

Borrowing for the Rest of Us: Credit Challenges for the Subprime Consumer

Marshall Lux
Visiting Fellow

Olivia Zhao
Ahlay Hussain
Research Assistants

*Georgetown University's Psaros Center for
Financial Markets and Policy*

*McDonough School of Business
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I. Introduction

On Friday, January 9th, 2026, President Trump kicked off the New Year with an old campaign promise: “AFFORDABILITY!”, or the promise to bring down credit card interest rates to 10%. With current rates hovering slightly above 20%, the announcement was unwelcome news to major credit card lending banks, who moved quickly to signal their opposition.¹ Representatives from JPMorgan Chase, Wells Fargo, Citigroup, and Bank of America have all offered unambiguous assurances that an interest rate cap would force them to cut lending to those with poorer credit scores, who happen to be those “who need it most”, in the words of JPMorgan’s Chief Financial Officer.²

The dilemma lies in what happens after people lose access to credit card loans: the need for liquidity doesn’t go away. Those who would have been credit card borrowers would then, as the banks argue, be forced to turn to informal sources of short-term credit that loan at rates and fees far above the standard and exist at the edges of conventional credit regulation.

Payday lending is the most infamous example, but it is hardly alone. There are dozens of forms that informal credit—or “fringe banking,” as it is often called—can take. Buy Now, Pay Later plans, rent-to-own agreements, credit repair services, and earned wage access products each occupy a similar niche: they serve borrowers who are excluded or priced out of mainstream credit, they operate under lighter regulatory frameworks than traditional lenders, and they frequently obscure their true costs behind structures that resist comparison. One of their defining similarities is their insistence that they are not credit at all, whether for marketing or regulatory reasons. Exempted from standard lending regulations, these industries have no obligation to disclose their annual percentage rate (APR), the standardized measure of lending in the credit world. Their customers—disproportionately lower-income, younger, and with subprime credit histories—are thus left ignorant of the steep costs of these short-term injections.

This paper examines three such products in turn: Buy Now, Pay Later (BNPL); rent-to-own; and Earned Wage Access (EWA). Two adjacent products, subprime auto lending and credit repair services, are also included. For each, we consider how the product works, who uses it, what it actually costs, and whether regulators have responded. Together, these cases illuminate a persistent structural gap in consumer finance: a gap in which need creates markets, market

¹ Federal Reserve, “Consumer Credit - G.19,” Federalreserve.gov, May 7, 2026, <https://www.federalreserve.gov/releases/g19/current/>.

² Stacy Cowley and Niko Gallogly, “Why Banks Are so Worried about a 10% Credit Card Rate Cap,” New York Times, January 14, 2026, <https://www.nytimes.com/2026/01/14/business/trump-credit-card-interest-rate-cap-banks.html>; PYMNTS, “Citigroup’s Fraser Says Rate Cap Would Restrict Access to Credit,” PYMNTS, January 20, 2026, <https://www.pymnts.com/credit-cards/2026/citigroup-ceo-fraser-says-rate-cap-would-restrict-credit-access/>.

innovations outpace regulation, and the consumers with the fewest credit alternatives bear the highest costs.

II. Buy Now, Pay Later: Frictionless Credit at the Point of Sale

How the Product Works

Buy Now, Pay Later (BNPL) is the latest industry of this sort to make a buzz. At checkout, a familiar moment of hesitation sets in: Do I really want to put this on my credit card? For millions of consumers navigating a digital-first economy, that pause has become the opening for a new way to pay. BNPL is a short-term installment credit product offered at the point of sale, most commonly during online checkout. The dominant structure, often called "Pay in 4," divides a purchase into four equal, interest-free payments, with the first due at checkout and the remaining three collected automatically every two weeks. Critically, so long as all four payments are made on time, no interest is charged at all—the product is, in that scenario, essentially free credit to the consumer. The risk to the borrower arises only when payments are missed, at which point late fees are assessed and, in some products, deferred interest can accrue. Because these plans are brief (typically six to eight weeks), carry no stated interest rate, and are structured as purchase financings rather than revolving lines of credit, they have generally fallen outside the regulatory framework governing traditional consumer loans and credit cards.³

BNPL has transformed the checkout experience by offering instant access, predictable payments, and an alternative to revolving credit—with no formal application and no long-term commitment. Used properly, it is essentially a subsidy from the merchant to the consumer. Its growth has been striking. Global projections estimate \$680 billion in BNPL transactions by 2025, representing roughly 12% of all e-commerce sales.⁴ The COVID-19 pandemic and the rapid acceleration of online shopping propelled the product into the mainstream. In the United States, the Consumer Financial Protection Bureau (CFPB) reported that 21% of consumers with a credit record had used at least one BNPL product in 2022, up from 17.6% the prior year. Among the most widely adopted platforms, PayPal Pay Later led with 15% of U.S. adults, followed by Affirm at 11% and Afterpay and Klarna at 9% each. Taken together, approximately 30% of U.S. adults report having used at least one BNPL service.⁵ For merchants, the appeal is equally compelling: BNPL can increase average order values by 20-40% by making it easier for consumers to complete purchases when flexible payment options are available.

³ Consumer Financial Protection Bureau, "Buy Now, Pay Later: Market Trends and Consumer Impacts," September 2022, <https://www.consumerfinance.gov/data-research/research-reports/buy-now-pay-later-market-trends-and-consumer-impacts/>.

⁴ Peter Tufano and Daniel Schneider, "Buy Now, Pay Later: Toward a Framework for Regulation," Mossavar-Rahmani Center for Business and Government Working Paper No. 182, Harvard Kennedy School, 2022, https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/files/182_AWP_final.pdf.

⁵ Chargeflow, "Buy Now, Pay Later Statistics," 2024. <https://www.chargeflow.io/blog/buy-now-pay-later-statistics>.

The economic profile of a typical BNPL transaction has also shifted materially since the product's early days. Early BNPL products were associated with large, aspirational purchases—Peloton bikes financed through Affirm, for instance, retailing at \$1,495 or more, accounted for 30% of Affirm's total revenue in the third quarter of 2020.⁶

That concentration has since dissipated, and the average BNPL transaction value has declined precipitously. By early 2022, the average order value at one leading BNPL provider had fallen to approximately \$118, with 66% of transactions concentrated in apparel.⁷ More recently, BNPL has begun migrating into daily essentials—including groceries—a development that has raised fresh concerns among consumer advocates.⁸ Using BNPL to finance a grocery run implies a degree of financial constraint far more acute than using it to spread out the cost of a discretionary purchase, and it suggests that for some borrowers, the product has become a recurring liquidity mechanism rather than an occasional convenience.

Who Uses BNPL, and at What Risk

BNPL adoption is concentrated among younger and lower-income consumers. Adults under 35 represent 53% of BNPL users while comprising only 35% of traditional credit card holders.⁹ The generational appeal is not incidental. Gen Z and Millennial consumers, many of whom have limited credit histories or harbor skepticism toward revolving debt, tend to find BNPL's fixed, transparent payment schedule easier to manage than an open credit card balance. BNPL also integrates directly into the digital checkout flows that align with the shopping habits of these demographics. Usage declines sharply among older consumers, a pattern consistent across multiple surveys.¹⁰

The risk profile of the average BNPL user raises serious concerns. The CFPB found that 63% of BNPL borrowers carried more than one BNPL product simultaneously, and roughly 20% originated more than one loan per month—a pattern consistent with what researchers describe as debt stacking, the accumulation of multiple concurrent short-term obligations that may appear manageable individually but can collectively place severe strain on household budgets.¹¹ BNPL

⁶ Ines Ferré, "Peloton Represents a Huge Part of Affirm's Revenue," Yahoo Finance, January 13, 2021, <https://finance.yahoo.com/news/peloton-represents-a-huge-part-of-affirms-revenue-180402811.html>.

⁷ Marshall Lux and Bryan Epps, "Grow Now, Regulate Later? Regulation Urgently Needed to Support Transparency and Sustainable Growth for Buy-Now, Pay-Later" (Harvard Kennedy School, Working Paper No. 182, April 2022), https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/files/182_AWP_final.pdf.

⁸ Lux and Epps, "Grow Now, Regulate Later?"

⁹ LexisNexis Risk Solutions, cited in "Buy Now, Pay Later for Daily Essentials," NBC News, 2024, <https://www.nbcnews.com/business/personal-finance/buy-now-pay-later-daily-essentials-groceries-young-adults-rcna141718>.

¹⁰ Consumer Financial Protection Bureau, "Buy Now, Pay Later"; JD Supra. "CFPB Report Details Financial Profiles of BNPL Borrowers," 2023. <https://www.jdsupra.com/legalnews/cfpb-report-details-financial-profiles-6814628/>.

¹¹ Federal Reserve Bank of Kansas City, "Financial Constraints Among Buy Now, Pay Later Users," Economic Review, 2025, <https://www.kansascityfed.org/research/economic-review/financial-constraints-among-buy-now-pay-later-users/>.

borrowers carried average credit scores in the subprime range (580 to 669), compared to the near-prime range (670 to 739) for non-borrowers, and were nearly three times as likely to have a delinquency on another account—18% versus 7%. Usage was also disproportionately concentrated among households earning under \$30,000 annually, a pattern researchers attribute to limited access to traditional credit rather than preference.¹²

Research from the Federal Reserve Bank of Kansas City found that younger BNPL users are more likely to miss payments than older users, increasing their exposure to late fees and restrictions on future access.¹³ Compounding these risks, BNPL products have historically not been reported to the major nationwide consumer credit bureaus—a structural gap that leaves lenders, regulators, and consumers without a complete view of total BNPL obligations when making credit decisions.¹⁴ A leading credit risk manager interviewed for the Harvard Kennedy School working paper on BNPL put the problem directly, stating, “I don’t know how to evaluate the risk of consumers anymore. The presence of BNPL in a consumer’s portfolio isn’t clear to me, nor do I understand their total debt burden.”¹⁵

BNPL thus presents a sharp paradox. It extends credit access to consumers who would not qualify for traditional lending, with enough transparency to feel manageable at the individual transaction level. But the aggregate picture—multiple simultaneous loans, subprime borrowers, limited credit bureau reporting—reveals a product that can quietly accelerate financial overextension among the very consumers who have the least capacity to absorb it.

Regulatory Debates

The regulatory oversight of BNPL in the United States has evolved through several distinct phases: rapid initial growth, heightened federal scrutiny, and a subsequent move toward deregulation.

The CFPB first signaled formal concern in December 2021, when it issued information collection orders to five leading BNPL companies—Affirm, Afterpay, Klarna, PayPal, and Zip—to assess the “risks and benefits” to consumers of what it called “fast-growing loans.”¹⁶ The bureau’s concerns were specific: debt accumulation by subprime borrowers, regulatory arbitrage through product design, and data harvesting practices by BNPL companies seeking new revenue streams as their core unit economics remained uncertain. The CFPB’s 2022 report

¹² Bankrate, “About Half Of Buy Now, Pay Later Users Have Experienced At Least One Financial Problem,” 2025, https://www.bankrate.com/f/102997/x/9ed6a4dbc8/bnpl-survey-press-release_-final.pdf.

¹³ Morgan Stanley, “Who Bears the Risk of ‘Buy Now, Pay Later’?” 2025, <https://www.morganstanley.com/insights/articles/buy-now-pay-later-trends-2025>.

¹⁴ WalletHub, “Buy Now, Pay Later Statistics,” 2025, <https://wallethub.com/edu/buy-now-pay-later-statistics/129148>.

¹⁵ Lux and Epps, “Grow Now, Regulate Later?”

¹⁶ Ashwin Vasan, “Our Public Inquiry on Buy Now, Pay Later,” January 2022, <https://web.archive.org/web/20250418103707/https://www.consumerfinance.gov/about-us/blog/our-public-inquiry-buy-now-pay-later/>.

confirmed many of these concerns and documented the subprime-heavy user base, the prevalence of debt stacking, and the absence of meaningful credit bureau reporting.¹⁷

In 2024, the CFPB moved to close the regulatory gap with a formal interpretive rule declaring that BNPL lenders are “credit card issuers” under the Truth in Lending Act, thereby requiring them to investigate disputes, issue refunds for returned goods, and provide periodic billing statements—the same baseline protections afforded to credit card holders.¹⁸ The rule would also have required fee disclosures sufficient to permit meaningful cost comparison. Consumer advocates praised the move; the BNPL industry pushed back, arguing that the products’ structure was fundamentally different from revolving credit.¹⁹

That push-back aligned more closely with the regulatory approach of the Trump administration. In 2025, the CFPB—which had already seen its leadership and enforcement posture dramatically changed—withdraw the proposed rule.²⁰ The retreat left the regulatory landscape largely as it had been: most BNPL products remain exempt from the Truth in Lending Act’s (TILA’s) disclosure requirements because the dominant Pay-in-4 structure falls below the four-installment threshold that triggers TILA coverage. In practice, this means BNPL providers have no federal obligation to disclose an APR, to investigate billing disputes, or to report payment histories to credit bureaus.

The regulatory debate over BNPL encompasses several distinct issues. On fees and disclosure, the core concern is that the absence of standardized APR disclosure leaves borrowers without a common yardstick for comparing BNPL to alternative products. Late fees, which are the primary cost mechanism for borrowers who miss payments, vary widely across providers and are rarely disclosed prominently at the point of sale.²¹ Unfair or deceptive practices in fee presentation may

¹⁷ Consumer Financial Protection Bureau, “Buy Now, Pay Later: Market Trends and Consumer Impacts,” September 2022, https://files.consumerfinance.gov/f/documents/cfpb_buy-now-pay-later-market-trends-consumer-impacts_report_2022-09.pdf.

¹⁸ Consumer Financial Protection Bureau, “CFPB Takes Action to Ensure Consumers Can Dispute Charges and Obtain Refunds on Buy Now, Pay Later Loans,” May 22, 2024, <https://web.archive.org/web/20260416163007/https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-to-ensure-consumers-can-dispute-charges-and-obtain-refunds-on-buy-now-pay-later-loans/>.

¹⁹ Stephen Rouzer, “CFPB Improves Protections for Buy Now Pay Later Loans,” National Consumer Law Center, May 22, 2024, <https://www.nclc.org/cfpb-improves-protections-for-buy-now-pay-later-loans/>; Alan S Kaplinsky, “Financial Technology Association Files Suit Challenging CFPB Buy Now Pay Later (BNPL) Interpretive Rule,” Ballard Spahr LLP, October 28, 2024, <https://www.consumerfinancemonitor.com/2024/10/28/financial-technology-association-files-suit-challenging-cfpb-buy-now-pay-later-bnpl-interpretive-rule/>.

²⁰ John L Culhane and John D Socknat, “CFPB Will Not Issue Revised BNPL Rule,” Ballard Spahr LLP, June 20, 2025, <https://www.consumerfinancemonitor.com/2025/06/20/cfpb-will-not-issue-revised-bnpl-rule/>.

²¹ Consumer Reports and National Consumer Law Center, “Comments On: Truth in Lending (Regulation Z): Use of Digital User Accounts to Access Buy Now, Pay Later Loans,” August 1, 2024, <https://www.nclc.org/wp-content/uploads/2024/08/BNPL-interpretive-rule-long-NCLC-CR-comments-2024-FINAL.pdf>.

already fall within the CFPB’s authority under the Dodd-Frank Act’s UDAAP provisions, though enforcement has been inconsistent.²²

On credit bureau reporting, the gap is structurally significant. TransUnion and Experian have developed standards for receiving BNPL data, and Equifax has moved to incorporate it, but reporting by BNPL providers remains largely voluntary.²³ The consequences cut in both directions: borrowers who repay responsibly receive no credit benefit. At the same time, borrowers who default may also avoid negative reporting—until the debt is sold to a collection agency. Thoughtful mandatory reporting could allow BNPL to function as a genuine credit-building tool for the subprime consumers it predominantly serves, rather than a product that leaves no trace in either direction.

On data privacy, the CFPB’s original 2021 inquiry flagged concern about how BNPL companies intended to monetize the granular transaction and payment data they collect.²⁴ Unlike banks, BNPL providers face no explicit regulatory framework governing data use. As some providers have struggled to reach profitability through transaction fees alone, the temptation to extract value from consumer data has grown more acute.

In the absence of federal action, some BNPL companies have pursued self-regulation, though critics note that these efforts tend to conform to pre-existing product features.²⁵ Companies without late fees have advocated for banning late fees; companies that already check creditworthiness have called for mandatory credit checks. The UK’s Financial Conduct Authority has taken the more direct step of extending to BNPL products all the rights and protections afforded to regulated credit, and Australia’s Finance Industry Association developed a BNPL code of conduct following a Senate inquiry.²⁶ The United States has not moved to equivalent regulation.

²² National Consumer Law Center et al., “Request for Information Regarding Junk Fees Imposed by Providers of Consumer Financial Products or Services,” May 2, 2022, <https://www.nclc.org/wp-content/uploads/2022/09/NCLC-comments-on-CFPB-Junk-Fees-RFI-87-FR-5801-pubd-2-2-22-filed-5-2-22-1.pdf>.

²³ Trina Paul, “BNPL Loans Will Soon Be on Your Credit Report: Here’s What You Need to Know,” CNBC, May 6, 2024, <https://www.cnbc.com/select/bnpl-loans-to-be-reported-on-credit-reports/>.

²⁴ Steven M Kaplan et al., “CFPB Releases Long-Awaited Report on Buy Now Pay Later Industry” (Mayer Brown, September 29, 2022), <https://www.mayerbrown.com/en/insights/publications/2022/09/cfpb-releases-long-awaited-report-on-buy-now-pay-later-industry>.

²⁵ Amos Barshad, “‘Buy Now, Pay Later’ Companies Are an Unregulated Racket,” Jacobin, 2024, <https://jacobin.com/2024/12/buy-now-pay-later-klarna>.

²⁶ Financial Conduct Authority, “New Protections Confirmed for Buy Now Pay Later Borrowers,” FCA, February 10, 2026, <https://www.fca.org.uk/news/press-releases/new-protections-confirmed-buy-now-pay-later-borrowers>.

State legislation has also filled the federal gap. By far the most notable example is New York: in 2025, it became the first state to enact a law regulating BNPL.²⁷ Called the “New York Buy-Now-Pay-Later Act,” the legislation prohibits BNPL providers from charging interest above the NY usury cap of 16%, inclusive of finance charges and fees that function as interest, and it requires them to disclose key terms similar to those mandated by the TILA.²⁸ The shift towards a more lenient regulatory stance at the federal level prompted New York’s state government to act. Other state action has mainly taken the form of inquiries by attorneys general, such as those in California and Maryland, which have targeted BNPL companies using existing laws.²⁹

The underlying judgment call is not whether BNPL as a product is inherently harmful—used well, by a financially literate borrower who makes all four payments on time, it is free short-term credit, and a genuinely useful one. The question is whether the regulatory framework adequately protects the borrowers who are least likely to use it effectively: those with subprime credit, limited financial literacy, and a tendency to stack multiple loans simultaneously. That population, as the data consistently shows, is precisely the population BNPL disproportionately reaches.

III. Rent-to-Own: The Long-Running Lease That Isn't

How the Product Works

The rent-to-own industry offers exactly what it says on the label: consumers make regular payments—weekly, biweekly, or monthly—to rent a durable good, such as furniture, electronics, or an appliance, until they have paid up to a set amount, after which the renter becomes the official owner. Agreements do not require credit checks or down payments. Each period is treated as a short-term renewable lease, so the transaction is, in theory, cancelable at any time without further obligation. Failing to make a payment, however, comes with the penalty of late fees, repossession, or even criminal charges for theft.³⁰ Rent-to-own arrangements resemble short-term loans with the rented goods serving as collateral. As a concept, they are justified as a

²⁷ Daniel B Pearson and Eric T Mitzenmacher, “New York Enacts First-of-Its-Kind Law to License Buy-Now-Pay-Later Lenders,” Mayer Brown, June 6, 2025, <https://www.mayerbrown.com/en/insights/publications/2025/06/new-york-enacts-first-of-its-kind-law-to-license-buy-now-pay-later-lenders>.

²⁸ Pearson and Mitzenmacher, “New York Enacts First-of-Its-Kind Law”; Eric Goldberg and Michael Treves, “New York Unveils Sweeping Regulatory Framework for Buy-Now-Pay-Later Lenders,” Davis Wright Tremaine LLP, March 2, 2026, <https://www.dwt.com/blogs/financial-services-law-advisor/2026/03/ny-unveils-sweeping-bnpl-regulatory-framework>.

²⁹ Patrick Cooley, “Regulatory Patchwork Vexes BNPL,” Payments Dive, November 25, 2025, <https://www.paymentsdive.com/news/regulatory-patchwork-vexes-bnpl/806120/>.

³⁰ James P Nehf, “Secured Consumer Credit and the Fringe Banking Industry,” in SECURED TRANSACTIONS under the UNIFORM COMMERCIAL CODE, ed. Matthew Bender, 2005, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1010730; Nathalie Martin and Lydia Pizzonia, “SHADOW CREDIT and the DEVOLUTION of CONSUMER CREDIT REGULATION,” Lewis & Clark Law Review 24, no. 4 (2020), https://heinonline.org/HOL/Page?handle=hein_journals/lewclr24&id=1481.

way to help everyone afford expensive yet essential equipment, relieving consumers of the struggles of budgeting.

Despite their credit-like structure, the industry has successfully argued that they are not legally classified as “credit.” Instead, a rent-to-own agreement is merely a short-term, renewable lease that could lead to ownership transfer down the line. The industry itself argues that consumers can walk away from a rent-to-own deal penalty-free at any time, meaning they are never bound to pay back the entire amount.³¹ Such a formulation was explicitly devised from the beginning to be exempt from lending regulations like the Truth in Lending Act or the Fair Debt Collection Practices Act, which means that providers do not have to disclose an APR.³²

The True Cost and Who Bears It

The total cost of a good purchased through rent-to-own is as much as two to three times higher than the retail price.³³ Thus, the implied APR for a typical rent-to-own deal is and will always be in a different ballpark than traditional credit products. Four different studies conducted in 1989, 1999, 2005, and 2018 all found APRs in the three-digit range, with variations according to whether the contracts were weekly or monthly or the total contract length.³⁴ The lowest APR was a monthly rate average of 85.7% in a 2005 study by Kolodinsky et al.; the highest APR was a weekly APR of 275% over six months in the 2018 study by Jaggia, Roche, & Anderson.³⁵ The industry argues that the rates are justified given both the early purchase option—which would reduce their overall rent—and the standard demographic of rent-to-own services, who are much riskier to lend to.³⁶

Populations with limited financial options use rent-to-own services the most. An oft-cited FTC survey from 2000 remains the benchmark for this claim, demonstrating that 73% of rent-to-own consumers had only a high school education or less, more than half had household incomes of less than \$25,000, and participants were disproportionately African American.³⁷ In 2003, the rent-to-own industry association itself reported that fewer than one in 10 rent-to-own users had a

³¹ Jim Hawkins, “The Federal Government Takes on the Rent-To-Own Industry,” July 26, 2011, http://www.jtexconsumerlaw.com/V15N2/V15N2_Rent.pdf.

³² Martin and Pizzonia, “Shadow Credit”; Nehf, “The Fringe Banking Industry.”

³³ Mandy Walker, “Be Cautious of Rent-To-Own Deals,” Consumer Reports, July 1, 2015, <https://www.consumerreports.org/cro/news/2015/07/be-cautious-of-rent-to-own-deals/index.htm>.

³⁴ Sanjiv Jaggia, Hervé Roche, and Michael H. Anderson, “Rent-To-Own Pricing: Theory and Empirical Evidence,” *Journal of Consumer Affairs* 53, no. 3 (July 5, 2018): 1025–55, <https://doi.org/10.1111/joca.12216>; Jane Kolodinsky et al., “Time Price Differentials in the Rent-To-Own Industry: Implications for Empowering Vulnerable Consumers,” *International Journal of Consumer Studies* 29, no. 2 (February 4, 2005): 119–24, <https://doi.org/10.1111/j.1470-6431.2004.00422.x>.

³⁵ Kolodinsky et al., “Time Price Differentials”; Jaggia, Roche, and Anderson, “Rent-To-Own Pricing.”

³⁶ Michael H. Anderson and Sanjiv Jaggia, “Rent-To-Own Agreements: Customer Characteristics and Contract Outcomes,” *Journal of Economics and Business* 61, no. 1 (January 2009): 51–69, <https://doi.org/10.1016/j.jeconbus.2008.01.001>.

³⁷ James Lacko, Signe-Mary McKernan, and Manoj Hastak, “Survey of Rent-To-Own Customers,” Federal Trade Commission, April 1, 2000, <https://www.ftc.gov/reports/survey-rent-own-customers>.

college degree.³⁸ The geographic distribution of rent-to-own stores makes it evident that the industry is keenly aware of its financially distressed clientele—locations tend to cluster around low-income neighborhoods.³⁹

Regulatory Debates

Since the industry first took hold in the 1970s, the question of whether rent-to-own preys on the poor has been a constant point of contention. Critics see the renewable leases as de facto debt, charging rent-to-own stores with lending at excessive rates far above what would qualify as usury.⁴⁰ Rent-to-own customers, according to critics, behave as though they are taking out long-term loans; consumer advocates tend to claim that a vast majority of rent-to-own users continue to pay until they become the final owners.⁴¹ By not being legally classified as credit, rent-to-own avoids these usury limits, can pursue aggressive debt collection and repossession, and, of course, avoids having to disclose true APR costs.⁴² The industry itself, on the other hand, contends that the typical consumer is merely renting the object temporarily, and that the service they provide is necessary for low-income, low-credit consumers who have no other option.⁴³

All but four states have enacted some form of Rental Purchase Agreement Act, though these statutes offer fewer consumer protections than standard credit regulations. For instance, the statute of limitations for rental agreement violations is typically one year—compared to four years for contract violations.⁴⁴ By operating outside the formal credit category, the industry also retains free rein for aggressive collection practices: unpaid accounts can result in repossession, late fees, and, in some jurisdictions, criminal charges for theft.⁴⁵

IV. Earned Wage Access: The New Face of Informal High-Cost Credit

How the Product Works

Earned Wage Access (EWA), also known as a payroll or paycheck advance, is one of the fastest-growing and least-understood forms of informal short-term credit. These products, typically offered online or through mobile applications, allow workers to draw against wages they have already earned before their scheduled payday. Paycheck advance products are offered through two primary models: employer-partnered and direct-to-consumer.

The employer-partnered model involves a third-party firm that contracts with employers, integrates with their payroll systems to verify earned wages, and is repaid through payroll

³⁸ Kolodinsky et al., “Time Price Differentials.”

³⁹ Kolodinsky et al., “Time Price Differentials.”

⁴⁰ Nehf, “The Fringe Banking Industry.”

⁴¹ Alejo Czerwonko, “Essays in Alternative Financial Services” (ProQuest LLC [Dissertation], 2013), <https://www-proquest-com.proxy.library.georgetown.edu/docview/1426645491>.

⁴² Martin and Pizzonia, “Shadow Credit.”

⁴³ Czerwonko, “Alternative Financial Services.”

⁴⁴ Martin and Pizzonia, “Shadow Credit.”

⁴⁵ Martin and Pizzonia, “Shadow Credit.”

deduction. The direct-to-consumer, or business-to-consumer (B2C) model, operates independently of any employer relationship. Because direct-to-consumer providers do not typically have access to employers' payroll systems for repayment, they collect funds from workers' bank accounts. In addition, they often must rely on users' self-reported or estimated earnings when offering their products and may utilize contractual and legal remedies for non-payment.⁴⁶

The CFPB estimates that the number of transactions processed by these providers grew by over 90% from 2021 to 2022, with more than 7 million workers accessing approximately \$22 billion in 2022. The average transaction size is relatively small, at an overall average of \$106.⁴⁷ The industry's growth has been fueled by claims of expanding financial inclusion to include those who need short-term liquidity injections to cover emergency expenses, such as fixing a tire. By essentially borrowing against one's own paycheck, EWA provides liquidity without relying on external credit.

The True Cost and Who Bears It

EWA, like other fringe credit products, serves a population with acute liquidity needs. Those who would most need early access to their wages would be low- to moderate-income earners. A survey of low-income Americans found that over 60% had used a B2C app, while 41% had access to an employer-partnered EWA product.⁴⁸ Though EWA products position themselves as backup resources for unpredictable expenses, like a flat tire, data shows that users overwhelmingly turn to EWA to cover basic expenses, like food and housing, more often than not, multiple times per week.⁴⁹

Dependence on EWA becomes more common over time, leading to debt stacking and more frequent overdraft fees. A Center for Responsible Lending (CRL) study broke down debt stacking month by month—though only 16% of users borrowed from multiple lenders in their first month, that figure reached 42% by the end of their first year using EWA products.⁵⁰ Even 42% is a lower bound, since the study covered only five EWA providers and did not include

⁴⁶ Consumer Financial Protection Bureau, “Data Spotlight: Developments in the Paycheck Advance Market,” Consumer Financial Protection Bureau, July 18, 2024, <https://www.consumerfinance.gov/data-research/research-reports/data-spotlight-developments-in-the-paycheck-advance-market/>.

⁴⁷ Consumer Financial Protection Bureau, “Developments in Paycheck Advance.”

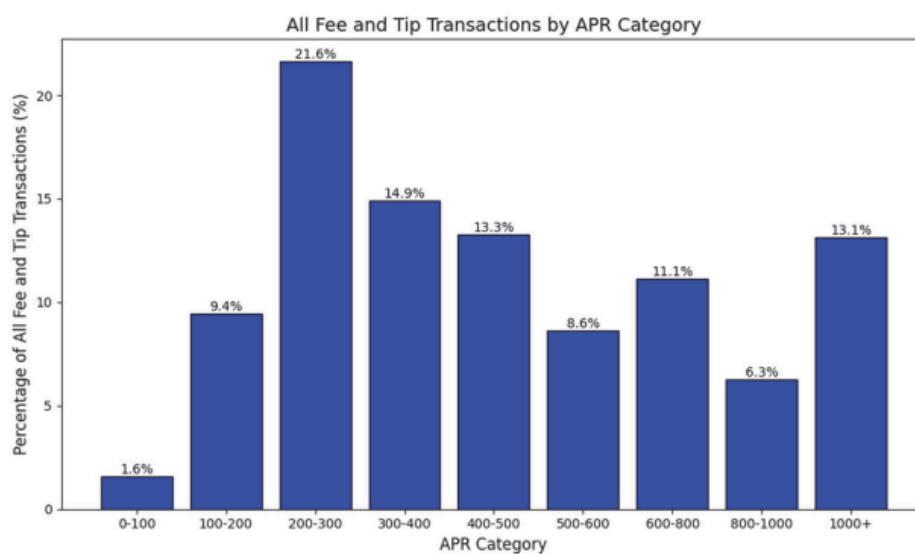
⁴⁸ Marshall Lux and Cherie Chung, “Earned Wage Access: An Innovation in Financial Inclusion?” (Harvard Kennedy School M-RCBG Associate Working Paper Series | No. 214, June 2023), https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/214_AWP_final_2.pdf.

⁴⁹ EBRI, “New Research Report Surveying Hospitality Industry Workers Utilizing Earned Wage Access Tech Finds Bill Paying, Food and Money Availability Top Concerns,” Ebri.org, March 26, 2025, <https://www.ebri.org/health/content/summary/new-research-report-surveying-hospitality-industry-workers-utilizing-earned-wage-access-tech-finds-bill-paying--food-and-money-availability-top-concerns>.

⁵⁰ Christelle Bamona and Lucia Constantine, “ESCALATING DEBT: The Real Impact of Payday Loan Apps Sold as Earned Wage Advances (EWA)” (Center for Responsible Lending, September 2025), <https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-payday-loan-apps-ewa-sep-2025.pdf>.

employer-provided services. In a parallel trend, the first three months of using EWA saw the share of users who experienced an overdraft fee rise from 9.7% to 14.1%.⁵¹

A typical employer-partnered EWA product carries an APR of 109.5%, as calculated by a CFPB study that looked at data from almost half the employer-partnered EWA market from 2021-2022.⁵² The study itself, however, admits that this figure is likely an underestimate for “smaller transactions with shorter terms,” which is significant because EWA infusions tend to be small.⁵³ The Center for Responsible Lending, meanwhile, calculated an equivalent APR of 383% using a dataset from a financial health fintech nonprofit that covers transactions from 2021-2025.⁵⁴ Attorneys general, in lawsuits against specific EWA companies, have alleged APRs in a similar ballpark, reaching as high as over 1,000%.⁵⁵ The New York Attorney General (NYAG) lawsuit against MoneyLion broke down all Paycheck Advance transactions by APR; the most common had an equivalent APR of 234%, followed by a transaction with a rate of 260%, with the third most common boasting an APR of over 450%.⁵⁶ The chart below illustrates the distribution of the MoneyLion transactions by effective APR category as detailed in the NYAG’s filings.



⁵¹ Bamona and Constantine, “Escalating Debt.”

⁵² Consumer Financial Protection Bureau, “Developments in Paycheck Advance.”

⁵³ Consumer Financial Protection Bureau, “Developments in Paycheck Advance.”

⁵⁴ “Consumer Finance Monitor Podcast (Season 9, Episode 3): Earned Wage Access in the Crosshairs of the Center for Responsible Lending,” Podcast (Ballard Spahr LLP, January 29, 2026), <https://www.consumerfinancemonitor.com/wp-content/uploads/sites/14/2026/01/CFM0903.pdf>.

⁵⁵ District of Columbia, COMPLAINT FOR VIOLATIONS OF THE CONSUMER PROTECTION PROCEDURES ACT (November 2024); Letitia James, State of New York v MoneyLion Complaint (April 14, 2025).

⁵⁶ James, State of New York v MoneyLion.

Regulatory Debates

The product's classification has been deeply contested. EWA providers have consistently argued that advances on earned wages are not loans—there is no interest, no credit underwriting, and repayment comes from the employee's own paycheck.⁵⁷ Critics have noted that this framing elides the economic reality: when fees for expedited delivery, subscription charges, or voluntary "tips" are factored in, effective APRs on EWA are often multiple times greater than 100%.⁵⁸

Voluntary tipping exemplifies how EWA apps can discreetly convince consumers to pay more than they realize. Tips are optional, but EWA providers can use strategies that make tipping hard to avoid, such as setting tips to be the default, claiming that tips go to charitable causes, or restricting services if users do not tip.⁵⁹ In 2021, 73% of advance payments made to Californian consumers included tips; such an overwhelming figure for an optional service suggests the use of coercive tactics.⁶⁰

In December of 2025, the CFPB rescinded a 2024 proposal that would have treated most EWA as credit, declaring “Covered EWA” products, or employer-partnered EWA, as not subject to the Truth in Lending Act.⁶¹ Under the new advisory opinion, expedited fees and voluntary tipping do not qualify as finance charges, or costs to consumer credit, for covered EWA, and will likely not qualify for uncovered EWA either.⁶² The opinion also formally established boundaries for determining whether a fee can reasonably be interpreted as voluntary or not—for instance, workers must have “reasonable means” to receive advance payments without forking over an expedite fee.⁶³ The Financial Technology Association—whose members include EWA providers—stated, “These products are not loans, and we appreciate the CFPB’s recognition of that...”, while the National Consumer Law Center called the opinion “flatly wrong.”⁶⁴

Regulatory legislation is also pending in Congress; introduced in April 2024, the Earned Wage Access Consumer Protection Act assures that EWA is not a loan and does not fall under the Truth

⁵⁷ Goldfeder, Phil. “Earned Wage Access Programs Are Simply Not Loan Products.” *American Banker*, April 3, 2026. <https://www.americanbanker.com/opinion/earned-wage-access-programs-are-simply-not-loan-products>

⁵⁸ National Consumer Law Center. “Earned Wage Payday Loans Compound the Affordability Problem.” Press release, February 10, 2026.

⁵⁹ Marshall Lux and Cherie Chung, “Earned Wage Access: An Innovation in Financial Inclusion?” M-RCBG Associate Working Paper Series, No. 214 (Mossavar-Rahmani Center for Business & Government, Harvard Kennedy School, June 2023),

⁶⁰ Lux and Chung, “Earned Wage Access,” 25.

⁶¹ Checkpoint News Staff, “CFPB Issues Advisory Opinion Clarifying Earned Wage Access Is Not Credit Under TILA,” *Thomson Reuters Tax & Accounting News*, January 7, 2026, <https://tax.thomsonreuters.com/news/cfpb-issues-advisory-opinion-clarifying-earned-wage-access-is-not-credit-under-tila/>

⁶² Jennifer L. Crowder and John ReVeal, “To Z or Not to Z? CFPB Clarifies the Regulation Z Treatment of Certain Earned Wage Access Products,” *K&L Gates*, January 12, 2026,

⁶³ Crowder and ReVeal, “To Z or Not to Z?”

⁶⁴ Justin Bachman, “CFPB Shifts on EWA Policy, Again,” *Payments Dive*, December 23, 2025,

<https://www.paymentsdive.com/news/some-ewa-products-arent-loans-cfpb-consumer-protection-paycheck/808587/>

in Lending Act.⁶⁵ Apart from the non-credit qualification, the bill would also require disclosures of fees and voluntary payments, the existence of a no-cost option, and guaranteeing cancellations without penalty.⁶⁶ Originally submitted by Republican Rep. Bryan Steil, the revised bill recently gained the backing of Democratic Rep. Ritchie Torres, but is still far from having the bipartisan support to be passed.⁶⁷ In the meantime, EWA providers must navigate a patchwork of regulations imposed by state governments, some of which have defined EWA as credit or are on their way to doing so.⁶⁸

V. Subprime Auto Lending: Risk, Repossession, and the Outer Edge of Formal Credit

Structure of the Market

Unlike the products discussed above, auto lending falls within the formal credit system. But for subprime borrowers—those with the same profiles that drive BNPL, rent-to-own, and payday loan use—auto lending occupies a similar structural position. As of February 2026, the APR for a deep subprime auto loan is 15.85% for a new car and 21.60% for a used car, still much lower than fringe banking.

Auto loans on the whole are issued via five main conduits: banks, credit unions, finance companies, captives, and Buy-Here-Pay-Here (BHPH) dealerships.⁶⁹ The last three—finance companies, captives, and BHPH dealerships—lean more heavily towards subprime audiences, Buy-Here-Pay-Here most of all. Risk appetites are reflected in the interest rates offered by each lender type, with finance companies and BHPH dealerships charging the highest rates. Yet, even when controlling for default risk, interest rates remain significantly elevated for finance companies and Buy-Here-Pay-Here dealerships.⁷⁰

Unfortunately, there is little insight as to why this might be the case. The CFPB has theorized that the same level of default risk could pose differing threats of loss to different lenders, that finance companies and BHPH dealerships have less incentive to invest in underwriting to separate risky and less risky borrowers, or that banks and credit unions, being depository

⁶⁵ Justin Bachman, "House Democrat Joins EWA Effort," *Payments Dive*, January 14, 2026, <https://www.paymentsdive.com/news/house-democrat-joins-ewa-effort/809699/>

⁶⁶ U.S. House of Representatives, Committee on Financial Services, *Earned Wage Access Consumer Protection Act*, H. Rept. 118-787, 118th Cong., 2d sess. (December 3, 2024), <https://www.govinfo.gov/content/pkg/CRPT-118hrpt787/html/CRPT-118hrpt787.htm>

⁶⁷ Bachman, "House Democrat Joins EWA Effort."

⁶⁸ Patrick Crotty, "Successful Challenges to Earned Wage Payday Loans," *NCLC Digital Library*, National Consumer Law Center, November 12, 2025 (updated April 8, 2026), <https://library.nclc.org/article/successful-challenges-earned-wage-payday-loans>

⁶⁹ Consumer Financial Protection Bureau, Office of Research, "Subprime Auto Loan Outcomes by Lender Type," September 30, 2021,

<https://www.consumerfinance.gov/data-research/research-reports/subprime-auto-loan-outcomes-lender-type/>

⁷⁰ Consumer Financial Protection Bureau, "Subprime Auto Loan Outcomes."

institutions, simply have access to cheaper funding. It is unclear whether any of these theories has additional evidence.

Subprime Lending in Practice

The structural and compliance challenges within subprime auto lending are most clearly documented through recent litigation. In lawsuits brought against subprime auto lenders, malintent and hidden costs have been key. Take the class action lawsuits from New York, Mississippi, and Massachusetts against a major subprime lender, Credit Acceptance Corporation (CAC). Between the lawsuits, the company has been repeatedly charged with handing out loans without consideration for borrowers' ability to pay them back, leading to astronomical default rates; according to the company's own data, "well over 50% of high-risk, low-score borrowers would default, typically a little more than a year into their loans."⁷¹ Though Credit Acceptance Corp's loan assessment algorithm considers how much the firm could collect from a customer from all possible revenue streams, including collection efforts, repossessions, and auctions, it is wholly indifferent to one's ability to repay.⁷² The algorithm even predicted that for 39% of loans nationwide, CAC would not be able to collect the full amount; yet, these loans remained profitable because principal amounts were inflated beyond the money CAC put at risk.⁷³

Aggressive collection strategies are foundational to how Credit Acceptance Corp minimizes the money at risk. It has publicly acknowledged that it expects to repossess 35% of all cars it finances.⁷⁴ In its hometown of Detroit, one out of every eight civil suits filed in 2017 was a collection case by Credit Acceptance Corp.⁷⁵ The firm employs similarly aggressive strategies for squeezing out additional revenue from borrowers in the form of hidden finance fees or credit charges, which would, in Massachusetts, push the average APR past the state limit of 21%, and in New York, push the average APR from 23% to 38%.⁷⁶

⁷¹ Ryan Felton, "Major Subprime Auto Lender Required to Repay Victims of Bad Loans," *Consumer Reports*, September 2, 2021, <https://www.consumerreports.org/predatory-lending/subprime-auto-lender-required-to-repay-victims-of-bad-loans-a-8206877145/>

⁷² Consumer Financial Protection Bureau and People of the State of New York v. Credit Acceptance Corporation, Complaint, No. 23 Civ. 0038 (S.D.N.Y. January 4, 2023), https://files.consumerfinance.gov/f/documents/cfpb_credit-acceptance-corporation_complaint_2023-01.pdf

⁷³ CFPB and People of New York v. Credit Acceptance Corporation, Complaint, No. 23 Civ. 0038.

⁷⁴ Ryan Felton, "This Subprime Auto Lender Repos 35 Percent of the Cars It Finances," *Jalopnik*, February 9, 2018, <https://www.jalopnik.com/this-subprime-auto-lender-repos-35-percent-of-the-cars-1822875696/>

⁷⁵ Ryan Felton, "How a Subprime Auto Lender Consumed Detroit with Debt and Turned Its Courthouse into a Collections Agency," *Jalopnik*, April 7, 2022, <https://www.jalopnik.com/how-a-subprime-auto-lender-consumed-detroit-with-debt-a-1829527899/>

⁷⁶ New York Attorney General's Office, "Attorney General James and CFPB Sue Auto Lender for Cheating Thousands of New Yorkers," press release, January 4, 2023, <https://ag.ny.gov/press-release/2023/attorney-general-james-and-cfpb-sue-auto-lender-cheating-thousands-new-yorkers>

The subprime auto industry business model—not just that of Credit Acceptance Corp—tends to rely on repossession, debt collection, and hidden costs to maximize revenues and reduce the price of default risk. States with repo-friendly laws and more creditor-oriented regulatory frameworks are more likely to see subprime borrowers get approved for auto loans.⁷⁷ Other companies have gotten into hot water for lax consumer verification schemes as well. In 2020, Santander settled with 34 attorneys general over allegations that the company knowingly offloaded loans to subprime consumers with high risk of default.⁷⁸ The accusations are strikingly similar to those against Credit Acceptance Corp: algorithmically predicting default risk with no impact on loan issuance, failing to verify whether dealers were accurately reporting borrowers' incomes, and misleading consumers about their rights and risks, among others.⁷⁹

The toll that debt collection takes on subprime borrowers has repeatedly come to light. Repossessions make a borrower significantly more likely to declare bankruptcy and lead to a 10% to 15% cut in the success rate of future credit applications compared to those who missed payments without repossession.⁸⁰ In the mid-2010s, use of starter interrupters, or “kill switches,” caught the attention of the FTC after stories of single mothers unable to drive their sick children to work due to being a few days late on a car payment kicked up a publicity frenzy.⁸¹ Starter interrupters are devices dealerships use to remotely disable a vehicle if a borrower fails to make a payment, designed to minimize the risk of repossession. The harshness of the punishment, combined with the credit profiles of subprime borrowers, has drawn comparisons with payday lending.⁸²

Predatory dealer financing in subprime auto lending, however, is not necessarily a foregone conclusion. A recent study into dealer-lender transactions found that although dealerships marked up the interest rates for subprime loans, the overall cost was subsidized—dealers sell their subprime loans at a discount to lenders and reap less revenue from interest rate markups, all

⁷⁷ Felton, “How a Subprime Auto Lender Consumed Detroit with Debt.”

⁷⁸ Office of the Attorney General, *Santander Multistate AG Settlement*, press release, 2020,

<https://santandermultistateagsettlement.com/Press-Release>

⁷⁹ Ryan Felton, “Many Americans Are Overpaying for Their Car Loans,” *Consumer Reports*, October 27, 2021,

<https://www.consumerreports.org/money/car-financing/many-americans-overpay-for-car-loans-a8076436935/>

⁸⁰ Elizabeth Berger, Alexander W. Butler, and Erik J. Mayer, “Credit Where Credit Is Due: Drivers of Subprime Credit,” working paper, June 25, 2018, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2989380

⁸¹ Jim Henry, “Words Matter: Starter Interrupt or Kill Switch?” *Forbes*, Februar

<https://www.forbes.com/sites/jimhenry/2017/02/28/words-matter-starter-interrupt-or-kill-switch/>

⁸² Michael Corkery and Jessica Silver-Greenberg, “Miss a Payment? Good Luck Moving That Car,” *New York Times*, September 24, 2014,

<https://archive.nytimes.com/dealbook.nytimes.com/2014/09/24/miss-a-payment-good-luck-moving-that-car/>

while selling at lower vehicle prices.⁸³ Concerns, then, about dealers overcharging subprime consumers are “likely misplaced.”⁸⁴

Despite risks, subprime auto lending is an essential part of the automotive market. People need transportation to work, study, and live. Ensuring that everyone has access to auto financing, including those with subprime credit scores, is a prerequisite for equal opportunity for everyone.

VI. Credit Repair: Selling a Right Consumers Already Own

The Credit Report as Gatekeeper

Between December 2024 and January 2025, the U.S. Postal Service delivered refund checks to over four million American households. The Consumer Financial Protection Bureau (CFPB) distributed \$1.8 billion to 4.3 million consumers who had been charged illegal advance fees or subjected to deceptive bait-and-switch advertising by a group of credit repair companies, including Lexington Law and CreditRepair.com, the largest-ever distribution from the agency's victims relief fund.⁸⁵ A federal court concluded that these companies broke the law by illegally charging upfront fees and engaging in deceptive advertising in violation of both the Consumer Financial Protection Act of 2010 and the Telemarketing Sales Rule.⁸⁶ The companies subsequently filed for Chapter 11 bankruptcy.

To understand the credit repair industry, it is necessary first to understand the product it addresses: the consumer credit report. Credit reports are compiled by the three major consumer reporting agencies, Equifax, Experian, and TransUnion, and serve as the primary inputs into credit scoring models. Those scores govern access to mortgages, auto loans, rental housing, and, in some cases, employment.⁸⁷ The stakes for accuracy are high, and the research suggests it is not uniform.

⁸³ Mark Jansen, Samuel Kruger, and Gonzalo Maturana, "Dealer Financing in the Subprime Auto Market: Markups and Implicit Subsidies," *Management Science* 71, no. 12 (2025): 10692–10706, <https://pubsonline.informs.org/doi/10.1287/mnsc.2021.04086>

⁸⁴ Mark Jansen, Samuel Kruger, and Gonzalo Maturana, “Dealer Financing in the Subprime Auto Market: Markups and Implicit Subsidies,” working paper, December 22, 2023, <https://ssrn.com/abstract=3902847>

⁸⁵ Consumer Financial Protection Bureau, “CFPB Announces Return of \$1.8 Billion in Illegal Junk Fees to 4.3 Million Americans Harmed in Massive Credit Repair Scheme,” press release, December 5, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-return-of-1-8-billion-in-illegal-junk-fees-to-4-3-million-americans-harmed-in-massive-credit-repair-scheme/>

⁸⁶ Consumer Financial Protection Bureau, “CFPB Reaches Multibillion Dollar Settlement with Credit Repair Conglomerate,” press release, August 28, 2023, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-reaches-multibillion-dollar-settlement-with-credit-repair-conglomerate/>

⁸⁷ Marshall Lux, Rohan Mistry, and Jack Zoltak, “Addressing the Challenges of Credit Reporting: Reducing Consumer Stress” (Georgetown University Psaros Center for Financial Markets and Policy, January 2025), <https://finpolicy.georgetown.edu/wp-content/uploads/2025/01/Credit-Reporting.pdf>

A congressionally directed Federal Trade Commission study found that one in five consumers had at least one error on their credit report corrected by a reporting agency following a dispute, and that four out of five consumers who filed disputes experienced some modification to their credit report.⁸⁸ A subsequent peer-reviewed study reinforced these findings: of a stratified random sample of 1,001 individuals who reviewed their reports with research assistance, 20% saw at least one bureau alter their report following a dispute, and 21% of those disputants had a score change that would typically result in more favorable credit terms.⁸⁹ Research published in the *Journal of Finance* studied consumers whose bankruptcy flags were removed from their credit files and found that flag removal produced large, immediate increases in credit access, suggesting that negative credit marks can restrict financial access in ways not always proportionate to actual economic risk.⁹⁰

What Credit Repair Companies Actually Sell

Credit repair companies are for-profit firms that dispute negative, inaccurate, or unverifiable items on clients' credit reports. Their legal basis is the Fair Credit Reporting Act (FCRA, 1970), which grants consumers the right to dispute any item on their credit report and obligates bureaus to investigate and remove unverified information within 30 days. This is a right consumers hold independently and may exercise at no cost. What credit repair companies sell is the expertise and time required to exercise a right their clients already possess.

Credit repair companies operate using three approaches, each with its own billing method. The most common practice is to charge consumers a monthly fee of \$24.99 to \$99 for as long as their services are necessary, along with an initial setup fee, ranging from \$119 to \$229.⁹¹ The average customer pays for four months' worth of services.⁹² Companies also offer performance-based billing models, where customers pay for each challenge or credit sweep services, which aim to remove all negative marks from a credit report. Credit sweeps are illegal.

Research drawing on interviews with 72 low-income mothers found that while the credit scoring system was widely understood as a gatekeeper to housing, transportation, and employment, the process for challenging errors remained poorly understood and practically inaccessible to many

⁸⁸ Federal Trade Commission, "In FTC Study, Five Percent of Consumers Had Errors on Their Credit Reports That Could Result in Less Favorable Terms for Loans," press release, February 11, 2013, <https://www.ftc.gov/news-events/news/press-releases/2013/02/ftc-study-five-percent-consumers-had-errors-their-credit-reports-could-result-less-favorable-terms>

⁸⁹ L. Douglas Smith et al., "Accuracy of Information Maintained by U.S. Credit Bureaus: Frequency of Errors and Effects on Consumers' Credit Scores," *Journal of Consumer Affairs* 47, no. 3 (2013): 588–601, <https://doi.org/10.1111/joca.12017>

⁹⁰ Will Dobbie, Paul Goldsmith-Pinkham, Neale Mahoney, and Jae Song, "Bad Credit, No Problem? Credit and Labor Market Consequences of Bad Credit Reports," *Journal of Finance* 75, no. 5 (2020): 2377–2419, <https://doi.org/10.1111/jofi.12954>

⁹¹ Business Insider, "How Much Does Credit Repair Cost?" *Business Insider: Personal Finance*, accessed June 7, 2026, <https://www.businessinsider.com/personal-finance/credit-score/how-much-does-credit-repair-cost>

⁹² Business Insider, "How Much Does Credit Repair Cost?"

participants.⁹³ This dynamic explains the market demand for credit repair services: the underlying legal mechanism is free, but barriers of financial literacy and process sustain a paid industry around it.

Barriers to financial literacy simultaneously increase the likelihood of encountering a fraudulent credit repair company. In 2019, more than half of complaints to the CFPB regarding credit repair were filed under the issue “fraud or scam.”⁹⁴ The Credit Repair Organizations Act mandates credit repair companies to fulfill their services before requesting or receiving payment, while companies that use telemarketing and are bound by the Telemarketing Sales Rule cannot request or receive payment until they have delivered an improved credit report to the customer after at least six months.⁹⁵ LexingtonLaw and CreditRepair.com are not the only companies to have engaged in such schemes—The Credit Game, Credit Repair Cloud, and BoostMyScore have all run into trouble with the FTC or CFPB for charging upfront fees.⁹⁶

That two of the country's most heavily advertised financial services firms could collapse under the weight of enforcement—with a combined customer list running to millions—speaks both to the scale of the industry and to the depth of demand it was exploiting. The lesson is not that credit repair is inherently fraudulent, but that the underlying demand it serves is genuine: errors are common, their consequences can be severe, and the mechanism for correcting them is inaccessible to many of the people who most need it.

VII. Conclusion

The five industries examined here are not identical. Their customers differ in their circumstances, even if they share a common economic condition: constrained access to mainstream credit and limited financial margin for error. What unites them is structural. Each product occupies a position at or beyond the perimeter of the regulatory framework governing formal consumer credit. Each fills real gaps in liquidity and financial access, particularly for consumers underserved by traditional credit. Each has succeeded, to varying degrees, in avoiding the disclosure requirements—above all, APR disclosure—that allow informed cost comparison. And in each case, the consumers most likely to use these products are those with the fewest

⁹³ Collins, J.M., S. Halpern-Meeke, M. Harvey, and J. Hoiting. “If I Don't Have Credit, I Don't Have Anything”: Perspectives on the Credit Scoring System among Mothers with Low Incomes.” *Journal of Consumer Affairs* 57, no. 4 (Winter 2023): 1605–1622. <https://doi.org/10.1111/joca.12561>

⁹⁴ Consumer Financial Protection Bureau, “Don't Be Misled by Companies Offering Paid Credit Repair Services,” consumer advisory, September 2016, https://files.consumerfinance.gov/f/documents/092016_cfpb_ConsumerAdvisory.pdf

⁹⁵ Consumer Financial Protection Bureau, “Don't Be Misled by Companies Offering Paid Credit Repair Services.”

⁹⁶ Federal Trade Commission, “FTC Acts to Shut Down 'The Credit Game' for Running a Bogus Credit Repair Scheme that Fleeced Consumers,” press release, May 6, 2022, <https://www.ftc.gov/news-events/news/press-releases/2022/05/ftc-acts-shut-down-credit-game-running-bogus-credit-repair-scheme-fleeced-consumers>

alternatives and the least capacity to absorb unexpected costs: lower-income households, younger adults, and borrowers with subprime or no credit history.

The regulatory story that emerges from this survey is not one of simple failure. Regulators and litigators have at times moved effectively: the CFPB's enforcement action against Lexington Law and CreditRepair.com resulted in \$1.8 billion returned to consumers, and legal challenges against Credit Acceptance Corporation and Santander have forced an end to widespread compliance failures. Yet, the pattern across these markets is one of regulation that chases rather than leads. As macroeconomic conditions fluctuate and household balance sheets come under pressure, loss rates in these segments may become more visible, drawing sharper attention from both federal and state regulators.

At the national level, regulators should clarify when products function as credit and ensure the appropriate application of disclosure regimes and incorporate ability-to-repay considerations. There is also a strong case for enhanced data reporting in underwriting—particularly on repayment performance, repeat usage, and borrower outcomes—to improve compliance and provide a clearer understanding of financial stress among users. At the same time, regulation should avoid stifling beneficial innovation; a principles-based approach that focuses on outcomes would be a better, more flexible fit than product-specific rules. Coordination across agencies will be critical to avoid fragmentation and regulatory arbitrage.

As we have already seen, state-level regulators are often closer to emerging risks. They can act as early responders, but this can also lead to a patchwork of rules that increases complexity for providers and consumers. States should consider harmonizing licensing, disclosure, and fee structures where possible. Enforcement should focus on the most harmful practices, such as structures that obscure true cost and excessive fees, rather than broadly constraining access to credit. Across both national and state efforts, the central challenge will be balancing consumer protection with financial inclusion: ensuring that vulnerable borrowers are protected without pushing them toward less-regulated or more punitive alternatives.

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