Banking and Finance Law Daily Wrap Up, STATE BANKING LAWS—Trade groups seek changes to New York BNPL regulations, (Sept. 15, 2026)

Banking and Finance Law Daily Wrap Up

By Patricia K. Ruiz, J.D.

Industry commenters back BNPL oversight but seek narrower, more tailored requirements.

Several financial technology and banking trade groups have asked the New York State Department of Financial Services (NYDFS) to revise proposed regulations for buy now, pay later (BNPL) providers, arguing that portions of the framework could exceed statutory requirements and unintentionally capture companies that do not directly offer consumer credit. The comments were submitted as NYDFS considers rules implementing New York's BNPL law. The groups said they generally support consumer-protection measures, including transparency, fee limitations, and dispute-resolution requirements, but contended that several provisions should be narrowed or clarified.

Scope of covered entities. In a Sept. 14 comment letter, the American Fintech Council (AFC) urged NYDFS to align the definition of a BNPL lender with the statute's "primary purpose" standard rather than a broader "substantial purpose" test. According to AFC, a broader definition could bring within the rule's scope software platforms, institutional investors, and secondary-market participants that do not directly extend credit to consumers.

A separate joint comment letter submitted by the Financial Technology Association (FTA), AFC, the American Financial Services Association, the Electronic Transactions Association, the National Association of Industrial Bankers, the New York Bankers Association, and TechNet similarly argued that the proposal's definitions and limited exemptions could reach entities other than BNPL providers. The coalition said licensed lenders, out-of-state banks, technology vendors, secondary-market participants, and merchants offering BNPL at checkout could face regulatory obligations not intended by the statute.

Underwriting requirements. AFC also objected to proposed underwriting provisions that would require assessments of consumer income and indebtedness for every transaction. The organization argued that the requirement would effectively create an ability-to-repay standard that is not contained in the enacted law. The group urged NYDFS to preserve flexible, risk-based underwriting practices for BNPL products. AFC said member data suggests certain proposed requirements could reduce the availability of responsible credit in New York by more than $500 million annually.

The joint trade associations likewise urged NYDFS to calibrate the rule to the risk profile of BNPL products. They noted that pay-in-four loans are generally closed-end products with fixed repayment schedules and no revolving balances, asserting that regulatory requirements should reflect those characteristics.

Disclosure and operational concerns. Both comment letters criticized aspects of the proposal that they said borrow heavily from rules designed for traditional revolving credit products. AFC recommended that NYDFS permit providers to rely on real-time electronic account interfaces rather than requiring monthly periodic statements. The group also asked regulators to harmonize proposed consumer-data privacy and deletion requirements with existing federal obligations under the Gramm-Leach-Bliley Act and Regulation P.

The joint trade coalition similarly argued that periodic-statement requirements are ill-suited to short-term, digitally delivered BNPL products whose terms are disclosed before consumers accept a loan. The coalition also questioned

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requirements that would mandate routine filing of third-party audits, contending that the proposal does not identify a supervisory gap warranting the added obligation.

Implementation timeline. AFC requested that NYDFS extend the proposed application filing period from 45 days to at least 90 days and allow companies to continue operating under provisional authority while license applications are under review.

The coalition of trade associations also urged NYDFS to conduct a cost-benefit analysis of the proposal, arguing that the agency should evaluate the cumulative impact of the rule on providers, merchants, small businesses, and consumers before adopting a final regulation.

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

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