POLICY MEMORANDUM

TO: Member, House Committee on Financial Services
FROM: Johnnie Williams, M.A.
DATE: November 3, 2026
RE: The Case for Bank-Equivalent Oversight of Large Nonbank Payment Apps

Policy Analysis; Personal Views Only

Summary
Nonbank payment apps hold balances, receive funds, and allow most Americans to send money, and yet no federal regulatory routinely examines the largest of these firms.[1] In 2025, Congress repealed the one rule that would have provided that oversight, and the regulatory agency that wrote it has been reduced to a fraction of its former capacity. Until now, accountability for nonpayment firms rests largely on small sponsor banks that often lack visibility into how their partners operate. In this memo, I describe the gap, respond to the strongest arguments against closing it, and explain why I believe that legislation is now the only durable path to protect America's most vulnerable financial consumers. I also have a companion decision memo that sets out legislative options for the coming 120th Congress.

State-by-State Oversight
Nonbank payment apps are licensed state by state, largely money transmitters, and are subject to federal consumer financial laws such as the Electronic Fund Transfer Act and Regulation E. However, being subject to law is not the same as being examined for compliance with it. And, this lack of supervisory authority keeps federal regulators, generally, from learning about consumer protection violations until after the harm has already been done, typically through complaints, litigation or enforcement.

Typically, consumer funds are held in pooled custodial accounts at sponsor banks. These institutions are protected by the Federal Deposit Insurance Corporation (FDIC), but nonbank payment apps themselves are not. Sponsor banks act as a pass-through deposit insurance, protecting consumers only if records accurately identify every owner and balance, and in 2023 the Consumer Financial Protection Bureau (CFPB) found that billions of dollars stored on

[1] Cong. Research Serv., IF12935, Congress Repeals Rule That Would Have Subjected Large, Nonbank Digital Wallet and Payment App Providers to CFPB Supervision (updated June 12, 2025) (citing 2022 Pew Research finding that 76 percent of Americans have used one of four popular payment apps), https://www.everycrsreport.com/files/2025-06-12_IF12935_aea0a9a6ef3418cbd0c470be58bf1c8fcb605c0b.html.

popular payment apps may lack federal deposit insurance.[2]

In November 2024, the CFPB finalized the Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications rule that allowed it to supervise nonbank providers general-use digital payment apps that handle at least 50M transactions a year. Congress disapproved the rule under the Congressional Review Act (CRA) by votes of 51 to 47 in the Senate and 219 to 211 in the House, and the President signed the resolution on May 9, 2025.[3] Since then, Congress has essentially cut CFPB's statutory funding roughly in half. CFPB planned 22 nonbank examinations for 2026, compared with 61 in 2024, and a contested workforce plan would reduce supervision staff from 523 to 77.[4]

Current Model Failures

Accountability

Under existing banking law, a sponsor bank answers for its partner's compliance, and the regulators' September 2026 proposed guidance reaffirms that using a third-party does not eliminate the bank's responsibility.[5] However, in practice, the sponsor bank depends on the fintech for the information that reveals problems: customer ledgers, complaint volumes, fraud trends, and transaction monitoring results. Practitioners who have worked inside nonbank payment firms describe a recurring pattern. The information that reaches the sponsor bank does not tell the full story, is at times late, or in small pieces. Remediation plans are drafted to answer a bank request but are never translated into day-to-day operations. This gap closes only when an examiner or a failure forces it, and consumers carry the risk in the interim.

The cost of accountability: Synapse – A case study

In 2024, middleware provider, Synapse filed for bankruptcy, leaving 100,000+ financial

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[2] Consumer Fin. Prot. Bureau, CFPB Finds that Billions of Dollars Stored on Popular Payment Apps May Lack Federal Insurance (June 1, 2023), https://www.consumerfinance.gov/about-us/newsroom/cfpb-finds-billions-of-dollars-stored-on-popular-payment-apps-may-lack-federal-insurance/.

[3] 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 (S.J. Res. 28).

[4] 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.

[5] 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/ (discussing 91 Fed. Reg. 58536 (Sept. 15, 2026)).

consumers without access to roughly $265M in deposits.[6] The financial shortfall between what partner banks held and what consumers were owed has been estimated at $65M to $95M.[7] In April 2025, Senators investigated the collapse of Synapse, stating that staff at both Synapse and its lead bank knew of missing funds by early 2023, but did not alert customers.[8] A fintech partner alleged in litigation that reported balances were inflated to hide the shortfall, which the bank denies.[9] In August 2025, CFPB sued Synapse over its recordkeeping and moved to repay financial victims roughly $46M form its civil penalty fund, a public backstop rather than a recovery from the firms involved.[10]

Enforcement, and bank response

Regulators have issued consent orders tied to fintech partnership programs against, Evolve, Piermont, Thread, Cross River, among others.[11] One sponsor bank chief executive summarized the climate by saying that "every bank that touches BaaS is getting an enforcement action."[12] Every consent order essentially binds the bank, while the fintech that designed the product and

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[6] 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/734360/.

[7] Banking Dive, Synapse Partner Banks Hit with Lawsuit over Fund Mismanagement (citing Troutman Pepper report), https://www.bankingdive.com/news/synapse-partner-banks-evolve-amg-lineage-american-bank-hit-with-lawsuit-over-fund-mismanagement/734219/.

[8] Banking Dive, Elizabeth Warren Presses Michelle Bowman on Evolve Supervision Lapses, https://www.bankingdive.com/news/elizabeth-warren-presses-michelle-bowman-on-evolve-supervision-lapses/746184/.

[9] American Banker, Yotta Accuses Evolve of 'Grotesque Misconduct' in Synapse Collapse, https://americanbanker.com/news/yotta-accuses-evolve-of-grotesque-misconduct-in-synapse-collapse.

[10] PYMNTS, Synapse Faces CFPB over Fund Reconciliation Gaps (Aug. 2025), https://www.pymnts.com/legal/2025/synapse-faces-cfpb-over-fund-reconciliation-gaps/; PYMNTS, Synapse Victims to Get $46 Million Repayment from CFPB, https://www.pymnts.com/legal/2025/synapse-victims-get-46-million-repayment-from-cfpb/.

[11] Banking Dive, Piermont, Sutton Bank FDIC Consent Orders (Mar. 2024) (also noting orders against Blue Ridge, Cross River, First Fed, and Lineage), https://www.bankingdive.com/news/piermont-sutton-bank-fdic-consent-orders-baas-fintech/711815/; PYMNTS, Thread Bank Receives Latest FDIC Enforcement Action (2024), https://pymnts.com/bank-regulation/2024/thread-bank-units-baas-partner-receives-latest-fdic-enforcement-action; Banking Dive, Synapse Partner Banks Hit with Lawsuit over Fund Mismanagement (noting the Federal Reserve enforcement action against Evolve).

[12] Banking-as-a-service (BaaS) refers to arrangements in which a chartered bank provides its deposit accounts, payment rails, and other regulated infrastructure to a nonbank partner, which offers financial products to consumers under its own brand. Quotation from Piermont Bank CEO Wendy Cai-Lee, as reported in Banking Dive, Piermont, Sutton Bank FDIC Consent Orders (Mar. 2024), https://www.bankingdive.com/news/piermont-sutton-bank-fdic-consent-orders-baas-fintech/711815/.

handled the customer remains outside of federal supervision. Several banks responded by shrinking or exiting their fintech programs.[13] Concentrating accountability on the sponsor bank has produced withdrawal, not improved oversight of the firm that controls the customer relationship.

Federal posture

In May 2026, President Trump signed Executive Order 14405, "Integrating Financial Technology Innovation in Regulatory Frameworks," directing financial regulators to remove barriers facing fintech firms.[14] The September 2026 proposed third-party risk guidance would withdraw the 2024 interagency statement on bank-fintech deposit arrangements, which covered recordkeeping, reconciliation, and allocation of compliance duties–would leave nothing in its place. Comments are due November 16, 2026.[15] The FDIC's 2024 custodial account recordkeeping proposal, which is the most direct regulatory response to the fallout of Synapse, remains unfinalized with no target date.[16]

Internal culture as a policy question

Nonbank payment apps operate in a regulatory "grey area," licensed as money transmitters rather than examined as banks. In that landscape, some leaders within nonpayment firms treat compliance as a stifle to innovation rather than an operating requirement. To date, the result continues to be internal friction. Staff hired to build and maintain safeguards are positioned against product teams that are racing to launch and operations teams measured on speed and cost. When knowledgeable banking and consumer protection professionals, the critical line of defense for everyday consumers, are brought into conversations after a product is designed, fixes are expensive, partial and slow, the consumer is typically left exposed to risk. Supervision would change this calculus. A firm that expects an examiner treats its compliance function as a peer of product and engineering, because the examiner tests whether controls work in practice, not only whether policies exist on paper.

The counterarguments

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[13] American Banker, Tenn. Bank Is Latest to Be Penalized over Banking as a Service, https://www.americanbanker.com/news/tenn-bank-is-latest-to-be-penalized-over-banking-as-a-service.

[14] Exec. Order No. 14405, Integrating Financial Technology Innovation into Regulatory Frameworks (May 19, 2026), https://www.whitehouse.gov/presidential-actions/2026/05/integrating-financial-technology-innovation-into-regulatory-frameworks/.

[15] Diaz, Lessne & Greene, Proposed Third-Party Guidance: What It Means for Sponsor Banks and Fintechs, Crowell FinTalk (Oct. 8, 2026).

[16] 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.

"Oversight stifles innovation and access"

Proponents of the 2025 repeal argued that the CFPB rule burdened widely popular apps that consumers value.[17] I do not accept the premise that innovation and consumer protection are direct opposites. Firms that scale sustainably build protection into design, with consumer protection and compliance staff at the table at every stage, from product concept through launch, operations, and customer service. Error resolution, fraud controls, disclosures, and complaint handling are then built in rather than added later, as a product update. Congress should not treat a consent order as a cost of doing business. Consumers have already been harmed, and remediation under an order is almost always more disruptive than building controls at the outset.

"Existing law and state are more than enough"

Yes, the law applies–but no federal examiner routinely checks compliance. States have stepped up, for example, California has expanded its supervisory and enforcement agenda. New York enacted licensing for buy now, pay later lenders.[18] Fifty state regimes, however, produce uneven coverage, and the industry itself describes the state patchwork as duplicative; the bipartisan Payments Access and Consumer Efficiency (PACE) Act is premised on a uniform federal framework for firms holding 40+ state licenses.[19] A federal floor serves both consumers and firms that operate nationally.

"Banks have failed too"

Traditional banks have had growing pains and serious failures. The primary difference is that a bank charter comes with clear expectations: regular examination, capital and liquidity standards, defined supervisory escalation, and known penalties. When a bank falls short, everyone knows who is accountable. Nonbank payment apps performing bank-like functions at bank-like scale should meet comparable expectations.

Nonbank payment apps will not accept bank-level obligations

In December 2025, PayPal applied for a Utah industrial bank charter, and 18 firms applied for

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[17] Office of Sen. Pete Ricketts, Trump Signs Ricketts' Consumer Payment CRA into Law (May 12, 2025), https://www.ricketts.senate.gov/news/press-releases/trump-signs-ricketts-consumer-payment-cra-into-law.

[18] John Kimble, A Closer Look at California Financial Regulator's 2026 Agenda (Feb. 12, 2026), https://calawyers.org/?p=1253032; American Banker, New York Tightens BNPL Rules as the CFPB Pulls Back, https://www.americanbanker.com/payments/news/ny-state-passes-bnpl-oversight-in-2026-budget.

[19] 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/.

Office of the Comptroller of the Currency (OCC) charters in 2025 alone.[20] In April 2026, Reps. Young Kim (R-CA-40) and Sam Liccardo (D-CA-16) introduced the PACE Act, giving large payment firms OCC supervision and Federal Reserve payment access in exchange for one-to-one reserves, segregation of customer funds, capital and liquidity standards, and examination for consumer law compliance.[21] In the June 24, 2026, Financial Services Committee hearing on payments, witnesses split on whether new access should carry bank-equivalent obligations.[22] Congress should consider whether these protections should depend on a firm's choice to opt in. Financial consumers using the largest fintech products should not have less or weaker protections just because their provider prefers to stay outside the framework.

Why legislation, and why now

Congress has four reasons why it should act instead of relying on regulatory agencies.

- **The CFPB cannot restore the rule on its own**. The CRA bars an agency from reissuing a rule in substantially the same form unless a later law specifically authorizes it.[23]
- **Agency capacity is shrinking**. The CFPB, even with authority, supervision function has been cut sharply.[24]
- **Agency rules are not durable**. Regulators acknowledge that rules adopted by current leadership can easily be revised or reversed by successor, and that only Congress can create a lasting framework.[25]

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[20] American Banker, PayPal Applies for Industrial Loan Charter (Dec. 2025), https://www.americanbanker.com/payments/news/paypal-applies-for-industrial-loan-charter; Banking Dive, Payoneer Applies for OCC's National Trust Bank Charter (Feb. 2026), https://www.bankingdive.com/news/payoneer-applies-occ-national-trust-bank-charter-bridge/813092/.

[21] Troutman Pepper Locke, House Bill Would Create New Federal Regime for Nonbank Payment Firms (Apr. 22, 2026); Office of Rep. Sam Liccardo, Reps. Liccardo and Kim Introduce Bipartisan PACE Act (Apr. 21, 2026), https://liccardo.house.gov/media/press-releases/reps-liccardo-and-kim-introduce-bipartisan-pace-act-make-everyday-payments.

[22] H. Comm. on Fin. Servs., Full Committee Examines Payments Innovation and the Future of Financial Services (June 24, 2026), https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=411181; 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/.

[23] 5 U.S.C. § 801(b)(2).

[24] American Banker, CFPB Firing Line: DOJ Moves to Axe Half the Bureau's Staff (2026).

[25] Husch Blackwell LLP, Digital Asset Regulation Moves to the Agencies After the CLARITY Act Fails in the Senate, JD Supra (Oct. 28, 2026) (noting the SEC and CFTC chairmen's acknowledgment of the limits of agency action).

- **Payment access is expanding**. The Federal Reserve has proposed a limited-purpose payment account, and the PACE Act would open Federal Reserve rails to nonbanks. If Congress expands access without pairing it with mandatory oversight, the gap widens.[26]

Elements of a bank-equivalent framework

Congress should devise a framework that incorporates the following elements:

- Coverage of nonbank payment apps above a transaction-volume threshold, regardless of whether the firm opts in.
- Federal examination for consumer protection, Bank Secrecy Act and anti-money laundering compliance, and safety and soundness.
- Safeguarding of customer funds: one-to-one reserves, segregation, daily reconciliation, and beneficial ownership records.
- An independent compliance and consumer protection function that reports to the board and participates in new product approval, consistent with existing statutory governance mandates such as audit committee and risk committee requirements.[27]
- Priority for customer claims in any resolution and information-access rights for sponsor banks and examiners.

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[26] Freshfields, Knocking at the Fed's Door (2026), https://www.freshfields.com/en/our-thinking/blogs/a-fresh-take/knocking-at-the-feds-door-recent-executive-order-and-regulatory-proposals-signa-102n0qo; Troutman Pepper Locke, House Bill Would Create New Federal Regime for Nonbank Payment Firms (Apr. 22, 2026).

[27] See, e.g., Sarbanes-Oxley Act of 2002 § 301, 15 U.S.C. § 78j-1(m) (audit committees); Dodd-Frank Act § 165(h), 12 U.S.C. § 5365(h) (risk committees).