September 14, 2026

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

Dear Acting Superintendent Asrow,

We write to you as representatives of financial services companies and technology firms that offer products and services in New York to raise concerns with the New York State Department of Financial Services's (NYDFS) proposed regulations implementing Article 14-B of the New York Banking Law governing buy now pay later (BNPL) lenders.

We support thoughtful regulation of innovative financial products and policies that protect consumers, reduce costs, and encourage choice. At the same time, we believe that this proposal may directly or indirectly capture entities that are not BNPL providers, potentially hurting the state's business climate and the competitiveness of small and independent businesses that rely on this tool to support their customers. Separately, we are concerned that the proposal fails to calibrate its requirements to the comparatively low risk profile of BNPL products.

The Rule's Scope Should Match the Product It's Regulating And Account for Existing State and Federal Law

A core problem with the proposed rule is that various definitions could extend requirements well beyond BNPL providers. In particular, given the broad definition of a BNPL loan, and the rule's limited product and entity exemptions, lenders and other financial services providers already licensed under other New York statutes could be inappropriately captured. This includes lenders already subject to Article 9 of the Banking Law. Separately, elements of the regulation could also apply to entities that are licensed under other federal or state laws – including out-of-state banks and secondary-market participants – as well as technology providers that offer merchants support for e-commerce transactions but do not "offer" BNPL loans. In addition, provisions on refunds and consumer privacy could be read to apply to merchants themselves, increasing their disclosure burdens and adding pressure on their agreements with BNPL firms.

Licensing and conduct obligations should apply to BNPL providers — not to a merchant who simply offers BNPL as a checkout option or entities that could be scoped in due to the rule's broad definitions. We ask the Department to clarify in any future rulemaking that obligations apply only to the BNPL provider and calibrate expectations accordingly.

The Proposed Rule's Compliance Architecture Is Disproportionate to BNPL's Risk Profile

BNPL lets people split a purchase into four equal installments with fixed payment dates and amounts and no interest on outstanding balances. Each loan is individually underwritten, there are no revolving balances, no hidden fees, and all terms, obligations, and costs are clearly disclosed up front. Missed payments simply pause a consumer's access to the product, rather than compounding into spiraling debt. Data released by the Consumer Financial Protection Bureau confirms that this is a responsibly performing product, as 96% of loans are paid in full and on time.[1]

Despite this risk profile, the proposed rule imposes a compliance architecture that appears calibrated for a materially riskier and more complex product. The disclosure framework borrows extensively from rules written for open-end and revolving credit, adding periodic statement obligations to a product that is fixed-term, natively digital, and already fully disclosed before a consumer accepts the loan. And the rule introduces operational mandates — including routine filing of third-party audits — that are not tied to any demonstrated gap in oversight.

The cumulative effect is a set of costs that bear little relationship to the actual risk the product presents to consumers. We ask the Department to reassess each new requirement against the product it is regulating, and to scale back provisions that duplicate protections already inherent in BNPL's short-term, fixed-payment structure.

DFS Should Clarify and Calibrate This Rule

We respectfully request that DFS undertake a robust cost-benefit analysis of the rule as proposed, weighing its cumulative impact on BNPL providers, the merchants and small businesses that rely on this product, and the consumers it is intended to protect. We urge the Department to calibrate the rule's requirements so that they are proportionate to the product's risk profile and do not capture entities beyond BNPL providers.

A rule that is broader or more burdensome than necessary risks reducing the availability of an affordable payment option that small businesses depend on, pushing consumers toward higher-cost alternatives and undermining the very people it is meant to protect. We appreciate the Department's engagement on this issue and would welcome the opportunity to discuss these concerns further.

[1] Consumer Fin. Protection Bureau, *The Buy Now, Pay Later Market: Data Spotlight* (Dec. 2025), https://files.consumerfinance.gov/f/documents/cfpb_bnpl-market-report_2025-12.pdf.

Sincerely,

Financial Technology Association
American Financial Services Association
American Fintech Council
Electronic Transactions Association
National Association of Industrial Bankers
New York Bankers Association
TechNet