HUSCH BLACKWELL

THOUGHT LEADERSHIP

LEGAL UPDATES

PUBLISHED: JUNE 25, 2025

Five Things to Know About the New York Buy-Now-Pay-Later Act

Service

Consumer Financial Services

Industry

Financial Services & Capital Markets

Professionals

SUSAN M. SEAMAN
MADISON:
608.255.4440
SUSAN.SEAMAN@
HUSCHBLACKWELL.COM

CAT ALBRECHT-WIESE
MADISON:
608.234.6075
CATHERINE.ALBRECHTWI
ESE@
HUSCHBLACKWELL.COM

As part of an omnibus 2026 budget bill, New York passed a new law that will broadly govern point-of-sale (POS) installment financing offered to New York residents. The Buy-Now-Pay-Later (BNPL) Act was signed into law in early May 2025, but will not take effect until 180 days after the New York Department of Financial Services (NY-DFS) issues regulations to effectuate the provisions of the act.

While the delayed effective date means that the consumer finance industry has some time to comply with the New York BNPL Act and regulations that will be promulgated thereunder, the act contains many significant provisions that go beyond traditional state consumer lending laws and warrant a deeper analysis by lenders and their service providers. Below are five key things to know about the New York BNPL Act.

1. **The New York BNPL Act has a broad scope.** Subject to certain exceptions for motor vehicle purchases and seller financing, the act broadly governs closed-end credit provided to finance an individual's particular purchase of goods or services. Notably, the act applies to POS installment loans regardless of whether interest or finance charges are assessed and irrespective of the number of installments required to repay the loan. With this, the act also grants broad authority to the NY-DFS to identify by regulation other types of POS installment loans that should be governed by the act, which could expand the already broad scope of the act.

2. **Non-lenders may be required to obtain a license and follow the act.** The BNPL Act regulates "buy-now-pay-later lenders." This term includes lenders and other persons who operate a platform, software, or system with which a consumer interacts and the primary purpose of which is to allow third parties to make BNPL loans. The act requires a person acting as

a BNPL lender to obtain a license from the NY-DFS unless a licensing exemption applies.

3. **Your bank partner may not be exempt.** One eye-catching aspect of the BNPL Act is the law's disparate treatment of federally-chartered depository institutions and state-chartered depository institutions. While both types of depository institutions may be subject to provisions applicable to BNPL lenders, state-chartered banks must obtain the NY-DFS's written authorization before acting as a BNPL lender for specific categories of BNPL loans. The process to obtain prior written authorization will be set by the NY-DFS in future regulations; however, the process must include requirements for the entity seeking authorization to submit a written plan for BNPL lending and its policies and procedures for complying with the BNPL Act. The prior written authorization requirement does not apply to federally-chartered depository institutions. It is unusual for a general consumer lending law to require in-state or out-of-state state banks to obtain the state's prior written authorization as a condition to offering loans in the state.

4. **The New York BNPL Act contains a licensing requirement and much more.** In addition to the licensing requirement noted above, the BNPL Act limits interest and fees on POS installment loans. The BNPL Act also contains provisions that go beyond what is typically seen in state consumer lending laws and what is required under federal law. For example, subject to regulations promulgated by the NY-DFS, the law requires BNPL lenders to perform reasonable risk-based underwriting before providing a BNPL loan to a consumer. A BNPL lender must clearly and conspicuously disclose to consumers the factors considered in such underwriting process. This disclosure requirement may go beyond what is required under federal adverse action notice requirements. As another example, the BNPL Act requires BNPL lenders to apply to BNPL loans the dispute rights and unauthorized charges requirements that apply to credit cards under the federal Truth-in-Lending Act (TILA) even if the BNPL loans do not fall within the definition of "credit card" under the federal TILA. The Consumer Financial Protection Bureau (CFPB) took a similar step in a 2024 interpretive rule, but the CFPB signaled that its guidance applied only to pay-in-4 POS installment loans. New York took a broader approach. Beyond these examples, the New York BNPL Act contains other requirements and restrictions that warrant further analysis.

5. **Many details of the BNPL Act are to be determined by the NY-DFS.** The New York legislature left many details of the BNPL Act in the hands of NY-DFS. The NY-DFS must promulgate regulations on, among other things, the prior written authorization requirement for certain entities, the all-in and individual fee limitations, and financial solvency requirements for licensees. The BNPL Act also gives the NY-DFS broad discretionary rulemaking authority. As a result, more specific restrictions and requirements may be placed on BNPL lenders than what currently appears in the BNPL Act.

What this means to you

The fact that New York passed a BNPL law is not surprising. Since early 2024, the New York legislature had been working to enact BNPL legislation. These efforts predated the CFPB's issuance of its May 2024 interpretive rule subjecting certain BNPL obligations to open-end credit regulations under the federal TILA. Notably, in May 2025, the CFPB announced plans to withdraw this controversial interpretive rule. The New York BNPL Act is not only an example of a state "filling in the gaps" for a less active CFPB; the BNPL Act also demonstrates the lingering influence that non-rulemaking guidance issued by the CFPB under Director Rohit Chopra could have on states' legislative and regulatory agendas.

What is surprising about the New York BNPL Act is the breadth of products and entities covered by the act as well as the types of provisions included in the act. Unless clearly exempt, all lenders offering POS installment loans in New York should start to study the New York BNPL Act and monitor the NY-DFS's rulemaking efforts under the act.

Contact us

We regularly advise depository and non-depository institutions on secured and unsecured POS financing products and understand the unique regulatory considerations with offering financing in different verticals. If you have any questions about the New York BNPL Act, please contact Susan Seaman, Catherine Albrecht-Wiese, or your Husch Blackwell attorneys.