



Government Relations Working Group Government Update

A Publication for IPA Members
February 10, 2021 • Volume 15, Issue 2

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I. ASSOCIATION UPDATE

Innovative Payments Conference Coming Online in April 2021

The IPA's Innovative Payments Conference is the must-attend annual event for the payments community. Take part in three days of cutting-edge content, discussions and enhanced networking as you engage directly with those leading the way in prepaid compliance, legislation, regulation and innovation.

Stay tuned as we build out the agenda and speaking faculty. We're looking forward to putting on another great event for you. And even better, if you already know you'd like to attend, [subscribe](#) to our updates today so you will be one of the first to hear when our Early Bird rate launches.

The IPC program is designed to keep you ahead of an ever-changing industry and position you to succeed in tomorrow's payments environment. Year after year, the event is an unqualified success, attracting hundreds of attendees from across the country. [Download the brochure](#) today to learn more about what to expect at IPC 2021!

Click [here](#) for additional information.

IPA INNOVATIVE PAYMENTS CONFERENCE

Register
A Virtual Event
April 12 - April 23

Sessions Include

- * Paypal v CFPB
- * Emerging Fraud Trends: What is Keeping You Up at Night?
- * How to use the Recovery to Advance your Career
- * Surviving a Cyber-Attack, from the Inside Out!

IPA INNOVATIVE PAYMENTS CONFERENCE | @IPAUPDATES

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IPA Podcast: Clearing House Expresses Concerns About Small Issuer Exemption

A letter to the Federal Reserve asks the Board to clarify when companies, including Fintechs, are eligible for the small issuer exemption under the Durbin Amendment to the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Clearing House's letter asks the Fed to publish a new Frequently Asked Questions that clarifies when companies are eligible for the exemption, and what constitutes an evasion of the rule. The letter raises concerns that some companies are offering decoupled debit, which should not be exempt, and others are practicing evasion.

Listen [here!](#)

IPA Financial Crimes Task Force Call with Visa

Pandemic-related government disbursements have further accelerated the use of prepaid cards due to their ability to deliver money quickly, replace paper checks, and reach recipients without bank accounts. The Visa Payment Fraud Disruption (PFD) team, whose mission is to detect, disrupt and deter payment card fraud throughout the payments eco-system, continues to monitor the underground activity related to the development of new fraud schemes targeting these government disbursement programs. In this session, we will share insights from the PFD team including strategies fraudsters have attempted as well as updates that have been put in place to hinder these efforts. We will also discuss Prepaid Clearinghouse Service (PCS) a solution that can help prevent prepaid card fraud across all card brands identifying both low-risk and high-risk activity and has the potential to be effective for these government disbursement programs.

We hope you'll join us on February 16 at 3 PM ET for this important conversation. Registration can be found [here](#).

II. AGENCY AND REGULATORY NEWS

FEDERAL RESERVE

The Clearing House Letter to Fed on Durbin Amendment

A [notice](#) was recently added to the Federal Reserve's website regarding a letter from/meeting with The Clearing House Association on the Durbin Amendment. In brief, TCH raised strong concerns about how small issuers are evading Durbin by partnering with FinTechs/program managers and, in some cases, how the 3rd parties are bigger than the issuer.

The IPA is in the process of drafting a letter in response. A draft of the IPA's letter is expected to be released for IPA members to review the week of February 15.

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Blog from CFPB Acting Director Dave Uejio

The Bureau is taking much-needed action to protect consumers, particularly the most economically vulnerable

By [Dave Uejio](#) – JAN 28, 2021

Last week, I was honored to have been appointed Acting Director of the CFPB by the President. Having joined the Bureau in 2011, I have seen firsthand the impact of the Bureau's mission and the incredible work being done by its staff. I know that the Bureau's staff shares my devotion to the Bureau's mission, and I look forward to serving in this latest capacity. In furtherance of that mission, I shared the following statement to everyone at the CFPB. Since our work affects the lives of so many people, I thought it appropriate to share it publicly:

Hello all,

I am following up on my initial email reflecting the new priorities and focus of the CFPB. In particular, I would like to convey my broad vision for SEFL in the coming months.

But first, I want to thank everyone for their hard work during these trying times. I know it has been a tough year for everyone working and living through a pandemic, and that you all have pushed through despite tragedy and loss. This email conveys a change of direction, but it is not intended as a criticism of how our professional team executed on the prior leadership's direction.

As I noted in my first email, **my priorities for the CFPB are (1) relief for consumers facing hardship due to COVID-19 and the related economic crisis, and (2) racial equity.**

On COVID-19, we need to take swift action now, in order to make sure our actions help people in the middle of the crisis, rather than just cleaning up after the fact. As you know, protecting economically vulnerable consumers is core to the mission of the CFPB and a key reason why the agency was created. It is going to take urgent action for the CFPB to step up to this challenge.

One thing we can do immediately is focus our supervision and enforcement tools on overseeing the companies responsible for COVID relief. I am concerned about the findings described in last week's *Supervisory Highlights* edition that companies are failing to properly administer relief through the crisis. In a series of Prioritized Assessments last year our examiners found the following:

- Mortgage servicers gave consumers incomplete and inaccurate information about CARES Act forbearances, failed to process forbearance requests, and collected and assessed late fees despite having approved forbearances.
- Servicers withdrew money even though consumers were in deferment.
- One student loan servicer denied thousands of forbearance extensions because the loan holder never responded.
- Companies across markets misreported accounts to credit bureaus and violated CARES Act amendments that added protections to the Fair Credit Reporting Act.
- Some banks set off stimulus payments and unemployment insurance benefits in order to cover bank fees and other debts.
- Examiners found that the widely used policy of banks only taking PPP applications from pre-existing customers may have a disproportionate negative impact on minority-owned businesses.

These are just a few examples that show the types of harms consumers are suffering and the meaningful impact that strong oversight could have on the country's recovery effort. Moving forward, the CFPB will take aggressive action to ensure that regulated companies follow the law and meet their obligations to assist consumers during the COVID-19 pandemic.

With that in mind, I have directed SEFL to always determine the full scope of issues found in its exams, systemically remediate all of those who are harmed, and change policies, procedures, and practices to address the root causes of harms. For the Prioritized Assessments that do not already do this, I want Supervision to follow up to ensure it is done, without conducting new follow-up exams. Companies that have not already received instructions from our examiners should expect to receive letters in the mail soon.

In some cases, penalties may be necessary. I have also directed SEFL to expedite enforcement investigations relating to COVID-19 so that we can take action now to ensure that industry gets the message that violations of law during this time of need will not be tolerated.

Over the coming weeks, we will also be reversing policies of the last administration that weakened enforcement and supervision. As of today, it is the official policy of the CFPB to supervise lenders with regard to the Military Lending Act. And we are planning to rescind public statements conveying a relaxed approach to enforcement of the laws in our care.

It's also time for the CFPB to take bold and swift action on racial equity. I know this is close to the hearts of many of you. The country is in the middle of a long overdue conversation about race, and as we all know, practices and policies of the financial services industry have both caused and exacerbated racial inequality. I am going to elevate and expand existing investigations and exams and add new ones to ensure we have a healthy docket intended to address racial equity. This of

course means that fair lending enforcement is a top priority and will be emphasized accordingly. But we will also look more broadly, beyond fair lending, to identify and root out unlawful conduct that disproportionately impacts communities of color and other vulnerable populations.

The CFPB is uniquely positioned to help consumers in their time of need. I look forward to working with each of you to meet the moment.

Best,
Acting Director Uejio

III. CONGRESSIONAL NEWS

Rep. Peters (D-CA) Letter to IRS/Treasury on EIP Card

Rep. Scott Peters (D-CA) recently sent to Treasury Secretary Yellen and IRS Commissioner Rettig concerning EIPs that were made via prepaid cards. In the letter, Rep. Peters says he has heard from dozens of constituents who are unable to activate or use the card. In addition, he raises concerns that there is no way to return the card in order to have the EIP issued through direct deposit or check and that when many constituents attempt to transfer the money on the card into their bank account, they are told their personal information does not match that on file so his constituents are unable to complete the transaction.

Finally, he requests the following steps be taken by the IRS:

1. A full accounting of how many Americans received their second Economic Impact Payment by debit card and how many of those cards are yet to be a) activated and b) used.
2. Provide a method by which constituents may request either online, over the phone or by mail to have the unused portions of their Economic Impact Payment directly deposited into their bank account or mailed to them in the form of a paper check.

The full letter can be found [here](#).

IV. MISC.

None.

V. STATE NEWS

California to Begin Oversight of Earned Wage Access Companies

On January 27, the California Department of Financial Protection and Innovation (DFPI) announced that it has signed memorandums of understanding (MOUs) with five earned wage access companies. According to the DFPI, the MOUs pave a path so earned wage access companies can continue operating in California, in advance of possible registration under the California Consumer Financial Protection Law, which took effect this year and defines the companies as newly covered financial services. In addition, the companies have agreed to deliver quarterly reports beginning April 2021 on several metrics, which the department intends to use to gain a better understanding of the products and services being offered and the risk and benefits to California consumers.

Additional information can be found in the article below and in the DFPI's [press release](#).

State Legislation on Interchange & IPA Letter in Opposition

Similar bills were introduced in the Mississippi ([HB 1076](#) & [SB 2856](#)), Oklahoma ([HB 2181](#) & [SB 798](#)), and Tennessee ([HB 375](#)) legislatures that would require that state and local taxes and fees be excluded from the calculation of interchange fees by payment card networks. Below is the pertinent legislative language, taken from the Tennessee version.

Legislative Language

“The amount of a state or local tax or fee that is calculated as a percentage of an electronic payment transaction amount and listed separately on the payment invoice or other demand for payment, or the amount of a tax imposed under chapter 3 of this title, must be excluded from the amount on which an interchange fee is charged for that electronic payment transaction. Such taxes and fees include, but are not limited to: (1) Sales and use taxes under chapter 6 of this title; (2) Hotel occupancy taxes under § 67-4-1402 or an applicable private act; (3) Alcoholic beverage taxes under § 57-4-301(c); and (4) Rental vehicle surcharge taxes under chapter 4, part 19 of this title.”

The IPA has drafted a template letter to respond to the bills. In brief, the template letter expresses the IPA’s opposition to the legislation, discusses the impracticality of what the legislation proposes, and outlines the potential harm that could come to consumers and retailers.

If you would like a copy of the IPA’s draft letter, please let Grant Hannah (ghannah@ipa.org) know.

Update on North Dakota Unclaimed Property Bill

On January 27, the IPA sent a [letter](#) opposing North Dakota [Senate Bill 2048](#). In brief, the IPA’s letter expresses concerns about the potential unintended consequences of Section 47-30.2-04 (201) of SB 2048, which would deem payroll cards as presumed abandoned one-year after the amount becomes payable, essentially treating such products as compensation as opposed to treating them as asset accounts, such as demand deposit accounts (DDA), which are presumed abandoned after five years under the bill. The letter further points out that time periods and the disparate treatment of payroll card accounts and DDAs are inconsistent with the Revised Uniform Unclaimed Property Act (RUUPA). Finally, the letter discusses in detail the benefits of payroll card accounts and their similarities with DDAs.

An [amended version](#) of the legislation was released on February 2, which adopts the IPA’s suggestions and brings the presumed abandoned period of payroll cards in line with other asset accounts to five years.

VI. FEDERAL BILLS, AND LAWS

NEW FEDERAL LAWS

None.

PENDING FEDERAL BILLS

None.

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

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