

# Consultation response: FCA High Cost Credit Review: consultation on Buy Now Pay Later offers

Response by the Money Advice Trust

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# Introduction

## About the Money Advice Trust

The Money Advice Trust is a charity founded in 1991 to help people across the UK tackle their debts and manage their money with confidence.

The Trust's main activities are giving advice, supporting advisers and improving the UK's money and debt environment.

In 2018, our National Debtline and Business Debtline advisers provided help to more than 204,000 people by phone and webchat, with 1.7 million visits to our advice websites.

In addition to these frontline services, our Wiseradviser service provides training to free-to-client advice organisations across the UK and in 2018 we delivered this free training to over 820 organisations. Furthermore, Money Advice Trust Training and Consultancy services have worked with over 224 commercial organisations to identify and support their customers in vulnerable circumstances.

We use the intelligence and insight gained from these activities to improve the UK's money and debt environment by contributing to policy developments and public debate around these issues.

## Public disclosure

Please note that we consent to public disclosure of this response.

# Introductory comment

- ✓ We agree with the FCA's proposal to extend the rules on adequate explanations to all firms that offer Buy-Now-Pay-Later (BNPL) deals. We consider that firms should be required to send the information out in a prescribed format so that all firms provide the same information to the same standard.
- ✓ We agree with the FCA's proposal to extend the rules on prompts to all firms that offer BNPL deals.
- ✓ We are pleased with the FCA's proposal to issue new guidance on communications and financial promotions, which will be applicable to all firms that offer BNPL deals.
- ✓ However, we do not agree with the proposed approach to the backdating of interest. We believe that a restriction that merely prevents firms from backdating interest on amounts that have been paid during the offer period is sufficient to prevent harm to consumers. We believe that the entire offer period should remain interest free. Customers should only be charged for the remaining principal balance outstanding at the end of the interest-free period. This would work in a similar way as the offer period on an interest-free credit card, where interest starts from a set date when the interest-free period expires.

# Responses to individual questions

## Question 1: Do you agree with our proposal to align the charges for arranged and unarranged overdrafts?

We do not have any comments on the FCA's description of the BNPL market. It is however, worth noting the finding that around 50% of customers failed to pay the full balance before the interest-free period ended. This is a very high proportion of customers and would lead us to question whether the market is functioning as intended. In this context, robust action from the regulator is welcome.

## Question 2: Do you agree with our proposal to extend the rule on adequate explanations to all firms that offer BNPL deals?

We agree with the FCA's proposal to require firms to give consumers an adequate explanation, before entering into the credit agreement, of the implications of not repaying by the end of the BNPL offer period.

We agree that these rules should include explaining the features of the credit agreement which may have potential negative consequences that consumers would be unlikely to expect. In addition, rules should set out how the firm will impose interest or other charges if the consumer does not repay within the BNPL offer period.

We consider that firms should be required to send the information out in a prescribed format so that all firms provide the same information to the same standard. This information should be in clear, simple language, to avoid the possibility of firms being less than transparent or hiding information in the small print.

We believe that the FCA should be more prescriptive in its rules in this area. We think “*sufficiently prominent*” is not directive enough, as firms do not always interpret this in the way the FCA intended. The potential complexity of the information to be provided, leaves open the possibility of firms being less than transparent or hiding information in the small print.

## Question 3: Do you agree with our proposal to extend the rule on prompts to all firms that offer BNPL deals?

We agree with the FCA's proposal that firms should provide a clear, prominent and timely notice to the customer before the end of a BNPL or similar offer period telling them that the interest-free period is about to end, to prompt repayment. Firms should also take into account any preferences the customer has given about the medium of communication. We agree that the notice should be in plain language and sufficiently prominent so that the customer is likely to see and understand it.

We do not have a favoured time period to suggest. However, we are generally in favour of a time period being laid down in the rules, so that all firms must abide by the same clear instructions. This is much more transparent for consumers and for their advisers.

## Question 4: Do you agree with our proposal for new guidance on communications and financial promotions, applicable to all firms that offer BNPL deals?

We welcome the FCA's proposal for new guidance on communications and financial promotions, which will be applicable to all firms that offer BNPL deals. It is clearly important that this information is supplied at the point where the BNPL deal is taken out, which may be some time after the credit facility was taken out or the account opened.

We consider it essential that firms include in their communications or promotions the circumstances in which customers could have to pay interest. We welcome the types of information set out in the paper, showing how interest would be calculated if those circumstances arose, the date from which interest would accrue and the rate of interest to be charged. Again, we would strongly suggest that the FCA is prescriptive in its rules, requiring firms to use prescribed wording and setting out where such information should appear on communications.

## Question 5: Do you agree with our proposal for a new rule that firms offering BNPL must not backdate interest on the amount of the principal that is repaid within the offer period?

No, we do not believe these proposals are appropriate. The FCA proposes that firms will be prevented from backdating interest on amounts that have been paid during the offer period. According to the consultation paper, the FCA:

*“wants to ensure that consumers do not lose out by making such payments. So the effect of the proposed rule will be to require firms to take into account partial payments made during a BNPL offer period. This should provide a greater incentive for consumers to try to repay the outstanding balance, either to repay the total amount or at least have their backdated interest reduced in response to repayments”.*

We agree it is important to prevent firms from backdating interest on amounts that have been paid during the offer period. However, we do not believe that the FCA has gone far enough in this case. We believe that the FCA should consider banning firms from backdating interest charges on the whole balance outstanding on the BNPL agreement, and not just on the amounts that have been paid. This would mean that, even where a consumer does not pay all the instalments within the interest-free time period, they would be clear that interest will start to accrue on the outstanding balance from a set date when the offer expires.

According to the consultation paper:

*“Using data from a survey the FCA undertook of firms, it was estimated that around 3m consumers used BNPL products in 2016. Of these, almost 50% failed to repay the balance back in full before the introductory period ended”.*

This is an indication that BNPL products do not work well for consumers. We believe that allowing firms to backdate interest, can disproportionately affect consumers that are already struggling financially. Besides we do not consider it to be a fair practice. Adopting the same interest rules as used for interest-free credit cards would be more transparent, and would be simple for consumers to understand. The concept of an interest-free credit card, where the promotion ends at a certain date, is much more familiar to people. This contrasts with the more complicated proposals for BNPL agreements, where some interest is backdated to the start of the agreement but some interest, on the element of the loan that has been paid, is not.

Firms should only be allowed to charge interest from the date the promotional period ends, in the same way as the offer period on an interest-free credit card works, where interest starts from a set date, rather than backdated to the start of the agreement on non-payment. Firms should not be allowed to backdate interest.

## **Question 6: Do you agree with our proposal that the rules will come into force three months after publication?**

We agree with the FCA's proposal that the new rules relating to BNPL should come into force three months after the rules are published. This will reflect the importance of addressing the continued consumer harm in the market.

## **Question 7: Do you agree with our proposal that the partial repayment rule should apply to purchases made after the date that the rule comes into effect, including where those purchases relate to an existing contractual agreement?**

We consider the FCA's proposed approach to be reasonable and agree that the partial repayment rule should apply to purchases made after the date that the rule comes into effect.

## **Question 8: Do you agree with our cost benefit analysis?**

We do not have any comments on the cost benefit analysis for this paper.

## **Question 9: Do you agree with our initial assessments of the impacts of our BNPL proposals on protected groups? Are there any others we should consider?**

Yes, we agree with the FCA's initial assessments of the impacts of the BNPL proposals on protected groups. We do not have any other suggestions to put forward for consideration at this point.

**For more information on our response, please contact:**

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