



# All-Party Parliamentary Loan Charge Group

[www.loanchargeappg.co.uk](http://www.loanchargeappg.co.uk)

Andrew Bailey  
CEO, FCA  
FCA Head Office  
12 Endeavour Square  
London  
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1<sup>st</sup> March 2019

Dear Mr Bailey,

**HMRC suggesting people take personal loans in apparent breach of UK FCA regulations and against lending rules**

I am writing to you on behalf of the All-Party Parliamentary Loan Charge Group to ask that the Financial Conduct Authority look into the fact that HMRC are suggesting to people facing the Loan Charge that they take out personal loans to pay their (disputed) tax liabilities. We believe this to be inappropriate and bad advice and also potentially a breach of the FCA's regulations with regard to advice for people in such a position.

On 30<sup>th</sup> January 2019, Mary Aiston, Director Counter-Avoidance, HM Revenue and Customs, gave oral evidence to the Treasury Select Committee regarding individuals facing the Loan Charge, stating that, ***"for some people we may say you need to take a loan out."***

Similar advice has also been made in writing to people facing the Loan Charge, and the APPG has been sent examples of these letters. The Loan Charge comes into force on 5<sup>th</sup> April 2019 and people are being pushed by HMRC to settle the disputed liabilities before it comes into effect, including advising them to do so by taking out loans.

The Loan Charge APPG is very troubled about this: we do not believe this is appropriate, ethical or responsible. Moreover, from reading the FCA rules, it is potentially a breach of the FCA's 'approved persons' regime.

This statement appears to be equivalent to providing debt advice, as opposed to assisting people with (in this case disputed) tax liabilities, which is HMRC's role. The APPG have been sent evidence from the Loan Charge Action Group (LCAG).

A member of LCAG inquired with the FCA whistle-blower hotline as to whether HMRC's statement falls within the FCA's 'approved persons' regime. The FCA stated in reply that *"debt advice and the provision of personal loans or lending is a regulated activity"* and, furthermore, that the FCA would expect any organisation giving such advice to be both authorised and certain individuals within that firm to hold controlled functions.

HMRC as an organisation appears not to be authorised to give debt advice, nor are HMRC officials 'approved persons', according to the FCA's public register. We would appreciate your clarification on this matter.

Additionally, we have been sent evidence from LCAG who conducted a telephone survey of six UK high street and online banks: Barclays, HSBC, Lloyds, Santander, Sainsbury's bank and Tesco Bank. The advice given in each of the calls, made by someone facing a Loan Charge liability, is that the majority of banks are not willing to provide a loan to allow the person to pay the tax bill they are facing. This evidence is available from the APPG on request.

As well as the appropriateness and ethics of HMRC's advice, it also appears deeply questionable as it transpires that most reputable commercial lenders will not grant a personal loan for this purpose. This is even more likely to be the case if someone is self-employed (which is the case for many of the thousands of people facing the Loan Charge, as it is a charge applying mainly to contractors/freelancers) or if the person is retired or near retirement (which is also the case with a significant number of people facing the Loan Charge).

HMRC are advising people to take loans when, in many cases, due to their own circumstances and the position of lenders, it is simply not possible for them to get a personal loan to pay off these tax liabilities. This is therefore both troubling and could be dangerous: it may well transpire that people who find high street lenders refusing to grant a loan for this deemed liability, are forced into the hands of disreputable lenders or even loan sharks, charging sky-high interest rates and exacerbating people's problems even further.

We are also concerned at the legitimacy of HMRC providing such advice to taxpayers, especially when several regulated lenders have made clear that loans (including re-mortgaging) are generally not granted for the purpose of paying off large tax liabilities of this nature.

On behalf of the Loan Charge APPG, I am asking the FCA to look into this as a matter of urgency. Considering the timescales, and with so many people facing life-changing demands from HMRC, people are already encountering financial difficulty and, in some cases, financial ruin.

We look forward to hearing from you.

Best wishes,



Sir Ed Davey  
Chair  
All Party Parliamentary Loan Charge Group

On behalf of the APPG

Cc: Treasury Select Committee  
House of Lords Economics Affairs Committee