



Government Relations Working Group Government Update

A Publication for IPA Members
April 1, 2020 • Volume 14, Issue 24

This publication is intended for general information purposes only and should not be construed as legal advice. Do not act upon the information without first consulting an attorney.

Working Group Chair:
Brian Tate, President and CEO, IPA

I. ASSOCIATION UPDATE

Innovative Payments Conference Postponed

All Americans are currently encountering an unprecedented set of events and challenges related to the Coronavirus ([COVID-19](#)). The Innovative Payments Association ([IPA](#)) takes the health and safety of our members very seriously. The IPA has been closely monitoring recent developments with COVID-19, including announcements from the World Health [Organization](#), the Centers Disease [Control](#), and declarations of a [National Emergency](#) by President Trump. Based on these developments, we have made the difficult but necessary decision to **POSTPONE** the Innovative Payments Conference ([IPC](#)), which was scheduled for April 6 - 8, 2020 in Washington, D.C.

In the coming days the IPA will continue to be in close consultation with our conference vendor [Arizent](#), and the [Conrad Hotel](#), to make this transition as smooth as possible, and we will continue to update you as details about the rescheduled IPC become available. In the meantime, we ask for your continued flexibility, patience, and understanding as the IPA works with our conference partners and members to bring you the best conference experience possible later this year.

If you have any questions please do not hesitate to contact [Brian Tate](#) or [Ben Jackson](#).

IPA Blog: Get Ready for Stimulus Payments

Despite all the talk about checks, the Federal Government's individual stimulus payments will be delivered mostly electronically. This will present challenges and opportunities for the payments industry.

According to the text of the bill that the IPA has seen, stimulus payments can be delivered electronically to any account that the recipient has authorized to be used for the direct deposit of tax refunds.

Allowing money to go to accounts authorized two years ago leads to a lot of questions. One would presume that accounts would be verified, and no surprise deposits would be made. But, if payments are rushed out the door, individual Americans might find their payments going to unexpected places.

People use prepaid cards for tax refunds to get their money quickly, to separate tax refunds from day-to-day accounts, and as substitutes for bank accounts. In some instances, the recipient spends that money and leaves the card empty. In other cases, the card becomes an on-going spending tool.

Providers should review their portfolios and look at the status of the cards. Are they closed, inactive, or still being used? Can you reach out to current and former cardholders and let them know that they may soon have the option to get their stimulus payments on their cards? This may be a time to offer new cards at no or a low cost for those who have abandoned their

previous cards but might technically have an account on the system. It is also an opportunity to remind current and former cardholders of the features, functions, and benefits of prepaid cards.

Of course, while these payments provide an opportunity to help Americans, there are risks that will come with them.

With so much money being distributed, criminals will look for any opportunity to capture it. Since these are government payments, it is likely we will see schemes similar to the ones that we see every tax season including stolen identities, diversion of funds, and social engineering to tell people that they need do something like pay taxes before they can get their payments.

Providers need to fine tune their fraud detection systems, prepare their call centers for social engineering, and warn their customers of increased risks.

Stimulus payments will be an important tool to help Americans and keep our economy going. The payments industry will need to become a partner in making sure that the funds are delivered and used safely and efficiently.

IPA Webinar: Consumer Concerns in Financial Services for 2020

In this first in a series of IPA Conference Webinars, Christina Tetreault from Consumer Reports will join us on April 6th at 2 PM ET to discuss the consumer protection concerns facing the industry.

We will discuss the special considerations raised by the COVID-19 pandemic. We will also discuss the ongoing issues that will still be there after the pandemic has subsided.

Topics will include early wage access products, point-of-sale lending, and faster payments.

Registration and additional information can be found [here](#).

II. AGENCY AND REGULATORY NEWS

CONSUMER FINANCIAL PROTECTION BUREAU

CFPB Issues Request for Information to Assist Taskforce on Federal Consumer Financial Protection Law

On March 27, the CFPB issued a request for information (RFI) to assist the Taskforce on Federal Consumer Financial Law with recommendations on harmonizing, modernizing, and updating the federal consumer financial laws.

The Bureau says the Taskforce is seeking input from the public at this time to help identify areas of consumer protection on which it should focus its research and analysis during the balance of its one-year appointment. Specifically, the Taskforce asks in the RFI:

- Should the Bureau promote greater access to banking services and, if so, how? Are alternatives to deposit accounts, such as prepaid cards and peer-to-peer electronic payments, sufficient when compared to traditional banking products? What is the evidence regarding consumers' understanding of, and experience and satisfaction with, these products?
- One important reason for access to a bank account is to facilitate transactions. To what extent is it necessary to tie transaction services to the banking system? To what extent could transaction services and the banking system exist independently, and would independent existence raise new consumer protection risks that regulators should

consider? Would reducing clearance times impact the demand for alternative products, such as check cashing, small-dollar loans, and overdraft protection? If so, to what extent?

- What steps could be taken to promote greater competition among providers of services such as payments, financial advisory services, and savings accounts? How do third-party applications, sometimes referred to as “open banking,” affect the competition? To what extent do third-party applications raise new consumer protection risks that regulators should consider?

The Taskforce is an independent body within the Bureau and reports to Director Kraninger. It is charged with examining the existing legal and regulatory environment facing consumers and financial services providers and reporting its recommendations for ways to improve and strengthen federal consumer financial laws to the Bureau’s Director. The Taskforce’s recommendations may include actions that the Bureau could carry out using its current authorities and actions that would require legislation to implement.

The IPA will submit comments in response. Comments will be due 60 days after the RFI is published in the Federal Register. Additional information and full RFI can be found [here](#).

Update on PayPal v. CFPB Lawsuit

On March 16, in the lawsuit filed by PayPal that challenging the CFPB’s Prepaid Rule, Judge Richard Leon denied the initial Motion for Joint Scheduling Order that was filed in February by both PayPal and the CFPB, as it did not include a deadline for the CFPB to respond to or otherwise answer PayPal’s complaint. Judge Leon further ordered the CFPB to respond to PayPal’s complaint by April 13 and that a new joint scheduling order be submitted. The new joint scheduling order was entered on March 24 and, like the previous scheduling order, lays out that all motions/filings would be completed and submitted by September.

The April 13th filing will be the first opportunity to hear from the CFPB in the case and perhaps get some insight into the Bureau’s thinking on the case and how they plan to approach it.

CFPB Issues Policy Statement Allowing for Flexibility During COVID-19

On March 26, the CFPB announced that, in response to the COVID-19 pandemic, it is postponing some data collections related to Bureau-rules for credit card and prepaid accounts. The Bureau says this change is intended to provide firms with more flexibility and reduce administrative burden on credit card and prepaid account issuers, allowing them to focus their time and attention on making sure consumers continue to have access to credit and other funds.

In the statement implementing this change, the Bureau says:

“As of March 26, 2020 and until further notice, the Bureau does not intend to cite in an examination or initiate an enforcement action against any entity for failure to submit to the Bureau the following information relating to credit card and prepaid accounts:

- Annual submission of certain information concerning agreements between credit card issuers and institutions of higher education (and certain affiliated organizations), as required by the Truth in Lending Act (TILA), 15 U.S.C. § 1637(r), and Regulation Z, 12 CFR 1026.57(d)(3);
- Quarterly submission of consumer credit card agreements, as required by TILA, 15 U.S.C. § 1632(d)(2), and Regulation Z, 12 CFR 1026.58(c);
- Collection of certain credit card price and availability information from a sample of credit card issuers under TILA, 15 USC §1646(b)(1) *et seq.*; and

- Submission of prepaid account agreements and related information required by Regulation E, 12 CFR 1005.19(b).”

In the statement, the Bureau also says it will notify entities of when and how to submit information under these requirements at a later date. That notification will include guidance regarding submissions that would have been made if not for this policy statement. Finally, the Bureau directs regulated entities to maintain records sufficient enough to allow them to make delayed submissions after the Bureau issues guidance.

The IPA has advocated for these changes on behalf of our members. The announcement and full policy statement can be found [here](#).

III. CONGRESSIONAL NEWS

Phase 3 Coronavirus Relief Package Passes Congress and is Signed into Law

On March 27, the House of Representatives passed and the president signed the “Phase 3” Coronavirus relief/stimulus package (“[the CARES Act](#)”) into law. The package previously passed the Senate in a 96-0 vote on March 25.

Agreement on this over \$2 trillion package came after days of negotiation between Democrats and Republicans, with Treasury Secretary Steve Mnuchin and Senate Majority Leader Mitch McConnell (R-KY) leading negotiations for Republicans and Senate Minority Leader Chuck Schumer (D-NY) leading negotiations for Democrats.

The following is a brief summary of items that are included as part of the package:

- Expands unemployment insurance
- Provides for direct stimulus payments to Americans totaling \$1,200 for individuals earning up to \$75,000 and \$2,400 for married couples earning up to \$150,000, plus an additional \$500 per child.
 - The value of the payments begins decreasing after \$75,000/\$150,000 and then phases out completely for those making over the full payment income cap.
- Provides funding for state, tribal, and local governments to help them respond to the COVID-19 pandemic
- Rescues and bolster small businesses and corporations through grants, loans, investments, loan forgiveness grants, and direct payments.
- Provides funding for the healthcare system to help it cope with the additional pressure placed on it as a result of COVID-19

Our understanding at this time is that the U.S. Treasury and the IRS will be the federal entities taking the lead on how funds in the Phase 3 bill will be distributed to Americans. Below is legislative language from the bill text to that effect:

“(A) TIMING. —The Secretary shall, subject to the provisions of this title, refund or credit any overpayment attributable to this section as rapidly as possible. No refund or credit shall be made or allowed under this subsection after December 31, 2020.

(B) DELIVERY OF PAYMENTS.—Notwithstanding any other provision of law, the Secretary may certify and disburse refunds payable under this subsection electronically to any account to which the payee authorized, on or after January 1, 2018, the delivery of a refund of taxes under this title or of a Federal payment (as defined in section 3332 of title 31, United States Code).”

The Senate has adjourned until April 20 and House leadership has indicated that the House has adjourned indefinitely. It may be necessary for Congress to return sooner rather than later as “Phase 4” relief/stimulus package may be necessary as the COVID-19 pandemic continues to unfold.

IV. STATE NEWS

STATE NEWS

New York and California Financial Regulators Take Action in Response to COVID-19 Pandemic

On March 24, the New York Department of Financial Services (DFS) issued emergency regulations pursuant an executive order from the Governor. The DFS emergency regulation provides that for the duration specified in the Governor's Executive Order (until April 20), which may be extended, New York regulated institutions are required to:

- Provide the following financial relief to any individual who can demonstrate financial hardship from the COVID-19 pandemic, subject to the safety and soundness requirements of the regulated banking organizations: (i) eliminating fees charged for the use of Automated Teller Machines (ATMs) that are owned or operated by the regulated banking organizations; (ii) eliminating any overdraft fees; and (iii) eliminating any credit card late payment fees.

On March 23, California took similar action, although their action is merely language in guidance that the Department of Business Oversight issued pursuant to an executive order from the Governor that urges banks and credit unions to waive some fees, such as ATM fees for customers and non-customers, overdraft fees, and late payment fees. Again, this is merely guidance and not regulations.

Additional information on the New York regulations can be found [here](#) and additional information on the California guidance can be found [here](#).

V. 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, 78% 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. 2% 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 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 5, 2020

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

Sponsor: Rep. Blaine Luetkemeyer (R-MO); 25 co-sponsors; 5% 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>

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: The Senate Commerce, Science, and Transportation Committee ordered the bill to be reported with an amendment in the nature of a substitute favorably on July 10, 2019. It was reported out of the Commerce Committee on December 19, 2019.

Sponsor: Sen. Robert Casey (D-PA); 2 co-sponsors, 3% 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. 4% chance of enactment (according to [govtrack](#)).

IPA Government Relations Working Group
Government Update
April 1, 2020

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>

The *Government Update* is issued by the Innovative Payments Association twenty times a year as a service to members.

Editors: Brian Tate, President and CEO, IPA
Ben Jackson, COO, IPA
Grant Hannah, Director of Government Relations, IPA
Eli Rosenberg, Partner, Baird Holm LLP
Gray Derrick, Partner, Baird Holm LLP

Please address comments and suggestions to: gr@ipa.org.