

Earned wage advance (“EWA”) and other cash advance loans are small, short-term loans that are typically repaid on the consumer’s next payday either directly from a bank account or as a payroll deduction. Lenders market these loans as a means for workers to make ends meet between paychecks. In reality, workers who are already living paycheck to paycheck may find themselves pulled into a cycle of reborrowing that depletes their net earnings and further erodes their financial stability.

States should regulate these loans as credit and require compliance with consumer protections that prevent the predatory cycle of reborrowing commonly associated with payday loans.

What is an Earned Wage Advance?

EWA companies offer employees advances on their pay, often for a fee. Due back on payday, these are short-term loans.

Some EWA companies contract with employers, who provide payroll data to the EWA company. Employees use a smartphone app to get an advance on earned wages. The EWA company checks the employer records to verify that the employee is due earned but unpaid wages. The EWA lender funds the transaction, often charging the employee a fee. On payday, the EWA company is repaid by a deduction from the employee’s paycheck.

EWA User Demographics

EWA borrowers are typically hourly, relatively low-wage workers. A recent [Government Accountability Office study](#) (GAO) found that the vast majority of EWA users report making less than \$50,000 a year. One company reported that 78 percent of its users made under \$25,000 per year.

Hispanic adults and younger workers are more likely to use EWA than the population as a whole, according to an American Banker [survey](#) of U.S. adults.

Payday Lending Level APRs, Repeat Usage, and Overdrafting

Many EWA loans carry interest rates as high as payday loans: data from California’s financial regulator on several leading EWA companies show an **average APR over 300%**

EWA advances have high levels of repeat usage. This is what creates the long-term debt trap that has proven so harmful for payday borrowers.

- CA DFPI [report](#): Average **36 EWA advances** per year.
- GAO [report](#): One company reports **26 to 33 advances** per year.

New [research](#) from CRL based on bank transaction data found similar high costs and usage patterns, while also finding that overdrafts of consumers’ checking accounts *increased* 56% on average after the consumer started using an advance product. Prior [CFPB research](#) has shown that overdrafting correlates with high-cost credit products like payday loans.

Other EWA and fintech cash advance lenders do not contract with employers. These lenders market a cash advance directly to the consumer and collect repayment by debiting their bank account on payday. These loans are essentially payday lending on a smartphone, and policy makers should not allow lenders to evade state consumer protections simply by naming their products Earned Wage Advance or Earned Wage Access, another term used for the same product. If these lenders are given a carveout from state laws, payday lenders – even in states whose usury limits currently keep payday lenders out – will likely attempt to operate within those carveouts.

Consumer Harms Associated with Earned Wage Advances and other Fintech Cash Advances

Cash advance loans are concerning because of the costs they impose on consumers. In many cases, these lenders advertise their products as “free” but require a fee to receive an advance instantly and may solicit “tips” from the borrower as part of the transaction. Consumers likely want the money immediately, so the vast majority of them pay an instant transfer fee when required for instant access. So-called “tips” can be very high relative to the amount of the loan. A representative from the direct-to-consumer company Earnin has stated that **tips make up some 40% of Earnin’s revenue**, and that their business model would have to change significantly if the practice were regulated. The representative also testified that Earnin suggests a default tip of up to \$11 on \$100 advanced, a shockingly high cost for such a short-term loan, which can be as short as just a few days. This is evidence that the business model depends on loans for which the true cost is often going to be higher than advertised or disclosed, with an APR that would exceed usury caps in many states.

Moreover, these fees and “tips” can quickly add up for consumers, given the extremely high [average usage numbers](#). This is concerning because where one advance is taken out to cover the gap left by repayment of a prior advance, consumers are essentially getting the benefit of only the initial advance but continuing to pay for each subsequent advance. This is how payday loans work, with a very short-term benefit drawing borrowers into a costly, long-term trap.

Direct-to-consumer advances can also trigger non-sufficient funds and overdraft fees when the borrower lacks sufficient funds for repayment, a common condition for millions of families living paycheck-to-paycheck. [Litigation](#) against Earnin (resulting in a \$3 million settlement) describes how when a borrower took out multiple Earnin advances within the same pay period, the repayment attempt for each individual advance triggered an NSF fee or an overdraft fee. The borrower was charged four \$29 fees within three days, totaling \$116, all directly triggered by Earnin’s collection attempts. Moreover, [CRL research](#) has shown that, contrary to industry arguments that cash advances help users avoid overdrafts, overdrafts of consumers’ checking accounts actually *increased* significantly after the consumer started using an advance product.

State Policy Recommendations:

States should regulate EWA programs under existing credit laws or using the principles in the Joint CRL-National Consumer Law Center [State Recommendations](#) for Earned Wage Advances and Other Fintech Cash Advances.

Any advance on an employee’s paycheck is a form of credit, and should be regulated as such to protect consumers from high-cost credit in violation of state interest rate caps. States should affirm that all monies paid as part of a cash advance transaction, including instant access fees and “tips,” are finance charges and cannot be used to evade regulation as credit.

Federal Policy Recommendations:

As soon as possible, the federal Consumer Financial Protection Bureau (“CFPB”) should issue [its promised guidance](#) about the application of federal law to EWA loans. This guidance should make clear that all payments made by the consumer, including instant access fees and “tips,” are finance charges under the Truth in Lending Act.

In addition, the CFPB should actively supervise these lenders, under either its authority to supervise payday lenders or its authority to supervise nonbank lenders that pose a risk to consumers.