



August 30, 2024

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street, NW Washington, DC 20552

Re: Comment in Opposition to CFPB's Proposed Interpretive Rule on Truth in Lending (Regulation Z); Consumer Credit Offered to Borrowers in Advance of Expected Receipt of Compensation for Work [Docket No. CFPB2024-0032]

Dear Director Chopra,

On behalf of Chamber of Progress – a tech industry coalition promoting technology's progressive future – I write to **express our concerns over the Consumer Financial Protection Bureau's (CFPB) Proposed Interpretive Rule (proposed rule)**, which proposes new regulations for earned wage access services.¹

The proposed rule represents a stark departure from the Bureau's 2020 Advisory Opinion, which correctly acknowledged that earned wage access services “emerged in the marketplace as an innovative way for employees to meet short-term liquidity needs that arise between paychecks without turning to more costly alternatives like traditional payday loans.”²

While we applaud the CFPB's intent to protect consumers, the proposed rule disregards the consumer benefits of earned wage access services and undermines the Bureau's mission to use “data to strengthen competition and gauge how market innovation impacts consumers.”³

We are especially concerned that the **Bureau's proposed rule could unintentionally drive consumers back to predatory lending options like payday loans.**

¹ Consumer Financial Protection Bureau. [Proposed Interpretative Rule](#). July 18, 2024.

² Consumer Financial Protection Bureau. [Advisory Opinion](#). November 30, 2020.

³ Consumer Financial Protection Bureau. [Competition and innovation at CFPB](#). 2024.

What is Earned Wage Access?

Earned wage and early wage access services enable workers to access a small portion of their already-earned wages. Earned wage access operates on an agreement between the service provider and an employer, which allows the provider access to employee timesheets to determine earned wages.⁴ On an employee's payday, the provider collects funds from the employer that were disbursed to the employee ahead of payday.

Early wage access is a similar concept, except the service provider does business directly with the consumer, without direct involvement from the employer. In this instance, the consumer downloads an application, establishes an account with the service provider and links their checking account information.

Earned Wage Access Promotes Consumer Choice

At any given time, workers have \$1 trillion of earned wages stalled in the payroll system, representing money they have earned but cannot access. However, earned wage access providers allow users to access anywhere between 50-100% of their earned wages before payday, with limits established by the provider based on frequency and consecutive use.⁵

Based on a survey conducted by three direct-to-consumer earned wage access service providers, an overwhelming number of earned wage access consumers said they understood how the service structure works and consider it the best option to manage their spending.⁶ Earned wage access empowers consumers to stretch their dollar farther than the standard two-week pay cycle and cover unexpected costs without turning to payday loans.

Consumers overwhelmingly use earned wage access services to pay bills on time, buy groceries, and avoid late fees.⁷ Notably, 8 out of 10 earned wage access consumers felt these services were the best available options to manage their spending, and 80% of users said that their lives significantly improved after using these services.⁸ Earned wage access gives consumers a safer alternative to paying bills late and getting charged bank overdraft fees that can cause a further decline into debt.

⁴ Federal Reserve Bank of Kansas City. [Ask the Fed: Exploring the rise of earned wage access programs](#). January 14, 2021.

⁵ Ibid.

⁶ FTI Consulting. [Direct to Consumer Earned Access User Key Findings](#). July 7, 2021.

⁷ Ibid.

⁸ Ibid.

In this post-COVID, inflationary economy, the usage of earned wage access has increased across the board. From 2018 until now, nationwide polling reflects that these services tripled in usage in response to consumers adapting to a financial environment where they are empowered to spend without a lack of liquidity⁹:

- 82% of hourly workers whose employer offers earned wage access services say it is one of their favorite benefits.¹⁰
- 72% of earned wage access service users say the offering helps them feel more confident in managing their finances.¹¹
- 95% of companies offering an earned wage access solution believe it has a positive impact on employee retention.¹²
- 77% of earned wage access users state that the services help them save money by avoiding other more expensive alternatives to handle expenses.¹³

Given the broad adoption of earned wage access services, the CFPB should support trusted service providers working to reduce consumer financial barriers.

Earned Wage Access Services Are Not Credit

Unlike traditional credit products that may affect a user's credit score through payment history and credit utilization, earned wage access services do not involve lending-related activities such as pulling credit reports, underwriting, assessing fees based on creditworthiness, charging interest, or imposing origination fees.

Unfortunately, the proposed rule disregards the nuances of earned wage access service models and misguidedly subjects these innovative financial products to the Truth-in-Lending Act (TILA). The proposed rule argues that earned wage access services should be classified as consumer credit. To substantiate this claim, the CFPB wrongly relies on dictionary definitions that are neither specified in TILA nor legally binding.

⁹ Financial Health Network. [Earned Wage Access and Direct-to-Consumer Advance Usage Trends](#). April 2021.

¹⁰ The Harris Poll. [Nearly 3 in 4 Hourly Workers Love/Like Their Job](#). March 20, 2024.

¹¹ Arizent Research. [Earned Wage Access: A Powerful, Cost-Effective Financial Wellness Tool](#). September 2023.

¹² Hanover Research Study. Companies with EWA Solutions. September 2023.

¹³ Mercator Advisory Group. [Customer Perceived Cost Savings](#). August 2022.

The proposed rule further argues that consumers incur an obligation to repay wage advances at a future date, resembling a debt. Again, the CFPB fails to account for the differences between earned wage access services and traditional credit products.

The largest earned wage access companies by market share are non-recourse, meaning that providers do not have the legal or contractual right to require repayment from consumers; therefore, consumers do not incur a legal obligation to repay wage advances.

Further, in footnotes, the CFPB cites state law to justify its denotative application of debt to earned wage access services. However, if the CFPB would like to rely on a patchwork of state legal definitions to support its interpretation, the Bureau must acknowledge that multiple state Attorneys General found that earned wage access services are non-recourse and do not constitute “consumer loans.”¹⁴¹⁵

Additionally, earned wage access providers earn revenue through expedited transfer fees, tips, or subscription fees. These fees are typically not required or imposed for a transaction to proceed.

On the contrary, consumers opt in voluntarily to receive a premium service. Since earned wage services providers do not extend credit to consumers, none of these functions are considered finance charges under Regulation Z.¹⁶

The Proposed Rule Decreases Financial Inclusion and Harms Consumers

This proposed rule would stifle financial innovation and limit consumer options for short-term liquidity. As written, the proposed rule would incentivize earned wage access providers to adopt a traditional loan model, subjecting consumers to the same payday loan cycle they wish to flee.¹⁷ Under this interpretation, earned wage access providers would charge mandatory fees following an extension of credit and contractually require consumers to repay wage advances.

We applaud the CFPB’s commitment to “clear[ing] obstacles and pav[ing] the path to help people have more options and more easily make choices that are best for their needs.”¹⁸ To that end, we encourage the CFPB to convene an industry roundtable to

¹⁴ State of Arizona - Office of the Attorney General. [Re: Earned Wage Access Products](#). December 16, 2022.

¹⁵ State of Montana - Office of the Attorney General. [Volume No. 59, Opinion No. 2](#). December 22, 2023.

¹⁶ Consumer Financial Protection Bureau. [§ 1026.4 Finance charge](#). 2024.

¹⁷ Financial Health Network. [Exploring Earned Wage Access as a Liquidity Solution](#). November 2023.

¹⁸ Consumer Financial Protection Bureau. [CFPB Launches New Effort to Promote Competition and Innovation in Consumer Finance](#). May 24, 2022.

understand the impacts of this proposed rule on earned wage access service providers and the benefits their products provide consumers.¹⁹²⁰

Instead of broadly applying decades-old statutes to emerging, innovative technologies, the CFPB should collaborate with earned wage access providers to craft tailor-made regulation that strikes the correct balance between consumer protection and innovation, without driving Americans to higher-cost financial products.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kyle Bligen', with a stylized flourish at the end.

Kyle Bligen
Director of Financial Policy
Chamber of Progress

¹⁹ Administrative Conference of the United States. [Agency Guidance Through Interpretive Rules](#). August 8, 2019

²⁰ Consumer Financial Protection Bureau. [Bureau roundtables seek public input](#). Jul 26, 2018.