



March 5, 2026

The Honorable Kaitlin Asrow
Acting Superintendent
New York State Department of Financial Services
1 State Street
New York, NY 10004

FTA Letter on Precomment Draft of NY BNPL Regulations

The Financial Technology Association (FTA) appreciates the opportunity to submit comments on the New York State Department of Financial Services' (DFS) proposed regulations to implement Article 14-B of the New York Banking Law governing buy-now-pay-later (BNPL) lenders. FTA represents industry leaders in the financial technology sector, offering innovative financial products and services that expand access, reduce costs, and promote financial inclusion for millions of American consumers.

We commend the Department for seeking stakeholder input before finalizing these regulations. We share the Department's goal of ensuring New Yorkers can safely use financial products while preserving access to the innovative, affordable credit options that BNPL products provide.

Our members support risk-based regulation that accounts for the consumer-protective elements of BNPL Pay-in-Four (Pi4) products: each BNPL Pi4 loan is individually underwritten, there are no revolving balances, no hidden fees, fixed repayment dates, and missed payments are not reported to credit bureaus. We support transparency and clear disclosures so consumers understand their payment obligations, due dates, and the total cost of the purchase.

We also support regulatory frameworks that account for existing federal and state laws (e.g., consumer protection laws) and regulatory supervision that already applies to BNPL loans, including those originating through bank-fintech partnerships.

However, DFS's proposal goes well beyond a risk-based regulatory framework. We have significant concerns that several provisions may inadvertently harm the very consumers DFS is seeking to protect by reducing access to affordable credit, increasing costs, and pushing consumers toward less favorable alternatives.

We recognize that DFS faces a difficult task in working with flawed statutory text. The underlying law contains ambiguities and imposes requirements that do not align with how BNPL Pi4 products function. However, we urge the Department to pause and undertake a cost-benefit analysis that evaluates the potential impact on BNPL providers and the small businesses they work with, as well as the actual risk to consumers, before proceeding.

I. A Reassessment is Required Given Providers' Overarching Concerns With the Draft Rule

A fundamental concern with these regulations, and the underlying statute, is the attempt to apply credit card regulatory frameworks to a fundamentally different product. These structural differences mean that regulations designed for revolving, open-end credit may not translate appropriately to BNPL Pi4—a closed-end credit product. Key examples include credit card-like periodic billing statements and dispute rights, both of which are difficult to employ given the typical 6-week repayment term of the product and the unique BNPL Pi4 provider-merchant arrangement that governs these products. We urge the Department to consider BNPL's unique characteristics and calibrate requirements accordingly, rather than importing regulatory frameworks designed for credit cards.

Separately, we note that the proposed regulation could be construed to directly or indirectly impose requirements on numerous entities beyond BNPL providers. This includes payment processors that facilitate BNPL payments, out-of-state banks that work with fintech partners to offer products, secondary market participants, and Article 9 licensed entities. Both payment processors and installment lending providers under Article 9 are already subject to separate requirements under New York law. In some cases, the proposed regulations could introduce conflicts of law as certain requirements—ranging from privacy expectations to civil usury limits—differ, which will cause confusion for covered entities without further clarification. Separately, certain requirements pertaining to refunds and consumer privacy could also be read to apply to merchants, increasing their disclosure burdens and placing pressure on their agreements with BNPL providers to ensure compliance.

In the case of out-of-state banks, NYDFS interpretations, and applicable court decisions consistently treat out-of-state state-chartered banks the same as national banks. It is a feature of our dual banking system that recognizes the competitive inequities introduced when one or more banks are forced to operate under different laws, which make them less competitive than another bank that may be chartered differently.

That said, the Department has significant flexibility in how it implements Article 14-B. Where the statute is ambiguous, DFS can interpret it in ways that protect consumers without unnecessarily burdening a product category that is demonstrably working well for New Yorkers. Where the statute is silent, DFS can decline to add requirements that the Legislature did not authorize. And where implementation timelines are unrealistic given the technical complexity involved, DFS can provide adequate runway for compliance.

Our members report that they expected to commit significant resources to build out the statutorily mandated requirements of Article 14-B, recognizing that it would be difficult to operationalize these elements within the six-month timeframe directed by the statute. However,

in triaging the many new requirements stated for the first time in the draft rule that go beyond the statute, they are deeply concerned about their ability to absorb substantial new compliance costs and construct additional new systems within a six-month timeframe. The Department has not adequately explained the basis for its proposal or why the costs of such extensive regulation are appropriate for a lower-risk credit product that often operates through bank partnerships. Therefore, we request that the proposal be reassessed and revised to enhance clarity and account for implementation concerns.

II. Any Proposed Regulation Should Match the Risk

We respectfully submit that the proposed regulations represent a comprehensive framework designed around speculative and unsubstantiated scenarios that do not reflect recent CFPB data studies, the product's actual market performance, nor the regulatory framework under which BNPL loans are already subject. When 96% of loans are repaid successfully and 95.9% never incur any fee, regulations should be calibrated accordingly.¹

Governor Hochul's announcement stated that BNPL products "are not subject to uniform rules regarding the disclosure of loan terms, data privacy, credit reporting, and fees that other consumer loans must adhere to." Acting Superintendent Asrow noted the Department's "responsibility to ensure that innovation is paired with strong consumer protections."²

These statements describe regulatory *inconsistency*—not consumer *harm*. The implicit rationale appears to be: BNPL is growing, therefore, it needs more regulation. But growth alone is not evidence of market failure. If anything, rapid consumer adoption suggests the product is meeting a genuine need.

When a product is serving consumers well—as the data demonstrates BNPL is—the burden should be on regulators to create risk-based, workable regulatory frameworks that provide appropriate guardrails, account for any current requirements already applicable to the product, and allow the product to continue to serve consumers.

BNPL providers already comply with numerous federal regulations relating to extensions of credit (Reg B), electronic funds transfers (Reg E), anti-money laundering, fair lending, UDAP/UDAAP, privacy, and additional laws. Additionally, some BNPL products are bank-issued loans where the originating bank must comply with all applicable federal and state laws

¹ Consumer Financial Protection Bureau. (2025, December). *The buy now, pay later market: Data spotlight*. https://files.consumerfinance.gov/f/documents/cfpb_Consumersbnpl-market-report_2025-12.pdf.

² New York State Department of Financial Services. (2026, February 23). *Governor Hochul announces new nation-leading regulation to establish comprehensive consumer protections for Buy Now, Pay Later loans*. https://www.dfs.ny.gov/reports_and_publications/press_releases/pr20260223.

and regulations.³ As such, the bank subjects the BNPL platform to the same compliance obligations as the bank, both as a feature of the BNPL’s commercial arrangement with the bank and pursuant to federal law, which subjects the BNPL platforms to the same regulation and examination as the bank.

With this in mind, we request that any revisions to this proposal be risk-based and account for the existing federal and state laws and regulatory supervision that already applies to BNPL loans.

III. BNPL is a Consumer-Friendly Product That is Expanding Access to Credit and Should be Regulated Accordingly

BNPL has emerged as one of the most consumer-friendly credit innovations in decades, offering New Yorkers a transparent, affordable alternative to high-cost revolving debt.

Federal data paints a clear picture of responsible lending and strong consumer outcomes:

- Consumers, even those with subprime credit scores, repay BNPL Pi4 loans **96-98% of the time.**⁴
- BNPL Pi4 default rates of **2%** compare favorably to credit card default rates of **10%** among the same borrowers during the same period.
- Charge-off rates have **declined** from 2.63% in 2022 to 1.83% in 2023—the lowest level in five years.⁵
- Only **4.1% of BNPL Pi4 loans** were assessed any late fee in 2023, down from 5.2% in 2022.⁶
- **90% of consumers** who request late fee waivers receive them.⁷
- Late fee revenue represents just **0.18% of total loan volume.**⁸

BNPL providers' business models depend on consumers successfully repaying their loans—when a BNPL Pi4 loan is initiated, BNPL providers pay the merchant first on behalf of the consumer, and then seek repayment from the consumer. Individual, transaction-level underwriting ensures that credit is extended only when consumers can reasonably repay and automatic repayment structures help consumers stay on track. The current proposal may put this access at risk by mandating overly prescriptive underwriting criteria that doesn’t account for actual risk.

³ This is especially true for traditional installment loans, that are currently captured by the “BNPL loan” definition, and already subject to the disclosure requirements of the Truth in Lending Act as well as the laws and regulations outlined in this section.

⁴ CFPB, *supra* note 1.

⁵ *Id.*

⁶ *Id.*

⁷ Schulz, M. (2026, February 14). *BNPL tracker: 41% of users late in past year, more using loans for groceries*. LendingTree. <https://www.lendingtree.com/personal/buy-now-pay-later-loan-statistics/>

⁸ *Id.*

BNPL reaches consumers who have historically been underserved by traditional financial institutions. Importantly,

- Pi4 BNPL products offer low or no interest compared to credit cards averaging **20%+ interest**.
- While each transaction is **individually underwritten**, consumers with limited credit history can gain access to affordable credit without the high interest rates of alternative products.
- **Transparent, fixed payment schedules** help consumers budget effectively and **no compounding interest** means debt cannot spiral, with the customer simply losing access to the product if they fail to repay.

The alternative for many of these consumers is not better credit—it is worse credit or no credit at all. Regulations that reduce BNPL availability will push consumers toward high-cost alternatives including payday loans, overdraft programs, and high-interest credit cards. We respectfully request that DFS revise the proposed rules to account for the unique attributes of this product that differentiate it from traditional credit products.

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FTA appreciates the Department's precomment solicitation. We remain committed to working collaboratively toward an oversight framework that protects consumers while preserving access to innovative, affordable financial products and would welcome the opportunity to meet with you to discuss our concerns further. In the interim, we request a delay in any additional rulemaking efforts until a cost-benefit analysis evaluating the potential impact on BNPL providers and the small businesses they work with, as well as the risk to consumers, is complete and the proposed regulation is tailored to account for the lower risk of BNPL products.

Sincerely,



Penny Lee
President and Chief Executive Officer
Financial Technology Association