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Sajid Javid
HM Treasury
1, Horse Guards Road
London, SW1A 2HQ

4 December 2013

Dear Sajid

Implementing a payday lending price cap

Thank you for your letter setting out the government's views on the payday lending price cap that we have discussed. Setting the level of the cap will be a finely balanced judgement for us, which will need to take account of a range of varied factors; it is helpful for the FCA to have a clear understanding of the government's position.

In our October Consultation Paper we set out our concerns about the poor consumer outcomes that appear prevalent in the high-cost short-term credit sector. We noted that the Office of Fair Trading's compliance review found that across the sector firms were lending irresponsibly and engaged in business practices that potentially harm consumers. The anecdotal and OFT statistical evidence we have been presented with makes a compelling case for the FCA to take strong action in this part of the credit sector.

Ensuring that firms only lend to borrowers who can afford it has been one of the driving forces behind the measures that we have been consulting on, which deal with business practices rather than price. We welcome your support for these measures, which we have consulted on bringing into force next year.

Securing the appropriate degree of protection for consumers will be central to our thinking in designing the cap. It is evident from our work in relation to our consumer protection objective more generally that what may be right for one consumer will not be appropriate for another. For some consumers, borrowing is not the right answer, but it helps many others manage peaks and troughs in their income. Specifying the cap that finds the right balance between these will be a challenging task. Talking to industry representatives, consumer groups and overseas regulators and the feedback we get from our formal public consultation process will help us shape the design of the cap. As you note, we cannot eliminate all risks to borrowers but we share the government's desire to protect people from debt spirals caused by escalating interest and charges.

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In designing the cap we will, as far as possible, seek to minimise potential avoidance measures. It is possible for firms located in other EEA Member States to provide a payday lending service through the internet to UK consumers within the Electronic Commerce Directive. This is not something that the FCA can mitigate. You also refer to the need for flexibility so that the cap remains relevant in a fast changing, innovative industry. This will be essential and we will want to monitor closely the impact of the cap on consumers and firms, particularly in the early stages, making sure it continues to be effective and responding rapidly if we see firms adapting their businesses to evade the cap.

You are aware of the challenges that we face in bringing a price cap into force by January 2015. There is a significant amount of work to be done to develop a clear, deliverable and enforceable set of rules with which we will expect firms to comply. We have already started planning our work and will be engaging with stakeholders shortly to benefit from their insights. We look forward to the findings from the Competition Commission's market investigation of payday lending. We expect to publish our consultation paper in late spring or early summer next year.

We look forward to sharing our proposals with government at an early stage.

Yours sincerely,

Martin Wheatley