

Congress of the United States

Washington, DC 20515

January 5, 2024

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

Dear Director Chopra,

We write today regarding the CFPB’s recent notice of proposed rulemaking (NPRM) to allow the Bureau to supervise digital wallet and payment app providers deemed “larger participants.”

We have heard concerns and confusion about this rulemaking from several potentially affected companies that offer and use payments products, specifically regarding the scope of the rule and the rationale for supervision. As we understand it, the rule attempts to cover several payment products that operate differently, are used by consumers, merchants, and others in different contexts, and, as a result, may present different levels and types of risks.

The proposed rule mentions¹ that the CFPB lacks sufficient information about some of these markets to understand the number of participants and the scale of their role in the markets. The comment period will help the Bureau understand the dynamics of these markets and how they affect consumers. However, given the current confusion about which products within this market are covered and which risks the CFPB seeks to mitigate with supervision, we believe it will be difficult for providers and users of these services to effectively comment on the rule and provide the information that will help the CFPB complete a successful rulemaking. An essential component of the notice-and-comment rulemaking process is the opportunity for companies and the public to provide additional information, correct misunderstandings, and offer views on expected benefits and costs. By providing clarity on the NPRM, the CFPB could ensure it receives more beneficial information as part of the rulemaking process, and is therefore able to craft a better final rule.

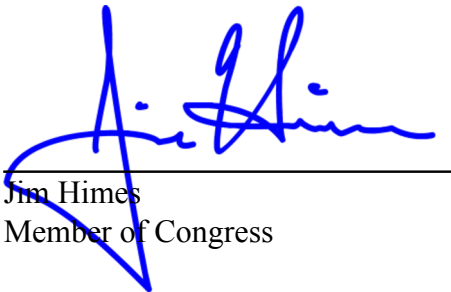
In addition, the comment period for the “larger participants” NPRM coincides with the comment period for the CFPB’s 1033 open banking rule, which impacts companies that facilitate certain payments. This definition may capture the same companies that could be covered by the “larger participants” NPRM. The comment periods for both of these rulemakings overlap with new market monitoring orders issued to several of the companies affected by both rules.

To improve the quality of this rulemaking and support the ability for providers, consumers, and other stakeholders to offer substantive and productive comments, we urge the CFPB to consider taking additional steps and providing further information, including:

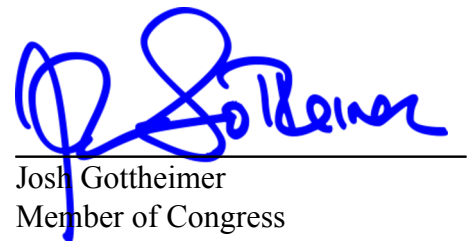
¹ Footnote 91, Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications, 88 Fed. Reg. 80197 (Proposed Nov. 17, 2023) (to be codified at 12 C.F.R. pt. 1090); [Federal Register :: Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications](#)

1. Explaining in greater detail each payments product market that the CFPB intends to cover in the “larger participants” NPRM (e.g., P2P services, stored value accounts, neobanking, payment credential management, merchant payment processing, etc.) as well as the potential risks posed to consumers by those products under the relevant existing regulatory authority.
2. Extending the comment period for the “larger participants” NPRM by either 45 days or 30 days after the CFPB provides additional details.

Sincerely,



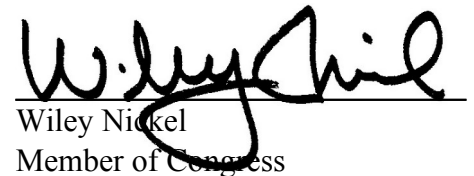
Jim Himes
Member of Congress



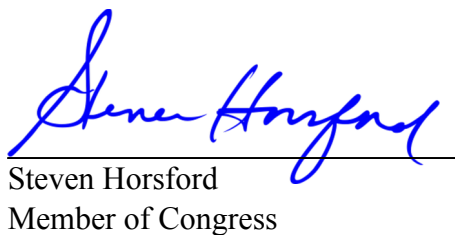
Josh Gottheimer
Member of Congress



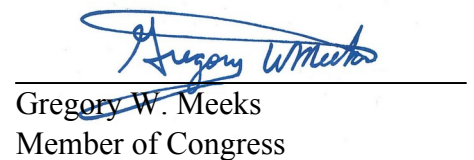
Brittany Pettersen
Member of Congress



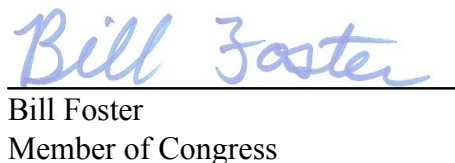
Wiley Nickel
Member of Congress



Steven Horsford
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Gregory W. Meeks
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Bill Foster
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