



Washington, D.C.
99 M Street SE, Suite 300
Washington, D.C. 20003-3799
Phone: 202-638-5777
Toll-Free: 800-356-9655

December 7, 2022

Comment Intake – Statement into Big Tech Payment Platforms Program
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

RE: Notice and Request for Comment Regarding the CFPB’s Inquiry Into Big Tech Payment Platforms
[Docket No. CFPB– 2021–0017]

To Whom It May Concern:

On behalf of America’s credit unions, I am writing to the Consumer Financial Protection Bureau (CFPB) in response to the Notice and Request for Comment Regarding the CFPB’s Inquiry Into Big Tech Payment Platforms.¹ The Credit Union National Association (CUNA) represents America’s credit unions and their more than 130 million members.

CUNA appreciates the CFPB’s interest in exploring the business practices of tech companies providing payments services. The Bureau has ordered six technology platforms offering payment services to turn over information about their products, plans and practices when it comes to payments. According to the Federal Register, this order was issued to Google, Apple, Facebook, Amazon, Square, and PayPal, and the CFPB will “also study the practices of the Chinese tech giants that offer payments services, such as WeChat Pay and Alipay.” We think that there is value in exploring the business practices and plans of these tech giants as they venture into offering financial products and services.

The CFPB details that the Bureau will be looking at the following questions to help with the study of the tech giants’ product and service offerings:

Will these companies operate their payment platforms in a manner that interferes with fair, transparent, and competitive markets? Will the payment platforms be truly neutral, or will they use their scale to extract rents from market participants? Will small businesses feel coerced into participating in the payment platform out of fear of being suppressed or hidden in search or product listings? If these tech companies enter a market that competes with other providers on the platform, will these providers be removed or otherwise disadvantaged? What factors will these tech companies use when disqualifying or delisting an individual or business from participating on the platform? Finally, how will these payment platforms ensure that key consumer protections are adhered to? How effectively do they manage complaints, disputes and errors? Are they sufficiently staffed to ensure adequate steps are taken to address consumer protection and provide responsive customer service when things go wrong? What fees, fines, or other penalties do large technology companies assess on users of their payment platforms? Do the acceptable use policies for technology companies’ payment platforms include provisions that can restrict access to their platforms?²

Over the last several years, continued technological innovation in the financial sector has led technology

¹ Notice and Request for Comment Regarding the CFPB’s Inquiry Into Big Tech Payment Platforms, 86 Fed. Reg. 61182 (Nov. 5, 2021).

² *Id.* at 61183.

companies and other non-traditional financial companies to offer many financial products and services that have traditionally been offered by credit unions and other financial institutions. Credit unions welcome innovation as it has led to credit unions offering new products and services to members. Nonetheless, we remain concerned that the playing field does not always remain level. Credit unions and other financial institutions are heavily regulated for safety and soundness and consumer protection regulatory compliance. This is not always the case for other companies offering financial products.

Consumers benefit from innovation that offers new delivery channels and products as well as innovations to traditional products. Credit unions want to ensure that financial products and services available from fintech companies or any company offer the same protections as those offered by regulated entities. Our members do not want to discourage innovation, they merely want to ensure that innovation does not allow new entrants to make an end run around regulation.

Credit unions have partnered with some of the tech giants that are part of this information collection to provide innovative products and services to members. Nonetheless, we fear that many of these companies will eventually move on from the partnership model to offer financial services and payments services directly and lock credit unions out of their platforms or at the very least, give their own offering preferential treatment.

This request for comment acknowledges the potentially limited consumer protection for financial services offerings from tech companies as compared to more regulated entities, but states that the law currently provides for a number of safeguards.³ Safeguards aside, CUNA continues to be concerned that tech companies and other non-banks purposely construct products and services and use partnerships to skirt consumer protection laws, therefore creating different levels of consumer protection based on the type of entity offering a product or service. We encourage the CFPB to take a deep dive into the avoidance of consumer protection by tech, which is used to lower the cost of delivery of tech's finance products.

CUNA is also troubled by how tech uses and protects information collected from consumers. Protecting data from misuse and theft in the current environment has become increasingly difficult. The CFPB should closely examine the tech companies' data security and privacy practices to ensure that consumers are thoroughly protected. Everyone should be safeguarding consumer information, especially those that house and use it the most. Any sharing of information that leads to less protection of credit union members' valuable information - and that leads to members being less protected or at worst exploited - is not supported by CUNA and our member credit unions.

Currently, there are regulatory gaps that fintech and other companies exploit to provide financial services. This leads to less consumer protection and, at its worst, leads to the exploitation of consumers as their expectation of consumer protection is based on the regulation of financial institutions and the products and services they offer. Consumer protection can be vastly different when a product or service is offered by non-financial institutions, and consumers do not always appreciate this difference. For the reasons detailed above, CUNA supports the CFPB's inquiry into the tech companies' payments practices and strongly encourages the CFPB to carefully examine and regulate these entities moving forward.

If you have any questions or follow up about our comments, please do not hesitate to contact me at (202) 577-3463.

Sincerely,



Madison Rose
Director of Advocacy and Counsel for Payments & Technology

³ *Id.*