



Testimony of

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on

“Fraud Alert!: Shedding Light on Zelle”

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Committee on Homeland Security and Governmental Affairs

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Introduction

The National Consumers League appreciates the opportunity to provide the subcommittee with our views on protecting consumers from fraud involving misuse of the Zelle digital payment network.

Founded in 1899, the National Consumers League (“NCL”) is the nation’s pioneering consumer and worker advocacy organization. Our non-profit mission is to advocate on behalf of consumers and workers in the United States and abroad.¹ For more than twenty-five years, NCL has worked, via our Fraud.org campaign, to educate consumers about the warning signs of fraud and promote public policies that protect the American public from fraud of all kinds.

Fraud Has Reached Crisis Levels in the United States

In recent years, levels of fraud in the United States have reached historically unprecedented levels. In 2023, the Federal Trade Commission (“FTC”) received 5.39 million complaints about fraud and identity theft, a 54% year-over-year increase versus 2019.² Among the FTC’s fraud complaints, 27% reported a loss, with total annual losses of more than \$10 billion.³ Other agencies report similarly high increases in fraud rates. In 2023, more than 880,000 complaints were filed with the FBI’s Internet Crime Complaint Center with potential losses exceeding \$12.5 billion. This represents nearly a 10% increase in complaints and a 22% increase in losses compared to 2022.⁴

¹ For more information, visit www.nclnet.org.

² Federal Trade Commission. *Consumer Sentinel Network Data Book 2023*. (February 2024) Pg. 6. Online: https://www.ftc.gov/system/files/ftc_gov/pdf/CSN-Annual-Data-Book-2023.pdf

³ *Ibid.* Pg. 10.

⁴ Federal Bureau of Investigation. “FBI Releases Internet Crime Report.” Press release. (April 4, 2024) Online: <https://www.fbi.gov/contact-us/field-offices/sanfrancisco/news/fbi-releases-internet-crime-report>

As sobering as those number are, they are just the tip of the iceberg. Fraud is a significantly underreported crime. Experts believe the true level of fraud in the United States is much higher. A 2023 FTC report estimated that true annual fraud losses were \$137.4 billion.⁵ Other third-party analyses put the actual losses even higher.⁶

The costs of fraud are not just financial. According to Gallup, being tricked by a scammer into sending money or providing access to a financial account was Americans' second-highest victimization concern last year, with 57% saying they frequently or occasionally worry about it happening to them.⁷ Many fraud victims report struggling with mental health issues after the event.⁸ Sadly, some scam victims have also committed suicide due to the trauma.^{9 10}

P2P Platforms are Experiencing Explosive Growth in Users ... and Fraud

Peer-to-peer (P2P) payment services have rapidly gained popularity. In 2022, four in ten Americans reported using a P2P service at least once a month, with 18%

⁵ Federal Trade Commission. *Protecting Older Consumers 2022-2023: A Report of the Federal Trade Commission*. (October 18, 2023) Pg. 40. Online:

https://www.ftc.gov/system/files/ftc_gov/pdf/p144400olderadultsreportoct2023.pdf

⁶ Feedzai. "A colossal \$159 billion lost to frauds and scams, finds new research from Feedzai and the Global Anti-Scam Alliance." Press release. (February 22, 2024) Online:

<https://feedzai.com/pressrelease/a-colossal-159-billion-lost-to-fraud-and-scams-finds-new-research-from-feedzai-and-the-global-anti-scam-alliance/>

⁷ Saad, Lydia. "Scams: Relatively Common and Anxiety-Inducing for Americans," Gallup.com.

(November 21, 2023) Online: <https://news.gallup.com/poll/544643/scams-relatively-common-anxiety-inducing-americans.aspx>

⁸ Ianzito, Christina. "Many Victims Struggle With Mental Health in Scams' Aftermath," AARP.

(December 15, 2022) Online: <https://www.aarp.org/money/scams-fraud/info-2022/mental-health-impact.html>

⁹ Ramey, Andrea. "Scam artists drive seniors to suicide in Mobile County," WPMI-NBC 15. (September 30, 2021) Online: <https://mynbc15.com/news/local/scum-of-the-earth-scam-artists-drive-seniors-to-suicide-in-mobile-county>

¹⁰ Federal Bureau of Investigation. "How We Can Help You: Sextortion." ("This increasing threat has resulted in an alarming number of deaths by suicide.") Online: <https://www.fbi.gov/how-we-can-help-you/scams-and-safety/common-scams-and-crimes/sexortion>

using them at least once per week. PayPal (49%), Venmo (48%), Cash App (40%), and Zelle (39%) were the four most popular services among P2P users.¹¹

These services have grown exponentially in recent years. Annual transaction volumes on P2P apps are projected to reach \$1.6 trillion by 2027.¹² Zelle, in particular, has reported explosive growth with 120 million customers sending 2.9 billion transactions totaling \$806 billion in 2023, both up 28% year-over-year.¹³

The same factors that have made P2P services popular with consumers – access via mobile device and near-instantaneous payment – have also attracted a tsunami of scammers. Unfortunately for consumers, the P2P services have failed to keep pace with this threat.

According to the Pew Research Center, 13% of people who have ever used PayPal, Venmo, Zelle, or Cash App say they have sent money to someone and later realized it was a scam. Such negative experiences were especially prevalent among Black and Hispanic Americans who were about twice (22% each) as likely as their white counterparts (10%) to report they were scammed. P2P scams have also disproportionately hurt lower income Americans, 20% of whom reported being targets of scams involving these platforms, compared to 12% and 7% for middle- and high-income Americans, respectively.¹⁴

¹¹ Consumer Reports Survey Group. "Peer-to-Peer Payment Services." Pgs. 1, 3. (January 10, 2023) Online: <https://advocacy.consumerreports.org/wp-content/uploads/2023/01/P2P-Report-4-Surveys-2022.pdf>

¹² Consumer Financial Protection Bureau. "CFPB Finds that Billions of Dollars Stored on Popular Payment Apps May Lack Federal Insurance." Press release. (June 1, 2023) Online: <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finds-billions-of-dollars-stored-on-popular-payment-apps-may-lack-federal-insurance/>

¹³ Zelle. "Zelle soars with \$806 billion transaction volume, up 28% from prior year," Press release. (March 4, 2024) Online: <https://www.zellepay.com/press-releases/zelle-soars-806-billion-transaction-volume-28-prior-year>

¹⁴ Anderson, Monica. "Payment apps like Venmo and Cash App bring convenience – and security concerns – to some users." Pew Research Center. (September 8, 2022) Online: <https://www.pewresearch.org/short-reads/2022/09/08/payment-apps-like-venmo-and-cash-app-bring-convenience-and-security-concerns-to-some-users/>

In 2020, the FTC received 62,000 complaints where payment apps were the method of payment, with total reported losses of \$87 million.¹⁵ By 2022, reported losses from fraud involving payment apps had grown to \$163 million.¹⁶ Last year, reported losses hit \$210 million with more than 65,000 complaints in this category.¹⁷ Again, experts agree that fraud is a significantly underreported crime. If we accept the FTC's estimates that only 2.0-6.7% of fraud cases get reported, the true losses by consumers to criminal fraudsters via P2P platforms is likely well into the multiple billions of dollars every year.¹⁸

Zelle is a Uniquely Attractive Tool for Criminals

While fraud occurs on all major P2P platforms, fraud on Zelle poses unique concerns. First, it is important to understand a few key differences between Zelle and other P2P services like Venmo, Cash App, and PayPal.

First, Zelle can be used to transfer funds between anyone with a U.S. bank account at a participating financial institution. Venmo, Cash App, and PayPal are all standalone apps allow transactions only between users of those services. Conversely, more than 2,100 banks and credit unions across the U.S. currently offer Zelle in their banking apps or online banking portals.¹⁹ Indeed, the widespread availability of Zelle to

¹⁵ Federal Trade Commission. Consumer Sentinel Network Data Book 2020. (February 2021) Pg. 11. Online: https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-2020/csn_annual_data_book_2020.pdf

¹⁶ Federal Trade Commission. Consumer Sentinel Data Book 2022 (February 2023) Pg. 11. Online: https://www.ftc.gov/system/files/ftc_gov/pdf/CSN-Data-Book-2022.pdf

¹⁷ Federal Trade Commission. *Consumer Sentinel Network Data Book 2023*. (February 2024) Pg. 11. Online: https://www.ftc.gov/system/files/ftc_gov/pdf/CSN-Annual-Data-Book-2023.pdf

¹⁸ Federal Trade Commission. *Protecting Older Consumers 2022-2023: A Report of the Federal Trade Commission*. (October 18, 2023) Pg. 39. Online: https://www.ftc.gov/system/files/ftc_gov/pdf/p144400olderadultsreportoct2023.pdf

¹⁹ Zelle. "Zelle soars with \$806 billion transaction volume, up 28% from prior year." Press release. (March 4, 2024) Online: <https://www.zellepay.com/press-releases/zelle-soars-806-billion-transaction-volume-28-prior-year>

millions of bank customers is exactly why it has become such an attractive payment method for criminal fraudsters.

Second, Zelle's ownership model is unique. It is owned by Early Warning Services, a consortium of seven national banks including Bank of America, Capital One, JPMorgan Chase, PNC Bank, Truist, U.S. Bank and Wells Fargo. By comparison, PayPal (of which Venmo is a subsidiary), is an independently traded company. Cash App was developed by Block, Inc. (formerly Square). Because Zelle is in competition with PayPal, Venmo, and Cash App for transaction volume, any voluntary action that increases "friction" in the system – that is, making it harder to use because of additional anti-fraud requirements -- is likely to put the banks at a competitive disadvantage to PayPal, Venmo, and Cash App. This creates a powerful disincentive for Zelle's owners to require extra anti-fraud measures that reduce transaction volume, even in the name of security.

While no payment system is immune from fraud, the scale of fraud on the Zelle platform is unacceptably high. Just four banks on the Zelle platform were reportedly on pace to receive scam and fraud claims in excess of \$255 million in 2022.²⁰ Given that more than two thousand banks use Zelle, this is likely only a small fraction of the total fraud losses. Based on current Zelle growth rates and reported fraud rates of 6-9 basis points, it is estimated that total fraud rates on Zelle will likely exceed \$1 billion annually by next year.²¹

²⁰ Office of Senator Elizabeth Warren. "New Report by Senator Warren: Zelle Facilitating Fraud, Based on Internal Data from Big Banks." Press release. (October 3, 2022) Online: <https://www.warren.senate.gov/oversight/reports/new-report-by-senator-warren-zelle-facilitating-fraud-based-on-internal-data-from-big-banks>

²¹ McKenna, Frank. "Bank CEO's Say Zelle Fraud Is Low – Is That Really True?" FrankOnFraud.com. (September 26, 2022) Online: <https://frankonfraud.com/fraud-trends/bank-ceos-say-zelle-fraud-is-low-is-that-really-true/>

Consumers Are Not Equipped to Fight Fraud Alone

Even when consumers recognize and report induced fraud to their banks, their claims are denied in the vast majority of cases. The three banks who provided their fraud reimbursement rates to Sen. Elizabeth Warren’s office reported reimbursing only 10% of scam claims.²² Because consumer losses from “authorized” transactions (even ones where all parties involved agree fraud was involved) are not covered under the Electronic Funds Transfer Act’s (EFTA) “Regulation E” liability protections, these losses end up being born by those who are least able to absorb them: individual consumers.

This data are clear: we are losing the fight against fraud. Consumer complaints about fraud on P2P platforms like Zelle tell the story: when a victim discovers they’ve been scammed, they rarely recover the lost funds. This is exactly what scammers are aiming for, and why payment methods like Zelle are so attractive in the first place. Consumers are not only bewildered when they become fraud victims, but also angry that companies to whom they entrusted money do so little to protect them and won’t make them whole.

P2P platforms like Zelle profit handsomely from ever-increasing transaction volumes and associated services. Yet they bear little of the cost for the increasing rates of fraud. The costs of fraud are instead paid by individual victims of fraud. The impact of this crime can be dramatic. Nearly every day we at the National Consumers League hear heart-breaking stories of how scammers wiped out their life savings and caused deep trauma. Congress needs to get in the game.

²² *Ibid.* Pg. 6.

Banks and P2P Platforms Need Better Incentives to Reduce Fraud

The banks are not unaware of the fraud on P2P platforms like Zelle. Warning messages and consumer education materials will not and have not put a meaningful dent in fraud rates without stronger protections in place. Indeed, we hear from victims of fraud that the scammers are incredibly adept at coaching their marks around consumer warnings the banks provide. Scammers get cleverer and more innovative every day; thus, expecting every day. Relying on consumers to accurately spot and resist fraudulent schemes run by sophisticated, professional criminals is unlikely to yield a more secure P2P payments system.

We urge Congress and the Consumer Financial Protection Bureau (“CFPB”) to adopt regulations that put the onus for securing P2P platforms like Zelle where it belongs – on the banks and platforms themselves. The goal of these new rules should be, first and foremost, to make victims of fraud financially whole. By doing so, powerful policymakers will create new incentives for the banks and P2P platforms to invest in more secure systems.

Fortunately, a bill to create these incentives, the *“Protecting Consumers From Payment Scams Act,”* has already been released by House Financial Services Committee Ranking Member Maxine Waters (D-CA).²³ Currently in discussion draft format, the bill would expand the definition of “unauthorized electronic fund transfer” in EFTA to cover fraudulently induced payments. This simple fix would address fraudulently induced payments on all payment platforms covered by EFTA, including P2P apps and gift cards.

The goal should be to reach the level of fraud protection that consumers currently enjoy when there is unauthorized activity on credit and debit cards. Thanks to

²³ Online: <https://democrats-financialservices.house.gov/UploadedFiles/BILLS-117pih-ProtectingConsumersFromPaym-U1.pdf>

Regulation E and Regulation Z, banks and credit card issuers have strong incentives to invest in systems that, while not perfect, generally protect consumers from fraud losses. Because of this, when fraud does occur, consumers often learn about it not because they suddenly realize they have sent a scammer thousands of dollars via Zelle, but because their bank alerts them, reimburses the losses, and issues a new card.

Recently enacted rules in the United Kingdom require banks to reimburse victims of fraud in the inducement, with issuing and receiving banks sharing liability for making victims whole.²⁴ The UK's rules should serve as a model for U.S. law in this area.

Conclusion

Chairman Blumenthal, Ranking Member Johnson, and the members of the subcommittee, we thank you for your continuing work to protect consumers and for holding this hearing. On behalf of the National Consumers League, thank you for including the consumer perspective as you consider these important issues.

²⁴ Payment Systems Regulator (UK). "PSR confirms new requirements for APP fraud reimbursement. Press release. (July 6, 2023) Online: <https://www.psr.org.uk/news-and-updates/latest-news/news/psr-confirms-new-requirements-for-app-fraud-reimbursement/>