Columbia Law School Global Law and Business Seminar: Introduction to Fintech Law

July 26, 2022, Afternoon

COLUMBIA LAW SCHOOL

Columbia Business School

RICHMAN CENTER

TODD H. BAKER

SENIOR FELLOW, RICHMAN CENTER FOR BUSINESS, LAW & PUBLIC POLICY, COLUMBIA UNIVERSITY

Class Outline

- Session #1
  - Introduction to FinTech
- Session #2
  - Fintech Toolkit: The Business Model Canvas, Public Policy, Law & Regulation
- Session #3
  - FinTech Business Models—Consumer & Small Business Lending
- Session #4
  - Fintech Business Models– Alternatives to Payday and Overdraft: Earned/Early Wage Access
- Session #5
  - Fintech Business Models-- Payments Innovation
- Session #6
  - Fintech Business Models– Bank Charters & Fintech Access
- Session #7
  - Open Banking in the US and EU—Approaches and Outcomes
- Session #8
  - The Challenge of Crypto Regulation in US

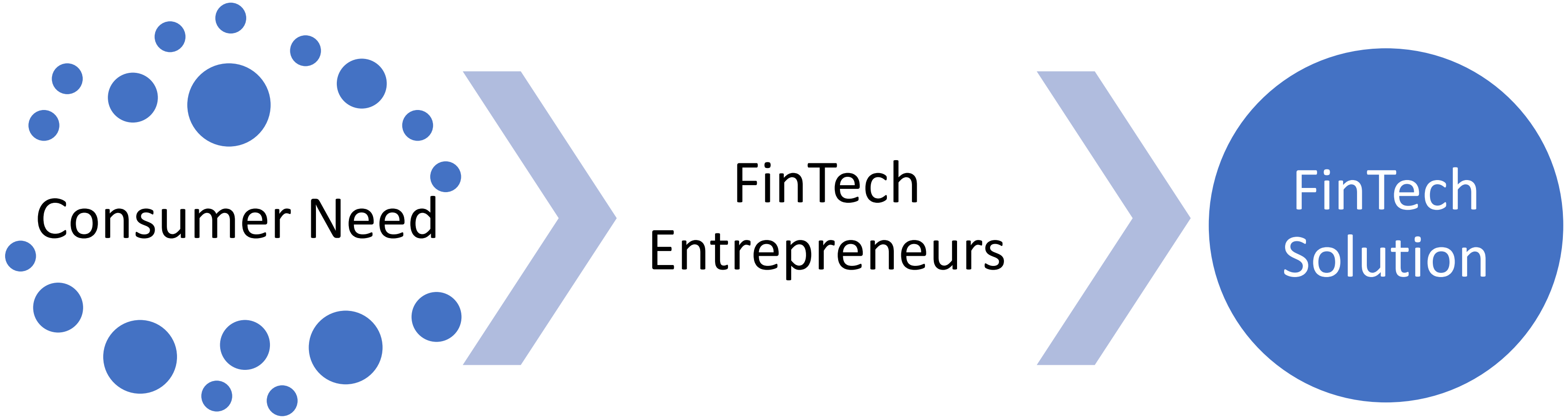
Agenda

- FinTech and Financial Health : FinTech Alternatives to Payday and Overdraft for Low- Income Working Americans
- **Earned Wage Access—A Novel FinTech and the Square Peg Problem**
- **Other Fintech Solutions: Gusto, Dave, Chime, Current, Brigit**
- **Brigit Business Model Discussion**

Questions?

FinTech and Financial Health : FinTech Alternatives to Payday and Overdraft for Low- Income Working Americans

FinTech Entrepreneurs Find Unserved or Poorly Served Financial Needs and Develop New or Better Solutions



They Do This By Devising a Business Model

- Who they serve

- How they make it work

- How they make money doing it

And by Creating Financial Products that Satisfy the Need

What is the Unserved or Poorly Served Financial Need We’re Discussing Today?

The Need: Help With Liquidity Stress

- More than 50 million Americans in low-income working families are financially stressed.
- Incomes and household wealth have stagnated at the bottom of the economic ladder
  - Both income and expense volatility have increased
- The most pressing everyday issue for these Americans is managing cash flow
  - They usually have the resources to pay their regular monthly bills but can’t handle small financial shocks or timing mismatches because they lack the savings buffer the more affluent take for granted.
- Many low-wage workers also can’t access reasonably priced and structured small loans
  - Can’t stretch out larger, non-discretionary outflows—like medical, home repair & auto expenses--over time.
- Details can be found at https://www.hks.harvard.edu/centers/mrcbg/publications/awp/awp75

Today, This Need is Met Through Short-Term Small-Dollar Credit (STSDC)

Types of Short-Term Small Dollar Credit (STSDC)

Payday Loans

- A payday loan is a fee-based cash advance, typically two weeks in term, repaid in a single lump sum by post-dated check or ACH authorization out of the customer's next paycheck, or "rolled over" for an additional fee until a subsequent paycheck.
- Emerged in the 1990s
- 20,000 payday loan storefronts, many online websites
- $38 billion lent annually (counting renewals as new loans) to 19 million payday loan customers who pay $9 billion per year in payday loan fees
- Payday borrowers typically spend over $520 in fees to repeatedly borrow $375 over several months
- A typical two-week payday loan with a $15 per $100 fee equates to an annual percentage rate (APR) of almost 400%
- Loss rate of approximately 60% for established payday loan businesses

Standard Payday Loans

ACE CASH EXPRESS®

What is a payday loan and how does it work?

At ACE, you can apply for a payday loan online or in-store, depending on your state.

Payday loans are short-term loans designed to help you pay for immediate expenses. The loan balance is due in full on your next payday.

If you need quick cash and you have a steady source of income, a payday loan could be an option for you. Payday loans can help you cover overdue utility bills, unexpected car repairs, and other emergency expenses.

Online

To apply for a payday loan online, all you need to do is fill out a simple online application and sign a few forms online. This easy process only takes minutes. If you are approved, you could pick up the money in-store or have it deposited into your bank account the next business day.[1,2] On your next payday your account will be automatically debited for the amount you owe.

In-Store

You can also apply for a payday loan at certain ACE store locations. Just use the store locator to find a store near you and apply in person. If you are approved, you can walk out with cash in hand.[1]

Are payday loans available in my state? How much can I borrow?

Payday loans are available online and in-store in the states below.

Minimum and maximum loan amounts vary by state. If approved, the amount you may borrow will depend upon your income and standard underwriting criteria.

Online

California: $100 - $255
Florida: $100 - $500
Idaho: $100 - $1,000
Kansas: $200 - $500
Louisiana: $300
Minnesota: $200 - $500
Ohio: $200 - $1,250

In-Store

California: $100 - $255
Florida: $100 - $500
Indiana: $50-$605
Kansas: $100 - $500
Louisiana: $100 - $300
Minnesota: $100 - $500
Missouri: $100 - $500

Check n Go | SERVING YOU FOR 25 years

1.800.561.2274 Contact Find a Store My Account

Apply Now | What We Offer | Get Answers | Refer-a-Friend | Locations | Finance 101

Font size

You are here: Home / Locations / Florida

You should be enjoying Florida life with the people who matter most – not

Auto Title Loans

- A small loan secured by the title to a car, truck, or motorcycle that the borrower already owns. The lender holds the legal title to the vehicle in exchange for a loan amount. If the loan is repaid, the title is returned to the borrower. If it is not repaid, the vehicle may be repossessed and sold.
- 8,000 auto title loan storefronts, many websites
- $1,000 average loan size
- Single payment or short installment term
- $3 billion in fees annually for $2+billion in auto title loans extended to more than 2 million customers
- Typical APR of 300%

Pawn Loans

- Small loans collateralized by personal items such as jewelry, watches, cameras etc.
- $6 billion in revenues annually
- 10,000 pawn stores ϒ $150 average pawn loan size, 1-4-month term, 20-25% per month, 15% default rate
- 7.4% of population has used pawn loans

Bank Deposit Advances

- An advance paid directly into a bank account and repaid in a lump sum from the customer’s next direct deposit.
- Linked to bank account
- 150% to 450% APR
- $343 median daily balance
- Volumes are low as fewer banks offered product due to regulatory issues
- Recent regulatory “small dollar credit” guidance from regulators has increased bank involvement (see Appendix)

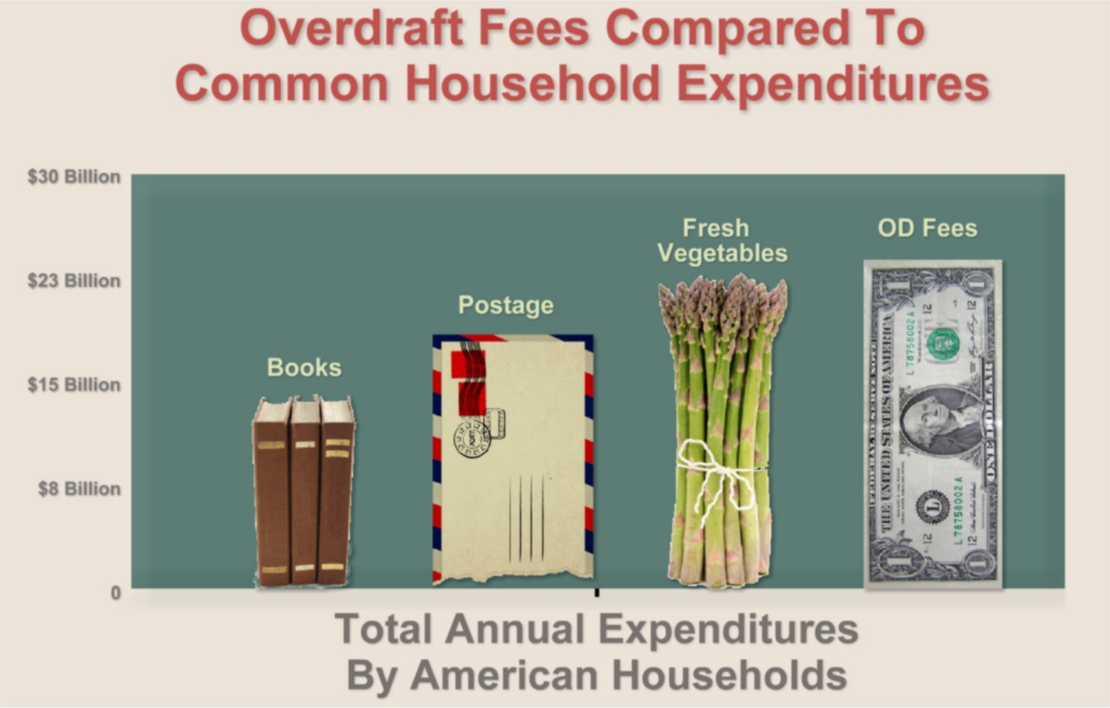
Bank Overdraft Protection 1/2

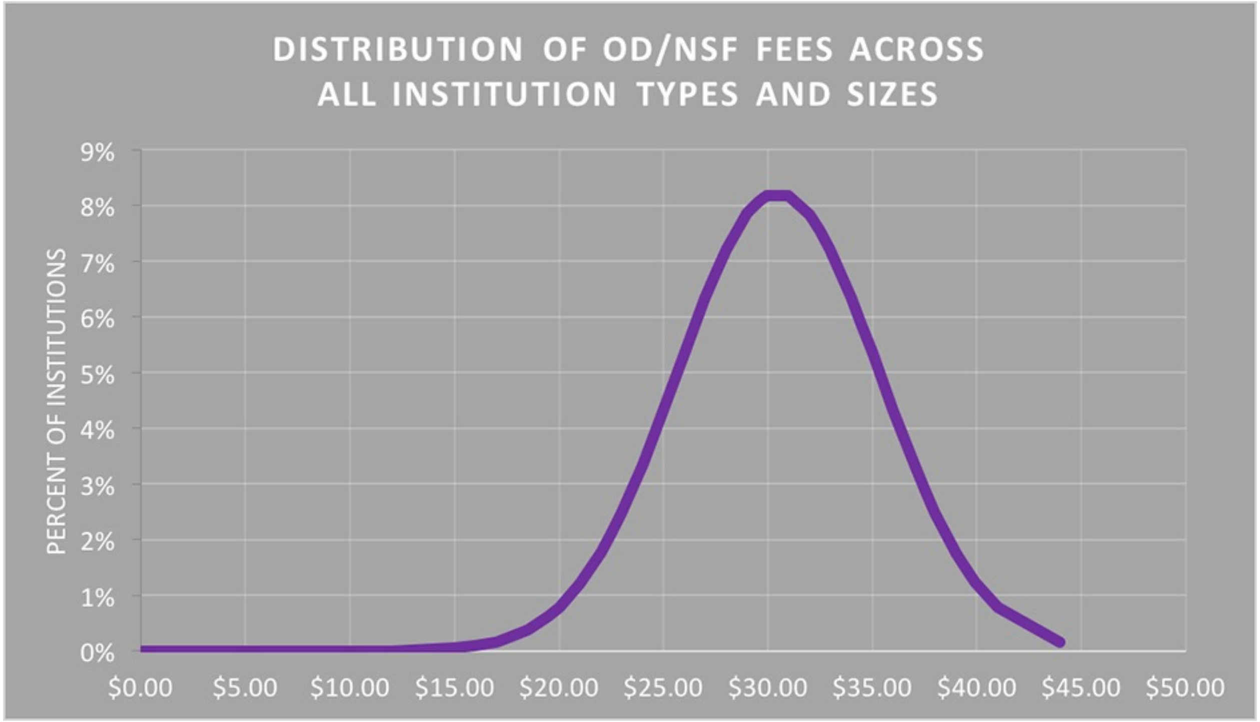
- A bank charges a fee (typically $35 per occurrence) to cover each incident of non-sufficient funds on each item (check, debit, ACH) drawn against a checking account. Most banks provide this service to checking customers, but customers must “opt-in” to gain coverage for non-recurring debit card transactions and ATM withdrawals.
- Bank overdraft protection fees make up over 2/3 total bank deposit account fees, averaging $250 per year for customers using service
- Forty-Two percent of customers incur over $300 per year in fees
- Eight percent of bank customers incur nearly 75 percent of all bank overdraft protection fees
- 70% of heavy overdrafters are employed and the average heavy overdrafter paid nearly a full week’s worth of annual household income in bank overdraft protection fees in the past year, and most people who expended a week of pay made less than $25,000 annually

Bank Overdraft Protection 2/2

- Ten percent of millennials overdraft more than 10 times a year
- Banks with over $1 billion in assets charged customers $11.16 billion in bank overdraft protection fees in 2015, accounting for 8.0% of profits.
- Small banks also offer these products so the banking industry total is considerably larger.
- Total fees typically make up 2% or more of total bank revenue.
- Bank practices frequently maximize incidence of fees in the daily settlement process by reordering transactions from large to small (thereby triggering an initial overdraft with one of the larger checks and adding additional fees from the smaller checks rather than paying most of the small checks before the overdraft occurs), by charging individual fees for each overdraft and by charging the same fee for all overdrafts regardless of size.
- Put in lending terms, if a bank customer “borrows” $24 through an overdraft for three days and pays an overdraft fee of $34, the theoretical APR on the “loan” would be 17,000%.

Drill Down: Overdraft Fees



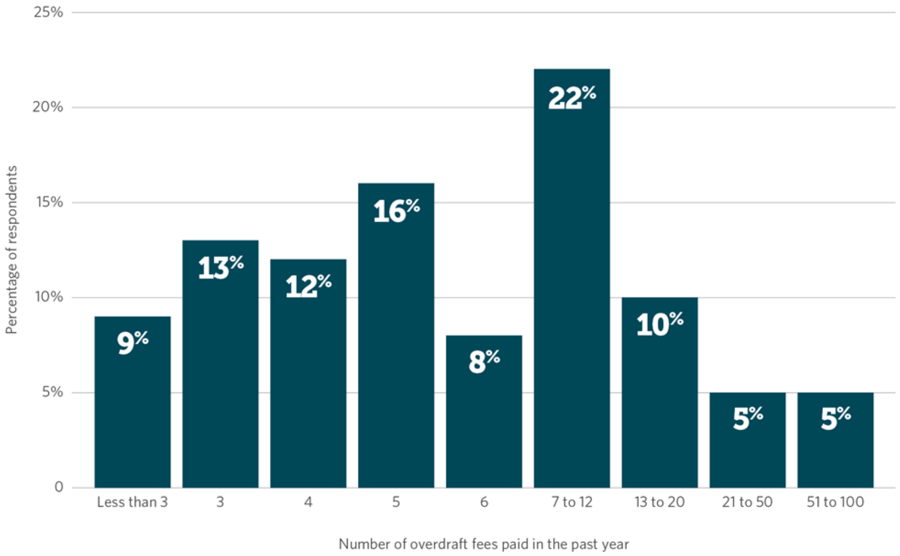


Drill Down: Overdraft Fees

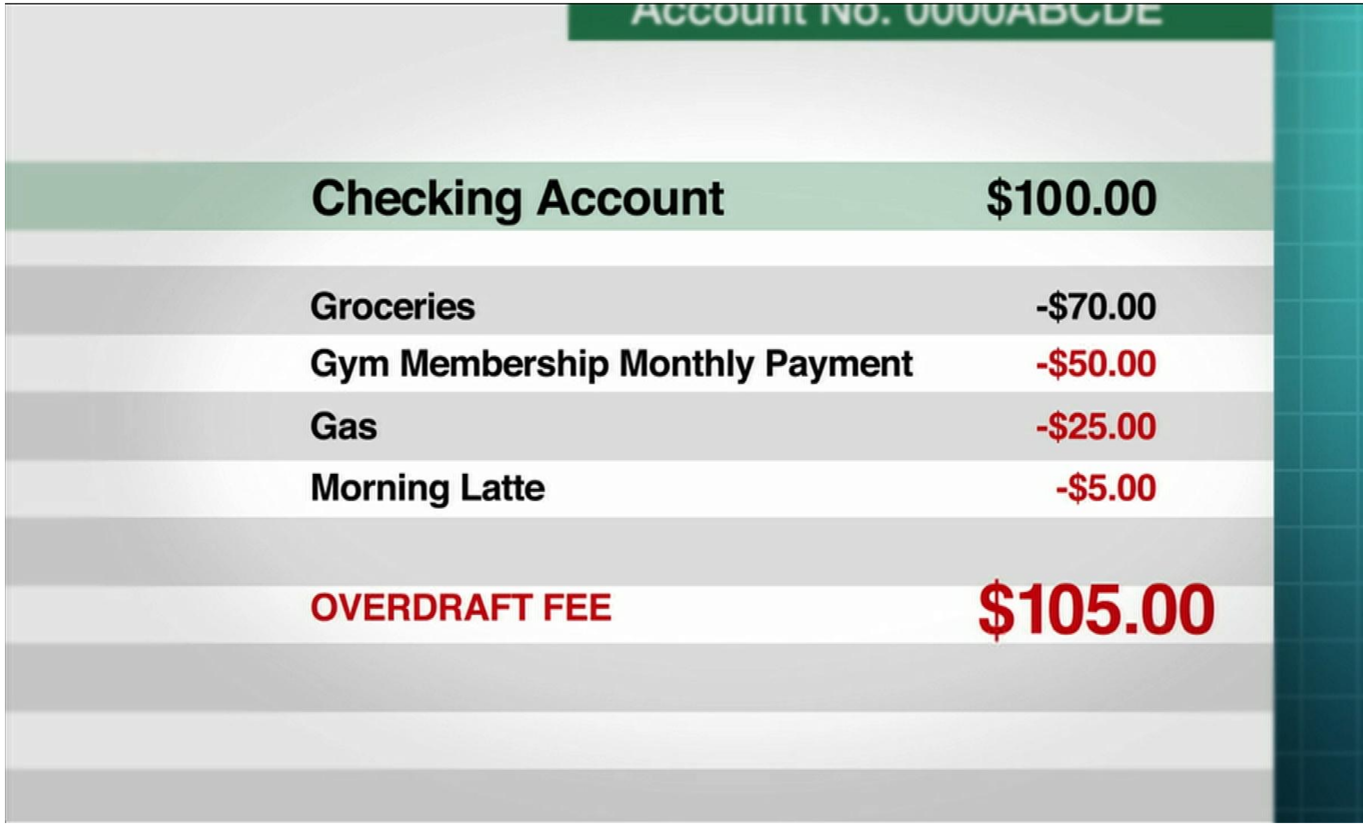
Figure 1

Half of Heavy Overdrafters Paid 6 or More Overdraft Fees in the Past Year

Percentage of respondents, by number of fees paid



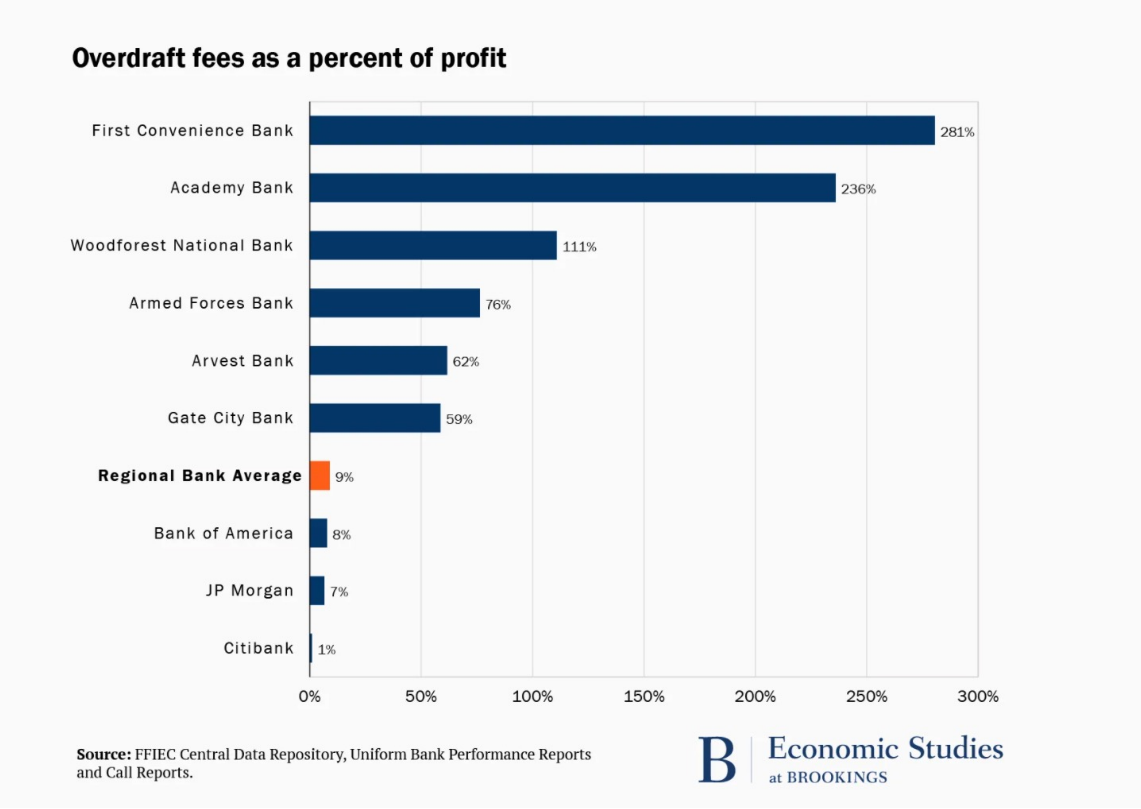
Note: Results are based on 304 survey participants who reported paying more than $100 in overdraft fees in the past year. Respondents were asked, “Within the past year, have you been charged an overdraft fee, an insufficient funds fee, or any other fees for having a negative balance in your checking account?” and “How many of these fees have you paid in the past year?”



Drill Down: Overdraft Fees

Overdraft fees by institution

Financial institution	Overdraft coverage fee (per item)	Max fees per day	Total possible cost in a day (excludes extended overdraft fees)
Alliant Credit Union	$28 (or $0 transfer fee from linked account)	Unlimited	$0 (transfers from linked account) to unlimited
Ally Bank	$0; you have six business days to bring your balance back to positive to avoid your account being limited	N/A	$0
Associated Bank	$35	4	$140
Bank of America	$35	4	$140
BB&T	$36 (or $12.50 transfer fee per day from linked account)	6	$12.50 (transfers from linked account) to $216

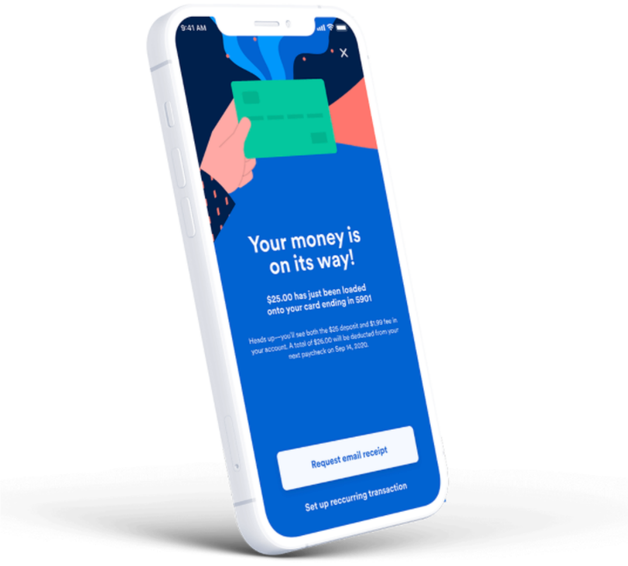


Questions?

Creating a Financial Product to Satisfy the Need: Earned Wage Access Fintech

payactiv For You For Companies Insights About Us Log In Request a Demo

Their money when they need it



Instant Access

Users can transfer their earned wages to their bank account, Payactiv card, or pick up cash at Walmart. We front the money.

Low or NO Cost

Both free and low-cost options help save an average of $200 a month in overdrafts, late fees, and high-interest loans.

There is more

Pay a bill, call an Uber and get daily necessities from Amazon with EWA funds directly from the Payactiv app.

Works for everyone

Exempt, non-exempt, part-time, salaried, everyone can use EWA from day one through an easy opt-in enrollment process.

How EWA helps Jake

13th of the Month

Car Trouble
$30 in Bank Account

Turns to $150 payday loan to cover expenses

- Charged $23 in payday interest
- Incurs overdraft fee of $35 for autopay electricity bill
- Pushes out gas bill and incurs late fee

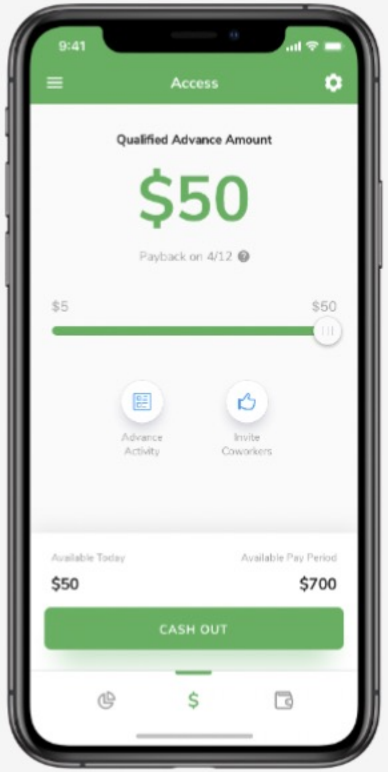
Uses EWA app to withdraw up to $150 instantly

- Reviews upcoming bills
- Picks up additional shift

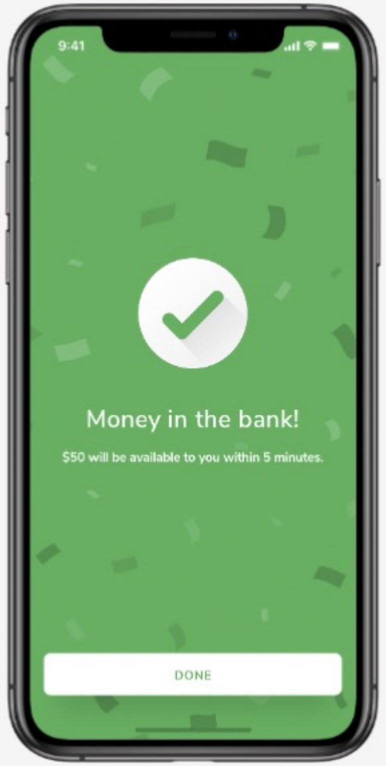
- Charged $0 for advance
- Avoids overdraft fee and pays electricity bill on time
- Has enough to pay gas bill on time

branch

1. Employee Requests Funds



2. Employee Receives Funds



3. Employee is Paid Minus Funded Amount

How EWA is Used

Top purposes for using EWA:

66.9%	Food & Groceries
55.8%	Personal Emergency
46.6%	Transportation
20.9%	Family Emergency
12.9%	Medicine & Medical Care
8%	Other

How Does it Work? The Power of the Salary Link

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OPINION | COMMENTARY

A Better Alternative to Payday Loans

Using a 'salary link,' employers can help low-income workers get access to credit.

By Todd H. Baker and Snigdha Kumar
May 13, 2018 1:45 pm ET

SAVE PRINT TEXT 92

More than 50 million Americans in low-income working families struggle to manage everyday cash flow. That means they have the resources to pay monthly bills but can't handle small financial shocks or timing mismatches because they lack the savings buffer the more affluent take for granted. Most lack access to reasonably priced credit and can't stretch out medical, home and auto expenses over time. The result is a damaging cycle of reliance on high-cost payday loans, auto-title loans and bank overdrafts that often leads to financial ruin. While interest groups squabble over whether more or less regulation is the answer, people suffer.

- The "Salary Link" is an agreement between the employer, employee and EWA provider to deduct EWA advances before they reach the employee's bank account
- This largely eliminates repayment risk
- Another way to think about it?....this moves EWA to the top of the employee's payment prioritization stack
  - Gross Wages, less
    - Taxes and Social Security
    - EWA
    - =Net Wages, less
      - Rent
      - Groceries
      - Credit Cards
      - Etc etc

Questions?

The 3-Dimension FinTech Framework

Business

Public Policy

Law & Regulation

Business Model Analysis

1

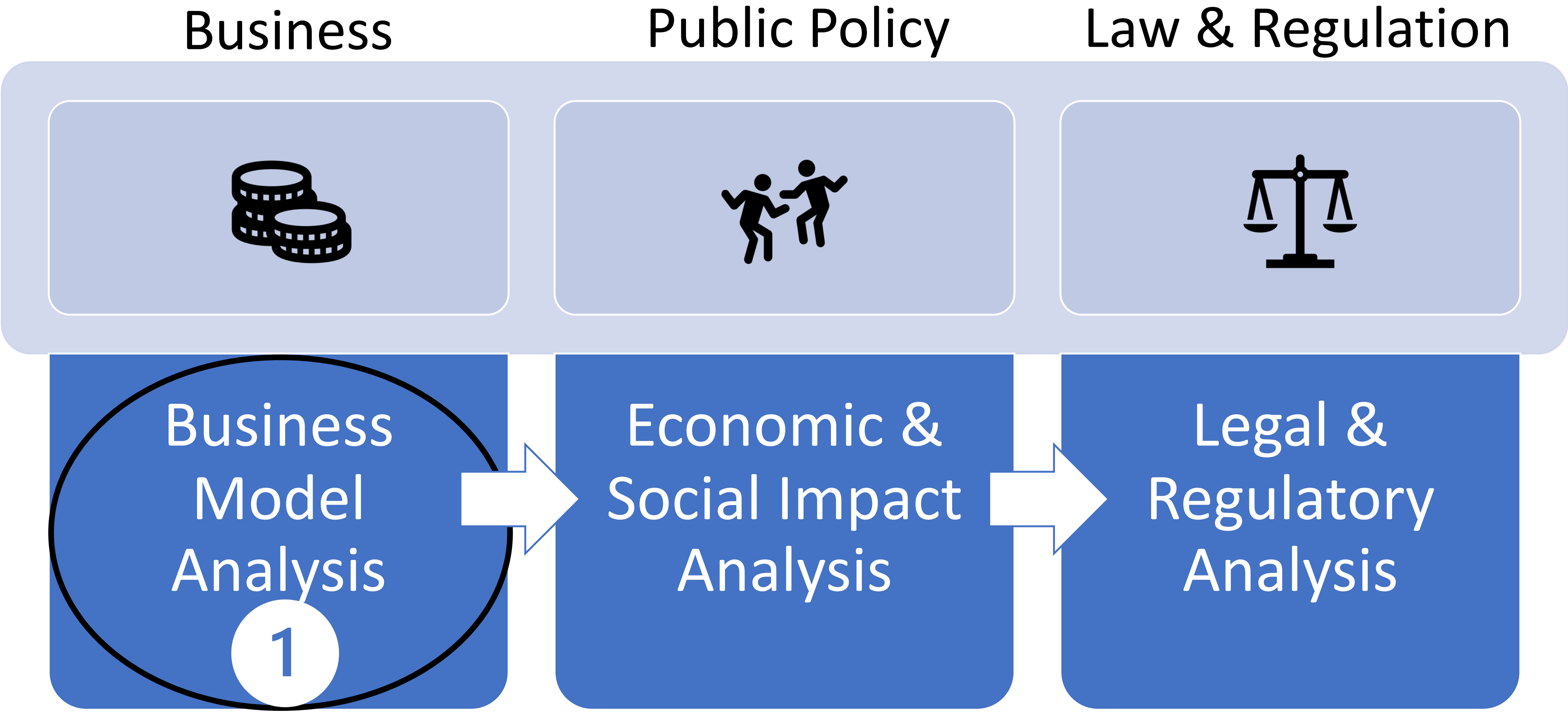
Economic & Social Impact Analysis

2

Legal & Regulatory Analysis

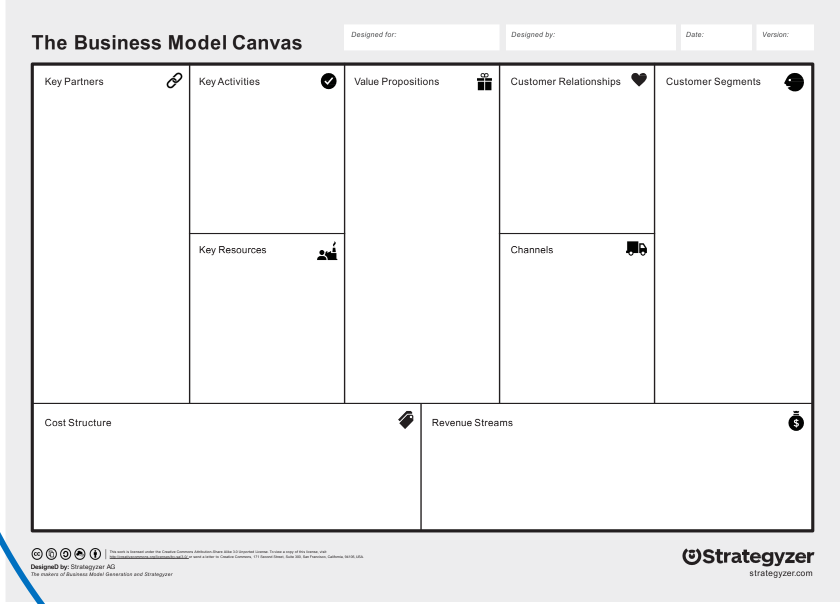
3

1st Dimension: Business Model Analysis



1 Tools for FinTech Business Model Analysis

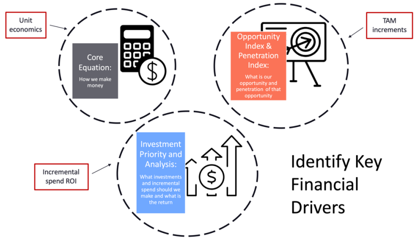
1A: Canvas



TODAY

1B: Supplements

Key Product Insights
Customer Segment
Product Function
Product Value Prop
Pricing Structure
Who else pays/subsidizes?
Use of Banking Rails
Product Structure & Behavior
Data/AI



1C: Risks

Financial Services Risks:
Credit risk
Market risk
Operational risk
Liquidity (Funding) risk
Reputational risk
Legal, regulatory & political risk
Data/AI risk
Systemic risk

The Business Model Canvas

Designed for: PayActiv in 2021

Designed by:

Date:

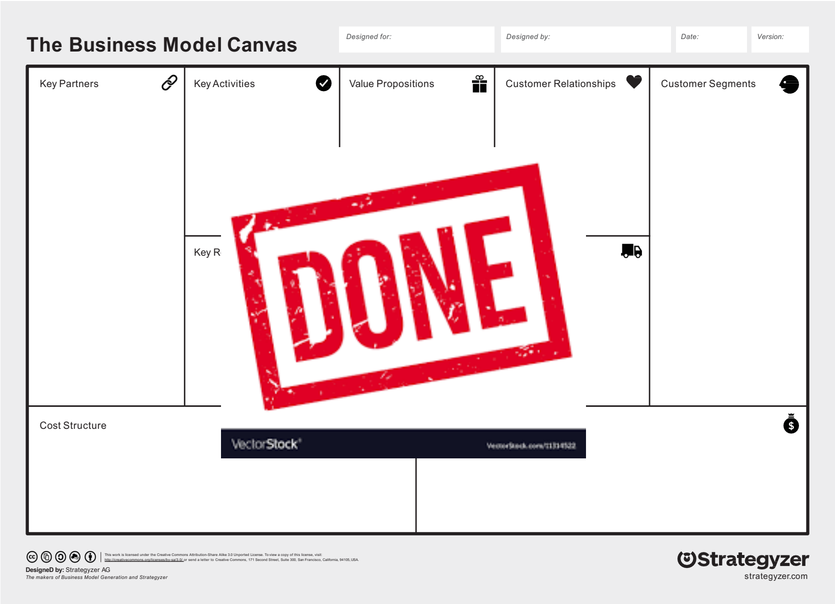
Version:

Key Partners	Key Activities	Value Propositions	Customer Relationships	Customer Segments
Employers Payroll Services Providers Funding Provider EB Consultants Regulators	Software Design to Integrate with Employer Payroll Systems	Reduce Employee Financial Stress, Turnover and Absenteeism Solve my Liquidity Problem for Free/Nominal Fee-Avoid Payday and Overdraft	Digital and Call Center for B2C Personal for B2B	Employers Providers of Payroll Services Wage Earners With Liquidity Needs
	Key Resources Software Developers Sales & Marketing		**Channels** Sales Force B2B Employer Channel B2C	

Cost Structure	Revenue Streams
IT Infrastructure Sales & Marketing Funding Cost (Interest)	Fee for Use (up to $5/2wk pay period) if no DD of paycheck to prepaid PayActiv Card Interchange on Prepaid Card if DD to Card

1 We'll Use Only One Supplementary Tool

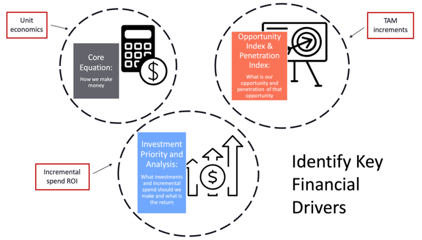
1A: Canvas



1B: Supplements

Key Product Insights

- Customer Segment
- Product Function
- Product Value Prop
- Pricing Structure
- Who else pays/subsidizes?
- Use of Banking Rails
- Product Structure & Behavior
- Data/AI



1C: Risks

Financial Services Risks:

- Credit risk
- Market risk
- Operational risk
- Liquidity (Funding) risk
- Reputational risk
- Legal, regulatory & political risk
- Data/AI risk
- Systemic risk

Key Product Level Insights

- **Customer Segment**
  - Hourly workers
- **Product Function**
  - Liquidity for timing mismatch
- **Product Value Prop**
  - Save money while accessing needed liquidity
  - No need for payday loan or overdraft
  - Low or no cost
- **Pricing Structure**
  - Free version when employee uses prepaid card or up to $5 per pay period when doesn't
  - Added financial health benefits

- **Who Pays/Subsidizes**
  - Free version relies on prepaid debit card interchange
  - Employee pays if no DD to prepaid card (with occasional employer subsidy)
- **Use of Banking Rails**
  - Prepaid debit card in free version
- **Product Structure & Behavior**
  - Very short maturity
  - Salary Link lessens PayActiv risk significantly
  - No credit analysis needed—all can use
  - Structured to avoid rollover risk and high usage charges
- **Data/AI**
  - Employer data on accrued wages shared with PayActiv

Business Model Analysis 1C: Special Financial Services Risks

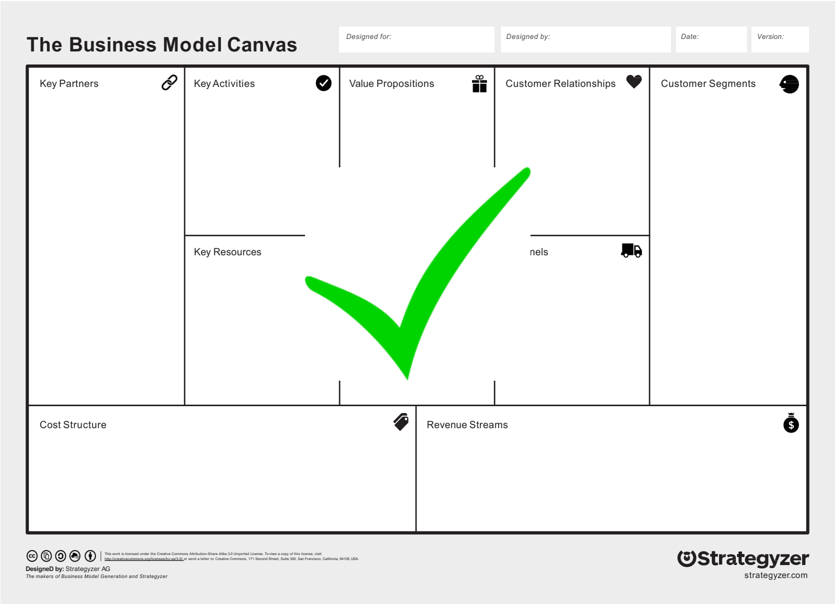
Financial Services Risks:
Credit risk
Market risk
Operational risk
Liquidity (Funding) risk
Reputational risk
Legal, regulatory and political risk
Data /AI risk
Systemic risk

PayActiv Risk Canvas

- **Credit risk. …L**
- **Market risk. ...L**
- **Operational risk. ... H**
- **Liquidity (Funding) risk. ... M**
- **Reputational risk. ... H**
- **Legal, regulatory and political risk. … H**
- **Data Management/AI Risk. …H**
- **Systemic risk. ... L**

1 FinTech Business Model Analysis is Complete

1A: Canvas



1B: Supplements

Key Product Insights
Customer Segment
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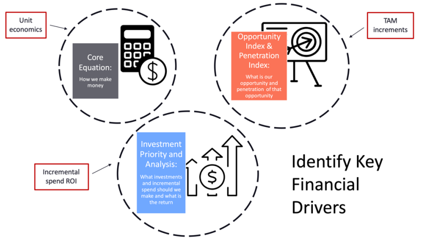


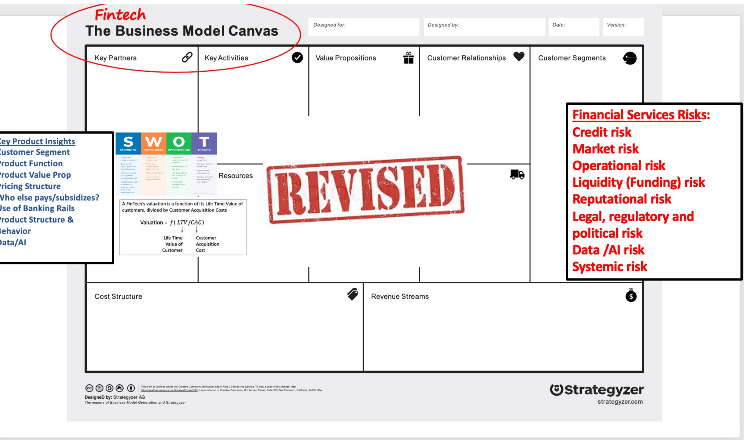
Identify Key Financial Drivers

1C: Risks

Financial Services Risks:
Credit risk
Market risk
Opera
Liquid ... g) risk
Reput
Legal, regulatory & political risk
Data/AI risk
Systemic risk

Questions?

Now: Add Second Dimension: **Public Policy**



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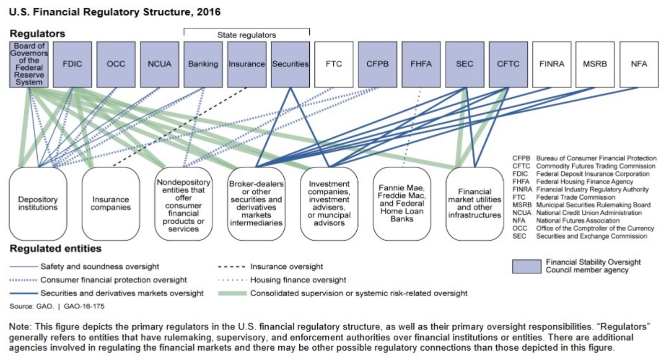

1

2

3

Public Policy Analysis

Policy Screens for Consumer FinTech

Utility/Scalability

- Utility: Cost/Avoidance vs. Alternatives
- Delivery at Scale Possible?

Inclusivity/Exclusivity

- Wealth/Income/Race/Ethnicity/Sex/Disability

Alignment Analysis

- The incentives imbedded in a fintech business and/or product model and consumer interests

Data Utilization

- Source/Privacy/Control

Systemic Impact

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*

THE URBAN INSTITUTE

MAY 30, 2018

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https://www.hks.harvard.edu/centers/mrcbg/publications/awp/awp88

TODD H. BAKER

MRCBG SENIOR FELLOW

SNIGDHA KUMAR

MPP 2018

POLICY FAILURE

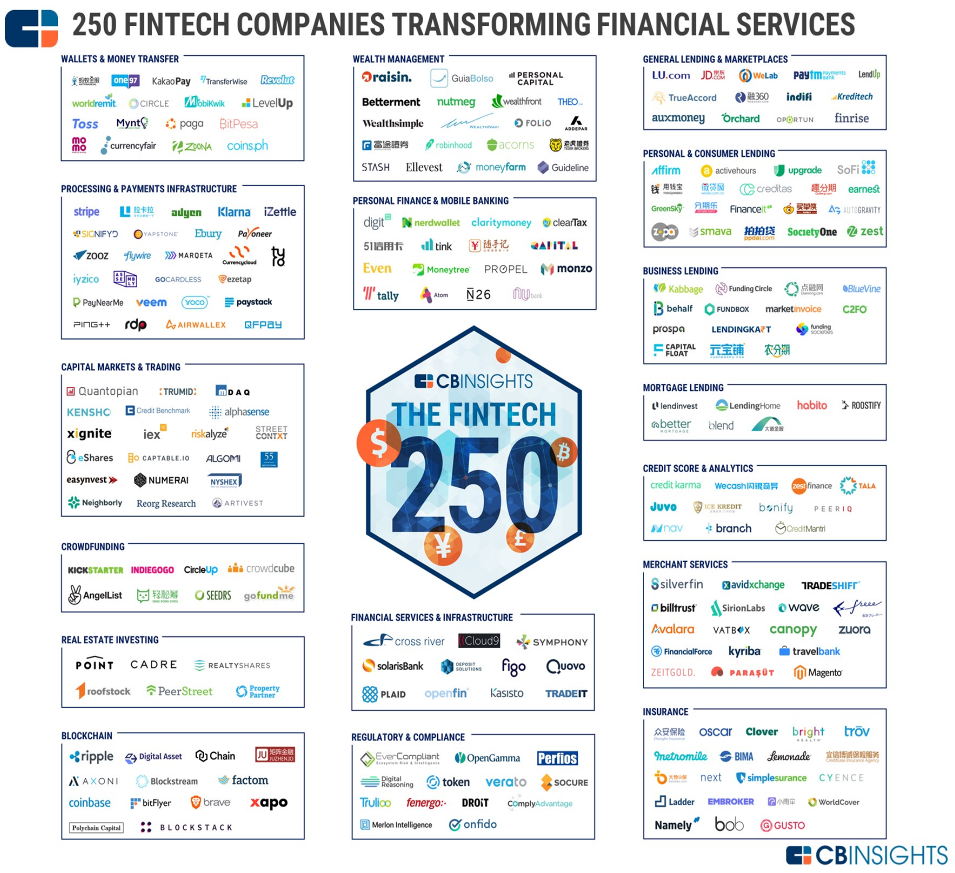
- There's agreement that financial stress is a big problem but no consensus on what to do about it
- Policy discussion polarized around "politicized" issues of personal responsibility, income distribution and fairness that are the most divisive
  - Consumer advocates say lenders could make reasonably-priced loans to consumers with mixed or poor credit histories if they worked harder to help their customers succeed
    - Then press for legal restrictions on payday, auto title and bank overdraft practices
  - Lenders say that the only way they can broaden the spectrum of borrowers and make a decent capital return is to charge very high prices, even if those high prices cause more defaults
    - Argue that regulation will cut off credit access to low-income consumers
  - Politicians divide along tendentious pro-market or pro-regulation lines
  - We desperately need a new approach

WHAT IF THERE'S ANOTHER WAY?

- **Can The Employer Sponsorship Provide an Answer?**
  - The top ten employers alone employed almost 6 million people in 2016
- **Stressed Employees Perform Worse & Cost More**
  - Reduced Productivity
  - Absenteeism
  - Increased Turnover
  - Higher Administrative Costs
  - Increased Medical Costs
  - Pilferage

CAN THE FINTECH REVOLUTION HELP?

- **Hundreds of Companies Providing Mobile and Online Financial Products**

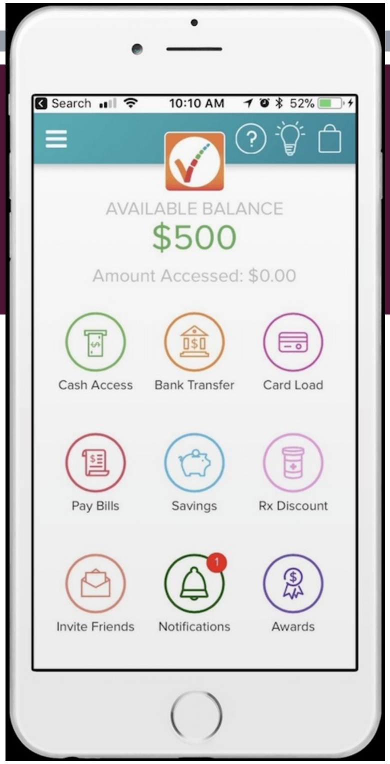


Digital Credit Access/Cost Improvement Lenders	Digital Credit Builder Lenders & Services	Financial/Cash Flow Management Apps	Income/ Expense Variability Management	Alt-Consumer Bank	Savings Solutions
Personify (Applied Data Financial)	SelfLender	DoubleNetPay	Even Responsible Finance	Varo Money	Acorn
Opportun	Lenny	Moven	FlexWage	Simple	Digit
LendingPoint	Lendstreet	MyFin	PayGoal	Aspiration	Earn
FS Card	Finova	Mint	Ziero Finance	Chime Banking	Long Game
Elevate	Payoff	Earnup	Active Hours	Clearbanc	SmartyPig
Float	Revolution Credit	Prism	PayActiv	Bee (One Financial)	Qapital
FIG Loans	Ecredit Hero	Albert	Nowsta		
Lendup	Bloom Credit	Wage Goal (NTFS)			
Ascend	ecredable	Qwil			
	Guaranty Bank	DoubleCheck Solutions			
	Neo				
	Happy Mango				

ASSESSING EMPLOYER-SPONSORED FINTECH BENEFITS

- **We conducted Research on two FinTech companies using employer channel**:
  - **PayActiv**, which offers an "earned income advance" product for employees of participating employers
    - Allows employees to access portion of earned salary prior to payday
    - Currently in Walmart with Even Responsible Finance
  - **SalaryFinance**, which provides low-cost, short-medium term installment loans to employees, which are repaid from payroll
    - Focus is on debt consolidation
    - Currently large only in UK, although entering US market through partnership with United Way.
- **Big addressable market** for employer-based FinTech solutions
  - In 2014, almost 65 million Americans, or a little over 41% of wage earners, worked in jobs paying between $15,000 and $50,00.0 Over 55 million individuals worked for companies with more than 500 employees (47 million of these worked for companies with over 1,000 employees)

PAYACTIV PROVIDES ACCESS TO EARNED BUT UNPAID INCOME TO LOW-INCOME WORKING AMERICANS



PayActiv
Security | Dignity | Savings

EMPLOYER-SPONSORED FINTECH BENEFITS—PAYACTIV 2018

- **PayActiv** (*reaches over 2.5 million employees in the US, across the 50 states*)
  - A financial wellness service offered standalone, embedded or integrated. Includes earned income availability and multiple cost savings features for lower income workers
  - Leverages the typical two-week payroll latency period by advancing earned but unpaid wages between payment dates. All employees are eligible for the benefit and includes extensive guardrails to help employees maximize savings. No recourse to employee if advance unrepaid.
  - PayActiv gains permissioned access to employees' time and attendance data and applies various algorithms to adjust for schedules, partial hours, part-time and full-time hours, exempt or salaried status, tips, overtime, etc.
  - Earned funds can be accessed as cash at any Walmart store, moved to any bank account, any payroll/prepaid card, biller, a Visa prepaid card issued by PayActiv and if selected, an automated savings account. Additional cost saving wellness services include Uber rides without having an Uber account and Amazon cash loads for online purchases. Newer services are added regularly.
  - A flat fee of $5 for biweekly, and $3 for weekly pay period in which the service is used (*includes fund access and other wellness services*)
    - The fee is fixed and the employee can access wellness services multiple times in their pay period, up to an aggregate of $500
    - According to the company, in over 30% of the cases the membership fee is borne or subsidized by the employer
  - Currently partnering with Walmart as their provider for earned wage access. Over 200K Walmart users access funds every month.
  - PayActiv is integrated with ADP and is now directly available to over 600,000 businesses through the ADP marketplace.
  - PayActiv partners include Visa for prepaid, Uber for rides, Walmart Direct2Cash for cash pickup, OnShift and Amazon (*not yet announced*).

METHODOLOGY AND FINDINGS

- **What We Measured**
  - Cost of Products vs. Market Equivalents
  - Inclusivity of Products vs. Market
  - Impact on Employers—Used Turnover Rates as Proxy
- **What We Found**
  - Much Lower Cost for Borrowers
  - Much Greater Inclusivity for Damaged and Invisible Credit Profiles
  - Evidence of Potentially Reduced Employee Turnover Costs for Employers—Millions in Cost Reductions

COST AND INCLUSION VS. MARKET ---PAYACTIV IS FAR LEST COSTLY AND COMPLETELY INCLUSIVE

- **Cost of PayActiv**: $5 fee (often subsidized) for employee to access $200 earned wages
  - Employee can access several times without incurring additional fee
- **17% of the cost of Payday loan**: $15/$100 advanced for Payday loan=$30 for $200 loan
  - Payday borrowers frequently roll over loan for additional and growing fee
- **14% of cost of single Overdraft**: $35 for typical overdraft fee
  - Usually, several overdraft fees are charged on any day account is overdrawn
- **Inclusion**: **all** employees are eligible for PayActiv regardless of credit history

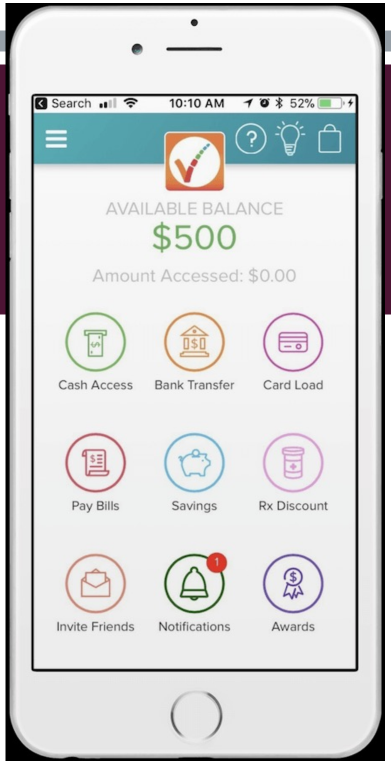
WE MEASURED BENEFIT TO EMPLOYER BY IMPACT ON EMPLOYEE TURNOVER RATE

- **High turnover is a problem** for large, consumer-facing companies that tend to employ low-wage workers.
- **Annual turnover rates can be staggering**
  - 30% among bank tellers
  - 30-45% among call center employees
  - 100% in fast food/QSR outlets
  - 60-300% in hotels
  - 100% in supermarkets
  - 59% in retail generally
- **Turnover costs employers**:
  - 16 percent of annual salary for high-turnover, low-paying jobs (earning under $30,000 a year). For example, the cost to replace a $10/hour retail employee (a typical wage at Target or Walmart at the time of the underlying study) would be $3,328
  - 20 percent of annual salary for midrange positions (earning $30,000 to $50,000 a year). For example, the cost to replace a $40k retail manager would be $8,000

By giving employees access to PayActiv product, employers on an average experienced a

19% reduction

in turnover rates



~90% of PayActiv users are under 40 years of age and earn $15/hour or less

PayActiv
Security | Dignity | Savings

CAVEATS

- Data on Turnover not statistically dispositive—only an association effect is shown
- Other factors could have had greater impact
- Data sets had between 9 months and 24 months of data
- Impact is likely reduced as loan term lengthens
- Further research is needed

IF VALIDATED BY FURTHER RESEARCH, COULD MEAN $475MM SAVINGS ANNUALLY FOR A LARGE EMPLOYER LIKE WALMART

Potential Savings for Walmart Using PayActiv Product

Cost of employee turnover for each low income wage worker ($10/hr.)	$3328	*Per employee*
Average annual rate of attrition at Walmart	50%	
Total number of employees in Walmart	1,500,000	*In the US*
Total annual attrition at Walmart	750,000	
Reduction in attrition rate due to provision of financial wellness product	19%	*PayActiv number*
Total annual attrition after financial wellness product	607,500	
Difference in annual attrition	142,500	
Total cost saved (142,500 x $3328)	**$474,240,000.00**	In *USD/Year*

Savings for Walmart using 19% turnover reduction through PayActiv could be approximately $475,000,000 annually

NUMBERS LIKE THESE SHOULD MAKE EMPLOYERS PAY ATTENTION—AND THEY ARE

Retailer joins financial technology startups Even and PayActiv to launch industry-first tools for personal money management, financial planning and on-demand access to earned wages

BENTONVILLE, Ark. — **Dec. 13, 2017** — Walmart today announced a suite of new financial wellness services for more than 1.4 million associates nationwide. The new offering was created in collaboration with Silicon Valley-based financial technology startups Even and PayActiv. Associates will access the tools through the Even app, available for both iOS and Android devices.

THE WALL STREET JOURNAL.

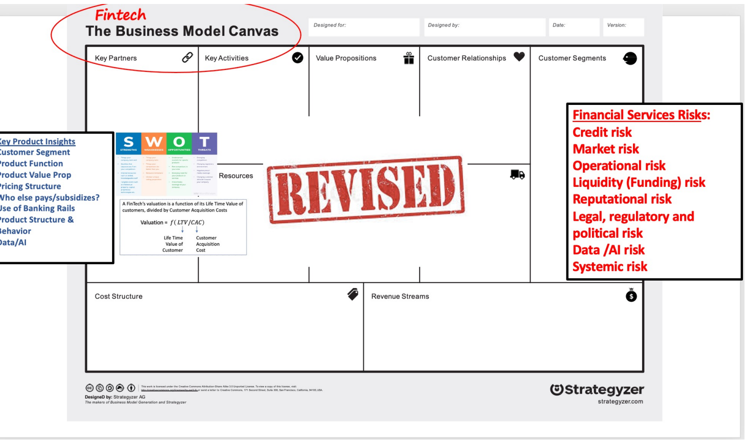
A Better Alternative to Payday Loans

Using a ‘salary link,’ employers can help low-income workers get access to credit.

Walmart Save money. Live better.

Questions?

Now: Add Third Dimension: **Law and Regulation**



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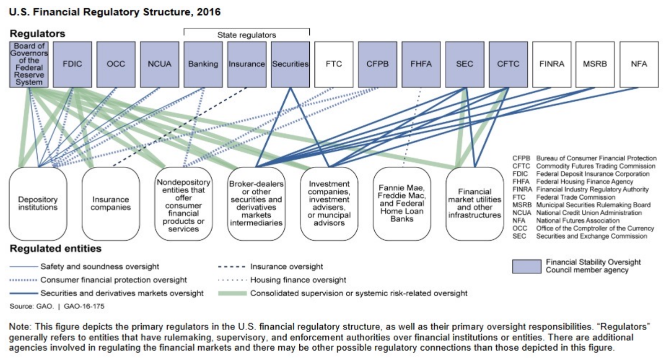

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2

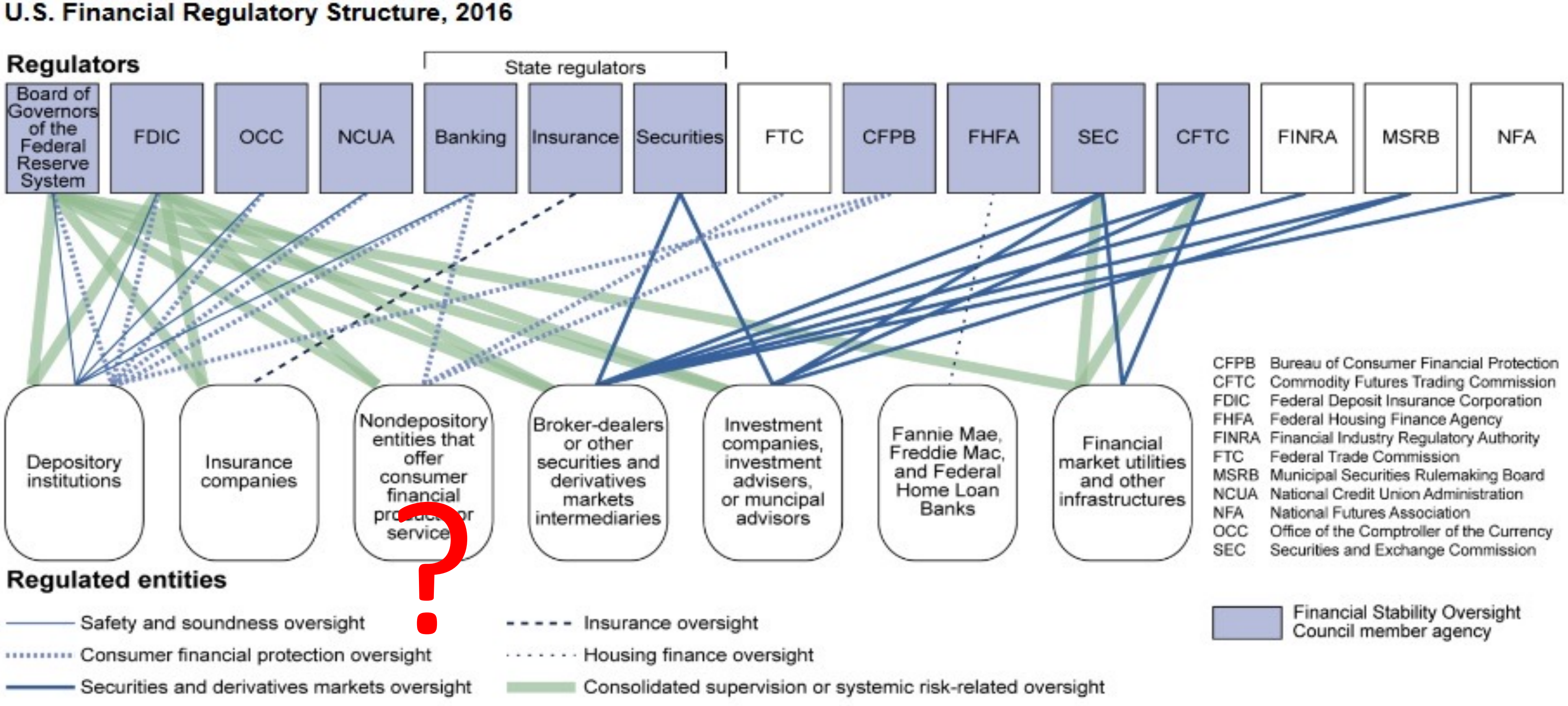
3

Legal and Regulatory Analysis

Today's Story: Novel FinTech and the Square Peg Problem in Earned Wage Access

- What is Earned Wage Early Access?
- Is it "Lending"?

Assess How Many Ways PayActiv is Regulated Directly and Indirectly?



Source: GAO. | GAO-16-175

Note: This figure depicts the primary regulators in the U.S. financial regulatory structure, as well as their primary oversight responsibilities. “Regulators” generally refers to entities that have rulemaking, supervisory, and enforcement authorities over financial institutions or entities. There are additional agencies involved in regulating the financial markets and there may be other possible regulatory connections than those depicted in this figure.

Identify and Assess Laws Applicable to PayActiv

Federal Laws

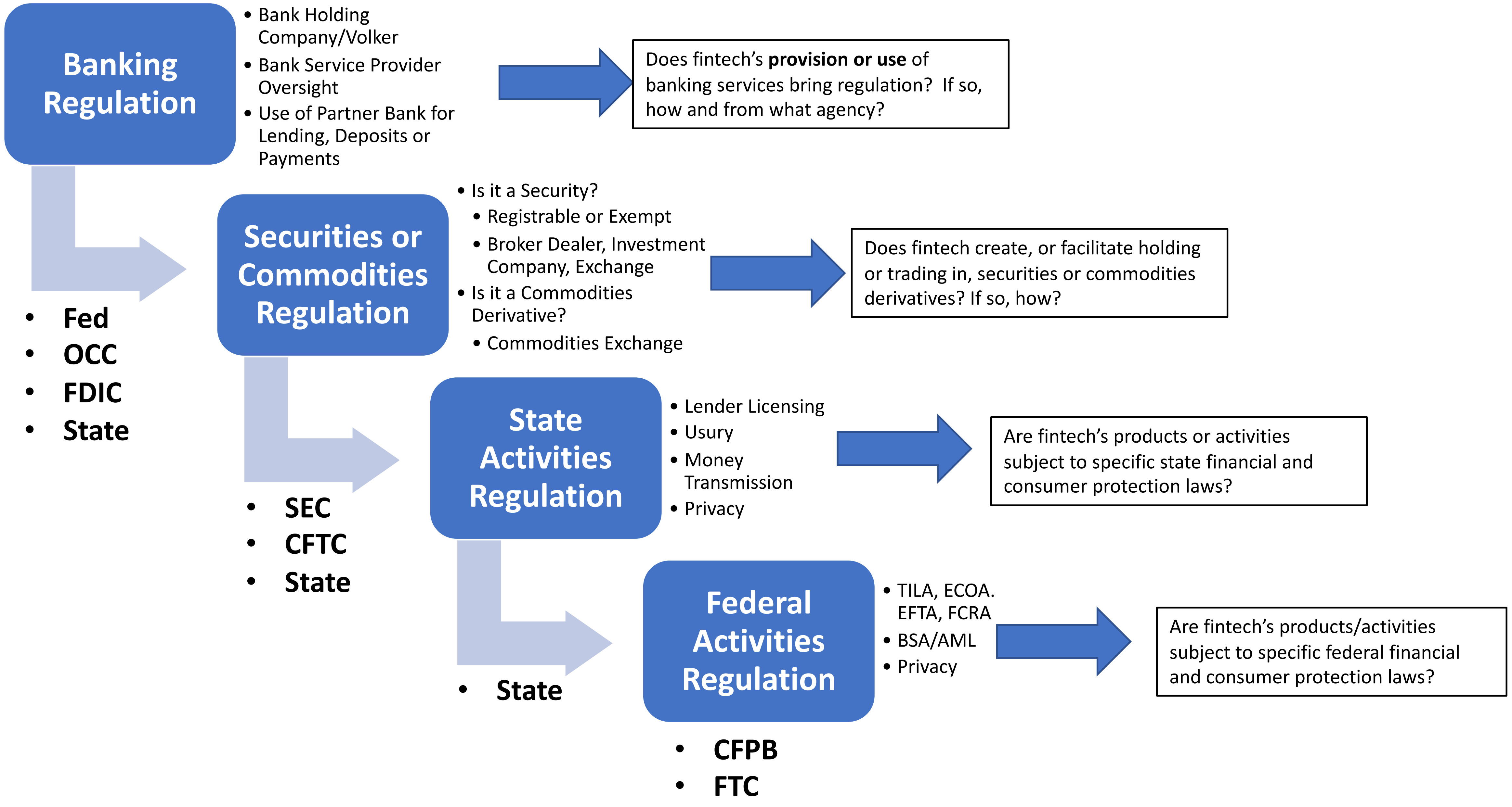
- x
- x
- x

?

State Laws

- x
- x
- x

We don't really know what the PayActiv product "is" from a legal standpoint…


Banking Regulation
• Bank Holding Company/Volker
• Bank Service Provider Oversight
• Use of Partner Bank for Lending, Deposits or Payments
Does fintech's **provision or use** of banking services bring regulation? If so, how and from what agency?
• Fed
• OCC
• FDIC
• State
Securities or Commodities Regulation
• Is it a Security?
• Registrable or Exempt
• Broker Dealer, Investment Company, Exchange
• Is it a Commodities Derivative?
• Commodities Exchange
Does fintech create, or facilitate holding or trading in, securities or commodities derivatives? If so, how?
• SEC
• CFTC
• State
State Activities Regulation
• Lender Licensing
• Usury
• Money Transmission
• Privacy
Are fintech's products or activities subject to specific state financial and consumer protection laws?
• State
Federal Activities Regulation
• TILA, ECOA. EFTA, FCRA
• BSA/AML
• Privacy
Are fintech's products/activities subject to specific federal financial and consumer protection laws?
• CFPB
• FTC

Our Class Metaphor is "Square Pegs in Round Holes"

Let’s Look at Another Similar Company for Contrast

earnin

Earnin' Also Offers Earned Wage Early Access

earnin

Community | Coming Soon! | Careers | Blog | Partnerships | FAQ

We're fighting unfairness in the financial system.

We're building a platform of community-supported products to inspire fairness across the financial world. The Earnin app allows people to reject the current system in order to get to a better place financially. These are the problems we're solving:

The pay cycle holds back our money.

Overdraft fees and penalties are unfair.

Medical bills are putting us in debt.

We all need more ways to find extra cash.

Earnin is a B2C Model, Unlike PayActiv

- PayActiv Operates B2B2C—Through Employer
- Earnin’ Operates B2C—No Employer Relationship

Earnin’ at a Glance

earnin

Withdrawal limit	$100 to $500 per pay period.
Fees	**$0; optional "tip" up to $14.**
Time to receive funds	Same day to next day.
Requirements	**•Hourly, salaried or on-demand job.** **•Get paid by direct deposit.** **•Provide access to the checking account to which your paycheck is directly deposited, and connect the account to receive your cash out.** **•Upload a timesheet or turn on location services to let the app know you went to work.**

Earnin’ Uses Voluntary Tip Structure

Does Earnin charge fees or interest?

Katherine
8 months ago
Updated
Follow

Nope. We're community-supported, so we don't charge interest or fees. We believe money should work better for everyone.

Instead of charging fees or interest, we depend on our community to support us by tipping what they think is fair when they use the app.

Giving tips isn't required. Sometimes things are going your way and you can afford to tip, sometimes you’re the one going through a rough patch. Help when you can, accept help when you can’t. We’ve got each other’s back.

If you like what we’re doing, join the community, cash out, and help support the payday revolution!

The Business Model Canvas

Designed for: Earnin’

Designed by:

Date:

Version:

Key Partners	Key Activities	Value Propositions	Customer Relationships	Customer Segments
Funding Providers Regulators?	Lending Platform Design Credit and Marketing Modeling	Solve my Liquidity Problem	Digital App, Online and Call Center	Wage Earners With Liquidity Needs
	Key Resources Software Developers Credit Modelers Sales & Marketing		**Channels** Social Media and (DM?) Customer Referrals	

Cost Structure	Revenue Streams
IT Infrastructure Funding Costs (interest) Sales & Marketing Referral Fees	“Tip” from Customer

Earnin Risk Canvas

- **Credit risk. … H**
- **Market risk. ... M**
- **Operational risk. ... H**
- **Liquidity (Funding) risk. ... H**
- **Reputational risk. ... H**
- **Legal, regulatory and political risk. … VH**
- **Data Management/AI Risk. …H**
- **Systemic risk. ...L**

Questions?

Most Legal/Regulatory Issues for PayActiv (and Sometimes Earnin') Appear Manageable

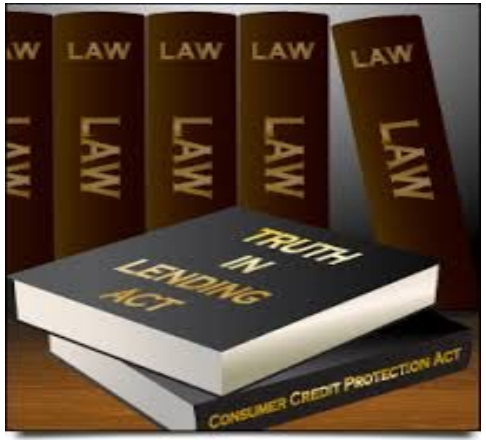
- Wage and Hour Laws—Deduction or Assignment of Wages
  - Possibly illegal in some states but only for loans?
  - "Company Store" concern behind issue
  - Probably ok with workarounds
- Tax Witholding on Payroll Deductions
  - Not a problem
- Is it a Money Service Business for BSA/AML Purposes?
  - Prepaid access to wages have a qualified exclusion
- Is it a Money Transmitter for State Law Purposes?
- Reg E Compliance

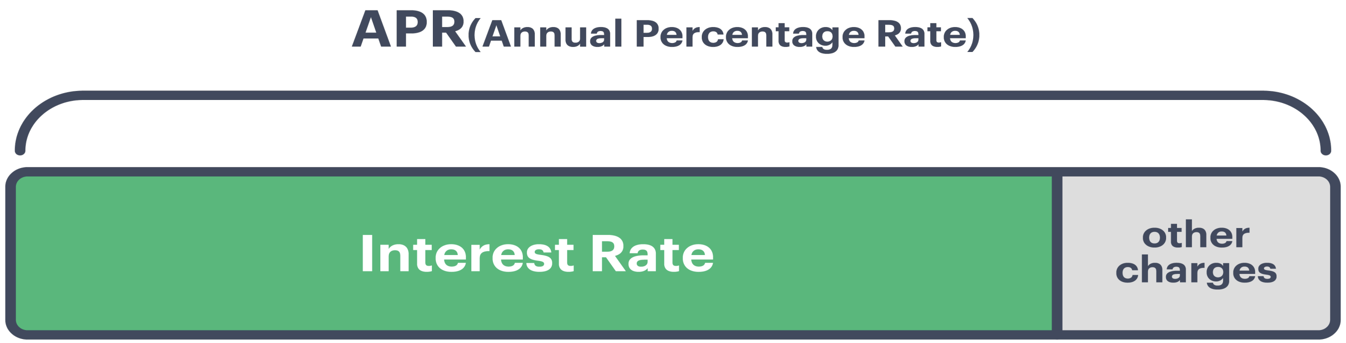
But One Big Issue for Both: Is it a Loan or Extension of Credit?

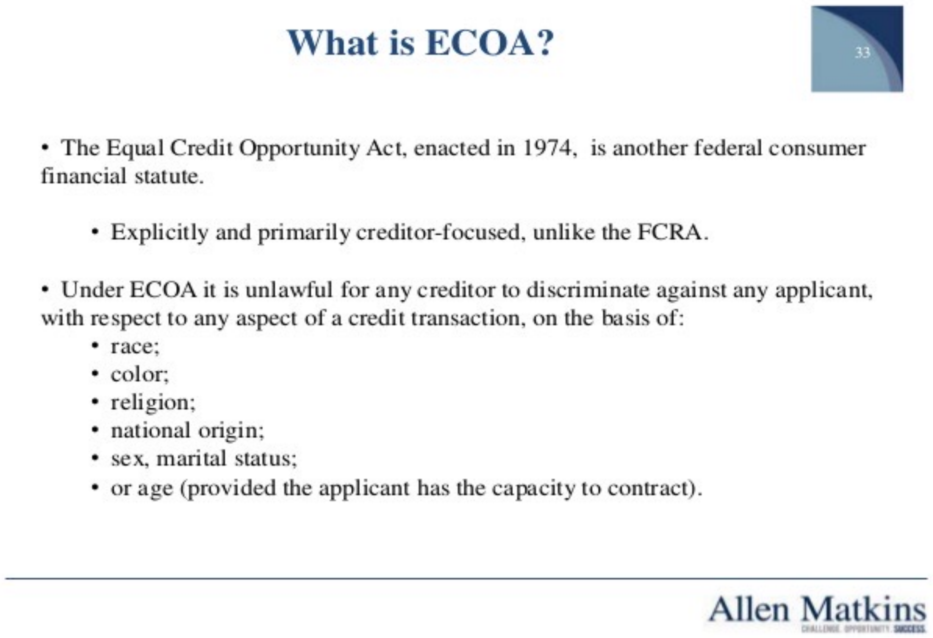
If it is a Loan/Extension of Consumer Credit, Big Problems for Business Models

- TILA
- ECOA
- EFTA (specifically re pre-authorized debit transfers)
- State Lender Licensing Laws
- State Usury Laws
- State Anti-Payday Loan Laws

TILA, ECOA and EFTA







What is ECOA?

33

- The Equal Credit Opportunity Act, enacted in 1974, is another federal consumer financial statute.
  - Explicitly and primarily creditor-focused, unlike the FCRA.
- Under ECOA it is unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction, on the basis of:
  - race;
  - color;
  - religion;
  - national origin;
  - sex, marital status;
  - or age (provided the applicant has the capacity to contract).

Allen Matkins

"No person may condition the extension of credit to a consumer on such consumer's repayment by means of preauthorized [Electronic Funds Transfers]…"

New York Bans Payday Loans

You are about to leave the DFS website. Would you A like to continue?

Cancel OK

NEW YORK STATE

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PAYDAY LENDING IN NEW YORK: WHAT YOU NEED TO KNOW

Payday loans are illegal in New York State. It is a violation of New York State law to make payday loans in-person, by telephone, or over the Internet. It is also illegal for a debt collector to collect, or attempt to collect, on a payday loan in New York State.

To File a Complaint

- File a complaint with the Department of Financial Services at (800) 342-3736 if you believe payday loans are being made in New York or to New York residents, or if a debt collector is seeking to collect on a payday loan in New York.

What is a Payday Loan?

A payday loan is a relatively small, high-cost loan, typically due in two weeks and made with a borrower's post-dated check or access to the borrower's bank account as collateral.

NY—Usury Limit Plus Anti-Payday Law

- Charging a rate of interest in excess of 16 percent per annum for loans less than $250,000 is illegal and constitutes civil usury.
- Charging interest on a loan in excess of 25 percent per annum is criminal usury in the second degree, a class E felony.

Comparing PayActiv and Earnin' in 2019

PayActiv
Security | Dignity | Savings

earnin

PayActiv vs. Earnin'-- Data Access

PayActiv

- B2B2C
- Employer/Employee-Permissioned Access to Earnings Data In T&A System

Earnin'

- B2C
- Consumer Provides Access to Bank Account for Financial Data, Pay Confirmation and Direct Debit Payment and Advance Repayment
- Consumer Adds Wage Data
  - Timesheets Photo
  - On-demand workers Trips Summary Photo
  - GPS Tracking for Hourly Workers (!)
  - 3rd Party Timesheet Partners
  - Employee Connection to T&A System
- Consumer Must Direct Deposit Earnings to Bank Account and Authorize Direct Debit

PayActiv vs. Earnin'-- Credit Analysis

PayActiv

- None

Earnin'

- Uses Bank Account Data and Timesheet/Location Data to Assess Repayment Risk

PayActiv vs. Earnin'-- Advances

PayActiv

- PayActiv Algorithm Calculates Available for Access
- Bank Account Not Required
- Funds Transferred to Employee
  - Bank Account
  - Prepaid Card
  - PayActiv Visa Prepaid Card
  - Walmart Cash
  - Savings Account

Earnin'

- Earnin' Algorithm Calculates Amount Earnin' Will Provide
- Bank Account Required
- Funds Transferred to Linked Bank Account with Direct Debit Enabled

PayActiv vs. Earnin'-- Repayment

PayActiv

- Employer Deducts Early Access Payments from Next Paycheck and Sends to PayActiv
- Money Will Always be Available to Repay Advance
- <u>No recourse</u> if money isn't there for any reason

Earnin'

- Earnin' Direct Debits Repayment from Linked Bank Account
- If Money's Not There? Loss
- <u>No recourse</u>

Can there be an extension of credit if there is no recourse?

PayActiv vs. Earnin'– Cost to Consumer (2019)

PayActiv

- $5 for all services in any month service is used
  - Sometimes subsidized in whole or part by employer
  - Includes Bill Pay, Financial Advice, Rx Discounts, Savings Account Tool
- $5 translates into APR (not the best measure) between 26% to 130% depending on amount received and time period to repayment

Earnin'

- Tip from $0 to (now) $14
  - Previously tips uncapped
- $14 translates into APR between 73% and 365% depending upon amount received and time period to repayment
- Earnin' allows more than one tip for multiple advances which could lead to much higher APRs

Verdict on PayActiv?

- PayActiv works through employers exclusively as a bundled employee benefit
- It does no credit underwriting
- It is repaid by employer through payroll deduction
- It facilitates early access and other employee benefits for a fixed fee regardless of amount advanced
- No recourse
- Strong argument that it is not an extension of credit or loan
- PayActiv has been actively working with state and federal regulators to clarify its status

Verdict on Earnin'?

- Earnin' is taking some credit risk, which smells like a loan
  - Customer can cancel auto debit or close account after advance to avoid repayment
  - Earnin' is doing underwriting to assess income
- It looks a lot like a payday loan in practice
  - Short-term advance backed by ability to withdraw funds from checking account
  - Auto debit is like cashing a post dated check
- <u>But</u> it doesn't "roll over" as a payday loan can
- <u>And</u> there is no recourse if advance not repaid
- The "tip" approach is untested--may not be a finance charge under TILA if truly voluntary
- But there are other issues with the "tip"
  - Isn't a "suggested" tip close to the line?
  - The App algorithm apparently favors big tippers…. users who don't leave a tip appear to have their credit restricted
- A closer question than PayActiv, but still likely not a loan

AMERICAN BANKER

A payday lender in disguise? New York investigates the Earnin app

By

- Penny Crosman
- April 03 2019, 9:03pm EDT

…[S]ome other apps are copying [PayActiv and others'] style while using a more traditional payday-loan That's what happened to Earnin, which is often referred to and bills itself as an early wage access provider, which give employees access to their paychecks before they are deposited. The New York State Department of Financial Services launched an investigation of the firm over concerns it may be skirting state lending laws by, among other things, requiring tips from users in lieu of disclosing fees…..

NEW YORK POST

Popular cash advance app Earnin operating in payday loan 'gray area,' critics claim

By Kevin Dugan

March 21, 2019 | 10:05pm | Updated

EXCLUSIVE

Cash-advance app Earnin gets subpoenaed by NY regulator: source

By Kevin Dugan

March 28, 2019 | 4:09pm | Updated

"A loan is a loan," said Aaron Klein, a fellow at the Brookings Institution. "You can't disguise an interest payment origination fee as a tip to get around usury caps."

"Earnin is not in the same category as PayActiv, DailyPay and FlexWage," said Lauren Saunders, associate director of the National Consumer Law Center. ***"True early wage access providers are companies that have agreements with the employer and are integrated with payroll and are not making loans and seeking repayment from the customer. Earnin seems to be trying to look like they're giving you your pay, but they have no relationship with the employer and in my mind it's a payday loan."***

What’s Going On Here?

- New Fintech Product
- Doesn’t Fit into Existing Law or Designed to Evade it
- Legislatures Slow to React
- Tortured Attempt by Regulators to Make Existing Law Fit to Gain Oversight/Control
- Necessary Effort to Protect Consumers or example of “hard cases make bad law”?

State Legislative Responses

The derailment of California's payroll advance law

By Kevin Wack September 19, 2019, 9:00 p.m. EDT 5 Min Read

It seemed uncontroversial at first. A bill in California to create the country's first regulatory framework for companies that offer early access to employees' earned wages passed the state Senate 35-0 in May.

The measure, which would establish the legal parameters for a lower-cost alternative to payday loans, then got the unanimous approval of three committees in the state Assembly.

But the momentum ended earlier this month in the face of divisions within the earned wage industry, increased opposition from consumer advocates and a chaotic process that led to confusion about the final contents of the bill.

The industry-backed bill still has a chance of passing during the current legislative session. It can be reconsidered in Sacramento as soon as January, when the session resumes. Its fate has implications well beyond California, since other states are considered likely to follow the Golden State's lead.

The measure's setback this year shows that it will be hard to find consensus about a fast-growing industry that touts its products as an improvement over the high-cost loans that have

It's a Jersey Thing: Earned Wage Access Bill Gets Amended

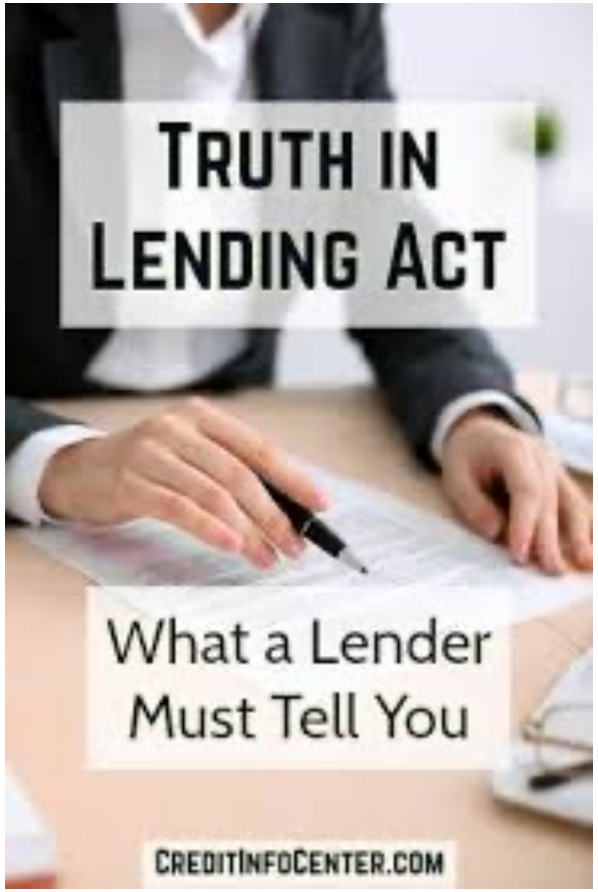
Tuesday, October 27, 2020

California, New York and New Jersey all have earned wage access (EWA) legislation pending, although nothing much has happened with these bills for months. Last week, however, a New Jersey Assembly committee amended one of these bills, AB 3450, and sent it to the floor for further consideration. Some of the changes made by the committee are helpful but some of them are not.

We've written about earned wage access products before as well as legislative initiatives to regulate them. New Jersey's Assembly Bill 3450, introduced in late February 2020, would regulate EWA products in several ways. The bill requires EWA providers to have contracts with the employers, verify the employee's earned income before making an advance and to secure the employee's consent before obtaining information about the employee from the employer. The amended version also requires providers to register with state regulators and to base the amount of an advance on the employee's net wages rather than gross wages. These modifications seem appropriate and beneficial.

This original bill essentially killed direct-to-consumer business models because it prohibited the provider from recouping the advance directly from the consumer's bank account. The amended bill strikes this provision and allows for direct-to-consumer products as long as the provider does not charge the consumer a "mandatory fee." The ban on "mandatory fees" presumably allows providers to collect "voluntary fees." One provider in the marketplace operates on a business model where it does not assess fees but does collect "tips" from consumers who use the service. This amendment would allow that provider's tip business model but would prohibit all other direct-to-consumer products. It seems inappropriate and unfair for legislation to pick winners and losers in the competitive and evolving marketplace for EWA products. This is especially true when the provider who relies on tips has been sued over whether the voluntary payments really are voluntary. More on that litigation below.

Federal Developments: TILA Issues with EWA



Annual Percentage Rate The cost of your credit at a yearly rate	Finance Charge The dollar amount the credit will cost you	Amount Financed The amount of credit provided to you or on your behalf	Total of Payments The amount you will have paid after you have made all payments as scheduled
A%	$B	$C	$D

History

Before the Truth in Lending Act, consumers were often overwhelmed by the various terms and rates, which made it difficult to compare loans. It was not unusual for lenders to provide so much information, in so many different formats, that borrowers would become confused.

The Truth in Lending Act, originally enacted under the Consumer Credit Protection Act, helped solve that problem. The TILA, which went into effect on July 1, 1969, and has been amended several times since, regulates certain aspects of lending and requires lenders to use a uniform system for disclosing certain terms and rates.

Why is TILA an Issue for EWA?

- A very short repayment period for “credit” can turn a very small fee into a very large ”Annual Percentage Rate”
- Arguably this makes APR disclosure useless but scary for employers

Unit	Number	
Required Data Entry		
Loan Amount	250	Dollars
Loan Fee	1.00	Dollars
Repayment Time	7	Days
Calculated Results		
APR	20.85	%

Unit	Number	
Required Data Entry		
Loan Amount	250	Dollars
Loan Fee	5.00	Dollars
Repayment Time	7	Days
Calculated Results		
APR	104.28	%
Calculate	Clear Values	

What to Do? CFPB CAS Policy

- The CFPB Compliance Assistance Sandbox (CAS) Policy enables testing of a financial product or service where there is regulatory uncertainty. After the Bureau evaluates the product or service for compliance with relevant law, an approved applicant that complies in good faith with the terms of the approval will have a “safe harbor” from liability for specified conduct during the testing period. Approvals under the CAS Policy will provide protection from liability under the Truth in Lending Act, the Electronic Fund Transfer Act, or the Equal Credit Opportunity Act.

PayActiv CFPB Sandbox Letter 12/20

- Payactiv seeks confirmation that the Payactiv EWA Program **does not involve the offering or extension of “credit”** as defined by section 1026.2(a)(14) of Regulation Z.
- **The Bureau confirms that credit is not offered or extended in the particular circumstances described by Payactiv.**

- ***Note that PayActiv changed its product pricing structure to get this letter***

CFPB Sandbox Letter Facts1/2

This Approval Order applies to the following described aspects of the product or service (collectively, the Payactiv EWA Program), as represented by Payactiv in its Application:

1. Payactiv contracts with employers to offer and provide to the employer's employees a suite of financial services, including employee-requested transfers of wages that an employee has already earned (Payactiv EWA Transactions).
2. The amount of each Payactiv EWA Transaction does not exceed the accrued cash value of the wages the employee has earned up to the date and time of the transaction. Payactiv obtains timely information from the employer regarding hours worked and the employee's applicable wage to determine this amount. Payactiv does not rely upon information provided by the employee, or on estimates or predictions of hours worked or hourly wage rates. Payactiv further limits the available amount of Payactiv EWA . Transactions by capping them at no more than 60% of the accrued cash value of the earned wages. The "accrued cash value of the earned wages" are wages that the employee is entitled to receive under State law in the event of separation from the employer for work performed for the employer, but for which the employee has yet to be paid.
3. Employees may choose to access EWA funds using one of the following models:

   (i) Payactiv Access Freedom, which provides free access to employees who arrange to direct deposit their paycheck to an account as defined under Regulation E that is managed, issued, or otherwise facilitated by Payactiv (Payactiv Account); and

   (ii) Payactiv Access Choice, which charges a non-recurring $1 fee to employees without a Payactiv Account for access to an unlimited number of Payactiv EWA Transactions during a one-day access window—under this model, Payactiv caps the fees at $3 for a one-week pay period or $5 for a bi-weekly pay period in the event an employee accesses EWA funds on multiple days during a single pay period.

- Under either model, Payactiv delivers EWA funds to an account of the employee's choice (which may be the Payactiv Account), and Payactiv does not charge additional fees for the delivery of EWA funds to that account. The employee is not required to make any other payment, voluntary or otherwise, to access EWA funds or use the Payactiv EWA Program, and Payactiv does not solicit or accept tips or any other payments from the employee. Payactiv does not charge fees to open the Payactiv Account. In addition, the prepaid and payroll cards associated with the Payactiv Account are issued on a major network brand that permits use at multiple, unaffiliated merchants; the Payactiv Account does not charge fees for use of an associated card to buy goods or services at merchants that accept the associated card; the Payactiv Account does not impose any periodic fees; and the Payactiv Account does not charge fees to withdraw cash from in-network ATMs, which have significant distribution.

CFPB Sandbox Letter Facts 2/2

- 4. Payactiv recovers the amount of each Payactiv EWA Transaction only through an employer-facilitated payroll deduction from the employee's next paycheck In the event of a failed or partial payroll deduction, Payactiv may re-present the deduction in the two subsequent paychecks. Payactiv permits an employee to request cancellation of Payactiv's re-presentment of failed deductions for free.
- 5. In the event of a failed or partial payroll deduction, Payactiv retains no legal or contractual claim or remedy, direct or indirect, against the employee, although Payactiv may refrain from offering the employee additional EWA transactions or impose other limits on the employee's ability to access EWA funds.
- 6. Payactiv warrants to the employee as part of the contract between the parties that it:
  - a. Will not require the employee to pay any charges or fees in connection with a Payactiv EWA Transaction, other than the $1 fee under the Payactiv Access Choice model, as described in paragraph 3 above;
  - b. Has no legal or contractual claim or remedy, direct or indirect, against the employee in the event the payroll deduction is insufficient to cover the full amount of a Payactiv EWA Transaction, including no right to take payment from any consumer account; and
  - c. Will not engage in any debt collection activities related to a Payactiv EWA Transaction, place a Payactiv EWA Transaction amount as a debt with or sell it to a third party, or report to a consumer reporting agency concerning a Payactiv EWA Transaction.
- 7. Payactiv does not directly or indirectly assess the credit risk of individual employees, including through obtaining and reviewing credit reports or credit scores about the individual employees.

CFPB PayActiv Analysis

- **Third, the totality of circumstances of the Payactiv EWA Program demonstrates that it differs in kind from products the Bureau would generally consider to be credit.** Courts tend to agree that a transaction's substance, not its form, controls whether it qualifies as TILA "credit," and they generally undertake fact-specific inquiries and weigh multiple factors when analyzing the true nature of a transaction. The Bureau notes that features often found in credit transactions are absent from the Payactiv EWA Program. Unlike many credit transactions, for instance: Payactiv has no rights, including a contractual claim or remedy, direct or indirect, against the employee in the event a payroll deduction is insufficient to cover amounts corresponding to a Payactiv EWA Transaction. Payactiv also will not, with regard to any such transaction, engage in debt collection activities, report to consumer reporting agencies, or sell or place the transaction as a debt with any third party. Employees have no obligation to make any payments directly or indirectly to Payactiv at any time. This is true even if, for instance, an employer goes bankrupt before attempting a payroll deduction.
- Payactiv charges, at most, a non-recurring $1 fee to obtain one day of access to Payactiv EWA Transactions and otherwise does not charge employees to participate in the Payactiv EWA Program, open a Payactiv Account, transfer EWA funds to the Payactiv Account (or to employee's choice of account), or use an associated card issued on a major network to buy goods or services at the multiple merchants that accept the card. And the Payactiv Account and any associated card do not impose any periodic fees, and otherwise allow employees reasonable use of the account at no charge.
- No interest or other fees are charged against a Payactiv EWA Transaction, ensuring that the amount Payactiv is entitled to recover does not "increase with the passage of time, another characteristic of a loan." The absence of interest and fees other than the non-recurring $1 fee demonstrates that Payactiv is not taking on the type of credit risk characteristic of a typical credit transaction.
- There are no late fees or prepayment penalties associated with a Payactiv EWA Transaction.
- Payactiv does not take any payment authorization from employees, such as a check, ACH, or debit card authorization.
- Payactiv does not pull credit reports or credit scores on individual employees or otherwise assess their credit risk.
- Payactiv does not report information concerning Payactiv EWA Transactions to consumer reporting agencies.
- Payactiv does not engage in debt collection activities related to Payactiv EWA Transactions or place such amounts as debt with, or sell such amounts to, any third party.

Takeway #1: Proactive engagement with regulators in “empty spaces” of fintech regulation can pay big dividends

- Corporate customers were concerned about “empty space” risk
- PayActiv changed how its product worked to gain CFPB no-action relief
  - Tweaked fee structure
- That allowed it to claim that its product is “CFPB Approved”:

Payactiv is the unquestioned compliance gold standard in earned wage access (EWA). On December 30, 2020, Payactiv became the only EWA provider to receive a formal Approval Order from the Consumer Financial Protection Bureau (CFPB) confirming that its EWA program is a non-credit product exempt from the federal Truth in Lending Act (TILA) and Regulation Z lending requirements.

The CFPB’s Approval Order ***only applies to Payactiv***—and ***Payactiv is the only EWA provider*** to have achieved such an order. In its Approval Order to Payactiv, the CFPB makes **several key findings** supporting its conclusion that Payactiv’s EWA Programs **do not involve credit**:

Takeway #2--Don't do anything stupid like claiming that your product is "CFPB Approved"

Consumer Financial Protection Bureau Issues an Approval Order to Facilitate Employee Access to Earned but Unpaid Wages

DEC 30, 2020

CFPB Rescinds Special Regulatory Treatment for Payactiv

Termination Follows Request by Company in Order to Change its Product

JUN 30, 2022

The CFPB informed Payactiv on June 3, 2022, that it was considering terminating the approval order in light of certain public statements the company made wrongly suggesting a CFPB endorsement of its products. On June 21, 2022, Payactiv notified the CFPB that it was planning to modify its earned wage access product fee model. The 2020 approval order only applies to the company's existing products and any changes to the product fee model would require modification to the order. Payactiv instead requested termination of the order so it could make fee model changes quickly and flexibly.

Recent State Law Developments

California Enacts New Consumer Financial Protection Law, Increasing Authority of Its Financial Regulator

October 13, 2020

Click for PDF

On September 25, 2020, California Governor Gavin Newsom signed into law the California Consumer Financial Protection Law (CCFPL), which was passed by the state legislature on August 31, 2020.[1] Under the CCFPL, California's Department of Business Oversight (DBO) has been renamed the Department of Financial Protection and Innovation (DFPI). Modeled after the Consumer Financial Protection Bureau (CFPB) provisions in the Dodd-Frank Act, the CCFPL aims to strengthen consumer protections by expanding the regulatory authority of the DFPI and promoting access to responsible and affordable credit. The substantive provisions of the CCFPL go into effect on January 1, 2021.

The effects of the CCFPL will be felt most immediately by certain nonbank financial companies – for example, payday lenders and student loan servicers – as well as affiliated "service providers" to financial companies, because of statutory exclusions for regulated banks and many other current DBO nonbank licensees. This said, the CCFPL also gives the DFPI the authority to define other financial services whose providers would thereby become subject to its jurisdiction, and it includes new provisions relating to unfair, deceptive and abusive acts and practices enforcement authority (UDAAP) over statutorily covered persons and service providers. The DFPI will also have the authority to bring civil actions under the Dodd-Frank Act's consumer protection provisions against all state-licensed banks and nonbank financial companies. As a result, financial institutions doing business in California are now facing a potentially powerful and reinvigorated regulatory authority.

I. Jurisdiction

The CCFPL grants authority to the DFPI to regulate the offering and provision of consumer financial products or services under California's consumer financial laws, to exercise nonexclusive oversight and enforcement authority under California's consumer financial laws, and, to the extent permissible under federal consumer financial laws, nonexclusive oversight and enforcement under federal consumer financial laws as well.[2]

The CCFPL's definition of "consumer financial products and services" closely parallels the broad definition in Title X of the Dodd-Frank Act and its implementing regulations;[3] these include any financial product or service that is delivered, offered, or provided for use by consumers primarily for personal, family, or household purposes.[4] The definition also includes brokering the offer or sale of a franchise in California on behalf of another.[5] Similar to the authority granted to the CFPB under the Dodd-Frank Act, the DFPI will have authority to issue regulations defining any other financial product or service when the financial product or service (i) is entered into or conducted as a subterfuge or with a purpose to evade consumer financial law or (ii) will likely have a material impact on consumers, in each case, subject to certain exceptions.[6]

California Consumer Financial Protection Law

Protecting consumers, fostering innovation

Here at the California Department of Financial Protection and Innovation (DFPI), we care about the communities we serve. Consumers turn to us to help them make decisions about financial products and services and licensees trust us to help them stay up to date on the law.

The California Consumer Financial Protection Law (CCFPL) empowers the DFPI to protect California consumers from pandemic-inspired scams, promote innovation, clarify regulatory hurdles for emerging products and increase education and outreach for vulnerable groups.

The new law embodies Governor Gavin Newsom's plan to modernize and revamp the former Department of Business Oversight (DBO) with the added staff and authority necessary to cement its position as a premier financial regulator and national model for consumer protection. The law was enacted in AB 1864 by Assemblywoman Monique Limón, D-Santa Barbara.

"We have already seen an increase in predatory financial lending and scams as the most vulnerable in our state try to weather the economic downturn induced by the COVID-19 pandemic," DFPI Commissioner Manuel P. Alvarez said. "This legislation will allow us to increase consumer protections without imposing undue burdens on honest and fair operators."

"In addition, it will help us cultivate financial innovation, and allow the department to track and regulate emerging financial products so we can serve consumers and licensees in a more meaningful and efficient way."

The CCFPL gives the Department expanded authority and resources to:

- Restore financial protections that have been scaled back at the federal level.
- Protect consumers from predatory businesses, without imposing undue burdens on honest and fair operators.
- Spur innovation in financial services by clarifying regulatory expectations for emerging products and services.
- Extend state oversight to important financial-services providers not currently subject to state supervision.
- Increase public outreach and education, especially for vulnerable populations.

What does this mean for consumers?

Recent State Law Developments

January 24, 2020

California DBO Challenging Transactions as Disguised Loans

in LinkedIn | Facebook | Twitter | Send | Embed

DBO Denies Lending License Sought by Unregulated Point-of-Sale Financer and Issues Related Legal Opinion

Dec 30, 2019

Download this press release (PDF)

SACRAMENTO – The California Department of Business Oversight (DBO) today denied an application by point-of-sale lender Sezzle, Inc., to make loans under the California Financing Law (CFL) after determining

Sezzle is one of a number of companies now offering unregulated, point-of-sale financing to Californians. In the related interpretive opinion, the DBO concludes that point-of-sale financing transactions may be deemed loans when:

- The consumer, merchant, and third-party financer treat the transactions like loans, despite contradictory language in the applicable contracts;
- The relationship between merchant and third-party financer is extensive;
- The role of the third-party financer and all financing terms are not clearly disclosed to the consumer; and
- The financing transaction is not otherwise regulated.

Recent State Law Developments

November 24, 2020

Consent Order Confirms California MCA Enforcement Campaign

LinkedIn Facebook Twitter Send Embed

manatt

On November 12, 2020, the California Department of Financial Protection and Innovation (DFPI) (until recently called the Department of Business Oversight) entered into a consent order with Allup Finance LLC (Allup) finding that Allup's merchant cash advance (MCA) product was a disguised usurious loan offered without obtaining a license under California's "catchall" lender licensing law, the California Financing Law (CFL). The order requires Allup to cease lending in California until properly licensed under the CFL and to refund "fees or payments collected from California-based customers . . . that were in excess of the 10 percent usurious cap under the California Constitution . . . ."

What Happened

As we have warned, most recently here, DFPI has been investigating certain MCA providers for possible violations of California's licensing and usury laws, with particular focus on transactions calling for remittance of future receivables through fixed daily ACH debits without meaningful "true-ups." This consent order sheds considerable light on DFPI's thinking, including setting forth its understanding of the law in recitals.

According to the order, Allup's MCA agreements provide that Allup is purchasing the merchant's future receivables "in exchange for the expected equivalent amount of cash up front, plus fees and interest," on a nonrecourse basis. Remittances are made by fixed ACH debits, and returned ACHs trigger nonsufficient funds (NSF) fees. If a merchant incurs three or more NSF fees, this constitutes an event of "default," permitting the exercise of extensive remedies including "enter[ing] into the merchant's business and seiz[ing] all assets—without so much as notice to the merchant."

WRITTEN BY:

Manatt, Phelps & Phillips, LLP
Contact + Follow

Jan Owen + Follow

Scott Pearson + Follow

Charles Washburn, Jr. + Follow

CA DFPI and EWA

MORRISON FOERSTER

MENU

CLIENT ALERT

A Sign of Things to Come: The California DFPI Exercises Its New Authority in Regulating Earned Wage Access Products

01 Feb 2021

Keep up with the latest legal and industry insights, news, and events from MoFo SIGN UP

The law creating a new California mini-CFPB took effect on January 1, 2021, and a few weeks later, the California Department of Financial Protection and Innovation (DFPI) entered into "first-of-their kind" memoranda of understanding (MOUs), by which the DFPI will regulate earned wage access (EWA) products offered by five companies in California. These MOUs follow the CFPB's issuance of an advisory opinion for EWA products, but they go much further in imposing pricing limitations and reporting and examination obligations for products that the DFPI gained authority to regulate under the new California Consumer Financial Protection Law (CCFPL). These MOUs, along with the CFPB's advisory opinion, signal creation of regulatory guardrails for previously unregulated products. They also reflect the DFPI's continued focus on capping interest rates for financial products offered in California.

Nancy R. Thomas
Partner

California DFPI and PayActiv

"Nothing in this Memorandum shall prevent the Department from asserting at any time in the future that the EWA product offered by Company to California consumers requires licensure or registration with the Department under any law under the Department's jurisdiction. Nothing in this Memorandum shall be interpreted as the Department's approval of Company's business model or conclusion that the model complies with state or federal law. Nothing in this Memorandum shall be interpreted to restrict the Department from asserting any provision of law including the CCFPL. "

Payactiv Agreement with California DFPI Establishes Best-Practices in Employer-Based Earned Wage Access

SAN JOSE, Calif., December 30, 2020 –The California Department of Financial Protection and Innovation (DFPI) today entered into a Memorandum of Understanding (MOU) with Payactiv that establishes industry-best practices and enables the Department to understand the benefits that Payactiv's market-leading earned wage access (EWA) solution offers to California consumers.

The Payactiv MOU acknowledges Payactiv's Approval Order from the federal Consumer Financial Protection Bureau (CFPB), which confirms that Payactiv's deduction-based EWA programs do not rely on debt and do not constitute "credit" as defined under federal lending laws.

The MOU incorporates Payactiv's consumer protection guardrails—including its industry-low cost, accessible balance limits, and program fee caps—and will give the DFPI data demonstrating Payactiv's positive impacts on California workers. The MOU is one of several

CA DFPI MOU with PayActiv

- “On January 1, 2021, the California Consumer Financial Protection Law (CCFPL), Financial Code section 90000, et seq. became effective. The CCFPL provides the Department with authority to regulate and investigate certain consumer financial providers such as the Company. Company offers a consumer financial product or service through its on-demand pay product as defined in the CCFPL and thus is a "covered person" as defined in Financial Code section 90005(f).”
- “The Department acknowledges that Company has been and intends to continue doing business in the State of California. The Department desires to obtain regular reports concerning Company's business activities in California to allow it to evaluate the benefits and risks, if any, that Company and the EWA product pose to California consumers, whether the Company's EWA product is a loan, and whether the product subjects Company to the California Financing Law or any other provision of California law.“
- “Beginning on April 1, 2021, Company agrees to provide the following information and data to the Department, to the extent such data exists, is available to Company, and the Company is not restricted from disclosing it, relating to the previous calendar quarter, on a quarterly and confidential basis and in a form and manner reasonably acceptable to the Department including, as applicable:.....”
- “Company agrees to the following best practices with regard to its EWA product:
    a. Company shall not make the offering of its financial products, either in the amount of EWA offered or suite of products offered, contingent on any tips the consumer choses to make or does not make.
    b. Comply with the TILA, if applicable.
    c. In accordance with EFTA, the CCFPL and applicable law, disclose all electronic fund transfers, deductions, fees and charges on a per transaction basis before the consumer authorizes the transaction.
    d. Limit cost of EWA in a one week pay period to $3 and in a two week or bi-monthly pay period to $5.
    e. Disclose any other potential fees that may be assessed to consumers to the consumer before advancing the funds, regardless of whether such fees are a condition of accessing the EWA payment.
    f. If applicable, notify consumer before EWA is offered, that in the event of lack of adequate funds to repay the EWA in the consumer’s account at the time of repayment, consumer's financial institution may assess the consumer overdraft charge(s).
    g. The funds paid to the consumer shall not be greater than 60% of the consumer's gross pay as reported to Company. “

Surprise!! Earnin signed one too..

Company agrees to the following best practices with regard to its advance pay product:

a. If consumer "tips" are part of the advance pay model, that company shall not make the offering of its financial products, either in the amount of advance pay offered or suite of products offered, contingent on any tips the consumer chooses to make or does not make.

b. Comply with the TILA, if applicable.

c. Disclose the APR, if any, calculated pursuant to TILA methodology, on the advance pay to the consumer before advancing the funds.

d. Limiting APR calculated pursuant to TILA methodology to 36% on the advance of funds.

e. Disclose any potential fees that may be assessed to consumers to the consumer before advancing the funds, regardless of whether such fees are a condition of accessing the advance pay.

f. Disclose to the consumer before the advance pay is offered, that in the event of lack of adequate funds to repay the advance in the consumer's account at the time of repayment, consumer's financial institution may assess the consumer overdraft charge(s).

g. The funds advanced to the consumer shall not be greater than the consumer's next anticipated paycheck.

h. h. Allow consumer to delay EFT transfer up to 30 days for repayment to Company.

Takeway

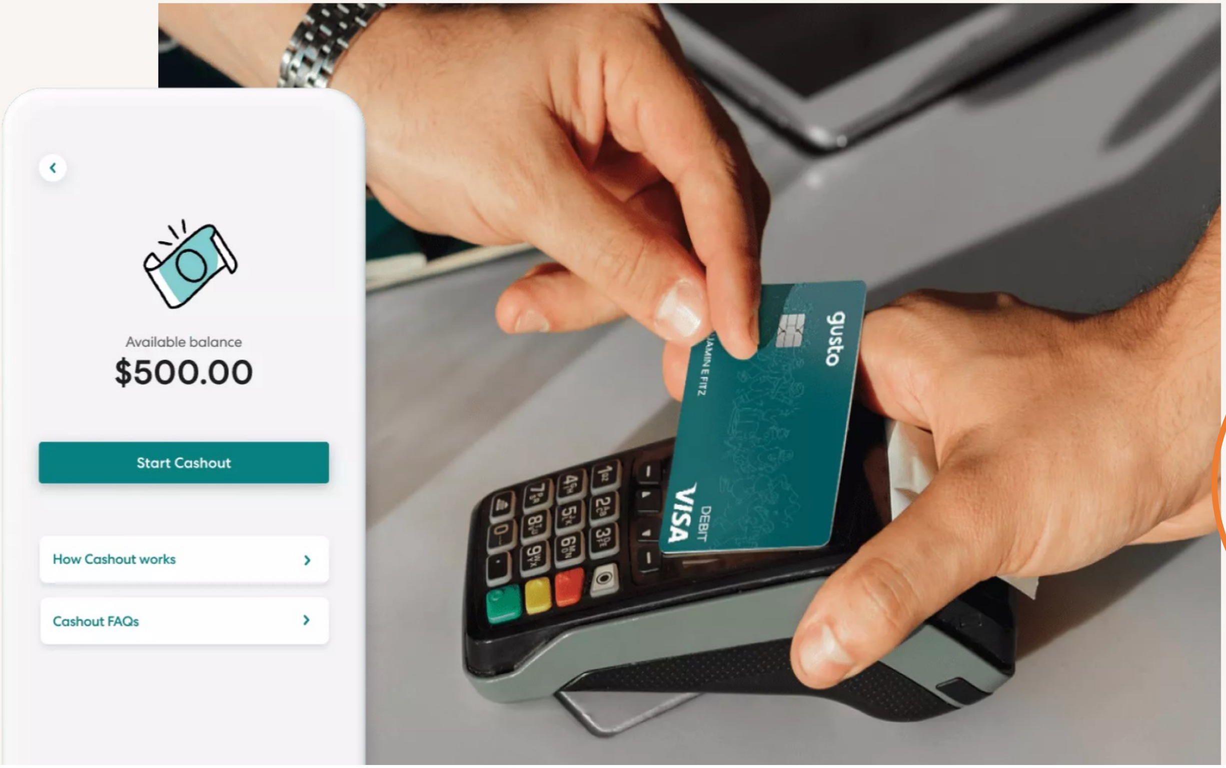
- Proactive engagement with regulators in "empty spaces" of fintech regulation can pay big dividends:
- PayActiv wanted to be registered and regulated, but not as a "lender."
- CFPB letter strengthened its hand in discussions with the DFPI:
- *"The California Department of Financial Protection and Innovation (DFPI) today entered into a Memorandum of Understanding (MOU) with Payactiv that establishes industry-best practices and enables the Department to understand the benefits that Payactiv's market-leading earned wage access (EWA) solution offers to California consumers."*
- Prediction: formal regulation by DFPI some day soon but minimal impact
- (BUT: Don't tick off your regulator by over-selling regulatory action)

New Entrant Gusto Makes EWA Part of Payroll Service

Get the right tools and services for your business and your team.

This isn't an easy time to run a business, but we're here to help.

- Full-service payroll
- Medical, dental, vision
- Certified HR experts
- Time tracking
- Hiring and onboarding
- Employee finance tools



Access to cash when they need it most.

Available within the Gusto Wallet app, Gusto Cashout gives employees access to money between paydays. It's repaid automatically from their paycheck. No fees. No interest.

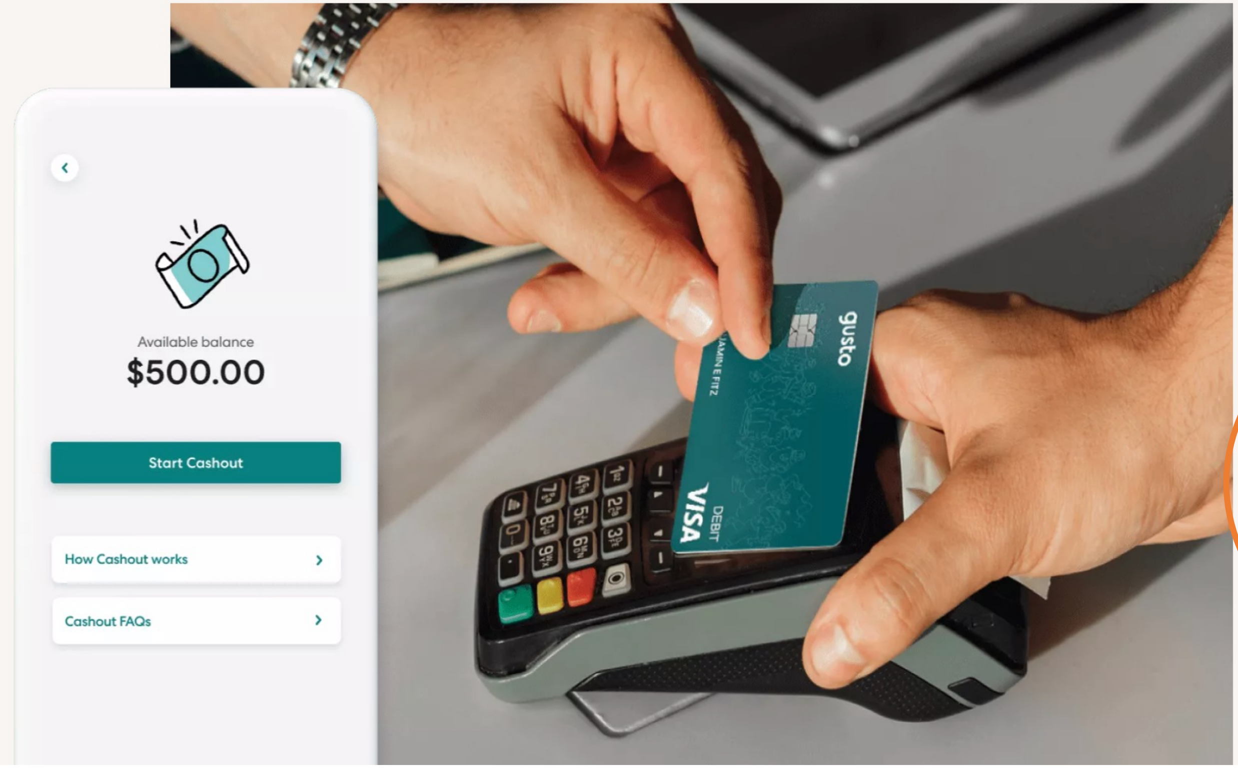
- Free for your employees. Free for you.
- Smart limits to help protect employees.
- Doesn't affect your books or your payroll.
- Funds available instantly with a Gusto debit card.

Using Product Structure as Competitive Tool?

Get the right tools and services for your business and your team.

This isn't an easy time to run a business, but we're here to help.

Full-service payroll | Medical, dental, vision | Certified HR experts | Time tracking | Hiring and onboarding | Employee finance tools



Access to cash when they need it most.

Available within the Gusto Wallet app, Gusto Cashout gives employees access to money between paydays. It's repaid automatically from their paycheck. No fees. No interest.

- Free for your employees. Free for you.
- Smart limits to help protect employees.
- Doesn't affect your books or your payroll.
- Funds available instantly with a Gusto debit card.

What if I Call My Free EWA Product a Loan?

California Department of
Financial Protection & Innovation

Securities & Franchise Search FAQs Help

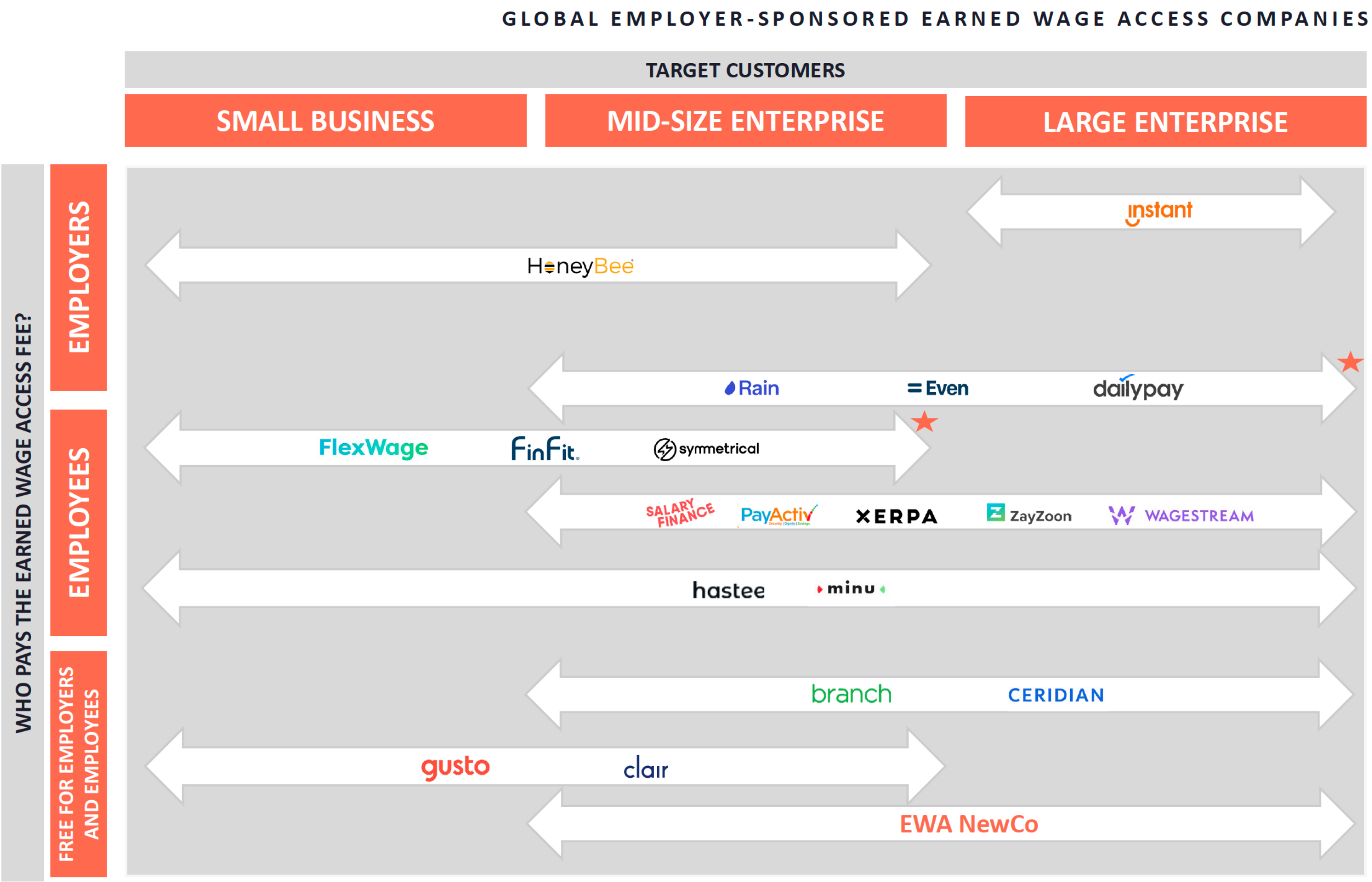
Home / License Search / License Details

License Details

License Number:	60DBO-113296
License Status:	Active
Status Effective Date:	08/21/2020
Licensee Name:	ZenPayroll, Inc.
Organization DBA:	Surrendered license; Gusto;
Originally Licensed Date:	08/21/2020
License Type:	California Finance Lender (Main) [CFL]
Address:	525 20TH STREET SAN FRANCISCO, California 94107
Public Actions:	No

- Gusto thought that by structuring its product as a loan and registering as a lender, but not charging interest, it could deal with required disclosures easily **and gain an advantage over "empty" space competitors**
- Recent EWA developments cast doubt on that strategy

EWA Expands 2021



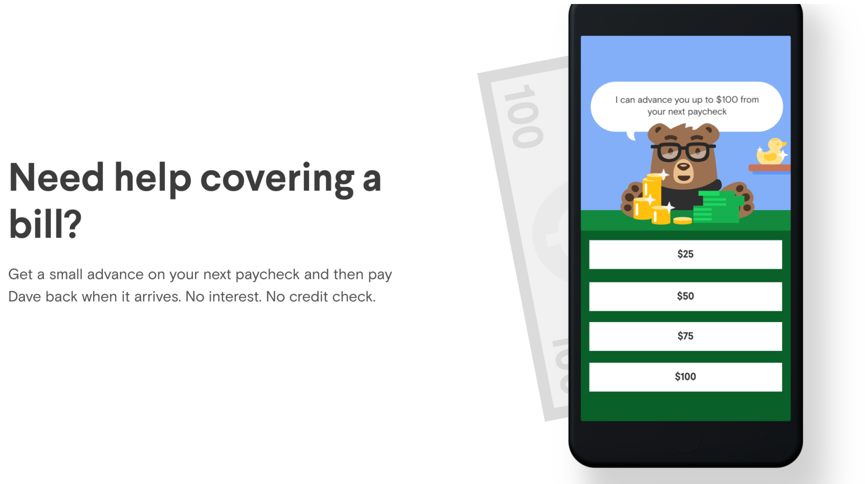
Notes

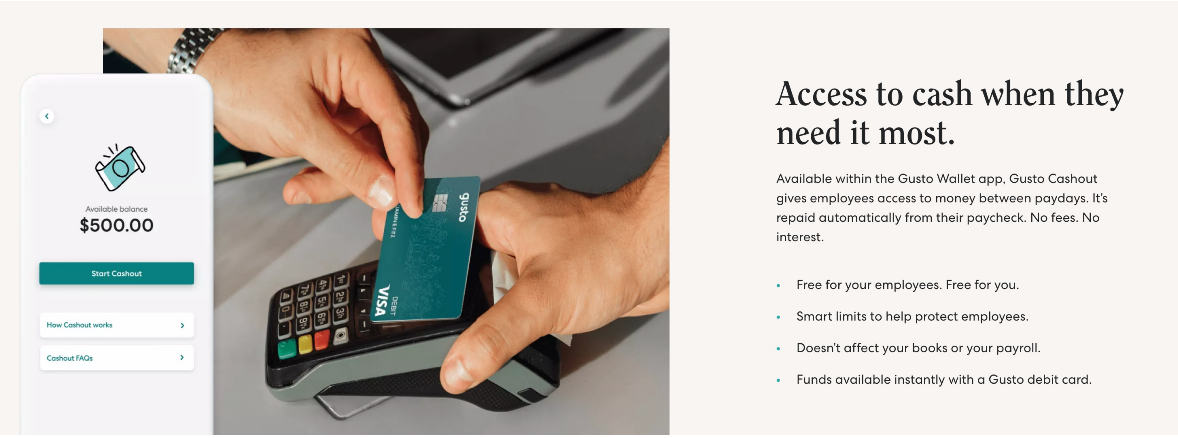
- ★ Employer decides whether to pay the full fee, subsidize for employees, or flow full fee directly to employees
- Small Business: < 100 employees, Mid-size Enterprise: 100-1000 employees, Large Enterprise: > 1000 employees
- DailyPay charges a fee per transfer; Even charges a weekly subscription fee; Finfit charges employees per transfer and monthly fees to employers
- Ceridian On Demand Pay is a part of the broader Ceridian HCM offering to its clients; Gusto Cash Out is a part of its broader Payroll offering
- Salary Finance offers loans: early wage access; Symmetrical's target customer is an assumption
- Kyvu, an India-based company, was raising a funding round for earned wage access in the US and emerging markets

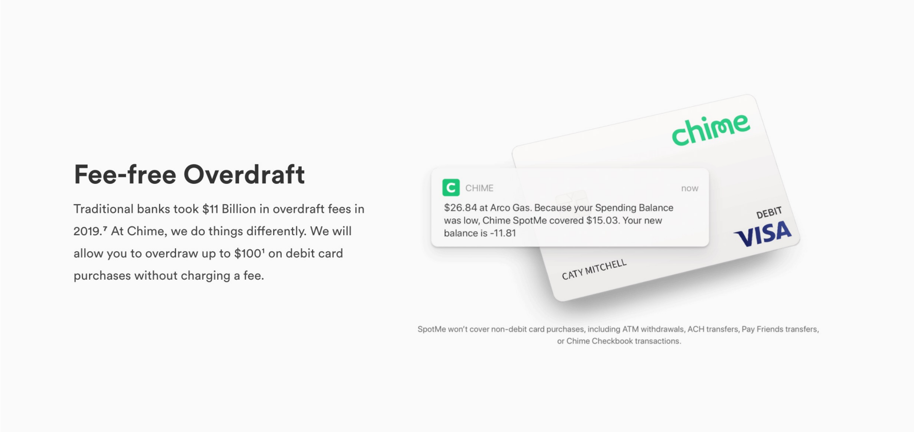
7

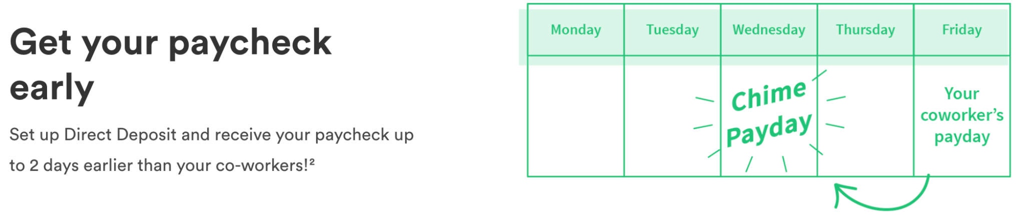
Questions?

Other Fintech Solutions: Dave, Chime, Current Clair, Brigit









Liquidity Feature Now Table Stakes for Challenger Banks—e.g., Current

GET PAID FASTER
Up to 2 days with direct deposit

FREE OVERDRAFT
Up to $100 with Overdrive™

NO HIDDEN FEES OR MINIMUM BALANCE
Spend your money your way

EARN POINTS, GET CASH BACK
Get up to 15x points when you swipe your card

55,000 FREE ATMS
Withdraw cash worldwide for free

INSTANT GAS HOLD REFUNDS
Funds immediately credited to your account

MONEY MANAGEMENT
Instant spending notifications, insights and more

SAVINGS PODS
Automatically put aside money for specific purchases

CASH DEPOSITS
Deposit cash instantly at 60,000 stores

MOBILE CHECK DEPOSIT
Deposit checks easily using your phone's camera

CURRENT PAY
Instantly send or receive money for free

24/7 MEMBER SUPPORT
Support available 24 hours a day, 365 days a year

All of These Solutions Have Similar Issues But Each Has a Slightly Different Business Model

- Dave and Earnin' Use Tip Model
- Dave Conditions Size of Advance on Direct Deposit
- Clair Requires EWA Users to get Salary on Clair Card
- Chime Provides No Fee $100 Overdrafts to DD Customers
- Brigit Follows a Subscription Model

- **Look for the Source of Revenue…interchange? Instant ACH fees? Subscription?**

Other Fintech Solutions: Brigit

Brigit

brigit

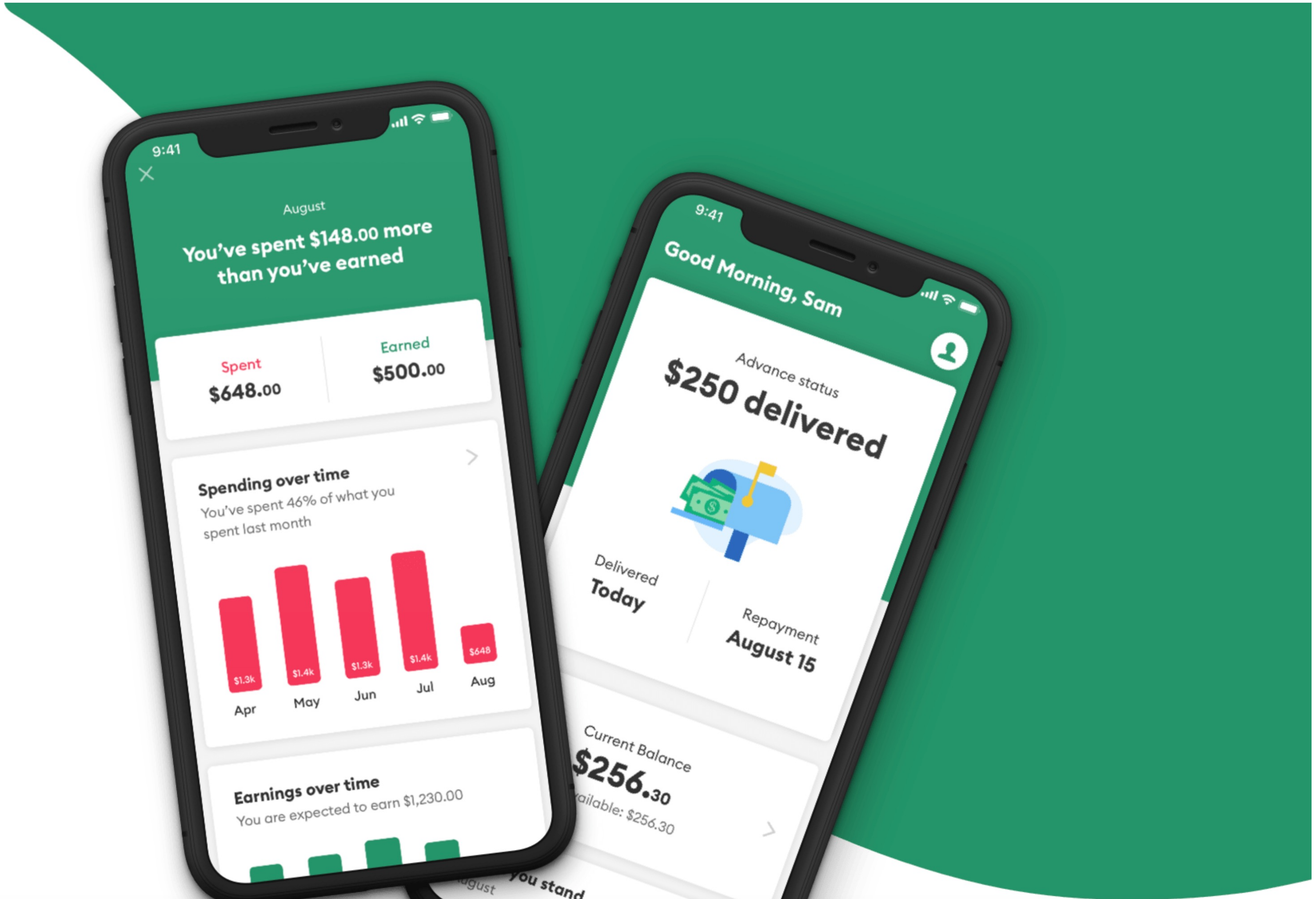
Our story | Our Impact | FAQ | Log In | Sign up

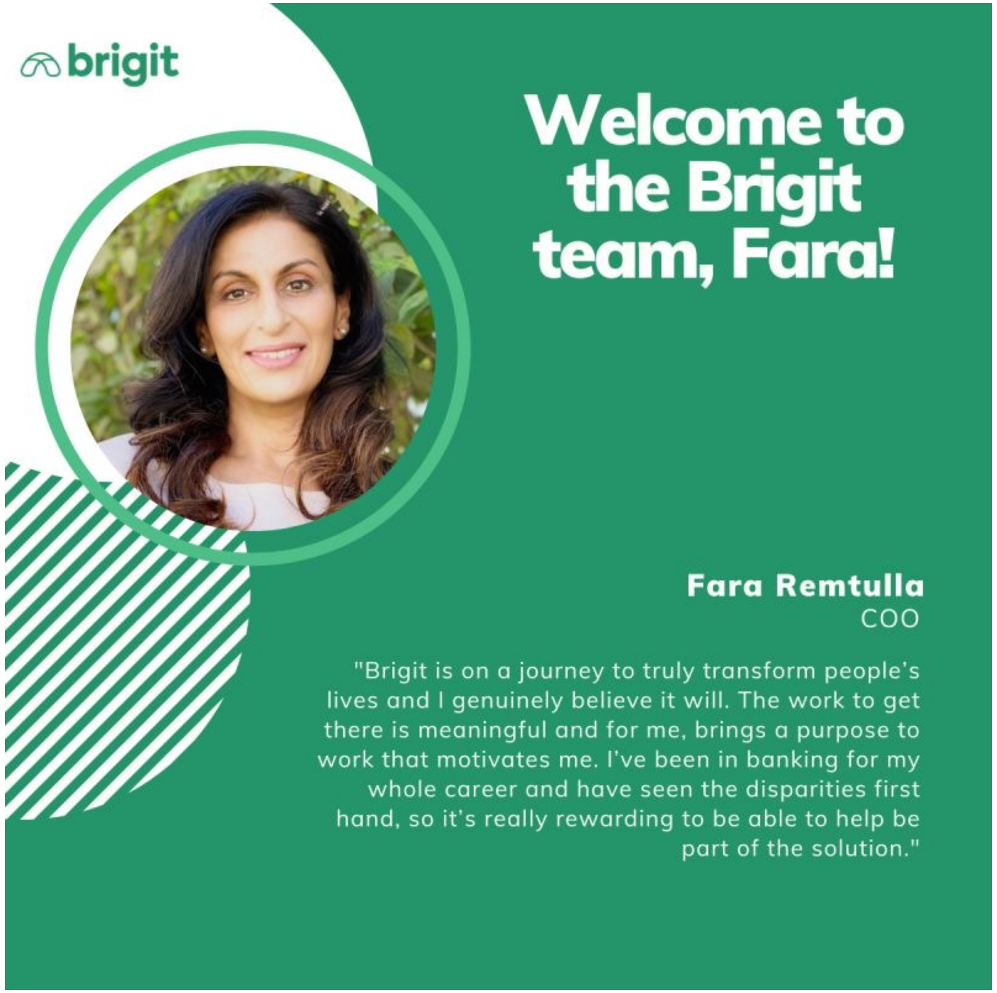
Get your finances on track.

Join 1 million members who get up to $250, budget, and save smarter with Brigit. Only takes 2-minutes. No credit check. No interest.

Get Brigit

★★★★★ 125,000+ ratings on **Apple** and **Google Play**





Guest Speaker—Fara Remtulla, COO of Brigit

- Fara Remtulla is the COO of Brigit. She is a financial services practitioner with exceptional digital, strategy and customer experience skills teamed with a solid analytical tool kit. She has global experience with top tier institutions across North America and the Middle East, in Corporate, Investment and Retail Banking and a track record of execution and delivery in new market entry, acquisitions and divestitures, and business development.

Brigit

Advances
How to qualify, delivery, amount, auto-advances, requests & more

Repayment
Automatic withdrawal, early payments, extensions & more

Deposits or Income
Adding deposits or income, changing pay schedule, amount, verification & more

Bank Account
Setting up debit card, trouble connecting to bank, bank updates

General Info
About Us, E-mail, phone, PIN, Referrals & more

Privacy and Security

Brigit

- Our values
- We're dedicated to just one thing: Your financial wellness. So we make sure we always meet three key standards.
  - Easy to use. Finance is complicated enough. Our products are designed to not only be fast and simple, but actually reduce stress.
  - Transparent. When it comes to finances, nobody likes surprises. With Brigit, there are no hidden costs, ever. Ever.
  - Fair. That means putting the success of our members first. You'll never be penalized for needing more help — or needing it ASAP.

Brigit

- We built Brigit for you.
- Americans like you can spend up to $825 a year on overdraft fees alone — that's $825 that could be spent on rent, groceries, or saving for the future. Yet these fees always come at the worst time. You need cash to fix a flat tire. Your daughter gets sick and needs to see a doctor. The holidays are coming up and you want to do something special.
- That's where we come in. With products that are both simple to use and radically transparent, we help you relieve stress today, start saving for tomorrow, and permanently transform your financial future.
- We wanted to start with one of the most stressful financial topics: How to bridge a short term gap, without having to pay unreasonable fees. Banks and lenders win when you lose, when all of a sudden you need extra cash. We don't think that's right. With personalized tools and alerts, we help you make smart decisions to keep your balance positive. And if you still need cash to cover a gap, you get it at no added cost — plus the flexibility to pay it back when you can.

Brigit Overview

How does Brigit work?

Quinn
4 days ago · Updated

Follow

Brigit is a financial health app that links up to your checking account and runs in the background to help you budget better, keep tabs on bills, find side gigs, and get up to $250 when you need it.

To use Brigit, all you need is a smartphone and a bank account:

1. Share details about your bank
2. Brigit runs in the background and looks at your transactions to provide updates on upcoming bills, whether you'll have enough to cover them, and sends you money if you need it
3. Use features like side-gigs to find ways to earn extra money on the side
4. Upgrade to the Plus plan for access to our cash advance product and a host of other services to help get your finances on track
5. **Enjoy peace of mind and focus on the things you care about!**

Who can use Brigit?

Jason
1 month ago · Updated

Follow

Brigit is available to U.S residents 18 years or older.

An active bank account is required to use some of our features, such as Brigit Finance Helper, while a recurring deposit is required to qualify for Brigit Instant Cash.

No credit score required!

Brigit Cost

How much does Brigit cost?

Quinn
4 days ago · Updated

Follow

The Brigit app is **free to use** and includes budgeting and account monitoring tools to help your finances on track.

If you'd like to access more features you can upgrade to our **Plus plan** for just $9.99 per month. There are **no additional fees.**

What does the Plus plan include?

For $9.99 per month, you'll have access to all of Brigit's Plus features including:

- **Finance Helper** - Get practical information on your past, current and future financial outcomes.
- **Instant Cash** -If you qualify, access interest-free advances with no credit check.
- **Instant Transfers** - Other companies will charge you extra just for faster delivery of funds. We believe no one should have to pay more for faster access, so this is included in your membership at no extra cost
- **Flexible Repayment** - Whether you need to extend your due date for more time or want to repay early, we'll work around your schedule at no extra charge
- **Earn Extra** - We are here to help you find extra opportunities to increase your income and hopefully save a little extra for the future

Why the $9.99 a month fee?

The $9.99 covers all the costs associated with Brigit. We know it's hard to keep track of every little fee so we don't nickel and dime you.

More on Brigit

Bank Account Requirements

Mike
8 months ago · Updated

Follow

To qualify for Brigit Instant Cash, your checking account must meet the following criteria:

Checking account with **sufficient activity:**

- Adding your **primary checking account and using it daily** helps us accurately predict your spending and earning patterns.
- Using your account every day for a couple of weeks should satisfy the requirement.

Checking account has at **least 60 days of activity:**

- **If you just opened your account**, wait until your account is 60 days old.
- **If your account has been open for over 60 days**, please wait one business day, and if the requirement is still not met, reach out to us.

Balance is **greater than $0**:

- We've found that members with less than $0 in their bank account have trouble using our service to maximize their financial health.
- **If your balance is above $0**, please hold tight until we **receive updates** from your bank to meet this requirement.

You have a **cash cushion** in your account at the **end of day you receive your paycheck:**

- We require a **minimum average** end-of-day balance **on days you receive your paycheck** to make sure that you can repay Brigit on time.

You have a **cash cushion** in your account the **day after you receive your paycheck:**

- We require a **minimum average** balance the first day **after** previous **days you receive your paycheck** to make sure that you can repay Brigit on time.

More on Brigit

Deposit or Income Requirements:

To qualify for Brigit Instant Cash you must have **at least three recurring deposits** from the **same employer or deposit source**.

Please note:

- ATM deposits, paper checks, cash transfers, or paychecks with irregular pay schedules **do not** qualify at this time.

For live support join us on chat M-Thur 11AM-3PM EDT at www.hellobrigit.com/faq

More on Brigit

Brigit Score

Mike
5 days ago · Updated

Follow

What is my Brigit score?

Brigit looks at your account information and calculates a Brigit score from 0-100.

The score is used to determine whether you qualify for Brigit Instant Cash.

Brigit calculates this score by looking at your account data across three categories: Bank Account Health, Spending Behavior, and Earnings Profile.

What score do I need to qualify for Brigit Instant Cash?

The Brigit app will tell you the minimum score you will need to qualify. Scores can range from 40 to 100.

How is my score calculated?

Brigit calculates this score by looking at your account data across three categories: Bank Account Health, Spending Behavior, and Earnings Profile.

More on Brigit

How is my score calculated?

Brigit calculates this score by looking at your account data across three categories: Bank Account Health, Spending Behavior, and Earnings Profile.

Bank Account Health: This score factor primarily reflects:

1. **Balance status and fees:** Your average balance over time and the number of bank fees you've been charged.
2. **Account activity:** How long your bank account has been active and how often you use your account.

Earnings Profile: This score factor is made up of ***two main contributing general attributes***:

1. **Monthly recurring deposits**: Deposit amount from the same employer or another deposit source.
2. **Deposit history**: Deposit size and number of recurring deposits in your account.

Spending Behavior: This score factor primarily reflects:

1. **Budgeting habits**: How much you spend vs earn each month.
2. **Bill payment history**: How often you make routine bill payments.

How can I improve my score?

Click on your scorecard on the homepage of the app to see how you can improve.

How often does my score change?

Brigit is always working in the background to keep your account safe. We recalculate your Brigit score every time we get an update from your bank. This usually takes place twice a day.

More on Brigit

What are Auto Advances?

Mike

5 months ago · Updated

Follow

Automatic Advances are a feature of Brigit Plus that will automatically make sure you're covered if you're at risk of an overdraft. We know when to send you cash by looking at your balance and spending patterns to predict if you'll be at risk of an overdraft in the near future.

Please note:

- You need to qualify for instant cash
- You always have the option to turn off auto advances
- You can still choose to manually request an advance if you have auto advances enabled
- You can only have **one advance outstanding at a time**

More on Brigit

Can I change my due date?

Mike

8 months ago · Updated

Follow

Yes you can! We give you one extension credit when you sign up that allows you to push back your repayment date to a later time.

If you'd like to extend your due date you must extend your auto repayment date by **3:00 PM EST one business day before** your advance is due. Otherwise, it will be too late to extend the due date.

To extend your due date:

- Advances tab
- Click "Extend repayment"
- Select a date that works for you

You can **earn 1 extension** for every 2 consecutive advances you pay back on your original repayment date. You can bank up to 3 extension credits at a time.

Brigit Impact

Since we launched, we've:

Helped

1,000,000+

people break free of financial stress, unfair fees, and worsening credit scores

Saved our members from

$250 million

in fees – an average of $500+ per person.

Served members in

50 states

from Uber drivers to Walmart cashiers, veterans to Amazon warehouse workers.

FinTech Analysis in a Nutshell

Business	Public Policy	Law & Regulation
Business Model Analysis	Economic & Social Impact Analysis	Legal & Regulatory Analysis

The Business Model Canvas

Designed for: Brigit

Designed by:

Date:

Version:

Key Partners	Key Activities	Value Propositions	Customer Relationships	Customer Segments
	Key Resources		Channels	

Cost Structure	Revenue Streams

The Business Model Canvas

Designed for: Brigit	*Designed by:*	*Date:*	*Version:*

Key Partners

Key Activities

Key Resources

Value Propositions

Customer Relationships

Channels

Customer Segments

Liquidity- challenged Consumers looking for help with finances

Cost Structure

Revenue Streams

The Business Model Canvas

Designed for: Brigit

Designed by:

Date:

Version:

Key Partners

Key Activities

Key Resources

Value Propositions

Help you spend wisely, avoid unfair fees, and start saving more.

Avoid Overdrafts
--Risk reduction
--Cost avoidance

Customer Relationships

Channels

Customer Segments

Liquidity- challenged Consumers looking for help with finances

Cost Structure

Revenue Streams

The Business Model Canvas

Designed for: Brigit

Designed by:

Date:

Version:

Key Partners	Key Activities / Key Resources	Value Propositions	Customer Relationships / Channels	Customer Segments
	Key Activities **Key Resources**	Help you spend wisely, avoid unfair fees, and start saving more. Avoid Overdrafts --Risk reduction --Cost avoidance	**Customer Relationships** **Channels** Digital mobile and desktop app Email and Chat/no Phone	Liquidity- challenged Consumers looking for help with finances

Cost Structure	Revenue Streams

The Business Model Canvas

Designed for: Brigit

Designed by:

Date:

Version:

Key Partners

Key Activities

Key Resources

Value Propositions

Help you spend wisely, avoid unfair fees, and start saving more.

Avoid Overdrafts
--Risk reduction
--Cost avoidance

Customer Relationships

Automated/Digital

Trust associated with Bank credentials

Channels

Digital mobile and desktop app

Email and Chat/no Phone

Customer Segments

Liquidity- challenged Consumers looking for help with finances

Cost Structure

Revenue Streams

The Business Model Canvas

Designed for: Brigit

Designed by:

Date:

Version:

Key Partners

Key Activities

Key Resources

Value Propositions

Help you spend wisely, avoid unfair fees, and start saving more.

Avoid Overdrafts
--Risk reduction
--Cost avoidance

Customer Relationships

Automated/Digital

Trust associated with Bank credentials

Channels

Digital mobile and desktop app

Email and Chat/no Phone

Customer Segments

Liquidity- challenged Consumers looking for help with finances

Cost Structure

Revenue Streams

Freemium structure but little value in free product

$9.99/mo for Instant Deposit, Auto Advance, Credit Monitoring, Identity Theft

Revenue Sharing?

The Business Model Canvas

Designed for: Brigit

Designed by:

Date:

Version:

Key Partners

Key Activities

Key Resources

Intellectual capital in software and operations

Financial funding for advances (CIM Social Impact Fund)

Value Propositions

Help you spend wisely, avoid unfair fees, and start saving more.

Avoid Overdrafts
--Risk reduction
--Cost avoidance

Customer Relationships

Automated/Digital

Trust associated with Bank credentials

Channels

Digital mobile and desktop app

Email and Chat/no Phone

Customer Segments

Liquidity- challenged Consumers looking for help with finances

Cost Structure

Revenue Streams

Freemium structure but little value in free product

$9.99/mo for Instant Deposit, Auto Advance, Credit Monitoring, Identity Theft

Revenue Sharing?

The Business Model Canvas

Designed for: Brigit

Designed by:

Date:

Version:

Key Partners

Key Activities

In house software platform development and maintaining stable connections to banking rails

Marketing

Key Resources

Intellectual capital in software and operations

Financial funding for advances (CIM Social Impact Fund)

Value Propositions

Help you spend wisely, avoid unfair fees, and start saving more.

Avoid Overdrafts
--Risk reduction
--Cost avoidance

Customer Relationships

Automated/Digital

Trust associated with Bank credentials

Channels

Digital mobile and desktop app

Email and Chat/no Phone

Customer Segments

Liquidity- challenged Consumers looking for help with finances

Cost Structure

Revenue Streams

Freemium structure but little value in free product

$9.99/mo for Instant Deposit, Auto Advance, Credit Monitoring, Identity Theft

Revenue Sharing?

The Business Model Canvas

Designed for: Brigit

Designed by:

Date:

Version:

Key Partners

Plaid for Deposit Connection and Data

Funders for Advances (CIM)

Regulators

ID Theft Insurer

Credit Monitoring Partner?

Key Activities

In house software platform development and maintaining stable connections to banking rails

Marketing

Key Resources

Intellectual capital in software and operations

Financial funding for advances (CIM Social Impact Fund)

Value Propositions

Help you spend wisely, avoid unfair fees, and start saving more.

Avoid Overdrafts
--Risk reduction
--Cost avoidance

Customer Relationships

Automated/Digital

Trust associated with Bank credentials

Channels

Digital mobile and desktop app

Email and Chat/no Phone

Customer Segments

Liquidity- challenged Consumers looking for help with finances

Cost Structure

Revenue Streams

Freemium structure but little value in free product

$9.99/mo for Instant Deposit, Auto Advance, Credit Monitoring, Identity Theft

Revenue Sharing?

The Business Model Canvas

Designed for: Brigit

Designed by:

Date:

Version:

Key Partners

Plaid for Deposit Connection and Data

Funders for Advances (CIM)

Regulators

ID Theft Insurer

Credit Monitoring Partner?

Key Activities

In house software platform development and maintaining stable connections to banking rails

Marketing

Key Resources

Intellectual capital in software and operations

Financial funding for advances (CIM Social Impact Fund)

Value Propositions

Help you spend wisely, avoid unfair fees, and start saving more.

Avoid Overdrafts
--Risk reduction
--Cost avoidance

Customer Relationships

Automated/Digital

Trust associated with Bank credentials

Channels

Digital mobile and desktop app

Email and Chat/no Phone

Customer Segments

Liquidity- challenged Consumers looking for help with finances

Cost Structure

Platform Dev and Maintenance
Credit losses
Revenue Sharing
Marketing

Revenue Streams

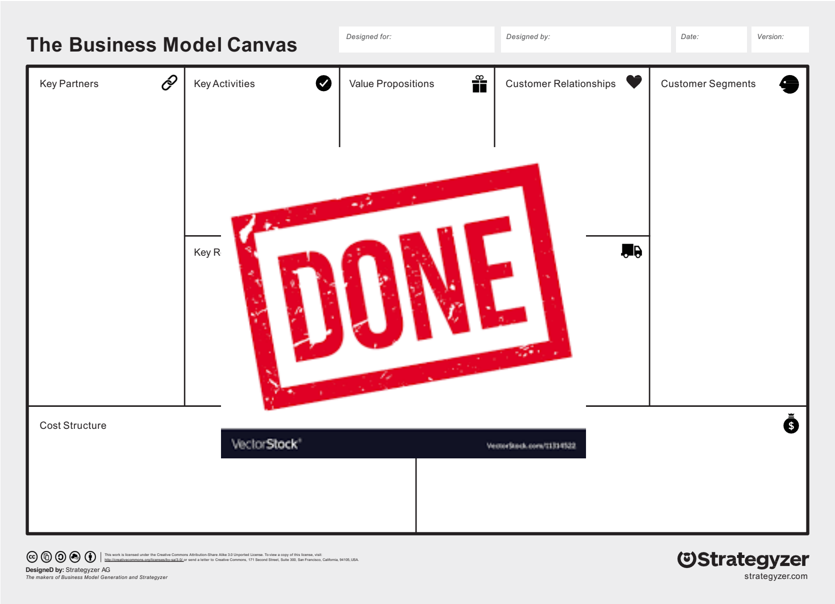
Freemium structure but little value in free product

$9.99/mo for Instant Deposit, Auto Advance, Credit Monitoring, Identity Theft

Revenue Sharing?

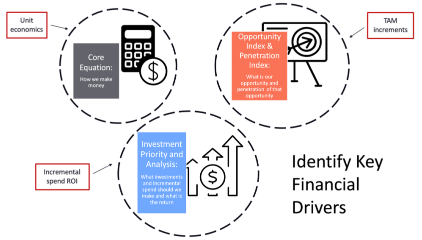
1 We'll Use Only One Supplementary Tool

1A: Canvas



1B: Supplements

Key Product Insights
- Customer Segment
- Product Function
- Product Value Prop
- Pricing Structure
- Who else pays/subsidizes?
- Use of Banking Rails
- Product Structure & Behavior
- Data/AI



Identify Key Financial Drivers

1C: Risks

Financial Services Risks:
- Credit risk
- Market risk
- Operational risk
- Liquidity (Funding) risk
- Reputational risk
- Legal, regulatory & political risk
- Data/AI risk
- Systemic risk

Key Product Level Insights

- Customer Segment
- Product Function
- Product Value Prop
- Pricing Structure

- Who Pays/Subsidizes
- Use of Banking Rails
- Product Structure & Behavior
- Data/AI

Brigit Risk Canvas

- **Credit risk. …**
- **Market risk. ...**
- **Operational risk. ...**
- **Liquidity (Funding) risk. ...**
- **Reputational risk. ...**
- **Legal, regulatory and political risk. …**
- **Data Management/AI Risk. …**
- **Systemic risk. ...**

Policy Screens for Consumer FinTech

Utility/Scalability

- Utility: Cost/Avoidance vs. Alternatives
- Delivery at Scale Possible?

Inclusivity/Exclusivity

- Wealth/Income/Race/Ethnicity/Sex/Disability

Alignment Analysis

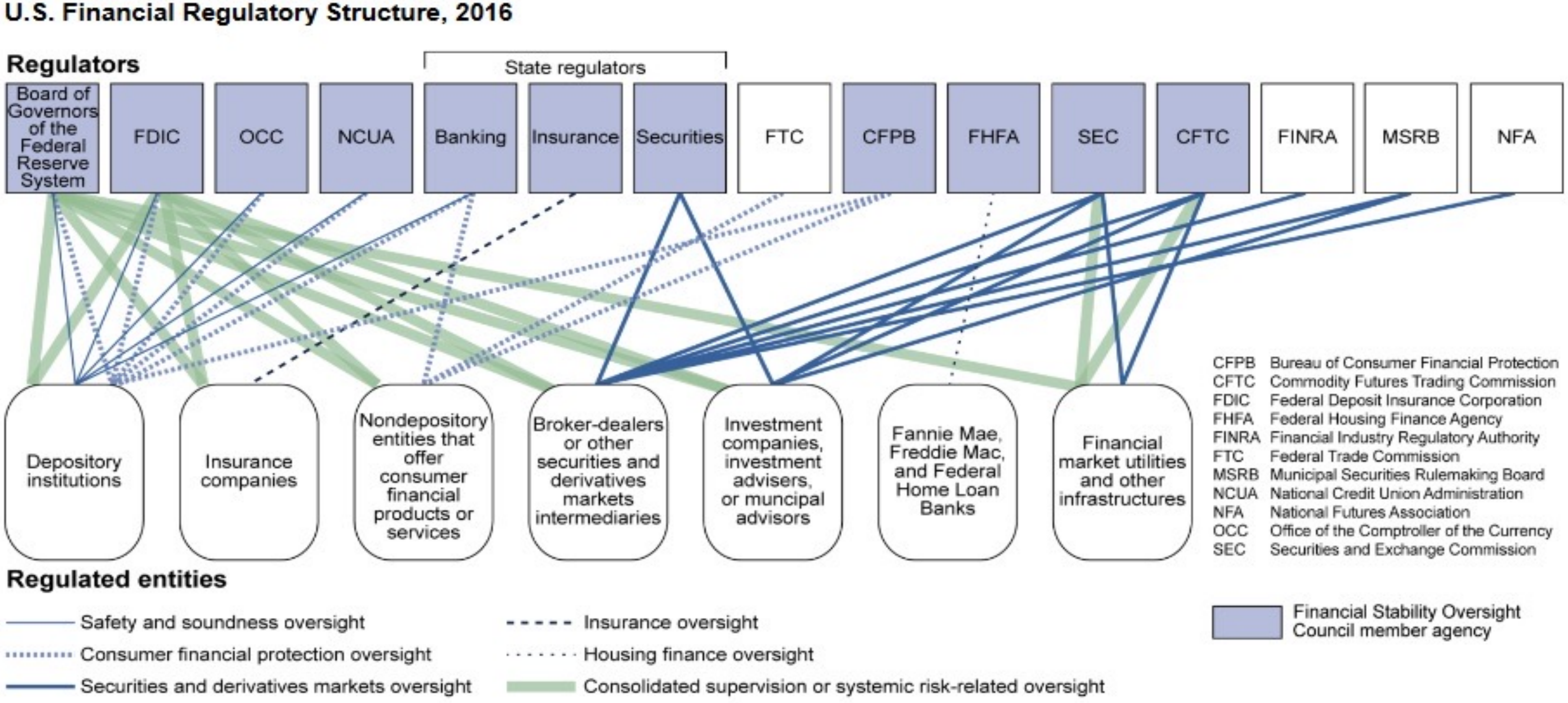
- The incentives imbedded in a fintech business and/or product model and consumer interests

Data Utilization

- Source/Privacy/Control

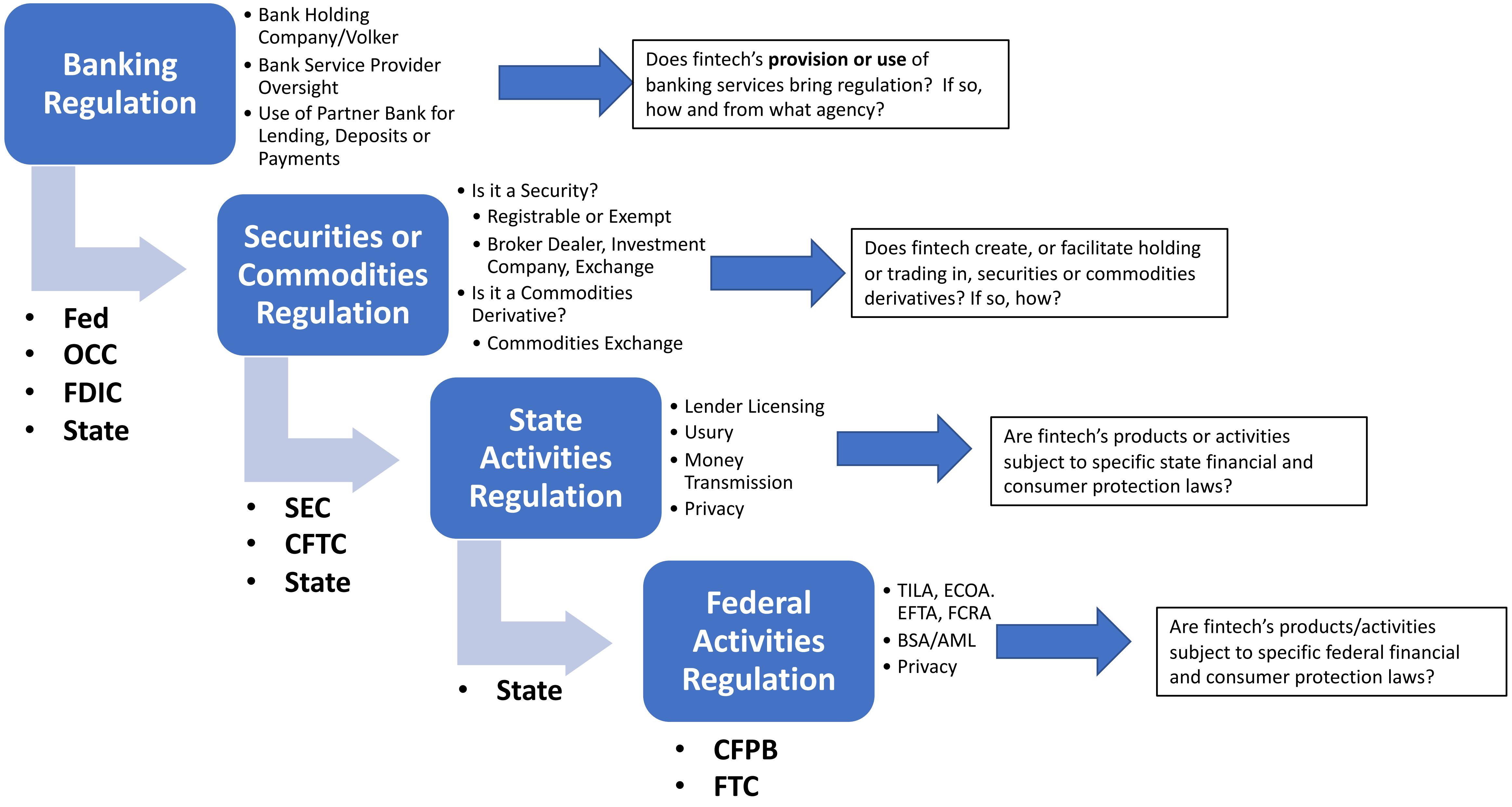
Systemic Impact

Assess How Many Ways Brigit is Regulated Directly and Indirectly?



Source: GAO. | GAO-16-175

Note: This figure depicts the primary regulators in the U.S. financial regulatory structure, as well as their primary oversight responsibilities. “Regulators” generally refers to entities that have rulemaking, supervisory, and enforcement authorities over financial institutions or entities. There are additional agencies involved in regulating the financial markets and there may be other possible regulatory connections than those depicted in this figure.


Banking Regulation
Bank Holding Company/Volker
Bank Service Provider Oversight
Use of Partner Bank for Lending, Deposits or Payments
Does fintech's provision or use of banking services bring regulation? If so, how and from what agency?
Fed
OCC
FDIC
State
Securities or Commodities Regulation
Is it a Security?
Registrable or Exempt
Broker Dealer, Investment Company, Exchange
Is it a Commodities Derivative?
Commodities Exchange
Does fintech create, or facilitate holding or trading in, securities or commodities derivatives? If so, how?
SEC
CFTC
State
State Activities Regulation
Lender Licensing
Usury
Money Transmission
Privacy
Are fintech's products or activities subject to specific state financial and consumer protection laws?
State
Federal Activities Regulation
TILA, ECOA. EFTA, FCRA
BSA/AML
Privacy
Are fintech's products/activities subject to specific federal financial and consumer protection laws?
CFPB
FTC

Identify and Assess Laws Applicable to Brigit

<u>Federal Laws</u>

- x
- x
- x

<u>State Laws</u>

- x
- x
- x

Questions?

Appendix

US Regulatory Responses

State Regulatory Structure

As federal policy makers work toward a national payday lending policy, here is a summary of state payday lending laws, including loan usage rates. Note that these summaries should be used for general informational purposes only.

Permissive States **27**

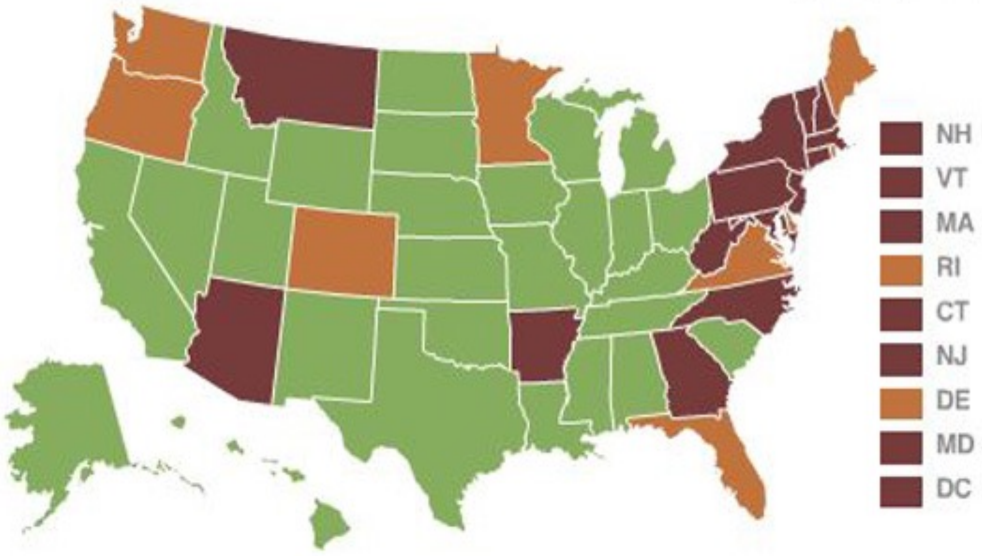
Allow single-repayment loans with APRs of 391 percent or higher.

Hybrid States **9**

Have payday loan storefronts, but maintain more exacting requirements, such as lower limits on fees or loan usage, or longer repayment periods.

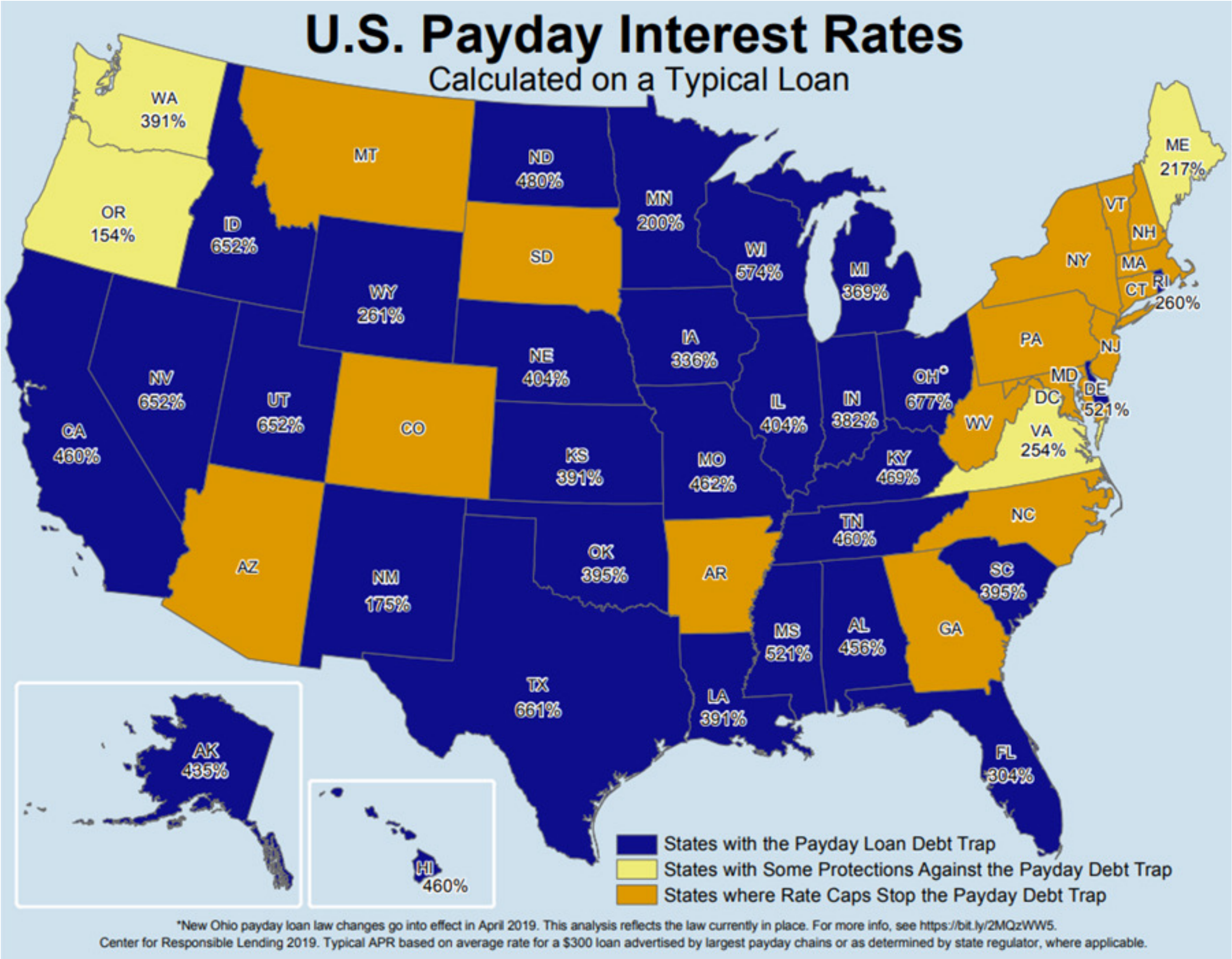
Restrictive States **15**

Have no payday loan storefr

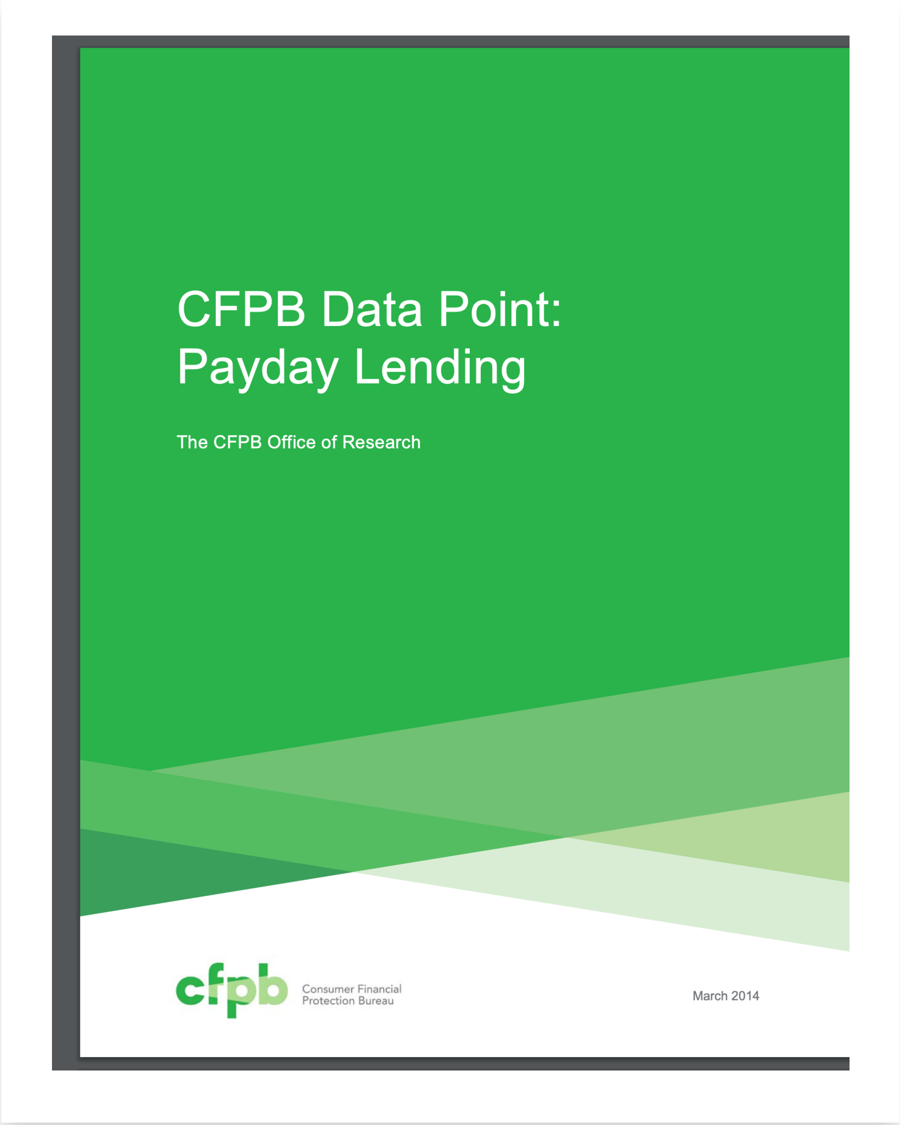


Roll over the map to see each state's usage
Click a state for more information.

Rates


U.S. Payday Interest Rates
Calculated on a Typical Loan
WA 391%
OR 154%
ID 652%
MT
ND 480%
MN 200%
SD
WY 261%
NV 652%
UT 652%
CO
CA 460%
AZ
NM 175%
NE 404%
KS 391%
OK 395%
TX 661%
IA 336%
MO 462%
AR
LA 391%
WI 574%
IL 404%
MI 369%
IN 382%
OH* 677%
KY 469%
TN 460%
MS 521%
AL 456%
GA
FL 304%
SC 395%
NC
VA 254%
WV
PA
NY
VT
NH
ME 217%
MA
CT
RI 260%
NJ
MD
DE 521%
DC
AK 435%
HI 460%
States with the Payday Loan Debt Trap
States with Some Protections Against the Payday Debt Trap
States where Rate Caps Stop the Payday Debt Trap
*New Ohio payday loan law changes go into effect in April 2019. This analysis reflects the law currently in place. For more info, see https://bit.ly/2MQzWW5.
Center for Responsible Lending 2019. Typical APR based on average rate for a $300 loan advertised by largest payday chains or as determined by state regulator, where applicable.

CFPB Research



Payday loans

- Used by between 10 and 12 million Americans annually, payday loans are typically a few hundred dollars and due in two weeks, or on the borrower's next payday
- Payday loans' annualized interest rates are often as high as 400%, and because many borrowers cannot repay their debts quickly, the loans are rolled over — taking out a new loan to repay an old one — incurring more fees
- The loans are already effectively banned in 15 states and DC

Increased oversight

- The new rule brings tougher oversight to the $38.5 billion industry that was previously governed by states, limiting how often and how much consumers can borrow — lenders will be allowed to make a single loan of up to $500, but only to borrowers with no other outstanding payday loans
- The rule will also cover auto-title loans, deposit-advance products offered by banks and longer-term loans with large one-time payments known as "balloon payments," but excludes most types of consumer loans of over 45 days

The rule's impact

- Lenders believe the rule will wipe out the market for short-term payday loans
- While payday lenders argue they provide lifelines to poor and working class Americans, critics say they prey on the vulnerable by charging exorbitantly high rates and fees
- The new restrictions further pit the CFPB against Congress and President Trump, who has made rolling back business regulations a centerpiece of his agenda
- CFPB Director Richard Cordray, an Obama appointee, is pushing to complete new rules before his term ends next year

CFPB Payday Rule as Initially Adopted

CFPB Payday Rule as Initially Adopted

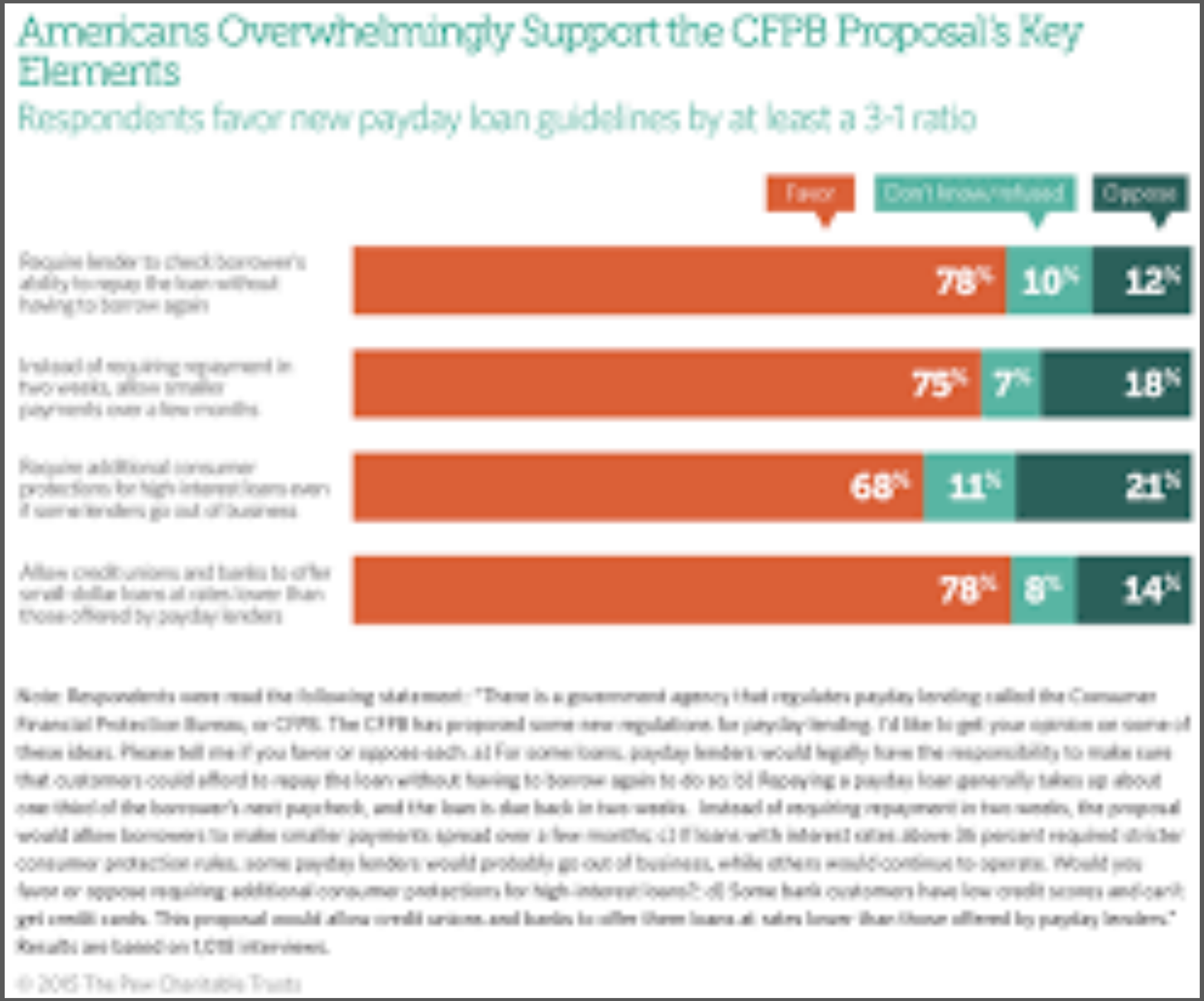
- **Full-payment test:** Lenders are required to determine whether the borrower can afford the loan payments and still meet basic living expenses and major financial obligations.
- **For payday and auto title loans that are due in one lump sum, full payment means being able to afford to pay the total loan amount, plus fees and finance charges within two weeks or a month. For longer-term loans with a balloon payment, full payment means being able to afford the payments in the month with the highest total payments on the loan.**
- The rule also caps the number of loans that can be made in quick succession at three.
- **Principal-payoff option for certain short-term loans**: Consumers may take out a short-term loan of up to $500 without the full-payment test if it is structured to allow the borrower to get out of debt more gradually. Under this option, consumers may take out one loan that meets the restrictions and pay it off in full.
- For those needing more time to repay, lenders may offer up to two extensions, but only if the borrower pays off at least one-third of the original principal each time.
- **To prevent debt traps, these loans cannot be offered to borrowers with recent or outstanding short-term or balloon-payment loans. Further, lenders cannot make more than three such loans in quick succession, and they cannot make loans under this option if the consumer has already had more than six short-term loans or been in debt on short-term loans for more than 90 days over a rolling 12-month period.**
- The principal-payoff option is not available for loans for which the lender takes an auto title as collateral.

CFPB Payday Rule as Initially Adopted

- **Less risky loan options:** Loans that pose less risk to consumers do not require the full-payment test or the principal-payoff option. This includes loans made by a lender who makes 2,500 or fewer covered short-term or balloon-payment loans per year and derives no more than 10 percent of its revenue from such loans.These are usually small personal loans made by community banks or credit unions to existing customers or members.
- In addition, the rule does not cover loans that generally meet the parameters of "payday alternative loans" authorized by the National Credit Union Administration. These are low-cost loans which cannot have a balloon payment with strict limitations on the number of loans that can be made over six months. The rule also excludes from coverage certain no-cost advances and advances of earned wages made under wage-advance programs offered by employers or their business partners.
- **Debit attempt cutoff:** The rule also includes a debit attempt cutoff that applies to short-term loans, balloon-payment loans, and longer-term loans with an annual percentage rate over 36 percent that includes authorization for the lender to access the borrower's checking or prepaid account. **After two straight unsuccessful attempts, the lender cannot debit the account again unless the lender gets a new authorization from the borrower.**
- The lender must give consumers written notice before making a debit attempt at an irregular interval or amount. These protections will give consumers a chance to dispute any unauthorized or erroneous debit attempts, and to arrange to cover unanticipated payments that are due. This should mean fewer consumers being debited for payments they did not authorize or anticipate, or being charged multiplying fees for returned payments and insufficient funds.

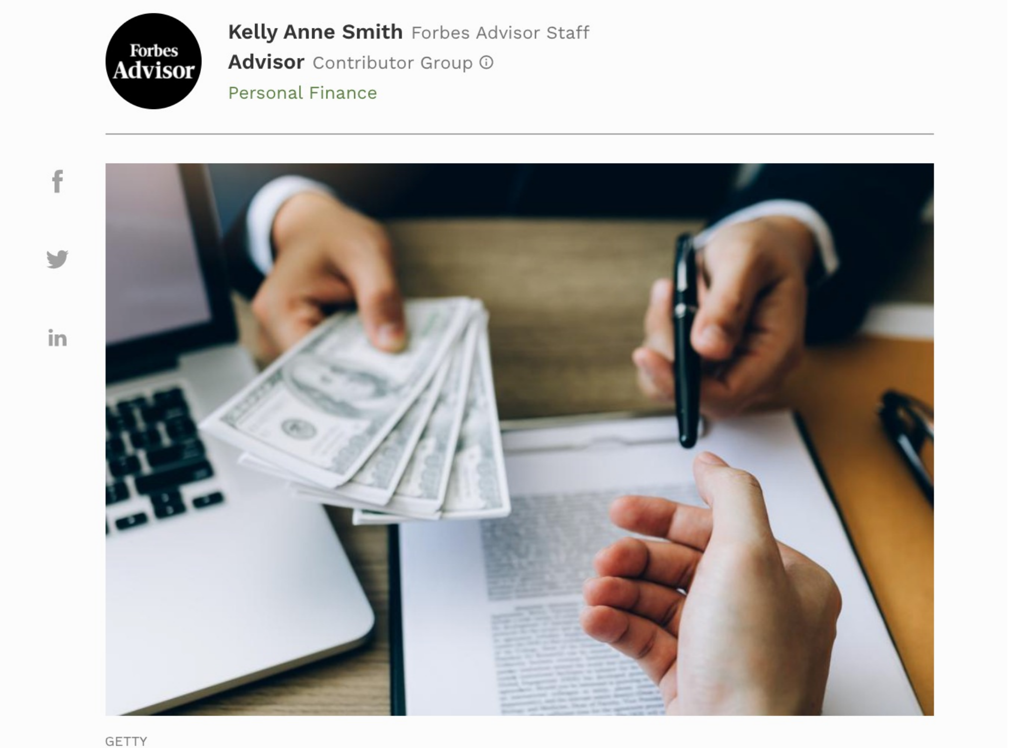

cfpb


3 in 4 Americans Want Payday Loans to Be More Regulated
This finding reflects similar opinions expressed by payday borrowers
American adults
Payday borrowers (2013)
75
17
8
72
27
1


Americans Overwhelmingly Support the CFPB Proposal's Key Elements
Respondents favor new payday loan guidelines by at least a 3-1 ratio
Favor
Don't know/refused
Oppose
78% 10% 12%
75% 7% 18%
68% 11% 21%
78% 8% 14%

“Revised” Payday Rule

- The July 2020 amendment to the rule <u>rescinds the following</u>:
  - **Requirement for a lender to determine a borrower’s ability to repay before making a covered loan;**
  - **Underwriting requirements for making the ability-to-repay determination; and**
  - **Some recordkeeping and reporting requirements**
- The CFPB Payday Rule’s provisions relating to payment withdrawal restrictions, notice requirements, and related recordkeeping requirements for covered short-term loans, covered longer-term balloon payment loans, and covered longer-term loans were not changed by the July final rule.



Reversal Again?

Our commitment to protecting vulnerable borrowers

By Dave Uejio - MAR 23, 2021

SHARE & PRINT

The CFPB is acutely aware of consumer harms in the small dollar lending market, and is particularly concerned with any lender's business model that is dependent on consumers' inability to repay their loans. Years of research by the CFPB found the vast majority of this industry's revenue came from consumers who could not afford to repay their loans, with most short-term loans in reborrowing chains of 10 or more. One-in-five payday loans, and one-in-three vehicle title loans, ended in default, even including periods of reborrowing. And one-in-five vehicle title loan borrowers ended up having their car or truck seized by the lender. That is real harm to real people.

In 2020, the prior administration issued a rule revoking parts of a 2017 CFPB rule that would have addressed these harms. The later rule was challenged in court and the Bureau had a legal obligation to respond to the lawsuit. Accordingly, yesterday the Bureau filed a brief addressing only the court's jurisdiction to hear the case. The brief does not address the merits of the underlying rule, and the Bureau's filing should not be regarded as an indication that the Bureau is satisfied with the status quo in this market. To the contrary, the Bureau believes that the harms identified by the 2017 rule still exist, and will use the authority provided by Congress to address these harms, including through vigorous market monitoring, supervision, enforcement, and, if appropriate, rulemaking.

The Bureau continues to believe that ability to repay is an important underwriting standard. To the extent small dollar lenders' business models continue to rely on consumers' inability to repay, those practices cause harm that must be addressed by the CFPB.

CFPB poised to reinstate tough stance on payday lenders

By Kate Berry March 29, 2021, 12:47 p.m. EDT 5 Min Read

The Consumer Financial Protection Bureau is giving its clearest signal yet that a 2020 regulation easing standards for payday lenders is in jeopardy, despite efforts already in motion by the industry to implement the Trump administration rule.

Acting CFPB Director Dave Uejio — appointed by the Biden administration to lead the agency following Kathy Kraninger's resignation — offered his most forceful comments to date on the 2020 rule, which eliminated underwriting requirements for small-dollar lenders.

Uejio stated in a blog post that the bureau's new leadership supports the "ability-to-repay" standards, originally established in a previous 2017 rule that was unwound by Kraninger, signaling that the agency will reinstate them.

But he went even further by suggesting that the CFPB plans to crack down on payday and auto title lenders by using its enforcement authority under the Dodd-Frank Act to punish companies

Wait, Aren't Overdrafts a Form of Credit?

Federal Reserve Release

Press Release

Release Date: May 19, 2005

For immediate release

The Federal Reserve Board on Thursday published final amendments to Regulation DD, which implements the Truth in Savings Act, and the regulation's official staff commentary to improve the uniformity and adequacy of information provided to consumers when they overdraw their deposit accounts. The final amendments, in part, address a specific service provided by many depository institutions to pay checks and allow other transactions when there are insufficient funds in an account. This service is often referred to as "bounced-check protection" or "courtesy overdraft protection."

Depository institutions sometimes provide overdraft services to deposit account customers as an alternative to a traditional overdraft line of credit. To address concerns about the marketing of this service, the final rule expands the regulation's prohibition against misleading advertisements to cover institutions' communications with current customers about their existing accounts. The staff commentary provides examples of advertisements that would ordinarily be misleading.

Other revisions to Regulation DD require additional disclosures about fees and other terms for overdraft services, including in advertisements. To assist consumers in understanding the financial impact of overdrawing their accounts, the final rule requires institutions that promote the payment of overdrafts in an advertisement to disclose on periodic statements the total dollar amount imposed for overdraft fees and the total dollar amount imposed for returned- item fees, both for the statement period and for the calendar year to date.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

■ Accordingly, we are amending 9 CFR part 77 as follows:

PART 77—TUBERCULOSIS

■ 1. The authority citation for part 77 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

§ 77.12 [Amended]

■ 2. In § 77.12, paragraph (d) is amended by removing the words "6 months" and adding the words "60 days" in their place.

§ 77.14 [Amended]

■ 3. In § 77.14, paragraph (d) is amended by removing the words "within 6 months" and adding the words "within 60 days" in their place.

Done in Washington, DC, this 18th day of May 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–10308 Filed 5–23–05; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL RESERVE SYSTEM

12 CFR Part 230

[Regulation DD; Docket No. R–1197]

Truth in Savings

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending Regulation DD, which implements the Truth in Savings Act, and the staff commentary to the regulation, to address concerns about the uniformity and adequacy of information provided insufficient funds in the account. These services are typically automated services provided to transaction account consumers as an alternative to a traditional overdraft line of credit. Among other things, the final rule creates a new section to the regulation that requires institutions that promote the payment of overdrafts in an advertisement to disclose on periodic statements, total fees imposed for paying overdrafts and total fees imposed for returning items unpaid on periodic statements, both for the statement period and the calendar year to date, and to include certain other disclosures in advertisements of overdraft services.

DATES: The rule is effective July 1, 2006.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Eurgubian, Attorney, or Ky Tran-Trong or Krista P. DeLargy, Senior Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412; for users of Telecommunications Device for the Deaf ("TDD") only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. The Truth in Savings Act

The Truth in Savings Act (TISA), 12 U.S.C. 4301 *et seq.*, is implemented by the Board's Regulation DD (12 CFR part 230). The purpose of the act and regulation is to assist consumers in comparing deposit accounts offered by depository institutions, principally through the disclosure of fees, the annual percentage yield (APY), the interest rate, and other account terms. An official staff commentary interprets the requirements of Regulation DD (12 CFR part 230 (Supp. I)). Credit unions are governed by a substantially similar regulation issued by the National Credit Union Administration.

Under TISA and Regulation DD, disclosures must be given upon a consumer's request and before an account is opened. Institutions are not required to provide periodic statements, but if they do, the act requires that fees, yields, and other information be provided on the statements. Notice must be given to accountholders before an adverse change in account terms occurs and prior to the renewal of certificates of deposit (time accounts).

TISA and Regulation DD contain rules ... transaction fee is imposed, if a minimum balance must be maintained, or if a fee is imposed when a customer exceeds a specified number of transactions. In addition, the act and regulation impose substantive restrictions on institutions' practices regarding the payment of interest on accounts and the calculation of account balances.

II. Concerns About Overdraft Services

Historically, depository institutions have used their discretion on an ad hoc basis to pay overdrafts for consumers on transaction accounts, usually imposing a fee. Over the years, some institutions automated the process for considering whether to honor overdrafts to reduce the costs of reviewing individual items, but generally institutions did not inform customers of their internal policies for determining whether an item would be paid or returned. More recently, third-party vendors have developed and sold overdraft programs to institutions, particularly to smaller institutions. These programs generally build upon or add to the institution's existing internal reporting systems to enable the institution to automate its payment of overdrafts.[1] What generally distinguishes the vendor programs from institutions' in-house automated processes is the addition of marketing plans that appear designed to promote the generation of fee income by disclosing to account-holders the dollar amount that the consumer typically will be allowed to overdraw their accounts. Some institutions also encourage consumers to use the service to meet short-term borrowing needs.

Paying consumers' occasional or inadvertent overdrafts is a long-established customer service provided by depository institutions. The Board recognized this longstanding practice when it initially adopted Regulation Z in 1969, to implement the Truth in Lending Act (TILA); the regulation provided that these transactions are generally exempt from coverage under Regulation Z where there is no written agreement between the consumer and institution to pay an overdraft and impose a fee. *See* § 226.4(c)(3). The exemption from Regulation Z was designed to facilitate depository

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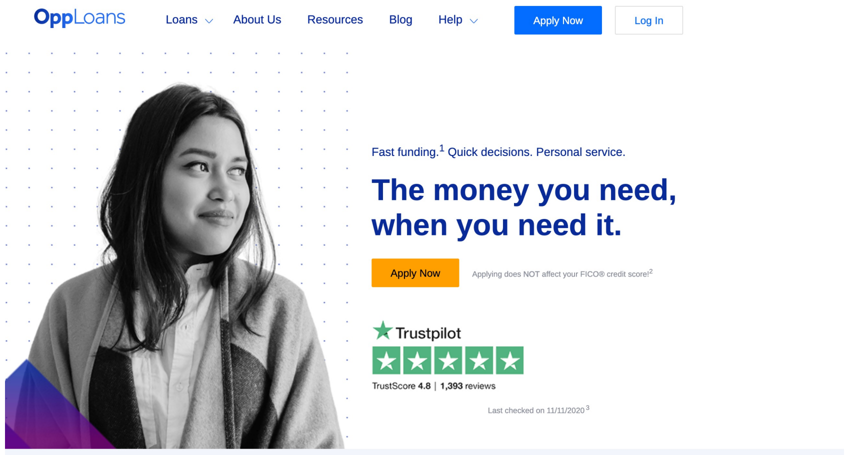

ABOUT OPPLOANS

Loan amount
$500 – $4,000

Min. credit score
Not specified

APR from
99% – 199%

Funds available in
As soon as one business day

OppLoans rebrands, will go public through merger with SPAC

The Chicago-based loan servicer looks to reach upmarket with a credit-card rollout this year and a payroll deduction secured installment loan, currently in beta.

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Score40 Knowledge Center Financial Solutions Search

Making the right decision begins with having the right options. Our borrowing resources will suit more than your current financial needs, but your peace of mind too.

Select your state to see results

Select a state

RISE installment loans are a better alternative to payday loans, with flexible payment options, same-day approval, and money as soon as tomorrow.[2]

Loan Amount	Availability of Funds	APR Range	Payment Frequency
$500 - $5000[1]	As soon as the next business day[2]	60 - 299%**	Bi-weekly, monthly, or semi-monthly*

Show more

Money Management

Discover ways to boost your buying power, save on expenses, and enjoy a feeling of financial wellness.

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Learn More

Mvelopes is a fast and easy way to make a budget, track your spending, and manage your finances like never before. The Mvelopes mobile app and online tools are easy to understand and allow you build your digital envelope budget in just 15 minutes. Mvelopes has helped thousands of customers reduce financial stress and save millions of dollars since 2001!

OppLoans and Banks

- FinWise Bank is earning at least 60% interest on the loans it holds made through OppLoans

Bank Servicing

Our "*Powered by OppLoans*" platform allows banks to offer access to credit to the millions of credit challenged consumers through our proprietary bank servicing model.

OppLoans' platform provides FDIC-insured, state chartered banks with an end-to-end origination solution. We bring expertise in mobile-first customer marketing acquisition, data analytics, automated alternative data driven underwriting processes and industry-leading customer service to help banks deliver a modern digital customer experience quickly and effectively.

Our bank partners leverage our technology platform to outsource marketing and servicing while maintaining the critical control of loan origination, underwriting approvals, regulatory and compliance oversight management.

Through our best-in-class business practices and unrivaled customer service experience, we help banks expand access to credit by creating and delivering the best products and experience to their customers.

Lending Partners

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