



July 24, 2024

VIA EMAIL

Attn: DeEte Phelps  
Department of Financial Protection and Innovation  
2101 Arena Boulevard  
Sacramento, California 95834  
regulations@dfpi.ca.gov

**Re: COMMENTS REGARDING NOTICE OF THIRD MODIFICATION TO PROPOSED RULEMAKING UNDER THE CALIFORNIA CONSUMER FINANCIAL PROTECTION LAW, CALIFORNIA FINANCING LAW, CALIFORNIA DEFERRED DEPOSIT TRANSACTION LAW, AND CALIFORNIA STUDENT LOAN SERVICING ACT (PRO 01-21) (“THIRD MODIFIED RULE”)**

DailyPay continues to appreciate the careful manner in which your Department of Financial Protection and Innovation (“DFPI”) is considering how best to regulate earned wage access (“EWA”). We also appreciate the DFPI’s willingness to regulate, oversee, and monitor the EWA market through its registration authorities under California Consumer Financial Protection Law (“CCFPL”). This approach helps the nascent EWA industry continue to evolve responsibly under the DFPI’s oversight.

As noted in DailyPay’s previous comment letters concerning this rulemaking, each respectively dated May 17, 2023, November 27, 2023, and February 6, 2024, (together, the “Prior Letters”), DailyPay disagrees with the assertion that income-based advances are “loans” for purposes of the California Financing Law (“CFL”), the framing of CCFPL registration as merely an exemption from the CFL, and the inclusion of optional fees within the pertinent definitions of “charges.” Each of these flaws persists in the Third Modified Rule, and, with respect to the Third Modified Rule, DailyPay reiterates and incorporates by reference the objections it raised, and the reasons therefore, in the Prior Letters.

Additionally, DailyPay is aware of the proposed interpretive rule issued by the Consumer Financial Protection Bureau (“CFPB”) on July 18, 2024 for public comment until August 30, 2024. DailyPay strongly disagrees with the CFPB’s proposed interpretive rule and will be providing comments.

DailyPay thanks the DFPI for the opportunity to comment on the Third Modified Rule. DailyPay requests that the DFPI make any modifications to the Third Modified Rule available for public comment before finalizing any aspect of the Third Modified Rule. DailyPay looks forward to working with the DFPI regarding future iterations of this rulemaking, if they occur.

Sincerely,

Jared DeMatteis