Earned Wage Access: An Innovation in Financial Inclusion?

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Abstract

Since the early 2010s, fintech companies have both gone directly to employees or partnered with employers to provide access to a portion of employees' earned wages before payday. The growth of these companies, known as Earned Wage Access (EWA) companies, was accelerated significantly during the COVID-19 pandemic. Millions of workers and hundreds of employers are now advancing billions of dollars of wages each year. Despite this rapid growth, jurisdiction over the product remains unclear, and the product sits in a legal gray area. Consumer advocates, regulators on the state and federal level, the EWA industry, and employers have all acknowledged the need for regulatory clarity. This working paper investigates the origins of EWA, provides an overview of the current business models and players, explores the implications of EWA product design with a focus on consumer financial health, and identifies areas of ambiguity in the current regulation. It recommends that moving forward, regulators should outline what constitutes a "Covered" EWA program by focusing on models that contract directly with employers, disallowing tips, and clarifying guidance on subscription models and other allowable finance charges. Beyond this, providers need to be transparent about the fees they charge and the rights they ask consumers to waive while upholding high – and statutory – data usage and privacy standards. Such guidance would ensure the continued benefits of employer-sponsored EWA, delivered in a meaningful and sustainable context that improves employee welfare while preventing unfair harms.

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Introduction: A New Tool for Financial Inclusion Presents New Challenges

Earned Wage Access (EWA) offers substantial benefits for millions of employees and is quickly gaining traction among employers, but consumer advocates and regulators charge that the imposition of fees on earned wages can harm consumers through lack of transparency, high costs, and overuse / dependency. Deeper investigation, regulatory action, and oversight are needed to balance the promise of EWA with consumer protection.

EWA products are spreading rapidly to markets where employees live paycheck to paycheck and need more frequent access to cash. Their strongest foothold is currently in the US, where 125 million adults are unable to cover a $400 expense with readily available cash or credit[1], 76 million adults work for an hourly wage[2], and nearly 19 million adults are "unbanked" or "underbanked."[3] In just two years, the amount of advanced wages in the U.S. tripled: from $3.2 billion in 2018 to $9.5 billion in 2020.[4] The COVID-19 pandemic accelerated adoption, as individuals faced financial emergencies and employers turned to EWA to mitigate the toll of the crisis on hourly wage workers.

The rapid rise of EWA has been powered by its branding as a true "win-win" financial product, solving key problems for both employees and employers. Employers suffer because financially stressed employees typically lose nearly one month of productive work days a year and are twice as likely to seek a new job opportunity.[5] Yet, alternatives to relieve financial stress are costly and come with downsides like debt collection and bad credit. EWA allows employers to offer much-needed liquidity to their employees with minimal hassle. Employees can improve their productivity and avoid alternative financial products that often come with costly charges and the threat of a debt spiral. EWA companies have positioned themselves as the tech-powered vanquishers of these dangerous products - one EWA company, Rain, says "we are killing predatory financial products like payday loans."[6]

To supplement the dearth of existing information and add independent research on the impact of EWA, the authors of this paper ran a survey through the Providers app which helps over 5 million low-income Americans manage their government benefits every month. The findings of the survey are discussed throughout this paper and the complete results can be found in the appendix. The responses, from a wide geographic and demographic cross-section of those users,

[1] Board of Governors of the Federal Reserve System, "Report on the Economic Well-Being of U.S. Households in 2021 - Dealing with Unexpected Expenses," May 2022.
[2] Bureau of Labor Statistics, "Characteristics of minimum wage workers, 2021," April 2022.
[3] Federal Deposit Insurance Corporation, "2021 FDIC National Survey of Unbanked and Underbanked Households".
[4] Aite-Novarica Group, "Making Ends Meet: Demand for Pay and Employer-Based Loans," Aite-Novarica Group, February 24, 2021.
[5] Marlene Satter, "Businesses lose half a billion dollars a year due to employee financial stress," Benefits Pro, March 25, 2019.
[6] Rain, accessed April 21, 2023, https://rain.us/.

suggest that EWA may indeed be displacing more harmful products, and they likewise highlight its clear benefits: 28% of respondents indicated that they were using alternative financial services less than before using EWA. When asked about positives about using EWA, they noted how easily they could get funds immediately to help with needed expenses and emergencies, like fixing a tire to be able to get to work.

Unsurprisingly, employees demand EWA to the extent that they are generating market pressure for employers to offer it. A survey conducted by the American Payroll Association in 2022 indicated that 21% of employees in America want access to their wages as they earn them.[7] EWA is fast moving from an unusual perk to a basic component of employee benefits to offer when recruiting, especially in high turnover industries like retail, food service, and hospitality. Gartner predicts that by the end of 2023, 20% of companies with majority hourly workforces will offer EWA.[8] Already, companies with large workforces like Target, McDonald's, Walmart, and Uber offer EWA to their workers, hoping to benefit not only from improved recruiting, but also from boosted employee retention and productivity.

EWA demonstrates clear wins for both employees and employers, but rests in a legal gray space that has slowed the mitigation and prevention of consumer harm. Following on from a 2020 advisory opinion issued by the Consumer Financial Protection Bureau (CFPB), EWA programs do not constitute credit and are not covered under the Truth in Lending Act (TILA), provided they meet certain stipulations which we discuss below in "Regulatory Environment." Consumer advocacy organizations such as the Center for Responsible Lending and the National Consumer Law Center claim that regulators are carving loopholes in lending laws and should regulate EWA as credit. They point to several areas of concern: the lack of fee transparency, the lack of a cap on total fees, the potential for fees to stack up and result in APRs similar or even greater than those of traditional payday lending products, and the potential for overuse leading to a cycle of dependency that leaves workers worse off than when they started.

While data is limited, third-party studies add gravity to these concerns. Recent analysis from the California Department of Financial Protection and Innovation (DFPI) suggests that the average APR across nearly six million EWA transactions was just over 330% - close to that of payday loans in California.[9] The same data points to potential for overuse and dependency. Rather than using the services as a one-off emergency measure, consumers are claiming advances most weeks – on average nine times per quarter.[10] Our national study supports the California findings -

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[7] American Payroll Association, "Survey Reveals Employees Want Early Access to Wages," September 26, 2022.
[8] Maeve Allsup, "Is Earned Wage Access the Future of Hourly Pay?" Retail Brew, August 17, 2022.
[9] California Department of Financial Protection and Innovation, "2021 Earned Wage Access Data Findings."
[10] Ibid.

40% of people who have access to an app through their employer were using it at least once a week. Over 75% of respondents indicated that they were using their money to pay for regular bills, rather than emergency expenses. A typical user noted, “it just turned into a cycle of always taking money out.” Other users emphasized that fees were higher than expected and that, when using apps that are not offered by an employer, users were often charged an overdraft fee when using the app unexpectedly overdrew their account.

These alarm bells have attracted state and federal attention. The CFPB has recently made several indications it will re-examine the 2020 guidance and provide further clarification. It acknowledges that “the advisory opinion has caused significant confusion in the marketplace.”[11] The federal timeline, though, remains unclear. In the interim, state efforts to regulate earned wage access have accelerated, with several states introducing bills this year. Most notably, the California DFPI has proposed regulations that would make it the first state in the nation to regulate the product.

Regulators are not the only ones trying to address these concerns - entrepreneurs are pioneering new business models that address financial and social costs. Some companies, like Brigit, focus on providing clear and transparent pricing models that eschew tips and better align incentives around usage. Others entirely shy away from charging end users and focus on charging the employer or using vendor partnerships and interchange fees to produce new revenue streams. Investors and executives that we spoke to highlighted the need for EWA to be integrated into broader financial wellness initiatives that provide budgeting tools, savings products, education and coaching, and other tools to ensure employees are deploying EWA sustainably and effectively. Many EWA providers are doing just that, in addition to self-regulation efforts such as implementing usage caps and maximum withdrawal limits.

EWA is largely in its infancy, and many uncertainties remain about how employees are interacting with EWA. More data is needed to determine the best ways to balance industry growth with consumer protection. For employees using employer-sponsored EWA, self-regulation and market competition may largely be sufficient, leading EWA to offer meaningful improvements to financial wellness at a low cost. However, warning signs are emerging from models where companies are not sponsoring costs. Clearly, deeper investigation, further action and oversight from regulators are warranted, to protect vulnerable hourly workers from potential harm and to provide entrepreneurs with a transparent and level playing field for innovation.

[11] Consumer Financial Protection Bureau, Seth Frotman, “Your letter concerning the CFPB’s advisory opinion on earned wage access,” January 18, 2022.

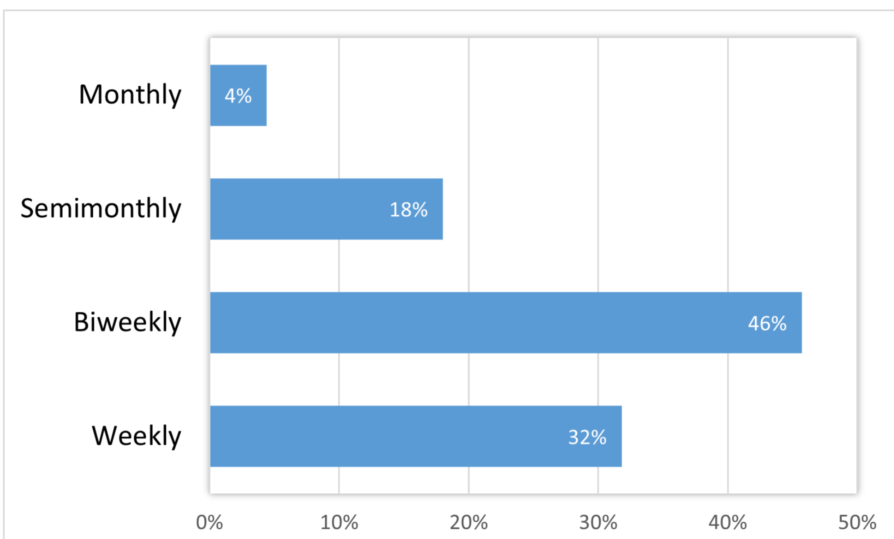
Background: Short-term liquidity crunches and the rise of EWA

Why American employees need credit - and why they can't get it

EWA emerged as a potential solution to address persistent liquidity challenges faced by households that lack cash or other assets to manage periods of financial stress. Unfortunately, this is a regular occurrence in American households - over half of Americans have no emergency savings and are living paycheck to paycheck. Not only do they have minimal savings, many are actually indebted: more than 1 in 3 Americans actually have more in credit card debt than emergency funds.[12]

Beyond a simple lack of resources, a mismatch between receipt of income and timing of expenses can also cause liquidity issues. While there is no federal law mandating pay frequency, state laws usually require salaries to be paid, at a minimum, weekly, bi-weekly, semi-monthly, or monthly.[13] About two-thirds of employers pay bi-weekly or less frequently which may not match the frequency of employee's core household payments.[14] The extent of the mismatch depends on industry norms - 82.4% of construction establishments pay weekly, compared to only 8.4% of education and health service establishments.[15]

Figure 1: Frequency of pay period by establishment (February 2022)[16]



[12] Lane Gillespie, "Bankrate's 2023 Annual Emergency Savings Report," Bankrate, Feb 23, 2023.
[13] U.S. Department of Labor, "State Payday Requirements," January 1, 2023.
[14] Bureau of Labor Statistics, Current Employment Statistics, "Length of Pay Periods," accessed April 21, 2023, https://www.bls.gov/ces/publications/length-pay-period.htm.
[15] Ibid.
[16] Ibid.

Employers eschew paying more frequently for three main reasons: First, whether employers outsource to a professional employer organization (PEO), manage payroll themselves, or partner with an HR & payroll provider, every iteration of a payroll administration carries an associated cost in time and money. Second, more frequent pay cycles may be unfavorable to general liquidity management for the company - having more cash on hand for more frequent pay might require changes in cash turnover in investing activities or accounts receivable. At scale, this is especially significant and a reason why large companies might pay for an employee EWA service, effectively arbitraging the legally delayed salary payment. Third is inertia, as employers are simply loath to change, when paying at a bi-weekly frequency has become the established standard.

Historical options available to consumers to deal with liquidity crunches

The need for liquidity can affect households of any income, but these issues are more likely to affect lower income families who generally have fewer savings and access to traditional credit, like personal loans or credit cards. This leaves them at the mercy of alternative, urgent sources of money - with high direct costs of interest or collateral, as well as indirect costs from delayed payments on other bills. We outline three popular forms of credit below:

- **Payday loans**: Payday loans are usually $500 or less, with an average fee of $15-20 per for every $100 borrowed. For a two-week loan, that can result in an APR of over 400%. According to a 2016 Pew study, a typical $375 loan eventually incurs $520 in fees due to repeat borrowing.[17] Default rates tend to be high, meaning that these products have tended to be high cost.[18] To receive a payday loan, the consumer must provide identification, a bank account, and either a physical paystub or digital verification of a paycheck to receive access to a loan. According to that same Pew study, an estimated 12 million Americans took out payday loans each year, spending $9 billion on loan fees.[19]
- **Pawn loans**: To take out a pawn loan, a consumer needs to take a possession to the pawnshop as collateral. Because the loan is secured by collateral, there is no need for a credit check. The staff will assess the item value, condition, and resale potential, and then decide whether to offer a loan. The amount that is loaned tends to be about 25% to 60% of resale value - the average pawnshop loan is about $150 and is repaid in about 30 days.[20] Stated interest rates for pawn loans range widely, from 12% to 240%, but the APR

[17] The Pew Charitable Trusts, "Payday Loan Facts and the CFPB's Impact," Fact Sheet, January 14, 2016.
[18] Mark Flannery and Katherine Samolyk, "Payday Lending: Do the Costs Justify the Price?," FDIC Center for Financial Research Working Paper no. 2005-09, Federal Deposit Insurance Corporation, June 2005.
[19] The Pew Charitable Trusts, "Payday Loan Facts."
[20] Bev O'Shea and Jackie Veling, "Should You Take a Pawnshop Loan?" NerdWallet, May 4, 2023.

for pawn loans is typically around 200%.[21] An estimated 30 million Americans take out a pawn loan every year, with about 85% paying back the loan and retrieving their item.[22]

- **Overdraft on bank account**: A bank account overdraft occurs when a consumer's bank account balance goes below zero due to a transaction, and the bank still covers the transaction. The bank overdraft becomes a form of short-term credit, and the bank typically charges around $34 per transaction as a fee. Frequent overdrafters (more than 10 overdraft fees per year) pay nearly three-quarters of all overdraft fees and pay $380 in fees over a year on average.[23] Overdraft fees can result in extremely high effective APRs - a CFPB study found that the majority of debit card overdraft fees are on transactions of $24 or less and are repaid within three days, making for an APR of 17,000 percent. The study also found that most consumers who overdraw bring their accounts positive quickly — 76% of them do so within one week — which indicates a short-term liquidity mismatch (and explains the demand for EWA as a viable alternative).[24] While many major banks have eliminated or reduced their overdraft fees, they remain a concern - in 2022, the Consumer Financial Protection Bureau (CFPB) estimated that Americans paid $7.7 billion in overdraft and non-sufficient funds fees.[25]

Consumer advocates have often derided these options as expensive and particularly burdensome for the most vulnerable families. However, the very reasons that these options have been expensive are the same reasons why regulating these products has been difficult. As long as consumer-friendly alternatives remain absent, the industry continues to evolve to address unmet liquidity needs.

Difficulty of regulating alternative financial services

Over the past few decades, regulators have made several attempts to crack down on alternative financial services such as payday lending due to concerns about their high fees and predatory practices. Historically, usury legislation has been set by the states which, for most of American history, established interest rate ceilings that made small dollar lending unprofitable.[26] This changed slowly throughout the 1900s, as states began raising their limits. In a defining moment, however, the 1978 U.S. Supreme Court ruled that banks could charge their customers the higher

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[21] Kim Porter, "How Do Pawnshop Loans Work?" U.S. News & World Report, November 1, 2022.
[22] Lauren Bird, "Paycheck to pawn shop: Americans financially 'living on the edge' are turning to pawn shop loans," MoneyWise, September 2022.
[23] Consumer Financial Protection Bureau. "Overdraft fees can price people out of banking." Consumer Finance, last modified September 2, 2016.
[24] Consumer Financial Protection Bureau, "Data Point: Checking Account Overdraft," July 2014.
[25] Consumer Financial Protection Bureau, "Overdraft/NSF revenue down nearly 50% versus pre-pandemic levels," May 24, 2023.
[26] Americans for Fairness in Lending. "The history of usury." Wordpress, accessed April 27, 2023.

interest rate of their headquarter state. This decision in *Marquette National Bank v. First of Omaha* gave federal lenders broad rights to disregard state usury interest laws by setting up nominal headquarters in less regulated states.[27]

Storefront payday loan businesses began to spring up across the country in the 1980s, becoming commonplace in the following decade.[28] By the end of 1999, seven national banks had partnered with payday lenders — allowing these payday lenders to charge higher interest rates.[29] This was followed by a period of rapid growth in the industry from the 1990s to the 2000s, during which time payday lenders also began moving online and becoming accessible via smartphones. By moving online, payday lenders could broaden their reach, operate more efficiently, and circumvent some state regulations, making the growth of the industry harder to track.[30]

The federal government implemented key regulations throughout the 2000s, with the Talent Amendment to the 2007 defense authorization bill setting the crucial precedent of a 36% interest rate limit on payday loans. The reforms after the 2008 financial crisis included the 2010 creation of the CFPB along with the Dodd-Frank Wall Street Reform and Consumer Protection Act (which also transferred rulemaking authority under the Truth in Lending Act (TILA) to the CFPB). In the decade to follow, the federal government - through the CFPB - would play a key role in attempting to regulate alternative financial services.

In November 2017, the CFPB issued the "Payday, Vehicle Title, and Certain High-Cost Installment Loans" Rule (Payday Rule). The new rule would have made it more difficult for borrowers to roll over their loans, required lenders to verify borrowers' income ("ability-to-repay" provisions), and cut down on the number of times that lenders can take money out of borrowers' bank accounts without getting additional authorization. These restrictions were projected by the CFPB to save consumers around $7 billion a year, and were hotly contested by the payday lending industry which would lose that revenue.[31] In 2020, the "ability-to-repay" provisions were removed, after never having taken effect. The Rule itself is currently enjoined by the Fifth Circuit and has never gone into effect.

State imposed regulatory restrictions have been effective, but they differ vastly. The Pew Charitable Trusts examined the regulatory regimes of all 50 states and Washington D.C., grouping states based on their payday lending laws. Washington D.C. and 18 states fall into the

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[27] Marquette National Bank of Minneapolis v. First of Omaha Service Corp., 439 U.S. 299 (1978).
[28] Karger, Howard Jacob and Adam Levitin. "Fast cash and payday loans." Federal Reserve Bank of St. Louis, April 10, 2019.
[29] Tasha L. Winebarger, "The Beginning of the End: The Demise of Bank Partnerships with Payday Lenders." 17, no. 7 (2003): 321.
[30] Center for Responsible Lending. "10 reasons to oppose payday loans." State of Lending, 2013.
[31] Dan Ennis, "CFPB rolls back 'ability-to-repay' portion of payday lending rule," Banking Dive, July 8, 2020.

most restrictive category, either prohibiting payday lending or setting interest rate limits that make it economically impractical. In the middle, states like Ohio passed bills to crack down on payday lenders, resulting in a 55% decrease in licensed lending locations. At the other extreme, we find states like Kentucky - limited restrictions have led to the state's payday lenders averaging an APR of 464%.[32] This has resulted in a vast disparity in prices of loans - the least regulated states cost consumers more than four times as much as states like Ohio, with average APRs over 600% in Nevada and Idaho.[33]

Over the past decade, during the rise of EWA products, alternative financial services have lost traction. In 2013, 7.5 percent of households used at least one of these non bank credit products (rent-to-own services and loans via payday lenders, pawn shops, tax refund anticipation, and auto titles). By 2021, the share of households using those same products had fallen to 4.4 percent.[34] This change may reflect a number of factors, from regulatory changes, households receiving pandemic stimulus, more households turning to banks and traditional financial services, or the rise of nonbank fintechs and online payment services.

The rise of EWA - gig work, data, and technology

The rise of new options like EWA may well be a factor in the reduced use of alternative financial services. EWA products address employees' need for short-term liquidity by providing more frequent employee payments. They enable employees to access a certain portion of their earned wages before their official payday, which is then recovered by the provider through either bank debits or payroll deductions.

One factor that has shaped the increased demand for EWA products is the rise of gig work - temporary or freelance work performed by independent contractors, largely arranged through online platforms. With gig work, demand for instant pay grew for three reasons: first, expenses for gig work were often accrued by the gig worker, who might need cash to pay for gas, auto repairs, insurance, cleaning supplies, and other work costs. Second, many gig workers are younger or working for supplemental income, and this demographic expects to be paid faster and more frequently. In the competitive marketplace for gig workers, the provision of on-demand pay can even be used as a benefit to market the role over other opportunities. In a study by PYMNTS intelligence, 81% of workers said that instant payroll would be the deciding factor when accepting a position.[35] Third, since they were not salaried employees, gig workers were often subject to legacy payment processes. In some cases their payments were not on regular weekly or

[32] The Pew Charitable Trusts, "How Well Does Your State Protect Payday Loan Borrowers?" July 26, 2022.
[33] Ibid.
[34] Federal Deposit Insurance Corporation. "FDIC National Survey of Unbanked and Underbanked Households."
[35] PYMNTS, "PYMNTS Intelligence: Workplaces Begin to Offer Instant Payroll in Limited Capacities," January 31, 2023.

bi-weekly payroll cycles, but rather accounts payable which can take up to 60 days or even longer. Shortening that gap was crucial to help retain gig workers and help them cover their expenses.

Demand from gig workers coincided with the rise of almost instant payment rails. Traditionally, employers distributed funds through direct deposits that go through the Automated Clearing House, or ACH, a system used by all U.S. institutions. ACH transfer typically takes 2-3 days.[36] In contrast, with Same Day ACH and Real Time Payment (RTP), payments can be initiated, cleared, and settled within seconds. Since its 2017 launch, payment volumes on the RTP network have grown by over 10% each quarter, reflecting the growing demand for real time payments.[37]

This combination of demand, and the underlying capabilities to meet it are expected to continue to grow quickly. Mastercard projected that global gig economy wage disbursements are expected to more than double from $134 billion in 2018, to $298 billion in 2023.[38] EWA is projected to grow quickly and expand to other sectors as methods for speedier payments become more widely available.

EWA Product and Business Model Overview

Product overview: what is the user experience of EWA apps?

User experience differs slightly from company to company, especially depending on whether they are business to consumer (B2C) or business to business (B2B), described in further detail in the business models overview. Although the steps differ slightly, here we outline the basic steps and experience for an EWA service.

1. **Download and activation:** The user downloads the EWA app that partners with their employer, or downloads an EWA app from the app store. If EWA is offered through a payroll platform, such as Zenefits, the user will need to sign into the app / platform. For some services, the user may also be able to enroll via a website or by calling customer service. The user may then be asked to create an account with the app and will be asked for information from the three following categories.
    a. *Identifiers*: Full name, contact information such as phone number and email, home address, work address, date of birth, proof of identity documentation, password or PIN, or IP address.
    b. *Employment information:* Employer's name and address, salary. B2B apps may pull this information from the employer directly. B2C apps may request pay stubs.
    c. *Sensitive personal information*: SSN, bank account information and log-in details.

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[36] NACHA, "Same Day ACH Resource Center," NACHA, accessed May 1, 2023.
[37] Elena Whisler, "Why Faster Payments Will Dominate Payroll in 2023," TheClearingHouse, March 6, 2023.
[38] Mastercard, "Fueling the global gig economy," August 2020.

2. **Account linking and setup:** The user will need to link to a disbursal method, such as a bank account where the earned wages can be sent. With many EWA programs, if the user does not have a pre-existing payment method they would like to use, they can sign up for a prepaid or debit card from the EWA provider. If they are using a B2C app, they will still need to link a bank account so that the advanced wages can be withdrawn from the account on payday.
3. **EWA request:** Within the app, the user will see the limit to the money they can access - typically a certain percentage of their salary, with an absolute maximum cap per pay period. For example, the user might be able to advance 50% of funds they have already earned, up to a maximum of $500. The user will have to agree to terms and designate where the funds should be sent. The speed with which funds are available depends on the terms that the user selects - for example, some services allow the user to pay an expedited delivery fee to receive funds instantly. If the user did not pay this fee or this is not available, then typically funds will be received within 1-2 business days.
4. **Paycheck deduction or bank account withdrawal:** When users receive their next paycheck, the amount that was received in the advance will have been automatically deducted. For B2C models, the company will attempt to withdraw funds from the user's bank account on payday.

Once the initial set up from steps 1 and 2 are completed, the user only has to go through steps 3 and 4 in order to receive new funds in the future.

Business models: How do EWA providers make money?

Business models for EWA take two main forms. In the first model, B2B, employers typically contract with a third-party EWA vendor which provides the funding for the wage through capital on their balance sheet or use of a debt facility. Employers may also offer the funding directly using their own balance sheet without the presence of a third-party, but this is less common.[39] In the B2C model, companies provide advances directly to consumers without integrating with employers. This model is also known as Direct-to-Consumer Advance (D2C Advance) or "early" wage access.

Companies offering these financial services and analysts writing about them use the general term "EWA" interchangeably with other terms like "daily pay," "instant pay," "accrued wage access," "same-day pay," and "on-demand pay" to describe both of these business models. We outline them in the chart below, and explore major differences at greater length throughout this paper.

[39] Given these variations, B2B may be more accurately described as "B2E," business-to-employee. We utilize B2B nomenclature to remain consistent with industry terminology.

Functionality	B2B Model	B2C Model
Employment verification	Directly through payroll data	Through employee upload of timesheet / pay stubs, access to employee bank account, or geolocation (not available with all apps)
Repayment	Deducted directly from payroll	Debited from consumer bank account
Potential fee types charged to employees / consumers	Expedited delivery fee Per transaction fee	Subscription fee Expedited delivery fee Per transaction fee Tip
Cost to consumer	Ranges from free in the employer sponsored version to completely paid by the employee	Free options are available but typically require user to open an account or debit card
Distribution method	Payroll card Direct deposit to bank account	Direct deposit to bank account
Restrictions to amount	Typically limited to 50% to 80% of earned wages during a pay period, potentially with a maximum amount	Dollar amount limits
Restrictions to frequency of use	Variable, might be once per week or per pay period	Typically no frequency cap

Employment verification:
B2B: With the B2B model, the EWA provider integrates directly with the company's payroll software. The EWA provider can then determine the amount available to participating employees by verifying actual wages earned in the current payroll period.

B2C: With the B2C model, a fintech company offers EWA directly to consumers. For example, anyone, regardless of employer, is able to download the Earnin app. Once on the app, users need to connect a bank account where they receive their current paychecks. Users must also add an electronic or printed timesheet, share an employer-provided work email address, or use the "Automagic Earnings" (GPS) feature if they work from a fixed location.[40]

Cost to employee / end user:

There are typically four types of charges for EWAs. It is common for companies to use a combination of charges, depending on the method of disbursement and the speed of access. These charges are dealt with differently, depending on whether the EWA service is part of a B2B or B2C model.

- **Subscription fee:** charged on a monthly basis, it typically ranges from $5 to $10 a month. These subscription fees are not typically solely for EWA, but rather will unlock access to a range of different products and services such as budgeting and savings tools.
- **Expedited or express delivery fee:** charged when the user chooses to receive their money faster. Typically the amount of the fee scales with the speed - for example, a customer may pay $2 to receive within a day, but $10 to receive within an hour.
- **Tip**: requested of the user at the moment of service. Though voluntary, it may be default to a set amount or percentage.
- **Per transaction fee:** charged each time EWA is used.

B2B: In the B2B model, the cost to the end user ranges on a spectrum, broadly bucketed into three categories: ***employer sponsored*** (meaning that the employer pays for all the fees associated) and the user doesn't pay anything; ***distributed / split***, where employers choose to partially or fully pay the transaction fee but the employee might pay, for example, optional expediting fees; or an ***employee paid*** model, where the employer sets up the system and access, but the employee pays entirely for the cost of advanced wages. The B2B model does not typically include subscription fees or requests for tips, meaning fees are mainly assessed per transaction or for expedited delivery.

B2C: In the B2C model, the cost to the end user also ranges. Free options are available but typically come with stipulations such as using a specified debit card or signing up for direct deposit. Highest fee versions involve a combination of the four possible types of fees. The subscription fees and the tipping model are much more prevalent in B2C than B2B. Transaction fees and expedited delivery fees are also used.

Other variations:

Companies have also been adopting changes to their pricing structure that decrease the direct payment from the customer. In the ***embedded finance model***, the EWA provider offsets costs of providing the service by offering prepaid cards to employees. For example, Clair integrates with workforce management and payroll systems to offer EWA as a benefit, but charges neither

[40] This feature is specific to Earnin and may not be available from other providers. It automatically adds earnings to the user's account based on their work address, replacing the need for a timesheet if the user meets a certain number of conditions, such as having a fixed work address and being able to bring their phone to work.

employers nor employees for access. Instead, Clair makes money from interchange fees, since all employees who sign up for the service need to use the Clair Debit Mastercard and send all or a portion of their paycheck to their Clair Spending Account.[41] Grit Financial introduces another twist on this model - like Clair, they make money through interchange fees instead of charging either employers or employees for access to EWA. They also reward customers for taking EWA by providing the "world's first cashback paycheck advance" through 0.5% cashback and 3% interest on account balances on the Grit Visa debit card.[42] Business models like Clair and Grit Financial minimize or even eliminate upfront costs for employees, but one tradeoff is that employees forgo the option to select their own card, potentially with better features or rates.

Another way that companies can charge EWA consumers less is by restricting the use of advances to preferred vendors and receiving payment from those vendors - in other words, a ***gift card model***. PayActiv now offers employees the option to receive EWA in Uber Cash, Amazon Load, or bill pay.[43] Some employees already use EWA services to withdraw their earned wages into instant gift cards with a bonus amount of up to 25%, which can be redeemed instantly online at specific vendors with no fee to the employee.[44] This approach enables wages to go further in those venues where customers were already intending to spend, but with the drawback that employee wages turn from cash into an illiquid voucher with an expiration date.

These are the current ways that EWA companies make money, but the industry is still young and developing rapidly, with new revenue streams emerging.

Market Overview

Major players in the US market

American employers have already shown strong interest in EWA as a tool for retention, which has led to the rapid proliferation of the B2B model. One industry analyst estimated that nearly 55.8 million earned wage advances, totaling $9.5 billion, were facilitated in 2020 — an increase of 50% from 2019.[45] The exact number of people using EWA through their employers is difficult to determine, but demand can be gauged by the number and market cap of employers, some of whom provide some user base data. The most significant of these B2B companies, Branch, DailyPay, Wagestream, Payactiv, and Even boast large valuations and active user bases.

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[41] Danny Crichton, "Can payday loans be made obsolete? With $15M more, Clair wants to find out," TechCrunch, June 10, 2021.
[42] Grit Financial, homepage, accessed May 27, 2023.
[43] PayActiv program pricing page, accessed June 5th, 2023.
[44] Newswire, "ZayZoon Amplifies Employee Wages with Fee-Free Instant Gift Card Payouts," Newswire, March 28, 2023.
[45] Aite-Novarica Group, "Making Ends Meet: Demand for Pay and Employer-Based Loans," February 24, 2021.

DailyPay, for example, was valued at over 1 billion as of May 2021.[46] Even, for its part, cites 900,000 active members for whom it has saved more than $350 million and avoided over $750 million in interest and fees.[47]

While there are fewer B2C companies, the most popular apps have increasingly large and prominent userbases. Dave, which launched in 2017, has over 10 million users and went public in January 2022.[48] Though its value has since dipped, Dave was considered to be worth about $4 billion in June 2021.[49] For its part, Earnin states that it has over 2.5 million active users and has helped users access over $10 billion in earnings via its Cash Out product.[50] In a January 2021 interview with the Brigit founders, Forbes noted that Brigit serves more than 1.5 million active users, with 250,000 monthly paying users.[51]

Although these numbers include consumers with multiple apps, and apps that use differing definitions of "active user," for just these 3 apps alone, the reported user base is already a highly significant 14 million.

EWA around the world

Although EWA was pioneered in the US where its market penetration is now highest, the greatest potential for the service may very well be in other markets where pay cycles are typically slower and labor laws may be more complex, such as in Europe. Generally, the majority of European companies pay on a monthly basis as labor law does not mandate higher pay frequency.

Significant providers have been founded in the last five years to address this market gap. Wagestream, founded in 2018 and based in the UK, has more than 1 million workers across 300 employers globally.[52] Payflow, founded in Spain in 2020, has over 100,000 users and 175 employers on their platform, with plans to expand to the B2C model.[53]

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[46] Luisa Beltran, "Fintech DailyPay is Now Considered a Unicorn," Barron's, May 18, 2021.
[47] Even homepage, accessed May 3, 2023.
[48] Penny Crosman, "How neobank Dave hit 10 million users in four years," American Banker, June 21, 2021.
[49] Riley de Leon, "Mark Cuban-backed banking app Dave going public via $4 billion SPAC," June 7, 2021.
[50] BusinessWire, "Earnin Announces They Have Provided Access to $10 Billion in Earnings for Members," November 2, 2021.
[51] Eliza Haverstock, "This Fintech Startup Wants To Cover Your Overdraft Fees—And It Raised $35 Million In Series A Funding," Forbes, January 19, 2021.
[52] Ingrid Lunden, "Wagestream, a financial super app for waged workers, raises $175M, passes 1M users and doubles down on the U.S.," Techcrunch, April 13, 2022.
[53] Natasha Lomas, "Spain's Payflow, a salary advance startup, banks $9.1M to fuel a super app growth strategy," Techcrunch, January 17, 2022.

In Asia and Latin America as well, many companies founded in the past couple of years are growing rapidly in terms of valuation, corporate clients, and end users. Refyne in India, founded in 2020, announced an $82 million Series B round of investment in January of 2022.[54] Wagely, founded in 2020 in Indonesia, created the EWA category in Indonesia and not only works with some of Indonesia's largest enterprises but has also expanded to Bangladesh.[55] Their competitor, GajiGesa, also founded in 2020, works with more than 120 companies in a range of sectors and claims that over 80% of their employees have stopped using informal lenders due to EWA.[56] Advance in the Philippines raised a $16 million pre-Series A round of investment and expanded to Vietnam.[57] In Latin America Minu, a Mexico-based employee wellness company, has over 300 enterprise customers and stated 5x revenue growth between 2021 and 2022.[58]

Impact of EWA

To properly evaluate the two distinct business models of EWA – namely, B2B and B2C – we need to take into account how EWA can impact both types of users: employers and employees. For employers, what are the returns and the costs of providing EWA? What choices do employers have to make to ensure that both they and their employees derive maximum benefits? And, for employees, how can EWA have a positive impact on their financial health, especially as compared to traditional financial products? What steps need to be taken, if any, and how can risk be mitigated? Taken together, this analysis of a potential "win-win" proposition can shape a regulatory approach that can ensure a "win-win" outcome.

Independent survey

Third party studies on the impact of EWA (particularly those from academic institutions) are limited. The paucity and the content of the existing studies point to the need for future research and highlight several questions. We issued a survey through Providers, a free mobile app that serves over 5 million low-income Americans on government benefits, to explore these open questions with the intention of providing a direction for further research. We surveyed over 1000 respondents who have experience of EWA either through employers or a B2C app.

Due to the specific nature of the Providers' constituency, our respondents may differ from the average user of EWA. The vast majority of our respondents are receiving government benefits

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[54] Manish Singh, "India's Refyne raises $82 million to help workers get faster access to wages," Techcrunch, January 12, 2022.
[55] FutureStartup, "Indonesian Financial Wellness Startup Wagely Launches in Bangladesh," October 14, 2021.
[56] Catherine Shu, "GajiGesa, a fintech for unbanked Indonesian workers, lands $6.6M pre-Series A," TechCrunch, November 30, 2021.
[57] Fintech News Philippines, "Earned Wage Access Firm Advance Raises US$16M to Push Vietnam Expansion," March 29, 2023.
[58] Christine Hall, "Minu knows financial, employee wellness are connected, so it built 30 gamified benefits," Techcrunch, February 2, 2023.

and thus fall under federal poverty guidelines - for a family of four, that means an income of less than $39,000 per year.[59] Over 80% are hourly or gig workers. The overwhelming majority lack access to traditional credit - 93% of respondents have a credit score below 670 and are thus "subprime borrowers" and over half have used an alternative financial product in the past year.

Our respondents represent some of the most vulnerable workers in America, and the results highlight the strong inroads EWA has made in this segment: 41% of respondents have access to EWA through an employer, and 40% of these respondents use EWA once a week. Over 60% percent of respondents have used a B2C EWA app, indeed the vast majority had used more than one - 2.45 on average. Of those who used a B2C EWA app before, 8% had not just one or two apps, but five or more of them currently on their phone.

Our respondents also shared their anecdotal experience with EWA, the positive and the negative. Many users praised EWA for providing them with money quickly when they needed it most, whether to pay for gas, buy food, or cover an emergency. But many users had complaints about high fees, overdrafts caused by B2C apps, and getting caught in a liquidity cycle – always having to take money out. These stories highlight the nuances of EWA that we explore in the sections below, and the challenges of regulating EWA appropriately that we tackle in our recommendations.

The full set of questions, responses, additional demographic information and survey methodology information are available in the appendix.

Pros and cons of EWA for employers

First, we examine the pros and cons of EWA for employers. There are four main pros:

- **Decreased turnover costs due to employee retention:** An oft cited benefit of EWA is the impact on employee retention - employees that access earned-wages have a lower probability of leaving their firm at any period than workers that do not. A Harvard Business School study on Minu, a Mexican fintech firm, explains the economic mechanisms through which EWA services can increase worker utility: EWA can help employees better manage unexpected expenses, better match predictable expenses that are not aligned with timing of income, or generally help workers buy goods and services earlier in the pay cycle. The researchers found that Minu users on average have about 12% lower probability of leaving the company in the next pay cycle compared to the baseline of non-users (controlling for demographic variables).[60] The researchers also found that the strength of this relationship may differ depending on the age of the worker, job rank, and intensity of use of EWA.

[59] HHS Poverty Guidelines for 2023.
[60] Jose Murillo, Boris Vallee, and Dolly Yu, "FinTech to the Worker Rescue: Earned Wage Access and Employee Retention," Harvard Business School Working Paper March 27, 2022.

- **Stronger recruitment efforts due to employee demand:** Given the strong interest in being paid early among employees, EWA has often been cited as a strong boost for recruiting efforts. Per Visa research, 79% of employees will switch jobs to get EWA.[61] Many companies have begun listing EWA as a benefit to attract employees - for example, by 2022, Wagestream was listed as a benefit on 12,000 jobs on Indeed.com.[62]
- **Increased productivity due to employee financial health and resilience:** EWA can make workers more productive by eliminating financial stressors that may cause absenteeism (unplanned employee absences, i.e. from a car breaking down or a bill not being paid on time) or presenteeism (when an employee shows up for work, but may not be operating at their full capacity, due to worries about finances or finance induced stressors).
- **Payroll integrity:** From a logistical standpoint, EWA providers front the cost of the earned wages for companies and are paid back when they process payroll. As a result, the companies do not face any additional changes to cash flow that would add complexity to their processes.

With regards to the cons of EWA, there are two major areas of risk – especially because of the unclear legal status of the product. As discussed later in the paper regarding the regulatory environment, the current level of uncertainty does put companies at risk of an adverse court decision that would necessitate changing their operations and offerings. The second area is reputational risk. If there are downsides to employees, such as a data breach that results in consumer information being leaked, or negative impact on consumer financial health due to overuse or high fees, then these risks can come back to the employer. This depends on the extent to which the employer ties their name and brand to the EWA offering - for employers that are utilizing an external provider, this will entail less risk than for those employers that choose to provide EWA themselves or are white labeling and actively promoting an EWA solution. As with any third-party vendor relationship, choosing a reputable and financially sound EWA provider to work with should mitigate the majority of the potential risks.

Pros and cons of EWA for consumers

Though companies tout the financial health benefits of EWA, consumer advocates note their significant reservations and argue for regulator involvement. We address the common arguments for and against EWA. Where available, we have incorporated data and evidence from third-party studies. Much of currently available research comes from industry studies, and the area would benefit from further study by academics and other independent analysts.

Pros of EWA for consumers across models:

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[61] PYMNTS.com, "Visa Direct Powers Real-Time Payroll for Frontline Workers," May 14, 2020.
[62] Ingrid Lunden, "Wagestream," Techcrunch, April 13, 2022.

- **No engagement with credit reporting**: Unlike alternative financial services products, EWA does not interact with credit bureaus. EWA companies do not use credit scoring to determine which employees are eligible for wage advances, so even consumers with thin credit files or poor credit can use EWA. Additionally, since the companies do not report to credit bureaus, consumers will not be penalized for seeking out liquidity through EWA and will not face more expensive credit options in the future.
- **No debt collection**: EWA providers do not engage in debt collection activities, meaning that if the wage is not repaid, they will not work to pursue money from the employee through a lawyer or debt collection agency. As such, the companies bill themselves as non-recourse. Payactiv's compliance handbook, for example, states that "Payactiv uses factoring to purchase a receivable from the employee, meaning no debt is created and the transaction is non-recourse."[63] They also note that they assume the risk associated with non-receipt of that receivable, and have never engaged in collection activity or litigation against a user in the event of non-settlement. (A consumer advocate we spoke to noted that the default rate on EWA advances is very low due to the small dollar amounts and providers' ability to recoup payments - the Financial Health Network reported that advances were recouped successfully 97% of the time, so the effective amount of debt collection that an EWA provider could possibly engage in would be extremely limited.)[64]
- **No rollovers**: A persistent problem with payday loans is "rollovers," sometimes also known as "refinances" or "renewals." If a consumer can't pay back the initial loan, they can choose to pay an additional fee to defer the loan due. Rollover or repeat borrowing is very common. Per Figure 2, the majority of consumers who had taken out a payday loan in 2019, still owed money on this type of loan by June of that year. Although many state laws require no-cost extended payment plans as an alternative to rollovers, CFPB research found that high rollover rates and fees continue to persist.[65] EWA does not involve rollover because the companies do not permit the customer to pay to defer the loan due, and the transaction is also non-recourse. As a result, there is no possibility of the high level of additional rollover fees. However, there is still the possibility of repeat borrowing and overdraft fees, as we discuss below.

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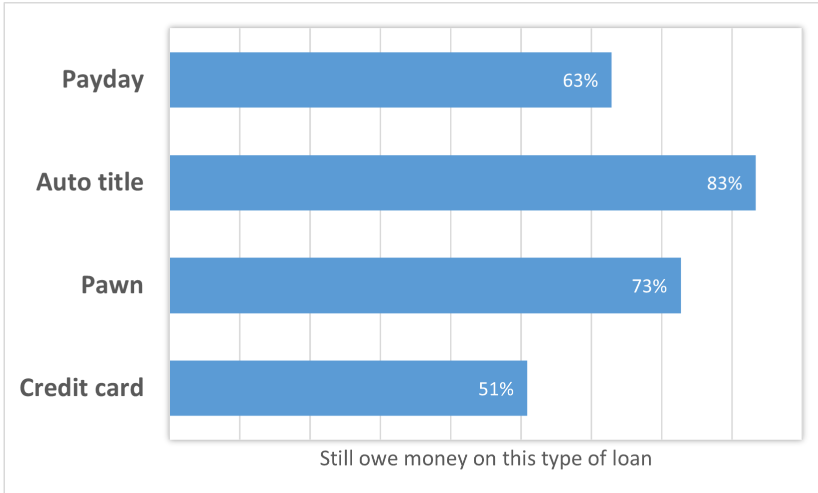
[63] PayActiv, "Compliance Handbook V10," January 17, 2023.
[64] Devina Khanna and Arjun Kaushal, "Earned Wage Access and Direct-to-Consumer Advance Usage Trends," Financial Health Network, April 2021.
[65] Consumer Financial Protection Bureau, "CFPB Finds Payday Borrowers Continue to Pay Significant Rollover Fees Despite State-Level Protections and Payment Plans," Consumer Financial Protection Bureau, April 6, 2022.

Figure 2: Percent of population that, in June 2019, still owed money on a loan they had taken out in the prior six months [66]



- **Potential for lower cost:** In theory, EWA should cost less than alternative financial services, and should cost consumers less in the B2B model than in the B2C alternatives. This can be explained by the "salary link" mechanism - as described in a paper for Harvard Kennedy School by Todd Baker and Snigdha Kumar. They studied an EWA product and found that for a $200 advance, the product charged one-seventh the cost of an overdraft fee. They note that the "salary link," or the ability of the provider to integrate with payroll, lower transaction costs, and obtain superior access to information, is a key driver in the business model because it significantly minimizes risk.[67] The following table displays research conducted by the GAO that supports this conclusion. Across four EWA business models, costs were cheaper than payday loan fees.

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[66] CFPB Office of Research, Research Brief No. 2021-1 "Consumer use of payday, auto title, and pawn loans".
[67] Todd H. Baker and Snigdha Kumar, "The Power of the Salary Link: Assessing the Benefits of Employer-Sponsored Fintech Liquidity and Credit Solutions for Low-Wage Working Americans and their Employers," Mossavar-Rahmani Center for Business and Government Working Paper Series, No. 88, Harvard Kennedy School, May 2018.

Figure 3: Costs of selected EWA Products and Payday Loans[68]

Amount accessed or borrowed	Earned wage access product A[a]	Earned wage access product B[b]	Earned wage access product C	Earned wage access product D[c]	Range of typical payday loan fees[d]
$100	$0 to $3.99	$9.99 to $10.08	$0 to $2.99	$0 or no more than $6.00 per pay period	$10 to $30
$250	Not applicable (company limits access to $100 per day)	$9.99 to $10.08	$0 to $2.99	$0 or no more than $6.00 per pay period	$25 to $75
$500, one transaction	Not applicable (company limits access to $100 per day)	Not applicable (company limits access up to $250 at a time)	$0 to $2.99	$0 or no more than $6.00 per pay period	$50 to $150
$500, accessed in two $250 transactions during the pay period	Not applicable (company limits access to $100 per day)	Not applicable (company requires consumer to repay first advance before accessing earned wages again)	$0 to $5.98	$0 or no more than $6.00 per pay period	$50 to $150
$500, accessed in five $100 transactions during the pay period	$0 to $19.95	Not applicable (company requires consumer to repay first advance before accessing earned wages again)	$0 to $14.95	$0 or no more than $6.00 per pay period	$50 to $150

Notes: For EWA product A, customers can leave an optional tip which is not included into the costs in the column. The charge for EWA product B represents a subscription fee. Further notes are available in the original report.

- **Supersession of alternative financial products:** Due to the potential for lower cost and other advantages, EWA has been presented as a consumer-friendly alternative to expensive liquidity options that come with significant downsides. This capability is often cited by industry - research by Aite-Novarica Group found that 95% of those who were previously reliant on payday loans in any way either stopped using payday loans or reduced use after using DailyPay, while 97% of those who said they had overdrawn their bank account prior to using DailyPay now rarely or never incur overdraft fees.[69] Our survey supports this directionally - 42% of EWA users indicated that they no longer use alternative financial services since they started using EWA, while 28% indicated that they use them less. Independent academic research is needed on how users are choosing between EWA and outside options.
- **Cumulative benefits:** EWA can be offered as part of a suite of employee financial wellness products. For example, one EWA company offers an automated overview of earnings and expenses, cash back rewards, the ability to set savings goals, and financial literacy content.[70] Our survey indicated that this is commonplace – 69% of respondents indicated that their employer offered some kind of financial wellness tool or product to employees. More research is needed to determine the exact mechanism of these

[68] Government Accountability Office, "Products Have Benefits and Risks to Underserved Consumers, and Regulatory Clarity is needed," March 2023.
[69] Aite-Novarica Group, "DailyPay Use and Outcomes, A Summary of Survey Findings," August 2021.
[70] Branch website, Financial Wellness Tools.

cumulative benefits on consumer financial health - i.e. whether the impact is the result of the tools themselves, the synergistic effect of the tools in combination with EWA, or that users are paying attention to and using the tools because they were marketed alongside EWA.

- **Positive consumer sentiment and impact on consumer financial health:** A key positive of EWA is that users like the service and view it positively, especially compared to alternative financial services. In a third-party survey initiated by ADP, 96% of employers offering EWA said that their employees like EWA and that it helps improve their sense of financial security.[71] Wagestream cites 72% of users who felt an improved quality of life (compared to 37% for the global average for financial inclusion services).[72] Research on Brigit, MoneyLion, and Earnin found that a majority of users said that EWA made them feel more in control of their finances and less stressed about their financial situation.[73] In our independent survey, many users provided positive feedback regarding EWA. They highlighted the flexibility, ease of use, and ability to immediately access funds at a critical time of need (see question 29 of survey in appendix).

In summary, EWA products improve the existing situation by avoiding the direct and indirect consequences of gaps in short-term liquidity. However, consumer advocates have raised other concerns. The following reservations apply to both B2B and B2C models:

- **Potential for high costs due to lack of comparability:** Some consumer advocates have questioned whether EWA is truly cheap once costs are presented in a comparable format, such as APR, that accounts for the short-term nature and small dollar amounts of the advances. In 2023, the California DFPI released findings from data collected in 2021 through Memorandum of Understanding Agreements with both B2B and B2C companies. They studied 5.8 million transactions across five companies and found that the average APR was over 330%. In California, this APR is comparable to that offered by licensed payday lenders.[74] APRs can be especially egregious on small advance amounts, as illustrated by Figure 4. Our survey found that small advance amounts are common - over half of B2B users withdraw 30% or less of their paycheck at a time, while 73% of B2C users typically withdrew $100 or less.

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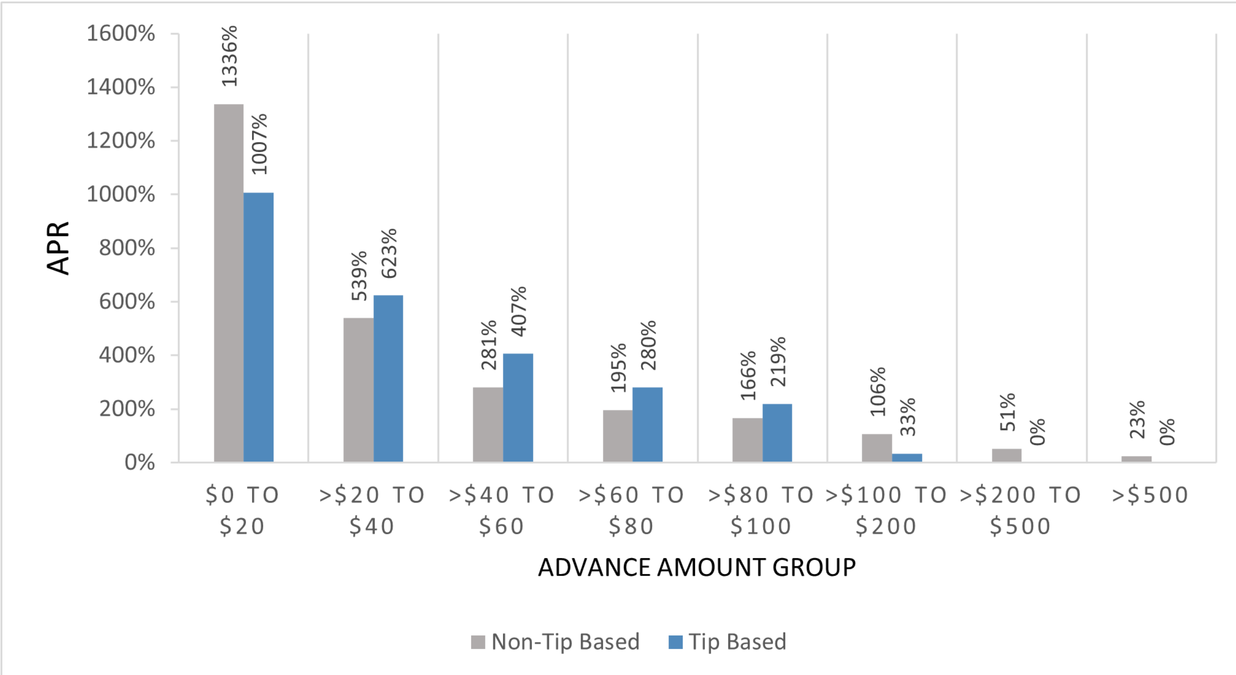
[71] ADP, "Earned Wage Access: Tapping into the Potential of Flexible Pay for Today's World of Work", 2022.
[72] Wagestream, EWA Impact Assessment H1 2021.
[73] Brigit, Money Lion & Earnin Customer Research - Combined Customer Topline Report Research conducted online by FTI Consulting's Digital & Insights team from April 21st, 2021 – May 18th, 2021.
[74] California Department of Financial Protection and Innovation, "2021 Earned Wage Access Data Findings,".

Figure 4: Tip-based and Non-Tip APRs by Advanced Amount[75]



- **Frequent usage patterns, potentially resulting in large total fees:** Data from several studies suggests that EWA is used frequently by the majority of users. In April 2021, the Financial Health Network conducted a wide-scale study to determine how employees use EWA. They studied 7,405,557 advances from B2C providers and 453,945 advances from B2B providers. They found that most users do not take advances on single occasions, but take two or more advances consecutively across several semi-monthly periods and generally over two months.[76] These findings are supported by the California DFPI 2021 EWA Data Findings, which indicated that customers in California used advances nine times a quarter on average, varying between once and 25 times a quarter, meaning about twice a week at the maximum rate.[77] GAO found that users of a B2B EWA product obtained advances 10 to 24 times a year, while users of a B2C EWA product obtained advances 26 to 33 times a year.[78] Frequent use may not be a negative indicator in itself, but if users are paying fees each time, this could add up quickly. Per usage rates and amounts indicated in California DFPI findings, if a customer used advances nine times a quarter over a full year and paid an average tip of four dollars 73% of the time, they

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[75] Ibid.
[76] Devina Khanna and Arjun Kaushal, "Earned Wage Access and Direct-to-Consumer Advance Usage Trends," Financial Health Network, April 2021.
[77] California Department of Financial Protection and Innovation, "2021 Earned Wage Access Data Findings,".
[78] Government Accountability Office, "Products Have Benefits and Risks to Underserved Consumers, and Regulatory Clarity is needed," March 2023.

would have paid over $100 in tips alone to utilize EWA - all before other charges such as expedite fees or subscription fees.

- **Complex and non transparent pricing models can lead to high costs**: Models that use tips, expedite fees and subscription fees can result in fairly high APRs - for example, a $1 subscription fee, optional express fee of $5.99, and $10 tip on a $200 advance for 7 days would amount to a 443% APR. In the below chart, we illustrate the possibility for high sample APRs from a wide variety of current business models and numbers that illustrate an average EWA transaction based on prior studies. Since less information is known about the propensity of users to expedite their transaction, we illustrate the range of APRs across the choices. The chart shows that with a $120 advance amount, $4 tip and 10 days to repay, consumers can end up paying fairly high APRs - up to 578% in one example. While many of these fees are presented as optional, our survey data suggests that users are paying fees more often than not - when asked how the app charged them, less than 40% of respondents indicated that the use of the app was free. More research in particular is needed on how users perceive and how often they use expedite or express fees to receive money instantly. Per a typical user quoted in the LA Times, "If you need the money now and you have to wait two days otherwise, that's not free."[79]

[79] Aaron Glantz and Monica Campbell, "Will California crack down on cash apps that trap women in debt?" May 25, 2023.

Company	Amount of Wages Advanced	Pricing[80]	Sample APR[81]
DailyPay	Up to 100% of Pay Balance, up to $1000 a day	$2.99 for an instant transfer of funds, or $1.99 for a next day transfer	91% (assuming instant transfer)
PayActiv	$500 - $1000 (depending on whether user has direct deposit set up)	$1.99 to transfer to PayActiv card without direct deposit, $2.99 to transfer to non-PayActiv card or Walmart cash pickup	91% (assuming transfer to non-PayActiv card)
Even	Up to 50% of earned wages	$8 / month for Even Plus	243% (assuming Plus subscription cost applied as cost of advance)
Dave	Up to $500	$1 subscription fee Optional express fee from $1.99 to $13.99 Optional tip of up to 25% the advance amount[82]	152% - 578% depending on express fee (assuming $1 subscription fee and $4 tip)
Earnin	$100 to $750	Optional express fee from $0.99 to $3.99 Optional tip between $0 to $14[83]	122% - 243% depending on express fee (assuming $4 tip)
MoneyLion	$25 to $250	Optional express fee from $0.49 to $8.99 Optional tip	122% - 395% (assuming $4 tip)
Brigit	Up to $250	$9.99 / month for Brigit Plus subscription	304% (assuming Plus subscription cost applied as cost of advance)

[80] The pricing column reflects potential charges and does not include comprehensive information on all pricing tiers and free options.
[81] Sample APRs assume a $120 advance amount (based on Financial Health Network study) and $4 tip and 10 days to repay (based on California DFPI information).
[82] Annie Millerbernd, "Dave App 2023 Review: Cash Advances," NerdWallet, April 13, 2023.
[83] Annie Millerbernd, "Earnin App 2023 Review:Paycheck Advance Loans," NerdWallet, April 13, 2023.

- **Potential for consumer to overspend**: Consumer advocates have raised concerns about the potential for consumers to overspend due to increased payment frequency from EWA. Withdrawing wages early might result in higher subjective wealth perception, leading the consumer to spend more because they think that they have more to spend. A paper by Wendy De La Rosa and Stephanie M Tully in the Journal of Consumer Research provided causal evidence that higher payment frequencies increased spending, suggesting that more research needs to be done to better understand how higher payment frequency will impact employees' financial situations in the long-term.[84] EWA providers employ maximum withdrawal limits as one strategy to address these concerns. Our survey suggests that many users depend on these limits to inform their choices. When asked how they determine how much money to take out, 25% of B2B app users and 42% of B2C app users indicated that they take out as much as they are allowed by the apps. More empirical research is needed to understand the optimal amount of EWA withdrawals.
- **Consumer data and privacy issues**: EWA providers need access to sensitive personal information in order to provide their service, and to make determinations about how much money can be withdrawn at a given time. Employees may not be fully aware of all of the data that they are providing and how it is being utilized to make decisions that affect them, or they may feel that they have no other option other than to provide that data due to economic distress. Additionally, consumers' data and privacy may be put at risk of hacking, breaches, mishandling, unauthorized use, or monetization.[85] These risks are amplified in the case of unfair contract terms (elaborated below).
- **Garnishments and other deductions could result in significantly decreased paychecks:** EWA providers do not have insight into all deductions from an employee's paycheck. This could result in the employee overleveraging. Typically, the EWA provider limits the max to a set amount (i.e. 50%) in order to accommodate for potential deductions or garnishments, but this may not be enough margin if the garnishment ends up being large. Technological advancements may mitigate or eliminate this challenge over time - for example, DailyPay utilized machine learning to determine true net pay post garnishments, setting a variable advance rate.

The following problems have been raised as significant potential downsides of B2C services:

- **Potential to incur additional fees when debiting bank accounts**: When the EWA provider recoups the wage from the consumer's banking account, they could cause the consumer to incur an overdraft fee or NSF fee. B2C EWA providers typically retain the right to re-present transactions that fail when they attempt to debit the consumer's bank account, In their contracts, companies typically do not hold any responsibility for these

[84] Wendy De La Rosa and Stephanie M. Tully, "The Impact of Payment Frequency on Consumer Spending and Subjective Wealth Perceptions," Journal of Consumer Research 48, no. 6 (April 2022): 991-1009, https://doi.org/10.1093/jcr/ucab052.
[85] Wired, "Workers are Trading Staggering Amount of Data for 'Payday Loans," March 23, 2022.

fees: “Although Dave is helping users avoid overdraft fees, Dave is not responsible for any overdraft fees, over-the-limit fees, insufficient fund charges, or any other bank fees that result from your failure to maintain a sufficient balance in your Linked Account or Dave Banking Account.”[86] For Earnin, this has already been a challenge. In a class action settlement of up to $12.5 million awaiting approval of a judge, settlement documents say that Earnin caused more than a quarter of a million workers to incur the overdraft and other fees that it promised it would protect them from.[87]

- **“Voluntary” or “optional” tips:** Although tips are optional, some B2C EWA providers engage in strategies to encourage tipping that may lead users to tip more than they intend. The California DFPI outlines the following four strategies that apps use for this purpose: disabling services if borrowers do not tip, setting default tips and using other user interface elements to make tipping hard to avoid, making it difficult to set a $0 tip or not advertising that a particular payment is optional, and claiming that tips are used to help other vulnerable consumers or for charitable contributions.[88] Tips were included in 73% of the 5.8 million advances made to consumers in California in 2021 - a percentage likely boosted by the use of these strategies.[89] In our survey, we found that 37% of respondents left tips when they used the apps and of those respondents, 59% left an amount of $5 or more.
- **Potential for “double dipping”**: By registering for both an employer-sponsored EWA service and also for a B2C app, an employee could potentially “double dip” and receive the same early wages twice. Though receiving double pay in the short term, this could leave the employee short on payday and lead to a spiral of debt. In contrast, with payday loans it can be difficult to take out multiple loans at once, especially in states where payday companies are required to register loans in a payday lending database. In our survey, 29% of respondents who had ever used an EWA app before said that they had taken out more than one loan at a time using multiple apps - suggesting that this is more than just a hypothetical concern.
- **Unfair contract terms:** Jim Hawkins of University of Houston Law Center evaluated five contracts between users and EWA companies as of 2020. In his analysis, he found that the companies were using contract terms that would be deemed problematic by consumer advocates. These include “browsewrap agreement” (asserting that the user has agreed to the company's terms if they simply use, access, or browse the company's

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[86] Dave, "Terms of Service," accessed May 1, 2023.
[87] Tara Siegel Bernard, "‘Apps Will Get You Paid Early for a Price," The New York Times, October 2, 2020.
[88] California Department of Financial Protection and Innovation, “Initial Statement of Reasons for the Proposed Adoption of Regulations under the California Consumer Financial Protection Law and the California Financing Law, California Deferred Deposit Transaction Law, and California Student Loan Servicing Act”.
[89] Ibid.

services) and other forms of passive consent to contract terms instead of requiring active consent. Hawkins also identified mandatory predispute arbitration clauses with class action waivers as an issue - four out of the five contracts that he reviewed mandated consumers to give up their rights to trial by jury, while the other contract required consumers sue exclusively in the small-claims court in a specific county and state. All of the contracts required consumers to give up the right to sue as part of a class action - since damages in this context would be small, this effectively means that class action would be the only way consumers could seek relief.[90] Hawkins also points out that these companies make use of both waivers of express warranties, meaning that the company is not liable for promises made in its promotional material, and unilateral contract amendments by which they can modify the contract without giving notice to the other party. For example, a company could promise that they never charge expedite fees in their marketing, but then later disclaim this express warranty in the contract that the user signs. They could then further change the contract without providing notice to the user. While these terms are not specific to EWA, they are nevertheless real limitations on legal rights for consumers of these products.

In summary, EWA products offer several advantages - by not relying on credit reporting, it allows individuals with limited credit history or poor credit scores to access liquidity without facing repercussions such as debt collection or rollovers. These advantages, combined with the potential for lower costs and a positive impact on consumer financial health, indicate that EWA can be a consumer-friendly alternative to payday loans. Yet, consumer advocates have expressed concerns about the potential for high costs, exacerbated by frequent usage patterns and complex and untransparent pricing strategies such as “voluntary” tipping. These concerns have been substantiated by research from the California DFPI and Government Accountability Office, among others, and supported directionally by our survey research. More empirical, consumer-level research is needed to better understand how users choose between EWA and alternative financial services, the long-term impact of EWA and the exact mechanism and impact of cumulative benefits on consumer financial health, and the optimal design of EWA solutions.

Regulatory environment

Current status of federal legislation

The main source of federal guidance on EWA comes from an advisory opinion issued by the CFPB in November 2020. The opinion concluded that "Covered EWA Programs" do not involve

[90] Jim Hawkins, "Earned Wage Access and the End of Payday Lending," Boston University Law Review 101 (2021): 706, University of Houston Law Center No. 2020-A-1, SSRN, January 6, 2020.

offering or extending credit under Regulation Z and are thus not subject to the Truth in Lending Act (TILA) provided they meet specific criteria, summarized below.[91]

1. The provider must contract with the employer.
2. The advance should not exceed earned cash wages.
3. The employee does not pay a fee (voluntary or otherwise) for the service. The advance should be sent to the account of the employee's choice. If the account receiving the advance is a prepaid account offered by the provider, then certain additional fee restrictions apply to the prepaid account.
4. The provider recovers the advance only through payroll deduction from the next paycheck (with one additional deduction allowed for technical failure).
5. If payroll deduction is not possible, the provider cannot otherwise collect from the employee.
6. The provider must make certain warranties to the employee: there will be no fees, no recourse against the employee, and no debt collection activities.
7. The provider may not assess individual credit risk.

A coalition of 96 consumer, labor, civil rights, and other community organizations and academics urged the rescission of the advisory opinion, arguing that EWA should be legislated like credit. They contended that advancing funds to a consumer before payday and subsequently being paid back constitutes a loan by definition, and that not classifying it as such allows evasion of federal and state credit laws. Additionally, they expressed concerns that the opinion could weaken the Equal Credit Opportunity Act, which uses a similar definition of credit.

Consumer advocates continue to wait for their concerns to be addressed. The CFPB has openly acknowledged that the 2020 advisory opinion is unclear, limited in its scope, and will be re-examined. In December 2021, three consumer advocacy groups in New Jersey wrote to CFPB Director Rohit Chopra to request that the advisory opinion be rescinded because it was being used in proposed legislation as justification for bypassing state lending laws and consumer protections. CFPB Acting General Counsel Seth Frotman sent a letter in response, recognizing that "the advisory opinion has caused significant confusion in the marketplace." Noting that proponents of the bill seem to have misunderstood the scope of the opinion, he stated that "the CFPB's advisory opinion, by its terms, is limited to a narrow set of facts – as relevant here, earned wage products where no fee, voluntary or otherwise, is charged or collected." He also noted that the advisory opinion does not address whether such products would be considered "credit" under other federal laws, such as the Consumer Financial Protection Act (CFPA) or the Equal Credit Opportunity Act (ECOA), much less state law. As a result, he stated that EWA companies should not use the November 2020 advisory opinion from the CFPB to justify

[91] Consumer Financial Protection Bureau, "Advisory Opinion on Earned Wage Access Programs," November 30, 2020.

carve-outs and exemptions from state law for their loan products. The letter also indicated that he wants the bureau to reexamine the 2020 guidance, as urged by consumer advocates.[92]

In March 2023, GAO issued a new report on four types of fintech products (including EWA) and suggested that the CFPB should issue clarification on the application of TILA for EWA products not covered by the November 2020 advisory opinion. CFPB Director Rohit Chopra indicated that "the CFPB concurs with the GAO's recommendation and intends to issue further clarification in this area," suggesting that an update is coming.[93] However, it is unclear when federal guidance will be released.

States are creating their own legislation

In absence of federal action, consumer advocates and industry have turned their attention to the states — a natural battleground for these debates, as many issues related to pay and wages are governed at this level. Of the states, California has been the most active leader - the DFPI signed memorandums of understanding with 11 EWA companies (both B2B and B2C models) in 2021, in order to gain more information about the companies to understand how to regulate them. After finding that users are paying fees that translate into APRs similar to those of payday loans, they have proposed revised regulations that require all providers to register with or obtain a license from DFPI and comply with fee and interest rate limits of California Financing Law.[94] The regulations will be finalized no later than March 2024. If passed, California would be the first in the nation to regulate the industry systematically.

On the other side, industry-backed legislation has been introduced in a number of states, including Georgia, North Carolina, Texas, Nevada, Missouri, Mississippi, South Carolina, and Vermont. These bills utilize model language from the conservative American Legislative Exchange Council (ALEC). As such, the bills typically maintain that EWA products are not considered credit or loans, given that they are non-recourse, do not charge late fees or interest, and do not require mandatory payments directly related to the provision of EWA, among other criteria. However, there are no limitations on total costs that can be charged - non-mandatory payments, such as tips, charge fees for expedited transfer, or subscription fees / monthly membership fees for a group of services that include EWA would be authorized as long as consumers were informed and the service was not conditioned on a non-mandatory payment.

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[92] Consumer Financial Protection Bureau, Seth Frotman, "Your letter concerning the CFPB's advisory opinion on earned wage access," January 18, 2022.
[93] John L. Culhane, Jr. and Michael R. Guerrero, "GAO issues report on fintech products; recommends CFPB clarify when earned wage access products are credit under Truth in Lending Act," Consumer Finance Monitor, March 14, 2023.
[94] National Consumer Law Center, "California to Regulate Fintech Payday Loans," March 17, 2023.

As more states consider regulations, they will likely follow one of two paths: a more stringent approach like California's that brings EWA under state consumer finance law, or a more permissive approach that exempts EWA from credit laws with some increased guardrails around consumer protection but minimal changes, if any, to their existing fee structure. This creates the possibility of a patchwork regulatory landscape with regards to EWA programs, much like the current regulation that applies to the payday lending industry.

Self-regulation and market competition

As concerns mount about emergent EWA practices, entrepreneurs are pioneering new business models that charge employees less, align incentives, and diversify revenue streams. Rosaly, a French startup, offers EWA for free to employees. They charge employers a per capita monthly subscription fee. In our interview with the founder and CEO Arbia Smiti, she noted that they wanted to be the first ethical alternative to banks and therefore chose a business model that would answer regulatory concerns from day one. She also noted that the payment model should not be linked to usage, for fear of misaligned incentives that would lead the company to push people to use it. Brigit, a U.S. startup, shares the same perspective. On their pricing page, they note: "since we charge a monthly membership fee, our business model doesn't rely on our members' continuous use of advances or borrowing in ever larger amounts."[95]

Clair, another U.S. startup, eschews charges on either workers or employers and actually pays payroll providers to encourage them to include Clair in their suite of benefits. Instead it monetizes the EWA user-base by taking a cut from the fees merchants pay Mastercard for using the Clair Mastercard service. On Clair's fees page, they stress, "no high or hidden fees. Not now, not ever."[96]

Beyond the business models of their core product, companies also highlight their financial wellness offerings to differentiate themselves from less socially impactful, mission-driven players. For example, Wagestream - a fintech founded in the U.K. in 2018 that spread to the U.S. in 2021 - offers three additional tools within its app: pay and spend tracking; an automated savings account; and financial coaching.[97] Beyond this, Wagestream is a B corp, built on a social charter and partially owned by U.K.-based financial charities and impact funds. Wagestream also plays a role in encouraging transparency by working with external researchers to release regular assessments of the impact of their products.

Ultimately, the potential for market competition to result in the best outcomes for employees may depend not on the EWA providers, but on companies and their willingness to pay for

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[95] Brigit website, pricing page, accessed June 3, 2023.
[96] Clair website, pricing page, accessed June 3, 2023.
[97] Lynne Marek, "Wagestream jumps into US on-demand pay fray," Payments Dive, June 28, 2022.

worker-friendly business models. An industry expert we spoke to noted that as market pressure grows to offer the benefit, some companies will come to view EWA as a box to check in the cheapest, fastest, and easiest way possible. In that context, models where companies can shift costs of EWA onto workers is highly attractive. Lower cost models may struggle to compete.

In our interview with Smiti (Rosaly CEO), she acknowledged the difficulties of selling their model: "we're convinced this is the right thing to do. We're trying to change the minds of the companies." Coverage of Wagestream hints at this dilemma: in their model, employees pay an optional $2.99 fee per transaction to make their payments instant. While employers are given the option to cover that cost on their employees' behalf, only about 15% of Wagestream's corporate clients currently pay for even part of the fee.[98]

Many companies are trying to convince employers that EWA more than pays for itself by reducing the costs of absenteeism and high turnover. As more data builds and pressure mounts from consumer advocates and employees, perhaps more employers will willingly shift towards more beneficial models of EWA - but this may not be enough.

Recommendations

Recommendations for EWA regulations and public policy

Consumer advocates, regulators on the state and federal level, companies, and employers have all acknowledged the need for regulatory clarity on key questions regarding which laws should cover EWA programs. The rapid growth of the EWA market and the vulnerability of the users makes it all the more urgent to provide immediate guidance.

As the recommendations explain below, it seems evident that EWA services, when accompanied by extensive charges, constitute credit and should be treated as such. Especially when earned wages of workers are concerned, clarity is of the utmost importance and all transactions should have APR equivalents posted and explained. Just as it would be inappropriate for a banking app to solicit tips, it is inappropriate, and in certain cases, misleading for an EWA app to solicit tips. There should be no tip functions in EWA apps. Since EWA providers serve vulnerable populations and need highly sensitive employee information in order to verify the wages that have been earned, there should be an especially high bar set for data usage and privacy standards.

Such guidance should ensure the continued benefits of employer-sponsored EWA, delivered in a meaningful and sustainable context that improves employee welfare, while mitigating harms to consumers. Yet, the nascent nature of the industry suggests that more research is needed before further and more far-reaching policies are introduced, to prevent premature limitations on potential innovations and benefits from EWA. The continued exercise of the CFPB's supervisory authority to request additional information from EWA providers will be instrumental here.

[98] Ibid.

In the interim, employers and EWA providers have a role to play in promoting best practices, furthering research and investigation, and aligning towards better models that promote consumer health.

1. **Provide clear guidance on "Covered" EWA Programs:** The November 2020 advisory opinion from the CFPB was meant to address whether certain EWA programs constituted credit under Regulation Z, which implements TILA. This advisory opinion was pro-business in that it created a legal basis for "Covered" EWA programs to operate, but unclear language has led to the use of the advisory opinion as justification for a number of practices that have demonstrated clear harm to users. Immediate re-issuance of the advisory opinion is necessary - refined guidance would outline more specifically the criteria that is required for a program to be considered "Covered," the consumer financial protection laws and state consumer lending laws that apply to "Covered" programs, and the repercussions for not being considered a "Covered" program. Notably, the existing advisory opinion does not conclude that programs that are not "Covered" are considered credit and should be governed by the protections that apply to other forms of credit. Ideally, re-issued guidance would specify that programs that do not meet guidelines for "Covered" programs are considered credit products that are subject to TILA. The below are suggested clarifications on guidance that would enhance consumer protection:
    a. **Contracts with employers**: The advisory opinion already states that EWA providers should contract with employers directly in order to provide their service. In theory, this should exclude B2C apps that do not integrate with employers. Revised guidance should specify clearly that apps that do not have a direct connection to the employer through payroll deduction, and instead debit the bank account directly, should not be considered "Covered" EWA programs as they lack the ability to verify whether wages have been earned with the same accuracy and can result in negative consequences such as overdraft fees, insufficient funds fees, and instances of "double dipping" (where loans are taken on across multiple apps).
    b. **Voluntary or optional charges, such as tips:** Quite simply, there is limited rationale for a fintech app to solicit a gratuity for the service it provides. Exempting tips from consideration as finance charges would set a precedent for payday and other types of lenders to evade rate caps and interest limits. Re-issued guidance should specify that tips are considered finance charges and companies that charge tips cannot be considered "Covered" EWA programs. While companies maintain that tips are entirely voluntary and thus should not be considered finance charges, many apps deploy language and user interface elements that encourage users to tip more than they may intend through practices that may very well be in violation of the Unfair, Deceptive, or Abusive Acts and Practices (UDAAP) under section 1036 of the Dodd-Frank Act. Additionally, as

suggested by California DFPI, policy considerations suggest that treating tips as finance charges may be the most feasible for consumer protection. Frequently changing app interfaces may be burdensome for regulators to monitor, making it a challenge to police companies to ensure that charges are purely voluntary.

c. **Subscription models**: Subscription models present a particular challenge to regulators because the packaging of EWA within a bundle can make it difficult to ascertain the exact cost of the EWA advance. And yet, packaging EWA alongside financial wellness tools appears optimal as a method to promote the financial wellness of users. In addition, subscription models, given a flat fee, are easy to understand and do not result in an incentive on the part of the EWA provider to promote unwanted usage. In this vein we align with proposed rules issued by the California DFPI: clear guidelines should be presented under which "Covered" EWA programs can charge subscription fees. Namely, subscription fees should not exceed a certain amount per month (see below), other tools must be offered as a result of paying the subscription fee beyond access to EWA, subscription fees must be able to be canceled at any time, and the amount of the permitted wage advance should not be dependent on whether the user pays the subscription fee. For example, companies cannot allow users to advance a limit of $100 generally, but $200 if they pay a subscription fee.

d. **Exemption limit from finance charge consideration**: To protect consumers from excessive fees, the National Consumer Law Center has suggested a $5 limit per month on total charges.[99] California's proposed regulations suggest a $12 per month limit to subscription fees (which are not considered finance charges), and will result in a 5% fee limit - i.e., companies will not be able to charge more than $5 on a $100 advance. Similar regulations should be considered by states as they evaluate policies around EWA. While it seems likely that the CFPB lacks the authority to set charge limits due to the similarity to an interest rate limit, guidance could consider a per transaction or per month exemption from finance charge consideration for employer-based EWAs. Providing exemption limits on all types of charges will be helpful alongside guidelines for specific current charges such as subscription fees, to anticipate the evolution of fee structures over time as companies adapt to new regulations.

2. **Supervise fee-based EWA providers under the CFPB's authority over payday loans or non-bank lenders and conduct research on the impact of EWA programs:** More empirical research is needed to better understand key questions of interest related to how employees are using EWA and what impact it is having. These include questions such as: how are users choosing between EWA and

[99] National Consumer Law Center, Issue Brief, "Earned Wage Advances and Other Fintech Payday Loans: Workers Shouldn't Pay to be Paid," April 20, 2023.

alternative financial services? How do users perceive express fees and how commonly are they paying these fees? What is the long-term impact of EWA, especially as it relates to cycles of debt, dependency, and overspending? What is the exact mechanism and impact of packaging financial wellness tools with EWA on consumer financial health? What is the optimal design of EWA solutions? The CFPB's supervisory authority can be instrumental in requesting information from organizations to answer these questions in order to inform future policies, especially those which are premature given present levels of research and analysis. For example, this could include mandates around specific usage levels such as frequency of utilization, maximum withdrawal amounts or percentages, or regulations around charging express fees.

3. **Mandate fees and rights disclosure with each withdrawal**: The CFPB should require EWA providers to clearly and transparently disclose fees associated with their services - including any subscription, transaction, and optional expediting fees - in a standardized format that helps consumers to understand how the total amount being charged compares to the wages being accessed. Though not designed for exactly these types of loans, the obvious standardized form to use is the APR. The CFPB should also require EWA providers to inform users of rights under federal or state law such as the right to dispute fees or charges and the right to file complaints with CFPB, if applicable. With respect to EWA, certain rights may need to be legislated and disclosed to users with each withdrawal. For example, employees could be provided with the right to stop deductions of EWA from their paycheck, for any reason or for no reason. The Financial Health Network notes that, across various companies, all users in their study had the option to stop or delay the deduction, so this is already in practice. Even in those cases, however, employees may have limited knowledge of their rights. Related to the option to stop or delay a deduction, consumers should be made fully aware that companies retain the right to re-present transactions and that the use of EWA products that recoup payment through account withdrawal can lead to overdraft fees. This will help users properly understand risks related to non-payment or delayed repayment. Finally, another similar right is the option to a refund of any voluntary fees, such as tips. If these remain legal at all, EWA providers should transparently offer to their users the ability to reclaim voluntary fees paid.

4. **Establish data usage and privacy standards**: Consumers are bound to provide EWA companies with extremely sensitive and valuable personal information because of their already financially vulnerable position. Of particular concern is the use of data for decisions governing the ability of the user to access EWA, such as maximum withdrawals or usage limits, in ways that the user is not fully aware of or does not understand. Guidance should clearly state that providers cannot provide, sell, or otherwise disclose

consumer data to third-parties at all except for the express direct purpose of providing consumers with their wages. Providers should be required to inform users of the specific data that is being collected, how it will be used, and how long it will be retained. While most EWA providers are subject to Gramm-Leach-Bliley Act and actively use provisions of that law to govern their disclosure policy, the direct applicability of the Act is unspecified by the advisory opinion and remains unclear given that EWA is not presently considered a loan or credit. As such, there is scope for the CFPB to clearly outline the applicability of existing statutes to EWA and to establish clear standards and best practices for data usage and privacy given that such programs have access to sensitive information in both financial accounts and with their employers.

Recommendations for EWA providers and employers

Regulation of EWA seems to be on its way, given the actions of states and the indications by the CFPB. In light of these realities, we believe that EWA providers and employers can have a positive role to play in growing the industry, ensuring best outcomes for employees, and positioning themselves well for the future. We would offer two additional recommendations for these parties:

1. **Employers that offer EWA to their employees should sponsor costs and monitor financial wellness**. Unsurprisingly, employees want their wages as soon as they are earned, rather than when their employers are legally obliged to pay it to them. The most socially constructive context for EWA is when it is offered through an employer who has incentives to ensure employee financial wellness and, as a result, sponsors the costs. Given this, companies should explore offering EWA. Companies have an opportunity to make their decision carefully, rather than rushing their decision because of market pressure. They can support providers that offer EWA alongside complementary financial wellness tools and products and are invested in monitoring employee well-being. Companies should consider sponsoring the majority of costs for EWA or explore models that pursue alternative revenue streams that charge neither them nor employees. Lastly, they should partner with the EWA provider in proactively monitoring the impact of EWA on the financial health of their employees.

2. **EWA providers should offer additional tools around financial wellness and voluntarily gather and share anonymized usage data with researchers and regulators.** EWA providers that are seeking to differentiate themselves to customers and regulators have an opportunity to do so proactively by developing additional tools around financial wellness to package with EWA offerings, which has been widely noted as a best practice for the sustainable use of EWA. Providers can also develop the evidence base around the optimal way to use EWA, which has been limited by the number of companies willing to share data and proactively engage with researchers. Third-party independent analysis of optimal usage limits, withdrawal amounts, financial wellness tools and how

EWA compares to outside options comprises just some of the research sorely needed in order to maximize financial wellness and ensure the effective use of EWA. Some companies have pioneered these efforts and we encourage more EWA providers to consider doing the same.

Conclusion

As ever more Americans live paycheck to paycheck, the EWA industry continues to grow, rapidly transitioning from a unique perk to a standard component of employee benefits in industries with high turnover rates. In the best case, EWA can be an innovation in financial inclusion - a "win-win" opportunity for employees and their employers. Users - even those with limited credit history - can access short-term liquidity while avoiding costly charges, debt collection activities, rollovers, and marks on their credit. They can gain access to a suite of helpful resources like savings and budget. They can stay at their jobs for longer, with less financial stress and higher levels of productivity. Yet, clearly more must be done to shape EWA into a truly consumer-friendly alternative to the harmful financial products it attempts to replace. Warning signs are emerging quickly: third-party studies have exposed high average APRs that can rival those of payday loans and indications of potential overuse and dependency among EWA users. Other alarming practices include the triggering of multiple overdraft fees and a lack of transparency in pricing models, especially through strategies that encourage users to tip more than they intend.

Given the rapid growth of the market and the vulnerability of users, the CFPB must take steps to eliminate regulatory uncertainty and establish fair standards across the industry. Comprehensive investigation, regulatory oversight, and a level playing field for innovation are crucial to safeguard vulnerable hourly workers and ensure responsible implementation of EWA. We recommend that EWA services with extensive charges and no direct connection to the employer through payroll deduction be treated as credit, ensuring transparency in APR equivalents and eliminating tipping functions in EWA apps. Additionally, data usage and privacy standards should be clarified due to the sensitive nature of employee information. The CFPB's supervisory authority can also play a vital role in requesting additional information from EWA providers that can inform future policies by helping regulators understand how users are choosing between financial products and the long-term impact and optimal design of EWA solutions (such as maximum withdrawal or usage limits).

Such guidance should ensure the continued benefits of employer-sponsored EWA, delivered in a meaningful and sustainable context that improves employee welfare, while mitigating harms to consumers. Employers and EWA providers also have a role to play in promoting best practices, supporting research and investigation, and aligning towards better models that promote consumer financial health. Many EWA companies have already developed standards in an attempt to self-regulate and sustain the competitive advantage that comes from differentiating themselves from predatory payday lenders and other EWA players. As EWA rapidly spreads across the rest of the world and in emerging markets, and more players emerge, self-regulation will not be enough. Public oversight in the areas that we suggest above are necessary to ensure an innovative industry that benefits employers and employees equally.

Appendix

This survey ran from June 3rd to June 8th, 2023 in the Providers App, which is used by over 5 million families per month in all 50 states. Users of the Providers app are on limited income and are receiving government benefits. The survey was randomly shown to users who had indicated in their profile on the app that they were employed within the past year (validated through an additional question in the survey). The following demographic information about the 1025 respondents was pulled from their profiles within the app. Note: Percentages may not total 100% due to rounding.

Highest Level of Education	
Bachelors or Masters	5%
Associates	9%
Some college	27%
High school or post-high school vocational training	47%
Some high school	10%
Other	2%

Income	
Less than $20,000	43%
$20,000 to $34,999	35%
$35,000 to $49,999	15%
$50,000 to $64,999	4%
$65,000+	4%

Hispanic Origin	
Yes	20%
No	79%
Prefer not to answer	1%

Gender	
Female	83.9%
Male	15.6%
Non-Binary / Gender Non-conforming / Another identity not listed	0.1%
Prefer not to answer	0.4%

Race / Ethnicity	
White	51%
Black or African American	33%
Native American or Alaska Native	2%
Pacific Islander	1%
Asian	1%
Prefer not to answer	4%
Other	8%

Note: For some questions, respondents may have selected "don't know / refuse to answer". Some questions were not asked to all respondents based on relevancy. The updated number of respondents is displayed for these questions.

1. **Do you currently receive any of the following government benefits? If so, please select all. (n=1025)**

SNAP	85%
Medicaid / Medicare	73%
WIC	17%
TANF	5%
SSI / SSDI	11%
Other	3%

2. **What range is your credit score in? (n=968)**

300 to 579	50%
580 to 669	43%
670 to 749	7%
750+	0%

3. **Do you have a checking or savings account now? (n=982)**

Yes	80%
No	20%

4. **What best describes your employment status? (n=994)**

Full-time role with an hourly wage	48%
Part-time role with an hourly wage	31%
Full-time role with an annual salary	12%
Self-employed	3%
Other	3%
Gig work	2%

5. **In the past 12 months, have you used any of the following? (n=931)**

Payday loan or payday advance	20%
Auto title loan	6%
Pawn loan	11%
Overdraft bank account and incur a fee	25%
Tax refund anticipation loan	9%
I have not been charged for any of these	45%

6. **In the past 12 months, on average, how often have you used these loans / products? (n=448)**

Never	14%
A few times a year	54%
Once a month	15%
About twice a month	12%
About once a week	5%

7. **In the past 12 months, to your best estimate, how much have you spent on ALL fees for payday loans, auto title loans, pawn loans, overdraft fees, and / or tax refund anticipation loans? (n=449)**

$25 or less	14%
$26-$100	21%
$101-$200	22%
$201-$300	17%
$300+	26%

8. **Does your employer offer any of the below to you to help you manage your money? (select all that apply) (n=1025)**

Financial education	18%
Financial coaching	10%
Budgeting tools	17%
Savings tools	22%
Financial products like a debit card	30%
None / employer does not offer	31%

9. **Does your employer provide you with any app / service where you can get your wages or pay earlier than payday, such as the below? (if you currently have access to multiple apps, please select all that apply) (n=1025)**

Yes (Branch, DailyPay, FlexWage, Instant Pay, PayActiv, Even, Other)*	25%
Yes, but I can't remember the name	16%
No	59%

*Responses aggregated

Number of apps that users had indicated they had downloaded or used one of the six listed apps before. Average: 1.15 apps. Median: 1.

1	75%
2	19%
3	4%
4	1%

10. How often do you use those apps / services (across all that you use)? (n=404)

Never	15%
A few times a year	15%
Once a month	12%
About twice a month	18%
Once a week	40%

11. Think back to your last paycheck. What was the amount? (n=361) Short response answer format. Average $794, median $553.

$250 or less	19%
$251-$500	26%
$501-$750	20%
$751-$1000	35%

12. How much of your paycheck do you typically withdraw when you use those apps / services? Select the closest option. (n=341) Average: 41.5%

10%	28%
20%	12%
30%	12%
40%	6%
50%	16%
60%	5%
70%	4%
80%	4%
90%	3%
100%	10%

13. What do you typically use the wages you withdraw before payday for? (n=364)

Pay for emergencies / unexpected expenses	20%
Regular expenses like groceries, gas, rent, childcare	80%

14. How do you decide how much money to take out? (n=343)

As much as I am allowed by my employer	25%
The amount that I think that I will need	75%

15. How does the app charge you (if you use multiple apps, think about the main app you use)? (n=380)

Free	40%
Small fee each time	42%
Large fee each time	6%
Monthly fee or membership fee	6%
I'm not sure / Other	6%

16. On average, how much does it cost you each time you take money out? (n=200) ***Note: short response, answers have been aggregated.***

0	3%
$1	3%
$2	17%
$3	28%
$4	7%
$5	12%
$6-$10	6%
>$10	26%

B2C EARNED WAGE ACCESS QUESTIONS

The following questions are about apps for getting early wage / cash advances that are NOT provided to you directly by your employer.

17. Select any of the following apps for getting early wage / cash advances that you have downloaded or used before. (Select all that apply) (n=973) *Note: percentages do not add up to 100% due to multiple selection

Yes (Dave, Earnin, Brigit, MoneyLion, Albert, Empower, Other)*	51%
Yes, but I can't remember the name	16%
I've never used early wage / cash advance before	41%

Number of the six listed apps that users had downloaded or used before. Average: 2.45. Median: 2.

1	42%
2	19%
3	15%
4	9%
5	6%
6	9%

18. How many of these apps do you currently have on your phone? (n=574)

One	51%
Two	23%
Three	13%
Four	5%
Five or more	8%

19. In the past 12 months, on average, how often have you used these apps? (n=547)

Never	12%
A few times a year	33%
Once a month	21%
About twice a month	16%
Once a week	16%
Other	2%

Note: half of “Other” respondents entered “everyday” or “daily”

20. How much money do you usually take out when you use those apps / services, in general? (number answer min 0 max 1000) (n=574)

$25 or less	18%
$26-50	20%
$51-100	34%
$101-200	16%
$200+	12%

21. How do you decide how much money to take out? (n=545)

As much as I am allowed	42%
The amount that I think that I will need	58%

22. What do you typically use the wages you withdraw before payday for? (n=553)

Pay for emergencies / unexpected expenses	25%
Regular expenses like groceries, gas, rent, childcare	75%

23. How does the app charge you (if you use multiple apps, think about the main app you use)? Select all that apply. (n=571)

Free	35%
Small fee each time	46%
Monthly fee or membership fee	11%
Optional tip	3%
I’m not sure	5%
Other	0%

24. On average, how much does it cost you each time you take money out? (n=345)
Note: this question was short response, answers have been aggregated. Median: $3

0	3%
$1	5%
$2	14%
$3	13%
$4	5%
$5	19%
$6-$10	14%
>$10	27%

25. Do you leave a tip when you use these apps? (n=547)

Yes	37%
No	63%

26. If so, how much do you give? (short answer, aggregated below) (n=204)

$1-$4	41%
$5-$9	37%
$10+	22%

The following questions ask you about your experience using **any** of the apps we asked you about in this survey (Branch, Even, Dave, Earnin, Brigit, etc.)

27. Have you ever taken out more than one loan at a time, using multiple apps? (n=562)

Yes	29%
No	71%

28. Do you use payday loans, single payment vehicle title loans, pawn loans, or overdrafting your bank account more, less, or about the same since you started using earned wage access / cash advance apps? (n=513)

I don't use them anymore	42%
I use them about the same	23%
I use them less	28%
I use them more	7%

29. **Have you ever had a positive experience using *any* of the cash advance / wage access apps we have asked you about in this survey? If so, please share more about what happened to you and why it was positive. (Selected responses)**
    a. Yes some are really flexible and low fee
    b. I used a few of them not really any bad experience, just some have high fees
    c. Yes it helped me get gas and make it to work
    d. When in need of money and payday is a week or so away..I can count on these apps to advance me money so I'll last till payday atleast.
    e. My phone broke and I was in between checks and couldn't afford a new phone. I was able to get a cash advance to pay for a new phone.
    f. Was able to get a tire fixed using said apps. Wouldn't have been able to pay for the repair otherwise.
    g. I had a loan come through in time for me to travel to Chicago to get a procedure done for my daughters mother that saved her life.
    h. They offered me a max amount and when i agreed to take it the process was simple easy and the funds were available almost immediately.
    i. Yes. Needed money and was able to get it even if it cost more in the long run
    j. Prevented overdraft fees
    k. It helps when you are over budget with bills there are a lot positive and negative aspects with apps
    l. After spending the majority of my paycheck on bills and groceries, a few days later I didn't have enough for gas to get to and from work. Using this app allowed me to borrow a small amount immediately and only allowed me to borrow the amount I could easily pay back, and even waived interest fees when I paid in full prior to the due date
    m. Using Brigit is a positive experience, because it allows you to borrow a small set amount and it goes towards building your credit!
    n. Yes they now offer help with budgeting tips and credit repair.
    o. I love the fact I can access wages everyday if I needed and the fee is lower than any other app for early wages.
    p. Just the ability to get a cash advance through apps like these is great
    q. I get happy when I am able to get a loan to use, because then I am not stressed on needing money

30. **Have you ever had a negative experience using *any* of the cash advance / wage access apps we have asked you about in this survey? If so, please share more about what happened to you and why it was negative. (Selected responses)**
    a. yes..u get stuck in the cycle because u need every penny u make so u end up reborrowing the money u just paid back..it never ends..
    b. Yes took money without my permission
    c. The interest was too high
    d. Had a employee call and harass me for not paying the loan on time
    e. I was told my payback amount would be one price but ended up being way more
    f. They want a direct deposit of 1000
    g. Yes, it has caused overdrafting
    h. Yes, the fees were outrageous
    i. Dave kinda sends you in a loop
    j. Once I borrow from my pay check, my original check isn't much on pay day.
    k. The down fall when using these apps is when get paid the amount that USA advanced to you comes out of pay check
    l. They all withdrawal at same time and took my whole check
    m. Yes it just turned into a cycle of always taking money out
    n. Yes, when there is not enough in your account it does cause an overdraft and you do incur the overdraft fee. They will not pay for the overdraft on your account.
    o. Couldn't pay back the advance after losing employment
    p. Yes. Accidentally added a tip the first time for $15.
    q. Yes they keep you in debt to where you have to reborrow immediately to stay ahead and you get further behind.