

Where will CFPB come down on buy now/pay later loans? American Banker, ft. Richard Perr

Richard J. Perr, co-managing partner of KD's Philadelphia office and chair of the Consumer Financial Services practice group, was featured in an article written by Kate Berry published in American Banker on July 20, 2021,

Providers of buy now/pay later options may have breathed a sigh of relief over a recent Consumer Financial Protection Bureau advisory, but analysts warn the agency's tepid warning could be a prelude to tougher regulation.

A CFPB blog post earlier this month did not criticize buy now/pay later but recommended consumers assess their finances before using it. The agency also said using BNPL does not strengthen credit scores and in some cases can negatively impact a consumer's credit history.

Some observers suggested the CFPB's benign statement was trying to signal that the agency believes that BNPL — which is increasingly being offered by mainstream payments providers — can be useful to certain consumers. Apple Pay most recently announced a partnership last week with Goldman Sachs offering consumers the choice of paying off purchases in four interest-free payments over several months.

"I read the CFPB as really being positive to the product because lenders are getting cash flow to people who don't have traditional credit," said Richard Perr, chair of the consumer financial services practice group at the law firm Kaufman Dolowich Voluck. "It almost seemed as if this was a promotion by the CFPB because they look at these products from mainstream companies as providing sensible credit to people who need it."

"We're seeing a reverse trend, where mainstream entities are seeing a value in this from an economic perspective," said Perr. "I think it's a first step in providing people who are seeking payday loans maybe not needing payday loans because they're providing another credit product that is halfway between a payday loan and a credit card."

Credit bureau reporting also could get the CFPB's attention. BNPL providers do not typically report missed payments, but they also do not report consumers who pay on time and could benefit from positive credit reporting.

"Buy now/pay later lenders are not pulling a credit report before and the positive about that is if you have problem credit, you don't have to worry about it in acquiring short-term credit," said Perr. "But the flip side is that if you're a person attempting to gain credit, you aren't establishing a credit history either."