ISSUE SPOTLIGHT

Analysis of Deposit Insurance Coverage on Funds Stored Through Payment Apps

By the CFPB Office of Competition and Innovation and Office of Markets – JUN 01, 2023

In recent years, transaction volumes on payment apps have substantially increased. For example, total person-to-person (P2P) payment dollar volume quadrupled between 2018 and 2022.[1] Importantly, many U.S. consumers and businesses are not simply using these services to transfer funds. They are also storing billions of dollars through these services outside of their federally insured bank or credit union accounts. Indeed, the companies offering many of these widely used services have a strong financial incentive to encourage users to keep their funds stored rather than automatically sweeping them back into linked bank or credit union accounts.

There has been significant public attention paid recently to the safety and stability of stored funds, particularly when it comes to fast-growing financial firms. In 2022, the collapse of crypto asset platforms FTX and Voyager led to significant harms to platform consumers who lost hundreds of millions of dollars, in addition to their crypto assets.[2] Following the demise this year of Silicon Valley Bank, Signature Bank, Silvergate Bank, and First Republic Bank, the public has learned more about the importance of federal deposit insurance coverage.[3] Additional concerns arise with the growth and attendant risks of non-traditional financial services platforms. These events have spurred renewed attention on the varied types of financial institutions consumers use and the extent to which consumers' funds at those financial institutions are protected from losses.

This issue spotlight analyzes the extent to which popular payment apps, sometimes described as P2P payment platforms, claim to provide federal deposit insurance coverage to users through business arrangements with banks or credit unions.[4] While the primary purpose of these quickly growing platforms is to allow consumers and businesses to send and receive money, payment app companies offer an increasing array of services alongside this function, including the ability for consumers to store funds. We find that stored funds can be at risk of loss in the event of financial distress or failure of the entity operating the nonbank payment platform, and often are not placed in an account at a bank or credit union and lack individual deposit insurance coverage.[5]

The growth of payment apps to transfer funds and perform other services

Payments generally involve transfers of monetary value from a payer to a receiver, or payee. There are many ways to effectuate a payment, such as via cards (including credit, debit, and prepaid), ACH (Automated Clearing House), checks, wire transfers, and cash.

Payment systems vary by the network operating rules and guidance that define transaction processes. There are two major payment types: “push” and “pull.” In push transactions, the payer initiates the payment, instructing their bank to debit funds from their account and send it to the receiver’s account. Examples of these types of payments include checks, wires, and payroll. By contrast, pull transactions are initiated by the receiver, who instructs their bank to pull or withdraw funds from the payer's bank. Pull or debit payments are often used for recurring payments like bill pay.

There are also two types of payment systems: “open loop” and “closed loop.” Bank transfer systems operate as an open loop system where banks act as intermediaries between the end parties (payer and receiver) and the system, and transactions are enabled between accounts at different banks. A person with an account at one bank can send funds to a business that has an account at a different bank. In open loop systems, network rules bind the direct participation of banks, and transactions are sent in compliance with relevant network rules.

In closed loop systems, transactions are enabled through a single provider. Under this model, both payer and receiver must have an account with the same provider to complete the payment. In a transaction, the single provider will reduce the funds in the account of the payer and increase the funds in the account of the receiver. Funds do not leave the system in this type of transaction. Closed loop payment systems are often connected to traditional open loop systems, so funds can be deposited into or withdrawn out of the closed loop system. Often, nonbank participants use this model because they don’t have the same level of access to core payments rails as banks.

As e-commerce rapidly accelerated in the late 1990s, many online merchants were searching for payment solutions to accept funds from customers. Digital payment solutions emerged to help these online merchants process sales. Many firms obtained licenses from individual states to engage in money services businesses, which are typically licensed for offering remittances and other money transfers.

These companies now often provide mobile apps and standard functions—like sending money to friends or transferring funds to a bank account—to consumers for free. They generate revenue in various other ways, that include—but are by no means limited to—charging merchants to accept payments through the platform; charging consumers for additional features (e.g., expediting the transfer of funds to their bank accounts, buying and selling crypto assets, using a credit card to send payments, etc.); and through ancillary products and services. Companies offering stored value services can also make money from interest generated by investing funds their customers store on the app, subject to applicable law.

As the desire for speed and the ability to send payments digitally has grown, so too has consumers' adoption of these payment methods for a variety of purposes, such as splitting a restaurant check, paying rent, or making a purchase at a garage sale. Over three-quarters of U.S. adults have used at least one type of payment app.[6] Younger consumers' adoption of these services is especially prevalent: 85 percent of consumers aged 18 to 29 have used such a service.[7] Last year, transaction volume across all service providers was estimated at approximately $893 billion, and it may reach nearly $1.6 trillion by 2027.[8]

There are two main types of payment solutions that have important distinctions from one another. The first method is where banks and credit unions establish mechanisms through an app or another financial institution interface so that customers can transfer funds to other customers within the same bank or at other banks.[9] Because this is designed as a bank transfer product, there is no ability to store a balance outside of consumers' existing bank accounts.

The issue spotlight focuses on the other type of payment solution, which is offered by nonbanks (such as PayPal, Venmo, or Cash App) through applications on mobile devices.[10] To send funds, a consumer opens an account with one of these app providers and then links a payment method, such as a bank account, debit card, credit card, stored value account, or prepaid card. Consumers can then send funds from that linked payment method to another person who must also have an account with that payment app to receive them. Typically, any payments a consumer receives using a payment app are stored on that platform or an associated stored value account until the consumer affirmatively requests a transfer of those funds out of this closed loop system and into their bank account or prepaid card.

While the core service of nonbank payment platforms is to provide a mechanism to send funds from one person to another, these apps also facilitate a growing set of related financial products and services, including offering debit cards, credit cards, "buy now, pay later" (BNPL) loans, international remittances, and crypto asset transactions. In addition to these features, many payment apps—including PayPal, Venmo, Cash App, Apple Pay, and Google Pay—also offer stored value accounts that consumers can use as another payment method, and as a place to hold funds received from a payment or loaded into the account. (Meta's offering, Meta Pay, is unique in that it currently does not offer stored value services.) While banks and credit unions are required to provide detailed information on their total deposits on a regular basis, these entities currently have no such requirement under federal law.[11] However, the Consumer Financial Protection Bureau (CFPB) estimates that U.S. consumers have billions of dollars stored on these nonbank payment apps.[12]

Funds stored in payment apps often lack deposit insurance

Historically, banks and credit unions have been the major providers of banking services like taking deposits, facilitating payments, and lending money—activities that are critically important to the overall financial system and broader economy.[13] As such, these institutions are publicly chartered and subject to a federal regulatory regime. One part of this regime is the FDIC deposit insurance system, which protects depositors at FDIC-insured banks against the loss of their insured deposits up to at least $250,000 if their bank fails; a similar insurance framework is administered by the National Credit Union Administration to protect deposits at credit unions.[14]

Protecting small depositors, who hold most of the deposit accounts, has been an objective of the deposit insurance system since its founding. However, as the market for financial services has evolved, it is not always clear to consumers when they are dealing directly with a bank or with a nonbank. As a result, consumers may not fully appreciate when, or under what conditions, they would be protected by deposit insurance.[15]

For example, as noted above, payment apps now offer consumers access to certain products and services traditionally provided by banks, including payment transfers and stored value services that closely resemble deposit accounts.[16] While consumers may perceive a stored value account as functioning like a traditional deposit account, there are significant distinctions. Deposit insurance coverage would only apply to funds which are held on deposit at an FDIC-insured bank or NCUA insured credit union in the unlikely event of a failure. If the consumers' funds have not been deposited into an account at the bank or credit union, then those funds would not be eligible for deposit insurance coverage.

For instance, some payment app companies invest users' funds in loans and bonds. The company profits, in part, by earning money on these investments and generally paying no interest on users' balances. Thus, the payment app companies have a strong financial incentive to keep customer funds on the platform and not automatically sweep them back to the customer's linked bank or credit union account.

User agreements for these payment apps are often confusing, murky, or even silent on exactly where consumer funds are being held or invested, whether and under what conditions they are insured at a partner bank, and what would happen if the payment app company or the entity holding the funds were to fail.[17]

Some nonbank payment app firms do not offer accounts that may be eligible for deposit insurance. And even if a nonbank entity claims to hold its customers' funds on deposit at an FDIC-insured bank or NCUA-insured credit union in a manner consistent with the respective agency's regulations on pass-through deposit insurance, such a claim is extremely difficult to verify before a bank or credit union fails. In fact, ultimately, the FDIC or NCUA in its role as bank or credit union receiver determines if conditions stated in its pass-through regulations have been satisfied, but that determination is made only after a failure. While a bank or credit union is open and operating, if a nonbank payment app requests customers' personally identifiable information as part of registering a prepaid card, for example, that is a helpful initial step to satisfying the relevant pass-through regulations. However, other regulatory conditions apply.

In addition to an agency's regulatory conditions for pass-through insurance, some nonbank payment apps place pre-conditions on their products. For example, some entities advertise deposit insurance through business arrangements with a bank or credit union for consumers who obtain a payment app company-branded card or opt to have some or all of their paycheck directly deposited into the account. In all cases, though, deposit insurance only protects against the failure of the bank or credit union and does not protect the customer against the failure of the nonbank company itself.[18]

Representations regarding deposit insurance eligibility by product as of May 2023

Payment app	Funds holding options	Representations regarding deposit insurance eligibility[19]	Representations regarding where funds are held
PayPal	PayPal account[20]	None	Combined "with the PayPal funds of other PayPal users and invest[ed] in liquid investments in accordance with state money transmitter laws."[21]
PayPal	PayPal Balance account	Funds are eligible for pass-through insurance *if* the customer engages in certain activities using the account, including opening a PayPal debit card account, enrolling in direct deposit, or using the account to buy or receive crypto assets.[22] Additional pass-through insurance conditions apply.	Funds not eligible for deposit insurance: Combined "with the PayPal funds of other PayPal users and invest[ed] in liquid investments in accordance with state money transmitter laws."[21] Funds which may be eligible for deposit insurance: Held in PayPal's program banks (Bancorp Bank, Goldman Sachs, and Wells Fargo).
Venmo	Venmo account	Funds are eligible for pass-through insurance *if* the customer engages in certain activities using the account, including adding funds using direct deposit or the cash a check feature, or using the account to buy or receive crypto assets.[23]	Funds not eligible for deposit insurance: Combined "with the funds of other Venmo account holders and invest[ed] in liquid investments in accordance with state money transmitter laws."[24] Funds which may be eligible

Payment app	Funds holding options	Representations regarding deposit insurance eligibility[19]	Representations regarding where funds are held
		Additional pass-through insurance conditions apply.	for deposit insurance: Held in Venmo's program banks (Bancorp Bank, Goldman Sachs, and Wells Fargo).
Cash App	Cash App Balance account	Funds are eligible for pass-through insurance *if* the account is linked to a Cash App prepaid card or the account sponsors/is a Sponsored Account.[25] Additional pass-through insurance conditions apply.	Funds that are not eligible for deposit insurance & funds which may be eligible for deposit insurance are both held in "pooled bank accounts" in Block's name "with the funds of other Cash App customers."[26]
Apple Pay	Apple Cash account	Funds are eligible for pass-through insurance *if* the customer registers the account with Green Dot Bank. Additional pass-through insurance conditions apply.	Funds that are not eligible for deposit insurance & funds which may be eligible for deposit insurance are both held in a custodial account at Green Dot Bank and/or another depository bank per Green Dot's notification to the user.[27]
Google Pay	Google Pay account[28]	None	Specifics are not publicly disclosed.[29]
Google Pay	Google Pay Balance account	None	Specifics are not publicly disclosed.[29]

Licensing and regulatory requirements

As companies engaged in money transfer services, nonbank payment app companies are often regulated as money services businesses (MSBs) subject to federal and state regulation.[30] To the extent they qualify as MSBs under federal law, nonbank payment app companies must register with the U.S. Department of Treasury,[31] but they are not subject to ongoing supervision for safety and soundness by federal prudential regulators like traditional depository institutions.

At the state level, MSBs are generally subject to licensing requirements and “safety and soundness requirements, including net worth, bonding, and permissible investments.”[32] Relevant here, “permissible investments” refers to the types of financial instruments where MSBs can invest their customers’ funds. Restrictions on these investment types vary by state, with some states allowing MSBs to invest funds in potentially risky publicly traded securities or accounts receivable, and some states imposing no restrictions at all.[33]

Other states restrict MSB investments to relatively safe assets, but as evidenced by recent bank failures, even those assets can lose value and cause disruptions. Most MSB laws were designed with companies like Western Union or MoneyGram in mind, traditional firms that did not maintain customers’ funds for more than a few days.[34] For example, a consumer receiving money from a relative may have those inbound funds in their account for a brief period of time before they are able to withdraw them from a storefront. Customers using payment apps may maintain balances for far longer than a few days and may functionally use the account as a bank or credit union account substitute.[35]

Certain states, and state regulatory coordinating bodies, are working to strengthen state money transmitter laws, though the framework does not include such protections for consumers as mandatory deposit insurance or automatic balance sweeps back into a linked insured account.[36]

Implications for consumers

Funds stored in a payment app may be at significantly higher risk of loss for a consumer than if it is deposited in an insured bank or credit union account. For instance, nonbank payment apps that invest customer funds in securities or other non-deposit products expose the company to the risk of insolvency if the investments’ value declines. The companies are also exposed to risk if customers demand their funds all at once. If a nonbank payment app was to go bankrupt as a result of these risks, customers may not be the only creditors with claims on the company’s remaining assets. Even if consumers do not ultimately lose any funds, they may face significant delays in accessing their funds while the bankruptcy process unfolds.

The varying preconditions required by nonbank payment apps based on which types of products and services consumers opt for when storing funds may amplify consumer confusion.[37] Cognizant of this blurring, in May 2022, the CFPB issued a Circular regarding deceptive representations involving the FDIC’s name or logo or deposit insurance.[38] Similarly, the FDIC has observed an increasing number of instances where financial services providers or other entities or individuals have misused the FDIC’s name or logo or have made false or misleading representations about deposit insurance.[39] In addition, in December 2022, the FDIC issued a Notice of Proposed Rulemaking seeking to update rules regarding FDIC signage, such as a proposal to require banks to display digital FDIC signs on their website and mobile apps, including clear notifications on relevant pages where uninsured products are offered.

Consumers should be aware of these risks if they choose to leave a balance on these nonbank payment apps. To minimize these risks, consumers may choose to transfer their nonbank payment app balances back to their federally insured deposit accounts, where they have a direct relationship with an FDIC-insured bank or NCUA-insured credit union. The CFPB, in coordination with other state and federal regulators, will continue to monitor the evolution of this segment of the payments ecosystem and consider whether further steps should be taken to protect consumers.

Footnotes

1. This growth rate is based on annual P2P transaction volumes estimates from Insider Intelligence, which includes major providers such as PayPal, Venmo, Cash App, and Zelle. P2P payments in this context are defined as a transfer of funds from one consumer to another using a mobile phone, mobile banking website, or mobile app and exclude cross-border P2P transactions, consumer-to-business (C2B) transactions, B2B transactions, and B2C transactions.

2. Customers of FTX.COM and FTX.US found themselves at risk of being unsecured creditors when FTX failed, losing all access to both their crypto assets and U.S. dollars held on FTX's platform. When FTX filed for bankruptcy, FTX.US customers lost access to $181 million worth of U.S dollars and U.S.-dollar denominated stablecoins stored on the platform, in addition to losing access to $154 million in non-stablecoin crypto assets. *See* Notice of Presentation to the Official Committee of Unsecured Creditors, Exhibit A, *In re* FTX Trading Ltd., no. 22-111068-JTD (Bankr. Del. Mar. 2, 2023), https://restructuring.ra.kroll.com/FTX/Home-DownloadPDF?id1=MTQ1MzEwNg==&id2=-1 (https://restructuring.ra.kroll.com/FTX/Home-DownloadPDF?id1=MTQ1MzEwNg==&id2=-1). Likewise, customers of Voyager experienced multiple problems, including significant delay accessing their U.S. dollars post-bankruptcy, and for Voyager prepaid card holders, a total loss of funds. *See Bankruptcy Court Says Voyager Digital Can Return $270M to Customers*, PYMNTS (Aug. 5, 2022), https://www.pymnts.com/legal/2022/bankruptcy-court-says-voyager-digital-can-return-270-million-dollars-customers/ (https://www.pymnts.com/legal/2022/bankruptcy-court-says-voyager-digital-can-return-270-million-dollars-customers/); Debtors' Motion Seeking Entry of Interim and Final Orders, *In re* Voyager Digital Holdings, https://cases.stretto.com/public/x193/11753/PLEADINGS/1175307062280000000031.pdf (https://cases.stretto.com/public/x193/11753/PLEADINGS/1175307062280000000031.pdf).

3. *See* Review of the Federal Reserve's Supervision and Regulation of Silicon Valley Bank, Bd. of Governors of the Fed. Reserve Sys. (Apr. 28, 2023),

https://www.federalreserve.gov/publications/files/svb-review-20230428.pdf (https://www.federalreserve.gov/publications/files/svb-review-20230428.pdf); FDIC's Supervision of Signature Bank, FDIC (Apr. 28, 2023), https://www.fdic.gov/news/press-releases/2023/pr23033a.pdf (https://www.fdic.gov/news/press-releases/2023/pr23033a.pdf); Options for Deposit Insurance Reform, FDIC (May 1, 2023), https://www.fdic.gov/analysis/options-deposit-insurance-reforms/report/options-deposit-insurance-reform-full.pdf (https://www.fdic.gov/analysis/options-deposit-insurance-reforms/report/options-deposit-insurance-reform-full.pdf).

4. This issue spotlight is part of the CFPB's ongoing efforts to monitor Big Tech and nonbank payment platform companies' involvement in the U.S. payments system.
5. This issue spotlight is not intended to impose any obligations or define any rights and is not intended as a CFPB interpretation of any regulation or statute.
6. Monica Anderson, *Payment Apps Like Venmo and Cash App Bring Convenience—and Security Concerns—to Some Users*, Pew Rsch. Ctr. (Sept. 8, 2022), https://www.pewresearch.org/short-reads/2022/09/08/payment-apps-like-venmo-and-cash-app-bring-convenience-and-security-concerns-to-some-users/ (https://www.pewresearch.org/short-reads/2022/09/08/payment-apps-like-venmo-and-cash-app-bring-convenience-and-security-concerns-to-some-users/). The survey also breaks out consumers' use of several payment app options, finding that 57% of U.S. adults have used PayPal, 38% have used Venmo, 36% have used Zelle, and 26% have used Cash App.
7. While young adults have the highest rates of adoption, there is significant adoption across all age categories. While adoption rates decline somewhat by age group, two-thirds of consumers aged 45 to 59 have used a payment app and 46% of consumers aged 60 or older have done so. *See Peer to Peer Payment Services: Findings from CR's Nationally Representative American Experience Survey in 2022,* Consumer Reports (Jan. 24, 2023), https://advocacy.consumerreports.org/research/peer-to-peer-payment-services-findings-from-crs-nationally-representative-american-experiences-survey-in-2022/ (https://advocacy.consumerreports.org/research/peer-to-peer-payment-services-findings-from-crs-nationally-representative-american-experiences-survey-in-2022/).
8. Forthcoming report, *U.S. Mobile P2P Payments Forecast 2023*, Insider Intelligence (June 2023).
9. Zelle, a service operated by Early Warning Services and owned by seven large banks, facilitates the sending and receiving of payments between customers of over 1,700 participating banks and credit unions in the United States. *See Zelle: This is How Money Moves*, Zelle, https://www.zellepay.com/ (https://www.zellepay.com/) (last visited May 30, 2023).
10. Other nonbanks offering payment apps to consumers include Apple (Apple Pay), Google (Google Pay), and Meta (Meta Pay).
11. These entities have certain reporting responsibilities under state law, but no such requirement under federal law. To the extent a nonbank payment company is a public

company, it must also comply with relevant federal securities laws, including certain financial disclosures.

12. The nonbank payment app companies that are the subject of this issue spotlight do not report detailed data on the stored balances of their U.S. customers. Payment app companies do report customer holdings in their filings with the SEC, but many of these companies own multiple payment products or serve multiple geographies that are unable to be disentangled from each other. For example, Cash App's 2022 10-K reports having $3.18 billion in "customer funds" as of December 31, 2022 across the countries in which these types of services are provided. *See* Block, Inc. Annual Report, at 79 (Form 10-K) (Feb. 23, 2023), https://www.sec.gov/Archives/edgar/data/1512673/000162828023004840/sq-20221231.htm (https://www.sec.gov/Archives/edgar/data/1512673/000162828023004840/sq-20221231.htm).
13. References to banks and FDIC deposit insurance throughout this document also extend to corresponding deposit accounts and share insurance offered by credit unions.
14. *See Deposit Insurance FAQs*, FDIC (last updated Mar. 20, 2023), https://www.fdic.gov/resources/deposit-insurance/faq/ (https://www.fdic.gov/resources/deposit-insurance/faq/); *Share Insurance Fund Overview*, NCUA (last modified Aug. 10, 2021), https://ncua.gov/support-services/share-insurance-fund (https://ncua.gov/support-services/share-insurance-fund).
15. *Analysis: Options for Deposit Insurance Reform*, FDIC (last updated May 10, 2023), https://www.fdic.gov/analysis/options-deposit-insurance-reforms/index.html (https://www.fdic.gov/analysis/options-deposit-insurance-reforms/index.html)
16. This issue spotlight does not constitute a legal interpretation of federal law concerning the permissible activities of banks and nonbanks.
17. For instance, the Google Pay terms do not specify where stored balance funds are held, and the PayPal terms are unclear about where funds are held when money is sent to a user without a PayPal Balance Account. *See* Google Pay/Google Payments Additional Terms of Service (U.S.), § B.1.2 (last modified Dec. 6, 2022), https://payments.google.com/payments/apis-secure/get_legal_document (https://payments.google.com/payments/apis-secure/get_legal_document?ldo=0&ldt=googlepaytos&ldr=US); PayPal User Agreement (last updated Feb. 27, 2023), https://www.paypal.com/us/legalhub/useragreement-full (https://www.paypal.com/us/legalhub/useragreement-full?locale.x=en_US) (section on "Receiving Funds, Holding a Balance or Transferring Funds").
18. Prior to its bankruptcy, Voyager held customer's U.S. dollars in a pass-through arrangement at Metropolitan Commercial Bank. Voyager's customers were only able to access these U.S. dollars one month after the firm's bankruptcy, when the bankruptcy judge unfroze the assets. *See supra* note 2.
19. This table reflects the CFPB's understanding of the representations that the listed firms have made regarding the eligibility of the listed products for FDIC pass-through insurance. Where firms have claimed that their products are eligible for such insurance, the CFPB has

not verified the accuracy of those representations. Consumers seeking to confirm whether the listed products are eligible for FDIC pass-through insurance should direct questions to the relevant companies and to the FDIC.

20. PayPal users can receive money to their PayPal account if they have not opened a PayPal Balance account, but PayPal specifies that these funds "cannot be held as a balance in your personal account" and that they "represent unsecured claims against PayPal that are not eligible for FDIC pass-through insurance." Users may transfer this money out of the account (e.g., to a linked bank account or debit card, or to a PayPal Balance account) but cannot otherwise use the funds or add to the account. *See* PayPal User Agreement (last updated May 17, 2023), https://www.paypal.com/us/legalhub/useragreement-full (https://www.paypal.com/us/legalhub/useragreement-full?locale.x=en_US) (section on "Receiving Funds, Holding a Balance or Transferring Funds").
21. *Id.* It is less clear where funds in a PayPal account may be stored.
22. Otherwise, any funds in the user's PayPal Balance account "represent unsecured claims against PayPal that are not eligible for FDIC pass-through insurance." In addition, when PayPal provides "immediate or early credit of funds sent to your Balance Account, there might be a delay between the time that funds are credited and when we actually transfer those funds to one of the custodial accounts. That amount might not be eligible for FDIC pass-through insurance in your name during this period, but we will still hold the funds as your agent and custodian in investments authorized by our state regulators." *See* PayPal Balance Terms and Conditions (last updated May 17, 2023), https://www.paypal.com/us/legalhub/pp-balance-tnc (https://www.paypal.com/us/legalhub/pp-balance-tnc?locale.x=en_US) (section on "Holding Funds in Your Balance Account"). Note that the crypto assets are not FDIC-insured, and PayPal's terms specify that customers with a crypto asset balance "do not own any specific, identifiable, Crypto Asset." Rather, the balance "represents your ownership of the amount of each type of Crypto Asset shown," which PayPal combines "with the Crypto Asset balances of other PayPal accountholders and holds those Crypto Assets in one or more omnibus accounts, directly or with a Service Provider." *See* PayPal Cryptocurrency Terms and Conditions (last updated Dec. 14, 2022), https://www.paypal.com/us/legalhub/cryptocurrencies-tnc (https://www.paypal.com/us/legalhub/cryptocurrencies-tnc?locale.x=en_US) (section on "Holding Crypto Assets in your Cryptocurrencies Hub").
23. The Venmo User Agreement contains language that is nearly identical to that referenced in the previous footnote citing the PayPal Balance Terms and Conditions and PayPal Cryptocurrency Terms and Conditions. *See* Venmo User Agreement (last updated May 4, 2023), https://venmo.com/legal/us-user-agreement/#holdingfunds (https://venmo.com/legal/us-user-agreement/#holdingfunds) (section on "Holding Money in Your Venmo Account"); Venmo Cryptocurrency Terms and Conditions (last updated May 4, 2023), https://venmo.com/legal/crypto-terms/ (https://venmo.com/legal/crypto-terms/) (section on "Holding Crypto Assets in your Cryptocurrencies Hub"); *supra* note 22.
24. *See id.*

25. *See* Cash App Terms of Service, § I (last updated Apr. 11, 2023), https://cash.app/legal/us/en-us/tos (https://cash.app/legal/us/en-us/tos). A Sponsored Account is when an account is authorized for another person, such as a family account.

26. *See id.* at § VI(4). It is not clear from the Cash App terms which bank(s) hold these pooled customer funds.

27. *See* Apple Cash Terms and Conditions, § 11(A) (effective Aug. 5, 2021), https://applecash.greendot.com/termsconditions/ (https://applecash.greendot.com/termsconditions/).

28. Users who have not activated a Google Pay Balance account may still hold funds in Google Pay if they receive a payment from another user. These funds are held by Google Payment Corp and "do not represent a store of value." Users may transfer the funds to a linked bank account or debit card but cannot otherwise use the funds or add to the account. *See* Google Pay/Google Payments Additional Terms of Service (U.S.), § B.1.1 (last modified Dec. 6, 2022), https://payments.google.com/payments/apis-secure/get_legal_document (https://payments.google.com/payments/apis-secure/get_legal_document?ldo=0&ldt=googlepaytos&ldr=US).

29. *Id.*

30. Depending on the regulatory framework, MSBs are also referred to as "money transmitting businesses" or "money remittance businesses."

31. *See, e.g.*, 18 U.S.C. § 1960; 31 U.S.C. § 5330.

32. *The Model Money Transmission Modernization Act FAQs*, Conference of State Bank Supervisors, https://www.csbs.org/sites/default/files/2021-09/Money%20Transmitter%20Model%20Law%20FAQs_091621.pdf (https://www.csbs.org/sites/default/files/2021-09/Money%20Transmitter%20Model%20Law%20FAQs_091621.pdf) (last visited May 30, 2023).

33. *See* Dan Awrey, *Bad Money*, Cornell L. Rev., Vol. 106:1, at 52 (Dec. 2020), *available at* https://www.cornelllawreview.org/2020/12/01/bad-money/ (https://www.cornelllawreview.org/2020/12/01/bad-money/).

34. *Id.* at 55.

35. *Id.* at 41-42.

36. *See, e.g.*, *CSBS Model Money Transmission Modernization Act*, Conference of State Bank Supervisors (May 10, 2023), https://www.csbs.org/csbs-model-money-transmission-modernization-act (https://www.csbs.org/csbs-model-money-transmission-modernization-act).

37. As the FDIC has noted, "growth in the fintech sector has also served to blur the distinction between insured depository institutions and nonbanks in the eyes of many consumers, increasing the potential for confusion regarding deposit insurance coverage." *See* FDIC Official Sign and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo, 87 FR 78,017 (Dec. 21, 2022), https://www.federalregister.gov/documents/2022/12/21/2022-27349/fdic-official-sign-

and-advertising-requirements-false-advertising-misrepresentation-of-insured (https://www.federalregister.gov/documents/2022/12/21/2022-27349/fdic-official-sign-and-advertising-requirements-false-advertising-misrepresentation-of-insured).

38. Deceptive Representations Involving the FDIC's Name or Logo or Deposit Insurance, CFPB (May 17, 2022), https://www.consumerfinance.gov/compliance/circulars/circular-2022-02-deception-representations-involving-the-fdics-name-or-logo-or-deposit-insurance/ (https://www.consumerfinance.gov/compliance/circulars/circular-2022-02-deception-representations-involving-the-fdics-name-or-logo-or-deposit-insurance/).

39. On June 2, 2022, the FDIC issued a final rule to implement its regulations which prohibit any person from misusing the name or logo of the FDIC or from engaging in false advertising or making knowing misrepresentations about deposit insurance. The final rule also requires non-banks to identify the insured depository institution where consumer funds may be held. Because many nonbank P2P payment apps advertise both FDIC insurance and non-deposit products, such as crypto, the FDIC issued an advisory which noted, in part, concern about the risks of consumer confusion or harm arising from crypto assets offered by, through, or in connection with insured depository institutions. These risks are elevated when a non-bank entity offers crypto assets to the non-bank's customers, while also offering an insured bank's deposit products. *See* Advisory to FDIC-Insured Institutions Regarding Deposit Insurance and Dealings with Crypto Companies, FIL-35-2022 (Jul. 29, 2022), https://www.fdic.gov/news/financial-institution-letters/2022/fil22035.html (https://www.fdic.gov/news/financial-institution-letters/2022/fil22035.html).