Retail Risk Outlook
Tech, Data and AI

For what comes next

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Contents

Introduction

This edition of Retail Risk Outlook: Technology, data and AI looks at how fast-moving technology and an increasingly complex regulatory backdrop are changing the way retailers operate. As data, digital tools and AI become more embedded in day-to-day decision-making, expectations around governance, resilience and accountability are rising too.

Much of this change is being driven by new and evolving regulation. The Data (Use and Access) Act 2025 reshapes the UK data protection framework, offering greater flexibility in some areas while placing higher expectations on how retailers manage, share and use data.

The proposed Cyber Security and Resilience Bill further raises the bar for cyber preparedness across supply chains, reinforcing the importance of resilience even for businesses that may sit outside direct regulatory scope.

Innovation in retail payments continues to gather pace. Buy Now, Pay Later, open banking and emerging forms of agentic commerce are transforming the checkout experience and introducing new regulatory, contractual and operational considerations for retailers to navigate.

AI is also moving quickly from pilot projects into everyday operations. From customer engagement and pricing to forecasting, payments and supply-chain optimisation, these technologies present clear opportunities to drive efficiency and growth.

However, they also bring new governance, legal and reputational risks. Using AI responsibly, transparently and in line with regulation is now a core business issue.

We hope this guide helps you think through the challenges and opportunities ahead.

If you would like to discuss any of the issues raised, or need support planning for what's next, please get in touch.

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Data (Use and Access) Act 2025 comes into force

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What's changing?

Several parts of the Data (Use and Access) Act 2025 (DUAA) came into force on 5 February 2026, bringing changes to UK data protection law and requiring retailers to make some operational changes. Further changes are due to come into force in June 2026.

What should retailers do to prepare?

Among a range of technical changes, those most relevant for retailers are:

- A new list of 'recognised legitimate interests' (including crime prevention, disclosures to public authorities, and safeguarding vulnerable individuals), allow retailers to identify a legal basis for their data processing more easily. Controllers relying on this basis will need to update their privacy notices and records of processing accordingly, but will no longer need to conduct legitimate interests balancing tests for those purposes on the recognised list;
- In handling subject access requests, the ability to stop the clock on the response deadline while obtaining clarification where they hold large amounts of personal data about the requester is an important improvement, and reduces the compliance risk of missing response deadlines;
- There is a relaxation of the rules regarding using personal data in automated decisions, as long as it does not include the most sensitive 'special category' data, which may give retailers licence to use personal data with AI tools more easily;
- Minor changes to cookie consent rules, with clarity on narrow exemptions for strictly necessary cookies and analytics (though this won't allow retailers to do away with cookie banners); and
- Greater risk around electronic marketing, with fines for non-compliance with the PECR rules rising from £500,000 to 4% of worldwide turnover, matching UK GDPR penalties.

Preparing for the UK's Cyber Security Bill

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What's changing?

The UK Government's Cyber Security and Resilience (Networks and Information Systems) Bill marks a significant step change in how cyber risk is managed across the economy. While retail is not directly classed as an "essential service", the Bill may still have meaningful implications for retailers through supply-chain, contractual and resilience expectations.

The Bill, introduced to the House of Commons on 12 November 2025 and currently working its way through parliament, strengthens and expands the existing NIS framework in the UK, bringing more managed service providers, cloud services and digital suppliers into regulatory scope. As a result, retailers should expect higher cyber security standards to be imposed by key technology partners, payment providers and logistics platforms. This will increasingly flow through into contracts, audits and assurance requests, even where retailers themselves are not directly regulated.

This comes at a time when the retail sector remains a prime target for cyber criminals. High profile ransomware attacks and growing regulatory scrutiny from the ICO raise the baseline for cyber maturity. In parallel, the National Cyber Security Centre (NCSC) continues to emphasise resilience, incident response and recovery.

What should retailers do to prepare?

- Reviewing cyber risk management and incident response plans, including business continuity and recovery;
- Mapping critical systems and key third-party dependencies across IT, payments and fulfilment;
- Strengthening supplier due diligence and cyber security clauses in contracts;
- Aligning controls to recognised frameworks (e.g. NCSC guidance) and preparing for increased assurance requests; and
- Ensuring board-level oversight of cyber risk and investment decisions.

Agentic AI: Navigating the regulatory landscape

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What's changing?

Unlike conventional AI tools, which generate responses to user queries, AI agents take in data, make decisions and carry out actions. They can assess goals, break them into subtasks, retrieve real-time data from other systems, execute actions autonomously (including making payments on behalf of the user) and store memory of past interactions to improve over time.

On 31 March 2026, the Digital Regulation Cooperation Forum (DRCF), comprising the CMA, FCA, ICO, and Ofcom, published a **Foresight paper** on agentic AI and how UK regulatory frameworks can help realise the opportunities of this technology in a responsible and safe way.

To demonstrate how agentic AI straddles multiple regulatory remits, the paper uses the example of a large UK retailer deploying an autonomous customer assistant powered by agentic AI. The same agentic feature could simultaneously raise data protection, financial regulation, consumer protection, online safety, and competition issues all at once, areas covered by each of the four DRCF regulators:

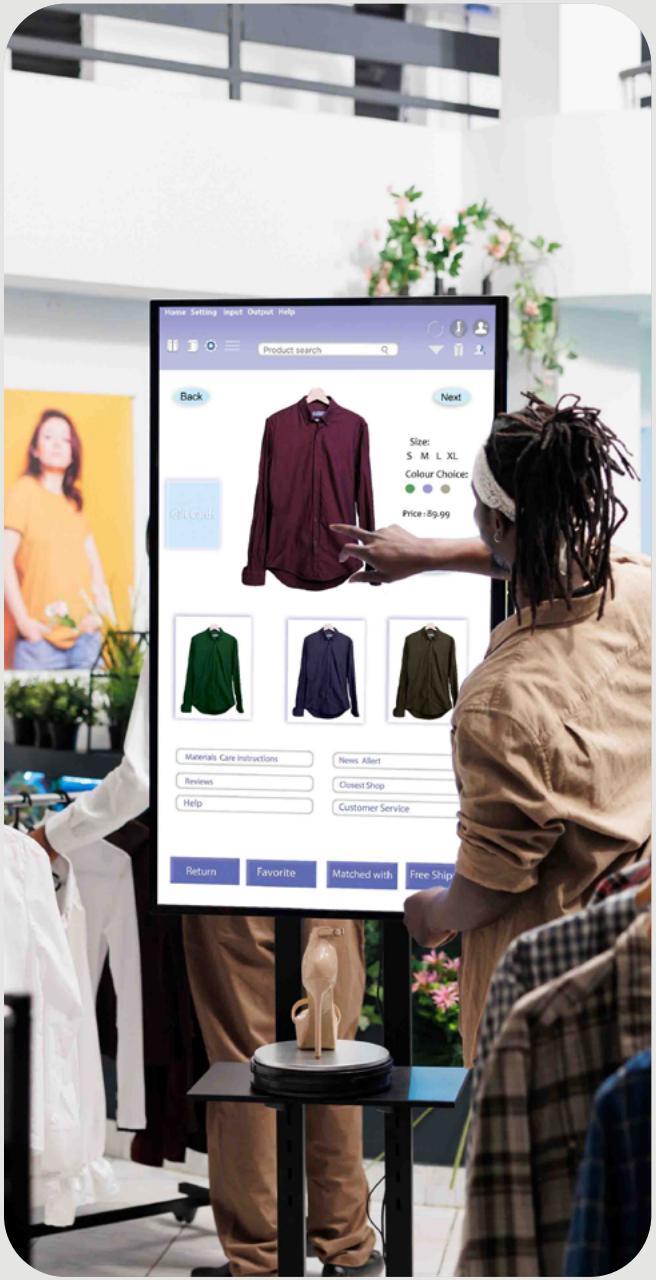
- The ICO's focus would be on whether the assistant's automated decisions (such as applying loyalty discounts) could trigger data protection rules requiring meaningful human involvement, and whether the retailer is being sufficiently transparent with customers about how their data is used.
- The FCA's remit could be engaged if the assistant recommends financial products such as store credit or insurance. Depending on the nature of the assistant's services, the firm and/or the use case could be subject to the FCA's regulatory frameworks.
- Ofcom's remit may also be engaged where an AI assistant searches multiple websites on a user's behalf, as this could qualify it as a regulated search service under the Online Safety Act, triggering obligations to assess and mitigate risks of users encountering illegal or harmful content.
- The CMA's remit could be relevant where an AI assistant's actions raise consumer protection concerns (for example, entitlement to a refund or lack of transparency) or where the agent's activities could amount to collusion or the exchange of commercially sensitive information.

What should retailers do to prepare?

The DRCF paper is a useful prompt for retailers to consider their governance arrangements now, before regulatory expectations are further formalised. Businesses that build in appropriate controls from the outset are likely to be better placed as the regulatory landscape continues to develop.

Five practical steps for retailers to take now are as follows:

- **Map your regulatory exposure:** Before deploying any AI assistant, identify which of the four regulators' remits it engages.
- **Conduct a Data Protection Impact Assessment:** The ICO stresses that organisations should maintain records, capture decision rationales, and conduct Data Protection Impact Assessments where risk to people and their rights is high. Retailers should familiarise themselves with the ICO's **draft guidance** about automated decision-making, including profiling which is subject to consultation until 29 May 2026.
- **Build in genuine human oversight:** Under data protection law, the inclusion of human supervision in agentic AI systems is necessary where personal information is being processed and decisions taken by the system could have legal, or similarly significant effects on a person. Human oversight will also provide retailers with a better understanding of the abilities and intended actions of the agentic AI, mitigate consumer risks and provide reassurance that they have control over more serious decisions.
- **Train your agents to comply with consumer law:** Retailers must be clear and open about their use of AI agents, and should design, monitor and refine AI agents with consumer law compliance in mind. For commentary on recent CMA publications on agentic AI, please read our insight: **Agentic AI: CMA publishes guidance on consumer law and DMCCA risks**.
- **Apply data minimisation from the outset:** There may be a temptation to allow agentic AI systems broad or unfettered access to data and resources to improve performance or accuracy. However, the data minimisation principle requires organisations to use only that personal data which is necessary for the purpose for which it is processed.



Navigating the future of retail payments

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What's changing?

As we reported in our recent **Retail Agility report**, the retail payments landscape is undergoing rapid transformation, driven by evolving consumer expectations, technological innovation, and regulatory change. Understanding these shifts is essential for retailers seeking to remain competitive and compliant.

Buy Now, Pay Later

Buy Now, Pay Later (BNPL) is a top payment innovation priority for 45% of retailers, particularly in Life and Home sectors where it supports higher-value purchases. However, retailers face three major legal challenges:

- Regulatory compliance: Deferred Payment Credit (DPC) will be regulated by the FCA from 15 July 2026 (see our insight: **Getting ready for the FCA's Buy Now Pay Later Regime**);
- Rising consumer disputes linked to affordability and returns issues; and
- Contract complexity involving multi-party arrangements and ambiguity around liability.

Agentic commerce

49% of retailers are already investing in agentic commerce capabilities, recognising that AI agents will fundamentally reshape how purchases are made. However, most retailers are introducing these innovations with caution - as adoption grows, retailers face rising disintermediation risk (see article above).

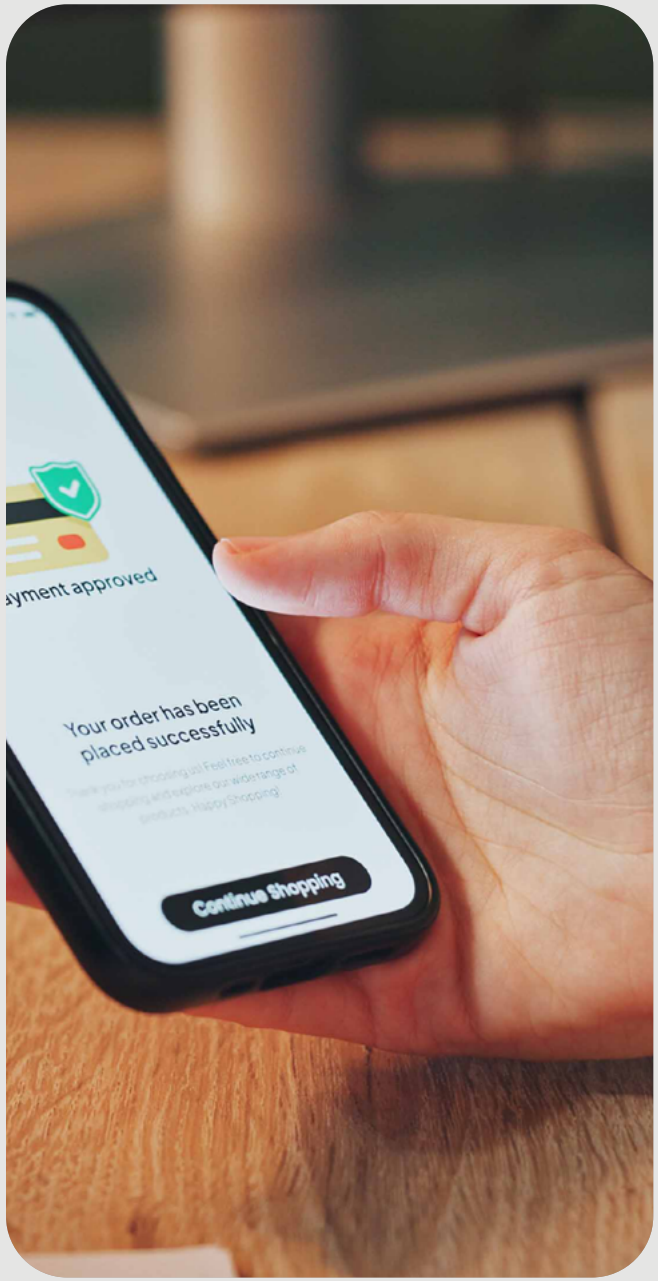
Open banking

Despite its potential, Open Banking adoption remains fragmented - only 15% of retailers have fully integrated Open Banking payment solutions. Regulatory developments, such as the future governance framework in the Data (Use and Access) Act 2025 and the prioritisation of Variable Recurring Payments (VRPs), are expected to accelerate adoption and pave the way towards a broader Open Finance ecosystem.

What should retailers do to prepare?

In order to maintain a smooth customer journey when adopting new payment solutions, particularly agentic systems, retailers should take the following actions:

- Align payment, legal, and customer teams to make decisions consistently and transparently.
- Reduce checkout friction by simplifying Strong Customer Authentication journeys and improving authentication design.
- Expand consumer protection frameworks to include AI-enabled and automated payments decisions.
- Strengthen vendor and PSP contracts to ensure flexibility and upgrade pathways.
- Use dispute, fraud, and journey analytics to target operational pain points.
- Develop an agentic commerce strategy:
- Establish governance for AI agent access to payment APIs;
- Map out and risk-assess data flows between AI intermediaries and payment platforms;
- Explore opportunities to monetise aggregated payment insights compliantly;
- Draft liability frameworks for autonomous purchasing decisions; and
- Create “agent-friendly” checkout experiences that position your brand as a preferred vendor for AI-mediated purchases.



Contact our retail team

Our national practice advises the UK's leading retailers and consumer brands.

We're strategic advisers who understand the dynamics of retail and consumer markets and invest the time to know your brand, your customers, and your ambitions.

We combine deep sector insight with practical, commercial solutions, safeguarding your interests and helping you stay ahead of market trends. Our clients include major grocery groups, fashion brands, home & lifestyle retailers, general merchandise, motor dealership groups and pure-play online businesses.

We deliver strategic guidance on major projects and seamless day-to-day support. Using our sector insight, we anticipate legal, regulatory and commercial challenges so you can navigate a fast-moving retail landscape and create opportunities for what comes next.

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