



FINANCIAL SERVICES FEDERATION

16 December 2021

Buy Now Pay Later Project Team
Consumer and Competition Policy Team
Building, Resources and Markets
Ministry of Business, Innovation and Employment
By email to: buynowpaylater@mbie.govt.nz

DRAFT FSF Submission: Buy-Now, Pay-Later Discussion Document

Introduction:

The Financial Services Federation (FSF) is grateful to the Ministry of Business, Innovation and Employment (MBIE) for the opportunity to respond to the discussion document on the use of Buy-Now, Pay-Later (BNPL) products in New Zealand.

By way of background, the FSF is the industry body representing the responsible and ethical finance, leasing, and credit-related insurance providers of New Zealand. We have over 85 members and affiliates providing these products to more than 1.7 million New Zealand consumers and businesses. Our affiliate members include internationally recognised legal and consulting partners. A list of our members is attached as Appendix A. Data relating to the extent to which FSF members (excluding Affiliate members) contribute to New Zealand consumers, society, and business is attached as Appendix B.

Within the consumer lending membership of the FSF are two members that provide BNPL products as part of their product offering to consumers. These are Humm and Latitude (Genoapay). This response to the discussion document is on behalf of those providers only and it should be noted that the FSF does not represent any other BNPL providers.

General comments:

The FSF congratulates the Ministry officials responsible for writing the discussion document on the balanced approach they have taken in considering the benefits to consumers of BNPL products and the potential harm that could arise from financial hardship triggered by these products.

The FSF points out however that the potential for financial hardship is present with respect to any consumer lending product, particularly where the circumstances of the customer change during the course of the product term. The FSF will provide data within this submission to support the fact that the actual harm being caused to consumers by BNPL products is less than that of other consumer credit products.

The FSF also notes the fact that the BNPL providers operating in New Zealand have already presented a voluntary industry code for the sector to the Minister of Commerce and Consumer Affairs and to MBIE to which all providers are prepared to adhere. Whilst the FSF is yet to have seen the Code, it is understood to comprehensively detail how providers already offer the product and the ways in which they attempt to minimise harm to consumers as a result of using the product. The FSF's two BNPL members confirm that they already abide by the Code even though it has not yet been formally ratified amongst the wider group of BNPL providers.

The FSF is a strong supporter of voluntary Codes that outline the expected minimum standard of responsible behaviour of those entities covered by the Code that goes beyond what is required of them by law. This is entirely consistent with the FSF's standard-setting role as has been demonstrated by the Responsible Lending Guidelines to which FSF members committed before the requirements of these guidelines were written into the Credit Contracts and Consumer Finance Act 2003 (CCCFA) as the Lender Responsibility Principles when the Act was amended in 2015, and also with the Responsible Credit-Related Insurance Code issued in 2019.

The FSF also believes that it should be understood that lenders do not lend without the clear expectation of repayment. To operate in any other way would be to ensure that the business was unsustainable, so irrespective of the type of product being offered, lenders will always do their utmost to ensure that their products do not cause financial hardship.

Finally, the FSF cautions against taking an overly prescriptive approach to the way in which BNPL is regulated and for this reason supports Option 2 presented in the discussion document – further reasons for which stance will be provided in this submission. However, the main reason that the FSF supports Option 2 is that placing the full burden of the very prescriptive CCCFA affordability assessment requirements on to the offering of small-amount BNPL limits will increase the cost of compliance to provide the product to such a degree that it will make it unviable for the providers and the very real consumer benefits outlined in the discussion document and elaborated on further in this submission will be lost.

Of course, the FSF points out that the same logic applies to all providers of small amount loans that are not deemed under the CCCFA to be high-cost credit. The cost and burden of the responsible lending requirements of the CCCFA on these lenders is already being passed on to customers of small loan providers which makes these products less competitive than BNPL. In order to address this anomaly, the FSF suggests that consideration could be given to applying requirements such as those apparently included in the voluntary code to all small amount loans (within agreed parameters with respect to loan term, size, interest rate etc) in order to preserve a more competitive environment for consumers.

Essentially, taking this route would mean that, to recoup the compliance costs that would be incurred, providers would have to consider charging fees and interest to be able to offer the product, entirely defeating the purpose of it, voiding the benefits to consumers, and removing a product which offers alternatives and competition to existing products like credit cards.

The FSF will now proceed to answer the questions raised in the discussion document that apply to BNPL provider members. Those questions that not answered as follows apply specifically to consumers or their representatives.

1. Do you agree with our assessment of the benefits from BNPL? Yes/No/Not sure. Are there other benefits? Please provide details.

The FSF agrees with the benefits of BNPL to consumers from using BNPL, to businesses which accept BNPL at point of sale and the economy wide benefits of BNPL as outlined in the discussion document. It is certainly the experience of FSF's BNPL members that the benefits outlined are being experienced by consumers, businesses, and the economy.

The additional benefits of BNPL that are observed by FSF's BNPL provider members are:

To consumers:

- The products help build up the level of a consumer's credit score when they demonstrate a good repayment history. This is of particular benefit where the consumer may have had a previously impaired credit history and the use of BNPL has allowed them to repair this.
- The product is being used by many consumers who do not have an established credit history, particularly young people. This lack of a credit history may make this group of consumers unattractive to other credit providers so the use of BNPL is also helping them to establish a good credit record for when they wish to utilise other credit products such as a motor vehicle or housing loan. Data provided by Centrix shows that 92% of BNPL customers have no other form of consumer credit. These customers are provided with a low limit, and they then have the ability to develop a credit rating through positive behaviour.
- The products provide the ability to use credit to make occasional purchases with incurring compound interest.
- The product has built in safety features, such as caps on fees, so as soon as a customer misses a payment the account is suspended. There are also controls over how many purchases can be made until the customer has a proven track record and some products also have in built budgeting support.

The wider economy:

In addition to the competition provided in the credit sector by BNPL, the product has benefits to the wider economy through the fact that it facilitates purchases that might otherwise be unaffordable for some consumers.

Through periods of lockdown due to COVID the ease of use of BNPL online has allowed consumers to make purchases from businesses that would otherwise not have made those sales, and, in some cases, that would have contributed to keeping those businesses afloat.

4. Do you agree with our assessment of how BNPL will evolve in New Zealand? If not, please provide details.

Centrix data provided to BNPL providers in November of this year shows that there are now over 565,000 New Zealanders who are active BNPL users, and that usage of the product has doubled since early 2019. It is clear therefore that BNPL is here to stay and the FSF therefore

agrees with the assessment in the discussion document that the sector will continue to develop and innovate.

The FSF does not, however, agree with the concerns expressed in para 30 of the discussion document that BNPL providers issuing Mastercard, or Visa cards will increase the risk of financial hardship to consumers or that this would dampen competition between BNPL and Mastercard or Visa in terms of payment services to businesses. What is being seen is that banks are partnering with BNPL providers to allow them to offer the product to their customers or they are developing their own product which is increasing competition.

5. How do you think emerging BNPL business models eg partnerships with banks and credit card companies etc. will impact consumers? Please provide details.

As the discussion document states, BNPL providers and banks are increasingly looking for ways to partner with each other to provide innovative offerings to consumers. An example of this within the FSF's BNPL provider membership is Humm partnering with Westpac to target the product offering to customers because the data the bank holds about the consumer allows them to know more about the customer and their ability to afford the product. This is a good outcome for all stakeholders because access to more information provides for better decisions to be made.

The FSF has long been a strong supporter of the introduction of open banking and the consumer data right in New Zealand. It is the FSF's strongly held view that this should have been implemented prior to the latest round of CCCFA changes that have just come into force so that consumers could control access to the data held about them by banks to ensure that all lenders could use this data to make more responsible lending decisions. It has always seemed to the FSF that implementing more prescriptive credit affordability assessment provisions without having a consumer data right was essentially putting the cart before the horse.

6. Do you agree or disagree with our summary of the types of financial hardship that could occur from BNPL? Please provide details.

The FSF agrees that the scenarios included in the discussion document outline where financial hardship may occur but does not believe that there is widespread financial hardship occurring as a result of BNPL products. The FSF notes that, for example, FSF's BNPL provider members believe that less than 5% of their customers have provided a credit card as their payment source.

The FSF points out that unfortunately a small number of consumers find themselves to be in financial hardship with respect to all consumer credit products every year. This is often due to changes in their circumstances such as the loss of employment more so than because the credit was provided irresponsibly. Centrix data shows that as at their last report (dated November 2021) only 0.4% of BNPL customers are currently reported as being in financial hardship.

The FSF also sounds a note of caution in that, if access to BNPL is made harder because of requirements for more checks to be made to determine affordability for example, this will increase the cost to approve the product which could lead to higher limits being offered to

recover these costs. At present the average BNPL transaction size is about \$120 and it would clearly be preferable for this to remain at this level.

10. What are the advantages and disadvantages (including costs) from credit checks being used to determine approval for BNPL?

FSF's BNPL provider members report that hard credit checks (i.e. checks that impact on a consumer's credit score) are already being carried out which leaves evidence of the enquiry by the BNPL provider for other lenders. Credit checks are being used in the same way as they would be for other lenders.

FSF's BNPL provider members also report that all BNPL providers have signed up to Centrix's Indebtedness Index which shows whether a consumer has arrears with another BNPL provider if they are applying for further BNPL. The providers have agreed (probably as part of the draft Code) that a consumer cannot obtain another BNPL product from one provider if they are shown on this Index to be in arrears with another provider.

11. What other/additional steps could BNPL providers take to assess affordability for consumers? What are the costs (including disadvantages) of these steps? What are the benefits of these steps?

BNPL products provide cheap credit to consumers because they attract no fees (if repayments are made on schedule) or interest. They are small amount loans (average \$120 per transaction as already mentioned). As stated in the answer to question 10 above, providers are already being proactive in obtaining credit checks and having signed up to Centrix's Indebtedness Index and agreeing amongst themselves not to provide any further BNPL products to a consumer that is already in arrears with another provider. Whilst these steps do not necessarily relate to affordability assessments, they do demonstrate that providers are taking their responsibilities to consumers seriously.

The FSF believes that there would be strong customer resistance to having to provide information to demonstrate the product's affordability for such small limit amounts. One of the reasons for the high customer satisfaction from the use of BNPL in New Zealand is its ease and convenience to the customer. Adding extra steps to the process to approval will remove this ease of access which is not something the FSF believes customers actually want.

The FSF notes the suggestion in para 64 of the discussion document that BNPL providers could conduct real-time affordability assessments if they had visibility over the income and expenses of a consumer but that this would rely upon a well-developed open banking system which New Zealand does not yet have.

As stated in the answer to question 5 above, the FSF is a strong supporter of the introduction of open banking into New Zealand. With the introduction of the new affordability assessments under the newly introduced CCCFA regulations, many of the FSF's consumer lending members have implemented "bank statement scraping" tools to access account information from customers to verify income and expenses. These members report that as many as 50% of their customers refuse to allow lenders to use these tools because they have been actively dissuaded from doing so by their banks who have told these customers they would be in breach of the bank's terms and conditions by doing so as they

have to input their online banking identification and password into the tool in order to access the information. This is in spite of the fact that the security developed around these products is so strong that there is no way that this information could be gathered from the use of these tools.

In addition, FSF's BNPL member providers also report that they do conduct affordability assessments for BNPL limits that are more than \$1,000 in value in the same way that they would for any other credit product under the CCCFA requirements. Doing so for lower value transactions makes the product financially unviable and defeats the purpose of being able to offer the product free of fees or interest which is among its main attraction to consumers. The FSF can therefore not suggest any further steps providers could take to assess affordability.

12. How might affordability assessments be conducted when BNPL credit limits are increased?

13. What are the costs and benefits of conducting affordability assessments when BNPL credit limits are increased?

14. Are there any other ways to ensure BNPL credit limits are increased responsibly?

The FSF takes issue with the assertion in para 65 of the discussion document that spending limits can decrease or increase automatically without the consumer's initiation. FSF's BNPL provider members report that they do not provide increases to customers' credit limits unless this has been mutually agreed between them and the customer.

FSF's BNPL provider members also report that they do not increase limits until the consumer has proven that they can meet the scheduled repayments on a low limit. Again, this is not done unless the consumer agrees to the increase limit.

The FSF reiterates the point already made in previous answers that conducting the full CCCFA requirements for assessing affordability for the small average of a BNPL would make the product unaffordable for the consumer and unsustainable for the provider for small limits. However, this is being done by FSF's BNPL provider members over a certain threshold – in this case \$1,000 – so the affordability assessment could be conducted if the BNPL limit was to increase beyond that amount.

15. Are there any other issues with consumers having multiple BNPL accounts that we have not identified?

16. How effective and practical would it be to share information with other BNPL providers of consumer accounts which have been frozen? Not effective/Somewhat effective/Very effective. Not practical/Somewhat practical/Very practical. Please provide details.

17. How could information about consumers having multiple BNPL accounts be appropriately shared across the BNPL sector?

18. What are the costs (including disadvantages) of the approaches you describe in Question 17? What are the benefits of the approaches you describe in Question 17?

Firstly, the FSF points out that the fact that consumers hold accounts with multiple BNPL providers does not automatically equate to the fact that consumers are up to their limits with each BNPL provider with whom they have a limit. It may be that they have multiple

accounts because they have purchased an item from a business that uses one BNPL provider, paid this off as scheduled, then purchased something else from a business that uses another provider. The fact of multiple accounts does not therefore equate automatically to financial hardship.

FSF's BNPL provider members report that they will not allow multiple purchases on the one account by a consumer until they have proven that they can meet the repayment instalments as scheduled so they are unable to undertake multiple transactions until they have paid off the first one.

Other than that, the FSF refers to the answers previously provided with respect to the fact that FSF's BNPL provider members do conduct credit checks on new customers so the fact of their holding an account with another provider would be revealed then allowing them to gain an understanding of what other BNPL accounts they may have available to them.

Further, the FSF also refers to the use of the Centrix Indebtedness Index by all BNPL providers to determine whether any existing account might be in arrears and the agreement among providers that further accounts would not be provided if the consumer was found to be in arrears.

So, the suggestion in para 72 of the discussion document that ways in which BNPL providers could share information on consumers who have had their accounts frozen to avoid these consumers opening multiple BNPL accounts and risking financial hardship could be explored is in fact already happening.

19. What tools and processes could be introduced to better align the timing of BNPL instalments with income and other expenses?

20. What are the costs (including disadvantages) of such tools and processes? What are the benefits of such tools and processes?

FSF's BNPL provider members report that they already provide means by which customers can time their instalments to align with receipt of their income. They do this firstly at the time of initiating the BNPL account by asking a question of the customer as to when they would prefer the instalment to occur and by offering them the opportunity to change the timing of the instalment at any time during the repayment cycle so flexibility with respect to the timing of instalments already exists and is being offered.

FSF's BNPL providers members point out however that they do have concerns about a small group of their customers who may be in financial hardship but are meeting their instalments on time and how this group might be identified by providers if the customers themselves do not approach providers for assistance. (The FSF points out that this could be true of all financial services products not just BNPL.) This is clearly an area where providers and FinCap's financial mentoring networks could work together to develop a pathway to make it easier for consumers to seek assistance if they need it.

21. When making BNPL transactions, how could consumers be made more aware of the total costs of their purchases? What are the costs of these tools? What are the benefits of these tools?

FSF's BNPL provider members advise that they are already providing their customers with information about the total amount of the purchase (and therefore the finance amount), how much each instalment is and when it is due. This is provided to the customer via the app, confirmed on screen before the purchase is completed and also emailed to the customer. The customer receives an email and a text message as a reminder before each payment is due and a confirmation that the payment has been made. The FSF believes that this approach is sufficient to ensure that customers are made fully aware of the total cost of their purchases.

23. How could BNPL providers be more responsive to consumers relying on BNPL to pay for essential goods and services? What are the cost of these tools? What are the benefits of these tools?

FSF's BNPL provider members point out that BNPL is not being offered through supermarkets, service stations or utilities providers because these are seen as providers of essential goods. However, they also point out that it is possible for consumers to use their credit cards at these outlets.

The question as to what is an "essential good" arises in this context. Clearly food, fuel, power etc are essential for all consumers as is a pair of shoes for a child to wear to school but there is obviously room for a great deal of interpretation as to what is essential beyond that. What is considered an "essential" purchase to one consumer may just be a "nice-to-have" to another. It may also be that the use of BNPL for such essential purchases may well be in the customer's best interests because of the ability the product provides for them to spread payments and not incur any interest cost. The FSF therefore urges caution with respect to applying any prohibitions or regulations around the use of BNPL products for the purchase of what might be considered to be essential goods or services.

FSF's BNPL provider members also point out that they are strongly committed to ensuring that their products are not being used by customers who might find themselves in financial hardship as a result. However, they refer to the answer provided to questions 19 and 20 above where they note that, if a customer's payments are being made on schedule, they have no way of knowing that the customer may be in financial hardship unless that customer makes contact with them. They are fully prepared to provide as much assistance as possible where it is identified or required.

FSF's members report that they are working on ways to identify such customers before their situation worsens but this is not easy. The FSF does have a strong relationship with FinCap and its network through a Memorandum of Understanding between the two organisations. FSF members have for a long time worked with the mentoring network when they identify signs of customers in potential financial stress or hardship and the mentors themselves have access to dedicated email inboxes at each of the FSF's member organisations which receive priority by members' hardship teams so members are doing everything they can to provide assistance to customers in hardship as soon as they can.

Finally, FSF's BNPL provider members also advise that, once a customer is identified as being in hardship, the process they follow with the customer is identical to that required in the

Responsible Lending Code so their customers receive the same experience as any customer would expect under the CCCFA.

24. Do you have any comments on the triggers of financial hardship, how they occur, and the features which could mitigate financial hardship?

25. Do you agree with our view that the lack of affordability assessments is likely to be a key reason why some consumers using BNPL face financial hardship?

The FSF has already covered off the ways in which BNPL provider members seek to avoid the triggers of financial hardship for their customers in answers to previous questions. For example, they are already completing credit checks for new customers so they can see where they may already have made applications to other providers or where they might hold other debt. Where many enquiries show up on a person's credit check that could be an indication that they have sought credit from multiple providers which is a red flag for further lending.

As previously stated, BNPL providers all use the Centrix Indebtedness Index which shows if a customer is already in arrears with one provider so that the other providers avoid giving them access to their products.

FSF's BNPL provider members also report that they do conduct full affordability assessments consistent with the CCCFA requirements when a customer is applying for credit limits of over \$1,000. Limit increases are not offered or approved until the customer has demonstrated their ability to meet their commitments under a lower credit limit and thus established a history of repaying with the provider. The customer must also have a high credit score established through the credit check before a higher limit would be approved.

Further, the FSF's members also report that they have systems in place to ensure that an account is frozen instantly as soon as a payment is missed. It should also be noted that data provided by FSF's BNPL provider members shows that the average write-off associated with their BNPL products is approximately 1.5% compared to 2.5% for the credit cards in their portfolios.

26. Do you have views on the overall objective for the BNPL sector?

27. Do you have any views on how the interests of consumers could be protected?

28. Do you have any views on the criteria used to assess how to achieve an effective BNPL sector?

The FSF agrees with the overall objective for the BNPL sector to deliver long-term benefits to consumers and believes that the product is already achieving this in the vast majority of cases. The FSF also agrees that it is important to preserve the competition and innovation that BNPL creates across the financial system for the benefit of all consumers.

The FSF has already outlined the ways in which FSF's BNPL provider members work to protect the interests of consumers. It must be remembered that it is also in the interests of providers to protect consumer interest as failure to do so would lead to much larger levels of arrears and defaults than the low levels they currently experience, and this is not sustainable for their business models on a long-term basis.

With respect to the actions BNPL providers could take to ensure that financial hardship is being triggered, as outlined in para 83 of the discussion document, the FSF has the following to say. Firstly, the FSF has already outlined in this submission the way in which BNPL provider members approach affordability assessments.

With respect to the process and fees related to missed and late payments being reasonable, the FSF submits that the profitability of the product is not predicated on the charging of late fees. The product is made financially viable to providers through the charging of fees to the merchants using the product as another way to facilitate the selling of their goods and services. Late payment fees are designed to be a deterrent to consumers to miss a payment, but providers will come to mutually acceptable arrangements with customers and/or their financial mentor representatives with respect to these to ensure that they are charged fairly.

FSF BNPL provider members advise that they treat customers experiencing financial hardship with this product in the same way as they would any of their other customers with a consumer loan provided by them and that the CCCFA requirements with respect to managing customers in hardship are applied equally to BNPL customers.

Finally, the FSF notes that an effective mechanism already exists for consumers to complain and seek redress if they consider BNPL providers are not complying with any of the above points through the provider's external disputes resolution service to which they are required to belong under the Financial Services Providers (Registration and Disputes Resolution) Act 2008.

With respect to the criteria against which the options provided in the discussion document are to be assessed, the FSF is supportive of these.

29. Do you have any comments on Option One: status quo? Please provide evidence if possible.

30. What are the costs and benefits of Option One for any relevant parties eg consumers, BNPL providers, businesses accepting BNPL as a payment option, competitors to BNPL? Please provide evidence if possible.

The FSF's BNPL provider members do not support Option one. From their point of view the time to remain at the status quo has clearly passed which is why they have worked with all BNPL providers on the development of their voluntary Code.

31. Do you have any comments on Option Two: Government establishes appropriate incentives for BNPL providers to have an industry code which addresses the triggers of financial hardship? Please provide evidence if possible.

32. What are the costs and benefits of Option Two to any relevant parties eg consumers, BNPL providers, businesses accepting BNPL as a payment option, competitors to BNPL providers? Please provide evidence if possible.

Option Two is the preferred option for FSF's BNPL provider members. As the discussion document notes in paras 20 and 21, consumers derive great benefit and satisfaction from using the product as do businesses which accept BNPL at the point of sale and there is great

benefit to the wider economy from the availability of BNPL. The FSF believes that these benefits must be protected and Option Two provides the best means to achieve this.

The fact that all providers have worked together to develop a voluntary industry code which the FSF understands already incorporates a number of the responsible lending principles of the CCCFA within it, demonstrates that the providers take their responsibilities to consumers seriously and are committed to acting responsibly towards their customers. However, the FSF reiterates that because the code is yet to be shared more widely with industry, this support is provisional on the FSF having read the code and being able to establish that it does indeed provide the consumer protections the FSF understands it does.

The FSF notes the points made in para 97 of the discussion document that an industry code allows the sector to continue innovating and therefore providing effective competition to other credit products and the FSF fully supports this contention and believes that this innovation and access to competitive products is in the best interests of New Zealand consumers.

The FSF believes that a code establishes the appropriate standards for the industry to follow and the FSF has been at the forefront of establishing and ensuring member adherence to codes developed by FSF members such as the Responsible Lending Guidelines for many years.

The FSF understands that the participants in the draft code already follow the practices outlined in the answer to question 28 above to ensure that their customers do not experience the triggers that potentially lead to financial hardship but, without having seen the code, is unable to confirm this.

The FSF believes therefore that it is imperative that the draft code be ratified by the group, supported by the Minister of Commerce and Consumer Affairs sooner rather than later.

The question then is how the adherence to the code is assessed and who does that. The draft code is, the FSF understands, based on the Australian BNPL industry code to which all Australian BNPL providers have agreed to adhere. This is a voluntary industry code that has been developed by industry working with the Australian government under the auspices of the Australian Finance Industry Association (AFIA), progress of the code is to be monitored by an independent committee appointed by AFIA and its requirements are taken very seriously by providers. Because all BNPL providers in Australia are members of AFIA, AFIA has the ability to enforce the code and invoke their disciplinary process against any provider that is found not to be fully adhering to it. This could result in that provider's membership of AFIA being cancelled.

The FSF and AFIA are sister organisations with many members in common which have worked together for many years to share best practice for the non-bank lending sector which we both represent and in the best interests of the customers of each of our memberships.

The FSF has a set of Rules or a Constitution for the membership and also a Code of Conduct for Members – both of which members attest to abide by on an annual basis. These Rules and the Code of Conduct allow for a Disciplinary Committee of the Federation to be convened if a member is believed to be in breach of any of their requirements or obligations under either the law or the Federation’s Codes of practice. There are also strict rules with respect to the management of any conflict a member of this Committee might have to ensure its independence.

An unfavourable outcome following the completion of the disciplinary process could result in a member being either censured or they could have their membership revoked so there are very real consequences for members who do not meet acceptable standards.

Should Option Two be the one that is taken up, the FSF would certainly invoke its disciplinary process against a BNPL provider member if they were found to be in breach of the industry code.

33. How could Option Three be designed (including the timing of requirements) to ensure BNPL delivers long-term benefits to consumers? Please provide evidence if possible.

34. What are the costs and benefits of Option Three and how it is designed to any relevant parties e.g. consumers, BNPL providers, businesses accepting BNPL as a payment option, competitors to BNPL providers? Please provide evidence if possible.

The FSF’s BNPL provider members do not support Option Three. For the reasons provided in the answers to questions 31 and 32 above, the FSF believes that Option Two is the best option for consumers, businesses accepting BNPL as a payment option and BNPL providers themselves.

As of 1 December, the requirements of consumer lenders under the CCCFA have become highly prescriptive – excessively so in the FSF’s view. Applying these requirements to BNPL which has a very low average transaction amount (currently \$120) would mean the cost to provide the product would rise substantially for the providers. Given that much of the attraction to the product from the point of view of consumers is the lack of fees and interest charged for the use of the product, it would therefore be inevitable for this cost to be passed on to those businesses accepting BNPL as a payment option. This is then a cost that the businesses concerned will have to recover from their consumers. These are still very low value transactions so, purely from a cost point of view, the FSF could not support Option Three.

However, aside from the inevitable cost to consumers of applying more prescription to the approvals process for BNPL, the FSF believes there are a number of other compelling reasons why Option Three is not viable.

Firstly, as the discussion document notes, there are already over 500,000 New Zealanders enjoying the benefits that BNPL provides so the product has already proven its popularity. It would be unreasonable to start to apply much stricter criteria to the approval of BNPL to new applicants. The FSF believes that the product could become unviable if an approach is taken that is too heavy-handed and that would not allow the obvious benefits of the product to be reaped.

Further, the discussion document recognises in para 101 that applying the CCCFA to BNPL products would likely require exemptions from certain provisions of the CCCFA. The FSF submits that, given that many of the requirements of the CCCFA are already covered in the voluntary industry code, it is better for the code to apply rather than to apply the CCCFA and then to work through the Act to determine where exemptions might apply.

With respect to the Lender Responsibility Principles of the CCCFA and those identified as being most relevant to address the triggers of financial hardship (as outlined in para 102 of the discussion document), the FSF again states that affordability assessments are being conducted where the limit being applied for is greater than \$1,000 and FSF's BNPL provider members also take pains to ensure the consumer is reasonably aware of the full implications of making the transaction.

The FSF understands that other aspects of the CCCFA considered as being desirable under Option Three are also included in the draft code such as providers running their hardship application processes in accordance with the Responsible Lending Code requirements and providing appropriate disclosure to customers.

For all of these reasons therefore, the FSF does not support Option Three.

35. Do you have any suggestions on how we could measure and track progress against whether BNPL is delivering long-term benefits to consumers? Please provide evidence if possible.

FSF's BNPL provider members are already tracking defaults as a percentage of transactions which is how they are able to determine that they are low compared to other products such as credit cards (as stated in the answer to questions 24 and 25 above). This is data that is being tracked by Centrix for all BNPL providers. The FSF does not have any further suggestions with respect to measuring and tracking progress against whether BNPL is delivering long-term benefits to consumers.

Thank you again for the opportunity for the FSF to provide this submission on the discussion document on behalf of FSF's BNPL provider members. Please do not hesitate to contact me if you wish to discuss this further.



Lyn McMorran
EXECUTIVE DIRECTOR



FINANCIAL SERVICES FEDERATION
FSF Membership List as at 1 December 2021

Appendix A

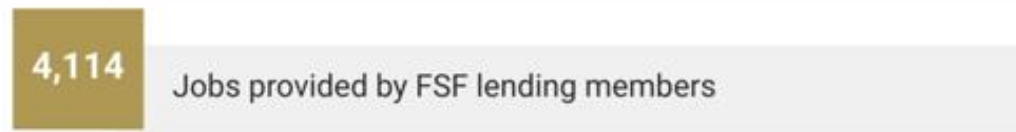
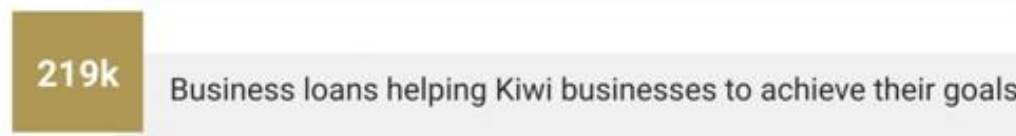
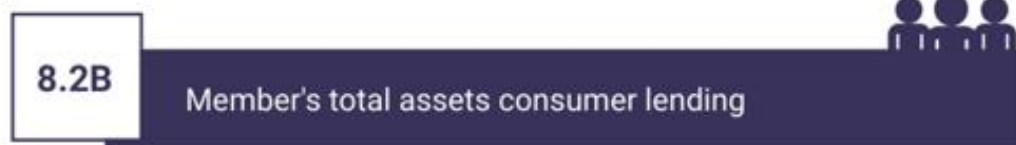
Non-Bank Deposit Takers, Insurance Premium Funders,	Vehicle Lenders	Finance Companies/ Diversified Lenders	Finance Companies/ Diversified Lenders, Leasing Providers	Credit Reporting, Debt Collection Agencies, Insurance Providers	Affiliate Members
<p>XCEDA (B)</p> <p>Finance Direct Limited ➤ Lending Crowd</p> <p>Gold Band Finance ➤ Loan Co</p> <p>Mutual Credit Finance</p> <p><u>Credit Unions/Building Societies</u></p> <p>First Credit Union</p> <p>Nelson Building Society</p> <p>Police and Families Credit Union</p> <p><u>Steelsands Credit Union Inc</u></p> <p>Westforce Credit Union</p> <p><u>Insurance Premium Funders</u></p> <p>Elantis Premium Funding NZ Ltd</p> <p>Financial Synergy Limited</p> <p>Hunter Premium Funding</p> <p>IQumulate Premium Funding</p> <p>Rothbury Instalment Services</p>	<p>AA Finance Limited</p> <p>Auto Finance Direct Limited</p> <p>BMW Financial Services ➤ Mini ➤ Alpha Financial Services</p> <p>Community Financial Services</p> <p>European Financial Services</p> <p>Go Car Finance Ltd</p> <p>Honda Financial Services</p> <p>Kubota New Zealand Ltd</p> <p>Mercedes-Benz Financial</p> <p>Motor Trade Finance</p> <p>Nissan Financial Services NZ Ltd ➤ Mitsubishi Motors Financial Services ➤ Skyline Car Finance</p> <p>Onyx Finance Limited</p> <p>Toyota Finance NZ</p> <p>Yamaha Motor Finance</p>	<p>Avanti Finance ➤ Branded Financial</p> <p>Basalt Group</p> <p>Basecorp Finance Ltd</p> <p>Blackbird Finance</p> <p>Caterpillar Financial Services NZ Ltd</p> <p>Centracorp Finance 2000</p> <p>Finance Now ➤ The Warehouse Financial Services ➤ Southsure Assurance</p> <p>Humm Group</p> <p>Future Finance</p> <p>Geneva Finance</p> <p>Harmony</p> <p>Instant Finance ➤ Fair City ➤ My Finance</p> <p>John Deere Financial</p> <p>Latitude Financial</p> <p>Lifestyle Loans NZ Ltd</p> <p>Metro Finance</p> <p>NZ Finance Ltd</p>	<p>Pepper NZ Limited</p> <p>Personal Loan Corporation</p> <p>Pioneer Finance</p> <p>Prospra NZ Ltd</p> <p>Smith's City Finance Ltd</p> <p>Speirs Finance Group ➤ Speirs Finance ➤ Speirs Corporate & Leasing ➤ Yoogo Fleet</p> <p>Thorn Group Financial Services Ltd</p> <p>Turners Automotive Group ➤ Autosure ➤ East Coast Credit ➤ Oxford Finance</p> <p>UDC Finance Limited</p> <p><u>Leasing Providers</u></p> <p>Custom Fleet</p> <p>Fleet Partners NZ Ltd</p> <p>ORIX New Zealand</p> <p>SG Fleet</p>	<p>Baycorp (NZ) ➤ Credit Corp</p> <p>Centrix</p> <p>Collection House</p> <p>Debtworks (NZ) Limited</p> <p>Equifax (prev Veda)</p> <p>Illion (prev Dun & Bradstreet (NZ) Limited</p> <p>Intercoll</p> <p>Quadrant Group (NZ) Limited</p> <p><u>Credit-related Insurance Providers</u></p> <p>Protecta Insurance</p> <p>Provident Insurance Corporation Ltd</p>	<p>Buddle Findlay</p> <p>Chapman Tripp</p> <p>Credisense Ltd</p> <p>Credit Sense Pty Ltd</p> <p>Experian</p> <p>EY</p> <p>FinTech NZ</p> <p>Finzsoft</p> <p>Green Mount Advisory</p> <p>Happy Prime Consultancy Limited</p> <p>HPD Software Ltd</p> <p>KPMG</p> <p>LexisNexis</p> <p>PWC</p> <p>Simpson Western</p> <p>Verifier Australia</p> <p>Total 84 members</p>

Appendix B



FINANCIAL SERVICES FEDERATION

The Financial Services Federation (FSF) is the non-profit industry association for responsible and ethical finance, leasing and credit-related insurance providers operating in Aotearoa New Zealand.



Data collected and aggregated by KPMG in FSF's annual member data survey as at February 2021. Values in NZ\$.