

December 17, 2021

Department of Financial Protection and Innovation, Legal Division
Attn: Sandra Sandoval, Legal Assistant
300 South Spring Street, 15th Floor
Los Angeles, CA 90013

Via Electronic Mail to: regulations@dfpi.ca.gov
[REDACTED]@dfpi.ca.gov

Re: Comments on the Proposed Rulemaking Under the California Consumer Financial Protection Law (PRO-21)

Dear Ms. Sandoval,

On behalf of the Electronic Transactions Association (“ETA”), the leading trade association for the payments industry, I appreciate the opportunity to provide comments on the Department of Financial Protection and Innovation’s (“DFPI”) proposed rulemaking pertaining to the registration of four industries that provide financial products and services to California residents, including wage-based advances.

Wage-based advance or earned wage access (“EWA”) products enable employees to access their wages (i.e. their *own* money) prior to their payroll date without forcing them to contemplate costly, predatory loans or taking on more debt. This is especially impactful for consumers who are living paycheck to paycheck. Therefore, ETA has outlined comments below that we believe will ensure the registration process is comprehensive yet ensures that the companies that provide these products can continue to provide them to the consumers who rely on them.

- The requested annual reporting information is unnecessarily broad and constitutes a significant burden for covered companies to gather, analyze, and provide. The provision of quarterly and monthly data surpasses the requirements of other types of products in the section. DFPI should reduce the amount of duplicative information requested and limit it to just those records pertaining to a company’s EWA products.
- Registrants should be given a longer time period than 10 days in order to receive notice of a failure to comply and turnaround such a significant breadth of data. In addition, there should be a cure period giving registrants time to comply before a license is revoked or other enforcement action taken.
- Registrants for wage-based advance products should be exempt from registration for an additional lending license. Having to register for both licenses would create redundant and inapplicable reporting requirements for these products. In addition, wage-based advance products are not loans as they only involve the advance of money that an employee has already earned and has a right to. This would provide much needed clarity in the space on the differences between wage-based advance and lending.
- For purposes of clarity, in § 12, DFPI should add the clause “if they have not been” to the end of the following sentence: “It is a deceptive practice under Financial Code section 90003, subdivision (a)(1), for a registrant to represent, directly or indirectly, that its acts, practices or business model have been approved by the commissioner or the Department of Financial Protection and Innovation.”

- In § 21(b), a high fee for registration would be overly burdensome since these are new products that may be testing their sustainability. We suggest that this be remedied by changing “gross income” to “net income” in § 50.
- In § 51 (e), the language should include that a registrant need only provide information “if applicable.” Many of the companies in the wage-based advance space offer unrelated products. Having to provide information on unrelated products would be overly burdensome.

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We appreciate you taking the time to consider these important issues. If you have any questions or wish to discuss any aspect of our comments, please contact me or ETA Senior Vice President of Government Affairs Scott Talbott at stalbott@electran.org.

Respectfully Submitted,



Max Behlke

Director, State Government Relations
Electronic Transactions Association

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ETA is the world’s leading advocacy and trade association for the payments industry. Our members span the breadth of significant payments and fintech companies, from the largest incumbent players to the emerging disruptors in the U.S. and in more than a dozen countries around the world.