

March 5, 2026

Ms. Mezhgan Rustemi  
New York State Department of Financial Services  
1 Commerce Plaza  
Albany, NY 12210

**Re: Draft Pre-Proposed New 3 NYCRR Part 423**

Dear Ms. Rustemi,

We write on behalf of the American Financial Services Association (AFSA)<sup>1</sup> to comment on the pre-proposed regulation, Title 3, New York Codes, Rules and Regulations (NYCRR) Part 423 (“Rules”) in relation to Buy-Now-Pay-Later (BNPL) Lenders.

We appreciate the opportunity to share our views with the Department of Financial Services (Department) prior to the filing of the Rules. At this stage, our comments are intentionally brief and straightforward, with the aim of aligning the Rules with relevant and established New York law, specifically NY Personal Property Law § 401(2)(a).

Many of our members finance the closed-end credit purchase of motor vehicles, and we appreciate that the Rules include NY Banking Law § 736(3)’s exclusion of motor vehicle purchases from the “BNPL loan” definition in § 423.1(f). However, one of the most operative terms - “services- is not defined in the Rules or NY Banking Law Article 14-B, and our members are concerned that, absent a controlling definition, “BNPL loan” could be construed to encompass the financing of services that are **closely related** to the purchase of a motor vehicle, like a vehicle service contract.

We do not believe that the New York legislature intended for NY Banking Law Article 14-B to regulate services closely related to the purchase of a motor vehicle but not the motor vehicle purchase itself. To provide necessary guidance to our members that reasonably

---

<sup>1</sup> Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, direct and indirect vehicle financing, mortgages, and payment cards. AFSA members include national banks and non-bank state licensed financial institutions. AFSA does not represent payday lenders, title lenders, or credit unions.

believe that their financing of such services falls outside the scope of NY Banking Law Article 14-B, we urge the Department to amend § 423.1 to add a definition of “services” that clarifies it does not cover services that are closely related to motor vehicle purchases. Please see below for a proposed definition for the Department’s consideration:

“Services” shall not mean or include any services sold in connection with closed-end credit provided to a consumer in connection with such consumer’s particular purchase of a motor vehicle as defined under section 125 of the Vehicle and Traffic Law.

This proposed definition is consistent with a comparable definition of “services” in the New York Retail Installment Sales Act, which likewise does not apply to retail installment sales contracts that finance motor vehicle purchases. See NY Personal Property Law § 401(2)(a) (**emphasis** added):

In the case of a retail instalment contract, work, labor and services furnished, or agreed to be furnished, for other than a commercial or business use, in the delivery, installation, servicing, repair or improvement of goods or repairs, alterations or improvements upon or in connection with real property, **except that such services shall not mean or include any services sold in connection with the sale or lease of a motor vehicle which is evidenced by a retail instalment contract governed by article nine of this chapter or a retail lease agreement governed by article nine-A of this chapter;**

Thank you for considering our comments. If you have any questions or would like to discuss this further, please do not hesitate to contact me at 585-953-9624 or at [coconnor@afsamail.org](mailto:coconnor@afsamail.org).

Sincerely,



Christian O’Connor  
State Legislative and Regulatory Counsel  
American Financial Services Association  
1750 H Street, NW, Suite 650  
Washington, DC 20006-5517