing so against a backdrop of legislative and regulatory developments. For example, the Bank of England and the FCA have identified environmental and sustainability issues as areas of focus for the financial services industry.

There are also economic factors driving change as both personal and business customers become increasingly focused on the impact of climate change, and how they can take positive steps to reduce their own environmental impact. Terminology plays an important role in this space too. Terms such as 'green' and 'sustainable finance' are being used interchangeably across financial services. As well as this, 'greenwashing' is being used to describe advertising that promotes environmental benefits that are not quite as they are made out to be. Therefore, this area of finance can be a challenging space for industry and businesses alike to navigate.

We sought feedback through the consultation on whether additional guidance or support for firms when providing sustainable/green lending could be provided through either amendments to the Standards or supporting guidance. The feedback received was, in the main, supportive of the scope of the Standards extending to include requirements on the provision of sustainability linked lending products to business customers. However, respondents highlighted that any changes would need to take into consideration work being undertaken elsewhere, such as requirements on organisations under the Taskforce for Climate Related Financial Disclosures and the FCA's work on greenwashing.

It was noted that while the regulatory focus on business lending is still very much in its infancy in terms of the disclosure of climate related impacts, it is likely that business customers will need to provide this type of information in the not-so-distant future. It was suggested that the development of any new Standards could outline how lending provided should be used in a sustainable way and introduce an industry framework which could build on green taxonomy and be applied to lending products being made available to SMEs.[6]

6 The UK Green Taxonomy will provide a common framework, setting the bar for investments that can be defined as environmentally sustainable, helping to tackle 'greenwasing', improve understanding of environmental impact to help companies and investors make informed green choices, support investment in sustainable projects and boost efforts to tackle climate change.

There was some feedback which highlighted that as the regulatory approach to sustainability/green finance continues to evolve, consideration should be given to whether the focus in the near term would be better placed on developing further guidance for firms, rather than setting out new requirements in the Standards which may be quickly superseded by wider developments.

This could entail guidance on areas such as: the general provision of finance for green/sustainable purposes; how firms subsequently monitor the use of these funds; the support provided to businesses where funding has been provided; and the ways in which firms can incentivise businesses to take up funding for green/sustainable purposes. It was suggested that the guidance could be used to inform updates to the Standards at an appropriate point in time.

Our response

It is clear from the feedback we received and the findings of our green finance report that, while firms are seeking to develop and build upon their existing green lending propositions, there appears to be a gap in the availability of guidance and best practice on how firms can work towards good outcomes for their business customers in this space.

We are mindful that in addition to the introduction of the Consumer Duty, the wider regulatory framework continues to develop. In November 2023, the FCA issued a consultation on guidance setting out its expectations under its anti-green washing rule and other associated requirements, for authorised firms making claims about the sustainability of a product or service.[7]

Customers themselves may also have a knowledge gap on this topic and the steps they can take to improve their own carbon footprint. The British Business Bank found that, while 47% of SMEs are open to reducing their environmental impact and 22% are prepared to use finance to invest in changes, there are key barriers from a business perspective which include cost, feasibility and access to information on the types of products on offer.[8]

Our earlier report highlighted that the steps being taken by industry to develop green products were positive. However, these products tend to entail a more complex criteria than a standard product might, such as continued demonstration by the customer of environmental linked changes.

7 Guidance on the Anti-Greenwashing rule, FCA, November 2023

8 Small Business Finance Markets 2021/22, British Business Bank, February 2022

This can be a barrier for some businesses as they may, depending on their size, structure, and sophistication, be less likely to have relevant monitoring processes or an ESG strategy in place to allow them to readily meet the reporting requirements of the product. Customers may also lack capacity, resource, or processes to evidence the required environmental change. There may also be a lack of understanding of the product requirements themselves and why they are needed, especially when balanced against the time it may take to collate and supply the data required.

The outcomes focused Standards framework enables firms to adopt appropriate policies and processes to deliver good outcomes for business customers. We recognise that regulation in this space continues to evolve, however one of the benefits of non-statutory regulation is that it can be more agile than statutory regulation. We believe there is a benefit for both firms and business customers for the LSB to take forward further work to explore how the Standards and/or supporting guidance can be updated to reflect the emergence and provision of sustainability linked lending and support firms to deliver good customer outcomes in this space.

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ii. Inclusion within the business lending space

Our work with stakeholders has identified barriers in access to finance for particular customer groups. Over the course of the last 18 months, we have worked with those with lived experience to understand the scale of the issue for different customer groups and have produced reports that set out to raise awareness of the barriers underserved communities face and how they can be overcome.

In October 2022, we released our report on Inclusion in Business Banking and Credit: disability and other access needs. This report considered how our registered firms and other business banks and lenders can assist disabled customers and those with other access needs. The report highlighted opportunities for business lenders and related firms to develop and improve their practices in relation to accessibility and inclusion.

In May 2023, we launched our report on Access for d/Deaf customers in banking and credit. This report looked at key considerations required to deliver the tailored and responsive support required by d/Deaf customers and those with hearing loss to prevent the risk of them being financially excluded.

This report, while primarily focused on personal customers, has read across to the business lending space and how firms can support d/Deaf business customers to access finance. As a result of its publication, we understand that four of the major UK banks are now engaged with digital British Sign Language (BSL) application designers working to introduce virtual BSL across their websites.

In October 2023, we published our report on Increasing access to finance for ethnic minority businesses. This report highlighted how some ethnic minority led businesses are dissuaded from accessing finance. The report presented key topics for firms to consider as they look to address challenges relating to access and inclusion for ethnic minority led businesses.

Within the wider regulatory space, the FCA, together with the Prudential Regulation Authority (PRA), published a consultation in September 2023 looking at diversity and inclusion within financial services with a view to ensuring that the financial sector meets the needs of a diverse consumer base.[9] The consultation contained proposals to introduce a new regulatory framework on Diversity and Inclusion in the financial sector.

Alongside the insight gained through our own research, responses to the consultation highlighted the barriers faced by ethnic minority business owners in relation to accessing lending. The feedback highlighted how the concept of vulnerability should be considered in reference to diverse ethnic groups who may struggle to access or meet criteria for a range of cultural, socio-economic, or historical reasons.

We were told that lenders do not always demonstrate that they understand why a 'one size fits all' approach introduces barriers and disadvantages to ethnic minority led businesses. It was also felt there was a lack of understanding of the need to proactively consider the needs of underserved diverse ethnic minority business owners and to safeguard against the potential for unfair treatment. Feedback noted that vulnerability was a topic that is clearly set out within the Standards, such as the approach that firms should be taking where a physical or mental health vulnerability is identified within a business. However, further consideration could be given to other groups within society that may be considered vulnerable due to cultural, socio-economic, or historic differences.

9 Diversity and inclusion in the financial sector, FCA, 2023

Our response

Through our own research and the feedback received in response to our consultation paper, it is clear that there are opportunities for firms to enhance their existing processes and procedures to improve their approach to inclusion in the business lending space.

While the regulators' work in this space will continue to drive forward activity within firms which will have an ultimate benefit for customers, our work has identified there is a gap in guidance which supports firms to consider a broad range of customer circumstances and needs throughout the product design, approval and review stages to ensure that products and services are working well for all business customers. We will therefore take forward work to develop guidance for firms in this space and will seek to engage with firms and relevant stakeholders as we do so.

e. Extending the scope of the Standards of Lending Practice

The current scope of the Standards captures commercial mortgage, loan, overdraft and credit card products provided to business customers.[10] In Q2 2023, 44% of SMEs were using some form of external finance.[11] Through the consultation we wanted to understand whether there are products or services which the Standards framework could be extended to, in order to drive consistency of protections across business customers accessing finance. We also asked a specific question in relation to the application of the Standards framework to invoice finance.

We had a small number of responses to the overarching question of whether the scope of the Standards could be expanded to cover a wider range of products and, where views were provided, these were mixed in terms of support for an extension in scope. This was because it was felt that the product coverage of the Standards was already set at an appropriate level, and loans and overdrafts continue to be the most common form of lending for SMEs.

Embedded finance products and those such as Buy-Now Pay-Later (BNPL), where provided to SMEs,[12] were suggested as areas where we might look to monitor developments, with a view to expanding the scope of the Standards, particularly if statutory regulation was not forthcoming.

10 While out of scope for the purposes of this review, the Standards of Lending Practice for asset finance also cover hire purchasing and leasing products provided to with a turnover of up to £6.5m.

11 SME Finance Monitor, BVA BDRC, September 2023

12 Embedded finance is the integration of financial services or products, such as lending or payments, into a non-financial services company's products and services.

After bank loans and asset finance, invoice finance is a key means by which firms can access finance that does not fall within the scope of the Standards. Invoice finance is where a lender uses an unpaid invoice as security for funding and has generally accounted for over 10% of new funding for UK SMEs.[13] Having introduced standalone Standards on asset finance in 2018, invoice finance remains a key source of SME financing that does not fall within the scope of the Standards.

This method of finance is popular amongst many businesses, with over 40,000 using it in the UK.[14] The product is not currently subject to statutory regulation, however a standards framework, managed by UK Finance, the trade body for the finance industry, is in place in the form of the Invoice Finance and Asset Based Lending Code (IFABL Code).

There was some concern that given the existence of the UK Finance supported standards framework which covers the invoice finance and asset-based lending activities of its members, there was the potential for duplication and confusion for business customers if a parallel scheme in the form of the LSB's Standards were also in place.

We were told that where firms were members of the IFABL Code, they would want to see a form of alternative dispute resolution provision (which is currently provided as part of the Code) maintained as a priority, along with consideration as to how to best ensure that the non-statutory regulatory landscape for this area of finance does not become confusing for business customers.

However, some industry respondents were receptive to understanding more around the rationale for any further expansion and how we would look to address the points raised above to provide further support and protections for SMEs accessing and using invoice finance products.

Our response

We believe it is important for business customers, regardless of the product they are using, to receive appropriate protections during the course of their relationship with the lender/finance provider. As part of the LSB's business plan for next year, we will undertake further exploratory work on how the Standards framework could be extended to a wider range of products and sectors, both within lending and potentially beyond.

13 SME finance in the UK: Past, present and future, UK Finance, December 2018

14 Top 13 Invoice Finance & Factoring Companies, Merchant Savvy, September 2023

This is with a view to understanding the impact of regulation in the relevant space, how this would enhance existing protections, or introduce new protections for the relevant customer base. The feedback provided through the consultation will be fed into this work and will inform further engagement with registered firms and stakeholders in due course.

f. Development of further guidance

We wanted to understand whether there were any areas which would benefit from further guidance to enhance the application of the relevant requirements of the Standards. A small number of respondents shared feedback where they believed it would be beneficial for additional guidance to be provided. The suggested areas were as follows:

Personal guarantees

The taking and use of personal guarantees for business lending purposes is covered within the Standards and accompanying Information for Practitioners. In business lending, a personal guarantee is an agreement between a lender and the business owner/director that they will be responsible for the repayment of outstanding borrowing if the business is unable to meet its obligations under the lending agreement.

The Standards require firms to ensure that:

- Where a guarantee or any other security is required to support the lending, the rationale for this is explained to the customer/guarantor and that any guarantee taken should be appropriate for the amount borrowed.
- Where an individual provides a guarantee or other security, they are able to request information regarding their current level of liability at any point.
- Clear information is provided to the customer/guarantor on the circumstances under which any security provided will be released and the security should not be relied upon beyond the life of the borrowing.

- The conditions of any facility should be confirmed to the customer in writing and time allowed for independent advice to be sought.
- Where a personal guarantee is provided, the guarantor should be made aware of their obligations under the agreement and that they have the option to seek legal advice, should they wish to do so.
- Unlimited guarantees should not be accepted unless it is to support an underlying merchant agreement.

Our ongoing end-to-end review of firms signed up to the business Standards and oversight activity, has identified some isolated findings where processes for reviewing personal guarantees, or other forms of security, could be working more effectively to ensure that information held remains current and where lending is repaid, or where there are changes at director level, these are taken into account.

Through the consultation we received some feedback related to the ongoing maintenance of personal guarantees. For example, we were told that complaints about personal guarantees typically arise after the guarantor has left the business, sometimes after the business has been dissolved. The opportunity for the development of further good practice on the monitoring of personal guarantees to ensure the information held on individuals, and any related security provided, remains up to date were also highlighted.

As set out above, we are engaging with the FCA's process on the super-complaint, and other stakeholders including the FSB, to provide our input on the issues raised. As we develop further guidance on the use of personal guarantees, we will take account of the output of our oversight work which will run across 2024, the content of the super-complaint and the FCA's response to it.

Declined applications

The Standards set requirements for firms on the expected approach and support provided when a customer is declined for lending. These requirements focus primarily on the steps firms should take following the application, ranging from the information they should provide the customer about their decision, to sharing details of the appeals process that is available should a customer wish to have the firm review its decision. The Standards also make reference to signposting to designated finance platforms when a customer is declined for lending.

In response to our consultation, we received feedback requesting additional guidance in relation to this area. Examples included the point at which a firm should notify their customer of the likelihood of an application being successful and clarity on the stage at which referrals should be made (i.e. at the point the customer makes an enquiry or only after the customer has completed a full application). In relation to signposting, we also received feedback which highlighted the continued growth and use of alternate lenders, such as Community Development Finance Institutions (CFDIs), and the view that more could be done to point customers in this direction and raise awareness of this source of funding.

Business Turnaround

The requirements of the Standards on treatment of customers in financial difficulty and the use of business support units, both provide comprehensive information on the support firms should provide to business customers who find themselves in financial difficulty. We received some feedback to the consultation which highlighted the increase of the use of statutory Restructuring Plans, which are not presently referenced in the guidance which accompanies the Standards. Restructuring Plans can, subject to approval through the courts, be invoked by the business or the creditor with a view to restructuring existing lending agreements to enable the business to get back on track where it is seen as viable to do so. A Restructuring Plan is a flexible court supervised restructuring tool introduced as part of the UK Corporate Insolvency and Governance Act 2020. While they are still a relatively new tool available for SMEs and take up so far has been limited, it is anticipated that they will continue to be an option and that its use by SMEs will increase.[15]

Our response

Through our ongoing end-to-end review work, we have so far identified areas where firms need to strengthen approaches:

- In providing feedback to customers when declining an application.
- The effectiveness of interactions with customers showing indications of financial stress.
- Record keeping to ensure that when dealing with customers, especially when in financial difficulty, all relevant detail relating to what has been agreed with the customer is captured.

15 The future of company restructuring tools, ICAEW, August 2022

- Root cause analysis of complaints and further training of customer facing employees to ensure they are better able to identify and support customers in vulnerable circumstances.

Firms involved in this work have been issued with individual reports and the relevant actions are being tracked through to completion by LSB Compliance Managers. In addition, our intention is to publish a summary of our findings following completion of the review later in the year. We will therefore draw on the findings of our review work and feedback received across the different areas of the consultation to inform updates to the current guidance.

5. Summary and next steps

Responses to the consultation identified that, while the Standards provide a good level of protection for SMEs, providing cover at appropriate levels across a number of areas, there are areas where further guidance could be provided to support firms' application of the requirements of the Standards. Key areas including sustainability and ensuring that products and services work well for all business customers have been identified through the review. We will take forward work to deliver the activity set out in this report, in doing so, we will also take account of wider developments in the wider regulatory landscape.

We recognise that there is a high demand on firms at present from a regulatory perspective. Firms are embedding the requirements of the Consumer Duty for closed books; there is a range of regulatory activity taking place which impacts on business lending, and we have our end-to-end review of the business Standards underway. We will therefore consider how we sequence the activity flowing from the review of the Standards and will shortly publish a timetable of work which sets out how we will take forward our work.