



Rohit Chopra, Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

March 25, 2022

Re: Comment Regarding the CFPB's Inquiry Into Buy Now Pay Later (BNPL) Providers (CFPB-2022-0002)

Dear Director Chopra,

Texas Appleseed is a public interest justice center working to change unjust laws and policies that prevent Texans from realizing their full potential. Working with pro bono partners and collaborators, Texas Appleseed develops and advocates for innovative and practical solutions to complex issues. As part of its work, Texas Appleseed also conducts data-driven research to better understand inequities and identify solutions for concrete, lasting change. Texas Appleseed is part of a non-profit network of 17 justice centers in the United States and Mexico.

Through its Fair Financial Services Project, Texas Appleseed is a state leader in advocating for fair market practices across many financial services areas, including payday and auto title lending, protections for victims of financial abuse, and in support of fair debt collection practices.

We appreciate the opportunity to respond to the CFPB inquiry into Buy Now Pay Later (BNPL) providers. We joined with consumer protection organizations from across the country to support the letter coordinated by the Consumer Federation of America with key recommendations:

- Apply credit card protections of the Truth in Lending Act (TILA), including the provisions of the Credit Card Accountability Responsibility and Disclosure Act. BNPL providers issue devices that are “charge cards,” which do not need finance charges or more than four installment payments to be covered by TILA. Applying credit card rules to BNPL credit would provide consumers with basic protections, such as dispute and chargeback rights, cost transparency, uniform disclosures and statements, reasonable penalty fees, and underwriting for a consumer’s ability to repay.
- Issue a larger participant rule to bring the BNPL market (along with other installment loan markets) within the CFPB’s supervision.

- Prevent or take action against unfair, deceptive or abusive acts and practices (UDAAPs) and ensure compliance with fair lending laws.
- Enforce the Electronic Fund Transfer Act’s ban on compulsory repayment of credit by preauthorized electronic fund transfer.
- Conduct research on the impact of the BNPL market on consumers and on their credit reports.

We believe these recommendations are sound and responsive to challenges with BNPL.

Experiences of Survey Respondents Who Use Buy Now Pay Later

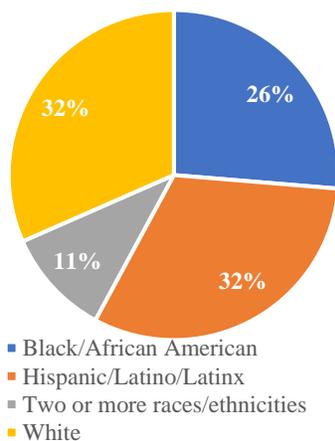
In order to understand how people who interact with our organization experience BNPL, we put out an online survey that was active from March 7 to March 24, asking people to share their experiences with BNPL. We received 20 responses, mostly from Texans who had used the products in the last 12 months. Though the number of responses is small, the feedback and trends are informative and largely consistent with recent studies and data about BNPL products.

Demographic Data

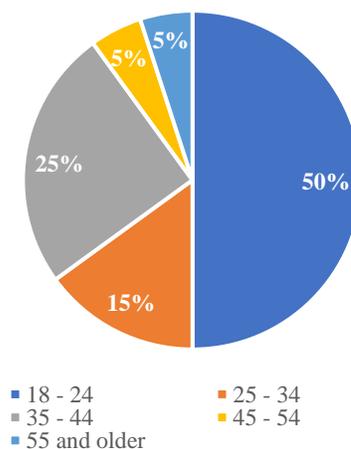
Survey respondents were:

- majority female (90%);
- predominantly young, with 50% in the 18-24 age group;
- racially and ethnically diverse; and
- low- to moderate-income.

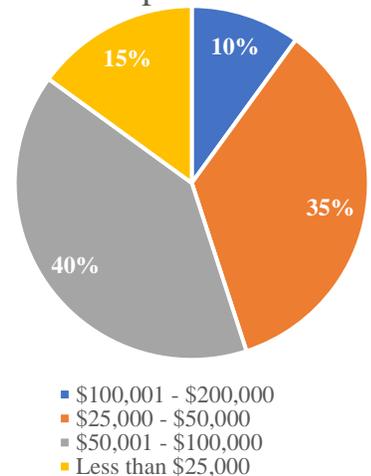
Race and Ethnicity of Survey Respondents



Age of Survey Respondents



Income of Survey Respondents

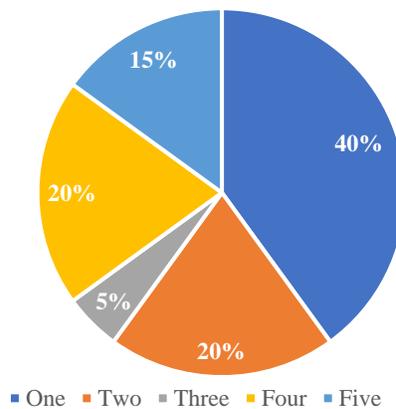


Use of BNPL

Among the survey respondents, 15% used BNPL products once in the past year, 45% used the products 2 to 4 times, and 40% used the products 10 or more times. Among the high-volume users, 50 was the highest number of times an individual reported using BNPL products in the past year, with some survey respondents using the products 20 to 30 times in the past year.

Sixty-percent of respondents used more than one BNPL provider in the past year, with 35% using four or more different providers.

Number of BNPL Providers Used By Respondents in Past 12 Months



Respondents tended to use BNPL for moderately-priced purchases. Half of the respondents estimated that they typically spend \$100 to \$299 on a item that they purchase using BNPL. One quarter used BNPL for purchases of \$99 or less, and 20% typically used BNPL to purchase items from \$300 to over \$1,000.

When asked about fees and interest paid for BNPL purchases in the past year, 20% of the respondents did not know how much they paid. A little over one-third (35%) of the respondents paid nothing to use BNPL for purchases, and 45% paid some amount in fees or interest. One quarter of the respondents paid between \$1 and \$49, 10% paid \$50 to \$99, and 10% paid \$200 or more.

When asked about late fees or penalty fees, 70% reported paying no penalty fees, 25% of the respondents said that they paid penalty fees sometimes, and 5% said they pay them often. Similarly, around 70% of the respondents found it easy or somewhat easy to keep track of payments, with 30% finding it ranging from neither difficult nor easy to difficult to keep track of payments.

Problems with BNPL Products

Half of the survey respondents had a trouble-free experience with BNPL. The top challenge highlighted by survey respondents was trouble getting money back for purchases that were

returned. Other problems highlighted included trouble reaching customer service and challenges budgeting and staying on top of expenses due to BNPL credit.

Have you had any problems with "Buy Now Pay Later" services?	
I didn't have any problems.	50%
I had trouble getting money back after I returned something.	20%
I couldn't reach anyone in customer service.	15%
I had trouble keeping track of when all my different "Buy Now Pay Later" payments would be taken out of my bank account.	15%
I ended up paying overdraft fees or nonsufficient funds fees because I didn't have enough money in my account when my payment came due.	15%
I overspent because Buy Now Pay Later credit was easy to get approved for and now am struggling with my monthly bills.	15%

Numbers do not add up to 100%, as respondents could choose more than one option.

Thank you for the opportunity to offer comments. More research needs to be done, but existing data, including CFPB complaints,¹ and a recently released nationally-representative survey² highlight similar challenges to those that respondents shared with us. Another recent study by the Student Borrower Protection Center raises additional concerns around BNPL student loan proxies that could create an additional pitfall in an already troubled market.³

While many users have a positive experience with BNPL products, important issues that need to be addressed include:

- transparency and fairness in pricing, including penalty fees,
- affordability, and
- returns/error resolution.

BNPL is a fast-growing and aggressively marketed product. As the recommendations at the beginning of this letter highlight—the problems with BNPL overlap with problems in the credit card space before the CARD Act, including aggressive marketing to younger individuals, starting their financial lives, who may face long-term credit challenges without the right guardrails in place.

Sincerely,



Ann Baddour
Director, Fair Financial Services Project

¹ Ed Mirzwinski and Mike Litt, [The hidden costs of "Buy Now, Pay Later": Complaints to CFPB show need for action](#), U.S. PIRG Education Fund (March, 2022).

² Hannah Gdalan, Meghan Greene, and Necati Celik, [Buy Now, Pay Later: Implications for Financial Health](#), Financial Health Network (March, 2022).

³ Student Borrower Protection Center, [Point of Sale-Fail: How a Flood of "Buy Now, Pay Later" Student Debt is Putting Millions at Risk](#) (March, 2022).