

UNITED STATES OF AMERICA
Before the
CONSUMER FINANCIAL PROTECTION BUREAU

In re)
)
Market Monitoring)
Buy Now, Pay Later)
)

ORDER TO FILE INFORMATION

Pursuant to the Consumer Financial Protection Bureau’s (Bureau’s) authority under Section 1022(c)(4)(B)(ii) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), 12 U.S.C. § 5512(c)(4)(B)(ii), **Recipient Name** is hereby ordered to file with the Bureau the information specified below.

Purpose

The Bureau is monitoring Buy Now, Pay Later (BNPL) products and consumer usage of these products. This Order will provide information necessary to conduct such analysis in compliance with Congress’ mandate that the Bureau monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services. See 12 U.S.C. § 5512(c)(1).

This is a market-monitoring order issued under Section 1022(c)(1) & (4) of the Dodd-Frank Act, 12 U.S.C. § 5512(c)(1) & (4). It is not a supervisory order issued under Sections 1025 or 1026 of the Dodd-Frank Act, 12 U.S.C. §§ 5515 or 5516.

Order Terms and Procedure

The information required by this Order shall be filed pursuant to the terms of this Order, including the stated Instructions and Definitions. Responses are required to all questions listed below and in all Attachments to this Order.

The Bureau reserves the right to use the information for any purpose permitted by law. Timely responses to the request are legally required. See 12 U.S.C. § 5512(c)(4)(B)(ii). Responses are

due on or before 5:00 PM Eastern time, March 1, 2022. The instructions below contain more information about how to submit your response.

As indicated below, you should contact the Bureau as soon as possible if you have any questions about the terms of the Order or the procedure for responding to it.

The Bureau will treat the information received in response to this Order in accordance with its confidentiality regulations at 12 CFR § 1070.40 *et seq.*

It is so ordered.

Rohit Chopra
Director
Consumer Financial Protection Bureau

DATE: December 16, 2021

Instructions

- Your responses shall be accompanied by an affidavit or declaration, made by one or more officers of your company who are authorized to represent the company, affirming that the information is true and accurate and does not contain any omissions that would cause the response to be materially misleading.
- Submission will be made to the Bureau via a Secure File Transfer Protocol (SFTP) server. Connection information will be provided. You will be responsible for ensuring connectivity to the SFTP server from its environment. Any questions about method of transfer should be discussed in advance with the Bureau.
- Submit responses to this Order using the spreadsheet template(s) provided with this Order. Provide separate answers for each quarter and year.
- Do not include any personally identifiable information that directly identifies any consumer, such as a consumer's name, address, telephone number, Social Security number, or account number.
- When you have written policies or procedures that contain responsive information, you should provide those documents with your answer.
- Unless otherwise specified, the requests seek information about current practices.
- Files containing the information specified in or requested by the Order must be uploaded to the SFTP server on or before 5:00 PM Eastern time, March 1, 2022.
- The Bureau may issue follow-up requests in connection with your responses.
- If you have questions about the information specified in or requested by the Order, please contact the Bureau as soon as possible to schedule a meeting on or before January 10, 2022, to resolve such questions. During this meeting, you must be in a position to attempt to resolve all issues regarding the Order. Be prepared to discuss your planned compliance schedule, including any proposed changes that might reduce your cost or burden while still giving the Bureau the information it needs.

Definitions

For purposes of this Order:

1. "ACH" or "Automated Clearing House Network" is the service that electronically transfers

funds from bank-to-bank, including direct deposit, direct pay, or electronic checks.

2. “Applicant” is a consumer who applies for a BNPL loan in an applicable period.
3. “Buy Now, Pay Later (BNPL)” transactions, loans, or products, also known as “split-pay” transactions, are transactions for personal, family, or household purposes, payable in four or fewer installments, not including a down payment, and contracted to be paid on a debit or credit card payment network. This definition includes transactions that are processed directly on the consumer's debit or credit card and those that are processed indirectly via a virtual card.
4. “Charge-offs” are write-offs of a transaction as an expense or loss when a consumer is significantly behind on payments and you write off the loan as a loss.
5. “Collection” or “debt collection” is the use of internal or external methods to collect transactions in default or that have been charged off.
6. “Credit score” is a commercially available model score that predicts how likely consumers are to repay a loan.
7. “Default” is the failure of a consumer to repay his or her obligation.
8. “Delinquency” is a consumer’s failure to make a required payment.
9. “Direct BNPL Data” is data that you have collected (and then maintained) as a result of consumer use of BNPL. It includes, but is not limited to, specific product information collected during BNPL transactions. Direct BNPL Data is data that exists as a result of consumer use of BNPL.
10. “Extension” is the deferral of a consumer’s payment obligations.
11. “Gross Merchandise Volume” is the total dollar amount of all BNPL transactions originated net of refunds.
12. “Hard inquiries” are requests for credit reports that affect or may affect a consumer’s credit score.
13. “Indirect BNPL Data” is data that is BOTH (i) generated, at least in part, from Direct BNPL Data (and then maintained) by you; AND (ii) about individual users of BNPL. Indirect BNPL Data may include data that is obtained by combining Direct BNPL Data with non-Direct BNPL Data (whether that non-Direct BNPL Data is internal, externally-sourced, or both) or obtained by analyzing Direct BNPL Data alone.
14. “Late fees” are fees charged pursuant to a consumer’s failure to make a required payment.

15. “Loan stacking” occurs when a consumer has multiple concurrent or consecutive transactions with unrelated lenders within a short period of time.
16. “Merchant fees” are fees that merchant partners pay when a consumer selects your BNPL product for payment.
17. “Soft inquiries” are requests for credit reports that do not affect a consumer’s credit score.
18. “Third Party” is any person, individual, representative, agent, business, company, vendor, or service provider not employed or wholly managed by you. Except where specifically noted otherwise, the term excludes Consumer Users, Commercial Users, or Consumer-Facing Intermediaries, as those terms are defined in this Order.
19. “User” is a consumer who engages in one or more BNPL transactions in an applicable period, or who has any unpaid amounts pursuant to a BNPL transaction in an applicable period.
20. “You” or “your” includes your parent companies, wholly or partially owned subsidiaries, joint ventures, and affiliates, and all principals, directors, officers, owners, employees, agents, representatives, consultants, attorneys, accountants, independent contractors, and other persons working for or on your behalf.

Questions

All answers should include separate data for U.S. domestic products for applicable quarters during calendar years 2019, 2020, and 2021, unless otherwise specified.

1. Describe all products you offer or offered to users.

The remaining questions apply only to your BNPL products as defined in the Definitions Section. Please answer each question for each applicable quarter of calendar year 2019, 2020, and 2021, unless otherwise specified. Use the attached Excel spreadsheet for your responses. In addition, complete the attached Excel spreadsheet for your BNPL income statement.

Section A: Business Model/Metrics

The Bureau is seeking information on your BNPL products, transaction usage metrics and use cases, user and merchant fees, and the user experience.

2. Totals
 - a. What is the total number of:
 - i. Transactions originated
 - ii. Unique users from all acquisition channels
 1. List all acquisition channels
 2. Provide total users by all acquisition channels
3. Installments
 - a. What is the _____ number of installments on your transactions:
 - i. Minimum
 - ii. Maximum
 - iii. Median
4. Transactional Data
 - a. How many Users make XX transactions, where XX is:
 - i. 1
 - ii. 2
 - iii. 3
 - iv. 4
 - v. 5
 - vi. 6
 - vii. 7
 - viii. 8

- ix. 9
 - x. 10
 - xi. 11-15
 - xii. 16-20
 - xiii. 21-50
 - xiv. 51-100
 - xv. 101 or more
- b. How many Transactions are of amount XX, where XX is:
- i. Less than \$25
 - ii. \$25-100
 - iii. \$100-200
 - iv. \$200-500
 - v. \$500-1000
 - vi. More than \$1000
- c. Describe your policies and procedures, if any, relating to limits on the number of individual user transactions, whether concurrent, consecutive, or the total, whether by number or dollar amount.

5. Financial Information

- a. What is your total Gross Merchandise Volume
- i. If you allow transactions with non-partnered merchants, what is the total Gross Merchandise Volume for such transactions
- b. What is your Gross Merchandise Volume in the following categories:
- i. Clothing/Accessories
 - ii. Electronics
 - iii. Auto repair and/or tires
 - iv. Medical, dental, health care
 - v. Groceries
 - vi. Vacation
 - vii. Furniture/Home furnishings
 - viii. Home Improvement
 - ix. Home Appliance
 - x. Fitness/Sporting equipment
 - xi. Jewelry/Watches
 - xii. Beauty
 - xiii. Elective medical procedures
 - xiv. Pet care
 - xv. Mobile, cable, or internet
 - xvi. Insurance

- xvii. Rent
 - xviii. Tuition, fees, and any related expenses for technical, training, or educational certificates, degrees, or courses
 - xix. Entertainment (concerts, sporting events, theater)
 - xx. Other categories
- c. What is the number of payments made by all users using each of the below methods:
 - i. Credit cards
 - ii. Debit cards
 - iii. ACH
 - iv. Other payment methods (describe)
 - d. At checkout, is a user automatically enrolled in autopay on their selected debit or credit card or are other payment options available
 - i. Describe the process, if any, by which users may change their payment method after checkout, including terminating autopay.
 - ii. Provide the percent of outstanding transactions for each calendar year that are not on debit or credit card autopay.
 - e. For each of the following categories, how many payments fail or are declined for lack of funds or credit:
 - i. Credit cards
 - ii. Debit cards
 - iii. ACH
 - iv. Other payment methods (describe)
 - f. For each of the following categories, how many users have at least one payment that fail or are declined for lack of funds or credit:
 - i. Credit cards
 - ii. Debit cards
 - iii. ACH
 - iv. Other payment methods (describe)
 - g. If a payment fails or is declined for lack of funds or credit, will you attempt to re-present a payment from a User's debit or credit card to collect the same outstanding payment
 - i. If yes, how many times will you attempt to re-present a payment from a User's debit or credit card to collect the same outstanding payment
 - ii. If yes, how frequently—in number of days—will you attempt to re-present a payment from a User's debit or credit card to collect the same outstanding payment

- iii. If yes, will you attempt to re-present a payment from a User's debit or credit card in an amount less than the full amount due

6. Underwriting

- a. Describe your policies and procedures related to credit underwriting, including credit limits and counter-offers
- b. Do you obtain a credit report on new applicants
 - i. If yes, is this a soft inquiry or a hard inquiry
 - ii. If yes, from whom do you obtain a credit report
- c. Do you obtain a credit report on returning applicants
 - i. If yes, is this a soft inquiry or a hard inquiry
 - ii. If yes, from whom do you obtain a credit report
- d. Do you obtain a credit score on new applicants
 - i. If yes, from whom do you obtain a credit score
- e. Do you obtain a credit score on returning applicants
 - i. If yes, from whom do you obtain a credit score
- f. Describe the methods you use, if any, to validate an applicant's date of birth.
- g. Describe your policies and procedures, if any, on minimum age requirements for users and how you restrict access to users below that minimum age.

7. Fees

- a. Late fees
 - i. What fee do you charge for late payments
 - 1. Is the charge a dollar amount, percent, or both
 - 2. How many days after the due date are late fees assessed
 - ii. What total dollar amount of late fees do you charge
 - iii. What total dollar amount of late fees do you collect
 - iv. What is the total number of unique users that are charged at least one late fee
 - v. What are the total number of transactions that are assessed at least one late fee
 - vi. What total dollar amount of late fees did you waive
- b. Account reactivation fees
 - i. What fee do you charge for account reactivation
 - 1. Is the charge a dollar amount, percent, or both
 - ii. What total dollar amount of account reactivation fees do you charge
 - iii. What total dollar amount of account reactivation fees do you collect
 - iv. What total dollar amount of account reactivation fees do you waive
 - v. What are the total number of unique users that are charged at least one account reactivation fee

- vi. What are the total number of transactions that are assessed at least one account reactivation fee
 - vii. Describe your policies and procedures related to account reactivation fees.
- c. Other fees
- i. What additional fees do you charge users
 - ii. Describe the fees, including when the fee is charged.
 - iii. What is the amount you charge
 - 1. Is the charge a dollar amount, percent, or both
 - iv. For each additional fee, itemize by fee the total dollar amount of all additional fees you collect.
 - v. For each additional fee, itemize by fee the total dollar amount of additional fees you waive.
 - vi. For each additional fee, itemize by fee the total number of unique users that are charged at least one additional fee.
 - vii. For each additional fee, itemize by fee the total number of transactions that are assessed at least one additional fee.
- d. Interest
- i. Do you charge users interest on their transactions
 - 1. If yes, state the percentage of interest you charge.
 - 2. If no, state “no.”
- e. Merchant fees
- i. What fees do you charge merchants
 - 1. Is the charge a percent, dollar amount, or both
 - ii. What total dollar amount in merchant fees do you collect
8. Participating Merchants
- a. Do you have any policies and procedures to vet participating merchants, detect merchant fraud, or that participating merchants must follow
 - i. If yes, provide a copy of these policies and procedures.
9. Virtual Cards
- a. If you offer transactions on virtual cards, describe your revenue streams from that model including:
 - i. Consumer transaction fees
 - ii. Merchant referral/affiliate fees
 - iii. Interchange fees
 - iv. Other (describe)
 - b. If you offer transactions on virtual cards and receive revenue from merchants from referral/affiliate fees, describe the benefits that merchants who opt into the referral/affiliate program receive, including enhanced consumer engagement.

Section B: Loan Performance Metrics

The Bureau is seeking information about BNPL practices relating to servicing, credit reporting, returns and refunds, delinquencies, defaults, debt collection, and charge-offs.

10. Servicing

- a. Do you use third-party servicers to collect payments
 - i. If yes, provide the names of the third-party servicers you use.
 - ii. If no, state “no.”

11. Credit Reporting

- a. Do you furnish payment history to one or more consumer reporting agencies
 - i. If yes, describe:
 1. To which consumer reporting agency
 2. Frequency of furnishing
 - ii. If no, state “no.”
- b. Do you have any processes in place to monitor or avoid loan stacking
 - i. If yes, describe.
 - ii. If no, state “no.”

12. Returns and Refunds

- a. Are users required to make payments under the terms of the BNPL agreement while returns are being processed or disputed with merchants
 - i. If yes, describe.
 - ii. If no, describe.
- b. What number of transactions involve goods that are returned/disputed
- c. What is the total dollar amount of goods that are returned/disputed
- d. What is the total dollar amount refunded to users for returned/disputed goods
- e. What total fees do you charge users for returned/disputed goods

13. Delinquencies, and Charge-Offs, and Payment Extensions

- a. How many transactions fail or are declined for lack of funds or credit
- b. How many users have transactions that fail or are declined for lack of funds or credit
- c. How many transactions are delinquent
- d. How many users are delinquent on transactions
- e. How many transactions are charged-off
- f. How many users have transactions that are charged-off
- g. On how many transactions did you provide payment extensions
- h. How many users receive payment extensions
- i. What are your policies and procedures on delinquencies, charge-offs, and payment extensions

14. Defaults and Collections

- a. Do you conduct collections in-house
 - i. If yes, describe your in-house collection processes.
- b. Do you assign or sell charged-off transactions to third-party collectors
 - i. Provide the names of the third-party collectors you use.
 - ii. Provide the names of the entities to whom you sell debt.
 - iii. Describe the process, including when you assign or sell debt.
- c. How many defaults are from users that received:
 - i. App-based payment reminders
 - ii. Email-based payment reminders
 - iii. Text-based payment reminders
 - iv. Other payment reminders (describe)
- d. How many defaults consist of users to whom you did not provide any payment reminders
- e. What is the total number of defaults

Section C: Consumer Protections

The Bureau is seeking information about user disclosures and state licensing.

15. Disclosures

- a. Describe the disclosures that new users receive and when you provide the disclosures.
- b. Describe the disclosures that returning users receive and when you provide the disclosures.
- c. Provide a copy of all user agreements used in all formats.
- d. Provide a copy of all disclosures used in all formats and your terms and conditions.
- e. Describe the payment reminders you provide, if any, when they are used, and provide a copy of all payment reminders used in all formats.
- f. Describe the user checkout processes used in all formats.
- g. Provide screenshots of checkout screens used in all formats.

16. State Licenses

- a. Do you hold or file any state licenses, registrations, notifications, or certifications for consumer lending, installment lending, small-dollar lending, retail installment contracts, money transmission, or remittances
 - i. If yes, provide the governmental authority(ies) and copies of your most current licenses, registrations, notifications, or certifications.

Section D: User Contacts and Demographics

The Bureau is seeking information about user contacts with you concerning BNPL transactions and user demographics.

17. User Contacts

- a. How many users contact you about:
 - i. Difficulty modifying payment dates or amounts
 - ii. Payment attempts causing insufficient funds
 - iii. Revoking payment authorizations
 - iv. Changing payment sources
 - v. Retailer cancellation of orders
 - vi. Credit reporting complaints
 - vii. Credit score complaints
 - viii. Debt collection
 - ix. Making payments for returned merchandise
 - x. Questions or disputes about the transaction terms, such as the number of payments, payment amounts, total of payments, schedule of payments, late fees, account reactivation fees, or other fees
 - xi. Other (describe)
- b. What are the number of contacts you received. Provide the breakdown by source:
 - i. Chat Function
 - ii. E-Mail
 - iii. Phone
 - iv. Text
 - v. Other (describe)
- c. What are your policies and procedures for handling user contacts

18. User Demographics

If you collect or generate any data that relates to a user's race, color, religion, national origin, sex (including sexual orientation and gender identity), marital status, age, income, or other personal characteristics, answer the following:

- a. Specify the number of unique users by:
 - i. Age:
 1. 18-24
 2. 25-33
 3. 34-40
 4. 41-50
 5. 50-64
 6. 65 and up

- ii. Share of males and females
 - iii. Individual Income
 - 1. \$0-\$25,000
 - 2. \$25,001-\$50,000
 - 3. \$50,001-\$75,000
 - 4. \$75,001-\$100,000
 - 5. \$100,000+
 - iv. Other parameters (describe each)
- b. Specify the number of unique users who default or have transactions that are sent to third-party collectors by:
 - i. Age
 - 1. 18-24
 - 2. 25-33
 - 3. 34-40
 - 4. 41-50
 - 5. 50-64
 - 6. 65 and up
 - ii. Share of males and females
 - iii. Individual Income
 - 1. \$0-\$25,000
 - 2. \$25,001-\$50,000
 - 3. \$50,001-\$75,000
 - 4. \$75,001-\$100,000
 - 5. \$100,000+
 - iv. Other parameters (describe each)
- c. Specify the number of unique applicants who are denied or declined a BNPL transaction by:
 - i. Age
 - 1. 18-24
 - 2. 25-33
 - 3. 34-40
 - 4. 41-50
 - 5. 50-64
 - 6. 65 and up
 - ii. Share of males and females
 - iii. Individual Income
 - 1. \$0-\$25,000
 - 2. \$25,001-\$50,000
 - 3. \$50,001-\$75,000
 - 4. \$75,001-\$100,000

- 5. \$100,000+
- iv. Other parameters (describe each)

Section E: Data Harvesting

The Bureau is seeking information about the data that you collect and retain as a result of BNPL product usage. The Bureau further seeks to understand the kinds of data that you generate from BNPL product use data—for example, through combining it with externally-sourced data or with other data obtained from your own operations or with data from both such sources. More generally, the Bureau seeks to understand the purposes associated with the harvesting of different data fields.

19. Data Collection

- a. Do you collect Direct BNPL Data
- b. If yes, identify all Direct BNPL Data by data field.
- c. For each data field identified in response to Question 19(b):
 - i. Describe each data field, including what information the data field records. If a data dictionary or similar reference exists for internal or client use, provide the document in full.
 - ii. State whether the data field is associated with an identified individual user, an anonymized individual user, or is aggregated across several users.
 - iii. If the data field is aggregated, specify the level to which it is aggregated.
 - iv. Describe each purpose of the data field.
- d. Do you collect Indirect BNPL Data
- e. If yes, identify all Indirect BNPL Data by data field.
- f. For each data field identified in Response to Question 19(e):
 - i. Describe each data field including what information the data field records. If a data dictionary or similar reference exists for internal or client use, provide the document in full.
 - ii. Describe each purpose of the data field.

Section F: Data Monetization

The Bureau is seeking information on how you monetize BNPL product data—including by improving service delivery to users of BNPL products, by selling the data directly and indirectly, and by selling advertising or targeted content based on attributes derived from the data.

20. Data Use and Monetization

- a. Describe how you use Direct BNPL Data or Indirect BNPL Data in connection with developing, selling, or marketing BNPL products.
- b. Describe how you use Direct BNPL Data or Indirect BNPL Data in connection

- with developing, selling, or marketing *other* products or services that you provide.
- i. Identify all such other products or services.
- c. Do you share Direct BNPL Data or Indirect BNPL Data with third parties
- i. If yes, identify each data field in Direct BNPL Data and Indirect BNPL Data that you have shared with, or otherwise made available to, any third parties.
 1. Describe the different categories of third-party recipients using categories sufficient to cover the full set of recipients.
 - ii. Please provide a copy of your policies and procedures on sharing data with third parties.
- d. State the amount of gross revenue that you received from third parties in connection with the sharing of any BNPL Data.
- e. Do you use Direct BNPL Data or Indirect BNPL Data to sell advertising or targeted offers
- i. If yes, identify each data field in the Direct BNPL Data or Indirect BNPL Data that you have used in connection with selling advertising or targeted offers.
 - ii. Please provide a copy of your policies and procedures on selling advertising or targeted offers.
- f. For each data field identified in response to Question 20(c) and 20(e), state whether any third party has obtained the data in a manner that permits the third party to identify any individual BNPL User.
- g. List all user attributes that have been described to actual or potential purchasers of advertising or targeted offers. For purposes of this Order, user attributes are those that make some use of Direct BNPL Data or Indirect BNPL Data fields.
- h. State the amount of gross revenue that you received from all forms of advertising and targeted offer sales described in response to Question 20(e).