ABCUL
Association of British Credit Unions Limited

David Mendes da Costa
Financial Conduct Authority
12 Endeavour Square
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Dear David

Financial Conduct Authority – Debt Packagers: proposals for new rules

We welcome the opportunity to respond to this consultation. ABCUL is the primary trade association representing credit unions in England, Scotland and Wales with around two thirds of credit unions in mainland Great Britain affiliated to the Association.

Credit unions are co-operative societies who provide financial services – primarily savings and loans facilities – to their member-owners. They are registered as Co-operative Societies under the Co-operatives and Community Benefit Societies Act 2014 and the Credit Unions Act 1979. As deposit-takers they are dual-regulated by the Prudential Regulation Authority and the Financial Conduct Authority.

Credit unions have since their inception in Britain in 1964 been closely associated with anti-poverty and financial inclusion. They tend to provide savings and loans facilities to those with limited or no access to financial services from mainstream providers, generally due to their low income and / or lack of a developed credit profile. They have been a central element of numerous government and philanthropic initiatives to extend financial inclusion and address the lack of adequate provision of affordable credit and secure savings facilities for large sections of the population. They are capped in the interest that they can charge at 42.6% APR under the Credit Union Act 1979 and provide credit in competition with high-cost lenders.

They are numerous, with 250 credit unions active in mainland Great Britain today and have 1.4 million members and £1.95 billion in assets under management. They range from mid-sized businesses of up to 50 staff to small voluntary organisations.

Response to consultation

We are pleased that the FCA is consulting on this important issue and agree with the analysis presented of the problem in the paper. Our members have long reported on sharp practices from the for-profit sections of the insolvency sector, and we are encouraged that the FCA are now considering steps to remove the financial incentives to funnel financially distressed people down the most expensive options.

As FCA supervisory reviews have borne out, IVAs are usually presented first, with the most prominence, and as viable alternatives to other debt solutions. Even before any personal financial information is obtained consumers are – by default – directed towards the highest yielding

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insolvency solutions. Our members also often see income and expenditure assessments being distorted to better fit IVA criteria and that debtors often do not understand the risks and impact of entering an IVA.

Therefore, we are not surprised to see the list of poor practices highlighted by the FCA and agree that real consumer harm is being caused by the mis-selling of IVAs. We too, agree that whilst the referral fee incentives remain in place, this market cannot be expected to conduct itself differently.

The poor value of IVA's and PTDs exacerbated by lead generation fees and debt packagers is something that is under challenged because it is something not acutely understood by the debtor whose prime consideration is the difference between the amount payable by them before and after entering an IVA. Under the current system, providing that the total repayable amount is lower than owed, the fees incurred to reach that position appear immaterial to the debtor as "the creditor pays".

However, for the equivalent arrangement with creditors, lowering fees will clearly also lower the debtor's overall repayments. Once we consider the front-loading of IVA fees and the increasing failure rates of IVAs (the equal-highest since 2008)[1] situations can arise where the debtor is in a worse situation than before entering the IVA. This would be less likely, and IVAs less likely to fail if providers recouped their fees throughout the life of the IVA.

We are fully supportive of the proposals. Debtors will benefit from the improved average suitability of the debt solutions sold and the reduced unnecessary costs and it will have a net benefit effect for creditors and consumers. The knock-on effect a poorly functioning insolvency sector has is on the cost and availability of credit.

We would also argue that much of the rationale underpinning the consultation can also be applied to for-profit providers of IVAs and Protected Trust Deeds. We do not believe that 70%[2] of insolvency solutions need to be the costliest kind and strongly encourage the FCA to consider further interventions in the IVA sector where there is harm to the debtor, consumer and the market.

We would be very happy to discuss this response in more detail.

Yours sincerely,

Daniel Arrowsmith
ABCUL

[1] The Insolvency Service, *Individual Voluntary Arrangements Outcomes and providers 2020,* page 8
[2] Ibid, page 5