April 2, 2025

CFPB Shifts Course on Buy Now, Pay Later: Interpretive Rule Revoked, Legal Challenge Implications

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The Consumer Financial Protection Bureau (CFPB) recently announced a significant change in its approach to the burgeoning "buy now, pay later" (BNPL) market. The Bureau has announced plans to revoke its May 2024 interpretive rule that asserted BNPL lenders were to be regulated as credit card issuers under existing law. This decision carries significant implications for the financial technology industry and has a direct impact on the lawsuit filed by the Financial Technology Association (FTA) against the CFPB in October 2024.

Background: The CFPB's May 2024 Interpretive Rule

As detailed in our May 28, 2024 post, "*New CFPB Rule Classifies 'Buy Now, Pay Later' Lenders as Credit Card Issuers*," in May of last year the CFPB issued an interpretive rule stating that BNPL lenders offering short-term, interest-free installment loans were, in fact, "creditors" issuing "credit cards" under the Truth in Lending Act (TILA) and its implementing regulation, Regulation Z. This interpretation aimed to extend various consumer protections traditionally associated with credit cards – such as the right to dispute charges, the ability to receive refunds for returned items, and requirements for clear disclosures – to BNPL products.

This development represented a pivotal regulatory shift as most BNPL products had not previously been subject to the comprehensive requirements of TILA because they were neither subject to a finance charge nor payable in more than four installments. The CFPB argued that despite the differences in structure from traditional credit cards, BNPL products functioned similarly and posed similar risks to consumers, including the potential for overspending and accumulating debt.

The interpretive rule was met with mixed reactions: consumer advocacy groups generally applauded the move as a necessary step to protect consumers in a rapidly growing market; while the fintech industry largely criticized the rule, arguing that it misapplied existing regulations to a novel financial product and would stifle innovation.

The Financial Technology Association Lawsuit

In response to the CFPB's BNPL interpretive rule, the Financial Technology Association (FTA), a trade group representing numerous fintech companies including BNPL lenders, filed a lawsuit against the CFPB in October 2024. The FTA's lawsuit challenged the validity of the interpretive rule, arguing that the CFPB had overstepped its authority and that the rule was inconsistent with the plain language of TILA.

The FTA lawsuit specifically argued that BNPL loans do not meet the definition of a "credit card" under the Act because, among other reasons, they typically do not involve a revolving line of credit and do not impose finance charges, and therefore, providers of BNPL products are not “card issuers” as that term was understood under TILA. Additionally, the FTA claimed that the interpretive rule violated the Administrative Procedure Act’s notice-and-comment requirements and limitations on acting within congressionally granted statutory authority. The FTA sought to have the interpretive rule vacated, arguing that it created uncertainty for BNPL providers and would negatively impact consumer access to these financing options.

CFPB Announces Plans to Revoke the BNPL Interpretive Rule

On March 26, 2025, the CFPB filed a joint motion to stay with the U.S. District Court for the District of Columbia in the FTA action, stating that the “Bureau is planning to revoke the Interpretive Rule,” and requesting that the Court stay the litigation “until the Interpretive Rule is Revoked.” While the agency has not issued a formal statement explaining the reversal, it is likely influenced by the ongoing litigation and the arguments raised by the FTA.

The CFPB's decision to revoke the interpretive rule is likely to have a direct and significant impact on the FTA's lawsuit. With the rule now being rescinded, the central point of contention in the lawsuit has been eliminated. It is anticipated that the FTA will either withdraw its lawsuit or that the court will dismiss the case as moot, the that the case will be similarly resolved in the FTA’s favor.

In response to the CFPB’s stated plans to revoke the rule, FTA president and CEO Penny Lee commented that “We applaud the CFPB for committing to revoke the buy now/pay later interpretive rule,” arguing that the “interpretive rule was deeply flawed, seeking to fundamentally change the regulatory treatment of pay-in-four BNPL products without legislative authority and without a clear and proper understanding of the unique nature

of the product." This is a sentiment shared by other industry groups representing BNPL providers, such as the American Fintech Council, whose CEO commented that the group "is eager to work with new CFPB leadership to develop a regulatory framework that reflects the realities of BNPL products, preserves consumer protections and supports continued access to transparent, responsible financial tools."

What Does This Mean for the BNPL Industry and Consumers?

The revocation of the interpretive rule would again reshape the regulatory landscape for the BNPL industry. While it removes the immediate obligation for BNPL providers to comply with TILA and Regulation Z's credit card-related requirements, it does not necessarily signal a *complete* retreat by the CFPB from the BNPL space.

Here are some potential implications:

- *Reduced Regulatory Burden* (for now): BNPL companies will see this as a positive development, as it alleviates the immediate burden of adhering to the TILA/Reg. Z credit card regulations that would have been imposed under the interpretive rule, which would have involved significant operational changes for some lenders. Nevertheless, voluntarily adopting some of the consumer protection requirements cited in the interpretive rule may be recommended as a "best practices" approach to avoid consumer complaints or future regulatory scrutiny.
- *Continued Scrutiny*: Despite revoking the interpretive rule, the CFPB has signaled its continued interest in the BNPL market. The Bureau may explore alternative regulatory approaches or pursue rulemaking specifically tailored to BNPL products.
- *Consumer Protection Concerns*: Consumer advocacy groups may express concern that the revocation could lead to reduced consumer protections in the BNPL market. The debate around appropriate oversight of these products is likely to continue.
- *Uncertainty Remains*: While the immediate legal challenge in the FTA lawsuit is likely resolved, the long-term regulatory framework for BNPL remains uncertain. Companies in this space should anticipate potential future changes to regulations and/or rulemakings impacting BNPL offerings.

Conclusion

The CFPB's purported decision to revoke its May 2024 interpretive rule on BNPL products marks a significant shift in the regulatory landscape for this rapidly evolving industry. While it likely resolves the immediate legal challenge posed by the FTA, it does not necessarily signal an end to regulatory scrutiny over BNPL products. Current CFPB leadership may issue rules more finely tuned to BNPL products which industry participants would

view as less burdensome than those imposed under the 2024 interpretive rule, however such scrutiny would become even more prominent in the event the regulatory pendulum swings back with increased CFPB enforcement priorities under a future administration.

BNPL providers and other stakeholders in the financial technology sector should closely monitor future developments from the CFPB, FTC, and state financial services regulators, and be prepared to navigate a potentially evolving regulatory environment. This situation highlights the dynamic nature of financial services regulation – particularly for industries reliant on technological innovation – and the importance of staying informed about changes in regulatory policy and legal challenges.