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# United States Senate

COMMITTEE ON

HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

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August 4, 2024

## VIA EMAIL

The Honorable Rohit Chopra  
Director  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

Dear Director Chopra:

Last week, the Senate Permanent Subcommittee on Investigations (“PSI” or the “Subcommittee”) held a hearing with Cameron Fowler, the CEO of Early Warning Services (“EWS”), and executives from the three largest banks that own EWS and participate in the Zelle Network: JPMorgan Chase, Bank of America, and Wells Fargo (collectively “the Three Banks”).<sup>1</sup> The hearing followed the release of a majority staff report detailing findings from PSI’s 15-month investigation into how Zelle and the Three Banks are handling fraud on Zelle.<sup>2</sup> Of these findings, PSI was particularly alarmed to discover that, over a five-year period, the total percentage of transactions disputed by Zelle users as unauthorized (sometimes referred to as “fraud”) that were ultimately reimbursed by the Three Banks fell from 62% in 2019 to 38% in 2023.<sup>3</sup>

The witnesses provided deflections and excuses, but few answers, when asked to explain the low percentage of fraud disputes reimbursed on Zelle. Despite EWS’s role in enforcing rules on the Zelle Network, which requires compliance with Regulation E, Mr. Fowler told the Subcommittee that he was “not in a position to comment on” why so few fraud disputes are reimbursed.<sup>4</sup> Mr. Fowler has previously stated in the press that the conversation about scams and fraud “needs to move beyond reimbursement.”<sup>5</sup> When Subcommittee Members pressed Mr. Fowler on these remarks last week, he said he would “stand by” his prior statements.<sup>6</sup>

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<sup>1</sup> Instant Payments, Instant Losses: Zelle and the Big Banks Fail to Protect Consumers from Fraud: Hearing Before the U.S. Senate Permanent Subcomm. on Investigations, 118th Cong. (July 23, 2024), <https://www.hsgac.senate.gov/subcommittees/investigations/hearings/instant-payments-instant-losses-zelle-and-the-big-banks-fail-to-protect-consumers-from-fraud/>.

<sup>2</sup> A Fast and Easy Way to Lose Money: Insufficient Consumer Protection on the Zelle Network, Majority Staff Report, U.S. Senate Permanent Subcomm. on Investigations, 118th Cong. (July 23, 2024), <https://www.hsgac.senate.gov/wp-content/uploads/2024.7.23-PSI-Majority-Staff-Report-on-Zelle.pdf>.

<sup>3</sup> *Id.*

<sup>4</sup> *Supra* note 1; see Early Warning Services LLC., *Zelle Network Participation Rules*, 208 (Apr. 30, 2024) (on file with EWS), EWS-RR-004-0000208; 12 C.F.R. § 1005.

<sup>5</sup> Emily Mason, *Zelle Volume Heads Towards 1 Trillion as Banks Cash App Spreads to Small Business Payments*, *Forbes* (Mar. 4, 2024), <https://www.forbes.com/sites/emilymason/2024/03/04/zelle-volume-heads-towards-1-trillion-as-banks-cash-app-spreads-to-small-business-payments/>.

<sup>6</sup> *Supra* note 1.

PSI's investigation of the Three Banks indicates that they provide their respective employees with broad discretion to determine whether a disputed transaction is unauthorized, and, in turn, whether a consumer is entitled to reimbursement. Unfortunately, last week's testimony provided little insight into the processes these institutions use to investigate transaction disputes. Beyond vague anecdotes, none of the witnesses offered details about why so many consumers who complained to their bank of fraud were turned away empty handed.

The Three Banks' circuitous answers to questions regarding whether they have ever had a third-party review of their dispute resolution processes further increased our concerns that, not only has such a review never occurred, but that the opaque processes applied by these banks are being used to deny rightful claims. In short, the findings of PSI's investigation and the evasive testimony received by the Subcommittee raises the distinct and troubling possibility that Zelle and the Three Banks may be in violation of the Electronic Fund Transfer Act and Regulation E.<sup>7</sup>

I therefore request that the Consumer Financial Protection Bureau review the Subcommittee's report, which is enclosed with this letter, and conduct a thorough investigation of the dispute resolution practices of EWS, the Three Banks, and any other financial institutions as warranted, including but not limited to practices of other peer-to-peer payment platforms. I further urge you to take appropriate action to ensure that these institutions fully and promptly address consumer reports of fraud, as required by law.<sup>8</sup> If your investigation finds that an institution has violated the Electronic Fund Transfer Act "knowingly and willfully," I encourage you to take the strongest appropriate action.<sup>9</sup> Thank you for your attention to this matter.

Sincerely,



Richard Blumenthal  
Chair  
Permanent Subcommittee on Investigations

Enclosure

cc: The Honorable Ron Johnson  
Ranking Member  
Permanent Subcommittee on Investigations

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<sup>7</sup> Electronic Fund Transfer Act, 15 U.S.C. §§ 1693-1693r (1978); see also, 12 C.F.R. § 1005.

<sup>8</sup> See 15 U.S.C. § 1693 (m).

<sup>9</sup> See 15 U.S.C. § 1693 (n).

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