

October 26, 2022

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

Dear Director Chopra,

I write to bring to your attention new findings from my investigation that revealed rampant fraud that occurs on the peer-to-peer payment platform Zelle, and the failure of banks to repay customers that are swindled by fraudsters and scammers.¹ The findings of this report reveal that the Consumer Financial Protection Bureau (CFPB) must update and strengthen regulations governing the obligations of banks to repay customers who are defrauded on Zelle and other peer-to-peer payment platforms.

My investigation, which is based on previously non-public information obtained from the banks that own and run the platform, shows that Zelle is increasingly becoming a tool of bad actors who use the platform to defraud consumers, while the big banks that own Zelle do little to stop them or provide recourse to their consumers. Given that the CFPB enforces Regulation E of the Electronic Transfer Funds Act, which governs peer-to-peer platforms,² I offer the attached report to assist the CFPB in its mission to increase protections and transparency on these platforms and ensure that consumers are treated fairly by banks and other financial institutions. I will also provide, on a confidential basis, information that the banks provided me in response to my multiple requests.

In April 2022, I opened an investigation into Zelle and its parent company, Early Warning Services, LLC (EWS), after numerous reports indicated that Zelle is a preferred tool of fraudsters and bad actors who abuse Zelle's instantaneous, easy-to-exploit transfers to defraud consumers.³

¹ Senator Elizabeth Warren, "Facilitating Fraud: How Consumers Defrauded on Zelle are Left High and Dry by the Banks that Created It," October 2022, <https://www.warren.senate.gov/imo/media/doc/ZELLE%20REPORT%20OCTOBER%202022.pdf>.

² Wall Street Journal, "CFPB to Push Banks to Cover More Payment-Services Scams," Andrew Ackerman, July 19, 2022, <https://www.wsj.com/articles/consumer-bureau-to-push-banks-to-refund-more-victims-of-scams-on-zelle-other-services-11658235601>.

³ Letter from Senators Warren, Menendez, and Reed to Early Warning Services, LLC CEO Al Ko, April 29, 2022, <https://www.warren.senate.gov/imo/media/doc/2022.04.29%20Letter%20to%20Early%20Warning%20Systems%20LLC.pdf>; Letter from Early Warning Services, LLC to Senators Warren, Menendez, and Reed, May 13, 2022, [On file with the Office of U.S. Senator Elizabeth Warren].

Zelle and EWS are owned and operated by a consortium of big banks who initially refused to turn over any significant information on the extent of fraud on the platform.⁴ At a September 2022 U.S. Senate Banking Committee hearing, I continued to press the banks for this information with Senator Robert Menendez, and received a commitment from several CEOs that they would provide it to Congress.⁵ While JPMorgan Chase and Wells Fargo still refused to make key information about fraud public, several others did provide the information.⁶ Earlier this month, I released the findings of my investigation.⁷

The findings of the investigation, as outlined in the attached report, included:

- **Fraud and theft are rampant on Zelle – and are increasing.** The big banks that own Zelle market the product by telling their customers that the platform is safe and secure. Bank of America tells its customers that Zelle is “a safe and easy way to send money fast.”⁸ Similarly, Wells Fargo tells customers, “Zelle is fast, safe, and convenient.”⁹ EWS, Zelle’s parent company, brands itself as “innovative,” “collaborative,” and “trustworthy.”¹⁰ But PNC Bank reported that the number of fraud and scam claims from customers increased from 8,848 in 2020, to a pace of over 12,300 in 2022. Similarly, U.S. Bank reported 14,886 fraud and scam claims on Zelle in 2020, and that its customers are on pace to report nearly 45,000 claims in 2022. The four banks that reported the relevant data received scam and fraud claims in excess of \$90 million in 2020, and are on pace to receive scam and fraud claims in excess of \$255 million in 2022.

⁴ Letter from Early Warning Services, LLC to Senators Warren, Menendez, and Reed, May 13, 2022, [On file with the Office of U.S. Senator Elizabeth Warren]; New York Times, “Cash Faces a New Challenger in Zelle, a Mobile Banking Service,” Stacy Cowley, June 12, 2017, <https://www.nytimes.com/2017/06/12/business/dealbook/mobile-banking-zelle-venmo-apple-pay.html>; New York Times, “Fraud is Flourishing on Zelle. The Banks Say It’s Not Their Problem,” Stacy Cowley and Lananh Nguyen, March 6, 2022, <https://www.nytimes.com/2022/03/06/business/payments-fraud-zelle-banks.html>.

⁵ Senate Committee on Banking, Housing, and Urban Affairs, “Annual Oversight of the Nation’s Largest Banks,” September 22, 2022, <https://www.banking.senate.gov/hearings/annual-oversight-of-the-nations-largest-banks>; Senator Elizabeth Warren, “At Hearing, Warren Blasts Bank CEOs on Failure to Protect Consumers From Zelle Fraud,” press release, September 22, 2022, <https://www.warren.senate.gov/newsroom/press-releases/at-hearing-warren-blasts-bank-ceos-on-failure-to-protect-consumers-from-zelle-fraud>.

⁶ Senate Committee on Banking, Housing, and Urban Affairs, “Annual Oversight of the Nation’s Largest Banks,” September 22, 2022, <https://www.banking.senate.gov/hearings/annual-oversight-of-the-nations-largest-banks>; Senator Elizabeth Warren, “At Hearing, Warren Blasts Bank CEOs on Failure to Protect Consumers From Zelle Fraud,” press release, September 22, 2022, <https://www.warren.senate.gov/newsroom/press-releases/at-hearing-warren-blasts-bank-ceos-on-failure-to-protect-consumers-from-zelle-fraud>.

⁷ Senator Elizabeth Warren, “Facilitating Fraud: How Consumers Defrauded on Zelle are Left High and Dry by the Banks that Created It,” October 2022, <https://www.warren.senate.gov/imo/media/doc/ZELLE%20REPORT%20OCTOBER%202022.pdf>.

⁸ Bank of America, website accessed September 27, 2022, <https://www.bankofamerica.com/online-banking/mobile-and-online-banking-features/send-receive-money/>.

⁹ Wells Fargo, website accessed September 27, 2022, <https://www.wellsfargo.com/online-banking/zelle/>.

¹⁰ Letter from Early Warning Services, LLC to Senators Warren, Menendez, and Reed, May 13, 2022, [On file with the Office of U.S. Senator Elizabeth Warren]; Early Warning Services, LLC, website “About” page, <https://www.earlywarning.com/about>; PR Newswire, “Early Warning Appoints Albert Ko as Chief Executive Officer,” May 30, 2019, <https://www.prnewswire.com/news-releases/early-warning-appoints-albert-ko-as-chief-executive-officer-300859164.html>.

- **Banks are not repaying the vast majority of cases where customers were fraudulently induced into making payments on Zelle.** Overall, four banks reported 192,878 cases of scams – cases where customers reported being fraudulently induced into making payments on Zelle – involving over \$213.8 million of payments in 2021 and the first half of 2022. In the vast majority of these cases, the banks did not repay the customers that were defrauded. Overall the three banks that provided full data sets reported repaying customers in only 3,473 cases (representing 9.6% of scam claims) and repaid only \$2.9 million (representing 11% of payments).
- **Banks are not repaying customers who contest “unauthorized” Zelle payments – potentially violating federal law and CFPB rules.** Zelle claims to have a “zero liability policy” for cases in which a bad actor gains access to a consumer’s Zelle account and uses it to make unauthorized payments, and the Electronic Fund Transfer Act (EFTA) and the CFPB’s Regulation E require that the banks repay customers when funds are illegally taken out of their account without authorization. But the data provided by the banks revealed that they reimbursed consumers for only 47% of the dollar amount of cases in which customers reported unauthorized payments on Zelle in 2021 and the first half of 2022.

I also wish to bring CFPB’s attention to two banks that did not provide the information I requested. JPMorgan refused to provide the requested information that would indicate the extent to which it is reimbursing consumers who are the victims of scams and fraud. Wells Fargo also refused to provide this information.

However, information that Wells Fargo did provide was troubling, particularly in light of the bank’s long record of ripping off its customers.¹¹ The Wells Fargo data indicates that the bank has a significant problem with fraudulent activity on Zelle. Wells Fargo customers were reporting fraud and scams on the platform at a rate that is nearly 2.5 times higher in 2022 than it was in 2019, and that is more than twice as high for Wells customers compared to customers of other banks.¹² I am also sharing this Wells Fargo data with CFPB.

The CFPB has rulemaking authority under the Dodd-Frank Act to amend Regulation E of the Electronic Fund Transfers Act to increase consumer protection and interpret the guidelines surrounding peer-to-peer platforms, authority the agency has previously used to clarify rules surrounding prepaid accounts and remittance transfers.¹³ As the CFPB considers whether to take action on this topic, the findings of my investigation reveal that the agency must strengthen consumer protections on peer-to-peer platforms like Zelle. The rising volume of fraud and scams

¹¹ Senator Elizabeth Warren, “Warren to CFPB Director Rohit Chopra: Break Up Wells Fargo, Cheating Consumers is in Bank’s DNA,” press release, April 26, 2022, <https://www.warren.senate.gov/newsroom/press-releases/warren-to-cfpb-director-rohit-chopra-break-up-wells-fargo-cheating-consumers-is-in-banks-dna>. Slate, “How Wells Fargo Became Synonymous With Scandal,” Justin Peters, November 28, 2022, <https://slate.com/business/2020/11/wells-fargo-scandal-history-karen-attiah.html>.

¹² Letter from Senator Elizabeth Warren to Wells Fargo CEO Charles Scharf, October 6, 2022, <https://www.warren.senate.gov/imo/media/doc/Wells%20Fargo%20October%20Letter1.pdf>.

¹³ Consumer Financial Protection Bureau, “Electronic Fund Transfers (Regulation E); Amendments,” June 05, 2020, <https://www.consumerfinance.gov/rules-policy/final-rules/electronic-fund-transfers-regulation-e/>.

– combined with banks’ failure to make consumers whole in more than 90% of authorized scam cases and nearly 50% of unauthorized fraud cases – is a violation of banks’ responsibilities to their consumers and is not consistent with the goals of Regulation E.¹⁴ I urge you to once again act with urgency to address these gaps in consumer protection law.

Sincerely,



Elizabeth Warren
United States Senator

¹⁴ Senator Elizabeth Warren, “Facilitating Fraud: How Consumers Defrauded on Zelle are Left High and Dry by the Banks that Created It,” October 2022, <https://www.warren.senate.gov/imo/media/doc/ZELLE%20REPORT%20OCTOBER%202022.pdf>.