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CMA Draft Order Consultation – CDFA Response

29 May 2015

About the CDFA

The CDFA is the trade body for community development finance institutions (CDFIs). CDFIs provide affordable credit and support to businesses and individuals who find it difficult to access finance from commercial banks. The CDFA's mission is to support the development of a thriving and sustainable community development finance sector that provides finance for underserved communities and, as a result, contributes to the increasing economic growth and prosperity of these communities.

CDFA Response to Draft Order Consultation

CDFIs' purpose is to extend credit to underserved markets and therefore work directly on addressing access to finance and financial inclusion issues in communities across the UK. The CDFI sector has been experiencing an upward trajectory, lending more and more each year and finding innovative ways to reach excluded and vulnerable consumers, who may otherwise seek high cost credit.

Last year, CDFIs lent £172 million, of which £20 million was to 42,000 consumers. This saved at least 17,000 consumers from high-cost credit, and CDFIs saved their customers £4 million in interest repayments[1]. The sector has tremendous potential to do more, and is well positioned to continue providing finance to excluded consumers and communities and improve their wellbeing in the coming years.

The CDFA welcomes the CMA's investigation into the payday lending market, and subsequent proposed order. Increasing transparency, and presenting consumers with complete information about available financial products, is an important step forward. In addition, a price comparison mechanism would help to drive competition in the market.

However, **neither the CMA's report nor the subsequent order contained any references to CDFIs.** This exclusion risks grouping CDFIs and their products as payday, and subjecting CDFIs to the same rules as payday lenders, which is inappropriate and disproportionate given that their products and services are intended to improve consumers' financial wellbeing.

[1] http://www.cdfa.org.uk/wp-content/uploads/2010/02/CDFA-ICF-Report-2014.pdf

The FCA has acknowledged the distinction between CDFIs and high cost short term credit providers, and has exempted CDFIs from their rules for HCSTC providers[2]. The following is an excerpt from the FCA's PS 14/3[3], where they explain their position on CDFIs:

> "Community development finance institutions
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> In particular, community development finance institutions (CDFIs) provide credit and financial education to consumers in deprived areas, with the objective of addressing issues of financial inclusion, access to affordable finance and community investment. In general, their APRs are well below 100%, but there could be some circumstances in which they exceed this threshold, and so would be caught by the HCSTC rules. This could have an impact on their sustainability.
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> We have amended the HCSTC definition to exclude loans by CDFIs. As there is no statutory definition of a CDFI, we have limited the exclusion to the corporate forms which are most commonly adopted by CDFIs:
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> - registered charities
> - community interest companies limited by guarantee
> - community benefit societies registered under the Industrial and Provident Societies Acts.
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> In each case, these are enterprises that are subject to scrutiny of their social purpose by their respective registering authority or regulator, and are precluded from distributing profits to members.
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> Such bodies will, of course, be subject to the remainder of CONC, and our high level rules, if they engage in regulated activities."

Whilst the CMA's definition of "Lender" seems to exclude the legal structures listed above (charities, community interest companies, and community benefit societies), there is no explicit mention of CDFIs.

We therefore ask that the CMA clarify explicitly in its order that CDFI loans are exempt from the order (as it does with credit unions, overdrafts, credit cards, etc.). This clarity is crucial not only to consistency in how CDFIs are treated by government bodies and regulators, but also in ensuring that they are treated appropriately and proportionately, and thus can continue to provide financially inclusive products and services to consumers that help build their financial stability.

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[2] http://fshandbook.info/FS/glossary-html/handbook/Glossary/C?definition=G3366;
[3] https://www.fca.org.uk/static/documents/policy-statements/ps14-03.pdf