



February 1, 2024

VIA Email to regulations@dfpi.ca.gov

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

Dear Commissioner Hewlett:

As representatives of California's Business Community, we are writing 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 and need clarification. 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're aware, Earned Wage Access (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 Earned Wage Access (EWA) and adversely impacting the entire EWA industry.

Fundamentally, EWA is widely recognized as distinct from a traditional loan. We urge the Department to provide clarity on this matter. In the event the Department maintains its differing stance, we request a clear and comprehensive exemption from lending laws for EWA products. This full exemption is crucial to address current confusion, ensuring that employers and employees who rely on EWA in California can seamlessly continue accessing this beneficial service.

We appreciate the Department taking these comments into consideration.

Sincerely,

Nancy Hoffman Vanyek
President/CEO