



United States House of Representatives  
Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, D.C. 20515

October 11, 2019

**Re: *An Examination of Facebook and Its Impact on the Financial Services and Housing Sectors***

Dear Chairwoman Waters, Ranking Member McHenry, and members of the Committee:

Consumer Reports<sup>1</sup> thanks the Committee for calling a hearing to examine Facebook and its impact on the financial services and housing sectors. We write today to share our ongoing concerns with Facebook and the Libra project, concerns which we first shared in a letter to this Committee in July (attached).

**Facebook has repeatedly abused consumer trust, and shown itself unable to meaningfully police itself. The historic settlement with the FTC does not change this.**

Facebook is an untrustworthy actor. The company's repeated betrayals of consumer trust make clear that nobody can rely on its assurances about how its products and services will impact consumers or the marketplace. While it is true that Facebook settled with the Federal Trade Commission for \$5 billion, it is not enough to make a difference and is unlikely to change the company's behavior. The fine is a small fraction of Facebook's annual revenues. When news of the settlement broke on July 12, the company's stock valuation immediately rose about \$10 billion — double the cost of the fine.<sup>2</sup> The settlement does not place any new restrictions on how Facebook can collect or use data going forward.

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<sup>1</sup> Consumer Reports is an expert, independent, non-profit organization whose mission is to work for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves. Consumer Reports works for pro-consumer policies in the areas of financial services and marketplace practices, antitrust and competition policy, privacy and data security, food and product safety, telecommunications and technology, travel, and other consumer issues in Washington, DC, in the states, and in the marketplace. Consumer Reports is the world's largest independent product-testing organization, using its dozens of labs, auto test center, and survey research department to rate thousands of products and services annually. Founded in 1936, Consumer Reports has over 6 million members and publishes its magazine, website, and other publications.

<sup>2</sup> Justin Brookman, *Facebook fine reveals Congress has set up FTC to fail*, <https://thehill.com/opinion/cybersecurity/456049-facebook-fine-reveals-congress-has-set-up-ftc-to-fail>

**Facebook’s consumer protection claims for Calibra and claims about Libra’s benefits are hollow.**

Facebook has put forward the Calibra wallet as the means by which consumers will store and transact their Libra currency.<sup>3</sup> Calibra CEO David Marcus ran Facebook’s Messenger from 2014 until 2018.<sup>4</sup> Facebook currently offers peer-to-peer payments (P2P) through its Messenger service. In a 2018 investigation of peer-to-peer payment services,<sup>5</sup> Consumer Reports found that providers, including Facebook, were not doing enough to ensure consumers who experienced problems, such as sending money to the wrong person or getting scammed, got appropriate help.<sup>6</sup> Facebook has not changed its practices since our investigation. Facebook’s Community Payment Terms, dated July 10, 2019, state:

*P2P use is at your sole risk and we assume no responsibility for the underlying transaction of funds, or the actions or identity of any transfer recipient or sender. Disputes regarding funds are between you and the sender of a payment.*<sup>7</sup>

In his written testimony to the Committee in July, Calibra CEO David Marcus, gave only vague assurances about Calibra’s practices:

*State financial regulators will regulate Calibra as a money transmitter, and the Federal Trade Commission and the Consumer Financial Protection Bureau will monitor for consumer protection and data privacy and security issues.*<sup>8</sup>

The Calibra website describes Libra as a cryptocurrency, and the Calibra wallet as a place “to save, send or spend” Libra.<sup>9</sup> It is not clear that federal and state laws would apply to Calibra and Libra in the way that Mr. Marcus described. State money transmitter laws lack the types of protections found in federal law. And while federal law limits consumer losses for unauthorized transfers<sup>10</sup> and outlines the process by which consumers can get their money back in the event of fraud or error,<sup>11</sup> the Consumer Financial Protection Bureau has to date declined to opine on whether those legal protections apply to cryptocurrency wallets.<sup>12</sup> Similarly, there is no federal

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<sup>3</sup> <https://calibra.com/>

<sup>4</sup> <https://www.linkedin.com/in/dmarcus/>

<sup>5</sup> <https://www.consumerreports.org/digital-payments/mobile-p2p-payment-services-review/>

<sup>6</sup>

<https://www.consumerreports.org/digital-payments/peer-to-peer-payments-are-generally-safe-but-consumers-must-be-aware-of-risks/>

<sup>7</sup> [https://www.facebook.com/payments\\_terms](https://www.facebook.com/payments_terms)

<sup>8</sup> <https://financialservices.house.gov/uploadedfiles/hhrq-116-ba00-wstate-marcusd-20190717.pdf>

<sup>9</sup> “How It Works” <https://calibra.com/>

<sup>10</sup> 12 CFR § 1005.6

<sup>11</sup> 12 CFR § 1005.11

<sup>12</sup>

<https://www.federalregister.gov/documents/2017/04/25/2017-08341/prepaid-accounts-under-the-electronic-fund-transfer-act-regulation-e-and-the-truth-in-lending-act>

deposit insurance for cryptocurrency. Cryptocurrency scams<sup>13</sup> and fraud<sup>14</sup> are rampant, and hacking of wallets and exchanges, where virtual currencies are stored, is common.<sup>15</sup>

The Calibra website promises “built-in fraud protections” and that in “the rare event of fraud, you will receive a full refund.”<sup>16</sup> In the absence of a coherent legal framework for cryptocurrency and in the presence of repeated hacking and fraud of cryptocurrency, a pledge to repay consumers “in the rare event of fraud” is not enough. Moreover, the Libra currency will exist independently of Calibra, so any promises Facebook makes are irrelevant to the larger ecosystem. Consumers need strong protections under law, and those either do not exist or are in doubt at present. Without meaningful protections under law, consumer funds entrusted to Calibra are at risk of total loss.

In its Libra whitepaper, Facebook positions Libra as an “instant” and “low-cost” way to move money.<sup>17</sup> It is useful to remember that many of the problems that Facebook proposes to resolve with its Libra currency can be solved through more traditional means, including through support for the Federal Reserve’s proposal to build the FedNow faster payments system.<sup>18</sup> For example, the Libra whitepaper claims that Libra will increase financial inclusion, and the Libra Association continues to make these claims without evidence to support it.<sup>19</sup> Research by the Federal Reserve shows that blockchain alone - on which Libra is built - is “unlikely to significantly reduce the share of unbanked consumers in the United States.”<sup>20</sup> While it is theoretically possible that Facebook could charge lower fees for fund transfers as compared to existing money transfer services, neither Libra nor Calibra solve the problem of getting cash -- which most un- and under-banked consumers rely on -- into or out of the Libra system. According to the Libra whitepaper, consumers will use exchanges to trade their local currency for Libra.<sup>21</sup> Established exchanges in the United States, such as Coinbase, do not have cash-in options; consumers

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<sup>13</sup> Olivia Solon, *Bitcoin, titcoin, ponzi coin: jokes and scams fuel a cryptocurrency gold rush*, The Guardian (Feb. 2, 2018),

<https://www.theguardian.com/technology/2018/feb/02/bitcoin-bananacoin-prodeum-cryptocurrencies>.

<sup>14</sup> Shane Shifflett and Coulter Jones, *Buyer Beware: Hundreds of Bitcoin Wannabes Show Hallmarks of Fraud*, A Wall Street Journal analysis of 1,450 cryptocurrency offerings reveals rampant plagiarism, identity theft and promises of improbable returns, (May 17, 2018),

<https://www.wsj.com/articles/buyer-beware-hundreds-of-bitcoin-wannabes-show-hallmarks-of-fraud-1526573115>.

<sup>15</sup> Kate Rooney, *\$1.1 billion in cryptocurrency has been stolen this year, and it was apparently easy to do*, CNBC (June 7, 2018),

<https://www.cnbc.com/2018/06/07/1-point-1b-in-cryptocurrency-was-stolen-this-year-and-it-was-easy-to-do.html>.

<sup>16</sup> Under “How It Works” click on “Protected,” <https://calibra.com/>

<sup>17</sup> [https://libra.org/en-US/wp-content/uploads/sites/23/2019/06/LibraWhitePaper\\_en\\_US.pdf](https://libra.org/en-US/wp-content/uploads/sites/23/2019/06/LibraWhitePaper_en_US.pdf)

<sup>18</sup> <https://www.federalreserve.gov/newsevents/pressreleases/files/other20190805a1.pdf>

<sup>19</sup> The Libra Association website states: “*Libra is a global, digitally native, reserve-backed cryptocurrency built on the foundation of blockchain technology. People will be able to send, receive, spend, and secure their money, enabling a more inclusive global financial system.*”

[https://libra.org/en-US/vision/#how\\_it\\_works](https://libra.org/en-US/vision/#how_it_works)

<sup>20</sup> <https://www.kansascityfed.org/~media/files/publicat/econrev/econrevarchive/2017/3q17maniffmarsh.pdf>

<sup>21</sup> From the Libra whitepaper: “*Libra is designed to be a stable digital cryptocurrency that will be fully backed by a reserve of real assets — the Libra Reserve — and supported by a competitive network of exchanges buying and selling Libra.*” <https://libra.org/en-US/white-paper/#the-libra-currency-and-reserve>

acquire cryptocurrency using a credit or debit card.<sup>22</sup> Exchanges themselves are not without risk, and problems with them, including unpredictable prices, are well-documented.<sup>23</sup> It takes credulity to believe that Calibra and Libra will be improvements on existing options for consumers.

**The United States lacks a legal framework for cryptocurrency and digital assets, and nothing has changed since the Libra project was announced.**

As noted in our July letter to the Committee, the Libra proposal is fraught with consumer protection problems. As a letter from dozens of other organizations, including ours, said in July, Libra raises grave concerns about competition and market concentration, monetary policy, compliance with Know Your Customer and Anti-Money Laundering rules, and other critical issues.<sup>24</sup> Nothing has changed since July to alleviate these concerns.

**Conclusion**

We applaud the Committee for continuing to scrutinize Facebook’s financial services. I will be in Washington October 15 - 18, and would welcome the opportunity to speak with you or your staff in person. Please contact me at [ctetreault@consumer.org](mailto:ctetreault@consumer.org) or 415-595-3072 if there is an opportunity to meet, or if I can be of assistance.

Sincerely,

Christina Tetreault  
Senior Policy Counsel

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<sup>22</sup>

<https://support.coinbase.com/customer/en/portal/articles/2343234-how-do-i-buy-bitcoin-with-a-debit-card-in-the-us->

<sup>23</sup> From the New York Attorney General’s Market Integrity report: “..platforms differ in how they assess fees on customers...Importantly, though, the platforms reported an array of approaches for assessing fees, to whom, and in what amount. Platforms also typically assess deposit and withdrawal fees when customers transfer fiat currency into and out of their accounts.” <https://virtualmarkets.ag.ny.gov/>

<sup>24</sup> <https://www.citizen.org/article/reject-libra/>