

AMERICAN PAYROLL ASSOCIATION

November 3, 2021

The Honorable Stephen F. Lynch
Chair, Task Force on Financial Technology
U.S. House of Representatives
2109 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
Chair, Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Re: Buy Now, Pay More Later? Investigating Risks and Benefits of BNPL (Buy Now Pay Later) and Other Emerging Fintech Cash Flow Products; November 2, 2021, House Financial Services Committee Hearing of the Task Force on Financial Technology

Dear Representatives Lynch and Waters:

The American Payroll Association (APA)¹ appreciates Congress' investigation into Earned Wage Access (EWA) services to balance consumer protections, prevent predatory practices, and maintain employee financial choices. The APA recently released a report, *Understanding Earned Wage Access and Payroll*, which includes a step-by-step guide to selecting an EWA provider and the legal and regulatory framework for EWA. Like you, the APA set out to understand recent advances in technology that have made it possible for employees to access their earned wages prior to their regular payday.

APA's EWA Report

EWA programs have moved from the early adoption phase to become a more established business practice and part of the benefits package offered to employees. When EWA programs are used

¹The APA is a nonprofit professional association representing more than 20,000 payroll professionals in the United States. APA's primary mission is to educate its members and the payroll industry regarding best practices associated with paying America's workers while complying with applicable federal, state, and local laws and regulations. In addition, APA's Government Relations Task Force (GRTF) works with the legislative and executive branches of government to find ways to help employers satisfy their legal obligations, while minimizing the administrative burden on government, employers, and workers. With more than 70% of federal employment tax collections through payroll management, the APA plays an important role as a stakeholder with the federal government.

effectively, employees can gain greater financial security, which helps them with unexpected expenses between paydays.

Additional considerations for employers include the effect on the employer's culture and workforce, whether an EWA program will improve its employees' financial security, and the ability to offer an EWA program to employees fairly. Employers are also interested in whether employee benefits will help them attract and retain talent.

Regulatory considerations will differ depending on the EWA model. These considerations are, in some instances, unresolved and evolving as EWA technology and services are relatively new and existing financial and consumer protection laws and regulations have yet to be updated to directly address EWA programs. For example, when calculating EWA pay amounts, employer integrated EWA programs should consider wage and hour laws, federal and state tax requirements, child support and garnishments, and other withholding requirements.

The APA recommends that payroll professionals and their employers consider the following concepts before deciding on whether to adopt an EWA program:

- Ensure that employees are paid a "living wage,"
- Create regular employee work schedules well in advance and minimize changes, and
- Offer employees professional assistance with financial management and budgeting.

In addition, the APA EWA report provides process flowcharts and information on what employers should consider in selecting a provider that Congress may find helpful. The report is attached.

If APA can be of assistance to you on EWA or other payroll-related issues, please contact me at ajacobsohn@americanpayroll.org or 202-669-4001.

Sincerely,



Alice P. Jacobsohn, Esq.
Director, Government Relations