

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB-2021-0017]

Notice and Request for Comment Regarding the CFPB's Inquiry into Big Tech Payment Platforms

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice; request for comment.

SUMMARY: On October 21, 2021, the Consumer Financial Protection Bureau (Bureau or CFPB) ordered six large technology companies operating payments systems in the United States to provide information about certain of their business practices. The information will help the CFPB better understand how these firms use personal payments data and manage data access to users so the Bureau can ensure adequate consumer protection. Accompanying the orders, the Director of the Bureau issued a statement which is reprinted in this document for public review and comment. The Bureau invites any interested parties, including consumers, small businesses, advocates, financial institutions, investors, and experts in privacy, technology, and national security to submit comments to inform the agency's inquiry.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by Docket No. CFPB-2021-0017, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.

- *Email: BigTechPaymentsInquiry@cfpb.gov.* Include Docket No. CFPB-2021-0017 in the subject line of the message.
- *Mail/Hand Delivery/Courier:* Comment Intake—Statement into Big Tech Payment Platforms, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552. Please note that due to circumstances associated with the COVID-19 pandemic, the Bureau discourages the submission of comments by hand delivery, mail, or courier.

Instructions: The Bureau encourages the early submission of comments. All submissions should include document title and docket number. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to <https://www.regulations.gov>. In addition, once the Bureau's headquarters reopens, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. At that time, you can make an appointment to inspect the documents by telephoning 202-435-7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Amy Zirkle, Program Manager for Payments & Deposits, (202) 435-7505. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The following statement was issued by the Bureau's Director, Rohit Chopra, on October 21, 2021. This statement accompanied orders issued to six large technology companies operating payments systems in the United States to provide information about certain of their business practices.¹ The Bureau invites any interested parties to submit comments to inform the agency's inquiry.

II. October 21, 2021 Statement

Faster, friction-less, and cheaper payment systems offer significant potential benefits to consumers, workers, their families, and small businesses in the United States. For example, families can send money to friends without delay, or to relatives overseas at lower costs. Fast payment systems can also help small businesses succeed with quicker transactions, lower cost, and more revenue conversion. And faster settlement can reduce the need for families and businesses to borrow.

But payments businesses are network businesses and can gain tremendous scale and market power, potentially posing new risks and undermining fair competition. Furthermore, knowing what we spend our money on is a valuable source of data on consumer behavior. This data can be monetized by companies that seek to profit from behavioral targeting, particularly around advertising and e-commerce. That many Big Tech companies aspire to grow in this space only heightens these concerns.

¹ An example order can be found at https://www.consumerfinance.gov/documents/10176/cfpb_section-1022_generic-order_2021-10.pdf.

In China, we can already see the long-term implications of these forces. Alipay and WeChat Pay are deeply imbedded into the lives of the Chinese public, combining messaging, e-commerce and payment functionality into super-apps. In such a market, consumers have little choice but to use these apps and little market power to shape how their data is used.

Today the Consumer Financial Protection Bureau (CFPB) has ordered six technology platforms offering payment services to turn over information about their products, plans and practices when it comes to payments. The orders were issued to Google, Apple, Facebook, Amazon, Square, and PayPal. The CFPB will also study the practices of the Chinese tech giants that offer payments services, such as WeChat Pay and Alipay.

Congress has tasked the CFPB with ensuring that markets for consumer financial products and services are fair, transparent, and competitive. To that end, it has authorized the CFPB to require participants in the marketplace to provide information that help the Bureau monitor risks to consumers and to publish aggregated findings that are in the public interest.

Little is known publicly about how Big Tech companies will exploit their payments platforms. For example, will the operators engage in invasive financial surveillance and combine the data they collect on consumers with their geolocation and browsing data?² Will they in turn use this data to deepen behavioral advertising, engage in price discrimination, or sell to third parties?

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

² In 2019, I joined global privacy regulators to seek information about Facebook's Libra project. At the time, the company failed to substantively respond. See https://www.priv.gc.ca/en/opc-news/speeches/2019/s-d_190805/.

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?³

The CFPB's inquiry will help to inform regulators and policymakers about the future of our payments system. Importantly, it will also yield insights that may help the CFPB to implement other statutory responsibilities, including any potential rulemaking under Section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The CFPB's orders build on the efforts of the Federal Trade Commission's work to shed light on the business practices of the largest technology companies in the world.

The CFPB's inquiry is one of many efforts within the Federal Reserve System to plan for the future of real-time payments and to ensure a fair and competitive payments system in our country. The Bureau intends to open a Federal Register docket to invite public comment. I invite any interested parties to submit comments to inform the agency's inquiry.

³ The law currently provides for a number of safeguards in the payments sector, including but not limited to the Electronic Fund Transfer Act, the Gramm-Leach-Bliley Act, and the Consumer Financial Protection Act.

Dated: November 1, 2021.

/s/ Rohit Chopra

Rohit Chopra,

Director, Bureau of Consumer Financial Protection.