

CONSUMER FINANCIAL PROTECTION BUREAU

12 CFR Part 1026

[Docket No. CFPB-2024-0017]

Truth in Lending (Regulation Z); Use of Digital User Accounts to Access Buy Now, Pay Later Loans

AGENCY: Consumer Financial Protection Bureau.

ACTION: Interpretive rule; request for comment.

SUMMARY: The Consumer Financial Protection Bureau (CFPB) is issuing this interpretive rule to address the applicability of subpart B of Regulation Z to lenders that issue digital user accounts used to access credit, including to those lenders that market loans as “Buy Now, Pay Later” (BNPL). This interpretive rule describes how these lenders meet the criteria for being “card issuers” for purposes of Regulation Z. Such lenders that extend credit are also “creditors” subject to subpart B of Regulation Z, including those provisions governing periodic statements and billing disputes. While not required under the Administrative Procedure Act, the CFPB is opting to collect comments on this interpretive rule and may make revisions as appropriate after reviewing feedback received.

DATES: This interpretive rule is applicable as of **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments must be received by August 1, 2024.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2024–0017, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for

submitting comments.

- Email: 2024-BNPL-InterpretiveRule@cfpb.gov. Include Docket No. CFPB–2024–0017 in the subject line of the message.

- Mail/Hand Delivery/Courier: Comment Intake—2024 BNPL Interpretive Rule, c/o Legal Division Docket Manager, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. Because paper mail in the Washington, DC area and at the CFPB is subject to delay, commenters are encouraged to submit comments electronically.

Instructions: The CFPB encourages the early submission of comments. All submissions must include the document title and docket number. In general, all comments received will be posted without change to <https://www.regulations.gov>. All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: George Karithanom, Regulatory Implementation & Guidance Program Analyst, Office of Regulations, at (202) 435-7700 or <https://reginquiries.consumerfinance.gov/>. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION:

I. Interpretive Rule

A. Executive Summary

Over the past three years, the CFPB has extensively analyzed lenders marketing their loans as “Buy Now, Pay Later.” This includes a major study published in 2022, insights from

supervisory examinations, and other market monitoring and investigation. Although market participants' loan offerings vary in this lending sector, the CFPB is publishing this interpretive rule to clarify existing obligations for market participants with specific business practices.

This interpretive rule's legal analysis states that lenders that issue digital user accounts that consumers use from time to time to access credit products to purchase goods and services are "card issuers" under Regulation Z, including when those products are marketed as Buy Now, Pay Later (BNPL). Such lenders are "card issuers" because such digital user accounts are "credit cards" under Regulation Z. Traditional BNPL products are closed-end loans payable in four or fewer installments without a finance charge, used to make purchases on credit. Consequently, BNPL loans are subject to some, but not all, of Regulation Z's credit card regulations.

Digital user accounts that consumers use to access BNPL credit mimic conventional credit cards. They meet the regulatory definition of "credit cards" as defined at 12 CFR 1026.2(a)(15)(i). Lenders that issue such digital user accounts are "card issuers" as defined at 12 CFR 1026.2(a)(7) and "creditors" for purposes of subpart B of Regulation Z, as defined at 12 CFR 1026.2(a)(17)(iii). However, traditional BNPL products do not meet the definition of "open-end credit" as defined at 12 CFR 1026.2(a)(20) or of a "credit card account under an open-end (not home-secured) consumer credit plan" as defined at 12 CFR 1026.2(a)(15)(ii).

Accordingly, lenders that issue digital user account to access BNPL credit are subject to the regulations appearing in subpart B of Regulation Z, including, most importantly, provisions governing credit card dispute and refund rights. Although subpart B is labeled "Open-End Credit," 12 CFR 1026.2(a)(17)(iii) specifically states that subpart B also applies to credit that is not open end if, as with BNPL, the credit is not subject to a finance charge and is not payable by written agreement in more than four installments. This is the case because Congress expressly

instructed the Bureau to apply open-end credit regulations to this form of credit that is not open end. The Truth in Lending Act (TILA) says that “the Bureau shall, by regulation, apply [open-end credit] requirements to [card issuers that extend credit with no finance charge that is payable in four or fewer installments], to the extent appropriate, even though the requirements [of the open-end credit provisions] are by their terms applicable only to creditors offering open-end credit plans.”¹

Lenders that issue digital user accounts to access BNPL credit are generally not subject to the credit card regulations appearing in subpart G of Regulation Z (*e.g.*, penalty fee limits and ability-to-repay requirements).²

B. Background

Since the mid-2010s, a financing method marketed as “Buy Now, Pay Later” (BNPL) has rapidly gained popularity as an alternative to conventional credit cards in the United States and abroad.³ While variations of the product exist, for this interpretive rule, BNPL refers to a consumer loan for a retail transaction that is repaid in four (or fewer) interest-free installments and does not otherwise impose a finance charge.⁴ The loan generally requires an initial down payment of 25 percent, followed by three additional installments due every two weeks.

BNPL lenders currently acquire customers primarily through two channels: the merchant partner acquisition model and the app-driven acquisition model. In the merchant partner acquisition model, BNPL lenders typically establish contracts with online merchants to offer

¹ 15 U.S.C. 1602(g).

² Subpart G generally applies only to “credit card account[s] under an open-end (not home-secured) consumer credit plan.” However, 12 CFR 1026.60 in subpart G may apply.

³ See CFPB, *Buy Now, Pay Later: Market trends and consumer impacts*, at 6 (Sept. 2022), https://files.consumerfinance.gov/f/documents/cfpb_buy-now-pay-later-market-trends-consumer-impacts_report_2022-09.pdf (Market Trends Report).

⁴ Other variations of BNPL include loans that, for example, incur interest or other finance charges (often referred to as point-of-sale loans). Depending on their features, such loans might be subject to other provisions of Regulation Z, including subparts C or G.

their BNPL product as a payment option on the merchant’s website or mobile app checkout page.⁵ The BNPL lenders provide merchants with the necessary digital code to integrate or embed access to the BNPL product into the merchant websites or mobile apps. Such digital code or other integrations are referred to in this interpretive rule as “integrations.”

In the app-driven acquisition model, which is less common but rapidly expanding, consumers use the BNPL lender’s own website or mobile app directly to create a digital user account to access the BNPL product.⁶ Once activated by the provider, the consumer can use their digital user account through the BNPL website or mobile app to access credit and make purchases directly with partner merchants. For non-partner merchants, the BNPL lender enables the payment part of the credit process by issuing a single-use virtual card to the consumer, normally through an issuer processor and a bank partner. The consumer then typically has 24 hours to complete their purchase directly with the merchant, using the virtual card.⁷

In addition, BNPL lenders may issue credit through other methods, such as in-store or through browser extensions.⁸ These methods generally operate the same as the acquisition methods described above, allowing the consumer to access credit with their BNPL digital user account to make purchases either through the merchant’s website or through the issuance of a single-use virtual card.

Regardless of how consumers access BNPL, a BNPL digital user account is activated when a consumer first accesses BNPL credit, similar to how a virtual credit card number for a traditional credit card account is issued at the same time a consumer opens the credit card

⁵ See Market Trends Report at 12-13.

⁶ *Id.* at 14-15.

⁷ See, e.g., Klarna, *What is a One-time card and how does it work?*, <https://www.klarna.com/us/customer-service/what-is-a-one-time-card-and-how-does-it-work/> (last visited May. 14, 2024).

⁸ See, e.g., Affirm, *Bring the power of Affirm to your Browser*, <https://www.affirm.com/shopping/browser-extension> (last visited Aug. 9, 2023).

account online and makes their first purchase on the card. These digital user accounts are secure, personal profiles that the BNPL provider activates for a consumer, enabling the consumer to access and utilize BNPL credit.⁹ Once a digital user account is activated, the consumer can then immediately use their BNPL digital user account on an ongoing basis to access credit to make additional purchases. BNPL providers typically inform consumers of their “amount available to spend,” similar to a credit limit for conventional credit cards, and offer a frictionless borrowing process allowing consumers to rapidly access the BNPL credit.¹⁰

A significant and increasing number of Americans who purchase goods and services on credit do so with BNPL credit instead of conventional credit cards. According to a recent CFPB Making Ends Meet survey, 17 percent of consumers with a credit record made at least one purchase using BNPL between February 2021 and February 2022.¹¹ And data from five leading BNPL lenders reflect that originations have increased from \$2 billion in 2019 to over \$24 billion in 2021.¹² BNPL borrowers also increased their repeat usage during this timeframe. The data reveal that the average number of BNPL loans taken out by BNPL consumers from a single lender each quarter rose from 1.9 to 2.8.¹³ The percentage of BNPL borrowers with more than five loans per quarter also increased, from 6.3 percent to 15.5 percent.¹⁴

BNPL is popular among a broad range of consumers, but certain groups have shown a significantly higher likelihood of using BNPL. These groups include Black, Hispanic, and

⁹ A digital user account is distinct from the concept of an account in TILA and Regulation Z.

¹⁰ BNPL providers typically do not guarantee the “amount available to spend” and each loan is separately underwritten.

¹¹ See CFPB, *Consumer Use of Buy Now, Pay Later: Insights from the CFPB Making Ends Meet Survey*, at 5 (Mar. 2023), https://files.consumerfinance.gov/f/documents/cfpb_consumer-use-of-buy-now-pay-later_2023-03.pdf (MEM Survey Report); see also Bd. of Governors of the Fed. Rsrv. Sys., *Economic Well-Being of Households in 2022*, at 46 (May 2023) (reporting 12 percent of adults in U.S. households using BNPL in the prior 12 months, up from 10 percent in 2021).

¹² Market Trends Report at 31.

¹³ *Id.*

¹⁴ *Id.* at 33-34.

female consumers, as well as consumers with an annual household income between \$20,001-\$50,000 and consumers under the age of 35.¹⁵ In comparison to non-BNPL borrowers, BNPL borrowers tend to have higher levels of debt, carry balances on their conventional credit cards, have delinquencies on traditional credit products, and make use of higher-cost financial services like payday loans, pawn, and overdraft.¹⁶ BNPL borrowers are also more likely to use other credit products like conventional credit cards, personal loans, and student loans, but have less liquidity and savings compared to non-BNPL borrowers.¹⁷

Consumers often use BNPL offerings as an alternative to conventional credit cards, and the two share many similarities. Both combine payment processing and credit services. Both charge transaction fees to merchants and are extensively used for retail transactions.¹⁸ And consumers often use these two payment methods in a similar manner. In fact, often when a consumer is making purchases online from a merchant's website, the only options for paying on credit consist of conventional credit cards and BNPL, which are presented next to each other as alternatives.

The CFPB has been closely monitoring the BNPL market by issuing reports based on collected BNPL data and supervising certain BNPL lenders. In December 2021, the CFPB issued mandatory data collection orders to five large BNPL lenders to understand market trends and practices. These responses formed the basis of the September 2022 report "Buy Now Pay Later: Market Trends and Consumer Impacts," which highlighted industry growth, as well as consumer benefits and risks associated with BNPL loans.¹⁹ The report noted, among other

¹⁵ MEM Survey Report at 22.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 6.

¹⁹ *See* Market Trends Report.

findings, a lack of standardized disclosures and challenges in resolving disputes.²⁰ In March 2023, the CFPB published “Consumer Use of Buy Now, Pay Later,” which used data from the annual Making Ends Meet survey and credit bureaus to identify demographic and other characteristics of BNPL borrowers.²¹ In March 2024, the CFPB released its “Consumer Response Annual Report” for 2023, which noted issues consumers faced with merchants regarding BNPL, such as non-receipt of items and challenges in canceling loans.²² Through monitoring consumer complaints, the CFPB has further refined its understanding of the BNPL market. The CFPB continues to observe the industry and monitor new market and product trends.

Recognizing the importance of adequate consumer protections for BNPL loans, the CFPB is issuing this interpretive rule so that BNPL providers understand their obligations. As this interpretive rule explains, lenders that issue BNPL digital user accounts are “card issuers” under Regulation Z because the digital user accounts they issue constitute “credit cards” under Regulation Z. The term “credit card”—which, as defined by TILA and Regulation Z, includes the term “other credit device” or “other single credit device” used for the purpose of obtaining credit—encompasses digital user accounts that consumers can use through websites, mobile apps, browser extensions, or integrations with merchant websites or mobile apps to access BNPL credit for the purchase of goods and services. The CFPB also affirms through this interpretive rule that BNPL lenders that extend credit—even though that credit is not subject to a finance charge and is not payable by written agreement in more than four installments—are creditors

²⁰ See *id.* at 72-73.

²¹ See MEM Survey Report.

²² See CFPB, *Consumer Response Annual Report*, at 64 (Mar. 2024), https://files.consumerfinance.gov/f/documents/cfpb_cr-annual-report_2023-03.pdf.

subject to subpart B of Regulation Z, including those provisions governing cost of credit disclosures and billing disputes.

C. Legal Analysis

This interpretive rule discusses the application of subpart B of Regulation Z to lenders that issue digital user accounts that consumers use from time to time to access credit, which includes those lenders that market their loans as “Buy Now, Pay Later.” Regulation Z²³ implements the Truth in Lending Act (TILA).²⁴ The purpose of TILA is to “assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to him and avoid the uninformed use of credit, and to protect the consumer against inaccurate and unfair credit billing and credit card practices.”²⁵ Accordingly, TILA and its implementing regulation generally establish uniform methods for calculating the cost of credit, require meaningful disclosure of those costs to consumers, and provide standardized mechanisms for resolving credit billing disputes.²⁶

Although subpart B primarily covers open-end credit, many of its provisions apply more broadly, including to closed-end credit, under certain circumstances.²⁷ Certain subpart B provisions, such as those governing cardholder liability, apply to any “card issuer,” regardless of the type of credit offered.²⁸ Regulation Z defines “card issuer” as “a person that issues a credit

²³ 12 CFR 1026.

²⁴ 15 U.S.C. 1601 *et seq.*

²⁵ *Id.* at 1601(a).

²⁶ Regulation Z defines credit broadly as the right to defer payment of debt or to incur debt and defer its payment. BNPL credit meets this definition.

²⁷ This can include BNPL credit, which for purposes of this interpretive rule is defined as a closed-end consumer loan for a retail transaction that is repaid in four (or fewer) interest-free installments and does not otherwise impose a finance charge. *See also* 12 CFR 1026.2(a)(17)(iii)-(iv). To the extent that subpart B applies to business-purpose credit cards, this would also include business-purpose BNPL credit. *See* 12 CFR 1026.12(a)-(b).

²⁸ *See* 12 CFR 1026.12, which covers unauthorized issuance and liability for unauthorized use. Other provisions of Regulation Z may also apply to “card issuers” regardless of the type of credit. *See* 12 CFR 1026.60, in subpart G, which outlines the rules for credit and charge card applications and solicitations.

card or that person’s agent with respect to the card.”²⁹ Additionally, “card issuers” are considered “creditors” for purposes of subpart B if they also extend “either open-end credit or credit that is not subject to a finance charge and is not payable by written agreement in more than four installments.”³⁰ Such “creditors” are broadly subject to the provisions of subpart B, including those governing disclosures and billing dispute resolution.³¹ Thus, BNPL lenders that issue a credit card as defined by Regulation Z are card issuers for purposes of the regulation. And as they also extend credit, even though that credit is not subject to a finance charge and not payable by written agreement in more than four installments, those BNPL lenders are creditors subject to the provisions of subpart B.

The definition of “credit card” in TILA and Regulation Z is not limited to a plastic or metal embossed physical card. While the term certainly includes those, it also includes archaic forms of credit devices like plates and coupon books, and non-physical credit devices like account numbers, including virtual credit cards where the account number itself is the “credit card.” In creating these definitions, Congress understood the need for flexibility to cover evolving types of credit devices, reflecting the rapid advancement of credit mechanisms at the time of enactment. TILA defines “credit card” as “any card, plate, coupon book or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.”³²

²⁹ 12 CFR 1026.2(a)(7). Where a BNPL provider partners with another party to extend credit, including a bank, depending on the facts and circumstances both entities may be “card issuers.”

³⁰ *See* 12 CFR 1026.2(a)(17)(iii) (one of several independent tests by which an entity can qualify as a “creditor” under 12 CFR 1026.2(a)(17)). Of course, were a BNPL provider to charge a finance charge, or allow repayment in more than four installments, they would meet one or more of the other independent tests for qualifying as a “creditor.”

³¹ Subpart B includes 12 CFR 1026.6 through .9, which cover disclosures, and 12 CFR 1026.13, which covers billing error resolution.

³² 15 U.S.C. 1602(l).

Regulation Z similarly defines “credit card” as “any card, plate, or other single credit device that may be used from time to time to obtain credit.”³³

The CFPB interprets the terms “other credit device” and “other single credit device” found within the TILA and Regulation Z definitions of credit card to include a BNPL digital user account that a consumer can use through websites, mobile apps, browser extensions, or integrations with merchant websites or mobile apps to access BNPL credit, to the extent the user account is used to draw, transfer, or authorize the draw or transfer of credit in the course of authorizing, settling, or otherwise completing transactions to obtain goods or services.³⁴ The broad catch-all terms “other credit device” and “other single credit device” are not defined by TILA and Regulation Z.³⁵ However, this interpretation is consistent with the ordinary meaning and historical context of the words.

The CFPB’s interpretation flows from the ordinary meaning of the word “device.” Merriam-Webster Dictionary contains several definitions for the word “device,” including “something devised or contrived: such as ... [a] plan, procedure, [or] technique ... [or] a piece of equipment or a mechanism designed to serve a special purpose or perform a special function.”³⁶ Similarly, Oxford English Dictionary defines “device” in part to mean “[t]he result of contriving; something devised or framed by art or inventive power; an invention, contrivance; *esp.* a mechanical contrivance (usually of a simple character) for some particular purpose.”³⁷ These

³³ 12 CFR 1026.2(a)(15)(i). The term is also defined to include “a hybrid prepaid-credit card as defined in § 1026.61.”

³⁴ A BNPL integration includes, for example, a BNPL lender’s code or process embedded in the checkout flow of a merchant website or mobile app that allows a consumer to access a digital user account to obtain BNPL credit.

³⁵ In addition, there is no well-understood definition of “other credit device” or “other single credit device” under State law.

³⁶ *Device*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/device> (last visited Aug. 9, 2023). See also, e.g., *James v. State*, 113 P. 226, 228 (Okla. Crim. App. 1910) (“Mr. Webster defines a ‘device’ as follows: ‘That which is devised, or formed by conception, a contrivance, and invention, a project, a scheme, often a scheme to deceive, a stratagem, an artifice.’”).

³⁷ *Device*, Oxford English Dictionary, <https://doi.org/10.1093/OED/1300217116> (last visited Aug. 9, 2023).

definitions indicate that the ordinary meaning of “device” is broad and incorporates a wide range of mechanisms, tools, or procedures specifically designed or contrived to achieve a particular purpose.

The CFPB’s interpretation is also consistent with use of the word “device” broadly in other contexts. For example, both the CFPB, and the Federal Reserve Board (Board) before it, have interpreted “access device” in Regulation E to include such non-physical devices as personal identification numbers (PINs), telephone transfer and bill payment codes, and other means that may be used by a consumer to initiate an electronic fund transfer.³⁸

The CFPB’s interpretation is also consistent with Congress’ intent to define the terms “other credit device” and “credit card” broadly. As a preliminary matter, courts have routinely held that, as a remedial statute, TILA should be interpreted expansively in favor of the consumer.³⁹ More specifically, as courts have recognized, the inclusion of the phrase “other credit device” in the statutory definition of “credit card” indicates that Congress intended the term “credit card” to encompass a wider scope than its customary usage.⁴⁰ Congress initially enacted the definitions in 1970 at the height of a rapid evolution of credit devices, which first included now-archaic credit devices such as coins and plates before the use of conventional credit cards became widespread.⁴¹ In this context, Congress appears to have intended a flexible

³⁸ See sec. 1005.2(a)(1); see also Regulation E, comment 2(a)(1)-1.

³⁹ *Begala v. PNC Bank, Ohio, Nat. Ass’n*, 163 F.3d 948, 950 (6th Cir. 1998), as amended (Mar. 26, 1999); *Rossmann v. Fleet Bank (R.I.) Nat. Ass’n*, 280 F.3d 384, 390 (3d Cir. 2002).

⁴⁰ See, e.g., *United States v. Bice-Bey*, 701 F.2d 1086, 1092 (4th Cir. 1983) (holding that credit card numbers, not just the credit cards themselves, can be a “credit device” for purposes of TILA); *Telco Commc’ns Grp., Inc. v. Race Rock of Orlando, L.L.C.*, 57 F. Supp. 2d 340, 343 (E.D. Va. 1999) (holding that telephone calling cards can be credit cards); *Munoz v. Seventh Ave., Inc.*, No. 04 C 2219, 2004 WL 1593906, at *4 (N.D. Ill. July 15, 2004) (“Section 1602(k) contains a broad definition of ‘credit card’ which encompasses items that are not within the common understanding of the term credit card, such as a ‘coupon book’ or ‘other credit device.’”).

⁴¹ See John R. Webster & William F. Davis III., *Bank Credit Plans: Innovations in Consumer Financing*, 1 Loy. L. A. L. Rev. 49 (1968); see also 113 Cong. Rec. 28765 (1967) (member of Congressional Committee on Banking and Currency referring to credit cards as “the new credit device”).

and comprehensive definition of “credit card” that could encompass both the entire range of existing credit devices and also those “other credit devices” that might not yet exist.

Indeed, the Board, which previously had jurisdiction over Regulation Z, adopted a similarly broad interpretation of “other single credit device” in 2010. The Board clarified in Official Staff Interpretations of Regulation Z that non-physical devices—in that case, account numbers—could be considered “credit cards” under the definition.⁴² The Board explained in the rulemaking preamble that while Congress did not generally intend to treat all account numbers as credit cards—for example, where credit is transferred into a consumer’s asset account—it would be inconsistent with Congressional intent not to do so when the account number could be used to access credit for the purchase of goods and services.⁴³ As an example, the Board provided a hypothetical scenario in which an open-end credit account was designed for online purchases, functioning like a conventional credit card account, but only accessible with an account number.⁴⁴ In such circumstances, the Board stated, it believed that TILA’s credit card protections should apply.⁴⁵

This analysis applies equally in the BNPL context. BNPL is a product primarily designed for the online purchase of goods and services and a digital BNPL user account functions like a conventional credit card. Consumers can use their BNPL digital user accounts through BNPL websites, mobile apps, browser extensions, or integrations with merchant websites or mobile apps to access credit for purchases. Given its similarities to conventional

⁴² See Regulation Z, comment 2(a)(15)-2.ii.C. An “account number” contemplated by the Board’s interpretation is distinct from a BNPL digital user account.

⁴³ See 76 FR 22948 (Apr. 25, 2011). In that rulemaking, the Board was only considering open-end credit, but the CFPB believes that the logic applies similarly to closed-end credit.

⁴⁴ *Id.*

⁴⁵ *Id.*

credit cards, a consumer’s BNPL digital user account is among the types of “credit devices” that Congress would have had in mind in enacting TILA.

In order for a device to constitute a credit card under Regulation Z, it must be usable from time to time to obtain credit.⁴⁶ The commentary to Regulation Z interprets the term “time to time” to “involve[] the possibility of repeated use of a single device.”⁴⁷ The CFPB interprets the phrase “usable from time to time” to cover a consumer’s BNPL digital user account that is issued as part of a business model designed for repeat use that can be used through websites, mobile apps, browser extensions, or integrations with merchant websites or mobile apps, to access credit for the purchase of goods and services.⁴⁸ Like conventional credit cards, the BNPL business model is designed around the repeat use of a digital user account to make real-time purchases on credit.⁴⁹ The CFPB therefore interprets the term “credit cards” to include such digital credit devices for purposes of TILA and Regulation Z.

Of course, not all digital user accounts are credit cards. However, digital user accounts with the purpose of giving consumers access to credit from time to time in the course of completing transactions to purchase goods or services, including those marketed as BNPL, meet the regulatory definition of “credit card.” When consumers use them through websites, mobile apps, browser extensions, and integrations, they get credit in the course of completing transactions to pay for a product at check-out or even in physical stores.⁵⁰ And these digital user

⁴⁶ See sec. 1026.2(a)(15)(i).

⁴⁷ See Regulation Z, comment 2(a)(15)-1.

⁴⁸ The existence of a limit on the number of BNPL loans a consumer can have at one time or the issuance of a single-use virtual card as part of the credit extension and payment process would not preclude the credit device from satisfying the “time to time” requirement.

⁴⁹ This is the case regardless of whether the customer is acquired through the merchant partner acquisition model or the app-driven acquisition model, and regardless of whether the consumer uses the credit device more than one time.

⁵⁰ The fact that sometimes BNPL loans are declined does not change this fact. The same can be said about conventional credit cards.

accounts “exist for [that] purpose.”⁵¹ They are, effectively, digital replacements for conventional credit cards, and consumers use them in the same way as conventional credit cards. The statutory and regulatory definitions of “credit card” are broad enough to capture new, technologically advanced “devices” designed to mimic the core features of conventional credit cards.

Consequently, BNPL providers issuing the credit cards (and their agents with respect to the credit card) are “card issuers” for purposes of Regulation Z. Additionally, as noted above, a “card issuer” is a “creditor” for purposes of subpart B if it extends credit, even though that credit is not subject to a finance charge and not payable by written agreement in more than four installments. Thus, BNPL lenders that issue credit cards are “creditors” for purposes of subpart B and must comply with its requirements, including the provisions related to disclosures and billing dispute resolution.

II. Regulatory Matters

This is an interpretive rule issued under the Bureau’s authority to interpret TILA and Regulation Z, including under section 1022(b)(1) of the Consumer Financial Protection Act of 2010, which authorizes guidance as may be necessary or appropriate to enable the CFPB to administer and carry out the purposes and objectives of Federal consumer financial laws.⁵²

While not required under the APA, the CFPB is collecting comments and may make revisions to the interpretive rule at a later time as appropriate in light of feedback received. The CFPB may take no further action if no revisions are warranted.

By operation of TILA section 130(f), no provision of TILA sections 130, 108(b), 108(c), 108(e), or section 112 imposing any liability applies to any act done or omitted in good faith in

⁵¹ 15 U.S.C. 1602(l).

⁵² 12 U.S.C. 5512(b)(1).

conformity with this interpretive rule, notwithstanding that after such act or omission has occurred, the interpretive rule is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.⁵³

The CFPB has determined that this interpretive rule does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.⁵⁴

Pursuant to the Congressional Review Act,⁵⁵ the Bureau will submit a report containing this interpretive rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to the rule's published effective date. The Office of Information and Regulatory Affairs has designated this interpretive rule as a "major rule" as defined by 5 U.S.C. 804(2).

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

⁵³ 15 U.S.C. 1640(f).

⁵⁴ 44 U.S.C. 3501-3521.

⁵⁵ 5 U.S.C. 801 *et seq.*