

High-cost Credit Review

Feedback on CP18/12 with final rules and guidance
and consultation on Buy Now Pay Later offers

Consultation Paper

CP18/43***

December 2018



How to respond

We are asking for comments on Chapter 4 of this consultation paper by 18 March 2019.

You can send them using the form on our website at: www.fca.org.uk/cp18-43-response-form.

Or in writing to:

Alison Wade
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

Telephone:

020 7066 0246

Email:

cp18-43@fca.org.uk

How to navigate this document onscreen



returns you to the contents list



takes you to helpful abbreviations

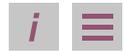
Contents

1	Summary	4
2	Home-collected credit	12
3	Catalogue credit and store cards	29
4	Buy Now Pay Later (BNPL)	40
5	Guidance for registered social landlords	47
6	Alternatives to high-cost credit – update	58
Annex 1		
	Questions in this paper	60
Annex 2		
	Cost benefit analysis	61
Annex 3		
	Compatibility statement	75
Annex 4		
	Equality Impact Assessment (EIA)	80
Annex 5		
	Non-confidential respondents to CP18/12	83
Annex 6		
	Abbreviations used in this paper	85
Appendix 1		
	Draft Handbook text	
Appendix 2		
	Made rules (legal instrument)	

Contents by sector

This table sets out which chapters are particularly relevant for each sector. This is where you will find the most relevant chapter(s) for your firm.

Sector	Chapter
Home-collected credit firms	2
Catalogue credit firms and store card providers	3
Any firms that offer credit products that incorporate a 'Buy Now Pay Later' feature, including those offering catalogue credit, store cards and point of sale finance	4
Consumer bodies and stakeholders interested in helping consumers and firms looking to provide credit-related services to consumers of high-cost credit, for example, credit unions and community development finance institutions	5, 6
Anyone interested in helping consumers get essential household goods, in particular, registered social landlords	5, 6



1 Summary

Introduction

1.1 In this paper we:

- summarise and respond to feedback on our consultation paper of May 2018, [CP18/12](#)
- publish final rules and guidance on home-collected credit, catalogue credit and store cards, and [finalised guidance for registered social landlords \(RSLs\)](#).
- consult on a package of remedies for Buy Now Pay Later (BNPL) offers:
 - extending two measures, that already apply to catalogue credit and store cards, to point of sale retail finance providers
 - two new measures that would apply to catalogue credit, store cards, and point of sale retail finance providers
- provide a brief update on our work to promote alternatives to high-cost credit

1.2 We have separately issued two other publications from our high-cost credit review:

- Our summary and response to feedback on the CP18/12 proposals on extended warranties in the rent-to-own (RTO) market, and a further consultation containing proposals for a price-cap in this market ([CP18/35, November 2018](#)). Our proposed price cap on RTO products is designed to control prices by limiting both the cost of the product and the charge for credit. Under the proposed cap, credit charges cannot be more than the cost of the product. RTO firms would also need to benchmark the cost of products against the prices charged by 3 other retailers.
- Our summary and response to feedback on proposals in CP18/13 on overdrafts, and a consultation on a package of pricing interventions for overdrafts ([CP18/42, December 2018](#)). These proposals include measures to simplify the way banks charge for overdrafts and to tackle high charging for unarranged overdrafts with the aim of making overdrafts simpler, fairer, and easier to manage.

Who this affects

1.3 Who needs to read this document:

- home-collected credit firms (Chapter 2)
- catalogue credit firms and store card providers (Chapter 3)

- firms who offer BNPL (Chapter 4)
- trade bodies representing these firms
- RSLs, credit unions and community development finance institutions (CDFIs) (Chapter 5)
- consumer bodies
- stakeholders interested in helping consumers and firms looking to provide alternatives to high-cost credit, for example credit unions and CDFIs (in particular, Chapter 6)

1.4 Who only needs to read this summary:

- other consumer credit firms and trade bodies

1.5 Who else this document affects:

- consumers who take out a high-cost credit loan or other high-cost credit product

The wider context of this paper

Our consultation

1.6 In May 2018, we published a consultation paper on high-cost credit (CP18/12). In that publication, we:

- proposed rules and guidance to address the harms from:
 - the sale of extended warranties with rent-to-own goods
 - home-collected credit
 - catalogue credit and store cards
 - the uncertainty of RSLs about which activities may be credit broking and which are not (the 'regulatory perimeter')
- explained that we would take a broader look at the use of BNPL offers in the wider credit market, including retail finance providers, and analyse whether further measures were appropriate
- set out our thinking on alternatives to high-cost credit and the areas where we believe action could be particularly helpful in promoting access to alternatives

1.7 Consumer credit is a key part of the economy and largely works well for consumers, enabling them to buy goods and services and spread repayments over time.

1.8 Most borrowers repay without difficulty and without financial distress. However, consumers can suffer harm from choosing and using unsuitable types of credit, or using the credit products they have in unsuitable ways.



- 1.9** The risks of harm are particularly acute with high-cost credit, as many customers of high-cost credit are in vulnerable circumstances. They often have unpredictable variations in their incomes and expenses and have limited savings. They are generally higher risk and borrow smaller sums than mainstream consumers. As a result, their cost of borrowing is normally higher. This increases their overall financial burden and could put them at risk of defaulting on other payments, such as rent and bills, and getting further into debt.
- 1.10** Consumers of high-cost credit either have, or think that they have, few options when seeking credit. This can lead them to make poor choices, and increase the opportunities for firms to take advantage of consumers' behaviour and biases in ways which harm them.
- 1.11** Our work has shown that the causes and drivers of harm to consumers differ significantly, even within the high-cost credit sector. To provide the protection that consumers need, the measures we put in place have to reflect these differences. There is not a single solution we can apply across high-cost products that would give consumers the protection they need.
- 1.12** We support a high-cost credit sector in which credit is fair, accessible and appropriate, with a due regard to customers who may be vulnerable. The package of measures we set out in this paper, together with other measures from our review of high-cost credit, and existing protections – particularly the recent changes to our creditworthiness rules and guidance (see [PS18/19](#)) – work together to help ensure that consumers have the protection our work shows they need.

Measures in this paper

- 1.13** Overall, the measures set out in this paper should reduce costs to consumers, improve sales practices, protect consumers at risk of financial difficulty, ensure repeat borrowing is consumer-led and encourage market innovation to make alternatives more widely available.
- 1.14** However, the effect of some of these measures may be to restrict access to further credit for consumers in, or at risk of, financial difficulty or persistent debt. For many of them, reduced access to credit combined with realistic repayment and forbearance options will reduce the incidence of consumer harm and will, taking everything into account, be beneficial.
- 1.15** We also recognise that the reasons people use high-cost credit products reflect a broad and complex set of issues. Lack of, and low awareness about, existing alternatives can leave consumers reliant on high-cost credit. More broadly, we recognise that the cumulative impact of our interventions could alter the nature and extent of supply of high-cost credit, both in absolute terms and between high-cost sectors. On balance, we consider that the potential benefits to consumers from our targeted interventions outweigh any negative impacts from a possible reduction in the supply of high-cost credit.
- 1.16** It is also important that alternatives to high-cost credit are available, and that consumers are aware of them. We continue to work with a range of Government, private sector and charity stakeholders to understand the potential barriers to alternatives to high-cost credit, and develop and encourage solutions. In CP18/35, we set out our approach to promoting greater availability and awareness of alternatives, what actions we are taking, and how we are working with other organisations to support of a number of initiatives. We provide a brief update in Chapter 6 of this paper.

How it links to our objectives

- 1.17** The focus of the measures set out in this paper is to protect consumers, in particular those at risk of financial difficulties. We want consumers to receive an appropriate degree of protection, regardless of the form of credit they choose to use. To provide this protection, we have designed the measures to address the specific sources of harm for the different products. We expect these measures to lead to improved sales practices, fewer hidden costs to consumers, protection against harmful repeat borrowing, and steps to ensure that consumers have more control over any additional borrowing they want to make.

EU Withdrawal

- 1.18** We have developed the policy in this Consultation Paper in the context of the existing UK and EU regulatory framework. In March 2018, the UK and the EU agreed the terms of an implementation period that will apply following the UK's withdrawal from the European Union which was included in the draft withdrawal agreement. During this period, set to start on 29 March 2019 and last until at least 31 December 2020, EU law will continue to apply in the UK. The proposals in this Consultation Paper are therefore put forward on the basis that EU law, including the framework for provision of financial services in the UK by inward passporting EEA-based firms, will apply at the time the proposed rules come into force.
- 1.19** However, the implementation period is subject to finalisation and ratification. We therefore continue to work to ensure the UK's legal and regulatory framework functions in all scenarios. In the event that, when we make the rules currently being consulted on, EU law is no longer applicable, we may need to make minor amendments to the draft rules to ensure our rules continue to function as intended. In particular, we may need to make amendments to the rules to ensure they apply to EEA-based firms currently exercising passporting rights in the UK and that continue to provide services in the UK after 29 March 2019, for example under the temporary permission regime consulted on in CP18/29.
- 1.20** We will not re-consult on such amendments to the draft rules.

What we are changing

- 1.21** For **home-collected credit** (Chapter 2):
- Making guidance, largely unchanged from that which we consulted on. This sets out our expectations of firms in how they comply with section 49 of the Consumer Credit Act 1974 (s.49 CCA) on soliciting cash loans off trade premises only where this is done in response to the customer's specific previous written request.
 - Making new rules and guidance requiring firms to explain to customers the comparative costs of refinancing an existing loan versus taking out a new loan. Again, these are largely the same as those we consulted on. We have made some minor changes to better reflect and clarify our original policy intention. We give details of this in Chapter 2.



1.22 For **catalogue credit and store cards** (Chapter 3):

- Requiring firms to give consumers an adequate explanation, before entering into the credit agreement, of the implications of not repaying by the end of BNPL offer periods.
- Requiring firms to provide customers with a reminder towards the end of the offer period to prompt repayment.
- Extending rules on credit limit increases (CLIs) that already apply to credit and store cards to catalogue credit firms.
- Requiring firms to monitor relevant information held by them to identify customers either at risk of or in financial difficulties. Requiring firms to establish and maintain appropriate policies for dealing with customers in, or at risk of, financial difficulty.
- A measure to avoid or minimise persistent debt for store card and catalogue credit, and to help customers who cannot afford to repay more quickly.

1.23 We are proceeding with our proposals, with some minor changes to address specific issues raised which we discuss in Chapter 3.

1.24 In the consultation part of this publication (Chapter 4), we set out additional proposals to apply requirements on BNPL offers more widely and to make these offers more transparent, as well as a proposal to prevent backdated interest being applied on repaid sums up to the date of payment. The draft Handbook text we are consulting on is in Appendix 1.

Table 1: Summary of catalogue credit, store cards, retail finance remedies

Remedy	Catalogue credit	Store cards	Point of sale retail finance
BNPL adequate explanations	Rules confirmed (Chapter 3)		Consultation (Chapter 4)
BNPL prompts			
Credit limit increases	Rules confirmed (Chapter 3)	N/A	N/A
Interest rate increases			
Earlier intervention			
Persistent debt	Rules confirmed (Chapter 3)		N/A
BNPL advertising and communications	Consultation (Chapter 4)		
BNPL backdating interest	Consultation (Chapter 4)		

1.25 On **alternatives to high-cost credit** (Chapters 5-6):

- finalising guidance to provide RSLs with more certainty about the scope and application of consumer credit regulation when they help tenants to find alternatives to high-cost credit, including details of the help we can provide to RSLs seeking authorisation from us
- a brief further update on our work to promote alternatives to high-cost credit¹

Outcomes we are seeking

1.26 We are seeking to address a variety of harms across different products and sub-sectors which affect consumers who are often in vulnerable circumstances. We want to ensure these consumers are protected from poor sales practices, given greater control over additional borrowing and given appropriate help when at risk of financial difficulty. The changes outlined above are intended to achieve outcomes which:

1.27 For **home-collected credit**:

- ensure that additional borrowing is consumer-led and that firms' sales practices improve
- help consumers better understand the relative costs of refinancing home-collected credit, and that they may have other options (including parallel loans running at the same time)

1.28 For **catalogue credit and store cards**:

- help consumers, including those taking out point of sale finance, and existing customers, better understand the implications of not repaying by the end of BNPL offer periods, minimising the risk of them incurring unnecessary fees and charges
- provide customers with greater control over CLIs
- ensure that firms do not provide additional credit to customers either at risk of or in financial difficulty
- manage the risk of persistent debt in the store card and catalogue credit markets, including providing help to customers who cannot afford to repay more quickly

1.29 For **BNPL** offers (these aspects are subject to consultation, will apply to all firms making BNPL offers, and are in addition to those already applied to BNPL in the context of catalogue credit and store cards):

- help consumers, including those taking out point of sale finance, and existing customers, better understand the implications of not repaying by the end of BNPL offer periods, minimising the risk of incurring unnecessary fees and charges

¹ We provided a detailed update on the various aspects of our work on Alternatives to High-cost credit in Chapter 6 of CP18/35 in November.



- ensure that consumers do not pay backdated interest on sums repaid within the offer period

1.30 On **alternatives to high-cost credit**:

- help RSLs better understand the scope and application of consumer credit regulation when they help tenants to find alternatives to high-cost credit, including how to become authorised, so that they can inform their tenants of alternative options that may be available to them
- demonstrate our commitment to addressing financial exclusion by working with all relevant stakeholders to encourage alternatives to high-cost credit

Measuring success

- 1.31** Continuing to monitor and implement our current work in high-cost credit markets remains an important focus for us. We will evaluate the success of our changes through our supervision of firms and monitoring regulatory returns and complaints. We may also carry out research or work with firms to assess the changes they have made, including the impact on consumers.

Summary of feedback and our response

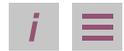
- 1.32** We received 33 non-confidential responses from a range of stakeholders on these issues. We summarise in Chapters 2, 3 and 4 the key issues they raised, and our feedback. In some cases, we have amended our original proposals in light of views and evidence from stakeholders. Where we have not done so, we explain why.
- 1.33** We have also taken into account the feedback from stakeholders in developing the additional proposals on BNPL offers we are consulting on in this publication (Chapter 4).

Equality and diversity considerations

- 1.34** We have considered the equality and diversity issues that may arise as a result of our new rules and guidance and published an Equality Impact Assessment (EIA) in Annex 4 of CP18/12. This concluded that our proposals did not result in direct discrimination for any of the groups with protected characteristics and would have a positive impact on consumers. Most respondents raised no issues on our assessment. We give a summary of the comments raised by those that did respond and our feedback in Annex 4.
- 1.35** Overall, we continue to consider that the final changes we have made would not negatively impact any of the groups with protected characteristics under the Equality Act 2010. We will, however, take account of any equality and diversity implications as part of monitoring the impact of the new rules and guidance. Annex 4 of this CP sets out our EIA on our proposed package of remedies for BNPL offers and we welcome views on it.

Next steps

- 1.36** The final rules and guidance we have made (which do not differ significantly from the draft Instrument we consulted on) are in Appendix 2. These come into effect as follows:
- **Home-collected credit:** Our guidance on s.49 CCA comes into force on 19 December 2018, as the guidance is intended to provide clarity on existing legal requirements. Firms have 3 months, so until 19 March 2019, to fully comply with the rules and guidance on explaining the comparative costs of borrowing. We discuss implementation further in Chapter 2.
 - **Catalogue credit and store cards:** Firms will need to comply with the new rules and guidance immediately, or after implementation periods of 3 or 6 months depending on the specific measure. We give further details in Chapter 3.
 - **The finalised guidance for RSLs** comes into effect on 19 December 2018.
- 1.37** If your firm is affected by these changes, you should review your policies and procedures in light of the new rules and guidance, and make changes where needed.
- 1.38** We consider that these implementation periods allow firms enough time to make any necessary changes to their systems and processes while ensuring that consumers benefit as soon as possible. We remain of the view that the analysis undertaken in our cost benefit analysis (CBA) is valid and that the benefits of these changes outweigh costs to firms.
- 1.39** As well as the changes outlined above, we are also making some minor consequential changes to other parts of our Consumer Credit Sourcebook (CONC), and to the Handbook Glossary.
- 1.40** As we finish tackling these areas of harm, we may turn to other areas of the high-cost credit market, for example logbook and guarantor loans, to assess the extent of any harm. We will do this as a part of our supervisory assessment of high-cost credit markets, and will consider whether it is necessary to introduce remedies to improve consumer protection in these areas.
- 1.41** We will continue to work with Government and other stakeholders, and to use our own tools, including the regulatory sandbox, to support the growth of alternatives to high-cost credit and improve consumers' awareness of them.
- 1.42** Please reply to the questions in the consultation section of this paper (Chapter 4) by **18 March 2019**. We intend to publish our response to the feedback we receive, and any final rules, by the end of June 2019.



2 Home-collected credit

2.1 In this Chapter, we summarise the main responses we received to each of the questions we asked in Chapter 3 of CP 18/12. We also set out our feedback to the comments received and the changes we have made to our final rules and guidance.

Feedback on the package of changes proposed for home-collected credit

2.2 In Chapter 3 of CP18/12, we consulted on:

- Draft guidance setting out our expectations of firms in how they comply with the ban in s.49 CCA which prevents home-collected credit firms from offering new loans or refinancing during home visits without a previous specific written and signed request from the customer.
- New rules requiring firms to explain to customers the comparative costs of refinancing an existing loan versus taking out a new loan.

2.3 Overall, responses from firms and consumer groups agreed, in principle, that firms should not offer new loans and refinancing to customers unless in response to the customer's specific previous request. Respondents also agreed that explaining the comparative cost of borrowing would generally help customers make better informed decisions. We set out the detailed feedback received and our response below.

2.4 Several consumer groups reiterated their view that our proposals do not go far enough and underlined their preference for a price cap and a limit on refinancing, similar to those for high-cost short-term credit (HCSTC) loans. However, these respondents did not provide evidence of the harms to consumers that they would seek to address. Others were sceptical about how far customers will engage with the comparative costs of borrowing information. They were also doubtful about how much it will affect consumer decision-making given the attractiveness of simply keeping repayments amounts the same when refinancing.

Our response

In light of the responses we received, we have undertaken further detailed analysis to assess whether further interventions could be needed.

Repeat or persistent use of home-credit is a potential driver of the concerns that stakeholders' proposed remedies seek to address. For example, repeat use increases the likelihood that consumers will face the hidden costs of refinancing, and could lead to a high cumulative cost.

So we have looked again at our analysis in CP18/12 to further assess whether consumers suffer harm from long-term use of this high-cost credit product. We also looked at whether increasing debt levels over

time can make it harder for households to cope with financial shocks, so making it more likely they will need to borrow further. Among the metrics we have considered are:

- the characteristics of consumers borrowing for different total periods of time (including income, debt levels, debt-to-income (DTI) ratios, credit scores)
- indicators of arrears and default rates for home-collected credit and other unsecured credit
- comparisons of consumer outcomes at the start and the end of the borrowing periods
- likelihood of re-borrowing

In summary, our analysis shows that consumers who use home-collected credit over long periods do not appear to suffer significant economic harm as a result in the same way that can be seen in other parts of the high-cost credit markets. We set out our more detailed results below. These are based on analysis of the credit reference agency (CRA) data that we have collected (we describe these data in [FS17/2 Technical Appendix](#)).

So we are not proposing additional measures. But we will continue to monitor this market and outcomes for consumers to identify any indications that we may need to introduce further protection for consumers.

As well as the changes that we are finalising below, there are existing controls that reduce the risk of unaffordable debt and financial distress. These include that:

- Firms must assess creditworthiness (including affordability) before agreeing any new loan, or any significant increase in credit. In [PS18/19](#) we have recently enhanced these to further clarify our expectations of firms and these changes came into force on 1 November.
- Firms also have to monitor consumers' repayment patterns to identify signs of financial distress. They must take appropriate action where there are signs of actual or possible repayment difficulties.
- Firms must also not encourage a customer to refinance where the commitments are not sustainable or are not in the customer's best interests, or do so without the customer's consent/request.

Detailed results

Relatively long-term use of home-collected credit is widespread

In CP18/12 (starting at paragraph 3.9), based on CRA data analysis, we showed that most home-collected credit consumers spend up to 12 months in continuous debt. Approximately 5% were in debt for the whole of the two-year sample period (2015-17).



Our further analysis shows that consumers also spend longer in debt than the length of the loan they took out at the start of a period of borrowing. Looking at loans that were first taken out in January 2014, 55% of those took longer to pay off than the original repayment term. These loans take on average 14 months longer to pay off. The duration of the extended period mainly reflects consumers taking out additional loans or borrowing.

There are few obvious differences between longer- and shorter-term borrowers

We examined a range of characteristics of consumers who borrowed for different time periods. The data we hold enable us to compare the credit scores in 2015 and 2017 of consumers with different borrowing durations. These show little difference across groups of consumers and no systematic worsening for longer term borrowers.

Consumers that borrowed for longer tended to borrow more when they take out the first loan

Consumers who borrow for longer tend to have fewer existing alternative credit options available to them both at the start of their borrowing and throughout. This emphasises the importance of considering whether these consumers benefit from having ongoing access to this form of credit.

Duration of completion	Credit scores* (2015)	Credit scores* (2017)	Av. Value of HC Loan at Origination	Income (Monthly)	% with Available Credit**
0-6 mnth	15	15	£391	£1,096	8%
6-12 mnth	25	26	£680	£1,208	8%
1-1.5 yrs	27	29	£938	£1,196	6%
1.5-2 yrs	25	27	£1,203	£1,208	4%
2+yrs	25	27	£1,273	£1,190	3%

* These are all in the region of poor credit scores. Credit scores have been rescaled to 0-100. In this scale, a credit score below 40 is considered 'very poor'.

** Whether at the origination date of the home-collected credit loan, the consumer had enough credit available from an overdraft facility or credit card to cover the borrowing.

Outcomes

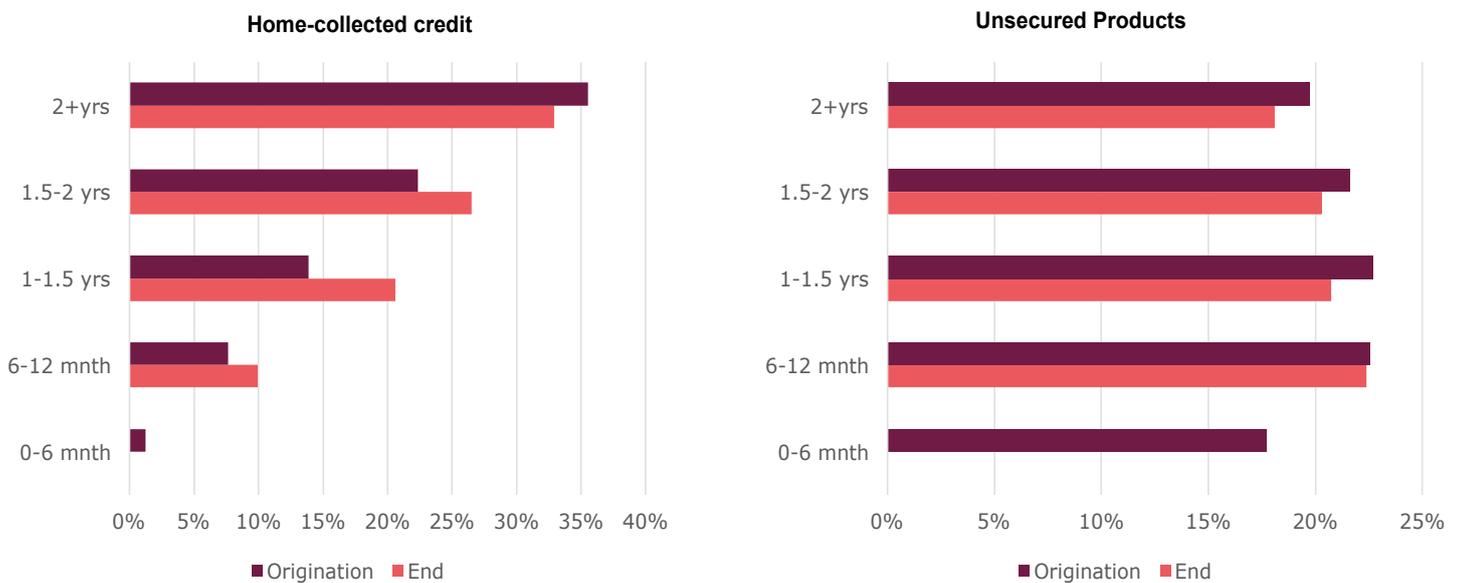
Debt levels rise over the course of borrowing for those who borrow for 0-6 months. But they fall for all other borrowing durations – falling the most for those who borrow for 2 or more years.

DTI ratios for unsecured borrowing vary only slightly across groups of consumers with different borrowing durations. Those who borrow for 2 years or more have lower DTI ratios than those who borrow for 18-24 months.

The likelihood of borrowing again is highest for those who pay back in full within 0-6 months (23%), decreases to 10% for those who borrow for 1-1.5 years and stays at that level for longer-term borrowers.

We also compared arrears rates in the first 6 months and final 6 months of the borrowing periods to examine change in outcomes in that time. Arrears rates for home-collected credit increase over the duration of use. Those on other unsecured products remain similar and are marginally lower for consumers who use home-collected credit for longer terms.

The rise in arrears for home-collected credit is expected given that there are no fees for late payments, so this cannot be taken as a clear-cut indicator of financial distress. It could instead reflect sensible use of the features offered by the product.



Q8: Do you have any comments on our draft guidance on interpretation of s.49 CCA?

- 2.5** In Chapter 3 of CP18/12, we explained that s.49 CCA bans the soliciting of cash loans off trade premises unless this is in response to a customer’s signed written request made on a previous occasion. This applies to both existing and new customers.
- 2.6** Some firms currently get customers’ written permission when they first enter into the credit agreement. These firms then treat this as an ongoing ‘permission to call’ or ‘umbrella request’ for the rest of the agreement, sometimes lasting even after the customer has paid off their loan. They use this as proof that the customer has made a written request to discuss further loans at any point in the future, and believe that they can then suggest further lending to customers within the home at any time while the permission is valid.
- 2.7** We believe this practice does not comply with s.49 CCA. We do not consider that a visit based on a non-specific ‘permission to call’ is made in response to a request within the meaning of s.49 CCA. In our view, this undermines the consumer protection objective of the law, of ensuring that customers have control over whether they want to discuss new or additional borrowing in the home. Some consumers have also reported that firms are proactively offering further borrowing without doing so in response to a specific customer request.



- 2.8** Given these concerns, we consulted on new guidance setting out our interpretation of s.49 CCA² to help ensure the appropriate protection for consumers. This is based on the principle that customers – not firms – should always initiate conversations about further loans within the home.
- 2.9** Overall, both firms and consumer groups that responded agreed, in principle, that new loans and refinancing should not be offered to customers unless in response to a specific request by the customer. Additionally, responses from consumer groups welcomed the new guidance, with some saying it was a significant improvement.
- 2.10** A few, however, raised concerns about whether the guidance could be effectively supervised and enforced. This is because firms' representatives enter customers' homes, which makes it hard for firms and regulators to have oversight. Additionally, some said that the nature of home-collected credit means that it is not always clear what could be deemed 'soliciting' and what is just a casual conversation.
- 2.11** One respondent was concerned about our guidance at CONC 3.10.3G(6) suggesting agents can discuss borrowing at collections visits if they are asked to do so by the customer. It was felt it would be very easy for agents to ask leading questions to influence borrowers to ask for more credit. Others argued that predatory and irresponsible lending was prevalent in this sector and that our proposed guidance would not be effective in tackling this.
- 2.12** As a result, some respondents, including the Financial Services Consumer Panel (FSCP), asked for details of how we plan to demonstrate our approach in delivering better outcomes for consumers and how we intend to measure success. It was also suggested that, in the interests of transparency, we should publish information about the action we have taken where we identify breaches.

Our response

Our view is that the guidance we have made will provide greater clarity for firms. We will proactively engage with firms and trade associations through our supervision to help ensure they understand our expectations and to discuss any changes to their processes. We will also use intelligence to monitor whether firms comply with s.49 CCA and our regulatory provisions.

Our approach to enforcement (including our approach to publicity during FCA investigations) will follow our general approach to enforcement under FSMA. Additionally, firms must also comply with our record keeping requirements, in particular SYSC 9.1.1R. And, as noted in our guidance, failure to comply with s.49 CCA is a criminal offence.

- 2.13** Some respondents acknowledged that we had correctly identified some of the issues in this market, but felt we needed to take more action to protect consumers. Suggestions received included that we:

² Although, as stated in CP18/12, only a court can give a definitive interpretation of the statutory provisions.

- bring a test case to clarify the meaning of s.49 CCA, and, in the light of the outcome, consider ordering firms to retrospectively review past breaches
- change the remuneration model for home-collected credit agents so they are not encouraged to canvass for loans
- introduce a cap on the cost of home-collected credit loans similar to that for HCSTC
- limit the number of times each loan can be refinanced
- require the complete separation of collection and new business activity so that agents cannot discuss additional borrowing with customers when on a collections visit
- ban the production of credit agreements off trade premises

Our response

We have not made any changes to our proposals.

It is not our usual practice to bring a test case to clarify the meaning of legislation. Additionally, we do not consider it would be appropriate to do so in the light of the evidence we have collected. The aim of our proposal is to set out our interpretation of how s.49 CCA applies to customers so that firms are clear about what we require of them. However, as highlighted in Chapter 3 of CP18/12, we recognise that only a court can give a definitive interpretation of the statutory provisions and their application by businesses.

We have published [rules and guidance on staff incentives in consumer credit](#). These require firms to design their incentive and performance management schemes in a way that manages the risk of customer harm. We will continue to monitor firms' practices in this area. We do not currently consider we have enough evidence to justify taking a more intrusive approach to incentives models for home-collected credit agents than for other sectors of the consumer credit market.

We explained in CP18/12 that we had considered if there is a case to carry out the work needed to assess whether to introduce a price cap. On balance, we decided that there is currently not.

Our view remains that, while some consumers' costs can accumulate, this is largely due to the way some firms refinance consumers' loans, rather than the pricing of individual loans. Our rules requiring firms to give customers information on the comparative costs of borrowing aim to address this source of harm directly and we would expect to see reductions in the cumulative cost consumers pay. Also:

- The cost of credit for home-collected credit loans tends to be lower than we have seen in some other high-cost credit markets. We are not aware of any home-collected credit loans currently available that would be caught by a 100% cap on the cost of credit similar to that



for HCSTC.

- There are other significant differences between HCSTC and home-collected credit products. Home-collected credit loans will typically have more, and more frequent, repayments than HCSTC, with few if any contingent charges and no balloon payments at the end of the loan to clear the debt.

So we are not currently planning to develop proposals for a price cap for home-collected credit. When we assess the effectiveness of the changes we have made and if we find they are not working as intended, we will revisit this issue.

We do not believe that our evidence justifies requiring firms to separate their collections and new business operations. Doing so also risks increasing firms' compliance costs, which could potentially be passed on to customers. There would also be inconvenience costs to customers because they would need to have separate meetings with agents.

We do not intend to pursue any measures that limit or ban refinancing. Our objective on home-collected credit is not to cut off the supply of credit. We also recognise that it may be better for some customers to refinance, to keep weekly repayments low, rather than have a new loan. While a new loan could be less expensive overall, it may not be manageable in the short term. The aim of our proposals is to ensure that customers always drive discussions in the home about further lending and that they are better able to choose the arrangement they feel is most suitable for them.

-
- 2.14** Some firms were concerned that our expectations differ from the interpretation of s.49 CCA which they have used to date. For some firms, changing the meaning of it could therefore trigger claims management companies (CMCs) to bring claims for past conduct.
- 2.15** Another firm asked us to clarify whether we would take retrospective action against firms for loans made under the current interpretation of s.49 CCA, including as a result of consumer and CMC complaints.
- 2.16** Respondents suggested that to protect against unintended negative outcomes for firms, we should make and enforce against rules that would, in effect, replicate s.48 and s.49 CCA.

Our response

We cannot change the meaning of s.49 CCA. Instead, it is our intention to set out our interpretation of the provision. Additionally, a breach of s.49 CCA does not mean the credit agreement is automatically unenforceable, although it is a criminal offence.

Where we assess that a firm has been failing to comply with the s.49 CCA requirements, in the past or in the future, we can consider the appropriate action according to our supervision and enforcement procedures. It is not appropriate for us to give a blanket assurance that we will not take action. This will depend on several factors, including the circumstances of the case and the scale of harm identified.

We further discuss implementation of our new guidance under Question 10 below.

It would neither be appropriate nor efficient for us to make rules that simply replicate existing legislation.

- 2.17** One respondent asked if it was acceptable for a firm to keep its current umbrella wording as a safeguard against future criminal charges. Another felt that some consumers value the convenience of an umbrella agreement and so these should be allowed if they were clearly worded. They added that customers also have the right to terminate these agreements at any time.

Our response

We have not made any changes to our proposals.

CP18/12 set out our interpretation of s.49 CCA in the new guidance, including our view that the use of umbrella requests to visit do not meet the requirements of the CCA.

- 2.18** We received several suggestions for specific amendments and clarification to the guidance we consulted on.
- 2.19** Some respondents said that references in the guidance to raising the topic of additional financing or 'discussions about new borrowing or refinancing' go wider than the language of s.49 CCA and the term 'soliciting' used in s.49 CCA. The respondents felt 'soliciting' allows firms to discuss eligibility for further borrowing in general terms and to talk about the consequences of missing repayments. As a result, we should clarify our guidance so that it does not apply where the discussion is not specifically about entering into an agreement. This is so that firms can give customers details of credit that is available to them, with a period of time to consider before making a decision.



- 2.20** Some respondents also asked us to clarify how our new guidance interacts with the CCA requirements. In particular, s.49(2)(a) CCA suggests that any subsequent request for an individual to enter into a debtor-creditor agreement must be in writing. This appeared to be contrary to our proposed new guidance which allows the customer to make an oral request.
- 2.21** Respondents also suggested that we permit customers to initiate the borrowing conversation using any means the customer chooses. This could include phone enquiries, SMS enquiries, emails, website applications and any other method available to the customer to communicate with their firm.
- 2.22** One respondent asked what was meant by our proposed guidance at CONC 3.10.3G(5)(c) that 'there should be a separate request made for each potential agreement or contractual variation' as it was not clear how this would work if the customer wants to discuss several different options.
- 2.23** Respondents also asked us to clarify how we would expect firms to demonstrate that a customer has requested information about further borrowing. They also felt that terms such as 'reasonably specific' and 'reasonably proximate' were unclear.

Our response

Our view is that the term 'solicit' is intended to capture the types of situation described in the guidance.

Our guidance makes clear that any discussions in the home about new borrowing or refinancing must be initiated by the borrower, either by a specific written request or, if during a visit made purely for collections purposes, an oral request. We give guidance on what constitutes 'in writing' in [GEN 2.2](#).

We do not intend our guidance at CONC 3.10.3G(5)(c) to restrict the discussion of different borrowing options during a visit a customer has requested. Indeed, CONC 3.10.3G(5)(a) makes clear that 'the request should be a positive act by the borrower taken specifically for the purpose of discussing other borrowing'. Our guidance does not specify that 'other borrowing' must only be about one option, a specific amount or term. To make this clearer, we have removed the word 'potential' from CONC 3.10.3G(5)(c) (see Appendix 2) to better reflect our original policy intention.

Our general expectation is that firms would have a separate request for each visit to discuss additional borrowing. A single request could cover a number of different visits but only if each visit is specifically covered by the request and it is clear that the visit was in response to that specific request.

While we understand some respondents would prefer more prescription in our guidance, our proposals were not intended to be exhaustive. The

particular actions a firm takes, the timings of these and the evidence that will be appropriate will depend on the circumstances.

Similarly, we do not consider it would be helpful to provide further prescription or definitions of the terms used. This is a matter of judgement for the firm taking into account their operating models and customers. We also consider that firms will need flexibility to develop their own approaches rather than follow a one size fits all approach. Additionally, only a court can give a definitive interpretation of the statutory provisions.

- 2.24** Some respondents said our guidance was an ineffective way of trying to restrict borrowing and refinancing. This was because the guidance does not stop agents being able to sell after the firm has received a 'permission to call'. Firms are also still able to market their loans by other means, for example, phone, text message and leaflets.

Our response

Our policy intention was to clarify our interpretation of s.49 CCA and our expectations around 'permissions to call', not to restrict borrowing or reduce refinancing agreements. Our cost benefit analysis recognises that a possible result of our proposals could be fewer consumers borrowing more, but this is not the primary aim of our proposals.

- 2.25** It was suggested that our approach was inconsistent with our wider CCA Review which did not signal any concerns about s.49 CCA.

Our response

Our Interim Report referred to our proposals and concerns about practices in this sector in paragraph 7.81 and paragraph 63 of Annex 7 to the report.

- 2.26** We were asked whether we had adequately considered the possible competition impacts of our new guidance, particularly given the findings of the 2006 Competition Commission home credit market investigation.

Our response

Our proposals are primarily intended to fulfil our consumer protection objective.

We consider they are unlikely to have a negative impact on competition. There may be some positive impacts from our proposals which work in the interests of competition. In particular, our proposals



are intended to improve the information provided to consumers and reduce the potential for undue sales influence over existing customers in home-collected credit. This may result in consumers deciding to consider borrowing from other lenders, so improving switching and reducing the significant advantage held by existing lenders in being able to 'up sell' additional loans to customers with whom they have regular contact with.

Q9: *Do you agree with our proposed new rules on explaining the costs of refinancing compared with a concurrent loan?*

- 2.27** Chapter 3 of CP18/12 also proposed a new information remedy. This would ensure firms tell customers the comparative costs of different types of repeat borrowing when they want to borrow more. It would:
- Require firms to explain the comparative costs of refinancing compared to taking out an additional loan. As part of giving an adequate explanation, firms would have to give an explanation of the difference in costs in terms of both weekly repayments and the total amount payable. They would also need to give this information to the customer in a durable medium.
 - Allow customers to be better informed on the different costs. With this information, some may feel they have the flexibility in their budget to pay more in instalment repayments for a shorter time to reduce the total costs of borrowing. This information would also better enable customers to consider the costs of the options available to them and shop around.
- 2.28** We did not propose to prescribe how firms must present this information, but it must include the required content in a way that is easily understood. Where the firm's agent shows the customer the information on an app or electronic device, they should also provide the information in a durable medium for the customer to keep. This will allow the customer to consider the information after the visit and decide whether they want to proceed.
- 2.29** In general, respondents supported our proposals. Both consumer groups and firms agreed, in principle, that explaining the comparative cost of borrowing would help customers make better-informed decisions. But consumer groups underlined the importance of firms presenting the cost information and the price comparison simply and clearly, given its potential complexity.
- 2.30** Some respondents said there was an inconsistency between the reference to 'written notice' in paragraph 3.34 of CP18/12 and the rules and guidance at CONC 4.2.15R and 4.2.16G in Appendix 1 of the CP, which do not refer to any written information. One respondent felt our proposals for a 'written notice' would be disproportionate.

Our response

We agree it is very important that firms give customers information in a way they can easily understand. Our guidance at CONC 4.2.16G(2) makes clear that the information given to the customer should enable them to easily understand the different costs of refinancing, rather than

keeping the existing loan and taking out an additional concurrent loan. An example of doing this would be by showing whether the total amounts payable are higher or lower.

We have amended our rules (see CONC 4.2.5R, Appendix 2) to better reflect our original policy intention (set out in paragraph 3.34 of CP18/12) and to make clearer that firms must:

- give an explanation of the difference in costs in terms of both weekly repayments and the total amount payable, before the customer enters into an agreement
- give the customer this information in a durable medium so that, if they wish to, they can keep it to consider after the visit and decide whether they want to proceed

A firm may want to conclude the agreement on the same day. They could do so by, for example, bringing a template explanation or manuscript which can be filled in with personalised information during the visit and left with the customer. In our view, firms are likely to do something similar with the pre-contract information and the credit agreement if it is all to be concluded on the same visit.

We disagree that our proposals are disproportionate. Our CBA published in CP18/12 confirmed a net benefit to consumers as a result of these measures. The minor changes we have made and additional clarification we have provided, as described above, should address the concerns raised about proportionality.

2.31 Several consumer groups repeated that our proposals do not go far enough, and said we should introduce a price cap and a limit on refinancing, similar to those in place for HCSTC. The FSCP called for us to ban the refinancing of home credit loans. Other suggestions were that we should:

- consider introducing a break before customers can take out a new loan
- take action on agents' incentives that could encourage agents to channel customers towards refinancing as this generates more income for firms and more commission for agents than a new loan
- specify what proportion of the previous loan must have been repaid to be eligible for further borrowing, as firms currently have different proportions

Our response

We are not currently planning to develop proposals for a price cap for home-collected credit and we discuss our reasons in paragraph 2.13 above. When we assess how effective our current changes have been and if we find they are not working as we intended, we would look at this again.



We do not intend to pursue any measures that limit or ban refinancing. Our objective on home-collected credit is not to cut off the supply of credit. The aim of our proposals is to ensure that customers always drive discussions in the home about further lending and that they are better able to choose the arrangement they feel is most suitable for them.

As stated above, we have published guidance to firms on staff incentives in consumer credit which applies to home-collected credit firms.

2.32 Some respondents asked us to prescribe in detail how firms explain the comparative costs of borrowing to customers rather than allowing firms to take different approaches. These respondents also suggested that firms should be required to offer calculators to consumers to aid comparison. One respondent said that if the customer has several options available - for example, loans with different terms - it might be helpful to require firms to show these options on a like-for-like basis. This would ensure the customer is provided with a simple comparison, rather than being overloaded with too many choices.

2.33 One respondent suggested that if customers mention any priority debts, for example, utility bills, then we should require firms to signpost customers to debt advice and not discuss any refinancing at that meeting. Another felt that lenders should be required to discuss forbearance options, rather than credit options, when a customer asks to refinance or says they have money concerns.

Our response

We have not made any changes to our proposals.

We consider firms are best placed to decide how to present and communicate information. This will depend on a number of factors, such as the range of products the firm offers and individual customers' particular needs and circumstances. Our rules do not prevent firms from offering calculators or presenting information on a like-for-like basis where they want to do so.

Our rules also do not prevent firms or agents from signposting customers to debt advice or other sources of help or exercising forbearance where this is appropriate. In particular:

- CONC 6.7 already requires firms to monitor customers' repayments and take appropriate action where there are signs of actual or potential financial difficulties. Such action should generally include notifying the customer of the risk of escalating debt, additional interest or charges or providing contact details for not-for-profit debt advice bodies.
 - CONC 7 requires firms to treat customers with forbearance and due consideration when they are in arrears difficulties or default.
-

- 2.34** Some respondents were sceptical about how much customers will engage with the comparative costs of borrowing information or how far it will affect consumer decision-making, given the attractiveness of simply keeping repayments amounts the same when refinancing. A few felt that Table 3.1 in CP18/12 (which set out a comparison of the costs of refinancing a loan against the cost of taking an additional, overlapping loan) was very complicated and that customers would struggle to understand this information.

Our response

We agree that customers often focus on weekly repayments. The full cost of refinancing an existing loan can be obscured because the weekly payments on the refinanced loan are often the same as those of an old loan. However, our intervention is designed to help customers better understand and take into account other factors, such as the total cost of borrowing. This will mean they are better able to choose the arrangement they feel is most suitable for them. We therefore consider that comparative information on costs of borrowing is a key piece of information in the decision-making process.

We do not expect firms to present information to customers as set out in Table 3.1 of CP18/12. We included this as an illustration; it was not intended to be an example of how firms should present information to customers. As stated above, firms are best placed to decide how to present and communicate the comparative costs of borrowing to customers and it is their responsibility to do so in a way which complies with relevant regulatory requirements such as Principle 7: Communications with clients.

- 2.35** A respondent asked whether a requirement for a written notice is compatible with the Consumer Credit Directive (CCD), given the Standard European Consumer Credit Information (SECCI) is designed to be the only pre-contract information for consumers.

Our response

Our proposals form part of the adequate explanation required by Article 5(6) CCD. They are intended to help customers assess whether the proposed credit agreement is suitable, taking account of their needs and financial situation.

- 2.36** Respondents asked us to clarify the intention of paragraph 3.34 of CP18/12. They felt it seemed to imply that a loan agreement could not be concluded at the same visit at which the comparison information is provided.



Our response

This was not our policy intention. Under our rules, firms can conclude a credit agreement at the same visit as long as they provide the comparative cost of borrowing information and comply with all other relevant requirements under CCA and CONC.

- 2.37** Respondents asked whether cost comparison information must be bespoke to the individual customer or whether firms can instead provide generic information with representative examples. They felt that bespoke information would be expensive to produce, especially for smaller firms, due to the lack of technology to make precise calculations in the home.

Our response

To help customers make better-informed decisions on how they want to take on additional borrowing, we consider that the comparative cost of borrowing information must be specific and tailored to them. For example, if the firm and the customer are discussing a £200 loan over a 6 month period, it would not be meaningful, effective or engaging to the customer to be shown a generic example with no resemblance to their particular circumstances or needs.

We disagree this would be particularly costly to implement. Agents currently provide cost information on both new loans and refinancing loans, although we recognise they do not do so on a comparative basis. As explained above, if a firm wants to conclude the agreement on the same day, we consider firms could do so this by, for example, bringing along a template explanation or manuscript which can be filled in, with personalised information, during the visit and left with the customer. Firms may already do something similar with the pre-contract information and the credit agreement if it is all to be concluded on the same visit.

- 2.38** Some respondents asked for clarification on whether firms needed to provide cost comparison information even when a concurrent loan is not available due to lack of affordability. They also suggested that we should require home-collected credit lenders to fully assess and record the DTI and debt repayment to income (DRI) ratios of borrowers before extending finance, and use these ratios in their affordability assessments.

Our response

The purpose of our rules is to ensure that customers are aware of the options available to them. Customers should therefore only be given information that is relevant to them. We do not expect firms to provide information to customers about borrowing options that are not available or unlikely to be affordable for them.

Under our requirements for assessing creditworthiness in consumer credit, lenders must assess creditworthiness, including affordability, on the basis of sufficient information. We do not prescribe in detail what this should include. The extent of an assessment and the types and sources of information used will depend on, and be proportionate to, relevant factors such as the costs and risks of the credit in the individual case. So firms should use their judgement to decide what is appropriate in the circumstances, taking into account the nature of their products and customers and the costs and risks involved.

We do not consider it appropriate or necessary to require firms to use DTI or similar ratios, either generally or in specific sectors, as there are likely to be other ways a firm can reasonably satisfy itself on affordability.

-
- 2.39** Some respondents felt that telling customers about the cost of refinancing may be misleading as there are also benefits to refinancing, for example, a smoothed repayment profile and an extended repayment term for any outstanding balance on the old loan. One respondent felt customers should also be shown other information such as the interest rate, overall cumulative term and early repayment charges.

Our response

The rules that we have made do not prevent firms from discussing other aspects of the borrowing options available to customers. Our policy intention is that firms provide additional explanations to enable customers to make a more informed decision, not to restrict the information available.

Q10: *Do you have any comments on the proposed period for firms to implement the new rules?*

- 2.40** We proposed that our guidance on s.49 CCA come into force the day after we publish our final rules. Additionally, the new rules on explaining the comparative costs of borrowing would come into force three months after we publish them.
- 2.41** Most respondents agreed that three months was sufficient time to implement the rules on explaining the comparative costs of borrowing. However, one firm felt it would need longer if bespoke comparisons were required rather than generic ones.
- 2.42** Most also agreed that our guidance on s.49 CCA should come into force one day after we publish our final rules. Others felt this would not be long enough as lenders would need to change their policies and procedures, and may want to look at introducing further procedures to capture evidence and train staff. As a result, they asked for a 3-month implementation period.



Our response

We have not made any changes to our proposed implementation periods.

The final rules and guidance we have made, to be added to CONC, are in Appendix 2.

Our guidance on s.49 CCA comes into force on 19 December 2018, as the guidance is intended to provide clarity on existing legal requirements. Most respondents agreed with our proposed implementation date for this guidance.

We are keen that firms review their policies and procedures in the light of the guidance we have made and make the necessary changes. Should any individual firm find they cannot comply fully by 19 December 2018, we would expect it to be able to show that it is taking appropriate steps to do so and can provide evidence that it has valid reasons for needing additional time to do so fully.

Firms have until 19 March 2019 to fully comply with the rules and guidance on explaining the comparative costs of borrowing.

3 Catalogue credit and store cards

- 3.1** In CP18/12 we identified concerns about consumers' use of catalogue credit and store cards, including whether they understand how these products work, what fees and charges they might incur and when. We also identified similar concerns to those that we have previously addressed for credit cards in our [credit card market study \(CCMS\)](#). These included potential harms from a lack of control over credit limit increases (CLIs), a lack of protection for consumers at risk of financial difficulties and problems of persistent debt.
- 3.2** While catalogue credit, store cards and credit cards have many similarities, there are differences in the way that they operate. Average balances for catalogue credit and store cards tend to be lower than for credit cards, but the level of minimum repayments tends to be higher. Our analysis also indicates that catalogue credit and store card customers are on average a higher credit risk - with a lower credit score - than credit card consumers, and are more likely to be vulnerable.
- 3.3** We consulted on a range of remedies to address these concerns. We also proposed measures to improve the transparency of BNPL offers from catalogue credit and store card providers. In the light of feedback to CP18/12 we also now propose further measures on BNPL as set out in Chapter 4.

Summary of consultation proposals

- 3.4** We consulted on new rules to:
- require catalogue credit and store card firms that provide BNPL offers to give consumers clear explanations of the implications and costs of not paying back within the offer period, before they enter into the credit agreement
 - require these firms to remind their customers when the offer period is about to end to prompt customers to repay
 - give catalogue credit consumers more choice about whether and how their credit limits are increased
 - ensure catalogue credit firms do not give CLIs to customers in financial difficulties or increase the interest rate on their account
 - require catalogue credit and store card firms to use the information they hold to identify and deal with customers at risk of financial difficulty
 - require catalogue credit and store card firms to offer customers in persistent debt help to repay it more quickly



Summary of feedback and our response

- 3.5** The proposals attracted broad support from stakeholders. They recognised the benefits of aligning rules on consumer control over CLLs, protection for consumers at risk of financial difficulty or in persistent debt across different running-account credit products.
- 3.6** Industry respondents raised some concerns that we should take specific operational differences between products into account. Some consumer groups argued that our proposals should go further to address the harms we identified. Consumer groups' concerns were often similar to those made in response to the credit card market study, particularly on the definition of persistent debt or operation of CLLs.
- 3.7** There was broad support for the proposals on BNPL, with some respondents arguing that more needed to be done to address potential harms from such products.
- 3.8** In view of the broad support expressed, we are proceeding with our proposals with some minor changes to address specific issues raised. Overall, we consider that these changes should reduce costs to consumers, improve sales practices, strengthen consumer control and protect consumers at risk of financial difficulty.
- 3.9** We give further details on stakeholder feedback to our consultation proposals and our responses below.

Credit offers – Buy Now Pay Later

- 3.10** A number of catalogue credit and store card firms provide BNPL offers, which offer a promotional period during which consumers may not be charged any interest. If the consumer fails to repay the entire amount due within this period, interest is typically charged on the whole balance or the unpaid part of the balance from the date of purchase. We found that consumers are often unaware, or are not taking into account, that they may be charged interest from the date of purchase (generally referred to as 'backdated') and will potentially have to pay it on the entire purchase amount, even if they have made part payments.
- 3.11** So we proposed extending existing rules that require firms to give an adequate explanation of specific matters. This includes explaining features of the credit agreement which may have potential negative consequences that consumers would be unlikely to expect. In particular, we proposed making it clear that this includes how the firm will impose interest or other charges if the consumer does not repay within the BNPL offer period.
- 3.12** We also proposed another new rule requiring firms to provide a clear, prominent and timely notice to the customer before the end of a BNPL or similar offer period to prompt repayment. We set out that this notice must be provided in an appropriate way that takes into account any preferences the customer has given about the medium of communication between the firm and customer. The notice should also be in plain language and sufficiently prominent so that the customer is likely to see and understand it. We did not propose specifying a particular time by when the firm ought to provide this notice.
- 3.13** We proposed that the new rules come into force 3 months after publication.

- 3.14** Most respondents agreed with our proposals. A few argued that we should set a minimum time period or provide further guidance on when firms should provide the notice before the BNPL period ended. They also wanted us to explain what would constitute 'sufficient prominence'. While they supported our proposals overall, most responses from consumer organisations argued they did not go far enough on the issue of 'backdating' interest. They also said that simply getting firms to provide more information would not address their fundamental concerns about the practice.
- 3.15** Industry respondents argued that lenders offering both credit and store cards should be able to adopt a consistent approach in their communications with customers, and that lenders should be allowed to decide the appropriate method of communication.

Our response

Given the broad support for these proposals, we are proceeding with these changes to our rules which affect both catalogue credit and store card firms. They should help consumers to better understand the implications of not repaying by the end of BNPL offer periods, minimising the risk that they pay unnecessary fees and charges.

However, we recognise the significant concerns around the practice of 'backdating' interest on the entire purchase amount when part payments have been made. In the light of this and other feedback received, we propose additional remedies for BNPL, including that firms should only impose interest on the unpaid balance at the end of a BNPL offer period. We give further details in Chapter 4.

The requirement to provide an explanation of how interest or other charges will be imposed for BNPL offers will be part of the pre-contractual disclosure and adequate explanation. This will play an important role in helping consumers understand how these offers work during the lifetime of the agreement.

We remain of the view that it would not be appropriate to prescribe a particular time by when firms should give the notice before a BNPL period ends. Similarly, we will not prescribe how firms should ensure they give sufficient prominence to this notice. Given the variety of different products and offer periods in this market, it is unlikely that doing so would deliver good outcomes for all consumers.

We consider that firms are best placed to judge the time at which the information would be most useful to the customer. Firms can align their approach across different products as long as this treats customers fairly and meets the CONC requirements. Firms are also best placed to judge how to ensure they give sufficient prominence to the information given their business models and experience of customer engagement.

We also think that firms should take into account any preferences the customer has expressed about the medium of communication between the firm and customer, particularly as channels of customer engagement in this market may vary.



Given the responses received, we still consider that a 3-month implementation period is appropriate to allow firms to make any necessary changes.

Firms will therefore need to comply with these new rules by 19 March 2019.

Consumer choice and control over credit limit increases

- 3.16** Many catalogue credit firms provide or offer CLIs. Initial credit limits are typically lower than in both the store card and credit card markets, and often operate on a 'low and grow' model. These products tend to be characterised by an initially low credit limit which is then increased over time based on the consumer's behaviour.
- 3.17** We identified concerns that firms may increase credit limits for catalogue credit customers without consulting them or telling them in advance. Our consumer research indicated that consumers can see CLIs as a temptation to spend more than they planned, and find this hard to resist. Consumers in our research said that they would prefer being told about a CLI in advance and have the opportunity to opt-out to avoid the temptation of additional credit.
- 3.18** We therefore decided that consumers should have the same framework to control whether and how firms apply CLIs over these different types of running-account credit products. We proposed extending our existing rules for credit cards and store cards to catalogue credit, so that firms must:
- Not increase or offer to increase the customer's credit limit where they have been advised that the customer does not want to have any CLIs
 - Permit a customer to reduce or decline offers to increase the credit limit
 - Tell the customer of a proposed increase in the credit limit under the agreement at least 30 days before the increase comes into effect. The exception to this is if the customer has specifically requested the increase, or the firm has proposed the increase, and the customer agrees to it at the time and wants it to come into effect in less than 30 days
- 3.19** We proposed that the rules come into force 3 months after publication.
- 3.20** Respondents agreed with our proposals. Some responses from consumer organisations argued that, as with rules for credit cards, the proposals did not go far enough. They felt that consumers should not be offered any unsolicited credit limit increases (UCLIs), or should only be offered them on an 'opt-in' basis.
- 3.21** Many respondents recognised the benefits of taking a consistent approach across these running-account products. Industry respondents said that many catalogue credit firms already operate according to the proposed rules, but that there were some operational differences for catalogue credit. They argued that we should take these differences into account to minimise unnecessary implementation costs to firms.

Our response

In view of this broad support, we are proceeding with these changes to our rules. They will increase consumers' control over how catalogue credit firms offer CLIs.

We know some consumer organisations are concerned about the general practice of offering CLIs. As in the credit card market, catalogue credit is often offered on the basis of a low initial credit limit. Any subsequent significant increases in credit limits depend on an assessment of creditworthiness, which should reduce the possibility of firms increasing credit limits which the customer cannot afford.

We have recently amended our rules and guidance on assessing creditworthiness to clarify our expectations of firms. These changes clarify the meaning of a 'significant increase' in the credit limit. They explain that this can include separate increases which, while individually insignificant, may collectively require a fresh assessment of creditworthiness, including affordability.

Catalogue credit and store card consumers will be given further control over how they are offered CLIs through an industry remedy reflecting the agreement introduced in the credit card market.

Under the credit card voluntary agreement existing customers can tell firms that they only want to accept CLIs on an opt-in basis, rather than have firms automatically increasing it if they do not reject the offer (opt-out). New customers are also given the choice of how increases are offered, while existing customers are given a more straightforward way to decline an increase and a choice of how increases are offered.

We expect these protections to be replicated for the majority of the catalogue credit and store card markets through a remedy supported by the Finance and Leasing Association (FLA) and British Retail Consortium (BRC) within 12 months. We will continue to discuss the industry remedy with the FLA and BRC.

The cumulative impact of our rules and the industry remedy will deliver our objective of enhancing consumer control over CLIs in an effective and proportionate way.

We understand that payment cycles in catalogue credit are sometimes based on a 28-day cycle as opposed to a 30-day or monthly cycle. To ensure that implementation costs are minimised as far as possible, we have amended our rules so that catalogue credit firms can provide 28 days' notice of a proposed CLI. We do not consider that this minor change will have any material impact on consumers' understanding or behaviour.

Given the responses received and the amendment outlined above, we still consider that a 3-month implementation period is appropriate to allow firms to make any necessary changes.



Firms will therefore need to comply with these new rules by 19 March 2019.

Treatment of consumers at risk of financial difficulty

- 3.22** We set out in CP18/12 that we do not think it is appropriate that catalogue credit consumers at risk of financial difficulties can have more credit made available to them. This may result in their debts becoming unmanageable. We also wanted to ensure that firms do not raise the interest rate on consumer accounts where these consumers are at risk of financial difficulties, as this could make their problems worse.
- 3.23** So we proposed extending existing rules for credit card and store card firms to catalogue credit firms. These rules ban firms from increasing credit limits or interest rates for consumers 'at risk of financial difficulties'. This is defined as:
- when a consumer is 2 or more payments in arrears, or
 - has agreed a repayment plan with the firm, or
 - is in serious discussion with a debt counselling firm with the aim of entering into a debt management plan, and the firm has been notified of this
- 3.24** Given the high risk of potential harm from CLIs and interest rate increases in these circumstances we proposed that firms will have to take steps to comply with the rules immediately after they come into force.
- 3.25** Respondents agreed with our proposals. Some responses from consumer organisations argued that, as with rules on CLIs, our proposals did not go far enough. They argued that consumers should only be offered this credit on an 'opt-in' basis. One respondent argued that, given the different demographic of this market, we should provide specific metrics to define financial difficulty for catalogue credit consumers.
- 3.26** Industry respondents noted that the proposals reflected current practice and recognised the benefits of aligning requirements for credit cards, store cards and catalogue credit.

Our response

In view of this broad support, we are proceeding with these changes. They should help to ensure catalogue credit customers in financial difficulty are not offered CLIs or have the interest rate on their accounts increased. This will ensure that all customers of these running-account products are protected in a consistent way.

We do not think it is necessary or proportionate to prescribe different, or additional, metrics to define financial difficulty in the catalogue credit market. This would be unnecessarily complicated. The proposed rules give firms enough flexibility to take account of any relevant additional information or behaviour for catalogue credit consumers.

As with our proposals on enhancing consumer control over CLIs, we recognise that some consumer organisations are still concerned

about the practice of offering UCLIs. However, for the reasons above, we consider that the cumulative impact of our rules and the industry remedy will deliver our objective of enhancing consumer control over CLIs effectively and proportionately.

We consider that firms should already have necessary systems in place because of the existing requirement to monitor a customer's repayments for signs of financial difficulty.

These rules will therefore come into force on 19 December.

Earlier intervention

- 3.27** In our credit card market study we identified that the nature of flexible, minimum repayments were a key risk, as when consumers start to miss repayments they may already have been in financial difficulty for some time. In CP18/12 we said that catalogue credit and store card customers have similar risks.
- 3.28** Catalogue credit and store card firms already use some earlier intervention strategies to support consumers who show signs of financial difficulty. But we think there is more that firms could do to intervene at an earlier stage so that fewer consumers end up in arrears or default.
- 3.29** So we proposed to extend our rules on earlier intervention to the catalogue credit and store card markets to ensure a consistent standard across these running-account products. The proposed new rules build on the existing rule that requires firms to monitor a consumer's repayment record for signs of actual or potential financial difficulties. The proposed rules have 3 elements:
- catalogue credit and store card firms should monitor a consumer's repayment record and any other relevant information they have to identify signs of actual or possible financial difficulties
 - firms must take appropriate action where there are such signs
 - firms must establish, implement and maintain an adequate policy for identifying and dealing with consumers showing signs of actual or possible financial difficulties, even though they may not have missed a payment
- 3.30** We also asked whether there are any aspects of data that apply particularly to the catalogue credit and store card markets that firms should monitor. We proposed that firms be required to comply with the rules after an implementation period of 6 months.
- 3.31** Respondents agreed with our proposals. One respondent asked whether interventions in this market should take effect more slowly, to allow consumers continued access to essential items. Another suggested that firms should provide additional notification to consumers who build up high balances within a short time.
- 3.32** Responses from consumer organisations on data monitoring broadly argued that firms should be required to monitor all relevant data including, for example, repayment patterns and indicators of vulnerability. Another respondent suggested that firms should monitor all forms of debt consumers hold, and be required to report credit information to credit reference agencies (CRAs) in real-time.



- 3.33** Industry welcomed the consistency of the proposed approach with that adopted in the credit card market.

Our response

In view of the broad support expressed we are proceeding with the proposed changes. We think they will help ensure consumers at risk of financial difficulties are identified earlier and offered appropriate support.

We do not believe that firms should be slower to intervene in these markets. Unnecessary delays in addressing any underlying financial difficulty are likely to make these difficulties worse, regardless of the type of goods being financed. We also do not think that it would be effective or proportionate to require firms to provide additional notifications for balance accruals within a short period. Consumers are likely to know about their significant recent purchases and will be given relevant notification in their next monthly statement.

On data monitoring, we understand firms typically monitor a variety of historic and ongoing drawdown behaviour including payments (satisfied, missed, late or insufficient) and credit limit use. Our proposed rules are flexible enough for firms to monitor the information they hold to identify and take appropriate action to support consumers at risk of financial difficulties. Our view is that firms are best placed to decide appropriate indicators as the types of data firms will be able to collect and utilise will vary between firms and change over time.

We recognise that there may be limits to how far the credit information firms hold provides them with a full and timely picture of a consumer's wider indebtedness. We will consider these issues further and take them into account in our [market study on credit information](#).

We remain of the view that a 6-month transitional period provides the right balance between allowing firms the appropriate time to put necessary processes in place while acting quickly to protect consumers.

Firms will therefore need to comply with these rules by 19 June 2019.

Persistent debt

- 3.34** In CP18/12 we set out our concerns that catalogue credit and store card consumers can potentially carry large balances for a long time without significantly reducing their debt. These concerns were similar to those we identified in our credit card market study, which we addressed by publishing new rules for credit cards to tackle the problem of consumers in 'persistent debt'.
- 3.35** We therefore proposed to extend the rules on persistent debt that currently apply to credit cards to catalogue credit and store cards. These included:

Definition

3.36 We proposed to define persistent debt as that where, over a period of 18 months, a consumer pays more in interest, fees and charges than they have repaid of the principal.

Intervention at 18 months

3.37 We proposed that at 18 months, firms would need to prompt consumers in persistent debt to change their repayment behaviour if they can afford to. Firms would make consumers aware of the potential implications of continuing to make low repayments. The firm would also be required to give the consumer the contact details of sources of not-for-profit debt advice.

Action at 27-28 months

3.38 At 27-28 months, we proposed that firms would be required to send a further reminder if the consumer's payments indicate they are still likely to be in persistent debt at the 36-month point.

Intervention at 36 months

3.39 We proposed that firms would need to help the consumer by proposing ways of repaying more quickly over a reasonable period. Where the consumer cannot repay more quickly, the firm would be required to show forbearance if they have not already done so. Examples include reducing, waiving or cancelling any interest or charges. We said we would expect firms to suspend the accounts of consumers that have been shown forbearance and of those who do not respond to the firm.

Reasonable repayment period

3.40 We proposed to adapt the guidance used for credit cards about the reasonable repayment period of 3 to 4 years for catalogue credit. Because catalogue credit balances tend to be smaller, our view was that this may be too long. We proposed that the guidance sets out that a shorter repayment period of approximately 2 years is likely to be appropriate for catalogue credit. We also proposed to apply the guidance that sets out that only in exceptional circumstances would we expect the repayment period to extend beyond 4 years.

Implementation

3.41 Firms will have to implement processes for identifying those in persistent debt. So we proposed that firms would have to comply with the rules 6 months after they come into force. This would mean that on this date, firms will have to assess which consumers have been in persistent debt for the previous 18 months. The period would include the 12 months before the rules came into force. The proposed implementation timetable would also mean that firms will make their first 36-month interventions 24 months after the rules come into force.

3.42 Respondents broadly agreed with our package of proposals. Some consumer organisations were supportive but argued we should require shorter intervention periods, for example, in relation to the definition of 'persistent debt'. Another respondent recognised that because of the differences in the way that catalogue credit and store cards were used compared to credit cards, forbearance should not necessarily result in credit being restricted. Another respondent said the proposals would not address issues of persistent debt from other credit products the consumer holds.

3.43 Industry respondents supported the proposals, and noted the potential implications for debt advice agencies and their resources.



- 3.44** On the 'reasonable repayment period', both consumer organisations and industry respondents had mixed views about the appropriateness of a shorter period for catalogue credit. There were concerns that a shorter period could potentially put some consumers under undue financial pressure, despite the potential lower balances in catalogue credit. Some respondents also asked whether it was fair to take a different approach between catalogue credit and store cards.

Our response

Given the broad support for our proposals, we are proceeding with these changes with one minor amendment set out below. Overall, we think the changes will make it easier for firms to help consumers find an appropriate way of managing their way out of persistent debt.

We do not believe it would be appropriate to define a shorter period of 'persistent debt'. We chose 18 months to enable firms to capture seasonal variations in spending and income that go beyond a calendar year and to allow persistent patterns of repayment to emerge. For catalogue credit and store cards, this took account of the fact that BNPL offers may run for 6 or 12 months and a consumer's repayment pattern may not be established for the first 12 months after they open their account. However, firms can intervene earlier if they consider this appropriate, as long as they treat customers fairly and with appropriate forbearance.

We also do not think that it would be appropriate for additional credit to be extended where, for example, customers cannot make increased payments in order to repay over a reasonable period. This would likely make any underlying financial difficulties worse.

We recognise that these proposals will only directly address issues of persistent debt in catalogue credit and store cards. However, together with the credit card measures, we expect the cumulative impact of our proposals will help ensure that consumers' indebtedness across all these running-account products is appropriately reflected when considering repayment and forbearance options.

On the reasonable repayment period, we have decided to amend our proposals to align the period for catalogue credit with store cards and credit cards ie 3-4 years. This recognises respondents' concerns that a shorter repayment period could potentially cause undue financial pressure for some consumers.

However, we do want firms to consider the reasonable repayment period in light of the customer's particular circumstances. So we will amend the guidance to indicate that when considering the reasonable repayment period, firms may take into account the amount of the outstanding balance and the minimum repayment, as this could suggest a shorter period may be appropriate.

We still believe that the proposed implementation period provides the right balance between giving firms enough time to put necessary processes in place while acting quickly to protect consumers.

Firms will need to comply with these rules after a 6-month transitional period, at which point they will have to assess which consumers have been in persistent debt for the previous 18 months.

Firms will therefore need to comply by 19 June 2019, subject to transitional provisions that enable earlier compliance where firms elect to comply in full with the new requirements.

Definition of 'retail revolving credit'

3.45 We proposed a definition to capture catalogue credit and store cards that are used to buy goods, or goods and services, from a particular supplier or group of suppliers. This would not include a credit card. We invited views on whether this definition may capture products other than catalogue credit and store cards.

3.46 Respondents agreed with the proposal and did not identify any other products which might be caught by the definition. Industry respondents asked whether there may be situations where the group of suppliers may not be in a 'limited network', and so if the definition was sufficiently future-proof, for example to cover all firms that may provide BNPL or similar offers.

Our response

We still believe that the proposed definition effectively covers catalogue credit and store cards while keeping some flexibility to include similar products that may develop in the market.

However, we recognise that firms other than those providing catalogue credit or store cards may also provide BNPL or similar offers. In Chapter 4 we set out proposals to apply the relevant changes to all firms offering BNPL to ensure a consistent approach, and welcome feedback on our proposed definition.

We are therefore implementing this definition as proposed.



4 Buy Now Pay Later (BNPL)

Summary

- 4.1** In this chapter, we set out our findings on harm for consumers of BNPL offers, and how our proposals will address them. This is relevant to any firms that offer credit products that incorporate a BNPL feature, including those offering catalogue credit, store cards and point of sale finance.
- 4.2** We propose 4 measures in this chapter. Two measures are relevant to all firms offering BNPL, the others are only relevant to point of sale retail finance providers, as follows:
- Adequate explanations – applicable to point of sale retail finance providers (measure already confirmed for catalogue credit and store cards – see Chapter 3)
 - Prompts - applicable to point of sale retail finance providers (measure already confirmed for catalogue credit and store cards – see Chapter 3)
 - Advertising and other communications – new proposal, applicable to all BNPL firms
 - Partial repayment - new proposal, applicable to all BNPL firms

Background

- 4.3** BNPL offers are credit offers with a product feature that gives the consumer a promotional period, typically up to 12 months, during which they are not charged interest. However, if the consumer does not repay the entire amount within this period, then interest will usually be charged on the whole balance or the unpaid part of the balance from the date of purchase.

Summary of BNPL remedy on backdated interest

Buy Now Pay Later

- Credit offers with promotional period - usually up to 12 months
- If repaid in full in promotional period: no interest charged
- If not repaid in full: interest generally charged on unpaid balance from date of purchase for all of promotional period and for any partially repaid sums for all or part of promotional period.
- c.3m consumers used BNPL products in 2016
- c.50% did not repay full balance before promotional period ended
- Our proposal: stop backdated interest on repayments made during promotional period
- Estimated savings for consumers from our proposal: £40m - £60m per year

4.4 We know that firms have different contract terms and internal accounting systems. In some cases, firms apply interest throughout the promotional period and then rebate it if the customer does pay the loan off during the promotional period. But the customer may not be aware of this practice, which means they could still be charged interest they did not expect, and so we include it in our definition of BNPL.

4.5 Different types of firms offer a BNPL product feature as part of their credit offers. These include catalogue credit, store cards, and retailers that offer finance at the point of sale (which can be in store or online). The credit is provided either by or on behalf of a retailer to enable a consumer to buy something specific (sometimes referred to as retail finance).³

4.6 In CP18/12 we proposed various measures for BNPL offers, specifically for catalogue credit and store cards. We have now made these rules (see Chapter 3). We noted that BNPL offers are used for other retail credit products, as well as catalogue credit and store cards. We explained that we were planning further work to take a broader look across those products and at the outcomes for consumers. We said we would consider the information on BNPL offers that consumers are given during the term of the agreement, and whether additional measures were needed.

4.7 Since then, we have looked further at whether the harms we identified from BNPL offers for catalogue credit and store cards also occur with other retail credit products. We have also looked at whether there are any additional harms from the BNPL product feature generally.

³ This is the definition used in the Apex Insight UK Point of Sale Finance Market Insight Report 2018.



- 4.8** We collected and analysed a range of data to explore these issues, including:
- a firm questionnaire sent to the majority of point of sale finance provider firms in the market
 - evidence from our supervision work
 - meetings with industry bodies and their members that offer BNPL deals
- 4.9** We have concluded that some of the harms we previously identified in relation to catalogue credit and store cards apply to other firms. We have also identified some additional harms that need to be addressed across all products that have a BNPL feature. In this chapter, we explain our findings on harm for consumers of BNPL offers, and how our proposals will address them.

Q1: Do you have any comments on our description of the BNPL market?

Findings

- 4.10** Overall, we are concerned that consumers don't know, or are not taking into account, that they may be charged interest from the date of purchase. They are similarly unaware that they may have to pay this interest on the entire purchase amount, even if they have made part payments, if they do not repay the full purchase price within the interest free promotional period.
- 4.11** We have fundamental concerns about charging interest on the whole balance from the date of purchase if a consumer fails to repay the entire amount for BNPL. A customer who can repay most but not all of their borrowing will incur much higher charges than one who can repay in full. We are concerned that the nature of BNPL means that while some consumers benefit, others incur high costs. Ensuring consumers are clear about the consequences of taking up the offer, and giving them opportunities and incentives to repay within the offer period, are essential to protect consumers.
- 4.12** As we said in CP18/12, our consumer research highlighted that BNPL deals are often attractive for consumers. There is no obligation to make repayments during the offer period and interest is waived if the consumer repays in full within the period. However, we found examples of consumers overestimating their ability to pay off these debts and having to pay interest as a result. Many did not see store cards or catalogue credit as feeling like 'real money' and so did not properly perceive it as a form of borrowing. Some consumers said this was because they didn't understand how interest charges worked and the impact this had on their charges after any interest free period. In some cases, this led to 'unexpected' spiralling debt on consumers' accounts and a knock-on effect on their credit score.
- 4.13** Typically, around half of consumers do not repay within the offer period, so incurring interest charged from the date of purchase.
- 4.14** We have looked at the information firms give consumers on BNPL offers. We think that firms could be clearer about the consequences of not repaying within the offer period, particularly that a lump sum of interest will be added to their account. We also think

that firms could give more prominent reminders to consumers to repay within the offer period.

4.15 As part of our further work examining BNPL offers, we have found that the harms caused by the lack of clarity that we identified for catalogue credit and store cards also exist in point of sale finance.

4.16 We have also found additional consumer harms that apply across all types of firm that offer BNPL (so including catalogue credit, store cards and point of sale finance):

- Advertising and other customer communications, both before and when most relevant during the credit agreement, do not always give consumers an adequate understanding of the financial consequences of failing to repay within the offer period. This lack of understanding can mean both new and existing customers make unsuitable purchases. For example, a customer with an existing credit agreement may not use the BNPL facility until some time has passed since they took out the agreement, so any pre-contractual information and explanation will have been given some time in the past.
- Firms often backdate interest if the customer has not fully repaid the credit by the end of the offer period. Some firms apply the full backdated interest even where the consumer has repaid in part. This means customers pay interest on sums they have in fact repaid, and can only avoid interest if they repay the entire amount. This acts as a disincentive to them to partially repay the credit.

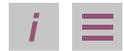
Our proposals

4.17 We propose:

- Extending the scope of the rules for catalogue credit and store cards on adequate explanations and prompts (proposed in CP18/12, and confirmed in Chapter 3 of this paper), to point of sale finance providers (ie lending firms that provide the finance to enable retailers to make credit facilities available to their customers). This will ensure consistency across firms.
- Introducing new guidance that will apply to all firms offering BNPL. This will clarify that, under the Consumer Protection from Unfair Trading Regulations 2008, firms must present BNPL offers in a clear and balanced way, without leaving out or hiding material information about applying backdated interest.
- Introducing a new rule that will apply to all firms offering BNPL that firms must not backdate interest on any amount of the principal that is repaid within the offer period.

BNPL – disclosure proposals

4.18 These rules and guidance will apply to all firms carrying out consumer credit lending that offer BNPL. They will also apply to firms that carry out credit broking where the firm has, or takes on, responsibility for providing the disclosures and explanations to customers - eg a retailer acting on behalf of a third-party retail finance provider.



Adequate explanations

- 4.19** In CP18/12 we proposed a new rule on adequate explanations. This requires catalogue credit and store card providers to disclose to customers what it will cost them if they fail to repay within the offer period. We have confirmed this rule in Chapter 3 of this paper. We now propose to extend that rule to all firms offering BNPL.
- 4.20** Existing rules (in CONC 4.2.5R) require firms to give an adequate explanation of specific matters, including features of the agreement which may potentially have negative consequences that consumers would be unlikely to predict. The rules we have made following CP18/12 specify information about BNPL offers that catalogue credit and store card providers must give. Our proposal extends this existing rule to all firms offering BNPL.

Q2: Do you agree with our proposal to extend the rule on adequate explanations to all firms that offer BNPL deals?

Prompts

- 4.21** In CP18/12 we proposed a new rule (CONC 6.7.16R). This would require catalogue credit and store card providers to prompt customers that the BNPL offer is about to end and tell them that they will be charged interest if they do not repay within the BNPL offer period. We have confirmed this rule in Chapter 3 of this document. We now propose to extend this rule to all firms offering BNPL, to ensure consistency in the way firms give prompts.
- 4.22** The effect of this would be to require firms to provide clear, prominent and timely notice to customers before the end of a BNPL or similar offer that depends on the consumer meeting certain conditions. As for the rules already made, firms should provide this notice in an appropriate medium that takes into account any preferences the customer has given about the medium of communication between them and the firm. The notice should also be in plain language and sufficiently prominent so that the customer is likely to see and understand it. For example, it could be upfront in a monthly statement or made by text alerts. We do not propose to specify a time period within which firms should send this notice. Firms should judge the most appropriate time to notify customers to prompt repayment.

Q3: Do you agree with our proposal to extend the rule on prompts to all firms that offer BNPL deals?

Advertising and other communications

- 4.23** The rules we have now made following CP18/12 for catalogue credit and store cards, and the extensions we propose to them described above (see paragraphs 4.18 – 4.21) address potential harm caused by unclear information given to consumers before they enter an agreement, as well as before the end of the promotional period.
- 4.24** However, these rules may not help those consumers who may only use a BNPL feature some time after entering into an agreement, such as a retail running account

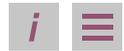
agreement. In these cases, information that firms provide under the 'adequate explanation' may not be recent enough for customers to remember it and use it when they make their decision.

- 4.25** These consumers would benefit from getting a similar level of information in communications or financial promotions about BNPL offers. This will allow them to take into account details about the costs and potential risks at the most relevant points throughout the agreement's life, including when they make their decision whether or not to take out new BNPL credit under an existing agreement.
- 4.26** So we are proposing new guidance to address this gap that would apply to all firms offering BNPL, including as part of catalogue credit, through store cards and point of sale finance. This guidance will clarify that firms should present BNPL offers in a clear and balanced way, without omitting or hiding material information about how they apply backdated interest.
- 4.27** The nature and amount of information required will depend on the context. However, we expect that if a firm is describing the benefits of a BNPL facility, it should also describe the risks, so that the information is balanced. We believe consumers need this information to make informed decisions about whether to borrow under the facility.
- 4.28** The proposed new guidance makes clear that failing to do this could be a misleading omission in criminal breach of the Consumer Protection from Unfair Trading Regulations 2008, and contrary to the clear, fair and not misleading rule on communications.
- 4.29** The aim of this proposal is to require firms to set out an appropriate level of information in their communications to existing customers and advertising that is similar to our proposals for adequate explanations on BNPL introductory or other promotional offers. The information on BNPL firms provide in their communication or promotion would, where appropriate, include:
- The circumstances in which customers could have to pay interest.
 - How this interest would be calculated if those circumstances arose, including:
 - The date from which interest would accrue.
 - The rate of that interest.
 - The amount of principal on which interest would be charged.
 - The consequences of BNPL, including the effect of borrowers failing to repay within this period. This would include that failing to meet the conditions of the offer would result in interest being charged at a higher rate, or from the date of purchase.

Q4: Do you agree with our proposal for new guidance on communications and financial promotions, applicable to all firms that offer BNPL deals?

Partial repayment

- 4.30** We are proposing a new rule that firms must give full credit under the BNPL offer on the amount of the principal the customer repays within the offer period.



- 4.31** We know of a business model that allows the consumer to make partial payments under BNPL, but does not take these into account at all at the end of the BNPL promotional period when calculating backdated interest. We are concerned about the fairness of a model under which consumers do not benefit from any reduction in backdated interest in response to the payments they have made.
- 4.32** Even where account is taken of a partial payment, if the amount is not repaid in full by the end of the promotional period, many firms still apply backdated interest on repaid sums up to the date of payment. We are concerned that the product is designed in a way that does not encourage consumers to repay within the promotional period unless they can repay the full amount. A customer who is able to repay most but not all of their borrowing within the promotional period could incur much higher charges than a customer who is able to repay in full.
- 4.33** We want 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.

Q5: 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?

Implementation

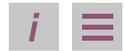
- 4.34** Implementing the proposals will require firms to make changes to the information they give consumers online and in hard copy. It also potentially requires changes to existing contracts. We propose that the rules come into force three months after publication.
- 4.35** The partial repayment rule (described in paragraphs 4.30 – 4.33) would not apply retrospectively to purchases already made. However, it would apply to purchases made after the date that the rule comes into effect, including where those purchases are made under a pre-existing contractual agreement.
- Q6: Do you agree with our proposal that the rules will come into force three months after publication?**
- Q7: 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?**

5 Guidance for registered social landlords

- 5.1** As part of CP18/12, we consulted on draft non-Handbook guidance for registered social landlords (RSLs) on the current scope and application of regulation in relation to credit broking.
- 5.2** In this chapter, we summarise the feedback we received and set out our responses.
- 5.3** The finalised guidance is available at: www.fca.org.uk/publication/finalised-guidance/fg18-06.pdf.

Context

- 5.4** Providers of social housing must be registered with the relevant housing regulator in England, Scotland, Wales or Northern Ireland. Providers can include housing associations and housing charities. As slightly different terminology is in use across the UK, we refer to social housing providers in this chapter as 'registered social landlords' or RSLs.
- 5.5** In CP18/12 we said that local authorities and RSLs could play an important role in helping tenants find essential household goods and less expensive forms of credit with which to buy goods.
- 5.6** There are many things a landlord can do to help. Depending on who the landlord is and the circumstances, some will not be credit broking and will not fall within the scope of financial regulation. An RSL referring tenants to credit providers, credit brokers and providers of goods on hire is, however, likely to be credit broking.
- 5.7** As a regulated activity, credit broking requires authorisation from us. This is also true for private landlords and all other persons wanting to carry out credit-related regulated activity.
- 5.8** However, you will not need authorisation if you are an exempt person, such as an appointed representative of an authorised person, or your activity is covered by a relevant exclusion, for example the exclusion for local authorities. There are also some types of credit which are not caught by credit broking, in particular some types of shorter term interest-free credit.
- 5.9** To support and encourage RSLs to help tenants by referring them to lower cost credit providers like credit unions and community development finance institutions (CDFIs), and to providers of goods on hire, we consulted in CP18/12 on draft non-Handbook guidance. The guidance:
- helps to clarify the types of activities for which RSLs are likely to require authorisation from us
 - sets out the options of authorisation or acting as an appointed representative



- explains that we have set up a specialist team to help RSLs assess whether they require authorisation for their activities, or for those they may want to carry out, and provide a dedicated email address for their queries
- provides an overview of the authorisation process

5.10 We asked:

Q29: Do you have any comments on our draft guidance for registered social landlords?

Purpose of the proposed guidance

- 5.11** Eighteen stakeholders responded to this consultation question. Many of these were credit unions, CDFIs (and their representative bodies), consumer groups, and other organisations researching and seeking to inform debates around financial inclusion.
- 5.12** Respondents agreed that RSLs have an important role to play in helping tenants find alternatives to high-cost credit, and supported our efforts to encourage RSLs to make referrals to providers of alternatives. Some stakeholders emphasised that RSLs are keen to point tenants in the direction of useful services and that some have partnerships with credit unions. Several credit unions and CDFIs said that housing associations are among their top sources of customer referrals.
- 5.13** But only a minority of respondents welcomed the draft guidance and considered that it would encourage referrals to credit providers. Most expressed concern and said it was likely to discourage referrals because RSLs see the need to become authorised as a burden. Some noted that RSLs can already be reluctant to provide information about lenders to tenants, and the guidance could lead them to stop doing this altogether.
- 5.14** Similarly, some respondents were concerned that existing relationships and partnerships between lower cost credit providers and RSLs may be ended because of the requirement to get FCA authorisation. This could lead to fewer consumers receiving information about lower cost alternatives and so more consumers resorting to high-cost credit.

Our response

We are pleased most stakeholders agree that RSLs can play an important part in referring tenants to alternative sources of credit and household goods. We are also encouraged to hear from some providers of lower cost credit that they already cooperate with RSLs for the benefit of their tenants.

We note stakeholders' concerns about the potential negative impact of the guidance. However, we consider that these are based on misconceptions about the current regulatory regime, and the nature and effect of this non-Handbook guidance.

Credit broking is defined in the Regulated Activities Order 2001 (RAO), which is secondary legislation made by Parliament under the Financial Services and Markets Act 2000 (FSMA). It defines the types of financial activities for which FCA authorisation is required. We do not have the power to change this.

Our proposed guidance does not and cannot seek to change which activities require authorisation and which do not (the regulatory perimeter). It also does not impose new regulatory requirements on RSLs or any other persons. Instead, it points RSLs to the sorts of issues they should bear in mind when they want to help tenants find alternatives to high-cost credit.

The responses to the consultation and our other stakeholder engagement have shown a complex picture of RSLs' approach to and understanding of the regulatory perimeter. There appear to be 4 broad categories of RSLs, which are those who:

- do not know that their activities might fall within the perimeter of financial regulation
- have some awareness of regulated and unregulated activities and so restrict the help they give to tenants to that which they think does not require authorisation
- have a good level of awareness of the regulatory perimeter, may already be authorised for activities such as debt counselling and debt adjusting but avoid activities likely to be credit broking
- are already authorised for credit broking

We believe that finalising our guidance would benefit RSLs in all these categories. For RSLs in the first group, it is likely to increase their awareness of the regulatory perimeter for credit broking and help them understand the associated legal requirements. This also protects tenants, lenders and hirers who may enter into credit or hire agreements as a result of being referred by an RSL that is not authorised for credit broking.

RSLs in the second and third groups may also benefit from a better understanding of the types of activities which may be credit broking. This may give them the confidence to help tenants in ways they had not previously considered or were unsure about.

If our guidance improves RSLs' awareness of the likely need for authorisation for certain activities, it is possible that an RSL may decide not to apply for authorisation, preferring instead not to help tenants in ways that are likely to be credit broking. For this reason, we are keen that the guidance also breaks down any misconceptions about authorisation. We particularly want to reassure RSLs that becoming authorised as a credit broker is not necessarily a long, difficult or expensive process. This means that requiring authorisation need not be seen as a barrier to helping tenants find alternatives to high-cost credit.



RSLs which already have other FCA permissions should also know that applying for credit broking as an additional permission (an application for a 'variation of permissions') is often a straightforward process. It can be completed within a short timeframe. We have made an addition to the guidance to make this clearer, and provided a link to further information about applications for a variation of permissions.

For RSLs which are already authorised for and use their permission to act as credit brokers, we hope our guidance encourages them to share their experience with others. Many of them are good practice examples of how RSLs can work together with providers of alternatives to high-cost credit in a way which has a positive impact on their tenants' lives. We are keen to encourage them to share good practice and welcome suggestions on how we can help them do this.

We would like our guidance to encourage all RSLs to contact our specialist team for help and support. This includes for help to assess whether their activities are credit broking before submitting a potential application for authorisation. RSLs can contact us at RSL@fca.org.uk.

Our guidance is only helpful to RSLs which are aware of it. We are determined to ensure that our finalised guidance reaches as many RSLs as possible, so they can provide the help to their tenants that they want to. In turn, this will help consumers rely less on high-cost credit. We will work with RSLs and their representative bodies throughout the UK to raise awareness and understanding of the finalised guidance. In the meantime, we would welcome contact from trade bodies and individual RSLs who would like to understand the guidance more fully.

Authorisation as a credit broker

- 5.15** A number of stakeholders suggested that instead of finalising the guidance we should exempt RSLs from the requirement to be authorised for credit broking. Some argued on the basis that local authorities are already excluded from this requirement, including when they act as social landlords. Others reiterated that the objective of encouraging referrals cannot be met if authorisation is required.
- 5.16** Other respondents acknowledged, either explicitly or implicitly, that we cannot create an exemption for RSLs. They suggested other ways to make it easier for RSLs to get authorised for credit broking.
- 5.17** Some stakeholders said that the requirement to be authorised by the FCA is duplicative because all RSLs are already registered and regulated by the Regulator of Social Housing (in England) or by the equivalent in the devolved nations. They suggested that we should allow RSLs to passport into the FCA on the basis of their registration with the social housing regulators. These respondents said that to get authorisation it should be enough for RSLs to provide evidence of their registration together with confirmation that they receive no fees or commission for introducing tenants to credit unions and CDFIs.

- 5.18** Similarly, some stakeholders proposed that we operate an interim authorisation regime for RSLs which would apply until such time as an exemption is created by legislation. This would allow RSLs to get authorised for credit broking with a very simple application.
- 5.19** One respondent argued that the 2010 Financial Services Authority (FSA) Guidance Note on Financial Regulation for Housing Providers is clear that RSLs may refer tenants to specific credit unions and give advice on credit union loans without needing to be authorised. This stakeholder suggested that RSLs continue to rely on this because it is still available via the FCA website.

Our response

As we set out above, we do not have the power to change the definition of credit broking or the entities that require authorisation for regulated activities. This would require legislative change so is a matter for the Government.

We explained in CP18/12 that we believe there is a case for the Government to consider amending the regulatory boundary to remove the requirement for RSLs to be authorised for credit broking in some circumstances. We discussed with HM Treasury the options for changing the regulatory boundary for RSLs to encourage them to engage in fee-free credit broking, in particular by introducing tenants to credit unions and CDFIs, without requiring FCA authorisation.

As we set out in CP18/35, we very much welcome the announcement in the Budget in October 2018 that '[t]he government will simplify regulation to make it easier for RSLs to direct tenants to alternatives to high-cost credit'.⁴ We believe this would help RSLs to increase referrals and also encourage the growth of existing and new local partnerships between RSLs and providers of alternatives to high-cost credit. In turn, this would improve social housing tenants' access to alternatives, so reducing their reliance on high-cost credit.

It is important to underline that the Budget announcement has not changed the legal position. RSLs still require authorisation for regulated activities like credit broking. It is not yet known when the Government will bring forward the secondary legislation needed to amend the regulatory boundary or when the change would enter into force. The precise scope of the amendment is also unknown. It is possible that some types of credit broking by RSLs could remain within the regulatory perimeter, meaning that authorisation would still be required for such activities.

For these reasons, we believe it remains appropriate to finalise our guidance to RSLs; it still has an important role to play. We have set out in the preceding section the ways in which we think the guidance will help RSLs, and our commitment to supporting them through the authorisation process.

4 Budget 2018, paragraph 5.55.



We understand RSLs' concern that there may be some overlap in the documents that social housing regulators and the FCA request, such as business plans, but we are not able to introduce a 'lighter' or interim permissions regime, or one which allows for passporting. The registration with the relevant social housing regulator does not entitle an RSL to carry on credit-related regulated activities. The RAO requires that this permission is sought from the FCA, and applies to all entities even if they are also registered with or regulated by other organisations.

Our finalised guidance aims to highlight that authorisation for credit broking need not be a difficult process as we have a specialist team in place to guide RSLs through each step, including in advance of any application. With this in mind, we have made a small addition to make it clearer that we take a risk-based approach to authorisations. This means that the amount of information we require from applicants is proportionate to the level of risk to consumers from the activity in question. As we indicated in the draft guidance, credit broking is likely to be a relatively low risk activity where no fees are charged to the consumer and the provider pays no remuneration to the broker.

The purpose of the 2010 FSA Guidance Note was 'to help social housing providers understand what activities they may carry on without being subject to FSA regulation'.⁵ At that time, the Office of Fair Trading (OFT) was still responsible for licensing and regulating consumer credit firms. This function was transferred to the FCA in 2014. This means that the FSA Guidance Note does not take into account any authorisation that may be required for credit-related activities. This is implicit in paragraph 2.7 of the Guidance Note which states that the guide was produced 'to clarify the regulatory position on [...] contents insurance and banking facilities'.

We acknowledge that the Guidance Note also refers to providing advice 'about loans available at local credit unions or CDFIs'.⁶ However, advice is not necessarily the same as introducing a tenant to a credit provider. We do not agree with the respondent that the Guidance Note permits RSLs to refer tenants to specific credit unions and CDFIs.

Scope of guidance

5.20 Two respondents pointed out that, strictly speaking, the term 'Registered Social Landlord' exists only in Wales. The equivalent in England is a 'Registered Provider of Social Housing'. This could potentially cause misunderstandings about the social landlords to whom the guidance applies.

5.21 Accordingly, one of these respondents requested clarification as to whether we intend 'Registered Housing Associations' in Northern Ireland to be within the scope of the guidance.

5 Paragraph 2.1 of the Guidance Note.

6 Paragraph 3.10 of the Guidance Note.

Our response

We are aware that different terms are used in England, Scotland, Wales, and Northern Ireland. This is a result of the different housing regulators and regulatory regimes that apply.⁷ While we appreciate this nuance, we did not want to overcomplicate the guidance by using all the different terms.

Having considered respondents' feedback, we have decided that it is important to remove this ambiguity. We have made an addition to paragraph 1.4 of the guidance which:

- acknowledges that different terms are used in the UK
- clarifies that the guidance is intended to help social landlords registered in any of the four nations
- notes that for practical reasons, we use as shorthand 'Registered Social Landlords' or 'RSLs' in the guidance⁸

The scope of the guidance is unrelated to the requirement in the RAO (which applies throughout the UK) that persons must get FCA authorisation to carry out the regulated activity of credit broking. As explained above, our guidance cannot change which activities or types of organisations require authorisation and which do not.

Regulatory perimeter

5.22 Several respondents suggested that the guidance would be more helpful to RSLs if it included greater detail about where the boundary between regulated and unregulated activity lies. They argued that this would make the guidance clearer and give RSLs a better understanding of when they require authorisation.

Activities constituting credit broking

5.23 One stakeholder said that many RSLs will not be familiar with which types of activities come under the definition of credit broking, and suggested that we make these clearer.

5.24 Similarly, 2 respondents asked us to be clearer about the sorts of support that RSLs can give tenants which do not meet the definition of regulated credit broking, ie activities they can undertake without needing authorisation.

⁷ The Regulator of Social Housing regulates housing providers in England. Organisations with broadly comparable functions exist in the devolved nations: the Scottish Housing Regulator in Scotland; in Wales, registration and regulation is by the Welsh Ministers, a task which is carried out within the Housing Division of the Welsh Government; in Northern Ireland, it is a statutory regulatory function carried out by the Department for Communities.

⁸ The same also applies to this document, CP18/35 and CP18/12.



Our response

We understand why respondents would find it helpful to have a definitive list of activities and practices which meet the definition of regulated credit broking and a list of those that do not.

Unfortunately, it is not possible to create such lists. As we explained in the draft guidance, whether an activity constitutes credit broking depends on the individual facts and circumstances. It must be assessed on a case-by-case basis.

In the box between paragraphs 2.1 and 2.2 of the draft guidance, we gave 5 examples of ways in which an RSL might help a tenant that are likely to be credit broking. We also provided a link to the section of our Perimeter Guidance manual (PERG) which explains the 6 different types of activities that fall within the definition of credit broking.

Following respondents' feedback, we have considered what else we could include in the finalised guidance to help RSLs further. While we do not generally wish to duplicate material in the guidance that is available elsewhere, we think it is important that the guidance gives RSLs an understanding of the types of activities that may constitute credit broking. We list in paragraphs 2.3 and 2.4 of the finalised guidance the six types of activities defined as credit broking in Article 38A RAO. Because these are defined in an abstract way, we would suggest that RSLs read them together with the practical examples in the box.

In the box, we have also added 3 examples of activities which RSLs may want to carry out that are not likely to constitute credit broking. These are:

- providing general information on a website about the services available from credit providers such as credit unions or CDFIs but without identifying or recommending a specific provider or giving any contact details
- referring a tenant to a local charity or community organisation that gives household goods to people free of charge
- referring a tenant to a seller of goods, for example a second-hand furniture shop

The 'by way of business' test

5.25 In order to be a regulated activity, an activity must be carried out by way of business in the UK. The question whether a particular activity is being carried out by way of business is often referred to as the 'by way of business' test. Two respondents proposed that we add more detail to the guidance about this test. They suggested we make it clearer that this is a key part of the definition of regulated credit broking, and give some examples of situations in which the test is and isn't met.

5.26 One of the respondents said that we should give RSLs more clarity and reassurance that their activities are often not credit broking because they are not carried out 'by

way of business'. This stakeholder argued that an example of this is where an RSL introduces a tenant to a provider of credit or hire but does not charge a fee or earn any commission for doing so.

Our response

The 'by way of business' requirement is one element of assessing whether a particular activity is a credit-related regulated activity. Whether the test is satisfied greatly depends on the individual circumstances.

Our guidance aims to give RSLs a general overview of the authorisation requirements and process. We do not consider that providing detailed information about the 'by way of business' test is necessary to meet this objective. It may even be counterproductive to our aim of encouraging RSLs to engage with issues around credit broking if the guidance were to be longer and more complicated without any corresponding increase in certainty.

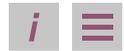
In the draft guidance, we explained the element of the 'by way of business' test that is likely to be most relevant to RSLs: not receiving a fee or earning commission for introducing a tenant to sources of credit or hire does not necessarily mean that an RSL is not acting 'by way of business'. We continue to believe that this is a sufficient level of detail in the context of this guidance.

But we have added:

- an explicit reference to the 'by way of business' test, so RSLs can better understand its relevance
- a link to PERG 2.3.3 which sets out the main factors that are relevant in assessing whether an activity is being carried out 'by way of business'

As we confirm in paragraphs 2.7 and 2.8 of the finalised guidance, we do not agree that the absence of a fee or commission is decisive of the 'by way of business' test. It would be misleading to suggest to RSLs that many of their activities capable of being credit broking do not require authorisation on this basis.

We explained in the draft guidance that we have set up a specialist team that can provide individual guidance to RSLs on whether they are engaging in activities which are credit broking. We have added to this in the finalised guidance with an explanation of what individual guidance is, how RSLs can request it, and where they can find out more. This may be with regard to the 'by way of business' test or another part of the definition of credit broking. The aim of this extra information is to clarify for RSLs how to go about seeking our help to assess whether they may need authorisation.



Appointed representatives

- 5.27** Several respondents commented on the parts of the draft guidance about appointed representatives.
- 5.28** Two suggested that it would be helpful to include more detailed information about our expectations of principals and their appointed representatives. This should focus on their respective obligations and responsibilities. For example, what standards an appointed representative needs to meet, what compliance checks a principal must carry out, and what we would expect the contract between a principal and an appointed representative to contain.
- 5.29** Three representatives of lower cost lenders pointed out that it is not often feasible for an RSL to be an appointed representative for a credit union or CDFI. This is because credit unions and CDFIs do not usually have the capacity to supervise the activities and conduct of the RSL. They noted that this kind of arrangement is often impractical because the credit union or CDFI is smaller than the RSL.
- 5.30** One respondent felt that we could improve the structure of the guidance by separating out the part on appointed representatives from the parts about authorisation. They argued that the present structure can be confusing because appointed representatives are covered in the middle of section 3 on the authorisation process.

Our response

Our guidance helps to clarify for RSLs the types of activities for which they are likely to require authorisation as credit brokers, and gives an outline of the authorisation process. While this is the main focus of our guidance, we also believe it is important to let RSLs know about the options open to them. These include becoming an appointed representative for a credit provider. We know that many providers of lower cost credit do not have the resources to fulfil the responsibilities of being a principal but believe that RSLs should be aware of the possibility, to help them make an informed choice.

We do not aim to provide detailed information about the relationship between principals and appointed representatives in this guidance. This is because such information would duplicate existing material, for example the detailed information available on our website.

We have included in the finalised guidance a link to our [webpage on appointed representatives](#) to allow anyone who would find this helpful to access the relevant information.

We agree that the structure of the draft guidance could better reflect that authorisation as a credit broker and becoming an appointed representative for a credit provider are 2 different options. We have improved this by creating a separate section about appointed representatives. This is section 4 of the finalised guidance.

Other changes to the guidance

5.31 Respondents proposed some minor amendments to the guidance to make it clearer and promote RSLs' understanding. We are grateful for these helpful suggestions, and have taken them into account when finalising the guidance.

5.32 We have also made some small additions not yet mentioned in this chapter. These all aim to provide RSLs with brief but important information about the authorisation process and what it means to be an authorised firm. They do not change the scope of the guidance but rather act as signposts to topics of potential interest, and usually include links to further information on our website.

5.33 We summarise the key additions in the table below.

Subject	Summary of addition	Paragraphs
Context	Clarification that RSLs may seek to help their tenants by referring them to non-credit alternatives to high-cost credit, such as furniture re-use schemes	1.1 and 1.3
Limited or full permission	Clarification of the types of situations in which limited or full permission are required	3.20 to 3.22
Approved persons	Reference to the new Senior Managers and Certification Regime (SM&CR) which will replace the approved persons regime	3.28
Supervision and enforcement	Signpost to further information about the supervisory and enforcement tools we can use when working with firms we regulate	3.30
Application fees	Additional information about what level of application fees RSLs can expect to pay	3.34 to 3.36

5.34 The finalised guidance can be found at: www.fca.org.uk/publication/finalised-guidance/fg18-06.pdf.



6 Alternatives to high-cost credit – update

6.1 In Chapter 6 of CP18/35 (November 2018) we updated on various aspects of our work to develop and promote access to alternatives to high-cost credit. In this chapter, we provide a further update.

Housing associations and providers of essential household goods

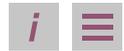
6.2 We held an event in November 2018 which brought together housing associations and various providers of household goods, to identify how they can work together to improve tenants' access to goods. The event's aim was to discuss examples of schemes that have worked well, particularly schemes in partnership with housing associations, to encourage discussion of how to replicate these successes more widely.

6.3 The discussion covered a range of issues, including:

- The importance of the housing sector giving social and financial inclusion issues high priority.
- The potential benefits of attracting investment from social innovators, which could enable greater investment in infrastructure and could scale up the support available.
- The challenge of ensuring that these messages are marketed in ways that get attention, for example, in the same way that food poverty issues have captured public attention in recent years. Participants also discussed the potential role that commercial retailers can play in this area, such as placing prominent messages in their stores that encourage the public to donate used furniture for charitable use.
- The crucial role of raising tenants' awareness of the various sources of support available to them, and how to encourage housing providers to do this. For example, one solution could be for housing providers to give their tenants a leaflet that signposts them to local sources of support.
- Which organisations would be best placed to coordinate action, with a potential role for national and local government, as well as representative bodies for housing providers.

6.4 As we have previously said, the FCA cannot address all the issues around barriers to availability and awareness of alternatives. They are not all within our remit. All relevant stakeholders will need to make consistent efforts over a long period. We are committed to playing our part in this.

- 6.5** We are reflecting on the issues discussed at the event and considering a number of follow-up actions, including:
- **Government liaison** – Exploring with the various government departments that have an interest in this area, what more can be done to raise awareness of issues such as furniture re-use, and of any potential funding options available for schemes.
 - **Signposting** – Discussing with stakeholders, such as housing representative bodies, how best to encourage housing providers to signpost their tenants to local providers of household goods.
 - **Consumer perspective** – We are keen to have a better understanding of what tenants want and need from their housing providers, particularly at the crucial point of need when tenants first agree a tenancy. We are considering how best to do this, and will discuss this further with stakeholders.
- 6.6** We will also continue to engage with other relevant stakeholders (including the Government, public agencies, the private sector and the not-for-profit sector) to support work to coordinate effective approaches to promoting alternatives to high-cost credit. We will continue to provide updates on all aspects of our work to promote alternatives to high-cost credit.



Annex 1

Questions in this paper

- Q1:** Do you have any comments on our description of the BNPL market?
- Q2:** Do you agree with our proposal to extend the rule on adequate explanations to all firms that offer BNPL deals?
- Q3:** Do you agree with our proposal to extend the rule on prompts to all firms that offer BNPL deals?
- Q4:** Do you agree with our proposal for new guidance on communications and financial promotions, applicable to all firms that offer BNPL deals?
- Q5:** 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?
- Q6:** Do you agree with our proposal that the rules will come into force three months after publication?
- Q7:** 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?
- Q8:** Do you agree with our cost benefit analysis?
- Q9:** Do you agree with our initial assessments of the impacts of our BNPL proposals on protected groups? Are there any others we should consider?

Annex 2

Cost benefit analysis

Introduction

1. FSMA, as amended by the Financial Services Act 2012, requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made'.
2. This analysis presents estimates of the significant impacts of our proposals. We provide monetary values for the impacts where we believe it is reasonably practicable to do so. For others, we provide estimates of outcomes in other dimensions. Our proposals are based on carefully weighing up these multiple dimensions and reaching a judgement about the appropriate level of consumer protection, taking into account all the other impacts we foresee.
3. This CBA analyses and estimates the effect of the additional proposals to apply requirements on BNPL offers and to make these offers more transparent that we set out in Chapter 4. The proposals on disclosure of pre-contractual information and prompts have separately been applied to catalogue credit and store card firms. The CBA of these proposals was set out in CP18/12.
4. This CBA has the following structure:
 - overview of BNPL
 - problem and rationale for our proposed interventions
 - our proposed interventions
 - the baseline for the CBA
 - summary of costs and benefits
 - the costs of our proposed intervention
 - the benefits of our proposed intervention

Overview of BNPL

5. There are 11 large providers of retail finance (composed of firms providing catalogue credit, store cards, and retail point of sale finance) that will be affected by the proposals on which we are consulting. Retailers that use these retail finance firms may also be affected by the changes we are proposing for promotions and communications with customers. We estimate there are around 230 of these retailers.



6. Using data from a survey we undertook of firms, we estimate⁹ 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.

Problem and rationale for our proposed interventions

7. The harm that we are seeking to prevent by the package of interventions arises from consumers obtaining unsuitable credit or paying too high a price for the credit they use.
8. Many consumers use BNPL to spread the cost of their purchases. However, a significant proportion of consumers are using BNPL credit in ways that means they pay more interest and fees than necessary. Consumers who do not repay in the offer period may pay considerably more than they expected when they made a purchase using BNPL credit.
9. BNPL credit is used alongside the purchase of a good from a retailer. Consumers will, in some instances, pay more for goods than they anticipated once the credit component is factored in. This means that when such purchases are made, the benefit the product provides to the consumer is less than the purchase price and the associated credit costs borne when the credit is not repaid within the offer period. In such instances, the consumer may be better off not having made the purchase.

Drivers of harm

10. In this section, we summarise the relevant market failures that the proposed remedies seek to address. There are two types of market failure relevant for our proposals: information asymmetry and consumer biases.

Information asymmetry

11. BNPL credit offers are relatively complex products and may be difficult for consumers to understand. Consumers may misunderstand when interest will be charged on the product. We may expect consumers to assume that there is no interest to pay during the offer period. Our qualitative research¹⁰ found that consumers do not understand the impact of not paying off the balance in full at the end of the interest free period.¹¹ Consumers typically face interest that is backdated to the original purchase date if the total balance is not repaid at the end of the offer period (even if part payments have been made). This will lead to many consumers significantly overpaying for credit. It will also leave them vulnerable to over-borrowing and falling into financial difficulties.
12. We have concerns that lenders do not have appropriate incentives to ensure consumers have all the information required to understand the terms of BNPL offers. Since consumers may not know or do not factor in the backdating of interest, consumers are likely to make mistakes with their usage of BNPL products, leading to higher interest revenues for firms. This is particularly true for consumers who repeatedly make minimum repayments.

9 Using data provided on 2016 BNPL purchases

10 FCA, Usage and experiences of High Cost Credit: Consumer research report, p50.
www.fca.org.uk/publication/research/usage-and-experiences-of-high-cost-credit-consumer-research-report.pdf

11 We also note that Citizens Advice have warned that consumers do not expect backdated interest charges (<https://www.citizensadvice.org.uk/about-us/how-citizens-advice-works/media/press-releases/catalogue-customers-hit-hard-for-missing-interest-free-deadlines/>)

Consumer biases

- 13.** Even if consumers have all relevant information, they may not make rational decisions because of the presence of deep rooted behavioural biases. In our Credit Card market study (CCMS), we undertook an academic literature review covering consumer behaviour and behavioural biases. Given the similarities with credit cards and catalogue and store card credit, we would expect the same behavioural problems to affect the way consumers obtain and use BNPL credit.
- 14.** The literature review identified the following behavioural biases that affect the credit card sector:
- Present bias – people may have excessive urges for immediate gratification. This means they will overvalue present consumption over future consumption. As the consumer can regret such choices later, their preferences are 'time inconsistent'. Present bias can lead to self-control problems such as excessive consumption. Hence, consumers may make purchases that are not in their best interests. Consumers may delay arranging repayments of BNPL deals and be caught by interest backdating when they intended to repay.
 - Overconfidence – consumers are often overconfident about the likelihood of good events occurring or the accuracy of their judgement in certain situations. For example, consumers often over estimate their ability to repay their debt, while under estimating their future spending. Or they may assume that they will be able to repay their debt within the offer period but not actually manage to repay it. Consequently, they incur interest they did not intend to.
 - Framing and anchoring effects – as people have limited attention, framing and salience can determine what information is processed and how it is processed. Even when the economic benefits of particular choices are identical in two situations, consumers may make different choices depending on how the decision problem is framed, ie what it draws attention to. In particular, when making repayments on their BNPL credit, consumers may make limited repayments during the offer period as consumers are not prompted to consider repayments.

Proposed interventions

- 15.** The proposed interventions on which we are consulting are set out in Chapter 4 of this paper. In summary, these are:
- A package of proposed disclosure remedies requiring all firms that offer BNPL deals:
 - to make clear the consequences of failing to repay within the BNPL promotional period
 - to prompt their customers that the BNPL offer is about to end
 - new guidance clarifying that BNPL offers must be presented in a clear and balanced way in promotions and communications with customers, without omitting or hiding material information about the application of backdated interest



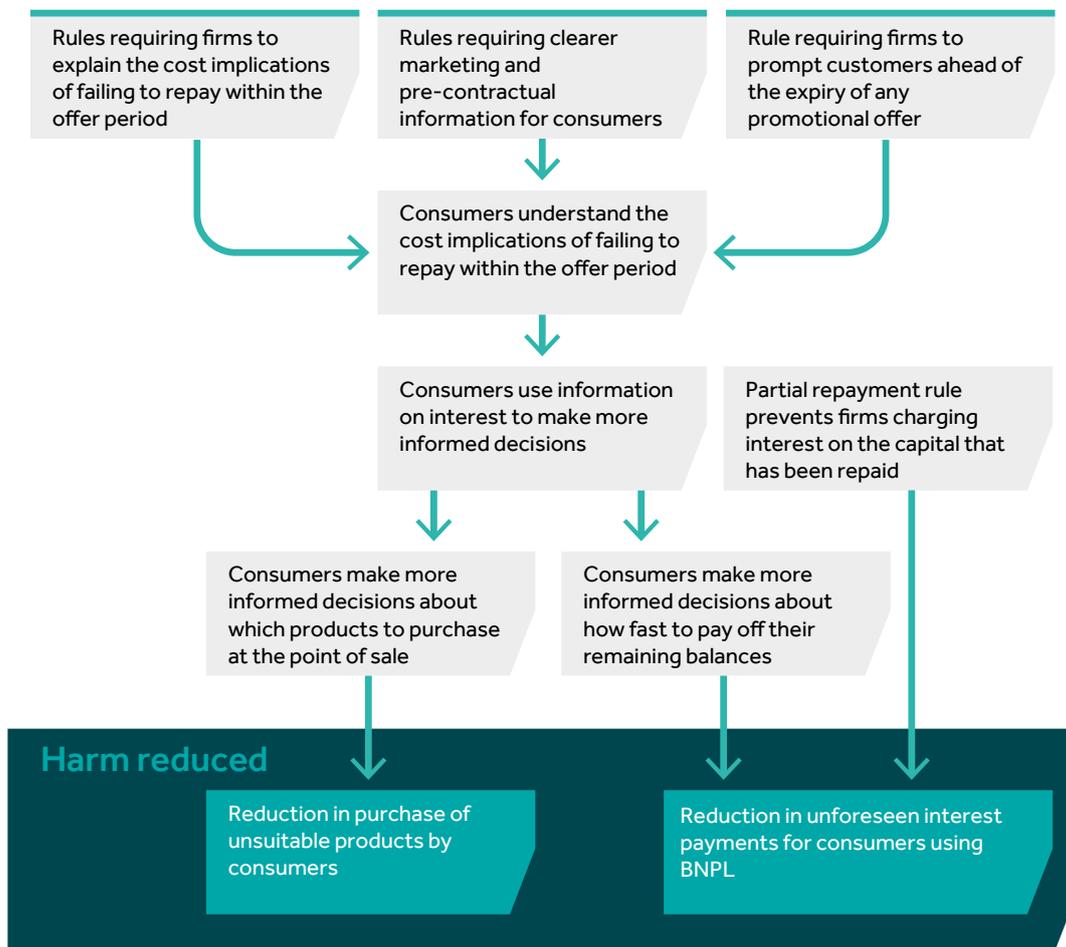
- A partial repayment remedy - a proposed new rule that firms must give full credit under the BNPL offer on the amount of the principal the customer repays within the offer period.

16. The first two disclosure remedies on pre-contractual information and prompts have already been applied to catalogue and store card firms through the proposals in CP18/12. The finalised rules are confirmed in this paper. As part of this Consultation Paper, we are proposing to extend these two disclosure remedies to other retail finance firms offering BNPL so the remedies will cover all firms that offer BNPL deals. The advertising and communications disclosure remedy and the partial repayment remedy will also apply to all retail finance firms offering BNPL, including catalogue credit and store card firms.

17. This package of remedies aims to address the harm associated with:

- Unsuitable purchases, motivated by customers' lack of understanding of backdated interest (applying interest on outstanding balances at the end of the interest free period, covering the period back to the original purchase date of the product) if they fail to pay within the repayment offer period.
- The cost to consumers of backdated interest charges.

Figure 1: Causal Chain



Source: FCA Analysis

Baseline

- 18.** We analyse the impacts of the policy against a baseline, or 'counterfactual' scenario, which describes what would happen in the absence of the proposed interventions. That is, we compare a 'future' under the policy, with an alternative 'future' without the policy.
- 19.** We expect that the current observed situation would continue in the future. As noted above the proposals on disclosure of pre-contractual information and prompts have separately been applied to catalogue credit and store card firms. The CBA of these proposals was set out in CP18/12. These changes form part of our baseline for analysis and the impact of further proposals we are consulting on here on BNPL. However, in our estimation of the costs and benefits from the changes on purchases and interest payments we have not taken into account the impact of these changes. Consequently, we will slightly overstate the revenue costs and the benefits to consumers for changes affecting catalogue credit and store card BNPL sales.
- 20.** Firms reported that they typically backdated interest on parts of the principal repaid within the interest free period, but this backdated interest is only calculated in respect of the period before any given payment was made (i.e. each payment is backdated from the point the payment was made from). We incorporate this understanding of backdating of interest into our formulation of the baseline of our remedies.

Key assumption

- 21.** A key assumption we use to estimate the impact of our proposals is the extent to which consumers respond to our proposed disclosures. We are unable to predict the impact of this disclosure without trialling it. We therefore use a wide range for our assumptions about the proportion of consumers that respond to the proposed disclosure.
- 22.** We have estimated the impact of firms' revenues and benefits to disclosure on the adjusted interest payments under our proposal to give consumers full credit, in terms of reduced or rebated interest¹², on the amount of the principal that is repaid within the offer period. However, when assessing the impact of the disclosure proposals we have not taken into account the impact of the other disclosures. Given that each type of disclosure is targeting the same harm, we would expect that the impact of each disclosure would be less in combination than if implemented on its own. We do not take this into account within our estimation. However, we might expect our overall estimates are reasonable despite this potential double-counting as we have used conservative assumptions that would lower the potential for any significant upward bias of our estimates.

Summary of costs and benefits

- 23.** The total costs and benefits of our proposed package of remedies are set out in the table below. The table contains the aggregated costs and benefits for the total package rather than the individual intervention components.

¹² Reduced interest refers to an interest-free or reduced interest offer period. Rebated interest refers to interest being rebated if paid off within the offer period. The effect on the consumer and the amount they owe is the same.



Figure 2: Summary of costs and benefits

	One-off/Ongoing	Costs	Benefits
Firms offering BNPL	One-off	Familiarisation and legal review costs - £22,000	
		IT changes - £1.09m	
		Training - £410,000	
		Communication costs - £850,000	
		Governance costs - £30,000	
		Other costs - £250,000	
	Ongoing	Revenue costs from lower interest payments - £40.9-74.3m	
		Lower revenue from decline in BNPL sales – not estimated	
		Training - £10,000	
		Communication costs - £60,000	
		Governance costs - £20,000	
Other costs - £30,000			
Consumers	Ongoing	Potential loss of access to BNPL deals – not estimated	Lower interest costs for consumers using BNPL - £40.9-74.3m
			Consumers avoid buying products they value below the total cost to them (i.e. price plus cost of credit) – not estimated
			Psychological benefits associated with a reduction in debt and high or unexpected interest payments – not estimated
Other retailers and consumer credit firms	Ongoing		Additional revenue from sales diverted from BNPL - not estimated

24. Overall, we consider our policy proposals relating to BNPL offers are net beneficial. Firms have reported minimal one-off and ongoing compliance costs in implementing the proposed remedies. The significant effects of the proposal that we estimated are the interest savings to consumers which have an equal and opposite cost. We would also expect that where a consumer no longer buys as a result of our proposals then the benefits to consumers would outweigh the costs to the firm offering the BNPL deal. Even on their own, we believe that these transfers deliver important consumer protection benefits which means that our proposals are proportionate.

25. However, there are other benefits that further demonstrate the proportionality of our proposals. We believe that there are significant additional benefits (which we are unable to estimate) to consumers resulting from the psychological benefits associated with a reduction in debt and high or unexpected interest payments. We note that it is not reasonably practicable to estimate these benefits as it is difficult to predict the consumer response to our proposals, especially the extent to which consumers no longer buy products.
26. We expect that these additional benefits would outweigh the compliance costs these proposals would impose. The estimated reduction in interest savings are a transfer from firms to consumers, and therefore net out when we are considering whether this policy will be net beneficial. We therefore expect these proposals will deliver net benefits overall.

Costs

27. In the following section, we provide an analysis and estimates of the costs associated with our proposals.
28. We first estimate the cross-cutting costs firms will incur in understanding the set of new rules we are proposing. We then assess the compliance costs of the 4 policy proposals individually. Finally, we consider the revenue costs to firms and indirect impacts of the proposals.

Familiarisation and legal costs

29. We expect firms affected by our intervention will read the proposals in this CP and will familiarise themselves with the detailed requirements of the new rules and guidance.
30. We have estimated the costs of this to firms using assumptions on the time taken to read the relevant sections on BNPL within this CP, which is around 10 pages. We assume that there are 300 words per page and reading speed is 100 words per minute.¹³ It is further assumed that 20 compliance staff at large firms, 5 compliance staff at medium firms, and 2 compliance staff at small firms read the document.¹⁴ Finally, the hourly compliance staff salary is assumed to be £56 at large firms, £60 at medium firms, and £43 at small firms.
31. Following familiarisation with the proposals, we expect firms to conduct a legal review of the proposals to check their current practices against expectations.
32. We have estimated this cost to firms of reading around 5 pages in the legal instrument. It is assumed that 4 legal staff at large firms, 2 legal staff at medium firms, and 1 member of legal staff at small firms will review the legal text. It is further assumed that it will take each legal staff member 28 hours at large firms, 21 hours at medium firms, and 7 hours at small firms to review 50 pages of legal text.¹⁵ Finally, the hourly legal staff salary is assumed to be £64 at large firms, £64 at medium firms, and £42 at small firms.¹⁶

13 The number of words per page and the reading speed are standard FCA assumptions.

14 The number of staff reading the documentation by firm size is a standard FCA assumption.

15 The number of legal staff reading the documentation by firm size is a standard FCA assumption. This is based on the amount of time firms have previously allocated to understanding our rules.

16 Standard FCA cost assumptions. In the case of hourly salary, inclusive of 30% overhead costs, they are based on Willis Towers Watson "2016 UK financial services report"



33. We assume that these costs apply to the 11 retail finance firms affected by our proposals. We also note that there are around 230 retail firms that may need to become familiar with the promotions and communications elements of our proposals. We assume that these firms also incur all the costs of a small firm in becoming familiar with our proposals.
34. Under these assumptions, the one-off industry costs of familiarisation and legal review costs is estimated to be £22,000.

Compliance costs

Providing additional information to customers on the cost implications of failing to repay within the offer period before an agreement is finalised

35. The proposal to provide additional information to customers on the cost implications of failing to repay within the offer period before an agreement is finalised does not affect catalogue credit and store card providers. This is because these rules are being applied to these firms via the proposals we consulted upon in CP18/12. Consequently, costs from this change will only affect other retail finance providers of BNPL.
36. To estimate the compliance costs of this proposal we surveyed and received responses from all the firms affected by this proposal. We asked firms to provide cost estimates broken down by the following categories: inbound customer engagement costs, customer transaction and sales costs, IT development costs, training costs, communication costs, governance costs and other costs.
37. We received cost information from all firms. We, therefore, did not need to scale responses to be representative of the total costs.
38. In our survey of firms, some retail finance firms reported that they already provided disclosures in line with our proposal. These firms will not therefore incur any costs as a result. One firm stated that while they would need to make changes, they would not incur any significant additional costs from doing so.
39. The remaining firms reported that they would incur one-off but no ongoing costs from these proposals. The majority of these costs (85%) were for IT development to update this additional information. The firms also reported that they would incur some training, communication and governance costs as well.
40. In total, we estimate the one-off industry cost of this intervention for retail finance firms would be approximately £45,000.

Providing a specific prompt to customers to remind them of the need to repay before the expiry of a deferred repayment offer

41. Again, the proposals to require firms to provide a specific prompt to customers to remind them of the need to repay before the expiry of a deferred repayment offer do not apply to catalogue credit and store card providers. This is because these rules are being applied to these firms via the proposals we consulted upon in CP18/12.
42. Some retail finance firms already provide prompts in line with our proposals. One firm said in response to our survey that while they do already provide a prompt, they may incur costs if our requirement were over and above their current approach. We, therefore, report these costs even though they may be an overestimate of the actual costs.

43. We again used the responses to our survey to estimate these costs. Most of the reported costs were one-off IT costs (over 70% of the costs reported). Firms reported no ongoing costs for this intervention.

44. In total, we estimate the one-off industry cost of this intervention for retail finance firms would be approximately £16,000.

Introduction of guidance that would make clear that firms should be fair and clear in their advertising to both new and existing customers

45. The proposal to introduce guidance that would make clear that firms should be fair and clear in their advertising to both new and existing customers applies to catalogue credit and store card firms, as well as other retail finance firms.

46. Most firms responded to our survey saying that their financial promotions and communications would already comply with our proposed rules. Consequently, for these firms, no costs will be incurred as a result of our proposal.

47. One firm that reported costs said that the one-off costs that would be incurred were a combination of IT costs, training costs and communication costs. Another firm provided an estimate of both one-off and ongoing costs but did not attribute them to any specific category.

48. We note that in certain cases, the firms in our sample will not directly advertise the BNPL products to consumers, and the costs of ensuring advertising and communications complies with our proposed rules will instead fall on the retailers using third party retail finance providers.

49. To allow us to calculate the compliance costs for retailers using third party retail finance providers, we asked firms to provide details on the number of retailers making use of the BNPL mechanism. We used market share data on outstanding balances to weight the costs per third party retail finance provider and to arrive at a total cost range.

50. We estimate the total one-off cost of the policy to be between £210,000 and £310,000, and total ongoing costs of between £130,000-£200,000 per year.

Introduction of a rule such that firms must give full credit in terms of reduced or rebated interest on so much of the principal as is repaid within the BNPL period

51. Our proposal to introduce a rule such that firms must give full credit in terms of reduced or rebated interest on so much of the principal as is repaid within the BNPL period applies to catalogue credit and store card firms, as well as other retail finance firms.

52. In response to our survey, most of the firms reported that they would incur one-off costs in complying with this rule. These would be a combination of IT development costs, training and communication costs. Some firms reported other one-off costs, including governance costs.

53. Fewer firms reported that ongoing costs would arise as a result of the proposed rule. The ongoing costs reported included training costs and governance costs.



54. We estimate the total one-off cost for our proposed backdated interest rule to be £2.48m. We also estimate ongoing costs from this proposal of around £60,000 per year.

Revenue impacts on firms offering BNPL

55. We note that for all our proposals, consumers will save interest payments. These are transfers from firms to consumers. In the section on benefits, we estimate the benefits to consumers.
56. Our changes will likely bring about two changes in consumer behaviour that reduce interest payments and firms' revenues. Our proposals on disclosure prior to instigating a contract may lead some consumers not to buy using BNPL, with firms foregoing revenue from these sales. All our proposals will reduce interest payments paid by consumers.
57. Consumers that better understand the terms of BNPL offers may decide that they will no longer buy products using a BNPL deal. We would expect that those consumers who no longer buy with BNPL would buy the product using an alternative source of finance. If so, the loss to firms is merely the loss of the backdated interest payments consumers did not expect to make as consumers would substitute to an alternative that is no less expensive than the price they thought they would pay without any backdated interest.
58. If consumers no longer purchase the good as a result of our proposals as they cannot find an alternative then we might expect that the losses to firms are greater. However, if consumers choose not to buy then the consumers will make savings that are greater than the losses firms face. This is because consumers do not value the product as much as it costs to supply it. Hence, welfare is increased by preventing the trade. We do not estimate these costs as it is not reasonably practicable to do so.
59. Secondly, consumers will pay less interest even when they do buy products using BNPL deals. Clearer information for consumers will lead some consumers to repay their BNPL agreements within the offer period and hence avoid interest. Further, the rule on giving full credit for repayments made during the offer period directly reduces interest payments for consumers who pay some but not all of the principal in the offer period.
60. In total, we expect revenue costs to firms of lost interest of £40.9-74.3m per year.
61. We expect that the majority of these costs will arise from our proposed rule on reducing or rebating interest. The cost to firms of this proposal is £39.5-60.5m per year.
62. The effect on firms' profits will be less than the revenue impact as firms will avoid the costs of goods sold, the costs of financing BNPL sales and the costs of managing BNPL contracts, where sales are no longer made. Given the uncertainty about the impact on firms' costs models, our cost estimates are likely to be an over-estimate of the costs.

Indirect costs of these changes

63. We would not expect any exit from the retail finance sector from these changes. This is because of the relative size of the loss in interest revenue and some sales are relatively small compared to the size of the firms that offer these agreements. We estimate that the costs to firms of these proposals is less than 3% of the value of goods sold using BNPL deals.

- 64.** Due to the revenue firms can earn from BNPL deals, we might expect firms to change the scope of their BNPL offers. For example, offering slightly shorter BNPL periods, narrowing the range of BNPL offers or reducing the availability of BNPL for some consumers. We do not think that it is reasonably practicable to estimate these effects given the number of firms, the products they offer and firms' scope to alter their business models. We do not expect large changes to the offering in the market but it is possible that some consumers may no longer have access to BNPL deals.
- 65.** Even if some offers are withdrawn or some consumers are no longer expected to be profitable enough under our proposals to be offered BNPL, we expect the loss of access to BNPL deals and the impact of this loss to be fairly small:
- Some consumers will be better off from not buying or buying products without credit.
 - Some consumers may buy using credit that is ultimately cheaper. For example, consumers of catalogue credit and store cards typically have access to a variety of credit products.¹⁷
 - Those consumers who currently repay in the offer period (and hence face no interest) may lose out unless they can find an alternative credit offer that has a similar no interest offer for a period (eg on some credit cards).

Benefits

- 66.** Consumers may often end up paying more for goods than they originally expected or intended on BNPL. Consumers will benefit from our interventions by a reduction in mistakes in their purchasing decisions and how they pay down the debt.
- 67.** There are 3 elements of benefits:
- Consumers will no longer buy BNPL products as they better understand the costs of doing so. As a consequence, some consumers will buy the product without the BNPL offer (potentially from the same retailer) but at a cheaper price. Other consumers will decide the price is too high relative to their willingness to pay and decide not to buy the product at all.
 - Consumers make the same purchases but the prompts at pre-purchase and before the end of the offer period mean consumers repay within the offer period and avoid interest payments that they did not expect or plan for.
 - Consumers make the same purchases but benefit from the removal of backdated interest on partial payments made within the offer period.
- 68.** Some of our proposals will lead to consumers choosing not to buy or alter the repayments they make on their BNPL agreement. Others will only impact on the amount of interest consumers pay and will not affect purchase decisions.

¹⁷ See our High-Cost Credit Review Technical Annex 1: Credit reference agency (CRA) data analysis of UK personal debt (www.fca.org.uk/publication/feedback/fs17-02-technical-annex.pdf) for the credit holdings of catalogue and store card consumers.



69. As part of the survey of firms, we asked firms to provide information on usage of BNPL. We used this information, combined with information we gathered from catalogue credit and store cards firms for CP18/12 and some additional assumptions, to estimate the benefits of our proposals as set out in this section.
70. In addition to the interest savings consumers will experience as a result of our intervention, we also believe there will be psychological benefits associated with a reduction in debt and high or unexpected interest payments.¹⁸ These benefits will accrue as a result of all of our proposals. Due to the complexities involved with putting a monetary value on the benefit of stress avoided from dealing with debt, we do not think it is reasonably practicable to estimate them.
71. We also expect other retailers and consumer credit firms will benefit from our proposals. We expect that some consumers who no longer purchase using BNPL will purchase from other retailers or use other types of consumer finance. Consumers will benefit from these cheaper deals but retailers will also earn revenue that was previously directed to BNPL firms.

Providing additional information to customers on the cost implications of failing to repay within the offer period before an agreement is finalised

72. This is an extension of the proposed remedy in CP18/12, to apply to retail finance firms.
73. Consumers will benefit from this proposal in 2 ways:
- Some will avoid purchases where they realise the cost they will actually pay is higher than their valuation of the product.
 - Some will alter their repayment approach so that they pay a lower amount of interest.
74. We estimate the interest savings for the consumers who avoid making purchases because of the pre-contract disclosure. This approach is consistent with our methodology in CP18/12, but applied to retail finance firms. When the consumer no longer buys the product, they save the price they would have paid but no longer have the product. For consumers to stop buying the product, consumers must be unwilling to buy at the true cost of BNPL. This will be because they must either value the product less than the true cost of using BNPL or an alternative product exists with a price lower than the true cost of purchasing using BNPL. Consequently, the unexpected interest payments avoided are a measure of the benefits to consumers.
75. We have estimated the proportion of consumers that respond to this proposal. Our experience of disclosure remedies suggests we would expect relatively low response rates.¹⁹ For simplicity, and given the uncertainty, we assume a fixed proportion of consumers respond to each remedy, taking a lower and upperbound of 1% and 10%. We would expect this proposal to most help consumers who forget to repay their credit within the offer period. We think that range of consumer response is a reasonable estimate of the proportion of consumers who forget and who act as a result of the prompt.

18 Previous research has shown linkages between financial distress and self-reported measures of wellbeing. See Occasional Paper 20 "Can we predict which consumer credit users will suffer financial distress?" www.fca.org.uk/publication/occasional-papers/occasional-paper-20.pdf

19 For example, in Occasional Paper 12, a disclosure remedy making consumers aware of potential savings elicited a 3.2 percentage point increase in consumer shopping around and negotiating. See FCA Occasional Paper 12, 'Encouraging consumers to act at renewal', see www.fca.org.uk/publication/occasional-papers/occasional-paper-12.pdf

76. The benefit estimated is an underestimate, as we have focussed on the impact associated with avoidance of purchases rather than the benefit of alterations to the repayment approach.
77. As in CP18/12, we also assume that the typical interest free period is 6 months in length for catalogue and store card firms. For retail firms, our survey provides precise details of the average length of the interest free period for each firm.
78. We assume that customers currently make a one-off partial payment at some point during the interest free period to estimate the benefits. This one-off payment is the difference between the average starting balance and the average balance for those who have not repaid by the end of the interest free period. We asked firms for data on when balances are not repaid over the interest free period. Using this information, we assume that partial payments are made halfway through the interest free period. The benefits for our proposals increase the later repayments are made as there is a longer period over which interest is currently backdated on any repayment. In practice, consumers pay later than halfway and therefore interest payments on part payments are higher, and so are the benefits of our proposal, but we take a conservative approach.
79. We assume that the unforeseen interest payments avoided is the benefit to consumers. The estimated benefits accrue to the consumers that respond to the disclosure, either 1% or 10% of consumers.

80. We estimate the benefit to be between £0.29-2.9m for the retail finance market.²⁰

Providing a specific prompt to customers to remind them of the need to repay before the expiry of an offer period

81. This is an extension of the rules for catalogue credit and store card firms, set out in Chapter 3, that are being applied to other retail finance firms.
82. We estimate the interest savings for those consumers that, as a result of the prompt prior to expiry, avoid unexpected interest payments due to repaying their debt in the offer period. We estimate the benefit as the difference between the original value of the product (paying the product off in full before the end of the promotional period) and the estimated total amount paid absent the intervention (including interest payments after the interest free period).
83. We assume that the prompt causes those who respond to pay off any remaining balance prior to the end of the interest free period. Again, our lowerbound estimate assumes 1% of consumers alter their behaviour because of this disclosure and our upperbound estimate assumes 10% of consumers change their repayments.
84. We take the difference between the balance remaining at the end of the interest free period and the implied total amount the consumer would pay absent the intervention. This difference provides the average benefit per consumer. We then scale by the number of consumers per firm, and use our 1% and 10% assumptions to generate lower and upperbound estimates of the benefit. For example, a consumer with an implied total payment of £600, with a remaining balance of £220 at the end of the interest free period would see a benefit of £380. We then scale this figure by the number of consumers and the proportion we expect to repay earlier because of the intervention.

20 Noting this proposal does not apply to catalogue credit and store card firms.



85. We estimate the total interest savings to be between £0.45-4.5million per year.

Introduction of guidance that would make clear that firms must present BNPL in a clear and balanced way in promotions and communications to both new and existing customers

86. This proposed remedy would apply across retail finance, catalogue and store card firms. We expect the benefits of this disclosure remedy to be a combination of savings made by consumers who avoid making purchases and savings made by consumers who alter their repayment behaviour.

87. We estimate these benefits using the same methodology as for the proposal on providing additional information to customers on the cost implications of failing to repay within the offer period before an agreement is finalised.

88. We estimate the total interest savings to be between £0.64-6.4million per year.

Introduction of a rule such that firms must not apply backdated interest at all on so much of the principal as is repaid within the BNPL period

89. As indicated in our discussion of baseline, firms reported that they typically backdated interest on parts of the principal repaid within the interest free period, but this backdated interest is only generally calculated in respect of the period before any given payment was made (i.e. each payment is backdated from the point the payment was made from).

90. This proposed remedy would apply a new rule across retail finance, catalogue and store card firms. It would only allow backdating of interest on any remaining principal at the end of the interest free period.

91. We estimate the savings to the consumer as the difference in costs between paying for backdated interest on partial payments versus only paying for backdated interest on the remaining principal. There are two elements to the savings for consumers: (i) the interest saving on the backdated interest and (ii) the additional repayments consumers currently make on the additional interest charged on the backdated interest following the offer period.

92. We estimate the total interest savings to be between £39.5-60.5million per year.²¹

Benefits to other retailers and consumer credit firms

93. We would expect consumers that no longer buy using BNPL will in many cases still buy the product. They may even buy from the same retailer but use a different form of credit. Where consumers buy from another retailer, these retailers will gain revenue at the expense of the original BNPL retailer. We do not consider it is reasonably practicable to estimate these benefits for these other firms as we cannot predict the extent to which consumers will switch to other retailers or other forms of credit.

Q8: Do you agree with our cost benefit analysis?

21 The variability in our estimate arises from the point in time we assume the partial payment to be made. As discussed above, we find the assumption of a one-off payment to be consistent with repayment behaviour between the ½ and ¾ mark of the interest free period. For the purposes of this intervention, since all consumers will be affected by the remedy, our primary source of variability comes from the timing of repayment rather than the proportion of consumers affected. Payments made at the halfway mark provide our lower-bound estimate, as they correspond to lower additional interest payment, while payment at the ¾ mark provides our upper-bound.

Annex 3

Compatibility statement

Compliance with legal requirements

1. This Annex records the FCA's compliance with a number of legal requirements applicable to the proposals in this consultation, including an explanation of the FCA's reasons for concluding that our proposals in this consultation are compatible with certain requirements under the Financial Services and Markets Act 2000 (FSMA).
2. When consulting on new rules, the FCA is required by section 138I(2)(d) FSMA to include an explanation of why it believes making the proposed rules is (a) compatible with its general duty, under s. 1B(1) FSMA, so far as reasonably possible, to act in a way which is compatible with its strategic objective and advances one or more of its operational objectives, and (b) its general duty under s. 1B(5)(a) FSMA to have regard to the regulatory principles in s. 3B FSMA. The FCA is also required by s. 138K(2) FSMA to state its opinion on whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.
3. This Annex also sets out the FCA's view of how the proposed rules are compatible with the duty on the FCA to discharge its general functions (which include rule-making) in a way which promotes effective competition in the interests of consumers (s. 1B(4)). This duty applies in so far as promoting competition is compatible with advancing the FCA's consumer protection and/or integrity objectives.
4. In addition, this Annex explains how we have considered the recommendations made by the Treasury under s. 1JA FSMA about aspects of the economic policy of Her Majesty's Government to which we should have regard in connection with our general duties.
5. This Annex includes our assessment of the equality and diversity implications of these proposals.
6. Under the Legislative and Regulatory Reform Act 2006 (LRRRA) the FCA is subject to requirements to have regard to a number of high-level 'Principles' in the exercise of some of our regulatory functions and to have regard to a 'Regulators' Code' when determining general policies and principles and giving general guidance (but not when exercising other legislative functions like making rules). This Annex sets out how we have complied with requirements under the LRRRA.

The FCA's objectives and regulatory principles: Compatibility statement

7. The proposals set out in this consultation are primarily intended to advance the FCA's operational objective of achieving an appropriate degree of protection for consumers. They are designed to protect consumers from harm from using high-cost credit products we have identified during the high-cost credit review.



- 8.** The intention of our disclosure-related proposals (described in paragraphs 4.18 – 4.29 of this paper) in relation to BNPL offers, are to require firms to be clearer about the consequences of not repaying within the offer period, particularly that a lump sum of interest will be added to their account, so that customers are provided with the clarity to enable them to make informed purchase decisions, as well as informed decisions on repayment within the promotional period. Our proposal that firms must not backdate interest on the amount of the principal that is repaid within the offer period (described in paragraphs 4.30 – 4.33 of this paper) is intended to ensure that consumers are incentivised to repay credit when they are able to and do not pay backdated interest on sums they have repaid within the BNPL period.
- 9.** In considering this proposal we have had regard to the matters set out in s.1C(2)(a)(h) FSMA:
- s.1C(2)(a) differing degrees of legal risk involved in different kinds of investment: we do not consider that this is relevant to these proposals.
 - s.1C(2)(b) differing degrees of experience and expertise of consumers: we believe these proposals help consumers to be better informed to make purchase and repayment decisions in relation to BNPL offers, by providing clearer information.
 - s.1C(2)(c) timely provision of advice and information which is accurate and fit for purpose: we consider that these measures will improve the information given to consumers, both at point of sale and throughout the term of the product.
 - s.1C(2)(d) general principle that consumers take responsibility for their decision: these proposals are intended to help consumers take better decisions regarding their use of BNPL offers.
 - s.1C(2)(e) general principle that providers provide appropriate level of care: we believe that this measure will allow for consumers to be treated with the appropriate level of care by helping consumers to take better informed decisions on their use of BNPL offers.
 - s.1C(2)(f) differing expectations of consumers: we do not consider that this is a relevant consideration.
 - s.1C(2)(g) any MAS information provided to the FCA: we have had regard to information provided to us by MAS throughout the course of the Review.
 - s.1C(2)(h) any FOS information provided to the FCA: we have not received any information from FOS on the issues at hand which would have impacted our proposals.
- 10.** We consider these proposals are compatible with the FCA's strategic objective of ensuring that the relevant markets function well because they ensure a fair balance of information between firms and consumers. They advance the FCA's operational objective of achieving an appropriate degree of protection for consumers, by addressing the harms we have identified as being experienced in the BNPL market. For the purposes of the FCA's strategic objective, "relevant markets" are defined by s.1F FSMA.

11. In preparing the proposals set out in this consultation, the FCA has had regard to the regulatory principles set out in s.3B FSMA.

The need to use our resources in the most efficient and economic way

12. We consider that the proposals are compatible with this principle, on the basis that we have identified specific harms to consumers from using high-cost credit products with BNPL features; so we consider that using FCA resources to design and consult on remedies which address these harms is proportionate.

The principle that a burden or restriction should be proportionate to the benefits

13. We have carefully considered the proportionality of our proposed interventions. Where there are additional burdens on firms we have assessed that these are outweighed by benefits for consumers, as set out in the CBA (see Annex 2); ie the potential financial benefit to consumers of being able to make better informed decisions about whether to make a purchase using a BNPL offer. We have collected data from firms on the costs of these additional restrictions to inform this assessment, and consider our proposed intervention to be proportionate. We have drafted our proposed rules in a manner which provides firms with some flexibility where appropriate (eg on the exact form of disclosure to be given on a BNPL offer) and reflects the diversity of firm's business models.

The desirability of sustainable growth in the economy of the United Kingdom in the medium or long term

14. We have had regard to this principle in developing our proposals. Given the size of the markets in question we do not think that our proposals will have a negative impact on sustainable growth in the UK economy in the medium or long term.

The general principle that consumers should take responsibility for their decisions

15. Our proposals for BNPL are intended to ensure consumers are able to make better informed decisions and ultimately take responsibility for their decisions. We see significant information asymmetries between consumers and firms which act against the interests of consumers being able to take measured decisions at present, and our proposals seek to address these.

The responsibilities of senior management

16. We do not consider that this principle is relevant to our proposals as we do not create or affect any responsibilities directly placed on senior management.

The desirability of recognising differences in the nature of, and objectives of, businesses carried on by different persons including mutual societies and other kinds of business organisation

17. We have had regard to this principle and do not believe that our proposals undermine it. We consider that our proposals recognise and reflect the diversity of firm's business models. We are not aware of any mutual societies providing the type of credit which our proposed measures concern.

The desirability of publishing information relating to persons subject to requirements imposed under FSMA, or requiring them to publish information

18. This principle is not relevant to our proposals.

The principle that we should exercise our functions as transparently as possible

19. In the development of our proposals we have had regard to the importance of acting as transparently as possible. We have gathered evidence on the markets we are examining under the high-cost credit review since November 2016 when we published



our Call for Input. We have since published a Feedback Statement and update document setting out our provisional analysis of harm, and have gathered evidence from firms on the costs of our proposed BNPL remedies prior to publication.

20. In formulating these proposals, the FCA has had regard to the importance of taking action intended to minimise the extent to which it is possible for a business carried on (i) by an authorised person or a recognised investment exchange; or (ii) in contravention of the general prohibition, to be used for a purpose connected with financial crime (as required by s. 1B(5)(b) FSMA).

Expected effect on mutual societies

21. The FCA does not expect the proposals in this paper to have a significantly different impact on mutual societies. We are not aware of any mutual societies providing the type of credit which our proposed measures concern.

Compatibility with the duty to promote effective competition in the interests of consumers

22. In preparing the proposals as set out in this consultation, we have had regard to the FCA's duty to promote effective competition in the interests of consumers. Our proposals are primarily intended to fulfil our consumer protection objective. However there may be some positive impacts on competition resulting from our proposals which work in the interests of consumers, in line with s1B(4) FSMA. Taking account of the factors in s1E(2) FSMA we have had regard to:
- *The needs of different consumers who use or may use those services, including their need for information that enables them to make informed choices:* our proposals are intended to provide clearer information to consumers to help them make informed choices regarding whether to take out a BNPL offer.
 - *The ease with which consumers who may wish to use those services, including consumers in areas affected by social or economic deprivation, can access them:* many of the consumers in question are in areas affected by social or economic deprivation, and our proposals are not intended to restrict access to services but to help consumers make informed decisions on whether they wish to use them or not, and how they use them.
 - *The ease with which consumers who obtain those services can change the person from whom they obtain them:* we do not consider our proposals will restrict the ability of consumers to change providers.
 - *The ease with which new entrants can enter the market:* we do not consider that any of our proposals will prevent any new entrants from entering the market.
 - *How far competition is encouraging innovation:* we do not consider that any of our proposals will either encourage or suppress innovation.

Equality and diversity

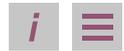
- 23.** We are required under the Equality Act 2010 in exercising our functions to 'have due regard' to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, and to foster good relations between people who share a protected characteristic and those who do not.
- 24.** As part of this, we ensure the equality and diversity implications of any new policy proposals are considered. The outcome of our consideration in relation to these matters in this case is stated in our Equality Impact Assessment (EIA) in Annex 4.

Recommendations made by the Treasury under s. 1JA FSMA about aspects of the economic policy of Her Majesty's Government to which we should have regard in connection with our general duties.

- 25.** We have had regard to the recommendations made by the Treasury under s.1JA FSMA about aspects of the economic policy of Her Majesty's Government to which we should have regard in connection with our general duties.
- 26.** We consider that our proposals are consistent with the government's policy to achieve strong, sustainable and balanced growth. We have had regard to competition, growth, competitiveness, innovation, trade and better outcomes for consumers in designing these proposals.
- 27.** In addition, the Chancellor noted in his letter dated 8 March 2017 his support for the FCA's commitment to "look in more detail at high cost credit, including overdrafts, from a consumer protection as well as a competition perspective, using its full range of powers".

Legislative and Regulatory Reform Act 2006 (LRRRA)

- 28.** We have had regard in this consultation to the principles in the LRRRA and the Regulators' Code for the parts of our proposals that consist of general policies, principles or guidance. We consider that they are proportionate and result in an appropriate level of consumer protection, without creating undue burdens on firms or an adverse impact on consumers.



Annex 4

Equality Impact Assessment (EIA)

1. We are required under the Equality Act 2010 in exercising our functions to 'have due regard' to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, and foster good relations between people who share a protected characteristic and those who do not. Protected characteristics include age, gender, disability, race or ethnicity, pregnancy and maternity, religion, sexual orientation and gender reassignment.
2. As part of this, we ensure the equality and diversity implications of any new policy proposals are considered. This annex sets out the results of our initial assessment, explaining the potential impact of our proposals on protected groups where we have identified them and where relevant the steps we have taken or will take to minimise them.

Summary

3. Annex 4 in CP18/12 contained an EIA relating to our proposals in that paper. This explained the outcome of our initial assessment that our proposals did not result in direct discrimination, and sought views and additional information.
4. Most respondents did not comment on our EIA. Those that did either agreed or raised the following points:
 - The FSCP felt we should also assess how our proposals are likely to work for target groups.
 - One respondent felt unable to support our EIA as they did not fully agree with our proposals.
 - One respondent suggested our proposals could result in the creation of a financially excluded underclass because high cost credit would be regulated differently to other forms of credit. However, no further details were given.

Our response

In light of these responses, we do not consider there to be any evidence that would alter or contradict the view we reached in our initial assessment. As stated in Chapter 1, we will take account of any equality and diversity implications as part of monitoring the impact of the new rules and guidance.

Our EIA in Annex 4 of CP18/12 highlighted that any risks of negative impacts from our proposals would fall on those groups with protected

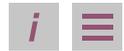
characteristics which more commonly use high-cost credit (gender, pregnancy, maternity and disability). However, our objective is not to remove access to credit and our CBA has confirmed a net benefit to consumers as a result of the measures we are introducing.

Additionally, an essential part of our overall package is the work we are doing to foster the growth of alternatives to high-cost credit including our guidance to give registered social landlords (RSLs) confidence over the steps they need to take in order to refer their tenants to alternatives such as credit unions.

These measures, in our view, should provide options for consumers who may no longer be able to access high-cost credit services.

BNPL offers

5. The following assessment builds on our EIA in CP18/12 and develops it in relation to the specific BNPL proposals in this paper.
6. In summary our initial assessment has found that our proposals do not result in direct discrimination for any groups with protected characteristics. We have identified that groups with protected characteristics (eg gender and disability) do use BNPL products – eg the Financial Lives survey included a sample of catalogue credit consumers and suggested that consumers in this market are predominantly female (79%) and 25% reported having a physical or mental condition expected to last more than 12 months. However we anticipate our proposals will have a net positive impact on consumers and those with the protected characteristics of gender and disability.
7. The EIA process is ongoing and will not be completed until we develop and publish our final policy. As a result we are seeking additional input from all stakeholders to help us further investigate and establish the extent of any potential impacts of the proposals in this paper. We would welcome any comments or information respondents may have on any equality and diversity issues they believe arise from these proposals.
8. We are consulting on a package of measures to address harms we have identified in relation to BNPL offers. These are:
 - A package of proposed disclosure remedies requiring firms:
 - to make clear in the pre-contractual information the consequences of failing to repay within the BNPL promotional period
 - to prompt their customers that the BNPL offer is about to end
 - new guidance clarifying that BNPL offers must be presented in a clear and balanced way, without omitting or hiding material information about the application of backdated interest
 - Partial repayment remedy - a proposed new rule that firms must not backdate interest on the amount of the principal that is repaid within the offer period.



Positive impacts

9. Our intelligence on the consumers that are using high-cost credit products, including BNPL offers, clearly demonstrates that groups with protected characteristics are using high-cost credit products. We consider that our proposals will have a positive impact on these consumers.
10. Our three disclosure remedies should benefit all consumers, including these groups. The remedies should enable these consumers to better understand how these complex products work, and what fees and charges might be incurred and when, and therefore they will be less likely to make unsuitable purchases. The greater clarity about how these products work should mean that these consumers are better able to take more informed decisions as to whether to use the product, and also how to use the product.
11. The partial repayments remedy will benefit all consumers, including these groups – ie consumers that partially repay the amount borrowed within the offer period - as it will mean that firms are not allowed to backdate interest on the amount of the principal that is repaid within the offer period.

Negative impacts

12. We do not think our proposals are likely to have a negative impact on protected groups. Any risks of negative impacts would fall on those groups with protected characteristics which more commonly use high-cost credit (gender, pregnancy, maternity, and disability).
13. We do not consider that there is a material risk of harm to consumers as a result of these proposals. Our objective is not to cut off the supply of credit but to help consumers to be in a better place to make decisions on borrowing. Overall, our CBA has confirmed a net benefit to consumers as a result of these measures.

Q9: Do you agree with our initial assessments of the impacts of our BNPL proposals on protected groups? Are there any others we should consider?

Annex 5

Non-confidential respondents to CP18/12

** Home-collected credit, catalogue credit and store cards and alternatives to high-cost credit*

Alan Campbell

Cambrian Credit Union

Capital Credit Union

Carnegie UK

Centre for Responsible Credit

Chartered Institute of Credit Management

Christians Against Poverty

Citizens Advice

Citizens Advice Scotland

Citizens Advice Swansea Neath Port Talbot

Debt Camel

Debt Solutions Consultancy

Desmond Chin

Experian

Fieldfisher LLP

Finance & Leasing Association

Financial Inclusion Centre

Financial Services Consumer Panel

Irish League of Credit Unions

Leeds City Council

Leeds City Credit Union

Money Advice Service



Money Advice Trust

Money and Mental Health Policy Institute

MoneySavingExpert.com

National Credit Union Forum

Naylor's Finance Ltd

Responsible Finance

Scotcash

Skyline Direct Ltd

Smarterbuys Store

StepChange

Tom Wainwright

Annex 6

Abbreviations used in this paper

BNPL	Buy Now Pay Later
CBA	Cost Benefit Analysis
CCA	Consumer Credit Act 1974
CCD	Consumer Credit Directive
CCMS	Credit Card Market Study
CDFI	Community development finance institution
CLI	Credit Limit Increase
CMC	Claims Management Company
CONC	Consumer Credit Sourcebook
CP	Consultation Paper
CRA	Credit Reference Agency
EIA	Equality Impact Assessment
FCA	Financial Conduct Authority
FSCP	Financial Services Consumer Panel
FSMA	Financial Services and Markets Authority
HCSTC	High-Cost Short-Term Credit
PS	Policy Statement
RAO	Regulated Activities Order 2001
RSL	Registered Social Landlord
RTO	Rent to Own
SECCI	Standard European Consumer Credit Information
UCLI	Unsolicited Credit Limit Increase



As set out in paragraphs 1.18 to 1.20, we have developed the policy in this Consultation Paper in the context of the existing UK and EU regulatory framework.

We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

All our publications are available to download from www.fca.org.uk. If you would like to receive this paper in an alternative format, please call 020 7066 7948 or email: publications_graphics@fca.org.uk or write to: Editorial and Digital team, Financial Conduct Authority, 12 Endeavour Square, London E20 1JN



Appendix 1

Draft Handbook text

BUY NOW PAY LATER INSTRUMENT 20[19]

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the “Act”):
- (1) section 137A (General rule-making power);
 - (2) section 137T (General supplementary powers); and
 - (3) section 139A (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on [*date*].

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Consumer Credit sourcebook (CONC) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Buy Now Pay Later Instrument 20[19].

By order of the Board
[*date*]

Annex A

Amendments to the Glossary of definitions

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

BNPL agreement a regulated credit agreement (whether an agreement for running-account credit or fixed-sum credit) which is a *borrower-lender-supplier agreement*:

(1) to finance the acquisition of *goods*, or *goods* and services, from:

(a) the *lender*; or

(b) a supplier that is in a limited network of suppliers under a direct commercial agreement with the *lender*,

and where the *credit* cannot be used for any other purpose, including an agreement for a store card but excluding an agreement for a credit card; and

(2) the terms of which have or may have the effect that some, or all, of the *credit* advanced under the agreement meets the definition of *BNPL credit*.

BNPL credit *credit* in relation to which provision is made that:

(1) (a) no, or reduced, interest or charges are payable by the *borrower* in respect of an initial period (“the promotional period”) if the *borrower* repays all or a specified part of the *credit* advanced on or before a certain date; and

(b) in the event that the *borrower* does not make payment in accordance with the provision in (a), interest or charges are payable, or are payable at a higher rate, in respect of all or part of the promotional period; or

(2) the *borrower* will be entitled to a refund in relation to all or part of the interest or charges payable by the *borrower* in respect of an initial period if the *borrower* repays all or a specified part of the *credit* advanced on or before a certain date.

BNPL payment condition a provision in a *BNPL agreement* that has the effect described in (1)(a) or (2) of the definition of *BNPL credit*.

Annex B

Amendments to the Consumer Credit sourcebook (CONC)

In this Annex, underlining indicates new text and striking through indicates deleted text.

3 Financial promotions and communications with customers

...

3.3 The clear fair and not misleading rule and general requirements

...

3.3.11 G ...

“Buy now pay later” or similar offers

3.3.12 G (1) Firms are reminded that the Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277), as well as Principle 7 and CONC 3.3.1R, apply to communications and financial promotions in relation to BNPL agreements, including communications with borrowers under existing agreements.

(2) A communication or financial promotion in relation to a BNPL agreement is likely to be misleading by omission if it:

(a) refers to a zero percentage or low interest, introductory or other promotional offer available under a BNPL agreement;

(b) does so in a way that is likely to influence a customer’s decision about whether to enter into a BNPL agreement or whether and how to make use of credit available under an existing BNPL agreement; and

(c) does not also include in a fair and prominent manner material information about relevant risks.

(3) A firm should also consider whether other communications or financial promotions in connection with BNPL agreements could be misleading by omission if those communications or financial promotions do not also include in a fair and prominent manner material information about relevant risks.

(4) Relevant risks relating to BNPL credit include the limitations that apply to any zero percentage or low interest, introductory or other promotional offer, including the circumstances in which interest or charges could become payable and how these would be calculated if those circumstances arose, including the date from which interest or charges would accrue, the rate of that interest or those charges and

the amount of principal on which the interest would be charged. The average consumer is likely to need information about these matters to make an informed decision about whether to enter into a BNPL agreement, or whether and how to make use of credit available under an existing BNPL agreement.

- (5) The information that a communication or financial promotion about a BNPL agreement is required to include to avoid a misleading effect, and how that information should be presented, will depend on the context of the communication or financial promotion, including its medium and any other information that the firm has provided to the recipient.

...

4 Pre-contractual requirements

...

4.2 Pre-contract disclosure and adequate explanations

...

Adequate explanations in relation to particular regulated credit agreements

- 4.2.15 R The following information must be provided by the *lender* or a *credit broker* as part of, and in addition to that provided under, the adequate explanation required by CONC 4.2.5R, where applicable, in the specified cases:

- (1) For *credit token agreements*:

...

- (e) except in relation to *retail revolving credit and BNPL agreements*, the limitations on any zero percentage or low interest or other introductory offer; and

...

...

- (8) for *retail revolving credit and BNPL agreements*, the limitations that apply to any zero percentage or low interest, introductory or other promotional offer, including the circumstances in which interest or charges could become payable and how these would be calculated if those circumstances arose, including the date from which interest or charges would accrue, the rate of that interest or those charges and the amount of principal on which the interest would be charged. If, for example, failing to meet the conditions for the application of the offer would result in interest being charged at a higher rate, or from the date of the purchase of the *goods* or services or on the total purchase price of the *goods* or services without account being taken

of *repayments* made during the offer period, this must be included in the adequate explanation.

...

...

6 Post contractual requirements

...

6.7 Post contract: business practices

...

6.7.16 R ...

“Buy now pay later” or similar offers

6.7.16A R (1) This rule applies only to *retail revolving credit and BNPL agreements* ~~agreements~~ to which Part 6 of the *Payment Services Regulations* does not apply.

...

6.7.16B R (1) This rule applies to a sum of BNPL credit advanced under a BNPL agreement.

(2) Where a customer:

(a) makes a repayment of part of the BNPL credit advanced under a BNPL agreement;

(b) on or before the date provided for in the BNPL payment condition that applies to that BNPL credit; and

(c) this repayment is not sufficient to meet the BNPL payment condition that applies to that BNPL credit,

a firm must, in respect of so much of the BNPL credit as has been repaid, charge the customer no more than the customer would have been charged if the BNPL payment condition had been met.

...

TP 8 Other transitional provisions

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which		Transitional provision	Transitional provision:	Handbook provision coming

	the transition al provision applies			dates in force	into force
...					
<u>2</u>	<u>CONC 6.7.16B</u>	<u>R</u>	<u>A firm need not comply with CONC 6.7.16BR in respect of credit advanced on or before [date rules made].</u>	<u>From [three months after rules made]</u>	<u>[three months after rules made]</u>



Appendix 2

Made rules (legal instrument)

CONSUMER CREDIT (HIGH-COST CREDIT) INSTRUMENT 2018

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers); and
 - (3) section 139A (Power of the FCA to give guidance).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 19 March 2019, except for:
- (1) Annex A, which comes into force on 19 December 2018; and
 - (2) Parts 1, 3, 5 and 7 of Annex B, which come into force on 19 December 2018.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Consumer Credit sourcebook (CONC) is amended in accordance with Annex B to this instrument.

Citation

- E. This instrument may be cited as the Consumer Credit (High-Cost Credit) Instrument 2018.

By order of the Board
13 December 2018

Annex A**Amendments to the Glossary of definitions**

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

retail revolving credit a *regulated credit agreement* which is a *borrower-lender-supplier agreement* for *running-account credit* to finance the acquisition of *goods or goods* and services from:

- (1) the *lender*; or
- (2) a supplier that is in a limited network of suppliers under a direct commercial agreement with the *lender*,

and where the *credit* cannot be used for any other purpose, including an agreement for a store card but excluding an agreement for a credit card.

Annex B

Amendments to the Consumer Credit sourcebook (CONC)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Part 1: Comes into force on 19 December 2018

3 Financial promotions and communications with customers

...

3.10 Financial promotions not in writing

...

3.10.3 G Firms ~~are reminded~~ should note that:

...

- (3) The FCA takes the view that sections 48 and 49 of the CCA mean that any discussions about new borrowing or refinancing with a customer that take place in the customer's home must be initiated by the customer, either in the form of a specific written request or, only where the individual is in the customer's home other than for the purpose of engaging in such discussion, in the form of an oral invitation.
- (4) The FCA has considered the potential for the use of "umbrella requests to visit". "Umbrella requests" or "permissions to call" tend to be signed by a borrower when entering into a borrower-lender agreement (or shortly after) and purport to allow the lender to visit the borrower's home to discuss other borrowing at any time, over the duration of the agreement or beyond. The FCA takes the view that such "umbrella requests" do not meet the requirements of the CCA. "Umbrella requests" create open-ended opportunities for firms to raise the prospect of additional borrowing, without the borrower having specifically requested or even considered it.
- (5) A valid request is one made on the instigation of the borrower when the borrower wants to discuss a borrower-lender agreement. The FCA would expect to see the following for a firm to comply with sections 48 and 49 of the CCA:
 - (a) the request should be a positive act by the borrower taken specifically for the purpose of discussing other borrowing;
 - (b) the visit should be made in response to that request. Where a request is reasonably specific on timing, the visit should be within that timing. Where the request is not reasonably specific on timing, any visit should take place within a

reasonable proximity to that request for it to be clear that the visit is being made in response to that request; and

(c) there should be a separate request made for each agreement or contractual variation.

(6) In the FCA's view this would not stop an agent or representative of a firm who has called on a borrower with the sole purpose of collecting on an existing loan from discussing new or additional borrowing if the borrower asks them to do so during the collection visit. However, if the agent or representative raised the topic of new or additional finance, we consider it would be very difficult for them to establish that they had not visited with that purpose.

(7) We expect that firms should be able to rely on their existing procedures for receiving written requests from new customers in relation to existing borrowers.

Failure to comply

3.10.4 G Failure to comply with section 49 of the CCA is a criminal offence. Only a court can determine the meaning of sections 48 and 49 of the CCA.

...

Part 2: Comes into force on 19 March 2019

4 Pre-contractual requirements

...

4.2 Pre-contract disclosure and adequate explanations

...

4.2.5 R ...

(3) The adequate explanation and advice in (1) may be given orally or in writing except where (4) or (4A) applies.

[Note: section 55A(3) of CCA]

...

(4A) The explanation of the matters in CONC 4.2.15R(3A) must be given to the customer both orally and in a durable medium.

- (5) Paragraphs (1) to (4A) do not apply to a *lender* if a *credit broker* has complied with those sub-paragraphs in respect of the agreement.

[Note: section 55A(5) of CCA]

...

...

- 4.2.11 R Before a *lender* concludes that CONC 4.2.5R (1) to CONC 4.2.5R (4A) do not apply to it in relation to a *regulated credit agreement* by virtue of CONC 4.2.5R (5), the *lender* must take reasonable steps to satisfy itself that an explanation of that agreement complying with CONC 4.2.5R has been provided to the *customer* by the *credit broker*.

...

...

Adequate explanations in relation to particular regulated credit agreements

- 4.2.15 R The following information must be provided by the *lender* or a *credit broker* as part of, and in addition to that provided under, the adequate explanation required by CONC 4.2.5R, where applicable, in the specified cases:

- (1) for *credit token agreements*:

...

- (e) except in relation to *retail revolving credit*, the limitations on any zero percentage or low interest or other introductory offer; and

...

...

- (3A) for a *home credit loan agreement* that would refinance an existing *home credit loan agreement* and also involve an increase in the amount of principal outstanding, and where an alternative option could be entering into a separate *home credit loan agreement* with the *lender* for the amount of the additional principal, the information must include an explanation of the difference, if any, between the weekly amount payable and the *total amount payable* for a refinanced loan as compared to the situation where the *borrower* enters into a separate, concurrent loan. If the regular period after which the next payment is due is not weekly but a different period, then the *lender* must refer to that other period.

...

- (7) for a *credit agreement* which includes a condition requiring a guarantor, the requirement for the *customer* to provide *security* in the form of a guarantee;
- (8) for *retail revolving credit*, the limitations that apply to any zero percentage or low interest, introductory or other promotional offer, including the circumstances in which interest or charges could become payable and how these would be calculated if those circumstances arose, including the date from which interest or charges would accrue, the rate of that interest or those charges and the amount of principal on which the interest would be charged. If, for example, failing to meet the conditions for the application of the offer would result in interest being charged at a higher rate, or from the date of the purchase of the *goods* or services or on the total purchase price of the *goods* or services without account being taken of *repayments* made during the offer period, this must be included in the adequate explanation.

[Note: paragraph 4.26c of *CBG*]

[Note: paragraph 3.13 of *ILG*]

- 4.2.16 G (1) Where a *customer* does not have a good understanding of the English language, the *lender* or *credit broker* may need to consider alternative methods of providing relevant information concerning the explanation required by *CONC 4.2.5R* in order for the *customer* to make an informed decision, such as, providing the information to a person with such understanding who can assist the *customer*, for example, a friend or relative.

[Note: paragraph 3.4 (box) of *ILG*]

- (2) The explanation in *CONC 4.2.15R(3A)* should enable a *customer* to easily understand the different costs of refinancing as opposed to keeping the existing loan and taking out an additional concurrent loan, for example by indicating whether the periodic instalments and/or the *total amounts payable* are higher or lower.

...

Part 3: Comes into force on 19 December 2018

6 Post contractual requirements

...

6.7 Post contract: business practices

Application

6.7.1 R ...

(4) CONC 6.7.2R to 6.7.3G do not apply to retail revolving credit.

...

Business practices: credit cards and retail revolving credit

6.7.3A R A firm must monitor a retail revolving credit customer's or a credit card customer's repayment record and any other relevant information held by the firm and take appropriate action where there are signs of actual or possible financial difficulties.

6.7.3B G (1) Circumstances in which there are signs of actual or possible financial difficulties include where there is a significant risk of one or more of the matters set out in CONC 1.3.1G(1) to (7) (Guidance on financial difficulties) occurring in relation to the retail revolving credit customer or credit card customer.

...

...

Credit card and ~~store card~~ retail revolving credit requirements

...

6.7.7 R A firm must not increase, nor offer to increase, ~~the~~ a customer's credit limit on a credit card ~~or store card~~ or retail revolving credit agreement where:

...

Part 4: Comes into force on 19 March 2019

6.7.8 R A firm under a retail revolving credit agreement, or a regulated credit agreement for a credit card, ~~or a store card~~ must:

...

6.7.9 R (1) ~~A firm under a regulated credit agreement for a credit card or store card must notify the customer of a proposed increase in the credit limit under the agreement at least 30 days before the increase comes into effect, except where:~~ This rule applies to a regulated credit

agreement for a credit card and to a retail revolving credit agreement.

(2) A firm must notify the customer of a proposed increase in the credit limit under the agreement:

(a) in the case of a regulated credit agreement for a credit card or a store card, at least 30 days before the increase comes into effect; and

(b) in the case of a retail revolving credit agreement (other than an agreement for a store card), at least 28 days before the increase comes into effect,

except in the circumstances described in (3).

(3) The notification in (2) is not required where:

(1) the increase is at the express request of the customer; or

(a)

(2) the increase is proposed by the firm, but the customer agrees

(b) to it at that time and wishes it to come into effect in less than 30 days or 28 days (as the case may be).

[Note: paragraph 6.17 of ILG]

Part 5: Comes into force on 19 December 2018

6.7.10 R Where a customer is at risk of financial difficulties, a firm under a retail revolving credit agreement or a regulated credit agreement for a credit card ~~or store card~~ must, other than where a promotional rate of interest ends, not increase the rate of interest under the agreement.

[Note: paragraph 6.10 of ILG]

...

Part 6: Comes into force on 19 March 2019

6.7.16A R (1) This rule applies only to retail revolving credit agreements to which Part 6 of the Payment Services Regulations does not apply.

- (2) Where a *customer* has the benefit of a zero-percentage or low interest, introductory or other promotional offer that depends on the *customer* meeting certain conditions, a *firm* must provide notice to the *customer* reminding them of any action they need to take to meet the conditions of the offer and the date by which this action must be taken, within a reasonable period before that date, taking account of the time at which the information may be most useful to the *customer*.
- (3) This notice must be provided in an appropriate medium (taking into account any preferences expressed by the *customer* about the medium of communication between the *firm* and the *customer*), in plain language and sufficiently prominent, so that it is likely to be seen and understood by the *customer*.

...

Credit cards and retail revolving credit: persistent debt

Part 7: Comes into force on 19 December 2018

- 6.7.27 R (1) This *rule* applies to a *firm* with respect to communicating with a *customer* about, and receiving payments or exercising rights under, a ~~credit card agreement~~ regulated credit agreement for a credit card or retail revolving credit, if the *firm* assesses that the amount the *customer* has paid to the *firm* towards the credit card balance or retail revolving credit balance over the immediately preceding 18-month period comprises a lower amount in principal than in interest, fees and charges.
- ...
- (3) The *rule* in paragraph (1) does not apply:
- (a) where the balance on the credit card or under the retail revolving credit agreement was below £200 at any point in the 18-month period; or
- (b) where the *firm* has sent a communication to the *customer* in accordance with paragraph (4) in the preceding 18 months in relation to the credit card or retail revolving credit facility; or
- ...
- (4) Where the *rule* in paragraph (1) applies in relation to a credit card *customer* or a retail revolving credit customer, a *firm* must, in an appropriate medium (taking into account any preferences expressed

by the *customer* about the medium of communication between the *firm* and the *customer*) and in plain language:

...

- 6.7.28 G (1) For the purposes of *CONC* 6.7.27R, *CONC* 6.7.30R, *CONC* 6.7.34G, *CONC* 6.7.39R and *CONC* TP 8, “principal” comprises only the amount of *credit* drawn down by the *customer* under the credit card agreement or retail revolving credit agreement, and does not include any interest, fees or charges added to the account.

...

- 6.7.29 R (1) This *rule* applies in respect of a credit card *customer* or a retail revolving credit customer to whom a *firm* is required to have sent a communication under *CONC* 6.7.27R(4).

...

- 6.7.30 R (1) This *rule* applies:
- (a) in respect of a credit card *customer* or retail revolving credit customer to whom a *firm* is required to have sent a communication under *CONC* 6.7.27R (1); and
 - (b) where the amount that the *customer* has paid to the *firm* towards the credit card or retail revolving credit balance, over the 18-month period immediately following the date on which the requirement to send a communication under *CONC* 6.7.27R(1) arose, comprises a lower amount in principal than in interest, fees and charges.
- (2) This *rule* does not apply:
- (a) where the balance on the credit card or retail revolving credit was below £200 at any point in the 18-month period;
 - (b) to any part of the balance on the credit card or retail revolving credit facility that has previously been subject to the requirements of paragraph (3).
- (3) A *firm* must take reasonable steps to assist a *customer* who falls under paragraph (1) to repay the balance on their credit card or retail revolving credit facility as it stands at the end of the period specified in that paragraph more quickly and in a way that does not adversely affect the *customer*’s financial situation.

...

- 6.7.31 R Where a *firm* is required to assist a *customer* to repay more quickly under *CONC* 6.7.30R(3), a the *firm* must contact the *customer* to:

- ...
- (4) inform the *customer* that if the *firm* does not receive a response to the request under paragraph (3) in the time specified, the *firm* will suspend or cancel the use of the credit card or retail revolving credit facility.
- 6.7.32 G (1) The options a *firm* may set out under *CONC* 6.7.31R(3) in relation to a credit card or retail revolving credit include, for example, increasing the amount of *monthly* payments ~~on the credit card~~ under a repayment plan, or transferring the balance ~~on the credit card~~ to a fixed-sum unsecured personal loan.
- ...
- 6.7.33 G ...
- (2) The *FCA* expects a “reasonable period” under paragraph (1), *CONC* 6.7.37R and *CONC* 6.7.38G to usually be between three and four years. Only in exceptional circumstances should the repayment period extend beyond four years; and even in such cases, the extension should not be significant and there should be no additional cost to the *customer* as a result of the repayment period extending beyond four years. When setting the reasonable repayment period, firms may take into account the amount of the outstanding balance and minimum repayment amount. For example, where balances are relatively low this could point to a shorter reasonable repayment period.
- 6.7.34 G References in *CONC* 6.7.27R, *CONC* 6.7.31R(3) and *CONC* 6.7.32G(1) to a *customer* increasing payments to the *firm* include circumstances where the amount a *customer* pays remains fixed at the same amount the *customer* was previously paying but, assuming there is no further spending ~~on the card~~ on the account, represents an increase in the percentage of the outstanding principal that is repaid each *month* as the balance reduces.
- 6.7.35 R (1) Where a *customer* does not respond to a *firm’s* request under *CONC* 6.7.31R(3), a *firm* must, at the end of the period specified in the request, suspend or cancel the *customer’s* use of the credit card or retail revolving credit facility.
- (2) Where a *customer* confirms that one or more of the options proposed under *CONC* 6.7.31R(3) is *sustainable*, but states that they will not make the increased payments, a *firm* must suspend or cancel the *customer’s* use of the credit card or retail revolving credit facility.
- (3) Where a *firm* suspends the *customer’s* use of the credit card or retail revolving credit facility under paragraph (1) and the *customer* subsequently responds to the *firm’s* request under *CONC*

6.7.31R(3), the *firm* may withdraw the suspension if this would be in line with the other provisions in this section.

6.7.36 G Where a *firm* suspends or cancels the *customer's* use of the credit card or retail revolving credit facility under CONC 6.7.35R the *firm* is not, unless the *customer* responds to the *firm's* request under CONC 6.7.31R(3), required to take further steps under CONC 6.7.37R to CONC 6.7.39R. *Firms* are however reminded of CONC 6.7.3AR, which requires *firms* to take appropriate action where there are signs of actual or possible financial difficulties, and CONC 7.3.4R, which requires *firms* to treat *customers* in default or arrears difficulties with forbearance and due consideration.

...

6.7.38 G ...

(2) The *FCA* expects that it will generally be necessary for *firms* to suspend or cancel the use of the credit card or retail revolving credit facility of a *customer* that the *firm* is required to treat with forbearance under CONC 6.7.37R with a view to ensuring the *customer* repays the outstanding balance in a reasonable period. This expectation does not apply, however, where the suspension or cancellation of use of the ~~credit card~~ facility would cause a significant adverse impact on the *customer's* financial situation, for example where the *customer* depends on the ~~credit card~~ facility for meeting essential living expenses (such as in relation to a mortgage, rent, council tax, food bills and utility bills) or the purchase of essential items (which may include but are not limited to items such as school uniform, baby essentials or a refrigerator). Equally, the *FCA* considers that it will generally not be appropriate to withdraw the suspension of the use of a *customer's* ~~credit card~~ facility under CONC 6.7.35R(3) if the *firm* is required to treat the *customer* with forbearance under CONC 6.7.37R.

6.7.39 R Where a *firm* does not suspend or cancel the use of the credit card or retail revolving credit facility of a *customer* falling under CONC 6.7.30R, the *firm* must take reasonable steps to ensure that the *customer* does not, in the 18-month period immediately following, repay an amount to the *firm* towards the credit card or retail revolving credit balance that comprises a lower amount in principal than in interest, fees and charges in relation to any spending on the ~~card~~ facility in this period.

After CONC TP 7A (Transitional provisions in relation to the Consumer Credit (Earlier Intervention and Persistent Debt) Instrument 2018 (FCA 2018/7)) insert the following new transitional provisions. The text is not underlined.

CONC TP 7B (Transitional provisions in relation to the Consumer Credit (High-Cost Credit) Instrument 2018

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
7B.1	CONC 6.7.1(4)R, CONC 6.7.3AR to CONC 6.7.3DG, and CONC 6.7.27R to CONC 6.7.40G	R	A <i>firm</i> may comply with CONC as if the changes made by the Consumer Credit (High-Cost Credit) Instrument 2018 had not been made until (but not including) 19 June 2019. But where a <i>firm</i> elects, in relation to <i>retail revolving credit</i> , to comply, before that date, with CONC as amended by that Instrument, it must comply with the relevant provisions in full. Consequently, the time periods set out in the <i>rules</i> to which this transitional provision applies are to be determined by reference to the date on which the <i>firm</i> first acted in compliance (or purported compliance) with those <i>rules</i> .	19 December 2018 to 18 June 2019	19 December 2018
7B.2	CONC 6.27R to CONC 6.40G	G	The effect of TP 7B.1 is that no later than 19 June 2019 <i>firms</i> must start to look back at the repayment records for <i>retail revolving credit customers</i> over the preceding 18-month period and identify any <i>customers</i> that fall within the application of CONC 6.7.27R (and must thereafter continue to do so on at least a <i>monthly</i> basis). <i>Firms</i> must then send those <i>customers</i> a	19 December 2018 to 18 June 2019	19 December 2018

		<p>communication in accordance with <i>CONC 6.7.27R(3)</i>. Between 9 and 10 <i>months</i> after this communication is required to be sent, <i>CONC 7.7.29R</i> requires <i>firms</i> to take the additional steps set out in that <i>rule</i> with respect to that group of <i>customers</i>. 18 <i>months</i> after the <i>CONC 6.7.27R</i> communication is required to be sent, <i>CONC 6.7.30R</i> to <i>CONC 6.7.40G</i> potentially require the <i>firm</i> to take the further steps described in those <i>rules</i> in relation to that group of <i>customers</i> where <i>CONC 6.7.30R</i> applies. <i>CONC 6.7.30R</i> applies only where the amount that <i>customer</i> has paid to the <i>firm</i> towards the balance on the <i>retail revolving credit</i> account, over the 18-<i>month</i> period following the date on which the <i>CONC 6.7.27R</i> communicated was triggered, comprises a lower amount in principal than in interest, fees and charges. This means that the earliest date on which a firm may have obligations under <i>CONC 6.7.30R</i> is 19 December 2020 (except as mentioned below). However, <i>firms</i> are not required to delay implementation to the end of the 6-<i>month</i> period set out in TP 7B.1: where a <i>firm</i> takes a step in compliance with one of the <i>rules</i> in question before 19 June 2019 in relation to a particular <i>retail revolving credit agreement</i> (for example, carrying out the 18-<i>month</i> review), the time for taking subsequent steps required to be taken under those <i>rules</i> is to be</p>		
--	--	---	--	--

			determined by reference to the date of that first step, and not by reference to 19 June 2019 (or some later date).		
--	--	--	--	--	--

