



FinCoNet
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PROTECTION ORGANISATION

Supervisory approaches regarding the prevention and management of arrears

Special focus on exit strategies from payment holidays

November 2022

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Disclaimer

This report is based on information and responses gathered from FinCoNet members between February 2022 and April 2022. While the information was accurate and up-to-date at the time of collection, subsequent changes in circumstances and practices may render some information out-of-date.

The opinions expressed and arguments employed herein do not necessarily reflect the official views of FinCoNet member organisations.

About FinCoNet

In November 2013, FinCoNet was formally established as a new international organisation of financial consumer protection supervisory authorities. FinCoNet is recognised by the Financial Stability Board and the G20.

The goal of FinCoNet is to promote sound market conduct and enhance financial consumer protection through efficient and effective financial market conduct supervision, with a focus on banking and credit.

FinCoNet members see the Organisation as a valuable forum for sharing information on supervisory tools and best practices for consumer protection supervisors in financial services. By sharing best practices and by promoting fair and transparent market practices, FinCoNet aims to strengthen consumer confidence and reduce systemic consumer risk.

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Table of acronyms and abbreviations

ACPR	Autorité de contrôle prudentiel et de résolution
AFM	Dutch Authority for Financial Markets
ASIC	Australian Securities and Investments Commission
EBA	European Banking Authority
EU	European Union
FCA	Financial Conduct Authority
FCAC	Canada Financial Consumer Agency of Canada
FinCoNet	International Financial Consumer Protection Organisation
NPE	Non-performing exposure(s)
OASP	Out-of-Court Arrears Settlement Procedure
OJK	Otoritas Jasa Keuangan (Indonesian Financial Services Authority)
PCB	Budget Advice Points
PRAP	Pre-Arrears Action Plan
SBS	Superintendency of Banking, Insurance and Private Pension Funds Administrator of Peru

Glossary

Term	Definition
Borrower in arrears	A consumer acting as a borrower in a credit agreement who has failed to meet the payments under the credit agreement by their due date.
Borrower in pre-arrears	A consumer acting as a borrower in a credit agreement who presents signs of financial difficulties, which may impact his/her ability to meet the payments by their due date.
Consumer	Individual acting for personal, domestic or household purposes, not business purposes.
Credit moratoria / Payment holidays	Temporary postponement of payments under a credit agreement (capital and/or interest and/or fees) as part of the support measures implemented to minimise the economic impacts on financial consumers of the efforts taken to contain the COVID-19 pandemic.
Debt arbitration	Alternative dispute resolution mechanism, in which the dispute between the consumer and the financial firm relates to unpaid debt and the parties agree to submit the decision to arbitrators of their choice.
Debt counselling	Provision of advice to consumers in pre-arrears or arrears, including informing consumers of their rights and duties, assisting consumers in the analysis of proposals presented by financial firms and supporting consumers in their creditworthiness assessment.
Debt mediation	Alternative dispute resolution mechanism, in which the dispute between the consumer and the financial firm relates to unpaid debt and the parties try to reach an agreement regarding, with the help of an impartial and independent party, the mediator. The mediator guides the parties and assists communication, but does not have the power to make a decision.
Eligible consumer	A consumer who matches the requirements to access a credit moratorium.
Financial firm / Lender	A financial services provider licensed to provide credit and/or servicing of credit as legal title holder to consumers (including a financial, credit or banking institution).
Forbearance	Concessions towards a borrower experiencing or expected to experience financial difficulties, for instance through total/partial refinancing of a credit agreement or modification of its terms and conditions.
Housing credit	Credit agreements whose purpose is to acquire residential immovable property for permanent or secondary residency, as well as renting or to

	acquire or retain rights in land or in an existing or projected building for residential purposes.
Mortgage credit	Credit agreements which are secured either by a mortgage or by another comparable security on residential immovable property or secured by a right related to residential immovable property.
Non-performing loans	Loans subject to late payment or which are unlikely to be repaid by the borrower.
Outstanding debt	Liability amount of principal and/or interest yet to be paid, including arrears.
Respondent or jurisdiction	One of the responding jurisdictions included in the list of Appendix A of this Report.
Unsecured consumer credit	Credit agreements which do not correspond to housing or mortgage credit, as defined above, and are concluded for individual, personal and domestic purposes.

Executive summary

Market conduct supervisors play an integral role in supervising financial products and services providers' conduct and promoting appropriate financial consumer protection practices. A fundamental aspect of financial consumer protection, specifically relating to credit and banking, is considering how financial firms prevent and manage arrears. This is particularly relevant given the current context, in which, many consumers have recently exited credit moratoria and are facing a sudden rise in inflation and interest rates. Examining the management and prevention of arrears is of utmost importance to supervisors globally.

This FinCoNet report presents findings on the supervisory approaches regarding the prevention and management of arrears, with a special focus on exit strategies from payment holidays. The findings of this report are based on 21 responses collected from participating FinCoNet member jurisdictions. This report seeks to provide information on policy development and the use of supervisory tools and approaches in the prevention and management of arrears, debt advice services and the exit strategies from credit moratoria. Additionally, it examines consumer focused risks and outcomes and includes examples and case studies to illustrate the various approaches adopted in different jurisdictions.

Almost all the respondents have rules and/or principles in their jurisdictions regulating how financial firms monitor borrowers' credit risk to prevent arrears on credit agreements. In most jurisdictions, these rules and principles apply to a comprehensive set of credit products, including housing loans and mortgages, car loans and personal loans and other unsecured consumer loans. Usually, these rules and/or principles require financial firms to monitor credit risk regularly and identify early signs of payment difficulties.

In most jurisdictions, the existing rules and/or principles on the prevention of arrears on credit agreements require financial firms to assess the financial situation of borrowers with early signs of payment difficulties. In some jurisdictions, financial firms must also monitor the effectiveness of the solutions that have been agreed upon by the financial firm and borrower to prevent arrears.

Almost all the responding jurisdictions have rules and/or principles in place relating to the procedures to be followed by financial firms to assist borrowers in arrears in their credit agreements. These rules and/or principles range from supervisory guidelines/memorandums to regulatory requirements, including consumer protection and prudential guidance. In most of the responding jurisdictions the rules and/or principles apply to a comprehensive set of credit products available to consumers, including housing loans and mortgages and unsecured consumer loans.

In most of the responding jurisdictions rules and/or principles are in place regarding the provision of debt advice to borrowers in pre-arrears or arrears in their credit agreements and the specific entities in charge of providing those advice services.

All the respondents have oversight powers over financial firms' application and compliance with the rules and/or principles relating to the prevention and management of arrears on credit agreements. Most respondents' supervisory scope includes all financial firms involved in the prevention and/or management of arrears on credit agreements.

In order to oversee financial firms' compliance with those rules/principles, the responding supervisory authorities make use of a wide set of oversight tools. Most of the respondents conduct on-site and off-site inspections, perform analyses of

the data reported by the financial firms and hold regular meetings. Complaints handling and analysis of data on credit default are other frequently used tools.

In response to the COVID-19 pandemic, measures were implemented to mitigate its impact on consumers of credit products and help them endure this critical period. The most common measures implemented were payment deferrals, either through public or private credit moratoria, and the restructuring of repayment terms (for example, loan periods or interest rates).

In anticipation of the exit from credit moratoria, almost all the responding jurisdictions implemented temporary measures to mitigate the impact of the term of credit moratoria on borrowers. These included classifying borrowers according to their credit risk and enhancing systems and procedures to that end, alerting borrowers of the term of credit moratoria and offering forbearance solutions, including pre-approved forbearance solutions.

In most of the responding jurisdictions these measures were implemented through legal or regulatory means, issuing recommendations or setting supervisory expectations on financial firms on how to monitor credit agreements in order to prevent borrowers from entering into arrears following the end of credit moratoria.

The majority of jurisdictions stated that an extension on the suspension of payments was frequently offered to borrowers. Financial firms in most jurisdictions indicated that the option to extend loan maturity was frequently offered to borrowers. Financial firms also deferred the principal of instalments, applied interest rate reductions and presented debt refinancing solutions.

It is important to build on the lessons learned during the COVID-19 pandemic, in order to better prepare supervisors to deal more swiftly and effectively with any future adversities that may jeopardise financial consumers. Integrating quick and flexible vulnerability and financial hardship arrangements into financial consumer protection frameworks will support financial resilience and longer-term recovery as well as prepare jurisdictions for future crises. Regulators and supervisors need to be vigilant in order to keep up with the changing economic conditions and adequately respond to the challenges ahead.

1. Introduction and purpose of report

1.1 Background

This report is an initiative of the International Financial Consumer Protection Organisation (FinCoNet). FinCoNet is an international organisation of supervisory authorities responsible for financial consumer protection. FinCoNet seeks to enhance the protection of consumers and strengthen consumer confidence by promoting robust and effective supervisory standards and practices and by sharing best practices among supervisors. It also seeks to promote fair and transparent market practices and effective disclosure to consumers regarding financial services.

Since its establishment, in 2013, FinCoNet has focused its attention on the topic of responsible lending. FinCoNet set up SC2 to undertake work to identify regulatory and supervisory tools for supporting appropriate consumer lending practices. The aim of this Standing Committee's work is to help supervisors share information about current developments in supervisory tools and responsible lending practices, thus enabling jurisdictions to review the adequacy of their responsible lending practices. The intended outcome of this work is to see a strengthening in the development and use of supervisory tools aimed at deterring unsuitable or irresponsible lending, by helping jurisdictions to identify current gaps and weaknesses in their regulatory regimes, including their supervisory and enforcement capabilities.

Following the publication of the *“Report on responsible lending”* (July 2014)¹, which provides an overview of the supervisory approaches for ensuring suitable consumer lending practices, FinCoNet focused its analysis on the impact of incentives on the sale of credit products. In the *“Report on sales incentives and responsible lending – A study of the impact of sales incentives on the sale of credit products”* (January 2016)², FinCoNet examined the role sales incentives play in responsible lending obligations, with a focus on consumer protection. The conclusions of this report led FinCoNet to issue *“Guidance to Supervisors on the setting of Standards in the field of Sales Incentives and Responsible Lending”* (December 2016)³.

In November 2017, FinCoNet published its *“Report on the Digitalisation of Short-term, High-Cost Consumer Credit”*⁴, with an in-depth analysis of the supervisory challenges posed to market conduct supervisors by digitalisation of consumer credit. As an output of this work, FinCoNet published a set of guidance for supervisors in this field, *“Digitalisation of short-term, high-cost consumer credit - Guidance to supervisors”* (February 2019)⁵.

In November 2021, the *“Report on Supervisory Approaches to Consumers' Creditworthiness Assessments”* was published. It provides a comprehensive overview of how market conduct supervisors are ensuring that lenders take into consideration consumers' financial capacity, interests and needs, and addresses important issues and recent developments in this area.

¹ Available at <http://www.finconet.org/FinCoNet-Responsible-Lending-2014.pdf>

² Available at http://www.finconet.org/Report_Sales_Incentives%20Responsible_Lending.pdf

³ Available at http://www.finconet.org/Guidance_SS_Sales_Incentives_Responsible_Lending.pdf.

⁴ Available at <http://www.finconet.org/Digitalisation-Short-term-High-cost-Consumer-Credit.pdf>.

⁵ Available at http://www.finconet.org/Guidance_Supervisors_Digitalisation_STHCCC.pdf.

Now, SC2 has prepared this report to provide an overview on the supervisory approaches and challenges regarding the prevention and management of arrears, particularly focusing on the exit strategies from payment holidays implemented to respond to the impact of the COVID-19 pandemic.

1.2 Overview of the survey

To inform this report, SC2 developed a “*Questionnaire on exit strategies from payment holidays: Supervisory approaches and challenges regarding the management of pre-arrears and arrears*” (“Questionnaire”) (see Appendix B for the full text of the survey), which was distributed to FinCoNet Members in February 2022. Responses were received until April 2022.

The questionnaire was divided into two main sections:

- The first section of the questionnaire aimed at obtaining information on the strategies implemented to mitigate the impact of the end of credit moratoria / payment holidays, preventing consumers in financial distress from entering into default in their credit agreements.
- In the second section, the respondents were invited to describe the general regulatory and supervisory approaches followed to ensure appropriate management of pre-arrears and arrears on credit agreements concluded with consumers.

The questionnaire was distributed to jurisdictions and representative bodies, including FinCoNet members and observers. A total of 21 participating jurisdictions provided responses to the questionnaire (see Appendix A “List of responding jurisdictions” for a full list of the respondents).

1.3 Purpose and structure of the report

This report provides an overview of the supervisory challenges and approaches followed by market conduct supervisors regarding the prevention and management of arrears on credit agreements concluded with consumers. In particular, this report examines the measures taken by supervisors to mitigate the impacts on consumers arising from the exit from credit moratoria following the COVID-19 pandemic.

The report draws on the information provided from the 21 responses to the questionnaire and is structured as follows:

- First, the report provides a general overview of the regulatory frameworks supporting the prevention and management of arrears, including the rules and/or principles in place in each jurisdiction, the approaches to debt advice and the role of supervisory authorities in this context;
- The report then focuses on the exit strategies from credit moratoria implemented by the responding jurisdictions, describing the temporary measures adopted to mitigate the impact of the end of credit moratoria on borrowers.

A number of practical examples provided by several jurisdictions were considered particularly relevant. These were highlighted as case studies, to illustrate particular approaches and challenges mentioned in this report.

2. Legal and regulatory approaches regarding the prevention and management of arrears

Considering that some of the efforts taken to contain the COVID-19 pandemic led to a significant decline in economic activity, jurisdictions adopted measures to support borrowers facing financial difficulties. These measures sought to ensure they would be able to continue to repay their credit agreements and overcome the hardships posed by this critical period.

Analysing and understanding the measures adopted in response to the pandemic is of great relevance to better deal with the impact of a similar crisis. It is important to build on the lessons learned from the COVID-19 pandemic, in order to better prepare supervisors to deal more swiftly and effectively with any future adversities that may jeopardise financial consumers.

Against this backdrop, the importance of having adequate, comprehensive, robust and responsive financial consumer protection frameworks in place has been highlighted to ensure protection to borrowers facing financial difficulties. As concluded by the OECD, quick and flexible hardship arrangements support financial resilience and longer-term recovery. Integrating such arrangements into financial consumer protection frameworks will prepare jurisdictions for future crises⁶. Enhancing the protection of consumers who may be experiencing vulnerability or financial hardship was considered an important policy area and has been included in the updated G20/OECD High Level Principles on Financial Consumer Protection⁷.

This chapter provides a general overview of the respondents' legal and regulatory frameworks applicable to the prevention and management of arrears on credit agreements.

2.1 Prevention of arrears on credit agreements

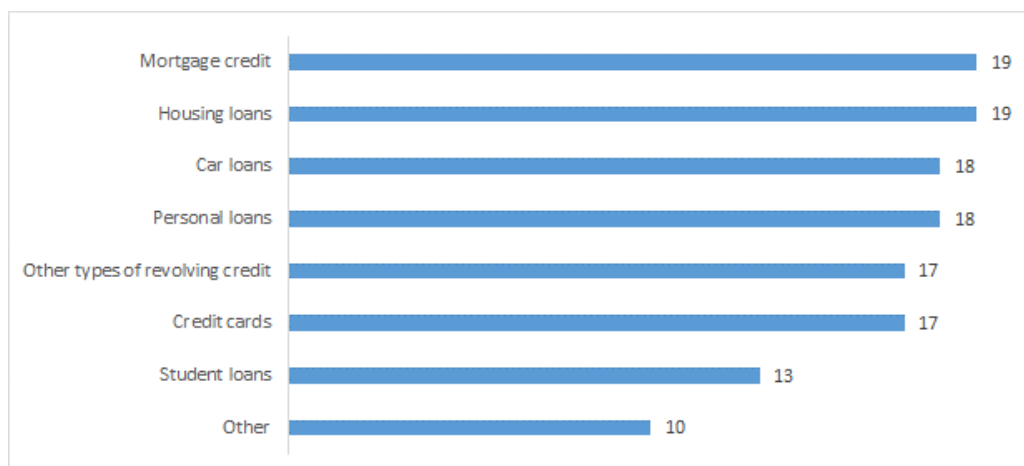
Almost all the respondents (N=20) have rules and/or principles in place to regulate the procedures to be followed by financial firms to monitor the credit risk of borrowers and to prevent arrears on credit agreements.

In most of the responding jurisdictions, those rules and principles apply to a comprehensive set of credit products offered to consumers, including housing loans and mortgages (N=19), car loans and personal loans (N=18) and other unsecured consumer loans. In some jurisdictions, however, those rules and/or principles apply only to particular types of credit, namely housing loans and mortgage credit, as they typically involve higher amounts to be repaid over longer periods of time.

⁶ “G20/OECD Report on Lessons Learnt and Effective Approaches to Protect Consumers and Support Financial Inclusion in the Context of Covid-19”, OECD, 2021, available at [G20/OECD Report on Lessons Learnt and Effective Approaches to Protect Consumers and Support Financial Inclusion in the Context of COVID-19](#), p. 37.

⁷ “Report on the implementation of the Recommendation of the Council on High-Level Principles on Financial Consumer Protection”, OECD, 2022, [https://one.oecd.org/document/C\(2022\)7/en/pdf](https://one.oecd.org/document/C(2022)7/en/pdf) , paragraph 120.

Figure 1 | Credit agreements covered by rules/principles governing the prevention of arrears



Note: N=21

Source: FinCoNet Questionnaire on exit strategies from payment holidays: Supervisory approaches and challenges regarding the management of pre-arrears and arrears (2022)

Identifying early warning signs of financial difficulties

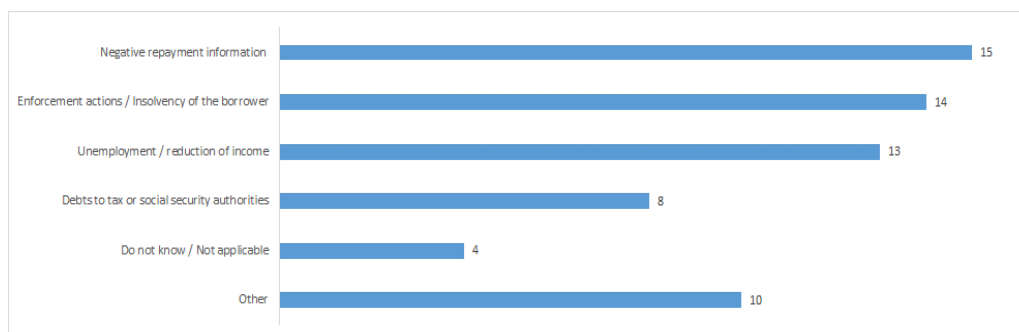
In most jurisdictions (N=18), these rules and/or principles require financial firms to monitor credit risk regularly and identify early signs of payment difficulties. For example, the **Bank of Mauritius** published Guidelines on Credit Risk Management that require financial firms to set up a credit monitoring system, allowing for prompt corrective actions when a deterioration in the financial health of the borrower is identified. Moreover, financial firms must clearly set out a credit risk policy, specifying how problematic credit agreements should be managed.

In respect of early signs of payment difficulties, the respondents identified that a key indicator of payment difficulties, which should be considered by financial firms in their assessment, is the existence of negative repayment information on the borrower.

To that effect, in most jurisdictions (N=15), financial firms are required to take into consideration the information provided by credit bureaus regarding the borrower's prevalence to repay the credit. For instance, in **Brazil**, financial firms verify the borrowers' indebtedness through the information available at the Credit Information System of the Central Bank of Brazil, which contains information on the financial credit market from the past 24 months, or they may resort to private credit bureaus.

A significant number of respondents also explained that financial firms should take into consideration enforcement actions or the insolvency of the borrower (N=14), as well as unemployment or the reduction of income (N=13) as signs of borrower default risk. Other early warning signs include, for instance, debts to tax or social security authorities (N=8).

Figure 2 | Early warning signs to be considered by financial firms when monitoring borrowers' credit risk



Note: N=21

Source: FinCoNet Questionnaire on exit strategies from payment holidays: Supervisory approaches and challenges regarding the management of pre-arrears and arrears (2022)

Guidelines on loan origination and monitoring

The European Banking Authority (“EBA”) has published **Guidelines on loan origination and monitoring (EBA/GL/2020/06)**⁸, which contain recommendations for credit risk monitoring (section 8). According to these Guidelines, financial firms should have a robust and effective monitoring framework, supported by an adequate data infrastructure, to ensure that information regarding their credit risk exposures, borrowers and collaterals is relevant and up to date.

Financial firms are required to monitor all outstanding amounts and limits, and whether the borrower is meeting repayment obligations, as laid down in the credit agreement, and complying with the conditions set at the point of credit granting. Financial firms should also monitor collaterals and, for instance, check whether the value of the collateral is maintained.

In relation to early warning indicators, the Guidelines mention that financial firms should develop, maintain and regularly evaluate relevant quantitative and qualitative early warning indicators that are supported by an appropriate IT and data infrastructure that enables the timely detection of increased credit risk. Several credit quality deterioration signals are presented in the Guidelines, such as the following:

- Negative macroeconomic events (including but not limited to economic development, changes in legislation and technological threats to an industry) affecting the future profitability of an industry, a geographical segment, a group of borrowers or an individual corporate borrower, as well as the increased risk of unemployment for groups of individuals;
- Known adverse changes in the financial position of borrowers;
- A significant increase in credit risk due to an increase in the difficulties of the group to which the borrower belongs (such as residents of a specific geographical area); or significant unfavourable developments in the performance of the borrower’s sector of economic activity; or increased difficulties in the group of related borrowers to which the borrower belongs;

⁸ Available at [EBA GL 2020 06 Final Report on GL on loan origination and monitoring.pdf \(europa.eu\)](https://www.eba.europa.eu/media/1000182/attachment/ef901111-1111-4111-9111-111111111111/eba-gl-2020-06-final-report-on-gl-on-loan-origination-and-monitoring.pdf)

- For transactions secured with collateral, a significant worsening of the ratio of their amount to the value of the collateral, due to unfavourable developments in the value of the collateral;
- A significant increase in credit risk on other transactions of the same borrower or significant changes in the expected payment behaviour of the borrower, when known;
- Known legal action that may significantly affect the borrower's financial position;
- Breach of covenants.

Financial firms should set trigger levels for the early warning indicators and define escalation procedures, including assigned responsibilities for the follow-up actions, namely, placing the borrower in a watch list, subject to special monitoring.

Disclosing information to borrowers on the prevention of arrears

In some jurisdictions (N=12), financial firms are required to disclose information to borrowers on their rights and duties in the context of the prevention of arrears. Having knowledge of their rights and duties is expected to enhance the borrowers' proactivity to reach out to their lender when facing financial difficulties. In addition, these borrowers will be more likely to claim their lawful rights in their relations with lenders in the context of the prevention of arrears.

Establishing contact with the borrower

In many responding jurisdictions, the existing rules and/or principles on the prevention of arrears on credit agreements also require financial firms to establish contact with borrowers showing early signs of payment difficulties (N=16). For example, in the **Netherlands**, if there is a reasonable prospect that the borrower will go into arrears, financial firms should reach out to discuss the financial situation of the borrower and assess possible ways of preventing arrears. The AFM expects lenders to design an early warning system to help identify vulnerabilities/risk on payment difficulties.

Within the framework of robust regulatory requirements for arrears handling, the **Central Bank of Ireland** recommends that lenders engage proactively, effectively and sympathetically with distressed borrowers, to deliver appropriate and sustainable solutions and facilitate as many borrowers as possible keeping to repaying their debt.

In **France**, financial firms are required under French law to comply with a national charter, which includes recommendations to detect financially fragile clients and to support them in the management of their financial difficulties. In addition, financial firms should present basic banking services with reduced costs to these fragile consumers. A consumer is considered financially fragile if there are several irregularities in the operation of the banking account or payment incidents, in particular where such irregularities or incidents occur at least five times per month. Other situations in which the consumer is considered to be fragile include filing for the Bank of France's over-indebtedness procedure; or being registered for three consecutive months in the national payment incident file.

Assessing the financial situation of the borrower

In a significant number of jurisdictions (N=16), the existing rules and/or principles on the prevention of arrears on credit agreements require financial firms to assess the financial situation of borrowers with early signs of payment difficulties. To this end, borrowers must disclose information and provide the documents requested by the lender. An appropriate assessment of the borrower's financial capacity is of paramount importance since it will guide the lender through the process of finding a suitable and effective solution that takes into consideration the borrowers' interests, needs and objectives.

As an example, in **Ireland**, the Code of Conduct for Mortgage Arrears 2013 was first introduced by the Central Bank of Ireland in 2009, and further strengthened in subsequent years, to ensure that relevant regulated firms have fair and transparent processes in place for dealing with borrowers in or facing mortgage arrears. This code requires the completion of a Standard Financial Statement⁹, which outlines the borrower's current income, expenditure and debt levels, as well as other information relating to household composition. The gathering of this specific financial information on the borrower enables the regulated entity to undertake an assessment of the borrower's individual circumstances and to consider whether an alternative repayment arrangement is possible, appropriate and sustainable for the borrower.

In addition, in some jurisdictions financial firms are required to assist borrowers who take the initiative of warning the financial firm of their payment difficulties (N=15). These provisions act as a complement to ensure that adequate arrears prevention is ensured even in such cases where no early signs of payment difficulties have been detected by the financial firm, but where the borrower warns of current or impending payment difficulties.

The Pre-Arrears Action Plan: the Portuguese approach to the prevention of arrears

In **Portugal**, financial firms should define and implement a Pre-Arrears Action Plan. In the context of this plan, financial firms should permanently and systematically monitor the borrowers' credit agreements, carrying out, at least once a month, the necessary actions to identify any signs of payment difficulties.

When such signs are identified or the consumer alerts the financial firm of a pre-arrears situation, the financial firm must contact the borrower within 10 days to assess his/her financial capacity. Financial firms are required to inform the consumer of the outcome of the assessment of his/her financial capacity and, if possible, present proposals, within 15 days of receiving the necessary information.

The proposals presented by the financial firm may include changes to the terms of the credit agreement, such as the extension of the repayment period; the application of a grace period (for the repayment of the principal or the repayment of the principal and payments of interest); the deferral of a part of the capital to an instalment at a future date; or the reduction of the interest rate applicable to the credit agreement for a defined time period.

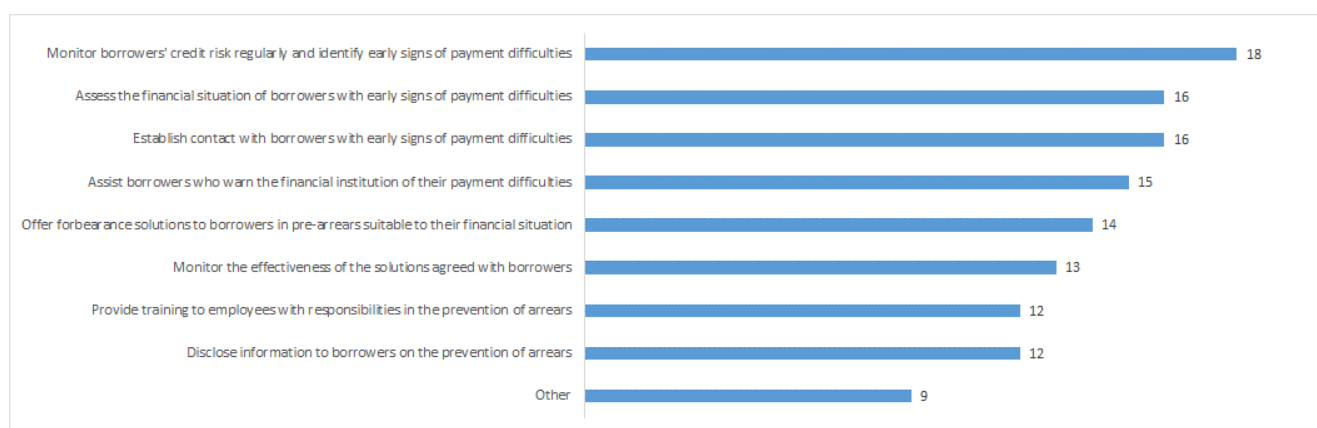
⁹ "Mortgage Arrears: A Consumer Guide to Completing the Standard Financial Statement", Central Bank of Ireland, January 2022, available at [Consumer Guide to Completing the SFS \(centralbank.ie\)](https://www.centralbank.ie/consumer-guide-to-completing-the-sfs).

The proposals presented by the financial firm may also include the consolidation of a number of credit agreements and the entering into of a new credit agreement in order to refinance the debt.

The financial firm may not charge fees or increase the interest rate on the credit agreement as a result of renegotiating the terms of the credit agreement.

Additionally, the financial firm should monitor the effectiveness of the solutions agreed with the borrower, regularly assessing their suitability to the financial capacity, objectives and needs of the borrower and proposing other solutions, whenever suitable.

Figure 3 | Procedures financial firms should follow in the prevention of arrears



Note: N=21

Source: FinCoNet Questionnaire on exit strategies from payment holidays: Supervisory approaches and challenges regarding the management of pre-arrears and arrears (2022).

Italy's provisions on the procedures to manage borrowers facing difficulties in repaying their debts

In **Italy**, provisions on transparency of the contractual conditions and fairness of the relationships with borrowers state that lenders are required to adopt internal policies and procedures in order to manage relationships with consumers facing difficulties in debt repayment. In particular, the lender shall adopt internal procedures in order to ensure compliance with the following:

- Consumers who are experiencing difficulties in meeting payment terms should be promptly identified;
- Interaction with consumers encountering difficulties must be managed in clear and comprehensible language; moreover, it should be suited to the information requirements and not excessive, also complying with the confidentiality principle. Communication should be conducted in electronic or paper form;
- The lender shall help the consumer identify the reasons for the difficulties encountered and the most suitable solutions to repay the credit;
- Lenders should provide adequate assistance, especially to consumers encountering difficulties as a result of, for example, losing their job, disability or serious illness. To this end, the lender should stress the importance of cooperation in finding a suitable solution for the difficult situation. The lender must provide, at least, the

following information: (i) the number and total amount of missed or partial payments; and (ii) the charges due for the omitted or partial payments.

- The staff responsible for dealing with consumers who are experiencing difficulties in meeting their repayment obligations receive specific and adequate training with respect to the tasks performed.

When assessing the solutions to be offered to the borrower, the lender must take into account the personal circumstances, interests, rights and ability to repay of the consumer.

The proposal may consist of the refinancing of all or part of the credit or the modification of the terms of the credit agreement, for instance, the extension of the term of the agreement; allowing the borrower to pay interest only instalments for a period of time; the total or partial deferral of the payment of instalments; the renegotiation of the interest rate; or temporary suspension of the payment of instalments.

Presenting forbearance measures to borrowers and monitoring their effectiveness

In half of the responding jurisdictions (N=11), depending on the result of the assessment of the situation and the financial capacity of the borrower in pre-arrears, financial firms should offer him/her adequate forbearance solutions. In the **Netherlands**, the AFM expects financial firms to have a wide range of solutions to help consumers if there is a reasonable prospect of entering into arrears. Financial firms should assess which solution is the most effective. The lender should first contact the consumer; identify the potential risks, their causes and assess the borrower's financial situation. Financial firms decide which solutions could be effective.

In **Germany**, forbearance measures have to be mutually agreed upon, except in specific cases. There are exceptions for claims in divorce or inheritance, when the consumer would face unreasonable hardship by immediate payment. In addition, in unsecured consumer credit, there is an exception for overdraft facilities: if the debtor used his overdraft facility continuously for more than six months beyond 75%, the financial firm is required to offer a counselling meeting and, if the client attends this meeting, the financial firm has to discuss more affordable alternatives and the consequences of further use of the limits.

In **Spain**, since 2012, borrowers with a mortgage who are experiencing financial difficulties and social exclusion are covered by the protective measures included in the Code of Good Practices ("*Código de Buenas Prácticas*"). Financial firms sign up to this code voluntarily, but the application of its measures is mandatory for associated financial firms. If the borrower meets the economic requirements established by the code, the financial firm shall offer a plan to facilitate the payment of the mortgage through debt restructuring. If this plan is not viable, the borrower can request a debt reduction (voluntary on the part of the financial firms) and, lastly, a release of the debt.

Forbearance measures in Ireland's Mortgage Arrears Resolution Process

In **Ireland**, financial firms should, where possible, offer forbearance to borrowers in or facing payment difficulties. In relation to mortgages, the Code of Conduct on Mortgage Arrears 2013 sets out a Mortgage Arrears Resolution Process.

The Mortgage Arrears Resolution Process assists borrowers in or facing mortgage arrears and includes four steps: communication with borrowers (step 1), financial information (step 2), assessment (step 3) and resolution (step 4).

As regards the assessment, this procedure includes a provision whereby prior to completing a full assessment of the borrower's circumstances a financial firm may agree with the borrower to put a temporary alternative repayment arrangement in place, where a delay in doing so would further exacerbate the pre-arrears or arrears situation. Such an arrangement should have a limited duration but it should be sufficient to enable the financial firm to receive and complete a full review of the borrower's circumstances.

In addition, in order to determine which options are viable for each case, a financial firm must explore all of the options for alternative repayment arrangements offered by that firm. Financial firms are also required to document its considerations regarding each option, stating the reasons why a certain alternative repayment arrangement was considered appropriate and sustainable (or not, as the case may be) for the borrower's individual circumstances.

In some jurisdictions, financial firms must monitor the effectiveness of the solutions agreed with the borrowers to prevent arrears (N=13), and sometimes they are also required to promote adjustments to the solutions presented, if necessary.

The impact of COVID-19 on the rules and/or principles in place regarding the prevention of arrears

In a few jurisdictions (N=7), the rules and/or principles in place or under consideration regarding the prevention of arrears on credit agreements were impacted by the measures adopted in the context of the Covid-19 pandemic. For instance, in **Portugal**, the COVID-19 pandemic called for amendments to the Portuguese general framework governing the prevention and management of arrears, in order to strengthen the protection of consumers who were facing or would presumably face difficulties in resuming the payment of their debts. These amendments require financial firms to have a more pro-active approach in the prevention of arrears situations. As a result of the amendments made, financial firms are now required to perform regular evaluations aimed at identifying signs of deterioration of the consumer's creditworthiness on a monthly basis; and are prohibited from raising interest rates in the context of agreements aimed at preventing or managing arrears.

Some jurisdictions highlighted that, while no amendments were made to the frameworks in place, the pandemic and the measures adopted in that context had other types of visible impacts, such as changes to the supervisory focus, accompanied by increased supervision of compliance with certain rules. For example, in **Ireland**, the Central Bank increased the granularity of its assessment of lenders' arrears prevention, by digging deeper into their segmentation approach, or the extent and timeliness of their Significant Increase in Credit Risk identification, required under the International Financial Reporting Standards. In **Canada**, based on the experience of the pandemic, the Federal Government has committed to requiring federally regulated financial entities to offer flexible repayment options to individuals who face an event causing financial stress, including a six-month deferral of mortgage payments in qualifying circumstances.

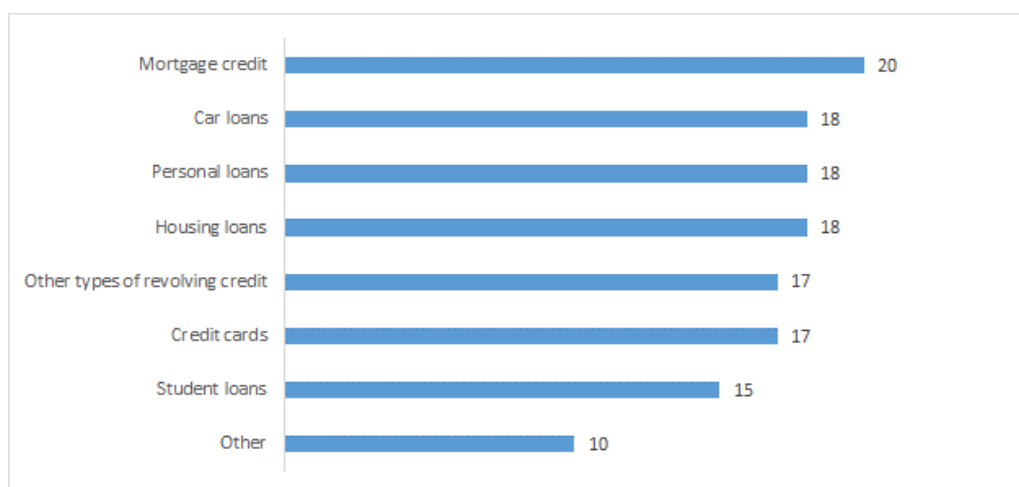
2.2 Management of arrears on credit agreements

Entering into arrears on a credit agreement is a critical situation for borrowers with serious individual and social consequences. Thus, it is widely acknowledged that it is important to have measures in place that ensure financial firms are committed to finding and presenting suitable forbearance solutions, effectively contributing to the resolution of the arrears situation, without the need to resort to judicial proceedings. Almost all the responding jurisdictions have rules and/or principles in place relating to the procedures that financial firms should follow to assist borrowers in arrears in their credit agreements (N=20).

According to the **EBA report on the peer review on supervision of NPE management (EBA/REP/2022/12)**¹⁰, a significant number of national competent authorities put in place requirements for forbearance from a consumer protection perspective. Such requirements range from supervisory guidelines/memorandums to domestic regulatory requirements, including consumer protection, prudential guidance and specific domestic regulation including national charters and consumer protection codes.

In most responding jurisdictions those rules and/or principles apply to a comprehensive set of credit products offered to consumers, namely housing loans and mortgages as well as unsecured consumer loans.

Figure 4 | Credit agreements covered by rules/principles governing the management of arrears



Note: N=21

Source: FinCoNet Questionnaire on exit strategies from payment holidays: Supervisory approaches and challenges regarding the management of pre-arrears and arrears (2022)

Under these rules and/or principles, in many jurisdictions, financial firms are required to contact borrowers immediately after they enter into arrears (N=16), assess the borrower's financial situation (N=14) and offer them suitable forbearance solutions (N=13). In some jurisdictions, financial firms are obliged to monitor the effectiveness of the solutions agreed with the borrowers (N=15), disclose information to borrowers on the management of arrears (N=12) and

¹⁰ Available at [Peer Review Report on NPE management \(europa.eu\)](https://www.europa.eu/peer-review-report-on-npe-management).

provide training for employees with responsibilities in the management of arrears (N=11).

Portugal's Out of Court Arrears Settlement Procedure

The **Portuguese** approach to the management of arrears is based on this procedure, which aims at facilitating an agreement between the consumer and the financial firm, in order to settle arrears situations, without going to court.

If a consumer enters into arrears, he/she can request to be included in this procedure. Irrespectively of a request by the consumer, financial firms must initiate the Out of Court Arrears Procedure between the 31st and 60th day after non-payment. The borrower must be informed of the start of the procedure within five days.

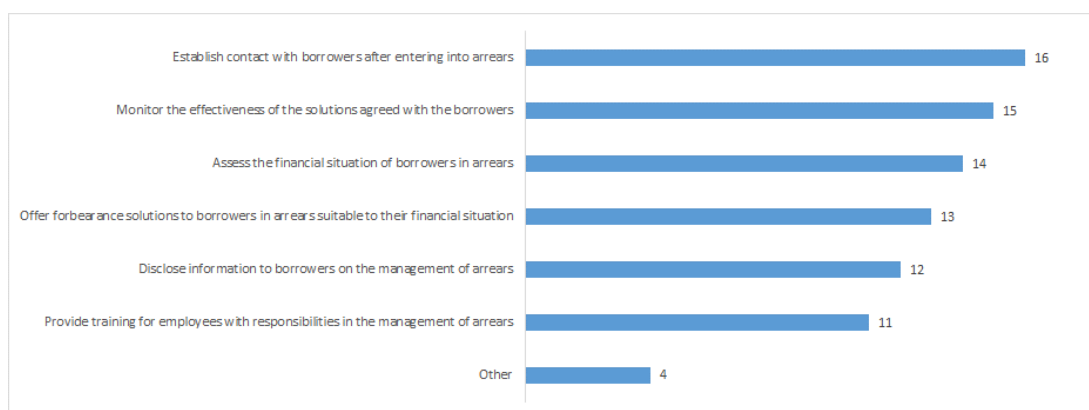
Financial firms should assess the borrowers' financial capacity in order to ascertain whether the arrears situation is due to specific and transitory circumstances or if it reflects the borrowers' lack of ability to keep his/her payments. To that end, financial firms request the information and documents needed, which must be provided by the borrower within 10 days. The result of this assessment should be conveyed to the borrower within 30 days as of the start of the Out of Court Arrears Procedure. When financial firms conclude that the borrower has financial capacity to overcome the arrears situation, they should present forbearance measures that are adequate to the financial situation of the borrower.

Over the course of this procedure, financial firms are prohibited from (i) terminating the credit agreement due to arrears; (ii) initiating legal proceedings against the borrowers with a view to redeeming the credit; (iii) assigning some or all of the credit to third parties.

Financial firms are required to report to the Central Bank of Portugal the internal procedures developed to ensure compliance with the legal and regulatory framework in place. Furthermore, they are to report on a set of quantitative data related to the implementation of the aforementioned framework, on a monthly basis.

Additionally, financial firms should monitor the effectiveness of the solutions agreed with the borrower, regularly assessing their suitability to the financial capacity, objectives and needs of the borrower and proposing other solutions, whenever suitable.

Figure 5 | Procedures financial firms should follow in the management of arrears



Note: N=21

Source: FinCoNet Questionnaire on exit strategies from payment holidays: Supervisory approaches and challenges regarding the management of pre-arrears and arrears (2022)

In **Ireland**, lenders are required to treat borrowers with mortgage credit agreements in arrears sympathetically and positively, with the aim of getting them back on track with their mortgage. They are also required to have dedicated and specially trained staff in their Arrears Support Unit to manage borrowers' cases. All meetings with the borrower must be conducted in the utmost privacy, and the firm must prepare and make available to borrowers an information booklet on the Mortgage Arrears Resolution Process. This process sets out how financial firms must communicate with the borrower and what information it should provide at various junctures of the arrears journey, as well as the means by which the firm must gather information on, and assess the borrower's situation with the aim of coming to a resolution.

A key protection of the Mortgage Arrears Resolution Process is that borrowers can appeal certain decisions made by lenders, such as when a borrower is not willing to enter into the alternative repayment arrangement that was offered by the financial firm; or when the financial firm declines to offer an alternative repayment arrangement to a borrower. For this purpose, the financial firm must establish an Appeals Board to consider and determine any appeals submitted by borrowers. This Board must be comprised of three of the financial firm's senior personnel, who have not previously been involved in the borrower's case. At least one member of the Appeals Board must be independent of the lender's management team and must not be involved in lending matters, for example, an independent member of the financial firm's Audit Committee or an external professional such as a solicitor, barrister, accountant or other experienced professional.

The Netherlands' approach to the management of arrears and the importance of a general duty of care

In the **Netherlands**, one of the most important legal obligations of the creditor with regards to arrears management is the general duty of care. The general duty of care obliges financial providers to carefully consider the legitimate interests of the consumer and act in the best interest of the consumer when providing advice.

This open norm has led to an extensive framework with various components, such as: training of employees, communication, costs, appropriate solutions, timely intervention when the arrears arise, properly identifying the cause of arrears and gaining insight into the financial situation of the borrower. The goal is primarily to provide and guide the consumer to a sustainable recovery.

Other relevant provisions determine that lenders must provide information that is correct, clear and not misleading and lenders may not approach consumers in an aggressive manner. Lenders must also verify if a debt collection agency has an AFM license. In addition, lenders cannot block a payment account based on the existence of arrears and must register the arrears in the relevant credit data base.

In **Australia**, the ASIC has issued the Debt Collection Guideline¹¹ that encourages creditors to work with borrowers to adopt a flexible and realistic approach to repayment arrangements after borrowers fall into arrears on credit agreements. This includes making reasonable allowances for a borrower's ongoing living expenses, considering if a borrower is on a fixed low income, recognising that borrowers experiencing financial difficulties will often have a number of debts owing to different creditors, and ensuring that payment arrangements are meaningful and sustainable.

The **United Arab Emirates** have general principles regarding the management of arrears that require lenders to have written policies and procedures for debt collection; and to take reasonable steps towards discussing financial difficulties with the borrower, prior to proceeding with debt collection, collateral redemption or legal action. Lenders are also required to approach borrowers in arrears and discuss options for resolving the arrears, as well as offer credit counselling.

If an agreement is reached, the revised payment terms and schedule should be disclosed, promptly and clearly, to the borrower. On the other hand, if the proposal presented by the borrower is rejected, the lender must document and communicate the reasons for rejecting the proposal.

In **Nigeria**, the recovery processes must be transparent, courteous and fair, devoid of undue pressure, intimidation, harassment, humiliation or threat. Financial firms are required to engage with borrowers and give notice of outstanding obligations prior to initiating debt collection and foreclosure should be initiated only when other recovery steps have been unsuccessful.

France's procedure for over-indebtedness

In France, a consumer who is unable to repay his debts may file a request with the Bank of France to freeze repayments for a two-year period and negotiate a repayment plan (including rescheduling and / or partial debt relief), with all creditors (not only banking creditors). The over-indebtedness procedure is free of charge.

A fundamental aspect of the French procedure is that it requires the intervention of a commission, which is composed of representatives from the Government, a public finance representative and the financial firm. This commission gathers regularly to consider the most appropriate solution, taking into account the consumer's situation.

A borrower's inclusion in this procedure determines that all ongoing seizure and foreclosure proceedings must be suspended for a two-year period, with the exception of unsettled maintenance obligations (such as monthly allowances) and debts arising from criminal convictions. The commission analyses the consumer's situation and, at his request, may ask the relevant court to suspend an existing eviction procedure. Creditors, including financial firms do not have the right to terminate or amend a contract (mortgage insurance contract, for example) on the basis of the borrowers' over-indebtedness application accepted by the commission.

This commission will assess if the borrower's situation allows for repayments. If the commission concludes that the debt repayment is a possibility, it will set up negotiated arrangements tailored to his financial situation or a temporary freeze of debts. However, if the commission considers that the consumer's situation prevents him of repaying the

¹¹ "Debt collection guideline: for collectors and creditors", Australian Securities and Investment Commission & Australian Competition and Consumer Commission, April 2021, available at [Regulatory Guide RG 96 Debt collection guideline: for collectors and creditors \(asic.gov.au\)](https://www.asic.gov.au/regulatory-guide-rg-96-debt-collection-guideline-for-collectors-and-creditors).

debt, even partially, the commission can (i) impose a personal recovery procedure without initiating a judicial liquidation or, (ii) open a personal judicial liquidation. This decision does not need the borrower's agreement.

In practice, forbearance measures granted by French financial firms are generally adopted within the framework of over-indebtedness proceedings. It is worth noting that the number of over-indebtedness cases filed with the Bank of France fell by 15% in 2021 compared to 2019, the year of reference after a 2020 marked by the pandemic with volatile changes.

Apart from this procedure, the lender may request the resolution of the credit agreement and require the immediate repayment of the outstanding capital, as well as the payment of the accrued interest. If the lender does not require immediate repayment of the outstanding principal, the lender may increase the interest rate to be paid by the borrower until the regular course of contractual repayments has been resumed.

In **Spain**, financial firms may voluntarily adhere to a Code of Good Practices, in which case, the application of the measures set out therein are mandatory. According to this code, a borrower in a credit agreement secured by a mortgage on his residence may apply for the restructuring of the debt, in order to render the payments plan viable in the medium/long term. Financial firms are required to inform borrowers of the measures set out in the Code and help them fill in the application form and select the documents to be submitted. The financial firm must present the borrower with a payments plan and its' financial implications. The borrower can also present a proposal. Should the proposal be rejected, the lender must inform the borrower of the reasons that justify such decision.

The European Union's approach to the management of arrears

The **Mortgage Credit Directive**¹² sets out that Member States shall adopt measures to encourage creditors to exercise reasonable forbearance before foreclosure proceedings are initiated.

Complementarily, the **EBA Guidelines on arrears and foreclosure (EBA/GL/2015/12)**¹³ support the implementation of that provision, establishing requirements that ensure a consistent protection of mortgage borrowers in arrears throughout the European Union.

The Guidelines call for the establishment of policies and procedures to detect consumers entering into payment difficulties, as well as policies for engaging and supporting consumers in payment difficulties. In addition, staff dealing with these consumers should be provided with adequate training.

If a consumer is facing payment difficulties, the creditor should work with him/her to establish why the difficulties have arisen and for the creditor to take appropriate steps. In doing so, the creditor shall respect the consumer's privacy and not engage in excessive levels of contacts.

¹² Article 28 of Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010. Available at <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32014L0017>.

¹³ Available at [EBA-GL-2015-12 EN GL on arrears and foreclosure.pdf \(europa.eu\)](https://www.eba.europa.eu/media/1000000/attachment/ef468466-1671-4911-b951-000000000000/EBA-GL-2015-12_EN_GL_on_arrears_and_foreclosure.pdf).

The creditor is also required to provide support and information to the consumer, covering, at least: the number of payments missed or paid in part; the total sum of the payment shortfall; the charges incurred as a result of the payment shortfall; amongst other elements.

The Guidelines also present possible forbearance measures, such as the refinancing of the credit agreement and several possibilities of modification of the terms and conditions of a credit agreement. When deciding on the most appropriate forbearance measure, the creditor should consider the borrower's individual circumstances, interests and rights, and his ability to repay.

Additionally, the creditor should document the reasons why the options offered to the consumer are appropriate for his individual circumstances and should make and retain adequate records of its dealings with the consumer in payment difficulties for a reasonable period of time.

A brief mention must also be made to the **EBA Guidelines on management of non-performing and forborne exposures (EBA/GL/2018/06)**, which aim at a reduction of non-performing loans, in order to strengthen the resilience of financial firms' balance sheets, from a prudential perspective, while taking into account the importance of consumer protection and fair treatment of consumers.

These Guidelines should be considered by financial firms when setting NPE strategies, remuneration policies and career development objectives for staff and management involved in NPE workout activities. In the case of early arrears (due up to 90 days), the focus should be on initial engagement with the borrower and collecting information to define a suitable workout strategy. While financial firms should seek options to improve their position (for instance, by taking additional collateral), they should take into account the rights and interests of consumers. In the case of late arrears, financial firms should implement forbearance arrangements, but only if the financial firm is satisfied that the borrower can afford to make the repayments, considering all the legal provisions aimed at protecting consumers, to the extent applicable, and taking into account the interests of consumers.

In addition, before granting any forbearance measures, financial firms should assess the borrower's repayment capacity. This should include an adequate assessment of the borrower's financial situation, based on sufficient information and taking into account relevant factors such as the debt-servicing capacity and overall indebtedness of the borrower or the property/project¹⁴.

Prevention of abusive contact with consumers

Almost all jurisdictions (N=18) have rules or principles in place preventing financial firms from making abusive contact with borrowers in arrears. These

¹⁴ The EBA conducted a peer review on how prudential and consumer protection authorities supervise the management of non-performing exposures by financial firms and have implemented these Guidelines on the management of non-performing and forborne exposures. The findings of this review have been drawn into the EBA Report on the peer review on supervision of NPE management (EBA/REP/2022/12), which was published on 17 May 2022. According to this report, competent authorities assess how financial firms meet their consumer protection obligations when granting forbearance measures to borrowers. The approaches adopted in this context include a risk-based/complaint-based approach; on-site inspections, as well as off-site inspections; thematic reviews; daily assessment of information reported by supervised financial firms; queries; financial firms' websites and policy reviews .

provisions aim at preserving the borrowers' dignity and maintaining a suitable environment that encourages proper engagement of both parties and the negotiation process, with a view to finding an adequate solution to settle the arrears situation.

In some jurisdictions, provisions have a relatively broad scope. For instance, in **Brazil**, defaulting consumers may not be exposed to ridicule, nor will they be subjected to any type of embarrassment or threat¹⁵. In **Japan**, lenders are not allowed to intimidate borrowers or act in a way which may harm the tranquillity of one's personal life or business operations¹⁶.

Other provisions highlighted by the responding jurisdictions focus more particularly on the qualitative aspects of the contacts. In **Ireland**, the Consumer Protection Code 2012 sets out that the level of contact and communications with a borrower in arrears must be proportionate and not excessive. This applies both to contacts initiated by a regulated entity or a third party acting on its behalf. In **Portugal**, excessive, abusive and inappropriate communication with clients is also prohibited. This includes intimidating or misleading communication, inaccurate description of the terms of the credit agreement and unclear identification of the entity responsible for the management of arrears.

In **Australia**, the Debt Collection Guidelines prevent creditors from misleading a borrower in the context of payment negotiations. For example, creditors must not advise a borrower that a credit provider cannot, or is unable to, enter into payment arrangements when that is not the case; or mislead a borrower about their rights, the consequences of non-payment or the legal status of a debt. The Guidelines also recommend that it is unacceptable to pressure a borrower to pay in full or in large instalments, or to increase payments when the creditor is aware the borrower is unable to do so. It is also unacceptable to pressure a borrower to get further into debt to pay out an existing debt; to show proof of unsuccessful alternative credit applications before a repayment plan is negotiated; or to borrow from family or friends to pay a debt.

In some jurisdictions, there are limitations to the number of unsolicited communications in respect of arrears that the lender may initiate. In **Ireland**, the Consumer Protection Code 2012 requires that a financial firm (and/or a third party acting on its behalf) must not initiate more than three unsolicited communications, *per* calendar month, by whatever means, to a borrower in arrears. This includes communications where contact was attempted but not achieved. However, communications that were requested or agreed in advance with the borrower do not count towards the limit, and neither do communications for the sole purpose of complying with regulatory requirements.

In other cases, applicable rules focus on the timing of the contact. In **Portugal**, unless previously agreed with the client, financial firms are not allowed to contact clients between 10 p.m. and 9 a.m. (local time zone of the client). Likewise, in **Nigeria**, it is not possible to contact clients between 9 p.m. and 8 a.m. for the purpose of debt recovery, except with the prior consent of the client.

In addition, in **Portugal**, communication through means of contact (e.g. personal email or personal phone number) which were not provided by the client to the financial firm is also considered abusive, unless the means of contact are accessible to the public.

¹⁵ Article 42 of Law no. 8.078, 11 September 1990.

¹⁶ Article 21 of the Money Lending Business Act.

Regarding personal visits, in **Ireland**, unsolicited visits to individuals are, in general, not allowed. The Consumer Protection Code 2012 requires that a consumer must give informed consent to being contacted by way of a personal visit. However, the Code of Conduct on Mortgage Arrears 2013 does allow unsolicited personal visits to borrowers in mortgage arrears in very specific circumstances, i.e. where all other attempts at contact in relation to the mortgage arrears have failed and immediately prior to classifying the borrower as not co-operating. Notice of the unsolicited visit must also be provided to the borrower.

In **Nigeria**, it is possible to contact friends, employers, relatives or neighbours of a borrower, but only to gather information on employment status, telephone number or address. This limitation does not apply if the person has guaranteed the loan or if the person has consented to be contacted.

Credit purchasers and servicers

The sale of credit to third parties, mostly, non-performing loans, has been raising significant challenges for consumer protection. In some jurisdictions it could mean that from the moment of the sale onwards the credit agreement is managed by a third party, typically not encompassed in the supervisory scope and not subject to the obligations referred to in this report.

However, there are some jurisdictions in which credit servicing activities are subject to supervision.

Ireland, for instance, has a regime for the regulation of credit servicing firms. The regime was first put in place in 2015, with the firms conducting credit servicing¹⁷ being subject to regulation by the Central Bank of Ireland. This resulted in a significant strengthening of consumer protection for borrowers whereby all consumer protection obligations would travel with loans, if they were sold by a supervised entity to a new non-supervised owner.

In 2018, the scope of “credit servicing” was amended to also bring the legal title holders of the credit directly under Central Bank regulation and supervision, and within the scope of the relevant consumer protection framework. Credit servicing firms are subject to the provisions of Irish financial services law that apply to regulated financial service providers, including the Consumer Protection Code 2012 and the Code of Conduct on Mortgage Arrears 2013.

In **Australia**, debt collectors to which the debt is legally assigned are considered credit providers, since the assignee legally owns the debt and it is the entity to which the consumer must make repayments. Therefore, the assignees need to be licensed by the ASIC to engage in credit activities, assuming no exclusion is applicable¹⁸. Moreover, debt collection is a regulated activity. In 2005, the ASIC and the Australian Competition and Consumer Commission released the Debt Collection guideline for collectors and creditors, which was revised in 2014. It provides practical guidance regarding when it is appropriate to contact a debtor, including what constitutes contact and reasonable contact hours, methods or frequency of contact. It explains how the need for collection activity will be

¹⁷ Defined as managing or administering the agreement, including activities such as notifying the borrower of changes in interest rates or payments due, taking necessary steps to collect or recover payments due, and managing or administering errors, complaints, arrears handling etc.

¹⁸ Regulatory Guide 203 – Do I need a credit licence?, ASIC, October 2017, available at <https://download.asic.gov.au/media/5807183/rg203-published-12-october-2017-20201001.pdf>.

greatly reduced when debtors act promptly and responsibly, and collectors are flexible, fair and realistic. It also refers to new communication technologies developed since the initial publication, including the use of social media platforms and auto dealers, and the potential pitfalls to avoid in using such technologies¹⁹.

The EU Directive on credit purchasers and servicers

The EU Directive on credit purchasers and servicers²⁰ seeks to reinforce the protection granted to debtors of credit agreements that have been transferred to entities other than financial firms.

It is established that entities that acquire credits originally entered into by financial firms must appoint a credit servicer, which will be responsible for ensuring compliance with the rules that would apply if the credit had not been assigned. This is to ensure the neutrality of the assignment for the debtor.

In order to perform this activity, the credit servicer must be authorised by the supervisory authority of a Member State, which depends on demonstrating compliance with a set of requirements. The performance of credit managers is also subject to supervision.

There is a general principle that acquirers and credit managers should act in good faith, in a loyal and professional manner, providing debtors with information that is not misleading, unclear, false or intimidating and protecting personal data.

It also defines a set of duties that acquirers and credit managers must fulfil. Of particular note is the borrower's notification following the after the assignment of credits and prior to any collection procedure, of the date of assignment of the credit, the identification and contact details of the purchaser and the credit manager, the amounts owed by the debtor at the time of communication, specifying what is owed by way of capital, interest, commissions and other allowable charges, among other elements.

This directive must be transposed by EU Member States by the 29 December 2023.

Late payment interest, fees and charges

Most jurisdictions have rules or principles in place regarding late payment interest, fees and charges that may be imposed on borrowers in arrears (N=20). Provisions such as the abovementioned aim at avoiding an excessive burdening of borrowers that are already facing financial difficulties and struggling to meet their payments in the credit agreement, and ensuring that the borrowers' circumstances lead them towards the resolution of the arrears situation.

In the **Netherlands**, in the case of unsecured consumer loans, when the borrower fails to meet payments, the lender is allowed to charge a delay compensation. However, the lender is not allowed to charge extra costs on top of the delay compensation, such as administrative or collection costs. In addition, the delay compensation is capped by law and is not added to the regular interest rate, but rather charged in its place.

In **Australia**, in the case of small amount credit contracts, the credit provider must not recover more than twice the amount borrowed. All fees and charges already

¹⁹ Available at [14-159MR ACCC and ASIC revise guidelines for businesses and consumers about debt collection activities | ASIC](#).

²⁰ Directive (EU) 2021/2167, of the European Parliament and of the Council, of 24 November 2021. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021L2167>.

imposed must be considered in this context. As for credit card providers, they cannot impose fees on consumers for exceeding their credit limit without their consent. As buy now pay later products are generally outside of the regulatory scope, there is an industry Code of Practice²¹ (developed by industry) that includes a commitment to have fair, reasonable and capped late fees.

In **Germany**, the interest incurred after default has occurred must be booked to a separate account and may not be paid into a current account together with the amount owed or other claims of the lender²².

In **France**, if the lender does not require immediate repayment of the outstanding principal, it may increase the interest rate to be paid by the borrower until the normal course of contractual repayments has been resumed. However, the gross-up of the rate and compensation that may apply in case of payment default are subject to the legal maximum cap (e.g. for mortgage credits, respectively 300 basis points and 7% of the outstanding amount including accrued and payable interests). In addition, no recovery fees can be charged to the borrower, except in specific circumstances (e.g.: fees related to legally required specific prior step, debtor's bad faith, uncovered cheque).

In **Portugal**, in the event of arrears, financial firms may charge default interest, up to an annual surcharge of 3%, on the amount of capital that is due and yet to be paid. This is in addition to the compensatory interest the firm receives for making the funds available. In respect of fees, financial firms are prohibited from charging fees based on the default of the borrower. However, financial firms may charge a one-time fee for recovering amounts owed for each payment due and unpaid, which cannot exceed the lowest of a fixed fee of 150€ or 4% of the payment that is due and unpaid. If this fee is below 12€, then financial firms may charge a fixed fee of 12€. Should the payment due and unpaid exceed 50,000€, the fee for recovering amounts owed is capped at 0.5%. Furthermore, financial firms are prohibited from charging fees for renegotiating the terms of credit agreements and increasing the interest rate when preventing/settling credit arrears

The impact of COVID-19 on the rules and/or principles in place regarding the management of arrears

In most jurisdictions, the measures adopted in the context of the COVID-19 pandemic did not have an impact on the rules/principles in place or under consideration regarding the management of arrears on credit agreements. However, a few (N=6) reported modifications.

Brazil, for instance, enacted a law in 2021 that aims at ensuring the minimum conditions of subsistence for people who are in a situation of over-indebtedness, by preserving the existential minimum, through debt recovery and protection of the existential minimum in debt renegotiation and credit concession.

In **Portugal**, during the pandemic, the general legal framework governing the management of credit pre-arrears and arrears was amended, with the purpose of strengthening the obligations of firms in the context of arrears situations. For instance, if the parties agree to renegotiate the credit agreement, as a forbearance solution, financial firms are now prevented from charging any fees and from raising the interest rate of the credit agreement. Another measure put in place was to limit the events that allow for the termination of the Out-of-Court Arrears

²¹ Australian Finance Industry Association, BNPL Code of Practice Documents, 1 March 2022. Available at <https://afia.asn.au/BNPL-Documents>.

²² As stated in Section 497(2) of the German Civil Code.

Procedure of a credit agreement that benefited from the public credit moratorium and was integrated in this procedure in the 90 days following the end of that moratorium.

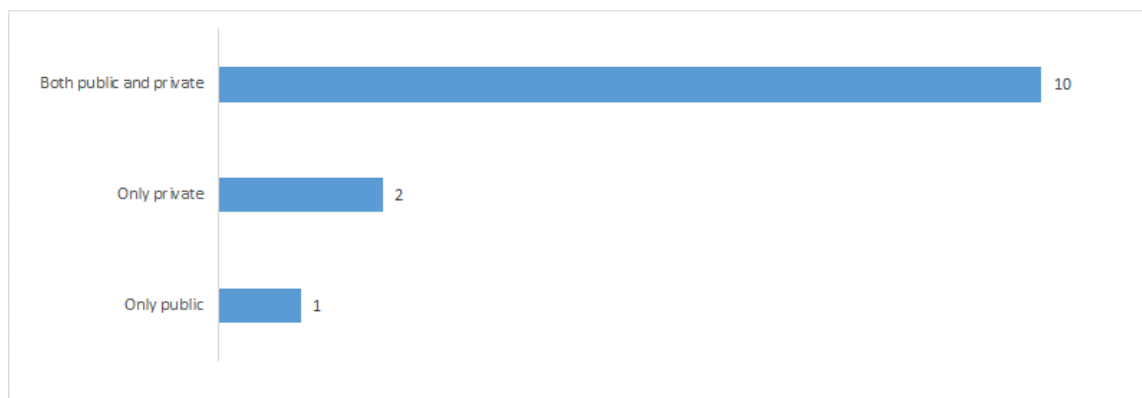
2.3 Debt advice

The provision of debt advice can help resolve borrowers' financial difficulties and conduct them towards financial resilience.

That is why, in most responding jurisdictions there are rules and/or principles in place regarding the provision of debt advice to borrowers in pre-arrears or arrears in their credit agreements (N=13) and the specific entities in charge of providing those services (N=13).

In one jurisdiction (**Japan**) the entities that provide debt advice are exclusively public, while in two jurisdictions (**Canada** and **South Africa**) they are exclusively private. However, in most jurisdictions there is a mixture of public and private entities responsible for providing debt advice to borrowers.

Figure 6 | Nature of debt advice providers



Note: N=21

Source: FinCoNet Questionnaire on exit strategies from payment holidays: Supervisory approaches and challenges regarding the management of pre-arrears and arrears (2022)

Funding of debt advice entities

In most jurisdictions debt advice is provided both by for-profit and non-profit organisations. Non-profit organisations benefit from public funding and donations. In the **United Kingdom**, debt advice charities, which are private non-profit organisations, may receive funding granted by the Money and Pensions Service, sponsored by the Department for Work and Pensions. The **French** Budget Advice Points (PCBs) are non-commercial entities and have no commercial relationships with the financial sector. In order to be certified by the State and consequently to receive public subsidies (around €15,000 per year for each structure), they must prove their autonomy and independence.

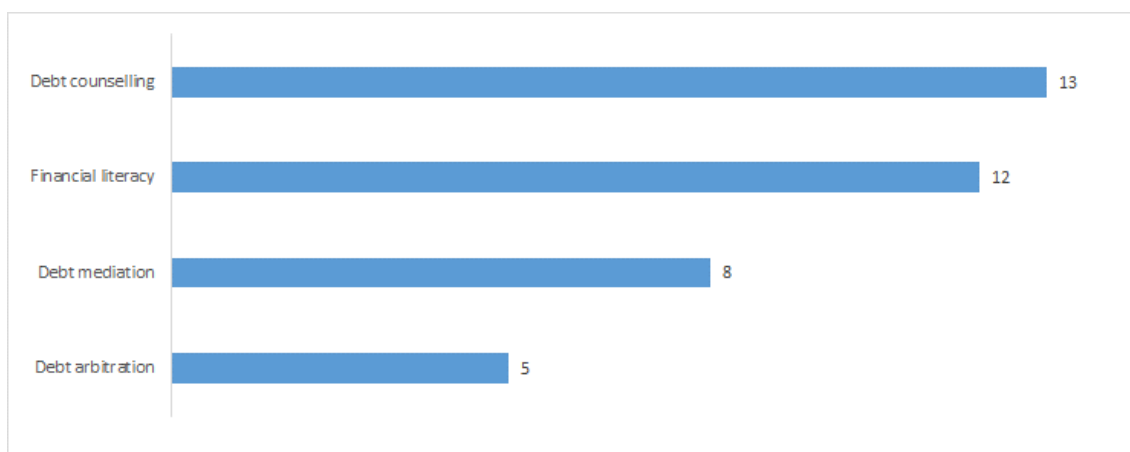
For-profit organisations are generally remunerated directly through fees paid by the consumers. In **South Africa**, debt advice agencies charge fees by taking a portion of their client's payments to financial firms.

In **Australia**, private entities that provide debt advice (and other similar services) to borrowers experiencing financial hardship on a for-profit basis are commonly referred to as ‘debt management firms’. Services offered by debt management firms commonly include debt negotiation and ‘credit repair’ (collectively, ‘debt management services’). Since 1 July 2021, providers of debt management services in relation to credit agreements are required to hold an Australian credit licence (ACL). There are also financial counsellors and community legal centres that provide free assistance (such as debt advice and debt counselling) to borrowers experiencing debt problems.

Services provided

In terms of services provided, these entities mainly provide debt counselling, as indicated by 13 respondents. Most respondents (N=12) indicated that these entities also play a role in promoting financial literacy initiatives. Debt mediation (N=8) and debt arbitration (N=5) seem to be less commonly provided services.

Figure 7 | Services rendered by debt advice providers



Note: N=21

Source: FinCoNet Questionnaire on exit strategies from payment holidays: Supervisory approaches and challenges regarding the management of pre-arrears and arrears (2022)

Oversight powers over the entities providing debt advice

Some of the responding jurisdictions (N=6) have oversight powers over the entities providing debt advice in their jurisdictions. For instance, in the **United Kingdom**, the FCA has a role of authorising and providing regulation for debt advice providers, as well as supervising the firms providing this service, monitoring and enforcing the regulation. Where necessary the FCA can take action against firms by withdrawing their authorisation, suspending their ability to undertake regulated activities, prohibit individuals and firms from carrying on regulated activity and issue fines.

As an example of a jurisdiction where debt advice is not a regulated activity, in **Germany**, the term “debt advice” is not legally defined and anyone can offer and advocate debt advice. There are many publicly well-known help centres of the aforementioned entities, which offer free debt advice. If consumers seek professional advice through a lawyer or tax advisors, the fees are regulated and

depend on the fee schedule for lawyers. In **Germany**, over indebted or insolvent consumers may only open insolvency proceedings if they have a certificate proving that the attempt to settle out of court with the creditors was unsuccessful²³. The requirements to issue this certificate are not regulated on a federal level but by the respective implementation law of each of the sixteen states. Certain professions such as lawyers, auditors or tax advisors are per se allowed to offer debt advice. Other entities need to undergo a licensing process in which typically certain requirements need to be fulfilled, such as: reliability of the person in charge and competence of the debt advisors.

Debt counselling networks and help lines

Several jurisdictions resort to debt counselling networks and helplines to ensure debt advice reaches all types of borrowers, irrespective of where they are located. In some cases, setting up a network that requires the intervention of the supervisory authority, for instance, in terms of ensuring that the entities comprised in the network fulfil certain criteria, might enhance consumer confidence and encourage borrowers to reach out for help, while ensuring the quality of the advice that is provided.

Examples of debt counselling networks and help lines

In **France**, the Budget Advice Points (PCB) network is composed of private structures intended to support anyone encountering budgetary difficulties and in need of support, by providing confidential and free advice on household budget management. PCBs are certified by the State. For that purpose, PCB members follow a training course implemented by the *Banque de France*, within its financial education mission.

In **Portugal**, borrowers who face difficulties in complying with their obligations under credit agreements may use the out-of-court Assistance Network for Indebted Consumers. This network comprises entities whose mission is to inform, advise and assist consumers at risk of default or already in arrears with credit instalments. Staff and employees of entities comprised in the Assistance Network for Indebted Consumers that deal with borrowers in the context of the prevention and management of arrears must fulfil all of the following criteria: (a) staff must be composed of individuals of recognised reputation for their duties; (b) staff must have completed mandatory schooling; (c) staff must have adequate knowledge regarding finance, economy and banking. This criteria will be met if, for instance, the employee holds an adequate academic degree or has attended adequate professional training, given that the plan of studies comprises general and specific training in finance, economy and banking.

Italy has recently put in place the *Riparto* Network. This is a new project under development promoted by two consumer associations. This project aims to develop a capillary network of associations that, thanks to the specific experience and skills of the advisors, can offer a wide range of services for the prevention, resolution and recovery from over-indebtedness situations. It consists of 27 branches located throughout the country, through which a variety of services are provided for consumers and small enterprises: financial education, preventive debt counselling (also for correct budget management), advice for the verification of the correctness of debts and for their renegotiation, assistance through the crisis management procedures. A particular aspect of this network is that it also has a central help line.

²³ https://www.gesetze-im-internet.de/englisch_inso/englisch_inso.html#p1263

In **Australia**, the National Debt Helpline is a non-profit service that provides free and independent advice to consumers experiencing debt problems.

Competence, knowledge and training of debt counsellors

Given the complexity and the associated risks for consumers, debt counsellors in some responding jurisdictions are required to have an adequate level of competence and knowledge.

In **Australia**, the ASIC ensures an adequate level of competence and knowledge through the process of authorisation of providers of debt advice services. In order to be granted a licence, applicants must meet a ‘fit and proper’ requirement and must be able to meet the general conduct obligations, in addition to organisational competence requirements. For licensees who are not natural persons (e.g. companies), competence is shown by having people with relevant knowledge and experience involved in the day-to-day decisions regarding the licensee's credit business. These people are referred to as the licensee's 'responsible managers'. A credit licensee's responsible manager(s) should undertake at least 20 hours of continuing professional development per year, which may consist of a combination of relevant credit-related educational activities²⁴.

In **Saudi Arabia**, there is a mandatory “credit advisor certificate” for staff who deal with consumers.

Several respondents (N=7) are involved in the training of staff of debt advice agencies. The **Banque de France** organises several training and information sessions a year for people working in the social sector. Attended by over 11,000 social workers, the events are an opportunity to provide updates on legislative and regulatory developments and explain the procedures for handling excessive debt. In the **United Kingdom**, private entities providing debt advice services on credit products that fall within the FCA's remit are subject to authorisation by the FCA. The FCA has a general handbook containing rules on training and competence which applies to all FCA authorised firms, including debt advice firms. In **South Africa**, debt counsellors are required to register with the National Credit Regulator and take training courses before they can operate in.

2.4 Role and approaches of supervisory authorities

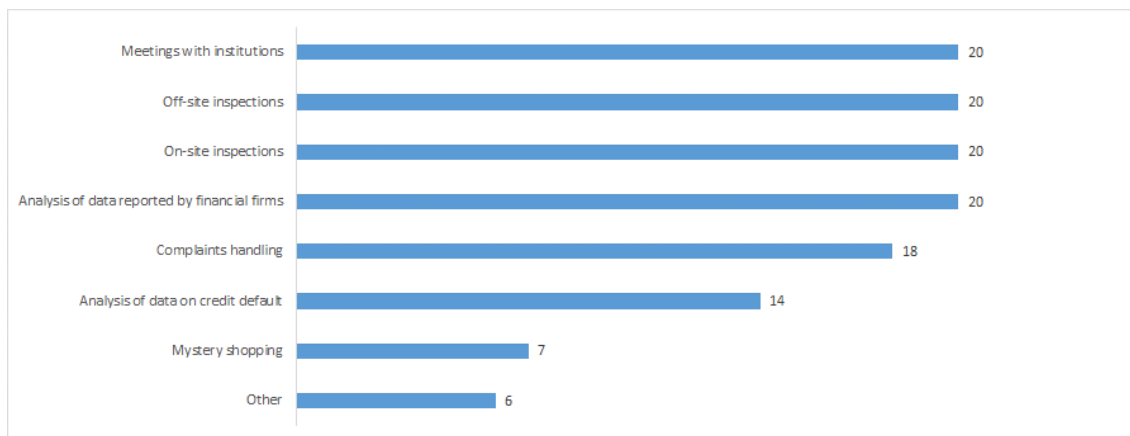
All the respondents have oversight powers over the application of the rules and/or principles regarding the prevention and management of arrears on credit agreements. Most respondents' (N=13) supervisory scope includes all financial firms involved in the prevention and/or management of arrears on credit agreements.

In order to oversee compliance of financial firms with those rules/principles, responding supervisory authorities make use of a wide set of oversight tools. The most common oversight tools used by the majority of respondents involve conducting on-site and off-site inspections, performing analyses of data reported by financial firms and holding regular meetings with financial firms (N=20). Complaints handling (N=18) and analysis of data on credit default (N=14) are also frequently used. On the other hand, only 7 respondents conduct mystery shopping in this area.

²⁴ <https://asic.gov.au/media/iqbiovhu/info254-published-5-may-2021.pdf>.

Other examples of supervisory tools used (e.g. the **Bank of Italy**) include, thematic reviews, focusing on specific topics that are relevant for consumers, intended to detect good/bad practices and/or assess flaws in regulation. These thematic reviews might motivate the issuance of guidelines or amendment proposals to existing regulations. They might also motivate the promotion of additional targeted supervisory actions.

Figure 8 | Oversight tools used to monitor rules on pre-arrears and arrears



Note: N=21

Source: FinCoNet Questionnaire on exit strategies from payment holidays: Supervisory approaches and challenges regarding the management of pre-arrears and arrears (2022)

A considerable number of jurisdictions established reporting obligations on the implementation of the rules and/or principles regarding the prevention or management of arrears on credit agreements (N=10).

Examples of reporting obligations on the implementation of rules and/or principles regarding the prevention or management of arrears

In **Ireland**, the Central Bank of Ireland collates and publishes mortgage arrears data each quarter²⁵. The Residential Mortgage Arrears and Repossession Statistics Data detail quarterly developments in the number and value of mortgages in arrears, restructured mortgages, repossessed properties, for principal residences and buy-to-let properties. The data is reported by credit institutions, non-credit institutions and non-resident mortgage providers.

In **Portugal**, financial firms must periodically report data to the Central Bank of Portugal on the credit agreements that present early warning signs of financial difficulties of the borrower and on the negotiation procedures entailed with borrowers in pre-arrears. Additionally, financial firms are required to report information on credit agreements that were subject to the Out-of-Court Arrears Settlement Procedure, including information on the starting date, the outcome of the negotiation and the reasons for termination. Financial firms are also required to report to the Central Bank of Portugal the internal procedures

²⁵ Available at <https://www.centralbank.ie/statistics/data-and-analysis/credit-and-banking-statistics/mortgage-arrears>.

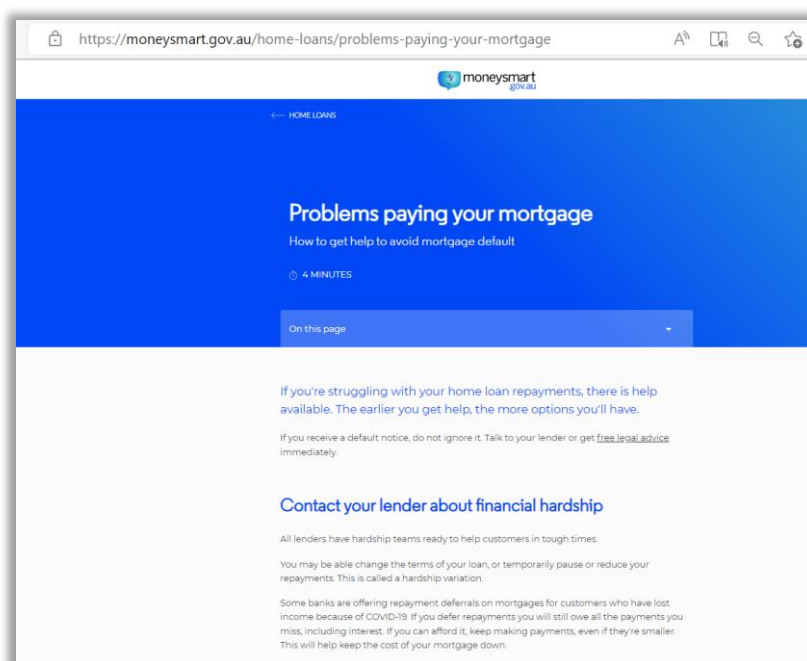
implemented to ensure compliance with the legal and regulatory requirements on the prevention and management of arrears and any subsequent changes introduced thereto.

In **Peru**, the Superintendency of Banking, Insurance and Private Pension Funds Administrator (SBS) requested companies to report their policies and procedures duly approved and adapted to the new rules established by resolution SBS No.° 1870-2020. Once this information was received, it was analysed by the SBS, which then issued official letters to those firms with weaknesses in the content of their procedures. SBS followed-up the implementation of those recommendations by financial firms in a timely manner.

In **Indonesia**, OJK requires financial firms to report data of restructured loans on a monthly basis.

Responses received also revealed that market conduct supervisory authorities place significant importance on raising awareness among borrowers in pre-arrears or arrears about their rights and obligations, with most respondents (N=16) indicating to have in place information and literacy campaigns.

In **Australia**, the ASIC's Moneysmart website²⁶, provides guidance for people who feel stressed and overwhelmed by debt. The Moneysmart website encourages consumers who are struggling with debt to get help early by contacting their lender directly for assistance, or a financial counsellor if they need support. Moneysmart has information about financial hardship and a step by step guide on how to apply for a hardship variation with their lender. Moneysmart has a budgeting tool and a mortgage calculator to help consumers explore different scenarios so they can work out what is affordable for them. Moneysmart also acknowledges that financial stress can impact mental health.

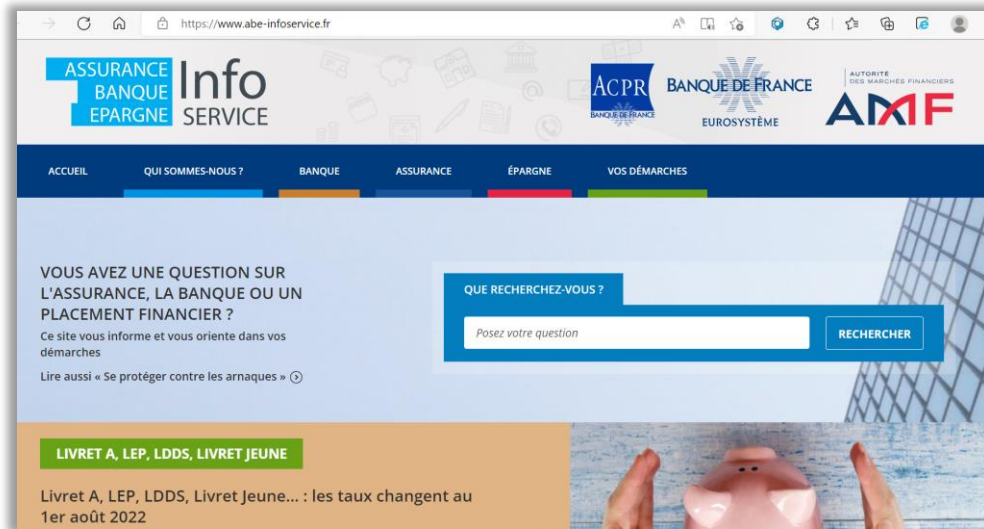


In **France**, pedagogical information is available to consumers on the *Banque de France* website and on the Assurance Banque Epargne Info Service website²⁷,

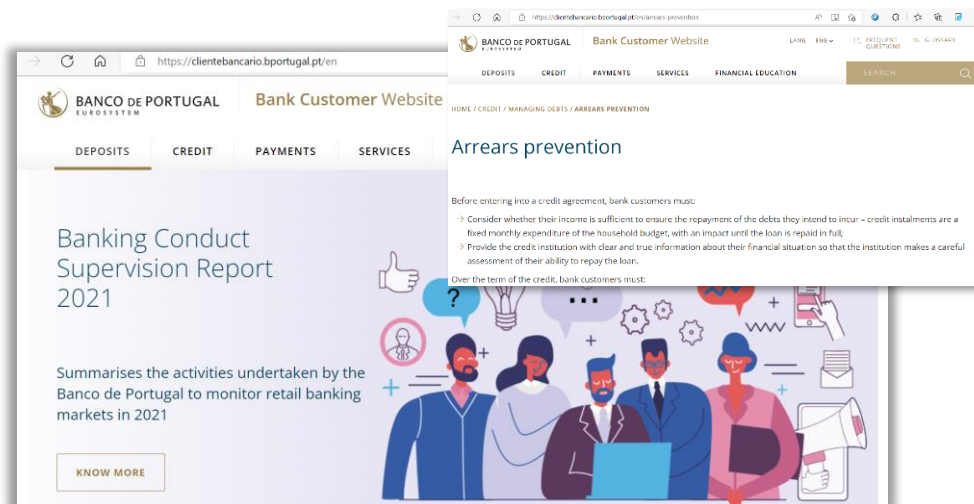
²⁶ <https://moneysmart.gov.au/home-loans/problems-paying-your-mortgage>.

²⁷ <https://www.abe-infoservice.fr/>.

managed by the ACPR and the French Financial Market Authority. Additionally, the Banque de France publishes numerous reports on the prevention and management of cases of excessive household debt, and on the factors leading to over-indebtedness.



In **Portugal**, the Central Bank of Portugal resorts to its Bank Customer Website²⁸ to disseminate information regarding the prevention or management of arrears on credit agreements, namely on the conditions of access to the PRAP and the OASP. Bank customers may also find information on the “Assistance network for indebted consumers” on the website. The Central Bank of Portugal also promotes financial training initiatives through courses and awareness campaigns backed by its regional network."



²⁸ <https://clientebancario.bportugal.pt/en>.

In **Indonesia**, one of the initiatives promoted by OJK to raise awareness among the borrowers is to inform stimulus policy through press releases published in various media²⁹.

Most jurisdictions have taken action against financial firms for breaching rules and/or principles regarding the prevention or management of arrears on credit agreements (N= 15). In **Australia**, in 2021, the ASIC sued a debt collector for false and misleading, threatening and coercive conduct against debtors who had missed payments under their debt agreements. In the same year, the ASIC commenced proceedings against another debt collector for initiating debt recovery proceedings in a state in which the borrowers did not live, which is against the national consumer protection legislation.

In the **Netherlands**, the AFM has concluded an investigation on arrears management in unsecured consumer credit in 2021 and communicated the findings to each provider that was subject to the investigation. Providers were asked to prepare an improvement plan in reaction to the findings of the AFM, the fulfilment of which is being monitored by the AFM. The AFM also found that several consumer credit providers breached legal provisions that require financial firms to disclose correct and transparent information to consumers and requested them to immediately refrain from such breaches and change their communication.

2.5. Cooperation between market conduct supervision authorities and prudential authorities

Almost all respondents noted the existence of cooperation or interaction between the market conduct and the prudential supervision authorities regarding the monitoring of financial firms strategies and procedures to manage pre-arrears and arrears (N=19).

In some jurisdictions, disclosing information between prudential and conduct areas is a key element of cooperation. In **Brazil**, prudential supervision activities are overviewed in a report, which is shared with the conduct supervision teams. In **Spain**, there is regular exchange of information and meetings between prudential and supervisory units within the Central Bank of Spain.

In **Australia**, the Australian Prudential Regulation Authority focuses on ensuring safe and sound prudential practices and the ASIC promotes fair outcomes for consumers. In pursuing their respective mandates, both authorities provide clarity on regulatory expectations so that authorised deposit taking institutions can easily engage with borrowers both prudently and fairly for the benefit of the broader economy. They continue to co-ordinate the monitoring of loans impacted by COVID-19, engaging with financial firms and sharing data and information.

In some jurisdictions, prudential and conduct areas cooperate intricately. In the **Central Bank of Ireland**, these areas work together to bring prudential and conduct perspectives, in order to monitor financial firms' strategies and procedures for pre-arrears and arrears. The Central Bank of Ireland operates as a 'One Bank' to deliver its conduct and prudential responsibilities, involving significant cooperation between the areas. This happens for example through working groups, risk governance panels and daily engagements between supervisors, Heads of Division and Directors regularly engaging on supervisory

²⁹ For example, policy publications can refer to the following link: https://www.ojk.go.id/iru/BE/uploads/policy/files/file_ac8b1143-faff-4ac0-a3a5-6df20c7dd7da-21022022135918.pdf.

priorities and emerging potential issues etc. Conduct and Prudential areas work together sharing a common goal delivered by the Central Bank of Ireland delivered on its mission of serving the public interest by maintaining monetary and financial stability while ensuring that the financial system operates in the best interests of consumers and the wider economy.

There are also jurisdictions in which interactions between the market conduct and prudential supervisors occur at a higher level. For instance, In **France**, there are upstream interactions between the conduct supervision and the prudential supervision departments, when deciding supervisory priorities and elaborating the annual oversight program. There are also weekly meetings of the heads of different directorates that are intended to foster an exchange of views on the work in progress.

In some jurisdictions, cooperation and exchange of information is subject to a formal agreement. In **Italy**, the Bank of Italy is the authority responsible for both prudential supervision and consumer protection, which are allocated to different departments. The exchange of information between the prudential and conduct departments is subject to a formal agreement, which validates close cooperation on a regular basis. Likewise, in **South Africa**, there is a Memorandum of Understanding signed by all the supervisory authorities, addressing shared data and joint monitoring.

EBA report on the peer review on supervision of NPE management (EBA/REP/2022/12)

The EBA conducted a peer review on how prudential and consumer protection authorities supervise the management of non-performing exposures by financial firms and have implemented the Guidelines on management of non-performing and forbore exposures (EBA/GL/2018/06). The findings of this review have been drawn into the Report on the peer review on supervision of NPE management (EBA/REP/2022/12), which was published on 17 May 2022.

This peer review led to the conclusion that the Guidelines have been largely implemented by both the prudential and consumer protection competent authorities in their supervisory practices, and that, in several cases, they were put in place ahead of the publication of the Guidelines (in such cases, focusing more on arrears-management). It was also noted that consumer protection competent authorities do not address the NPE matters *per se*, but rather as a part of topics like arrears management or over-indebtedness³⁰.

Regarding the cooperation between prudential and consumer protection authorities, the EBA concluded that the degree of interaction is more intense within integrated authorities and consists of cooperation arrangements and communication channels between the two functions, which are not exclusively NPE/forbearance related, but may enable sharing information of mutual interest on those topics. In non-integrated authorities, although there is no precedent to date, competent authorities may share findings from their supervisory activities that may be relevant for other authorities (for instance, systematic issues identified in the course of handling consumer complaints) or seek advice from their counterparts.³¹

³⁰ Section 2.2.2. of the EBA's report on the peer review on supervision of NPE management (EBA/REP/2022/12).

³¹ Section 2.2.3. of the EBA's report on the peer review on supervision of NPE management (EBA/REP/2022/12).

In this report, the EBA identified a few examples of best practices of information exchange and cooperation between prudential and consumer protection authorities/functions, regarding NPE supervision and forbearance management, such as having formal regular meetings, where the planning and scoping of supervisory activities is discussed and coordinated; and joint supervisory activities, for instance, thematic reviews of NPE sales.

3. Exit strategies from credit moratoria

3.1 General overview

The outbreak of the COVID-19 pandemic disrupted the lives of many people across the globe. The severity of the situation called for the imposition of sanitary measures, such as lockdowns and quarantines. Lives and businesses were put on stand-by. The pandemic hindered economic activity and the resilience of financial consumers. Many consumers faced hardship as a result of unemployment, lockdown, disease or decrease in economic activity and loss of business opportunities³². This posed a significant challenge for policy makers and supervisory authorities.

In response to the abovementioned events, temporary measures were taken to mitigate the impact of the pandemic on consumers of credit products and help them endure this critical period. The most common measures implemented were the restructuring of repayment terms (for example, loan periods or interest rates) and payment deferrals, either through public or private moratoria³³.

As sanitary restrictions were lifted, so were the temporary support measures. It was a critical moment where stressed consumers met stressed providers³⁴ and the market had to deal with the accumulation of arrears resulting from the wide use of credit moratoria³⁵. There were doubts about whether borrowers would be able to resume the repayment of their credit agreements and concerns about over-indebtedness and unfair collection practices³⁶.

In anticipation of the exit from payment holidays, some authorities prepared a soft landing for consumers, by putting in place legal or regulatory measures to prevent borrowers from entering into arrears on their credit agreements. For some jurisdictions, issuing recommendations to financial firms on how to monitor credit agreements in order to prevent borrowers from entering into arrears following the end of credit moratoria was also a key aspect of the preparation of the end of

³² “G20/OECD Report on Lessons Learnt and Effective Approaches to Protect Consumers and Support Financial Inclusion in the Context of Covid-19”, OECD, 2021, available at [G20/OECD Report on Lessons Learnt and Effective Approaches to Protect Consumers and Support Financial Inclusion in the Context of COVID-19](#), p.11.

³³ “G20/OECD Report on Lessons Learnt and Effective Approaches to Protect Consumers and Support Financial Inclusion in the Context of Covid-19”, OECD, 2021, available at [G20/OECD Report on Lessons Learnt and Effective Approaches to Protect Consumers and Support Financial Inclusion in the Context of COVID-19](#), p.22.

³⁴ “Consumer Protection and COVID-19: Borrower Risks as Economies Reopen”, CGAP, 2020, available at [Consumer Protection and COVID-19: Borrower Risks as Economies Reopen \(cgap.org\)](#)

³⁵ “G20/OECD Report on Lessons Learnt and Effective Approaches to Protect Consumers and Support Financial Inclusion in the Context of Covid-19”, OECD, 2021, available at [G20/OECD Report on Lessons Learnt and Effective Approaches to Protect Consumers and Support Financial Inclusion in the Context of COVID-19](#), p.15.

³⁶ “Consumer Protection and COVID-19: Borrower Risks as Economies Reopen”, CGAP, 2020, available at [Consumer Protection and COVID-19: Borrower Risks as Economies Reopen \(cgap.org\)](#)

payment holidays³⁷. Understanding the consumer protection measures adopted throughout the different jurisdictions, in a context where an increase in arrears on credit agreements was expected, as well as the perception regarding their effectiveness, may help market conduct supervisors, either in the eventuality of a similar crisis or generally addressing consumer vulnerability and the prevention and management of arrears.

This chapter summarises the approach followed by responding jurisdictions to anticipate the impact of the end of credit moratoria on borrowers facing financial difficulties, to prevent them from entering into default in their credit agreements.

FinCoNet’s International Seminar on the topic “Market Conduct Supervisors Responding to the Impacts of the COVID-19 pandemic”

On 12 November 2021, at FinCoNet’s International Seminar on the topic “**Market Conduct Supervisors Responding to the Impacts of the COVID-19 pandemic**”, market conduct supervisors discussed the challenges of the exit from payment holidays and the management of pre-arrears and arrears.

At the time, it was flagged that in anticipation of the end of credit moratoria, policy-makers were adopting measures specifically targeted to support consumers who would have to resume the repayment of their credit agreements. In addition, structural and long-term solutions aimed at reinforcing the procedures adopted by institutions in the management of pre-arrears and arrears situations were also being foreseen.

It was recognised that it is extremely important to monitor borrowers’ financial health, in particular while credit moratoria programmes were expiring. Both financial consumers and institutions needed support and guidance from governments and regulators and more prescriptive attitude to assist financial firms to navigate the exit from relief measures. It was also noted that, since the crisis and recovery would take longer than expected, policymakers should consider making structural arrangements to protect consumers in pre-arrears and arrears. A coordinated approach to policy to prevent unintended consequences would be key.

Reinforcing financial firms’ procedures regarding the management of pre-arrears and arrears situations would translate into more preparedness in case there is another shock that requires the implementation of extraordinary measures, such as the ones adopted for the COVID-19 pandemic³⁸.

3.2 Temporary measures to mitigate the impact of the end of credit moratoria on borrowers (contingency measures)

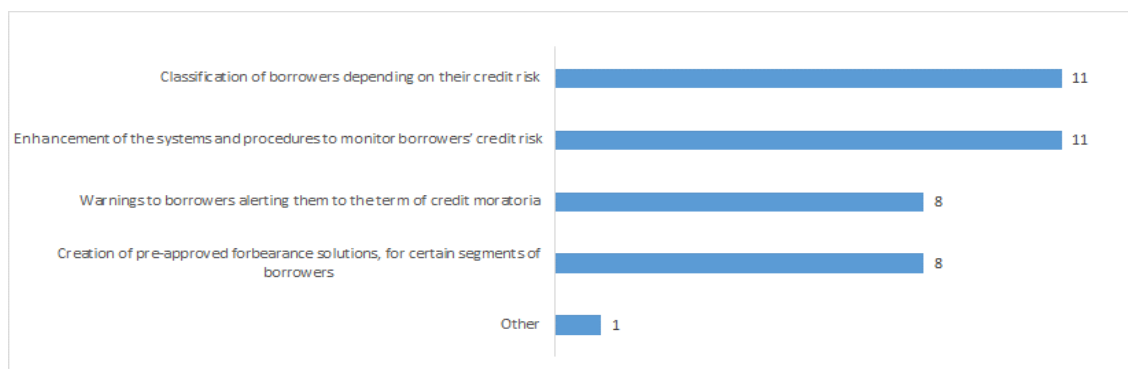
Almost all the responding jurisdictions (N=16) implemented temporary measures to mitigate the impact of the term of credit moratoria on borrowers, preventing them from entering into arrears on their credit agreements.

³⁷ “*Preparing a soft landing from COVID-19 payment holidays: the Portuguese approach*”, FinCoNet Newsletter – Issue 3, FinCoNet, September 2021, available at [Newsletter-September 2021.pdf \(finconet.org\)](#).

³⁸ “*Seminar report: Market Conduct Supervisors Responding to the Impacts of the COVID-19 Pandemic*”, FinCoNet, November 2021, available at <http://www.finconet.org/Summary-Report-Nov-2021-Seminar.pdf>

Financial firms in several jurisdictions (11) classified borrowers according to their credit risk and/or enhanced systems and procedures to that end. Other frequently applied measures consisted of warning borrowers, by alerting them to the term of credit moratoria and creating pre-approved forbearance solutions for certain segments of borrowers.

Figure 9| Exit strategies: Contingency measures adopted by financial firms



Note: N=21

Source: FinCoNet Questionnaire on exit strategies from payment holidays: Supervisory approaches and challenges regarding the management of pre-arrears and arrears (2022)

In most of the responding jurisdictions, these measures were implemented through legal or regulatory acts (N=14) or by issuing recommendations or setting supervisory expectations on financial firms on how to monitor credit agreements in order to prevent borrowers from entering into arrears following the end of credit moratoria (N=7). Some jurisdictions (N=6) resorted to both legal and regulatory acts, as well as recommendations for firms.

Within those jurisdictions where legal and regulatory measures were implemented, in **Peru**, for instance, a Resolution³⁹ enacted by the SBS, amending the Market Conduct Management Regulations of the Financial System, foresees a regulatory framework for the adequate treatment of borrowers who had requested a credit moratorium and whose credit was modified due to the COVID-19 crisis. Among other aspects, the Resolution requires financial firms to conduct periodic monitoring of the credit agreements and financial situation of the borrowers.

The temporary measures adopted in Portugal in anticipation of the exit from credit moratoria

In Portugal, in anticipation of the exit from credit moratoria, the Portuguese authorities adopted measures⁴⁰ to support consumers who showed difficulties in resuming the payment of their debts, promoting a soft landing from credit moratoria.

Financial firms were required to contact all consumers with credit agreements covered by the public credit moratorium at least 30 days before the end of this support measure. The

³⁹ SBS Resolution No. 1870-2020.

⁴⁰ Decree-Law No. 227/2012, of 25 October 2012, amended by Decree-Law No. 70-B/2021, of 6 August 2021.

purpose of this communication was to gather the necessary information to assess their financial capacity and ascertain whether they would be in financial distress after the exit from payment holidays. If, as a result of such assessments, financial firms concluded that the consumer was unlikely to be able to resume the payment of their credit instalments, but it was possible to engage in a viable forbearance solution, a proposal had to be presented to the consumer at least 15 days before termination of the credit moratorium.

Additional safeguards were also granted to borrowers who failed to comply with their obligations following their exit from credit moratoria. Those safeguards, for instance, protected consumers against legal action to redeem the credit, or against selling the credit to third parties during the negotiation process that financial firms are required to engage in with consumers in arrears on their credit agreements.

Several authorities, such as the AFM, in the **Netherlands**, the ASIC, in **Australia**, and the **Central Bank of Ireland** set supervisory expectations on how to monitor credit agreements to prevent borrowers from entering into, or falling further into, arrears following the end of credit moratoria. The AFM published “key considerations” on its website to be taken into account by firms when assessing the borrower’s financial situation at the end of the credit moratoria. The AFM expected firms to implement policy and ensure capacity for the treatment of borrowers with pre-arrears or arrears, asking them to look into sustainable solutions for consumers.

In **Australia**, the ASIC communicated expectations that financial firms make reasonable efforts to interact with borrowers directly and be flexible to offer tailored assistance that genuinely addressed the needs of the borrowers⁴¹. It was also expected that, at the end of the payment holidays, lenders had processes in place that would allow for an orderly transition and deliver appropriate and fair consumer outcomes.

The **Central Bank of Ireland** issued an industry letter in June 2020⁴², setting supervisory expectations in respect of the extension of credit moratoria and the management of their term. The letter required financial firms to submit a Board approved strategic plan to deliver an assessment of all borrowers on credit moratoria, to ensure that appropriate and sustainable solutions were found in a timely manner for those borrowers who were not able to resume paying full capital and interest at the end of the credit moratoria. In addition, the Central Bank of Ireland expected financial firms to submit an operational plan to support strategy delivery, containing details on the proactive approaches planned, including contact plans and timings, a risk-based approach to borrower assessments and operational resourcing to support delivery of the plan. The Central Bank also issued a letter to CEOs in November 2020⁴³ to set out its expectations of financial firms approaches to supporting borrowers experiencing financial difficulties as a result of COVID-19.

⁴¹ COVID-19 and financial hardship: ASIC’s expectations of retail lenders when loan repayment deferrals end, ASIC, 13 August 2020, available at [COVID-19 and financial hardship: ASIC’s expectations of retail lenders when loan repayment deferrals end | ASIC](#)

⁴² Available at [Central Bank of Ireland Payment breaks expectations letter 8 June 2020; https://www.centralbank.ie/docs/default-source/regulation/industry-market-sectors/covid19/dear-ceo-payment-breaks-expectations.pdf?sfvrsn=4](https://www.centralbank.ie/docs/default-source/regulation/industry-market-sectors/covid19/dear-ceo-payment-breaks-expectations.pdf?sfvrsn=4)

⁴³ Available at [Dear CEO Letter - Expectations for lenders in supporting borrowers affected by the COVID-19 Pandemic \(centralbank.ie\)](#)

Prior to the application of the contingency measures adopted by jurisdictions in anticipation of the exit from credit moratoria, either by implementing legal and regulatory acts or issuing recommendations, the postponement of the end of those moratoria seems to have been a frequent strategy to prevent borrowers from entering into arrears. In some cases, considering the evolution of the pandemic, this initiative was implemented to consumers under credit moratoria irrespective of their financial situation (e.g. in **Spain, Portugal, Germany**). In other jurisdictions, firms had to reassess the borrower's financial situation at the end of the credit moratoria, evaluating whether the credit moratoria could be ended or should be extended (e.g. in the **Netherlands, Nigeria**).

According to most responding jurisdictions (N=12), financial firms also voluntarily adopted measures to support borrowers in financial distress prior to the end of credit moratoria.

Warning borrowers of the end of the moratoria and making pre-approved forbearance solutions available were common approaches taken (N=8). For instance, in **Peru**, financial firms designed pre-approved solutions to reschedule payments for borrowers considered to be of high-risk and more affected according to the financial firm's risk models.

Enhancing systems and procedures to monitor borrowers' credit risk was another of the most common measures adopted by financial firms.

In **Australia**, authorised deposit-taking institutions classified borrowers depending on their credit risk. This classification would then influence the method used in order to contact the borrower. If a borrower was deemed of higher risk, financial firms would likely engage in conversations with him/her.

In general, the online channels, apps and other digital channels, as well as mobile communications (N=12) were the means most commonly used by financial firms to interact with borrowers with credit agreements covered by the credit moratoria. This appears to reflect a general tendency of digitalisation amongst the responding jurisdictions, although, in some (N=11) communication through the commercial network is still relevant.

How Irish financial firms targeted borrowers in financial difficulties prior to the end of credit moratoria

In **Ireland**, firms informed borrowers that they would be contacted prior to the end of the payment holiday in order to discuss revised repayments and what that would involve.

Firms performed a variety of engagement strategies, such as sending letters and contacting borrowers prior to the end of moratoria. Some firms adopted a cohort approach to engagement with borrowers during payment holidays, for example categorising borrowers into high/low risk groupings.

Some firms also conducted their own sectoral risk analysis and designed early warning systems to help identify the most 'at risk' or vulnerable borrowers to help with targeted engagement campaigns to proactively reach those borrowers who were potentially impacted most or were hit hardest.

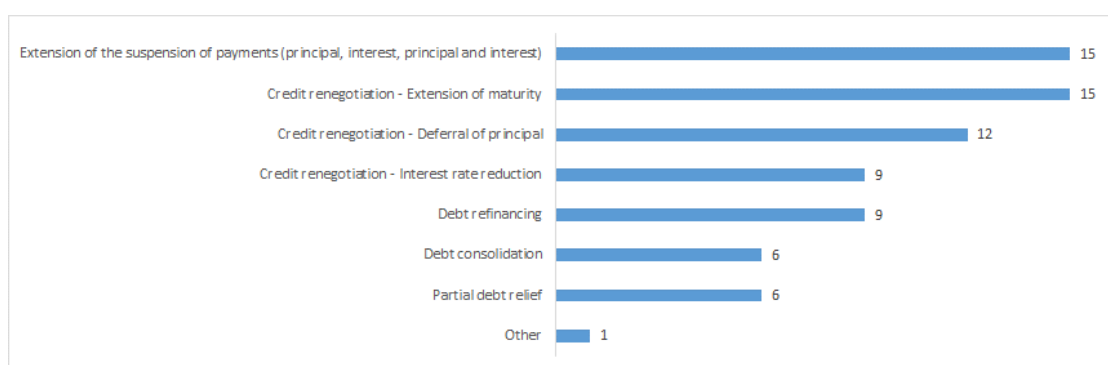
In anticipation of the end of credit moratoria, financial firms also offered forbearance solutions to borrowers who were availing of the moratoria. The

majority of jurisdictions (N=15) stated that the extension of the suspension of payments and the extension of loan maturity were frequently offered solutions.

Financial firms also deferred the principal of instalments (N=12), applied interest rate reductions (N=9) and presented debt refinancing solutions (N=9). For example, in **Canada**, some credit products (mortgages, home equity lines of credit, loans, unsecured lines of credit, credit cards and auto loans) were generally offered payment deferrals, including principal and interest, while others (credit cards and lines of credit) usually benefited from reduced interest rates or fees. Only 6 responding jurisdictions reported debt consolidation and partial debt relief as being frequently offered to borrowers.

In **Ireland**, forbearance solutions offered to consumers underwent changes over time. When the credit moratoria ended, COVID-19 restrictions remained in place and the individual circumstances of borrowers had not changed significantly, therefore borrowers initially received short-term forbearance, such as interest only arrangements, reduced payments or an extension of the moratoria. Over time, borrowers were offered longer term solutions where needed, such as a term extensions, some with an initial period of reduced payments.

Figure 10 | Exit strategies: Most frequent forbearance solutions presented to borrowers in pre-arrears

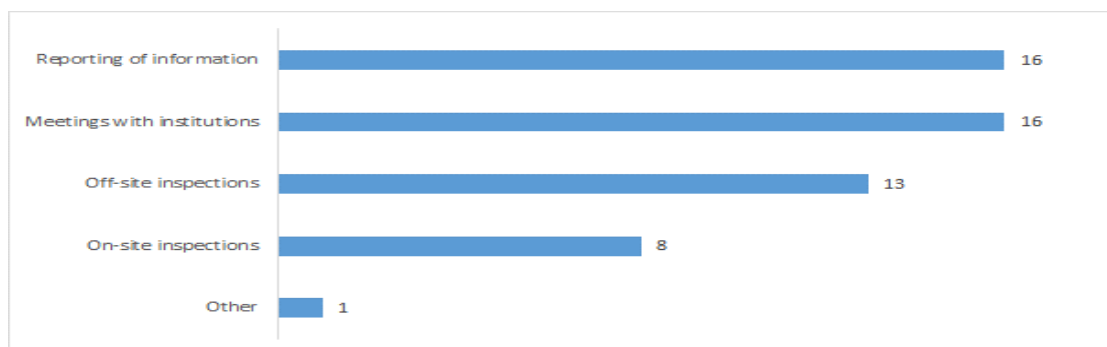


Note: N=21

Source: FinCoNet Questionnaire on exit strategies from payment holidays: Supervisory approaches and challenges regarding the management of pre-arrears and arrears (2022)

Almost all the supervisory authorities (N=18) played a role in the design and/or monitoring of the procedures implemented by financial firms. Supervisory actions carried out in the design and monitoring of the contingency measures consisted of meetings with financial firms and gathering information reported by them, which were very frequent in this context (N=16). Less frequent were off-site inspections (N=13) and on-site inspections (N=8).

Figure 11| Exit strategies: Actions carried out by supervisory authorities in the design and monitoring of the contingency measures



Note: N=21

Source: FinCoNet Questionnaire on exit strategies from payment holidays: Supervisory approaches and challenges regarding the management of pre-arrears and arrears (2022)

The **Central Bank of Ireland** engaged very frequently with financial firms regarding their operational capacity to offer support to borrowers approaching and following the end of credit moratoria, in accordance with the expectations outlined in letters issued to industry. Whenever the Central Bank of Ireland had concerns that firms were potentially not meeting its expectations, more intrusive supervision continued, including additional data requests and off-site inspections (which, sometimes, involved file reviews and listening to calls with borrowers). It also developed reporting tools, which identified bottlenecks emerging within the distressed debt management frameworks of firms, including reporting of key metrics aligned with the many steps involved in restructuring activities. This ensured targeted supervisory challenge of any observed weaknesses in firms' operations via the excessive accumulation of cases in any particular stage of the process.

In **Canada**, from April 2020 to October 2020, the FCAC received weekly reports from regulated entities on the payment deferrals they had approved for mortgages and other credit products for periods of up to 6 months. The supervisor treated these measures as public commitments and monitored their fair and appropriate implementation. In addition, federally regulated financial entities continued to provide the FCAC with monthly consumer complaints' data on COVID-19 financial relief measures. The Canadian supervisor also surveyed consumers to gain an understanding of consumer awareness, consumer take-up and consumer experience of COVID-19-related financial assistance programs provided by financial firms.

As regards off-site inspections, the **Central Bank of Spain**, for example, performed off-site monitoring of the procedures implemented by financial firms in order to ensure that they provided consumers with the necessary information and supported financial firms in the application of the measures.

There were also a few jurisdictions in which surveys and questionnaires were directed at financial firms. The **Bank of Mauritius'** intervention included surveys to financial firms, which complemented reporting requirements focused on exposures arising from credit moratoria and other COVID-19 related concessions. A Task Force on Banking Sector Resilience was also set up, to ensure dialogue between the supervisor and the banking sector.

AFM's questionnaires and interviews

In the **Netherlands**, the AFM conducted a survey via a questionnaire followed by an interview at six major mortgage providers to investigate whether they had adequate policies in place to find the most suitable solution for consumers with potential payment arrears caused by COVID-19.

The focus of this questionnaire was the implementation of credit moratoria and other solutions, the trends and risks in mortgage payment behaviour and the readiness of the organisation to help a larger influx of consumers with payment arrears.

The AFM's major concern was whether mortgage providers offered solutions to borrowers that were in their best interest and were sustainable both in the short and in the long term.

More than half of the respondents (N=12) stated that their supervisory authority had collected data on the forbearance solutions agreed between financial firms and borrowers.

In **Mauritius**, financial firms had to submit weekly, monthly and quarterly reports to the supervisor. The weekly report had to contain information on the number of households to which moratoria was granted, total outstanding amount of the loan (at time the moratorium was approved) and the total amount of capital repayments during the moratoria. The quarterly report had to contain more granular information on restructured loans.

The **Central Bank of Ireland** collected data on the number of borrowers who (i) had availed of initial credit moratoria, (ii) had taken a second credit moratoria, (iii) had required support after the credit moratoria and (iv) had fallen into arrears post credit moratoria, as well as (v) borrowers not engaging in post credit moratoria, (vi) types of solutions implemented post credit moratoria and (vii) accounts where forbearance had been rejected/declined (level and type of data differed depending on whether the credit moratoria related to a mortgage/credit card etc). It is clear from the data on active payment breaks that they provided necessary relief for many borrowers⁴⁴.

In **Canada**, the FCAC monitored and tracked the relief measures that federally regulated financial firms provided to consumers impacted by the COVID-19 pandemic. This included the amount and type of financial assistance provided, the types of products, and the number of requests received, approved, and declined. In addition, the FCAC surveyed consumers to ascertain consumer awareness and the level of consumer take-up of COVID-19-related financial assistance program.

More than half of the supervisory authorities (N=17) undertook initiatives to inform borrowers of relevant aspects related to credit moratoria, including the impacts of the end of those measures.

The **Central Bank of Ireland** utilised the FAQs available on its Consumer Hub website and speeches posted on its website always highlighting the importance of early engagement between borrowers and financial firms. For the Central Bank

⁴⁴ Available at <https://www.centralbank.ie/statistics/statistical-publications/behind-the-data/covid-19-payment-breaks-who-continues-to-avail-of-them>; <https://www.centralbank.ie/statistics/statistical-publications/behind-the-data/covid-19-payment-breaks-who-has-needed-them>

of Ireland, setting expectations for firms to contact borrowers early and ensuring institutions had sufficient operational capacity was essential to prevent credit default.

The **Central Bank of Spain** and the **Central Bank of Portugal** published various notes to inform borrowers of the credit moratoria term on their respective websites dedicated to bank customers. In **Australia**, the ASIC carried out targeted communications through Moneysmart social media, to encourage consumers to act immediately, in the light of mortgage repayment deferrals. The ASIC's work was assisted by a number of ADIs who shared information about the demographics of their borrowers on repayment deferrals, thus enabling the ASIC to better target its messaging. The **Central Bank of the United Arab Emirates** resorted to a press release and communication campaigns through the licensed financial firms.

Almost all responding jurisdictions considered that the measures adopted to mitigate the impact of the end of credit moratoria on borrowers were effective in preventing credit default.

Significant increases in payment arrears or default rates were generally not observed. In **Germany**, BaFin did not observe an overall rise in default rates, which may lead to the conclusion that the postponement of payments, alongside other government support measures, such as an extension of the scheme for partially employed/unemployed citizens, prevented defaults.

However, it was also noted that it may be difficult to quantify the volume of loans that would have been categorised as non-performing if those measures had not been offered. According to the **ASIC**, while small amount credit providers reported that borrower default levels were below historical levels, the ASIC ascertained that 3% of housing loans, taken out with authorised deposit-taking financial firms, had exited the first round of moratoria as non-performing, which is above the 1% non-performing loans ratio for the general population.

4. Key findings

By reviewing the experiences of the respondents in the survey, this report aims to foster the sharing of knowledge and experiences. In conclusion, this table provides high-level findings of the information contained in this report to assist supervisors in their market conduct supervisory practices.

<p>Legal and regulatory approaches to the prevention of arrears</p>	<ul style="list-style-type: none"> • Almost all the respondents (N=20) have rules and/or principles in place regulating how financial firms monitor borrower credit risk to prevent arrears on credit agreements. In most jurisdictions, these rules and principles apply to a comprehensive set of credit products, including housing loans and mortgages (N=19), car loans and personal loans (N=18) and other unsecured consumer loans. • In most jurisdictions (N=18), these rules and/or principles require financial firms to monitor credit risk regularly and identify early signs of payment difficulties. • In many responding jurisdictions, the rules and/or principles require financial firms to establish contact with borrowers showing early signs of payment difficulties (N=16). • In most jurisdictions, the existing rules and/or principles on the prevention of arrears on credit agreements require financial firms to assess the financial situation of borrowers with early signs of payment difficulties (N=16). • In addition, some jurisdictions require financial firms to assist borrowers who take the initiative of warning the financial firm of their payment difficulties (N=15). • In some jurisdictions, financial firms must monitor the effectiveness of the solutions that have been agreed upon by the financial firm and borrower to prevent arrears (N=13).
<p>Management of arrears</p>	<ul style="list-style-type: none"> • Almost all the responding jurisdictions have rules and/or principles in place relating to the procedures to be followed by financial firms to assist borrowers in arrears in their credit agreements (N=20). These rules and/or principles range from supervisory guidelines/memorandums to regulatory requirements, including both consumer protection and prudential guidance to specific domestic regulation, including national charters and consumer protection codes. • In most responding jurisdictions the rules and/or principles apply to a comprehensive set of credit products available to consumers, including housing loans and mortgages and unsecured consumer loans. • Almost all jurisdictions (N=18) have rules or principles in place preventing financial firms from making abusive contact with borrowers in arrears. • The sale of credit to third parties, mostly non-performing loans, has been raising significant challenges for consumer protection in many jurisdictions. In some jurisdictions, from the moment of the sale onwards, the credit is managed by a third party typically not included in the supervisory scope and not subject to the legal and regulatory obligations. • Almost all jurisdictions have rules or principles in place regarding the fees and charges that may be imposed on borrowers in arrears (N=20). These rules or principles seek to avoid excessive burdening

	<p>on borrowers already facing financial difficulties and struggling to meet their repayments in the credit agreement.</p>
Debt advice	<ul style="list-style-type: none"> • In most responding jurisdictions there are rules and/or principles in place regarding the provision of debt advice to borrowers in pre-arrears or arrears in their credit agreements (N=13) and on the specific entities in charge of providing those advice services (N=13). Debt advice is provided by both for-profit and non-profit organisations. Non-profit organisations benefit from public funding and donations. • Six of the responding jurisdictions have oversight powers over the debt management firms providing debt advice in their jurisdictions. • Given the complexity and the associated risks for consumers, debt counsellors in some responding jurisdictions are required to have an adequate level of competence and knowledge.
Supervisory approaches	<ul style="list-style-type: none"> • All the respondents have oversight powers over financial firms' application and compliance with the rules and/or principles relating to the prevention and management of arrears on credit agreements. Most respondents' (N=13) supervisory scope includes all financial firms involved in the prevention and/or management of arrears on credit agreements. • In order to oversee compliance of financial firms with those rules/principles, the responding supervisory authorities make use of a wide set of oversight tools. The most common oversight tools used by most of the respondents involve conducting on-site and off-site inspections, performing analyses of the data reported by financial firms and holding meetings with financial firms (N=20). Complaints handling (N=18) and analysis of data on credit default (N=14) are also frequently used. On the other hand, only 7 respondents conduct mystery shopping in this area. • Some jurisdictions have established reporting obligations on the implementation of the rules and/or principles regarding the prevention or management of arrears on credit agreements (N=10). • Responses received also revealed that market conduct supervisory authorities place significant importance on raising awareness among borrowers in pre-arrears or arrears about their rights and obligations, with most respondents (N=16) indicating the existence of information and literacy campaigns. • Most jurisdictions have taken supervisory action against financial firms for breaching rules and/or principles regarding the prevention or management of arrears on credit agreements (N= 15).
Cooperation between supervisory and prudential authorities	<ul style="list-style-type: none"> • Almost all the respondents noted the existence of cooperation or interaction between the market conduct and prudential supervision authorities regarding the monitoring of financial firms strategies and procedures to manage pre-arrears and arrears (N=19). • In some jurisdictions, the disclosure of information between prudential and conduct areas is a key element of cooperation.
Exit strategies from credit moratoria	<ul style="list-style-type: none"> • In response to the COVID-19 pandemic, measures were implemented globally to mitigate the impact of the pandemic on consumers of credit products and services and help them endure this critical period. The most common measures implemented were credit moratoria (either public or private) and the restructuring of repayment terms (for example, loan periods or interest rates). • Almost all responding jurisdictions (N=16) implemented temporary measures to mitigate the impact of the term of credit moratoria on

	<p>borrowers, preventing them from entering into arrears on their credit agreements.</p> <ul style="list-style-type: none">• Some of the most common measures adopted by financial firms were monitoring the credit risk of the borrowers and enhancing systems and procedures to that end.• Warning borrowers of the end of the moratoria and making pre-approved forbearance solutions available were other common approaches taken (N=8).• Most responding jurisdictions (N=12) found that financial firms also voluntarily adopted measures to support borrowers in financial distress prior to the end of credit moratoria. Enhancing systems and procedures to monitor borrowers' credit risk was one of the most common measures adopted by financial firms.• In general, the online channels, apps and other digital channels, as well as mobile communications (N=12) were the most commonly used means by financial firms to interact with borrowers with credit agreements covered by the credit moratoria. This seems to reflect a general increase of digitalisation amongst the responding jurisdictions, although, in some of these jurisdictions (N=11) communication through the commercial network is still relevant.• In anticipation of the end of credit moratoria, financial firms also offered forbearance solutions to borrowers who were availing of the moratoria. The majority of jurisdictions (N=15) stated that the extension of the suspension of payments was frequently offered to borrowers. Financial firms in most jurisdictions (N=15) indicated that the option to extend loan maturity was an option frequently offered to borrowers.• Financial firms also deferred the principal of instalments (N=12), applied interest rate reductions (N=9) and presented debt refinancing solutions (N=9).• Almost all supervisory authorities (N=18) played a role in the design and/or monitoring of the procedures implemented by financial firms. Supervisory actions performed in the design and monitoring of the contingency measures consisted of meetings with financial firms and gathering information reported by them, which were very frequent in this context (N=16).
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Appendix A: List of responding jurisdictions

Jurisdiction	Organisation
Australia	Australian Securities and Investments Commission (ASIC)
Brazil	Central Bank of Brazil (BCB)
Canada	Financial Consumer Agency of Canada (FCAC)
Canada	Autorité des Marchés Financiers (Québec)
France	Autorité de contrôle prudentiel et de résolution (ACPR)
Germany	Federal Financial Supervisory Authority (BaFin)
Indonesia	Financial Services Authority (OJK)
Ireland	Central Bank of Ireland (CBI)
Italy	Bank of Italy
Japan	Financial Services Agency (FSA)
Mauritius	Bank of Mauritius
Mozambique	Bank of Mozambique
Netherlands	Dutch Authority for the Financial Markets (AFM)
Nigeria	Central Bank of Nigeria
Peru	Superintendency of Banking, Insurance and Private Pension Funds Administrator (SBS)
Portugal	Central Bank of Portugal
Saudi Arabia	Saudi Arabian Monetary Authority (SAMA)
South Africa	Financial Sector Conduct Authority (on behalf of National Credit Regulator) / Financial Sector Conduct Authority
Spain	Bank of Spain
United Arab Emirates	Central Bank of the United Arab Emirates
United Kingdom	Financial Conduct Authority (FCA)

Appendix B: Questionnaire



FINCONET STANDING COMMITTEE 2

Questionnaire on exit strategies from payment holidays:

Supervisory approaches and challenges regarding the management of pre-arrears and arrears

February 2022

Introduction

1. This questionnaire on *“Exit strategies from payment holidays: Supervisory approaches and challenges regarding the management of pre-arrears and arrears”* is an initiative of the International Financial Consumer Protection Organisation (FinCoNet).
2. Since 2013, FinCoNet's Standing Committee 2 ('SC2') has been working on identifying regulatory and supervisory approaches and tools for supporting responsible lending practices. In doing so, SC2 has produced multiple reports and guidance discussing consumer issues and financial consumer protection responses relating to responsible lending.
3. SC2's previous work includes:
 - [FinCoNet Report on Responsible Lending, 2014](#);
 - [FinCoNet Report on Sales Incentives and Responsible Lending, 2016](#);
 - [Guidance to Supervisors on the setting of Standards in the field of Sales Incentives and Responsible Lending, 2016](#);
 - [FinCoNet Report on the digitalisation of short-term, high-cost consumer credit, 2018](#);
 - [Guidance to supervisors in the field of digitalisation of short-term, high-cost consumer credit, 2019](#); and most recently,
 - [FinCoNet Report on supervisory approaches to consumers' creditworthiness assessments, 2021](#).
4. In its Open Meeting in November 2021, FinCoNet's Governing Council agreed that SC2 should focus its future work on the supervisory approaches and challenges regarding the management of pre-arrears and arrears, especially focusing on the exit strategies from payment holidays implemented in the context of the COVID-19 pandemic to support borrowers affected by its economic and financial impacts.

Questionnaire

5. The information collected through the questionnaire will serve as basis for a report, which is expected to be published by the end of 2022.
6. The questionnaire is structured as follows:

- (a) The **first section** of the questionnaire aims at obtaining information on the strategies adopted to mitigate the impact of the term of credit moratoria / payment holidays, preventing consumers in financial distress from entering into default in their credit agreements.
 - (b) In the **second section**, respondents are invited to describe the general regulatory and supervisory approaches followed to ensure adequate management of pre-arrears and arrears on credit agreements concluded with consumers.
7. Although the questionnaire consists mostly of closed-ended questions, respondents are invited to describe any practices/initiatives/actions that they would like to highlight and that could be considered an effective or innovative approach to address these topics.
8. Kindly provide your answers to the questionnaire by email to the OECD Secretariat (sally.day-hanotiaux@oecd.org/ laura.dunbabin@oecd.org) by **18 March 2022**.
9. Should you require any further information or guidance in order to complete the questionnaire, please contact the OECD Secretariat (sally.day-hanotiaux@oecd.org/ laura.dunbabin@oecd.org)

Contact point

Please indicate the contact point for any questions that may arise in respect to this questionnaire:

Organisation:

Name:

Position:

E-mail:

Telephone:

Glossary

Term	Meaning
Borrower in arrears	Situation of a consumer acting as borrower in a credit agreement who failed to meet the payments under the credit agreement by their due date.
Borrower in pre-arrears	Situation of a consumer acting as borrower in a credit agreement who presents signs of financial difficulties, which may impact his/her ability to meet the payments under the credit agreement.
Consumer	Individual acting for personal, domestic or household purposes, not business or professional purposes.
Eligible consumer	A consumer that matches the requirements to access a moratorium.
Default ratio	$Default\ ratio = \frac{Default\ amount}{Outstanding\ debt}$
Financial firm / Lender	A financial services provider licensed to provide credit and/or servicing of credit as legal title holder to consumers (including a financial, credit or banking).
Forbearance	Concessions towards a borrower that is experiencing or is expected to experience financial difficulties through total/partial refinancing of a credit agreement or modification of its terms and conditions.
Outstanding debt	Liability amount of principal and/or interest yet to be paid, including arrears.

Section 1

The Exit Strategy – Temporary measures implemented to anticipate the impact of the term of credit moratoria on borrowers

In this first set of questions, respondents are invited to describe the approach followed in their jurisdictions to anticipate the impact of the term of credit moratoria on borrowers facing financial difficulties, preventing them from entering into default in their credit agreements.

Part A – Temporary measures to mitigate the impact of credit moratoria on borrowers

1. Did your jurisdiction implement any legal or regulatory measures to prevent borrowers from entering into arrears on their credit agreements following the term of credit moratoria?

No

Yes.

- 1b. Please describe those measures:

2. Did your supervisory authority issue any recommendations to financial firms on how to monitor credit agreements in order to prevent borrowers from entering into arrears on their credit agreements following the term of credit moratoria?

No

Yes.

- 2b. Please describe those recommendations:

2c. If your answer to question 1 and/or 2 was 'yes', did those measures or recommendations target all borrowers with credit agreements under credit moratoria or only some of them (e.g. only those under the public credit moratoria or only borrowers of certain types of credit agreements)?

- All borrowers of credit agreements under credit moratoria
- Only certain borrowers / types of credit agreements.

2d. If you answered 'only certain borrowers/types of credit agreements' please explain:

3. Did financial firms in your jurisdiction adopt measures targeting borrowers in financial distress prior to the term of credit moratoria?

- No
- No information available
- Yes.

3b. If 'yes' please select the most common measures:

- Warnings to borrowers alerting them to the term of credit moratoria
- Enhancement of the systems and procedures to monitor borrowers' credit risk
- Classification of borrowers depending on their credit risk
- Creation of pre-approved forbearance solutions, for certain segments of borrowers
- Other

3c. Please provide a description of the most common / relevant procedures implemented by firms in your jurisdiction:

4. If your answer to question 1, 2 or 3 was 'yes', please indicate the means commonly used by financial firms to interact with borrowers with credit agreements covered by credit moratoria:

- Commercial network (branches)
- Digital channels (online, apps)
- Mobile communication
- Other. Please indicate:

5. What kind of forbearance solutions did financial firms more frequently offer to borrowers with credit agreements covered by credit moratoria in anticipation of their term? (Please select all applicable options)

- Extension of the suspension of payments (principal, interest, principal and interest)
- Credit renegotiation – Extension of maturity
- Credit renegotiation – Interest rate reduction
- Credit renegotiation – Deferral of principal
- Debt refinancing
- Debt consolidation
- Partial debt relief
- Other

5b. Please provide a description of the most common / relevant forbearance solutions presented to borrowers:

6. Did your supervisory authority play a role in the design and/or monitoring of the procedures implemented by financial firms?

No

Yes.

6b. If you answered 'yes' please indicate those measures:

Meetings with s

Reporting of information

On-site inspections

Off-site inspections

Other

6c. Please explain the role played by your supervisory authority:

7. Did your supervisory authority take initiatives to inform borrowers of the credit moratoria term?

No

Yes.

7b. Please describe those initiatives:

Part B – Evaluation of the effectiveness of the measures

8. Did your supervisory authority collect data on the forbearance solutions agreed between financial firms and borrowers with credit agreements covered by credit moratoria in anticipation of their term?

- No
- Yes.

8b. Please explain which kind of data was collected:

9. Do you consider that the measures taken to mitigate the impact of the term of credit moratoria on borrowers have been effective in preventing credit default?

- No
- Not applicable
- Yes

9b. Please explain your answer, providing relevant quantitative data, if available, and indicating which measures were more effective:

9c. If your answer to question **9** was ‘no’, what, in your opinion, could have been done in order to make those measures more effective?

Section 2

Regulatory framework for the prevention and management of arrears

This set of questions aims to obtain a general overview of the legal and regulatory framework applicable to the prevention and management of arrears on credit agreements with consumers in each jurisdiction.

Part A – Rules and/or principles on the prevention of credit arrears

10. Does your jurisdiction have any rules and/or principles in place on the procedures that financial firms should follow to monitor the credit risk of borrowers and to prevent arrears on credit agreements?

- Yes
- No
- Under consideration / In progress

10b. If your answer to question **10** was 'yes', please specify the types of credit agreements covered by those rules or principles from the list below.

- Housing loans
- Mortgage credit
- Personal loans
- Car loans
- Credit cards
- Other types of revolving credit
- Student loans

Other. Please specify:

11. Please indicate the procedures financial firms should follow in the context of the prevention of arrears. (Please select all applicable options)

Monitor borrowers' credit risk regularly and identify early signs of payment difficulties

Establish contact with borrowers with early signs of payment difficulties

Assess the financial situation of borrowers with early signs of payment difficulties

Assist borrowers who warn the financial institution of their payment difficulties

Offer forbearance solutions to borrowers in pre-arrears suitable to their financial situation

Monitor the effectiveness of the solutions agreed with borrowers

Disclose information to borrowers on the prevention of arrears

Provide training to employees with responsibilities in the prevention of arrears

Other:

12. Please indicate which early warning signs financial firms should take into consideration when monitoring borrowers' credit risk. (Please select all applicable options)

Do not know / Not applicable

Negative repayment information

Unemployment / reduction of income

Debts to tax or social security authorities

Enforcement actions / Insolvency of the borrower

Other. Please indicate:

13. Are financial firms required to offer forbearance solutions to borrowers in pre-arrears?

No

Yes.

13b. If 'yes', in what circumstances are financial institutions required to present forbearance solutions and which kind of solutions are proposed?

14. Please briefly describe the rules and/or recommendations in place in your jurisdiction regarding the prevention of arrears on credit agreements.

15. Did the measures adopted in the context of the COVID-19 pandemic have an impact on the rules and/or principles in place or under consideration in your jurisdiction regarding the prevention of arrears on credit agreements?

No

Yes.

15b. If 'yes', please provide details.

Part B - Rules and/or principles on the management of credit arrears

16. Does your jurisdiction have any rules and/or principles in place on the procedures that financial firms should follow to assist borrowers in arrears on their credit agreements?

- Yes
- No
- Under consideration / In progress

16b. If your answer to question **16** was 'yes', please specify the types of credit agreements covered by those rules or principles from the list below.

- Housing loans
- Mortgage credit
- Personal loans
- Car loans
- Credit cards
- Other types of revolving credit
- Student loans
- Other. Please specify:

17. Please indicate the procedures financial firms should follow in the context of the management of arrears. (Please select all applicable options)

- Establish contact with borrowers after entering into arrears
- Assess the financial situation of borrowers in arrears

- Offer forbearance solutions to borrowers in arrears suitable to their financial situation
- Monitor the effectiveness of the solutions agreed with the borrowers
- Disclose information to borrowers on the management of arrears
- Provide training for employees with responsibilities in the management of arrears
- Other. Please specify:

18. Does your jurisdiction have rules or principles in place preventing financial firms from making abusive contact with borrowers in arrears (e.g. prohibition of aggressive collection practices, harassing contacts)?

- No
- Yes.

18b. If 'yes', please describe those rules/principles:

19. Does your jurisdiction have rules or principles in place regarding the fees or charges that may be levied on borrowers in arrears?

- No
- Yes.

19b. If 'yes' please describe those rules/principles:

20. Does your jurisdiction have rules and/or principles in place regarding the intervention of external services providers (e.g. servicing companies) in the management of arrears?

No

Yes.

20b. If 'yes' please describe those rules/principles:

21. Please briefly describe the rules and/or recommendations in place in your jurisdiction regarding the management of arrears on credit agreements.

22. Did the measures adopted in the context of the COVID-19 pandemic have an impact on the rules and/or principles in place or under consideration in your jurisdiction regarding the management of arrears on credit agreements?

No

Yes.

22b. If 'yes' please provide details.

Part C – Debt advice

23. Does your jurisdiction have rules and/or principles in place regarding the provision of debt service to borrowers in pre-arrears or arrears in their credit agreements?

No

Yes

Under consideration / In progress

23b. If 'under consideration/in progress' please provide details and indicate whether those changes are related to the response to the COVID-19 pandemic

24. Does your jurisdiction have specific entities in charge of providing debt advice to borrowers in pre-arrears or arrears in their credit agreements?

No

Yes

24b. If your answer to the previous question was 'yes', please indicate the nature of those entities.

Only public

Only private

Both public and private

24c. If your answer to the previous question was 'only private' or 'both public and private', please explain how those private entities are entitled to provide debt advice and describe the mechanisms in place to ensure that their staff have an adequate level of competence and knowledge.

24d. If your answer to question **24b** was 'private' or 'both public and private', please explain how those private entities are financed and whether there are mechanisms in place to ensure their autonomy and independence.

25. Please describe the role and powers of the entities that provide debt advice to borrowers in pre-arrears and arrears in your jurisdiction. (Please select all applicable options)

- Debt arbitration
- Debt mediation
- Debt counselling
- Financial literacy
- Other

25b. Please describe the role and powers of those entities:

26. Does your supervisory authority have any role relating to the training of the staff of the entities that provide debt advice to borrowers in pre-arrears or arrears on credit agreements?

- No
- Yes.

26b. If 'yes' please describe that role and illustrate with some examples of training initiatives:

27. Does your supervisory authority have oversight powers over the entities that provide debt advice to borrowers in pre-arrears or arrears in credit agreements?

- No
- Yes.

27b. If 'yes' please describe:

Part D – Role of the supervisory authority in monitoring the rules on the prevention and management of arrears

28. Does your supervisory authority have oversight powers over the application of the rules and/or principles regarding the prevention and management of arrears on credit agreements?

- No
- Yes.

28b. Please describe:

28c. If your answer to the previous question was 'yes', which tools does your supervisory authority use to oversee compliance with those rules and/or principles? (Please select all applicable options)

- On-site inspections
- Mystery shopping
- Off-site inspections

- Complaints handling
- Analysis of data reported by financial firms
- Analysis of data on credit default
- Meetings with institutions
- Other. Please specify.

29. Does your supervisory scope cover all the financial firms in your jurisdiction involved in the prevention and/or management of arrears on credit agreements with borrowers?

- Yes
- No.

29b. If no, please provide details explaining which financial firms are excluded from your supervisory scope regarding the management of arrears on credit agreements with borrowers:

30. Is there any cooperation / interaction in your jurisdiction between prudential and conduct supervision authorities / divisions regarding the monitoring of financial firms' strategies and procedures to manage pre-arrears and arrears?

- No
- Yes.

30b. If 'yes' please explain and illustrate with some examples:

31. Has your supervisory authority taken action against financial firms for breaching rules and/or principles regarding the prevention or management of arrears on credit agreements?

No

Yes.

31b. If 'yes' please illustrate with some examples:

32. Has your supervisory authority established reporting obligations on the implementation of the rules and/or principles regarding the prevention or management of arrears on credit agreements?

No

Yes.

32b. If 'yes' please describe those reporting obligations:

33. Does your supervisory authority take initiatives to raise awareness among borrowers in pre-arrears or arrears about their rights and obligations?

No

Yes.

33b. If 'yes; please explain:

End of the questionnaire.

Thank you very much for your contribution.



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