



**National
Consumer Law
Center**

*Fighting Together
for Economic Justice*

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Frank Cassidy
Principal Deputy Assistant Secretary
Office of Housing—Federal Housing Administration
Department of Housing and Urban Development
451 7th Street SW, Room 9262-9280
Washington, DC 20410-0500

Submitted electronically via www.regulations.gov

Re: Request for Information Regarding Buy Now Pay Later Unsecured Debt Docket No. FR-6547-N-01

Dear Mr. Cassidy:

Thank you for the opportunity to submit comments in response to your Request for Information regarding Buy Now Pay Later (BNPL) products. These comments are submitted on behalf of the low-income clients of the National Consumer Law Center. Since 1969, the nonprofit [National Consumer Law Center® \(NCLC®\)](http://www.nclc.org) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people in the United States. NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services; and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitative practices, help financially stressed families build and retain wealth, and advance economic fairness. NCLC has been involved in policy work around BNPL at the federal and state levels and also has a long history of partnering with HUD to support the ongoing development of the Federal Housing Administration's (FHA) single family mortgage program.

1. HUD should collect further data and monitor the market before making any decisions about the role of BNPL or any other particular credit product.

We support HUD's ongoing commitment to sustainable homeownership. As HUD notes, this mission is consistent with HUD's core obligation of protecting the Mortgage Mutual Insurance Fund. Importantly, it also aligns with HUD's statutory duty of "meet[ing] the housing needs of the borrowers that the single family mortgage insurance program under this subchapter is

designed to serve.” 12 U.S.C. § 1708(a)(7)(B). Both of these fundamental goals must be at the center of all of HUD’s work with the FHA-insured mortgage program, including HUD’s examination of lending standards.

In response to the Department’s effort to better understand how emerging financial products—such as BNPL loans—may affect FHA underwriting and a borrower’s capacity to sustain long-term homeownership, we urge you to collect further data and monitor market developments before making any decisions about the role of BNPL in FHA underwriting. Any action now on incorporating BNPL into FHA underwriting would be premature.

BNPL is just one of many products, including payday loans, auto title loans, high-cost online installment loans, and others, that pose risks to consumers. In addition, the BNPL market is still developing, and there is a lot of uncertainty around how consumers are using BNPL products, what use of this credit says about the financial health of different segments of the consumer population, and how BNPL credit will be reflected in credit reports and scores. Data on these questions are in their early stages, especially as they relate to underwriting and credit reporting. In addition, it is essential that FHA make any decisions in this regard while balancing the need for prudent underwriting with the mission to promote sustainable homeownership.

Another developing area is the regulatory treatment of BNPL credit. State regulators are beginning to license and supervise BNPL lenders, and New York just adopted a law that requires BNPL lenders to assess the borrower’s ability to repay using reasonable risk-based underwriting. New York Banking Law § 746(2) (effective Nov. 5, 2025). Increasing oversight of BNPL lenders may help ensure that use of BNPL credit does not pose a risk to consumer’s financial health or ability to handle other obligations.

Below we provide some information on trends in BNPL usage and product characteristics, however we also note that credit reporting and other tools for understanding BNPL’s effect on borrowers and their credit profiles are nascent at best. Moreover, examining BNPL in the absence of other alternative payment products, such as payday loans, puts undue emphasis on one credit product.

In addition, the question for all of these products is how it affects a borrower’s cash flow. The GSEs have begun to explore cash flow underwriting, which we view as a promising form of underwriting that directly answers the core question of whether a consumer has sufficient resources to handle any additional payment. We urge FHA to begin a similar process in order to get a fuller sense of borrowers’ profiles, to overcome the known limitations of debt-to-income (DTI) underwriting, and to avoid the particular focus on some lending products over others. Finally, we note that FHA’s current underwriting already takes into account short-term credit and excludes trade lines with fewer than 10 payments due. The data available do not yet indicate that BNPL should be treated differently from other short-term credit products nor how one would accurately account for the risk that BNPL loans might pose.

2. The use and risks of BNPL loans are just beginning to emerge.

With the typical “pay-in-four” BNPL loan, a quarter of the price is due at checkout followed by three payments every two weeks for the next six weeks. Most BNPL loans carry no interest or up-front fees, but can charge late fees and other fees. BNPL loans can be useful when used sporadically for purchases consumers can afford. But BNPL users tend to be financially fragile, are [disproportionately](#) Black, Hispanic and younger, and the loans carry [many risks](#).

BNPL loans are disproportionately used by subprime consumers who often are struggling with other credit, and who often experience problems like [overspending and missed payments](#). While a credit card has a single payment due once per month on a predictable date, regardless of the number of purchases a consumer has made, a consumer who has made four BNPL purchases could have eight or more payments due in a single month, falling haphazardly on different dates depending on the date of purchase. Juggling multiple due dates can be confusing and result in miscalculations that could trigger late fees and overdraft fees. Though most people repay BNPL loans through their bank account, some select the credit card repayment option. One lender requires a credit card. The consumer will likely incur interest, may end up with longer term debt, and still have the risk of [late fees](#) on the BNPL loan if the credit card is maxed out and the BNPL payment is rejected.

At the same time, traditional underwriting tools will already reveal if a consumer who has been using BNPL credit is struggling. If the consumer already has a subprime credit score, that will be apparent. Most BNPL borrowers in fact [have other credit](#), and thus are unlikely to be credit invisible. If a consumer defaults on a BNPL loan, that default may be reported as a collection item to credit bureaus. If BNPL credit causes the consumer to miss other payments, those missed payments will show up in credit reports. Conversely, it is not clear how positive payments will be reflected in credit reports and scores. Nor is it apparent what implications use of BNPL credit should have for underwriting if the consumer is making BNPL payments.

While some BNPL lenders [have begun](#) to report loans to credit bureaus, others are not or have stopped in light of concerns that lenders may treat use of BNPL credit negatively even if the consumer is successfully making payments. Some of the largest BNPL providers, such as Afterpay and Klarna, have stated they will not be furnishing consumer payment data to the credit bureaus because they contend the way the system is currently set up could hurt credit scores of consumers who are repaying their loans. As a result, it is not known whether there are sufficient BNPL data to be used for empirical research by credit scoring modelers to analyze the predictiveness of BNPL repayment behaviors.

BNPL is structured very differently from the traditional types of credit that make up the bulk of credit bureau data. [FICO has attempted to address some of this](#) by aggregating BNPL loans, but this may not be sufficient to conform this product to the standardized credit reporting format. Credit reports are built to look at payments in 30-day increments, not the bi-weekly payment structure of BNPL pay-in-four loans. The standardized Metro 2 format does not even consider a loan payment to be late unless it is 30 days late; how does that work with loan payments that are due every 14 days?

Substantial work would need to be done to understand the impact of BNPL data on credit profiles, especially for distinct groups of consumers, i.e., subprime vs nearprime vs prime. And while FICO may claim that BNPL may improve credit scores for certain consumers, we do not know how late payments will be reported and what kind of resulting harm will occur to consumer credit scores. In addition, we do not know if there are lenders that review full credit reports that may perceive use of BNPL credit as a signal of riskier borrowing.

HUD should pursue further data collection and research to understand the positive and negative impacts of BNPL products on prospective FHA borrowers. Moreover, it should examine the use of such products in a broader context of other risky products, and should incorporate into its analysis FHA's mission to provide access to affordable homeownership. Any action now on incorporating BNPL into FHA underwriting would be premature.

Sincerely,

Alys Cohen
Director of Federal Housing Advocacy