



**America's  
Credit Unions**

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The Honorable Richard Blumenthal  
Chairman  
Committee on Homeland Security  
& Governmental Affairs  
Permanent Subcommittee  
on Investigations  
United States Senate  
Washington, DC 20510

The Honorable Ron Johnson  
Ranking Member  
Committee on Homeland Security  
& Governmental Affairs  
Permanent Subcommittee  
on Investigations  
United States Senate  
Washington, DC 20510

**Re: Today's Hearing: "Instant Payments, Instant Losses: Zelle and the Big Banks Fail to Protect Consumers from Fraud"**

Dear Chairman Blumenthal and Ranking Member Johnson:

On behalf of America's Credit Unions, I am writing to share our thoughts regarding today's Subcommittee hearing concerning payments fraud. America's Credit Unions is the voice of consumers' best option for financial services: credit unions. We advocate for policies that allow the industry to effectively meet the needs of their over 140 million members nationwide.

Although today's hearing focuses narrowly on large banks and their customers' use of Zelle, it is worth reiterating that the Zelle platform is used by more than just the largest banks. Credit unions and community banks comprise over 95 percent of the 2,100 financial institutions that participate in the Zelle Network, and this share includes minority depository institutions (MDIs) and community development financial institutions (CDFIs).

Consumers expect fast and convenient digital payments accessible through their financial institution on an easy-to-use mobile platform. Zelle helps credit unions meet that demand. Furthermore, remote peer-to-peer (P2P) transaction growth suggests that robust in-app payment options are now an essential part of a competitive banking service.<sup>1</sup> For credit unions that do not possess the scale and deep pockets of the largest banks, Zelle helps lower barriers to entry.

To address the root causes of payments fraud, relevant discussion should not be limited arbitrarily to a single platform. Nonbanks, fintechs, depositories, regulators, and law enforcement are all partners in the global fight to prevent fraud. There are many other P2P services besides Zelle that facilitate digital consumer payments, but unlike Zelle they are not

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<sup>1</sup> See Federal Reserve Financial Services, 2024 Findings from the Diary of Consumer Payments Choice, 16 (2024).

owned by insured depository institutions.<sup>2</sup> While this distinction matters little for criminals, it should matter for consumers. All financial institutions on the Zelle Network are regulated, hold funds in insured accounts, and must comply with the requirements of the Electronic Fund Transfer Act (EFTA) and Regulation E, which provides reimbursement for unauthorized transactions. As for scams that involve fraudulent inducement, Zelle provides an industry-leading reimbursement policy for qualifying imposter scams. This benefit provides for reimbursement above legal and regulatory requirements.

As the Zelle Network grows, the rate of fraud and scams on the network continues to shrink due to the continuous evolution of fraud and scam countermeasures. In-app alerts offered by participating institutions remind users throughout the payments process that they should only send money to people they know and trust. Participating institutions sent cautionary alerts more than 700 million times in 2023.<sup>3</sup> Today, the vast majority of transfers enabled by Zelle's network are processed without issue.<sup>4</sup> However, fraud remains on an ongoing battle, requiring consumers, institutions, and government stakeholders to constantly adapt to new social engineering techniques that exploit weaknesses in human judgment.<sup>5</sup> Scams that prey on the fallibility of consumers can leverage any channel for monetary gain—not just Zelle.

Credit unions continue to make significant investments in security and fraud mitigation technologies to protect their members from scams and identity theft.<sup>6</sup> Credit unions have specifically warned their members about scams that employ P2P services, such as utility bill and romance scams, and the National Credit Union Administration (NCUA) has shared resources with the industry to help protect older members.<sup>7</sup> However, the credit union industry's capacity to absorb fraud losses is not without limit. Credit unions are significantly smaller than banks and are particularly sensitive to new regulatory expectations that alter financial institution liability under the EFTA and Regulation E.

Credit unions are doing everything they can to prevent fraud, but the greatest share of fraud occurs in domains that credit unions cannot easily influence. According to a 2023 FTC Report, consumers reported losing more money to investment scams than any other category in 2023.<sup>8</sup> The second largest share of fraud originates through online shopping, a domain of commerce

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<sup>2</sup> E.g., Venmo, CashApp, Apple Pay, Samsung Pay, Google Pay. *See also* U.S. Department of the Treasury Report to the White House Competition Council, *Assessing the Impact of New Entrant Non-bank Firms on Competition in Consumer Finance Markets* (November 2022).

<sup>3</sup> *See* Zelle, Press Release, "Zelle soars with \$806 billion transaction volume, up 28% from prior year," (March 4, 2024), available at <https://www.zellepay.com/press-releases/zelle-soars-806-billion-transaction-volume-28-prior-year>.

<sup>4</sup> *See id.* ("[l]ess than one-tenth of one percent of transactions reported as fraud or scams in 2023).

<sup>5</sup> *See* Federal Trade Commission, Press Release: "As Nationwide Fraud Losses Top \$10 Billion in 2023, FTC Steps Up Efforts to Protect the Public," (February 9, 2024), available at <https://www.ftc.gov/news-events/news/press-releases/2024/02/nationwide-fraud-losses-top-10-billion-2023-ftc-steps-efforts-protect-public>.

<sup>6</sup> *See* Cornerstone Advisors, *The True Impact of Interchange Regulation*, 26 (June 2023).

<sup>7</sup> *See* NCUA, *Preventing Elder Financial Abuse*, available at <https://mycreditunion.gov/life-events/aging-managing-finances/elder-financial-abuse>.

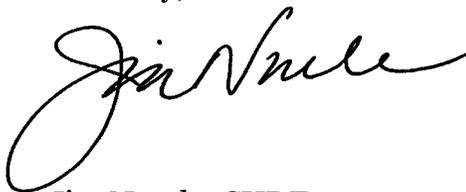
<sup>8</sup> *See supra* note 5.

that credit unions do not control.<sup>9</sup> Accordingly, legislative proposals to expand financial institution liability under the EFTA to further encompass fraudulently induced transfers are deeply concerning for our members, as these proposals neither prevent fraud nor incentivize coordination between regulators, law enforcement, and companies outside the financial sector that can help improve American resilience to scams.

To effectively combat fraud while providing members with convenient and affordable payment options, credit unions must have confidence that longstanding limits on financial institution liability will not suddenly change when conduct outside the industry's control evokes political concern. Credit unions are committed to fighting fraud and sharing information necessary to prevent financial crime. However, it is doubtful that a singular focus on one platform will yield the insights Congress needs to develop a holistic strategy for taking down criminal networks and safeguarding consumers from new scams.

America's Credit Unions appreciates efforts to promote consumer and industry resilience to fraud but asks the Subcommittee to consider solutions that leverage the experiences and insights of a broader range of stakeholders. Ideally, such solutions should aim to prevent fraud before it occurs and should include bolstering the resources of law enforcement, educating consumers about fraud and scam risks, and creating a level playing field between insured depository institutions and underregulated companies.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Nussle". The signature is fluid and cursive, with a large loop at the beginning.

Jim Nussle, CUDE  
President & CEO

cc: Members of the Permanent Subcommittee on Investigations

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<sup>9</sup> See *id.*