



# AFIA

## BUY NOW PAY LATER CODE OF PRACTICE ©

1 MARCH 2021

VERSION 1



## **PART A – INTRODUCTION AND BACKGROUND**

This Code of Practice was developed by Australian Finance Industry Association Limited ACN 000 493 907 (**AFIA**) (the **Code**) to enable the Buy Now Pay Later (BNPL) industry to take a proactive approach to increasing consumer protections and go beyond current regulatory obligations for BNPL Products or Services (see [here](#) for definition). The Code has been developed in close consultation with key stakeholders including consumer groups, government, regulators and companies in the BNPL Industry.

This Code is effective from 1 March 2021 and will be reviewed in accordance with clause 7.

### **1. OBJECTIVES OF THIS CODE**

- 1.1 This Code has been voluntarily developed and is intended to assist Code Compliant Members of the AFIA BNPL Providers Group to:
- (a) Promote a customer-centric approach to the design, marketing and distribution of a BNPL 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. WHO IS BOUND BY THIS CODE?**

- 2.1 This Code is binding on Code Compliant Members of the AFIA BNPL Providers Group when they provide BNPL Products or Services (the particular circumstances in which the Code will apply are set out in the balance of this Part A).
- 2.2 A list of Code Compliant Members, and details of when they became (and, where applicable, ceased to be) Code Compliant Members, can be found on the [AFIA website](#).
- 2.3 Code Compliant Members are subject to the oversight of the Code Compliance Committee (CCC).
- 2.4 All Members of the AFIA BNPL Providers Group must at all times comply with the terms and conditions of the [AFIA Constitution](#) including [clause 6.3](#).

### **3. READING THIS CODE**

- 3.1 Commitments in this Code reflect the broad nature of BNPL Products or Services and of Code Compliant Members and their Merchant and Retail Partners.
- 3.2 The commitments represent the proposed standards that the AFIA BNPL Providers Group will meet in the provision of BNPL Products or Services.
- 3.3 This Code is drafted to be an important set of standards, reflecting the nature of the BNPL Industry and our commitments to our customers.
- 3.4 The commitments in this Code are intended to be best practice and we will monitor domestic and international developments to ensure they remain best practice.

- 3.5 We will consider developments in technology, data, comprehensive credit reporting and open banking as a means of undertaking a process of continuous improvement and developing a more holistic view of our customers.
- 3.6 In this Code, the words 'you' and 'your' refer to an individual who is or was our customer or, where relevant, an individual who is a future customer.
- 3.7 In this Code, the words 'we', 'us' and 'our' are to be read as referring to a relevant Code Compliant Member that is bound by this Code and that has agreed with you that it will comply with this Code.
- 3.8 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'. Many of these words and phrases are defined in clause 18 of Part D of this Code.

#### **4. APPLICATION OF THIS CODE TO BNPL PRODUCTS OR SERVICES PROVIDED BY CODE COMPLIANT MEMBERS**

- 4.1 This Code is applicable to BNPL Products or Services provided by us when we are or were a Code Compliant Member at the time that the relevant BNPL Product or Service was provided.
- 4.2 For BNPL Products or Services provided by us prior to the date we became a Code Compliant Member, this Code will apply to our future dealings with you in the manner set out in clause 5 below.

#### **5. WHEN DOES THIS CODE APPLY TO YOU?**

- 5.1 Where you are a customer, this Code applies to the interactions and arrangements we have with you in relation to a BNPL Product or Service provided on or after the date that we became a Code Compliant Member.
- 5.2 Even when we cease to be a Code Compliant Member, where this Code applied to us in respect of your BNPL Product or Service, we will continue to be bound by this Code for that BNPL Product or Service.

#### **6. LEGAL STATUS OF THIS CODE**

- 6.1 This Code describes contractually enforceable commitments made by Code Compliant Members.
- 6.2 These commitments are enforceable by customers through AFCA.
- 6.3 This Code operates alongside, and is subject to, existing laws and regulations and does not limit your rights under such laws and regulations.
- 6.4 This Code imposes standards on Code Compliant Members that are above those required by the law or regulation and, where it does so, the commitment of Code Compliant Members is to the higher standards of the Code.

#### **7. REVIEW OF THE CODE**

- 7.1 This Code will be fully reviewed (**Full Review**) on a regular basis, but no later than two years after the commencement of the Code. The Code will then be reviewed at least every

- three years from the previous review to ensure that it continues to promote high industry standards of service for customers and builds best practices across the BNPL Industry.
- 7.2 A Full Review of the Code will include open and wide public consultation and the AFIA Board may appoint an independent person or panel to conduct the review.
- 7.3 The AFIA Board may review the Code outside of a Full Review process, after consultation with, and seeking comments and suggestions from:
- (a) The members of the CCC;
  - (b) Code Compliant Members;
  - (c) Consumer advocates; and
  - (d) Such other organisations (for example, regulators) or people it considers appropriate.
- 7.4 For significant changes to the Code, outside of a Full Review process, in addition to clause 7.1 and 7.3, the AFIA Board will also undertake a public consultation process.

## **PART B – OUR 9 KEY COMMITMENTS TO YOU**

### **8. WE WILL FOCUS ON CUSTOMERS**

- 8.1 We will provide a high quality product and responsive service. We will make sure our staff, agents or representatives are well trained, including on how to best manage any vulnerability you may have.
- 8.2 We will provide an inclusive and accessible service.
- 8.3 We will take extra care if you have a vulnerability. However, we may become aware of your vulnerability circumstances only if you tell us about them or it is otherwise reasonable for us to become aware of it.
- 8.4 We will use the ASIC description of customer vulnerability.<sup>1</sup> As part of this, Code Compliant Members will look at a number of vulnerability factors that a consumer can experience, including:
- (a) The actions of the market or individual providers, e.g. being targeted by products that are inappropriate for a particular consumer, or being given inadequate or overly complex documentation;
  - (b) Experiencing specific life events or temporary difficulties, e.g. an accident or sudden illness, relationship breakdown, family violence, job loss, having a baby or the death of a family member; and
  - (c) Personal or social characteristics that can affect a person's ability to manage financial interactions, e.g. speaking a language other than English, having different cultural assumptions or attitudes about money, or experiencing cognitive or behavioural impairments due to intellectual disability, mental illness, chronic health problems or age.

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<sup>1</sup> Australian Securities and Investments Commission (2019) ASIC Corporate Plan 2019-2023

- 8.5 We will train our staff to act with sensitivity and respect if you are in a vulnerable position.
- 8.6 We will adhere to best industry practice as relevant as set out in reputable financial services industry guidance in relation to dealing with vulnerabilities (for example, [AFCA Approaches](#)).
- 8.7 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;
  - (e) Acknowledge all complaints within 1 Day (or as soon as practicable) and provide an initial response within 10 Days from the date of a Complaint; and
  - (f) Take reasonable and appropriate steps to ensure our Merchants or Retail Partners that we have a direct relationship with will not provide our BNPL Products or Services for online gambling, retail gambling, gambling at domestic or offshore casinos and the purchase of firearms.

**9. WE WILL BE FAIR, HONEST AND ETHICAL**

- 9.1 We will always act fairly and honestly, be ethical and treat you reasonably in all our dealings, as part of this commitment.
- 9.2 We will act with transparency in our dealings with you.
- 9.3 Where there are legal and regulatory restrictions on finance being provided to purchase goods or services, we will not provide BNPL Products or Services to purchase such goods or services.
- 9.4 We commit to the Australian Government's Artificial Intelligence Ethics Principles.
- 9.5 We will take all reasonable steps to ensure that our BNPL Products and Services are not used or suggested in relation to unlawful unsolicited marketing or selling of BNPL Products and Services.
- 9.6 If we become aware that a Merchant or Retail Partner is engaging in unsolicited marketing or selling in a manner which is unlawful, we will deal with them appropriately under our Minimum Standards for Merchant and Retail Partners in Part C of the Code.

**10. WE WILL KEEP YOU PROPERLY INFORMED ABOUT OUR PRODUCT OR SERVICE**

- 10.1 To help you stay in control and make informed decisions about your BNPL Products and Services, and repayments:
- (a) Our terms and conditions will be fair, clear and transparent and written in plain language.
  - (b) We will include information about features and fees of different BNPL Products and Services on the AFIA website.
  - (c) Prior to you becoming a customer, we will provide you with clear and prominent information about:
    - (i) Your scheduled repayments obligations; and

- (ii) The fees we charge, including the fee amounts or how they will be charged.
  - (d) We will send you relevant and useful reminders about your repayment obligations.
  - (e) Through our electronic platform, you will be able to access your statement and see each purchase and the total outstanding balance of your purchases. If you are unable to access your statement via the electronic platform, you can request this information from us and we will direct you on how to find it or provide it to you within 7 Days of your request.
  - (f) If you miss a payment:
    - (i) We will contact you before commencing to charge late fees; or
    - (ii) If we do not contact you in accordance with sub-clause (i), we will reverse any late fees we have charged you if you make a catch-up payment within 2 Days of the missed payment.
  - (g) If we charge a late fee, it will be fair, reasonable, and capped.
  - (h) We will give you at least 40 Days' notice in writing before introducing new fees or increasing existing fees.
  - (i) We will provide notice as soon as is reasonably possible (and give at least 30 Days' notice) where we make any other material changes to our terms and conditions.
  - (j) We will put our contact details on our website and electronic forms so that you can contact us in relation to your account.
  - (k) We will contact you using the contact information you have provided us. We will rely on you to keep your contact information current as we may not be able to contact you if you do not provide us with up to date contact information.
- 10.2 In addition:
- (a) We will make sure our advertising and promotional material is clear and not misleading or deceptive. Furthermore, our terms and conditions will be distinguishable from our marketing material and we will comply (where relevant) with ASIC's best practice guidance on advertising.
  - (b) We will take reasonable steps to exclude you from receiving promotional material whilst you have a Financial Hardship arrangement with us.
  - (c) We will take reasonable steps to ensure that our Merchant and Retail Partners adhere to the minimum standards outlined in Part C of this Code.
  - (d) We will provide you with readily available account information, and any other information that we are required to provide under all applicable laws and regulations, within an appropriate timeframe. We refer to clause 10.9 in relation to specific documents.
- 10.3 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 other electronic forum.
- 10.4 When we tell you that the information is available on our website or other electronic forum, we will provide you with a link to easily access that information.
- 10.5 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 and are consistent with ASIC's regulatory guidance on online disclosure.

- 10.6 We will provide information on our website about how to close or deactivate your account in a readily available and simple manner. If you request this information from us, we will provide it to you within 7 Days.
- 10.7 You are entitled to pay out your contract or repayments with us at any time and without early repayment fees. Some products may have a minimum notice period, however this will be disclosed to you prior to you using our BNPL Products and Services.
- 10.8 Once you have become a customer, we will provide you with:
- (a) A copy of the contract between us, including the terms and conditions; and
  - (b) Information about our complaints, hardship and enforcement policies.
- 10.9 You can access copies of the following of your documents from us (and if you are unable to access any of these documents via our electronic platform, we will either provide you access or provide copies within 7 Days):
- (a) Any contract including terms and conditions;
  - (b) Any related insurance contract;
  - (c) Any notices we have sent you (for example, a collections notice informing you that you are behind in payment and need to make a repayment);
  - (d) Statements of your account for the whole period of your contract; and
  - (e) A payout figure and how it was calculated.
- 10.10 We will provide information on our website that sets out:
- (a) Our legal name and trading name and contact details;
  - (b) Our complaints handling information, our complaints policy and contact details;
  - (c) How to escalate a complaint to AFCA;
  - (d) Our fees;
  - (e) Details on how to make repayments;
  - (f) A link to the AFIA fact sheet detailing key features and costs of different BNPL Products and Services so that you can compare BNPL Products and Services;
  - (g) Our standard terms and conditions;
  - (h) Our hardship policy and contact details, including how to contact the National Debt Helpline;
  - (i) How you can contact a financial counsellor;
  - (j) Our privacy policy; and
  - (k) How to access a copy of this Code.

## **11. WE WILL MAKE SURE OUR BNPL PRODUCT OR SERVICE IS SUITABLE FOR YOU**

### **For new customers – our Upfront Assessment Process**

- 11.1 We will assess (as per below) all new customers to ensure our BNPL Product or Service will be suitable, prior to providing it to them.

- 11.2 Prior to providing you with a BNPL Product or Service, you will need to be identified and verified in accordance with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth)*.
- 11.3 As part of our Upfront Assessment Process, we need to be reasonably satisfied that all of the following criteria are met before we can provide you with a BNPL Product or Service:
- (a) You are not a vulnerable customer under our application of clause 8.4. We may only become aware of your vulnerability circumstances if you tell us about them.
  - (b) You meet our Suitability Assessment criteria, as outlined in clause 12.
  - (c) You are able or required to make an initial payment upfront, or within 25 Days from either the issuance of the first statement, or installation or delivery of the relevant goods and / or services. Installation or delivery of goods and services means the date where the goods have been successfully delivered to the customer and / or the service has been finished. For example, where solar panels are being installed at a property over a number of days, the installation date would be the day on which the solar panels have finished being installed.
  - (d) We are reasonably satisfied with the information we have obtained about you.
  - (e) The repayment Term for you is determined as suitable and is consistent with our suitability assessment and our internal risk management processes.
- 11.4 If you do not meet all of the above criteria and your Transaction Amount is equal to or less than \$2,000, before providing you with a BNPL Product or Service, to ensure the product is suitable for you, we will collect and use at least one indicative data source including (but not limited to) the following:
- (a) Customer data- For example, information about income and expenses that satisfy our internal risk management processes (e.g. this could be by using appropriate industry benchmarks); or
  - (b) Third-party sourced data such a credit check or an equivalent check that provides information on existing debts and liabilities.
- 11.5 If you are a new customer and requesting a Transaction Amount over \$2,000, you will need to undergo the following additional checks so that we can ensure the BNPL Product or Service is suitable for you.

<b>For Transaction Amounts for new customers between \$2,001 and \$15,000</b>	<b>For Transaction Amounts for new customers between \$15,001 and \$30,000</b>
We need to satisfy ourselves that you meet all of the criteria in clause 11.3 and satisfy at least <b>one</b> of the following criteria:	We need to satisfy ourselves that you meet all of the criteria in clause 11.3 and satisfy <b>both</b> of the following criteria:
<b>1. Customer Data</b> – For example, information about income and expenses that satisfy our internal risk management processes (e.g. this could be by using appropriate industry benchmarks)	
<b>2. Third-Party Data</b> – For example, a credit check or an equivalent check that provides information about your existing debts and liabilities	

- 11.6 If the Transaction Amount is above \$30,000, we will need to confirm that the Upfront Assessment, including the Transaction Amount to Term ratio, is consistent with our suitability assessment and internal risk management processes.
- 11.7 We reserve the right to decline you and not conduct any additional checks should you not meet all of the relevant criteria in Clauses 11.3, 11.4, 11.5 and 11.6.
- 11.8 The outcome of our Upfront Assessment Process may be that we:
- (a) Approve you for the full amount;
  - (b) Approve you for a lesser amount;
  - (c) Decline to provide our BNPL Product or Service to you if we do not believe it will be suitable for you.

**For existing customers – our Existing Customer Assessment Process**

- 11.9 We will assess all new Transaction Amounts for our existing customers to ensure our BNPL Product or Service will remain suitable for them prior to providing a new Transaction Amount (such as an increase to an existing limit).
- 11.10 We will not provide any additional BNPL Products or Services or increase the Transaction Amount of the current product or service if you are behind in payments at the time of undertaking the Existing Customer Assessment Process.
- 11.11 As part of our Existing Customer Assessment Process, the following criteria will need to be met before we can provide you with a new Transaction Amount on your BNPL Product or Service:
- (a) You are up to date with all payments at the time of undergoing our Existing Customer Assessment.
  - (b) You have shown appropriate repayment ability, taking into account the amount and frequency of repayments in your contracts with us.
  - (c) The repayment Term is still determined as appropriate for you and is consistent with our suitability assessment and our internal risk management processes.
  - (d) You still meet our suitability assessment criteria, as outlined in clause 12.
  - (e) You are not a vulnerable customer under our application of clause 8.4 at the time of undergoing the Existing Customer Assessment. We may only become aware of your vulnerability circumstances if you tell us about them.
  - (f) Our internal in-life data shows that you are not using the BNPL Product or Service inappropriately.
- 11.12 For new Transaction Amounts over \$3,000, in addition to meeting all the requirements of clause 11.11, you will need to undergo the following checks so that we can ensure the BNPL Product or Service remains suitable for you. The amount of additional data required will depend on the size of the new Transaction Amount:

<b>For new Transaction Amounts for existing customers between \$3,001 and \$15,000</b>	<b>For new Transaction Amounts for existing customers between \$15,001 and \$30,000</b>
We need to collect and satisfy ourselves that you meet at least <b>one</b> of the following criteria:	We need to collect and satisfy ourselves that You meet <b>both</b> of the following criteria:
<b>1. Customer data</b> – For example, information about income and expenses that satisfies our internal risk management processes (e.g. this could be by using appropriate industry benchmarks)	
<b>2. Third-party sourced data</b> – For example, a credit check or an equivalent checks that provides information about your existing debts and liabilities	

- 11.13 If the Transaction Amount is above \$30,000, we will need to confirm that the Existing Customer Assessment including the Transaction Amount to Term ratio is consistent with our suitability assessment and internal risk management processes.
- 11.14 We reserve the right to decline you and not conduct any additional checks should you not meet all of the criteria in Clauses 11.11, 11.12 and 11.13

**12. WE WILL UNDERTAKE AN ONGOING REVIEW OF THE SUITABILITY OF OUR PRODUCTS OR SERVICES**

**Our Suitability Assessment criteria**

- 12.1 To make sure we are providing our customers with a product or service that meets their needs on an ongoing basis, we will review our BNPL Products and Services to make sure they remain suitable for them (our Suitability Assessment). We will also make sure that our BNPL Products and Services are not being used by customers for whom it is not suitable.
- 12.2 We will:
- (a) Monitor our BNPL Products and Services to ensure they remain suitable for our customers.
  - (b) Monitor how our customers are using our BNPL Products and Services to identify whether they 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 BNPL Products or Services are not suitable for these types of customers.
  - (c) Take reasonable steps and processes that will likely result in the distribution of our BNPL Products or Services being appropriate.
  - (d) Monitor and review on an ongoing basis the outcomes of our distribution arrangements including but not limited to how Merchant and Retail Partners use our BNPL Product or Service and consider whether changes are required to the way it is sold, and to whom it is being sold.
- 12.3 To ensure we are meeting this commitment, we will consider the following types of information, which include but are not limited to:
- (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 Merchant and Retail Partners;
- (i) Hardship data;
- (j) Internal data and benchmarks;
- (k) Percentage of sales to consumers who are not in the target market
- (l) Information on consumer behaviour and outcomes;
- (m) Information collected from consumers and consumer advocates, including general product feedback and complaints, and outcomes of those complaints based on internal dispute resolution information; and
- (n) Information from other sources about consumer outcomes, including from AFCA

### **13. WE WILL DEAL FAIRLY WITH COMPLAINTS**

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

#### **Complaints**

- 13.1 We will have a Complaints policy that is visible and easily accessible from our website and / or the digital platforms that we participate in. If you request a copy of this, we will provide you with either access to it or a copy of it within 7 Days of that request.
- 13.2 Our Complaint resolution procedures will comply with the same ASIC standards and requirements that Australian Financial Service Licensee holders must comply with, except where we promise to improve on those standards and requirements.
- 13.3 We will work to resolve Complaints as quickly as possible.
- 13.4 We will acknowledge all Complaints within 1 Day, or as soon as practicable, and provide an initial response within 10 Days from the date of the Complaint.
- 13.5 When we have completed our investigation of your Complaint, we will provide you with a written response, which will include:
  - (a) The outcome of our investigation;
  - (b) Your right to take your Complaint to AFCA; and
  - (c) AFCA's contact details.
- 13.6 There may be some circumstances where (unless otherwise required to do so) we will not provide a written response to you because we have either:
  - (a) resolved the Complaint to your satisfaction within 5 Days; or
  - (b) given you an appropriate explanation and / or apology and there are no further actions we can take to reasonably address the Complaint.
- 13.7 We are committed to responding to Complaints and disputes in a way that is:
  - (a) Prompt, efficient and transparent;
  - (b) Consistent with the law; and
  - (c) Fair in all the circumstances.

- 13.8 We will work with you (or your nominated representative if you have one) to resolve your Complaint. In certain instances, we may only be able to resolve your Complaint where you respond to our requests for information. Where relevant, we will draw your attention to clause 14 – Hardship Assistance.

#### **Australian Financial Complaints Authority**

- 13.9 We will be a member of AFCA and will be subject to [AFCA's Rules](#).
- 13.10 If you have a specific dispute with us that involves a breach of this Code, you should contact us in the first instance, and then contact AFCA if considered necessary.
- 13.11 AFCA may not deal with your dispute unless you have tried to resolve the problem with us first, and either:
- (a) We have provided you with a formal response; or
  - (b) At least 20 Days (or the timeframe outlined by AFCA) has elapsed since you made your Complaint.
- 13.12 AFCA can consider whether we have complied with this Code when seeking to resolve a matter. To lodge a Complaint with AFCA, contact them on either 1800 931 678, or **info@afca.org.au**.

#### **The Code Compliance Committee**

- 13.13 In addition to contacting us or AFCA, you can report an alleged breach of this Code to the CCC. The CCC is an independent committee that has been established to monitor our compliance with this Code (as outlined in the Terms of Reference for the CCC).
- 13.14 If you have a specific complaint about us, you should first talk to us, and then AFCA (if necessary). The CCC will not consider your Complaint if you are still trying to resolve it with us, or within AFCA.
- 13.15 The CCC is authorised to investigate any activities within its Terms of Reference and, in carrying out its administrative, compliance and investigative roles. It is authorised to take such actions as are within its powers and to make recommendations to the AFIA Board, if appropriate, where further actions are required.
- 13.16 The CCC will have access to relevant records to carry out its task. It will have the right to seek such additional information and explanations as (acting reasonably) it considers appropriate in the circumstance, provided that a Code Compliant Member is not obliged to provide access to records if to do so would cause it to be in breach of existing obligations at law (including obligations of privacy and confidentiality).
- 13.17 We will co-operate and comply with all reasonable requests of the CCC in the performance of its monitoring and investigative functions.
- 13.18 The CCC can investigate any "Alleged Breaches" of this Code (as defined in the Terms of Reference for the CCC), at its discretion.
- 13.19 Where it is appropriate for it to do so, the CCC can make a range of recommendations to resolve a Complaint. In some circumstances the CCC is also able to impose sanctions upon us. To [lodge a Complaint](#) with the CCC, contact them at CCC-BNPL@afia.asn.au. You can access further detail about the powers of the CCC [here](#).

**14. WE WILL OFFER FINANCIAL HARDSHIP ASSISTANCE**

14.1 We will treat you fairly, respectfully and consider your specific circumstances if you are experiencing financial difficulty. As part of this commitment:

**Arrangements with you**

14.2 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 including First Nations people.

14.3 We will make sure customers understand they can ask for Financial Hardship assistance for example, by including information on how to request hardship and who to contact on our websites and /or the digital platforms that we participate in.

14.4 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.

14.5 You can inform us that you are in Financial Hardship in writing, electronically, or by telephone (**Hardship Request**).

14.6 Within 21 calendar days of receiving a Hardship Request from you, we may ask you for more information. In order for us to consider your Hardship Request, you must provide that information within 21 calendar days of our request.

14.7 We will inform you in writing (this can be through electronic communications such as email) of the outcome of your request, within 21 calendar days of either:

- (a) When you provided us with the additional information; or
- (b) If no additional information is requested, then within 21 calendar days of the Hardship Request.

14.8 Where we deny your Hardship Request we will give you reasons and details to contact AFCA if you wish to lodge a Complaint. We will also provide you with contact information for financial support services such as the National Debt Helpline.

14.9 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).

14.10 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.

14.11 We will consider whether your payment method (i.e. use of a credit card) and whether it remains an appropriate payment method.

14.12 We will not list your default on your credit reference file while we are considering your request for Financial Hardship.

14.13 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.

14.14 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 additional late fees while you are meeting the conditions of the Financial Hardship arrangement;
  - (c) Make reasonable efforts to contact you prior to activating (or re-activating) enforcement action where if you breach any conditions of hardship assistance agreed with you and at least 5 Days' notice.
- 14.15 If we cannot agree a new repayment arrangement, we will give you information on how to contact AFCA. We will also refer you to financial support services, such as the National Debt Helpline.

### **Recovering a debt**

- 14.16 We and our agents will comply with the ACCC's and ASIC's *Debt collection guideline: For collectors and creditors* and the Code of Operation: Recovery of Debts, published by the Federal Government.
- 14.17 We will never initiate bankruptcy proceedings against you, and we will never allow our agents to do so.
- 14.18 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.
- 14.19 We will not sell your debt to debt collectors unless:
- (a) You have missed, or are late in making, a payment under our contract;
  - (b) We have given you written notice of the default (may be sent electronically) and a reasonable opportunity to remedy the default; and
  - (c) You have not remedied the default within our stated time period.
- 14.20 We will only use as agents, and sell our debts to, debt collectors that:
- (a) Have a good track record of complying with the ACCC's and ASIC's *Debt collection guideline: For collectors and creditors* and the *Code of Operation: Recovery of Debt* published by the Australian Government;
  - (b) Are AFCA members; and
  - (c) Have a Complaints process.

## **15. WE WILL COMPLY WITH OUR LEGAL AND INDUSTRY OBLIGATIONS**

- 15.1 We will comply with our obligations under the law and this Code. We will act fairly and, in a way which is consistent with good practice.
- 15.2 As part of this, we will:
- (a) Respect your privacy and comply with our privacy obligations;
  - (b) Treat your personal and financial information in accordance with our Privacy Policy;
  - (c) Not disclose that information to any other organisation unless:
    - (i) We are required to by either law, a binding regulatory code, a court or tribunal order (for example, under the *Anti-Money Laundering and Counter-Terrorism Act 2006 (Cth)*);
    - (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.
- 15.3 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.
- 15.4 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:
  - (a) we receive your express consent;
  - (b) the information is used for purposes of credit reporting; or
  - (c) we are otherwise required to by law
- 15.5 We will comply with relevant unfair contract laws.

**16. WE WILL SUPPORT AND PROMOTE THIS CODE**

- 16.1 We will promote this Code, so you are aware of the protections we provide our customers. Promotion will include making available this Code on our website and / or the digital platforms that we participate in and engaging with key stakeholders, including via AFIA. This includes showing our accreditation symbol clearly on our website.
- 16.2 We will make sure our staff, agents and representatives are well trained so they can do their work and understand this Code and how to comply with it.
- 16.3 We will review regularly the effectiveness of our training programs for staff, agents and representatives.

**PART C – MINIMUM STANDARDS FOR OUR MERCHANT AND RETAIL PARTNERS**

- 17. Each Code Compliant Member will require its Merchant and Retail Partners to meet minimum standards.
- 17.1 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 minimum standards and are trained to meet them; and

- (f) Provide you with clear and upfront information about our services, fees and charges in a format that is accessible to you.
- 17.2 Each Code Compliant Member will have monitoring processes and policies in place for their Merchant and Retail Partners to ensure they meet these minimum standards on an ongoing basis.
- 17.3 Each Code Compliant Member will be required to report instances of material non-compliance with their minimum standards (including any proposed consequences) to the CCC on a quarterly basis.

## **PART D – DEFINITIONS**

### **18. DEFINITIONS**

18.1 For the purpose of this Code the following definitions will apply:

**ACCC** means Australian Competition and Consumer Commission.

**AFIA Board** means the board of directors from time to time of AFIA.

**ASIC** means the Australian Securities and Investments Commission.

**AFCA** means The Australian Financial Complaints Authority, an independent, external dispute resolution handling authority overseen by the Australian Securities and Investments Commission, that is able to review our handling of Complaints.

**AFIA BNPL Providers Group** means the AFIA BNPL Providers Group that has been established with the approval of the AFIA Board.

**AFIA Constitution** means the Constitution of AFIA as amended from time to time.

**BNPL Industry** means that section of the Australian financial services industry in which Code Compliant Members are participants to consumer customers under any BNPL Products or Services.

**BNPL Product or Service** means:

- 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; or
- A product or service that is a continuing credit contract for the purchase of goods or services. Some contracts require a minimum periodic repayment; others involve a fixed repayment plan for each purchase. Multiple advances of credit may be available. Fees and charges are limited to \$200 in the first year and \$125 in each subsequent year; and
- There is a contract between the customer and the BNPL Provider, and a contract between the customer and the Merchant or Retail Partner; and
- The customer buys and receives goods or services from a Merchant or Retail Partner; the BNPL Provider pays the Merchant or Retail Partner for the purchase (minus merchant fees); and the customer repays the Buy Now Pay Later Provider for their purchase.

For the avoidance of doubt, the following types of product or service, or any arrangement of a similar nature, are not a BNPL Product or Service for the purposes of this Code:

- Products or services offered to persons or strata corporations that are predominantly for a purpose that is not a consumer purpose (e.g. to be used for a business purpose). 'Predominant' (as defined in s5(4) of the National Credit Code) means: (a) the purpose for which 'more than half' of the credit is intended to be used and (b) if the credit is intended to be used to obtain goods or services—the purpose for which the goods or services are intended to be 'most used'; and
- BNPL Products or Services that are offered as part of a product under the National Credit Code.

**BNPL Provider** means a provider who offers BNPL Products or Services in Australia and is a member of the AFIA and is a signatory to this Code.

**CCC** means the Code Compliance Committee, which is an independent committee that has been established by AFIA to monitor and investigate compliance by Code Compliant Members with this Code.

**Code Compliant Member** means a member of AFIA that has been approved as a Code Compliant Member of the AFIA BNPL Providers Group and is a signatory to this Code.

**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 in the place where the act is to be done.

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

**Hardship Request** has the meaning given to that term in clause 14.5.

**Merchant and Retail Partners** mean third parties where our BNPL Product or Service can be used (such as a retail store) or third parties who distribute our BNPL Products or Services and can also include vendors, such as sellers of goods and services.

**Minimum Standards for Merchant and Retail Partners** are set out in Part C of this document.

**Suitability Assessment** has the meaning given to that term in clause 12.

**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 (excluding any upfront payment made by you); or
- (b) the dollar amount of a continuing credit contract (excluding any upfront payment made by you).

18.2 Any term which is defined elsewhere in this Code will have the meaning there defined.

18.3 Where any word or phrase is defined in this Code, any other grammatical form or variation of that word or phrase will have a corresponding meaning.