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## **SUBMISSION TO THE MBIE BNPL DISCUSSION DOCUMENT**

The Buy Now Pay Later (**BNPL**) industry welcomes the opportunity to provide a submission to the Ministry of Business, Innovation and Employment (**MBIE**) on the Buy Now Pay Later discussion document (**Discussion Document**). The industry members who have contributed to this submission include: Afterpay, Humm, Laybuy, Openpay, and Zip.

### **OUR SUBMISSION**

As an industry, we believe that fit-for-purpose regulation has the ability to ensure good consumer outcomes while promoting a competitive and thriving marketplace. We welcome the Discussion Document's focus on ensuring that any regulatory response is evidence-based and outcomes-focused.

While all three proposed options in the Discussion Document have merit, we believe that the industry should be given the opportunity to create an industry code that has the ability to respond to potential areas of consumer detriment in an agile and targeted manner.

To help inform this discussion, we attach a preliminary draft industry of practice (**Attachment 1**). We note this is the same version of the code that was presented to the previous Minister for Commerce and Consumer Affairs in 2020. This draft is very much 'preliminary' and it has not yet been subject to any consultation process. In Australia, the BNPL Code of Practice was only finalised after a wide-ranging and comprehensive consultation process, which included providing industry funding to the Consumers Federation of Australia (the peak body for consumer advocacy groups in Australia) in order to enable them to make a fulsome submission.

Should the Government be supportive of the industry progressing with a code in New Zealand, we would do so in accordance with best-practice principles for the development of an industry code.

Although a tailored application of the *Credit Contracts and Consumer Finance Act 2003* (CCCFA) (**Option 3**) is also capable of representing a fit-for-purpose regulatory response, we do not believe that the evidence supports a formal regulatory intervention of this nature.

## **EVOLUTION OF BNPL**

The BNPL industry has experienced rapid growth in New Zealand in the past few years. This growth is underpinned by changing consumer behaviours, particularly an aversion to traditional interest-bearing products that offer a revolving line of credit and seek to profit from the consumer being in long term debt.

Instead, BNPL providers earn the majority of their revenue from businesses who offer their service. These businesses benefit significantly from using BNPL, as it delivers them value, reduced risk and deeper engagement with customers.

Customers benefit from using BNPL services as it enables them to spread the cost of a good or service over a period of time, with no upfront fees or interest charged. BNPL transactions are also tied to a specific good or service, meaning a customer cannot enter a revolving debt cycle.

## **ADDRESSING FINANCIAL HARDSHIP**

The Discussion Document includes anecdotal evidence from financial mentors to suggest that using BNPL creates financial hardship for some consumers. Importantly, Centrix data suggests that hardship levels in fact have remained consistently low (0.4%, or 4 in every 1000 BNPL customers).<sup>1</sup> These outcomes compare favourably with CCCFA-regulated consumer credit products, despite the difference in regulatory classification. This reflects the role that consumer-centric product design plays in determining consumer outcomes.

The BNPL industry is committed to maintaining collaborative relationships with financial mentors and consumer advocates. To date, we have found discussions with these groups productive and we have implemented a range of measures, including bolstering the availability and access of hardship information on our consumer-facing platforms.

A key concern that has arisen from these discussions, and is outlined in the Discussion Document, is the risk that a consumer may experience financial hardship due to having multiple BNPL accounts. As an industry, we have developed a proposal for an indebtedness indicator that would allow BNPL participating providers to have more visibility over a consumer's financial situation and mitigate the risk of consumers inappropriately using multiple BNPL accounts.

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<sup>1</sup> Centrix, BNPL Insights Report, November 2021

### ***Indebtedness indicator***

The indebtedness indicator is a BNPL industry initiative, supported by Centrix, designed to provide further protection to vulnerable consumers. Once live, each BNPL industry participant accessing the Centrix service will be alerted if a new account applicant has an active overdue account with another BNPL participating provider. We believe this industry-based dynamic reporting to be a world first for the BNPL sector.

The service will operate based on a daily feed from each participant denoting every active account that is overdue, and where a customer has consented to this sharing of information for this purpose. Where one or more payments is more than seven days overdue, we will receive a report informing us of the customer's status, and the number of BNPL providers that have provided an overdue status on that customer. This information will be used as part of the upfront affordability assessments being conducted by BNPL providers to ensure we lend responsibly.

We anticipate that the BNPL indebtedness indicator could be implemented as soon as the first calendar quarter of 2022 and believe it is an important tool to assist in protecting vulnerable consumers in the New Zealand market. Our intention is to include reference to the indebtedness indicator in our industry code of practice.

The proposed indebtedness indicator has a number of important advantages over the traditional credit reporting system, including:

- Being closer to real-time in providing an indication of someone's indebtedness status with a BNPL provider
- Having comprehensive coverage of consumers using BNPL products, whereas many younger adult consumers have thin or blank traditional credit files with the credit reporting bureaus.

The indebtedness indicator is also an efficient and effective response in advance of the emergence of a mature open banking ecosystem in New Zealand.

### ***Industry code***

Over the past year, the BNPL sector has commenced working on a potential voluntary industry code (**Attachment 1**). The draft NZ code is largely based on the Australian BNPL Code of Practice which came into force on 1 March 2021 (the **Australian BNPL Code**).

The Australian BNPL Code was developed in response to a formal recommendation of a 2019 Senate inquiry, which found that the BNPL industry should develop self-regulatory arrangements that strengthen consumer protections and create minimum standards.

The Australian BNPL Code was created under the auspices of the Australian Finance Industry Association (**AFIA**). This reflects the operation of industry codes of practice in the financial sector in Australia, where industry bodies take the lead role in creating, updating and promoting industry codes.

In New Zealand, the BNPL industry is working towards being part of an industry association. As part of this, there is the potential for the association to assist the BNPL industry with the creation of a code, in collaboration with Government, consumer advocacy groups and other stakeholders.

The Australian BNPL Code recognises that the BNPL industry is diverse, and incorporates scalable standards and protections to ensure that the BNPL industry continues to deliver strong consumer outcomes. The code is monitored by an independent Code Compliance Committee (CCC) led by former Australian Competition and Consumer Commission Deputy Chair Dr Michael Schaper. Mr Schaper is joined by consumer advocate Jillian Brewer, who was nominated by the Consumers Federation of Australia, and experienced lawyer Craig Pudig.

Importantly, the Australian BNPL Code goes above and beyond what is required by the law for BNPL providers. The code requires that:

- Consumers are provided with hardship assistance that reflects the standards set out in the *National Consumer Credit Protection Act 2009*.
- Consumers are prevented from making additional purchases when they are not up-to-date on their repayments - a key protection against the risk of a debt spiral, and something that is not a feature of traditional credit products.
- Any late fees charged by a BNPL provider are reasonable and capped.
- Consumers are provided with access to the Australian Financial Complaints Authority (AFCA) for the making of complaints, an independent ombudsman established by the Government to cover the financial services industry (noting that all contributors to this submission are already members of the Financial Dispute Resolution Service).

In addition, the Australian BNPL Code incorporates provisions that reflect the principles of the Australian Securities and Investment Commission's (**ASIC**) Design and Distribution Obligations (**DDO**), by requiring providers to identify their target market and ensure their product is suitable for that target market.

ASIC is responsible for overseeing and enforcing the DDO regime, which applies across the financial services industry (including BNPL), and ASIC's Product Intervention Power is also capable of being used in relation to BNPL products.

### **Outcomes-based regulation**

Australia's DDO regime reflects a growing international focus on outcomes-based regulation, and was prompted by widespread poor consumer outcomes associated with traditional financial products. In the UK and Europe, product oversight and governance frameworks<sup>2</sup> operate in a similar way to Australia's DDO regime.

DDO is considered outcomes-based regulation because it is about how consumers actually use a product, rather than whether a product is capable of being used safely and capable of delivering good value to customers.

In Australia, the BNPL industry pre-empted the commencement of the DDO regime by including provisions designed to reflect its scope and intent. The AFIA BNPL Code of Practice commenced on 1 March 2021, while the DDO regime commenced on 5 October 2021. Similarly, the preliminary draft code we have prepared for the New Zealand market includes DDO-type provisions, to ensure the industry is held accountable for delivering good consumer outcomes.

An example of a potential DDO provision in the preliminary draft code attached to this submission includes clause 13.2:

*13.2 We will monitor the suitability of our products and service and customer usage to identify whether our products or services are meeting their needs and whether they remain suitable. For example, if some of our customers are incurring late fees on a repeated basis, we may decide that our products or services are not suitable for these types of customers.*

Self-regulation provides an opportunity for industry sectors to adopt these types of standards without the Government needing to formally intervene.

### **ACHIEVING AN EFFECTIVE BNPL SECTOR**

We believe there is great potential for a BNPL code in New Zealand to set high standards and ensure good consumer outcomes. We are keen to work with MBIE, the Government more

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<sup>2</sup> <https://www.bankofengland.co.uk/-/media/boe/files/paper/2020/december/gl-product-oversight-governance-retail-banking.pdf>;  
<https://www.eba.europa.eu/guidelines-on-product-oversight-and-governance-arrangements-for-retail-banking-products>



broadly, consumer advocacy groups, and other relevant stakeholders to ensure that it is robust and fit-for-purpose.

For these reasons, we support Option 2 as outlined in MBIE's Discussion Document.

The Discussion Document outlines three potential disadvantages associated with Option 2. We believe all of these potential disadvantages can be mitigated and avoided:

- *Providers would need to be careful that cooperating on the code does not pose issues to competition:* to address this potential risk, the industry would adopt best-practice processes for the development of a code, including working closely with the Commerce Commission.
- *A voluntary code may not result in a satisfactory level of protection to consumers:* this risk is addressed by the industry's focus on outcomes-based measures, and a commitment to best-practice processes (including extensive public consultation) as part of the creation of a code.
- *An industry code may lack credibility, as consequences rely on self or co-reporting and self-enforcement. However, the inclusion of an independent review reduces this:* we agree that an independent review reduces this risk, as well as an independent code monitoring body.

Thank you for the opportunity to make this submission. We look forward to the outcomes of this consultation. Please do not hesitate to contact us if you require further input or clarification.

**Afterpay | Humm | Laybuy | Openpay | Zip**

**CODE OF PRACTICE**

**FOR MEMBERS OF THE  
NEW ZEALAND BUY NOW PAY LATER (BNPL) INDUSTRY**

**[DATE] 2020**

**DRAFT**

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## **GOAL AND SCOPE OF THIS CODE**

This is the Code of Practice ("**the Code**") for the Buy Now Pay Later ("**BNPL**") industry in New Zealand. Products and Services. The Members of the BNPL Industry are referred to as "Code Subscribers" throughout the Code, and include, but are not limited to, Laybuy, Afterpay, Genoapay, Openpay, Oxipay and Zip as at [DATE].

### **1 Purpose of this Code**

- 1.1 This Code has been voluntarily developed by BNPL industry to assist the Code Subscribers to:
- (a) Promote a customer-centric approach to the design, marketing and distribution of a Buy Now Pay Later Product or Service;
  - (b) Promote high industry standards of service for customers and build best practices across the BNPL Industry; and
  - (c) Support compliance with legal and industry obligations.

### **2 About the Code Subscribers**

- 2.1 This Code is binding on the Code Subscribers when they provide BNPL Products or Services (the particular circumstances in which the Code will apply are set out in clause 7).

### **3 About the Code**

- 3.1 Commitments in this Code reflect the broad nature of the BNPL products or services offered by the Code Subscribers and their merchants and retail partners. The commitments represent the proposed minimum standards that all Code Subscribers will meet in the provision of BNPL Products or Services.
- 3.2 This Code is drafted to be a set of standards, reflecting the nature of the BNPL Industry and the expectations of our customers.
- 3.3 To the extent practicable, this Code is aligned with the commitments made in the Australian Buy Now Pay Later Code of Practice, reflecting the common approaches of the buy now pay later companies in both jurisdictions.

### **4 Interpretation**

- 4.1 In this and the following parts of this Code, the words "You" and "Your" – refer to an individual who is our customer.
- 4.2 In this and the following Parts of this Code, the words "we", "us" and "our" are to be read as referring to a relevant Code Subscriber that is bound by this Code and that has agreed with you that it will comply with this Code.

- 4.3 Some words or phrases used in this Code have special meaning and are identified by the use of capital letters, such as in the case of 'BNPL'. These words and phrases are defined in clause 5 of this Code.
- 4.4 This Code is applicable to BNPL Products or Services provided by us when we are or were a Code Subscriber at the time that the relevant product or service was provided.
- 4.5 For BNPL Products or Services, provided by us prior to the date we became a Code Subscriber, this Code will apply in our future dealings with you in the manner set out in clause xx below.

## 5 Definitions

**Approved Dispute Resolution Scheme** has the same meaning as set out at section 50 the Financial Service Providers (Registration and Resolution) Act 2008.

**Assessment Process** means the reasonable inquiries we make before entering into a BNPL agreement

**BNPL Industry** means that section of the New Zealand financial services industry in which Code Subscribers are participants to consumer customers under any Buy Now Pay Later Products or Services.

**BNPL Product or Service** means either:

- a shorter-term product or service for the purchase of goods or services where the purchase price is repaid in equal instalments. Consumers pay no extra charges if they pay within a specified period;
- a product or service that is a continuing credit contract for up to \$30,000 for the purchase of goods or services. Some contracts require a minimum periodic repayment; others involve a fixed repayment plan for each purchase; or
- a product or service where multiple spending transactions may be approved;

and

- there is a contract between the customer and the Code Subscriber, a contract between the consumer and the merchant or retailer, and a contract between the Code Subscriber and the merchant or retailer; and
- the customer buys and receives goods or services from a merchant; the Code Subscriber pays the merchant or retailer for the purchase (minus merchant fees); and the customer repays the Code Subscriber for their purchase.

**Complaint** means any expression of dissatisfaction made to us related to our products or services, or to our complaints handling process, where a response or resolution is explicitly or implicitly expected.

**Days** means business days.

**Financial Hardship** means a situation which occurs when you are unable to meet your existing Transaction Amount obligations for a period of time. It may be caused by a number of factors, such as a major change in your circumstances, illness or injury, or a change in employment.

**Merchant and retail partners** mean third parties who partner with us and can include vendors, such as sellers of solar panels and services. Minimum standards for merchant and retail partners are set out in at clause 17 of this document.

**Responsible Lending Code** has the same definition as 'Responsible Lending Code' under section 5 of the Credit Contracts and Consumer Finance Act 2003.

**Term** means a defined period of time.

**Transaction Amount** means either (a) the dollar amount of a single or of cumulative transactions within a Term; or (b) the dollar amount of a continuing credit contract (excluding any upfront payment made by you).

## **6 Date of Commencement**

6.1 This Code is effective from [DATE].

## **7 Relationship of this Code with Legal Obligations**

7.1 This Code describes contractually enforceable commitments made by Code Subscribers.

7.2 This Code operates alongside, and is subject to, existing laws and regulations and does not limit your rights under such laws and regulations.

7.3 This Code endeavours to impose standards on the Code Subscribers that are above those required by the law or regulation and, where it does so, the commitment of Code Subscribers is to the higher standards of the Code.

## **8 Review**

8.1 This Code will be fully reviewed on a regular basis, but no later than one year after the commencement of the Code, to ensure that it continues to promote high industry standards of service for customers and build best practices across the BNPL Industry (Full Review).

8.2 The commitments in this Code have originally been set as best practice and the BNPL industry will monitor domestic and international developments to ensure they remain best practice.

8.3 A Full Review of the Code will include open and wide public consultation, and the BNPL industry may appoint an independent person to conduct the review.

8.4 The BNPL industry may make minor or non-significant changes to the Code outside of a Full Review process, after consultation with, and seeking comments and suggestions from

key stakeholders (including but not limited to the Commerce Commission, Ministry of Business, Innovation & Employment (MBIE) and consumer advocates).

- 8.5 For significant changes to the Code outside of a Full Review process, the BNPL industry may also undertake a public consultation process where it considers it appropriate.

## **GENERAL PRINCIPLES OF THE CODE**

### **9 Our Approach**

- 9.1 We will always act fairly and honestly, be ethical and treat you reasonably in all our dealings.

### **10 Customer Service**

- 10.1 We will provide a high quality and responsive service. We will make sure our staff, agents or representatives are well trained and deliver on our commitments to you.

- 10.2 To ensure we are providing a service that meets your needs, we will:

- (a) Ensure our BNPL Products or Services are suitable for you and we have appropriate safeguards in place while you continue to be our customer;
- (b) Review the reasons for customers contacting us and look for ways to improve our BNPL Products and Services;
- (c) Only provide our BNPL Products or Services to customers aged 18 and over;
- (d) Proactively engage with you to obtain feedback, both positive and negative; and
- (e) Respond to your queries promptly and acknowledge all queries within 3 Days of your enquiry.

### **11 Customer Information**

#### ***Advertising***

- 11.1 We will make sure our advertising and promotional material is clear and not likely to be misleading, deceptive, or confusing to you.
- 11.2 We will comply with the Responsible Lending Code's guidance on advertising.
- 11.3 We will ensure our terms and conditions are distinguishable from our marketing material.
- 11.4 We will automatically opt you out of receiving promotional material if you are behind on repayments or we become aware that you are experiencing Financial Hardship.
- 11.5 To the extent permitted by law, we may provide any notice or other information required by this Code to you in writing, electronically or by telephone or by telling you that the information is available on our website or another electronic forum.

### ***Terms and conditions***

- 11.6 We will ensure our terms and conditions are fair, clear and understandable and written in plain language.
- 11.7 We will ensure that any information provided to you is not presented in a manner that is, or is likely to be, misleading, deceptive, or confusing to you.
- 11.8 We will ensure we highlight important information and explain complex information.
- 11.9 Where we make any other material changes to our terms and conditions, we will provide you with notice as soon as reasonably possible.

### ***Repayment Information***

11.10 To help you stay in control and make informed financial decisions about your BNPL Products and Services, and repayments:

- (a) We will provide clear and prominent information upfront about the fees we charge.
- (b) Prior to you becoming a customer, we will provide clear and prominent information about your scheduled repayment obligations.
- (c) We will send you relevant and useful reminders about your repayment obligations

11.11 If you miss a payment:

- (a) We will immediately contact you to notify you of your missed payment and whether you will incur any late fees; or
- (b) If we charge a late fee it will be fair and reasonable.
- (c) We will give you at least 40 Days' notice before introducing new fees or increasing existing fees.

### ***Debt Recovery***

- 11.12 We and our agents will comply with the Responsible Lending Code when recovering a debt.
- 11.13 We will maintain a debt recovery policy and procedures that clearly explain how we can recover debt and enforce our credit agreements.
- 11.14 If you are in Financial Hardship, we will consider waiving our fees and charges (including those already applied) and take steps to work out a mutually acceptable repayment arrangement with you, as set out in clause 15.
- 11.15 We will not seek recovery of, and will not sell, statute-barred debts.
- 11.16 We will never initiate bankruptcy proceedings against you, and we will never allow our agents to do so.

11.17 We will inform you of the risk of escalating your debt as a result of continuous missed payments, including any additional charges or the referral of your outstanding debt to a third-party debt collection agency.

## **12 Product and Service Suitability**

### ***Assessment Process***

12.1 We will make reasonable inquiries before entering into a BNPL agreement to be satisfied that is likely that the BNPL Products and Services meet your requirements and objectives.

12.2 As part of clause 12.1, we will have processes in place to identify customers who may have a higher likelihood of vulnerability.

12.3 We will verify your identity when you first become a customer and undertake appropriate upfront and ongoing checks in accordance with the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

12.4 We will only provide our BNPL Products or Services to customers who we assess as having the ability to pay for the product or service over time.

12.5 We will not provide any additional BNPL Products or Services if you are in arrears with us at the time of the request for additional products or services.

12.6 To promote good customer outcomes and set high industry standards, our Assessment Process will include and consider factors, such as:

- (a) The Transaction Amount;
- (b) The repayment Term of the product or service;
- (c) The amount and frequency of repayments;
- (d) Your repayment history with us;
- (e) Your method of payment, for example, use of direct funds transfer, or use of a debit or credit card;
- (f) Where and how you are using our BNPL Product or Service;
- (g) The information you supply to us; and/or
- (h) External data sources, for example, we may perform a credit check.

12.7 The outcome of our Assessment Process may be that we:

- (a) Approve you for the full amount;
- (b) Approve you for a lower amount;
- (c) Require an initial payment to be made upfront;

- (d) Require an initial payment within 25 Days from approval of the first Transaction Amount or installation of goods or services;
- (e) Collect and consider more information to ensure you have the ability to pay for the product or service over time; and / or
- (f) Decline to provide our product or service to you if we do not believe it will be suitable for you.

12.8 The types of information that we will consider and collect in clause 12.7(e) will include one (1) or more of the following:

- (a) External data sources, for example, undertaking a credit check;
- (b) Your repayment history with us;
- (c) Information about your income; and/or
- (d) Information about your existing expenses, which may also include existing debts.

12.9 We will always apply clause xx if we are providing a Transaction Amount of more than \$3,000 or for BNPL Products or Services with a fixed term of more than 2 years.

12.10 Once approved for our products or services, we will ensure there are safeguards so our product or service remains suitable for you. We will:

- (a) Cap our fees and keep them fair;
- (b) Prevent you spending more through our BNPL Products or Services if your payments are not up to date with us;
- (c) Adjust your future spending limit with us based on your repayment history; and
- (d) Proactively provide Financial Hardship assistance – see clause 15.

12.11 If we have prevented you from spending more due to missed payments, we will ensure that you can still access your account for a reasonable period of time, so that you can monitor your debt, repayments and any fees.

### **13 Ongoing Review**

13.1 To make sure our services and products are meeting the needs and expectations of our customers, we will review our services, policies, and training on an ongoing basis to determine the suitability of our products and services.

13.2 We will monitor the suitability of our products and service and customer usage to identify whether our products or services are meeting their needs and whether they remain suitable. For example, if some of our customers are incurring late fees on a repeated basis, we may decide that our products or services are not suitable for these types of customers.

13.3 To ensure we are meeting this commitment, we will consider the following types of information:

- (a) Complaints data;
- (b) Consumer feedback (including on the performance of the products or services);
- (c) Requests for information from consumers;
- (d) Samples of recorded sales calls;
- (e) Conversion rates;
- (f) Volume of sales;
- (g) Web analytics (e.g. click data and website paths);
- (h) Feedback from our merchants or retailers;
- (i) Hardship data; and
- (j) Internal data and benchmarks.

#### **14 Complaints Process**

14.1 We will handle complaints promptly and fairly and, if we cannot reach agreement, give you information on ways to resolve disputes. As part of this commitment:

- (a) We will have a complaints policy that is visible and easily accessible from our website and / or the digital platforms that we participate in.
- (b) We will ensure our complaints policy is straightforward to follow and use and describes how complaints will be made, how they will be dealt with, by whom and our timeframes for dealing with complaints.
- (c) We will refer you to our internal complaints policy if you indicate concerns about our services or products.
- (d) We will acknowledge all complaints within 3 Days and provide an initial response within 10 Days from the date of the complaint.
- (e) Where relevant, we will draw your attention to clause xx – Hardship Assistance.
- (f) Where you have exhausted the internal complaints policy process without full resolution, we will inform you of your right to refer the complaint to our Approved Dispute Resolution Scheme.

#### **15 Financial Hardship Assistance**

15.1 We will treat you fairly and respectfully if you are experiencing Financial Hardship.

15.2 We will have a hardship policy that is accessible to you, that provides you information about the availability of relief for unforeseen hardship and clearly explains how we can assist you.

15.3 We will train our staff to treat our diverse and vulnerable customers with sensitivity, respect and compassion. This includes specific training to identify signs of vulnerability, such as



where there may be mental health or domestic and family violence concerns, and training for staff who regularly assist customers from diverse cultural backgrounds.

- 15.4 We will ensure we include information about our Financial Hardship assistance on our websites and /or the digital platforms that we participate in.
- 15.5 If we become aware you are having trouble meeting your financial obligations with us, we will discuss your situation and the options available to help you, which may include negotiating a new repayment arrangement.
- 15.6 If you prefer, we will work with your representative (such as, a family member or friend, a financial or legal representative or a financial counsellor).
- 15.7 We will not continue normal collection activity while we are considering how to help you. Our late fees will also be frozen during this time.
- 15.8 We will not list your default on your credit reference file while we are considering your request for Financial Hardship assistance, unless legally required to do so.
- 15.9 If we agree and enter into a Financial Hardship arrangement with you, we will retain you as our customer and not refer you to a third-party debt collection agency.
- 15.10 If we reach agreement about assistance to help you with your financial difficulty, we will:
  - (a) Provide confirmation in writing of what we have agreed with you, including what your obligations will be when our period of financial assistance ends;
  - (b) Not charge you late fees while you are meeting any conditions of the financial assistance;
  - (c) Make reasonable efforts to contact you if you breach any conditions of assistance agreed with you and not re-activate enforcement action until we have given you at least 5 Days' notice.
- 15.11 If we cannot agree a new repayment arrangement, we will give you information on how to contact an Approved Dispute Resolution Scheme.

## **16 Compliance with our obligations**

- 16.1 We will comply with our obligations under the law and this Code. We will act fairly and, in a way consistent with good practice.
- 16.2 As part of this, we will:
  - (a) Respect your privacy and comply with our privacy obligations and Privacy Act 1993;
  - (b) Treat your personal and financial information with respect and in accordance with our Privacy Policy;
  - (c) Not disclose that information to any other organisation unless:
    - (i) We are required to by law.

- (ii) There is a duty to the public to disclose the information,
- (iii) You ask us to disclose the information;
- (iv) You have consented to us doing so; or
- (v) We are otherwise not restricted from doing so under applicable laws.

16.3 We will take reasonable steps to protect your personal and financial information from misuse or loss, and from unauthorised access, modification or disclosure. We will regularly review the security and reliability of our services.

16.4 When providing disclosure documents, account statements, notices and other prescribed information to you electronically, we will ensure that we adopt practices that take appropriate account of online security risks.

16.5 We will not permit your personal and financial information to be shared with other lenders or credit providers, or anyone who sells such information to lenders or credit providers unless we receive your express consent.

16.6 We will comply with all other relevant legislation.

16.7 We will also take reasonable steps to ensure that our merchants or retailers adhere to the minimum standards outlined in this Code.

## **17 Minimum Standards for our Merchant and Retail Partners**

17.1 Each Code Subscriber will require its merchant and retail partners to meet minimum standards. These standards are to:

- (a) Act lawfully, fairly and ethically in their dealings with consumers;
- (b) Communicate clearly when dealing with consumers and in marketing and advertising material that relates to BNPL Products or Services;
- (c) Safeguard customer confidentiality;
- (d) Respond to customer complaints on a timely basis;
- (e) Require that their employees or agents understand the standards and are trained to meet them; and

17.2 Each Code Subscriber will continue to monitor their merchant and retail partners to ensure they meet these minimum standards.