EXAMINING LEGISLATIVE PROPOSALS TO ADDRESS CONSUMER ACCESS TO MAINSTREAM BANKING SERVICES

HEARING

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

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EXAMINING LEGISLATIVE PROPOSALS TO ADDRESS CONSUMER ACCESS TO MAINSTREAM BANKING SERVICES

Tuesday, September 27, 2016

U.S. House of Representatives,
Subcommittee on Financial Institutions
and Consumer Credit,
Committee on Financial Services,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:03 a.m., in room 2128, Rayburn House Office Building, Hon. Randy Neugebauer [chairman of the subcommittee] presiding.

Members present: Representatives Neugebauer, Pearce, Posey, Fitzpatrick, Luetkemeyer, Mulvaney, Pittenger, Barr, Rothfus, Tipton, Williams, Emmer; Clay, Scott, Maloney, Capuano, Heck, Sinema, and Vargas.

Ex officio present: Representative Hensarling.

Also present: Representatives Royce, Ellison, and Moore.

Chairman Neugebauer. The Subcommittee on Financial Institutions and Consumer Credit will come to order. Without objection, the Chair is authorized to declare a recess of the subcommittee at any time.

Also, without objection, members of the full Financial Services Committee who are not members of the subcommittee may participate in today's hearing for the purposes of making an opening statement and questioning the witnesses.

Today's hearing is entitled, "Examining Legislative Proposals to Address Consumer Access to Mainstream Banking Services."

I now recognize myself for one minute to give an opening statement.

Today's hearing is important to consider legislation that can have a tremendous impact on consumer credit, product access, and education. I am pleased that our committee members on both sides of the aisle have taken thoughtful approaches to tactful issues that affect the daily lives of the American consumer. For example, Representative Royce has put forth two bills that would ensure a competitive environment for the selection of credit scoring models at GSEs, and to ensure the continued offering of credit education and counseling services. The latter bill is one that I want to continue to work with his office to refine and see if we can move across the finish line.

Representatives Tipton, Williams, and Emmer all have put forth to bills seeking to address problems with the Federal Deposit Insurance Act that classifies certain deposits as brokered deposits. These bills aim to ensure that new and innovative consumer products can continue to be offered without unnecessary regulatory restraints. Today's panel will help this committee ensure all policy issues are considered and that we are informed in making thoughtful decisions as we move forward.

The Chair now recognizes the ranking member of our Financial Institutions and Consumer Credit Subcommittee, Mr. Clay, for 2 minutes for an opening statement.

Mr. CLAY. Thank you, Mr. Chairman, and thanks for calling this hearing. I view this morning's hearing as an important opportunity to discuss the challenges faced by 10 million unbanked or underbanked American households who, for various reasons, do not have an account at a bank or other financial institution. I am also concerned about how we can help the estimated 26 million consumers representing about 11 percent of the adult population in this country who are considered credit invisible. They are called credit invisibles because they do not have any credit history with one of the nationwide consumer reporting agencies. The CFPB found that blacks, Hispanics, and individuals in low-income neighborhoods are more likely to have no credit records with nationwide credit bureaus, or to not have sufficient current credit history to generate a credit score.

As credit scores are increasingly used to determine so many aspects of consumers' lives today, to have 1 in every 10 adults in this country to be considered credit invisible is a serious problem. Because of the importance of these issues, I appreciate this chance for members to get valuable input from external stakeholders about the legislative proposals that they have introduced. This hearing will ensure that members have the chance to fully vet these proposals, ensuring that we understand the benefits, but also are made aware of any potentially unintended consequences that may result if these bills are enacted into law.

To this end, I hope the members who have introduced the bills that we will be discussing today will be open to any suggestion from the witnesses and others about possible changes to the bills to ensure that the text actually achieves the intended purposes to help vulnerable consumers, and I will yield back.

Chairman NEUGEBAUER. I thank the gentleman. And now the gentleman from California, Mr. Royce, is recognized for 1 minute.

Mr. ROYCE. Mr. Chairman, thank you very much. I thank you, and I thank Chairman Hensarling for holding this hearing. I am in southern California, and we have one of the highest costs of living in the country, so access to credit is really vital in our communities to the well-being of the family. And the difference between good credit and bad credit is the ability to purchase a home out in California, or it is the ability to be able to actually own your car, or pay for a college education. This legislation that we are looking at here, H.R. 347, the Facilitating Access to Credit Act, would ensure that consumers' access to credit education services aren't choked off by lumping them in with credit repair scam artists. And in the digital age, the American people should have more tools at their disposal, not less.

H.R. 4211, the Credit Score Competition Act, my other bill here, opens up the GSEs to alternative credit scoring models and in doing so expands the pool of home buyers without lowering the bar for qualifications, and it eliminates the government-backed monopoly in this regard. So both of these bills are strongly bipartisan with support from many members of this committee.

And with that, Mr. Chairman, I asked for unanimous consent to submit to the record support letters from the Financial Services Roundtable, the National Association of REALTORS®, the National Association of Homebuilders, and letters in support of alternative credit scoring model considerations by the GSEs from 18 civil rights and advocacy groups, the Leaders of the Congressional Black Caucus, Congressional Hispanic Caucus, Congressional Asian-Pacific-American Caucus, the Congressional Progressive Caucus, and a bipartisan group of members of this committee, including myself and Representative Maloney and Representative Himes. And I would also ask to submit a statement of support for the Facilitating Access to Credit Act from Representative Sessions of Texas, an opinion editorial in favor of the bill from the CEO of the Consumer Data Industry Association, a letter expressing concerns regarding CROA's jurisdiction from the U.S. Chamber of Commerce, and a recent letter I authored to the CFPB about CROA.

Chairman NEUGEBAUER. Without objection, it is so ordered.

Mr. ROYCE. Thank you, Mr. Chairman. I yield back.

Chairman NEUGEBAUER. The time of the gentleman has expired. The gentleman from Minnesota, Mr. Ellison, is recognized for 2 minutes.

Mr. ELLISON. Thank you, Mr. Chairman. What if there was a way with no government money and the backing of Democrats and Republicans to give tens of millions of Americans an increase in their credit scores, to give people a credit score that accurately reflected their ability and willingness to pay, that made it easier for them to buy a car, get a mortgage, start a business, because they had access to affordable interest rates, that allow young people to get a car note without relying on their parents to co-sign, that allowed widows to quickly establish a credit score, even if their credit was in their husband's name, that allowed residents of public housing to easily build a credit score?

What if middle and working class and poor people who pay their bills on time get rewarded with access to lower cell phone and utility deposits? What if it was easier for people stung by bankruptcy or financial trouble to quickly improve their credit scores?

Well, it is not impossible. It is not even hard. All I do is ask you to join me and my Democrat and Republican colleagues, a special thank you to Congressman Mike Fitzpatrick and many others, to support the Credit Access and Inclusion Act of 2015, which amends the Fair Credit Reporting Act to clarify the Federal law with respect to reporting certain positive consumer credit information to consumer reporting agencies and for other purposes. And let me just say, thank you to the advocates who, without their tireless work, we wouldn't be here today, and I just want to say a special thank you to Mr. Turner who's here to talk about it in an expert way. I yield back.

Chairman NEUGEBAUER. I thank the gentleman. Now the gentleman from Colorado, Mr. Tipton, is recognized for 1 minute.

Mr. TIPTON. I'd like to thank the chairman and the ranking member for holding this hearing. Preserving consumer access to mainstream banking services is certainly an important topic and should continue to be a consistent bipartisan goal of this committee. I would also like to thank the witnesses for taking the time to be able to appear before the subcommittee today. Your expertise is invaluable as we discuss these legislative proposals. H.R. 6162, the Protect Prepaid Accounts Act, is a legislative relief effort I introduced to clarify that prepaid funds deposited in an insured depository institution satisfy the requirements of the Primary Purpose Exclusion to the definition of a deposit broker. As a result of the 2014 revision to a deposit broker regulations, the FDIC has determined the primary purpose exception applies only infrequently to prepaid products and typically requires a specific request for a determination by the FDIC. Unfortunately, the practical impact of this conclusion is an increase in deposit insurance costs to any depository institution that operates a prepaid program. Inevitably, this also leads to an increase in costs and less choices for consumers as banks commit additional resources to compliance rather than to their customers.

Prepaid products are an incredibly important tool utilized by numerous organizations, including State and Federal Government agencies, as well as universities and corporations, to make a variety of disbursements to consumers. Importantly, prepaid card users include 67 million Americans considered unbanked and underbanked.

Mistakenly classifying prepaid accounts as brokered deposits may force depository institutions to drop their programs, impacting students, workers and government benefit recipients, that all rely on prepaid products to access the financial system. This legislation will ensure that financial institutions will be able to devote their time to their customers. The most financially vulnerable Americans will continue to have safe and reliable access to their money. Mr. Chairman, I thank you for this hearing and look forward to our comments from our committee, and I yield back.

Chairman NEUGEBAUER. I thank the gentleman. The gentlewoman from Wisconsin, Ms. Moore, is recognized for 1 minute.

Ms. MOORE. Thank you so very much, Mr. Chairman, and ranking member, and thank you, panelists, for coming here to speak with us today. I am so happy, especially, to have Dr. Michel here, to speak in support of H.R. 4116, the Reciprocal Deposits Bill. And I want to thank our Ranking Member Waters for working with me on this legislation and for her support. H.R. 4116 is a targeted way for us to help minority-owned, small, and CDFI institutions within our districts. It is good for rural and for urban districts. I appreciate that this bill has bipartisan support, and I look forward to this bill passing here today. And with that, I would yield back.

Chairman NEUGEBAUER. I thank the gentlewoman.

Mr. SCOTT. Mr. Chairman, I ask unanimous consent to submit a letter from a number of consumer, civil rights, and other advocates about H.R. 41172.

Chairman NEUGEBAUER. Without objection, it is so ordered.

Chairman NEUGEBAUER. The gentleman from Texas, Mr. Williams, is recognized for 1 minute.

Mr. WILLIAMS. Thank you, Mr. Chairman. Community banks are independent, locally owned and operated institutions. Community bank officers often know their customers and are often deeply involved in their local communities. While large banks can offer these same customers a wide range of products and resources, community banks often rely on third-party venders. H.R. 5660, the Retail Checking Account Protection Act of 2016, is a bipartisan bill providing regulatory relief to community banks so they can compete with larger financial institutions. This commonsense bill provides a simple clarification that enables community banks to offer advanced banking services and innovative financial products via third-party service providers without the fear of increased regulation or having those customer deposits be deemed brokered.

Simply put, I believe the regulatory risk and deposit classification should be based on the strength and characteristics of the relationship established between an individual depositor and their bank, rather than by a bank's use of third-party service provider or service.

Mr. Chairman, I look forward to discussing the bill further with the witnesses today, and I yield back the balance of my time.

Chairman NEUGEBAUER. I thank the gentleman, and now the gentleman from Minnesota, Mr. Emmer, is recognized for 1 minute.

Mr. EMMER. Thank you, Mr. Chairman, for calling this legislative hearing today. As you know, Congresswoman Moore and I introduced H.R. 4116 to modernize a law that currently treats reciprocal deposits like brokered deposits, despite fundamental and very meaningful differences. As we all know, reciprocal deposits are safe, practical, core-like deposits that enhance the ability of a community bank to serve loyal customers. Ultimately, this leads to more capital in our communities to fund economic development. From local governments, nonprofits, and small businesses, to folks living on the iron range to urbanites in the Twin Cities in Minnesota, reciprocal deposits are both necessary, and in the public interest. They are a way for Americans to ensure deposits without having to use multiple banks while actually reducing the likelihood of taxpayer bailouts like we saw in the aftermath of the Great Recession.

I want to thank the witnesses in advance for testifying today, and I look forward to discussing the merits of enacting this vital policy proposal, and I yield back.

Chairman NEUGEBAUER. I thank the gentleman and will now introduce today's witnesses. Today, we welcome the testimony of Dr. Michael Turner, the President and CEO of the Policy and Economic Research Council, or PERC; Mr. Ron Paul, who is the chairman and CEO of EagleBank, testifying on behalf of the Independent Community Bankers of America; and Dr. Norbert Michel, Research Fellow in Financial Regulations at Heritage Foundation.

Each of you will be recognized for 5 minutes to give an oral presentation of your testimony, and without objection, each of your written statements will be made a part of the record.

Chairman NEUGEBAUER. I now recognize Dr. Turner for 5 minutes.

STATEMENT OF MICHAEL A. TURNER, PRESIDENT AND CEO, POLICY AND ECONOMIC RESEARCH COUNCIL (PERC)

Mr. TURNER. Thank you, Mr. Chairman, Ranking Member Clay, and members of the subcommittee. I am here to offer testimony in support of three bills: the Facilitating Access to Credit Act, the Credit Access and Inclusion Act, and the Credit Score Competition Act. I will just paraphrase the Jackson Five, that the core message of my 1, 2, 3 bills is as easy as A, B, C, action by Congress.

Let me begin with the Facilitating Access to Credit Act. In all my years of dealing with consumer finance issues, the one issue that has unified members of both parties with regulators, advocacy groups, and industry, is the importance of a need for more financial literacy. In fact, consumers both want and need more convenient and robust credit education. They need this to enjoy a better life through better credit for the reasons that Congressman Ellison enumerated earlier. Since 1970, in fact, this institution has encouraged consumers to communicate, to dialogue with national consumer reporting agencies, credit bureaus, about their credit reports. And, in fact, thousands of lenders have instructed consumers to reach out to credit bureaus, national credit bureaus, about their reports and scores. More recently, in 2004, with the implementation of the FACT Act and free annual disclosures, this dialogue between consumers and credit bureaus was enhanced, and, in fact, regulators now have been making a push for free score disclosures.

Despite this complex architecture of communication that is guided toward financial literacy, credit report and credit score literacy, a wedge has been driven between consumers and credit bureaus in the form of a circuit court decision that expands the definition of credit repair organization and now includes all sorts of things that have nothing to do with credit repair, including credit education.

This topic has been researched by my organization, the University of Arizona, and others, and what we found is that personalized credit education makes a difference. It outperforms the best available options currently dramatically. In addition, the CROA barriers effectively deter more than 9 in 10 consumers from taking up these services. It basically renders them meaningless. And as a consequence, the very existence of these convenient, high-tech, accessible credit education services are currently at risk and require Congressional action, such that H.R. 347 puts out.

Another area requiring Congressional action is the Credit Access and Inclusion Act. And I have the privilege of now being before this body for my third time dating back to 2005, talking about this very issue. There are 54 million credit invisibles today. We use a different definition than the CFPB. We included not only those who have no credit file, but who have insufficient information in the report to generate a score. This group is overwhelmingly comprised of younger Americans, elderly Americans, lower-income Americans, and members of minority communities. They remain trapped by the credit Catch-22, that is to say, that in order to qualify for mainstream credit, you have to have already had credit.

So credit access for credit invisibles means high cost credit access, payday lenders, pawn shops, check-cashing services. One study estimates that $3.4 billion of wealth are stripped from credit invisibles a year, and that use of payday loans alone increases hardship on this group by 25 percent, meaning it makes it more difficult to pay essential bills like utilities, dental and health care, as well as prescription drugs, and this is just payday loans, not including the other high-cost forms of credit.

The Credit Access and Inclusion Act would empower consumers with a tool that would allow them to stamp out credit invisibility. Currently, when utility companies and telcos report to credit bureaus, they report late data. We are permitting late data to be reported, which for many credit invisibles may be the only trade line in their file. What this does is rather than credit reports and scores being a tool for inclusion, it becomes a tool for exclusion. It becomes a blacklist. We have fought this around the world and had this changed in countries, most recently including Australia and New Zealand, for that very reason.

The Credit Access and Inclusion Act would clarify this, because right now, State regulators think that it is okay for negative data to be reported, but not for positive data. We believe that this is already permitted, that this bill would end regulatory uncertainty, and enable this tool to be used for consumers' benefit.

How good of an idea is this? Well, my colleague who has fighting for this for years now, Jose Quinonez, just last week was made the most recent MacArthur Foundation genius, in part, because of his innovative ways to facilitate access to credit using alternative data. I will stop. I see I am over. Thank you very much for the privilege of testifying today.

[The prepared statement of Dr. Turner can be found on page 48 of the appendix.]

Chairman NEUGEBAUER. I thank the gentleman. And now Mr. Paul, you are recognized for 5 minutes.

STATEMENT OF RONALD D. PAUL, CHAIRMAN AND CEO, EAGLEBANK, ON BEHALF OF THE INDEPENDENT COMMUNITY BANKERS OF AMERICA (ICBA)

Mr. PAUL. Chairman Neugebauer, Ranking Member Clay, and members of the subcommittee, my name is Ron Paul, and I am chairman and CEO of EagleBank, a $6.4 billion asset community banks headquartered in Bethesda, Maryland. I am pleased to testify today on behalf of the Independent Community Bankers of America and the nearly 6,000 community banks we represent. EagleBank has 430 employees, and serves 12,000 customers in the Washington, D.C. Metropolitan area. EagleBank has been able to build strong relationships with our customers because we know we are committed to the Washington region, that we are active lender to local businesses, and a vital part of the regional economy.

A bipartisan bill before the subcommittee today, H.R. 4116, will help keep deposits in the community by ensuring the FDIC's classification of deposits that reflect the true characteristics. Introduced by Representatives Gwen Moore and Tom Emmer, H.R. 4116 would promote the use of reciprocal deposits as a stable source of funding to support community lending, which we know is the backbone of our local economies.

Reciprocal deposits allow a customer to effectively receive FDIC insurance on deposits that exceed the $250,000 insurance limit without the inconvenience of splitting their funds amongst multiple banks. A bank distributes the amount of deposits that exceeds the insurance limit through a network of banks and receives reciprocal deposits back from other banks within the network. The customer enjoys the convenience of maintaining a relationship with one local bank, and receives the benefit of full deposit insurance. At EagleBank, our customers who use reciprocal deposits include local governments, nonprofit organizations, foundations, businesses, individuals, and law firm, with significant escrow balances. Many of these customers have stipulations that require that their deposits be collateralized or insured, but these customers also take great interest in where they place their deposits and continuing to build their relationships with their local community bank.

EagleBank's reciprocal deposits support our lending to local small businesses. This lending activity helps create jobs and stimulate growth in the regional economy. Recognizing this, many local governments within the Washington area choose to keep their deposits in local banks. Several of them have formal programs in which EagleBank is involved. Our participation in the program with Montgomery County, Maryland has resulted in the creation of 525 jobs over the last 4 years. In addition, EagleBank is the leading community bank SBA lender in the Washington region. Without the insurance available on reciprocal deposits, these types of programs would not be feasible. Broken deposits are disfavored and discouraged by the FDIC because they are not considered to be a reliable source of funding. While this is true, reciprocal deposits are an incredibly stable source of funding because they are provided by long-term, core customers. At EagleBank we have found that reciprocal deposits behave just like other core deposits. This is because these deposits come from our local customers. Our relationships with them are long-term and include multiple services and products. Because the FDIC insurance reduces the customer's risk, these deposits are stable and an important ingredient of our relationships with our core customers.

These deposits are not hot money. Having these deposits allows us to continue our active lending to local businesses like hardware stores, medical practices, restaurants, which are often not able to create credit from large regional or national banks. Our average commercial loan is $700,000, confirming our commitment to these small businesses.

Because reciprocal deposits have been classified as brokered deposits, they are stigmatized and subject to certain restrictions that keep community banks from using them to their full potential. H.R. 4116 would rectify this by creating a limited exception from FDIC restrictions on reciprocal deposits. The bill includes safeguards that limits a bank use of reciprocal deposits, gives the FDIC full discretion to address any safety and soundness concerns, and ensure the bill is focused, as it should be, on reciprocal deposits used by community banks.

Thank you, again, for allowing me to testify. You have been offered an opportunity to enact legislation, H.R. 4116, that will have a meaningful impact in our communities before the close of the 114th Congress, and I strongly encourage you to do so. I am happy to take any questions later. Thank you.

[The prepared statement of Mr. Paul can be found on page 43 of the appendix.]

Chairman NEUGEBAUER. I thank the gentleman. And Dr. Michel, you are recognized for 5 minutes.

STATEMENT OF NORBERT J. MICHEL, RESEARCH FELLOW, FINANCIAL REGULATIONS, HERITAGE FOUNDATION

Mr. MICHEL. Good morning, Chairman Neugebauer, Ranking Member Clay, and members of the subcommittee. Thank you for the opportunity to testify at today's hearing. My name is Norbert Michel. I am a research fellow in Financial Regulations at the Heritage Foundation, and the views I express in this testimony are my own. They should not be construed as representing any official position of the Heritage Foundation.

The main aim of my testimony this morning is to argue that Congress should end the practice of providing FDIC deposit insurance to brokered deposits. There are three main issues that I would like to address on this front today: First, providing Federally backed insurance deposits was, and is, a bad idea. Doing so may have helped mitigate bank runs during the depression era, but it came at a very high cost. It created moral hazard and adverse selection problems, give increased incentives and continued to do so, for risk taking in the banking industry. As a result, protecting the FDIC's insurance fund, protecting the taxpayers, remains a major justification for heavily regulating the banking sector by restricting their activities, capital structure, and asset composition.

The tragedy is that this system is enormously complex, breeds regulatory capture and special interest lobbying, imposes high costs on the private sector, destroys the competitive process, crowds out private capital, and ultimately weakens financial markets. While there is no doubt that some banks, especially community banks, want and need to improve their access to funds to grow their business, the best way to help those banks is to eliminate the Federal backing so that Congress can remove regulations that impose these high costs on the banks. That is how you bring more private capital into the market.

That brings me to my second point, which is, that expanding the use of Federally insured brokered deposits in any way compounds the moral hazard and adverse selection problems that exist in our system. It is certainly true that the Banking Act of 1933, which created the FDIC, accounted for the possibility that individuals might have a claim on an FDIC-insured deposit account that a third party opened on their behalf, and it may still make sense, in some very limited cases, to allow FDIC insurance to pass through to such a deposit owner. However, markets have evolved such that deposit brokers now use FDIC insurance to back wholesale funding for banks. This sort of operation was clearly not the original intent behind FDIC insurance, and perpetuating it suggests that we should Federally back all sources of funds for banks simply for the purpose of supplying credit.

This sector of the market now makes it very easy for individual investors to obtain deposit insurance in excess of the FDIC coverage limit, as you have just heard. And no reading of the historical record supports the notion that Congress originally had such a purpose in mind. It is its expansive use of Federally backed deposit insurance that led the FDIC in 1984 to introduce regulations to limit the ability of investors to obtain Federal deposit insurance on brokered deposits. It is also the main reason that in 1991, the U.S. Treasury Department recommended completely eliminating FDIC insurance for brokered deposits. And this action, eliminating FDIC insurance for brokered deposits, would now be the wisest course of action.

That brings me to my final point, which is that bills such as H.R. 4116 and, to a degree, H.R. 5660, do not move us in the right direction. H.R. 4116 redefines reciprocal deposits so that they are no longer considered brokered deposits. The bill essentially provides a regulatory carve-out for a type of brokered deposit. Because adequately and undercapitalized banks are currently restricted in how they can use brokered deposits, redefining reciprocals in this manner would free institutions from those specific restrictions.

It is true that H.R. 4116 limits the use of newly defined reciprocals to institutions with a composite condition of outstanding or good, a CAMELS rating of 1 or 2. But that standard is not as objectively difficult to meet as the well-capitalized standard, which is kind of the point of the restriction, that currently restricts the use of brokered deposits. If the bank is good, there is no problem. There is no restriction. Thus, H.R. 4116 is likely to increase the use of reciprocal deposits, at least at the margin.

I have similar concerns with H.R. 5660, a bill that could be viewed as an alternative way to give reciprocals a regulatory carve-out. Many people in the industry feel that these reciprocals should be viewed differently because they are safer, and they consist mostly of stable retail deposits. And while there is a plausible case that those reciprocals are safer than other types of brokered deposits, as the FDIC has recently argued, we simply do not have enough data yet to conduct a proper comparison of those risk characteristics across brokered deposits. We shouldn't be doing anything in the meantime that expands the use of or the reliance on FDIC deposit insurance. Congress can strengthen financial markets by lowering the coverage limit, requiring coverage to be aggregated to the individual level, and removing coverage for brokered deposits. Thank you, and I am happy to answer any questions you have.

[The prepared statement of Dr. Michel can be found on page 36 of the appendix.]

Chairman NEUGEBAUER. I thank the gentleman. Members will now be recognized for 5 minutes for questions. And the Chair recognizes himself for 5 minutes.

Dr. Turner, in 2014, the 9th Circuit Court of Appeals ruled that credit education, credit monitoring, and credit counseling all kind of fall under the Credit Repair Organization Act, or CROA. This ruling has really the potential to freeze the offering of many services beneficial to consumers as they look to make strategic decisions to improve their credit. Can you kind of explain the difference between credit education and counseling versus credit repair?

Mr. TURNER. That is a very important question, and this is really the core of the proposed legislation. Let me provide an analogy just from day-to-day life. When you take your car to the garage to have the tires rotated, or the oil changed or a regular tune-up quarterly, every 6 months, that is maintenance. That is enhancing the performance of your car moving forward. When you are in a collision and your car is towed to a garage, that is repair. It is basically a completely different domain. Credit education is helping consumers improve their behavior to improve their score moving forward. Credit repair is retroactive. It is helping people repair things that have already happened, so that is a very critical and important distinction.

Chairman NEUGEBAUER. Do you think there is a more clear way to make that definition so that are clearly distinguished between the two? Are we there?

Mr. TURNER. I think that the bill before this committee does a very good job balancing the need to protect consumers and to promote competition, and enable innovation in the credit education space. I do think that a product-based approach is feasible. I completely disagree with the FTC's position. The FTC, by the way, testified before the Senate that they were very sympathetic to the credit bureaus and the need for exemption from CROA on this type of issue, but they professed being stuck, being unable to find some product-based approach that would enable the exemption and the benefits of this credit education, but filter out bad actors. I think there are ways to do it. I think there is an array of options before Congress, and I think that this is one that is quite feasible.

Chairman NEUGEBAUER. Thank you. Mr. Paul, the brokered deposit statute was enacted many years ago, and since then, many changes have occurred in how financial products and services are offered to consumers, namely, the offering of prepaid cards, through third parties, deposit-placing networks that help community banks find nationwide funding. What are some of the challenges of the brokered deposit statute, and how do these bills, do you think, help address that issue?

Mr. PAUL. I think what is critical is the fact of being able to better define the word "relationships." Everything that we are talking about, at least in my testimony, is based on that relationship. You have many, many relationship that have been for many, many years that deposit money into community banks. As a result of the FDIC insurance, apparently that trigger recreates a different definition of a relationship, which we don't believe to be the case. A relationship is a relationship, ones that we have built for many, many years. And, therefore, that core deposit that we have with that relationship is part of what we define as core deposits, and, therefore, should be part of what we could then turn around and use that liquidity to be able to put back into the community in lending.

Chairman NEUGEBAUER. One of the things, we have seen a lot of technology advances in the financial services world and how banks are able to offer their services today with online banking and using your iPhone and all of those. And today, consumers have a vast variety of ways to access financial products. Has this regulatory environment kept up with the technology, and is it time to address issues like this one?

Mr. PAUL. Clearly, the regulatory environment is getting tougher and tougher for community banks to be able to work with them. The answer is yes in many different ways. The extent that we are required now through compliance, through BSA, through a variety of acts that are all very appropriate, but unfortunately, to the extreme, has created more and more problems. Our branching network is only 21 branches. We are not big branch believers, because of the technology side, and we feel that the regulatory world needs to keep up with the IT side to allow us to be able to operate within a reasonable cost.

Chairman NEUGEBAUER. I thank the gentleman. The ranking member of the subcommittee, Mr. Clay, is recognized for 5 minutes.

Mr. CLAY. Thank you, Mr. Chairman. I would like to submit for the record a letter from the National Urban League in regard to H.R. 4116.

Chairman NEUGEBAUER. Without objection, it is so ordered.

Mr. CLAY. Thank you. Mr. Turner, in your testimony you mentioned that you are currently doing a joint study with HUD and six public housing authorities in participation with the credit reporting agencies about rental payment history of public housing households. This study, which we understand is currently underway and has no published results to date, is specifically looking at the question of the consumer-level impacts of reporting rental payment history for public housing, rather than currently housing authorities do not report this data to HUD, and we have no real way of understanding how the reporting of alternative data will affect these households.

We understand that there should be a published report in 6 months to a year. Do you think it would be more appropriate to wait to move on including HUD-assisting households in H.R. 4172 until we know more, including the results from your joint study?

Mr. TURNER. That is a terrific question, and let me try and unbundle it. Rent reporting is discussed in Congressmen Ellison and Fitzpatrick's bill. And, in fact, our study looked as public housing authorities' subsidized rental data, as well as other rental data, but it is important to note that other rental data is already being reported. TransUnion has fully reported rental payment lines in credit files. Experian has positive data. So it is already out there. We are looking at how data from public housing authorities would perform relative to other data that is already in the market.

So if we are asking specifically about whether to move forward or not with encouraging PHAs to voluntarily report until the research findings are completed, I would say that makes sense. But by the same token, and with that same yardstick, we have over a decade of research, irrefutable empirical research based on the experience of millions of Americans that show the benefits of energy, utility, and telecom data being fully reported. So if it is logical to wait for research until we know on the one hand for PHA data, well, it is also logical to act now on the energy, utility, and telecom data.

Mr. CLAY. Okay. That is fair. That is fair. Given the chronic underfunding of public housing in the recent decade, some PHAs have struggled to maintain accurate rent roll data. We have especially heard recent reports of this as PHAs are converting public housing to other forms of rental assistance through the rental assistance demonstration. H.R. 4172 does not address the need to ensure that the data provided by PHAs to consumer reporting agencies is accurate. How do you suppose we address this issue?

Mr. TURNER. Another terrific question. Procedurally, there are a couple of things that would happen. Again, we are looking at what are the credit market impacts, and if they look like they are positive impacts, then there could be some basis for encouraging PHAs to fully report to national consumer reporting agencies; but you can't just switch that data on. You don't make the decision, report, and the bureaus take it. Their whole process is to ensure that the quality, and reliability, and integrity of data, the timeliness in reporting.

So a lot of those wrinkles would be ironed out just in creating the relationship with the national credit bureaus. In addition, there are plenty of organizations—I would be remiss if I didn't mention Credit Builders Alliance—that are focused like a laser on this very issue in terms of how PHAs with their disparate practices may actually establish that relationship to ensure their tenants get the benefit. So there are options, should that move forward in a voluntary system.

Mr. CLAY. Thank you. Mr. Paul, H.R. 4116 exempts only reciprocal deposits from being considered funds obtained through a deposit broker. Reciprocal deposits are a subject of custodial deposits. Would the bill be improved by broadening the exemption to include all custodial deposits while still using the same institutional quality measures?

Mr. PAUL. The ICBA doesn't have a position on the custodial side. Obviously, the reciprocal is what we are focused on in being the relationship-driven deposit that goes out and then comes back, so we don't have a position on the custodial side.

Mr. CLAY. All right. Thank you so much, and my time is up.

Chairman NEUGEBAUER. I thank the gentleman, and now the vice chairman of the Financial Institutions and Consumer Credit Committee, Mr. Pearce, is recognized for 5 minutes.

Mr. PEARCE. Thank you, Mr. Chairman. I really appreciate this hearing. The 2nd District of New Mexico has 52 percent Hispanics, 60 percent overall counting Native Americans and other minorities, 60 percent minority population. We are one of the poorest two or three districts in the country, and so we are right on point into things that affect the elements like Mr. Clay had mentioned, that many people just don't have access to credit.

So I really appreciate the approach that you have taken. I would also like to compliment the gentleman from Minnesota, Mr. Ellison, that the bill that he has put forward is very thoughtful and going right at one of the sources.

Mr. Turner, Dr. Turner, have you done, has your study—you said you got information from a decade-long study. Have you all worked on the HUD payments? Do you know that that would ultimately result in positive credit information for a lot of right now invisibles?

Mr. TURNER. So there are a couple of things here. We have looked at different types of alternative data, prioritizing the most logical. The data that is more credit-like than cash-like, the data that has the highest coverage of the 54 million credit invisibles, and then data from more concentrated industries, just from a business process perspective it is easier to acquire. So we prioritize energy, utility, and media data, wire-lined, wireless, broadband, cable TV, and so forth. And we have done probably more than a dozen studies at this juncture, both in the U.S. and abroad, looking at the impacts. And what we find is that to your initial point, the largest net beneficiaries are members of minority communities, 22 and 21 percent increase in credit access as a result of alternative data for African American and Hispanics; 14 percent for Asian; 14 percent for elderly Americans. And this is very significant—

Mr. PEARCE. I appreciate that. I don't mean to interrupt, but the clock is ticking. We have 5 minutes. So, specifically, to the HUD and even to education loans, the government, college tuition loans, does your study include that or not? That is just a fairly straightforward question.

Mr. TURNER. Right. So we are looking at data from public housing authorities that would come directly to credit bureaus, not HUD data. The PHAs would report the data, not HUD.

Mr. PEARCE. But essentially, it would come from those projects, so is the ultimate effect going to be positive to the people that are right now credit invisible, or is the overall result going to be negative? That is what I am trying to drive at.

Mr. TURNER. Unfortunately, we would have to wait until the study is complete. But based on our other research, we have good reason to believe it would be a net positive.

Mr. PEARCE. Fair enough. What about the education? You mentioned that also, and, again, I feel like that that has great upward potential. Have you done any work to see about which demographics that your positive impacts affect? In other words, does it affect the entire education spectrum, or are the positives clustered towards more education and the less effect on less education? I personally think, with education, you are going to find positive impacts up and down the education spectrum, but I would like to know your input?

Mr. TURNER. Terrific question. I will be quick. We are on our third study right now. Our first study looked at tens of thousands of individuals, a very reflective sample, and it showed that the personalized credit education had a material impact, meaning people moved into a better score tier at twice the rate of those who just looked at generic information like you get from mint.com.

We have worked with now four different community development organizations, Operation Hope, the National Urban League, United Way Atlanta, United Way Charleston, so it is not a reflective population. It is a population of people who are oftentimes financially distressed, and we have seen those same results replicated in that population.

Mr. PEARCE. Right. Mr. Paul, the gentleman to your left—I think he is actually to your right, but he is sitting to your left—he had some compelling arguments. Did you want to make observation on any of those and things that could impact our decisions as we move forward? I mean, you made good points, too, but do you have anything to offer?

Mr. PAUL. Sure. I respectfully disagree.

Mr. PEARCE. Oh, okay. I suspected that, but I was going to look for a little more meat on the bone.

Mr. PAUL. I think that the FDIC is a critical, critical part to community banking. And I think that based on the fact that we know that currently over 70 percent of the deposits in this country are in the "too-big-to-fail" banks, those are not the banks that are giving and supporting the small businesses that we so desperately need to continue to support. We believe that it would be a devastation to the community banking world if FDIC insurance was modified and believe strongly that it is critical for us to be able to continue to have the liquidity under the safety and soundness parameters to be able to continue to fund the loan growth in our community.

Mr. PEARCE. I appreciate both of your inputs on that. And I yield back, Mr. Chairman.

Chairman NEUGEBAUER. I thank the gentleman. The gentleman from Georgia, Mr. Scott, is recognized for 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman. First of all, I want to commend my colleague, Mr. Keith Ellison from Minnesota, for the excellent work he is doing on 4172, which I support. And I want to, first of all, ask you, Mr. Turner, because you raised a good point there, when you mentioned the credit Catch-22. I liked that. I saw the movie when I was much, much younger, as we all were, Catch-22. And I think it is very important for us to understand, I think what you mean is in order to qualify for credit, you already have to have credit. But what I want to point out is that this is not just a problem for consumers. It is also a problem for small businesses. It is a huge problem for small businesses.

According to the 2015 Small Business Credit Survey, the top reason why new businesses were denied credit is insufficient credit history. That is very important. And I understand that some progress has been made recently with the establishment of the National Consumer Telecom & Utilities Exchange database and the FICO XD score.

So, Dr. Turner, what I want to know is if you have any concerns as we work with H.R. 4172 in terms of looking at this degree of progress that has been made with this database and the FICO XD score in solving your credit Catch-22 problem?

Mr. TURNER. Great question. And, yes, my concern is that the data is just not flowing because of the regulatory uncertainty. The terrific effort by FICO and LexisNexis and Equifax really relies on overwhelmingly wireless telecoms data, none of the other media data, and just a paltry sum of utility data. So that is just not enough, frankly. So it does highlight the promise and the potential, and it is a great first step, but much more can be done, and this would be facilitated by Congressman Ellison and Congressman Fitzpatrick's bill.

Mr. SCOTT. Absolutely. Mr. Chairman, if I may, I have a letter here from Equifax, which is a very, very important part of my district down in Georgia, that I would like to submit for the record if I may.

Chairman NEUGEBAUER. Without objection, it is so ordered.

Mr. SCOTT. Ranking Member, would you please take him that. Thank you. Now, let me turn to the panel as a whole. It occurred to me that just last week, the CFPB used its UDAP to sue a credit repair company for deceptive practices. And even though this action did not involve a credit bureau, I think it still highlights the many existing tools that regulators and watchdogs currently have at their disposal to protect consumers. So my question would be to the panel, is that there is a general concern that H.R. 347, the Facilitating Access to Credit Act, might give the big three credit bureaus a license to scam consumers. Do you share this concern?

Mr. TURNER. Let me start, if that is okay?

Mr. SCOTT. Yes, please, Mr. Turner.

Mr. TURNER. Not at all. I think your initial observation is correct. There are layers and layers of regulations protecting consumers from any such behavior. And importantly, let's go back to the difference. What we are talking about is delineating credit education from credit repair. The credit bureaus, or any of the organizations that would be exempted under H.R. 347 are not offering credit repair services. They are offering credit education. And even if they were, you still have the CFPB scrutiny that didn't exist when CROA was passed in 1996, and you have all the protections under both UDAP and the Fair Credit Reporting Act. So those organizations are uniquely situated to be the lowest risk, and the most logical institutions for consumers to turn to for credit education.

Mr. SCOTT. Thank you. And also, panel, in 2015, after a settlement was reached with 31 State attorneys general, one of which was the State attorney general in my home State of Georgia, there was a commitment by the big three reporting agencies to create a national consumer assistance plan in an effort to improve consumer interaction with the big three credit bureaus, and improve the accuracy of data in those credit reports. It has been a year now since the settlement, so are you seeing any improvements in the customer experience thanks to the National Consumer Assistance Plan? Mr. Turner.

Mr. TURNER. I think the bureaus made massive investments as part of that agreement, but I would like to point out the study, the national study that we did, that the FTC cited extensively in their report to Congress, there is a high level of satisfaction with the dispute resolution process in place, and also, the accuracy rate of data in the national credit bureaus is remarkably high. This was back in 2010 or, yes, 2011 when we published that report. Even more progress has been made since then.

Mr. SCOTT. Thank you, Mr. Chairman, for your courtesy with a little more time. I appreciate it.

Chairman NEUGEBAUER. I thank the gentleman. The gentleman from Missouri, Mr. Luetkemeyer, the chairman of our Housing and Insurance Subcommittee, is recognized for 5 minutes.

Mr. LUETKEMEYER. Thank you, Mr. Chairman, and welcome to our guests this morning.

I want to start out with Mr. Paul. I appreciate your comments with regards to H.R. 4116. You know, Mr. Michel talked about other ways he didn't believe FDIC insurance was important. Whenever you talk to your customers, and they want to have secure deposits, you know, especially with regards to, like, your subdivisions, your local city and county funds, they are required to secure those, are they not, somehow, or insure them, correct?

Mr. PAUL. That is correct.

Mr. LUETKEMEYER. So, my way, my limited knowledge here, there are a couple different ways to do that. You can use FDIC insurance on the first 250; you can buy private insurance as well as put up other securities to secure this. Is that correct?

Mr. PAUL. That is correct.

Mr. LUETKEMEYER. What kind of costs do you incur to do this with all these different sorts of things?

Mr. PAUL. Well, one of the biggest problems in terms of buying additional security is to be able to securitize their deposits is, clearly, that would take the liquidity out of the lending side. So, unfortunately, those that require repos and securities as an alternative, which is certainly an alternative, all that does is take the liquidity out of our ability to turn around and lend back into the community.

When we designed the program with Montgomery County, that was one of the discussions that we had with them. And they were very clear that the driving force for them was that they wanted to create jobs. And that is why we created the program where, literally, we said that for every dollar that the county puts into EagleBank or other community banks, that we would agree to provide $2 worth of lending into the community, small business lending within the community, which ultimately provides those jobs.

So having the ability to take that liquidity, to put it back into the lending world, is really the driving force in the design of these programs.

Mr. LUETKEMEYER. Okay. The costs that you incur, for instance, if you have to purchase private insurance on everything above 250, would you pass that cost on to your customer?

Mr. PAUL. No. We couldn't, because it would be extraordinarily expensive, even if you could find that opportunity.

Mr. LUETKEMEYER. Well, I know that we do that sometimes with banks that I am familiar with.

Mr. Michel, you made the comments with regards to that, that you think we don't need it anymore. How do you solve the problem when you have these political subdivisions that require security for the deposits if you are going to do away with FDIC insurance? And it makes it more difficult to leverage these deposits and secure them and cuts the ability of banks to then actually give access to credit to their other customers in the community. What is your answer to that?

Mr. MICHEL. Well, my answer to that is that the system that we have has evolved because of FDIC insurance, which is something that has been expanded over the years, which has led to the high-cost problem that you are talking about. So I don't think that—

Mr. LUETKEMEYER. High cost? How do you—

Mr. MICHEL. High cost for private insurance. It has crowded out private insurance. It has essentially made private deposit insurance companies leave.

Mr. LUETKEMEYER. No. No, they are still around.

Mr. MICHEL. There are, but I mean, comparatively speaking. I don't think that we could say they haven't crowded private—that the FDIC insurance hasn't crowded out private deposit insurance.

Mr. LUETKEMEYER. I think the private folks are on the top end of this. You use FDIC on the bottom, and it is sort of like a reinsurance program in a way, and you provide the back end with the private insurance. I mean, we do that all the time where I am from. I mean, it is not—

Mr. MICHEL. No, I understand that. But I still think that the empirical evidence would suggest that some private companies have been crowded out of that.

Mr. LUETKEMEYER. My question, though, is, how do you rationalize, or how do you solve the problem, though, of the private entities that want some security, some insurance, to make sure—these are taxpayer dollars that you are dealing that need to be securitized. You want the taxpayer dollars to be at risk? You do not want them diversified among different banks to minimize the risk?

I mean, that is what we are talking about here. We are talking about reciprocal deposits. These aren't deposits that are brokered. These are private deposits that are taken and used in a way that securitizes them in a way from the fact that you diversify, put in different banks, which, you know, spreads your risk.

Mr. MICHEL. No, sir, I do not believe that we should be putting taxpayer dollars at risk in any way.

Mr. LUETKEMEYER. Then how do you solve this problem if you don't have FDIC insurance, private insurance, or enough collateral to securitize them?

Mr. MICHEL. Again, as I started to say, I believe that if you did lower and restrict the brokered deposits to a larger extent with FDIC insurance, that you would bring private capital back into the market. And under the current law, without 4116, you can still do this. This doesn't change that. The restrictions are only applied to less-than-well capitalized banks. So this is a blatant lowering of that restriction from well to adequately, or less-than-well-capitalized banks going to a CAMELS rating. I don't think that is—I don't think that is something that we should be doing.

Mr. LUETKEMEYER. I see my time has expired. With that, I yield back the balance of my time, Mr. Chairman.

Chairman NEUGEBAUER. I thank the gentleman.

Now the gentleman from Minnesota, Mr. Ellison, is recognized for 5 minutes.

Mr. ELLISON. Thank you, Mr. Chair.

And, Mr. Turner, I am glad you mentioned the Credit Builders Alliance. They worked with Experian to help subsidize housing renters. In their analysis, 75 percent saw a credit score increase. The majority saw a credit score increase of at least 11 points. Only 3 percent saw a score decrease of 11 points, and 21 percent saw no change.

And I ask unanimous consent to add the written reporting pilot to the record.

Chairman NEUGEBAUER. Without objection, it is so ordered.

Mr. ELLISON. Thank you. Thank you, Mr. Chairman.

Let me ask you this, Dr. Turner: We do have substantial empirical evidence about the benefits of reporting on-time utility and telecom payments. We don't have as much research into reporting rental payments for assisted housing tenants. Do you see any potential harm to tenants if their on-time rental housing payments, or their late payments, are reported to credit reporting agencies? What would be the best practices for a housing provider to look like?

Mr. TURNER. I mean, look, having the positive data reported, this is what the Experian-Credit Builders Alliance study shows, and, you know, minimal number of folks who have a score reduction, and even smaller number who are negatively materially impacted. And that is logical.

I guess the question is, how does that compare to fully reporting the data, and then what percentage of the tenant population may see a movement into a lower tier? The reality, though, is that thickening files, having another trade line, ending credit invisibility, those offer opportunities to have a better life through better credit. So it also makes the system more forgiving. The negative data right now from PHAs and from landlords is being reported. If you are evicted, it goes into your public record. So we are still punishing people for their credit transgressions, but not rewarding them for their good behavior. So that logic applies to the current rental practices as well as the utility and telecoms and media data as well.

Mr. ELLISON. Thank you. Also, if I may ask you this on this similar line of questioning: As you can see from the slide, utilities make up about 7 percent of the collections. So we know that late utility payments are reported right now. In addition, about 3 million people have their utility payments reported to the National Consumer Telecom & Utilities Exchange.

So can you talk about and explain how, if and when utility payments are reported to credit agencies? And also, you can chime in on this question of if we were to make a change, if H.R. 4172 became law, how would that make lives better for people?

Mr. TURNER. Great question. A couple of things. We are doing a project right now called Credit Deserts with the Mission Asset Fund, Jose Quinonez's Circle Lending Group in the Bay area. And we are looking at—and this is sponsored by the Silicon Valley Community Foundation. We are going to map and show exactly how having alternative data, the utility/telecom/rental data, changes the lending landscape, how it affects the ratio of high-cost lenders to mainstream lenders, and how it changes the nature of access for credit invisibles away from high-cost credit toward mainstream credit. So that is forthcoming. It is all based on the decades of empirical research that shows what a powerful tool this is.

In terms of the utility data in collections, again, this goes back to the point that the status quo is a harm, that the 11 years that I have been coming here, each year, billions of dollars of wealth and assets are stripped from the credit invisible population because they can't access mainstream affordable credit.

This tool, which costs Congress nothing, which is already in practice and could easily be enhanced, because your bill would end the regulatory uncertainty. I have talked to many utility companies who have gone to their State PUC and PSC and have said, We would like to fully report to a credit bureau, and their public—their State regulator says, No, over our dead body, largely because either they have been misinformed by local advocacy groups about the consequences, or they simply don't understand it.

And why would they? They set telecom's tariffs. They are media people. They set utility rates. They don't understand the Fair Credit Reporting Act. So this is actually quite potent and, again, no cost to Congress.

Mr. ELLISON. Thank you. If either one of you gentlemen want to weigh in on 4172, we welcome your views.

Thank you very much. I yield back.

Chairman NEUGEBAUER. I thank the gentleman.

And now the gentleman, Mr. Royce from California, is recognized.

Mr. ROYCE. Thank you, Mr. Chairman.

Dr. Turner, I was going to ask you a question. When constituents hear this concept of credit repair, I think the first thing they think about are those ads that say, too-good-to-be-true emails. The subject is: Credit problems? No problem. No problem. Or signs, sometimes you see them on the street, and they say, We can erase your bad credit, 100 percent guaranteed.

So clearly, these aren't legitimate actors, but how do we separate out the good from the bad? I think people need access to credit counseling. They need education services. That is what they need, but they don't need to get ripped off. And, as you know, with H.R. 347, we tried to get this right by exempting the supervised credit bureaus, given that they want to provide credit education and not credit repair, and they are examined and overseen by the CFPB, as opposed to these outfits that put the signs up around town.

So, Dr. Turner, in simple terms, what are the differences between the credit repair scams that CROA was intended to stop, and the credit education services that could be offered if H.R. 347 were passed out of this committee?

Mr. TURNER. And, again, this is the most important point that your legislation addresses. Look at golf.

Credit repair would be someone who after you have completed 18 holes of golf says, Let me see your scorecard. Here, I think you double counted here and let me shave a few strokes off there. So it is trying to change your score after the fact.

Credit repair would be a person who coaches you on your technique, your driving ability, your short game, so that, moving forward, you improve in future rounds. It is this retrospective versus prospective. It is a very simple, but quite important distinction.

Mr. ROYCE. Let me ask you another question. I previously submitted for the record a letter from the Congressional Black Caucus, and Hispanic and Asian Pacific American Caucus, and the Congressional Progressive Caucus, which was sent to FHFA Director Watt in April of last year. And in it, they wrote: "The current FICO score version designated for use by the GSEs are not the most current innovations in the marketplace. Newer credit scoring models have been introduced and are valuable, and the GSEs should update their current FICO model and implement other credit scoring models that provide enhanced benefits to homeowners."

So I would ask you, do you agree that this is exactly what the other bill, H.R. 4211, is designed to do?

Mr. TURNER. I do agree. And we have done research on this topic, and we found there is no market failure in the credit score market, but there is enormous path dependency. So that, for example, FICO is having problems dislodging earlier versions of FICO. You know, so there is this dynamic.

And the other issue is that when this GSE guideline was created in 2004, there wasn't competition, there was a dominant player, and that guideline now reflects an anachronistic market. And there have been lots of versions of FICO—we are on FICO 9 now—and other scores that have entered that actually have many of these benefits to other communities that just aren't reflected. So your bill does—

Mr. ROYCE. And what would that mean for access to credit for these communities?

Mr. TURNER. Well, we believe that in different credit segments, it would make access to credit more inclusive, fairer, and more responsible.

Mr. ROYCE. Thank you, Mr. Chairman. I yield back.

Chairman NEUGEBAUER. I thank the gentleman.

The gentleman from North Carolina, Mr. Pittenger, is recognized for 5 minutes.

Mr. PITTENGER. Thank you, Mr. Chairman, for calling this important hearing.

I thank each of you for being here. Mr. Paul, thank you for your role as a community banker. I served on a community bank board for a decade, from the time we chartered until the time we sold it. I certainly appreciate the important role that you play in our community and how vital it is for our local economies.

To that end, I would like to ask, relative to the demand for loans, which had been much lower in recent years, and obviously, we have a low growth in our economy, do you see a co-relationship between the two?

Mr. PAUL. We are very fortunate to be in a wonderful market in the Washington, D.C. area. We currently have approximately 100 percent loan-to-deposit ratio. So it gives you a little bit of an indication as to—and by the way, with pristine credit quality. So we are making loans to the small business. We have 100 percent loan to deposit. So clearly, deposits are critical for us to continue to fund our loan growth.

So we believe that this is a sustainable growth that we have had, about 12 percent loan growth that we have had, and believe that will continue.

Mr. PITTENGER. Thank you. This is a remarkable region, obviously unique and not shared universally around the country. Do you see the loan demand increasing with H.R. 4116? Will this be an enhancement?

Mr. PAUL. Absolutely. I just attended two national conferences. And in the 18 years that I have been doing this, I have never heard the discussion as much as we did this past week on the need for deposits. So it was a remarkable change—and I do this probably every quarter. It was a remarkable change in the discussions on panels, institutional investors, as to so many banks within our communities in the urban settings that are looking and issuing concerns on the ability to continue to raise deposits. Again, these are community banks; these aren't the bigger banks.

Mr. PITTENGER. Thank you. The logs I am referring to referencing brokered deposits, that they are defined as being hot money. Can you explain why core deposits, what they are, and how reciprocal deposits are core deposits and not hot money?

Mr. PAUL. Sure. I will give you a perfect example of this. We have a relationship with a class action suit law firm, a relationship that we have had for over 10 years. And they could average $75 million worth of deposits in the bank, that we obviously take that $75 million and put it back into loans.

The issue with the class action suit is that the court requires those deposits to be insured. And, as the Congressman asked earlier, the issue has to do with whether or not those deposits would be put into a repo or put back into the lending market. So, as an example, those deposits need to be FDIC-insured, and we put them through the network system, we get those deposits back, and then we are able to put that back out into the lending side. So clearly, if that wasn't the case, we would have a problem.

Mr. PITTENGER. Thank you. To all the witnesses, I would like to ask who, in your opinion, is in a better position with the resources, the budgets, the technical knowledge, experience to develop and deploy new financial products, services and delivery mechanisms, the large regional and national banks or community banks? Mr. Turner, just quickly, if we could go down the line, and give us—

Mr. TURNER. I defer my time. The other panelists are more knowledgeable about this than I.

Mr. PITTENGER. Good. Mr. Paul.

Mr. PAUL. I'm sorry, could you repeat the question?

Mr. PITTENGER. Well, who has the better capacities to deliver new financial products, the large regional banks or the community banks?

Mr. PAUL. We feel that we are in an ideal position, being in that $6.5 billion size, that we understand the needs of the community, but we are nimble enough to be able to design the products that the community requires. So we feel really good in the position we are to be able to satisfy the needs of the community.

Mr. PITTENGER. Mr. Michel.

Mr. MICHEL. Well, I don't have anything against community banks or regional banks or the larger banks. And I think they are all having problems, and we should address the overall high regulatory cost and the issues that affect the industry in general, and the economy in general as opposed to carving out any particular benefits for any of the particular groups.

Mr. PITTENGER. So you don't see that there is a certain niche or capacity that the community banks might have that would—

Mr. MICHEL. I mean, yes. I mean, certain banks have certain advantages over other banks, and size by itself is not always the factor. So I wouldn't want to single out any particular group, no.

Mr. PITTENGER. Thank you. I yield back.

Chairman NEUGEBAUER. I thank the gentleman.

Now the gentleman from Pennsylvania, Mr. Rothfus, is recognized for 5 minutes.

Mr. ROTHFUS. Thank you, Mr. Chairman.

Dr. Turner, I would like to talk a little bit about some of the research you have done on the efficacy of credit education services. Based on your research, can you describe the types of consumers that would benefit from personalized credit education?

Mr. TURNER. Sure. There have been independent studies that show differences among segments of the population in terms of credit awareness and credit invisibility. We didn't actually look at this from a segmentation analysis perspective. The groups that we worked with, the community development organizations, like Operation HOPE and the National Urban League, people came to them seeking financial literacy. And most of those people were in distressed situations.

And let me give you an example. A woman named Jeannine from Ohio, she had her first exposure to credit in college with credit cards and ran into some trouble, and basically ignored it for 20 years until her car that she got in college died. She is married, has six children, two grandchildren; she needs a car. So she needed credit, and she needed to address her credit problems.

She went to Operation HOPE. Operation HOPE sent her to a personalized credit education service from one of the national credit bureaus. Working with them, she was able to increase her score by over 150 points. So not only did she then qualify for a new car, but she also was able to qualify for a higher-paying job that required a threshold credit score, which then, in turn, allowed her to buy a home. So there was this positive cascade. And that is exactly the type of person who would stand to benefit from this credit education service.

Mr. ROTHFUS. Is that more reactive or proactive? That sounds like that counts as a more reactive kind of scenario.

Mr. TURNER. What she learned, she is applying moving forward. She will be applying these lessons for the rest of her life. It is a very compelling story, and I am going to feature it in our final report. And what I heard from her, I heard from many of the others whom I have interviewed who went through this.

So reactive would have been if she went to a credit repair organization and, you know, places like Lexington Law Firm that basically swamp the bureaus with contesting everything, every derogatory, whether it is accurate or not. That is reactive. And it doesn't necessarily get triggered by an incident; it is just someone wants to improve their score for whatever purpose.

The coaching, the explaining how your behavior can impact your score, that is proactive.

Mr. ROTHFUS. Mr. Paul, I want to talk to you a little bit on 4116. You state in your testimony that reciprocal deposits allow community banks to compete with larger institutions for deposits. You note that, "The largest banks have a definite advantage in soliciting deposits that exceed the insurance limit because of the perception, validated during the financial crisis, that they are too-big-to-fail, and that they and their depositors will be propped up by the government." You also said, "Size alone is used as a proxy for safety."

How would the constriction of reciprocal deposits impact your bank's competitive position vis--vis larger institutions?

Mr. PAUL. Sure. The niche that EagleBank has within the community is, again, on the commercial small business side. As I said, about $700,000 or less is our average size loan. So the ability to understand the needs of the community and understand the needs of the businessperson is what is so important in their needs. The hardware store, the restaurant, et cetera, that is the backbone of what we deal with every single day, and, again, needing that liquidity to continue to fund those particular businesses.

So the reciprocal deposit issue for us is just an absolutely critical instrument for us to be able to continue the ability to be able to loan that back into the community.

Mr. ROTHFUS. Dr. Michel, in your testimony, you note that reciprocal deposit networks are "merely facilitating what an individual could do on his own by opening several accounts at several banks." But instead of an individual having to travel from bank to bank to open multiple accounts, banks can do this with their own services, like CDARS, a Certificate of Deposit Account Registry Service. You argue that this violates the original intent of FDIC insurance. Reciprocal deposits give banking customers the peace of mind that their deposits are safe. This should naturally prevent or limit the potential for bank runs.

If that is the case, would you agree that this practice is consistent with the idea behind deposit insurance, namely to prevent or arrest bank runs?

Mr. MICHEL. Well, I am not sure that it really did prevent the bank runs as we think that it does. I think that is sort of a conventional myth, to some extent. But, again, I don't think that typical customers have any idea what reciprocal deposits are, or brokered deposits, for that matter. I mean, I think we are talking about large investors or institutional investors versus the typical mom and pop.

Now, of course, the funding is being used to help some of those people, I understand that. But the bill that we are talking about simply removes one layer of restrictions from well-capitalized banks having no constrictions at all, to something that is a little bit less than well-capitalized. I mean this is a marginal change at best, but I think the implication is that it is something that we should not be doing. And I understand that the FDIC insurance is required for some of these accounts, but, again, that is something that we should not be doing.

Mr. ROTHFUS. I yield back. Thank you.

Chairman NEUGEBAUER. I thank the gentleman.

The gentleman from Colorado, Mr. Tipton, is recognized for 5 minutes.

Mr. TIPTON. Thank you, Mr. Chairman. Again, thank you for holding this legislative hearing today.

And after listening to the comments from our panel and some of the questions that have been offered today, I do want to extend my thanks again to Mr. Royce from California for introducing the Credit Score Competition Act. And I thank the chairman for including it in today's legislative hearing.

H.R. 4211 will allow Fannie Mae and Freddie Mac to be able to consider alternative scoring models when determining whether to be able to purchase a residential mortgage, and allow two government-sponsored entities to be able to make mortgage purchases based on alternative scoring models. And I believe this will open up the home ownership opportunities for those people who are creditworthy but unable to be able to build credit based on the traditional credit scoring models, as well as supporting many Americans' dream of owning a home.

The Credit Score Competition Act will increase innovation, alleviate portfolio risk, and lower systemic risk in the housing market. I would like to encourage all of my colleagues to support this important piece of legislation.

I would also like to be able to ask maybe Mr. Paul from the independent banker's perspective on a piece of legislation that we have introduced, H.R. 6162, the Protect Prepaid Accounts Act.

Mr. Paul, I appreciated your testimony on brokered deposits and, as I mentioned earlier, my bill, the Protect Prepaid Accounts Act, ensures that prepaid accounts fulfill the primary purpose exception included in the statutory definition of deposit broker.

How is a bank going to be impacted when prepaid accounts are defined as brokered deposits, and does this lead to additional cost in compliance burdens for our banks?

Mr. PAUL. Yes, it certainly does increase the cost to the bank because of the regulatory requirements. But, having said that, it is another great source of deposits for community banks in being able to get these prepaid cards and, again, just creates the liquidity for us to be able to put back into the marketplace.

Mr. TIPTON. And I appreciate your point on that, because we know that 67 million Americans are considered unbanked or underbanked. As a way to access the financial market system, and they need the prepaid card products to be able to achieve that. How are they impacted if banks cannot shoulder some of those compliance costs? As I am listening, and it is a little follow-up on Mr. Pittenger's comments in regards to the community banks that we are seeing in Colorado that are being crushed by regulatory compliance. One more burden, one more charge, one more cost is inhibiting their ability to be able to provide and create service for people that are underserved in the banking institution.

Mr. PAUL. As you can imagine, the number of prepaid cards that are out in the marketplace right now creates a huge regulatory burden. Every one of those cards needs to be analyzed as to where the money is coming from, why it is coming, why it is not part of your core business as defined as core business.

So the regulatory issues associated with it and, therefore, the costs associated with it are enormous. Alternatives that these people have is just incredibly expensive. Cash checking, a variety of things like that. So the ICBA definitely supports the prepaid cards.

Mr. TIPTON. And I appreciate your comments on that. You know, in June of this year the FDIC concluded the government benefit cards could fall under the primary purpose exception to the definition of brokered deposits. Considering that the FDIC recognized in this context that prepaid cards have the primary purpose of facilitating certain types of payments and not brokering deposits, shouldn't this rationale be applied to most prepaid accounts?

Mr. PAUL. Yes.

Mr. TIPTON. That is the answer we wanted to be able to hear.

Mr. PAUL. Short and sweet.

Mr. TIPTON. That is just common sense. So, you know, individual prepaid products and programs do have an ability to petition the FDIC for a determination on whether the product fits into that primary purpose exclusion. Is it helpful to the industry, your banking industry and banks, to have the FDIC rule on a case-by-case basis in a time-consuming manner with potential for conflicting determinations?

Mr. PAUL. Tough question. Obviously, the broad-brush stroke that most regulatory agencies take becomes a very, very difficult part of the examination that we go through on a regular basis. So individualization, based on CAMELS rating, credit quality, et cetera, is something that I think is a driving force that we need to look at more and more.

Going back to the car example, for those that have clear, great car experience driving, their insurance premiumis very low. In our world right now, when it comes to FDIC insurance and a variety of things, it is just that broad brush. If you part within a certain amount, regardless of your CAMELS rating, you have a certain cost associated with it. And I just don't think that is a fair, balanced approach and cost.

Mr. TIPTON. Thank you so much.

I yield back, Mr. Chairman.

Chairman NEUGEBAUER. I thank the gentleman.

The gentleman from Massachusetts, Mr. Capuano, is recognized for 5 minutes.

Mr. CAPUANO. Thank you, Mr. Chairman. Mr. Chairman, I was listening to this in a secure location elsewhere and I have read some of the documentation, and I think there are some reasonable questions and issues being raised here.

I can remember when I first got started as a young man and married with my wife trying to figure out how to access credit so that someday we could buy a house and all that other kind of stuff. And the truth is, it was a maze to me, no different than anybody else. I had a law degree, but nobody ever taught me about how to build up my own credit, because there were no classes to take, there was nothing to do, and kind of just struggled through it.

And, to be perfectly honest, I had no idea what my credit rating was for years, and even today, I barely know what it is. I think it is okay now, but, you know, we have done okay so I got no complaints.

I guess for me, I am interested in people that don't know these things, not stupid people, but educated people, thoughtful people, capable people, who don't know how to do these things, having been one.

There are ways I know to educate people how to improve their credit score. First, find out what it is; second of all, try to improve it. And I am just curious, do you think that an effective way to do it is to find ways to specifically educate people on how their credit score is created and how to change it, and is it something that is worthwhile doing for the average person? I guess we will start with you, Mr. Turner.

Mr. TURNER. It is incredibly important, and it has been impactful. Again, the personalized credit education, what we have seen in our experience in interviewing, you know, a thousand different people who participated, this is a fearful relationship. They have a lot of anxiety about their credit, their credit report, and their credit score.

I have heard references made to what is online, which is helpful. They say it is like going to a library and checking out a book, and there is lots of useful information, but it doesn't tell me how to apply it to my situation. And when they connect with that person, that credit educator that talks to them, that answers all their questions, it assuages their fears and makes them feel comfortable. That gives them the confidence—I kept hearing confidence in my interviews—to move forward and address their issues, moving forward to change their behavior in ways that they now understand impact their report and their score.

We have seen twice the materiality, meaning that twice as many people move into a better risk tier with a personalized credit education than with just the generic information.

Another really important point is, this is convenient. It is fingertip access. They can access it online, set up an appointment, call, set up an appointment; but it is this wait, this barrier. Life happens. Jeannine herself, she has kids. She missed her first appointment. It took her 2 weeks to reschedule, and she almost didn't. She rescheduled, she made the appointment, and look what happened.

Mr. CAPUANO. Mr. Paul, would you agree with those general comments, that it is good for some people to access that type of services?

Mr. PAUL. Yes.

Mr. CAPUANO. Mr. Michel, how about you?

Mr. MICHEL. That it is good for some people to—

Mr. CAPUANO. To access the ability to learn how to improve their credit score. Most of us don't know. I know you guys all know this stuff cold. Most of us don't know.

Mr. MICHEL. Sure. Denying access to stuff like that would be silly.

Mr. CAPUANO. I guess during some of my discussions with other people, some people have raised some concerns about these things. They figure, well, if I open myself up to people that I am trying to provide this stuff, I am a little concerned they can charge me too much, they can screw around with me, they can put me into different financial products that I can't afford.

And I guess I am just wondering, do you think there are proper and sufficient safeguards against those kinds of concerns? Those are legitimate concerns. I am looking to educate people, but I am not looking to put them in a position where they can be taken advantage of. Again, we will start with you, Dr. Turner.

Mr. TURNER. Sure, those are concerns. But there are layers of regulations in place already. And, again, we are talking about credit education. We are talking about exempting 603(p)s and 603(f)s under the FCRA, national consumer reporting agencies, who have an obligation to maintain maximum accuracy of their data. They don't have an incentive to push people into financial products they can't afford, to overextend them. That incentive simply doesn't exist. So, while that may be the case with other organizations that are also seeking an exemption for reasons of their own, it is certainly not the case for those that are identified in H.R. 347.

Mr. CAPUANO. Thank you. My time is pretty much up. I appreciate the opportunity.

Thank you, Mr. Chairman.

Chairman NEUGEBAUER. I thank the gentleman.

And now the gentleman from Texas, Mr. Williams, is recognized for 5 minutes.

Mr. WILLIAMS. Thank you, Mr. Chairman.

Thank you all for being here today. I am a small business owner. In full disclosure, I am a car dealer. And I deal with credit every single day, and that is one reason, for the record, I support H.R. 347 for my colleague, Congressman Royce.

According to the FDIC's community banking study, more than 1,200 U.S. counties out of 3,283 counties encompassing 16.3 million people would have limited physical access to mainstream banking services without the presence of community banks. That is why I think my bill, 5660, is needed for community banks and Main Street America.

And, Mr. Paul, I want to start with you by asking you some yes-or-no questions. Do you believe community banks are important to our Nation's economy?

Mr. PAUL. Yes.

Mr. WILLIAMS. You know, you mentioned that reciprocal deposits represent core deposits of long-term customers that are one of the most stable sources of funds; and, again, that is a reason why I think was my motive behind 5660. Would you agree that a bank's core deposits should also not be deemed to be brokered, simply because a community bank is partnered with a third-party service provider?

Mr. PAUL. Yes.

Mr. WILLIAMS. And do you believe community banks caused the 2008 financial crisis?

Mr. PAUL. Absolutely no.

Mr. WILLIAMS. Do you believe that the measures that were put in place to better supervise large Wall Street firms have resulted in more regulatory costs and burdens for community banks?

Mr. PAUL. Yes.

Mr. WILLIAMS. And do you believe that today's regulatory climate and burdens have caused some community banks to withdraw service and/or delay investment in developing new financial products and services to help the customer?

Mr. PAUL. Yes.

Mr. WILLIAMS. And finally, do you believe regulatory costs and burdens have contributed to industry consolidation and the lower number of community banks we have as compared to just 5 years ago?

Mr. PAUL. Absolutely.

Mr. WILLIAMS. Now, a couple more questions which you can explain a little bit, if you don't mind. Would you agree that, in general terms, community banks, the business model is relationship-based, whereby loans are made based on sound financial documentation and a personal understanding of an individual or business's needs?

Mr. PAUL. Absolutely. We all talk about knowing your customers. And EagleBank spends an enormous amount of time knowing the customers, having access to decision-makers, certainty of execution. Those are all the things that we take a lot of pride in, and being able to continue to do that and being able to support our communities, understand our communities, understand the needs of our communities.

Eighteen years ago, when I was one of the founders of EagleBank, we made the decision to stay within the Washington metropolitan area for the sole purpose of understanding our customers, and understanding the needs of our customers. Being one of the largest community banks in the Washington metropolitan area, we still only have 3 percent of the market. So it just goes to show that the need of community banking is growing more and more and more.

Being $6.5 billion from zero 18 years ago is an indication of just how critical and how the need that we have for community banking, so we can understand our customer and understand what they need. Going back to the earlier question of our ability to design products that they need, we have a product committee that meets every other month to be able to understand those needs of the community. So the answer is, is that we think community banking is an absolute integral part of our economy.

Mr. WILLIAMS. Well, it is people doing business with people. And I can tell you, being in the car business for 44 years, community banks are probably a need now more than ever and they are hurting now more than ever.

Mr. PAUL. Yes, sir.

Mr. WILLIAMS. Next question: Would you agree that low-cost deposits residing in accounts opened by and utilized by local residents who have their paychecks directly deposited to their accounts, who regularly use electronic services to pay bills online and who use their accounts' debit cards to pay for small everyday transactions represent relation-based deposits?

Mr. PAUL. Absolutely. We have—our logo, to follow up on your point, is relationships first, because that is the backbone of what a community bank is, is based on those relationships. The fact that we have been able to have the millennials and younger people that are drifting more and more towards the online banking side doesn't mean that it is not a relationship. It is just their access to be able to do what they want to do within their funds. But clearly, it is all driven by that relationship.

Mr. WILLIAMS. Finally, do you believe that relationship-based deposits do not pose any of the risks that bank regulators associate with brokered deposits, specifically fully insured funds residing in individually held accounts?

Mr. PAUL. That is correct.

Mr. WILLIAMS. Thank you for your testimony.

And, Mr. Chairman, I yield back.

Chairman NEUGEBAUER. Thank you. I thank the gentleman.

Mr. Emmer is now recognized for 5 minutes.

Mr. EMMER. Thank you, Mr. Chairman.

At the outset, I would like to offer over 30 letters from 23 different States, at least 23 different States, in support of H.R. 4116 for the record.

Chairman NEUGEBAUER. Without objection, it is so ordered.

Mr. EMMER. Thank you. Mr. Chairman, again, I want to thank Congresswoman Moore for her leadership on this issue, and the 13 members of this committee who have cosponsored this policy proposal, which include Ranking Member Waters and Representatives Beatty, Cleaver, Duffy, Heck, Huizenga, Luetkemeyer, Maloney, Mulvaney, Pittenger, Schweikert, Sinema, and Stivers. I also want to thank the 25 State banking associations and all of the national associations that have endorsed H.R. 4116.

As we can see, H.R. 4116 is widely supported by industry and Members of Congress, ranging from the Freedom Caucus to the Progressive Caucus. Thanks to the hard work of these people and the commonsense provisions contained in this bill, we will strengthen the economies of our local communities, benefit many of our civil institutions, like nonprofits and schools, and reduce the likelihood of taxpayer bailouts of private financial institutions. This legislation will do so by updating the Federal Deposit Insurance Act to differentiate the way the Federal Government regulates reciprocal deposits from traditional brokered deposits.

Specifically, it enables adequately capitalized banks to hold up to the lesser of 10 billion or an amount equal to 20 percent of the total liabilities in brokered deposits, something the FDIC effectively allows today via waivers. This is because, unlike brokered deposits, traditional brokered deposits, reciprocal deposits are stable, meaning they do not flow from bank to bank, chasing interest rates. Additionally, reciprocal deposit customers are loyal, long-term, and generally use multiple services from the bank.

On the other hand, brokered deposits, traditional brokered deposits, may be more likely to chase the yield, meaning they take deposits from bank to bank, and consequently, present more risk for banks, especially when the economy becomes turbulent.

By enabling deposits from patrons to effectively stay in these communities, which often include underserved urban or rural communities, this much-needed capital will be lent out to local residents and businesses. Currently, many large depositors are leaving these underserved areas and community banks for larger banks in financial districts of larger cities, which stifles job growth and wealth creation in the places that need this most.

The thought by some consumers is that their money is more safe in a larger bank, but this bill reassures consumers that their money is just as safe in a small bank as it is in a big bank, thus reducing the moral hazard that arises from too-big-to-fail.

However, it isn't just elected officials at the Federal level and banks who recognize the need for improved regulatory framework for reciprocal deposits. Many States have amended their laws or regulations as well. I will spare you the litany of States but, by my count, at least 30 States have done so so far. As you can see, there is a great deal of support for this bill and I am looking forward to hearing from our panel.

Mr. Paul, if you would, with the exception of the broker, the term "broker," isn't it accurate that traditional brokered deposits, which actually became a concern in the early eighties with the savings and loan crisis, and reciprocal deposits, which, frankly, are relatively recent, maybe the last decade they have come into fore, are not the same. Isn't that correct?

Mr. PAUL. Completely, completely different. It goes back to the word, where did the relationship start? Where did the deposit start?

Mr. EMMER. If I can, in fact, traditional—I am going to outline this for you and, hopefully, we are in agreement. In fact, traditional brokered deposits can be problematic because they can be—I think Representative Pittenger referred to it as hot money. This is because traditional brokered deposits are not local and may easily run from bank to bank, and this is because traditional brokered deposits are often obtained by offering rates above the rates in the bank's local market, correct?

Mr. PAUL. Yes.

Mr. EMMER. Reciprocal deposits, on the other hand, are really traditional core deposits that come from local depositors and are obtained at the rate offered in the local market, correct?

Mr. PAUL. Correct.

Mr. EMMER. Now, H.R. 4116 is based on this critical distinction between core and traditional brokered deposits. Would you agree that reciprocal deposits are generally more stable than traditional?

Mr. PAUL. Yes, absolutely.

Mr. EMMER. And why?

Mr. PAUL. Well, again, it is back to the relationship. You clearly have to drill back down to where the money started. And if the money started based on a relationship, that relationship will continue within that bank for an extended period of time. There is no reason for it to leave.

Mr. EMMER. And are these particularly valuable to minority-owned and community development banks, and in whatever time could you explain why if you agree they are?

Mr. PAUL. Sure. A lot of it goes back to CRA, being able to do CRA-type loans, being able to do SBA-type loans. So the answer is that, yes. In Montgomery County, as an example, 50 percent of the population in Montgomery County wasn't born in Montgomery County. So the ability that we have to be able to do this type of lending as a result of Montgomery County donating—donating, gifting, not gifting either—being able to deposit the money into our community bank allows us to be able to make those loans back into the community.

Mr. EMMER. Thank you. I see my time has expired.

Chairman NEUGEBAUER. I thank the gentleman.

The gentleman from Kentucky, Mr. Barr, is recognized for 5 minutes.

Mr. BARR. Thank you, Mr. Chairman. Thanks for holding this hearing.

And I want to commend my colleague, Congressman Ellison, for looking at the issue of credit invisibility and looking at the possibility of helping improve credit accessing and inclusion, particularly for low-income Americans. And, Dr. Turner, I appreciate your testimony.

I do, though, have a few questions about the legislation that I have cosponsored, H.R. 4172. And the first one to Dr. Turner, the first question to Dr. Turner would be how you would expect credit reporting agencies to weigh on-time payments, timely payments of utility bills and media bills, telecom bills, and landlords furnishing that kind of data. How would they weigh that with other credit information, and how significant would the enhancement be to their credit score?

Mr. TURNER. So I am not going to portend inside knowledge of the weights assigned by various players in that space. We have built scorecards, and we have knowledge of how this is done.

Generally, right now, because there is insufficient data in the main databases, the FCRA databases of the big three, they are general purpose credit, they are weighed in consistent fashion with that. However, as more data becomes available, the models will be optimized over time, primarily because it is a competitive marketplace, and they would want to show an advantage using this data. I'm sorry.

Mr. BARR. I was going to say, I generally agree that more information is better, alternative data inclusion is better. But just to refine my question, would you anticipate that the credit reporting agencies would assign equal weights to derogatory or negative information, late payments, as they would to the inclusion of positive information?

Mr. TURNER. So the negative data is already being weighted. Usually, it comes and it is a serious derogatory so it is quite substantial. The positive data, this could be, for the credit invisibles, for the thin-file population, this may be their only trade line, their only piece of information. So that could have very substantial weight, and that would enable them to more quickly build or rebuild and repair their credit than if that weren't reported.

Mr. BARR. How about any potential negative implications of inclusion of this information? What would be the risk, if any, to a consumer that this information be included? Under this legislation, do consumers have to opt in? Are they allowed to prevent information from being disclosed?

Mr. TURNER. Well, a couple of things. I want to offer comfort in that presently, there are at least 28 countries around the world that permit fully reported nonfinancial payment data into credit bureaus. This covers about one-third of humanity and about two-thirds of all adults who have credit reports around the world. In many cases, this has gone on for as much as 50 years, and none of the sky-is-falling negative consequences that opponents have put forward have been borne out.

Here in this country, the same thing. We don't see any evidence of that. Now, we don't consider it a harm if someone's score is negatively impacted because they have been late paying bills. That actually protects them from overextension and getting credit they can't afford, which would lead to far worse things.

Mr. BARR. One final question related to this, and that is, that there have been some objections raised to the legislation by I think Equifax. Are you familiar with those?

Mr. TURNER. Yes, I am.

Mr. BARR. The National Consumer Telecom & Utilities Exchange has written the committee, raising the prospect of unintended consequences of the legislation. And I think that the specific concern is that reporting data to multiple credit bureaus and managing disputes from several sources can be expensive and time-consuming. And the concern that is cited is the possibility that requiring reporting to multiple credit bureaus would actually discourage fulsome disclosure.

I take it you disagree with that analysis, and why?

Mr. TURNER. Well, there is precedent. Most data furnishers today, lenders, creditors, those who report report to all three. And with information communications technology, the marginal cost of reporting to one, two, three or a thousand is basically zero.

Mr. BARR. Anything else about the objections from the NCTUE?

Mr. TURNER. No. I mean, I think that that highlights the value, especially to the credit invisible population, of having this data in the origination process. That is a mousetrap. But there is not enough data right now. We would like more of that data, to your point that more information allows for better risk assessment. We would like that to be pervasive.

Mr. BARR. Thank you. I yield back.

Chairman NEUGEBAUER. I thank the gentleman.

The gentleman from South Carolina, Mr. Mulvaney, is recognized for 5 minutes.

Mr. MULVANEY. I thank the chairman. I appreciate the opportunity.

I don't have a lot of questions for the panel, although I was sort of disappointed that Professor Jordan was not here as I take every opportunity I get to point out when we have a fellow Georgetown alum here and not a Texas A&M person.

And I do apologize for being late. There were several of us who were participating in a classified briefing on the Iran payment, so my apologies. And for that reason I won't ask any questions, because they may have already been asked.

I do want to say a couple things for the record. Because it is rare, Mr. Chairman, that I actually get phone calls from back home about some of the more esoteric bills that we take up on this committee, but there are actually two of them on the list: One of them is Mr. Emmer's H.R. 4116, of which I am a cosponsor; and the other is H.R. 347. So if I can, for the record, I would like to say just a couple things.

First of all, regarding Mr. Royce's bill, I have both credit education and credit repair services in my district. And I understand what Mr. Royce is trying to do. I think he is trying to do what we all try and do, which is sort of weed out the bad actors, but still not punish the good actors. And that is to be commended. I do understand that he does that by looking at an entity-based system as opposed to an activities-based system; and I think he appreciates after several folks, myself included, have spoken to him and his staff that there are some weaknesses to an entity-based system.

An activities-based system might be the better way to weed out the bad actors. Just because you fall into this credit repair doesn't mean you are a bad player, by any stretch of the imagination. So I appreciate Mr. Royce's efforts generally, and I also appreciate his efforts and hope we can continue to talk about ways to make the bill do what we all want it to do.

On Mr. Emmer's bill, which is a really big deal where I come from, because even though I sit on the suburbs of Charlotte, North Carolina, which is a major banking center, most of the banks in my district are very, very small. We do not have a large footprint from the large money center banks in my district. My district is fairly rural. And if we do not allow these types of syndicated loans, the loans to be shared, they will be out of the business of handling the bigger accounts. They won't be able to handle money for the State. They won't be able to handle money for the Department of Education. Might not even be able to handle the money for the local school board, simply because the amounts involved exceed the insurance.

So I applaud what Mr. Emmer is doing and, like I said, for a rare occasion, some stuff that we are doing—the big stuff, you know, when we do financial choice, it obviously affects the financial services operations in my district. But it is nice to have a couple of these smaller bills that most folks don't pay attention to, they don't get the same attention, they are not as glamorous, they are not as sexy, but they are just as important.

So I appreciate you having the hearing on them. I appreciate Mr. Emmer's work, Mr. Royce's work, and look forward to working with everybody to see if we can pass this.

With that, I yield back the balance, unless somebody else wants some additional time. I yield back.

Chairman NEUGEBAUER. I thank the gentleman.

And I want to thank our witnesses. You know, the purpose of this hearing today was to open up a record on these particular pieces of legislation. I thought we had some good discussion and good debate, some good input, as these bills move forward.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

With that, this hearing is adjourned.

[Whereupon, at 11:51 a.m., the hearing was adjourned.]

A P P E N D I X

September 27, 2016

The Heritage Foundation
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CONGRESSIONAL TESTIMONY

FDIC Insurance and the Brokered Deposit Market: Not a Recipe for Market Discipline

Testimony before
Committee on Financial Services,
Financial Institutions and Consumer Credit Subcommittee
United States House of Representatives

September 27, 2016

Norbert J. Michel, PhD
Research Fellow in Financial Regulations
The Heritage Foundation

Chairman Neugebauer, Ranking Member Clay, and Members of the Committee, thank you for the opportunity to testify at today's hearing. My name is Norbert Michel and I am a Research Fellow in Financial Regulations at The Heritage Foundation. The views I express in this testimony are my own, and should not be construed as representing any official position of The Heritage Foundation. In my testimony I will argue that, at the very least, Congress should ensure brokered deposits cannot be used to provide more than the FDIC coverage limit to any individual, and that agencies should not be allowed to write rules that allow market participants to circumvent the coverage limit in any way. Ultimately, Congress should completely eliminate federal deposit insurance for brokered deposits.

Basics of Brokered Vs. Core Deposits

Banks acquire deposits to fund their operations from a variety of sources, and these sources can have key policy implications. Core deposits, though not statutorily defined, are defined in the Uniform Bank Performance Report (UBPR) because regulators have long been concerned with identifying a bank's most stable sources of funding.[1] The UBPR User Guide defines core deposits to include demand deposits, all Negotiable Order of Withdrawal (NOW) accounts, automatic transfer service (ATS) accounts, money market deposit accounts (MMDAs), other savings deposits, and time deposits under $250,000.[2] Core deposits are also defined so that they explicitly exclude brokered deposits. Thus, a bank's core deposits typically consist of those funds that local customers have at their bank.

Brokered deposits, on the other hand, are more similar to an investment-product: deposit brokers can pool individual investments to sell to banks that need funds. There are a variety of sources and structures for these types of arrangements,[3] but brokered deposits are statutorily defined in Section 29 of the Federal Deposit Insurance Act as any deposit "obtained, directly or indirectly, from or through the mediation or assistance of a deposit broker."[4] A deposit broker, in turn, is defined as:

> (A) Any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions, or the

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[1] The UBPR is "an analytical tool created for bank supervisory, examination, and management purposes." The UBPR contains performance data as well as balance-sheet composition data, both of which are regularly used to evaluate "the adequacy of earnings, liquidity, capital, asset and liability management, and growth management" in commercial banks. See Federal Financial Institutions Examination Council, Uniform Bank Performance Report, https://www.ffiec.gov/ubpr.htm (accessed September 25, 2016).

[2] See Financial Institutions Examination Council, "Uniform Bank Performance Report User's Guide: Balance Sheet $--Page 4," September 15, 2016, Pg. 24, https://cdr.ffiec.gov/Public/DownloadUBPRUserGuide.aspx (accessed September 25, 2016).

[3] See, for example, Federal Deposit Insurance Corporation, "Deposit Broker's Processing Guide," March 9, 2016, https://www.fdic.gov/deposit/deposits/brokers/4documentationreq.html (accessed September 25, 2016); Paul Clark, "Just Passing Through: A History And Critical Analysis Of Fdic Insurance Of Deposits Held By Brokers And Other Custodians," Review Of Banking & Financial Law, 2012-2013, Vol. 32, https://www.bu.edu/rbfl/files/2013/09/Just-Passing-Through.pdf (accessed September 25, 2016); and Paul Clark and David Freeman, "Bank Brokered Deposits: New FDIC Guidance on Identifying, Accepting and Reporting Deposits," Strafford, May 19, 2015, http://media.straffordpub.com/products/bank-brokered-deposits-new-fdic-guidance-on-identifying-accepting-and-reporting-deposits-2015-05-19/presentation.pdf (accessed September 25, 2016).

[4] 12 C.F.R. § 337.6(a)(2).

> business of placing deposits with insured depository institutions for the purpose of selling interests in those deposits to third parties; and (B) An agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan.[5]

Section 29 of the Federal Deposit Insurance Act also lists ten specific exceptions to the definition of deposit broker, such as another depository institution or a trustee of a pension or other employee benefit plan (with respect to funds placed with the depository institution or the funds of the plan, respectively).[6]

Section 29 of the Federal Deposit Insurance Act also places several restrictions on the use and acceptance of brokered deposits. Essentially, a well-capitalized[7] insured depository institution (IDI)[8] can accept and renew brokered deposits without special brokered-deposit restrictions.[9] However, adequately capitalized[10] banks can only accept new brokered deposits (or roll over existing brokered deposits) if they receive a waiver from the Federal Deposit Insurance Corporation (FDIC). Additionally, undercapitalized[11] banks may not accept or renew brokered deposits. Furthermore, adequately and undercapitalized banks face various interest rate restrictions on brokered deposits.[12]

Key Policy Questions

One main reason for the distinction between core and brokered deposits relates to the safety and soundness of banks. In particular, to whatever extent the risk characteristics of brokered deposits differ from those of core deposits, banking regulators should treat the two funding sources differently. A recent FDIC report cites several peer-reviewed studies that provide evidence that a higher reliance on brokered (rather than core) deposits is associated with a higher likelihood of bank default.[13] The report also provides original empirical evidence that shows "that the use of brokered deposits is associated with a higher probability of bank default."[14] Naturally, the higher risk of this funding source justifies more stringent regulation and/or closer supervision compared to core deposits.

The above-mentioned FDIC report also points out that the higher default risk is not simply a recent phenomenon. It notes "Core deposits have historically been categorized as stable, less costly deposits obtained from local customers that maintain a relationship with the institution, while brokered deposits are considered volatile, interest

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[5] 12 C.F.R. § 337.6(a)(5)(i).
[6] 12 C.F.R. § 337.6(a)(5)(ii).
[7] 12 U.S. Code § 1831o(b)(1)(A).
[8] An insured depository institution is defined as "any bank, savings association, or branch of a foreign bank insured under the provisions of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.)." 12 C.F.R. § 337.6(a)(8).
[9] 12 C.F.R. § 337.6(b) and 12 U.S. Code § 1831f.
[10] 12 U.S. Code § 1831o(b)(1)(B).
[11] 12 U.S. Code § 1831o(b)(1)(C).
[12] 12 C.F.R. § 337.6(b) and 12 U.S. Code § 1831f.
[13] FDIC, "Study On Core Deposits And Brokered Deposits," July 8, 2011, https://www.fdic.gov/regulations/reform/coredeposit-study.pdf (accessed September 25, 2016).
[14] Ibid.

rate sensitive deposits from customers in search of yield."[15] Not surprisingly, the FDIC considers relative levels of core and brokered deposits when estimating the liquidity portion of banks' CAMELS ratings.[16] The FDIC also adjusts its risk-based deposit insurance premiums to account for larger reliance on brokered deposits,[17] and the Basel III liquidity coverage ratio assigns a higher cash outflow rate based on larger amounts brokered deposits.[18] In general, regulators have always operated as if brokered deposits present a higher risk to bank safety and soundness because they are more likely to "run" from a bank than core deposits.

More broadly, policymakers should question whether federally insuring brokered deposits violates the spirit of FDIC deposit insurance. That is, aside from any unique risks that brokered deposits may possess relative to core deposits, it is clear that providing FDIC deposit insurance on such funds goes well beyond the original intent of FDIC insurance. Federal deposit insurance was established after the banking panics of the early 1930s in an attempt to prevent individual depositors from withdrawing their deposits in a panic (running), thereby crippling the banking system (even healthy banks) in the process.[19]

From the beginning, Congress accounted for the possibility that an individual may have a claim on an FDIC insured deposit through a custodial arrangement, whereby a third party had opened an account on behalf of such an individual.[20] It flies in the face of all available evidence, however, that Congress allowed for such a possibility so that individual investors could obtain deposit insurance in excess of the coverage limit. There is no doubt, however, that the brokered deposit market now provides precisely such opportunities.

Though it has proven difficult to obtain comprehensive data on this sector market, it appears that the bulk of the brokered deposit market (as of 2015) is split between the brokered certificate of deposit (CD) market ($350 billion) and broker-dealers' sweep accounts ($875 billion).[21] The brokered CD market includes reciprocal deposits,[22] a type

[15] Ibid, Pg. 32.
[16] Ibid, Pg. 63 and Pg. 67.
[17] FDIC, "Risk Categories & Risk-Based Assessment Rates Key Provisions Pertaining to Risk-Based Assessments," May 9, 2016, https://www.fdic.gov/deposit/insurance/assessments/risk.html (accessed September 25, 2016).
[18] See Department of the Treasury, Office of the Comptroller of the Currency, "Liquidity Coverage Ratio: Liquidity Risk Measurement Standards," Final Rule, 12 CFR Part 50, January 1, 2015, https://www.occ.gov/news-issuances/news-releases/2014/nr-ia-2014-120a.pdf (accessed September 25, 2016).
[19] Of course, providing taxpayer deposit insurance comes at a price, namely that it creates moral hazard and adverse selection problems that increase the incentives for risk taking in the banking industry. See Frederic Mishkin, "An Evaluation of the Treasury Plan for Banking Reform," Journal of Economic Perspectives, 1992, Vol. 6, No. 1, Pgs. 133–153, https://www.aeaweb.org/articles?id=10.1257/jep.6.1.133 (accessed September 25, 2016).
[20] Statutory language was included in the Banking Act of 1933 (the law that created the FDIC), and also in FDIC regulations issued in 1946. See Clark, "Just Passing Through," Pg. 101.
[21] Clark and Freeman, Pgs. 11 and 12. Broker-dealer sweep accounts refer to a practice whereby broker-dealers automatically transfer (sweep) cash in their brokerage accounts into a deposit account at a bank or money market mutual funds. The banks and funds, of course, pay the broker-dealers for access to these funds. See Securities and Exchange Commission, "Investor Bulletin: Bank Sweep Programs," June 5, 2014, https://www.sec.gov/oiea/investor-alerts-bulletins/ib_banksweep.html (accessed September 25, 2016). The

of brokered deposit arrangement where a "participating bank places funds at other participating banks through the network in order for its customer to receive full insurance coverage."[23] Promontory Interfinancial Network, for example, provides customers with a reciprocal deposit service known as Certificate of Deposit Account Registry Service (CDARS). Promontory advertises this service as follows:

> CDARS Reciprocal provides banks with one of several ways to use CDARS to obtain cost-effective funding. By keeping the full amount of funding on balance sheet, CDARS Reciprocal enables banks to easily replace more cumbersome and expensive funding options so your existing relationships are more profitable. And CDARS offers a cost-effective way to attract new, multi-million-dollar customers for those banks looking to grow more profitable relationships."[24]

Thus, the network facilitates a type of wholesale funding for banks where large investors – those investing sums that exceed the per-account FDIC insurance cap – are able to easily obtain full FDIC deposit insurance on incremental accounts that aggregate to more than the FDIC insurance cap.

In one sense, these types of networks are merely facilitating what an individual could do on his own by opening several accounts at several banks.[25] However, these networks are providing wholesale funding to banks through capital markets by providing access to federally insured deposit coverage, an innovation which is clearly beyond the original intent of FDIC deposit insurance. This expansive use of federally backed deposit insurance is the main reason that, in 1984, the FDIC proposed regulations that would have severely limited the ability of investors to obtain federal deposit insurance on brokered deposits.[26]

In 1991, several years after the U.S. District Court for the District of Columbia ruled that the FDIC had exceeded its authority in writing these regulations,[27] the U.S. Treasury Department recommended completely eliminating FDIC insurance for brokered

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author was unable to locate a comprehensive data source to include *replicable* statistics in this written testimony.

[22] 12 CFR 327.8 defines reciprocal deposits as "Deposits that an insured depository institution receives through a deposit placement network on a reciprocal basis, such that: (1) for any deposit received, the institution (as agent for depositors) places the same amount with other insured depository institutions through the network; and (2) each member of the network sets the interest rate to be paid on the entire amount of funds it places with other network members."

[23] FDIC, "Guidance On Identifying, Accepting, And Reporting Brokered Deposits Frequently Asked Questions," December 24, 2014, Pg. 4, https://www.fdic.gov/news/news/financial/2015/fil15002a.pdf (accessed September 25, 2016).

[24] See Promontory Interfinancial Network, CDARS® Reciprocal, http://promnetwork.com/home/services/certificate-of-deposit-account-registry-service/cdars-reciprocal/ (accessed September 25, 2016).

[25] FDIC deposit insurance covers accounts (up to $250,000) per depositor, per ownership category, per bank. 12 CFR 330.3(b) states that "Any deposit accounts maintained by a depositor at one insured depository institution are insured separately from, and without regard to, any deposit accounts that the same depositor maintains at any other separately chartered and insured depository institution, even if two or more separately chartered and insured depository institutions are affiliated through common ownership."

[26] The regulations were issued jointly by the FDIC and the Federal Home Loan Bank Board. Clark, Pg. 134.

[27] In 1985 the U.S. Court of Appeals for the District of Columbia affirmed the lower court's decision.

deposits.[28] Treasury justified its policy proposal for essentially the same reasons the FDIC originally sought to limit the use of the FDIC insurance. By aggregating deposits for *individuals* and subjecting those amounts to the FDIC insurance coverage limits, Treasury sought to limit the scope of FDIC insurance and its consequent increase in moral hazard and adverse selection.

Policy Recommendations

For decades, regulators have increasingly taken on a more active role in managing financial firms' risk despite the fact that this approach has repeatedly failed. Protecting the FDIC insurance fund is a main justification for the increasingly burdensome safety and soundness regulations imposed on U.S. banks, but there is no doubt that the taxpayer-backed deposit insurance provided by the FDIC insulates banks from market discipline.[29] Both theory and evidence suggest that the banking system will perform better when banks' capital suppliers face more market discipline, so policymakers should take all steps possible to reduce the scope of FDIC deposit insurance.

An obvious first step that would impose more market discipline on banks' capital suppliers is to reduce FDIC deposit insurance to (at least) the pre-Dodd–Frank limit of $100,000 per account. Even lowering the value to the pre-1980 limit of $40,000 per account would insure a level (based on 2014 data) nearly 10 times the average transaction account balance of approximately $4,000.[30] Naturally, such changes would be wholly ineffective if individuals can use brokered deposits to insure more than the FDIC coverage limit.

At the very least, Congress should ensure that brokered deposits cannot be used to insure deposits exceeding the coverage limit to any individual, and that agencies cannot write rules allowing market participants to circumvent the coverage limit in any way. Ultimately, Congress should eliminate FDIC deposit insurance for brokered deposits and move the U.S. banking system to one covered by private deposit insurance. In the interim, reducing the scope of FDIC insurance would help to bring private capital into such a market.

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[28] United States Treasury, "Modernizing the Financial System: Recommendations for Safer, More Competitive Banks," February, 1991, Washington, D.C.: United States Government Printing Office.

[29] See David Burton and Norbert Michel, "Financial Institutions: Necessary for Prosperity," Heritage Foundation Backgrounder No. 3108, April 14, 2016, Pgs. 11-13, file:///Users/norbertmichel/Downloads/BG3108.pdf (accessed September 25, 2016).

[30] Burton and Michel, Pg. 12.

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INDEPENDENT COMMUNITY
BANKERS *of* AMERICA

Testimony of

Ronald D. Paul
Chairman and CEO
Of
EagleBank
Bethesda, MD

On behalf of the
Independent Community Bankers of America

Before the

United States House of Representatives
Committee Financial Services
Subcommittee on Financial Institutions and Consumer Credit

Hearing on

"Examining Legislative Proposals to Address Consumer Access to Mainstream Banking Services"

September 27, 2016
Washington, D.C.

Opening

Chairman Neugebauer, Ranking Member Clay, and members of the Subcommittee, my name is Ronald D. Paul and I am Chairman and CEO of EagleBank, a $6.4 billion asset community bank headquartered in Bethesda, Maryland. I'm pleased to testify today on behalf of the Independent Community Bankers of America (ICBA) and the nearly 6,000 community banks we represent. Thank you for convening today's hearing on "Examining Legislative Proposals to Address Consumer Access to Mainstream Banking Services."

We are pleased to offer our support for several of the bills before the Subcommittee today that will provide security for bank depositors, help community banks remain competitive with larger banks, and provide them with resources to better serve their communities. You have an opportunity to enact legislation that will have a meaningful impact in our communities before the close of the 114th Congress, and I strongly encourage you to do so.

EagleBank has 430 employees and serves 12,000 customers through 21 branch offices in the Washington, D.C. metropolitan area. We specialize in commercial lending to small and medium sized businesses, though we also serve consumers. EagleBank is also active in real estate lending and is the leading community bank SBA lender in the Washington, D.C. region. EagleBank is deeply engrained in the markets we serve. We believe that to successfully serve a community, a bank must be part of the community. Our employees live, work, volunteer, raise their families, and school their children in the Washington area. Our management decision makers are accessible by the residents, businesses, institutions, and civic organizations that make up the community.

Consistent with this philosophy, we also believe that deposits raised in a community should be deployed in that community, not transferred to markets in another region of the country.

Bills before this Subcommittee today, H.R. 4116, H.R. 5660, and H.R. 6162, will help keep deposits in the community. These bills, and H.R. 4116 in particular, will be the focus of my remarks. The common theme of these bills is that the FDIC's classification of deposits must better reflect their true characteristics. Rational, fact-based deposit classification will help community banks fund more lending to keep pace with the strengthening economic recovery. ICBA supports these bills for the reasons discussed below.

H.R. 4116

Introduced by Representatives Gwen Moore and Thomas Emmer, H.R. 4116 would promote the use of reciprocal deposits as a stable source of funding to support community lending.

Reciprocal deposits allow a depositor to receive FDIC deposit insurance on deposits that exceed the $250,000 insurance limit without the inconvenience of depositing funds in different banks. A bank distributes the amount of a deposit that exceeds the $250,000 insurance limit through a network of banks and receives reciprocal deposits back from other banks in the network. The customer enjoys the convenience of continuing their relationship with one local bank, with only one account to keep track of, and receiving the benefit of full deposit insurance. To the customer, this is a seamless experience. The bank gets the benefit of obtaining a large deposit from a local customer, funds that can be put to work in its community. These funds might otherwise go to a large bank outside the community or to a money market fund.

EagleBank uses reciprocal deposits to serve local customers – local governments, foundations, businesses, law firms, and individuals. Many of these entities have charters, bylaws, or legal mandates that require deposits to be insured or be held at minimal risk of loss. Their accounts include checking accounts, money market accounts and certificates of deposit. Our customers take great interest in where they place their deposits and how they are utilized. They have affirmatively chosen to use a locally-based community bank precisely due to their recognition of our role in their local economy. Serving these customers and ensuring that their deposits are fully insured is critical to our business model. Reciprocal deposits are a significant source of funds that support our lending to local small businesses, as well as consumer and commercial mortgages. This lending activity fuels the growth of local businesses, creating jobs and stimulating growth in the regional economy. Without deposits, we cannot continue our lending activity which in part fuels the local economy.

I would particularly like to highlight that many local governments in the Washington area recognize this and keep reciprocal deposits in local banks. EagleBank participates in formal programs with several of them whereby we track loan activity and job creation associated with their deposits. Without the insurance available on reciprocal deposits these types of programs would not be feasible. Our use of reciprocal deposits is typical of many other community banks. Some 3,000 banks – nearly all of them community banks – participate in reciprocal deposit networks.

The problem is that the FDIC currently considers reciprocal deposits to be "brokered deposits," putting them in the same category with deposits solicited from third party, money center brokers or other firms outside of our market. In a brokered deposit, the depositor is not a customer of the bank, has no relationship with the bank, and probably does not reside in the same community. A brokered deposit merely seeks the highest interest rate.

Brokered deposits are disfavored and discouraged by the FDIC because they are not considered to be a stable source of funding. They are, potentially, "hot money" ready to flee the bank at the first sign of distress or to chase a higher interest rate. "Core deposits," by contrast, are "sticky," more likely to stay with the bank over the long term because the depositor is a local customer, has a long-standing relationship with the bank, and may also have a loan facility or use other bank services. We and many impartial economists and financial analysts believe reciprocal deposits are core deposits.

Reciprocal deposits have none of the characteristics of brokered deposits that warrant the limitations the FDIC has imposed. They are not hot money. A 2014 joint study by the FDIC, the OCC, and the Federal Reserve acknowledges as much, finding that: "Reciprocal brokered deposits generally have been observed to be more stable than typical brokered deposits because each institution within the deposit placement network has an established relationship with the retail customer." Further support for the stability and value of reciprocal deposits is found in a 2011 study by Alan Blinder, the Princeton academic and former Vice Chair of the Federal Reserve, and Arun Shastri who conclude: "Our analysis shows that while greater use of certain brokered deposits appears to increase the risk of failure, greater use of CDARS Reciprocal Deposits (the most widely used type of reciprocal deposits) probably decreases it." This authoritative and impartial analysis is fully consistent with our experience with reciprocal deposits at EagleBank. They are a stable and dependable source of funding and behave exactly like EagleBank's other core deposits.

H.R. 4116 would address the above-stated concerns by amending Section 29 of the Federal Deposit Insurance Act, which imposes limits on the use of brokered deposits, to provide a limited exception for reciprocal deposits. H.R. 4116 includes carefully crafted limitations, or safeguards, which include (i) a limit on the amount of reciprocal deposits a bank may hold under the exception – the lesser of $10 billion or 20 percent of its total liabilities; and (ii) a requirement that the bank either have a rating of outstanding or good and be well-capitalized, obtain a waiver from the FDIC, or limit its holdings of reciprocals to the amount it has previously held. H.R. 4116 also includes other provisions that give the FDIC full discretion to address safety and soundness concerns that arise from the use of reciprocal deposits.

The limitation on reciprocal deposit holdings noted above will ensure the bill is focused, as it should be, on reciprocal deposits used by community banks. This is appropriate in our view, and not only from the stand point of safety and soundness. One of the most important roles played by reciprocal deposits is helping community banks compete for deposits with larger banks. The largest banks have a definite advantage in soliciting deposits that exceed the insurance limit because of the perception – validated during the financial crisis – that they are too-big-to-fail and that they and their depositors will be propped up by the government if they become destabilized in order to avert a broad, systemic collapse. Unfortunately, size alone is used as a proxy for safety. This is also the reason why community banks pay approximately 40 percent more for deposits than the largest banks.

The too-big-to-fail perception has led to a large and increasing concentration of deposits among the largest banks. Today, the 37 banks that exceed $50 billion in assets control 66 percent of all domestic deposits. The concentration of deposits both contributes to and results from industry consolidation. There are approximately 2,000 fewer banks today than there were before the financial crisis. Consolidation and concentration increases systemic risk and reduces competition in pricing and consumer choice.

Reciprocal deposits help to neutralize the megabank advantage in attracting deposits by providing a way for community banks to provide insurance coverage for their larger deposits. By so doing, reciprocal deposits stave off deposit concentration and industry consolidation. They enhance the viability of community banks and thereby strengthen the marketplace for consumers and businesses.

For all of the above reasons, ICBA and I believe there is a compelling public interest for the swift enactment of H.R. 4116 before the close of the 114th Congress.

H.R. 5660 & H.R. 6162

ICBA also supports the "Retail Checking Account Protection Act of 2016" (H.R. 5660), sponsored by Representatives Roger Williams and Gwen Moore, for many of the same reasons that we support H.R. 4116. H.R. 5660 would exclude from the definition of brokered deposit deposits opened or held by retail customers of a bank. The stability of these deposits, as is true of reciprocal deposits, is due to the established relationship between the depositor and the bank.

The "Protect Prepaid Accounts Act of 2016" (H.R. 6162), sponsored by Representative Scott Tipton, would provide that prepaid funds deposited in an insured depository institution are not brokered deposits. Both H.R. 5660 and H.R. 6162 address limitations on deposits imposed by the FDIC that are inappropriate, counterproductive, and harmful to community banks and the communities they serve.

Closing

Thank you again for the opportunity to testify before this Subcommittee and for raising the profile of the important bills noted above. We are very pleased with their bipartisan support and hope that they can be swiftly enacted. It's past time to remove the unwarranted stigma attached to reciprocal deposits, any deposits held by retail customers, and prepaid accounts.

Testimony of Dr. Michael A. Turner
President and CEO, Policy and Economic Research Council
Before the House Subcommittee on
Financial Institutions and Consumer Credit
Financial Services Committee
"Examining Legislative Proposals to Address Consumer Access and Mainstream Banking Issues."
27 September 2016

Good morning Chairman Neugebauer, Ranking Member Clay, and members of the Committee. My name is Michael Turner, and I am the founder and CEO of the Policy and Economic Research Council or "PERC," a non-profit research and development organization committed to promoting financial inclusion through the use of information solutions. In our 14 years, we have helped move credit information sharing to cover a majority of the world's population for the first time (50.3% of adults in 2015), have changed national policy in countries around the world, and have successfully promoted the use of alternative data to positively impact more than 1 billion persons.

I am here to testify in support of three bills: H.R.347, the Facilitating Access to Credit Act; H.R.4172, the Credit Access and Inclusion Act; and H.R.4211, the Credit Score Competition Act. Each of these bills would improve our national credit information networks and yield substantial benefits by facilitating financial inclusion for millions of Americans, especially lower income, younger and elderly Americans, immigrants, and members of minority communities. These bills play an important role in promoting financial inclusion. As I explain in my testimony, this is as easy as A,B,C—Access, Behavior, and Competition.

Access here refers to credit access. Access to credit is the tool that enables access to homeownership and small business ownership, which in turn provides access to wealth and asset building. Credit access is opportunity access.

Unfortunately, Credit Invisibility—having no credit report or having insufficient information to generate a score—keeps 53 million American Credit Invisibles from accessing affordable sources of mainstream credit.[1] This "Credit Invisibility" is sustained by the Credit Catch 22—that in order to qualify for mainstream credit you must already have credit.[2]

Trapped by the Credit Catch 22, these 53 million Credit Invisibles must turn to high cost lenders—pawn shops, payday lenders, and check cashing services to have their credit needs met. High cost credit access has negative consequences for borrowers. For example, the use of payday loans increases hardship measures by an estimated 25%--meaning that payday loan borrowers were 25% more likely to have difficulty in paying mortgage, rent and utilities bill and having medical and dental care postponed.[3] Further, lower income Americans pay an estimated $3.4 billion in excess fees annually to access payday loans—this excludes check cashing and pawn shops.[4]

As these statistics show, the status quo is harmful to Credit Invisibles. Fortunately, Congress can significantly mitigate and reduce Credit Invisibility by passing the Credit Access and Inclusion Act of 2015 (H.R. 4172). This bill would amend the FCRA to authorize furnishing to credit bureaus information relating to the payment performance of a consumer pursuant to a contract for a utility or telecommunications service. In doing so, Congress would enable tens of millions of Credit Invisibles to gain access to affordable credit.[5]

Currently, the vast majority of payments that Americans make to energy utility and media firms are not reported to the main consumer databases of the 3 national credit bureaus unless they are late payments.

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[1] Presentation by David Shellenberger of FICO. Expanding Access to Credit: Realizing the Promise of Alternative Data. 15 September, 2016. Washington, DC. National Press Club. For additional analyses on the nature and scope of Credit Invisibility in America, see CFPB, Data Point: Credit Invisibles (May 2015), *available at* http://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf Using data from 2010, the CFPB found 26 million adults with no credit file, and 19 million who were unscoreable. They also found that 30% of persons living in lower income neighborhoods were Credit Invisible.

[2] For empirical evidence supporting the credit market impacts of including fully reported non-financial payment data in consumer credit reports, see Turner et al., "Giving Underserved Consumers Better Access to the Credit System: The Promise of Non-traditional Data." PERC, 2005; Turner et al., "Give Credit Where Credit is Due: Increasing Access to Affordable Mainstream Credit Using Alternative Data." Washington, DC. Brookings Institution. 2006; Turner et al., "You Score You Win: The Consequences of Giving Credit Where Credit is Due." PERC, 2008; Turner et al., "New to Credit from Alternative Data." PERC, 2009; Turner et al., "Credit Reporting Customer Payment Data." PERC, 2009; and Turner et al., "A New Pathway to Financial Inclusion." PERC, 2012; Turner, et al., "The Credit Impacts on Low Income Americans From Reporting Moderately Late Utility Payments." PERC, 2012. Turner et al., "Research Consensus Confirms Benefits of Alternative Data." PERC, 2015; Turner et al., "Predicting Financial Account Delinquencies with Utility and Telecom Payment Data." PERC, 2015.

[3] Melzer, Brian T. "The Real Cost of Credit Access: Evidence from the Payday Lending Market." *The Quarterly Journal of Economics.* Oxford Journals of Oxford University Press. (2011) Volume 126, Issue 1. Pgs. 517-555.

[4] "Profiting from Poverty: How Payday Lenders Strip Wealth from the Working Poor for Record Profits." A report by National People's Action. January, 2012.

[5] Turner et al. Give Credit Where Credit is Due; You Score You Win; New To Credit Through Alternative Data.

This means that people are being punished for their payment transgressions, but not rewarded for their good behavior. For Credit Invisibles, reporting only negative data makes a credit report a tool for financial exclusion as it acts as a black list. FICO estimates that by including this alternative utility and telecom payment data—fully-reported non-financial payment data (timely and late payments)—more than one-third of the currently Credit Invisible will be scored above 620—that is prime credit.[6]

As **Figures 1 and 2** below depict, lower income Americans receive the greatest benefit from having fully reported payment data.[7] The reasons are as follows. First, as many as one-third of lower income persons are Credit Invisible. Including fully reported payment data means positive data now makes it into their credit files. They can build, repair, or rebuild their credit history much more quickly. With the addition of positive data, credit reporting payment data now becomes a tool for inclusion, not exclusion. Second, rather than accessing high cost credit, as Credit Invisibles must, nearly 4 in 10 formerly Credit Invisibles would now qualify for some variant of prime credit.[8] This means a better life through better credit. This group will now be 25% more likely to pay bills on time, and spend on essentials including health and dental care, and prescription drugs.[9] Third, entire system becomes both fairer and more forgiving. Mainstream credit wold become a viable alternative to high cost credit for a large portion of the Credit Invisible who would gain a valuable tool to help enable access.

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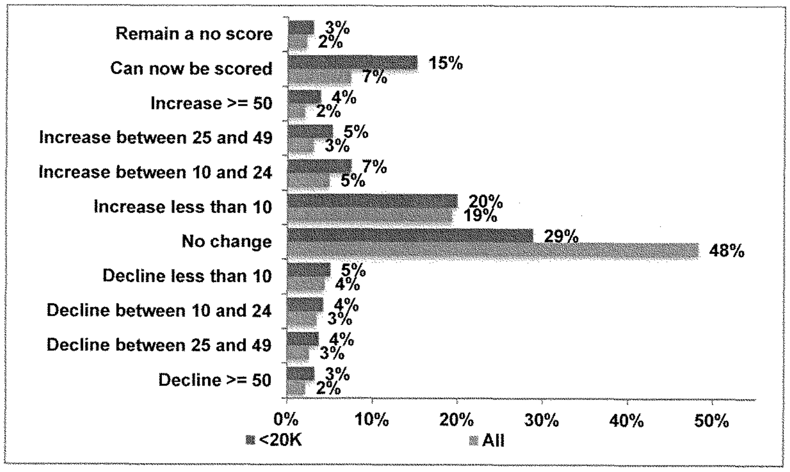
[6] Presentation by David Shellenberger of FICO. Expanding Access to Credit: Realizing the Promise of Alternative Data. 15 September, 2016. Washington, DC. National Press Club.
[7] Turner et al. Give Credit Where Credit is Due; You Score You Win; New To Credit Through Alternative Data.
[8] Presentation by David Shellenberger of FICO. Expanding Access to Credit: Realizing the Promise of Alternative Data. 15 September, 2016. Washington, DC. National Press Club.
[9] Melzer, Brian T. "The Real Cost of Credit Access: Evidence from the Payday Lending Market." *The Quarterly Journal of Economics.* Oxford Journals of Oxford University Press. (2011) Volume 126, Issue 1. Pgs. 517-555.

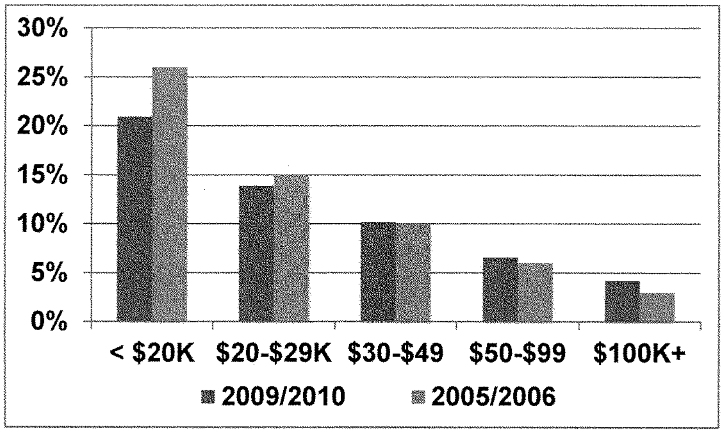
Figure 1: Credit Score Changes (Less than $20k Income vs. Entire Population)



Source: PERC "A New Pathway to Financial Inclusion" (June 2012)

Figure 2 below depicts the profound impact fully reported alternative data has on mainstream credit access. It shows that acceptance rates—persons who will be granted credit owing to the inclusion of fully reported utility and/or media payment data in their credit report--increase the most for the lowest income tier, the second most for the second lowest income tier, and so on. It also shows that this pattern has held both before and after the most recent financial crisis.

Figure 2: Change in Acceptance Rate by Household Income (3% target default rate)



Source: PERC "A New Pathway to Financial Inclusion" (June 2012)

As we see below in **Figure 3**, the largest net beneficiaries of including fully reported non-financial payment data in consumer credit reports are Credit Invisibles (no-file and thin-file). While the ratio is still an impressive 3 to 1 for tier rises (movement into a better risk tier) compared to tier falls (9% to 3%), when focusing only on the thin-file population, the ratio increases dramatically to 64 to 1 (64% of thin file persons move into a better risk tier as a direct consequence of having fully reported alternative data in their credit report, while just 1% experience a score tier decline). Even when the previously unscoreable are excluded, the ratio still improves to 4 to 1, with 25% of previously scoreable thin file applicants being accepted as a result of fully reported alternative data, while just 6% experience a score tier decline.

Figure 3: Material Impact—Movement Across Risk Tiers from Alternative Data

	Rise one or more Tiers	No Change	Fall one or more Tiers
Entire Sample			
Including Unscoreables	9%	88%	3%
Excluding Unscoreables	4%	93%	3%
Thin-file			
Including Unscoreables	64%	35%	1%
Excluding Unscoreables	25%	69%	6%

Source: PERC "A New Pathway to Financial Inclusion" (June 2012)

There is a diverse and growing coalition of organizations that support the reporting of alternative data, in the manner that H.R.4172 would do with utilities data. First, there is a research consensus achieved over the last decade through studies from groups like PERC, the Brookings Institution, the Federal Reserve Bank of Boston, FICO, and the Center for Financial Services Inclusion.[10] Second, the World Bank's Guideline for Credit Reporting includes a provision endorsing the practice.[11] Third, there are at least 27 countries that allow credit reports to include fully reported utility data. These countries—developed and developing alike, including Germany, Britain, China, Mexico, and Colombia—have benefitted from this practice for years.[12] In this instance, the US is the laggard, not the leader, as some countries have permitted alternative data in credit reporting for the past half-century. Also, in the U.S., the measure is supported by NGOs, advocacy groups, think tanks, and private sector firms including credit bureaus and lenders. HUD and PERC are currently

[10] For a discussion of recent analysis of the credit market impacts from including fully reported non-financial payment data in the origination process, see Turner et al., "Research Consensus Confirms Benefits of Alternative Data." PERC, March 2015.
[11] *General Principles for Credit Reporting.* World Bank. September 2011. See especially Para 106. Available at http://documents.worldbank.org/curated/en/662161468147557554/pdf/701930ESW0P1180ting0pub010028011web.pdf
[12] According to the World Bank's most recent "Doing Business" database: Argentina, Armenia, Australia, Canada, China, Dominican Republic, Ecuador, Egypt, Georgia, Germany, Honduras, Korea (South), Lithuania, Mexico, New Zealand, Nicaragua, Panama, Peru, Philippines, Poland, Rwanda, Saudi Arabia, Taiwan, United Kingdom, United States of America, West Bank/Gaza, Zambia. All in that's just over 2.5 billion people. This list includes advanced, middle-income, and developing economies, as well as large and small nations. The site link is http://www.doingbusiness.org/data/exploretopics/getting-credit#close

undertaking a joint-study on rental payment data, with participation from Experian, FICO, Lexis-Nexis, TransUnion and six public housing authorities.[13]

I also note that just last week, the MacArthur Foundation awarded my friend José Quiñonez, the founder of Mission Asset Fund, their most recent "genius" for his contributions to helping people (primarily lower income immigrants) build a credit history.[14] Our organizations are partnering on the Credit Deserts Project—the development of an interactive map showing concentrations of Credit Invisibles, average credit score, the number of high cost and mainstream lenders, and how that landscape will be changed by including more and more alternative data. This project is sponsored by the Silicon Valley Community Foundation. In recent years, José and I hosted a Congressional staff briefing so that we could tell you how he's been able to grant credit to Credit Invisible immigrants—the answer is by using alternative data. It seems that this simple idea—our A for Access and Alternative Data—is not only simple, but now must be considered "genius."

Back to our ABC's. B is for behavior. Credit reports and scores are tools designed to affect an individual's credit behavior. A low score is designed to deter late payments and encourage timeliness. A high score is designed to reward good payment behavior. Accordingly, credit scores and reports not only help lenders gauge borrower credit risk and capacity, but also enable borrowers to use their credit and bill payment reputation as collateral. This means low-income/low-asset households that may otherwise have difficulty obtaining credit (if they have no collateral to offer) are able to use their repayment history to demonstrate their risk and use their repayment reputation as collateral.

Federal policy has promoted the use and disclosure of credit scores to help consumers understand their scores and to help consumers secure credit on the best possible terms. Today, pursuant to the Dodd-Frank Act, an estimated 120 million credit-score disclosures are distributed each year to consumers when they

[13] Public Housing Authorities participating in the HUD/PERC joint study include: Cook County, Seattle, Houston, Louisville, Columbus, King County.
[14] Doerer, Kristen "This Innovative Idea Can Unshackle Poor People from Payday Loans and Bad Credit Scores." PBS NewsHour, Making Sense. September 22, 2016.

apply for a mortgage, are denied credit or are offered less favorable terms. In addition, through their Score Open Access program, FICO have over 150M consumer accounts with ongoing free access to their FICO Score and credit education materials such as plain language reason codes to help guide a consumer on what actions that they can take in order to improve their score.[15] There are over 60 FIs offering this free service to their clients.[16] As the CFPB itself has noted in its 2015 report on Consumer Voices on Credit Reports and Scores, "[t]he growing number of financial services companies that provide their customers with regular access to their credit scores on monthly credit card statements or online provides an opportunity to engage consumers around their credit reports. Once consumers see their credit scores, they may be motivated to learn more about their credit histories, check their full credit reports, and take action to improve their credit reports and scores."[17]

All of these disclosures are good for general consumer education and increased transparency, but they don't actually answer the most salient question posed by consumers: "How can I improve my credit score?" In order for credit reports and scores to affect individual behavior, and incentivize good credit health, people must understand how they work.

In most cases, credit score disclosers point consumers to the credit bureaus for help on answering this question. Unfortunately, the Ninth Circuit's misinterpretation of a little known law called the Credit Repair

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[15] For a discussion of FICO's Open Access program, see: http://www.fico.com/en/newsroom/fico-scores-now-provided-free-with-150-million-consumer-financial-accounts-through-fico-score-open-access-program-04-21-2016. In addition, see the Federal Reserve Bank of Philadelphia published study based upon the Barclay Card implementation. https://www.philadelphiafed.org/-/.../d%202015_can-credit-cards-with-access.pdf
[16] Op. Cit. www.fico.com
[17] CFPB. Consumer Voices on Credit Reports and Scores. February 2015. Available at: http://files.consumerfinance.gov/f/201502_cfpb_report_consumer-voices-on-credit-reports-and-scores.pdf

Organizations Act (CROA)[18] is preventing consumers from accessing the timely, personalized steps they need to improve their score from reputable credit education providers.[19]

The Credit Repair Organizations Act[20] (CROA) was enacted in 1996 in response to a specific predatory practice engaged in by "credit repair clinics" or "credit repair organizations" (CROs) that represent to consumers that they can remove accurate but derogatory information from consumers' credit reports in exchange for a substantial fee paid before any of the promised services were performed. CROA is a strict liability statute that designed to protect consumers in three ways: (1) to give consumers who are interested in obtaining credit repair services with sufficient information necessary to make an informed decision; (2) to protect consumers against paying advanced fees for services that they never receive; and (3) to give consumers the right to cancel the services within72 hours of execution. Consumers, legislators, the Federal Trade Commission and the credit bureau industry all agreed that CROs' practices harmed consumers, the credit reporting industry, and creditors. CROA was designed so that any violation of one of its technical requirements could result in significant liability before the FTC, State Attorneys General, and private plaintiffs. CROA provides for private rights of action and class actions, and allows plaintiffs to seek the full disgorgement of any product fees charged to a class of consumers, and CROA's plaintiff recovery or class action damages are not capped.

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[18] Credit Repair Organizations Act. A copy of the act can be found at https://www.ftc.gov/enforcement/statutes/credit-repair-organizations-act

[19] When the first class actions were filed under CROA against consumer reporting agencies ten years ago, courts initially interpreted CROA as applying to companies that ***retroactively*** fixed (or represented that they could fix) a consumer's past or historical credit record. *Hillis v. Equifax Consumer Servs. Inc.*, 237 F.R.D. 491, 514 (N.D. Ga. 2006) ("Congress did not intend for the definition of a credit repair organization to sweep in services that offer only prospective credit advice to consumers or provide information to consumers so that *they* can take steps to improve their credit in the future.") However, more recently some courts have interpreted CROA as encompassing forward-focused credit counseling and, arguably, credit monitoring services. *Stout v. Freescore, LLC*, 743 F.3d 680, 686 (9th Cir. 2014) (holding that CROA covers the offering of "services aimed at improving future creditworthy behavior with prospective promises of improved credit"); *Zimmerman v. Puccio*, 613 F.3d 60, 72 (1st Cir. 2011) (finding that credit counseling aimed at improving future creditworthy behavior is credit repair).

[20] Pub. L. No. 104-208, § 2451; 15 U.S.C. §§ 1679 *et seq.*

In 2014 the Ninth Circuit issued a decision in the case of *Stout v. Freescore* that effectively expands CROA to cover not only credit repair but also credit education, credit counseling and even credit monitoring. In fact, under current judicial precedents, any product that can *arguably* help a consumer improve their credit report or credit score may be subject to CROA. These are very different products from credit repair. If the Ninth Circuit decision holds, it would upend this understanding of how CROA has traditionally been interpreted and would have serious impacts for consumers. Moreover, the CFPB's May 5, 2016, proposed rule eliminating the use of class action waivers in direct to consumer contracts for financial services products further threatens the availability of existing products in the marketplace because legitimate companies will no longer be able to manage the legal risks associated with aggressive class action lawsuits and the consistent misapplication of CROA by the courts.

In order to draw important conclusions about what types of tools can help consumers normalize good credit behavior, PERC and the University of Arizona Take Charge America Center examined data on low-cost personalized credit report and score education products and how they are affected by CROA. PERC and University of Arizona researchers tested two hypotheses: (1) did completion of a personalized education session have any impact as measured by score distribution and score tier migration; and (2) did barriers under CROA deter the uptake of these services by interested people.[21] The key findings were:

(A) Consumers benefit from use of personalized credit education products: We see that those who successfully completed a personalized credit education session with one of the three nationwide consumer reporting agencies experience positive material impacts (moving to a better risk tier) at nearly twice the rate of those receiving generic educational materials only (22% vs. 13% for the VantageScore credit score, and 26% vs. 13% for the PLUS credit score).[22]

(B) A high percentage of consumers report being turned off by CROA requirements including: a

[21] Turner, Michael A., Michael Staten and Patrick Walker. "Is CROA Choking Credit Report Literacy?" Durham, NC. PERC. April, 2015.
[22] Turner, PERC, 2015. Op. Cit. Pgs. 6-7.

three-day-waiting period before services can be provided, the provision of an onerous and largely inapplicable disclosure, and the requirement that a written contract must be signed before the session can begin. Given the large unmet need for a national, user friendly credit report and credit score educational service, the low uptake given different price points including free access—with the free access that just 31% hit the registration page after exposure to disclaimers on the landing page, and just 6% complete the process after the 3-business day mandatory wait—suggests that the CROA requirements may be deterring people who need such services from taking advantage of this offering. And, even when the service was offered for free, a full 46% indicated that they would have used the credit education product if they could do so now and avoid the 3-business day or more wait.[23]

PERC has designed an independent follow on study.[24] In this study, rather than using market research data, we collaborated with 4 community development organizations (CDOs) —Operation Hope, the National Urban League, United Way Atlanta, and the Trident United Way (Charleston SC)—to recruit persons interested in receiving personalized credit report and score education. We also looked at small business owners, and provide anecdotal evidence from a sample of college students. The initial key findings were as follows:

(1) Personalized credit education materially benefits consumers: For the Credit Educator group, nearly three times as many consumers, 23%, improved and moved up score bands (such as from subprime to near prime or prime) compared to the number that moved down a score band, 8%, three months following the credit education session. For the control group, there is no systematic change in the distribution, with the same share moving up as moved down, 7%.

(2) Nearly all participants report improved understanding of credit reports and credit scores after completing personalized credit education session: 93% of those completing a personalized credit education

[23] Turner, PERC, 2015. Op. Cit. Pgs. 6-7.
[24] Michael Turner and Patrick Walker. CRA Credit Education Services: An Examination of Consumer Impacts. April 2016. Available at: http://www.perc.net/wp-content/uploads/2016/04/Prelim_CE_Report.pdf.

session with a credit bureau credit advisor reported that they have a better understanding of the actions they can take to improve their credit score.[25]

Let me make this more concrete for you by way of an example.[26] Janean lives in Ohio. She is married and has six children and two grandchildren. Like many working parents, she struggles with daily work-life balance, and is constantly juggling her schedule to take care of her family's needs. Janean also ran into credit problems as a college student, and ignored her credit issues for 20 years. Her call to action came mid-2015, when the car she had driven for 20 years died. She needed a car, and knew she needed to confront her credit issues in order to get one. She tried a free online service, but said "...it was like going to a library and checking out a book. There is lots of helpful information, but no real direction on how to apply it to my situation." Janean said she doesn't believe everything she reads. "I have to investigate and have tools relevant to my life and what's around. I needed someone who knows what's important and could assist me."

Janean had anxieties associated with this process. To help get on the path toward "a better life through better credit," Janean sought out guidance from Operation Hope. Operation Hope enrolled her in Experian's Credit Educator. Because of her fluid schedule—getting her kids to school, going to work, picking up her children, driving them to different after school activities, cooking dinner, making sure homework was done, getting her children to bed—she found it challenging to speak with a credit educator. She missed her first appointment and took over two weeks before calling to reschedule. She admitted that she was discouraged and anxious about the topic. Despite the barrier, she was determined, and today she is glad she didn't give up.

Janean said her experience with personalized credit education was a "second breath," and thanks to that experience she learned how to improve her credit score. Happily, her score increased by more than 150 points. Not was Janean able to secure auto financing for a new car, she also qualified for a home mortgage loan and is now a homeowner. Further, she was able to advance her career by qualifying for a higher paying job as a security specialist owing to her improved credit score. The virtuous cycle enabled by personalized

[25] Turner, PERC, 2016. Op Cit. Pg. 4.
[26] Included with permission from subject. Telephone interview conducted on 23 September 2016.

credit education—speaking with someone who knew what was important gave Janean the confidence to implement steps she knew would help—and supported by Operation Hope secured outcomes Janean believes she would not have achieved on her own.

The research demonstrates that personalized credit education works, and it works better than generic materials that are available on "free" web sites.[27] We also know that the impacts are likely to be seen well beyond several months, but will last in some cases a lifetime. This is not just about data—how many people's scores were improved—it's about equipping people with the tools they need to improve their lives.

We don't live in a world where people want to schedule things 3 or 5 days in advance. Requiring them to wait for personalized credit education from a reputable source is antithetical both culturally and practically. It deters uptake and use. These requirements may seem reasonable to protect consumers from the unfair and deceptive practices of unscrupulous credit clinics that promise to remove negative, but accurate data from credit files — often for an exorbitant fee. But it is not when it is applied to useful services by organizations that have no incentive to commit the sort of fraudulent activities for which CROA was designed to combat. In these cases, it only deters the use of beneficial services.

We know there is a clear and unmet need for credit report and score education. We know that personalized credit education improves the credit standing of many people who complete the course. We know that a majority of people who complete the course are satisfied and report that they learned things that will change their behavior for the long term. We also know that the single greatest barrier is the mandatory wait.

The Coalition to Improve Credit Education (CICE) was born to support legislative reform that would enable everyone to get the tools they need to better understand and improve their credit report and scores. In under a year, this coalition—under the leadership of William "Bill" Cheeks—has enlisted the support of many prominent national organizations and over 10,000 individuals nationwide. (For a current list of organizations

[27] Turner, PERC, 2015, Op. Cit. See also Turner, PERC, 2016, Op. Cit.

supporting CICE, see Appendix 3). This coalition supports H.R. 347 (Rep. Royce), the "Facilitating Access to Credit Act of 2015, a bill designed to permit people to dialogue with nationwide credit bureaus about their credit reports and credit scores, and how to improve them.

The Ninth Circuit Court's expansion of the definition of credit repair organization to include all sorts of things one wouldn't normally think of as credit repair—like credit education and credit monitoring—combined with the CFPB's position on mandatory arbitration will have the combined effect of taking these valuable solutions off of the market or reducing their use lest suppliers risk total financial disgorgement for these lines of business as a result of a technical violation of CROA despite no evidence of consumer harm. [28]

Furthermore it is important to ask from what harm are consumers being protected by expanding the definition of CROA so broadly in the first place? CROA simply was never intended to apply to national credit bureaus.[29] As FCRA-regulated credit bureaus they are subject to a unique set of obligations that provide powerful disincentives from gaming the system by knowingly deleting accurate but derogatory data. And they are subject to intense regulatory scrutiny by the CFPB and FTC (as well as state regulators) so any potential FCRA, UDAAP or other violations are unlikely to go unnoticed very long. Indeed, CROA already exempts depository institutions that are supervised and examined by their prudential regulators. H.R.347 would simply treat the national credit bureaus the same as these other supervised entities. It also worth noting that non-profits are exempted from CROA as well.

Additionally, credit bureaus are the most logical place for consumers to turn when seeking to understand their credit report and score, and how their behavior impacts both. Congress and regulators created an entire architecture to facilitate this dialogue beginning in 1970 with the Fair Credit Reporting Act

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[28] US Court of Appeal for the Ninth Circuit. The opinion can be found here: http://cdn.ca9.uscourts.gov/datastore/opinions/2014/02/21/10-56887.pdf.

[29] S. HRG. 110–1170 "Oversight of Telemarketing Practices and the Credit Repair Organizations Act (CROA)." Hearing before the Committee on Commerce, Science, and Transportation. US Senate, 110th Congress, 1st Session. July 31, 2007. Transcript pages 12-24. In particular, see the FTC's testimony beginning on page 12, as well as an interaction between Senator Pryor and the FTC's witness beginning on page 18.

(FCRA)[30] and then reinforced with the Fair and Accurate Credit Transactions Act (FACT Act) in 2003,[31] making free annual credit reports available to all consumers, followed by the risk-based pricing disclosures required by the Dodd Frank Act 2010,[32] and the "Scores on Statements" initiative begun by the CFPB in 2014.

However, the Ninth Circuit's 2014 decision has effectively driven a wedge between consumers and credit bureaus using CROA at precisely the time consumers were sent to the bureaus to seek out more information about their credit lives. This simply makes no sense. It is also important to note that over 20 years ago when CROA was initially envisioned and written to combat deceptive and fraudulent credit repair clinic practices: [33]

- There was barely an Internet, let alone apps and mobile solutions, and FinTech;
- Likes of Equifax, TransUnion, Experian (TRW before 1996), and FICO did not have direct-to-consumer services;
- Many services, simulators, and education tools possible today were not pre-1996;
- The importance of credit report/score education may have been less appreciated (it was only in 1995 that Fannie and Freddie began recommending the use of FICO score);
- FICO score was the first to be disclosed to consumers, and not until 2001;
- There was no CFPB (with Unfair, Deceptive, Abusive Acts or Practices "UDAAP" powers)
- There was no FACT Act and the FCRA has since been revised;
- CFPB has since advocated for greater consumer access to their credit reports and scores (free scores);
- Director of the CFPB has since noted, "As public awareness grows and spreads, people also will likely want to learn more about how to improve their credit scores and build their credit profiles in ways that will make them better managers of their financial affairs and more attractive candidates for credit."; and,
- The FTC has since recommended more meaningful, interactive information for consumers by industry (interactive disclosure mechanisms, immersive online dashboard).

While I understand concerns that Congress or the government not "pick winners" in ways that may

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30 The Fair Credit Reporting Act, 15 U.S.C. § 1681 ("FCRA"). 1970.
31 United States. (2003). Fair and Accurate Credit Transactions Act of 2003. Washington, D.C.: U.S. G.P.O. Available at: https://www.gpo.gov/fdsys/pkg/PLAW-108publ159/pdf/PLAW-108publ159.pdf.
32 United States. (2010). Dodd-Frank Wall Street Reform and Consumer Protection Act: Conference report (to accompany H.R. 4173). Washington: U.S. G.P.O. https://www.gpo.gov/fdsys/pkg/PLAW-111publ203/pdf/PLAW-111publ203.pdf
33 For a discussion of these points see Michael Turner, Michael Staten, Patrick Walker. Is CROA Choking Credit Report Literacy? PERC. April 2015. Available at: http://www.perc.net/publications/is-croa-choking-credit-report-literacy/.

distort markets—a point that is relevant in the discussion about credit score competition as well—the fact that the three nationwide consumer credit bureaus are entirely unique in both function and regulatory structure, and could be exempted on that basis alone is incontrovertible. Another basis is that these entities alone bear the burden of responding to inquiries directed to them by tens of millions of risk based-pricing notices required by the Dodd Frank Act. However, there are certainly other good actors out there, and we wouldn't want to support any policy that could foreclose competition and deny consumer benefits.

There is an array of options available to Congress in deciding how to craft an exemption beyond the three nationwide CRAs. This could be a product-based approach, for example, where offerings that are clearly not credit repair can be delineated and exempted from CROA. As with an automobile, there is a difference between learning how to drive (driver's education), having your car regularly serviced (tune up), washing the car and rotating the tires (maintenance), and having it towed to a collision shop after an accident (repair). There are nearly exact analogs in credit reporting including credit education, credit monitoring, and credit repair. . In fact, the courts have fashioned a clear distinction between these different services, focusing on the retrospective nature of credit repair—that it seeks to repair prior credit damage—as opposed to the prospective nature of credit education and monitoring that is designed to shape behavior on a going-forward basis.[34] That being said, any worries that exemptions or safe harbors could be difficult to design because it may be difficult to clearly and perfectly distinguish between credit repair, credit education, and consumer services involved with credit scores and reports underscore the very need for such exemptions or safe harbors.

While many light touch and "free" credit education models exist, more personalized and interactive credit education services that would be costly to carry out need direct revenues from users or others to be produced. But those services produced by a for-profit (non-bank) institution would today be most likely be

[34] The court in *Hillis* likened a credit repair organization to a person who offers to improve a golfer's score after nine holes by reviewing and making changes to the golfer's score card or by telling the golfer how he can make changes to his score card. By contrast, a person who offers to give a golfer swing tips to improve his score for the next nine holes is not offering a repair service, but rather education.

covered by CROA. In practical terms, CROA favors lighter-touch credit education products over personalized ones. The problem with this market outcome is that consumers with the least understanding of credit reports and credit score and who are the most in need of the education are likely most in need on heaver-touch, one-on-one education services, that require payment of at least a modest fee.

We understand that when Congress and the FTC earlier wrestled with the issue of a CROA exemption for the nationwide consumer reporting agencies—then in the context of credit monitoring—the FTC was sympathetic to the need for an exemption and stated that credit monitoring did no consumer harm.[35] They expressed concern with a categorical exemption for the nationwide CRAs seeing it as potentially anti-competitive, and were stymied by the product-based exemption fearing bad actors would morph into a new category to enjoy the exemption. Congress and regulators have a range of solutions they could consider, including focusing on the judicial distinction between retrospective repair and prospective education, and must not be satisfied with being stuck. The combined effect of the Ninth Circuit Court's expansion of CROA and the CFPB's position on mandatory arbitration means that several categories of services offered by the three nationwide CRAs and other good actors may cease to exist. Innovation will plummet, and those who will suffer the most are the significant category of persons who need personalized credit education to improve their life and life's chances—people like Janean.

Returning to our narrative device—the third topic I would like to discuss is "C," for competition. H.R.4211, the Credit Score Competition Act, would promote competition in the provision of credit scores by authorizing government sponsored enterprises, or GSEs, to use credit scores in purchasing residential mortgages only if the credit score model is validated and approved according to a publicly available description of the process the GSE uses to validate and approve credit scoring models.

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[35] S. HRG. 110–1170. Pgs. 12-18. The FTC witness explicitly states the agency was sympathetic to the need for exempting the three nationwide consumer reporting agencies from CROA, and that products such as credit monitoring posed no consumer harm. He further expressed FTC concern with potential anti-competitive effects from a class-based exemption, and admitted that the agency could not find a way to offer a product-based exemption without risking consumer harm owing to bad actors reconfiguring their business model to achieve a CROA exemption.

PERC has explored this topic in some detail, including a comprehensive survey of lenders, GSEs, credit bureaus, and other industry stakeholders completed several years ago. These are our key findings: First, we found a marketplace characterized by a high degree of path-dependency and lock-in. Lenders reported high transactions costs associated with swapping out old solutions for new and even better performing solutions. This was not just the case for challengers competing with a dominant incumbent, but even for the dominant incumbent trying to sell customers new versions of their own solution. Second, we found evidence that residential mortgage lenders placed tremendous weight on guidelines issued by the GSEs. We did not specifically explore the question as to whether the GSE guidelines create a de facto standard that distorts the market for credit risk analytics in residential mortgage lending. We would oppose any policy that amounts to picking winners owing to the harmful effects this could have on consumers and markets by foreclosing competition. We would encourage Congress to ensure that there is a level playing field in the provision of credit scores for the residential mortgage lending market by passing the Credit Score Competition Act.

In conclusion, the three bills upon which I focused in this testimony are all designed to improve our national credit information sharing network in ways that are beneficial to our entire society and economy. While some segments may benefit more than others from these proposed changes—most immediately and dramatically would be the 53 million Credit Invisibles comprised overwhelmingly of lower-income, younger, and elderly Americans, immigrants and members of minority communities—the bills are inspired by universal themes such as fairness, inclusion, growth and development, competition. Though the issues are seemingly complex, as I alluded to earlier, the solutions are as simple as "ABC"—in this case, Acts By Congress.

Thank you for the opportunity to testify.

Dr. Michael A. Turner

Appendix A: PERC/CFSI/CFED List of US Organizations Supporting Use of Fully Reported Non-Financial Payment Data in Credit Underwriting and Inclusion of Such Data in Consumer Credit Reports

180 Degrees, Minneapolis, Minnesota
Asian Economic Development Association, Minnesota
Association for Enterprise Opportunity
The Abilities Fund, Florida
Ashoka: Innovators for the Public, Washington DC
Asset Builders of America, Inc., Wisconsin
Asset Building Policy Project (The Michigan Asset Building Coalition), Michigan
BMO Harris Bank, Illinois
Bread for the World, Washington DC
Community and Shelter Assistance Corp (CASA) of Oregon, Oregon
Capital Area Asset Builders, Washington, DC
Center for Financial Services Innovation (CFSI), Illinois
Collaborative Support/Community Enterprises, New Jersey
Colorado Community Action Association, Colorado
Community Economic Development Association of Michigan (CEDAM), Michigan
Community Financial Resources, California
Connecticut Voices for Children, Connecticut
Corporation for Enterprise Development (CFED), Washington DC
Council on Crime and Justice, Minneapolis, Minnesota
Credit Builders Alliance, Washington, DC
CRIF Lending Solutions, Atlanta, Georgia
Doorways to Dreams (D2D) Fund, Massachusetts
Dun & Bradstreet Pty Ltd.
EARN, California
ECDC, Virginia
Experian, California
Financial Services Innovation Coalition Consortium, Washington, D.C.
The Family Conservancy, Kansas
Good Work Network, Louisiana
Heartland Alliance for Human Needs & Human Rights, Illinois
Hope Communities, Inc., Colorado
IDA and Asset Building Collaborative of NC, North Carolina
Insight Center for Community Economic Development, California
Jewish Community Action, Minnesota
Kansas Action for Children, Kansas
Minnesota Credit Union Association
Michigan IDA Partnership / OLHSA, Michigan
Micro Mite, Florida
The Midas Collaborative, Massachusetts

National Association of Realtors
National Black Caucus of State Legislators
National Bureau of Commercial Information, Oman
National Coalition for Asian Pacific American Community Development
National Consumer Reporting Association
Neighborhood Partnerships, Oregon
Asset Building Program of the New America Foundation, Washington DC
NewWell Fund, Virginia
Okanogan County Community Action Council, Washington
OnTrack Financial Education & Counseling, North Carolina
Opportunity Finance Network, Pennsylvania
PKU-ACOM Financial Information Research Center, China
Policy and Economic Research Council (PERC), North Carolina
PolicyLink
Prosper, California
RAISE Kentucky, Kentucky
RAISE Texas, Texas
Rural Dynamics Inc., Montana
Sunrise Banks
SVT Group, California
TransUnion LLC, Illinois
United Way of Forsyth County, North Carolina
U.S. Bancorp
Washington Asset Building Coalition
The Women's Center, Washington DC

Appendix B: National Association of Realtor's List of Organizations Supporting Use of Fully Reported Non-Financial Payment Data in Credit Underwriting and Inclusion of Such Data in Consumer Credit Reports

H.R. 4172, the "Credit Access and Inclusion Act of 2015" (Reps. Ellison (D-MN) and Fitzpatrick (R-PA)) More than 40 million "thin file" Americans have trouble accessing affordable credit. We are pleased that H.R. 4172 will help these individuals achieve the American Dream by amending the Federal Fair Credit Reporting Act to allow providers like gas, electric and telecommunication companies to report consumers' payment histories to credit reporting agencies. As a result, low- and moderate-income individuals would be able to access affordable and responsible financial products and services to build wealth.

H.R. 4211, the "Credit Score Competition Act of 2015" (Reps. Royce (R-CA) and Sewell (D-AL)) Currently, Fannie Mae and Freddie Mac require mortgage lenders to use an older scoring model in their automated underwriting systems, and/or in their pricing and product risk overlays (such as Loan Level Price Adjustment grids), that does not reflect more recent credit performance data. In addition, the scoring model currently in use doesn't take into account factors such as whether borrowers have paid their rent on time, something that some newer scoring models do. As a result, the GSEs are relying on models based on credit performance data from 1995 to 2000 that, by most estimates, unnecessarily excludes many qualified borrowers. Furthermore, more accurate credit scores may improve pricing for some borrowers.

This legislation would help many Americans, especially minorities and potential first-time homebuyers, achieve homeownership by instructing Fannie Mae and Freddie Mac to update their requirements so that lenders might be able to use both alternative models from new providers, as well as updated models from the existing provider, provided the models are empirically derived and both demonstrably and statistically sound.

The continued reliance on an older credit score model by Fannie Mae and Freddie Mac raises the potential that the model's predictability could be diminished over time, presenting unnecessary risks the to the GSEs and to the housing market. Using newer credit score models, and models from new providers, would provide for greater predictability and create needed competition in the market, thereby reducing credit risk for Fannie Mae and Freddie Mac.

H.R. 4211 provides a solid framework for updating and expanding credit scoring models in the mortgage market to ensure they reflect the most recent payment histories and widest array of data elements available. As the bill moves forward, it is important to ensure that any transition to newer models follows the establishment of operational standards to mitigate adverse selection and prevent model arbitrage (e.g., race to the bottom).

America's Homeowner Alliance
American Escrow Association
Asian Real Estate Association of America
Habitat for Humanity International
Leading Builders of America
Mortgage Bankers Association
National Association of Hispanic Real Estate Professionals
National Association of Home Builders
National Association of Real Estate Brokers
National Association of REALTORS®
National Urban League
Real Estate Valuation Advocacy Association
RESPRO
The Realty Alliance

Appendix C: List of Organizations Supporting Coalition to Improve Credit Education (CICE)

Center for Financial Services Innovation (CFSI) CFSI's mission is to improve the financial health of Americans, especially the underserved, by shaping a robust and innovative financial services marketplace with increased access to higher quality products and practices.
U.S. Black Chambers, Inc. (USBC) USBC provides committed, visionary leadership and advocacy in the realization of economic empowerment. Through the creation of resources and initiatives, we support African American Chambers of Commerce and business organizations in their work of developing and growing Black enterprises.
National Bankers Association The National Bankers Association, formed in 1927, is a vital trade organization for minority and women-owned financial institutions.
National Hispanic Caucus of State Legislators (NHCSL) The NHCSL is the preeminent organization serving and representing the interests of Hispanic state legislators from all states, commonwealths, and territories of the United States.
National Black Caucus of State Legislators (NBCSL) The primary mission of NBCSL is to develop, conduct and promote educational, research and training programs designed to enhance the effectiveness of its members, as they consider legislation and issues of public policy which impact, either directly or indirectly upon "the general welfare" of African American constituents within their respective jurisdictions.
Single Parent Alliance and Resource Center (SPARC) SPARC works to empower and equip single parents with the necessary tools, resources and support to enable them to create a healthy home environment and nurture their children into a productive and successful adulthood.
National Baptist Convention of America International, Inc. (NBCA) NBCA seeks to positively impact and influence the spiritual, educational, social, and economic conditions of all humankind.
HomeFree-USA HomeFree-USA is a leading HUD-approved homeownership development, foreclosure intervention and financial coaching organization.
Money Matters Financial Program – Rainbow PUSH
Economic Empowerment Initiative, Inc. Since 2001, the Economic Empowerment Initiative has provided financial literacy courses to college students, high school programs, community based groups, religious organizations, and companies in an effort to create smarter consumer and producers for stronger economies. Florida Prosperity Partnership
Society for Financial Education and Professional Development The primary mission of this non-profit organization is to enhance the level of financial and economic literacy of individuals and households in the United States and promote professional development at the initial stage of career development and mid-level management.
eCredable Helping consumers create a credit report and credit rating based on bills that aren't typically reported to the national credit bureaus.
Credit Builders Alliance The mission of the Credit Builders Alliance is to help organizations move people from poverty to prosperity through credit building.
Florida Prosperity Partnership The Florida Prosperity Partnership exists to promote financial stability and economic prosperity for all Floridians.
Policy and Economic Research Council (PERC) PERC's vision is to drive financial inclusion by using innovative information solutions. Using original research, PERC develops information solutions that serve unmet needs in the market.
Concerned Black Clergy of Meropolitan Atlanta, Inc. (CBC) CBC's mission is to provide leadership, advocacy and service to the homeless, helpless and hopeless in our community.

Naledge in Action (NIA) NIA is a Georgia nonprofit talent solution company that cultivates Top Talent leaders from the inside-out.
Urban Asset Builders, Inc. Urban Asset Builders was created to help improve the financial health of high potential individuals and aspiring entrepreneurs, and empower them to build economic stability for themselves and their families; so they may contribute to the economic stability of our communities.
Credit Abuse Resistance Education
Operation HOPE Operation HOPE is a membership organization focused on empowering underserved communities.
U.S. Hispanic Chamber of Commerce (USHCC) USHCC works to foster Hispanic economic development and to create sustainable prosperity for the benefit of American society.
Delaware Financial Literacy Institute (DFLI) The DFLI is a nonprofit organization whose mission is to help individuals, especially those of low to moderate income, become equipped with the tools to get their financial lives in order so that they can become self-sufficient and enjoy financial well-being over time.

American Bankers Association
Building Success. Together.

James Ballentine
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September 26, 2016

The Honorable Randy Neugebauer
Chairman
Subcommittee on Financial Institutions
and Consumer Credit
Washington, D.C. 20515

The Honorable William Lacy Clay
Ranking Member
Subcommittee on Financial Institutions
and Consumer Credit
Washington, D.C. 20515

Dear Chairman Neugebauer and Ranking Member Clay:

On behalf of the members of the American Bankers Association (ABA), I am writing to share our views on a number of important legislative proposals being discussed at the September 27, 2016 hearing to examine "Legislative Proposals to Address Consumer Access to Mainstream Banking Services." ABA would like to thank you for holding this hearing and to share our views on the proposals which address brokered and reciprocal deposits.

A broad classification of deposits as brokered has significant consequences for our members. The FDIC maintains an overly broad classification of what deposits are "brokered," going well beyond the intent of Section 29 of the Federal Deposit Insurance Act. Banks of all sizes are required to pay additional deposit insurance assessments for brokered deposits beyond a certain threshold, and may be subject to supervisory limitations regarding the amount of brokered deposits the institution can accept, regardless of its capital position. There are also a variety of capital and liquidity regulations, including the liquidity coverage ratio, the net stable funding ratio, and the G-SIB surcharge, that penalize deposits classified as "brokered."

It should not be taken as a given that all deposits the FDIC now designates as brokered are less stable than those originated organically. Modern banking and technology, including an increased diversity of commercial bank affiliations, and significant growth in online, mobile and digital banking, allows banks to gather stable deposits from outside of their branch networks. Although we believe that the FDIC has the necessary flexibility under existing law to tailor its regulation and supervision of banks with respect to brokered deposits, we strongly support efforts to provide statutory clarity in this area. We, therefore, appreciate the work of Representatives Roger Williams (R-TX), Gwen Moore (D-WI), and Scott Tipton (R-CO) in the introducing legislation to provide increased flexibility for brokered and reciprocal deposits.

In particular, we believe that the FDIC should not consider traditional deposit account products involving a direct, continuing relationship between a customer and an insured depository institution as brokered deposits, and we appreciate that H.R. 5660 clarifies this very important point. We likewise appreciate that H.R. 4116 updates the definition of deposit broker to allow a limited exemption for reciprocal deposits, and Rep. Tipton's proposed legislation would clarify that prepaid card deposits are not brokered. Taken together, these bills provide needed additional flexibility to allow banks to more effectively serve their customers and communities.

As the process moves forward, we look forward to working with the committee to improve these bills. The statutory "primary purpose" exemption should be clarified to make clear that deposits resulting from the customer servicing activities of dual, affiliate, and contract employees are not considered brokered. Moreover, where a bank's program meets the requirements of the statutory exception or existing FDIC precedent, prior approval of the FDIC should not be required for the deposit to not be considered "brokered." We believe the definition of "stable retail deposit" in H.R. 5660 should also be broadened so as not to require FDIC approval for products outside of traditional transactional accounts.

Again, we thank you for holding this important hearing and we look forward to working with the Committee and the bill's sponsors as these proposals move through the Committee.

Sincerely,

James C. Ballentine

cc: Members of the House Subcommittee on Financial Institutions and Consumer Credit

CUNA
Credit Union National Association

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September 26, 2016

The Honorable Randy Neugebauer
Chairman
Subcommittee on Financial Institutions and
Consumer Credit
Committee on Financial Services
House of Representatives
Washington, DC 20515

The Honorable William "Lacy" Clay
Ranking Member
Subcommittee on Financial Institutions and
Consumer Credit
Committee on Financial Services
House of Representatives
Washington, DC 20515

Dear Subcommittee Chairman Neugebauer and Ranking Member Clay:

On behalf of the Credit Union National Association (CUNA), I am writing to thank you for holding tomorrow's hearing entitled, "Examining Legislative Proposals to Address Consumers Access to Mainstream Banking Services." CUNA represents America's credit unions and their more than 100 million members.

Ensuring consumers credit scores accurately reflects their participation in credit and financial markets is critically important to ensuring consumers are able to access credit on safe and affordable terms. We applaud the Subcommittee for examining legislation that will advance this objective. Equally important to achieving expanded access to credit for consumers is ensuring that credit unions are able to meet their needs. Credit unions face many statutory barriers to member service and have suffered through a crisis of creeping complexity with respect to regulatory burden that is a leading driver of system consolidation. It is very important that the Subcommittee continues to consider legislation addressing consumers' access to mainstream banking services; as you do so, we hope you also will consider legislation that will make it easier for credit unions to help consumers access credit.

With respect to the legislation under consideration today, we intend to work with Representative Tipton on his yet-to-be-introduced legislation, the Protect Prepaid Accounts Act of 2016 to see whether it would make sense to address a similar issue presenting itself in the credit union space. While we believe the Federal Credit Union Act affords the National Credit Union Administration authority to insure prepaid and payroll card accounts, the agency has been unwilling to promulgate a rule covering these accounts. As a result, credit unions, many of which were formed by and serve specific employee groups, are in most cases unable to offer prepaid and payroll card services. Because NCUA is unwilling to use its existing authority, a statutory change appears to be necessary. We would like to work with the Subcommittee on advance legislation on this issue in the next Congress.

On behalf of America's credit unions and their more than 100 million members, thank you for holding today's hearing and considering our views.

Sincerely,

Jim Nussle
President & CEO

NCTUE NATIONAL CONSUMER TELECOM & UTILITIES EXCHANGE

EQUIFAX®

May 3, 2016

The Honorable Jeb Hensarling
2228 Rayburn House Office Building
United States House of Representatives
Washington, DC 20515

Dear Chairman Hensarling:

We are writing to you today on behalf of Equifax and the National Consumer Telecom and Utilities Exchange Inc. ("NCTUE" or "Exchange") in regards to the *Credit Access and Inclusion Act of 2015* (H.R. 4172) that was introduced by Representatives Michael Fitzpatrick (R-PA) and Keith Ellison (D-MN).

As you consider H.R. 4172, we want to make sure you are aware of existing resources offered by NCTUE that provide millions of consumers with an opportunity to expand their access to credit even if they lack traditional credit history or otherwise are in the process of rebuilding their credit profiles as a result of difficult economic times. Because current federal law does not restrict the reporting of utilities or telecommunications data, the proposed legislation may actually confuse or hinder the further collection and leveraging of alternative data – to the detriment of consumers and the marketplace.

While we do not object to the intentions of H.R. 4172 - helping consumers build their credit profile using alternative payment data - we believe there is already a solution in the marketplace to address most, if not all, of the needs of these consumers. That is NCTUE.

NCTUE is a nationwide, member-owned and operated, FCRA-compliant consumer reporting agency that houses both positive and negative alternative payment data reported by members (such as telecommunications, pay television, and utility payments). The information is available to NCTUE members and, on a limited basis, to other customers on a source-anonymous, aggregated basis to aid in credit decisioning and risk management. NCTUE allows consumers to establish and build a credit profile based on their payment history with NCTUE members. Membership in NCTUE is open to a wide-range of companies including the nation's leading pay television, utility, and telecom services providers, whose member companies currently report and share industry-specific payment data of more than 200 million consumers throughout the United States. The NCTUE database is housed and managed by Equifax, although the database does not include Equifax credit information and Equifax is not a member of NCTUE. In September 2015, NCTUE extended Equifax's contract to support and manage the database through September 2020.

NCTUE benefits underbanked and unbanked consumers through its payment data that may provide a basis for evaluating risks associated with individuals who were previously unscorable using traditional credit data alone. Over thirty-five million consumers are included in the NCTUE database who are not found in traditional credit files. If a consumer has little or no traditional credit history, but has responsibly paid his or her phone, pay TV, or utility bills, that payment history may have a positive effect when applying for new services or credit with other providers or lenders who use NCTUE data in their risk decisions.

Non-NCTUE credit grantors and insurance providers, on a limited basis, use scores that combine the NCTUE data with additional information, including traditional credit scores and reports, or utilize their own custom risk scores, such as the new alternative data risk score (ADRS) for the credit card industry, which was publicized last year and is currently being utilized by numerous financial institutions. The ADRS was developed for the credit card industry as a predictive risk score, designed to serve previously unscorable consumers in the credit card market. Utilizing information drawn from three existing consumer databases to develop one risk score, the ADRS includes information from NCTUE, on a source-anonymous, aggregated basis, from Equifax's traditional credit database, and a public records and property database maintained by LexisNexis Risk Solutions. The ADRS allows certain credit card issuers in the U.S. to use alternative data in their efforts to identify creditworthy individuals who may otherwise be unlikely to obtain traditional credit.

Reporting data to multiple credit bureaus and managing disputes from several sources can be expensive and time-consuming, and may possibly lead to the cessation of reporting by these providers, thus harming consumers. By providing information into an industry-specific exchange and participating in the governance of its use, NCTUE members are able to responsibly contribute their data into scoring solutions that assist vulnerable consumers. The decision as to where and how to report credit information should be left to the businesses that must be voluntarily responsible for its reporting, use, and dispute processing. A government solution may lead to adverse consequences by unintentionally discouraging lenders from sharing alternative data from NCTUE or elsewhere.

For questions or to request additional information, please contact Nick Stowell, Equifax Government Relations, at (404) 885-8300 or Alan Moore, NCTUE - Executive Director, at (972) 518-0019.

Sincerely,

Brian Newcomb
NCTUE – Board President

Michael Gardner
Senior Vice President – Equifax

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Make every decision count.

September 27, 2016

The Honorable Randy Neugebauer
Chairman
Financial Services Committee
Subcommittee on Financial Institutions and Consumer Credit
U.S. House of Representatives
Washington DC 20515

The Honorable William Lacy Clay
Ranking Member
Financial Services Committee
Subcommittee on Financial Institutions and Consumer Credit
U.S. House of Representatives
Washington DC 20515

RE: HR. 4211 - FHFA/GSE Evaluation of Competing Credit Scoring Models

Dear Chairman Neugebauer and Ranking Member Clay:

FICO appreciates the opportunity to offer its comments related to the Committee's hearing today which includes several credit reporting/credit score policy proposals. Specifically, FICO is sharing its insights on the ongoing evaluation of competing credit scoring models by the Federal Housing Finance Agency (FHFA) and Fannie Mae and Freddie Mac (GSEs). This topic is at the heart of H.R. 4211, introduced last year by Representatives Ed Royce and Terri Sewell. FICO is fully supportive of this competitive review which is currently taking place and is part of the FHFA's 2015 and 2016 Scorecards. The evaluation is not dissimilar from those being conducted by banks across the country as they examine, test and complete a business case review of FICO's newest version of the FICO® Score, FICO® Score 9, as well as other credit scoring alternatives. The GSE evaluation has generated significant interest and public discussion. However, we are concerned about claims that promote the scoring of 30-35 million additional consumers but fail to mention that this is achieved by adopting an analytically unsound approach of relaxing the model's minimum scoring criteria. Also, there are assertions that updated scoring models can assist certain demographic groups by leveraging non-traditional data, such as utility and rental payments, yet there is no discussion about the sparse availability of this data today in the credit bureaus' files. In light of this, our comments are intended to provide added context and perspective to this important matter.

Founded in 1956 and based in Silicon Valley, FICO is a pioneer in the use of predictive analytics and data science helping organizations around the world make better business decisions. FICO holds more than 165 US and foreign patents on innovative technologies that increase profitability, customer satisfaction and growth for businesses in financial services, telecommunications, health care, retail and many other industries. While FICO is best known for pioneering credit scoring systems in the 1950s which led to the development of FICO® Score and the democratization of access to credit, its analytics are being used by organizations in a number of ways. Using FICO solutions, businesses in more than 100 countries conduct activities ranging from helping people get credit to protecting 2.6 billion payment cards from fraud and to ensuring that millions of airplanes and rental cars are in the right place at the right time.

FICO is deeply involved in financial inclusion efforts and has brought forward a valuable suite of solutions that are designed to support consumer empowerment and access to credit. This suite includes FICO® Score Open Access– providing free FICO® Scores and credit education materials to consumers through participating lenders. The program is both popular and effective with more than 150 million consumer accounts eligible to receive their updated FICO® Score on a quarterly or monthly basis. The 60+ financial institutions participating in FICO® Score Open Access include credit unions, credit card issuers, student lenders, auto finance sources, mortgage companies as well as banks and nonbanks of all sizes. FICO has also developed a free credit score program, FICO® Score Open Access for Credit and Financial Counseling, where credit counselors and financial coaches can share with each client, free of charge, their FICO® Score and related information. Additionally, we recently released our alternative data credit score, FICO® Score XD, which was created to help lenders responsibly extend credit to millions of US consumers who otherwise cannot be scored appropriately, either due to insufficient or stale data in traditional credit bureau files. This approach creates an on ramp for more consumers to gain access to mainstream credit.

The review of updated credit scoring models conducted by the FHFA and the GSEs includes an assessment of the newest and most predictive FICO® Score version – FICO® Score 9. As there have been discussions around the benefits of using updated credit scoring models, current validation efforts as well as assertions made about increasing access to credit, we thought it would be useful to provide some additional insights into these topics.

THE NEWEST VERSION OF THE FICO SCORE: FICO® SCORE 9

Greater Predictiveness, Analytic Enhancements and New Treatment of Medical Debt

In 2015, FICO® Score 9 became available at all three credit bureaus. The new version of the FICO® Score is the most predictive FICO® Score to date which enables more consumers to qualify for credit on better terms. FICO® Score 9 introduces a more nuanced way to assess collection information that appears on the consumer's credit report, bypasses paid collection agency accounts and offers a sophisticated treatment differentiating medical from non-medical collection agency accounts. This will help ensure that medical collections have a lower impact on the score, commensurate with the credit risk they represent. FICO® Score 9 also considers rental data when it is available. However, it is important to note that presently less than 1% of consumer credit files contain rental information. As has been the case with prior FICO® Score versions, FICO® Score 9 also considers utility information (e.g., mobile, landline and cable as well as gas, water and electric) however, this information is also sparse as it is presently found in only 4–6 % of all credit files.

Ongoing Validation by Lenders and GSEs

FICO recognizes that for lenders the time necessary to complete validation (testing) and implementation of a new score version frequently can be lengthy. As a result, FICO® Score 9 was designed to help further facilitate this process. Specifically, FICO analytic scientists worked to ensure quicker implementation by designing the model to utilize the same reason codes and odds to score alignment. These efforts make it easier to upgrade to FICO's latest score version. Since the introduction of FICO® Score 9, lenders have moved more swiftly in their validation and assessment of FICO® Score 9 than previously observed with other FICO® Score versions. This is in large part due to the increased predictive power of the FICO® Score 9 which reflects current consumer credit behavior and its new enhancements. Currently, seven of the top 10 lenders are evaluating, are planning to evaluate, or have completed their evaluation of FICO® Score 9. A number of lenders have already gone live and are now using the new version of the score. As with every new version of the FICO® Score, FICO also encouraged the GSEs to validate and evaluate migrating to FICO® Score 9.

FICO'S APPROACH TO EXPANDING ACCESS TO CREDIT: RESPONSIBLE AND SAFE

FICO's Minimum Scoring Criteria: The Minimum Data Needed to Generate a FICO® Score

In developing the FICO® Score, FICO's team of analytic scientists have consistently found that in order to return an analytically sound and reliable score, an individual must have sufficient information in their credit bureau file. The minimum criteria for generating a FICO® Score requires that an individual have a single tradeline (i.e., this must be a credit account, not a public record (such as a bankruptcy or tax lien) or credit inquiry) that is at least six months old and has been updated by the credit issuer in the last six months. Among the 53 million individuals who are unscorable today, approximately 25 million have no information at all in their credit bureau file. The other 28 million lack sufficient information because their credit file data has either not been recently updated or they do not have enough credit history to generate an accurate and reliable credit score.

The significance of FICO's minimum scoring criteria cannot be understated. For example, approximately 40 percent of the 28 million who lack sufficient information in their credit files have tradelines that have not been updated, on average, in more than three years. In many cases, these individuals have lost access to credit due to some negative credit event in their past (e.g., bankruptcy, foreclosure, short sale or other serious delinquency) and no longer are using or can obtain traditional credit. FICO's analytic scientists determined that it could not reliably develop a model that accurately predicts the likelihood that a person will pay their credit obligations over the next 24 months based solely on outdated credit history. Additionally, without any active credit products and monthly payments reported to the credit bureaus, an estimated 18M individuals would be locked into low scores without any way to improve their credit standing or regain access to credit.

Other competing scoring companies have relaxed their minimum scoring criteria (e.g., they return credit scores for individuals who haven't had an update to their credit file in 24 months or more) in attempt to promote how many more individuals they can score. FICO has been reluctant to change its minimum scoring criteria and jeopardize the analytic soundness and accuracy of the FICO® Score nor threaten, in any way, the safety and soundness of the financial system. In fact, FICO conducted extensive research to determine the impact of relaxing its minimum score criteria. While this approach would expand the scorable population by millions and, in doing so, provide FICO with significant additional revenue, the degradation to the model was significant. FICO decided against this route and instead adopted an approach designed to expand access to credit in a safe, responsible manner that does not pose potential threats to the financial system.

The Honorable Randy Neugebauer
The Honorable Lacy Clay
September 27, 2016
Page 4

Helping the Credit Invisible Population Responsibly Build Credit with a New Alternative Data Credit Score – FICO® Score XD

While working on the development of FICO® Score 9, FICO's analytic scientists also began to explore the prospects of developing a new credit score which identified creditworthy consumers among the 53 million unscorable population. This effort focused on examining numerous alternative data sources residing outside the credit bureau files to determine their contributions in predicting creditworthiness. After 18 months of research, FICO identified two predictive, regulatory compliant data sources to use in building a new score. This new alternative data score, FICO® Score XD, leverages an alternative data set, managed by Equifax®, largely consisting of telecommunications data (cable, mobile and landline payment information). In addition, the score utilizes a LexisNexis® Risk Solutions database comprised of public records such as changes of address and length in residence information. When a person applies for credit but cannot generate a traditional FICO® Score, lenders can pull FICO® Score XD which will utilize the aforementioned alternative data elements to determine creditworthiness. The score incorporates the same score range as the FICO® Score and the model is designed such that the odds-to-score relationship is aligned with other FICO Score models. For example, a score of 680 with FICO® Score XD represents the same level of risk as a 680 with FICO® Score 9.

FICO's development research found that the FICO® Score XD can score 15 million previously unscorable consumers. One-third of these consumers were found to score above 620. Even more impressive was that FICO found that 80% of these consumers scoring 620 or above maintained or increased their score two years after receiving credit.

FICO® Score XD was piloted by 12 of the largest credit card issuers and we expect that a number of these issuers will soon go live. In April, FICO® Score XD became available and can be used for all unsecured lending products. FICO® Score XD serves as an onramp to credit, enabling previously unscorable consumers to gain access to mainstream credit, in the form of a credit card. Payment history will be reported into the credit bureau and within a matter of months, consumers will have enough tradeline information to generate a traditional FICO® score.

FICO's financial inclusion efforts are also not limited to the United States. FICO provides scoring solutions in over 25 different countries.

CONCLUSION: TESTING AND BUSINESS CASE RESULTS SHOULD GUIDE THE FHFA DECISION

FICO shares policy leaders' belief that the GSEs should use the most effective tools to manage credit risk. As we have done with lenders across the country, we encouraged the GSEs to rigorously test FICO® Score 9 to confirm our findings that it is the most predictive FICO® Score to date. We are comfortable and expect a competitive review process as many of our customers test competing models alongside the FICO® Score. At the conclusion of this process, FICO firmly believes that adoption of any updated credit scoring model should be predicated on a clear demonstration of providing meaningful benefits (i.e., the most predictive credit risk tool) to the GSEs while supporting FHFA's fiduciary duties under the Home Economic Recovery Act of 2008 (HERA) which include preserving and protecting the GSEs' assets.

Thank you again for the opportunity to share FICO's comments. Please feel free to contact me should you have any questions.

Sincerely,

Joanne M Gaskin

Joanne Gaskin
Senior Director, Scores
FICO

INDEPENDENT BANKERS ASSOCIATION OF TEXAS

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ASSOCIATION OF TEXAS

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September 23, 2016

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Hensarling and Ranking Member Waters:

The Independent Bankers Association of Texas (IBAT) represents more than 2,000 community banks and branches in the state of Texas and is the largest state community banking organization in the United States. On behalf of our membership, IBAT supports H.R. 5660, introduced by Reps. Roger Williams (R-TX) and Gwen Moore (D-WI), which makes a minor enhancement to the commonly accepted and applied banking definition of "stable retail deposits" to enable community banks to use third-party service providers to develop and deliver innovative financial products, services and solutions to consumers without the fear of having the consumer's deposits declared to be brokered.

Unfortunately, the regulatory definition of a "deposit broker" is broad and can inappropriately sweep up third party service providers who provide technical, operational, banking, promotional and management services to banks—even when these third parties have no relationship with a depositor or any control or influence over an individual's funds, banking decisions or financial activities. While larger banks have the resources and economies of scale to develop the interactive services and innovative financial offerings that benefit the consumer, community banks partner with third parties to provide these capabilities.

As such, H.R. 5660 helps community banks compete with larger institutions by exempting stable retail deposits from the statutory definition of "brokered deposits" when a third party or service helps a bank establish a primary, tangible and ongoing relationship with an individual depositor. Since individually held, relationship-based deposits do not pose any of the risks bank regulators associate with brokered deposits and since individually held, relationship-based deposits contribute positively to a bank's franchise value, these deposits should be recognized by the regulators for what they are—a bank's most desirable, reliable and stable source of funds.

I urge your consideration of and support for this legislation, as it maintains the regulators' supervisory authority over safety and soundness matters while establishing an environment for third party providers and community banks to collaborate together to support the financial needs and desires of individual depositors residing in communities all across our country.

Sincerely,

Christopher L. Williston

Christopher L. Williston, CAE
President and CEO

NATIONAL ASSOCIATION of REALTORS®

Tom Salomone
2016 President

Dale A. Stinton
Chief Executive Officer

GOVERNMENT AFFAIRS DIVISION
Jerry Giovaniello, Senior Vice President
Gary Weaver, Vice President
Joe Ventrone, Vice President
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Jamie Gregory, Deputy Chief Lobbyist

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September 26, 2016

The Honorable Randy Neugebauer
Chairman
House Subcommittee on Financial Institutions and Consumer Credit
1424 Longworth House Office Building
Washington, DC 20515

Dear Chairman Neugebauer:

On behalf of the over 1.1 million members of the National Association of REALTORS® (NAR), thank you for holding a hearing entitled "Legislative Proposals to Address Consumers Access to Mainstream Banking Services." NAR supports your efforts to examine two important pieces of legislation for tomorrow's hearing: H.R. 4172, the "Credit Access and inclusion Act of 2015" (Reps. Ellison (D-MN) & Fitzpatrick (R-PA)) and H.R. 4211, the "Credit Score Competition Act of 2015" (Reps. Royce (R-CA) & Sewell (D-AL)).

A borrower's credit score is a critical access factor when trying to enter the housing market; with a less than perfect score, or none at all, a borrower will struggle to obtain a mortgage or be faced with a higher priced loan. Yet millions of Americans, particularly minorities, immigrants, and people with modest incomes, may come from backgrounds that avoid debt, leading many to have little to no credit history. With the use of new credit scoring models that incorporate payment histories and additional predictive metrics, many of these "thin file" individuals would be able to obtain a mortgage. Additionally, by clearing the way for utility, telecommunication companies and rental histories to be reported to the credit reporting agencies, many of these individuals with thin credit files would have to access credit.

H.R. 4172, the "Credit Access and Inclusion Act of 2015"
More than 40 million "thin file" Americans have trouble accessing affordable credit. NAR is pleased that H.R. 4172 will help these individuals achieve the American Dream by amending the Federal Fair Credit Reporting Act to encourage providers like gas, electric and telecommunication companies to report consumers' payment histories to credit reporting agencies. As a result, low- and moderate-income individuals would be able to access affordable and responsible financial products and services to build wealth.

H.R. 4211, the "Credit Score Competition Act of 2015"
Currently, Fannie Mae and Freddie Mac require mortgage lenders to use an older scoring model in their automated underwriting systems, and/or in their pricing and product risk overlays (such as Loan Level Price Adjustment grids), that does not reflect more recent credit performance data. In addition, the scoring model currently in use doesn't take into account factors such as whether borrowers have paid their rent on time. H.R. 4211 would help many Americans achieve homeownership by instructing Fannie Mae and Freddie Mac to update their requirements so that lenders might be able to use both alternative models from new providers, as well as updated models that are statistically sound from the existing provider.

The legislative proposals listed above are not a "loosening" or "weakening" of lending standards. Rather, they are an acknowledgment that not all people come from the same backgrounds or practice the same financial activities and that there is evidence that other factors are also good predictors of risk. Simply put, new models and the reporting of on-time payments would bring credit scoring into the 21st century.

Sincerely,

Tom Salomone
2016 President, National Association of REALTORS®

CC: Members of the Subcommittee on Financial Institutions and Consumer Credit

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3 October 2016

Chairman Randy Neugebauer and Ranking Member Wm. Lacy Clay
Subcommittee on Financial Institutions and Consumer Credit
Financial Services Committee
United States House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Thank you for having me as a witness at the Financial Institutions and Consumer Credit subcommittee hearing on Tuesday, September 27. I appreciated that I was able to speak to a number of issues that I have studied for more years than I care to count.

I would like to take this opportunity to follow up on two issues that were brought up during the hearing. The first pertains to an issue that Congressman Mick Mulvaney raised in the hearing regarding reform of the Credit Repair Organizations Act (CROA). He said that he has credit repair companies and credit education companies in his district. Congressman Mulvaney said that he has concerns about an "entity-based" exemption, such as proposed in H.R. 347, and that he would prefer an "activity-based" exemption.

My understanding is that H.R. 347 would exempt fewer than 30 CFPB supervised and examined consumer reporting agencies from the definition of "credit repair organization" under CROA. Currently, CROA exempts three types of entities: any 501(c)(3) nonprofit organization, any creditor working with a customer on a debt owed to the creditor, and any depository institution or credit union. The universe of exempt entities numbers into the thousands. Just considering those with federal charters, there are over 6,000 FDIC-insured banks and nearly as many NCUA-insured federal credit unions. That does not take into account the state banks and credit unions that are also exempt. While not all lenders have entered or will enter the consumer credit education market, it is worth noting that CapitalOne and Discover are considered depository institutions, and both provide high profile, nationally advertised credit report and score information and credit monitoring services. Banks may see value in offering credit education as a means of customer acquisition and retention, and could cross-subsidize this offering by cross-selling different products to customers.

As for the number of nonprofits, the IRS reported over 1 million 501c3 non-profit entities in 2015, all of which are potentially exempt from CROA, though obviously not all provide credit counseling.[1] The United States Trustee Program maintains a list of over 4,500 entities that are approved to provide pre-bankruptcy credit counseling, and there are many more non-profit credit counselors outside of the bankruptcy realm including the several hundred member organizations of the National Foundation for Credit

[1] See https://www.irs.gov/pub/irs-soi/soi-a-npco-id1603.pdf

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Counseling.[2] I believe that all of these entities should be exempt from the definition, but when consumers have a question regarding their credit report and credit score, the entity they are most likely to turn to is a nationwide credit reporting agency, the only critical player in the consumer credit ecosystem that is not exempt under CROA. H.R. 347 provides a narrow amendment to CROA to add a few more entities to the thousands that are already exempted.

I think that one of the challenges for Congress is deciding where to draw the line in the statute. H.R. 347 identifies specific entities because it is easy to know who would be exempt, but there might be other entities that Congress views as legitimate sources of credit education. There are resellers of credit reports, credit score and credit monitoring. Some of the largest would be Intersections, Affinion and FICO. In addition to H.R. 347 as introduced, there are other ways to amend CROA that would facilitate consumers obtaining meaningful credit education in a reasonably easy manner from legitimate providers. The definition of credit repair could be amended to ensure that it does not erroneously capture credit education, credit monitoring, or other activities that are obviously not credit repair.

The law could create an exemption for specific companies certified by the FTC that agree to undertake certain obligations and report regularly to the Commission. The specific entities could be required to provide an appropriate notice to consumers and to allow for a consumer's right to cancel. The law could give the FTC the ability to revoke such certification and be liable retroactively under CROA. H.R. 347 provides one way, but there are other approaches that could provide consumers and small business owners with better access to personalized credit education while continuing to protect consumers from businesses that seek to take advantage of consumers..

The second issue was raised by Congressman Royce, after a description of a letter he sent the FHFA about the potential benefits of credit risk scoring models that have been released since FICO 4, the current model designated by GSEs for use in residential mortgage underwriting. I may have misunderstood the question and wanted to make sure I clarified my response. I do agree that ensuring that the GSEs regularly test and evaluate the latest credit scoring innovations and provide the public with the rationale behind its decision makes sense and will result in greater transparency. I do not want to imply that the GSEs did anything incorrect when selecting FICO 4 in 2004—they made an informed decision based upon the state of the market at that time. We support transparency in the GSE process for identifying acceptable credit risk models and believe mortgage borrowers could benefit should a newer model or models be validated by the GSEs for use in underwriting.

I base this conclusion upon my belief that newer scoring models provide greater predictiveness in their assessment of credit risk, and benefit consumers by increasing financial inclusion. For instance, some of the updated scoring models (such as FICO XD) are optimized for data assets like energy utility and telecoms payment data—accessed

[2] For a discussion of the current state of the NFCC membership, see https://nfcc.org/wp-content/uploads/2016/09/2016-State-of-the-Financial-Counseling-and-Education-Sector.pdf

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from the National Consumer Telecommunications and Utility Exchange (NCTUE) administered by Equifax—that prior to this year were simply unavailable in sufficient quantity to use for optimizing a credit risk scoring model. These new models not only further validate the predictiveness of several types of non-financial payment data in credit risk assessment, they also demonstrate the great potential of alternative data as a tool for financial inclusion while highlighting the need for more of this data to be included in consumer credit reports at the three national credit reporting agencies.

Please let me know if I can be of assistance to the committee on this and other issues.

Kind regards,

Michael A. Turner

Michael A. Turner, Ph.D.
President & CEO

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CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

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September 27, 2016

The Honorable Randy Neugebauer
Chairman
Subcommittee on Financial Institutions
and Consumer Credit
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Wm. Lacy Clay
Ranking Member
Subcommittee on Financial Institutions
and Consumer Credit
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Neugebauer and Ranking Member Clay:

The U.S. Chamber of Commerce, which represents the interests of over three million businesses of every sector and size and from every region of the country, created the Center for Capital Markets Competitiveness (CCMC) to promote a modern and effective regulatory structure for capital markets to fully function in a 21st century global economy. The CCMC appreciates the interest of the Subcommittee on Financial Institutions and Consumer Credit in examining legislative proposals to address consumer access to mainstream banking services.

The CCMC supports a consumer financial marketplace in which regulators, through supervision and enforcement, root out and deter fraud and predation. At the same time, regulators should perpetually endeavor to fulfill their important consumer protection mission in a manner that maximizes consumers' access to diverse products and services offered on competitive terms and that promotes innovation. Importantly, financial regulators should recognize that as of 2013, almost one-in-three Americans was unbanked or underbanked, and accordingly should make good on their promise to "increas[e] the participation of unbanked and underbanked households in the financial mainstream."[1]

One way to improve consumer participation in mainstream financial services is to empower Americans to take greater charge of their financial well-being by, for example, regularly reviewing their credit reports for irregularities. Unfortunately, however, a recent decision by the Ninth Circuit Court of Appeals interpreting the Credit Repair Organizations Act of 1996 (CROA) threatens to thwart consumer access to credit reports furnished by credit reporting agencies. In its February 2014 opinion in *Stout v. FreeScore, LLC*, the Court held that public advertising stating that having access to credit reports and scores and using credit monitoring services could help consumers improve their overall credit brought the advertiser

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[1] FED. DEPOSIT INS. CORP., 2013 FDIC NAT'L SURVEY OF UNBANKED AND UNDERBANKED HOUSEHOLDS 4 (2014).

within the ambit of CROA.[2] In other words, the Court took the view that stating the most basic principle of financial literacy—that knowing more about your credit can help you improve your credit—was exactly the type of nefarious "representation" that CROA was enacted to root out.[3] That holding is at odds with congressional testimony by the Federal Trade Commission, the agency tasked with enforcing CROA, in which the Commission said it "sees little basis on which to subject the sale of legitimate credit monitoring and similar educational products and services to CROA's specific prohibitions and requirements, which were intended to address deceptive and abusive credit repair business practices."[4]

The negative consumer impact of that decision would be exacerbated if the Consumer Financial Protection Bureau were to finalize its rule governing arbitration agreements in its present form.[5] One way CROA is enforced is through a strict liability private right of action, including a statutorily authorized class action.[6] Class action lawsuits under CROA are existential threats to companies that were actually intended to be subject to its jurisdiction. More perniciously, in light of cases like *Stout*, class action lawsuits threaten the existence of companies not intended to be subject to CROA that provide credit monitoring and education services to millions of Americans worried about identity theft, hacking, and other cybersecurity threats. The CFPB's proposed arbitration rule would essentially double down on the broken class action system and impose potentially massive costs upon entities that simply provide credit monitoring and credit education services.

The Chamber is encouraged by the Subcommittee's consideration of legislation designed to improve consumers' access to mainstream financial services and looks forward to working with you on this important goal.

Sincerely,

R. Bruce Josten

cc: Members of the Subcommittee on Financial Institutions and Consumer Credit

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[2] *See generally* Stout v. Freescore, LLC, 743 F.3d 680 (9th Cir. 2014).
[3] *Id.*
[4] *Oversight of Telemarketing Practices and the Credit Repair Organizations Act (CROA): Hearing Before the Senate Committee on Commerce, Science, and Transportation,* 110th Cong. 8 (2007) (written statement of Lydia B. Parnes, Dir., Bureau of Consumer Prot., Fed. Trade Comm'n).
[5] *See* Arbitration Agreements, 81 Fed. Reg. 32,830 (proposed May 24, 2016) (to be codified at 12 CFR Part 1040).
[6] *Id.* § 1679g, 1679h.

CREDIT
BUILDERS
ALLIANCE

Build credit. Build assets.

September 26, 2016

Dear Members of Congress,

Please support the bill H.R. 4172, *The Credit Accuracy and Inclusion Act*. This bill amends the Federal Fair Credit Reporting Act (FCRA) to provide affirmative permission for non-financial service providers - such as telephone, cable, wireless, electric and gas firms as well as landlords - to report their customers' on-time payments to Credit Reporting Agencies (CRAs).

This bill will help residents of public and assisted housing to more easily build accurate credit scores without taking on debt. However, currently the US Department of Housing and Urban Development has a requirement to collect individual consent forms from tenants prior to reporting on-time rent payments. This requirement limits the number of residents that could benefit from rent reporting to the major credit reporting agencies (CRAs).

Credit Builders Alliance (CBA) led a successful rent reporting pilot with the results unveiled last year. By reporting on time payment for more than 1,200 residents, we were able to provide credit scores to 100% of those who were credit invisible prior to the pilot. Additionally, the average VantageScore was 670, which brought them out of the subprime category.

CBA is a membership organization of almost 500 non-profits located throughout the US. Our mission is a lofty one, "to help organizations move people from poverty to prosperity through credit building."

CBA's members serve primarily low to modest income clients who are predominantly minority. For the most part they are either credit invisible or have subprime credit scores. These characteristics make them excellent candidates for credit building efforts. We believe strongly in the power of positive rent reporting to help these people build a credit history and consequently have access to the credit economy.

Because of CBA's very positive pilot results, CBA supports HR 4172.

Sincerely,

Dara Duguay

Dara Duguay
Executive Director

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NATIONAL ASSOCIATION of REALTORS®

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2016 President

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Joe Ventrone, Vice President
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September 26, 2016

The Honorable Randy Neugebauer
Chairman
House Subcommittee on Financial Institutions and Consumer Credit
1424 Longworth House Office Building
Washington, DC 20515

Dear Chairman Neugebauer:

On behalf of the over 1.1 million members of the National Association of REALTORS® (NAR), thank you for holding a hearing entitled "Legislative Proposals to Address Consumers Access to Mainstream Banking Services." NAR supports your efforts to examine two important pieces of legislation for tomorrow's hearing: H.R. 4172, the "Credit Access and inclusion Act of 2015" (Reps. Ellison (D-MN) & Fitzpatrick (R-PA)) and H.R. 4211, the "Credit Score Competition Act of 2015" (Reps. Royce (R-CA) & Sewell (D-AL)).

A borrower's credit score is a critical access factor when trying to enter the housing market; with a less than perfect score, or none at all, a borrower will struggle to obtain a mortgage or be faced with a higher priced loan. Yet millions of Americans, particularly minorities, immigrants, and people with modest incomes, may come from backgrounds that avoid debt, leading many to have little to no credit history. With the use of new credit scoring models that incorporate payment histories and additional predictive metrics, many of these "thin file" individuals would be able to obtain a mortgage. Additionally, by clearing the way for utility, telecommunication companies and rental histories to be reported to the credit reporting agencies, many of these individuals with thin credit files would have to access credit.

H.R. 4172, the "Credit Access and Inclusion Act of 2015"
More than 40 million "thin file" Americans have trouble accessing affordable credit. NAR is pleased that H.R. 4172 will help these individuals achieve the American Dream by amending the Federal Fair Credit Reporting Act to encourage providers like gas, electric and telecommunication companies to report consumers' payment histories to credit reporting agencies. As a result, low- and moderate-income individuals would be able to access affordable and responsible financial products and services to build wealth.

H.R. 4211, the "Credit Score Competition Act of 2015"
Currently, Fannie Mae and Freddie Mac require mortgage lenders to use an older scoring model in their automated underwriting systems, and/or in their pricing and product risk overlays (such as Loan Level Price Adjustment grids), that does not reflect more recent credit performance data. In addition, the scoring model currently in use doesn't take into account factors such as whether borrowers have paid their rent on time. H.R. 4211 would help many Americans achieve homeownership by instructing Fannie Mae and Freddie Mac to update their requirements so that lenders might be able to use both alternative models from new providers, as well as updated models that are statistically sound from the existing provider.

The legislative proposals listed above are not a "loosening" or "weakening" of lending standards. Rather, they are an acknowledgment that not all people come from the same backgrounds or practice the same financial activities and that there is evidence that other factors are also good predictors of risk. Simply put, new models and the reporting of on-time payments would bring credit scoring into the 21st century.

Sincerely,

Tom Salomone
2016 President, National Association of REALTORS®

CC: Members of the Subcommittee on Financial Institutions and Consumer Credit

cfed
expanding economic opportunity

May 5, 2016

Congressman Keith Ellison
2263 Rayburn House Office Building
Washington, DC 20515

Senator Mark Kirk
524 Hart Senate Office Building
Washington DC, 20510

Congressman Michael Fitzpatrick
2400 Rayburn House Office Building
Washington, DC 20515

Senator Joe Machin
306 Hart Senate Office Building
Washington DC, 20510

Dear Representative Ellison, Representative Fitzpatrick, Senator Kirk and Senator Machin:

On behalf of the Corporation for Enterprise Development (CFED), we want to thank you for your leadership in introducing the Credit Access and Inclusion Act, which would provide support to the tens of millions of Americans with inadequate or nonexistent credit scores. Your legislation will expand the financial capability of these families by providing a new avenue through which they may develop credit, and so we strongly support the passage of this bill.

CFED is a national nonprofit organization that works to empower low- and moderate-income households to build and preserve assets. CFED advances policies and programs that these families achieve the American Dream by buying a home, pursuing higher education, starting a business, and saving for the future. As a leading source for data about household financial security and policy solutions, CFED understands what families need to succeed. We promote programs on the ground and invest in social enterprises that create pathways to financial security and opportunity for millions of people.

An effective way of creating these pathways is to ensure that families and individuals have access to accurate credit scores. More than fifty million Americans have no credit score at all—not because of poor financial decisions, but because they lack sufficient credit history. Millions of these Americans are credit-worthy—"good risks" for the credit market—but they are unable to demonstrate that fact due to a lack of sufficient credit history.

The Credit Access and Inclusion Act provides a commonsense solution to this problem by empowering millions of Americans to demonstrate their creditworthiness through utility and telecom payments. Including utility and telecom payment information in consumer credit files can be predictive of future delinquency. And through the reporting of such non-financial payment data to consumer reporting agencies, millions of Americans with little or no credit history can establish payment histories and gain access to mainstream affordable credit.

The Credit Access and Inclusion Act provides benefits for borrowers and lenders alike. Studies by Policy and Economic Research Council (PERC) and the Brookings Institution Urban Market Initiative clearly show that the reporting of customer payment data will substantially benefit those with lower-incomes, members of ethnic minority groups, and younger and older Americans.

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For lenders, these studies also show that the use of non-financial customer payment data in credit scoring models increases the predictiveness and accuracy of scores, enabling better and smarter lending. Borrowers similarly benefit from improved terms and a reduced probability of over-extension.

Every family and individual deserves the opportunity to demonstrate creditworthiness so that they can achieve their financial goals. The Credit Access and Inclusion Act will open up this opportunity to millions of Americans. CFED thanks you for your leadership in authoring this important legislation, and we look forward to working with you to ensure that it becomes law.

Most sincerely,

Jeremie Greer, Vice President, Policy & Research, Corporation for Enterprise Development (CFED)

National Consumer Reporting Association

September 26, 2016

Honorable Keith Ellison
U.S. House of Representatives
2263 Rayburn House Office Bldg.
Washington, D.C. 20515

Honorable Michael Fitzpatrick
U.S. House of Representatives
2400 Rayburn House Office Bldg.
Washington, D.C. 20515

Re: Support for H.R. 4172, the Credit Access and Inclusion Act

Dear Representatives Ellison and Fitzpatrick:

On behalf of the National Consumer Reporting Association (NCRA), I am writing in support of H.R. 4172, the "Credit Access and Inclusion Act," and to thank you and your colleagues for introducing this important measure.

Today, millions of Americans lack credit scores or have scores that are too low to gain access to affordable credit. This problem disproportionately affects young people, African-Americans, Latinos and immigrants, many of whom can't establish a credit score without taking on debt. We believe Congress can help address this issue by providing companies with affirmative permission to thicken credit reports with predictive alternative data.

"The Credit Access and Inclusion Act," which enjoys bipartisan support, addresses the 45 million Americans identified by the Consumer Financial Protection Bureau (CFPB) who cannot access affordable mainstream sources of credit because they either have no credit report or have insufficient credit histories to be scored. These Americans, known as "credit invisibles," encounter difficulties when trying to rent an apartment or to take out a loan to obtain low-cost consumer credit.

H. R. 4172 will helping create credit histories for consumers who regularly make payments on bills for gas, water, electric, heating oil, cable TV, broadband, and wireless cellphone, as well as rent on their apartments or homes, all payments not typically found in credit reports. These payments are recognized as a type of credit and predictive of risk. However, this payment information currently is reported only to a credit bureau when the customer goes into collection, and not when the bills are paid on time.

Reporting this alternative payment data could substantially reduce credit invisibility and enable an estimated 40% of so-called "credit invisibles" qualify for some variant of prime credit. Credit reports that take into account when people pay their bills on time help the Americans who need credit the most.

We understand that some consumer advocates have expressed concerns about this proposal. While we believe those concerns should be taken seriously and mitigated to the extent possible in any final legislation, NCRA members are persuaded by our own experiences that the potential benefits outweigh any risks. H.R. 4172 would provide a systemic fix to the problem and make our current credit system more inclusive and accurate.

Sincerely,

Terry Clemans
Executive Director
National Consumer Reporting Association

http://www.americanbanker.com/bankthink/five-ways-alternative-data-can-expand-credit-access-1074980-1.html

Five Ways Alternative Data Can Expand Credit Access

Keith Ellison American Banker JUN 19, 2015 1:30pm ET

Millions of Americans lack credit scores or have scores that are too low to gain access to affordable credit. This problem disproportionately affects young people, African-Americans, Latinos and immigrants, many of whom can't establish a credit score without taking on debt. Congress can help address this issue by providing companies with affirmative permission to thicken credit reports with predictive alternative data.

According to the Consumer Financial Protection Bureau, at least 45 million Americans cannot access affordable mainstream sources of credit because they either have no credit report or have insufficient credit histories to be scored. These Americans are known as "credit invisibles." They encounter difficulties when trying to rent an apartment or to take out a loan to obtain low-cost consumer credit.

But there is a solution. Many credit invisibles regularly make payments on their gas, water, electric, heating oil, cable TV, broadband, wireless cellphone bills and pay rent on their apartments or homes. These payments are recognized as credit and predictive of risk. However, this payment information is typically reported to a credit bureau when the customer is in collection — not when people pay their bills on time.

Reporting this alternative payment data would substantially reduce credit invisibility and enable an estimated 40% of credit invisibles to qualify for some variant of prime credit. According to research by the Policy and Economic Research Council and the Brookings Institution, using a sample of more than four million actual credit reports with fully reported nonfinancial payment data, simulations showed that the inclusion of the nonfinancial data would enable credit acceptance to increase 22% for Hispanics, 21% for African-Americans, 21% for the lowest income households, and 14% for people under 25 years old and those over 66.

While these increases seem large, one should consider that the CFPB has found that 28% of Hispanics and African-Americans and 45% of individuals in the lowest-income census tracts are unscoreable with traditional credit scores and data. Credit reports that take into account when people pay their bills on time help the Americans who need credit the most.

I am now championing legislation in Congress which would clarify that energy utility firms, telecommunications companies and property management firms and landlords can report on-time payment data to nationwide credit reporting agencies. While such reporting is not illegal, regulatory uncertainty has hindered its practice.

My bill, the Credit Access and Inclusion Act of 2015, enables the addition of positive payments. There is nothing in the bill that would require or incentivize utility companies to start reporting late payment differently.

A recent op-ed by Chi Chi Wu published in *American Banker* cautioned that there may be pitfalls to using alternative data to help credit invisibles. However, my proposal would greatly benefit underserved Americans. Here are five substantiated and incontrovertible facts about how alternative data can help promote access to credit.

Fact #1: The status quo harms credit invisibles. Credit invisibles currently have their credit needs met by pawnshops, payday lenders and check-cashing services. These Americans pay an estimated $4 billion per year in fees, further entrenching their financial difficulties.

Fact #2: Credit scoring has made lending fairer and more inclusive. Study after study shows that automated underwriting better predicts risk than manual underwriting, and is more inclusive for traditionally underserved populations.

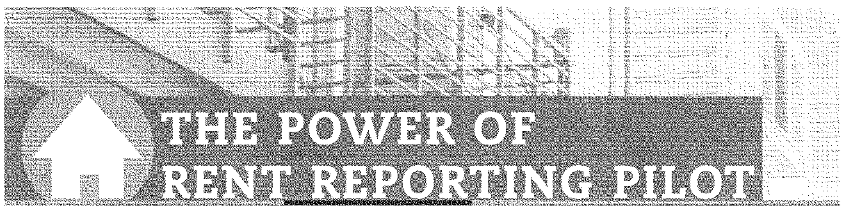
Fact #3: Reporting bills paid on time makes the system more forgiving and more inclusive. The nature of the problem is not that credit reporting and credit scoring are inherently discriminatory and promote exclusion, but rather that our national credit bureaus only have information on people who are already banked. Therefore credit scores are limited as a tool for promoting financial inclusion. In short, the problem is one of data, not discrimination.

Fact #4: Having a low score is better than no score. If you are a credit invisible, you will almost always be denied access to affordable credit. In this context, having any score — even a low one — is superior to having none at all. The notion that having no score may somehow be helpful in finding an apartment or employment or getting a more affordable insurance rate is also highly contestable. When applying for insurance, an apartment and a job, a credit report is one piece of information considered among many others.

Fact #5: Predatory and subprime lenders already seek data on credit invisibles. It is mainstream lenders who tend to overlook this population for prime offers and in traditional underwriting. To create a two-tiered system in which alternative data is used only for the otherwise unscoreable, as suggested in Wu's op-ed, is a bad idea. One tier would be reserved for mainstream lenders offering competitive loans serviced by the main credit bureau databases. Another tier would be designated for higher-priced niche lenders that use special databases to market to the credit invisibles. Not only would this segregate society, it also would result in consumer confusion and erode important consumer rights and protections. Therefore we should strive to bring all consumers into the *same* mainstream lending system where possible.

For all of these reasons, it is important that Congress provide affirmative permission to add on-time utility and telecommunications payment data to credit reports and scores. This would open up credit, housing and employment opportunities for tens of millions of Americans and make our current credit system more inclusive and accurate.

Rep. Keith Ellison is a member of the House Financial Services Committee.



A Credit Building Strategy

SARAH CHENVEN and CAROLYN SCHULTE

CREDIT BUILDERS ALLIANCE

Citi Foundation

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Citi Foundation

Brandee McHale, President and CEO
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About the Citi Foundation
The Citi Foundation works to promote economic progress and improve the lives of people in low-income communities around the world. We invest in efforts that increase financial inclusion, catalyze job opportunities for youth, and reimagine approaches to building economically vibrant cities. The Citi Foundation's "More than Philanthropy" approach leverages the enormous expertise of Citi and its people to fulfill our mission and drive thought leadership and innovation. For more information, visit **www.citifoundation.com.**

Credit Builders Alliance

Sarah Chenven, Director of Programs and Strategic Initiatives
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About Credit Builders Alliance
Credit Builders Alliance (CBA) is a national nonprofit social enterprise dedicated to increasing the capacity of a diverse and growing network of hundreds of nonprofit member institutions throughout all 50 states and Puerto Rico to help low- and moderate-income households and businesses build credit and financial access, which, in turn, support the growth of businesses and personal assets. CBA was created by and for its nonprofit members in response to a serious gap in the modern credit reporting system that locks millions of individuals with poor or no credit out of the financial mainstream, often leaving them without safe, accessible, or affordable products.
For more information, visit **www.creditbuildersalliance.org.**

The work and learning from the Power of Rent Reporting Pilot would not have been possible without the support of the Citi Foundation, especially Daria Sheehan, who saw it through thick and thin. It would also not have been possible without the commitment and hard work of pilot partners. CBA would like to thank Experian RentBureau®, in particular Emily Christiansen, Douglas House, Nikki Scheman, and Natalie Daukas for their generosity and openness in supporting us and the pilot groups. CBA also thanks Jeff Golding and WilliamPaid for their combined efforts to serve two of the pilot groups. Finally, CBA would like to acknowledge the hard work, dedication, and participation of the groups themselves, without which this pilot would not have been possible: Affordable Housing, Education and Development Inc., AHC Greater Baltimore, Cleveland Housing Network, Commonwealth Land Trust, Covenant Community Capital, East Bay Asian Local Development Corporation, EPIC Property Management, and Marquette Management.

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Context

Today, more than one-third of Americans rent their homes, a ratio that has increased since the start of the Great Recession. Although not making housing payments can damage the credit of renters just as much as that of homeowners, only homeowners have typically been able to build positive credit histories when they make mortgage payments on time.

And this matters. A good credit score can save a person a significant amount of money in interest and fees over the course of a lifetime.[1] Landlords and utility companies often require a large security deposit from individuals with no or poor credit scores. A prospective employer may include credit history in a background check. Many auto and property insurers price their products, in part, based on credit histories. And a mortgage or small business loan applicant's credit history could be the difference between obtaining a loan that allows him or her to build a major asset and getting no loan at all.[2]

Companies and landlords may report accounts in collections to one or more of the three major credit bureaus. Far fewer, however, report on-time payments. Credit reports and scores that do not recognize on-time rental payments as creditworthy behavior present an incomplete and negatively skewed assessment of the credit risk many renters pose, impeding their ability to successfully join the financial mainstream.

This is especially troublesome for low- and moderate-income renters in today's economy. Given that a good credit history is an increasingly important financial asset, denying renters the opportunity to build their credit through on-time rent payments may exacerbate already high levels of wealth inequality.

Affordable housing providers across the country are increasingly embracing strategies to strengthen financial capability as a means to improve their residents' financial security and stability. Credit building is a critical component of those efforts, and rent reporting represents a credit building opportunity well suited to concerned affordable housing providers. By reporting their residents' rent payments to the credit bureaus, responsible, mission-driven landlords can offer individuals with poor or no credit an often rare and valuable chance to build their credit history with a payment they already make regularly and without having to assume any additional debt, apply for a new product, or remember to make another monthly payment.

1 It has been estimated that a 100-point difference in FICO scores could save a person with good credit approximately $200,000 over his or her lifetime, based on a simulation comparing two consumers with student loans, credit cards, and auto and mortgage debt. Weston, L. (2010, February 19). Lifetime cost of bad credit: $201,712. MSN Money. Retrieved from http://www.calvarynaperville.org/images/pdfs/Thrive_class_resource3.pdf.

2 For example, in 2009, Fannie Mae raised its minimum FICO credit score for conventional loans from 580 to 620. Even if mortgage applicants could afford to make a 20 percent down payment, they could be rejected with a score below 620. In all of 2013, only 1.4 percent of the single-family loans Fannie acquired were to borrowers with scores below 620. The trend continued in 2014. The average FICO score needed to secure a mortgage loan in the first quarter of 2014 increased to 741.

Executive Summary

Thirty-five percent of U.S households live in rental housing.[3] That percentage is higher for families at the lower end of the income spectrum. Of those low-income renters who are among the 64 million[4] U.S. consumers with no or subprime credit, many lack access to opportunities to establish or build credit. Although homeowners and renters alike see the impact of failing to meet their housing obligations on their credit reports, most renters' on-time housing payments are not reflected on their credit reports or in their credit scores — even though, for most renters, it is one of their largest and most consistent monthly payments. Without this recognition of creditworthy behavior on a renter's credit report, lenders and other businesses develop an incomplete and negatively skewed assessment of the credit risk posed by many otherwise financially responsible low-income households. This can make it difficult, if not impossible, for these struggling households to get and stay ahead in today's economy.

With generous support from the Citi Foundation and in collaboration with Experian RentBureau and eight pioneering affordable housing providers, Credit Builders Alliance (CBA) has begun to change that reality. Through its Power of Rent Reporting pilot, CBA has spent the last three years catalyzing rent reporting as a credit building opportunity for low-income renters served by the affordable housing industry. In 2012, CBA focused on laying the foundation for rent reporting as a valuable credit building tool, reaching out to hundreds of affordable housing providers and other stakeholders interested in the opportunity. In 2013 and 2014, CBA conducted a pilot to support eight affordable housing providers (AHPs) in becoming credentialed with Experian RentBureau to begin and sustain rental payment reporting on behalf of 1,255 low-income residents.

As a result of the pilot, CBA found that:

- Rent reporting is seen by renters as a good opportunity for credit building. Ninety-seven percent of residents who responded to a survey on the pilot said paying rent on time is a good way for them to build their credit.
- Rent reporting offers a significant credit building opportunity to residents living in affordable housing. After isolating the impact of including rental payment history on participants' credit reports, CBA found:
  - All residents participating in the pilot who initially had no credit score[5] had either a high nonprime or prime score with the inclusion of their rental payment history.
  - A large majority (79 percent) of participants experienced an increase in credit score, with an average increase of 23 points.
  - A small number of pilot participants (14 percent) experienced no change in their credit score after including the rental trade line, and an even smaller number (7 percent) experienced a decrease in credit score.
- Rent reporting is a promising strategy for affordable housing providers seeking to increase resident participation and success in financial coaching and asset building programs. Pilot groups consistently reported the integration of rent reporting outreach and education into existing financial coaching and asset building programs as an efficient and effective strategy for engaging residents in credit building and helping them translate credit improvements into progress toward other financial goals.

3 Joint Centers for Housing Studies of Harvard University. (2013). America's rental housing: Evolving markets and needs. Cambridge, MA. Retrieved from www.jchs.harvard.edu/americas-rental-housing.

4 Experian.

5 The credit score used in this analysis is the VantageScore 3.0. VantageScore® is a registered trademark of VantageScore Solutions, LLC.

- Rent reporting in combination with financial coaching can incentivize residents to increase their rates of paying rent on time. Among residents of one pilot group with a history of regularly paying late, those who agreed to have their rent payments reported and to participate in financial coaching were more likely than other residents to substantially increase their rate of on-time payment.
- Rent reporting is a viable financial capability strategy for affordable housing providers seeking to help their residents achieve financial stability. Bringing it to scale, however, requires more standardized reporting policies and procedures across the credit bureaus, greater technical capacity on the part of affordable housing providers to report payments, and further investigation of solutions for increasing resident participation as a result of the opt-in requirements for federally funded affordable housing providers.

Incorporating rent reporting enrollment into a regular resident interaction, such as lease renewal or income recertification, requires residents to actively make a decision about the opportunity and gives them a chance to learn about the benefits and discuss any concerns they may have with a knowledgeable staff person

There is much still to be learned and done to ensure that rent reporting becomes more widely understood and accessible to affordable housing providers and their residents. CBA will continue to nurture a growing community of providers to identify impactful, scalable, and replicable strategies that maximize the power of rent reporting and financial coaching to produce tangible, positive outcomes for low-income renters and the organizations that support them.

As the rent reporting opportunity and environment evolves, CBA will continue to serve as a trusted source and critical driver for affordable housing providers seeking to pair rent reporting with relevant, timely and scalable financial education — what we call "rent reporting for credit building".

Pilot Overview

RENT REPORTING	RENT REPORTING FOR CREDIT BUILDING
The establishment of a rental trade line and regular monthly reporting of rental payments to at least one of the major consumer credit bureaus for inclusion on traditional consumer credit reports.	The pairing of rent reporting with financial/credit coaching or other financial capability programming with the aim of supporting residents to recognize and leverage rent reporting as a credit building opportunity.

Credit Builders Alliance, with generous support from the Citi Foundation, launched its Power of Rent Reporting pilot in 2012 to learn if and how affordable housing providers could implement and leverage the opportunity to report monthly rental payments to a major credit bureau to help residents build a credit history.

Experian's decision in 2010 to include positive rental payment data on traditional consumer credit reports was crucial in creating this opportunity. Experian had acquired RentBureau, a specialty credit reporting agency comprised of rental payment information, and was the first major credit bureau to incorporate positive rental payment data reported to Experian RentBureau in its credit files. Since that decision, property managers and online rental payment processing companies that are properly credentialed have been able to report payment information to Experian RentBureau, which has a database with data on more than 13 million residents nationwide.[6]

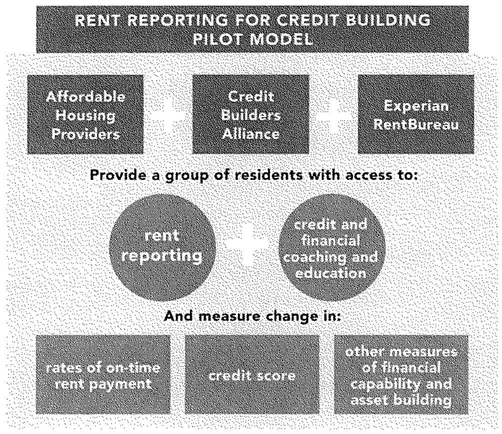
Recognizing that extremely late rental payments were already reported to the credit bureaus through the collections process, CBA quickly identified the reporting of on-time rental payments as an exciting potential credit building opportunity for low- and moderate-income renters. After hundreds of conversations with affordable housing developers, property managers, resident service providers, and other stakeholders from across the country, we concluded that there was enough interest to pilot an initiative to explore and test the idea in the affordable housing field.

Objectives and Model

The pilot set out to accomplish the following objectives:

1) Discern and document the rent reporting implementation process as it applies specifically to affordable housing providers, and identify challenges to the successful implementation of rent reporting for credit building initiatives as well as solutions for overcoming those challenges.
2) Examine the impact of rent reporting on residents' credit reports and scores.
3) Explore and identify promising practices for leveraging rent reporting as a) a tool to engage participants in translating credit improvements into actual progress toward other financial goals and b) an incentive for on-time rental payment.

6 In 2013, another major credit bureau, TransUnion, also began including rental payments on its traditional consumer credit reports through its ResidentCredit service. CBA has a long-standing and strong relationship with TransUnion as well as Experian, and this relationship has paved the way for CBA to support affordable housing providers interested in reporting to TransUnion. As of the date of this publication, CBA and TransUnion have yet to collaborate on rent reporting, but several opportunities to do so with pilot groups and newly interested affordable housing providers are in the works.



Pilot Roles and Responsibilities

To accomplish these objectives, CBA recruited eight affordable housing providers (including public, nonprofit, and for-profit owners and operators) to develop and pilot rent reporting for credit building initiatives with all or a select group of their residents. The roles and responsibilities were divided as follows:

CREDIT BUILDERS ALLIANCE

- Manage relationships with Experian RentBureau and connect affordable housing providers with appropriate contacts.
- Help providers develop an understanding of implementation requirements and the credit building opportunity for residents.
- Facilitate a Rent Reporting Learning Community.
- Support providers in developing resident outreach and education strategies and materials.
- Analyze data across program sites for impact of on-time payments on resident credit scores.
- Disseminate lessons from the pilot.

AFFORDABLE HOUSING PROVIDERS

- Offer residents the opportunity to have their rental payments reported through direct credentialing with Experian RentBureau or by partnering with a third-party payment processor.
- Offer residents credit and financial coaching and other financial education opportunities.
- Actively participate in the Rent Reporting Learning Community, sharing feedback about the process with CBA and other pilot groups.
- Track and report resident participation in the program to CBA via monthly reports.
- Support CBA in increasing the visibility and understanding of rent reporting in the affordable housing industry.

Methodology

CBA applied a mixed-methods research design to successfully:

- understand and document the rent reporting setup and implementation process, specifically as it applies to affordable housing providers;
- determine the impact of rent reporting on residents' credit reports and scores;
- identify promising practices for engaging residents in credit building and helping them leverage credit improvements; and
- identify promising strategies for using rent reporting as an incentive for residents to increase their rates of on-time rent payment.

We collected qualitative information from the pilot organizations through monthly reports, regular one-on-one and group conference calls, webinars, and in-person meetings as part of our Rent Reporting Learning Community.

To measure the impact of rent reporting on individual affordable housing residents, CBA collected data from the pilot groups and collaborated with Experian RentBureau to analyze participants' credit profiles. The pilot groups collected data through a resident survey and monthly reports about resident rent reporting outreach and enrollment, as well as participation in financial coaching and asset building programming. Experian RentBureau provided data on the impact of rent reporting on pilot participants' credit files and scores. Experian RentBureau analyzed 987 participants' credit files,[7] isolating the impact of rent reporting by scoring their reports with and without the rental trade line at a particular moment in time.

Because of the self-selection bias resulting from the requirement to obtain residents' written consent (opt-in — see page 12 for details), CBA gained limited but informative insight into how one pilot group's implementation of different rent reporting models with different groups of residents impacted their payment behavior. Cleveland Housing Network shared several years of anonymized resident payment data for four distinct groups of residents: those who opted to have their rent payments reported and to participate in financial coaching, those who were offered the opportunity to have their rent payments reported and to engage in financial coaching but did not opt in, those who were notified that their payments would be reported without their opting in, and those who received no notification regarding the rent reporting opportunity. CBA examined how rent reporting impacted these individuals' payment behavior and compared the change in behavior among the different groups.

Because virtually no prior research had been done on the actual impact of rent reporting on residents living in affordable housing in the United States, these basic measures of resident impact, along with the wealth of detailed qualitative information collected through discussions with the pilot groups, form the basis of the findings in this report and will help serve as a foundation for further research on the impact of rent reporting.

7 Not all residents were included in the analysis because of specific data requirements matching or adding the data to File One, Experian's consumer credit database, as well as the timing of when the data file was compiled.

PARTICIPATING AFFORDABLE HOUSING PROVIDERS

Map of the eight affordable housing providers that participated in the pilot.

Affordable Housing, Education and Development Inc.

Affordable Housing, Education and Development Inc. (AHEAD) is a community-based housing development organization dedicated to strengthening families by helping them build and preserve assets for the future. Since 1991, AHEAD has lived its mission by providing safe, affordable rental housing, family support, and financial education to thousands of rural northern New Hampshire families residing in Carroll, Coös, and northern Grafton counties. AHEAD is a chartered member of NeighborWorks® America and operates a NeighborWorks® Homeownership Center. AHEAD owns and operates 400 units of affordable multifamily rental housing in nine New Hampshire communities.

AHEAD participated in the pilot because of its long-standing commitment to providing residents with meaningful opportunities to improve their financial capability. AHEAD offers homeownership counseling, one-on-one financial coaching, and an Individual Development Account (IDA) matched savings program. The organization saw rent reporting as another powerful asset building tool for its toolbox.

AHC Greater Baltimore

AHC Greater Baltimore was founded in 2004 to address the need for more affordable housing in the Baltimore area. Today, AHC Greater Baltimore has developed six properties with more than 1,100 affordable apartments. AHC Greater Baltimore is part of AHC Inc., a private, nonprofit developer of affordable housing in the mid-Atlantic region that has provided quality homes for low- and moderate-income families since 1975.

AHC Greater Baltimore's resident services team was interested in taking part in the pilot because it saw rent reporting as a tool that could help the team achieve an existing goal: increasing residents' use of online bill payment to get them out of expensive check cashing stores. AHC worked with WilliamPaid to offer its residents the opportunity to pay their rent online and build credit with each on-time payment.

Cleveland Housing Network

The Cleveland Housing Network (CHN) is the nation's largest nonprofit, single family affordable housing developer. CHN's mission is to build strong families and vibrant neighborhoods through quality affordable housing and strengthened financial stability. Since 1981, CHN has developed over 5,000 homes, helped more than 2,300 low-income families to achieve home ownership, and made $700 million in capital investments to improve the quality of housing for thousands of struggling families. Each year, CHN serves 30,000 families in affordable housing & home ownership, counseling & education, energy conservation & weatherization, and safety nets and supports. CHN's flagship program, Lease Purchase, allows low-income families to lease a home at an affordable rate with the opportunity to purchase after 15 years. Today, Lease Purchase is replicated across the nation as one of the most successful home ownership programs for low-income families.

CHN was drawn to the pilot for several reasons. The organization sought ways to help Lease Purchase Program residents build credit to successfully purchase and keep their homes. CHN's resident services and property management teams were also excited by the opportunity to incentivize on-time rent payment by helping residents understand rent reporting as a credit building strategy.

Commonwealth Land Trust

Established in 1985, Commonwealth Land Trust (CLT) is a 501(c)(3) nonprofit dedicated to preserving neighborhoods and preventing homelessness. CLT owns and manages over 350 units of affordable housing and provides on-site case management services to many of Massachusetts' most vulnerable residents. Linking housing with care, CLT works to rebuild lives and communities.

CLT joined the pilot for two primary reasons. The nonprofit wanted to help residents reduce their reliance on asset-stripping predatory lenders. In addition, by providing an opportunity for credit building, CLT hoped to better support residents' ability to successfully use its mobile voucher program — which allows residents in Boston Housing Authority's project-based subsidized housing to move into private housing.

Covenant Community Capital

Covenant equips working families to thrive financially and secure assets for intergenerational resilience by using credit wisely, saving for future needs, acquiring affordable homes and accessing quality education. Covenant is located in Houston, Texas, and has developed several affordable multifamily properties in the area. Covenant has been a CBA member for years and offers many credit building and financial capability programs, including ones for credit builder loans, IDA matched savings, and homeownership.

Covenant was thrilled about the opportunity to allow its low- and moderate-income renters to build credit with their monthly rent payments. Covenant gained buy-in from its third-party property management company, Hettig Management Corporation, which assumed responsibility for reporting data to Experian RentBureau.

East Bay Asian Local Development Corporation

East Bay Asian Local Development Corporation (EBALDC) is a nonprofit community development organization that builds healthy, vibrant and safe neighborhoods in Oakland, California, and the greater East Bay. EBALDC develops and manages high-quality affordable apartments and homes and retail spaces for local small businesses and community centers, while fostering increased economic opportunities for low-income families and individuals. EBALDC's neighborhood and economic development programs serve 5,000 low-income people annually through resident services at their buildings, financial education and counseling, youth and senior programming, and free tax preparation and assistance.

EBALDC participated in the pilot because of its major organizational focus on financial capability. The rent reporting pilot was well aligned with its mission and goals.

EPIC Property Management

EPIC Property Management is a young and growing property management company that serves as a third-party property manager for Housing Works, the local housing authority for Deschutes, Crook, and Jefferson counties in central Oregon. Housing Works believes dignity begins with quality affordable housing and provides affordable housing, rental assistance, and new beginnings for low- and moderate-income Oregonians. Housing Works also provides programs that bring other essentials — savings accounts, scholarships, financial education, loans, after-school programs — within reach of anyone motivated to make changes for the better.

When Housing Works brought the rent reporting pilot to EPIC's attention, the property manager quickly embraced the chance to demonstrate its commitment to providing residents with meaningful opportunities to improve their financial capability and self-sufficiency. EPIC is responsible for reporting rental data to the credit bureaus.

Marquette Management

Marquette Management Inc. is a full service property management and real estate development company for over thirty years based in Naperville, Illinois. Marquette oversees over 34 apartment communities in Michigan, Texas, Indiana, and Illinois, including an affordable multifamily property called Woodfield Crossing, located in the North West Suburbs of Chicago.

Woodfield Crossing is owned by an affiliate of the Canyon Multifamily Impact Fund (CMIF), an innovative joint venture established in May 2013 between Canyon Capital Realty Advisors (CCRA) and Citi Community Capital (CCC). CMIF seeks to address the need for higher quality workforce housing in underserved communities across the United States. CMIF focuses on investing in opportunities that provide sound financial returns, advance community development and embrace environmental responsibility.

One unique initiative put in place by CMIF at Woodfield Crossing is the rent reporting pilot program, which affords residents the opportunity to build credit with their monthly housing payments similar to how homeowners build credit with each monthly mortgage payment. As the property manager, Marquette agreed to become a data furnisher to Experian RentBureau and was excited about incentivizing on-time rent payment. Through CMIF and its other investment platforms, CCRA focuses on providing value-added debt and equity capital to real estate owners, operators, developers, mortgage lenders and corporations involved in time-sensitive and complicated projects, as well as on markets and transactions that are often overlooked, misperceived and difficult to underwrite. CCC helps community development financial institutions, real estate developers, national intermediaries and nonprofit organizations achieve their goals through a broad, integrated platform of debt and equity offerings.

How Rent Reporting Works

There are two avenues for monthly rental payment data to get to the credit bureaus:

1) Landlords or property managers credentialed to furnish such data can report payments directly to the credit bureaus.
2) Rental payment processing companies, also credentialed by the credit bureaus, allow property managers to give residents the option of paying their rent online via the payment processor and the opportunity to have those payments reported to the bureaus. The payment processor is then responsible for obtaining resident consent to share information with and furnish the rental payment data to the credit bureaus. Some payment processors market directly to residents, but back-end collaboration with the property manager is essential. This avenue for rental payment reporting is new and evolving.

In the case of Experian RentBureau, the landlord, property manager or rental payment processing company sends on-time and late payment data to RentBureau directly from the property management or payment software. Paid-as-agreed rental payments are then added to Experian's traditional consumer credit database and consumer credit reports.[8]

Experian RentBureau manages rental data in compliance with the Fair Credit Reporting Act, works closely with property managers to understand their particular business rules to ensure accurate data interpretation, and has also created myriad educational materials to help rental data furnishers meet their responsibilities and educate their residents. Experian RentBureau accepts information on payment history in addition to current monthly payment data. For our pilot participants, this meant that those who had been living at their current residence for the past 24 months saw that payment history reflected in the rental trade line added to their consumer credit reports the first month their landlord began reporting.

Affordable housing owners or operators who benefit from federal assistance are subject to the Privacy Act of 1974, which places certain safeguards on the sharing of residents' personally identifiable information[9] with a third party, including a credit bureau. Any property owner or operator subject to the Privacy Act and wishing to report rental payment data to the credit bureaus must obtain a resident's opt-in — i.e., prior written consent — to do so.[10]

8 In the case of TransUnion, paid-as-agreed payments and payments that are 30-plus days late are added to the traditional consumer credit database and on to consumer credit reports.

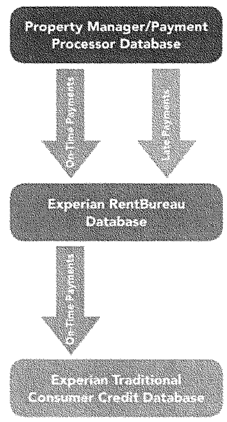
9 The Office of Management and Budget defines personally identifiable information as "information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc." Information such as an individual's name, Social Security number, and date of birth is used in the reporting of rental payments. Johnson, C., III. (2007, May 22). Memorandum for the heads of executive departments and agencies: Safeguarding against and responding to the breach of personally identifiable information. Retrieved from http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf.

10 The U.S. Department of Housing and Urban Development exempts information that must be disclosed for what is considered a "routine use," including disclosure of information about an individual "to a consumer reporting agency, when trying to collect a claim of the Government." Privacy Act of 1974; Proposed New Routine Use – HUD's Routine Use Inventory, 77 Fed. Reg. 41,993, 41,996 at Appendix I(5) (July 17, 2012) (effective Aug. 16, 2012).

Components of a Rent Reporting for Credit Building Initiative

In the early stages of the pilot, CBA envisioned the development of one standard model for rent reporting that would allow participating affordable housing providers to seamlessly furnish data to Experian RentBureau (and, ultimately, other credit bureaus). However, rent reporting for credit building initiatives do not just entail the transfer of data to the credit bureaus. They involve intentional resident outreach and education to move renters along the financial pathway out of poverty. During the pilot, it became clear that one standard model was not applicable to all of the participating groups.

The model originally envisioned — along with a number of variations — is outlined below. Nearly all of the pilot groups implemented a model involving at least one variation. These different options ultimately allowed CBA to identify creative solutions for other housing providers interested in pursuing rent reporting that might not otherwise fit the pilot's standard model.



COMPONENTS	STANDARD PILOT MODEL	OTHER OPTIONS	
Data Furnisher	Property Management Company	Third-party payment processor	
Resident Participation	Opt-in	Opt out	Mandatory
Reporting Relationship(s)	Experian RentBureau	TransUnion	
Data Transfer	Automated	Manual	
Outreach and Education	Incorporated into existing touch points and programming	New outreach mechanisms and programming	Third-party service provider
Dispute Monitoring	Encrypted email notification	Self-monitored e-OSCAR account	CBA-monitored e-OSCAR account

TERM	EXPLANATION
Data Furnisher	The entity responsible for accurately and reliably collecting and reporting data to the credit bureaus is the data furnisher. Direct reporting through property management software is the most efficient way for most affordable housing property managers to report rental payments to the credit bureaus. However, some housing providers may not be able to report directly to the bureaus or prefer to partner with a payment processor that takes responsibility for handling resident rent payments and acts as the data furnisher. Of our eight pilot groups, six chose to report directly. The two that worked with a payment processor are considering direct reporting in the future.
Reporting to the Credit Bureaus	Throughout most of the pilot, only Experian® was actively seeking and reporting rental data on its consumer credit reports from the groups. All pilot groups either directly report to Experian RentBureau or work with a payment processor that is reporting resident payments.[11] CBA has informed the pilot groups of the opportunity to now also report to TransUnion, and several are considering doing so.
Data Transfer	Ideally, rental data is transmitted from the property manager's database to the credit bureaus in an automated fashion to limit the chances of human error and to make reporting as efficient as possible. However, sometimes automated data transfer is not possible due to incompatible software, and property managers must instead send the bureaus manual monthly reports. Of the six pilot groups reporting directly, four furnish data in an automated fashion through software integrations with Experian RentBureau, and two furnish data via manual monthly reports.
Resident Participation	With the discovery that pilot groups receiving U.S. Department of Housing and Urban Development (HUD) subsidies are required to collect written consent to share residents' personally identifiable information to report on-time payments, most groups shifted to an opt-in model. While this caused us to adjust our expectations for resident participation, the groups developed various strategies to increase participation by targeting outreach to specific groups and incorporating enrollment into lease renewals, income recertifications, financial education programming, etc.
Outreach and Education	Ideally, the affordable housing provider already has effective platforms for communicating with residents, as well as financial capability and asset building programming, and can use those platforms and programs to inform residents of and engage them in rent reporting. Alternatively, a provider can develop new outreach tools and programming or partner with a local third-party nonprofit that has experience providing such programming. All but one of our groups had financial coaching, financial capability and/or asset building programs in place before joining the pilot. One group partnered with a well-established financial empowerment nonprofit to provide coaching and workshops at its pilot property.
Dispute Monitoring and Resolution	The Fair Credit Reporting Act requires data furnishers to monitor, investigate, and respond to consumer disputes related to the data they report. Most traditional data furnishers monitor disputes through their e-OSCAR[12] account. Because disputes regarding rental trade lines are rare — especially when the data furnisher does a good job with outreach and education — Experian RentBureau also gives its furnishers the option of monitoring disputes through encrypted email. The six pilot groups that chose to furnish data directly opted to receive dispute notifications in this manner.

11 Pilot groups worked with the rental payment processor, WilliamPaid, to help residents enroll to have their rent payments automatically debited from their bank accounts and subsequently reported to Experian RentBureau. In March 2015, WilliamPaid went out of business.

Profile: Cleveland Housing Network

Motivation

At the time CBA started actively recruiting pilot organizations, CHN had recently begun implementation of its new Family Success Program. *The Cleveland Housing Network recognizes that its success is dependent upon the success of its residents. The Family Success Team s mission is to advocate the success of each resident by meeting them along their path through the Lease Purchase program, understanding their needs as families, and connecting them with training, education, and community resources to enhance their health, wealth, and employability.*

CHN identified thin/poor credit history as a challenge faced by many of their residents and recognized rent reporting as a powerful tool to incorporate into their Family Success Program. CHN was excited about the chance to directly provide residents with an impactful credit building opportunity and another positive incentive for on-time rent payment.

CHN Rent Reporting for Credit Building Model

Data Furnisher: Direct. CHN has in-house property management. CHN applied and became credentialed to report rental data directly to Experian RentBureau in early 2013.

Resident Participation: Opt in and opt out. CHN applies opt in resident participation for its residents living in subsidized housing and opt out participation for those living in unsubsidized homes.

Reporting Relationship(s): Experian RentBureau. CHN is tracking and considering opportunities to report to other major credit bureaus as those opportunities become available. CHN recognizes the value of reporting to multiple bureaus but must consider its own capacity and competing priorities before committing to the significant work involved in becoming credentialed, setting up another data transmission system, and collecting required resident consent in order to begin reporting to another credit bureau.

Data Transfer: Manual monthly reporting. Manual reporting was the only option available to CHN because it uses a propriety property management database. CHN directed one staff person with excellent technical skills to work with Experian RentBureau to create custom manual reports and a secure data transmission system. It took several weeks of back and forth communication and testing between CHN and Experian RentBureau to develop and finalize the data transfer process. Now, it takes one CHN staff person only about fifteen minutes at the end of each month to pull and send the customized reports to Experian RentBureau for inclusion on residents Experian consumer credit reports.

Outreach and Education: Rent reporting enrollment/opt-in is part of the lease renewal process. CHN s Lease Purchase program (its flagship program that allows low-income families to lease a home at an affordable rate with the opportunity to purchase after 15 years) residents are required to renew their lease every six months. Incorporating the rent reporting opt-in into this required resident touch point was identified by CHN resident services and property management staff as an efficient and effective mechanism for achieving a high level of resident participation. As of June 2014, only one out of 150 residents declined to opt in during one of these renewal meetings. At the conclusion of the pilot in December 2014, CHN was reporting rent payment on behalf of 505 residents total.

Dispute Monitoring: Secure email notification. CHN has not yet received a single dispute in part, because incorporating rent reporting enrollment into regular resident interactions requires residents to actively make a decision about the opportunity and gives residents a chance to learn about the benefits and discuss concerns they may have with a knowledgeable staff person.

Making Rent Reporting Count

CHN encourages residents to take advantage of the one-on-one financial coaching it offer, as well as a host of other asset building programs, in order to translate improved credit history due to rent reporting into savings, new opportunities, and assets. CHN closely monitors the progress of Family Success Program participants. Just this past February: 68 participants increased their Experian credit score by an average of 35 points; 5 became scorable; 26 participants increased their savings; and 64 reduced their outstanding debt loads.

Summary of Key Findings

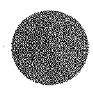
By collecting quantitative and qualitative data from the pilot organizations and with analytical support from Experian RentBureau, the pilot revealed the following:

- Rent reporting is seen by renters as a good opportunity for credit building.
- Rent reporting offers a significant credit building opportunity to residents living in affordable housing.
- Rent reporting is a promising strategy for affordable housing providers seeking to increase resident participation and success in financial coaching and asset building programs.
- Rent reporting in combination with financial coaching can incentivize residents to increase their rates of paying rent on time.
- Rent reporting is a viable financial capability strategy for affordable housing providers seeking to help their residents achieve financial stability. Bringing it to scale, however, requires more standardized reporting policies and procedures across the credit bureaus, greater technical capacity on the part of affordable housing providers to report payments, and further investigation of solutions for increasing resident participation as a result of the opt-in requirements for HUD funded affordable housing providers.

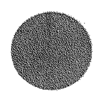
Resident Interest in Credit Building

Early in the pilot, CBA asked participating groups to survey their residents to better understand how receptive they were to credit building generally and, more specifically, to reporting their rent payments to build credit. Pilot groups distributed a questionnaire with a common set of questions to their residents and shared the responses with CBA for aggregation. With a total of 437 responses, CBA found that while few residents had seen their credit report within the last 12 months, a large majority believed having good credit is important, planned to take steps in the near future to build their credit, and viewed the reporting their rental payments as a good opportunity to build credit.

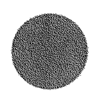
The Power of Rent Reporting pilot participant survey found...



38% have reviewed their credit report in the past 12 months



96% reported that having good credit is important to them



97% reported that paying rent on time is a good way for them to build their credit

12 The major credit bureaus use the Online Solution for Complete and Accurate Reporting (e-OSCAR), created to help data furnishers monitor and respond to disputes efficiently and effectively.

The Impact of Rent Reporting on Resident Credit Profiles and Scores

CBA and the pilot groups collaborated with Experian RentBureau to analyze the impact of rent reporting on the credit profiles of participating residents using the VantageScore 3.0 credit score. To conduct the analysis, Experian RentBureau gathered rental payment data from its database for 987 residents.

The leases in the pilot population were initiated between 2001 and 2014 and consisted of completed and active leases. All of the leases were added to the Experian credit database as actual trade lines. The analysis isolated the impact of including the rental data by comparing the credit files and scores that included the rental trade line with a simulated credit file and score that did not at a particular moment in time. The analysis revealed that:

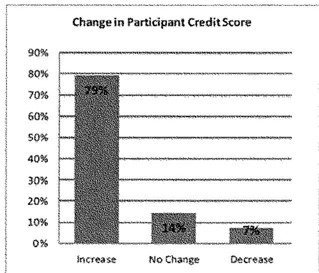
- ✓ All residents who were unscoreable became scorable at either the nonprime (average 646) or prime (average 688) credit tiers.
- ✓ A large majority (79 percent) of participants experienced an increase in credit score, with an average increase of 23 points.
- ✓ Fifty-five percent of all participants in the analysis initially had a subprime credit score. Ninety percent of those individuals experienced an increase in credit score by an average of 32 points due to the inclusion of positive rental payment history.
- ✓ Fifteen percent of residents moved into a lower credit tier (from subprime to nonprime or nonprime to prime).
- ✓ A small number of pilot participants (14 percent) saw no change in their credit score after including the rental trade line. An even smaller number (7 percent) saw a decrease in their credit score, and only 2 percent experienced a drop of 11 points or more.
- ✓ Overall, individuals with fewer trade lines on their credit report and longer rental payment histories saw the greatest improvements in their credit score.

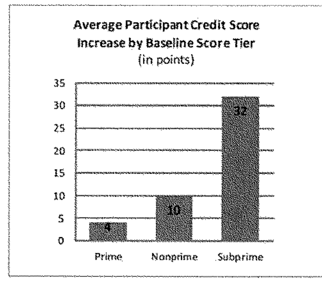
What the numbers mean...

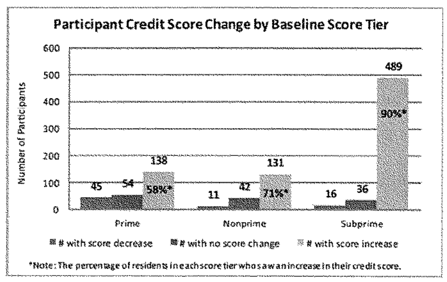
Credit Tiers	VantageScore 3.0*
Superprime	781-850
Prime	661-780
Near prime	601-660
Subprime	300-600

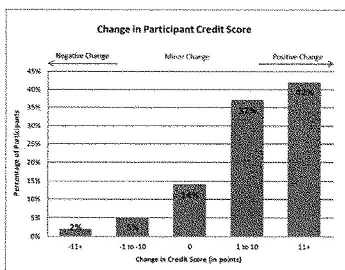
*VantageScore 3.0. Better predictive ability among sought-after borrowers. White Paper Series. December 2013.

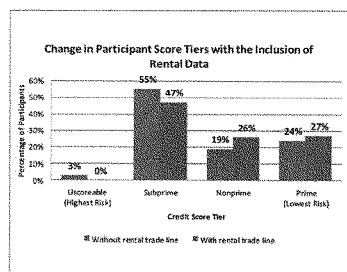
Graphic Representation of Resident Credit Profile Impact











Promising Practices: Encouraging Resident Engagement in Credit Building and Leveraging Credit Improvements

Pairing a credit building product such as rent reporting with financial education, including credit coaching, is a best practice. Therefore, the groups we selected to participate in the pilot all had financial education or capability programs, with the exception of one, which we connected with a third-party nonprofit experienced in that area. We recommended that groups combine rent reporting with their existing financial coaching, financial capability, and asset building programming, and that, at a minimum, they offer basic financial coaching so that residents could see firsthand why a good credit score is important, how reporting on-time rent payments could positively impact their scores, and how to take advantage of credit score improvements. The groups offered varied levels and types of outreach and ongoing support.

Many groups successfully increased resident engagement in credit building by incorporating rent reporting into their existing financial coaching and asset building programs, which provided a tangible way to help residents see their progress firsthand. By connecting rent reporting participants with financial coaching and asset building programs, the pilot groups were also able to help their residents translate credit improvements resulting from rent reporting into increased savings, assets and other financial opportunities, including individual development accounts and homeownership, banking and bill-pay programs, among others. Together, CBA and the pilot groups discovered the following promising strategies:

- Developing materials for resident outreach and education as well as talking points that clearly connect rent reporting with relevant and specific credit building goals grabs people's attention and motivates them to take action.
- Incorporating rent reporting enrollment into a regular resident interaction, such as lease renewal or income recertification, requires residents to actively make a decision about the opportunity and gives them a chance to learn about the benefits and discuss any concerns they may have with a knowledgeable staff person.

The resident services team at AHC Greater Baltimore initially struggled to get their residents in the rent reporting target population (mostly seniors) interested in credit building. They told staff that a good credit history was not something they needed anymore since they weren't planning on making any more large purchases requiring financing. The resident services team recognized that most residents weren't interested in messages regarding homeownership or purchasing a new car but they were interested in building their credit in order to get a cell phone plan without putting down a deposit. By recognizing residents' financial goals and targeting rent reporting outreach to help residents understand how rent reporting can help them achieve those goals, the AHC resident services team was able to more effectively get residents interested and enrolled in the program.

- Connecting the rent reporting for credit building opportunity with existing financial coaching and asset building programming gives affordable housing providers an additional hook to increase resident engagement and successful participation.
- Integrating rent reporting for credit building into financial coaching and asset building programming empowers residents to build on their credit building successes and translate credit improvements into real progress toward their broader financial goals, such as budgeting, saving, and building assets.

Cleveland Housing Network residents in the Lease Purchase program are required to renew their lease every six months. CHN identified this lease renewal meeting as an effective moment to present residents with the opportunity to learn about and consent to having their rent payments reported. As of June 2014, only one out of 50 residents declined to opt in during one of these renewal meetings — proving that the opt-in requirement does not have to mean low participation rates or mountains of extra work.

"We had been trying for the better part of 10 years to engage our residents. We had our flyers in the halls and tried to have property managers sell our programs. ... It wasn't until [The Power of Rent Reporting pilot] that we've actually had some buy-in from residents. We had nearly zero residents coming to our workshops and to our counselors. It wasn't even measurable how many people were participating in our programming. Now, since [AHEAD began reporting rental data], we have 25 people who come in on a regular basis. It's because of [rent reporting]. This is the only thing that is different. You know, the approach was the same — mailings, flyers, and town-hall meetings — but this piece of it, this carrot, made the difference for our organization."

– Matt Manning, HomeOwnership Center Director, Affordable Housing, Education and Development Inc.

Experian RentBureau's analysis confirms that rent reporting can provide a significant credit building opportunity for renters in affordable housing, and, through the pilot, we have identified several promising strategies for engaging and supporting residents in credit building and translating credit improvements into greater financial outcomes. Moving forward, we must test those strategies to determine which are most effective.

Bill's Path to Homeownership

By: Samantha Canton, HomeOwnership Advisor, Affordable Housing, Education and Development Inc. (AHEAD)

Bill had been living in our affordable family housing in northern New Hampshire for three years and had never taken advantage of any of the financial capability programs offered by AHEAD. When Bill received the information packet concerning the Rent Re-porting program, he: contacted our office to opt in and to make a one-on-one financial coaching appointment. Bill and his wife had great payment history and always paid their bills, including rent and student loans, on time, but they had never viewed their credit report. As a young couple in their early 20s with a small child, they often struggled with financial pressures. Bill believed that home-ownership was just a dream that would not be a reality for many years. Upon pulling their credit report, he discovered, to his surprise, that they both had good credit scores. We discussed techniques to increase their scores by responsibly adding a revolving account and reporting their rental payments and the potential benefits. We developed a monthly budget and discussed strate-gies to help them feel less overwhelmed and take better control of their finances.

As an incentive to all rent reporting participants, AHEAD offered a $50 gift card upon completion of four financial coaching sessions. Bill and his wife decided to use their gift card to pay for AHEAD's first-time homebuyer workshop. When they finished the course, Bill met with his advisor again and revealed that he and his wife had made significant progress with their financial success plan and were able to open a savings account. Now they are enrolled in the Individual Development Account program and saving toward homeownership. They have also opened secured credit cards to help build their credit history. With the addition of their rental payments and new revolving accounts, they have realized a 32-point increase in their scores in less than a year.

AHEAD
affordable housing, education and development
NeighborWorks®
HomeOwnership Center

Promising Practices: Leveraging Rent Reporting as an Incentive for On-Time Payment

At the pilot's inception, CBA hypothesized that rent reporting would serve as an incentive for residents with a history of late payments to pay their rent on time. Because of the self-selection bias of residents who opted in and implementation delays among some pilot groups, our findings are based on a before-and-after analysis of one group's data (Cleveland Housing Network) and should be interpreted within this context.

CHN engaged with its residents in different ways for its rent reporting initiative. We found that:

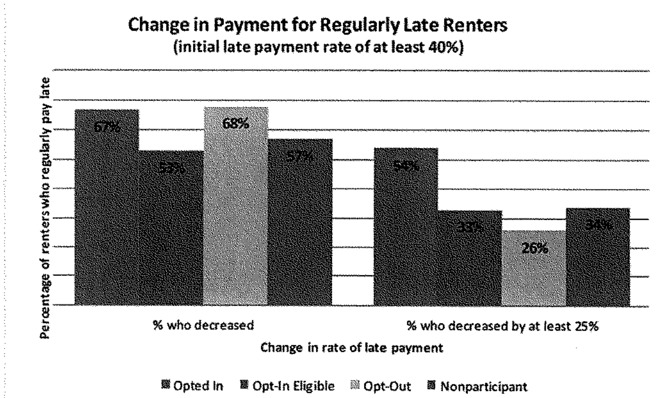
- residents who opted in to rent reporting in combination with financial coaching were more likely to substantially improve their payment behavior, decreasing their late payment rate by 26–50 percent; and
- among residents with a history of regularly paying late (initial late payment rates of 40 percent or more), those who:
  - opted in to rent reporting in combination with financial coaching were much more likely than those who did not to significantly decrease their rate of late payment (decrease of at least 25 percent).
  - were having their rent payments reported (both the opted in and opt-out groups) were more likely than residents in other groups to decrease their rate of late payment.

Based on this preliminary analysis of CHN's data, we believe that rent reporting combined with financial coaching can incentivize residents, especially those with a history of regularly paying rent late, to increase their rate of paying on time. In spite of its limitations, the intentional act of opting in to participate may be an effective mechanism for incentivizing on-time payment.

These conclusions are informative but based on a very limited analysis. Further and more rigorous research is needed to investigate the effectiveness of rent reporting as an incentive for timely payments.

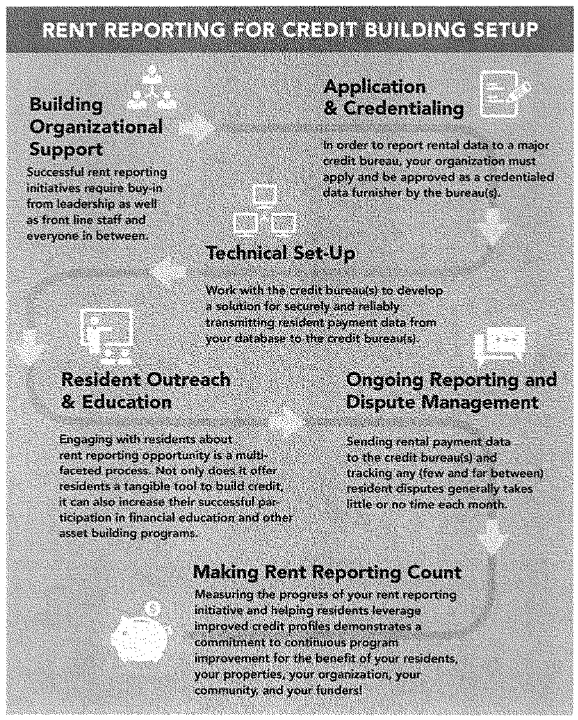
The analysis compares four groups of CHN Lease Purchase Program residents: those required to opt in who (1) chose to do so and (2) did not, and those who either (3) were not required to opt in or (4) were not included in CHN's reporting initiative.

- **Opted In:** Residents who are about five years away from the purchase opportunity, meet with a financial coach every six months, and have chosen to have their rental payments reported (Shown in blue).
- **Opt-In Eligible:** Residents who are about five years away from the purchase opportunity, are asked to meet with a financial coach every six months, and had not yet chosen to have their rental payments reported (Shown in red).
- **Opt-Out:** Residents who are more than five years away from the purchase opportunity, have the chance to meet with financial coaches but are not required to, were notified that CHN would begin reporting their rental payments to Experian RentBureau in Fall 2013 but did not opt in (Shown in green).
- **Nonparticipant:** Residents who are more than five years away from the purchase opportunity, have the chance to meet with financial coaches but are not required to, and have not been notified of the rent reporting opportunity (Shown in purple).



Process Findings: Lessons Learned

Over the course of the pilot, CBA and the groups identified five major steps necessary to successfully implement a rent reporting for credit building initiative. Each affordable housing provider is unique, and, because of that, the process can vary for different organizations. For example, these steps may sometimes occur in a slightly different sequence, and it is highly likely for two or more to take place concurrently. However, we believe that each step is necessary to implement a successful rent reporting for credit building initiative. The following sections detail the challenges, solutions, and lessons learned for each step in the process.



Building Organizational Support

While champions for rent reporting can come from a variety of places within and outside an affordable housing provider, cultivating buy-in throughout the organization — from the executive director to resident services, property management, information technology managers, and frontline staff — is critical to effective implementation.

Building support from the top down, starting with the executive director, can be ideal — and essential in some cases — for getting groups involved and committed to the initiative. But we also discovered that while strong support from senior management may help with prioritizing the project, that alone does not drive the process forward. At the outset of the pilot, we considered resident services leaders the optimal contacts for generating internal and external support. This was due in large part to our belief that they would immediately see the value of rent reporting as a strategy to improve the financial well-being of their residents. While this proved true, we quickly recognized that rent reporting requires the support of property managers because the actual responsibility for reporting rental data falls on them. Over time, it became clear that information technology staff or those most familiar with the property management software and its capabilities are also critical to effective implementation. Finally, individuals who play a legal or other compliance role for the organization should be consulted at the beginning and as necessary throughout the process.

Identifying decision makers, influencers, and implementers early on is essential to effectively and efficiently building support. To move the initiative forward, champions must identify the key decision makers within each department involved and anticipate those individuals' perspectives and concerns. Frontline staff should be kept in the loop and included in the program design process. Rent reporting and credit building may be new topics for them, and providing appropriate training will help them to feel more comfortable and confident in sharing the rent reporting opportunity with residents.

Buy-in does not necessarily equate to collaboration or prioritization. Securing commitments to specific actions is the goal. Once buy-in is obtained, it must be solidified in the form of specific and manageable commitments from key players. No matter how excited specific members of an organization's staff are about rent reporting for credit building, specific tasks and responsibilities must be determined with explicit deadlines assigned to sustain the momentum necessary to get to the point of reporting rental data. Assigning an internal staff person to serve as the project manager can help keep the project from stalling if, and when, other priorities arise.

The rent reporting champion at AHC Greater Baltimore recognized early on the importance of understanding the perspectives and concerns of key decision makers within the finance and property management teams. She held discussions with staff on those teams to understand their roles, motivations, and considerations so that when the time came to present the initiative to key decision makers, she was able to anticipate and effectively respond to their questions and concerns and gain their approval.

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"If [frontline staff] don't buy in, then they can't sell it to the client. They transmit all their fears and insecurities right to [the client], and that's not useful." **– Ellen Tan, President and CEO, Commonwealth Land Trust**

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Credit Bureau Credentialing

Submitting an application and becoming a credentialed rental payment data furnisher are key steps toward being able to report rent payments to the credit bureaus. The bureaus will consider applications from qualified property managers or payment processors. The bureaus want to ensure that the applicant is a legitimate legal entity with responsible data-handling policies and procedures. To become credentialed, housing providers must submit an application and data release agreement, and participate in a site visit from the credit bureaus. All pilot groups reporting directly to Experian RentBureau completed this process in less than a month.

Data furnishers need to understanding and establish policies and procedures to comply with the Fair Credit Reporting Act (FCRA). Property managers that are directly furnishing rental payment data to the credit bureaus must establish reporting policies and procedures. Experian RentBureau offers data furnishers sample policies and procedures to help address how they will:

- maintain data accuracy and integrity at all times;
- continue to furnish information on a regular basis;
- report payments;
- notify residents that delinquent payments could be reported; and
- investigate and update inaccurate information that has been submitted accidentally.

While aware of their obligations under the FCRA, pilot groups already considered themselves responsible data handlers and were able to customize the sample policies and procedures to their own structures, goals, products, accounting, and staffing without any difficulty.

Technical Setup

An affordable housing provider's information technology systems, software, and expertise are critical to successful implementation. The technical setup phase of the rent reporting implementation process involves creating a system for transferring residents' personal and payment information to the credit bureaus in a secure and reliable manner.

Preferably, data is transmitted to the credit bureaus in an automated fashion by building an integration that directly connects a property manger's database with the credit bureaus. If an automated integration is not possible, some property managers are able to create and send reports to the bureaus manually each month. This work is manageable for experienced system administrators and IT professionals but can be challenging for individuals with a limited IT background or too many competing priorities. Affordable housing providers best suited to report rental payments are those that either use property management software that can automatically integrate with the credit bureaus or that have a certain level of in-house technical expertise or external support because successful and efficient reporting relies heavily on technology and staff capacity.

EPIC Property Management is a small up-and-coming property management company in central Oregon. Even though the company does not have a large information systems and technology department in-house, it was able to develop and implement an integration with Experian RentBureau with the help of a technical account manager at Yardi, EPIC's property management software provider. With expert and responsive support from Yardi and Experian RentBureau, EPIC was able to develop an integration and began reporting live resident data over the course of just a few weeks. CBA is hopeful that this integration, which allows for resident opt-in participation, will serve as a foundation for other affordable housing providers seeking to develop similar integrations.

Even if an affordable housing provider is using property management software that automatically integrates with the credit bureaus, rental data reporting integrations were not originally developed with resident opt-in requirements in mind. The data integrations that have been built between some of the most widely used property management software programs and Experian RentBureau were originally designed to transmit all residents' data by property. All but one[13] of the pilot groups were required to obtain residents' written consent for reporting and had to work with Experian RentBureau to develop customized data transmission systems that allowed for reporting on an individual resident, rather than an entire property. While the opt-in requirement presented a significant challenge for all parties involved, the groups' and Experian RentBureau's patience and cooperation made it a manageable one to overcome. Moving forward, however, more property management software companies must be willing to not only create automated integrations with the bureaus but also ensure that those integrations allow affordable housing providers to comply with the federal Privacy Act by transmitting data on an individual basis.

For affordable housing providers unable or unwilling to submit rental data directly to the bureaus,[14] partnering with a third-party rent payment processor offers an alternative. In such cases, however, the housing provider and third-party payment processor and data furnisher still must develop a streamlined communication plan to ensure the accuracy and efficiency of data transmissions, especially in cases when residents' monthly payments change because of fluctuations in income.

13 Marquette Management did not have to ask residents to opt in at Woodfield Crossing, which does not receive any HUD funding.

14 Reasons may include having incompatible software or fear of FCRA liability.

Resident Outreach and Education

Existing financial capability campaigns and programs are powerful ways to engage residents. Rent reporting for credit building gives financial coaches and resident services providers a chance to offer residents a specific and actionable opportunity to build their credit history. It also allows frontline staff to engage residents in a positive and forward-looking conversation about their finances rather than one focused on past problematic behavior. With outreach and marketing material that helps people see rent reporting as an opportunity to build credit, save money, and gain access to new opportunities, more residents may recognize the value of participating in other financial capability and asset building programs that can help them get and stay ahead.

Integrating rent reporting outreach and education into regular resident interactions can be more effective and efficient than communicating about it as a stand-alone opportunity. Getting residents enrolled and engaged in rent reporting for credit building does not necessarily have to involve additional or new resident meetings or workshops. Most affordable housing providers already engage with residents in a variety of ways. Presenting the rent reporting for credit building opportunity to residents as part of routine interactions — such as lease signings, orientations, and income recertification — is an effective and efficient strategy for encouraging them to opt in and build credit.

Judith's Emergency Savings Account

By: James Parker, Resident Services Manager, AHC Greater Baltimore

Judith was the victim of identity theft. She went to the resident services team at AHC Greater Baltimore after being served with court papers for a $9,000 debt. Judith is a 59-year-old widow and lives on $1,200 per month from her husband's pension. She was in a panic and seeking help.

The resident services team was able to assist Judith by pulling her credit reports and helping her to initiate an investigation. Together, they were able to identify old bills that were unresolved and track the source of the identity theft. Her identity had been compromised after a visit to a dishonest cell phone provider. Judith's research allowed her to go to court and get the case against her dismissed. By removing the fraudulent debts from her credit report, Judith improved her credit history, which allowed her to reduce her monthly car insurance premium. With the money she saved because of her lower insurance payments, Judith opened a savings account and began saving money to put toward badly needed car repairs.

Judith hopes to own a home again one day and understands that she needs to continue building her credit to make that goal a reality. Judith enrolled with WilliamPaid during AHC Greater Baltimore's May 2014 campaign, and her rent payments were reported to Experian RentBureau starting the next month. She was reluctant to enroll with WillaimPaid at first because of negative experiences with online bill pay. Judith worried that there would be a delay in the processing of her rent payments, which could result in late fees or even an eviction notice. But her trust in the resident services team gave her the confidence and encouragement to enroll with rent payment processor and reporter, WilliamPaid. She hasn't had any difficulties since enrolling with WilliamPaid and she's now comfortable enough to manage her account independently. Judith now has modest savings for emergencies and a higher credit score – making her less reliant on the predatory lenders she had turned to in the past.

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Making Rent Reporting Count

Planning for outcome tracking and evaluation should take place concurrently with designing and developing a rent reporting for credit building initiative. Identifying key outcomes and developing a plan for tracking resident outcomes in tandem with designing the actual initiative may help an organization focus on a few specific and measurable results it hopes to achieve. Concurrent program and evaluation planning also helps ensure that staff have the resources and tools they need to track outcomes. Specifically, affordable housing providers must ensure they have residents' consent and, ideally, access to the relevant credit reports and scores to use in tracking the impact of the initiative on residents' credit profiles.

Involving residents in tracking their own outcomes can be an empowering and motivating experience. Participatory evaluation is often a regular part of credit and financial coaching programs. Reading and interpreting a credit report and scores with a resident is not only a learning opportunity but a chance to empower residents by developing their ability to monitor and recognize their own progress.

Maintaining a focus on meaningful impact helps residents leverage credit improvements to achieve their financial goals. Newly established or improved credit scores are essential, but how residents take advantage of them is what really counts. Helping clients translate credit improvements resulting from rent reporting into other financial outcomes such as real savings by refinancing expensive debt, building assets, or obtaining good market rate rental housing is the real goal. Among other things, pilot groups encouraged residents to translate their credit improvements into savings to purchase a car or home or to pay for education — and into opportunities for their children by cosigning apartment leases and car or student loans.

Cindy's Path to Homeownership

By: Verlisa Hunter, Asset Coach/Homebuyer Club Coordinator, Covenant Community Capital

As an outreach specialist at a local community college, Cindy deeply understood the importance of education and opportunity. And as a single mother, she always wanted to own a home of her own and take advantage of the benefits of homeownership.

While taking a homebuyer pre-purchase workshop at Covenant Community Capital, Cindy began to develop strategies for improving her credit profile. Like many others seeking the approval of creditors, she needed to build credit without burdening her debt-to-income ratio. Paying down debt and reestablishing new credit seemed mutually exclusive. "I felt like I needed a lot of help with my credit," she lamented.

With support from Covenant, Cindy found that help at WilliamPaid, an online rental payment processor that reports client rental payments to Experian RentBureau. After enrolling with WilliamPaid to have her payments reported and backdating her rental history to the beginning of her lease, she saw a nearly 50-point increase in her credit score.

With a score currently in the 700s she believes purchasing a home is now only a matter of building her savings. Cindy feels creditworthy and more in control of her credit. She hopes to buy a home within the next months. "I never thought I would get this far," she said. "They made the process easy." Her recommendation for those struggling to build credit: Use WilliamPaid. "The only thing you have to lose is bad credit."

COVENANT community capital

Accomplishments, Ongoing Issues and Future Directions

Recognizing the credit building opportunity that rent reporting offers, CBA set out to support mission-driven affordable housing providers in closing the gap in the financial system that has historically excluded renters from building credit as a financial asset. While the emergence of this relatively new credit building opportunity has been widely welcomed by the affordable housing industry, every opportunity comes with challenges, and this is no exception. However, given CBA's long-standing relationship with the credit bureaus, along with our experience and expertise supporting the work of hundreds of nonprofits nationwide, we are uniquely positioned to help overcome those challenges and to provide guidance and support to responsible affordable housing providers as they design and implement their own rent reporting for credit building initiatives.

Accomplishments

Through the rent reporting pilot, CBA was able to jumpstart action in the affordable housing industry to leverage rent reporting as a credit building strategy. The result has been substantial interest among affordable housing providers, improvements to resident credit profiles, and systems change within the credit industry. Prior to the pilot, for example, residents living in subsidized housing were not reaping the benefits of having their rental payments reported to the credit bureaus. Now they are. The pilot enabled us to do the following:

1) **Raise awareness about rent reporting within the affordable housing sector.** Most affordable housing providers simply did not know about the opportunity until 2012, when CBA began its outreach. Today, over 150 providers have been directly introduced to rent reporting, and they show ever-increasing awareness and interest in exploring the opportunity.
2) **Contribute to credit bureaus' understanding of issues specific to affordable housing, such as fluctuating and very low rent amounts as well as resident opt-in requirements.** Over the last two years, modifications have been made to credit bureau policies and procedures that accommodate payment issues for residents with rental subsidies — particularly those whose rental payments fluctuate along with their incomes on an annual, if not more frequent, basis — and residents with very low rental payments. Furthermore, while the resident opt-in requirement still presents a challenge on a larger scale, options for automated data transmission between property managers and the credit bureaus now exist and can help set the standard for future developments in this area.
3) **Expand the options for affordable housing providers interested in reporting to additional credit bureaus by collaborating with TransUnion.** At the pilot's inception, only Experian was including rental payment trade lines on its traditional consumer credit reports. An early question among affordable housing providers exploring rent reporting for credit building concerned the lost opportunity for residents whose payments were not reflected on credit reports pulled from the other bureaus by lenders and other businesses.[15] In late summer 2014, TransUnion and CBA began discussing the opportunity for housing providers to report to TransUnion, and plans are in the works.
4) **Develop resources and a toolkit to assist affordable housing providers in understanding the value of rent reporting for credit building and guidance on implementing it.** As with any new undertaking, housing providers had concerns about their capacity to understand and manage the different stakeholders, options and processes. Through its experience with the pilot, CBA has designed the Rent Reporting for Credit Building 101 Guide to help providers understand the process and make implementation decisions. The guide describes how to build organizational support; provides options and guidance on setting up systems to furnish rental payment data to the credit bureaus; and details how to conduct outreach and

15 This concern extended to the credit scores that optimize the rental payment trade line to help establish and improve consumer credit scores. Recognizing the trade line's value, VantageScore was an early adopter. As of 2014, Fair Isaac Corporation (FICO), which provides software for calculating credit scores, intentionally incorporates the trade line into the algorithm for its FICO 9 score.

resident financial education, manage ongoing reporting and disputes, and help residents leverage their credit building success. CBA has also created a new service, CBA Rent Reporting for Credit Building, which provides organizational assessments and consultation on program design, implementation, and tracking outcomes to providers seeking to develop or enhance their credit building efforts based on their residents' unique needs and goals, as well as their organizational mission and capacity. We believe these two resources will address many of the concerns and challenges that the pilot sites experienced, making it less challenging for others to undertake rent reporting for credit building initiatives.

5) **Provide further evidence that rent reporting positively impacts credit scores for the vast majority of residents living in affordable housing.** Affordable housing providers are often concerned about the unintended consequences of rent reporting on particularly low-income tenants who are already struggling to pay their rent on time. It is no surprise that mission-driven providers, many of which access government resources to support their operations to some degree, are dedicated to their residents' welfare and sensitive to public scrutiny. As illustrated in this paper, reporting on-time rental payments did indeed have a negative impact on a small number (7 percent) of participating residents, but only 2 percent experienced a credit score decrease of 11 points or more. In traditional loan payment reporting, CBA's nonprofit lender members also often see some small percentage of their borrowers experience credit score decreases with the addition of a new positive trade line. The reasons can be attributed to several factors, including a decrease in the individual's average trade-line age or an increase in his or her amount of outstanding debt. Although no one wishes to see a drop in resident scores, one must consider the significant credit improvements achieved by the vast majority as outlined earlier in this report alongside the potential for harm.

Hiba's Pursuit of New Opportunities

By: Alex Browder, Operations Manager / Counsel, Commonwealth Land Trust

Hiba has been a resident in Commonwealth Land Trust's family housing since 009. After speaking about the rent reporting pilot program with staff, she saw signing up to have her rent payments reported to Experian RentBureau as an ideal way to build credit. She had already started taking steps toward establishing credit, including getting her first credit card. Hiba told staff that she was particularly interested in the program because it provided a way to build credit without having to worry about another monthly bill.

Hiba wanted to build credit to increase opportunities for herself and her five children. Originally from Sudan, she and her family have put down strong roots in Boston. Although she has been a longtime renter, she would like to have the option of pursuing homeownership one day. Hiba would like to build credit to support her children as they continue through school and begin to consider college in Boston. With good credit established, she can help them move toward their goals by being able to cosign for an apartment, a car, or an educational loan. She told staff, "It's important to have credit to plan for the best future." Looking ahead, she's optimistic that her efforts to build her credit will create more possibilities for her family.

Since enrolling in the program, Hiba has already begun to receive more offers to establish credit, and she considers them discerningly. She has made plans to check her credit regularly to monitor improvement and set goals for progress.

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Ongoing Issues

In light of the challenges encountered and lessons learned through the implementation of the pilot, certain issues remain to be addressed to help bring rent reporting for credit building to scale and ensure residents living in affordable housing continue to get the maximum benefit out of this opportunity. These ongoing issues are detailed below.

1) **The priorities of resident services and property or asset management staff are not always aligned, and both usually already have full plates.** Whether property managers are in-house or third-party service providers, the implementation of a successful rent reporting for credit building initiative requires significant collaboration and cooperation between them and resident services staff. More research needs to be done on the impact of rent reporting when it comes to increasing on-time payments and property stability. Such research would help establish the mission and business case necessary to make a rent reporting for credit building initiative everyone's priority.
2) **Not all affordable housing providers have the property management software or technological expertise and capacity to report directly to the credit bureaus.** Software companies need to be responsive to their clients' requests for support in developing manual and automated data transmission systems with the credit bureaus. We recognize this requires resources and investment by software companies but believe that such features will soon be a competitive advantage for those that do offer them. Affordable housing providers must recognize that technical expertise is critical to successful implementation, regardless of whether they plan to report manually or through an automated integration.
3) **The opt-in requirement results in lower resident participation.** The Privacy Act of 1974 requires affordable housing providers who accept federal funding to obtain residents' written consent before sharing personally identifiable information, which providers must send to the credit bureaus as part of the rent reporting process. This requirement poses challenges to implementing rent reporting on a large scale. For example, requiring residents to opt in increases the workload of an already busy staff and presents obstacles for setting up automated data transmission between property managers and the credit bureaus. Furthermore, behavioral economics tells us that individuals do not always make rational choices based on their best interests but on what requires less commitment in the moment — which means fewer residents are likely to opt in despite the known benefits of rent reporting as an entrée to building credit.[16]
4) **Rent reporting is still a relatively new opportunity, and the environment is still evolving.** Rent reporting is gaining traction, but credit bureau policies and procedures differ on how data is collected, interpreted, and reported. More standardization is needed to make rent reporting for credit building feasible for the affordable housing industry in the long term. For example, For example, Experian RentBureau and TransUnion have different reporting policies and procedures, making it a potential challenge for affordable housing providers wishing to report to both bureaus and effectively communicate the differences to their residents. While these differences are not part of the scope of this paper, more work may be required to standardize and streamline policies and procedures for transmitting and reporting rental payment data to make it feasible for providers to report to both credit bureaus, and someday, all three. In addition, the emergence of more and more intermediary data furnishers, such as rental payment processing companies, present opportunities and unknowns for affordable housing providers. More research on standardizing data collection and third-party data furnishers is required.

16 In a 2001 study, only 37 percent of people joined a 401(k) plan when they had to opt in by signing up for a plan. When they were automatically enrolled in a plan, however, their participation rose to 86 percent. Madrian, B.C., & Shea, D.F. (2000). The power of suggestion: Inertia in 401(k) participation and savings behavior. Cambridge, MA: National Bureau of Economic Research. Retrieved from http://www.nber.org/papers/w7682.

Future Directions

The Power of Rent Reporting pilot set out to break new ground in designing and implementing a model that affordable housing providers could use to give low-income renters the opportunity to build their credit histories and scores by having their on-time rental payments reported to the credit bureaus. As with any innovation, the pilot encountered success and challenges and identified new areas of work and exploration that we hope will be pursued and will help further transform rent reporting into a more efficient and effective credit building opportunity for renters living in affordable housing. Future areas of work and exploration include:

- More evaluation of rent reporting's impact on residents' credit profiles and scores.
- More research on effective strategies for helping residents translate credit improvements into actual savings, new opportunities, and assets, and for leveraging rent reporting as a positive incentive for on-time rent payment.
- Productive dialogue within the credit industry regarding the standardization of rent reporting policies and procedures to ensure they accommodate the specific needs of affordable housing providers.
- Greater collaboration between property management software companies and the credit bureaus to create effective rent reporting integrations that allow for compliance with the opt-in requirement of the Privacy Act.
- Greater use of credit scores that optimize the rental payment trade line among major creditors and other businesses.
- Review of the Privacy Act opt-in requirement by HUD to determine if there are administrative grounds to include full-file rental data reporting on its "routine uses" list to make opting out an option for affordable housing providers to use in rent reporting.

CBA will continue to encourage rent reporting for credit building throughout the affordable housing industry as a proven tool for helping residents build credit. In addition to affordable housing providers that may report rental payments directly to the credit bureaus, many community organizations working with low-income renters are looking for strategies to motivate property managers to begin and sustain a rent reporting for credit building initiative. We are extremely encouraged by the progress over the past three years, due in major part to effective cross-sector collaboration between the nonprofit affordable housing industry, national for-profit credit reporting agencies, and public agencies from the national to city level. We are confident that, as rent reporting gains traction and more affordable housing providers implement and evaluate rent reporting for credit building initiatives, their results will bolster and expand on the outcomes of this pilot.

CBA aims to make responsible rent reporting a common and valued tool for providers. ***"There is no challenge we will not meet. Rent reporting is the right thing to do,"*** said Matt Manning, the HomeOwnership Center director at AHEAD. CBA and all of the pilot's stakeholders remain committed to moving this opportunity forward.

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Learn More

For more information on the Power of Rent Reporting Pilot and CBA's Rent Reporting for Credit Building services, visit: www.creditbuildersalliance.org

Copy Editor **Arin Gencer**
Designer **Stephanie Greig**

American Bankers Association

Building Success. Together.

December 3, 2015

The Honorable Gwen Moore
2245 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Tom Emmer
503 Cannon House Office Building
Washington, D.C. 20515

Dear Representatives Moore and Emmer:

On behalf of the members of the American Bankers Association (ABA), I am writing to express our support for H.R. 4116. This legislation would amend the Federal Deposit Insurance Act to ensure that the reciprocal deposits of an insured depository institution are not considered to be funds obtained by or through a deposit broker, and for other purposes. The legislation is a step in the right direction toward modernizing the Federal Deposit Insurance Act to reflect current banking structure and deposit gathering practices.

Section 29 of the Federal Deposit Insurance Act sets restrictions on the acceptance of brokered deposits and on certain deposit interest rates. Since the Act was passed - over 25 years ago – both technology and the structure of banking organizations have changed significantly. Today, banks work together with their affiliates to offer a variety of services that meet their customers' needs. Additionally, the advent of the internet and smart phones, among other things, has dramatically changed the way in which banks interact with their customers. Regulatory interpretations of Section 29, however, rely on an outdated 1990's view of banking and technology. As a result, the classification of a deposit as brokered has expanded significantly to include deposits that lay far outside what was originally intended. This outdated definition of brokered deposits has an adverse impact on banks causing implications for other regulatory requirements such as the cost of deposit insurance and liquidity standards.

It is important that Section 29 of the Federal Deposit Insurance Act be updated to reflect modern technology and banking practices. ABA and its members are supportive of the legislation and urge Congress to further update the statute.

Sincerely,

James C. Ballentine

James C. Ballentine

cc: Members of the House Financial Services Committee

ABA

ALABAMA BANKERS ASSOCIATION
- INCORPORATED -

December 10, 2015

The Honorable Jeb Hensarling
2228 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
2221 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of the Alabama Bankers Association, please support H.R. 4116, a measure introduced by Reps. Moore (D-WI) and Emmer (R-MN) that would ensure that a bank's "reciprocal" deposits are treated differently from its "brokered" deposits.

Community banks nationwide utilize reciprocal deposits to ensure full FDIC coverage on deposits exceeding the $250,000 FDIC insurance limit. For example, if a local college with $1 million to deposit wanted full insurance, a local bank could put the amount over the FDIC insurance limit into a nationwide network where it could be split up into deposits in three other banks. In return, the local bank would receive deposits back from three reciprocating banks so that it would still have $1 million in deposits. The customer is satisfied - $1 million fully insured - while the bank has $1 million to lend to the community.

Unlike reciprocal deposits, brokered deposits are attracted from all over the country, contain high interest rates, and have enabled banks to grow too quickly. On the other hand, reciprocal deposits, much like a bank's core deposits, are stable sources of funding from local customers using the local interest rate. H.R. 4116 makes a reasonable distinction between reciprocal deposits and brokered deposits without jeopardizing the safety and the soundness of the financial system. The Alabama Bankers Association is proud to join the American Bankers Association, the Independent Community Bankers of American, and other state banking associations in supporting H.R. 4116. I urge you to give it your support.

Sincerely,

Scott Latham
President and CEO

CC: The Honorable Terri Sewell

ARIZONA BANKERS
ASSOCIATION

December 2, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

I am writing to you on behalf of the bankers of [STATE] in support of legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), which would address a problem that many of our bankers experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in [STATE] and around the country to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases -- for example, with a local government or foundation -- there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered

111 West Monroe Street, Suite 440 • Phoenix, Arizona 85003 • 602.258.1200 • Fax: 602.258.8980 • www.azbankers.org

deposits was meant to cover. There can be a problem with true brokered deposits in that they are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the American Bankers Association and the Independent Community Bankers Association have stated their support for legislation to address the reciprocal deposit issue. I urge you to give it your important support.

Sincerely,

Paul Hickman

Paul Hickman
President & CEO

1303 J Street, Suite 600, Sacramento, CA 95814-2939 T: (916) 438-4400 F: (916) 441-5756

December 7, 2015

The Honorable Tom Emmer
Member, House Committee on Financial Services
503 Cannon House Office Building
Washington, D.C. 20515-2306

Dear Representative Emmer:

On behalf of the California Bankers Association, which represents the majority of banks doing business in California, I am writing to express our support for H.R. 4116. This legislation would amend the Federal Deposit Insurance Act (Act) to clarify that the reciprocal deposits of an insured depository institution are not considered to be funds obtained by, or through, a deposit broker (brokered deposits).

H.R. 4116 will help banks that engage in reciprocal deposit gathering practices to serve their clients, including local governments, colleges, foundations and individuals with significant funds to deposit, who seek to secure those funds at an FDIC-insured institution serving the local community.

Currently, Section 29 of the Act, enacted more than 25 years ago, does not distinguish between brokered deposits and reciprocal deposits and sets restrictions on the acceptance of brokered deposits, as well as limits on certain deposit interest rates. H.R. 4116 seeks to clarify the distinction between the two deposit gathering activities and is an important step towards modernizing the Act consistent with current safe and sound banking practices. This legislation will update the definition of brokered deposits, making it clear that reciprocal deposits are not included within that definition thereby relieving banks of the burdens imposed by current law, including adverse impacts on the cost of deposit insurance and liquidity standards.

For these reasons, CBA supports H.R. 4116 and urges members of Congress to enact it.

Sincerely,

Rodney K. Brown

Rodney K. Brown
CBA President and CEO
California Bankers Association

Community Development Bankers Association
1444 Eye Street, Suite 201 • Washington, D.C. 20005 • (202) 689-8935 • (202) 689-8938 (fax)

November 30, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

I am writing on behalf of the members of the Community Development Bankers Association (CDBA). The CDBA represents 59 Federal and state chartered banks and thrifts that are certified by the U.S. Treasury Department's Community Development Financial Institutions (CDFI) Fund as targeting 60 percent or more of our total financing to low income communities and people. Our members serve as engines of economic inclusion throughout the United States. We share a common mission of improving communities and lives.

CDBA members – more than half of the nation's certified CDFI banks – serve our nation's most distressed and credit-starved communities. We operate in communities with modest discretionary income and we often find that income insufficient to raise the deposits we need to fund loans. Therefore, as an integral part of our strategy, we raise deposits from civic-minded and socially-motivated individuals and institutions such as local governments, charitable organizations and civic-minded corporations. The nation's 169 Minority Depository Institutions (MDIs), many of which are also CDFIs, often follow the same funding strategy for the same reason. Our common experience demonstrates that investors are willing to invest much larger deposits in CDFI banks and MDIs if they are assured those deposits are secured. Further, many of these depositors often have requirements that their deposits be fully insured. Reciprocal deposits provide that assurance. Without access to large institutional deposits, many of our loans could not be made.

The problem is that reciprocal deposits are legally defined as brokered deposits in the Federal Deposit Insurance Act (FDIA) despite the fact that they are really stabile core deposits. Created only 12 years ago, long after that law was enacted, reciprocal deposits typically do not present any of the regulatory concerns that traditional brokered deposits do: instability, risk of rapid asset growth, and high cost. Yet the law treats them the same way and, in doing so, has a chilling effect on our members' use of reciprocal deposits.

To better understand the scope of the issue for our members, CDBA and the National Bankers Association (NBA) recently undertook a joint survey of 126 institutions. Fifty-five – or 43.6 percent – responded, a very high response rate. Of the respondents, 78 percent said that they currently use reciprocal deposits or have in the past. More than 75 percent, however, said that they have limited their use of reciprocal deposits due to perceived stigma, regulatory pressure, or concerns about their availability if their institution becomes troubled. Almost 95 percent said that there was a need to exempt reciprocal deposits from the definition of brokered deposits to settle any uncertainty as to their status. Lastly, 87 percent said they would expand their use of reciprocal deposits if they were exempted from the definition of brokered deposits.

More reciprocal deposits would result in more loans in the communities that need loans the most.

Our members have for years discussed the challenges they have experienced simply from reciprocal deposits being defined as brokered deposits. These problems are real. Excepting reciprocal deposits from the definition of brokered deposits in the Federal Deposit Insurance Act would help the nation's CDFI Bank better achieve their mission.

The CDBA, therefore, strongly urges passage of H.R. 4116, bipartisan legislation which, with strong safety and soundness protections, would except reciprocal deposits from that definition.

Sincerely,

Jeannine Jacokes
Chief Executive and Policy Advisor
Community Development Bankers Association

The Membership of the Community Development Bankers Association

ABC Bank (Chicago, IL)
Albina Community Bank (Portland, OR)
Bank2 (Oklahoma City, OK)
BankFirst Financial Services (Macon, MS)
Bank of Anguilla (Anguilla, MS)
Bank of Commerce (Greenwood, MS)
Bank of Kilmichael (Kilmichael, MS)
Bank of Lake Village (Lake Village AR)
Bank of Montgomery (Montgomery, LA)
Bank of Vernon (Vernon, AL)
BankPlus (Ridgeland, MS)
Beneficial State Bank (Oakland, CA)
Broadway Federal Bank (Los Angeles, CA)

Carver Federal Savings Bank (New York, NY)
Carver State Bank (Savannah, GA)
Central Bank of Kansas City (Kansas City, MO)
Citizens National Bank (Meridian, MS)
City First Bank of DC (Washington, DC)
City National Bank of New Jersey (Newark, NJ)
Community Bancshares of Mississippi (Brandon, MS)
Community Bank of the Bay (Oakland, CA)
Concordia Bank (Vidalia LA)
Cross Keys Bank (St. Joseph, LA)
Farmers & Merchants Bank (Baldwyn, MS)
First American International Bank (Brooklyn, NY)
First Eagle Bank (Chicago, IL)
First Independence Bank (Detroit, MI)
First Security Bank (Batesville, MS)
First SouthWest Bank (Alamosa, CO)
Guaranty Bank and Trust Company (Belzoni, MS)
Illinois Service Federal Savings and Loan Association (Chicago, IL)
Industrial Bank (Washington, DC)
International Bank of Chicago (Stone Park, IL)
Mechanics and Farmers Bank (Durham, NC)
Merchants and Planters Bank (Raymond, MS)
Metro Bank (Louisville, KY)
Mission Valley Bank (Sun Valley, CA)
Native American Bank (Denver, CO)
Neighborhood National Bank (National City, CA)
NOAH Bank (Elkins Park, PA)
OneUnited Bank (Boston, MA)
Oxford University Bank (Oxford, MS)
Pan American Bank (Los Angeles, CA)
Pan American Bank (Chicago, IL)
Peoples Bank (Mendenhall, MS)
Richland State Bank (Mangham LA)
RiverHills Bank (Port Gibson, MS)
Security Federal Bank (Aiken, SC)
Southern Bancorp (Little Rock, AR)
Spring Bank (Bronx, NY)
Start Community Bank (New Haven, CT)
State Bank & Trust Company (Greenwood, MS)
Sunrise Banks (St. Paul, MN)
The Commercial Bank (DeKalb, MS)
The First, A National Banking Association (Hattiesburg, MS)
The Jefferson Bank (Greenville MS)
United Bank (Atmore, AL)
United Bank of Philadelphia (Philadelphia, PA)
Urban Partnership Bank (Chicago, IL)
Virginia Community Capital (Christiansburg, VA)

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December 2, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

I am writing to you on behalf of the bankers of Georgia in support of legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), which would address a problem that many of our bankers experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in Georgia and around the country to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases -- for example, with a local government or foundation -- there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits.

The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. There can be a problem with true brokered deposits in that they are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the American Bankers Association and the Independent Community Bankers Association have stated their support for legislation to address the reciprocal deposit issue. I urge you to give it your important support.

Sincerely,

Rob Braswell, President & CEO
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Cell: (912) 690-1722

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www.ibcbanks.org

December 7, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Re: In Strong Support of H.R. 4116

Dear Chairman Hensarling and Ranking Member Waters,

I am writing to you on behalf of community bankers across Colorado doing business in over 500 local communities. We strongly support of legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), that would address a problem that many of our bankers experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in Colorado and around the country to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases, for example in Colorado under the Public Deposit Protection Act, local government public funds are subjected to strong requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a public funds customer with $1 million to deposit wants full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wants -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. There can be a problem with true brokered deposits in that they are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the Independent Community Bankers Association and the American Bankers Association have stated their support for legislation to address the reciprocal deposit issue. We likewise urge you to give it your important support.

Sincerely,

Barbara Walker

Barbara Walker, Executive Director

independent BANKERS ASSOCIATION℠
of New York State, Inc.
Community Bankers. Serving the Community, Serving You!

December 2, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

I am writing to you on behalf of the Independent Bankers Association of New York State in support of legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), which would address a problem that many of our bankers experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in New York state and around the country to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases -- for example, with a local government or foundation -- there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

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The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. There can be a problem with true brokered deposits in that they are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the American Bankers Association and the Independent Community Bankers Association have stated their support for legislation to address the reciprocal deposit issue. I urge you to give it your important support.

Sincerely,

John J. Witkowski

John J. Witkowski
President & CEO

IBAT

INDEPENDENT BANKERS ASSOCIATION OF TEXAS

1700 RIO GRANDE STREET
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SENIOR VICE PRESIDENT
CLWILLISTON@IBAT.ORG

December 1, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

I am writing to you on behalf of the Independent Bankers Association of Texas (IBAT) in support of legislation (HR 4116) introduced by Reps. Emmer (R-MN) and Moore (D-WI), which would address a problem that many of our member banks experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in Texas and around the country to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance coverage. In many cases -- for example, with a local government or foundation -- there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000.

To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. Traditional brokered deposits are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits - they are from local customers, earn the local interest rate and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

HR 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the Independent Community Bankers of America and the American Bankers Association have stated their support for legislation to address the reciprocal deposit issue. We would very much appreciate your support for HR 4116.

Sincerely,

Christopher L. Williston

Christopher L. Williston, CAE
President and CEO

cc:
The Honorable Gwen Moore
U.S. House of Representatives
2245 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Tom Emmer
U.S. House of Representatives
503 Cannon House Office Building
1st St. & Independence Ave., SE
Washington, DC 20515

The Honorable Randy Neugebauer
U.S. House of Representatives
1424 Longworth House Office Building
Independence & New Jersey Aves., SE
Washington, DC 20515

INDEPENDENT COMMUNITY BANKERS *of* AMERICA®

December 4, 2015

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of the more than 6,000 community banks represented by ICBA, I write in support of H.R. 4116, introduced by Reps. Gwen Moore (D-WI) and Tom Emmer (R. MN), which would allow "reciprocal deposits" to serve as a stable source of funding that supports community bank lending in their communities.

Reciprocal deposits allow a community bank to accept a deposit that exceeds the $250,000 insurance limit by distributing the excess amount through a network of banks and receiving reciprocal deposits from other banks in the networks. This solution allows a large local depositor – such as a local government or foundation – to obtain insurance coverage and allows banks to accept an equivalent amount of deposits to support local lending. Unfortunately, reciprocal deposits have become caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law was meant to cover. Studies have shown that reciprocal deposits act similarly to other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit without compromising safety and soundness protections. This important bill will support local depositors while supporting stable funding for community lending. I urge you to schedule committee consideration of H.R. 4116.

Thank you.

Sincerely,

/s/

Camden R. Fine
President & CEO

CC: Representative Gwen Moore
Representative Tom Emmer

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IDAHO BANKERS ASSOCIATION
EST. iba 1905

Trent Wright
President & CEO
twright@idahobankers.org

December 4, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

I am writing to you on behalf of the bankers of Idaho in support of legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), which would address a problem that many of our bankers experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in Idaho and around the country to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases -- for example, with a local government or foundation -- there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. There can be a problem with true brokered deposits in that they are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the American Bankers Association and the Independent Community Bankers Association have stated their support for legislation to address the reciprocal deposit issue. I urge you to give it your important support.

Sincerely,

Trent Wright

Trent Wright
President and CEO
Idaho Bankers Association

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December 2, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

I am writing to you on behalf of the bankers of Illinois in support of legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), which would address a problem that many of our bankers experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in Illinois and around the country to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases -- for example, with a local government or foundation -- there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. There can be a problem with true brokered deposits in that they are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the American Bankers Association and the Independent Community Bankers Association have stated their support for legislation to address the reciprocal deposit issue. I urge you to give it your important support.

Sincerely,

Linda Koch

Linda Koch
President and CEO
Illinois Bankers Association

Kansas Bankers Association

12/2/15

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

I am writing to you on behalf of the bankers of Kansas in support of legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), which would address a problem that many of our bankers experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in Kansas and around the country to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases -- for example, with a local government or foundation -- there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. There can be a problem with true brokered deposits in that they are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal

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deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the American Bankers Association and the Independent Community Bankers Association have stated their support for legislation to address the reciprocal deposit issue. I urge you to give it your important support.

Sincerely,

Charles A. Stones
President & CEO

MBA

Maryland Bankers Association

December 2, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

I am writing to you on behalf of the bankers of Maryland in support of legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), which would address a problem that many banks in Maryland experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in Maryland and around the country to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases -- for example, with a local government or foundation -- there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

186 Duke of Gloucester Street • Annapolis, Maryland 21401
phone: (410) 269-5977 • fax: (410) 269-1874) • www.mdbankers.com

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. There can be a problem with true brokered deposits in that they are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the American Bankers Association and the Independent Community Bankers Association have stated their support for legislation to address the reciprocal deposit issue. I urge you to give it your important support.

Sincerely,

Kathleen M. Murphy
President and CEO
Maryland Bankers Association

cc: Maryland U.S. Congressman Steny H. Hoyer
Maryland U.S. Congressman John Delaney

MINNESOTA BANKERS ASSOCIATION
THE CHAMPION FOR MINNESOTA BANKERS

September 23, 2016

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

I am writing to you on behalf of the members of Minnesota Bankers Association (MBA) in support of H.R. 4116, legislation introduced by Representative Gwen Moore (D-WI) and Minnesota's own Tom Emmer (R-MN). Our member banks strongly support this legislation, which would address a problem that impacts many of our banks. Note that H.R. 4116 has bipartisan support and does not in any way amend or impact the Dodd-Frank Act.

The issue to be addressed by this legislation is that reciprocal deposits are considered "brokered deposits" under current law. Many community banks in Minnesota are part of reciprocal deposit networks, which allow these banks to serve the needs of large depositors in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance coverage on their whole deposit. As you know, the limit on FDIC insurance is $250,000.

To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, suppose a foundation customer with $1 million to deposit wants to place that deposit with a local community bank, and the customer wants the deposit to be fully insured. The local bank could accept the full deposit, and then put the amount over the insurance limit into the network where it could be split up into deposits to be held at three other banks. As a result, the full $1 million would be FDIC-insured. In return, the local bank would receive deposits back from three banks, so that it would still have $1 million in deposits. The customer then has what it

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wanted -- a $1 million, fully insured deposit -- while the local bank maintains the customer relationship and has $1 million to lend back into the local community.

Unfortunately, under current law reciprocal deposits are considered to be "brokered deposits" under the Federal Deposit Insurance Act, which has negative consequences as "brokered deposits" are subject to additional regulatory requirements and scrutiny. Reciprocal deposits are not like true brokered deposits, and they should not be subject to those stricter rules. Reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, they earn the local interest rate, and they are a stable funding source.

H.R. 4116 addresses this problem by specifically excluding reciprocal deposits from the definition of "brokered deposits." This change will allow community banks to take full advantage of the benefits provided by these local deposits. The MBA strongly supports this bill. The vast majority of our member banks are community banks that would stand to benefit from the definitional change included in the bill.

H.R. 4116 is a simple, targeted solution to addresses a very specific issue that is unique to community banks. Both the American Bankers Association and the Independent Community Bankers of America have stated their support for legislation to address the reciprocal deposit issue, as have 25 other state bankers associations, the National Bankers Association, and the Community Development Bankers Association. I urge you to support this important bill.

Sincerely,

Joe Witt

Joe Witt
President/CEO

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Phone: 952.835.3900 · *MN Toll Free:* 866.835.3900 · *Fax:* 952.896.1100 · www.minnbankers.com

December 16, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

MONTANA
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Leadership & Advocacy Since 1904

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

On behalf of the members of the Montana Bankers Association, I am asking for your support for legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), which would address a problem that many of our bankers experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many Montana community banks as well as other banks around the country to meet the needs of their customers and to obtain funds to lend in their communities.

Several years ago, the Montana legislature recognized the need and value for these types of deposits for public entities such as cities, towns and counties and authorized their use. In addition, our Montana banks offer these favorable and safe accounts for colleges, foundations, or individuals that have significant funds to deposit wanting to keep that money in their local community bank, but they also want deposit insurance for those funds. In many cases a local government or foundation – may have fiscal requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

The problem arises because reciprocal deposits are included in the current definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on

1 N. Last Chance Gulch
Helena, MT 59601
(800) 541•5126
(406) 443•4121
(406) 443•7850 fax

brokered deposits was meant to cover. There can be a problem with true brokered deposits in that they are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. The Montana Bankers Association joins the American Bankers Association and the Independent Community Bankers Association in supporting this need legislation to address the reciprocal deposit issue. I urge you to give it your important support.

Sincerely,

Steve Turkiewicz, CAE
President/CEO

Cc: Senator John Tester
United States Senate Banking Committee

National Urban League

Marc H. Morial
President and CEO

120 Wall Street, 8th Floor
New York, NY 10005

Phone 212 558 5300
Efax 646 568 2185

www.nul.org
presidentoffice@nul.org

March 17, 2016

Empowering Communities. Changing Lives.

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

For more than a century, the National Urban League has been dedicated to economic empowerment in communities of color. We have over 90 affiliates in more than 300 communities that provide direct services to 2 million people annually. Our mission is to enable African Americans to secure economic self-reliance, parity, power, and civil rights.

Many of the communities we serve are also served by the nation's 177 minority- and women-owned banks. Often, those communities suffer from economic problems and have little or no access to other providers of financial services.

To promote economic revitalization and self-reliance by funding loans to small businesses, households, and others in the community, minority-owned banks need deposits. Understandably, in economically distressed communities deposits are often difficult to attract. Many minority-owned banks, however, also raise deposits from socially-motivated investors who are willing to deposit large amounts of funds in those banks if they know that the funds are insured by Federal deposit insurance.

Reciprocal deposits are a way to provide such insurance beyond the standard $250,000 coverage. The reciprocal deposit system allows banks to safely exchange those portions of one of these large deposits above the insurance limit with other banks. Depositors have full insurance. At the same time, because deposits are exchanged dollar for dollar, the bank that the depositor works with maintains the total amount of the deposit. In that way, the full amount of the deposit remains in the community to fund loans that provide employment opportunities, entrepreneurial capital, and economic revitalization.

Reciprocal deposits could play an even more important role if an unnecessary legal constraint were removed. Currently, reciprocal deposits are legally defined by an out-of-date provision as brokered deposits, which subjects their use to regulatory restrictions that were imposed decades ago on "hot

National
Urban League

Marc H. Morial
President and CEO

120 Wall Street, 8th Floor
New York, NY 10005

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Empowering Communities.
Changing Lives.

money" flowing from bank to bank in search of the highest interest rates in a national market. Reciprocal deposits, however, typically come from a bank's known, long-term customers at interest rates set according to local market conditions. Reciprocal deposits, therefore, do not present the concerns that traditional brokered deposits do: instability, risk of rapid asset growth, and high cost. Reciprocal deposits were created about 10 years ago, long after the law on brokered deposits went into effect, but the out-of-date legal definition of brokered deposits has been held to cover them.

If reciprocal deposits were exempted from that legal definition of brokered deposits and treated in the way that other stable deposits – time, savings, and checking – are treated, they would become an even more valuable resource for our nation's minority-owned banks. More reciprocal deposits would translate to more loans to fund small businesses, housing, and families in the communities that need these loans the most.

We understand Reps. Moore and Emmer have introduced legislation, H.R. 4116, to address this issue, while including strong safety and soundness protections. We urge you to work with them to enact legislation that enables Minority-owned and Women-owned banks to effectively use reciprocal deposits to serve their communities.

Sincerely,

Marc H. Morial
President and CEO
National Urban League

cc:
The Honorable Gwen Moore
U.S. House of Representatives
2245 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Tom Emmer
U.S. House of Representatives
503 Cannon House Office Building
1st St. & Independence Ave., SE
Washington, DC 20515

NATIONAL BANKERS ASSOCIATION
AN INVESTMENT IN PEOPLE

December 1, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

The members of the National Bankers Association come from the nation's 177 minority- and women-owned banks. We are located in 60 cities across the country. With few exceptions, our member banks serve distressed communities suffering from social and economic problems. Often, the communities we serve have little or no access to other providers of financial services. We are deeply committed to providing employment opportunities, entrepreneurial capital, and economic revitalization in those communities.

To fund loans to small businesses, households, and others in our communities, we need deposits. Understandably, in distressed communities deposits are often difficult to attract. Many of our members also raise deposits from socially-motivated investors who are willing to deposit large amounts of funds in our banks if they know that the funds are insured by Federal deposit insurance. Reciprocal deposits are a way to provide such insurance beyond the standard $250,000 coverage. The reciprocal deposit system allows our banks to safely exchange those portions of one of these large deposits above the insurance limit with other banks, so that our investor has full insurance and we maintain the total amount of the deposit.

About half of our members hold reciprocal deposits. As a group, reciprocal deposits represent about 10% of their total deposits. For some of our members, however, reciprocal deposits account for a third or more of the total. In short, reciprocal deposits are an important source of stable funding for many of our banks.

1513 P Street, NW., Washington, D. C. 20005
(202) 588-5432 Fax (202) 588-5443

Reciprocal deposits could play an even more important role if an unnecessary legal constraint were removed. Currently, reciprocal deposits are legally defined by an out-of-date provision as brokered deposits, which subjects their use to regulatory restrictions that were imposed decades ago on "hot money" flowing from bank to bank in search of the highest interest rates in a national market. Reciprocal deposits, however, typically come from a bank's known, long-term customers at interest rates set according to local market conditions. Reciprocal deposits, therefore, do not present the concerns that traditional brokered deposits do: instability, risk of rapid asset growth, and high cost. Reciprocal deposits were created about 10 years ago, long after the law on brokered deposits went into effect, but the out-of-date legal definition of brokered deposits has been held to cover them.

If reciprocal deposits were excepted from that legal definition of brokered deposits and were treated in the way that other stable deposits – time, savings, and transaction – are treated, they would become an even more valuable resource for our nation's minority- and women-owned banks. More reciprocal deposits would translate to more loans to fund small businesses, housing, and families in the communities that need these loans the most.

I/[we] understand Reps. Moore and Emmer have introduced legislation, H.R. 4116, to address this issue, while including strong safety and soundness protections. I/we urge you to work with them to enact legislation that enables our member institutions to effectively use reciprocal deposits to serve their communities.

Sincerely,

Michael A. Grant

Michael A. Grant
President

cc:

The Honorable Gwen Moore
U.S. House of Representatives
2245 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Tom Emmer
U.S. House of Representatives
503 Cannon House Office Building
1st St. & Independence Ave., SE
Washington, DC 20515

NCBANKERS
1897 NORTH CAROLINA BANKERS ASSOCIATION

P. O. BOX 19999, RALEIGH, NC 27619-9916 / 800-662-7044 / FAX: 919/881-9909

December 2, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

I am writing to you on behalf of the bankers of North Carolina in support of legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), which would address a problem that many of our bankers experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in North Carolina and around the country to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases -- for example, with a local government or foundation -- there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. There can be a problem with true brokered deposits in that they are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the American Bankers Association and the Independent Community Bankers Association have stated their support for legislation to address the reciprocal deposit issue. I urge you to give it your important support.

Sincerely,

Peter K. Gwaltney

Peter K. Gwaltney
President & CEO

NORTH DAKOTA
BANKERS
ASSOCIATION

December 2, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

The North Dakota Bankers Association (NDBA) is a state trade association serving North Dakota banks of all sizes, operating throughout North Dakota. We are writing to you to support H.R. 4116, sponsored by Representatives Moore and Emmer because it addresses two substantial community bank problems: how to provide larger customers' deposits with full deposit insurance and how to maintain sources of stable deposits to fund critical community borrowing needs. H.R. 4116 has bipartisan support and does not amend the Dodd-Frank Act.

H.R. 4116 involves reciprocal bank deposits. Reciprocal deposits are now used by many community banks in North Dakota to meet the needs of their larger depositors, such as local governments, colleges, foundations, and in some cases, individuals, who want to keep funds operating to the benefit of the local community and who also wants to be sure their larger deposits are protected by deposit insurance. Because the limit on FDIC insurance is $250,000, it is problematic for a local bank to meet both of these legitimate needs.

To deal with this, community banks are able to join networks that allow them to work with other banks to use reciprocal deposits. The network allows a local bank to accept a large deposit and to parcel that deposit among other community banks in amounts that qualify for deposit insurance. In return that receiving community bank will make a reciprocal, insured deposit with the local bank. This provides the local bank and the other community bank with a stable source of deposits to fund community loan needs. For example, when public entity depositor such as a county government has $1 million deposit, North Dakota law requires that deposit to be secured either by FDIC deposit insurance or a pledge. By participating in a qualified network, the local North Dakota bank may place $750,000 (the amount over the current FDIC insurance limit) with the network where it is divided for deposit in three other participating banks. In return, the local

122 East Main Avenue Suite 201 PO Box 1438 Bismarck, ND 58502-1438 Phone: 701.223.5303 Fax: 701.258.0218 www.ndba.com

bank receives deposits back from the other three banks. The result is that the $1 million public deposit is fully insured and the local bank still has $1 million in deposits to fund loans within its own community which is the community from which the original deposit originated.

However, after years of successful implementation, reciprocal deposits are being caught up in a proposed change to the interpretation of the term "brokered deposit" as it is used in the Federal Deposit Insurance Act (FDIA) and its implementing regulations.

As it happens, reciprocal deposits did not exist when the FDIA brokered deposit provision was enacted to deal with problems of banks seeking fast growth and "brokered deposits" from outside their local communities by paying high interest rates. This type of deposit was found to be "fast money" because it chased rates, sometimes caused banks to grow too fast and created liquidity issues. However, reciprocal deposits have been studied and found to act like desirable core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. If reciprocal deposits are now going to be classified as brokered deposits, community banks offering them will face substantially increased deposit insurance premiums and return to a competitive disadvantage relative to larger banks that, despite reforms, continue to be perceived by many as being too big to be allowed to fail.

H.R. 4116 addresses this problem for community banks by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections and is supported by both the American Bankers Association and the Independent Community Bankers Association.

NDBA supports H.R. 4116 because reciprocal deposits have provided a tool for numerous North Dakota community banks to meet customer and community needs safely and soundly. Please don't take this tool away.

Sincerely yours,
NORTH DAKOTA BANKERS ASSOCIATION

Rick Clayburgh
President and CEO

Subject: FW: H.R. 4116

From: Phyllis Gurgevich [mailto:Phyllis@NVBankers.org]
Sent: Thursday, December 03, 2015 3:46 PM
To: jarrod.loadholt@mail.house.gov
Subject: H.R. 4116

December 3, 2015

Dear Chairman Hensarling and Ranking Member Waters,

I am writing to you on behalf of the bankers of Nevada in support of legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), which would address a problem that many of our bankers experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in Nevada and around the country to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases -- for example, with a local government or foundation -- there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. There can be a problem with true brokered deposits in that they are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the American Bankers Association and the Independent Community Bankers Association have stated their support for legislation to address the reciprocal deposit issue. I urge you to give it your important support.

Sincerely,

Phyllis Gurgevich
702-340-8336 (Cell)
702-233-8607 (Office)
phyllis@nvbankers.org
www.nvbankers.org

NYBA

New York Bankers Association

99 Park Avenue

New York, NY 10016-1502

212.297.1699 Fax 212.297.1658

msmith@nyba.com

Michael P. Smith
President and CEO

December 4, 2015

The Honorable Peter King
U.S. House of Representatives
339 Cannon House Office Building
Washington, DC 20515

The Honorable Carolyn Maloney
U.S. House of Representatives
2308 Rayburn House Office Building
Washington, DC 20515

The Honorable Nydia Velazquez
U.S. House of Representatives
2302 Rayburn House Office Building
Washington, DC 20515

The Honorable Gregory Meeks
U.S. House of Representatives
2234 Rayburn House Office Building
Washington, DC 20515

Re: NYBA Supports H.R. 4116 (Emmer and Moore) Regarding Brokered Deposits

Dear Representatives:

I am writing on behalf of the members of the New York Bankers Association (NYBA). NYBA is comprised of 150 community, regional and money-center commercial banks and thrift institutions operating in New York State, with over 200,000 New York employees, who are very concerned about the current treatment of reciprocal deposits as "brokered deposits" pursuant to the definition of brokered deposits in the Federal Deposit Insurance Act (FDIA). Reciprocal deposits - which are used by many community banks in New York and around the country to meet the needs of their customers and as a stable source of cost-effective funding - did not exist when the FDIA was enacted. Moreover, they do not act like the type of deposits attracted from all over the country with high interest rates, that the law on brokered deposits was meant to cover.

Continued

Representatives King, Maloney, Velazquez, and Meeks
NYBA Supports H.R. 4116 (Emmer and Moore) Regarding Brokered Deposits
Page Two

As such, we urge you to support H.R. 4116, which addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit.

Of the 165 FDIC-insured institutions in New York State, 86 offer reciprocal deposits to their customers. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases -- for example, with a local government or foundation -- there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

Reciprocal deposits share three characteristics that define core deposits. One, they are overwhelmingly gathered within a bank's geographic footprint through established customer relationships. Two, they have a high reinvestment rate, and three, banks set their own interest rates on reciprocal deposits, rates that reflect a bank's funding needs and local market. On the other hand, true brokered deposits are attracted from across the country with high interest rates and may be more readily used to fund rapid asset growth. Because reciprocal deposits are now inappropriately governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

As H.R. 4116 provides a targeted exception for reciprocal deposits from the definition of a brokered deposit, and contains strong safety and soundness protections, we urge you to support the legislation.

Sincerely,

Michael P. Smith

OBL
Ohio Bankers League

10 December 2015

The Honorable Joyce Beatty
U.S. House of Representative
133 Cannon House Office Building
1st St. and Independence Ave. SE
Washington, DC 20515

The Honorable Steve Stivers
U.S. House of Representatives
1022 Longworth House Office Building
Independence Ave. & New Jersey Aves., SE
Washington, DC 20515

Dear Reps. Beatty and Stivers,

I am writing to you in support of H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), which would address a problem that many of our bankers experience with reciprocal deposits. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in Ohio and nationally to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases -- for example, with a local government or foundation -- there is a requirement that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. There can be a problem with true brokered deposits in that they are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. It is my understanding both the American Bankers Association and the Independent Community Bankers Association support the legislation to address the reciprocal deposit issue. I respectfully urge your support of this important issue.

Sincerely,

Michael J. Adelman
President & CEO

December 3, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

I am writing to you on behalf of the Pennsylvania Association of Community Bankers in support of legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), which would address a problem that many of our bankers experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in Pennsylvania and around the country to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases -- for example, with a local government or foundation -- there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. There can be a problem with true brokered deposits in that they are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the American Bankers Association and the Independent Community Bankers Association have stated their support for legislation to address the reciprocal deposit issue. I urge you to give it your important support.

Sincerely,

Nick DiFrancesco

Nick DiFrancesco
President/CEO
Pennsylvania Association of Community Bankers

South Carolina
Bankers Association

December 4, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representatives
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

On behalf of the 82 banks that are members of the South Carolina Bankers Association I write to you in support of H.R. 4116 introduced by Reps. Moore (D-WI) and Emmer (R-MN), legislation that addresses a costly problem for many of our banks and their customers - the FDIC's treatment of reciprocal deposits as "brokered deposits" under current law.

Reciprocal deposits are used by many community banks in South Carolina and around the country to meet the needs of customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit that exceed $250,000 and want to keep that money in their local community bank, but still also have deposit insurance on it. To allow the customer regular access to these deposits (like normal core deposits under $250,000), banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a local customer with $1 million to deposit wanted full insurance, the bank could put the amount over the insurance limit into the network where it would be split up into deposits of less than $250,000 in other participating banks - with the result that the full $1 million would remain fully insured. In return, the local bank would receive deposits back from the participating banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

Reciprocal deposits share three critical characteristics with core deposits that regular brokered deposits do not have: first, reciprocal deposits are overwhelmingly gathered within a bank's geographic footprint through established customer relationships; second, they have a high reinvestment rate; and, third, banks set their own interest rates on reciprocal deposits, rates that reflect a bank's funding needs and the local market. Essentially, reciprocal deposits are built on

2009 Park Street • PO Box 1483 • Columbia, SC 29202 • Phone: 803-779-0850 • Fax: 803-779-0890 • www.scbankers.org

established local customer relationships, stay in the community and are insulated from rate volatility. What is more in 2009, the FDIC clearly stated that reciprocal deposits were stable sources of funding much like core deposits.

The problem is that now the FDIC interprets that reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Yet, reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover since true brokered deposits are attracted from all over the country with high interest rates and do not have a reciprocal component. Since the FDIC considers a brokered deposit to be more risky than a core deposit it therefore assesses the bank more to hold that deposit. This is understandable but it has been consistently shown over time that reciprocal deposits not carry this risk. On the other hand, reciprocal deposits are the functional equivalent of a core deposit and do not increase an institution's risk profile beyond what any core deposit would. By treating them as more costly brokered deposits the local bank is discouraged from offering the advantages of reciprocal deposits to its customers; thus these funds are placed in other financial institutions breaking up the bank/customer relationship and reducing lending capacity in that community,

H.R. 4116 addresses this problem by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the American Bankers Association and the Independent Community Bankers Association have stated their support for legislation to address the reciprocal deposit issue. I urge you to give it your important support.

Sincerely,

Fred L. Green III,
President & CEO

South Dakota BANKERS ASSOCIATION

Serving South Dakota's Financial Services Industry Since 1885

December 2, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

I am writing to you on behalf of the bankers of South Dakota in support of legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), which would address a problem that many of our bankers experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in South Dakota and around the country to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases -- for example, with a local government or foundation -- there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. There can be a problem with true brokered deposits in that they are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have

South Dakota Bankers Association
PO Box 1081 | 109 W. Missouri Ave. | Pierre, SD 57501-1081
Phone: 605.224.1653 | Toll-free: 800.726.7322 | Fax: 605.224.7835

shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the American Bankers Association and the Independent Community Bankers Association have stated their support for legislation to address the reciprocal deposit issue. I urge you to give it your important support.

Sincerely,

Curt Everson

Curt Everson
President

Subject: FW: Support HR 4116

December 2, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

I am writing to you on behalf of the bankers of Tennessee in support of legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), which would address a problem that many of our bankers experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in Tennessee and around the country to meet the needs of their customers and to obtain funds to lend in their communities. Of the 172 FDIC-insured institutions in our state, 87 offer reciprocal deposits to their customers.

Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases – for example, with a local government or foundation – there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted – a $1 million deposit fully insured – while the local bank has $1 million to lend back into the local community.

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. Reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the American Bankers Association and the Independent Community Bankers Association have stated their support for legislation to address the reciprocal deposit issue. I urge you to give it your important support.

Sincerely,

Colin Barrett
President

TexasBankers
Association
One Industry. One Vision. One Voice.

December 3, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

I am writing to you in support of legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), which would address a problem that many of our bankers experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases -- for example, with a local government or foundation -- there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. There can be a problem with true brokered deposits in that they are

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December 3, 2015
Page Two

attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. I urge you to give it your important support.

Sincerely,

J. Eric T. Sandberg, Jr.
President/CEO

JETS:gm

VIRGINIA BANKERS ASSOCIATION

January 4, 2016

The Honorable Robert Hurt
U.S. House of Representative
125 Cannon House Office Building
1st St. & Independence Ave., SE
Washington, DC 20515

Dear Rep. Hurt,

I am writing to you on behalf of the bankers of Virginia in support of legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R-MN), which would address a problem that many of our bankers experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in Virginia and around the country to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases -- for example, with a local government or foundation -- there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

Of the 93 banks headquartered in Virginia, 70 are members of a reciprocal deposit network. Together, these 70 Virginia banks hold more than $1 billion in reciprocal deposits.

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. There can be a problem with true brokered deposits in that they are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the American Bankers Association and the Independent Community Bankers of America have stated their support for legislation to address the reciprocal deposit issue, as have the National Bankers Association, the Community Development Bankers Association, and approximately 25 other state bankers associations around the country. I urge you to give it your important support.

Sincerely,

Bruce T. Whitehurst

Bruce T. Whitehurst
President & CEO

cc:

The Honorable Mark Warner
U.S. Senate
475 Russell Senate Office Building
1st & C Sts., NE
Washington, DC 20510

Wisconsin Bankers
ASSOCIATION

December 4, 2015

DELIVERED VIA EMAIL
The Honorable Jeb Hensarling
2228 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Maxine Waters
2221 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Hensarling and Ranking Member Waters:

The Wisconsin Bankers Association (WBA) is a statewide trade association representing nearly 270 banks, savings and loans and savings banks of all sizes located throughout Wisconsin. I am writing to you today in support of H.R. 4116, legislation introduced by Reps. Moore and Emmer, which ensures that reciprocal deposits of an insured depository institution are not considered to be funds obtained by or through a deposit broker. This legislation amending the Federal Deposit Insurance Act (FDI Act) is an important step forward in modernizing the law to take into account current deposit gathering practices.

Reciprocal deposits are used by many Wisconsin community banks to meet the needs of their customers and to obtain funds to lend out in their local communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on the money. In some cases, such depositors may require that deposits be fully insured. In order to provide maximum coverage recognizing the FDIC insurance limit of $250,000, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. Through the operation of this bank network, customer's deposits receive the maximum FDIC insurance coverage possible, and the local bank receives an equal amount of other deposits in exchange to lend back out into its local community.

Section 29 of the FDI Act sets restrictions on the acceptance of brokered deposits and on certain deposit interest rates. Since the FDI Act was passed over 25 years ago, both technology and the structure of banking organizations have changed significantly. As a result, the classification of a deposit as brokered has expanded significantly to include deposits that are far outside what was originally intended. This outdated definition of brokered deposits has an adverse impact on banks causing implications for other regulatory requirements such as the cost of deposit insurance and liquidity standards.

H.R. 4116 addresses this issue by modernizing the law to reflect current banking practices, including a targeted exception for reciprocal deposits from the definition of a brokered deposit. On behalf of WBA's members, I respectfully urge you to give this legislation your important support.

Sincerely,

Rose Oswald Poels

Rose Oswald Poels
President/CEO

Cc: Rep. Gwen Moore
Rep. Sean Duffy

WVBA Bankers
WEST VIRGINIA ASSOCIATION

December 2, 2015

The Honorable Jeb Hensarling
U.S. House of Representatives
2228 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

The Honorable Maxine Waters
U.S. House of Representative
2221 Rayburn House Office Building
Independence Ave. & South Capitol St., SW
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

I am writing to you on behalf of the bankers of West Virginia in support of legislation, H.R. 4116, introduced by Reps. Moore (D-WI) and Emmer (R. MN), which would address a problem that many of our bankers experience. This legislation has bipartisan support and does not involve amending the Dodd-Frank Act.

The issue is the treatment of reciprocal deposits as "brokered deposits" under current law. Reciprocal deposits are used by many community banks in West Virginia and around the country to meet the needs of their customers and to obtain funds to lend in their communities. Customers such as local governments, colleges, foundations, or individuals that have significant funds to deposit will often want to keep that money in their local community bank, but they also want deposit insurance on it. In many cases -- for example, with a local government or foundation -- there may be requirements that the deposits be insured. As you know, the limit on FDIC insurance is $250,000. To address this situation, community banks join networks that allow them to work with other banks through the use of reciprocal deposits. For example, if a foundation customer with $1 million to deposit wanted full insurance, a local bank could put the amount over the insurance limit into the network where it could be split up into deposits in three other banks, with the result that the full $1 million would be insured. In return, the local bank would receive deposits back from three banks so that it would still have $1 million in deposits. The customer then has what it wanted -- a $1 million deposit fully insured -- while the local bank has $1 million to lend back into the local community.

120 Washington Street, East • Charleston, WV 25301-1516 • Phone: 304.343.8838 • Fax: 304.343.9749 • www.wvbankers.org

The problem arises because reciprocal deposits are caught up in the definition of "brokered deposit" in the Federal Deposit Insurance Act. Reciprocal deposits did not exist when the law was enacted, and reciprocal deposits do not act like the type of deposits the law on brokered deposits was meant to cover. There can be a problem with true brokered deposits in that they are attracted from all over the country with high interest rates. They have sometimes enabled banks to grow too fast and get in trouble. On the other hand, reciprocal deposits, as studies have shown, act just like a bank's other core deposits: they are from local customers, earn the local interest rate, and are stable sources of funding. Because reciprocal deposits are now wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

H.R. 4116 addresses this issue by providing a targeted exception for reciprocal deposits from the definition of a brokered deposit. The bill contains strong safety and soundness protections. Both the American Bankers Association and the Independent Community Bankers Association have stated their support for legislation to address the reciprocal deposit issue. I urge you to give it your important support.

Sincerely,

Joe Ellison
President & CEO

Questions for the Record from
Rep. Blaine Luetkemeyer (MO-03)
Committee on Financial Services
Subcommittee on Financial Institutions and Consumer Credit
U.S. House of Representatives

Hearing held on September 27, 2016
"Examining Legislative Proposals to Address Consumer Access to Mainstream Banking Services"

Questions on H.R. 4172, the *Credit Access and Inclusion Act*

To Dr. Michael Turner, PERC

- While I certainly recognize the need for greater data in credit reporting to help those Americans who are "credit invisible," I also believe we need to take a measured approach when considering the use of new data. As I understand it, alternative data from utility and telecom companies are already being reported to credit reporting agencies. Isn't that correct? Do we need legislation, specifically H.R. 4172, to facilitate additional reporting?

To Norbert Michel, Heritage Foundation:

- Dr. Michel, regarding H.R. 4172, the *Credit Access and Inclusion Act*, I'm sure we are in agreement that helping consumers build their credit profiles using alternative data is important.
    - I want to make sure we are going about the inclusion of alternative data in a methodical way. Are there any repercussions to broadening one's credit profile through alternative data?
        - There are possible negative repercussions to broadening consumers' credit profiles via alternative data because such sources may not always display positive payment experiences. It certainly appears that some advocacy groups are encouraging the use of utility payment histories specifically because they expect those payment experiences to be positive. While this expectation may be realized for a high proportion of consumers on an historical basis, there is surely no guarantee that the expectation will continue to be realized at similar rates going forward. In fact, once legislation attaches a special directive or privilege to using these payment experiences, those payment experiences are likely to change in some manner.

          The fact that H.R. 4172 prohibits utility companies from reporting late payments for customers who have entered into payment plans (including debt-forgiveness plans) should concern legislators for at least two reasons. First, the provision suggests that the overall intent of H.R. 4172 is to expand credit regardless of consumers' actual creditworthiness. Second, the legislation would most likely initiate more invasive regulation and micromanagement of the credit process. There is no doubt that, should H.R. 4172 pass in its current form, future legislation would further restrict private companies ability to determine the best way to use utility data (and other alternative data) to build consumers' credit profiles.

- Isn't the market addressing some of what this bill is attempting to accomplish? Do we need a legislative solution to this problem?
  - The market *is* currently addressing ways to use alternative data to build credit profiles so that creditworthy consumers can gain access to credit, and H.R. 4172 is entirely unnecessary. Nothing in current law prohibits the practices that H.R. 4172 seeks to authorize, and companies (such as the National Consumer Telecom and Utilities Exchange, Inc. and Equifax) are already using utility payment data to provide credit scores for consumers without traditional credit histories. Historically, most federal efforts to expand credit have ended badly. There is little reason to expect a different outcome in this instance.

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JOHN H. DALTON
PRESIDENT
HOUSING POLICY COUNCIL

September 21, 2016

Representative Ed Royce (R-CA)
2310 Rayburn House Office Building
Washington, DC 20515

Representative Terri Sewell (D-AL)
1133 Longworth House Office Building
Washington, DC 20515

Dear Congressman Royce and Congresswoman Sewell:

I am writing to share the views of the Housing Policy Council regarding your proposed bipartisan legislation, the Credit Score Competition Act of 2015 (H.R. 4211). We appreciate your bipartisan proposal on this issue.

The proposed legislation seeks to address an important component of the issue of ensuring that qualified borrowers can obtain access to mortgage credit. An accurate evaluation of a borrower's credit worthiness and the role of models such as FICO in this evaluation are critical to providing responsible access to mortgage credit.

We agree with the goal of your legislation to ensure that Fannie Mae and Freddie Mac (the GSEs) are utilizing the most up-to-date and accurate credit scoring models, and support more transparency into the governance of model selection so that this process is understandable to all stakeholders and the public.

As we understand it, the Credit Score Competition Act of 2015 would permit the GSEs to consider the use of alternative credit scoring models that are validated and approved by the GSEs, that the criteria for approval of a new model is consistent with maintaining the safety and soundness of the GSEs and that the governance of the model selection process is more transparent. We believe these are important provisions in the bill. The legislation should continue and encourage additional progress toward the use of alternative credit scoring models that can identify credit-worthy borrowers who may have some non-traditional factors in their credit records but not mandate the adoption of any specific model(s).

As you know, the standards and systems used by the GSEs affect the entire mortgage market. The credit scoring decisions of the GSEs can impact the underwriting systems of all mortgage lenders, therefore it is important that any potential change in, or addition of, an alternative credit scoring model is done in a deliberate manner. One possible option to consider would be to create a pilot program for testing alternative scoring models to determine their effectiveness in reaching non-traditional borrowers and their impact on the mortgage market.

We applaud your efforts on this issue and stand ready to work with you on the legislation as the process moves forward.

With best wishes,

John H. Dalton
President
Housing Policy Council

National Association of Home Builders

1201 15th Street NW
Washington, DC 20005

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www.nahb.org

Government Affairs

James W. Tobin III
Executive Vice President & Chief Lobbyist
Government Affairs and Communications Group

May 13, 2016

The Honorable Ed Royce	The Honorable Terri Sewell
U.S. House of Representatives	U.S. House of Representatives
2310 Rayburn House Office Building	1133 Longworth House Office Building
Washington, DC 20515	Washington, DC 20515

Dear Representatives Royce and Sewell:

On behalf of the more than 140,000 members of the National Association of Home Builders (NAHB), I am writing in support of your efforts to increase the use of alternative credit scores by the housing government-sponsored enterprises, Fannie Mae and Freddie Mac

In today's market, far too many creditworthy potential homeowners lack access to mortgage credit due to a low or inaccurate FICO credit score. By enabling Fannie Mae and Freddie Mac to establish procedures for considering more than just FICO credit scores when making mortgage purchase decisions, H.R. 4211, the *Credit Score Competition Act of 2015*, would help open the credit box and promote a more robust recovery of the housing and mortgage markets. NAHB strongly supports H.R. 4211.

NAHB believes that the recovery of the housing market, and the overall economy, is dependent on a stable housing finance system. We look forward to working with you as H.R. 4211, the *Credit Score Competition Act of 2015,* moves forward in the 114th Congress.

Sincerely,

James W. Tobin III

NATIONAL ASSOCIATION *of* REALTORS®

Tom Salomone
2016 President

Dale A. Stinton
Chief Executive Officer

GOVERNMENT AFFAIRS DIVISION
Jerry Giovaniello, Senior Vice President
Gary Weaver, Vice President
Joe Ventrone, Vice President & Deputy Chief for Regulatory Affairs
Scott Reiter, Vice President
Jamie Gregory, Deputy Chief Lobbyist

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June 13, 2016

The Honorable Ed Royce 2310 Rayburn House Office Building Washington, DC 20515	The Honorable Terri Sewell 1133 Longworth House Office Building Washington, DC 20515

Dear Representatives Royce and Sewell:

On behalf of the over 1.1 million members of the National Association of REALTORS® (NAR), I want to express NAR's support for your efforts to responsibly expand access to mortgage credit by introducing H.R. 4211, the "Credit Score Competition Act of 2015."

A borrower's credit score is a critical access factor when trying to enter the housing market; with a poor score, or none at all, a borrower stands little to no chance of obtaining a loan. Yet millions of Americans, particularly minorities, immigrants, and people with modest incomes, come from backgrounds that avoid debt, leading many to have little to no credit history. With new credit scoring models that incorporate additional predictive metrics and payment history, many of these "thin file" individuals would be able to obtain credit and enter the housing market. Furthermore, borrowers with medical debt and paid off debt may see relief.

H.R. 4211 would help many households achieve the American Dream. Specifically, it instructs Fannie Mae and Freddie Mac to update their requirements so that lenders might be able to use other credit scoring models that are empirically derived and both demonstrably and statistically sound. Fannie Mae and Freddie Mac are the largest mortgage purchasers in the nation, but they rely on credit score models that don't necessarily take into account something as simple as whether borrowers have paid their rent or utility bills on time.

Homeownership is an integral part of the American Dream that shouldn't be out of the reach for low-income, rural and minority borrowers who lack access to traditional forms of credit. This legislation takes an important step towards addressing this issue and helps make homeownership a reality for more Americans across the country.

REALTORS® thank you for your diligent work on this important issue.

Sincerely,

Tom Salomone
2016 President, National Association of REALTORS®

EQUAL HOUSING OPPORTUNITY

Congress of the United States
Washington, DC 20515

January 9, ~~2013~~ 2014

The Honorable Mel Watt
Director
Federal Housing Finance Agency
Office of the Director
400 7th Street S.W.
Washington, D.C. 20024

Re: Fostering Marketplace Competition in the Provision of Credit Scores Through the GSEs' Seller-Servicer Guidelines

Dear Director Watt:

We write to request that you take action to ensure that Fannie Mae and Freddie Mac revise their seller/servicer guidelines to foster competition among credit score providers. We believe that updating the seller/servicer guidelines so that they do not mandate the use of credit scores provided by only one company is in the interests of the GSEs, consumers, and taxpayers.

Presently, the seller/servicer guidelines, which set forth the criteria for a mortgage to be eligible for purchase by the GSEs, require that the loan be underwritten with a credit score from the Fair Isaac Corporation (FICO). They do not permit lenders to use credit scores from any other providers. Because the GSEs backed 77 percent of new mortgages last year, this requirement creates a significant barrier to entry to the mortgage market for other credit score providers. Moreover, the requirement risks harming consumers by stifling innovation, increasing prices, and reducing the predictiveness of credit scores.

The adverse consequences of the current FICO requirement in the seller/servicer guidelines will be magnified in the upcoming months as financial regulators implement the Dodd-Frank Act's "Ability-to-Repay" and "Credit Risk Retention" rules. Under those rules important definitions depend on a mortgage being eligible for purchase by the GSEs. By implication, this pulls in the seller/servicer guidelines and their FICO requirement. Specifically, the recently re-proposed Credit Risk Retention rule would require financial institutions to hold a portion of the mortgage risk they originate, but this requirement would not apply to qualified residential mortgages (QRMs). To facilitate compliance, the regulators have proposed aligning the definition of QRM with the definition of a "qualified mortgage" (QM) under the Consumer Financial Protection Bureau's new Ability-to-Repay rule, which becomes effective on January 10th, 2014. QMs are mortgages that are presumed to meet the Ability-to-Repay rule. Significantly, a mortgage that is eligible for purchase by the GSEs qualifies as a QM, which means that it would also qualify under the proposed Credit Risk Retention rule as a QRM. Thus, by linking the definition of QRM to the definition of QM, financial regulators risk creating a strong bias for mortgages to be underwritten using a FICO score so that they are eligible for purchase by the GSEs. In doing so, they would unwittingly solidify the barrier to entry in the mortgage market for new credit score providers created by the current seller/servicer guidelines.

To remedy these problems, we believe that a revision of the seller/servicer guidelines should permit the use of credit scores from more than one provider, so long as those credit scores are empirically derived and demonstrably and statistically sound. Such action would not only remove an unfair barrier to entry in the mortgage market, but also would encourage the development of more predictive credit scores and improve the ability of the GSEs to manage credit risk. Additionally, it would reduce potential operational risk to the GSEs, stemming from their reliance on a single credit score provider. Because the Federal government still stands behind the GSEs, this would have the added benefit of protecting taxpayers.

As conservator of the GSEs, we believe you possess the authority to take appropriate actions to address this issue. Additionally, as the Ability-to-Repay rule takes effect this week, we are hopeful that you will respond to this request expeditiously.

Thank you for your assistance on this important issue.

Sincerely,

ED ROYCE
Member of Congress

JIM HIMES
Member of Congress

SPENCER BACHUS
Member of Congress

CAROLYN MALONEY
Member of Congress

November14, 2014

The Honorable Melvin L. Watt
Director
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20024

Re: Fannie Mae and Freddie Mac reliance on outdated credit scoring models

Dear Director Watt:

The undersigned consumer, civil rights and advocacy groups write to you today because over 38 million consumers are potentially being treated unfairly due to the failure of Federal National Mortgage Association (Fannie Mae) and Federal Home Loan Mortgage Corporation (Freddie Mac) to adopt updated credit score models that better predict credit worthiness for consumers with medical debts and thin files. We urge you to insist that Fannie Mae and Freddie Mac revise these policies immediately. The evidence is in: thirty-eight million consumers cannot wait for Fannie Mae and Freddie Mac to conduct further studies or engage in lengthy delays before changing these policies.

Fannie Mae and Freddie Mac require the use of a "classic" FICO credit score – i.e., FICO 04 – in their automated underwriting systems.[1] The problem is that FICO's "classic" credit score is not the most updated scoring model offered by that company. FICO offers a model called FICO 09, as well as NextGen. There is also a second major scoring model provider on the market, VantageScore.

Fannie Mae and Freddie Mac's insistence on using FICO 04 unfairly limits credit opportunities for many applicants. Both FICO (in FICO 09) and VantageScore have made important changes. Both will no longer consider paid collection items, including most importantly, medical debt collections. In addition, FICO has said that FICO 09 will give less weight to unpaid medical debts, potentially increasing the credit scores of consumers with medical debt up to 25 points. However, these changes to reduce the negative impact of medical debt will not benefit most mortgage applicants because of Fannie Mae's and Freddie Mac's insistence on using FICO 04, instead of FICO 09 or VantageScore.

Thus, mortgage applicants will continue to be unfairly penalized by medical debt. The Consumer Financial Protection Bureau has found that the presence of medical debt on a credit report unfairly penalizes a consumer's credit score, resulting in a credit score that is typically lower by ten points than it should be, and for paid medical debt, up to 22 points lower than it should be.[2]

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[1] *See* Fannie Mae Selling Guide, B3-5.1-01, General Requirements for Credit Scores, April 15, 2014, p. 461, available at www.fanniemae.com/content/guide/sel102213.pdf (visited Aug. 28, 2014).
[2] Consumer Financial Protection Bureau, Data point: Medical debt and credit scores, May 2014, available at http://files.consumerfinance.gov/f/201405_cfpb_report_data-point_medical-debt-credit-scores.pdf.

This issue has tremendously widespread impact. A recent study found that 35% of Americans – or 77 million - have debt collection items on their credit reports.[3] About half of these collection items are for medical debt.[4] Thus, medical debt could affect over 38 million Americans, each of whom will be unfairly penalized when shopping for mortgages because of Fannie Mae's and Freddie Mac's insistence on the older FICO 04 scoring model.

In addition, both VantageScore and FICO 09 are better able to deal with consumers with limited credit history, or "thin file" consumers. For example, FICO 09 has enhancements to better assess thin file consumers, and VantageScore claims to be able to score an additional 30 to 35 million thin file consumers.

We recognize that Fannie Mae and Freddie Mac have taken the first step toward addressing this issue by agreeing to study the costs and benefits of using VantageScore or FICO Score 9.[5] However, such research could take months, if not years. The evidence is already in, both in terms of the CFPB's own studies and the research conducted by both major scoring developers that supports their changes. There is no need to delay implementation of more updated models that would substantially benefit consumers. We urge FHFA to direct Fannie Mae and Freddie Mac to implement changes immediately. At a minimum, any research must be conducted quickly, in a timeframe of months, not years, and changes must be instituted expeditiously as well. The tens of millions of homeowners and homebuyers unfairly burdened by medical debt cannot afford to wait.

If you have any questions about this letter, please contact Chi Chi Wu at cwu@nclc.org or 617-226-0326. Thank you for your attention to this matter.

Sincerely,

National Consumer Law Center (on behalf of its low-income clients)
Americans for Financial Reform
Anderson, Ogilvie & Brewer LLP
Center for Economic Justice
Center for Responsible Lending
Community Service Society of New York
Consumer Action
Consumer Federation of America
Consumers Union
Empire Justice Center
HealthLawAdvocates

[3] Caroline Ratcliff, Urban Institute, Delinquent Debt in America, Urban Institute, July 30, 2014, at 7.
[4] Robert Avery, Paul Calem, Glenn Canner, & Raphael Bostic, An Overview of Consumer Data and Credit Reporting, Fed. Reserve Bulletin 89(2), at 69 (Feb. 2003); Ernst & Young, The Impact of Third-Party Debt Collection on the National and State Economies, Feb. 2012, at 8, available at www.acainternational.org/files.aspx?p=/images/21594/2011acaeconomicimpactreport.pdf.
[5] Kevin Wack, Fannie, Freddie to Evaluate Alternative Credit-Scoring Models, American Banker, Sept. 22, 2014.

NAACP
National Association of Consumer Advocates
National Council of La Raza
National Housing Resource Center
Philadelphia Unemployment Project
Reinvestment Partners
U.S. PIRG

Congress of the United States
Washington, DC 20515

April 29, 2015

The Honorable Melvin L. Watt
Director
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20024

Re: Alternative Credit Scoring Systems

Dear Director Watt,

As leaders of communities of color, we urge the Federal Housing Finance Agency (FHFA) to continue its focus on expanding credit access for American qualified homebuyers. Insufficient credit history causes many first-time homebuyers, especially borrowers of color, to encounter obstacles obtaining mortgage financing. Under the conservatorship, we believe that Fannie Mae and Freddie Mac can become a powerful tool to support sustainable homeownership for communities of color in America by updating their current credit scoring system and implementing additional credit scoring models.

While the conventional conforming market has been the main source of new home purchases in America, many families of color encounter difficulty obtaining the American Dream through this traditional path. According to Compliance Technologies, Inc., for example, 242,768 homes were financed for Asian American borrowers through the conventional market in 2005; however, this figure plummeted to just 128,629 home loans in 2013. For African American families, the number of financed home loans dropped from 314,462 homes in 2005 to only 37,347 home loans in 2013. Similarly, the number of financed loans for Hispanic families decreased from 575,952 to 87,594 loans between 2005 and 2013. While home sales dropped for all borrowers during this period, home sales declined even more among people of color.

As homeownership rates decline among families of color, the racial wealth gap continues to grow. According to the Pew Center's analysis of data from the Federal Reserve's Survey of Consumer Finances, communities of color have not equally recovered from the Great Recession. Between 2010 and 2013, for example, median wealth among African American households decreased by 33.7%, from $16,600 in to $11,000. Hispanic households, too, saw similar declines in family wealth. Between 2010 and 2013, median wealth for Hispanic families fell by 14.3%, from $16,000 to $13,700. Much of this decline was due to a decline in the value of real estate.

Although there are many reasons for the significant decline in conventional home lending, the credit policies in the market, combined with past practices that unintentionally excluded creditworthy consumers, have lead us to this position. As Congress and the Obama Administration continue to debate the future role of Fannie Mae and Freddie Mac, we should refocus the government-sponsored enterprises (GSEs) on ensuring affordability for qualified homebuyers and maintaining stability in the overall market.

We are pleased to hear that the GSEs are analyzing the impact of additional credit scoring models. The current FICO score versions designated for use by the GSEs are not the most current innovations in the marketplace. While we appreciate that potential modification will require additional resources to implement, it may be even more costly to not act on behalf of creditworthy borrowers whose credit profiles could be strengthened through the expanded use of alternative data in newer credit scoring models. As the demographics of our country continue to evolve, lending technologies, like credit scoring models, should reflect today's marketplace and consumer credit patterns.

Newer credit scoring models have been introduced and are valuable. With evidence from the GSE's scientific testing supporting their use, the GSEs should update their current FICO model and implement other credit scoring models that provide enhanced benefits to homebuyers. More than 50 million Americans are often invisible to the financial market, making it more difficult for them to fully participate in the U.S. economy. According to industry research by VantageScore, some 9.5 million of these un-scoreable consumers are people of color and immigrants, and approximately 2.1 million of these un-scoreable consumers would have credit scores of 620 or above.

We are encouraged by your renewed focus on the GSEs' "duty to serve" requirement. This renewed focus will help to ameliorate the potential decline in conventional financing for many families of color. According to the Harvard Joint Center for Housing Studies, minorities will account for more than 70 percent of net household growth between 2010 and 2020. By permitting the latest, proven and tested credit scoring models, the GSEs can ensure that they are leveraging the latest market innovations, expanding sustainable homeownership for the communities of color, improving the risk assessment of borrowers and creating new business opportunities for those that want to equitably serve our communities.

We look forward to working with the FHFA to ensure that all communities have fair and equitable access to mortgage credit. Thank you for your leadership as we continue to expand sustainable homeownership for all qualified borrowers.

Sincerely,

Maxine Waters

[illegible]

Judy Chu

G.K. Butterfield

Linda T. Sánchez

Raúl M. Grijalva

Keith Ellison

Rubén Hinojosa

Congress of the United States
Washington, DC 20515

August 22, 2016

Ms. Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552-0003

Re: Notice of Proposed Rulemaking on Arbitration Agreements (Docket ID No. CFPB-2016-0020; RIN 3170-AA51)

Dear Ms. Jackson:

We are concerned that the Consumer Financial Protection Bureau's ("CFPB") Proposed Rule on Arbitration Agreements ("Proposed Rule") will choke off access to products and services that help consumers manage their creditworthiness, monitor changes in their credit reports, and protect themselves against identify theft. Specifically, we ask that any final rule from the Bureau should not limit the ability of companies providing these services to use arbitration clauses and class action waivers for claims related to the Credit Repair Organizations Act ("CROA").

Congress enacted CROA in 1996 to protect consumers from predatory credit repair scam operators that made false claims of "fixing" a consumer's credit score in exchange for exorbitant fees. The law was designed to be a strict liability statute, with an aggressive private right of action, to put abusive Credit Repair Organizations out of business. In recent years, however, CROA has been the subject of expansive judicial interpretations, including the 2014 ruling by the Ninth Circuit Court of Appeals in *Stout v Freescore*. Under *Stout*, any product that can help a consumer improve his or her credit report or credit score may be subject to CROA. As a result, CROA's definition of "credit repair" now includes legitimate credit services such as credit monitoring and credit education. This interpretation contradicts the position of the Federal Trade Commission, who, in a letter to Representative Ed Royce (R-CA) and subsequent congressional testimony said it "sees little basis on which to subject the sale of legitimate credit monitoring and similar educational products and services to CROA's specific prohibitions and requirements."

Footnote 680 of the Proposed Rule asks if "allowing consumers to bring class actions pursuant to [CROA] against providers that offer credit monitoring products could threaten the availability of those products due to the challenge of complying with CROA (to the extent it applies to those products)?" In light of the expanded reach of CROA created by the judiciary, acting counter to the original intent of Congress, we believe that the answer to this question is a resounding "yes."

The benefits of a good credit standing cannot be understated, as anyone who has taken out a mortgage, purchased a car, or signed up for student loans will tell you. If legitimate providers of credit education, credit monitoring, and identity protection products and services face increased liability under CROA, they will be forced to curtail or remove those products and services from the marketplace. In the end, the consumers the Bureau aims to protect will be hurt the most.

Respectfully,

Pete Sessions

Ed Royce

Ann Wagner

Mimi Walters

Steve Stivers

Robert Pittenger

Bill Posey

Roger Williams

Steve Pearce

Steve Womack

Statement of Congressman Pete Sessions (TX-32)
House Subcommittee on Financial Institutions and Consumer Credit Hearing on:
"Examining Legislative Proposals to Address Consumer Access and Mainstream Banking Issues."
September 27, 2016

I would like to thank Chairman Neugebauer for holding this important hearing. I appreciate the opportunity to submit this statement for the record in support of Chairman Royce's legislation, H.R.347, the Facilitating Access to Credit Act. It is critical that Congress acts expeditiously in 2016 to reassert Congressional authority and respond to the Ninth Circuit decision *Stout v. FreeScore* before the Consumer Financial Protection Bureau (CFPB) does irreparable damage to the ability of consumers to access education products and services.

Congress originally passed the Credit Repair Organizations Act or "CROA" in 1996 (Title IV of the Consumer Credit Protection Act) with the goal of protecting consumers from *predatory* credit repair clinics. Two decades later, a combination of aggressive case law and an overactive, unrestrained agency has resulted in a misapplication of CROA that is far outside the boundaries of the law envisioned by Congress. Not only does this misinterpretation and misapplication represent a critical need for a reassertion of Congressional authority, but we are now faced with an environment where legitimate and trusted companies are deterred from doing the very thing CROA was passed do—protect consumers and provide them with the ability and resources to improve their credit situation.

A key component for credit bureaus that are currently supervised and examined by the CFPB is to have the opportunity to manage their legal risks through the appropriate use of class action waivers in direct to consumer contracts for financial services products. Yet the May 5, 2016 proposed CFPB rule completely ignores this need. Under the status quo, non-profits, depository institutions and creditors are exempted from the definition of "credit repair organization". H.R. 347 remedies the very real harms directly resulting from the misapplication of CROA by expanding the statutory exemption to include credit bureaus that are supervised and examined by the CFPB. Make no mistake, this is a *narrow* fix designed to address a critical situation that left unattended, will greatly harm families in North Texas and across the nation.

Now more than ever, this body has a responsibility to ensure laws that it passes are interpreted and implemented consistent with Congressional intent and that any negative consequences are mitigated in a timely fashion. H.R. 347 does nothing to reduce existing oversight and examination measures nor does it restrict the ability of the Federal Trade Commission (FTC) or state attorneys general from protecting consumers from unfair or deceptive practices. In fact, the FTC has previously testified that before Congress that they believe a clarification to CROA is necessary.

I thank the Subcommittee for holding this hearing on these critically important consumer access and banking issues and I hope we can advance legislation to address the issues discussed by the Subcommittee today in the very near future, particularly H.R. 347, the Facilitating Access to Credit Act. The wide ranging support for this legislation is testament to the consequences that consumers will face if we do not act immediately.

Pete Sessions
Texas-32

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202/463-5310

September 27, 2016

The Honorable Randy Neugebauer
Chairman
Subcommittee on Financial Institutions
and Consumer Credit
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Wm. Lacy Clay
Ranking Member
Subcommittee on Financial Institutions
and Consumer Credit
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Neugebauer and Ranking Member Clay:

The U.S. Chamber of Commerce, which represents the interests of over three million businesses of every sector and size and from every region of the country, created the Center for Capital Markets Competitiveness (CCMC) to promote a modern and effective regulatory structure for capital markets to fully function in a 21st century global economy. The CCMC appreciates the interest of the Subcommittee on Financial Institutions and Consumer Credit in examining legislative proposals to address consumer access to mainstream banking services.

The CCMC supports a consumer financial marketplace in which regulators, through supervision and enforcement, root out and deter fraud and predation. At the same time, regulators should perpetually endeavor to fulfill their important consumer protection mission in a manner that maximizes consumers' access to diverse products and services offered on competitive terms and that promotes innovation. Importantly, financial regulators should recognize that as of 2013, almost one-in-three Americans was unbanked or underbanked, and accordingly should make good on their promise to "increas[e] the participation of unbanked and underbanked households in the financial mainstream."[1]

One way to improve consumer participation in mainstream financial services is to empower Americans to take greater charge of their financial well-being by, for example, regularly reviewing their credit reports for irregularities. Unfortunately, however, a recent decision by the Ninth Circuit Court of Appeals interpreting the Credit Repair Organizations Act of 1996 (CROA) threatens to thwart consumer access to credit reports furnished by credit reporting agencies. In its February 2014 opinion in *Stout v. FreeScore, LLC*, the Court held that public advertising stating that having access to credit reports and scores and using credit monitoring services could help consumers improve their overall credit brought the advertiser

[1] FED. DEPOSIT INS. CORP., 2013 FDIC NAT'L SURVEY OF UNBANKED AND UNDERBANKED HOUSEHOLDS 4 (2014).

within the ambit of CROA.[2] In other words, the Court took the view that stating the most basic principle of financial literacy—that knowing more about your credit can help you improve your credit—was exactly the type of nefarious "representation" that CROA was enacted to root out.[3] That holding is at odds with congressional testimony by the Federal Trade Commission, the agency tasked with enforcing CROA, in which the Commission said it "sees little basis on which to subject the sale of legitimate credit monitoring and similar educational products and services to CROA's specific prohibitions and requirements, which were intended to address deceptive and abusive credit repair business practices."[4]

The negative consumer impact of that decision would be exacerbated if the Consumer Financial Protection Bureau were to finalize its rule governing arbitration agreements in its present form.[5] One way CROA is enforced is through a strict liability private right of action, including a statutorily authorized class action.[6] Class action lawsuits under CROA are existential threats to companies that were actually intended to be subject to its jurisdiction. More perniciously, in light of cases like *Stout*, class action lawsuits threaten the existence of companies not intended to be subject to CROA that provide credit monitoring and education services to millions of Americans worried about identity theft, hacking, and other cybersecurity threats. The CFPB's proposed arbitration rule would essentially double down on the broken class action system and impose potentially massive costs upon entities that simply provide credit monitoring and credit education services.

The Chamber is encouraged by the Subcommittee's consideration of legislation designed to improve consumers' access to mainstream financial services and looks forward to working with you on this important goal.

Sincerely,

R. Bruce Josten

cc: Members of the Subcommittee on Financial Institutions and Consumer Credit

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[2] *See generally* Stout v. Freescore, LLC, 743 F.3d 680 (9th Cir. 2014).
[3] *Id.*
[4] *Oversight of Telemarketing Practices and the Credit Repair Organizations Act (CROA): Hearing Before the Senate Committee on Commerce, Science, and Transportation,* 110th Cong. 8 (2007) (written statement of Lydia B. Parnes, Dir., Bureau of Consumer Prot., Fed. Trade Comm'n).
[5] *See* Arbitration Agreements, 81 Fed. Reg. 32,830 (proposed May 24, 2016) (to be codified at 12 CFR Part 1040).
[6] *Id.* § 1679g, 1679h.

AMERICAN BANKER.

Credit Access Bill Would Shore Up Financial Literacy

By Stuart Pratt
May 28, 2015

Credit reports and credit scores are valuable tools in the financial services industry. But many consumers could use more education in this area. In February 2015, the Consumer Financial Protection Bureau reported that consumer focus groups found "it difficult to disentangle credit reports and credit scores." A December 2014 survey conducted by Ipsos found that 44% of 441 respondents incorrectly thought that credit reports and credit scores were just different names for the same thing.

Clearly, there is a need for effective financial education. However, consumers proactively seeking to learn how to improve their credit reports and scores from consumer reporting agencies are frustrated by severe obstacles that result from the nearly 20-year-old Credit Repair Organizations Act.

The original intent of the law was to combat fraudulent credit repair practices that defraud consumers by disputing accurateinformation on credit reports, thereby promoting identity fraud and performing services of little value. But some court decisions stemming from class-action lawsuits brought by opportunistic plaintiffs' attorneys have led to a distortion of the law's purpose, wrongly extending its application. Preventing fraudulent credit repair remains important. But it's wrong to allow this law to impede consumers' ability to seek help from the best-equipped sources — companies like consumer reporting agencies, which deal with the data on a daily basis.

Among CROA's provisions are requirements that consumers read or be read a 428-word disclosure and abide by a mandatory waiting period of three business days before they are given access to the education they seek about credit scores and credit reports. Because of CROA, consumer reporting agencies have to operate by these requirements or suffer potentially crippling liability and class action lawsuits.

The CROA's requirements are in direct conflict with consumers' expectations. We live in an age of smart devices, instant information and access. Consumers won't wait three days for help. Newly released research proves that over 98% of consumers exposed to CROA's requirements do not complete the enrollment process. When this happens, millions of motivated consumers who want to learn about their credit scores and credit reports never get the chance to access that information.

This does consumers a big disservice. A study by the Policy and Economic Research Council, a nonprofit think tank, and the Take Charge America Institute at the University of Arizona demonstrated that those who completed an education program increased their credit scores at a significantly higher rate than those who did not. In the group that did not take the education program, 13% of consumers moved up one or more credit score bands over the observation period, indicating a movement to lower-priced credit terms. However, among those that took the education program, 24% of consumers moved better risk tiers.

Congress could modernize financial regulation and empower millions of consumers by removing arbitrary barriers to financial education. This can be achieved by passing the Facilitating Access to Credit Act of 2015, introduced by Congressmen Ed Royce and Rubén Hinojosa.

The legislation exempts consumer reporting agencies from the CROA. This carries no risk of consumer harm. Fraudulent credit repair practices would still be policed by strong consumer protections. Consumer reporting agencies would still be regulated by the Fair Credit Reporting Act and subject to the enforcement powers of the Federal Trade Commission Act for unfair or deceptive practices. They would also continue to be examined and supervised annually by the CFPB, an agency that did not even exist when CROA was passed nearly 20 years ago.

Empowering Americans to take action to improve their creditworthiness is the right thing to do. There's no reason to delay acting on a bill that will empower consumers who want to be better informed and successful in managing their financial lives, raising their credit scores, funding college educations, starting small businesses and buying a first home or car. Let's keep America moving and put consumers first by enacting HR 347.

Stuart Pratt is president and chief executive of the Consumer Data Industry Association.

KASASA

October 5, 2016

The Honorable Randy Neugebauer
Chairman
Subcommittee on Financial
Institutions & Consumer Credit
Washington D.C. 20515

The Honorable William Lacy Clay
Ranking Member
Subcommittee on Financial
Institutions & Consumer Credit
Washington D.C. 20515

Dear Chairman Neugebauer and Ranking Member Clay:

I am writing to share our views on a number of important legislative proposals that were discussed at the House Financial Services Subcommittee on Financial Institutions and Consumer Credit September 27, 2016 hearing to examine "Legislative Proposals to Address Consumer Access to Mainstream Banking Services."

Kasasa, Ltd. would like to thank you for holding this hearing and for the opportunity to share our thoughts on Americans' access to innovative financial services and banking products through community banks. We ask that you would include this letter as part of the official record for the September 27th hearing.

By way of background, Kasasa provides market research, product development, enabling technologies, and professional services to more than 800 community banks and credit unions across all 50 States, the District of Columbia, and Guam. Our services help community financial institutions "fill the gaps" when they don't have the resources, the budget and / or the expertise to develop financial products, services and capabilities.

As an outsourced service provider, we work directly with, and under the supervision of, our client's management team to help them provide their communities with innovative financial products and banking services and compete successfully with the larger regional and national banks operating in their markets. We do not have any direct interaction with any of our institutions' accountholders or their funds. We do not own, control or influence any consumer relationships, banking decisions, or financial activities and we receive compensation solely for the services we provide our client institutions.

We believe that the Subcommittee hearing recognized the importance of community banking as a critical component of a financial services world. According to the Independent Community Bankers Association (ICBA), community banks account for 50% of our nation's small business loans, which in turn create 2 out of every 3 jobs in the United States. Additionally, community banks make more than 90% of our nation's agricultural loans. The FDIC's recently released "Community Banking Study" concluded that if community banks were to disappear, 37% of Americans would not have access to mainstream banking services.

We believe the Committee is aware that costly and complex regulations are limiting Americans access to community banking services. The American Bankers Association estimates that 58% of banks have held off or cancelled the launch of new products - designed to meet customer demand - due to expected increases in regulatory costs or risks and 44% of banks have been forced to reduce existing consumer products or services due to compliance or regulatory burden. The ABA states that 1,708 community

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banks have disappeared since 2011. And today, the Institute for Self-Reliance estimates community banks control just 11% of our country's banking assets.

Consolidation is not inherently a bad thing but Congress should be concerned that regulatory burdens are inhibiting community banks' ability to address other elements that are crucial to their survival - expanding consumer expectations and the "digitalization" of banking services.

In response to the economic upheavals associated with our country's financial crisis, consumers are thinking, behaving and banking differently. They expect more access, more convenience, more control and more value in every one of their purchasing, payment and banking decisions. They want digital convenience, seamless transactions, lower fees, personalized advice and banking benefits. And, they are willing to get these things from non-traditional providers like online / neo-banks.

In order to stay competitive and meet these rising challenges, community banks must transform themselves into technology-enabled businesses. As such, they are utilizing and partnering with third party service providers and industry innovators say they can blend the "physical" strengths of their business (i.e. people, brick and mortar branches) with the "digital" (i.e. data mining, communication platforms and smart device delivery) capabilities required to create the valuable and personalized banking experiences their customers desire and expect.

In the September 27th hearing, the Committee appropriately addressed one of the challenges that community banks and their third party service providers are facing – the definition of "brokered deposits".

The regulatory definitions of "brokered deposit" and "deposit broker" are exceedingly broad and can inappropriately sweep up third party service providers who provide technical, operational, and outsourced services to banks - even when these third parties have no relationship with a depositor or any control or influence over an individual's funds, banking decisions, or financial activities.

It is for this reason that Kasasa strongly supports H.R. 5660, the "Retail Checking Account Protection Act of 2016."

H.R. 5660 is a bipartisan bill sponsored by Representatives Roger Williams and Gwen Moore that provides regulatory relief to community banks so they can compete with larger financial institutions and support their communities.

H.R. 5660 provides a simple statutory enhancement to a commonly accepted and applied banking definition to enable community banks to offer technology enabled banking services and innovative financial products to consumers via third party providers without fear of having deposits declared to be brokered merely because a bank used a third party's service or offering.

This common-sense bill reinforces federal regulators' desire for community financial institutions to build their businesses based on stable, relationship-based funding sources. It also enables community banks to collaborate with third party technology companies to deploy advanced banking services, innovative financial products, customized communications and digital delivery technologies.

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By making a minor technical fix to a commonly accepted and applied banking definition, H.R. 5660 provides the entire banking industry - regulators, bankers and financial technology companies - with the clarity required to objectively identify what a "core deposit" is and how those deposits can be gathered by community financial institutions working in collaboration with third party service providers.

Based on the belief that the health and stability of the banking industry would be better served if regulatory risk, deposit classification, and insurance fund assessments were based on the strength and characteristics of the relationship established between an individual depositor and their bank and the actual behavior of the funds residing in the depositors account rather than by the mere presence of or a bank's use of a third party service provider, the bill illuminates objective and measurable criteria by which "core deposits" can be identified.

The problem is, "core deposits" are not defined in statute and bank regulators differentiate between "brokered deposits" and "core deposits."

"Brokered deposits" are deposits placed at a bank by a broker agent representing clients who are seeking high interest rate yields. Because the client has no material, ongoing relationship with the bank and the broker agent is authorized and incented to move the clients' funds from bank to bank in search of the highest yield, experience and studies have shown that these funds are likely to leave an institution during economic stress, if the return on the deposits falls, or if the broker agent finds a higher rate at another institution. Consequently, the regulators require additional financial safeguards, impose higher insurance premiums and typically downgrade the management ratings for banks that hold brokered deposits.

"Core deposits", on the other hand, are what most lay people think of as individually held checking accounts. These accounts are a bank's safest and most reliable source of funds since they are associated with individual accountholders who have established a primary, ongoing and tangible relationship with their bank. The individual accountholder, not an intermediary, is responsible for all funding and banking decisions. Experience and studies have shown that these accountholders, and their associated funds, are highly unlikely to leave their bank if interest rates fluctuate or if the institution experiences economic stress. Thus, these deposits do not pose the risks associated with "brokered deposits."

Unfortunately "core deposits" are only defined for bank performance and regulatory examination purposes:

- Uniform Bank Performance Report (UBPR) Purposes: As of March 31, 2010 and going forward for UBPR purposes, core deposits are defined in the UBPR User Guide as the sum of demand deposits, all negotiable order of withdrawal (NOW) accounts, all automatic transfer service (ATS) accounts, all money market deposit accounts (MMDAs), other savings deposits and time deposits under $250,000, minus all brokered deposits under $250,000.

- Examination Purposes: As documented Section 6.1 of the FDIC's Risk Management Manual of Examination Polices, the FDIC defines core deposits as "generally stable, lower-cost funding sources that typically lag behind other funding sources in repricing during a period of rising interest rates. The deposits are typically funds of local customers that also have a borrowing or other relationship with the institution. Convenient branch locations, superior customer service, extensive ATM networks, and low or no fee accounts are factors that contribute to the stability of

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the deposits. Other factors include the insured status of the account and the type of depositor (retail, commercial, municipality, etc.)"

Consequently, from a statutory perspective, "core deposits" cannot be determine without first deciphering what a "brokered deposit" is. As such, collaborative innovation hinges on the statutory definitions of what constitutes a "deposit broker."

The definition for a "deposit broker," documented with Section 29 of the FDI Act, is exceeding broad and therefore can inappropriately sweep up third party service providers who provide technical, operational or management services to banks - even when these third parties have no relationship with any individual depositor or any control or influence over any individual's funds, banking decisions or financial activities.

- Brokered Deposit: Is defined to be "a deposit accepted through a "deposit broker."
- Deposit Broker: Is defined to be "(A) any person engaged in the business of placing deposits, or **facilitating the placement of deposits,** of third parties with insured depository institutions or the business of placing deposits with insured depository institutions for the purpose of selling interests in those deposits to third parties..." (Emphasis added)

The FDIC acknowledges that the definition is intentionally broad. In fact, in its June 30, 2016 FAQ on identifying brokered deposits, the FDIC states "***As a result of this broad definition, a brokered deposit may be any deposit accepted by an insured depository institution from or through a third party, such as a person or company or organization other than the owner of the deposit.***" (Emphasis added)

Let that sentence sink in.

It means *any* third party service used by *any* bank or *any* third party involvement within *any* bank - direct or indirect - may be interpreted by *any* individual field examiner as "facilitating the placement of deposits," thus, potentially making *any* deposit gathered by *any* bank a brokered deposit.

As written, as interpreted and as applied by the regulators, these statutory definitions stifle rather than spur collaboration between community banks and third party providers and industry innovators.

Fortunately, H.R. 5660 provides a common sense and simple solution to this problem. It provides the framework by which collaboration can occur between community banks and financial technology organizations if the collaboration results in the bank establishing a tangible, primary, measurable, on-going relationship with an individual depositor.

"Relationship based" deposits do not pose any of the risks bank regulators associate with brokered deposits. Specifically, fully insured funds residing in individually held transaction accounts are not used to fuel rapid or irresponsible growth. The deposits do not represent hot / volatile money since the funds are used in daily transactions and the accountholder is intimately connected to their institution through electronic banking services. Lastly, checking account deposits positively contribute to the bank's franchise value since they demonstrate an ongoing relationship with the individual accountholder.

H.R. 5660 makes a minor tweak (shown in "blue" below) to the Code of Federal Regulations' definition of Stable Retail Deposit to ensure deposits held in an account that is opened by and held in the name of

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the individual depositor is not considered to be funds obtained by or through a deposit broker when there is a demonstrative, primary, ongoing, and tangible relationship established between that individual depositor and the bank.

- CFR "Retail Stable Deposits" Definition: "Stable retail deposit" means a retail deposit that is entirely covered by deposit insurance and: (1) Is held by the depositor in a transaction account, (2) The depositor that holds the account has another established relationship with the FDIC-supervised institution such as another deposit account, a loan, bill payment services, or any similar service or product provided to the depositor that the FDIC-supervised institution demonstrates to the satisfaction of the FDIC would make deposit withdrawal highly unlikely during a liquidity stress event, (3) That is in an account - (i) opened by a retail depositor; (ii) that is held in the name of the retail depositor.

This minor "technical fix" solidifies for the entire financial services industry - regulators, banks and third party innovators - the objective criteria by which "core deposits" can be essentially "statutorily defined" without altering current and appropriate regulatory restrictions that are placed on traditional deposit brokers and banks that are less than well capitalized.

Implementing such an exception to the definition of brokered deposits does not pose conceptual difficulties because all of the pieces required to implement this solution are currently in place. The terms "core deposits", and "stable retail deposits" are fully documented and utilized by regulators within their examination practices, as well as within their liquidity risk management and stress testing activities.

Simply stated, Kasasa believes that regulatory risk, deposit classification, and insurance fund assessments should be based on the strength and measurable characteristics of the relationship established between an individual depositor and their bank.

Since relationship based accounts do not pose any of the risks bank regulators associated with brokered deposits, H.R. 5660 simply ensures that deposits that are held in a checking account that is opened by and held in the name of the individual depositor are treated appropriately as "core deposits" and are not considered to be funds obtained by or through a deposit broker when there is a demonstrative, primary, ongoing and tangible relationship established between that individual depositor and their bank.

Kasasa also strongly supports H.R. 4116, which the Committee addressed in the September 27th hearing.

Introduced by Representatives Gwen Moore and Tom Emmer, H.R. 4116 seeks to amend the Federal Deposit Insurance Act (FDI Act) to allow a limited exemption for community banks that hold reciprocal deposits not exceeding the lesser of $10 billion or 20% of total liabilities. Participating banks must be both well-capitalized and have a CAMELS rating of outstanding or good, to have their reciprocal deposits not be considered to be funds obtained, directly or indirectly, by or through a deposit broker.

The limitations on brokered deposits in the FDI Act were drafted in response to real problems in the banking system caused by banks' undue reliance on brokered deposits. Accordingly, Kasasa believes that it is appropriate for deposit insurance assessments to reflect the risks of deposits that are not associated with individuals who have a tangible, primary and on-going relationship with their financial institutions. Non-relationship based deposits represent traditional brokered deposits and the FDIC has identified three types of problems that brokered deposits can present: 1) excessive growth from too-easy access to

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deposits; 2) liquidity problems due to withdrawals in times of stress or by depositors seeking better rates; and 3) the franchise value of the deposits in the event of a failure.

Kasasa believes that the statutory definition of brokered deposits can sweep up deposits that do not present these risks.

Reciprocal deposits are one such type of deposits. A common scenario for setting up reciprocal deposits is one in which a bank holds non-brokered deposits from a single depositor that exceed the available FDIC insurance levels, so the bank offers the depositor the added comfort of full deposit insurance coverage by distributing the deposit to other banks in insurable amounts. In return, the bank receives a like amount of deposits from the other banks with the assistance of a third party service.

This type of deposit does not present the risks the FDIC has identified with brokered deposits. That is, these deposits do not fuel rapid growth because each bank involved in the reciprocal arrangements maintains the same amount of deposits that it already held; and the deposits do not present liquidity risks because the participating banks still have the same amount of deposits if the network were to be unwound. The franchise value of these deposits should be equal to, or greater than, the franchise value of the original deposit.

The Committee appropriately titled the September 27th hearing as "consumer access to mainstream banking services." We stress that community financial institutions play a uniquely important role in the United States agricultural, residential and small business lending markets. Without community banks, access to trusted financial advice and reputable banking products and services would be limited in 1,200 of 3,238 counties, encompassing 16.3 million people across our country.

Community financial institutions did not cause the 2008-2009 financial crisis. But in response to the crisis, community bankers did and continue to do their part. Risk based capital was and continues to be strong. Risk management disciplines have been and continue to be in place. And personal banking relationships always have been and continue to be the hallmark of all community financial institutions.

Yet, community banks' future is not without its challenges. Faced with continued weak economic growth, expanding consumer expectations and a significant technology transition, community banks should be encouraged to, not penalized for, collaborating with third party service providers to provide consumer's with access to mainstream banking services.

These challenges should send a clear message to community banks, to the regulators and to Congress.

To prosper, community banks must think differently, do things differently - and do different things.
To ensure the long-term health and vibrancy of community banks, the Federal banking agencies must think differently, do things differently - and do different things.

And to avoid another financial crisis, and to ensure all Americans have access to mainstream banking services, Congress must think differently, do things differently - and do different things.

While maintaining safety and soundness supervision, Congress must create a "supportive regulatory environment" that encourages community banks to invest in their future. As critical as capital and

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management practices are, so to are emerging technologies, business intelligence and digital delivery capabilities.

Absent of establishing a framework that enables "collaboration" rather than "limitation", I fear that we will continue to see a decline in the number of community banks in our country and consumers will have less access to the banking services and personalized financial advice they need to secure their financial futures.

H.R. 5660 is step in the right direction. So too is H.R. 4116.

While I know the House Financial Services Committee is focused on larger reform initiatives we urge your consideration and passage of these common sense bills.

My company believes in our mission. We are committed to enabling community financial institutions to re-establish themselves as the go-to-place for banking products and services within their communities.

We respectfully ask that you take the first step in establishing the type of supportive regulatory environment that is required to save our nation's community banking system by passing H.R. 5660 and H.R. 4116.

We stand ready, willing, and able to help you in any way we can.

Sincerely,

Gabriel Krajicek
Chief Executive Officer
Kasasa