HM Treasury

A new approach to financial regulation: judgement, focus and stability

A Response by Credit Action

Background

Credit Action is a national money education charity (registered Charity in England & Wales No. 1106941) established in 1994.

In January 2009 we also created our dedicated Welsh arm, Credit Action Cymru.

We offer a range of resources, tools and training to help everybody handle their money well, and to inform consumers so that they can make informed decisions about their personal finances.

Credit Action operates at a national level through advocacy, collaboration and partnerships with various groups and companies as well as at a local level through a variety of targeted projects, with a particular emphasis on those most vulnerable to financial difficulties and over-indebtedness. Through its work Credit Action reaches over 650,000 UK citizens every year.

We try and help as many people as possible avoid the pain of debt. However we recognise many contacting us will be in trouble already, so we work in partnership with the major debt counselling charity the Consumer Credit Counselling Service (Registered Charity No. 1016630).

Opening Comments

Credit Action welcomes the opportunity to respond to the Treasury's consultation on the reform of financial regulation in the UK. We believe that it is in the interests of people throughout the country for the UK to have a stable and intelligently regulated economy, and recognise the Government's commitment to achieving this.

Credit Action believes that it is of paramount importance to ensure that consumers are not only protected, but also that they have the knowledge and capability to make informed choices about money and engage constructively with the financial services industry. In our opinion, this is absolutely central to creating the conditions for economic stability now and in the future. Events of the past few years, both at home and abroad, have demonstrated the enormous damage that can be done if consumers take on unsustainable levels of personal debt.

As an organisation committed to helping consumers make informed financial decisions, and to addressing both issues of consumer detriment and financial exclusion, our primary concern in responding to this consultation is with proposals for the Consumer Protection and Markets Authority (CPMA). We view the presence of a strong authority concerned specifically with consumer issues and capable of dealing effectively with problems as they develop as fundamental to the success of any regulatory framework. Ensuring that the prospective CPMA is in touch with consumers on the ground, is able to respond quickly to issues of consumer detriment as they are identified, and stands on an equal footing with the Financial Policy Committee (FPC) and Prudential Regulation Authority (PRA) within the Bank of England, is crucial for us. These considerations form the basis of our answers to the following questions set out in the consultation document.

Question 1: **Should the FPC have a single, clear, unconstrained objective relating to financial stability and its macro-prudential role, or should its objective be supplemented with secondary factors?**

We recognise the tremendous importance of the FPC's prospective macro-prudential role, and that this will be critical to protecting the economy at large from the dangers posed by systematic risk. In times of extreme crisis, we completely understand that it may be essential for the FPC to make quick decisions without having to consult in detail with other bodies such as the CPMA. The importance of a primary objective which the FPC will be able to fall-back on in such circumstances is therefore clear.

However, we believe that there may well be value in requiring the FPC to consider some secondary objectives when making medium- or long-term decisions during periods of relative calm. Requiring the FPC to reflect on the impact of its decisions more widely on consumers may well facilitate better decision-making and ensure that policy-making is more coherent.

<u>Question 2:</u> If you support the idea of secondary factors, what types of factors should be applied to the FPC?

We believe that the principle outlined in Paragraph 2.28 of the consultation that 'the FPC should, where appropriate, be required to have regard to the statutory objectives of these regulatory authorities [the PRA and CPMA] in order to ensure consistency' is an important model. From the perspective of consumers, ensuring that some consideration is given to the issues they will face as the result of a particular macro-prudential decision is likely to help ensure that markets work in their interests as far as possible.

By way of an example, the issue of counter-cyclical capital requirements has been raised with us as one area in which macro-prudential decisions could have a tangible impact on consumers. The level at which such requirements are set will inevitably have an effect on the amount banks are capable of lending, and therefore on the overall amount of credit available in the market. Ensuring that due regard is given to the impact a particular level of capital requirement will have on consumers would, in our opinion, be positive. Requiring the FPC to take account of the CPMA's statutory objectives as part of its secondary concerns would seem to be a mechanism for achieving this.

We believe that it will be vital to the success of the regulatory process that, in normal conditions, the FPC, PRA and CPMA act in concert as far as possible. We would be concerned if a situation developed whereby the FPC took decisions unilaterally, or the FPC and PRA bilaterally. Measures which ensure that, wherever possible, policy-making serves the interests of all three authorities are therefore welcome.

We would like to reiterate that, where there is a genuine issue of system risk, we think it is absolutely reasonable for the FPC's primary objective to take precedence. The interests of consumers will always be served, first and foremost, by a properly functioning economy. However, where there is space within the decision-making process for the interests of consumers to be given due consideration, we would like to see this take place.

<u>Question 4:</u> The Government welcomes respondents' views on whether: the PRA should have regard to the primary objectives of the CPMA and the FPC.

As with the previous question, we believe that it is in the best interests of consumers, good regulation, and the economy as a whole for all three regulatory authorities to work in as coherent and multilateral a manner as possible.

We therefore support the idea that the PRA should have regard to the objectives of both the CPMA and the FPC as part of its own secondary objectives.

<u>Question 10:</u> The Government welcomes respondents' views on: whether there are any additional broader public interest concerns to which the CPMA should have regard.

As noted in our opening remarks, we believe that ensuring that consumers have the knowledge and capability to make informed choices about money and engage constructively with the financial services industry is essential to building a stable economy. We therefore think that there is a strong case for requiring due attention to be given to financial education and financial inclusion issues as part of the CPMA's secondary objectives.

Effective consumer regulation should encourage banks and other financial institutions to support consumers in making informed and sustainable decisions about their personal finances. Therefore, we believe that it is highly important that, as the main consumer protection regulator, the CPMA should actively consider the role it can play in facilitating this. We of course recognise that there are inherent limits as to how far the CPMA, as a regulator, can go in actually providing something like financial education. We are fully aware of the close working relationship that the CPMA will have with the Consumer Financial Education Body (CFEB) with respect to this, and indeed believe it desirable that the objectives of the CPMA and CFEB should not overlap in order to avoid potential duplication. However, we do believe that the CPMA and CFEB both have important, albeit different, roles to play in educating consumers and supporting their decision-making.

With respect to the CPMA, this might for instance involve regulating to ensure that financial service providers give clear and honest statements about the terms of their loans, including a prominent display of APR – this is something that Credit Action has advocated for a long time, and is a principle which we believe could also be applied to overdrafts as well as loans. We note that in Paragraph 4.12 a secondary objective is proposed which reads 'promoting public understanding of the financial system'. We would suggest expanding this to read 'promoting public understanding of the financial system and supporting consumers in making informed financial decisions'.

We also believe that it is highly desirable that the CPMA should be required to consider how it can contribute to combating financial exclusion. It is crucial to recognise that those who are marginalised, excluded or on low incomes are particularly at risk if they suffer detriment. They will probably be less able to navigate the system, and are therefore less likely to be aware of how to seek redress or to know about compensation schemes. Ensuring that the interests of these particularly vulnerable groups are fully considered by the CPMA is essential. We therefore strongly endorse the inclusion of a secondary objective pertaining specifically to financial inclusion. We view the proposed objective outlined in Paragraph 4.12 to be a good model for this, but suggest that this might be amended to emphasise the importance of supporting especially vulnerable groups, and therefore read 'promoting financial inclusion where possible, by encouraging access to suitable products, services and where necessary means of redress, particularly amongst the most vulnerable consumers'.

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Better thinking about money

<u>Question 11:</u> Are the accountability mechanisms proposed for the CPMA appropriate and sufficient for its role as an independent conduct regulator?

We see transparency and accountability as essential to the success of a body such as the CPMA, and view the accountability mechanisms outlined in Paragraph 4.36 as important steps in achieving this. However, we believe that accountability should be about more than just formal processes – it should also be seen as an opportunity to engage with wider stakeholders, and create a two way dialogue with consumers, third sector organisations and other interested parties.

In our opinion, ensuring that the CPMA is connected to consumers and consumer organisations on the ground, such as Credit Action, will be highly important to the CPMA's effectiveness as a consumer protection regulator. This will enable the CPMA to quickly identify issues of consumer detriment as they develop, and therefore respond effectively when problems emerge. The implementation of mechanisms and structures which promote this sort of dialogue is something that we would strongly welcome. Despite the considerable importance of the relationship between the CPMA and CFEB, we would stress that CFEB alone should not be relied as the only point of connection between the CPMA and consumers – measures which facilitate direct engagement are, for us, vital.

There are some additional points that we would make around this issue. During 2009 proposals were advanced by the previous Labour administration regarding the creation of a Consumer Advocate, a high-profile figure who would co-ordinate work to educate consumers and be champion for groups of consumers who had suffered detriment. We were broadly supportive of this, but in the consultation issued on the proposal in December 2009 argued that for the idea to have resonance with the general public the Consumer Advocate would need to be recognised public figures with a background in consumer campaigning (Martin Lewis of MoneySavingExpert.com is one obvious example, while Credit Action President Keith Tondeur OBE potentially falls into this category as well). We believe that, if correctly managed, the presence of a high-profile Consumer Advocate, acting almost as a conduit between the general public and the consumer protection regulator, could prospectively enhance engagement between both and therefore promote greater accountability. We feel that this concept is perhaps worthy of further exploration.

A further point concerns the quality of communication to the general public on the part of the various agencies involved in consumer protection. We feel that in the past consumers have become confused by the presence of multiple agencies working in this field, such as the Office of Fair Trading (OFT) and Financial Services Authority (FSA), and that this has left them unsure of exactly which body looks after their rights in a given area. This can only be detrimental to accountability. We would therefore emphasise the importance of better communication with the general public on the part of the CPMA and the bodies that it works with such as CFEB, to ensure that the spheres of responsibility of each are well articulated and the public are clear about which body they should approach to help them deal with a particular issue. We would hope that the proposed changes to the regulatory framework do not ultimately lead to a system that is equally or more complex than its predecessor, as this will not be in the interests of consumers.

Further Comments

In addition to our responses to the above questions, we would like to make some brief further comments on issues not specifically addressed in the questions set in the consultation. These concern the proposals set out in the consultation regarding the make-up of the CPMA board and the integration of the FSA and OFT's consumer credit functions into the CPMA.

We would strongly endorse the proposal outlined in Paragraph 4.49 that the CEO of CFEB should sit on the CPMA's board. Having a strong voice for financial education at the highest levels of the CPMA would, in our opinion, be very positive, particularly if supplemented by secondary objectives that also encourage focus on this issue (as outlined in our response to Question 10).

Furthermore, we have noted that in its 2009/10 Annual Report, the Financial Services Consumer Panel praised the recruitment of Mick McAteer and Brian Pomeroy to the FSA board as non-executive directors, and emphasised the benefits of having members with extensive experience of championing consumers and protecting the vulnerable.[1] We would hope that, as part of the recruitment process to its board, the CPMA will also recognise the value of having members of this sort of stature and expertise, and will seek wherever possible to have at least one non-executive director with significant consumer credentials.

We also support the points made in Paragraph 4.55, and agree with the view put forward that the division of consumer credit regulation across the FSA and OFT can lead to confusion and potentially sub-optimal outcomes for both industry and consumers. While we recognise that the OFT's recently announced merger with the Competition Commission may lead to a delegation of its responsibilities anyway, we would endorse the suggestion that bringing the consumer credit functions which have previously been divided between the FSA and OFT together within the CPMA would lead to a simpler and more integrated regulatory regime for consumers. We will respond to any specific consultations on this issue as they arise, but believe that unifying consumer credit regulation under the CPMA is ultimately highly desirable.

Summary of Recommendations

Set out below is a brief summary of the recommendations that we have made in our response:

- The FPC and PRA should both be required to have regard to the objectives of the CPMA as part of their own secondary objectives.
- The CPMA's secondary objectives should include statements which deal with financial education and financial inclusion. We have suggested the following: (i) 'promoting public understanding of the financial system and supporting consumers in making informed financial decisions'; (ii) 'promoting financial inclusion where possible, by encouraging access

[1] Financial Services Consumer Panel, Annual Report 2009/10, p. 12

to suitable products, services and where necessary means of redress, particularly amongst the most vulnerable consumers'.

- The CPMA should see its accountability responsibilities as an opportunity to engage directly with consumers and consumer organisations. We would like to see measures which facilitate this. We also believe the role of a high-profile Consumer Advocate is worth exploring, and that clear communication between the CPMA and the general public is essential.
- We strongly endorse the proposal that the CEO of CFEB sits on the CPMA board, and also believe that this should include at least one non-executive director with strong consumer credentials.
- We believe that it is highly desirable for consumer credit functions which have previously been divided across the FSA and OFT to be unified under the CPMA.

Contact

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