**From:**
**To:** DFPI Regulations
**Subject:** PRO 01-21 - Earned Wage Access Changes - OPPOSED
**Date:** Monday, February 5, 2024 2:27:33 PM

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Dear Commissioner, As representatives of California's Business Community, we pen this letter to express our continuing concern and opposition to PRO 01-21. The revised regulations submitted by the Department of Financial Protection and Innovation (DFPI) on January 17 remain ambiguous and confusing. While we appreciate DFPI's commitment to monitoring and collecting data on the Earned Wage Access ("EWA") market, the proposed revisions will cause significant problems for businesses and consumers across California. The draft regulations still classify EWA as a loan under your licensing laws but exempt EWA from licensure requirements. While this construct may make sense to the Department philosophically, in practice, it is against the best interest of each California employer evaluating whether to offer an EWA service and what requirements they must follow. The Department's EWA regulations could accomplish everything else in its current form without this disputed definition of EWA as a "loan." As you know, EWA, particularly employer-integrated EWA, is a tool utilized throughout the state by over thousands of employers and hundreds of thousands of employees. Businesses offer EWA to attract new talent, retain staff, and decrease worker absenteeism. For employees, EWA provides the ability to access their own, already earned wages when they need it. Research finds that EWA products allow people to avoid overdrafting their bank accounts, paying bills late, and getting trapped in payday loan debt. If California became its own country it would be the fifth largest economy in the world. Given just the size and scale of California's economy, at the very least, its employers should come to expect that state regulations provide a modicum of clarity for operating in the state. Unfortunately, these proposed regulations do the exact opposite and make it more confusing for employers offering EWA, and the EWA industry as a whole. Fundamentally, we and others believe EWA is not a loan. As such, we ask that the Department clarify this. But if the Department insists on disagreeing with a multitude of stakeholders, we ask that it simply provide a clean, full exemption from the lending law for EWA products. This full exemption would correct confusion resulting from what is currently proposed and ensure employers and employees who use EWA today in California can continue to access it. We appreciate the Department for considering these comments. Sincerely,