Regulator Assessment: Qualifying Regulatory Provisions

Title of proposal: PS19/17: Buy Now Pay Later (BNPL) offers – feedback on CP18/43 and final rules

Lead regulator: FCA

Date of assessment: 10 May 2019

Commencement date: 12 September 2019 (Disclosure) and 12 November 2019 (Partial Payments)

Origin: Domestic

Does this include implementation of a Cutting Red Tape review? No

Which areas of the UK will be affected? Whole of UK

Brief outline of proposed new or amended regulatory activity

In CP18/43 we proposed a combination of disclosure remedies and a product/pricing intervention, to address various harms we had identified in relation to Buy Now Pay Later (BNPL) credit offers. The remedies were:

- a requirement for firms to provide adequate explanatory information at the point of sale;
- a requirement for firms to provide a prompt to the consumer to remind them that the offer period is about to come to an end;
- overarching guidance emphasising that all promotions/communications must be fair, clear and not misleading – throughout the product lifecycle; and
- a rule preventing firms from applying backdated interest in relation to any sum that has been repaid in the offer period.

The rules were made final in in PS19/17 which was published on 12 June 2019 with the rules coming in to force on 12 September 2019 and 12 November 2019.

Which type of business will be affected? How many are estimated to be affected?

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).

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. 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.

Price base year	Implementation date	Duration of policy (years)	Business Net Present Value	Net cost to business (EANDCB)	BIT score
2018	2019	10	-390.2	45.3	226.5

Please set out the impact to business clearly with a breakdown of costs and benefits

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.

Familiarisation and legal review costs

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

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. Finally, the hourly compliance staff salary is assumed to be £56 at large firms, £60 at medium firms, and £43 at small firms.

Following familiarisation with the proposals, we expect firms to conduct a legal review of the proposals to check their current practices against expectations.

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.

Finally, the hourly legal staff salary is assumed to be £64 at large firms, £64 at medium firms, and £42 at small firms.

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.

Under these assumptions, the one-off industry costs of familiarisation and legal review costs is estimated to be £22,000

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

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.

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.

We received cost information from all firms. We, therefore, did not need to scale responses to be representative of the total costs.

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.

The remaining firms reported that they would incur one-off but no ongoing costs from these proposals. Most 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.

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

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.

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.

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.

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

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.

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.

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.

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.

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.

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

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.

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.

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.

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 costs to firms

Due to our rules, firms will receive lower interest payments from consumers.

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 but will also reduce interest payments made. All our proposals will reduce interest payments paid by consumers. Our estimates of the losses to firms are from reductions in interest payments.

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.

We have estimated the proportion of consumers that respond to each of the disclosure proposals. Our experience of disclosure remedies suggests we would expect relatively low response rates. For simplicity, and given the uncertainty, we assume a fixed proportion of consumers respond to each disclosure remedy, taking a lower and upper bound 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. We do not consider these impacts a direct cost as the costs are brought about by consumers behavioural change. We expect firms to lose £1.4-13.7m from the behavioural change as result of these policies.

We can directly estimate the revenue costs to firms from the interest backdating rule.

There are two elements to the costs to firms: (i) the interest losses 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.

We 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.

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.

In total, we expect revenue costs to firms of lost interest arising from the interest backdating rule of £39.5-60.5m per year.

Please provide any additional information (if required) that may assist the RPC to validate the BIT Score.

Cost benefit Analysis and the Consultation Paper can be found here: CP 18/43
The Policy Statement setting out final rules can be found here: PS 19/17