

December 21, 2022

Al Ko  
Early Warning Services, LLC  
16552 N 90th St  
Scottsdale, AZ 85260

Dear Mr. Ko,

I am writing regarding the recent news that Zelle, the peer-to-peer platform owned and operated by Early Warning Services, LLC (EWS), is considering changes to its liability policies to increase refunds for consumers who are defrauded.<sup>1</sup> My October 2022 investigation revealed that there are extensive problems with fraud on the Zelle network and that the company and the banks that run it are failing to provide consumers with the refunds they are owed when they are victimized by fraud. Your immediate response to these disturbing findings was a series of public comments and statements that were evasive and misleading.<sup>2</sup>

Your proposed policy changes are long overdue: consumers deserve better than EWS' current approach, which leaves them holding the bag while scammers and fraudsters benefit. But given the consistent unwillingness of EWS and the Big Banks that own and operate the platform to cooperate or provide lawmakers and the public with full, complete, and factual information about fraud on Zelle,<sup>3</sup> your announcement gives me little confidence that your company will implement the full scope of changes needed to protect consumers from fraud on Zelle. Therefore, I am requesting a briefing on the proposed policy change and how it would impact consumers and participating banks.

I have been investigating fraudulent activity on Zelle since April 2022.<sup>4</sup> Despite your company's refusal to cooperate with my investigation and publicly produce data regarding

---

<sup>1</sup> Wall Street Journal, "JPMorgan, Other Banks in Talks to Reimburse Scammed Zelle Customers," David Benoit and AnnaMaria Andriotis, November 28, 2022, <https://www.wsj.com/articles/jpmorgan-other-banks-in-talks-to-reimburse-scammed-zelle-customers-11669608886>.

<sup>2</sup> Letter from Senator Warren to Early Warning Services, LLC CEO Al Ko, November 7, 2022, <https://www.warren.senate.gov/imo/media/doc/2022.11.07%20Letter%20to%20Early%20Warning%20Services%20re%20Comments%20on%20Zelle%20Letter.pdf>.

<sup>3</sup> Letter from Early Warning Services, LLC to Senators Warren, Menendez, and Reed, May 13, 2022, [On file with the Office of U.S. Senator Elizabeth Warren], Letter from Early Warning Services to Senator Warren, November 21, 2022, [On file with the Office of U.S. Senator Elizabeth Warren].

<sup>4</sup> Letter from Senators Warren, Menendez, and Reed to Early Warning Services, LLC CEO Al Ko, April 29, 2022,

reported fraud and scam rates on your platform<sup>5</sup>, my investigation has found that alarming rates of both authorized and unauthorized fraudulent activity, much of which is not refunded by the Big Banks that own and operate on the platform.

An analysis of information provided by Truist, PNC Bank, Bank of America, and U.S. Bank found that the volume of fraudulent activity on Zelle was increasing, with the value of fraud and scams jumping more than 250% from over \$90 million in 2020 to a pace exceeding \$255 million in 2022.<sup>6</sup> Our analysis also found that banks were not repaying consumers who were defrauded, leading to millions of lost funds for consumers each year. Less than half of the value (47%) of “unauthorized” transactions classified by EWS as fraud was returned to consumers in 2021 and the first half of 2022. Just 11.2% of the total value of reported scams classified by EWS as “authorized” transactions was returned to customers.<sup>7</sup>

While moving to standardize refund procedures and increasing liability for banks allowing scammers on the platform would be a positive step,<sup>8</sup> structural changes to the platform, along with additional transparency on fraud and scams, are necessary to protect users and ensure defrauded consumers have clear and accessible recourse. In order to ensure your new policies will address the alarming findings of our investigation and crack down on banks that refuse to make their consumers whole, I am requesting a briefing on your proposed rule change **no later than January 9, 2023**. In the briefing, Early Warning Services, LLC should be prepared to answer the following questions:

1. What are the proposed Zelle liability changes?
  - a. Will all banks operating on Zelle be subject to these rules?
  - b. How will these changes affect customers who lose money via “unauthorized transactions”?
  - c. How will these changes affect customers who are the victims of scams (those reporting loses via “authorized activity”?)
2. Will increased refunds under the new rules apply retroactively? If so, how will EWS ensure that participating banks are refunding customers retroactively?
  - a. How will EWS let consumers know they may be entitled to a retroactive refund?
3. What are the estimated costs of this policy change for participating banks on Zelle?

---

<https://www.warren.senate.gov/imo/media/doc/2022.04.29%20Letter%20to%20Early%20Warning%20Systems%20LLC.pdf>

<sup>5</sup> Letter from Early Warning Services, LLC to Senators Warren, Menendez, and Reed, May 13, 2022, [On file with the Office of U.S. Senator Elizabeth Warren], Letter from Early Warning Services to Senator Warren, November 21, 2022, [On file with the Office of U.S. Senator Elizabeth Warren].

<sup>6</sup> Office of Sen. Elizabeth Warren, “New Report by Senator Warren: Zelle Facilitating Fraud, Based on Internal Data from Big Banks,” October 3, 2022 <https://www.warren.senate.gov/oversight/reports/new-report-by-senator-warren-zelle-facilitating-fraud-based-on-internal-data-from-big-banks>.

<sup>7</sup> *Id.*

<sup>8</sup> Wall Street Journal, “JPMorgan, Other Banks in Talks to Reimburse Scammed Zelle Customers,” David Benoit and AnnaMaria Andriotis, November 28, 2022, <https://www.wsj.com/articles/jpmorgan-other-banks-in-talks-to-reimburse-scammed-zelle-customers-11669608886>.

4. How will EWS work with regulators including the Consumer Financial Protection Bureau and the Federal Deposit Insurance Corporation to protect consumers under the new rules?
5. Will EWS commit to publicly releasing complete and reliable data on the scope on unauthorized electronic fund transfers (i.e. fraud) and transactions inducted through deception (i.e. scams), and the extent to which the banks that are part of the Zelle network repay victims of frauds and scams?

Thank you for your attention to this matter.

Sincerely,



---

Elizabeth Warren  
United States Senator