

January 31, 2024

The Honorable Sherrod Brown
Chairman
Senate Committee on Banking, Housing, and
Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Tim Scott
Ranking Member
Senate Committee on Banking, Housing,
and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Brown and Ranking Member Scott:

The Consumer Bankers Association (CBA) submits the following comments for the hearing titled “Examining Scams and Fraud in the Banking System and Their Impact on Consumers.” We appreciate the Committee’s attention to these issues. CBA is the voice of the retail banking industry whose products and services provide access to credit to millions of consumers and small businesses. Our members operate in all 50 states, serve more than 150 million Americans, and collectively hold two-thirds of the country’s total depository assets.

Some of the most significant threats facing consumers today are peer-to-peer payments (P2P) scams, check fraud, and synthetic identity fraud— but the landscape constantly evolves, and new threats emerge regularly. Over the last several years, the banking industry has undertaken significant steps to identify and counter P2P payments scams in a way that does not chill innovation while simultaneously enhancing the consumer experience. One of the most difficult instances of P2P scams to address are cases when scammers trick consumers into initiating transactions, because unlike credit cards, checks, or traditional bank transfers, the instant, non-revokable nature of these payments makes them very difficult to stop once a transaction is initiated.

While significant progress has been made by banks in addressing P2P payments scams, check fraud and synthetic identity fraud have resurged. According to the Financial Crimes Enforcement Network (FinCEN), instances of check fraud filed by banks nearly doubled from 2021 to 2022. Last year, FinCEN issued an alert highlighting the unique risk of mail theft-related check fraud. One common form of mail theft-related check fraud is check washing, which is when a criminal steals a signed check from a postal box, then uses chemicals to alter the check information before depositing it.¹

The Identity Theft Resource Center (ITRC) predicts that 2024 will experience an increase of identity crimes, especially impersonation and synthetic identity fraud.² The ITRC has noted there has been an unprecedented number of data breaches in 2023, with 733 total data compromises in Q3 2023 alone. Criminals may use compromised information to either open new accounts or gain control over existing accounts. Identity verification efforts will take on an even greater level of importance to counter this type of fraud.

Banks have been on the front lines dedicating enormous resources— billions of dollars and

¹ <https://www.fincen.gov/sites/default/files/shared/FinCEN%20Alert%20Mail%20Theft-Related%20Check%20Fraud%20FINAL%20508.pdf>

² <https://www.idtheftcenter.org/post/2024-predictions-more-id-fraud-privacy-laws-ai-concerns/>

thousands of hours by dedicated teams each year– to fight fraud and scams and continue to enhance these efforts in response to increasingly prevalent and sophisticated methods used by criminals, many of whom operate under state sponsored or organized crime rings. Some of these industry efforts include working to prevent, detect, and mitigate scams through education, and deploying advanced technologies to monitor, authenticate, and reduce risk, as well as consistently evolving and adapting customer protection measures, including real-time safety notifications and alerts, to address the continually changing nature of these threats.

But banks cannot wage the battle against fraud and scams alone. CBA calls on the Consumer Financial Protection Bureau (CFPB) to work collaboratively with other financial regulators, law enforcement agencies, and the private sector on a cross-industry basis (including telecommunications, credit reporting, non-bank financial and technology providers, and financial institutions) to educate consumers on fraud and scams and how to avoid them. One of the most meaningful ways the Bureau can partner with the industry is by using the substantial Civil Penalty Fund balance to conduct broader consumer education, which is one of the six “primary functions” of the Bureau and is essential for consumer protection. Aside from these helpful measures, the CFPB should ensure any action it takes would not run contrary to any prudential regulatory requirement and make it more difficult for banks to prevent fraud and scams.

The Senate’s Financial Services and General Government Appropriations bill report contains helpful language on fraud and scams,³ and acknowledges that fraudsters and scammers have become more sophisticated at using both private sector and government systems to harm consumers. The report urges the Treasury Department to engage in a public-private partnership, in coordination with federal and state regulators, law enforcement, financial institutions, trade associations, and consumer advocates to combat fraud and scams. This effort would encourage information sharing, best practices, and education of the general public. CBA supports this report language and urges Congress to maintain it in final appropriations legislation.

Thank you for considering our views. CBA stands ready to work with regulators, legislators, consumers, and the broader industry as a whole to win the battle against fraud and scams.

Sincerely,



Lindsey D. Johnson
President and CEO
Consumer Bankers Association

³ <https://www.congress.gov/118/crpt/srpt61/CRPT-118srpt61.pdf#page=10>