

# Regulation of Buy-Now, Pay-Later

## **Government Response to Consultation**

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# Chapter 1

## Introduction

1.1 The Government ran a six-week consultation between 17 October and 29 November 2024 on proposals for bringing currently unregulated Buy-Now, Pay-Later (BNPL) products into regulation. This consultation also included draft legislation. It received 61 responses from a range of stakeholders including BNPL firms, the wider consumer credit industry, trade associations, consumer groups, and academics.

1.2 The consultation is available online:

[https://assets.publishing.service.gov.uk/media/6710efdb8a62ffa8df77b28c/Regulation\\_of\\_BNPL\\_consultation\\_2024\\_-\\_final\\_17.10.pdf](https://assets.publishing.service.gov.uk/media/6710efdb8a62ffa8df77b28c/Regulation_of_BNPL_consultation_2024_-_final_17.10.pdf)

1.3 The draft legislation that was published alongside the consultation is available online:

[https://assets.publishing.service.gov.uk/media/6710c7d730536cb927483330/BNPL\\_SI\\_draft.pdf](https://assets.publishing.service.gov.uk/media/6710c7d730536cb927483330/BNPL_SI_draft.pdf)

1.4 The term ‘Buy-Now, Pay-Later’ refers to a type of interest-free instalment credit which allows borrowers to split the cost of purchases into regular repayments within a 12-month period and in 12 or fewer instalments. As these agreements are unregulated, firms offering them do not need to be authorised and regulated by the Financial Conduct Authority (FCA), nor do they have to comply with the requirements of the Consumer Credit Act 1974 (CCA).

1.5 The consultation document outlined the Government’s proposals to bring these products into regulation. These plans aim to ensure people using BNPL products receive clear information, avoid unaffordable borrowing, and have strong rights when issues arise. The Government’s approach will maintain access to a popular product while adding safeguards.

1.6 The consultation explained how the government’s proposed regulatory regime will deliver key protections for consumers, including:

- FCA oversight of firms offering BNPL products;
- allowing the FCA to apply rules on affordability and creditworthiness checks; and
- the ability for borrowers to access the Financial Ombudsman Service (FOS) and benefit from the protections of section 75 of the CCA should something go wrong with their purchases.

1.7 The Government’s proposed approach to regulating BNPL products involves first disapplying CCA provisions on information requirements that would otherwise apply to newly regulated BNPL

agreements. The FCA will then be able to design and implement an information disclosure regime for BNPL in its rules. This framework will seek to improve consumer understanding and ensure the regime is appropriately tailored to BNPL products.

**1.8** The previous Government published two consultations (in October 2021 and February 2023) on its approach to regulating BNPL.<sup>1</sup> However, it did not bring forward legislation before Parliament was dissolved in May 2024.

**1.9** This response summarises feedback to the consultation and sets out the Government's final positions on aspects of its proposed BNPL regulatory regime. A final chapter (Chapter 5) sets out the next steps for BNPL regulation and notes that the Government expects BNPL products to enter regulation in mid-2026.

**1.10** References in this document to 'the SI' are to the draft Statutory Instrument that was published alongside the consultation document. This is the legislation bringing BNPL agreements into regulation.

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<sup>1</sup> <https://www.gov.uk/government/consultations/regulation-of-buy-now-pay-later-consultation>; <https://www.gov.uk/government/consultations/regulation-of-buy-now-pay-later-consultation-on-draft-legislation>. A response to the October 2021 consultation was published in June 2022: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1083547/BNPL\\_consultation\\_response\\_Formatted\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1083547/BNPL_consultation_response_Formatted_.pdf)



# Chapter 2

## Draft Legislation

**2.1** This chapter summarises feedback on the draft legislation shared in responses to the 2024 consultation, and the government's response to the areas of feedback.

**2.2** The respondents to the consultation are listed in Annex A.

**2.3** The draft affirmative Statutory Instrument (SI) to bring BNPL agreements into regulation is available online:

[https://assets.publishing.service.gov.uk/media/6710c7d730536cb927483330/BNPL\\_SI\\_draft.pdf](https://assets.publishing.service.gov.uk/media/6710c7d730536cb927483330/BNPL_SI_draft.pdf)

### Scope

**2.4** Agreements meeting the conditions under article 60F(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (the RAO) are exempt from consumer credit regulation and these agreements are therefore not regulated credit agreements. A large number of businesses also use this exemption to offer their customers instalment payment options for goods and services, such as invoicing for building work, gym memberships, and travel season tickets, though these payment options are not usually labelled 'BNPL'.

**2.5** In the consultation, the Government maintained the proposals from February 2023 regarding the regulatory scope for BNPL products: BNPL agreements offered by third-party lenders would be subject to the new regulatory regime, while those provided directly by merchants would remain exempt under Article 60F(2) of the RAO.

**2.6** The consultation explained that the Government seeks to regulate BNPL agreements to reduce the risk of consumer harm and align these products with other regulated consumer credit products.

**2.7** Currently, the Government understands that such risks are only present in agreements offered by third-party lenders, not merchants. However, the consultation confirmed that the Government will continue to monitor the merchant-offered credit market and will take action if consumer harm is identified in relation to agreements provided directly by merchants.

**2.8** Most respondents expressed concerns about merchant-provided BNPL remaining outside the scope of regulation. The primary concern expressed in particular by BNPL firms, other consumer credit firms, and the trade associations representing them was that the proposed regulatory regime would lead to an uneven playing field. This is because third-party lenders would need to adhere to the new regime

for BNPL lending, whereas merchants offering BNPL products that appear the same to consumers would not be subject to these rules.

**2.9** These respondents, alongside consumer groups, also raised concerns — as they had done in response to the February 2023 consultation — that large e-commerce platforms might begin to offer their own unregulated BNPL agreements at scale.

**2.10** However, most respondents accepted the Government's commitment to closely monitor the merchant-provided BNPL market and urged it to be prepared to respond quickly should any evidence of consumer harm emerge.

**2.11** Three respondents raised concerns that the proposed regulation will impact small and medium-sized enterprises' (SMEs) ability to access finance through a type of BNPL product which allows the smallest SMEs to access finance below £25,000. Usually, this type of business lending is subject to regulation.

**2.12** In the responses to question 11, respondents expressed support that BNPL agreements will be covered by section 75 of the CCA.

**Government response:** The Government acknowledges the concerns about large tech and e-commerce platforms possibly offering their own BNPL agreements on a larger scale once third-party BNPL agreements enter regulation.

However, the Government does not currently see any evidence that merchants are seeking to offer BNPL agreements on a scale similar to third-party lenders — instead, most merchants remain in partnership with these lenders. The Government maintains that it is crucial to keep the article 60F(2) exemption for low-risk, everyday transactions. Distinguishing these transactions from those provided by merchants as BNPL agreements is complex and would require changes to fundamental aspects of the consumer credit regulatory framework.

As confirmed in the consultation, the Government will continue to closely monitor the profile of the merchant-provided credit sector and will respond if significant change or potential consumer harm is detected.

In the UK, loans of less than £25,000 to the smallest businesses (sole traders, partnerships consisting of 2 or 3 partners and unincorporated businesses) are treated as regulated consumer credit agreements for the purposes of the Financial Services and Markets Act 2000 (FSMA). This protects small business borrowers where there is the potential for consumer harm.

More broadly, the Government believes it is right that the smallest businesses have additional protections and that the proposed regulatory approach aligns currently unregulated BNPL products with other forms of lending to such business types. In addition, the

Government has not seen evidence to suggest that the BNPL products being brought into regulation are a popular form of finance for SMEs. It would therefore be more effective to consider the regulatory perimeter for SME lending separately (for example, through planned CCA reform work).

## Information Requirements

**2.13** In the consultation, the Government set out its position that applying the CCA's requirements for information disclosure (and other provisions relating to information) to BNPL products would be disproportionate and would not promote optimal consumer outcomes. The Government acknowledged evidence from BNPL lenders showing that consumers do not fully engage with the documents provided under the CCA's requirements. The Government therefore concluded that applying the CCA's information requirements to BNPL products would not align with its goal of maximising consumer understanding of these products.

**2.14** Questions 1 to 6 and 8 of the consultation concerned the disapplication of the CCA's information requirements. These questions specifically covered:

- Pre-contractual information;
- Form and content of agreements;
- Ongoing information requirements;
- Information on variation of agreements;
- Early repayment information; and
- Information on arrears, defaults, and termination.

**2.15** The responses to these questions are summarised under the sub-headings below. However, most respondents used Question 1 ('Do you have any comments on the proposed approach and/or drafting disapplying provisions on pre-contractual information (sections 55 and 55C)?') to set out their general views on the disapplication of the CCA's information requirements.

**2.16** There was widespread support from respondents for the Government's proposals to disapply these information requirements. Respondents were in alignment with the government's principle that consumers need clear information about BNPL products and agreed that CCA's information disclosure provisions would not effectively achieve this.

**2.17** Several respondents were cautious about endorsing the proposals because the nature of an FCA rules-based information disclosure regime has not yet been determined.

2.18 Respondents from the wider consumer credit industry agreed that these provisions needed to be disapplied for BNPL. However, they also noted that other consumer credit products could benefit from a similar information disclosure regime until the CCA is reformed.

2.19 The Government's response to feedback on its proposals to disapply the CCA's information disclosure requirements can be found after the subsection 'Information on arrears, defaults, and termination' (lines 2.32-2.36).

2.20 More broadly, the Government is working at pace to reform the CCA. It is publishing, in parallel to this document, a consultation with proposals to repeal the CCA's information disclosure requirements and recast them into FCA rules.<sup>2</sup> These proposals would mean that all consumer credit products could therefore soon benefit from the FCA's modern, outcomes-based regulatory framework.

### Pre-contractual information (sections 55 and 55C)

2.21 The consultation preserved the proposals from February 2023 that the CCA's requirements around pre-contractual information disclosure should be disapplied so that the FCA can apply bespoke rules for BNPL products.

2.22 Several consumer groups thought that a small amount of prescription in FCA rules could benefit consumers by ensuring they receive essential information — such as details on late fees — about BNPL products.

### Form and content of agreements (sections 60, 61 and 61A)

2.23 Most respondents agreed with the Government's view that agreements structured according to the CCA requirements are complex and include information not applicable to BNPL agreements, such as interest rates. They therefore broadly supported the proposals to disapply these requirements for BNPL, stressing the importance of the FCA creating rules that ensure agreements provide consumers with clear and accessible information to improve their understanding of BNPL products.

2.24 Some respondents suggested the FCA should consider a level of prescription regarding form and content of BNPL agreements to aid consumer understanding. One respondent noted this would help ensure a level playing field for BNPL firms.

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<sup>2</sup> <https://www.gov.uk/government/consultations/consultation-on-consumer-credit-act-1974-cca-reform>

## Ongoing information requirements (sections 77, 77A and 77B)

2.25 There was widespread support from respondents for disapplying the CCA's requirements around what ongoing information should be provided to borrowers.

2.26 BNPL firms in particular noted that users can usually track their agreements and view their payment schedules online and via mobile apps. Furthermore, due to the short-term nature of BNPL agreements, these firms argued that annual statements are unnecessary; however, one trade association suggested that a monthly digital statement could be useful.

2.27 Respondents emphasised that the FCA's rules around ongoing information requirements should ensure that this information is accessible and supports consumers to manage their finances.

## Information on variation of agreements (section 82)

2.28 Respondents stressed that firms must communicate suitable information clearly and that any variations are communicated in plain language. Two respondents suggested that consumers should be able to modify agreements if circumstances change.

2.29 In relation to variation of agreements and early payment information, one respondent suggested tailoring the FCA's Consumer Credit sourcebook (CONC) rules to account for some borrowers having recurring and/or multiple ongoing BNPL credit agreements.

## Early repayment information (section 97 and 97A)

2.30 Respondents recommended that the FCA's rules ensure BNPL firms clearly and proactively communicate early repayment information.

2.31 Two respondents raised concerns that disapplying these sections would reduce consumer protection due to the loss of sanctions against firms, which they argued ensure automatic compliance by lenders before a problem occurs.

## Information on arrears, defaults, and termination (sections 76, 86B, 86E, 87, 97 and 103)

2.32 This section of the consultation set out the proposed approach to information on arrears, defaults, and termination. The government believes it is vital that consumers in financial difficulty are presented with clear, timely and useful information and are supported to find an appropriate solution depending on their circumstances.

2.33 In the consultation, the government explained it does not believe the CCA requirements mentioned above would deliver on this for BNPL.

2.34 Most respondents highlighted that the paper-based nature of these requirements is unfit for a largely digital product.

**2.35** Some consumer groups expressed concerns that the disapplication of CCA's arrears and default provisions would result in the removal of the requirement to provide FCA information sheets.

**2.36** Some consumer group respondents emphasised the importance of encouraging consumers facing financial difficulties to engage with their creditors. They highlighted that notices prescribed by the CCA may be perceived as intimidating, potentially deterring consumers from taking necessary actions to improve their situation. One academic presented research showing the poor efficacy of prescribed default notices.

**Government response:** It is important that potential BNPL borrowers have access to simple, clear, understandable and accessible information. The Government therefore intends to proceed with its proposals to disapply the CCA's information disclosure requirements for BNPL products, as the FCA will be able to draft rules bespoke to the nature of BNPL products.

The FCA will draft and consult on its rules in due course, giving interested parties the opportunity to comment on them.

Because of the way most responses were structured, this response applies to the feedback summarised in lines 2.13 to 2.36. The Government has set out its response to concerns about sanctions in full later in this response document (after line 2.48).

## Time orders (section 129)

**2.37** Time orders enable the court, if it is just to do so, to provide more time for payment under an agreement to reasonably reflect the customer's ability to repay the debt within a reasonable period.

**2.38** The consultation explained that a borrower will be able to apply for a time order where they are informed that their lender intends to take certain enforcement action or terminate the agreement. This will ensure consumers can apply for a Time Order in similar circumstances as for other typical regulated agreements.

**2.39** Some respondents were supportive of the need to retain time orders to ensure consumers are protected and lenders are incentivised to act responsibly. Other respondents suggested that time orders are rarely used and that they may be less relevant to the short duration and low value typically associated with BNPL agreements.

**Government response:** The Government acknowledges the feedback raised in relation to consumer protection and agrees that time orders should be retained in the legislation.

The Government's proposed approach to regulating BNPL will also include rules developed by the FCA tailored specifically to BNPL products, alongside additional protections such as access to the FOS, ensures that BNPL borrowers will still receive suitable protection on their BNPL agreements.

The draft SI preserves the effect of section 129 as closely as possible for BNPL agreements.

## Death of debtor (section 86)

**2.40** The consultation confirmed that BNPL lenders would continue to be subject to section 86 requirements. Section 86 requires a lender to apply for a court order if it wishes to take certain enforcement action following the death of the debtor. The changes set out in article 2(12) of the draft SI published with the consultation aimed to ensure that BNPL lenders would be subject to this requirement.

**2.41** There was no substantial feedback regarding section 86; however, one respondent stressed the need for clear guidance from the FCA in drafting its rules. Another respondent suggested disapplying section 86, while a last queried the drafting regarding this point.

**Government response:** The drafting of the SI has been reviewed following the feedback and the amendment to section 86 was removed. The government concluded that the amendment had no substantive effect and did not provide useful clarification. Section 86 would apply to BNPL lenders in the absence of an amendment.

## Sanctions

**2.42** The consultation outlined that some of the sanctions for firms in the CCA will fall away, because of the information provisions being disapplied under the proposed regime to maximise consumer understanding. These are: unenforceability without a court order; unenforceability during breach; and disentitlement.

**2.43** Further information on the proposed approach to sanctions is available on page 24/paragraphs 2.55-61 of the October 2024 consultation.<sup>3</sup>

**2.44** It explained that the proposed regime will have strong incentives for firms to comply with regulation, notably: FCA oversight; CONC; Consumer Duty; and the FOS.

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[https://assets.publishing.service.gov.uk/media/6710efdb8a62ffa8df77b28c/Regulation\\_of\\_BNPL\\_consultation\\_2024\\_-\\_final\\_17.10.pdf](https://assets.publishing.service.gov.uk/media/6710efdb8a62ffa8df77b28c/Regulation_of_BNPL_consultation_2024_-_final_17.10.pdf)

**2.45** Several respondents, while generally supporting the proposed regulatory regime for BNPL products, raised concerns about the loss of the CCA's sanctions regime.

**2.46** These respondents noted the role automatic sanctions play in protecting vulnerable consumers and promoting good behaviour by lenders.

**2.47** They argued that sanctions should be present in the BNPL regulatory regime — with suggestions that the FCA could draft rules mimicking them — as they are an important part of consumer protection and provide an effective additional deterrent for bad actors in addition to the proposed regulatory framework.

**2.48** One respondent suggested that sanctions should be removed as part of broader CCA reform work. One respondent supported the removal of sanctions, provided this would be consistent with other lending products.

**Government response:** Although the disapplication of the CCA's information disclosure requirements for BNPL lending means that the legislative sanctions of the CCA will no longer apply, the Government's regulatory regime for BNPL products will provide users with strong protections, especially through the FCA's oversight of BNPL firms.

The FCA employs a modern, principles-based regulatory approach that encourages firms to prioritise consumer interests — should firms fail to do so, the FCA has effective mechanisms for redress and compensation. The FCA's well-established regulatory framework, which will act as a strong deterrent against misconduct by firms.

Indeed, BNPL firms will have obligations under the FCA's Consumer Duty and firms will need to comply with the FCA's recently strengthened rules on arrears and forbearance as set out in CONC. Various consumer rights apply during arrears, default, and forbearance processes under these rules. In addition, consumers will gain the option to access debt respite scheme Breathing Space and FOS.<sup>4</sup>

The Government has considered the feedback received regarding sanctions and has made no changes to the SI.

## Other Regulatory Controls

**2.49** Question 9 in the consultation asked for views on the proposed legislative approach to the Financial Services (Distance Marketing) Regulations 2004 (DMRs), credit broking under article 36A of the RAO

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<sup>4</sup> <https://www.gov.uk/options-for-dealing-with-your-debts/breathing-space>



and the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (Financial Promotions Order).

## Distance Marketing Regulations

**2.50** The consultation set out the Government's proposal to disapply the DMRs for unauthorised brokers where information is disclosed by authorised lenders in accordance with the FCA's rules on distance marketing for authorised persons.

**2.51** Question 9 in the consultation asked about DMRs alongside credit broking and the Financial Promotions Order; however, most respondents to this question did not mention DMRs. One respondent noted that the DMRs replicate CONC requirements and that unauthorised credit brokers would still be subject to these requirements.

**Government response:** The Government does not intend to change the SI drafting regarding DMRs; instead, it plans to consider the feedback received as part of phase 2 of planned CCA reform work, since this feedback is not specific to BNPL.

## Credit broking

**2.52** The consultation outlined that, under the Government's regulatory regime for BNPL products, most merchants will not require credit broking permissions if they only offer BNPL products as payment options to their customers. Because BNPL products are now so integrated into the customer experience for e-commerce, the Government considers that it would be disproportionate to require all merchants brokering them from a third-party lender to be authorised and regulated by the FCA. The consultation also proposed that domestic premises suppliers — businesses that sell, offer to sell or agree to sell goods or offer to supply or contract to supply services in people's homes — that are brokering BNPL agreements would need to be regulated due to concerns about the possibility of pressure selling.

**2.53** Respondents commenting on credit broking were mainly from the wider consumer credit industry, including trade associations representing this sector. Although these respondents understood the Government's rationale for exempting most merchants from needing credit broking permissions, they believed that this exemption should also extend to merchants who broker other types of regulated credit. Some respondents further suggested that such an exemption should apply when a merchant's role is primarily limited to advertising the availability of specific credit products.

**2.54** In late March, respondents from the BNPL sector raised concerns separately that domestic premises suppliers should be exempt from becoming authorised credit brokers. They noted that a new and emerging market is developing, in which businesses conducting sales in people's homes — such as an emergency plumber — can invoice

customers with BNPL payment options. In further engagement, they explained that this can often take the form of a sole trader partnering with an invoicing firm, which has, in turn, partnered with a BNPL firm to offer its products.

**2.55** They explained that the small sums associated with these sales are very different from traditional domestic premises suppliers model, where credit agreements for thousands of pounds are drawn up in people's homes. They contended that not granting the exemption to domestic premises suppliers could result in disproportionate burdens on businesses, including SMEs, and/or restrict consumer choice, resulting in consumers opting for other, costlier forms of credit instead.

**Government response:** The Government maintains its position on exempting most merchants from the requirement to obtain credit broking permissions as it would impose significant costs on retailers; and other protections such as the Financial Promotions Order are in place to mitigate the risk of consumer harm. Credit broking for other regulated credit products will be reviewed as part of CCA reform.

The Government recognises the usefulness of BNPL products in helping consumers manage unexpected expenses, like plumbing and car repairs. In these potentially stressful situations, it is vital that people using BNPL products as a payment method have robust protections.

Because the concerns about the Government's approach to domestic premises suppliers were raised at a late stage, it was not possible to reach a final view on the regulatory approach without delaying the legislation, the regulatory regime and the important protections it will provide to consumers. The Government has therefore laid legislation in line with the approach to domestic premises suppliers outlined in the consultation and the Government is now actively considering its approach to these types of merchants. By engaging with stakeholders, it is taking steps to better understand this issue and to help determine whether domestic premises suppliers, like other merchants, should be exempt from credit broking regulation. The Government will set out its next steps in due course.

## Financial promotions

**2.56** The consultation set out that, to protect consumers where merchants are not required to have credit broking permissions, unauthorised merchants will need to have their promotions of BNPL products approved by an authorised person. Additionally, it clarified that firms in the Temporary Permissions Regime (TPR; defined in lines 2.84 to 2.94 of the consultation) will be able to communicate their own financial promotions and prepare the content of financial promotions

for onward communication by unauthorised merchants, but they cannot approve the financial promotions of unauthorised merchants.<sup>5</sup>

**2.57** There were limited comments from respondents on the Government's approach to financial promotions. Only one respondent, a BNPL firm, provided feedback on the drafting for firms in the TPR in Part 4 of the draft SI. This firm noted that firms in the TPR will need to engage a third-party approver to approve their merchant partners' financial promotions, as firms in the TPR will not receive financial promotions approver permissions. The firm expressed concerns that this requirement could result in operational inefficiencies for firms.

**2.58** Separately, the Government became aware that the drafting at article 11(2)(a) of the draft SI did not align with the intended policy approach outlined in the consultation. The drafting would have prevented unauthorised merchants from communicating financial promotions that had been approved by BNPL firms in the TPR, as firms in the TPR would not be deemed authorised for the purposes of section 21(2)(b) of FSMA (restrictions on financial promotion).

**Government response:** It is important that firms go through the FCA's application process to receive permission to approve financial promotions so that the FCA can properly assess whether they possess the necessary expertise, systems, and controls to carry out the activity.

The Government previously recognised the consumer harm around financial promotions and made legislation in 2023 to enable the FCA to strengthen the financial promotions regime.<sup>6</sup> Under this legislation, a person with approver status can approve the financial promotion of an unauthorised person.

The Government does not believe it would be appropriate for firms in the TPR to be able to approve financial promotions created by unauthorised merchants.

The Government has revised article 11(2) of the draft SI to align with the policy intent described in the consultation, removing the reference to section 21(2)(b) of FSMA. BNPL firms in the TPR will therefore be able to approve their own financial promotions for onward communication by their unauthorised merchant partners.

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[https://assets.publishing.service.gov.uk/media/6710efdb8a62ffa8df77b28c/Regulation\\_of\\_BNPL\\_consultation\\_2024\\_-\\_final\\_17.10.pdf](https://assets.publishing.service.gov.uk/media/6710efdb8a62ffa8df77b28c/Regulation_of_BNPL_consultation_2024_-_final_17.10.pdf)

<sup>6</sup> <https://www.legislation.gov.uk/ukpga/2023/29/section/20>

## Temporary Permissions Regime

**2.59** The consultation explained that a TPR for BNPL lending will enable firms that are not yet authorised to carry on consumer credit lending or credit broking activities to continue their BNPL activities while their application for full authorisation is being reviewed. Without such a TPR, these firms would need to cease operations once BNPL becomes a regulated activity, which could lead to significant disruption or a delay in implementing the regulation (since all firms would need to be assessed before regulation went live).

**2.60** The draft SI provides that TPR, firms will be deemed authorised under Part 4A of FSMA, giving them permissions to carry on the regulated activities of: entering into a regulated deferred payment credit agreement as lender; exercising, or having the right to exercise, the lender's rights and duties under a regulated DPC agreement; credit broking (for domestic premises supplier brokers that undertake credit broking activities in relation to newly regulated agreements); and agreeing to carry on a regulated activity.

**2.61** Respondents were largely supportive of the legislation proposed to implement a TPR for BNPL lending. Some asked for additional clarity on how the FCA's rules will apply to firms in the TPR.

**Government response:** Recognising the need to act urgently, the government intends to legislate for a TPR to ensure BNPL products are brought into regulation as soon as possible.

The FCA will draft and consult on its rules in due course, giving interested parties the opportunity to comment on them.

# Chapter 3

## Wider feedback

**3.1** This chapter addresses all other pieces of stakeholder feedback that we received which do not directly relate to any of the questions asked.

### Reporting to Credit Reference Agencies

**3.2** In paragraphs 3.9 and 3.10 of the consultation, the Government emphasised the importance of consumer credit firms reporting data on customers' credit agreements to credit reference agencies (CRAs) to promote responsible lending.

**3.3** The Government also noted that although there is no current regulatory requirement for firms to share this data, the FCA has proposed a mandatory sharing requirement with designated CRAs for regulated firms in its Credit Information Market Study.<sup>7</sup> The Government believes that improved data in credit reports on BNPL agreements will benefit users of BNPL and other credit products once these agreements are regulated by the FCA.

**3.4** Some respondents commented on the topic and agreed with the Government's position.

**Government response:** The Government will maintain ongoing engagement with CRAs to closely monitor the reporting of data related to consumers' BNPL agreements. It will continue to engage with the FCA as it progresses work around the FCA-led remedies proposed in its Credit Information Market Study.

### Senior Managers and Certification Regime

**3.5** The Government also considered whether the drafting of the SI would apply the Senior Managers and Certification Regime (SM&CR) unevenly to firms in the TPR. While the Senior Managers component would be disapplied, the Certification element would still apply.

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<sup>7</sup> <https://www.fca.org.uk/publication/market-studies/ms19-1-3.pdf>

**Government response:** The Government has concluded that the most balanced approach is to exempt firms in the TPR from the both the senior managers and certification parts of the SM&CR regime. This will reduce the burdens on both firms and the FCA. The Government is confident that firms in the TPR will still be subject to suitable oversight from the FCA.

Consequently, the SI has been updated in article 11(2)(e) to reflect this decision, so that the temporary permission of a person within the TPR also does not have effect as a Part 4A permission for the purposes of the Certification Regime (section 63E of FSMA).

## Scottish registered social landlords

**3.6** The consultation outlined that the Government intends to proceed with plans previously consulted on in February 2023 to grant a regulatory exemption to registered social landlords who offer BNPL agreements to their tenants.

**3.7** There were no comments from respondents around the policy intent of proposals; however, one respondent highlighted that the current SI drafting would not work with respect to Scottish registered social landlords, because Scotland has a different legal system.

**Government response:** The drafting has been revised to include provisions for shared ownership arrangements in Scotland.

## Interaction with the Payment Services Regulations

**3.8** The government considered whether providers of newly regulated BNPL products will also be required to comply with the Payment Services Regulations 2017 (PSRs).

**Government response:** Once regulation is in place, a BNPL firm offering a product that is also a payment service should also comply with the PSRs. To prevent duplication and ensure the BNPL rules remain proportionate, the FCA may be able to design its rules to include a disapplication of information requirements where information has already been provided in compliance with the PSRs.

The Government also acknowledges that regulation 41 of the PSRs disapplies the information requirements in relation to changes in contractual information and termination of framework contract (under regulation 50 and 51 of the PSRs) for regulated credit agreements. Under the new BNPL proposals, the equivalent CCA

provisions which would normally apply to regulated credit agreements will be disapplied in respect of BNPL agreements under the BNPL SI. However, the FCA can cover this in its rules to the extent it determines it needs to.

The FCA will draft and consult on its rules in due course, giving interested parties the opportunity to comment on them.

# Chapter 4

## Equalities and Impact Assessment

**4.1** Questions 11 to 13 of the consultation asked for feedback on consumers using BNPL products as well as the firms offering them. Additionally, respondents were asked to provide any relevant data concerning consumers with protected characteristics. The Government noted that such information would help in drafting its Impact Assessment for BNPL regulation.

**4.2** Some respondents noted that the affordability and creditworthiness checks that will be introduced could reduce availability of finance to borrowers outside the risk appetites of mainstream lenders.

**4.3** One respondent suggested this could particularly impact younger consumers, while other respondents noted that individuals from a minority ethnic background are more likely to use BNPL.

**4.4** Other respondents suggested that the introduction of regulation will have a positive impact on customers with protected characteristics because it provides greater consumer protections — particularly noting the FCA’s expectations of how firms treat customers in vulnerable situations. A consumer group noted that those with protected characteristics may be more likely to experience financial difficulties and be more at risk of consumer harm.

**4.5** One respondent explained that some faith-based borrowers avoid interest-based debt, so any introduction of interest rates to BNPL-type products could reduce availability of finance to this cohort.

**4.6** Some respondents raised concerns that the proposed regulatory regime could lead to an uneven playing field for consumer credit firms, noting the exclusion of merchant-provided credit. Responses noted there will be a cost to firms in complying with regulation and called for a proportionate regulatory regime.

**Government response:** The Government’s approach to regulating BNPL products aims to ensure that users receive clear information, avoid unaffordable borrowing, and have strong rights when problems occur. This approach seeks to preserve access to these popular products by introducing tailored regulation, while introducing essential safeguards.



The Government believes that its regulatory regime for BNPL products will reduce the risk of consumer harm, particularly for BNPL users with protected characteristics, by imposing high conduct standards on BNPL firms and ensuring borrowers receive clear information and strong protections. This approach will also ensure that all consumers, including those with protected characteristics, can continue to access BNPL products.

The Government will publish an Impact Assessment alongside the SI when this is laid before Parliament.

# Chapter 5

## Next Steps

**5.1** The Government is committed to introducing BNPL regulation as soon as possible. It intends to lay the SI before Parliament shortly after this response is published.

**5.2** Once the SI is made, the FCA will have 12 months to draft, consult on, and finalise its rules for BNPL lending. BNPL products will then enter regulation around mid-2026.

**5.3** The FCA will publish a consultation on its proposed rules for regulating BNPL shortly. As part of that consultation, the FCA will set out its planned timelines and what firms should do to prepare for regulation.

**5.4** More broadly, in December 2022, HM Treasury published a consultation to seek views on the strategic approach to reform of the CCA, including the objectives, principles and overall direction. The Government is committed to delivering an overhaul of these remaining provisions and will move at pace to implement real change which will support growth and innovation in this sector, whilst ensuring robust consumer protection.

**5.5** The Government is publishing its next consultation with more detailed policy proposals to bring about much needed reform for the CCA alongside this consultation response.

# Annex A

## List of Respondents

**A.1** In addition to the organisations listed, HM Treasury received one response from a member of the public.

Advice NI

Affirm

Amplified Global

Association of British Credit Unions Limited

Association of Professional Compliance Consultants

Block

British Retail Consortium

Building Societies Association

Bumper

Capital Credit Union

Christians Against Poverty

Chrysalis Finance

Citizens Advice

Citizens Advice Scotland

Citizens Advice Wirral

Consumer Council for Northern Ireland

Consumer Credit Trade Association

Coventry University

Credit Services Association

Equifax

Experian

Fair4All Finance

Farrer & Co

FCA Small Business Practitioner Panel

Finance & Leasing Association

Financial Inclusion Centre

Financial Services Consumer Panel

GoHenry

Graham Phillips

Gymshark

HSBC UK

Infact Systems

Innovate Finance

Institute of Money Advisers

iwoca

Klarna

Lloyds Banking Group

Lowell

Money Advice Scotland

Money Advice Trust

Money and Pensions Service

Money Wellness

MoneySavingExpert

Monzo

NewDay

Osborne Clarke

PayPal

Qlarifi

Startup Coalition

StepChange

Stripe

TC Young

The Investing and Saving Alliance

TransUnion

UK Finance

University of Gloucestershire

University of Southampton

Vertu Motors

Which?

Zeropa

Zilch

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