

Groups Urge CFPB to Treat “Buy Now Pay Later” Products Like Credit Cards and Protect Consumers from Harmful Practices

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WASHINGTON – More than 75 consumer, housing, civil rights, legal services, faith, community, small business, student borrower, and public interest organizations submitted a **joint comment letter** to the Consumer Financial Protection Bureau (CFPB) concerning Buy Now, Pay Later (BNPL) credit products. The groups are alarmed by the lack of regulation of this credit product, which is exploding in use, and urge the CFPB to view BNPL products as credit cards covered by the Truth in Lending Act (TILA), to start supervision of this market, and to look out for practices that harm consumers.

“BNPL products have largely evaded oversight by federal and state regulators,” **the groups stated.** “Although these products could have a place in meeting consumer needs if they operate as promised, they pose a risk to consumers and should be covered by basic consumer protections.”

BNPL credit may provide some consumers with an affordable way to finance purchases, but the groups warn that BNPL credit presents cause for concern, including: a lack of meaningful underwriting for a consumer’s ability to repay, which could lead to unmanageable debt; hidden fees and absence of clear disclosures; problems with disputes and refunds; confusing payment schedules for multiple purchases; deceptive claims about credit building or potentially negative impact on credit reporting; and debt collection issues.

“Marketing of Buy-Now-Pay-Later credit is enticing, with promises of instant approval and no impact on a consumer’s credit,” **said the groups.** “However, many providers are not conducting meaningful underwriting to assess a borrower’s ability to repay, allowing consumers to accumulate unaffordable amounts of debt.”

Buy Now, Pay Later options have increased dramatically in recent years. As of December 2021, more than 8 million consumers used BNPL in December 2021, an all-time high. Consumers are already being harmed by a lack of regulatory oversight, as seen in complaints to the CFPB and Better Business Bureau.

According to a recent survey, nearly 40% of BNPL users said that they used BNPL credit to make purchases that would otherwise not fit in their budget. Additional recent analysis found that consumers who had overdrafted their account were more than twice as likely to have used BNPL services.

The groups recommend that the Bureau:

- Apply credit card protections of the Truth in Lending Act (TILA), including the provisions of the Credit Card Accountability Responsibility and Disclosure (CARD) Act. Applying credit card rules to BNPL credit would provide consumers with basic protections, such as dispute and chargeback rights, cost transparency, uniform disclosures and statements, reasonable penalty fees, and underwriting for a consumer’s ability to repay.
- Issue a larger participant rule to bring the BNPL market (along with other installment loan

markets) within the CFPB's supervision.

- Prevent or take action against unfair, deceptive or abusive acts and practices (UDAAPs) and ensure compliance with fair lending laws.
- Enforce the Electronic Fund Transfer Act's ban on compulsory repayment of credit by preauthorized electronic fund transfer.
- Conduct research on the impact of the BNPL market on consumers and on their credit reports.

"New financial products can result in disparate impacts on communities of color and other financially vulnerable consumers," **the groups warn**. "It is essential that the CFPB apply anti-discrimination laws to new lending platforms, especially BNPL credit, which is disproportionately used by Black and Hispanic Americans, and young adults."

A longer, more detailed **comment** was also submitted by Center for Responsible Lending, Consumer Federation of America, and National Consumer Law Center.