The Money Charity Response – FCA Consultation CP20/1 on Introducing a Single Easy Access Rate for Cash Savings (October 2020)

The Money Charity is a financial capability charity whose vision is to empower people across the UK to build the skills, knowledge, attitudes and behaviours to make the most of their money throughout their lives.[1]

We welcome the opportunity to respond to CP20/1 on introducing a Single Easy Access Rate (SEAR) for cash savings, which is a proposal we support.

In this response, we set out our Key Points then answer the questions posed in the Consultation Paper.

[1] See box on back page.

Key Points

1. We agree with the proposed SEAR, which we have supported at earlier stages of the FCA consultation process (Qs 3, 6 and 7).

2. We think the implementation date for the SEAR should be maintained at April 2021, despite the Covid-19 delay, as this is a relatively simple and well signposted regulatory change that has been under consideration for a number of years.

3. We think the FCA should reconsider its approach of accepting confidential submissions from firms where these relate to regulatory policy of wide public interest. Confidentiality should only apply to private and commercially sensitive data (Q3).

4. To ensure the new SEAR rule is not evaded, we think the FCA should introduce a non-evasion rule (Q8) and clarify the possible ambiguity around the meaning of “firm or brand” (Q9).

Answers to consultation questions

Q1 Is your response confidential? Please note that we may be required to publish names of respondents or responses themselves under the Freedom of Information Act, even if they are marked as confidential.

Our response is not confidential. We publish all our consultation responses on our website at: https://themoneycharity.org.uk/work/policy/consultation-responses/

Q2 Do you have any comments on our proposed implementation date if we took forward the proposals in this Consultation Paper?

When this consultation was first released, we felt that the proposed implementation date of April 2021 was too far away for a relatively simple regulatory change which has been well-signposted. We were going to propose a mid-2020 implementation date. With the Covid-19 delay this has obviously changed, but we would be concerned about any extra delay in introducing the SEAR. We suggest the FCA keeps to its original proposal to introduce the SEAR at the beginning of the next tax year (April 2021). Firms have had plenty of time – years – to consider the SEAR and its effects, so this should not be problematic.

Q3 Do you agree with our proposal to introduce a SEAR requirement?

Yes. As indicated in our responses to DP18/6 (price discrimination in the cash savings market, July 2018) and DP18/9 (fair pricing in financial services, October 2018)[2] we disagree with demand-based price discrimination because, (1) it exploits consumers in general, (2) it particularly exploits consumers whose inactivity arises from some aspect of vulnerability (disability, age, distraction, illness etc), and (3) where consumers switch repeatedly, this creates churn which is economically inefficient.

Demand-based price discrimination undermines financial capability. It makes markets more confusing, rather than clearer, and frustrates the attempts of consumers to make financially capable decisions, for example by choosing a savings account with an attractive interest rate (which the bank later reduces).

We support the concept of a Single Easy Access Rate, with provision for a first-year bonus rate. The rationale for a first-year bonus is the pragmatic consideration that consumers may need a greater financial incentive to switch than provided by the difference in interest rates between one provider and another. Beyond year one, we agree with the FCA that each provider should have a standard SEAR.

We note that, in considering interest rates on cash savings, the FCA has used its "evidential questions for assessing the fairness of pricing practices" (page 14 of CP20/1) which includes the question: Would society view the price discrimination as egregious/socially unfair? The FCA answer is "yes" and we agree.

In this connection, Annex 5 of CP20/1 reveals that **none** of the UK's major banks made non-confidential responses to FCA DP18/6. This means either that they did not respond or that they made confidential responses. Given the centrality of cash savings to the banks' business models, we expect they responded, but chose to make these responses secret rather than open, presumably from fear that their arguments would not go down well with the public. This lends additional support to the FCA's view that banks' cash savings pricing practices are viewed by society as unfair.

We note from Chapter 3 of CP20/1 (feedback on DP18/6) that:

> "[Some firms] argued that even if the harm was present, it would significantly reduce when interest rates rose or Open Finance developed further." (Para 3.6)
>
> "[Some providers] argued that even if the aggregate harm is high, the harm per individual customer is low." (Para 3.10)

[2] https://themoneycharity.org.uk/work/policy/consultation-responses/ under October 2018 and January 2019

Sadly, these quotes indicate the persistence of a cultural belief in financial services that it is permissible to harm customers so long as some sort of excuse can be found. Harming customers is supposed to have been ruled out by the FCA's Treat Customers Fairly Principle and related regulations. This message still seems not to have got through to some senior managers in the industry. This is why we think the FCA needs to go further in its regulatory framework by introducing a Duty of Care and more actively enforcing its SM&CR, as we have argued in other consultation responses.

We also question the practice of accepting confidential responses. Surely, if the banks seek to persuade the FCA to adopt a rule favourable to their interests, this is a matter of public interest? Similarly, we believe the public has a right to know what policies the banks are advocating. They are large organisations affecting millions of consumers and the UK macroeconomy. The Money Charity publishes all its consultation responses on its website. We think the banks should similarly publish theirs.

The case for confidentiality should apply only to private, commercially sensitive data. It should not apply to policy proposals and their related arguments.

Q4 Do you agree with our proposals on the scope of the intervention?

Yes.

Q5 Should we include Sharia-compliant products in the scope of the intervention?

As we understand Sharia banking, the Expected Profit Rate (EPR) plays the role equivalent to interest in non-Islamic banking. In principle, the EPR could be adjusted to achieve the effect of demand-based price discrimination, so it should be in scope for the FCA's new rules. We agree, however, that the FCA should consult with providers of Sharia-compliant products and Muslim consumers in case there are any nuances that need to be understood more clearly.

Q6 Do you agree with our proposals to allow firms to offer introductory rates for up to 12 months?

Yes. As stated in our answer to Question 3 above, there is a pragmatic case for a first-year introductory bonus as an incentive to switch where the overall offer is better. After the first year we agree that the SEAR should apply.

Q7 Do you have any comments on our assessment of the expected impact of this policy, including on other products?

We agree that this will be positive for the large numbers of consumers who hold very large aggregate amounts of money in savings accounts paying virtually invisible rates of interest. We think it will be beneficial for financial capability as it makes it easier for consumers to align their actions with their intentions: to save in accounts paying the best or at least a good rate of interest.

Q8 Do you agree that the rule-based options we have considered to prevent circumvention of the SEAR are not necessary, and that we should address the risk of circumvention as we propose?

We are a little uneasy with this approach, given the creativity of the financial sector in finding ways around regulations and means of profiting at the expense of the customer. We suggest the FCA introduces a non-evasion rule along the lines that "creating a product for the purpose of evading an FCA rule is a breach of the FCA rules" with firms and individual managers fined for breaches under TCF and SM&CR.

A "product for the purpose of evading an FCA rule" would be one that a reasonable person would view as being essentially the same as the product covered by the rule, but where minor differences have been introduced with the technical effect of taking the product outside the rule.

Q9 Do you have any comments on the set of data we propose to require firms to publish if we introduce this policy?

We agree with the simple reporting framework proposed on page 39 of CP20/1 and we agree with the argument advanced by CP20/1 that such reporting will aid media coverage of interest rates, assist consumers and help the market work more efficiently.

The table on page 39 (Table 4) does however highlight a possible ambiguity in the new rules as it refers to the "highest available rate on an easy access account and the name of that account". As we understand it, the purpose of the SEAR is that there should be only **one** non-ISA rate and **one** ISA rate for each firm, so there will no longer be a "highest rate", only a single rate. This will lead to a rationalisation of products such that "off sale" products will cease to exist or will have the same SEAR as "on sale" products.[3]

Looking further at the draft rules (in particular, draft rule 9.1.1, page 7 of Appendix 1 Draft Handbook Text) reference is made to the SEAR being applied by "the firm (or a distinct brand of the firm)". However, the term "brand" is not defined.

Presumably the FCA intends the word "brand" to have a narrow meaning, for example in the case of NatWest to mean the RBS, NatWest and Ulster brands. However, the concept of "brand" might be extended as a means of evading the SEAR rules. We suggest that wording be added to the new rules to make it clear that "brand" has a

[3] For most consumers the concept of their savings account being an "off sale product" seems bizarre.

narrow meaning and that brands cannot be proliferated as a means of evading the new SEAR rules.

Q10 How regularly should we require firms to publish these data?

Interest rate data are typically published at short intervals, with interest rates being continuous variables in the UK economy. Bank of England practice is to publish summaries of market interest rates (including easy access and ISA rates) each month, so we suggest that SEARs be published monthly to coincide with the Bank of England reporting cycle.

Q11 Do you agree that we should specify a common format for the publication of these data? If so, do you have any comments on what this format should look like?

We agree with the format proposed, subject to our comment in answer to Question 9, that the ambiguity of the meaning of “highest rate” under a Single Rate rule needs to be sorted out.

Q12 Do you have any comments on our analysis of alternative remedies?

We agree with the analysis of Chapter 6 of CP20/1 that there does not appear to be any technological “golden bullet” at the present time. If new technology offers potential alternative solutions in the future, these can be considered as they arise.

The Money Charity is the UK's financial capability charity providing education, information, advice and guidance to all.

We believe that everyone achieves financial wellbeing by managing money well. We empower people across the UK to build the skills, knowledge, attitudes and behaviours to make the most of their money throughout their lives, helping them achieve their goals and live a happier, more positive life as a result.

We do this by developing and delivering products and services which provide education, information and advice on money matters for those in the workplace, in our communities, and in education, as well as through influencing and supporting others to promote financial capability and financial wellbeing through consultancy, policy, research and media work.

We have a 'can-do' attitude, finding solutions to meet the needs of our clients, partners, funders and stakeholders.

Tel: 020 7062 8933

hello@themoneycharity.org.uk

https://themoneycharity.org.uk/