

HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

11th April 2023

**Response to HM Treasury's "Regulation of Buy-Now Pay-Later:
Consultation on Draft Legislation"**

To whom it may concern,

We welcome the opportunity to respond to this consultation. The Association of British Credit Unions Limited (ABCUL) is the primary trade association representing credit unions in England, Scotland and Wales, with around two thirds of credit unions in Great Britain affiliated to the Association.

Credit unions are co-operative societies who provide financial services – primarily savings and loans facilities – to their member-owners. They are registered as Co-operative Societies under the Co-operatives and Community Benefit Societies Act 2014 and the Credit Unions Act 1979. As deposit-takers they are dual-regulated by the Prudential Regulation Authority and the Financial Conduct Authority.

Credit unions have since their inception in Britain in 1964 been closely associated with anti-poverty and financial inclusion. They tend to provide savings and loans facilities to those with limited or no access to financial services from mainstream providers, generally due to their low income and / or lack of a developed credit profile. They have been a central element of numerous government and philanthropic initiatives to extend financial inclusion and address the lack of adequate provision of affordable credit and secure savings facilities for large sections of the population. They are capped in the interest that they can charge at 42.6% APR under the Credit Union Act 1979 and provide credit in competition with high-cost lenders.

They are numerous, with nearly 250 credit unions active in Great Britain today with more than 1.4 million members and £2.3 billion in assets under management. They range from mid-sized businesses of up to 50 staff to small voluntary organisations.

Response to Consultation

The credit union sector welcomes the progression of this reform and this step towards regulating the Buy-Now Pay-Later market. Credit unions closely support their members with their financial resilience and wellbeing. As a result, they have seen the harm caused to many individuals from overuse of BNPL products, and the growing need for appropriate regulation of this market.

We broadly agree with the Government's proposed approach and drafting of new legislation in this consultation. We support the Government's proposal to target regulation specifically at third party BNPL providers, who can play the largest role in preventing harm to consumers in the BNPL market. We also believe that the proposed legislation will allow the future regulatory regime for BNPL to be appropriately tailored and proportionate to the risks posed by different uses of short-term, no-interest credit.

Question 1: do you have any comments on the proposed approach and/or drafting to bring agreements into regulation that are provided by a third-party lender in article 3(4) of the draft legislation?

We support the Government's approach of targeting new regulation at BNPL agreements with a third-party lender. The harm of BNPL agreements that credit unions observe within their membership is specifically due to BNPL involving third-party lenders, where consumers can accumulate significant amounts of debt across the sale of goods and services from a wide range of merchants. It is appropriate that BNPL agreements provided directly by merchants are excluded from new regulatory measures, given that these merchants present a much lower risk of harm to debtors than third-party BNPL providers.

Question 4: do you have any comments on the proposed legislative approach and/or the drafting which seeks to ensure that agreements made by third-party lenders that finance premiums under contracts of insurance will continue to be exempt under A60F(2)?

We support the Government's approach to include a specific provision to continue the exemption for BNPL payment of finance premiums under contracts of insurance. These BNPL agreements pose significantly less risk to consumers than agreements from BNPL providers used for the sale of a wide range of retail goods and services, and we believe that regulation of these agreements would be unnecessary.

Question 8: do you have any comments on the proposed legislative approach and/or drafting taken to exempting merchants from credit broking regulation?

We agree that it is appropriate that merchants are excluded from credit broking regulation. We believe that a focus on regulating third-party lenders alone is a proportionate and sufficient approach to tackling the harm caused by the BNPL market.

Question 11: do you have any comments on the proposed legislative approach and/or drafting which seeks to disapply the CCA requirements on pre-contractual information for agreements that are brought into regulation?

We agree that it is appropriate for legislation to allow pre-contractual requirements for BNPL agreements to be determined by the FCA rather than CCA requirements, and that this approach allows appropriate flexibility.

Question 14: do you have any comments on the proposed legislation which seeks to disapply the small agreements provisions for agreements that will be brought into regulation?

We agree that disapplying the small agreements exemption from is necessary to ensure that new regulation applies sufficiently to BNPL lending, to effectively tackle harm caused by this market.

Please get in touch at policy@abc.ul.org should you wish to discuss our response.

Yours faithfully,

Niamh Evans

Policy and Advocacy Manager, ABCUL