DECISION MEMORANDUM

TO: Member, House Committee on Financial Services
FROM: Johnnie Williams, M.A.
DATE: November 3, 2026
RE: Decision on Introducing Legislation for Bank-Equivalent Oversight of Nonbank Payment Apps in the 120th Congress

Policy Analysis: Personal Views Only

Decision Required

Whether to introduce legislation in the 120th Congress establishing mandatory federal oversight of large nonbank payment apps, and which of four approaches to pursue.

Background

In May 2025, Congress repealed the Consumer Financial Protection Bureau's (CFPB) supervision rule for large payment apps, and the Congressional Review Act bars the Bureau from reissuing a substantially similar rule without new statutory authority.[1] The Bureau's supervision function has also been cut sharply.[2] Sponsor banks remain accountable for nonbank payment apps whose operations they cannot see, a systemic failure highlighted in the 2024 collapse of Synapse.[3] My companion policy memo sets out the full case. The primary competing vehicle, the bipartisan Payment Access and Consumer Efficiency (PACE) Act, would offer bank-like standards only to firms that choose to register.[4]

Options

Option 1: Codify CFPB supervision of large payment apps

Draw the repealed rules' coverage into the Consumer Financial Protection Act, directing CFPB supervision of payment apps above a transaction threshold.

- **Pros**: Narrow and simple to write; this would directly overcome the Congressional Review Act (CBA) bar.

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[1] 5 U.S.C. § 801(b)(2); Holland & Knight, CFPB Overdraft and Digital Payment Rules Repealed by Trump Administration (May 12, 2025), https://www.hklaw.com/en/insights/publications/2025/05/cfpb-overdraft-and-digital-payment-rules-repealed.

[2] American Banker, CFPB Firing Line: DOJ Moves to Axe Half the Bureau's Staff (2026), https://www.americanbanker.com/news/cfpb-firing-line-doj-moves-to-axe-half-the-bureaus-staff.

[3] Banking Dive, CFPB to Hold Synapse Accountable for Missing Customer Funds, https://www.bankingdive.com/news/cfpb-hold-synapse-accountable-missing-customer-funds-90-million-mcwilliams/757330/.

[4] Troutman Pepper Locke, House Bill Would Create New Federal Regime for Nonbank Payment Firms (Apr. 22, 2026), https://www.troutmanfinancialservices.com/2026/04/house-bill-would-create-new-federal-regime-for-nonbank-payment-firms/.

- **Cons**: Reliance on the Bureau; whose capacity has been reduced sharply; could be perceived as relitigating a party-line 2025 vote; addresses conduct but does not safeguard the consumers funds

Option 2: Mandatory bank-equivalent framework

Mandate nonbank payment apps above a consumer and financial threshold register with and be examined by a federal prudential regulator for consumer law compliance, anti-money laundering, and safety and soundness. Strict requirements: one-to-one reserves and segregation; daily reconciliation and beneficial ownership records; an independent compliance and consumer protection function reporting to the board with a role in product approval; priority for consumer claims in resolution; and information-sharing duties to sponsor banks.

- **Pros:** Delivers bank-level accountability without relying on the CFPB; borrows existing standards already in the PACE Act and the Guiding and Establishing National Innovation for U.S. Stablecoins (Genius) Act; could be frame as consistency rather than new burden; a federal floor answers industry complaints about the state patchwork.
- **Cons:** Would draw the strongest industry opposition requires negotiation over regulator roles and state preemption; longest drafting timeline.

Option 3: Amend the PACE Act

Work with the PACE Act sponsors on amendments that make the framework mandatory above a threshold, remove the limit, deemed-approval provision, and add governance and consumer protection requirements.

- **Pros:** Bipartisan vehicle with existing momentum and industry engagement
- **Cons:** The bill's primary purpose is to expand nonbank access to Federal Reserve payment rails, which you may not wish to endorse; you would not control the text; proponents may resist mandatory coverage.

Option 4: Targeted safeguarding bill

Codify custodial account recordkeeping and daily reconciliation, drawing on the Federal Deposit Insurance Corporation's unfinalized 2024 proposal,[5] and require prompt consumer access to funds when an intermediary fails.

- **Pros**: Grounded in Synapse; narrow; most likely to attract bipartisan support.
- **Cons**: Protects funds but does not establish ongoing supervision of conduct; falls short of bank-equivalent oversight.

Political Considerations

[5] Office of Info. & Regulatory Affairs, Unified Agenda, FDIC, Recordkeeping for Custodial Accounts, RIN 3064-AG07, https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=3064-AG07.

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- The 2025 repeal votes were close and largely along party lines.[6] The composition of the 120th Congress, decided in today's election, will shape what is viable.
- Likely proponents: consumer advocates; who argued at the June 2026 committee hearing that access to public payment infrastructure should carry accountability[7]; bank trade groups, which have pressed nonbanks seeking bank-like activities to accept full bank oversight[8], and credit unions, which urged caution on expanding nonbank access to Federal Reserve accounts.[9]
- **Likely opponents:** fintech and digital asset trade associations, several of which endorsed the PACE Act's optional approach.[10]
- **Framing for skeptical colleagues:** same activity, risk, and rules. The framework protects consumers, levels the field for community banks, and replaces a fragmented state system with one federal standard.

Recommendation

I recommend Option 2, with Option 4's safeguarding provisions as a core title and the PACE Act's prudential standards as a drafting baseline. This approach delivers bank-equivalent accountability without having to depend on a weakened CFPB and positions you to shape, rather than react to, the payment access debate. Proposed next steps:

- Submit a comment on the proposed third-party risk guidance by November 16, 2026, urging regulators to retain the 2024 bank-fintech statement.[11]
- Request a draft from House Legislative Counsel in December for introduction in January 2027.
- Identify a bipartisan co-lead and consult sponsor banks, state regulators, and consumer groups before introduction.

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[6] Holland & Knight, CFPB Overdraft and Digital Payment Rules Repealed by Trump Administration (May 12, 2025) (Senate vote of 51 to 47; House vote of 219 to 211).

[7] Nat'l Cmty. Reinvestment Coal., NCRC Testimony at House Financial Services Committee Hearing on Payments (June 2026), https://ncrc.org/ncrc-testimony-at-house-financial-services-committee-hearing-on-payments/.

[8] Banking Dive, Payoneer Applies for OCC's National Trust Bank Charter (Feb. 2026) (Bank Policy Institute position), https://www.bankingdive.com/news/payoneer-applies-occ-national-trust-bank-charter-bridge/813092/.

[9] America's Credit Unions, Today: House Financial Services Committee Hearing on Payments (June 24, 2026), https://www.americascreditunions.org/news-media/news/today-house-financial-services-committee-hearing-payments.

[10] Office of Rep. Sam Liccardo, Reps. Liccardo and Kim Introduce Bipartisan PACE Act (Apr. 21, 2026) (statements of support from the Financial Technology Association, Blockchain Association, and others), https://liccardo.house.gov/media/press-releases/reps-liccardo-and-kim-introduce-bipartisan-pace-act-make-everyday-payments.

[11] Cristina Diaz, Scott Lessne & Carlton Greene, Proposed Third-Party Guidance: What It Means for Sponsor Banks and Fintechs, Crowell FinTalk (Oct. 8, 2026), https://www.crowellfintalk.com/2026/10/proposed-third-party-guidance-what-it-means-for-sponsor-banks-and-fintechs/.