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By email: [buynowpaylater@hmtreasury.gov.uk](mailto:buynowpaylater@hmtreasury.gov.uk)

Dear Sir / Madam,

**Financial Services Consumer Panel response to HM Treasury additional call for views on Buy-Now-Pay-Later – Proposals for merchant-provided short-term interest-free credit**

The Financial Services Consumer Panel is an independent statutory body. We represent the interests of individual and small business consumers in the development of policy and regulation of financial services in the UK. The emphasis of our work is on activities that are regulated by the FCA, however we also look at the impact on consumers of activities that are not directly within but are still relevant to the FCA's remit. We are responding to this consultation on the basis that its proposals are relevant to the scope of FCA's rules and monitoring activities in the consumer credit sector.

The Panel supports HM Treasury's decision to include merchant-provided short-term interest-free credit (STIFC) within the scope of regulation for the wider buy-now-pay-later (BNPL) sector and we welcome the opportunity to provide additional feedback. We recognise the difficulty in drawing a robust and future-proof boundary around the relevant market, and the practical challenges a wide perimeter will cause the FCA in terms of authorising, regulating and supervising a potentially large additional population of firms, but the balance of risk and benefit for consumers supports HM Treasury's view.

While we do not have specific comments on the scale or operation of the merchant-provided STIFC market, we strongly encourage HM Treasury to re-consider its decision to exempt in-person transactions from the scope of regulation. The premise that there is greater friction at point-of-sale for in-person transactions is outdated, and making a distinction based on transaction channel is unlikely to be future-proof. First, businesses can make use of online platforms when serving customers in-person. For example, where an item is not available in-store, customers may be guided towards the online shopping platform to pay for their goods instead. In addition, consumers may be more heavily influenced to accept "add-ons" or offers made to them in-store than online, increasing the likelihood of debt accumulation. Finally, we are concerned that new business models of merchant-provided STIFC may emerge as a means of circumventing regulation. To ensure consumer protections are comprehensive and future-proof, the Panel supports including merchant-provided STIFC provided in-person *and* online into the scope of regulation.

We would also like to reiterate – as emphasised in our earlier consultation response<sup>1</sup> - that there is an urgent need for regulation of the BNPL market and HM Treasury must act decisively to bring legislation forward as quickly as possible. A significant amount of time has already elapsed since HM Treasury consulted on its original proposals, and current

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<sup>1</sup> See [https://www.fs-cp.org.uk/sites/default/files/final\\_fscp\\_response\\_hmt\\_bnpl\\_consultation\\_20211215\\_002.pdf](https://www.fs-cp.org.uk/sites/default/files/final_fscp_response_hmt_bnpl_consultation_20211215_002.pdf)

cost-of-living pressures are likely to encourage increased use of BNPL as a means of paying for essential goods and services. The risk of consumer harm arising from BNPL is therefore extremely acute and robust protections are needed now.

Given the complexities and challenges acknowledged in the second paragraph of this consultation response, we believe HM Treasury should consider staging the introduction of regulation so that third-party BNPL providers are brought into the regulatory perimeter now, while considering the rules for merchant-provided STIFC for implementation at a later date – and possibly as part of the wider review of the Consumer Credit Act. This may enable HM Treasury to act more quickly to reduce harms across a wide range of BNPL products, while allowing for more time to develop proportionate and future-proof regulation for areas where the regulatory perimeter is less clear.

Yours sincerely,

Helen Charlton  
Chair, Financial Services Consumer Panel