



To: Consumer Financial Protection Bureau
From: Innovative Payments Association
Date: May 2025
Re: IPA Recommends CFPB Issue New Advisory Opinion for EWA

In 2020, the CFPB under the first Trump Administration issued an [Advisory Opinion](#) (the “2020 AO”) regarding Earned Wage Access (“EWA”) products. The 2020 AO explained that certain EWA products were not an extension of credit subject to the Truth in Lending Act (“TILA”). As such, the 2020 AO provided guidance to the industry on the potential application of TILA, and the industry structured its products in reliance on this guidance.

In 2024, the CFPB issued a Proposed [Interpretive Rule](#) related to EWA that was released for public comment, but never finalized. The proposal caused confusion in the EWA industry due to its lack of research and analysis and led to a misunderstanding of the true nature of EWA products by a number of key stakeholders, including providers, consumers, and state regulators.

In January 2025, less than one week before Inauguration Day, the Biden Administration’s CFPB issued an [Advisory Opinion](#) (the “2025 AO”) in the Federal Register which revoked the 2020 AO. The rescission of the 2020 AO was issued without consulting EWA providers, employers, or consumers. The 2025 AO lacks the analysis and justification one would expect from a federal agency that is essentially reversing prior policy. The Biden Administration’s last minute 2025 AO upended long-standing guidance on EWA and undermined the legal framework on which EWA providers and consumers relied.

In April 2025, the House Financial Services Committee (the “Committee”) sent several letters to various agencies, including the Consumer Financial Protection Bureau. In a [letter addressed](#) to Acting CFPB Director Russell Vought, the Committee leadership specifically highlights the CFPB’s actions as it relates to Earned Wage Access. In particular the Committee stated:

- “Committee Republicans feel strongly that an advance on funds that an individual has already earned is not a “credit” offering.”
- “Holding EWA products to be “credit” discourages financial firms from offering EWA products, limiting access to a convenient source of short-term liquidity.”
- “Increased regulatory burdens may also drive consumers toward higher-cost credit options.”

Since the 2020 AO was issued, a dozen states have passed statutes, promulgated regulations, or issued guidance related to EWA and more than twenty additional states are considering bills aimed at regulating EWA. The state legislative trend has been to create a set of consumer protections for EWA users, and to exempt products that provide such protection from state consumer lending laws. The state EWA consumer protections include requiring certain consumer disclosures, mandating EWA providers to provide a method of free access to the proceeds of earned wages and prohibiting debt collection practices.

IPA Position



- The IPA respectfully requests that the CFPB issue a new AO which seeks to build and expand on the 2020 AO published under the first Trump administration.
- The IPA recommends that the CFPB issue a new Advisory Opinion to incorporate developments in state regulation and to reflect changes and advances in the market. An updated Advisory Opinion should reflect the current market, reaffirm EWA is not credit, permit reasonable fees, and encompass a broader range of EWA business models.
- A new and expanded AO would bring the necessary clarity and stability to the EWA market.
- Helping Americans manage their day-to-day financial lives is not a partisan issue. In 2017, CFPB [Director Cordray](#) created exceptions in the [Payday Rule](#) for EWA. Accordingly, in 2020, then Director Kraninger (appointed by President Trump) took the logical next step and released the 2020 AO.
- The IPA agrees with the Committee’s assessment that EWA ***is not*** a form of credit.

Key Points of the IPA's Argument¹:

- **EWA products are not debt:** The IPA believes that the vast majority of EWA models do not create a debt obligation for the employee. They simply provide access to already earned wages. This differentiates it from debt, which, by definition, requires an obligation to repay.
- **Unresolved Policy Creates Confusion and Reputational Risk:** The IPA believes the implications of applying credit regulations to EWA will place EWA in an undeserved negative light and will lead to continued confusion amongst consumers, providers, and regulators.

The IPA's Recommendations for a new Advisory Opinion:

- **Expanded AO:** A new Advisory Opinion should take into account the reality that the market has grown, changed, and adapted to the needs of the American consumer since 2020. Moreover, an expanded AO would protect the consumer’s right to select the product and provider that best fits their personal needs. An updated AO should generally follow the intent of the 2020 AO, and grant EWA products meeting the following principles to be included under a safe harbor of not constituting “credit”:
 - EWA must be provided through a mutually agreed upon contract between the provider and the consumer.
 - The amount of the EWA should not exceed the accrued or anticipated cash value of wages earned.
 - The EWA provider offers at least one method of obtaining the proceeds of an EWA transaction without cost. EWA providers may offer other methods, such as expedited payments, for a fee.
 - The EWA provider may recover the amount through an employer-facilitated payroll deduction, by debiting the consumer’s bank account with the consumer’s consent (in accordance with Regulation E and payment network rules), or by any other method offered by the provider and agreed to by the consumer.

¹ <https://www.ipa.org/ewa.html>



- The provider retains no legal or contractual recourse for non-payment of an EWA amount (other than to suspend a consumer’s participation in an EWA program until such EWA has been paid).

The new and expanded AO should also include a clear “*totality of the circumstances*” test which would be applied before making a determination that a specific product is outside the scope of the new AO. The totality of circumstances test encourages diversity in products and programs in the marketplace and gives EWA providers the flexibility to innovate without curtailing consumer protections.