



# Government Relations Working Group Government Update

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Working Group Chair:  
Brian Tate, President and CEO, IPA  
Working Group Co-Chair:  
Grant Hannah, Director of Government Relations, IPA

## I. ASSOCIATION UPDATE

### *IPA Launches Webpage for Prepaid Rule Litigation Resources*

On December 11, 2019, PayPal, Inc. filed a lawsuit in the United States District Court for the District of Columbia challenging the Consumer Financial Protection Bureau's Prepaid Rule that took effect on April 1, 2019. In the time since the suit was filed, there have been numerous filings and documents that have been filed as the case has progressed. In order to consolidate the filings and offer IPA members a convenient way to access them, the IPA has launched a new webpage dedicated to the case. On the new page, you'll find an up to date list of documents that have been filed in the case with links to access them. New documents will be added to this page as they become available.

The webpage can be accessed [here](#).

### *IPA Accepting Nominations for its First Community Service Awards*

*You Asked. We Listened. Submit your nominations for the inaugural IPA Community Service Awards. Nominations are due by 5pm Eastern on October 30, 2020.*

**Volunteer of the Year** honors the payments professional who demonstrates a deep commitment to voluntarism.

**Best Local Community Service** recognizes work that payments companies do to directly support their communities.

**Best Nonprofit Digital Campaign** recognizes the ways in which payments companies use their technological expertise to raise money, bring awareness, or gather other resources to support the mission of organizations that have a positive impact on people's lives.

**Financial Empowerment Award** recognizes payments companies' efforts to help their customers and communities improve their financial situations through efforts such as financial literacy programs, savings programs, or innovative lending programs.

Learn more and submit your nominations [here](#)!

### *IPA Webinar: IPA Election Overview*

The November 2020 general election is fast approaching. The outcome of the election will determine which party controls the presidency, House, and Senate. Consequently, the outcome of the election could lead to seismic shifts in the legislative and regulatory environment for payments. Join the IPA on October 14 as we provide an overview of the current election and campaign landscape and breakdown the latest polling with less than a month to go.

This event is for IPA Members only. Register [here!](#)

***IPA Webinar: Potential Threats to FinTech in 2021***

Next year (2021) is shaping up to be a year where policymakers make earnest attempts to learn more about the rapidly evolving payment sector. While 2020 is not over yet, it will likely be remembered as a year for the history books. With the emergence of COVID-19, policymakers focused on responding to the public health crisis and resulting economic impact by stabilizing the economy with direct federal financial support via a variety of avenues – including electronic payments. The emergence of electronic payments during the national crisis has fundamentally shifted the policy landscape for the entire banking ecosystem.

Join us on October 14th, as part of the IPA’s Fall Semester series of webinars, we’ll explore Potential Threats to Fintech in 2021. We’ll also breakdown different product segments like digital wallets, cryptocurrency, POS lending, wage advance, and others and highlight the potential impact the various electoral outcomes could have on the payments community. We hope you’ll join us!

Register [here!](#)

***Interested in the Canadian Market? The CPPO Virtual Symposium is Happening Oct. 14-15***

The fourth annual CPPO Symposium is the premier event for the prepaid technology industry, fueling the transformation to digital banking in Canada. Attended by leaders in fintech, banking, payments and government, the Symposium is ideal for learning about the \$5 billion Canadian prepaid technology industry. It will include sessions covering the prepaid regulatory environment, global financial health, innovative fintech partnerships and more!

The CPPO Symposium is going virtual this year, October 14-15, 2020, from 11:00 a.m. to 3:00 p.m. Eastern Time. [Register today!](#)



Join leaders in payments, fintech, banking and government  
for the premier prepaid event



**2 DAYS**



**27 SPEAKERS**



**20+ PAYMENTS, FINTECH,  
BANKING COMPANIES**

**REGISTER NOW for the Virtual CPPO Symposium**

## II. AGENCY AND REGULATORY NEWS

### DEPARTMENT OF THE TREASURY

#### *IPA and ATPC Send Letter to IRS & Treasury on Potential Future Stimulus Payments*

On September 28, the IPA and the American Transaction Processors Coalition (ATPC) sent a joint letter to the Department of the Treasury and Internal Revenue Service on potential future stimulus payments. In brief, the letter highlights the critical role the prepaid card industry has played in helping connect individual Americans and businesses with critically needed economic support from federal and state entities. In addition, the letter outlines four steps that could build upon Treasury and IRS's success in delivering Economic Impact Payments earlier this year to ensure that a potential additional round of stimulus payments to Americans would be distributed as efficiently as possible. These include:

- Designating EIP payments as such in the ACH record, so that payment processors can distinguish EIP payments from all other ACH payments;
- Continuing to leverage the Direct Express, U.S. Debit, and other federal disbursement programs;
- Continuing to utilize the Non-Filers, and Get My Payment portals; and
- Expanding and encouraging the use of electronic payments by updating the IRS's FAQs on the IRS website to make it clearer that Americans who have prepaid accounts can register their accounts, alongside savings and checking accounts, to receive a faster EIP payment.

The letter concludes by thanking Treasury and IRS for their thoughtfulness, diligence, and dedication to the American people and reiterates the payments community's readiness to work with Treasury and IRS to make sure any economic support approved by Congress reaches its intended recipients.

A copy of the full letter can be accessed [here](#).

### CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

### ***Consumer Financial Protection Bureau Files Response to PayPal in Prepaid Rule Litigation***

On September 25, the Consumer Financial Protection Bureau (Bureau) filed its response to PayPal's August [reply in support for their motion for summary judgement](#) in the ongoing litigation over the Bureau's Prepaid Rule (Rule). In brief, the Bureau asserts that it acted well within its authority in adopting the short-form disclosure requirements and the 30-day waiting period for linking credit to a prepaid account. The Bureau further reiterates its previous arguments to support its position. Namely, it lays out that both the Electronic Funds Transfer Act and the Dodd-Frank Act authorize the short-form disclosure requirements and that both the Truth in Lending Act and the Dodd-Frank Act authorize the 30-day waiting period. The Bureau concludes by stating that the Court should rule in favor of the Bureau.

The next step in the case will likely be for Judge Richard Leon to schedule oral arguments, though nothing has been put on the schedule yet.

The Bureau's filing can be accessed [here](#).

### ***Consumer Financial Protection Bureau Issues Policy Statement on Applications for Early Termination Of Consent Orders***

On October 5, the Consumer Financial Protection Bureau (Bureau) issued a policy statement on applications for early termination of administrative consent orders (Consent Orders). The policy statement outlines the early termination application process for entities subject to a Consent Order and the standards that the Bureau intends to use when evaluating applications.

According to the Bureau, in order for a Consent Order to be terminated early, an entity should demonstrate that it meets certain threshold eligibility criteria, has fully complied with the terms of the Consent Order, and has a satisfactory compliance management system in applicable areas. The Bureau says these conditions are designed to minimize the risk of new violations of law by the company and to protect consumers.

Additional information can be found [here](#).

## **OFFICE OF THE COMPTROLLER OF THE CURRENCY (OCC)**

### ***OCC Announces Federally Chartered Banks and Thrifts May Engage in Certain Stablecoin Activities***

On September 21, the OCC published a letter clarifying national banks' and federal savings associations' authority to hold "reserves" on behalf of customers who issue certain stablecoins.

The letter responds to questions regarding the application of stablecoin-related bank activities. It concludes national banks and federal savings associations may hold "reserves" on behalf of customers who issue stablecoins, in situations where the coins are held in hosted wallets. The letter addresses the use of stablecoins backed by a single fiat currency on a one-to-one basis where the bank verifies at least daily that reserve account balances meet or exceed the number of the issuer's outstanding stablecoins.

Additional information can be found [here](#).

## **FEDERAL RESERVE BOARD OF GOVERNORS (FED)**

### ***Fed Releases 2019 Survey of Consumer Finances***

The Federal Reserve has released their triennial Survey of Consumer Finances. The survey collects information about family income, net worth, balance sheet components, credit use, and other financial outcomes.

The 2019 survey found that, in the three years between 2016-2019:

- Real gross domestic product grew at an annual rate of 2.5 percent, and the civilian unemployment rate fell from 5.0 percent to 3.8 percent.
- Median family income rose 5 percent, and mean family income decreased 3 percent.
- Median net worth grew 18 percent, and mean net worth rose a modest 2 percent.
- Families near the bottom of the income and wealth distributions generally continued to experience gains in median and mean net worth between 2016 and 2019.

The full report can be accessed [here](#).

### **III. CONGRESSIONAL NEWS**

#### ***Recap of Task Force on Financial Technology Hearing on Charters***

On September 29, the House Financial Services Committee’s Task Force on Financial Technology held a hearing entitled, “[License to Bank: Examining the Legal Framework Governing Who Can Lend and Process Payments in the Fintech Age.](#)” Below, please find a recap of the hearing.

#### **Recap**

- Witness opening statements ran the gamut and two of the witnesses spoke about the potential risks of allowing non-depositories and specifically big tech from accessing bank charters. Another called for a national licensing scheme for money service businesses, though he noted that this does not necessarily have to be a bank charter.
- There was a lot of discussion around big tech accessing bank charters then becoming too big to fail and requiring a government bailout. This was topic that Democrats, in particular, inquired about. Witnesses’ offered solutions ranging from a closing of the ILC loophole, to stronger regulation at the bank holding level, to introducing public banking options like FedAccounts and postal banking to introduce competitive pressure.
- There was a heavy focus on cryptocurrency/blockchain from Republicans. Specifically, ensuring that United States retained its competitive advantage and remained a leader in innovation with this technology was a focus. They called for the regulatory framework around crypto and blockchain to be updated and unified to ensure that innovation continues.
- Republican members mentioned the digital dollar and said that they were encouraged by the Fed’s work in this area.
- Additionally, the Ranking Member of the Task Force, Rep. Tom Emmer called for the Task Force to be elevated to a subcommittee in the next Congress.

A recording of the hearing can be accessed [here](#).

### **IV. MISC.**

None.

### **V. STATE NEWS**

#### ***California Enacts “Mini-CFPB” Law, Significantly Altering Financial Services Regulation in the State***

By: Jeremy McLaughlin & Mehreen Ahmed, K&L Gates

On September 25, California Governor Newsom signed AB-1864 into law, which will significantly change the landscape of consumer financial service regulation in the state. The law renames the Department of Business Oversight as the Department of Financial Protection and Innovation (“DFPI”). Along with a new name, the DFPI also gains important enforcement powers as the agency will now have the power to enforce all California laws related to “persons offering or providing consumer financial products or services in the state.” The law allows DFPI to establish a “Financial and Technology Innovation Office.” A key aim of the law is to improve the state’s consumer protection capacity by increasing the number of investigators and attorneys to oversee financial institutions.

The new legislation has been dubbed a “Mini-CFPB” bill because it includes the California Consumer Financial Protection Law (“CCFPPL”), which allows DFPI to regulate unlawful, deceptive, or abusive acts or practices (“UDAAP”)—a power identical to that granted to the Consumer Financial Protection Bureau (“CFPB”) through the Dodd-Frank Act. The law expands the type of entities that are subject to regulatory oversight, including service providers and affiliates acting as a service provider. In addition to regulating money transmitters, banks, and finance lenders, the agency can now also regulate fintech companies, debt collectors, and credit reporting agencies, although a variety of entities are exempted. The law also contains new registration requirements, which would often involve paying a fee, background checks for certain personnel who control the business, obtaining a bond, and showing audited financial statements.

Perhaps one of the most significant aspects of the law is the broad grant of enforcement powers to DFPI, including the power to bring administrative and civil actions seeking civil and monetary penalties as well as injunctive relief, issue subpoenas, promulgate regulations, hold hearings, issue publications, conduct investigations, and implement outreach and education programs. The law will take effect on January 1, 2021.

## **VI. FEDERAL BILLS, AND LAWS**

### **NEW FEDERAL LAWS**

None.

### **PENDING FEDERAL BILLS**

#### **H.R. 189—Financial Institution Customer Protection Act of 2019**

**Summary:** This bill specifies that a federal banking agency cannot request or order a financial institution to close a customer account unless the agency has a valid reason for doing so, and that reason cannot be only reputational risk.

**Introduced:** Jan. 3, 2019

**Status:** The bill was referred to the House Committee on Financial Services on Jan. 3, 2019.

**Sponsor:** Rep. Blaine Luetkemeyer (R-MO); 0 co-sponsors. 3% chance of enactment (according to [govtrack](#)).

**Details:** <https://www.congress.gov/bill/116th-congress/house-bill/189/all-actions?q=%7B%22search%22%3A%5B%22hr+189%22%5D%7D&s=2&r=1>

#### **H.R. 758—Cooperate with Law Enforcement Agencies and Watch Act of 2019**

**Summary:** The bill would protect institutions from regulatory action for keeping accounts open at the request of law enforcement.

**Introduced:** Jan. 24, 2019

**Status:** The bill was received in the Senate, read twice, and referred to the Committee on Banking, Housing, and Urban Affairs on March 12, 2019.

**Sponsor:** Rep. J. French Hill (R-AR); 2 co-sponsors. 3% chance of enactment (according to [govtrack](#)).

**Details:** <https://www.congress.gov/bill/116th-congress/house-bill/758/cosponsors?q=%7B%22search%22%3A%5B%22hr+758%22%5D%7D&r=1&s=1>

### **H.R. 907—To Clarify Exclusions from the Definition of a Deposit Broker**

**Summary:** The bill would amend the Federal Deposit Insurance Act (“FDIA”) to clarify the exemptions from the definition of a “deposit broker.” Specifically, the bill would amend FDIA Section 29(g)(2)(I) to provide that a deposit broker does not include an agent or nominee (i) whose primary business purpose is not the placement of deposits with an insured financial institution; or (ii) who is an exclusive agent of an insurance company or insured depository institution affiliated with an insurance company, provided that the agent or nominee is, among other things, contractually prohibited from placing funds with any other unaffiliated depository institution.

**Introduced:** Jan. 30, 2019

**Status:** The bill was referred to the House Committee on Financial Services on Jan. 30, 2019.

**Sponsor:** Rep. Darin LaHood (R-IL); 2 co-sponsors. 3% chance of enactment (according to [govtrack](#)).

**Details:** <https://www.congress.gov/bill/116th-congress/house-bill/907/text?r=55&s=1>

### **H.R. 1423—Forced Arbitration Injustice Repeal (FAIR) Act**

**Summary:** The bill would prohibit forced arbitration agreements and any agreements that would preclude class action lawsuits.

**Introduced:** Feb. 28, 2019

**Status:** Received in the Senate and Read twice and referred to the Committee on the Judiciary on September 24, 2019.

**Sponsor:** Rep. Johnson, Henry C. “Hank,” Jr. (D-GA); 222 cosponsors. 3% chance of enactment (according to [govtrack](#)).

**Details:** <https://www.congress.gov/bill/116th-congress/house-bill/1423>

### **H.R. 2514—COUNTER ACT OF 2019**

**Summary:** This bill would make changes to the Bank Secrecy Act and anti-money laundering laws. It would require the financial regulators and Financial Crimes Enforcement Network to each appoint a civil liberties and privacy officer who would need to consult on any new regulations. It would create a public-private information sharing program between FinCEN and the financial services industry, and it would require AML training for examiners.

**Introduced:** May 3, 2019

**Status:** The bill passed the House of Representatives on October 28, 2019 and was received in the Senate and referred to the Senate Banking Committee on October 29, 2019.

**Sponsor:** Rep. Emanuel Cleaver (D-MO); 2 co-sponsors, 3% chance of enactment (according to [govtrack](#)).

**Details:** <https://www.congress.gov/bill/116th-congress/house-bill/2514?q=%7B%22search%22%3A%5B%22hr2514%22%5D%7D&r=1&s=2>



### **H.R. 2630—CASH ALWAYS SHOULD BE HONORED (CASH) ACT**

**Summary:** This bill would make it unlawful for any physical retail establishment to refuse to accept cash as payment.

**Introduced:** May 9, 2019

**Status:** The bill was referred to the House Committee on Energy and Commerce on May 9, 2019.

**Sponsor:** Rep. David Cicilline (D-RI); 10 co-sponsors. 3% chance of enactment (according to [govtrack](#)).

**Details:** <https://www.congress.gov/bill/116th-congress/house-bill/2630>

### **H.R. 4501— CONSUMER TRANSACTION ACCOUNT PROTECTION ACT OF 2019**

**Summary:** This bill would specify that consumer transaction account deposits of an insured depository institution shall not be considered to be funds obtained through a deposit broker.

**Introduced:** September 26, 2019

**Status:** The bill was referred to the House Committee on Financial Services on September 26, 2019.

**Sponsor:** Rep. Roger Williams (R-TX); 1 co-sponsor. 3% chance of enactment (according to [govtrack](#)).

**Details:** <https://www.congress.gov/bill/116th-congress/house-bill/4501?r=11&s=1>

### **H.R. 4767—FINANCIAL SERVICES INNOVATION ACT OF 2019**

**Summary:** The bill requires federal regulators to create Financial Services Innovation Offices (FSIOs) within their agencies to foster innovation in financial services. Companies would also be able to apply for an “enforceable compliance agreement” with the FSIOs that, if accepted, will allow them to provide an innovative product or service under an alternative compliance plan.

**Introduced:** Oct. 21, 2019

**Status:** The bill was referred to the House Financial Services Committee and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. On Nov. 11, 2019 it was referred to the Subcommittee on Commodity Exchanges, Energy, and Credit of the Committee on Agriculture.

**Sponsor:** Rep. Patrick McHenry (R-NC); 1 co-sponsor; 3% chance of enactment (according to [govtrack](#)).

**Details:** <https://www.congress.gov/bill/116th-congress/house-bill/4767?q=%7B%22search%22%3A%5B%224767%22%5D%7D&s=1&r=1>

### **H.R. 6116— CONSUMER FINANCIAL PROTECTION COMMISSION ACT**



**Summary:** The bill would eliminate signatures for swipe, dip, or tap point-of-sale transactions.

**Introduced:** March 5, 2020

**Status:** The bill was referred to the House Financial Services Committee.

**Sponsor:** Rep. Blaine Luetkemeyer (R-MO); 25 co-sponsors; 3% chance of enactment (according to [govtrack](#)).

**Details:** <https://www.congress.gov/bill/116th-congress/house-bill/6116/cosponsors?r=4&s=1&searchResultViewType=expanded&KWICView=false>

### **H.R. 6241— TOUCHLESS TRANSACTIONS ACT OF 2020**

**Summary:** The bill would convert the leadership structure of the CFPB from a sole director to a commission. The commission would be made up of 5 members who are appointed by the president and approved by the Senate to serve 5-year terms. No more than 3 members of the commission would be allowed to be from the same political party. The name of the Bureau would also be changed to the Consumer Financial Protection Commission.

**Introduced:** March 12, 2020

**Status:** The bill was referred to the House Financial Services Committee.

**Sponsor:** Rep. French Hill (R-AR); 10 co-sponsors; 3% chance of enactment (according to [govtrack](#)).

### **S. 142—The American Data Dissemination Act**

**Summary:** The bill would impose privacy requirements on providers of internet services similar to the requirements imposed on federal agencies under the Privacy Act of 1974.

**Introduced:** Jan. 16, 2019

**Status:** The bill was referred to the Senate Commerce, Science, and Transportation Committee on Jan. 16, 2019.

**Sponsor:** Sen. Marco Rubio (R-FL), 0 co-sponsors, 3% chance of enactment (according to [govtrack](#)).

**Details:** <https://www.congress.gov/bill/116th-congress/senate-bill/142/text?q=%7B%22search%22%3A%5B%22S.142%22%5D%7D&r=1&s=3>

### **S. 149—Stop Senior Scams Act**

**Summary:** The bill would establish an advisory council made up of federal regulators and industry representatives from, among others, gift card and prepaid card companies, to collect and review information in the development of model materials to provide to retailers, financial services companies, and wire-transfer companies to be used to educate employees on how to identify and prevent scams affecting seniors.

**Introduced:** Jan. 16, 2019

**Status:** Passed the Senate on June 16, 2020 by unanimous consent and was sent to the House of Representatives for further consideration.

**Sponsor:** Sen. Robert Casey (D-PA); 2 co-sponsors, 83% chance of enactment (according to [govtrack](#)).

**Details:** <https://www.congress.gov/bill/116th-congress/senate-bill/149/text?q=%7B%22search%22%3A%5B%22S.149%22%5D%7D&r=1&s=2>

### **S. 189—The Social Media Privacy Protection and Consumer Rights Act of 2019**

**Summary:** This bill requires online platform operators to inform a user, prior to a user creating an account or otherwise using the platform, that the user’s personal data produced during online behavior will be collected and used by the operator and third parties.

**Introduced:** Jan. 17, 2019

**Status:** Read twice and referred to the Committee on Commerce, Science, and Transportation on Jan. 17, 2019

**Sponsor:** Sen. Amy Klobuchar (D-MN); 3 co-sponsors, 3% chance of enactment (according to [govtrack](#)).

**Details:** <https://www.congress.gov/bill/116th-congress/senate-bill/189/text?q=%7B%22search%22%3A%5B%22S.189%22%5D%7D&r=1&s=1>

### **S. 453—A Bill to Amend the Consumer Financial Protection Act of 2010 to Subject the Bureau of Consumer Financial Protection to the Regular Appropriations Process**

**Summary:** The bill would amend the Consumer Financial Protection Act of 2010 to subject the Consumer Financial Protection Bureau to the regular appropriations process.

**Introduced:** Feb. 12, 2019

**Status:** Read twice and referred to the Committee on Banking, Housing, and Urban Affairs on Feb. 12, 2019.

**Sponsor:** Sen. David Perdue (R-GA); 18 cosponsors. 3% chance of enactment (according to [govtrack](#)).

**Details:** <https://www.congress.gov/bill/116th-congress/senate-bill/453>

### **S. 3108— CONSUMER TRANSACTION ACCOUNT PROTECTION ACT OF 2019**

**Summary:** This bill would specify that consumer transaction account deposits of an insured depository institution shall not be considered to be funds obtained through a deposit broker.

**Introduced:** December 19, 2020

**Status:** The bill was referred to the Committee on Banking, Housing, and Urban Affairs on December 19, 2019.

**Sponsor:** Sen. Doug Jones (D-AL); 2 co-sponsors. 3% chance of enactment (according to [govtrack](#)).

**Details:** <https://www.congress.gov/bill/116th-congress/senate-bill/3108?q=%7B%22search%22%3A%5B%22brokered+deposits%22%5D%7D&s=4&r=2>

### **S. 3962— ASSET GROWTH RESTRICTION ACT OF 2020**

**Summary:** The bill would strike the current legal framework for brokered deposits and replace it with an authorization for the FDIC to limit the asset growth of financially troubled banks by regulation, rule, or order.

**Introduced:** June 15, 2020

**Status:** The bill was referred to the Committee on Banking, Housing, and Urban Affairs on June 15, 2020.

**Sponsor:** Sen. Jerry Moran (R-KS); 0 co-sponsors. 1% chance of enactment (according to [govtrack](#)).

**Details:** <https://www.congress.gov/bill/116th-congress/senate-bill/3962?s=7&r=9>

### **S. 4159 — E-SIGN MODERNIZATION ACT OF 2020**

**Summary:** The bill would remove the requirement that consumers “reasonably demonstrate” that they can access the disclosures that are the subject of the consent, through a website or e-mail, for example, after they’ve specifically asked to go paperless.

**Introduced:** July 2, 2020

**Status:** The bill was marked-up and approved by the Commerce Committee on September 16, 2020.

**Sponsor:** Sen. John Thune (R-SD); 3 co-sponsors. 15% chance of enactment (according to [govtrack](#)).

**Details:** <https://www.congress.gov/bill/116th-congress/senate-bill/3962?s=7&r=9>

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Editors: Brian Tate, President and CEO, IPA  
Ben Jackson, COO, IPA  
Grant Hannah, Director of Government Relations, IPA

Please address comments and suggestions to: [gr@ipa.org](mailto:gr@ipa.org).