

United States Senate

WASHINGTON, DC 20510

September 1, 2022

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

Dear Director Chopra:

The *Wall Street Journal* recently reported that the Consumer Financial Protection Bureau (CFPB) is considering guidance to better protect users of peer-to-peer payment applications (P2P apps) such as Venmo, Cash App, PayPal and Zelle.¹ Last year, the Senate Special Committee on Aging convened a hearing in which it received testimony about the rise of P2P apps being used as vehicles for fraud against older adults. Witnesses testified that there are too few common-sense consumer protections available to older adults using P2P apps and that scams involving these platforms appear to disproportionately affect communities of color. Particularly for older adults with lower incomes, losing even a few hundred dollars can be devastating. Given the increased prevalence of P2P fraud against older adults, we encourage the CFPB to move forward in issuing this guidance to provide better tools to protect themselves and their families.

According to Federal Trade Commission (FTC) testimony, older adults are increasingly using payment apps or services. The number of P2P-related complaints the FTC received tripled from 2019 to 2020, according to testimony to the Aging Committee.² The FTC further testified that older adults reported \$10 million in losses associated with complaints related to “payment apps and services” in 2020 alone. The upward trend continued in 2021, with the FTC receiving 41,900 consumer complaints regarding payment apps and services through the first nine months of the year, 12 percent of which were reported by adults ages 60 and older.³ The median amount reported lost during that time also grew from \$240 in 2019 to \$395 in 2021. Noting that the top five categories of loss were online shopping, business imposters, romance scams, miscellaneous investments and fake check scams,⁴ the FTC summarized why P2P apps are gaining favor with scammers:

...the ease with which consumers may make payments to individuals they have never met on P2P platforms facilitates quick purchasing decisions. Scammers are

¹ Andrew Ackerman, “CFPB to Push Banks to Cover More Payment-Services Scams,” *Wall Street Journal*, July 19, 2022, <https://www.wsj.com/articles/consumer-bureau-to-push-banks-to-refund-more-victims-of-scams-on-zelle-other-services-11658235601>.

² *Frauds, Scams and COVID-19: How Con Artists Have Targeted Older Americans During the Pandemic, Before the Special Comm. on Aging*, 117th Cong. 8 (2022), at 38. Hereinafter “Frauds and Scams Hearing.” (Testimony of Lois Greisman, Associate Director, Bureau of Consumer Protection, Federal Trade Commission). Available at https://www.aging.senate.gov/imo/media/doc/SCA_09.23.21.pdf.

³ *Id.*, at 70.

⁴ *Id.*

very good at what they do and seek out payment methods where they can gain access to funds quickly, and remain as anonymous as possible, making it difficult to track them down.⁵

The FTC's testimony further noted the potentially disparate racial impact of scams involving P2P apps, stating that "people living in majority Black communities filed more reports indicating the payment method was a payment service or app than people living in Latino or white communities."⁶

An attorney with the National Consumer Law Center (NCLC) singled out the increasing prevalence of P2P apps in fraud schemes against older adults, stating "more protections are needed to give consumers a fighting chance to recover money transferred to scammers," and that "the warnings provided by the payment apps are simply not enough to protect consumers."⁷ The NCLC attorney noted that when improper payment does occur, current practices to recover funds include P2P apps simply asking "the financial institutions or scammers that received the funds to voluntarily return them."⁸ Citing a recent AARP survey, she further stated that most consumers "incorrectly assumed that their payments would be protected if there was an error or fraud associated with the transaction."⁹

The testimony to the Aging Committee makes clear that more can and should be done to protect older adults and other consumers from scams involving P2P apps. The *Journal's* reporting suggests that the CFPB is currently considering guidance to broaden the definition of unauthorized transactions, shifting some of the burden of these losses away from consumers to banks and P2P apps, the latter of which can hold consumers' payments in uninsured accounts. We are encouraged that CFPB's reported considerations appear to be in line with the data, concerns and recommendations raised during the Aging Committee's frauds and scams hearing.

The NCLC's testimony recommended that P2P apps conduct more extensive investigations when fraud occurs, prioritize fraud prevention and remediation and make customer service timelier and more accessible.¹⁰ These recommendations are particularly relevant in light of reports that your agency, the FTC and multiple state Attorneys General are investigating issues facing P2P app users such as debt collection practices and the way consumer complaints are handled.¹¹ Taken together, these steps would better protect older adults who are increasingly targeted by scammers using P2P apps. We encourage you to move forward with the guidance under consideration, keeping in mind the disproportionate effect that frauds and scams have on communities of color and people with Limited English Proficiency.¹²

⁵ *Id.*, at 69.

⁶ *Id.*, at 71.

⁷ *Id.*, (testimony of Odette Williamson, Staff Attorney, National Consumer Law Center, Boston, Massachusetts), at 8. *See also*, Williamson testimony at 51, 56-58.

⁸ *Id.*, at 85

⁹ *Id.*

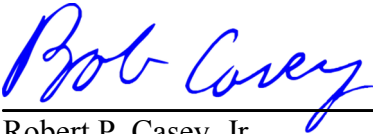
¹⁰ *Id.*

¹¹ Kurt Wagner, "Block Faces Consumer Protection Probes Over Cash App," *Bloomberg*, March 4, 2022, <https://finance.yahoo.com/news/block-faces-consumer-protection-probes-235850912.html>; Niket Nishant, PayPal says U.S. consumer watchdog investigating payment app Venmo," *Reuters*, February 5, 2021, <https://www.reuters.com/business/paypal-says-app-venmo-being-investigated-by-us-consumer-watchdog-2021-02-05/>.

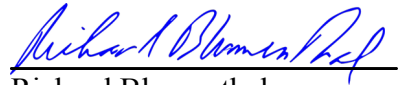
¹² *Supra*, note 2, Frauds and Scams Hearing (Williamson testimony), at 87-88.

Thank you for your ongoing attention to better protecting older adults and other consumers affected by frauds and scams. If you or your staff have questions regarding this matter, please contact Peter Gartrell, chief investigator on the Aging Committee, at (202) 224-5364.

Sincerely,



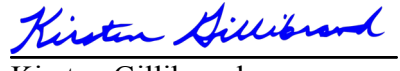
Robert P. Casey, Jr.
United States Senator
Chairman, Special Committee
on Aging



Richard Blumenthal
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Elizabeth Warren
United States Senator



Kirsten Gillibrand
United States Senator



Catherine Cortez Masto
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