



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 Podcast: IPA's Government Update for July 2021

Capitol Hill has been taking an active interest in the payments industry. Overdraft, buy now pay later products, and even a possible computer chip shortage have all drawn lawmakers' attention.

On top of all that, the Durbin Amendment has resurfaced as a topic of conversation, and there are rumors that it may be extended to other types of payments.

We cover all of this and more in our latest podcast episode with the IPA's CEO, Brian Tate, and our Government Relations Director, Grant Hannah.

To learn more about the forces shaping the payments industry, we encourage our listeners to join the IPA for its Summer of Learning Webinar series, where we talk with regulators, industry leaders, and analysts about what they see coming in the world of payments innovation.

Listen [here](#)!

IPA Summer of Learning

Please join the IPA on July 27th when we will be joined by the Honorable Warren Davidson, U.S. Representative (R-OH). U.S. Representative Davidson, the Ranking Member of the House Financial Services Committee's Task Force on Financial Technology, will discuss cryptocurrencies, blockchains, and the future of payments. This conversation is only for members of the IPA.



Speaker: Honorable Warren Davidson, U.S. Representative

When: July 27th, 2pm Eastern

Register Now



II. AGENCY AND REGULATORY NEWS

FEDERAL RESERVE (THE FED)

Federal Banking Agencies Request Comment on Proposed Risk Management Guidance for Third-Party Relationships

On July 13, three federal bank regulatory agencies (FDIC, Federal Reserve, and OCC) requested public comment on proposed guidance designed to help banking organizations manage risks associated with third-party relationships, including relationships with financial technology-focused entities. The proposed guidance is intended to assist banking organizations in identifying and addressing the risks associated with third-party relationships and responds to industry feedback requesting alignment among the agencies with respect to third-party risk management guidance.

A copy of the proposed guidance can be found [here](#). Comments are due by September 17, 2021.

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

CFPB Releases Blog on Buy Now Pay Later Products

On July 8, the CFPB released a blog on Buy Now Pay Later (BNPL) products. This represents some of the first public statements we've heard from the CFPB on BNPL. The blog post discusses how BNPL works generally, how late fees work, consumer protection and credit reporting issues, and more.

When it comes to consumer protection, the blog highlights that buy now pay later BNPL loans currently lack the consumer protections that apply to other forms of payment. It also discusses issues consumer could face when returning merchandise bought with a BNPL loan.

It is expected that the CFPB as well as other regulators and Congress will increasingly take closer looks at BNPL products. The full blog post can be accessed [here](#).

III. MISC.

President Biden Issues Executive Order on Competition

On July 9, President Biden signed an Executive Order (EO) aimed at promoting competition in the American Economy. The EO includes 72 initiatives that will direct more than a dozen federal agencies to address issues of competition across the economy. The White House says that President Biden is taking this action to, "...reduce the trend of corporate consolidation, increase competition, and deliver concrete benefits to America's consumers, workers, farmers, and small businesses."

Included in the EO is a “banking and consumer finance” section which discusses branch closures and consolidation in the banking industry and difficulties faced by consumers who want to move banks due to issues with the portability of financial transaction history data.

The EO seeks to address these issues by:

- Encouraging DOJ and the agencies responsible for banking (the Federal Reserve, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency) to update guidelines on banking mergers to provide more robust scrutiny of mergers.
- Encouraging the Consumer Financial Protection Bureau (CFPB) to issue rules allowing customers to download their banking data and take it with them.

In addition to the provisions around bank mergers and the portability of financial transaction history data, there is an additional requirement that the Secretary of the Treasury submit a report to the Chair of the White House Competition Council, not later than 270 days after the date of the order, assessing the effects on competition of large technology firms’ and other non-bank companies’ entry into consumer finance markets. Given the 270-day timeframe, the report would come out no later than early April of next year.

A fact sheet with a full overview of the EO can be found [here](#).

Senate Banking Republicans Send Letter to CFPB Nominee

On July 13, all Republican members of the Senate Banking Committee sent a letter to CFPB Director Nominee Rohit Chopra expressing their concern, “...with [his] refusal to respond to a congressional request seeking information about potential violations of law at the Consumer Financial Protection Bureau (CFPB).” Senate Banking Republicans had previously sent Mr. Chopra and CFPB Acting Director Dave Uejio a [letter](#) asking them to respond to reports last month that senior career civil servants at the CFPB were being pressured to quit to make room for political allies to be installed at those positions.

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

House Republicans Request Information from CFPB Acting Director

On July 15, Republican Members of the House Financial Services sent a [letter](#) to CFPB Acting Director David Uejio requesting additional information on actions he’s taken related to issuing new rules, guidance, and policy statements; delaying the implementation date of multiple major rulemakings; reversing and rescinding policy statements and guidance; and undertaking nine enforcement actions against financial services companies. The members additionally express concerns that, “...the CFPB is conducting business as usual without a Senate-confirmed Director and without proper oversight.”

In a separate letter, Ranking Member Patrick McHenry (R-NC) sent a [letter](#) to Chairwoman Waters requesting that the Committee hold an oversight hearing with Acting Director Uejio.

Fed Chair Jerome Powell Testifies Before Congress

Fed Chair Jerome Powell provided his semiannual testimony before the House Financial Services Committee and Senate Banking Committee on July 14th and July 15th respectively. Inflation, stablecoins, and central bank digital currencies (CBDC) were common subjects of Members’ questions. Chair Powell indicated that the Fed believes that the recent rise in inflation is temporary and that continued economic recovery and growth would bring it down. In addition, Powell mentioned that the Fed’s report on CBDCs will likely be released sometime in September. Finally, he was asked about stablecoins a number of times and, in his responses, discussed their similarities with deposit accounts and money market accounts and called for a similar regulatory framework to be applied.

Capital Clues

Below is latest intelligence the IPA has received on recent activity on Capitol Hill:

- The nomination of Rohit Chopra to be the next Director of the CFPB has remained in limbo between the Banking Committee and the Senate floor for nearly four months, but we still expect Leader Schumer to move his nomination, possibly before the August recess or when they return in September.
- On Monday, July 19, House Members joined Senators in DC for what could be a pivotal stretch for two major Biden Administration priorities. Early August recess plans could be impacted should Democratic leaders need more time to secure wins before the extended annual recess next month.
- As Senator Schumer works to build Democratic support for a \$3.5 trillion budget resolution that could pave the way for a second reconciliation package to fund President Biden's American Families Plan, he announced plans to file cloture on a motion to proceed to the \$1.4 trillion Bipartisan Infrastructure Framework (BIF), which has yet to be converted into legislative text. That would set up a cloture vote on the MTP on Wednesday, July 21.

IPA Draft Letter to the California Financial Regulator on EWA

The IPA has drafted a [letter](#) to the California Department of Financial Protection and Innovation (DFPI) on earned wage access (EWA). In brief, the letter provides an overview of the industry, discusses principles for regulation going forward that the IPA believes would appropriately balance consumer protection and innovation, and expresses the IPA's desire to being an ongoing dialogue with DFPI on EWA.

The IPA held a call to review and discuss our initial draft of the letter and is currently working to incorporate feedback received from members.

IV. FEDERAL BILLS, AND LAWS

NEW FEDERAL LAWS

[S.J. Res 15](#) – A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Office of the Comptroller of Currency relating to "National Banks and Federal Savings Associations as Lenders" (True Lender Congressional Review Act Resolution)

Summary: This disapproval resolution invalidates the OCC's True Lender Rule, which addressed lending arrangements between banks and non-bank third party lenders. Additionally, the Resolution prevents the OCC from issuing the Rule, or one like it, again.

Status: Signed by the President on 6/30/20.

Sponsor: Sen. Chris Van Hollen (D-MD)

PENDING FEDERAL BILLS

[H.R.963](#) – Forced Arbitration Injustice Repeal (FAIR) Act

Summary: This bill prohibits a pre-dispute arbitration agreement from being valid or enforceable if it requires arbitration of an employment, consumer, antitrust, or civil rights dispute.

Status: Referred to the Subcommittee on Antitrust, Commercial, and Administrative Law on 04/23/2021.

Sponsor: Rep. Hank Johnson (D-GA)

[H.R. 1711](#) – To amend the Consumer Financial Protection Act of 2010 to direct the Office of Community Affairs to identify causes leading to, and solutions for, under-banked, un-banked, and underserved consumers, and for other purposes.

Summary: This bill would direct the CFPB to conduct research on barriers to financial inclusion and identify hurdles under- and un-banked consumers. It would also require the Bureau to identify best practices to increase participation in the financial system and included a reporting requirement.

Status: Passed/agreed to in House on 5/18/21. Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs on 5/19/21.

Sponsor: Rep. David Scott (D-GA)

[H.R. 1996](#) – SAFE Banking Act

Summary: This bill would allow marijuana-related businesses in states with some form of legalized marijuana and established regulatory structures to access the banking and payments system.

Status: Passed/agreed to in House on 4/19/21. Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs on 4/20/21.

Sponsor: Rep. Ed Perlmutter (D-CO)

[H.R. 3968](#) - Municipal IDs Acceptance Act

Summary: This bill would require that the banking regulators update their guidance on Customer Identification Programs to state that an identification card issued by a municipality may be used by a bank to verify the identity of a customer, if such identification card enables the bank to form a reasonable belief that the bank knows the true identity of the customer.

Status: 06/23/2021 Ordered to be Reported from the Financial Services Committee in the Nature of a Substitute (Amended) by the Yeas and Nays: 27 - 23.

Sponsor: Rep. Richie Torres (D-NY)

[H.R. 4277](#) – Overdraft Protection Act of 2021

Summary: This bill would limit overdraft fees, both in frequency and amount, and would establish a set of practices for overdraft coverage programs.

Status: Introduced and referred to the House Financial Services Committee on 6/30/21.

Sponsor: Rep. Carolyn Maloney (D-NY)

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

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

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