July 24, 2024

Commissioner Clothilde V. Hewlett
Department of Financial Protection and Innovation
2101 Arena Boulevard
Sacramento, California 95834

Via email: regulations@dfpi.ca.gov

Re: PRO 01-21: CCFPL, CFL, CDDTL, and SLSA – Registration Requirements under the CCFPL

Dear Commissioner Hewlett:

On behalf of the undersigned representatives of California's business community, we are writing this letter to express our continued concern and opposition to PRO 01-21, specifically regarding the provisions on Earned Wage Access (EWA). Our organizations represent the interests of businesses of all sizes and companies from every industry within the state, and consequently comprise a significant portion of the private sector jobs in California. Our organizations are committed to helping California businesses thrive while complying with complex laws and regulations.

We were disappointed to see the regulations submitted to the Office of Administrative Law (OAL) without the substantive changes we were requesting to protect our members and employees who seek to use EWA services to facilitate an employee's access to their earned wages in advance of their designated pay day. This vital tool has supported the ability for Californians to gain access to liquidity and move away from predatory and expensive options for that liquidity.

The revised regulations Department of Financial Protection and Innovation (DFPI) released for comment on July 2, 2024 appear to respond to the comments from OAL but remain ambiguous and confusing with regard to EWA. While we appreciate DFPI's commitment to monitoring and collecting data on the Earned Wage Access market, the current structure does little to provide consumer protections and more to raise uncertainty in the marketplace.

Under proposed Section 1461 (a), the revised regulations appear to classify EWA delivered under that subdivision as a loan subject to California Financing Law, but then exempt EWA from licensure requirements and instead classify these providers as registrants. This creates questions and challenges for both businesses who want to offer EWA services to their employees and the providers who deliver that service. As we have previously noted, DFPI's EWA regulations could accomplish everything else in its current form without attempting to classify EWA delivered under 1461 (a) as a "loan."

EWA, particularly when integrated by employers, serves as a widespread tool across the state, embraced by thousands of businesses and hundreds of thousands of employees. These employers leverage EWA to attract new talent, retain staff, and curtail worker absenteeism. From an employee perspective, EWA empowers them to access their already-earned wages precisely when needed. Extensive research indicates that EWA plays a crucial role in helping individuals avoid overdrawing their bank accounts, paying bills late, and falling into the payday loan debt cycle. Considering California's economy's sheer size and influence, employers should expect that state regulations offer a modicum of clarity for seamless operations within the state. Unfortunately, these proposed regulations achieve the opposite effect by

introducing greater complexity for employers providing EWA and adversely impacting the entire EWA industry.

Fundamentally, EWA is widely recognized as distinct from a traditional loan. We continue to urge the DFPI to provide clarity on this matter. Given that it appears that this disagreement will remain, we respectfully recommend considering whether a comprehensive law governing EWA, as a unique product, is warranted rather than attempting to fit this new product into the legacy loan framework.

We appreciate the DFPI taking these comments into consideration.

Sincerely,

Brenda Bass
On behalf of California Chamber of Commerce

Pat Fong Kushida
President & CEO
California Asian Pacific Chamber of Commerce

Jay King
President & CEO
California Black Chamber of Commerce

Julian Canete
President & CEO
California Hispanic Chambers of Commerce