Press Coverage | September 7, 2023

CFPB Boss Urges Oversight of Apple, Google Mobile Payments

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Chris Willis

Chris Willis, co-leader of Troutman Pepper's Consumer Financial Services Regulatory Practice Group, was quoted in the September 7, 2023 *American Banker* article, "CFPB Boss Urges Oversight of Apple, Google Mobile Payments."

Chris Willis, a partner at Troutman Pepper, noted that the Dodd-Frank Act of 2010 explicitly lists payment processing among the products and services that the CFPB has jurisdiction over. In addition, most products are covered by Regulation E because payments are electronic fund transfers from a consumers' bank account. They also are subject to the general prohibition on "unfair, deceptive or abusive acts and practices," known as UDAAP.

The CFPB "doesn't have to stretch to find jurisdiction over a consumer payment product offered by Apple or Google or Samsung," said Willis. "If they do a larger participant rule, then they can look for all of the consumer compliance issues — disclosures, data sharing, privacy/Gramm-Leach Bliley Act, fees — there's a lot that [the CFPB] can do through that rule."

A larger participant rule would allow the CFPB to conduct supervisory exams of Big Tech firms, and is perhaps the strongest tool the agency has, giving it access to nonpublic financial information. If the bureau finds something that it thinks is inappropriate, it can direct a company to fix the problem or provide remediation to consumers, and the process would remain confidential, Willis said. If an issue remains unresolved, the CFPB could embark on a public enforcement action.

But timing is of the essence and putting the procedure in place to conduct exams will take years. "He's putting into motion a process, but it's not a fast process," Willis said.

If the CFPB moves quickly, the agency could propose and finalize a larger participant rule by late 2024 and begin supervisory exams. An enforcement action typically takes about two to three years, so the earliest consumers could expect a public crackdown is 2027, he said.

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