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CONSUMER FINANCIAL PROTECTION BUREAU

12 CFR Part 1026

Truth in Lending (Regulation Z); Non-application to Earned Wage Access Products

AGENCY: Consumer Financial Protection Bureau.

ACTION: Advisory opinion.

SUMMARY: The Consumer Financial Protection Bureau (CFPB) is issuing this advisory opinion to resolve regulatory uncertainty regarding: (1) the applicability of the definition of credit under Regulation Z, which implements the Truth in Lending Act (TILA), to earned wage access (EWA) products that conform to the description of "Covered EWA" provided in part I.C.2 of this advisory opinion; and (2) the applicability of the definition of finance charge under Regulation Z to certain EWA-related charges (expedited delivery fees, tips) to the extent any EWA products meet the Regulation Z definition of credit. The CFPB is also withdrawing a proposed interpretive rule.

DATES: This advisory opinion is effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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SUPPLEMENTARY INFORMATION:

The CFPB is issuing this advisory opinion pursuant to its Advisory Opinions Policy.[1]

[1] 85 FR 77987 (Dec. 3, 2020).

I. Advisory Opinion

A. Market Background

According to the Bureau of Labor Statistics, nearly three-quarters of U.S. private businesses use biweekly, semimonthly, or monthly pay periods.[2] Several obstacles continue to prevent businesses from readily implementing shorter pay cycles.[3] Starting a little over a decade ago, earned wage access (EWA) has emerged as an innovative way for workers to meet short-term liquidity needs that arise between paychecks without turning to potentially more costly alternatives. EWA seeks to address the lag between consumers' hours worked and receipt of their paychecks by facilitating advance access to earned but as yet unpaid wages.

Two main types of EWA exist in the market today. Providers of "employer-partnered" (EP) EWA contract with employers to offer their workers access to amounts not exceeding accrued wages, with the provider generally utilizing the payroll process to deduct accessed amounts at the next payroll event.[4] EP providers have evolved a variety of methods for making payroll process deductions.[5] In addition, EP providers generally claim no rights against the worker in the event that the next paycheck is insufficient to support the deduction. "Direct-to-

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[2] *See* Bureau of Labor Statistics, *Length of Pay Periods in the Current Employment Statistics Survey* (last modified Aug. 4, 2023), https://www.bls.gov/ces/publications/length-pay-period.htm.

[3] This includes, for example, additional costs in both time and money to run payroll more frequently, cash flow limitations, and inertia. *See, e.g.*, Marshall Lux & Cherie Chung, *Earned Wage Access: An Innovation in Financial Inclusion?*, M-RCBG Associate Working Paper Series 2023.214, Harvard University (June 2023), https://dash.harvard.edu/server/api/core/bitstreams/5cb75832-883a-4d51-9b0e-d959da124354/content; Mike Kappel, *How Often Should You Run Payroll? (Weekly, Biweekly, Etc.)*, Forbes (Apr. 1, 2025), https://www.forbes.com/sites/mikekappel/2025/04/01/how-often-should-you-run-payroll-weekly-biweekly-etc/. The CFPB has noted that periodic wage payment may be driven "by efficiency concerns with payroll processing and employers' cash management." 82 FR 54472, 54547 (Nov. 17, 2017).

[4] In some cases, deductions may include fees or other consumer payments associated with an EWA transaction.

[5] For example, some EP providers instruct the payroll processor to divert a portion of the paycheck to the EP provider, with the remainder going straight to the worker. Others instruct the payroll processor to pay the entire paycheck to the EP provider, which then makes the relevant residual payment to the worker. Whatever the exact model of payroll process deduction used, EP providers generally do not take funds from the worker's regular transaction account after that account's receipt of wages; instead, they make use of the payroll process to facilitate deduction.

consumer" (D2C) EWA providers offer access to amounts that they estimate to be below accrued wages, with the provider then generally debiting accessed amounts via automated withdrawal from the worker's regular transaction account that receives their paycheck.[6] Some D2C providers claim rights against the worker in the event that the amount that they are able to withdraw is insufficient. Some of the significant differences between these two types of earned wage products, however, are starting to erode. Some D2C providers now obtain payroll records to determine accrued wages, rather than estimate accrued wages by less direct means. Some also make deductions using the payroll process, rather than transferring from the consumer's regular transaction account after the consumer is paid.[7] In addition, some D2C providers limit their ability to seek recourse.

Both forms of EWA now exist at scale, reflecting significant consumer demand, dozens of EWA providers, and upwards of $3.5 billion investment in the market from venture capital firms over the past decade.[8] A 2024 report from the CFPB estimated that the EP EWA market had grown from $3.2 billion across 18.6 million transactions in 2018 to $22.8 billion across 214 million transactions in 2022, with 7.2 million workers utilizing EP EWA transactions at least once.[9] That same year, an estimated 3 million workers accessed roughly $9.1 billion in D2C EWA funds; market analyses indicate that use of D2C products has also grown significantly over

[6] This includes, without limitation, prepaid and payroll card accounts. In some cases, the provider may partner with a bank to provide its EWA customers with a payroll card or other transaction account that the worker then uses to receive both early wage access and their regular paycheck.
[7] For example, at least one D2C provider obtains consumer authorization to instruct payroll processors to divert a portion of the paycheck to a dedicated account opened "for the benefit" of the consumer, which is used solely for the purpose of enabling the D2C provider to obtain payment, with the remainder of the paycheck going straight to the consumer's regular transaction account.
[8] Lynne Marek, *EWA Chases Regulatory Clarity*, Payments Dive (Oct. 27, 2025), https://www.paymentsdive.com/news/earned-wage-access-federal-state-legal-regulatory-clarity/803398/.
[9] *See* CFPB, Data Spotlight: Developments in the Paycheck Advance Market (July 18, 2024), https://www.consumerfinance.gov/data-research/research-reports/data-spotlight-developments-in-the-paycheck-advance-market/ (hereinafter 2024 Data Spotlight).

recent years.[10] Recent estimates project that the U.S. EWA market is set to expand by about 300 percent between 2024 and 2034.[11]

EP providers obtain revenue from one or more of several sources: direct payment from the employer; a share of interchange revenue from payment cards used by workers; fees paid by workers for expedited delivery of EWA funds; and, less frequently, from subscription charges for access to EWA, sometimes packaged with other employee benefits. D2C providers obtain revenue from one or more of some of these same sources as well: interchange revenue, expedited delivery fees, and subscription charges. Many D2C providers also solicit tips from the workers who use their products.[12]

B. Regulatory Background

In November 2020, the CFPB issued an advisory opinion (the 2020 AO)[13] to respond to uncertainty about whether EWA providers offer or extend "credit" within the scope of the Truth in Lending Act (TILA) and its implementing Regulation Z.[14] The 2020 AO noted that the CFPB had itself acknowledged some uncertainty on this point when it issued the 2017 Payday Rule.[15] The 2020 AO was issued pursuant to the CFPB's Advisory Opinions Policy, which is "intended to facilitate timely guidance by the Bureau that enables compliance by resolving outstanding regulatory uncertainty."[16]

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[10] *See id.* ("Combined with employer-partnered transactions, in 2022, roughly 10 million workers utilized earned wage product transactions to access over $31.9 billion."). Several providers of D2C products report significant recent growth. *See, e.g.*, Dave, *3Q25 Earnings Presentation* (Nov. 4, 2025), https://investors.dave.com/static-files/4971d257-0924-4d19-b35e-5d871e5136f8 (showing D2C origination volume increased 49 percent from 3Q24 to 3Q25); Chime, *Welcome to Chime*, at 24 (June 2025), https://chime.gcs-web.com/static-files/ef823261-71ae-4183-bd16-a76f0cf8b6ff (showing $8.8 billion in D2C EWA transactions in the first nine months since product launch in 2024).

[11] *See* Market.Us, *North America Earned Wage Access Market Size, Share, Industry Analysis Report By Model* (Nov. 2025), https://market.us/report/north-america-earned-wage-access-market/.

[12] The CFPB is not aware of EP providers that solicit tips.

[13] *See* 2020 AO, 85 FR 79404 (Dec. 10, 2020).

[14] 15 U.S.C. 1602(f); 12 CFR 1026.2(a)(14).

[15] *See* 2020 AO, 85 FR 79404, 79407 (Dec. 10, 2020) (citing 82 FR 54472 at 54547).

[16] 85 FR 77987, 77987 (Dec. 3, 2020).

The 2020 AO clarified that a particular type of EWA—which it labeled as a "Covered EWA Program"—did not involve the offering or extension of "credit" as defined by section 1026.2(a)(14) of Regulation Z.[17] As described further in the 2020 AO, a Covered EWA Program met all of the following criteria[18]: it is employer-partnered; the amount accessed by the employee does not exceed accrued wages; accessing EWA is free for the employee; the provider has no recourse against the employee if an employer-facilitated deduction from the next paycheck is insufficient, and engages in no debt collection or credit reporting activity; and the provider does not assess the credit risk of employees. The 2020 AO noted that Covered EWA Programs, being functionally equivalent to early wage payment, do not involve debt and, by extension, credit under Regulation Z. The 2020 AO did not state that other forms of EWA, such as direct-to-consumer EWA, *are* credit under Regulation Z. It did not reach that question, although it observed that EWA meeting all the listed criteria *except* being free to the consumer might not be credit under Regulation Z.[19]

On January 15, 2025, the CFPB issued another advisory opinion rescinding the 2020 AO (the 2025 Rescission).[20] The 2025 Rescission contended that the 2020 AO created, rather than reduced, regulatory uncertainty. It further claimed that the 2020 AO contained several legal flaws. Prior to the 2025 Rescission, the CFPB considered replacing the 2020 AO with a contrary

[17] The definition of "credit" in TILA is virtually identical to Regulation Z's definition of the term. *See* 15 U.S.C. 1602(f). Accordingly, the 2020 AO also stated that Covered EWA does not involve the offering or extension of "credit" under TILA.
[18] *See* 2020 AO, 85 FR 79404 at 79405-06.
[19] The 2020 AO invited providers of EWA programs that charge fees to request clarification from the CFPB about their programs through, for example, applying for a compliance assistance sandbox (CAS) approval. *See* 2020 AO, 85 FR 79404 at 79405 (citing the CAS policy published at 84 FR 48246 (Sept. 13, 2019)). In December 2020, the CFPB granted one such application from Payactiv, stating that its EWA product—which charged a $1 daily access fee for EWA—was not credit. *See* Approval Order (Dec. 30, 2020), https://files.consumerfinance.gov/f/documents/cfpb_payactiv_approval-order_2020-12.pdf. That approval was rescinded in June 2022.
[20] 2025 Rescission, 90 FR 3622 (Jan. 15, 2025).

opinion. Specifically, in June 2024, the CFPB issued a proposed interpretive rule (the 2024 PIR) that, if finalized, would have identified *all* EWA as Regulation Z credit.[21] In addition, the 2024 PIR would have identified expedited delivery fees and, at least in certain circumstances, tips as finance charges under Regulation Z. After soliciting public comment[22] on the 2024 PIR, the CFPB never adopted the interpretive positions proposed in it, opting instead for the much narrower rescission of the 2020 AO.[23] Finally, in May 2025, the CFPB withdrew both the 2020 AO and the 2025 Rescission.[24]

C. Legal Analysis

1. General

Part I.C.2 of this advisory opinion explains why Covered EWA is not credit under Regulation Z. Part I.C.3 explains why, to the extent that any EWA product is Regulation Z credit, expedited delivery fees and tips are not, in the normal course, finance charges under Regulation Z.

This advisory opinion does not state, and nothing in it should be understood to state, that EWA products that are *not* Covered EWA *are* credit under Regulation Z. In addition, nothing in this advisory opinion interprets provisions of law outside of Regulation Z. The CFPB continues to seek stakeholder feedback and evaluate whether it should take further legal steps with respect

[21] *See* 2024 PIR, 89 FR 61358 (July 31, 2024).
[22] In response to the 2024 PIR, the CFPB received 37 comments from industry stakeholders; 15 comments from consumer group stakeholders; 10 comments from Federal, State, and local government officials; and nearly 150,000 comments from individual consumers. In part because of the many comments received on the 2024 PIR, the CFPB is not seeking comment on this advisory opinion.
[23] The unfinalized and abandoned 2024 PIR is of no legal effect. However, the CFPB is hereby formally withdrawing the 2024 PIR for several reasons, including: the comments received on it; a number of Executive Orders, including E.O. 14219; and at least five Federal district court opinions, directly or indirectly, relying heavily on it. *See* cases cited in *infra* note 81.
[24] 90 FR 20084 (May 12, 2025).

to EWA products, including steps that might encompass non-Covered EWA and/or other provisions of law besides Regulation Z.

2. Covered EWA is not credit

a. Covered EWA

For purposes of this advisory opinion, the term "Covered EWA" means EWA that includes all of the following characteristics:

(1) Covered EWA transactions do not exceed the accrued cash value of the wages[25] the worker has earned up to the date and time of the transaction, which amount is determined based upon payroll data[26] that evidence this amount.[27] A Covered EWA provider does not determine accrued wages based on other information, such as worker representations, or on estimates or predictions of accrued wages.

(2) The provider uses a payroll process deduction in connection with the worker's next payroll event.[28] In a payroll process deduction, payment instructions received and acted upon by the payroll processor (or by the employer itself if it does not use a processor) enable the EWA provider to receive accessed amounts without debiting the consumer's regular transaction

[25] The "accrued cash value of the wages" are wages that the worker 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 worker has yet to be paid.
[26] "Payroll data" are generally maintained by a payroll processor engaged by the employer to handle payroll; in some cases, however, the employer may handle payroll in-house and would be the source for payroll data.
[27] Providers should take note of the possibility that workers could take two or more EWA transactions, potentially from different providers, in the same pay period, and that these transactions could *cumulatively* exceed the accrued cash value of the worker's wages, even as each individual EWA transaction does not. A transaction that causes the cumulative amount to exceed the accrued cash value of the worker's wages is not a Covered EWA transaction; earlier EWA transactions may be. To meet this first criteria, therefore, providers may need to account for any earlier Covered EWA transactions in that same pay period.
[28] In the event of a technical or administrative error, Covered EWA encompasses one additional payroll process deduction at the *next* payroll event. Technical or administrative errors include, for instance, an API malfunction or a mistake in the employer's payroll process (*e.g.*, miscalculation of a worker's base pay or overtime award). They do not include situations in which the employer has withheld a worker's garnished wages following a Covered EWA transaction. For example, a Covered EWA transaction may occur in week one of a worker's pay cycle, but the employer learns of and subjects the worker's paycheck to a required wage garnishment in week two of the pay cycle. As a result of the garnishment, the worker's paycheck is less than the amount of the Covered EWA transaction. That is not administrative or technical error of the kind identified in part I.C.2.a.(2).

account after the consumer is paid.[29] A transfer to the provider from any of the consumer's regular transaction accounts after the payment of wages into that account is not a payroll process deduction.[30]

(3) Before providing Covered EWA, the provider clearly and conspicuously explains to the worker, and warrants to the worker as part of the contract between the parties, that it: (a) has no legal or contractual claim or remedy, direct or indirect, against the worker in the event the payroll process deduction is insufficient to cover the full amount of a Covered EWA transaction, including no right to take payment from any of the consumer's regular transaction accounts;[31] and (b) will not engage in any debt collection activities related to Covered EWA, place a Covered EWA transaction amount as a debt with or sell it to a third party, or report to a consumer reporting agency concerning Covered EWA.

(4) The provider does not directly or indirectly assess the credit risk of individual workers, including through obtaining and reviewing credit reports or credit scores about the individual workers.

[29] Examples of payroll process deduction include, without limitation: (a) the payroll processor sends the relevant amount to the EWA provider, and pays the remaining wages to the worker's regular transaction account; (b) the payroll processor sends the relevant amount to an account held "for the benefit" of the consumer and used only to make payments to the EWA provider, and the processor pays the remaining wages to the worker's regular transaction account; and (c) the payroll processor sends all wages to the EWA provider, with the EWA provider separately and directly paying the balance of the wages owed to the worker's regular transaction account. Providers seeking clarification from the CFPB about whether their practices constitute payroll process deduction may request clarification from the CFPB by, for instance, applying for an Approval under the Policy on the Compliance Assistance Sandbox. *See* 84 FR 48246. Although the policy was rescinded in September 2022, the CFPB anticipates reissuing it shortly after this advisory opinion is published.

[30] As noted, a regular transaction account may include payroll or prepaid card accounts offered to the consumer by the EWA provider in partnership with a bank issuer. *See supra* note 6.

[31] A provider may choose to refrain from offering the worker further EWA services and still meet this condition.

b. Analysis

Section 1026.2(a)(14) of Regulation Z defines "credit" as "the right to defer payment of debt or to incur debt and defer its payment."[32] Neither Regulation Z nor TILA define the term "debt." Covered EWA does not provide workers with the right to defer payment of debt or to incur debt and defer its payment. As a result, Covered EWA is not credit.

As explained further in the 2020 AO, this is for several reasons.[33] The primary reason is that the common meaning of debt is "a sum of money due by certain and express agreement" or "a financial liability or obligation owed by one person, the debtor, to another, the creditor."[34] In the context of Covered EWA, the worker incurs no such liability or obligation.[35] Covered EWA facilitates workers' access to wage amounts that they have already earned, and to which they are already entitled.[36] Using payroll data, either at the employer or its payroll processor, the provider knows the accrued cash value of the worker's wages at the point that the worker requests a Covered EWA transaction. Using the payroll process, the provider makes a deduction for the amount of the Covered EWA transaction at the next scheduled payroll event, which corresponds to the pay period in which the worker accrued the wages on which the Covered EWA was based.[37] Covered EWA offers workers access to money that *they are owed by virtue of work that they have already performed*. Rather than the consumer's repayment of a debt, the provider's

[32] 12 CFR 1026.2(a)(14). TILA defines "credit" as "the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment." 15 U.S.C. 1602(f).
[33] *See* 2020 AO, 85 FR 79404 at 79406-07.
[34] *Debt*, Black's Law Dictionary (4th ed. 1968).
[35] *See* 2020 AO, 85 FR 79404 at 79406. Citing a later Black's definition of debt, the 2020 AO notes the absence of a "liability" in this context. However, the 2020 AO did not intend to differentiate "liability" from "obligation" in this context. The present AO relies on the 1968 Black's definition of debt, which was current when TILA became law, and which also draws no such distinction.
[36] Covered EWA transactions cannot be more than this amount, which reduces the risk that EWA funds do not correspond to funds the worker has actually earned and is entitled to receive on payday.
[37] Payroll process deductions may not be attempted in any other pay period in the event that the initial payroll process deduction is insufficient to cover the full amount of the Covered EWA transaction. However, in the event of a technical or administrative error, one additional payroll process deduction may be attempted at the next payroll event.

payroll process deduction from the payroll event associated with that work serves to ensure the consumer is not effectively compensated twice for the same work.[38] They have had earlier-than-normal access to wage amounts accrued, so they are owed less at payday. Fundamentally, Covered EWA resembles early wage payment and does not resemble an extension of credit.

The 2020 AO also drew support from two prior regulatory statements.[39] Comment 2(a)(14)-1.v to Regulation Z states that "[b]orrowing against the accrued cash value of an insurance policy or a pension account if there is no independent obligation to repay" is "not considered credit for purposes of the regulation."[40] When it issued this Regulation Z commentary, the Board of Governors of the Federal Reserve System (the Board) stated that in such instances, "credit has not been extended because the consumer is, in effect, only using the consumer's own money."[41] As the 2020 AO explains, the accrued cash value of a worker's earned but unpaid wages is similarly the worker's own money. Accordingly, in a Covered EWA transaction, the worker is "in effect, only using the [worker's] own money" and is not incurring debt or deferring its payment. Similarly, Covered EWA involves "no independent obligation to repay" because the provider may only transfer funds via the allowed payroll process deduction

[38] In proposing an interpretation of credit that would cover all EWA, the 2024 PIR noted that "it is not uncommon for credit providers to compel repayment of debt using wage garnishment automatically deducted from consumer paychecks." 2024 PIR, 89 FR 61358, 61361 n.26 (July 31, 2024). But the fact that some creditors sometimes obtain repayment of debts via payroll does not demonstrate that all payroll process deductions involve the repayment of debt. None of the examples cited in the 2024 PIR involve deductions to account for the consumer earlier accessing money that they were owed by virtue of work that they had already performed.

[39] *See* 2020 AO, 85 FR 79404 at 79406-07.

[40] 12 CFR 1026, supp. I, comment 2(a)(14)-1.

[41] 46 FR 20848, 20851 (Apr. 7, 1981) ("The regulatory definition [of 'credit'] may be difficult to apply in particular fact situations, and the Board therefore offers the following guidance, which will also be incorporated into the commentary."). In a footnote, the 2024 PIR asserts without support that because this exclusion was promulgated after notice and comment, products that are similar but not specifically covered by it "should therefore be presumed to be 'credit.'" *See* 2024 PIR, 89 FR 61358 at 61361 n.29. The 2024 PIR offers no citation or basis for this position. In fact, statements by the Board directly contradict that approach and instead explain that Regulation Z commentary is intended to serve as guidance for use in determining application to particular transactions. *See, e.g.*, 46 FR 28560, 28560 (May 27, 1981) (proposing official Regulation Z commentary); 46 FR 50288, 50288 (Oct. 9, 1981) (adopting official Regulation Z commentary).

for the pay period in which the wages were accrued; it has no claim direct or indirect against a worker for nonpayment in the event of a failed or partial deduction.[42] The 2020 AO also cited the preamble to the 2017 Payday Rule in support of its interpretation of the application of § 1026.2(a)(14) to Covered EWA Programs. Recognizing that "some efforts to give consumers access to accrued wages may not be credit at all," that rule took specific steps to ensure that it had no application to several types of EWA products.[43]

Finally, the 2020 AO noted that Covered EWA Programs lack typical substantive indicia of credit.[44] Covered EWA providers similarly reserve no recourse against the worker in the event a payroll process deduction for the period in which accessed wage amounts were accrued is insufficient to cover those amounts. A Covered EWA provider also cannot engage in debt collection, report to consumer reporting agencies, or sell or place the transaction as a debt with any third party. Providers also do not pull credit reports or credit scores on individual workers or otherwise assess their credit risk.

The 2020 AO limited its application to EP EWA, and more specifically to EP products where the provider transfers the amount of each EWA transaction "through an employer-facilitated payroll deduction from the employee's next paycheck." Upon reconsideration, however, the CFPB now believes that these specific limitations are not derived from the text of Regulation Z (or TILA). Section 1026.2(a)(14) of Regulation Z defines "credit" as "the right to defer payment of debt or to incur debt and defer its payment"; pursuant to this definition, the defining element of "credit" is a consumer's repayment—at some point in the future—of the

[42] This could happen, for instance, if a worker's wages become subject to garnishment or an employer goes out of business after an EWA transaction but before the scheduled payday.
[43] 82 FR 54472 at 54547.
[44] *See* 2020 AO, 85 FR 79404 at 79407. As the 2020 AO noted, courts generally look at the totality of the circumstances—and weigh multiple factors in a fact-specific inquiry—to determine if a transaction's substance is credit. *See id.* (citing cases at note 20).

amount owed. When an EWA provider makes arrangements to ensure that the appropriate amount of the consumer's paycheck is directed to it through a payroll process deduction, the funds never touch the consumer's regular transaction account, and accordingly the consumer makes no deferred payment.

Indeed, as noted above, the EWA market has evolved such that EP providers now use a variety of methods for effecting transfers through the payroll process, which include, but are no longer limited to, "employer-facilitated payroll deductions." For purposes of interpreting the application of "credit" to EWA, there is no reason to preference one such method over others. Similarly, D2C providers that transfer EWA amounts through the payroll process, rather than from a worker's regular transaction account after receipt of wages, are Covered EWA if they meet the other criteria.

The 2020 AO also limited its application to EWA products that were free to the consumer. That limitation, too, is not required by the text of Regulation Z (or TILA) and is not maintained in the present advisory opinion. Under existing law, consumer cost is relevant to the question of whether consumers incur Regulation Z finance charges in connection with products that extend credit—but has no bearing on whether or not a product amounts to Regulation Z credit in the first place. As noted, whether a product constitutes credit depends on whether it implicates a debt. For the reasons explained above, Covered EWA does not. Credit can be free to the consumer or it can cost the consumer. Non-credit products, too, can be free or they can cost. The difference between the two is not cost.

Not only is this point clear from looking at the text of the statute and regulation, but it is a point of wide interpretive consensus, as demonstrated by stakeholder feedback on the 2020 AO. For example, in an October 12, 2021 letter, some 96 consumer, labor, civil rights, legal services,

faith, community and financial organizations, and academics state that the 2020 AO was flawed in part because "the definition of 'credit' under TILA is not related to price."[45] A contemporaneous letter from the National Consumer Law Center and the Center for Responsible Lending expands on the point: "Whether there is a charge for credit has absolutely no bearing on whether 'debt' has been incurred. The cost is only relevant to whether the lender is a 'creditor': one who 'regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments.'"[46] Moreover, the 2020 AO did not position cost as critical to its interpretation. Rather, it simply limited its interpretive scope to products that were free.[47]

It is important to note that obligations under Regulation Z and TILA generally only arise when a provider is a Regulation Z creditor. Regardless of whether a product counts as Regulation Z credit, if its provider is not a Regulation Z creditor, then as a general matter, the product is not subject to regulatory obligations under Regulation Z or TILA. And cost *is* relevant to the question of whether or not a provider is a creditor, as discussed in part I.C.3 below. In the normal course, providers of EWA products that are free and thus carry no finance charges will not be

[45] *See* Nat'l Consumer L. Ctr., et al., Letter to CFPB (Oct. 12, 2021), https://www.nclc.org/wp-content/uploads/2022/10/CFPB-EWA-letter-coalition-FINAL2.pdf. The same letter also notes that the question of fees relates to finance charge issues, rather than to the definition of credit: "Free programs might be exempt from TILA for other reasons (i.e., if the provider is not a 'creditor' as defined by TILA)."

[46] *See* Nat'l Consumer L. Ctr. & Ctr. for Responsible Lending, Letter to CFPB (Oct. 12, 2021), https://www.nclc.org/wp-content/uploads/2022/10/EWA-letter-to-CFPB_Oct-4-2021.pdf.

[47] The 2020 AO noted that both wages and free EWA cost the consumer nothing, but that observation was not central to its core claim that the consumer does not incur a liability when using EWA. The 2020 AO focused on a class of EWA products that is the most akin to early wage payment—because wages are free to the consumer. But that does not mean that other forms of EWA—including Covered EWA as defined in this advisory opinion—are not more akin to early wage payment than to credit extension.

creditors under Regulation Z, and accordingly such EWA products will not be subject to credit regulation under Regulation Z.[48]

While the 2025 Rescission took no position on whether Regulation Z applies to any forms of EWA, it criticized the reasoning of the 2020 AO in four respects. Upon reconsideration, the CFPB now believes that none of these criticisms are persuasive. First, it faulted the 2020 AO for not drawing on State law definitions of debt, even as it did not claim that CFPB interpretations of Regulation Z debt *must* rely on State law.[49] However, the 2020 AO, like this advisory opinion, relied on the ordinary meaning of the term "debt," which is found in numerous State laws. In addition, most States to have specifically considered EWA legislatively do not regulate EWA as credit.[50] And two States offering regulatory guidance on EWA determined that it does not count as a loan under State law.[51]

[48] A provider is a creditor under Regulation Z if the product is repayable in more than four installments or subject to finance charges. 12 CFR 1026.2(a)(17)(i). In the normal course, free EWA products will not meet either condition and thus their providers will not be Regulation Z creditors. Regulation Z also includes definitions of "creditor" that apply specifically to credit card issuers. *See* 12 CFR 1026(a)(17)(iii), (iv). The CFPB is unaware of any EWA providers that issue credit cards in connection with the provision of EWA.

[49] Regulation Z provides that undefined terms "have the meanings given to them by state law or contract" (12 CFR 1026.2(b)(3)), but the regulation offers no guidance about how to apply this provision, and there is little applicable case law. Some cases have interpreted the provision as an instruction to consult the "ordinary usage" of the undefined term in question. *See, e.g.*, *Fernandes v. JPMorgan Chase Bank, N.A.*, 818 F. Supp. 2d 1086, 1090–91 (N.D. Ill. 2011) (consulting Black's Law Dictionary for the meaning of the undefined term in question); *Wilbourn v. Advantage Fin. Partners*, 2010 WL 1194950, at *6 (N.D. Ill. 2010). This advisory opinion, like the 2020 AO, relies on exactly this kind of ordinary usage of the term "debt."

[50] *See, e.g.*, Kan. Stat. Ann. § 9-2407(a)(1) ("Earned wage access services provided by a registrant in accordance with this chapter shall not be considered to be: (A) A loan or other form of credit or the registrant a creditor or lender with respect thereto"); Mo. Ann. Stat. § 361.749(6)(1) ("Earned wage access services offered and provided by a registered provider shall not be considered to be any of the following: . . . (b) A loan or other form of credit"); S.C. Code Ann. § 39-5-860 ("Proceeds provided to a consumer by the [EWA] provider shall not be considered a consumer loan for purposes of Section 37-3-104 [defining consumer loan] or a loan for purposes of Section 37-3-106 [defining loan]."); Utah Code Ann. § 13-78-106(1) ("A provider offering or providing earned wage access services in this state: . . . (b) is not offering a loan or other form of credit or debt, if the provider is not a creditor, a debt collector, or a lender."). The 2024 PIR cites State law definitions of "debt" (many of which happen to appear in State FDCPA statutes) that it claims support its broad "any obligation" interpretation of "debt," but it avoids discussing State law's treatment of whether EWA is credit, which predominantly supports the interpretation offered here and in the 2020 AO. 2024 PIR, 89 FR 61358 at 61360.

[51] *See* Ariz. Op. Att'y Gen., No. I22–005 (Dec. 16, 2022); Mont. Op. Att'y Gen., Vol. 59, Op. 2 (Dec. 22, 2023).

Second, the 2025 Rescission targeted what it characterized as the main rationale for the 2020 AO's assertion that Covered EWA Programs do not involve the consumer incurring a liability: the claim that EWA "functionally operates like" an employer that pays its workers earlier than the scheduled payday. The 2025 Rescission took issue with this rationale for insufficiently explaining why "functional operation" supports the 2020 AO's conclusion. The point intended by that language is the same point made above: for all the reasons stated in the 2020 AO and restated here, EWA resembles the early payment of wages and does not resemble the extension of credit. With Covered EWA, there is no liability or obligation sufficient to create a debt because the provider, by engaging with the consumer's employer or its payroll processor, makes a payroll process deduction for the pay period in which the wages have been accrued, and reserves no recourse against the consumer if that deduction falls short of the amount of the EWA transaction—just as an employer directly advancing wages to a worker would use the payroll process to deduct that amount from the worker's paycheck and take no further recourse against the worker. The deduction operates to ensure that the consumer is not effectively paid twice for the same work. The presence of a third-party intermediary—the EWA provider—facilitating access to accrued earnings does not change the nature of the transaction.

Third, while the 2025 Rescission did not dispute that Covered EWA lacks certain significant indicia that are common in credit transactions (such as underwriting, debt collection, recourse, credit reporting, and so on), it asserted that the 2020 AO failed to consider EWA features "commonly found in credit transactions, including a consumer's receipt of funds, consumer repayment of those funds, and the wage garnishment tool used to effectuate

repayment."[52] The CFPB does not believe those factors are necessary to the analysis, but considering them further, it does not believe they would require a different result. Receipt of funds is common to many kinds of transactions—a sale or investment, for example, not to mention receipt of wages directly from an employer—and thus is not a meaningful indicium of credit. Further, covered EWA products do not garnish wages, and they do not involve consumer repayment. As noted above, the payroll process deduction that the EWA provider uses at the next payroll event works to ensure that the consumer is not effectively paid twice for the same work—and accordingly is not consumer repayment for credit advanced.

Fourth, the 2025 Rescission criticized the 2020 AO for drawing support from the 2017 Payday Rule's exclusion of certain EWA products. It suggested that these exclusions have no bearing on the Regulation Z credit status of EWA because the Payday Rule was based on the CFPB's UDAAP authority, not its TILA authority, and the exclusions would only operate to the extent that EWA was credit under Regulation Z. It is true that the 2017 Payday Rule did not conclusively determine that EWA was not Regulation Z credit. But when it considered and then finalized the Payday Rule, the CFPB recognized that EWA products might well not be credit. As a result, it took formal regulatory steps to ensure that the Payday Rule's regulation of short-term credit would not have application to EWA.[53] Upon reconsideration, the CFPB now believes that

[52] *See* 2025 Rescission, 90 FR 3622, 3623 (Jan. 15, 2025). As part of this criticism, the 2025 Rescission faulted the 2020 AO for failing to "explain how its 'totality of the circumstances' approach derived from the definition of 'credit.'" *Id.* But as the 2020 AO explained, courts commonly conduct a fact-specific inquiry—using the types of factors articulated in the 2020 AO—to determine whether a transaction is "credit." The logic of the 2025 Rescission would prohibit an agency from interpreting terms using well-established precedent.

[53] To the extent the 2025 Rescission contended that the Payday Rule's *exclusion* of certain "wage advance products" demonstrates that such products must be Regulation Z credit (because the rule only applies to such credit), that contention is false. The Payday Rule made clear that its wage advance exclusion was limited to "advances *that constitute credit*," indicating that some such advances might *not* in fact be credit for the various reasons that it noted, including that EWA lets consumers "draw on the accrued cash value of wages they have earned but not yet been paid," and does so "without recourse beyond deduction from the next paycheck," and without "collection or debt reporting activities." 82 FR 54472 at 54547 (emphasis added).

it was appropriate for the 2020 AO to cite this recognition as additional support for its conclusion.[54]

3. Expedited delivery fees and tips associated with EWA are not finance charges.

As explained in part I.C.2 above, Covered EWA is not credit. Thus, given that a finance charge is the cost of credit, any fees charged in connection with Covered EWA cannot be finance charges. To the extent any EWA products other than Covered EWA are credit, fees associated with them can be finance charges. This is not to imply that *any* EWA products other than Covered EWA *are* credit. As noted, the CFPB continues to seek stakeholder feedback and evaluate whether it should provide additional clarity about whether (and when) other EWA products, which are not Covered EWA as described here, are also not credit under Regulation Z.

The question addressed in part I.C.3.b is whether expedited delivery fees associated with EWA are finance charges. Part I.C.3.c addresses the question of whether tips associated with EWA are finance charges.[55] For the reasons set forth below, the CFPB concludes that, in the normal course, fees for expedited delivery of earned wages and tips for the receipt of earned wages are *not* finance charges because they are not imposed directly or indirectly by the provider. That said, in certain factual scenarios discussed below, each could be a finance charge.

[54] The 2024 PIR contends that because the Payday Rule's exclusions for "wage advance products" only operate to the extent that such products are TILA credit, "the decision to exclude" such products "has no impact on the credit status of EWA products under TILA or Regulation Z." What this misses is that the CFPB was clear that it was providing these exclusions precisely because it recognized that such products might not be TILA credit. Absent a final determination of EWA's credit status, the CFPB needed to provide the exclusions to ensure that the Payday Rule would not apply to these products.

[55] This advisory opinion does not address the question of whether EWA subscription fees are finance charges because Regulation Z already clarifies that this type of "participation" fee is not a finance charge. *See* 12 CFR 1026.4(c)(4).

a. General

In general, the obligations of Regulation Z apply to any credit provider that regularly offers or extends consumer credit subject to a finance charge.[56] The finance charge is "the cost of consumer credit as a dollar amount."[57] Unless specifically excluded by the regulation, this includes "any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit."[58] Thus, to qualify as a finance charge, a charge must be either "an incident to" *or* "a condition of" an extension of credit *and* be "imposed directly or indirectly" by the creditor. Providers are required to disclose finance charges in the manner prescribed by Regulation Z.[59]

Neither Regulation Z nor TILA defines the key terms in the definition of "finance charge": "imposed by," "incident to," and "condition of."[60] The 1968 edition of Black's Law Dictionary defines "impose" to mean "to levy or exact as by authority; to lay as a burden, tax, duty, or charge."[61] It defines "incident" to mean "anything which is usually connected with another, or connected for some purposes, though not inseparably."[62] The meaning of "condition" is "an uncertain future act or event whose occurrence or nonoccurrence determines the rights or obligations of a party under a legal instrument and especially a contract."[63] On their own, however, these highly general definitions do not provide a clear answer to the questions at hand,

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[56] *See* 12 CFR 1026.1(c)(1)(iii).
[57] 12 CFR 1026.4(a).
[58] *Id.*
[59] *See, e.g.*, 12 CFR 1026.18(d).
[60] Regulation Z provides that undefined terms "have the meanings given to them by state law or contract." 12 CFR 1026.2(b)(3). However, the regulation itself does not provide any guidance about how to apply this provision.
[61] *Impose*, Black's Law Dictionary (4th ed. 1968); *see also Impose*, Merriam-Webster, https://www.merriam-webster.com/dictionary/impose (last updated Oct. 28, 2025) ("to establish or apply by authority").
[62] *Incident*, Black's Law Dictionary (4th ed. 1968); *see also Incident*, Merriam-Webster, https://www.merriam-webster.com/dictionary/incident (last updated Oct. 30, 2025)("dependent on or relating to another thing in law").
[63] *Condition*, Black's Law Dictionary (12th ed. 2024); *see also Condition*, Merriam-Webster, https://www.merriam-webster.com/dictionary/condition (last updated Oct. 30, 2025) ("a premise upon which the fulfillment of an agreement depends[;] . . . a provision making the effect of a legal instrument contingent upon an uncertain event").

i.e., whether expedited delivery fees and tips are finance charges.[64] Rather, it is well established that determining whether a fee qualifies as a finance charge requires a case-by-case approach.[65]

b. Expedited delivery fees

Most EWA providers offer consumers the option of receiving their earned wages via regular ACH and/or by instant transfer to the *provider's* debit, prepaid, or payroll card for free.[66] ACH delivery typically takes one to three days.[67] Most also offer one form or another of expedited delivery to an account of the consumer's choice. To effectuate such delivery, EWA providers incur charges from expedited delivery services which they then pass on to consumers. Consumers that choose this option pay fees typically ranging from $2.50 to $5.99.[68] *Prima facie*, these fees are charges for expedited delivery rather than for receiving a certain amount of earned wages. But are they actually finance charges?

There is no need for the CFPB to write on a clean slate when answering this question. In a 2003 rule, the Board considered whether two types of expedited fees in connection with credit cards accessing home equity lines of credit are finance charges: a fee for expediting a consumer's payment, and a fee expediting delivery of the physical card. As regards the former, the Board determined that "expedited payment fees . . . are not finance charges under TILA and

[64] Nor does case law clarify their meaning. A good example is *Household Credit Servs., Inc. v. Pfennig*, 541 U.S. 232 (2004). In *Pfennig*, the Supreme Court overturned the Sixth Circuit's determination that a credit card over-limit fee was a finance charge, in part, on the ground that "the phrase 'incident to' does not make clear whether a substantial (as opposed to remote) connection is required." *Id.* at 241. As such, it is not possible "to conclude that the term 'finance charge' unambiguously includes over-limit fees." *Id.* Thus, the opinion provides little if any assistance in determining whether expedited delivery fees and tips associated with EWA are finance charges. The 2024 PIR implausibly interpreted *Pfennig* to hold that only a remote connection is required and then used this interpretation to buttress the view that expedited delivery fees and tips are "incident to" the provision of EWA.
[65] 61 FR 49237, 49239 (Sept. 19, 1996) ("The Board has generally taken a case-by-case approach in determining whether particular fees are 'finance charges.'").
[66] Other free options include, for instance, "visiting a specified retail store to obtain funds; taking the funds on a designated retailer's gift card; or employer-subsidized funding of some or all of transfers." 2024 Data Spotlight, *supra* note 9.
[67] *Id.*
[68] *Id.* (summarizing fees charged by a sample of EP and D2C providers obtained from publicly available websites).

Regulation Z because the consumer has a reasonable means for making payment on the account without paying a fee to the creditor."[69] As regards the latter, the Board likewise determined that "a fee for expedited delivery of a credit card is not incidental to the extension of credit and thus is not a finance charge where the consumer requests the service and the card is also available by standard mail service (or another means that is at least as fast) without a fee."[70] Fees that EWA providers charge for expedited delivery of EWA fit squarely into this mold, since consumers can receive exactly the same service without paying the fee.

Somewhat earlier, the Eleventh Circuit in *Veale v. Citibank* addressed the application of "finance charge" to an expedited delivery fee very similar to the expedited delivery fees charged by EWA providers: a $21 Federal Express fee for expedited delivery of *loan proceeds*. The court noted that "[i]f the borrower can choose to avoid the Federal Express fee by having the documents sent via regular mail, then the fee is not imposed as an incident to the extension of credit."[71] And the court held that "[s]ince the [borrowers] could have chosen not to pay the Federal Express fee and the bank did not require it, then the fee was not imposed as an incident to the extension of credit and need not be included in the Finance Charge [disclosure]."[72]

The 2024 PIR made essentially no effort to distinguish *Veale*. Instead, it attempted to place the entire weight of its novel proposed interpretation on a 1996 Board rule about a very different fact pattern: fees charged for debt cancellation agreements. Under such an agreement, "the creditor agrees to cancel all or part of any remaining debt in the event of an occurrence,

[69] 68 FR 16185, 16186 (Apr. 3, 2003).
[70] *Id*. at 16187. The Board's determination about the two types of "expedited" fees is codified at 12 CFR 1026, comments 6(a)(2)-2(ix) and (x). The 2024 PIR sought to distinguish the Board's interpretation on the ground that neither of those expedited services "are as closely and integrally connected to the extension of credit as faster funds access is to obtaining an earned wage product." 2024 PIR, 89 FR 61358 at 61362 n.42. But this reasoning is off point because the Board based its determinations on whether there were options other than the expedited option, even if slower.
[71] *Veale v. Citibank*, 85 F.3d 577, 579 (11th Cir. 1996).
[72] *Id*.

such as the death, disability or unemployment of the borrower."[73] The Board reasoned that fees for such agreements are finance charges because the agreement "alters the fundamental nature of the borrower's repayment obligation."[74] More specifically, it potentially reduces the principal amount the consumer owes the creditor. Such fees bear little, if any, resemblance to fees for expedited delivery of earned wages. The *earned wage amount* the provider deducts is unaffected by the consumer's opting for expedited delivery; the provider deducts the same earned wage amount if the consumer opts instead for free ACH delivery.

Ignoring this fundamental difference between debt cancellation fees and expedited delivery fees, the 2024 PIR highlighted more general language in the 1996 rule, namely, "even though a lender may not require a particular loan feature, the feature may become a term of the credit if it is included."[75] Relying on this formulation, the 2024 PIR proposed the facially implausible interpretation that fees for expedited delivery of earned wages are finance charges because earned-wages-plus-expedited-delivery is one credit product, and earned-wages-without-expedited-delivery is an entirely different credit product. That interpretation conflicts with the long-standing interpretation of "finance charge" by the Board itself in its 2003 rule and by the Eleventh Circuit in *Veale*, detailed above. In addition, the 2024 PIR's reading of the Board's 1996 rule would have created a principle without any limitation under which any fee for anything connected to a credit transaction can be transformed into a finance charge. All one needs to do is create a separate credit product for each "feature."[76]

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[73] 61 FR 49237, 49240 (Sep. 19, 1996).
[74] *Id.*
[75] 2024 PIR, 89 FR 61358 at 61362 (citing 61 FR 49237 at 49239).
[76] The 2024 PIR also failed to mention that the Board's 1996 Rule did not simply determine that debt cancellation fees are finance charges. It also determined that debt cancellation fees are not finance charges where the lender provides certain disclosures about the debt cancellation agreement. *See* 61 FR 49237 at 49240-41. Thus, even if the Board's rule were factually on point, it would provide support only for a more limited interpretation that expedited

The preceding determination that, in the normal course, expedited delivery fees associated with EWA are not finance charges is not intended to mean that expedited delivery fees can never be finance charges. The key issue is whether such fees are "directly or indirectly imposed" on the consumer. In the normal course, expedited delivery fees are the cost of obtaining earned wages more quickly than via ACH, and are triggered by the consumer's opting for expedited delivery; they are not "directly or indirectly imposed" by the provider. However, to the extent that an EWA provider does impose expedited delivery fees on a consumer's receipt of earned wages, those fees could qualify as finance charges. Determining whether such imposition is occurring is a matter that depends on the facts and circumstances of a provider's practices. For example, if an EWA provider makes it too difficult for consumers to select the un-expedited delivery of EWA funds, the resulting expedited delivery fees may effectively be imposed. Providers seeking clarification from the CFPB about whether their practices concerning expedited delivery fees do not amount to the imposition of a finance charge may request clarification from the CFPB by, for instance, applying for an Approval under the Policy on the Compliance Assistance Sandbox.[77]

c. Tips

Tipping is a longstanding, familiar aspect of the retail services economy, but it has only relatively recently appeared in the context of consumer financial services. The practice of seeking tips, gratuities, and the like is relatively common among D2C EWA providers, which raises the question of whether tips in this context qualify as finance charges. In general

delivery fees are finance charges only if the expedited delivery feature is not sufficiently disclosed. Moreover, even if it is assumed that fees for debt cancellation agreements are factually on point, the Seventh Circuit has held that fees for such agreements (specifically GAP agreements) are not finance charges. *See McGee v. Kerr-Hickman*, 93 F.3d 380, 383-85 (7th Cir. 1996).

[77] *See supra* note 29 (discussing the Policy on the Compliance Assistance Sandbox).

dictionaries, a tip is defined as a gratuity, and a gratuity is defined as "something given voluntarily or beyond obligation usually for some service."[78] To the extent that any EWA products are credit, if a provider seeks tips in connection with the provision of EWA, the tip is arguably "incident to" the extension of credit. However, it is inherent in the meaning of "tip" that it is not imposed, even if providing one is considered customary. Accordingly, a bona fide tip provided by the consumer for EWA services cannot be a finance charge.

To the extent tipping for EWA services is not voluntary, however, tips can be "directly or indirectly imposed" by providers and thus qualify as finance charges. The determination of when a tip crosses the line from voluntary to imposed depends on the facts and circumstances of a provider's practices.[79] For example, if the provider makes it too difficult to avoid tipping, the resulting consumer payment may be imposed, at least in part.[80] Providers seeking clarification from the CFPB about whether their particular practices concerning tipping do not rise to the level of imposing finance charges may request clarification from the CFPB by, for instance, applying for an Approval under its Policy on the Compliance Assistance Sandbox.[81]

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[78] *Tip*, Merriam-Webster, https://www.merriam-webster.com/dictionary/tip (last updated Oct. 31, 2025); *Gratuity*, Merriam-Webster, https://www.merriam-webster.com/dictionary/gratuity (last updated Oct. 29, 2025). These terms are not defined in Black's Law Dictionary.

[79] The 2024 PIR likewise indicated that determining when a tip is imposed depends on the facts and circumstances. But it also employed various devices designed to stack the deck in favor of a determination that tips are finance charges. For example, it used quotes for each and every mention of the word tip. It identified numerous considerations it deemed relevant to making this determination. Many of these, however, have no basis in the ordinary meaning of the term "tip" and the familiar practice of tipping. For example, the 2024 PIR states that the consumer's "reasonable understanding that the provider expects a 'tip'" is evidence that it is imposed. 2024 PIR, 89 FR 61358 at 61363 n.48. Consumers who are served at a restaurant have a "reasonable understanding" that the server expects a tip, but that doesn't mean that the server imposes the tip. Another "relevant consideration" identified by the 2024 PIR is "suggesting "tip" amounts or percentages to the consumer." This is now a common practice on POS checkout platforms, but no reasonable consumer believes this makes any tips selected mandatory.

[80] Depending on the facts and circumstances, a provider's tipping practices could instead or also be unlawfully deceptive under 12 U.S.C. 5531, 5536.

[81] *See supra* note 29 (discussing the Policy on the Compliance Assistance Sandbox). Subsequent to the issuance of the 2024 PIR, at least five district court opinions have appeared that concern products that could be classified as EWA, and that hold that those products are credit and that expedited delivery fees and/or tips associated with those products are finance charges. *See Orubo v. Activehours, Inc*., 780 F. Supp. 3d 927, 938 (N.D. Cal. Apr. 30, 2025)

II. Regulatory Matters

This advisory opinion is an interpretive rule issued under the CFPB's authority to interpret the Truth in Lending Act and Regulation Z, including under section 1022(b)(1) of the Consumer Financial Protection Act of 2010, which authorizes guidance as may be necessary or appropriate to enable the CFPB to administer and carry out the purposes and objectives of Federal consumer financial laws.[82]

As guidance, this interpretive rule does not have the force or effect of law. It has no legally binding effect, including on persons or entities outside the Federal government.

By operation of TILA section 130(f), no provision of TILA sections 130, 108(b), 108(c), 108(e), or 112 imposing any liability applies to any act done or omitted in good faith in conformity with this interpretive rule, notwithstanding that after such act or omission has occurred, the interpretive rule is amended, rescinded, or determined by judicial or other authority

The Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) has determined that this action is not a "significant regulatory action" under E.O. 12866, as amended.

Pursuant to the Congressional Review Act,[83] the CFPB will submit a report containing this advisory opinion and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to the

(motion to dismiss); *Johnson v. Activehours, Inc*., 2025 WL 2299425, at *9 (D. Md. Aug. 8, 2025) (motion to dismiss); *Golubiewski v. Activehours, Inc.*, 2025 WL 2484192, at *1 (M.D. Pa. Aug. 28, 2025) (motion to dismiss); *Moss v. Cleo AI Inc.*, 2025 WL 2592265, at *4 (W.D. Wash. Sept. 8, 2025) (motion to dismiss); *Vickery v. Empower Finance Inc*., 2025 WL 2841686, at *9 (N.D. Cal. Oct. 7, 2025) (motion to compel arbitration). All rely heavily, directly or indirectly, on the application of "credit" to EWA and the application of "finance charge" to EWA-related express delivery fees and tips in the 2024 PIR, despite the fact that the 2024 PIR was merely a *proposed* interpretive rule. The first of the cases, *Orubo v. Activehours*, quotes liberally from the 2024 PIR. Each of the four subsequent cases then relies heavily on *Orubo*. Now that the CFPB has not only formally withdrawn the 2024 PIR but officially rejected the interpretations advanced in it, these opinions have no real bearing on this advisory opinion.

[82] 12 U.S.C. 5512(b)(1).

[83] 5 U.S.C. 801 et seq.

interpretive rule taking effect. OIRA has designated this advisory opinion as not a "major rule" as defined by 5 U.S.C. 804(2).

The CFPB has determined that this advisory opinion does not contain any new or substantively revised information collection requirements that would require approval by OMB under the Paperwork Reduction Act.[84]

Russell Vought,

Acting Director, Consumer Financial Protection Bureau.

[84] 44 U.S.C. 3501 et seq.