



January 10, 2023

Via Electronic Mail

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20052

Re: A Coordinated Approach to Protecting Consumers From Scams: How the CFPB, Government Agencies Can Bolster Ongoing Industry Efforts

Dear Director Chopra,

For years banks have been on the front lines fighting fraud and continue to do so in response to increasingly prevalent and sophisticated financial scams across peer-to-peer (P2P) payment platforms. Banks continue to dedicate incredible resources on an annual basis, including billions of dollars each year, to keep consumers and their money safe. Some of these industry efforts include:

- **investing significant resources to prevent, detect, and mitigate scams** through education, monitoring, the use of authentication and risk tools and
- **evolving and adapting consumer protection measures**, including real-time safety notifications and alerts, to address the continually changing nature of deceptive activities.

But banks cannot wage the battle against scams alone. That's why the Consumer Bankers Association (CBA)¹ has called on policymakers to work collaboratively with the industry in this effort. CBA writes to you today, Director Chopra, to encourage the Consumer Financial Protection Bureau (CFPB) to work with other financial regulators, law enforcement agencies, and financial institutions to educate consumers and prevent scams from harming consumers.² We have been very encouraged by recent conversations with other financial regulators who have expressed a commitment to working across the government and with the banking industry to prevent scams and to better protect consumers.

To that end, CBA urges several specific steps as part of a whole-of-government approach to addressing this type of fraud, including:

¹ CBA is the only national trade association focused exclusively on retail banking. Established in 1919, the association is a leading voice in the banking industry and Washington, representing members who employ nearly two million Americans, extend roughly \$3 trillion in consumer loans, and provide \$270 billion in small business loans.

²Lindsey Johnson, "Banks want to serve all Americans. regulators ought to help them," (November 30, 2022), American Banker, available at <https://www.americanbanker.com/opinion/banks-want-to-serve-all-americans-regulators-ought-to-help-them>

- The CFPB and the Federal Trade Commission collaborating on consumer education and engaging industry on consumer education.
- The Federal Communications Commission expediting and prioritizing work to stop the illegal “spoofing” of outbound calls and texts, engaging industry as needed.
- The Department of the Treasury and the Federal Bureau of Investigation helping identify and prosecute criminals and prevent the fraud before it happens, even for low-dollar transactions.

One of the most meaningful ways the Bureau can immediately partner with the industry to protect consumers from falling victim to these scams is through broader consumer education, which is one of the six “primary functions” of the Bureau – core to its mission – and essential for consumer protection.³ Studies have shown consumer education effectively helps identify and combat different types of financial fraud. In fact, according to research from the FINRA Investor Education Foundation and the Center for Economic and Social Research, which examined investment fraud, “repeated exposure to concise, online educational interventions” strengthens consumers’ financial literacy and reduces their susceptibility to fraud.⁴ CBA believes consumer education regarding P2P scams will yield similar positive results.

As such, CBA strongly urges the CFPB to direct unallocated funds in the CFPB’s Civil Penalty Fund toward consumer education initiatives focused on financial scam identification and prevention in accordance with Section 1075.107(a) of the Consumer Civil Penalty Rule (the Rule). These education initiatives will help bolster efforts already underway to teach consumers how to spot scams on P2P payment networks and internet transactions, further preventing consumer harm before it occurs. According to the Civil Penalty Fund’s annual report published in November 2022, the total unallocated fund balance was \$481,800,000; however, given recent enforcement actions it is now estimated the balance has exceeded \$2 billion.⁵ Given such a balance, the CFPB should have ample resources to begin funding these types of initiatives.

Section 1075.107(a) of the Consumer Civil Penalty Fund Rule states “*if funds available under § 1075.105(c) remain after the Fund Administrator allocates funds as described in § 1075.106(a), the Fund Administrator may allocate those remaining funds for consumer education and financial literacy programs.*”⁶

In a September 2022 interview, you stated there has been a “big uptick of frauds and hacks” and that you are “very concerned about how levels are increasing.”⁷ You further stated, “we want to

³ 12 U.S.C. § 5511(c)(1).

⁴ FINRA Investor Education Foundation, “Can Educational Interventions Reduce Susceptibility to Financial Fraud?” (March 2021), *available at* <https://www.finrafoundation.org/sites/finrafoundation/files/can-educational-interventions-reduce-susceptibility-to-financial-fraud.pdf>

⁵ Consumer Financial Protection Bureau, “Financial report of the Consumer Financial Protection Bureau - Fiscal Year 2022” (Nov. 15, 2022), p. 21, *available at* [cfpb_financial-report_fy2022.pdf \(consumerfinance.gov\)](https://files.consumerfinance.gov/f/documents/cfpb_wells-fargo-na-2022_consent-order_2022-12.pdf) and https://files.consumerfinance.gov/f/documents/cfpb_wells-fargo-na-2022_consent-order_2022-12.pdf

⁶ 78 Fed. Reg. 26,489, 26,498 (May 7, 2013)

⁷ CFPB Director Rohit Chopra, “A Conversation With CFPB Director Rohit Chopra and Public Citizen President Robert Weissman” (Sept. 14, 2022), *available at* <https://www.youtube.com/watch?v=xpzoqcP9->

make sure that people know where to go for help.” Fortunately, the CFPB is well positioned to make good on this promise and can follow the lead of America’s financial institutions by investing in fraud prevention and consumer education programs. Considering the CFPB has not used the Civil Penalty Fund for financial education programs since 2016,⁸ and given uptick of P2P fraud and scams, now is the time for the CFPB to invest a portion of the unallocated dollars to protect consumers.

As the number of Americans executing real time payments across P2P networks continues to grow, our members remain fully committed to expanding access to these valued financial tools while simultaneously taking tangible steps to stop criminal activity from bankrupting consumers. Working together with our members, the CFPB can deepen the impact of these efforts by empowering consumers with the knowledge to recognize and avoid scams.

CBA appreciates the opportunity to work with policymakers to further our shared objective of protecting the very people we all proudly serve, and we look forward to discussing further these education efforts and other tools to address this pressing issue.

If you have any questions, please contact CBA Executive Vice President and Head of Regulatory Affairs Dan Smith at dsmith@consumerbankers.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Johnson', written in a cursive style.

Lindsey Johnson
President and CEO, Consumer Bankers Association

cc: Federal Trade Commission Chairwoman Lina Khan, Department of the Treasury Secretary Janet Yellen, and Federal Bureau of Investigation Director Christopher Wray

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⁸ Consumer Financial Protection Bureau, “Financial report of the Consumer Financial Protection Bureau - Fiscal Year 2022” (Nov. 15, 2022), p. 21, available at [cfpb_financial-report_fy2022.pdf \(consumerfinance.gov\)](https://www.consumerfinance.gov/consumers/consumer-education/00&embeds_widget_referrer=https%3A%2F%2Fpublic-citizen.medium.com%2Fconversation-with-rohit-chopra-f309e9af8627&embeds_euri=https%3A%2F%2Fcdn.embedly.com%2F&embeds_origin=https%3A%2F%2Fcdn.embedly.com&source_ve_path=MjM4NTE&feature=emb_title).