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Consumer Credit Unit
Financial System Division
The Treasury
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PARKES ACT 2600

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Regulating Buy Now, Pay Later in Australia - Options paper

The Australian Institute of Credit Management (AICM) welcomes the opportunity to contribute to the improving the regulation of emerging financial products, specifically Buy Now Pay Later (BNPL).

AICM represents over 2,800 credit professionals who contribute to a resilient economy and drive successful business outcomes through:

- mitigating risk;
- maximising growth; and
- applying sound credit principles and practices.

Without our members, businesses are exposed to reputational damage, poor cash flow management and inefficient processes. Their employers are at risk of breaching regulatory requirements and not getting paid for hard won sales and services delivered.

AICM members work across all sectors of the economy as the custodians of cash flow. They engage with both consumer and commercial customers to assess credit risk, manage credit terms, resolve disputes and manage the full life cycle of the credit relationship.

The AICM seeks to contribute to regulatory consultations with a focus on the following principles fundamental to ensuring credit providers can positively contribute to the Australian economy and support their customers:

- Access to information necessary to make informed credit decisions.
- Clarity and simplicity in legislation and regulation.

The current BNPL landscape sees significant gaps in information available for decision making and a lack of clarity regarding the usage, impacts and interpretation of BNPL products. As a result, BNPL is consistently raised by AICM members as an area that impedes their roles and needs regulation. This is a view consistently expressed across both commercial and consumer credit professionals.

A specific concern of commercial credit professionals trading with micro and small businesses is the prevalence of customers utilising BNPL to maintain lifestyle during periods when their business is having trouble maintaining the credit facilities necessary for continued trade. Specifically, they feel the lack of affordability checks is exacerbating personal indebtedness. This is a view shared by our consumer credit members.

AICM members acknowledge that they can't quantify these concerns, but experienced credit professionals attest that the same level of issues were not experienced prior to the rapid rise of BNPL.

AICM's consumer credit members work in the full spectrum of businesses providing consumer credit including BNPL, Banks, Financial service providers, Utilities, Telcos, Education, Health Care, Government and not for profit organisations.

AICM members consulted for this submission that identify as BNPL providers largely welcome regulation of the sector as they already view the products as credit and are Australian Credit Licence holders, signatories to the AFIA code of conduct and/or follow these requirements to ensue they are adhering to best practice.

The views and feedback from AICM members in relation to this consultation is summarised by the following categories:

Clarity

AICM members consistently express frustration at the lack of clarity on how to treat BNPL and other unregulated products.

Members report that BNPL products fall into a grey area when assessing consumers capacity to meet obligations and adhere seeking to adhere to responsible lending obligations. The grey area is primarily created as it is not clear if they should be treated as an available credit limit.

AICM members recommend that RG209 is refined to create clarity on treatments of BNPL and be more scalable and suitable to all credit providers and credit products. AICM members specifically expressed their preference for RG209 to be made fit for purpose rather than establishing piecemeal codes and regulation.

As the majority of BNPL providers are not full participants in credit reporting there is limited data reported to Credit Reporting Bodies (CRBs). This impacts credit providers as it increases reliance on transactional data and/or customer disclosures which may lead to inefficiencies and inaccurate assessments.

In addition to a lack of information in credit reporting, AICM members have reported that customers are unable to substantiate BNPL balances and credit limits as the majority of BNPL providers do not issue statements. This impacts consumers ability to manage their exposure and impacts credit professionals' ability to assess the customers potential exposure to individual BNPL providers.

From personal use of BNPL products, several AICM members commented they experienced frictionless application and purchasing however significant friction was experienced obtaining information on outstanding balance and credit limits.

AICM recommends regulation that encourages BNPL providers to take all reasonable steps to inform customers of debt levels and credit limits.

Best practice credit practices

Applying best practice credit practices underpins credit providers and customers to achieve their goals and fuels economic prosperity.

Credit providers follow best practices as it has been shown to achieve the best outcomes for them and their customers. Relevant practices include:

- Credit checking and onboarding processes.
- Contributing repayment information, where possible.
- Customer assistance staff that engage and support customers experiencing financial difficulty.
- Responsible practices for managing overdue accounts.
- Reporting defaults when recovery is not possible.

These practices serve indirect benefits to other stakeholders in the financial system. For example, data contributed through credit checking informs affordability assessments of other credit providers and therefore assisting to prevent financial hardship.

AICM members recommend regulation that encourages best practice in BNPL.

Data to inform credit decisions

Credit providers use the information obtained from CRBs as a core source of information when assessing credit risk and customer affordability.

The goal of the AICM is to ensure credit files contain all relevant information on credit products held by a consumer. This will allow credit providers to make fully informed credit decisions that minimise the risk of harm to consumers.

BNPL is a clear gap in the current credit reporting system exposing credit providers and consumers to negative consequences including:

- Credit providers restricted from playing a positive role to minimise the risk of over indebtedness.
- Consumers not rewarded for responsible use of these products that could be achieved by contributing repayment history information.
- Credit providers are exposed to hidden risk when providing credit without full knowledge of actual or potential debt levels.

Specifically, AICM members are impacted by there being no standard way of treating/assessing BNPL products. For example, there is a generally accepted approach to including credit cards in a servicing assessment across the industry. This lack of clarity results in inconsistencies in approach, and every BNPL is open to interpretation.

AICM members understand Credit checking a \$25 pizza BNPL transaction or \$40 candle BNPL transaction would not be commercially viable. However, broad industry benefits would be achieved by a credit check on application of a BNPL facility and repayment history information. These benefits are expected to justify the cost and changes that maybe required by some BNPL providers.

AICM recommends credit checking and reporting requirements for BNPL providers specifically designed to suit this sector and to provide information necessary for other credit providers to assess the impact of this product i.e. credit limit, account status and repayment history. This would achieve the following benefits:

- Clarity to credit providers that the customer has a BNPL facility and quantification of actual/potential exposure.
- Allows consumers access to this product to suit their budgeting needs.
- Provides a mechanism for credit files to be built for younger people and to rehabilitate credit files.
- Provides information to allow credit providers to discharge their responsible lending obligations.

AICM members also note there is a lack of reliable data on the use and performance of BNPL products which maybe resulting in under or overstating assumptions on the impact on consumers.

AICM recommends BNPL providers be required to report statistical information on the use and performance of BNPL products to a government body. This could be an interim step on the assumption that significant time would be required for consultation, design, and implementation of credit reporting requirements.

Appropriately trained and experienced professionals

Achieving intended outcomes of codes and/or regulation relies on the effective implementation and monitoring by competent and experienced professionals at all levels.

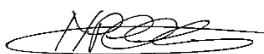
AICM Recommends requiring specific minimum levels of education and experience at all levels of the organisation specifically front-line staff tasked with the implementation of policies and interaction with consumers. The education should require completion of a nationally recognised unit of competency relating to financial hardship and consumer vulnerability such as FNSMCA413 Identify and manage individuals experiencing hardship¹.

AICM members welcome regulatory approaches that address the items outlined in this submission. In relation to the options proposed, all options tabled can be viewed as a positive step toward addressing these issues.

As AICM members seek a regulatory approach that encourages best practice, provides clarity and access to information to inform credit decisions, option 3 is the scenario that would best achieve these goals.

On behalf of our members the AICM looks forward to engaging further on the consideration of the issues raised in this options paper.

Yours sincerely



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¹ <https://training.gov.au/Training/Details/FNSMCA413>