



## Earned Wage Access Products

For many people, the need for cash in between paychecks is a substantial burden. Earned wage access (EWA) products have generally been developed by technology-focused, nonbank financial technology companies (or “fintechs”) to provide wages to workers upon demand. EWA products may help individuals manage their personal cash flows arguably at a lower cost and with greater flexibility relative to traditional financial products, but they may also introduce debt sustainability risks. Whether an EWA product should be considered credit or a spot payment for wages an employee already earned, and what consumer protections should apply, are debated policy issues.

EWA is currently regulated by a growing patchwork of state laws, with dramatic differences across the country. Meanwhile, firms offering EWA products may structure them differently for various reasons, including to avoid being regulated as consumer credit. Both consumer advocates and EWA providers have called for a consistent federal framework, albeit with different levels of desired regulatory scrutiny. In July 2024, the Consumer Financial Protection Bureau (CFPB) issued a proposed interpretative rule arguing that EWA products constitute credit and require Truth in Lending Act (TILA; P.L. 90-321, 15 U.S.C. §§1601 et seq.) disclosures.

Legislation related to EWA that would supersede the CFPB’s rulemaking has seen action in the 118<sup>th</sup> Congress. H.R. 7428 would exempt EWA from being classified as credit subject to TILA disclosures, mandate other disclosure requirements, and require EWA firms to provide fee-free versions of their services. Supporters, including EWA providers, argue that this law would provide needed clarity to the market. Critics, including consumer groups, contend that exempting EWA from TILA hides the true cost of credit.

### Earned Wage Access Overview

EWA products allow employees to access portions of their earned income in advance of their regularly scheduled pay dates. EWA products might enable consumers to access wages across pay periods and more easily deal with unexpected expenses. Some EWA products are *employer-integrated*, meaning EWA companies work directly with employers to access their time management and payroll software. Others are *direct-to-consumer*, meaning the employer is not involved in the transaction. EWA is currently regulated by a patchwork of state laws and regulations, with requirements differing.

In the employer-integrated model, after the EWA provider tabulates the number of hours worked, an employee accesses earned income by request through his or her employer. In this version, an EWA vendor may use its own funds or may require an employer to provide funds for the

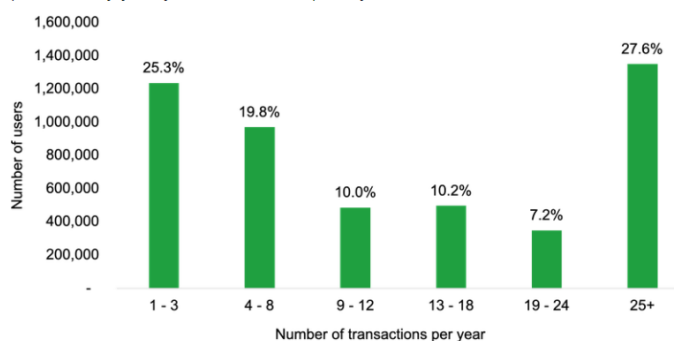
advance. Then, the EWA vendor typically collects funds through a payroll deduction to reimburse the amount advanced. While firms that partner with employers usually offer both free and fee-based options, the CFPB found that 82% of those transactions had fees, including expedited transfer fees or periodic fees to use the services. From 2020 to 2022, employer-integrated EWA nearly doubled, and in 2022 this product represented an estimated 71% of the total EWA transaction volume.

Direct-to-consumer products provide employees with advance access to part of their wages without involving their employers. Direct-to-consumer providers use their own funds to make the advance and typically recover funds by debiting users’ checking accounts. Users generally pay subscriptions or tips for these services. In both models, firms may charge fees for expedited access to funds.

In a July 2024 report, the CFPB estimated that in 2022, more than 10 million workers used employer-integrated and direct-to-consumer products totaling \$32 billion. According to a 2022 survey, 70% of “middle market” companies offer EWA products to some staff. Other research finds that firms perceive EWA as a recruitment and retention tool and that younger employees expect to have access to on-demand earned wages.

According to the CFPB, in 2022, among employees who have access to EWA, 50% have used the products. Roughly half of those users used EWA at least once a month (see **Figure 1**).

**Figure 1. EWA Transactions per Year: Employer-Integrated Firms**



Source: Consumer Financial Protection Bureau.

### Policy Issues

The CFPB has the authority to write regulations, enforce laws, and supervise nonbank lenders regarding consumer protection and data security. Some of the key policy issues relating to EWA programs are discussed below.

## Consumer Disclosure

TILA and its implementing regulation, Regulation Z (Reg Z), aim to ensure that consumers are provided with meaningful disclosure of credit terms, among other things. TILA disclosure requirements apply to consumer credit that is subject to a finance charge or payable in more than four installments. There is some debate over whether EWA qualifies as credit and whether certain fees associated with the service constitute finance charges and, thus, whether it is subject to TILA.

In November 2020, the CFPB issued an advisory opinion stating that certain EWA products were not considered “credit” under TILA. The CFPB argued that, under some employer-sponsored programs, EWA simply “facilitates employees’ access to wages they have already earned.” At the same time of the advisory opinion, the CFPB gave PayActiv, an EWA provider, a safe harbor from liability related to compliance with TILA. This special regulatory treatment was rescinded in June 2022.

In July 2024, the CFPB issued a notice of a proposed interpretative rule and request for comment, which significantly altered the earlier opinion. According to the CFPB, TILA and Reg Z apply to products that involve the repayment of debt. (Reg Z defines *credit* as, in part, “the right to ... incur debt and defer its payment.”) The CFPB argues that EWA transactions require consumers to incur an obligation to pay money, including potentially from future payroll events. As such and in its legal analysis, the CFPB states that “earned wage products are consumer credit for purposes of TILA and Regulation Z.” The CFPB also addressed the finance charge component of TILA, stating that tips (generally used only for direct-to-consumer) and expedited fees are “[t]wo costs that consumers may incur” in EWA and therefore constitute finance charges. Comments for the interpretive rule are required by August 30, 2024.

Critics of this policy change argue that EWA has none of the hallmarks of credit and should not be mandated to provide TILA-style disclosures. For example, EWA providers do not underwrite products, do not engage in debt collection, and do not charge interest. These critics argue that this new regulation would hamper access to financing and limit competition. EWA providers plan to file a lawsuit against the CFPB over the proposed interpretative rule.

## Debt Sustainability

Some consumer advocates argue that EWA promotes an unsustainable borrowing cycle due to high-cost fees. According to research by the CFPB, EWA fees on average for employer-integrated services were \$2.60 per transaction and \$69 per year. The CFPB also found that the average effective *annual percentage rate* (APR) of employer-partnered EWA was 109%. Direct-to-consumer programs may also cause consumers to overdraft their accounts if the funds are not paid back through payroll deductions.

Other observers argue that these concerns are overstated, citing several studies. For example, research by the Harvard Kennedy School shows that EWA lending is generally less costly than payday loans or overdraft fees. A Financial Health Network study found that the majority of EWA users had positive experiences with EWA and planned to continue to use EWA to help cover expenses on time. These users generally did not view EWA as loans but rather payments for wages already earned. In addition, due to the short time between accessing wages and normal payday, an APR may not be the most pertinent measurement of product cost.

## Consumer Data Privacy, Control and Security

EWA products often access sensitive consumer data—such as employee payroll information or checking account information—that may be valuable to companies that market new products and services to consumers. Whether the Gramm-Leach-Bliley Act (P.L. 106-102, 15 U.S.C. §§6801 et seq.), which provides a framework for regulating the privacy and security practices of financial institutions, applies to firms offering these products may depend on their business models and whether the products are considered consumer credit or financial services.

## Selected Legislation: 118<sup>th</sup> Congress

A bill that has seen action in the 118<sup>th</sup> Congress is aimed at EWA products and would supersede the CFPB’s recently proposed rulemaking. In April 2024, the House Financial Services Committee ordered to be reported H.R. 7428, the Earned Wage Access Consumer Protection Act, as amended, which would regulate both employer-integrated and direct-to-consumer EWA products.

The bill would require that companies who offer fee versions of their services also offer no-fee options. The bill would require the CFPB to issue rules regarding disclosure requirements. Before offering the services, providers would also be required to disclose limits on how much early wages may be accessed for different time periods, associated fees, and how a consumer can access the free versions of the services, among other things. The bill would require the CFPB to issue rules regarding disclosure requirements.

The bill would exclude any fees or voluntary payments from the term *finance charges* as defined in TILA, would not require disclosing APR, and would amend the definition of *credit* to exclude EWA and related products. EWA providers support this bill, arguing that it would provide clarity for both consumers and the EWA industry. Consumer advocates contend that the bill shields the true cost of EWA by exempting it from TILA.

---

**Paul Tierno**, Analyst in Financial Economics

**Karl E. Schneider**, Analyst in Financial Economics

IF12727

---

## Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.