DISRUPTER SERIES: IMPROVING CONSUMERS' FINANCIAL OPTIONS WITH FINTECH

HEARING

BEFORE THE

SUBCOMMITTEE ON DIGITAL COMMERCE AND CONSUMER PROTECTION

OF THE

COMMITTEE ON ENERGY AND COMMERCE

HOUSE OF REPRESENTATIVES

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DISRUPTER SERIES: IMPROVING CONSUMERS' FINANCIAL OPTIONS WITH FINTECH

THURSDAY, JUNE 8, 2017

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DIGITAL COMMERCE AND CONSUMER PROTECTION,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to call, at 10:05 a.m., in Room 2123, Rayburn House Office Building, Hon. Robert Latta (chairman of the subcommittee) presiding.

Members present: Representatives Latta, Harper, Upton, Lance, Guthrie, McKinley, Kinzinger, Bilirakis, Bucshon, Mullin, Costello, Walden (ex officio), Schakowsky, Clarke, Cárdenas, Green, and Pallone (ex officio).

Staff present: Blair Ellis, Press Secretary/Digital Coordinator; Melissa Froelich, Counsel, Digital Commerce and Consumer Protection; Adam Fromm, Director of Outreach and Coalitions; Jay Gulshen, Legislative Clerk, Health; Bijan Koohmaraie, Counsel, Digital Commerce and Consumer Protection; Paul Nagle, Chief Counsel, Digital Commerce and Consumer Protection; Hamlin Wade, Special Advisor for External Affairs; Michelle Ash, Minority Chief Counsel, Digital Commerce and Consumer Protection; Jeff Carroll, Minority Staff Director; Lisa Goldman, Minority Counsel; Caroline Paris-Behr, Minority Policy Analyst; and Matt Schumacher, Minority Press Assistant.

Mr. LATTA. Well, good morning. I'd like to call the Subcommittee on Digital Commerce and Consumer Protection to order, and the Chair now recognizes himself for 5 minutes for an opening statement.

OPENING STATEMENT OF HON. ROBERT E. LATTA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Again, good morning, and welcome to our witnesses today. We are very glad to have you with us today.

Today, we continue the Disrupter Series examining FinTech and all the ways that entrepreneurs and established businesses are looking to give consumers more tools and control over their finances.

Families across the country strive to achieve financial independence and stability. Many no longer feel certain that their children will be better off than they were at their age, a change from just a few years ago.

Understanding how new technology can assist families in managing their finances, especially while on the go, is a conversation we need to have.

Improving consumers' financial options is a clear example of the new technology pushing and disrupting established industries.

While we must focus on protecting the consumers, it is also important that we keep an eye on what matters to the consumer—what are their goals, what motivates them to use one service over another.

How can we encourage innovation while keeping the consumer protection bar high? In this conversation about improving access to commerce it is important to remember that there are generally three relationships people have with traditional institutions.

People have access to all the traditional financial services; second, the underbanked who have a checking account and maybe a savings account but also use alternative financial services like rent-to-own services or auto title loans; and third, the 7 percent of Americans who are unbanked, who do not have a checking or savings account and how use alternative services.

There are a number of statistics demonstrating how large the opportunity is to reach more Americans with relevant services. Twenty percent of the U.S. population—over 60 percent of Americans—are underbanked or unbanked.

Sixty-four percent of Americans earning less than $30,000 per year own a smart phone, and finally, over $12 billion were invested in FinTech companies in 2016.

Increasingly, Americans are turning to online and mobile banking, according to a 2015 study from the Federal Deposit Insurance Corporation. Over 31 percent of Americans used mobile banking and that number has likely risen in the last 2 years.

There are tremendous opportunities for companies to reach consumers with new products to help them create a rainy day fund for the first time, securely pay their mortgage, rebuild their credit budget, manage multiple income streams and invest their earnings.

One of the first questions that come to mind in any conversation about money is security. Cybersecurity is an ongoing challenge and one the Energy and Commerce Committee is tackling head on.

At this time, one of our other subcommittees in the Energy and Commerce is getting ready to start a hearing focused on healthcare cybersecurity.

In this subcommittee we have discussed how cybersecurity plays in development and life cycle of a number of connected devices through the Disrupter Series.

While there is no silver bullet, we do need to keep cybersecurity at the top of our minds because if consumers do not trust the products and services they use are secure then they will not use them.

I would like to thank our witnesses for joining us today and I look forward to your perspectives on how we can ensure that innovation in the FinTech space continues in the United States, how innovation can improve consumer protection and how the regulatory environment has impacted innovation.

Again, I want to thank all of our witnesses for rejoining us today for this very important discussion that we will have.

[The prepared statement of Mr. Latta follows:]

PREPARED STATEMENT OF HON. ROBERT E. LATTA

Good morning and welcome to the Digital Commerce and Consumer Protection subcommittee hearing. Today we continue the Disrupter Series examining FinTech and all of the ways that entrepreneurs and established businesses are looking to give consumers more tools and control over their finances.

Financial independence and stability is the goal for so many families across this country. People no longer feel certain that their children will be better off than they were at their age—a change from just a few years ago. Understanding how new technology can be leveraged responsibly to give people on-the-go control over their finances is a critical conversation.

Improving consumer's financial options is a clear example of where new technology is going to push and disrupt established industries. As much as consumer protection is focused on protecting, we also need to keep our eye on the consumer too. What are their goals? What motivates them to use one service over another? How can we encourage innovation while keeping the consumer protection bar high?

In this conversation about improving consumers access to commerce, it is important to remember that there are generally three relationships people may have with traditional institutions:

- People who have access to all of the traditional financial services;
- The underbanked, who have a checking account, and maybe a savings account, but also use alternative financial services like rent-to-own services or auto title loans; and,
- The 7 percent of Americans who are unbanked—who do not have a checking or savings account and only use alternative services.

There are a number of statistics demonstrating how large the opportunity is to reach more Americans with relevant services:

- 20 percent of the U.S. population, over 60 million Americans, are underbanked or unbanked.
- 64 percent of Americans earning less than $30,000 per year own a smartphone.
- Finally, over $12 billion was invested in FinTech companies in 2016.

Increasingly Americans are turning to online and mobile banking. According to the most recent study from the FDIC (Federal Deposit Insurance Corporation), over 31 percent of Americans use mobile banking and that number has likely risen in the last 2 years.

There are serious opportunities for companies to reach consumers with new products to help them create a rainy-day fund for the first time, make faster more secure payments, rebuild their credit, budget and manage multiple income streams, and invest.

One of the first questions that comes to mind in any conversation about money is security. Cybersecurity is an ongoing challenge, and one the Energy and Commerce Committee is tackling head on. Upstairs, our sister subcommittee is getting ready to start a hearing focused on health care cybersecurity. Throughout the Disrupter Series, we have discussed how cybersecurity plays into development and the lifecycle of a number of connected devices. There is no silver bullet. We need to keep cybersecurity top of mind, because if consumers do not trust that the products and services they use are secure, then they will not use them. Plain and simple.

I would like to thank our witnesses for joining us today and I look forward to your perspectives on:

- How we can ensure that innovation in the FinTech space continues in the United States,
- how innovation can improve consumer protection, and
- how the regulatory environment has impacted innovation.

Thank you all for joining us today for this important discussion.

Mr. LATTA. And at this time, I'd like to recognize the gentlelady from Illinois, the ranking member of the subcommittee for 5 minutes for an opening statement. Good morning.

OPENING STATEMENT OF HON. JANICE D. SCHAKOWSKY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Ms. SCHAKOWSKY. Good morning. Thank you, Mr. Chairman.

Today, in the subcommittee, we are going to be looking into the potential to provide consumers better options through financial technology, or FinTech.

On the floor this afternoon, the House will be debating legislation to gut existing consumer protections for financial products. These discussions can't happen in isolation.

Consumers can only realize the full benefit of FinTech if we have reasonable safeguards in place to prevent abusive practices, secure personal information and protect consumers from fraud.

The Financial CHOICE Act, what my Democratic colleagues and I call the Wrong Choice Act, puts those safeguards in severe jeopardy.

One of the landmark achievements of the Dodd-Frank Wall Street Reform Consumer Protection Act was the creation of the Consumer Financial Protection Bureau.

The CFPB is an effective consumer watchdog and it has returned $12 billion to 29 million harmed consumers. The Wrong Choice Act would gut this critical consumer watchdog. It would make it harder for the CFPB to take action to protect consumers.

It would threaten the CPB's funding. It would specifically block the CFPB from pursuing consumer protections in areas like payday lending and it would block the CFPB's proposed rule limiting arbitration to ensure that consumers can defend their rights in court.

Who benefits? Not consumers. Not responsible businesses. The winners are big banks like Wells Fargo that open up fraudulent accounts for their customers, pay lenders that trap consumers in unaffordable debt, credit card companies that engage in deceptive practices, for-profit colleges that prey on veterans and reverse mortgage companies that put seniors' homes at risk.

The CFPB has proven time and time again that it is a research and data-driven agency. It has been actively engaged in exploring how FinTech can be part of consumer-friendly innovation.

In October, the CFPB released its Project Catalyst Report on Innovation in Financial Services. The report highlighted the tremendous potential for FinTech to improve the lives of Americans. It also emphasized the importance of building consumer protections into new innovations from the outset.

Effective protections need to be flexible enough to apply to new financial products. That's precisely what the CFPB did in its rule for prepaid products.

It requires protections against fraud and unauthorized charges as well as basic transparency regarding fees and balances.

The rules apply to both physical prepaid cards and mobile wallets because consumers deserve strong protections whether they are swiping cards or using smart phones.

I believe the CFPB's valuable work should continue. I choose consumers over unethical companies that engage in unfair, deceptive and abusive practices.

I will be voting against the Wrong Choice Act this afternoon. If my colleagues really care about providing quality financial options for American consumers, they will do the same.

With proper protections baked in, I believe FinTech will have great benefit for consumers. It provides new opportunities to reach the unbanked and underbanked households. FinTech companies have already made it easier than ever to make person-to-person payments.

We will be hearing much more from our witnesses about some of the specific innovations that FinTech companies are working on.

And as with other topics in our Disrupter Series, the policy challenge for this subcommittee to consider is how we adapt today's rules to tomorrow's technology.

I look forward to hearing the insight from our panelists as we continue efforts to make sure consumers can truly benefit from the promise of new innovation.

And I yield back.

Mr. LATTA. Thank you. The gentlelady yields back.

At this time, the Chair now recognizes the gentleman from Oregon, the chairman of the full committee, for his opening statement. Good morning.

OPENING STATEMENT OF HON. GREG WALDEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. WALDEN. Good morning. Thank you, Mr. Chairman, and welcome to our panelists and to our guests today.

Today's Disrupter Series takes an important look at how we can ensure that innovation's improving options and outcomes for consumers and their financial health by way of financial technology, more commonly known as FinTech.

Smart phone adoption has skyrocketed in recent years which provides a new platform to reach consumers with basic services such as online banking or more complex transactions like mortgage applications.

In Oregon where I come from, the percentage of people unbanked or underbanked is slightly higher than the national average.

So if there is an opportunity to help folks engage in commerce, start a savings account, become more financially secure, we should be giving it serious consideration and FinTech could provide that opportunity.

Disruption or change can be uncomfortable. But if we remain focused on the consumer and what is in the best interests of the consumer we can move forward productively.

Startups, incumbents and partnerships are all critical components of this conversation. Now, ultimately we know that if consumers do not find something useful, they won't use it, given the choice.

The reality is that consumers are demanding better, faster, more secure services in every industry. The growth of new peer-to-peer payment services like PayPal and Venmo also show that the younger generations are quickly adopting these services and they will soon expect the same level of service and convenience for other traditional financial services as well.

Block chain is another important component within this industry as it has the potential to disrupt how we transfer assets digitally with increased transparency and security.

All of this is to say it's clear that the FinTech world is all-encompassing and is quickly growing. The United States should continue to be a hub for this innovation and for this opportunity and FinTech's rise in popularity demonstrates its fulfillment of both.

So I look forward to the testimony and your comments today and continuing to work to increase consumers' financial options with FinTech.

That is the charge this subcommittee has, among many others in the innovation environment, and it's ably led by our chairman and ranking member.

So we thank you for being here. I will give you a heads up that I also have to go up to the Oversight Investigations Subcommittee that's meeting concurrent with this one.

So I've got your testimony, and I appreciate your counsel and your input and look forward to working with you in the future.

With that, Mr. Chairman, I yield back the balance of my time.

[The prepared statement of Mr. Walden follows:]

PREPARED STATEMENT OF HON. GREG WALDEN

Good morning. Today's Disrupter Series taken an important look at how we can ensure that innovation is driving improved options and outcomes for consumers and their financial health with financial technology or FinTech.

Smartphone adoption has skyrocketed in recent years, which provides a new platform to reach consumers with basic services, such as online banking, or more complex transactions like mortgage applications.

In Oregon, the percentage of people unbanked or underbanked is slightly higher than the national average. If there is an opportunity to help these people engage in commerce, start a savings account, become more financially secure, we should be giving them serious consideration. FinTech provides a path forward.

Disruption can be uncomfortable to talk about but if we keep focused on the consumer and what is in their best interest, we will be about to move forward productively. And we know that if consumers do not find something useful they will not use it. Startups, incumbents, and partnerships are all critical components of this conversation.

Consumers are demanding better, faster, and more secure services in every industry. The growth of new peer-to-peer payment services like PayPal and Venmo also show that the younger generations are growing up with these services and will expect the same level of service and convenience for other traditional services as well. Blockchain has the potential to disrupt how we transfer assets digitally with increased transparency and security. The FinTech world is broad and growing.

The United States should continue to be a hub for innovation and opportunity. I look forward to hearing from our witnesses about their work to increase consumers' financial options with FinTech. Thank you all for being here.

Mr. LATTA. Thank you very much. The gentleman yields back.

The Chair now recognizes for 5 minutes the gentleman from New Jersey, the ranking member of the full committee.

OPENING STATEMENT OF HON. FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PALLONE. Thank you, Mr. Chairman. This hearing is an update to last Congress' hearings on mobile payments and digital currencies.

Technological advances are making financial transactions more convenient and efficient with nine in 10 Americans regularly connected to the internet and over 75 percent of us having smart phones. Online access to banking has never been better.

New financial products may help people pay and receive goods faster and consumers may have better and more secure access to their funds and these products also may help people have greater control over their financial lives by giving them more and better financial information.

These potential benefits are important but these new financial products should have consumer protections attached to them just like protections attached to old and more traditional financial products.

Consumer protections are essential and I look forward to hearing how we can help ensure there are appropriate safeguards while at the same time encouraging this new marketplace to thrive.

One area that is ripe for improvement in the financial sector is faster payments. In this day of technological advancements, some Americans still have to wait days for their checks to clear.

Oftentimes, these consumers are then forced into turning to high cost credit to access their own money.

In 2015, the Federal Reserve created a task force to review the issue of faster payments and I am hoping today for an update on the work of that task force.

People should be able to get real-time access to their money. I realize that some actors in this space such as check-cashing companies, payday lenders or wire transfer services may lose out on fees if real-time access is achieved.

However, with all of the technological advances that have been made delays are really not acceptable anymore and they have adverse effects on merchants and others waiting to be paid.

A number of Federal agencies play a critical role in the success of financial technology including both the Federal Trade Commission and the Consumer Financial Protection Bureau.

These two agencies conduct research and analysis of consumer financial interests, educate consumers and take enforcement actions against the perpetrators of financial exploitation.

As some of the witnesses will discuss today, the CFPB is working to ensure consumer protections are in place for prepaid debit user cards and advising companies wanting to enter the FinTech arena.

This is important work. Yet, today on the House floor the Republican majority is trying to gut the CFPB with the CHOICE Act, or what many of us are calling the Wrong Choice Act.

The timing of this hearing is interesting. While some may think FinTech is just another disruptive technology that may or may not help people, members should be mindful of the bigger picture.

Taking the teeth out of the CFPB is not the answer. The CFPB was created to protect consumers from fraud and financial products and it has proven itself truly able to help people.

We should be working together to ensure the CFPB continues its robust mission and I hope all the witnesses and those interested in today's financial technology hearing join me in supporting the CFPB.

[The prepared statement of Mr. Pallone follows:]

PREPARED STATEMENT OF HON. FRANK PALLONE, JR.

This hearing is an update to last Congress' hearings on mobile payments and digital currencies. Technological advances are making financial transactions more convenient and efficient. With nine-in-ten Americans regularly connected to the internet and over 75 percent of us having smartphones, online access to banking has never been better.

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A number of Federal agencies play a critical role in the success of financial technology, including both the Federal Trade Commission and the Consumer Financial Protection Bureau (CFPB). These two agencies conduct research and analysis of consumer financial interests, educate consumers, and take enforcement actions against the perpetrators of financial exploitation.

As some of the witnesses will discuss today, the CFPB is working to ensure consumer protections are in place for prepaid debit card users and advising companies wanting to enter the FinTech arena. This is important work. Yet, today on the House floor, the Republican Majority is trying to gut the CFPB with the CHOICE Act. Or, what many of us are calling the Wrong Choice Act.

The timing of this hearing is interesting. While some may think FinTech is just another "disruptive technology" that may or may not help people, Members should be mindful of the bigger picture. Taking the teeth out of the CFPB is not the answer. The CFPB was created to protect consumers from fraud in financial products, and it has proven itself truly able to help people. We should be working together to ensure the CFPB continues its robust mission.

I hope all of the witnesses and those interested in today's financial technology hearing join me in supporting the CFPB. Thank you.

Mr. PALLONE. I would like to yield the remaining 2 minutes to the gentleman from California, Mr. Cárdenas.

Mr. CÁRDENAS. Thank you very much, Chairman Latta, and thank you very much, Congressman Pallone, for having this hearing. Good morning, and thank you all so much for being here.

As some of you might know, my colleague, Congressman Kinzinger, and I led a resolution that passed last Congress highlighting some of the goals and responsibilities of the financial technology industry and how the Government can support innovation in this space.

It was the first legislation related to financial technology, or FinTech, that has passed either chamber. I am not on the Financial Services Committee, and I don't come from a strictly financial services background.

But let me tell you what brings me to be an advocate for smart FinTech innovation. I represent Los Angeles, which has five of the top 100 most unbanked Census tracks in the country.

That means that nearly three out of 10 Los Angeles County residents—and L.A. County is 10 million people—are underbanked and may rely on short-term lending to pay their bills and stay afloat.

FinTech innovation has the potential to help fix this. The reason I came to Congress is effect change that directly helps our communities, and working on FinTech at the Federal level is a great example of very real potential for change at the local level.

FinTech could potentially give small businesses and consumers an alternative way to bank that doesn't force them to rely on high-interest short-term loans or other risky money management strategies.

FinTech also has the potential to create hundreds of thousands of U.S. jobs. United States is the world leader in software development and technology, and it is in our best interests to develop a national policy on FinTech.

This national policy must drive innovation, boost economic growth and ensure the protection of every American's personal information.

Above all, we must make sure this policy helps the people that need it the most, like the people in my district.

Thank you, and I look forward to hearing your testimony and answers to our questions today, and I yield back.

Mr. LATTA. Thank you very much. The gentleman yields back, and that concludes today's opening Member statements.

The Chair would like to remind all Members that, pursuant to committee rules, all Members' opening statements will be made part of the record.

And, again, I want to thank our witnesses today for being with us today to talk about this very important topic and today's witnesses will each have 5 minutes for their opening statements.

Our witnesses today are Jeanne Hogarth, who's the vice president at the Center for Financial Services Innovation; Javier Saade, managing director at Fenway Summer Ventures; Ms. Christina Tetreault, the staff director at Consumers Union; and Peter Van Valkenburgh, research director at Coin Center.

Again, we appreciate you all for being with us today and look forward to your testimony, and Ms. Hogarth, we will start with you for your opening statement.

Thank you very much. If you want to just press that button, please, and pull the mic kind of close to you there.

Thank you.

STATEMENTS OF JEANNE M. HOGARTH, VICE PRESIDENT, CENTER FOR FINANCIAL SERVICES INNOVATION; JAVIER SAADE, MANAGING DIRECTOR, FENWAY SUMMER VENTURES; CHRISTINA TETREAULT, STAFF ATTORNEY, CONSUMERS UNION; PETER VAN VALKENBURGH, DIRECTOR OF RESEARCH, COIN CENTER

STATEMENT OF JEANNE M. HOGARTH

Ms. HOGARTH. Thank you. Chairman Latta, Ranking Member Schakowsky and committee members, thank you for inviting us here today to share some insights on the potential for financial technology to improve Americans' financial health.

The Center for Financial Services Innovation is a national authority on consumer financial health and we lead a network of financial services innovators committed to building higher quality products and services.

We believe that finance can be a force for good in people's lives and that meeting consumers' needs responsibly is good for both the consumer and the provider.

Nearly three out of five American households struggle with their financial health. These households are banked but they are not well served.

What people want and need is more automation of good choices combined with control and transparency. Unfortunately, most tools today don't provide this control and transparency, and FinTech, with better data, better analytics and better advice can ultimately provide that. CFSI is committed to working industry wide with a range of both incumbents and start-ups to encourage and seed innovation.

In 2014, CFSI partnered with JPMorgan Chase to launch our Financial Solutions Lab, which supports the development of technology-based products that improve the financial health of Americans.

The lab identifies challenges facing consumers and hosts an annual competition. As an accelerator program, we provide participants with capital and technical assistance from CFSI, JPMorgan Chase and a diverse community of industry partners and experts.

We work with the lab companies to help them monitor the financial health of their customers as well as that of their own bottom lines.

The first challenge for the lab was to solve for income volatility. Our second challenge was to help families weather financial shocks.

Next week we'll be announcing our third cohort of financial tech companies who are trying to improve the financial health of consumers with particular emphasis on products on aging Americans, individuals with disabilities, people of color and women.

Let me share three examples from our first FinLab cohort. Digit helps consumers automate savings by predicting their cash flow and identifying savings opportunities.

Since launching in 2015, Digit has helped users save over $500 million. The average Digit user saves between $80 and $170 a month, and while it's difficult to know if Digit users have enough liquid savings to cover an emergency, the use of automatic transfers is on the right path toward building a savings reserve to cope with an unexpected expense.

SupportPay believes that technology should be used to make family life easier. Through an automated child support payment platform, SupportPay is helping parents amicably settle child support and alimony directly with each other.

Today, more than 41,000 people, whether separated, divorced or grandparent custodians are using SupportPay and, as a result, are 90 percent more likely to exchange child support.

SupportPay's data show that late payment rates have dropped from 33 to 25 percent. Even helps consumers stabilize volatile income by guaranteeing a consistent amount of pay each pay period.

The team recently launched the 3.0 version of the app which pairs cash flow smoothing with an ongoing financial plan, improving consumer engagement and positive financial change.

Even its focus on rolling out its product to thousands of employees of a large employer, which will be announced in the coming months.

Beyond standalone products, it's important for FinTech providers to partner with banks, credit unions and other financial providers to offer products to a broader set of consumers.

We believe that responsible partnerships provide wins for the credit unions and the banks, the FinTech providers and the consumers, especially for consumers of smaller and rural banks who can expand the array of products they offer.

Consumer protection is still very much needed but policy makers need to identify the right tools to reshape the regulation of financial services to fit innovations in the 21st century. It's not a question of whether. It's a question of how.

Importantly, we believe that FinTech can help consumers but it alone is not sufficient enough to ensure financial health for all Americans.

It takes better job structures, living wages, benefits including sick leave and retirement plans and much more.

Again, we appreciate this opportunity to share these insights with the committee and I'm happy to answer any questions.

[The prepared statement of Ms. Hogarth follows:]

CFSi Center for Financial Services Innovation

Testimony before the House of Representatives Committee on Energy and Commerce

Sub-Committee on Digital Commerce and Consumer Protection

Hearing on Disrupter Series: Improving Consumers' Financial Options with FinTech

June 8, 2017 10:00 AM

2123 Rayburn

Written testimony by: Jeanne M. Hogarth

Vice President, Center for Financial Services Innovation

Chairman Latta, Ranking Member Schakowsky, and Committee members: Thank you for inviting me today to share some thoughts and insights on the potential for financial technologies to improve Americans' financial health. The Center for Financial Services Innovation (CFSI) is a national authority on consumer financial health, leading a network of financial services innovators – banks and credit unions, the fintech community, processors, servicers, nonprofits, consumer advocates and community-based organizations – all committed to building higher quality products and services. CFSI informs, advises, and connects our network to seed innovation that will transform the financial services landscape. Our vision is to see a strong, robust, and competitive financial services marketplace, where the diversity of consumer transaction, savings, and credit needs are met by a range of providers offering clear, transparent, and high-quality products and services at reasonable prices.

We recognize the important role that access to high-quality financial products plays in helping consumers improve and maintain their financial health. We see the pain points and the opportunities from both industry and consumer perspectives. Through our research and consulting work, our

Financial Capability Innovation Funds, and our Financial Solutions Lab, we have fostered innovative products and technologies that improve the financial health of consumers. We believe that finance can be a force for good in people's lives and that meeting consumers' needs responsibly is ultimately good for both the consumer and the provider.

How FinTech Can Help

For one of our research projects, CFSI partnered with of New York University's Wagner School's Financial Access Initiative (FAI) to work on the U.S. Financial Diaries (USFD). USFD tracked 235 low- and moderate-income households over the course of a year to collect highly detailed data on how families manage their finances on a day-to-day basis. This research reveals hard-to-see aspects of the financial lives of working Americans, providing new insight for the design of financial services policies, programs and products for a broad range of Americans. Leadership support for USFD is provided by the Ford Foundation and the Citi Foundation, with additional support and guidance from the Omidyar Network.

Katherine Lopez, daughter of an immigrant family, makes up one of those households. [1] Katherine grew up in California's central valley, worked hard in high school, and paid her way through college with a combination of jobs and student loans. She works as the coordinator of a children's literacy program, working with children of immigrants, helping them aspire to college, as she did.

Growing up, money was always managed in cash and was always tight. Most of what Katherine knows about finances, she taught herself. She opened some credit card accounts in college, but always paid the full balance each month. While in college, her landlord told Katherine that she was impressed with her credit score, especially given her young age. These scores, which assess borrowers' credit

[1] Katherine's story is an excerpt from *The Financial Diaries: How American Families Cope in a World of Uncertainty*, based on the U.S. Financial Diaries (USFD). Names and details have been changed to protect the participants.

worthiness, often based on a 300 to 850 range, are used by employers, insurers, landlords, and lenders to make decisions.

Katherine began tracking her credit score "obsessively." She read blogs about how scores are calculated, and how to protect and raise them. Her solid credit score, like her college degree, became a matter of personal pride.

What first got her in trouble wasn't the student loans or credit cards *per se*, but the rocky road of her insecure financial life. After college, she lived with a boyfriend who had health problems. He was unable to contribute equally to their finances, and his medical expenses became a financial drain on Katherine. Soon she was overextended and started cycling bills—one month she would pay one bill, the next month another. Her good credit rating melted away.

Eventually she moved into her own apartment. Over time, she earned more, and she dedicated herself to fixing her finances. Over the next several years, Katherine worked her way back up to a credit score over 700. She had even saved a $2,000 emergency fund. But then her financial situation turned again.

It happened in steps. First, she needed to replace her increasingly unreliable, ten-year-old car. She was able to purchase a fuel efficient car that was only a few years old. Katherine had owned her old car free and clear, so the new loan payments put new pressure on her monthly budget. But Katherine decided she was "doing pretty ok" and could afford the car payments.

Not long after, she moved in with a new boyfriend. Excited about their future together, she bought some furniture and items for their apartment using her credit cards. Then one morning as she hurried to work, she was in an accident, totaling her car. Luckily, she was uninjured, and her insurance covered the outstanding principal on her car loan. Still, she was out the money she had put down on that vehicle—and now she needed a new car for the second time in a year. Her boyfriend took the $2,000 she'd saved for an emergency to a friend who worked at an auto dealership and returned with a leased Acura. Katherine was glad to have the matter resolved quickly but upset that her savings were gone.

Katherine estimated that a quarter of her income was going to her monthly car payment. She prioritized paying her student loans next, then rent, and then the minimum payment on her credit cards. After living expenses, she said there was nothing left—no room to make progress on paying down her debts or refilling her emergency fund, yet alone saving for graduate school – a dream of hers. Despite Katherine's self-assessment of her own debt level – she felt "doomed" – she was not even close to maxing out the credit available to her. She was still a "good" credit risk because she was making minimum payments on time and she had only borrowed about 30 percent of her credit card limits. She was still receiving offers for even more credit.

Katherine tracked her credit score closely. But at best, her credit score offered an incomplete view of her financial status; at worst, it was distracting and discouraging. The guidance she received from consumer finance sites about managing her credit score could have done more than simply help her to keep her credit score within a certain range; it could have helped her better manage her financial goals for "now," "soon," and "later."

Katherine is banked, but doesn't feel like her accounts give her the level of control or help that she really wants. She watches her credit score closely, and adjusts her financial behaviors to keep it high -- but her credit card debt is still growing. Credit scores mostly respond to paying the minimum on time, and not utilizing your full balance. She does those things. But, what she really needs is something that would help her know how much is safe to spend, and something that would make it easier to pay down debt and save. What people want and need is more automation of good choices, but not full automation

-- they want control and transparency. They want advice that is in their own best interest. Unfortunately, most existing tools don't provide the control and transparency consumers need -- and fin tech, with better data and analytics and advice, can ultimately provide that.

Seeding Innovation for Good

Nearly three out of five of Americans struggle with their financial health.[2] They lack a savings cushion as well as longer-term savings, face high levels of debt and poor credit, or have irregular income—or all of the above. These households are banked – they have checking and savings accounts, credit cards, car loans, and mortgages – but they are not well served. To improve their financial health, people need relevant, engaging information and advice delivered via products designed to meet their needs.

CFSI is committed to working industry-wide with a range of incumbents and start-ups to encourage and seed innovation. Indeed, innovation and fintech are not limited to the start-up community. In our consulting work and network engagement, we have seen many incumbents, from large money-center banks to smaller credit unions to community-based non-profits who have embraced innovation as a way to better serve their customers and clients. Through our Financial Capability Innovation Funds and Test & Learn projects, we've engaged with "traditional" financial service providers to design innovative products and services for financial health.

In 2014, CFSI partnered with JPMorgan Chase to launch the Financial Solutions Lab, which supports the development of technology-based products that improve the financial health of American consumers. The lab identifies challenges facing consumers and holds an annual competition to encourage companies to develop financial products that address these challenges. This accelerator program provides participants with capital and customized technical assistance from CFSI, JPMorgan

[2] See CFSI's Understanding and Improving Consumer Financial Health in America

Chase, a network of industry partners, and a diverse community of experts, including an array of design and consulting services. We work with companies in the lab to help them track impact and monitor the financial health of their customers as well as that of their own bottom line.

The first challenge for the Lab was to solve for income volatility, something we saw with our US Financial Diaries families. In 2015-16 we worked with 9 companies, each providing a different approach to helping families deal with uneven incomes. Our second challenge was to help families weather financial shocks and again we worked with another 9 companies. We are currently three years into this five-year program, and next week (June 15) we will be announcing our third cohort of fintech companies who are trying to help improve consumers' financial health, with particular emphasis on products for aging Americans, individuals with disabilities, people of color, and women.

From its inception, we sought to balance the need for experimentation and flexibility against the demand to measure performance. We identified three categories of impact—consumer, innovator, and market—and created a process for measuring and tracking our impact in each category. Here is what we've learned thus far.

- *Consumer impact* focuses on the effectiveness of lab winners' solutions. The 18 organizations supported by the lab so far have cumulatively grown to help more than 1,300,000 Americans—10 times the consumer base they served before joining the lab.
- *Innovator impact* measures our performance and efficacy in developing a model and set of tools to help winners accelerate their growth and impact. Collectively, lab companies have raised more than $110,000,000 in capital since joining the program. On average, the companies have doubled the size of their teams, and one company has been acquired.
- *Market impact* measures how we have positively shifted the market for financial services. The lab seeks to de-risk early-stage innovation and create a path toward scale. The lab has elevated

the profiles of winners and the need for inclusive financial technology solutions. We have also engaged regulators and policymakers to drive awareness of the power of these solutions and barriers to market implementation. Nonprofits serving low- and moderate-income consumers are starting to pilot these technology products with their clients as program enhancements.

Who Are These FinTech Start-Ups?

Before sharing some insights from our 18 lab companies, we'd like to step back and discuss the applicants we've seen for the lab. For the past two years, we've had nearly 360 companies in the applicant pool each year (356 in 2016-17 and 358 for 2017-18). For the 2016-17 cohort, the typical applicant had raised $450,000 and employed 6 or 7 people, nearly mirroring attributes of FinLab's applicant pool in 2015. In 2016-17, we noted three key trends in the pool: 1) the entrepreneurs were working on products subject to complex regulatory oversight, more involved partnership arrangements, and significant capital requirements; 2) many strong companies are focused on narrow customer segments that are often ignored by tech innovation; and 3) many innovators are seeking to access large groups of consumers through employers, selling their product directly to companies as a potential employee benefit, or reaching companies by integrating with human resources tools – like payroll systems and benefits portals.

Over the years of the Lab, we have seen that consumer fintech is maturing. Because the sheer number of fintech innovators is increasing, we are entering a phase in which entrepreneurs will have to work harder to differentiate their products and services. We are also seeing competition in previously neglected areas such as savings and financial health for employees. Some themes from our applicant pool have the potential to drastically improve consumers' lives, but have yet to completely develop: insurance product innovation, communication platforms and greater blockchain utility are examples.

Examples from the Financial Solutions Lab

Financial health, like physical health, doesn't happen overnight – it's a long game. Below we highlight some results from our first lab cohort, where consumer impacts have had more time to become evident.

Digit helps consumers automate savings by predicting their cash flow and identifying savings opportunities. Since launching in 2015, Digit has helped its users save over $500 million. On average, Digit users save $80 to $170 per month. While it is difficult to assess if Digit users have sufficient liquid savings to cover their expenses in the case of an emergency or job loss, the use of automatic transfers to put money away is on the right path towards building a sufficient savings reserve to cope with an unexpected expense.

LendStreet provides debt consolidation services to help people get out of debt and rebuild their credit. Since its launch, LendStreet has settled over $9.8 million in debt for its customers. The average LendStreet borrower has settled an average of $27,000 of debt. On average, customers see credit score improvements of 45 points within 6 months and 65 points within 12 months. LendStreet is also a participant in CFSI's Financial Health Measurement Project.

SupportPay believes that technology can and should be used to make family life easier. Through an automated child support payment platform, SupportPay is helping parents amicably settle and exchange child support/alimony directly with each other. Today, more than 41,000 people – whether separated, divorced or grandparent custodians – are using the SupportPay platform and as a result are 90% more likely to exchange child support. SupportPay is working to collect the necessary data to understand how much increased income this has meant for their customers on the receiving end of the exchange, but early data shows that late payment rates have dropped from 33% to 25%.

Even helps consumers stabilize volatile income by guaranteeing a consistent amount of pay each pay period. The team recently launched the 3.0 version of the app, which pairs cash flow smoothing with an ongoing financial plan. This combination has demonstrated to be more effective in consumer engagement and driving positive financial change. Even is focusing on rolling out its product to thousands of employees of a large retail employer, which they plan to announce in the coming months.

Prism is making bill pay easier by bringing all of a consumer's bills together in an easy-to-use app. With all of their bills in one place, Prism enables consumers to make bill payments directly via ACH or with a credit/debit/prepaid card (65% of Prism users report having a bank account). As of November 2016, Prism had facilitated the bill payment of more than $50 million. Prism was acquired by PayNearMe in 2016.

Propel helps food stamp recipients more easily enroll and track the usage of their benefits. Its first product, easyfoodstamps.com, is a mobile-friendly site that streamlines the process of applying for food stamps. Propel has since launched the Fresh EBT app that allows users to more quickly and easily check their food stamp benefit balances. Previously, beneficiaries would need to call a number to check their balances, taking about 2 minutes – and now they can check their balances in about 5 seconds on the app, saving both time and as one user stated "embarrassing moments at the cash register." Over 400,000 people use Fresh EBT each month to manage their benefits. In April 2017, Propel announced that it had raised an additional $4 million in follow-on funding from Andreessen Horowitz, Omidyar Network, Max Levchin (who founded PayPal), and Kevin Durant (who lived on food stamps as a child).

Neighborhood Trust, a non-profit, partnered with FlexWage Solutions to develop WageGoal, a mobile product that will give employees access to their earnings ahead of payday. Workers today frequently experience short-term cash shortages, resulting in expensive payday loans, overdraft fees, or even loan requests to their employer. The WageGoal product is currently being tested in a pilot with a Texas-based nonprofit employer

Hurdles for FinTech Providers

Fintech entrepreneurs face many challenges and hurdles. Beyond the obvious ones – access to start-up capital, setting up a business, customer acquisition strategies – there are several that are perhaps unique to the fintech space. We believe that policy makers may want to consider some of the following as they look forward to the future of financial services 3, 5, or 10 years down the road.

Create a "front door" for fintech to the federal government.

Innovators need a clear front door to the federal government for innovation. At CFSI, we recognize the numerous federal regulatory agencies have different missions covering diverse institutions and products. These distinctions were developed at a time when lines between different types of business were clearer. But now there is substantial blurring of product and service lines, along with a new set of account access devices (for example, we have moved from cash to checks to cards to "wallets" on smart phones). Founders and innovators are unfamiliar with federal regulatory structures and generally cannot figure out how to get information directly from the appropriate set of regulators. A clear front door would help.

It would be helpful to the fintech community for there to be an interagency innovation team for financial services that can serve as this point of entry into the federal agency structures. Such a team may help make duplications and gaps more obvious, and propose solutions to address these. In our work, we have found that the CFPB's Project Catalyst often functions as this front door, serving as an access point to multiple regulators. We would encourage such a team to be located in the tech hubs across the country – most certainly in Palo Alto and New York City – and not just in DC.

Facilitate interstate and regulatory comity that enables consumers to access and use fintech products and services that promote financial health.

Many, if not most, fintech products and services are delivered over the internet, which by its nature is national in scope. Currently, there are a number of hurdles that fintech firms must overcome to be able to broadly provide products and services to consumers. These hurdles could be reduced by providing ways to harmonize state license applications, to arrange for reciprocal recognition of licenses, and to arrange for multi-state or national licensing agreements.

In addition, it is important that regulators facilitate the ability of fintech providers to partner with banks and credit unions, or other "mainstream" financial providers, to offer their products to a broader set of consumers. Many mainstream financial service providers are concerned about their regulators' risk-aversion to these third-party agreements and these partnerships often fail to materialize. In turn, consumers lack access to products and services that could help them build and maintain their financial health. CFSI believes that responsible partnerships between banks and third-party fintech can be a win-win-win situation. Win #1: banks can continue to serve a broad and deep segment of their consumer market that they might lose. Win #2: fintech providers have an opportunity to offer products and services to consumers they might not otherwise reach. And win #3: consumers get access to high quality products they otherwise would not. Responsible partnerships especially allow smaller and more rural banks to broaden the set of products and services they can offer to consumers and small businesses in their communities.

Support consumers' access to their own data.

Consumers' ability to understand, manage and improve their financial health requires their having a full picture of their financial lives. Today, as a result of technological advances and market developments, many of the products and services that provide consumers with this 360-degree view of their finances rely on data drawn from numerous sources. There is a critical need for industry collaboration to ensure that consumers have secure and reliable access to their financial data and to support continued innovation in the financial services marketplace.

In October 2016, CFSI released our Consumer Data Sharing Principles. These consumer-focused principles provide a framework to guide the industry as it works to establish a data-sharing ecosystem that is secure, inclusive and innovative. This effort builds upon CFSI's previous work to establish principles and best practices guides for specific products, leveraging CFSI's Compass Principles framework for quality in financial services. Specifically, we believe that an inclusive and secure financial data ecosystem is one in which financial institutions, data aggregators and third-party application providers coordinate to provide data to consumers that are available, reliable, user-permissioned, secure, and limited to the application functionality.

This may include broadening the acceptance of digital forms of identification as well as structuring and securing open APIs (application program interface). However, we know that innovations continue to take place. We would caution against creating statutory and regulatory frameworks that cannot grow and change with the times. We believe the best way to assure this flexibility is to establish key principles that allow innovation to flourish while still providing consumer protections.

Create opportunities for pilot testing of both financial products and services and financial services regulations.

More than a dozen countries currently provide a way for firms and regulators to test out products and regulations. These regulatory pilot programs, often called sandboxes, are designed to offer a "safe space" for innovative financial services, products, or concepts to be incubated and tested within a framework of engagement between the industry – both incumbants and start ups – and regulators while still providing consumers with standard levels of consumer protection. For regulators, a sandbox offers transparency into the product or service during its development and an opportunity to assess whether new or adapted regulations are working as planned or whether adjustments are required to provide consumer protection while still promoting growth and innovation. For innovators, a sandbox permits iterative development of products and services without a regulatory liability that would otherwise suppress innovation.

FinTech Is Necessary, But Not Sufficient

We believe that financial health metrics should be the measure of success for not only financial products and services but also for the regulations that govern these products and services. CFSI has produced a set of financial health measures that financial service providers and others can use to track the progress their customers are making toward financial health. While these metrics are still being tested and refined in the field, there is evidence that companies can provide products and services that cost less and are better for their customers when they focus on consumer outcomes. Further, financially healthy customers are good for the financial health of the company's bottom line, their communities, and the economy more broadly.

The rate of change in both technology and the services and products these technologies enable make "bright line" legislating and rulemaking an anachronism. Consumer protection is still very much needed, but policy makers need to identify the right tools to reshape the regulation of financial services to fit the innovations in the 21st century – it is not a question of *whether*, but *how*. Moving away from prescriptive rules to principles-based rules will enable both regulators and industry participants to remain nimble and relevant as products and services grow and evolve over time.

Importantly, while we strongly believe that fintech can help consumers, it alone is not sufficient to ensure financial health for all Americans. It also takes better job structures with living wages and benefits including sick-leave and retirement plans – those elements that help families manage day-today, be resilient, and plan for their futures. It takes workforce development, a system that provides for financial and physical security in retirement, and much more. Financially healthy consumers need structures that also enable financially healthy communities, safe and secure housing, engaging schools, accessible health care services, robust food security systems, and supportive transportation structures.

Conclusion

We believe that consumers will be better able to achieve financial health if they have access to high-quality financial services that are innovative – evolving and growing as the consumers themselves evolve and grow in their financial journey. We also believe there continues to be a need to balance innovation with consumer protection. Financial technologies and innovations can help consumers spend, save, borrow, and plan safely and effectively, enabling them to manage their day-to-day finances, weather financial shocks, and providing them with longer-run financial opportunities. The marketplace and the economy will benefit from a range of banks and fintech companies, start-ups and incumbents, direct-service providers and partners all playing important roles in developing and delivering innovations that are consumer-centric.

Fintech and innovation are not going away – if anything, the pace of change will only increase. Both policy makers and the market need to grapple with how they will respond. CFSI looks forward to working with the House Subcommittee on Digital Technology and Consumer Protection as your work moves ahead.

Key Points from The Center for Financial Services Innovation (CFSI).

Nearly three out of five of Americans struggle with their financial health.[3] They lack a savings cushion and longer-term savings, face high levels of debt, or have irregular income—or all of the above. Access to high-quality financial products can help consumers improve and maintain their financial health. We see the pain points and the opportunities from both industry and consumer perspectives. We believe that finance can be a force for good in people's lives and that meeting consumers' needs responsibly is ultimately good for both the consumer and the provider. But financial health, like physical health, doesn't happen overnight – it's a long game.

Most consumers are "banked," but they don't feel like their accounts give them the level of control or help that they really want. What people want and need is more automation of good choices, but not full automation -- they want control and transparency. They want advice that is in their own best interest. Unfortunately, existing tools don't provide the control and transparency consumers need -- and fin tech, with better data and analytics and advice, can ultimately provide that.

In 2014, CFSI partnered with JPMorgan Chase to launch the Financial Solutions Lab. The Lab identifies financial health challenges facing consumers and holds an annual competition to encourage companies to develop financial products that address these challenges. Our success metrics include consumer financial health impacts, engagements and partnerships with important stakeholders in the financial service ecosystem, and high-level financial metrics such as capital raised and equity value. The 18 organizations supported by the lab so far have cumulatively grown to help more than 1,000,000 Americans—10 times the consumer base they served before joining the lab.

Fintech entrepreneurs face many challenges and hurdles. Beyond the obvious ones, there are several that are perhaps unique to the fintech space, such as:

- *Create a "front door" for fintech to the federal government*
- *Facilitate interstate and regulatory comity that enables consumers to access and use fintech products and services that promote financial health.*
- *Support consumers' access to their own data*
- *Create opportunities for pilot testing of both financial products and services and financial services regulations.*

Fintech can help consumers, but it alone is not sufficient to ensure financial health for all Americans. It also takes better job structures with living wages and benefits including sick-leave and retirement plans – those elements that help families manage day-to-day, be resilient, and plan for their futures. It takes workforce development, a system that provides for financial and physical security in retirement, and much more. Financially healthy consumers need structures that also enable financially healthy communities, safe and secure housing, engaging schools, accessible health care services, robust food security systems, and supportive transportation structures. Finally, we believe there will continue to be a need to balance innovation with consumer protection – the issue isn't whether, but how.

[3] See CFSI's Understanding and Improving Consumer Financial Health in America

Mr. LATTA. Thank you very much.

Mr. Saade, you are recognized for 5 minutes.

STATEMENT OF JAVIER SAADE

Mr. SAADE. Thank you. Good morning.

Chairman Latta, Ranking Member Schakowsky and distinguished members of the committee, thank you very much for the opportunity to participate here today.

My name is Javier Saade and I'm a managing director at Fenway Summer Ventures. Fenway Summer is a venture capital firm that backs young companies innovating at the intersection of finance and technology.

We capitalize fast-growing ventures and serve as a value-added partner to the entrepreneurs that lead them. Since 2013, we have backed over 30 companies and have co-founded three ourselves: a credit card company, a tech-enabled mortgage lender, and a private student lender.

I am honored to be here today and lend a voice to this important dialogue. Changing landscape in financial services. It's no secret, as all of you have said, that over the last few years the financial services industry has undergone a significant amount of disruption.

Many factors have contributed to this but the most important, in our view, are the global financial crisis and the regulatory response engendered; rapid technological advances; secular shifts in consumer behavior and evolving capital markets' dynamics.

Every sector of the financial services industry had been affected by these changes. FinTech has the potential to transfer the way that financial services are delivered and designed, widen credit and capital access funnels and reduce friction in the process of payments.

In the past few years we have seen a proliferation of digitally enabled financial products. Just as smart phones revolutionized the way in which we interact socially, FinTech is revolutionizing how we interact financially.

In our perpetually connected world, consumers, businesses and financial institutions are finding ways to engage in financial transactions that are more convenient, cost effective, timely, and secure.

In addressing the traditionally excluded and underserved sectors of the population, FinTech companies are well positioned to drive innovation. It is estimated that around the world more than 2 billion adults are underserved and unbanked.

In assessing the inclusiveness of the U.S. banking system, the FDIC 2015 survey of unbanked and underbanked households found that 30 million households either have no access to financial products or obtain products outside of the banking system.

By reducing loan processing and underwriting costs, all nine origination platforms can enable financial services providers to more cost effectively offer small balance loans to household and small businesses that have been previously feasible. This in turn facilitates credit flow to individuals and firms that otherwise would not have access to credit. New technologies are also opening up efficient ways to manage money and control spending.

We have seen mobile technology and innovations in distribution that enable financial service firms to reach communities that were previously unserved because building a traditional brick and mortar outlet was not economical.

While financial innovation holds significant promise, it is crucial that all stakeholders understand and mitigate associated risks.

There is a tension between aligning pace of development and new products and services being brought to market and the duty to ensure that these risks are addressed.

This is precisely why we at Fenway Summer are focused on finding entrepreneurs who display what our firm's founder refers to as paradoxical conservatism.

We look for entrepreneurs who have grand ambitions to effect positive change in the financial services industry but who understand that the fail fast and often approach typical of tech-driven start-ups in other sectors may not be well suited to the financial services industry.

Two examples of our companies: one, EarnUp. It's a company that offers automated repayment of consumer loans, and FS Card, whose sole product is a credit card targeted towards customers seeking to establish, strengthen or rebuild our credit. EarnUp helps consumers save money and reduce debt by intelligently allocating income towards loan repayments.

Budget in outstanding loans. EarnUp's technology integrates with thousands of services of home loans, student loans and auto loans and other asset classes in order to route consumer payments automatically.

FS Card provides access to mainstream and reasonably priced credit to consumers in the 550 to 600 credit score range through their product called the Build Card, which is an unsecured credit card with a typical line of $500. In the absence of a product like this, consumers would likely need to resort to much more expensive alternatives like payday loans.

Thanks for listening and, again, I appreciate the opportunity to be here with you and share my thoughts on this topic and I'm happy to answer any questions you may have.

[The prepared statement of Mr. Saade follows:]

Testimony before the House of Representatives Committee on Energy and Commerce

Sub-Committee on Digital Commerce and Consumer Protection

Hearing on "Disrupter Series: Improving Consumer's Financial Options with Fintech"

June 8, 2017, 10:00 AM

2123 Rayburn House Office Building

Written Testimony by: Javier Saade, Managing Director, Fenway Summer Ventures

Chairman Latta, Ranking Member Schakowsky and distinguished members of the Committee, thank you very much for the opportunity to participate in today's hearing. My name is Javier Saade and I am a Managing Director at Fenway Summer Ventures.

Fenway Summer Ventures is a venture capital firm that backs young companies innovating at the intersection of finance and technology. We capitalize fast-growing ventures and serve as value-added partners to the entrepreneurs that lead them. Since 2013, we have invested in over thirty companies and have co-founded three ourselves: a credit card company, mortgage lender, and a private student lender.

I am honored to speak with you here today and lend a voice to this important dialogue.

Changing Landscape in Financial Services

It's no secret that over the last few years the financial services industry has undergone a significant amount of disruption. Many factors contributed to this but the most important, in our view, are the confluence of the global financial crisis and the regulatory response it engendered, rapid technological advances, secular shifts in consumer behavior, and evolving capital market dynamics.

Every sector of the financial services industry, like other industries, has been affected by technology. Fintech has the potential to transform the way that financial services are delivered and designed; widen credit and capital access funnels; and reduce friction in the processes of payments, clearing, and settlement.

In the past few years we have witnessed a proliferation of digitally enabled financial products. Just as smartphones revolutionized the way in which we interact with each other socially, fintech revolutionizing how we interact with each other financially. In our perpetually connected world, consumers, businesses, and financial institutions are finding ways to engage in financial transactions that are more convenient, cost effective, timely, and secure

Expanding Access to Financial Products

In addressing traditionally excluded and underserved sectors of our population, Fintech companies are well positioned to drive innovation that ushers in economic and social change. According to the World Bank Group, an estimated 2 billion adults, or roughly 40 percent of the global adult population, do not participate in the formal financial system. In assessing the inclusiveness of the U.S. banking system, the FDIC's 2015 Survey of Unbanked and Underbanked Households found that nearly 30 million U.S. households either have no access to financial products or obtain products outside of the banking system. Tens of millions more are credit invisible. Therefore, we believe, that even modest strides in achieving economic inclusion present the single largest addressable opportunity in Fintech.

By reducing loan processing and underwriting costs, online origination platforms can enable a financial services provider to more cost effectively offer smaller-balance loans to households and small businesses than had been previously feasible. In addition, broadening data sources and the analytic constructs employed to make decisions using that data may allow lenders to better asses the credit worthiness of potential borrowers. This in turn, facilitates credit flow to individuals and firms that otherwise would not have access to such credit.

New technologies can also open up more efficient ways to manage money and control spending. Mobile technology and innovations in distribution making cost-effective financial services available in both urban and rural environments where traditional brick-and-mortar outlets may be uneconomical. Computer-enabled data mining can lead to better understanding of the financial patterns of the underserved – their inflows and outflows and how they find ways to manage the gaps. This approach could create opportunities to fashion brighter futures that benefit not only them, but the rest of us as well, thereby strengthening the economy as a whole.

Case Studies

While financial innovation holds significant promise, it is crucial that all stakeholders understand and mitigate associated risks. There is a tension between the lightning pace of development of new products and services being brought to market and the duty to ensure that important risks around financial services are addressed. Companies need to appropriately control and mitigate the risks that are unique to fintech as well as the system-wide risks that exist independent of technology.

This is precisely why we, at Fenway Summer Ventures, are focused on finding entrepreneurs who display what our firm's founder refers to as "paradoxical conservatism". We look for entrepreneurs who have grand ambitions to effect positive change in the financial services industry but who understand that the "fail fast and often" approach, typical of tech-driven startups in other sectors, may not be well suited for the financial services industry.

Two examples of companies in our portfolio which are working to improve the financial health of U.S. consumers include EarnUp, a company that offers automated repayment of consumer loans, and FS Card, whose sole product is a credit card targeted towards those with tarnished credit histories.

EarnUp helps consumers save money and reduce their indebtedness by intelligently allocating income toward loan repayments according to a plan that is optimized for that individual's budget and outstanding loans. EarnUp's technology integrates with thousands of servicers of home loans, student loans, auto loans, personal loans and other asset classes in order to route customer payments automatically, creating substantial consumer savings relative to standard monthly payment plans and very strong customer retention and engagement.

FS Card provides access to mainstream, reasonably priced credit to consumers in the 550-600 credit score range through their product, the "Build" card, an unsecured credit card with a maximum line of $500. In the absence of a product like the "Build" card, consumers would likely need to resort to much more expensive alternatives, like payday loans.

Thanks for listening and again, I appreciate the opportunity to give the esteemed members of this committee my thoughts on the topics being discussed here today.

Mr. LATTA. Well, thank you for your testimony.

Ms. Tetreault, you are recognized for 5 minutes. Thank you very much.

STATEMENT OF CHRISTINA TETREAULT

Ms. TETREAULT. Chairman Latta, Ranking Member Schakowsky, committee members, thank you for the opportunity to testify today.

Consumers Union is the policy and mobilization arm of the independent nonprofit organization Consumer Reports. We research and report on financial services issues and engage in advocacy to encourage fair finance.

We appreciate your leadership in investigating FinTech as we believe that it holds promise to increase inclusion and choice without sacrificing safety and security.

FinTech holds this promise to increase financial inclusion by solving some of the problems that consumers report have kept them from using traditional financial services.

Innovative products may provide consumers greater control over their financial lives and be offered at a lower cost and be more convenient than traditional or alternative financial services, leading to greater integration of the unbanked, underbanked and unhappily banked.

We encourage service providers to bake in consumer protections as technology often moves at a faster pace than regulation. We also believe that there's role for lawmakers to ensure that appropriate safeguards are enacted while still being flexible enough to allow for new products to thrive in the marketplace when they provide meaningful value to consumers.

Contrary to complaints by industry that regulation kills innovation, appropriately tailored regulation ultimately benefits businesses.

While financial services regulation is essential for protecting consumers from harm, regulation and supervision of consumer financial services benefits industry by promoting consumer confidence and thereby driving adoption.

Strong and consistent regulation also ensures that businesses that take consumer protections and regulatory compliance seriously are not at a competitive disadvantage to those that do not.

Lawmakers and regulators should not hesitate to hold these new financial services businesses to the highest standards.

Some of the most exciting developments in financial technology are occurring in payments. Cashless payments, faster payments and virtual currencies and the technology behind them may pose additional risks to consumers unless there are clear rules of the road.

Cashless payments are improved by the Consumer Financial Protection Bureau's final prepaid rule. Our organization documented the unfair discrepancy between the protections afforded bank debit card users and prepaid card users for many years and we are pleased that the final rule no longer relegates prepaid cards to second tier bank account status.

In addition to prepaid cards, the final rule extends protections to mobile wallets that store consumer funds. While this is a positive development, concerns around mobile payments remain.

For example, consumers making peer-to-peer payments may find the complex liability chains make it hard to know who to contact if something goes wrong.

We've also found that some providers do not offer a telephone point of contact to resolve issues. We urge stakeholders to address these concerns.

Faster payments are another area where financial technology promises great improvement. A number of providers have announced plans to bring faster, potentially real-time payments to the United States.

Speed may help bring underserved consumers back into formal relationships with financial institutions by reducing or eliminating the unpredictable aspects of traditional banking that drive consumers away such as fees, surprise fees and overdrafts.

There are potentially unresolved questions about the applicable consumer protections and the faster payments environment such as when funds received must be made available to consumers and we urge stakeholders to work together to resolve outstanding issues so that the benefits of faster payments may be realized.

Virtual currencies and the technology behind them hold tremendous potential but also may pose consumer risks. Many States are grappling with the question of whether these businesses should be licensed as money transmitters.

The issue is complicated as this technology has uses beyond financial services. For example, ledgers transactions are recorded on may one day be used to protect intellectual or real property rights.

Regulating those businesses as financial services is inappropriate. Many proponents of virtual currencies have potential to increase financial inclusion. It is precisely because disadvantaged consumers may be the first to experience harm that strong protections must be in place.

At present the most pressing consumer protection concern around virtual currency is not technology specific. It exists because there are businesses built on virtual currency protocols that act as financial intermediaries.

Whenever businesses come between consumers and their value, they must be held accountable. We urge a thoughtful approach to these technologies that ensures consumer value is protected.

We believe that new financial products and services should be subject to appropriate public review and oversight by Federal and State financial regulators to ensure that financial services are safe and transparent and we urge providers to do their part by baking in consumer protections at the outset.

Thank you very much for the opportunity to testify here today, and I'm available to take questions.

[The prepared statement of Ms. Tetreault follows:]

ConsumersUnion®

POLICY & ACTION FROM CONSUMER REPORTS

Statement of Christina Tetreault

Staff Attorney

Consumers Union

Subcommittee on Digital Commerce and Consumer Protection

United States House of Representatives Committee on Energy and Commerce

On

Disrupter Series: Improving Consumers Financial Options with FinTech

June 8, 2017

Summary of major points

- Financial technology has the potential to increase consumer access to safe financial products and return a measure of control to consumers.
- Competition in the marketplace improved prepaid cards for consumers. However, marketplace pressures alone cannot ensure safe financial products. While the Consumer Financial Protection Bureau's prepaid account rule is a positive development toward ensuring that every way is safe to pay, there still exist gaps in law and provider practice that may create consumer confusion and leave consumers vulnerable to losses.
- Industry participants and regulators should continue to work together to ensure that faster payments are safe and user-friendly, and that any areas in which there are open questions about the applicability of the Electronic Funds Transfer Act or the timing with which funds must be made available to consumers are resolved to ensure consumers realize the potential benefits of real-time payments.
- Virtual currencies, digital cash, and distributed ledger virtual currencies may promise increased financial inclusion. However, lawmakers and providers should adopt basic safeguards before offering consumer-facing virtual currency products and services.

Chairman Latta, Ranking Member Schakowsky, Subcommittee Members, thank you for the opportunity to testify today on the opportunities and challenges related to financial technology, or "fintech." Consumers Union is the policy and mobilization arm of the independent, non-profit organization Consumer Reports. We regularly research and report on financial services issues, including banking, credit, and insurance. We also engage in research and advocacy work to encourage fair financial services, with appropriate public oversight and consumer protections. We appreciate your leadership in investigating fintech, as we believe that it holds promise to increase consumer inclusion and choice without sacrificing consumer safety and security.

Safe Innovation Aligns the Interests of Consumers and Industry

Financial technology holds the promise to increase financial inclusion by solving some of the problems that consumers say have kept them from using traditional bank accounts. New products and services may provide consumers greater control over their financial lives through access to real-time financial information. Others may increase access to the financial mainstream, as these products may be offered at lower cost or be more convenient to use than traditional banking or alternative financial services. These developments may ultimately mean greater inclusion and integration, especially of the underbanked, unbanked and unhappily banked. We encourage service providers to "bake in" consumer protections, as technology often moves at a faster pace than regulation. We further urge lawmakers to ensure that appropriate safeguards are enacted, while still being flexible enough to allow for new products to thrive in the marketplace when they provide meaningful value to consumers.

Contrary to complaints by industry that regulation kills innovation, appropriately tailored regulation ultimately benefits businesses. While financial services regulation is essential for protecting consumers from harm, strong and consistent regulation and supervision of consumer financial services benefits industry by promoting consumer confidence and thereby driving adoption. Strong and consistent regulation also ensures that businesses that take consumer protections and regulatory compliance seriously are not at a competitive disadvantage to those that do not. Lawmakers and regulators should not hesitate to hold these new financial services businesses to the highest standards.

Some of the most exciting developments in financial technology are occurring in payments. It is no small miracle that a mobile phone application can be used to quickly settle a bar tab among friends in seconds. Faster payments systems or rails can decrease the time it takes to receive wages or other needed funds. However, these new products and services are coming from both incumbents and new service providers, and may present unique challenges to regulators, or pose additional risks to consumers unless there are clear rules of the road for fintech.

Cashless Payments

The Consumer Financial Protection Bureau's (CFPB) Final Prepaid Card Rule is one of the biggest recent developments in increasing consumer access to safe financial products. Prepaid cards can be used much like a traditional debit card linked to a bank account, but with no bank account required. These products are often marketed to consumers who cannot get, have trouble with, or choose not to have a traditional bank account, and tend to be used in greater numbers by younger and lower-income consumers.

Our organization has documented the unfair discrepancy between the protections afforded bank debit card users and prepaid card users for many years. In 2004, Consumers Union led a national coalition calling for protections on "stored-value" cards, now called prepaid cards, which led to rule changes that extended protections to employer-arranged payroll cards in 2006. In 2009, we issued our first report on prepaid cards, Prepaid Cards: Second-Tier Bank Account Substitutes. We found that high, multiple, and confusing fees were the norm and that issuers offered little or no protection against fraud and loss. In the years since, our studies have found improvements in prepaid offerings, but issues remained. As recently as 2016, we found that consumers still are likely to have difficulty finding fee information, and that prepaid cards do not yet come with the same mandatory federal consumer protections that consumers with bank debit cards currently enjoy.

The CFPB's final prepaid rule extends long-overdue safeguards to prepaid accounts by closing the gap in protections between bank account debit cards and prepaid cards. The final rule:

- Protects prepaid card users against fraud and unauthorized charges;
- Helps consumers comparison shop with a simple fee chart on the outside of the package, with more details on a longer chart on websites and inside the package at retail;
- Requires that prepaid cards that permit an overdraft line of credit comply with credit card laws, including ability to pay, limits on fees in the first year, and rules giving consumers time and control over how to repay; and
- Ensures that consumers have convenient access to account information by providing free access to statements upon request and free balance information by telephone.

Once the rule takes effect in 2018, consumers will be able to compare prepaid cards more easily to find the most affordable option and have the peace of mind that their money will be safe if their card is lost or stolen.

The final rule extends to mobile wallets that store funds, a huge boon to consumers reliant on mobile wallets, or who enjoy the convenience of peer-to-peer payments systems. These products and services, while increasingly popular with consumers, may include complex liability chains. For example, when a consumer makes a mobile payment using an app that draws funds from her account, she may think of the service provider as the source of a remedy if the funds are misdirected. In fact, a number of third-party service providers' terms and conditions explicitly direct consumers to contact their bank if they detect something wrong, which may be counterintuitive to consumers. Moreover, some providers may not have a telephone point of contact to resolve issues, even something as simple as where to find the terms and conditions of the service. So while the CFPB final prepaid rule ends the days of prepaid cards as second-tier bank account substitutes, there are still gaps to close. To that end, we urge lawmakers and regulators to take additional steps to make every way safe to pay. We recommend:

- Banning overdraft lines of credit;
- Requiring that funds held by service providers be structured to qualify for pass-through deposit insurance;

- Prohibiting abusive fees;
- Barring the use of forced arbitration agreements in consumer financial services contracts;
- Ensuring uniformity among different payment methods by extending chargeback rights to all forms of electronic payments;
- Declaring it an unfair and abusive practice to fail to provide a dedicated, rapid response point of customer service so if things go wrong, consumers know whom to contact to get their money back.

Faster Payments

Faster payments are another area where financial technology promises great improvements for consumer financial services. A number of providers have announced plans to bring faster, potentially real-time, payments to the United States. Consumer use cases for faster payments include sending money peer-to-peer to settle a debt, businesses sending money to consumers, such as insurance reimbursement, and consumer to business, such as bill payment.

Faster payments may prove to be both convenient and money saving for consumers. For example, the ability to send and have the payee receive a bill payment electronically may save a consumer a run to the post office for a money order and a race to the utility's office to pay a bill that's due that day. Speed may also cut down on the incidence of late fees, and reduce reliance on high-cost credit. For example, real-time payments may allow consumers immediate access to pay, allowing people to use money earned the same day – as opposed to waiting days or weeks for payday – and potentially reducing reliance on short-term high-cost loans, payday or overdraft, to carry them until their wages arrive. Together, these benefits have the potential to bring consumers back into formal relationships with financial institutions by reducing or eliminating the unpredictable fees that may drive consumers away from traditional checking accounts.

In 2015, the Federal Reserve established the Faster Payments Task Force (FPTF) as part of its broader effort to improve the US payments system. The Task Force is made up of more than 300 organizations, including banks and credit unions, technology solution providers, merchants, consumer interest organizations, academics and government end-users. One of the goals of the Faster Payments Task Force was to identify effective approaches for implementing faster payment capabilities in the United States. To do so, Task Force members developed Effectiveness Criteria (EC) by which to evaluate proposals for faster payments capabilities. The 36 Effectiveness Criteria broadly cover six key areas: Ubiquity; Efficiency; Safety and Security; Speed; and Governance.[1] While developed for the evaluation of new payments solutions, the Effectiveness Criteria are an excellent blueprint for lawmakers, regulators and financial services providers looking to ensure safe, inclusive financial products and services.

How we get to a new, faster payments system in the United States largely remains to be seen, and we hope that providers will develop systems in accord with the Effectiveness Criteria crafted by the Task Force, and to adopt these additional protections:

- Consumers should have access to transaction information throughout the payment life cycle, whether it's in days or seconds;
- Features should match consumer expectations;
- Providers should promote consumer understanding of features, terms and cost;
- Providers should work together to establish minimal acceptable standards for user interface;
- Providers should ensure that consumers can easily enter and exit systems;
- Payments should not result in overdraft; rather, credit should be extended through a credit product in compliance with credit laws, in a manner so that consumers can make a conscious, affirmative and separate use of credit and can compare credit options;
- Consumers should have free and convenient access to account information, transaction data and customer service;
- Providers should offer robust customer care to ensure consumer remedies;

[1] For the complete document, *see* https://fedpaymentsimprovement.org/wp-content/uploads/fptf-payment-criteria.pdf.

- Parents should be able to exercise control over use by minors;
- Consumers should have control over scheduled payments, including a right and ability to easily revoke or change the parameters around scheduled one-time or recurring payments;
- Systems should be designed to prevent, detect, remedy and punish fraudulent uses, and incentives should be appropriately aligned to ensure fraud is quickly rooted out;
- Consumers should be able to resolve errors and should not have liability if they were defrauded into making a payment even if the consumer initiated the payment; receiving institutions should have a requirement to return fraudulent payments;
- Seniors, individuals with mental impairments and others should be able to choose to set up controls/tighter fraud blocks;
- Unless a payment is flagged for potential fraud or error, providers should guarantee prompt funds availability and prompt application of payments;
- Consumer protections should be developed by a public process and not by industry alone and rules should be publicly and privately enforceable;
- Banks and nonbanks should be subject to the same rules;
- Universal supervision and enforcement should be conducted by federal regulators;
- Solutions should comply with the Consumer Financial Protection Bureau's Consumer Protection Principles in their entirety;[2] and
- Strong consumer privacy protections should be ensured, with services meeting or exceeding The Digital Standard, which Consumer Reports is leading in open collaboration with other groups to create a digital privacy and security standard.[3]

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[2] *Consumer Protection Principles: CFPB's Vision of Consumer Protection in New Faster Payment Systems* (available at http://files.consumerfinance.gov/f/201507_cfpb_consumer-protection-principles.pdf)

[3] Available at https://www.thedigitalstandard.org/the-standard.

While these payment protections are essential for faster payments, we further believe that all cashless payments and payments systems could benefit from adopting them.

Virtual Currencies

Virtual currencies also hold tremendous potential in financial technology as well as considerable consumer risk. Virtual currencies, also known as digital or crypto currencies, are a medium of exchange not issued or backed by a government. While there is some regulation of digital currency businesses at the federal level,[4] many states are grappling with the question of whether these businesses should be licensed as money transmitters. The issue is complicated. The technological innovations that virtual currencies represent may have application far beyond financial services. For example, the central ledgers where decentralized virtual currencies transactions are recorded may one day be used to protect intellectual property rights or to record the transfer of real property. Regulating these businesses as financial service providers would be inappropriate.

When used in financial services, the technology behind virtual currencies, sometimes referred to as distributed ledger, is sometimes positioned as a new payments "rail." Other service providers are more akin to providers of cashless payments, such as mobile wallets that permit virtual currency transactions.

At present, the most pressing consumer protection concerns around virtual currency – where unwitting consumers appear most likely to suffer harm in the absence of regulation – are not technology-specific. These concerns exist because there are businesses built around or on virtual currency protocols that act as financial intermediaries, accepting consumers' value with the promise of storing, transmitting or

[4] Such as the requirement that these firms register as money services businesses with FinCEN, FIN-2013-G001 (March 18, 2013), Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies, *available at* https://www.fincen.gov/resources/statutes-regulations/guidance/application-fincens-regulations-persons-administering.

exchanging it. Whenever businesses come between consumers and their value, they must be accountable, and basic consumer protections must be in place, regardless of the technology used.

Many proponents of virtual currencies tout the potential to increase financial inclusion. It is precisely because disadvantaged consumers may be the first to experience harm that strong protections must be in place before consumers patronize virtual currency providers. For low- and moderate-income consumers in particular, loss of household funds would be especially devastating. Any evaluation of the potential of providers to increase financial inclusion must be based on sound data and consumer protections, not wishful thinking or marketing slogans.

To ensure appropriate consumer protections for consumers using virtual currency-based financial services, we recommend the following:

- Service providers should be subject to extensive background checks on principals, and vigorous review of the business and its activities to date;
- Businesses should be required to hold permissible investments in amounts equivalent to outstanding obligations to consumers;
- Providers should be subject to supervision and examination to ensure safety and soundness, and minimum capitalization and bonding requirements strictly enforced;
- Examinations must ensure providers' strong financial condition, appropriate internal controls, and adherence to applicable state and federal laws and regulations;
- Firms should also be subject to review of their systems and technology for strength and resiliency;
- Regulators and law enforcement should stand ready to act against any company engaged in fraud, misrepresentation, deceit, gross negligence, or any other legal violations, and consumers should be clearly permitted to bring private actions against these providers; and
- Any effort to regulate virtual currency businesses should adopt the recommendations in the Conference of State Bank Supervisors' Model

Regulatory Framework for State Regulation of Certain Virtual Currency Activities.

Conclusion

We believe that new financial products and services should be subject to appropriate public review and oversight by federal and state financial regulators, with a view toward ensuring financial services are safe, transparent and accountable, prior to their introduction in the marketplace. To that end, Consumers Union supports strong state and federal oversight for financial services providers. We further urge financial technology providers to avail themselves of the many resources that will allow them to "bake in" consumer protection at the outset, including but not limited to Consumer Reports' prepaid card ratings, the Consumer Financial Protection Bureau's Faster Payments Principles, and the Faster Payments Task Forces Effectiveness Criteria, as well as the recommendations contained herein.

Thank you very much for the opportunity to testify here today.

Mr. LATTA. Thank you very much for your testimony today.

And Mr. Van Valkenburgh, you are recognized for 5 minutes. Thank you.

STATEMENT OF PETER VAN VALKENBURGH

Mr. VAN VALKENBURGH. Thank you, Mr. Chairman, members of the committee. I'm Peter Van Valkenburgh, the director of research at Coin Center, an independent nonprofit focused on the public policy questions raised by digital currencies and open block chain networks.

I'm going to explain open block chain networks and then suggest why we need a unified Federal approach to regulating some businesses in this space while also offering a safe harbor to other businesses.

Open block chain networks allow connected computers to reach a trustworthy agreement over shared data. The connected computers can be owned by anyone in the world.

The shared data could be a ledger of digital currency ownership or any other data for which widespread agreement and auditability are essential.

Notable open block chain networks include the original Bitcoin network for electronic cash as well as follow-on innovations such as Ethereum for smart contracts and Zcash for privacy.

Open block chain networks are permission lists. There's no patent or copyright to license, no university or corporation from which to seek a job, no exclusive membership fee to pay.

Anyone with a computer or a smart phone and an internet connection can use these technologies and even can help build them. Just as the PC democratized computing and the web democratized news and entertainment, open block chain networks are democratizing financial services.

This innovation is inevitable. What remains undetermined is whether America will remain a home for permissionless innovation, as a venture capitalist might ask, and whether there will be responsible innovation, as a regulator might ask.

Those aspirations are not irreconcilable, but they are also not guaranteed. America pioneered home computing and the internet in part because of our deep cultural and constitutional reverence for free speech but also because of two laws passed by Congress in the last 1990s: the Communications Decency Act and the Digital Millennium Copyright Act.

Both laws created safe harbors for infrastructure-building businesses. They protected companies that were building the new information superhighways from third party liability stemming from the actions of users on those highways. These safe harbors made the U.S. a friendly home for the leaders of the internet revolution. But today we are following, not leading.

A young innovator dreaming of building the future of financial infrastructure would be best advised to leave the U.S. not because she can do it on the cheap in a foreign jurisdiction that will look the other way but simply because instead determining what the U.S. regulatory landscape demands of her is a Herculean undertaking.

Indeed, between 53 States and territories and several independent Federal regulators, it's a task that would be much simpler if she was in the United Kingdom and could ask one regulator, the Financial Conduct Authority, for an opinion.

In order to reestablish the U.S. as a leader we need to rationalize the chaos of financial services regulation starting with State-by-State money transmission licensing. Custodial businesses should be regulated but they should not need to repeat a licensing process 53 times over.

These businesses are by virtue of the internet interstate in their scope of operations and they should have similarly scoped regulators to avoid costly compliance redundancies and guarantee uniform consumer protection.

Congress should encourage the Office of the Comptroller of the Currency to offer Federal FinTech charters to custodial digital currency firms and Congress should also consider the creation of a new Federal money transmission license as an alternative to State-by-State licensing.

We also need a safe harbor. In several States the definition of money transmission is broad and can be interpreted to require that noncustodial developers of the technology be licensed.

It is not reasonable to mandate licensure from a technologist who helps build the networks but is not holding consumer valuables. That's like trying to stop speeding by requiring costly licensing for highway construction personnel. It doesn't make sense and it'll only mean that fewer highways get built.

But amending over broad laws in every State is not a scalable approach. The commerce clause empowers Congress to fix this problem. Much as it did in the 1990s for internet infrastructure, Congress should craft a Federal block chain safe harbor for noncustodial developers.

Open block chain networks are the pipes for our future economy. We want this infrastructure built here without unnecessary impediment and with reasonable protections for consumers.

Innovation can be both permissionless and responsible but it will only happen in the U.S. if we take a unified national approach to regulating custodians and create a safe harbor for noncustodial developers.

Thank you.

[The prepared Statement of Mr. Van Valkenburgh follows:]

COIN CENTER

Testimony of Peter Van Valkenburgh to the Committee on Energy and Commerce U.S. House of Representatives on June 6, 2017

Summary: The key trend to identify in fintech today is the democratization of the tools and systems necessary to building a financial service or product as well as the democratization of access to those services and products. This democratization is occurring because of the development of *open blockchain networks*, which are internet-based systems, like Bitcoin and Ethereum, that (1) create a trustworthy and fully auditable record of financial (as well as non-financial) data, (2) create new scarce digital assets (sometimes called cryptocurrencies), and that (3) have an open or permissionless design such that anyone can interact with that data and those digital assets in order to manage their own finances or to build trustworthy and efficient tools that help others.

This permissionless innovation mirrors earlier trends in home computing and the internet. America was on the vanguard of those previous technological waves in part because Congress was not afraid to take action to ensure a light touch regulatory regime as compared with the rest of the world. Today, however, the U.S. is lagging rather than leading with respect to innovation because of a chaotic patchwork of state and federal financial services regulation.

Congress can restore America's competitive edge by encouraging the Office of the Comptroller of the Currency to offer federal "fintech charters." Such charters would help to create a unified national approach to the regulation of custodial open blockchain companies (those who hold other people's digital assets as fiduciaries). Congress should also consider

creating a federal safe harbor for non-custodial developers, users, and technologists (a similar safe harbor as was created for select internet businesses in the late 1990s).

Written Statement:

I am Peter Van Valkenburgh, Director of Research at Coin Center, an independent nonprofit focused on the public policy ramifications of digital currencies and open blockchain networks.[1] I am going to talk briefly about the nature of innovation in the fintech space, specifically open blockchain networks, and then explain why we need a unified federal approach to regulating some businesses in the space while also offering a safe harbor to others.

Briefly, an open blockchain network allows connected computers to reach a trustworthy agreement over shared data.[2] The connected computers could be owned by anyone in the world, and these networks are free to use and join. The shared data can relate to the movement of digital currency between users, identity credentials and attestations, or any other data for which agreement, auditability, and security are critical. Notable open blockchain networks include—the original—Bitcoin network for electronic cash, as well as follow on innovations such as Ethereum for smart contracts and identity applications, and Zcash for digital currency transactions where privacy and auditability is critical.

The most exciting aspect of open blockchain networks is that they are entirely open for experimentation. They are permissionless. There is no patent or copyright to license, no university or corporation from which to seek a job, no exclusive membership fee to pay. Anyone

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[1] Based in Washington, D.C., Coin Center is the leading non-profit research and advocacy center focused on the public policy issues facing cryptocurrency and decentralized computing technologies like Bitcoin and Ethereum. Our mission is to build a better understanding of these technologies and to promote a regulatory climate that preserves the freedom to innovate using permissionless blockchain technologies. We do this by producing and publishing policy research from respected academics and experts, educating policymakers and the media about blockchain technology, and by engaging in advocacy for sound public policy. *See* Coin Center, *Our Work*, https://coincenter.org/our-work.

[2] *See* Peter Van Valkenburgh, "What is 'Blockchain' anyway?" *Coin Center* (Apr. 2017) https://coincenter.org/entry/what-is-blockchain-anyway.

with a computer and an Internet connection can develop and share her own currency, her own financial contracts and strategies, her own vision of the future.

FinTech is no different than any other technology. It's about better tools at cheaper prices. Eventually, the tools become so cheap and so good that everyone can use them. The PC democratized computing, the web democratized news and entertainment, Google and Wikipedia democratized information, and now digital currencies and open blockchain networks are democratizing financial services.

This innovation is inevitable. What has yet to be determined is whether, as with the Internet and the PC before, the US will be at the vanguard of changes in financial technology, and whether those tools will be made, by design, to promote financial inclusion and to protect consumers. In other words, will America be a home for permissionless innovation (as a venture capitalist might ask) and will there be responsible innovation (as a regulator might ask)? Those aspirations are not irreconcilable, but they are also not guaranteed.

America pioneered home computing and the internet, in part, because of our deep cultural and constitutional reverence for free speech, and our willingness to allow new technologies to emerge unfettered and unrestrained. Wherever the dynamism of internet technologies was threatened because of outmoded regulations, Congress was not shy to act.

The internet we've come to know and love owes much of its existence to two laws passed by Congress in the late 1990s: the Communications Decency Act (CDA)[3] and the Digital

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[3] 47 U.S.C § 230 (Congress found that the "rapidly developing array of Internet and other interactive computer services available to individual Americans represent[ed] an extraordinary advance in the

Millennium Copyright Act (DMCA).[4] The internet would probably still exist today if it wasn't for these laws, but it would be a very different, and likely less useful, tool, and—critically—it probably would not have been pioneered by US-based companies.[5]

Both the CDA and the DMCA were laws that created safe harbors for infrastructure-building innovators. These laws were not special treatment for internet businesses. They were limited and sensible clarifications of existing law that were necessary because several businesses emerging online at the time didn't fit neatly into traditional legal buckets. These laws didn't protect copyright pirates or muckraking slanderers, they protected and gave legal certainty to the companies that built the new information highways through which mountains of legal and illegal content would inevitably travel. Internet safe harbor laws followed a sensible and pro-innovation pattern: regulate certain uses of the technology but not the technology itself. That ethos made the U.S. a global leader in the internet revolution.

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availability of educational and informational resources to our citizens" and made it the policy of the United States "to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation." The law protected "providers of interactive computer services" from state civil and criminal liability stemming from the retransmission of information that originated from another content provider. Thus a video hosting site, such as Youtube, would not be liable under state defamation law for hosting a slanderous video uploaded by someone else. The creator of the video is liable but Youtube is in a safe harbor).

[4] 17 U.S.C § 512. This law provided a similar safe harbor for persons retransmitting user-generated content as the CDA but with respect to copyright liability. "A service provider shall not be liable for monetary relief, or, except as provided in subsection (j), for injunctive or other equitable relief, for infringement of copyright by reason of the provider's transmitting, routing, or providing connections for, material through a system or network controlled or operated by or for the service provider, or by reason of the intermediate and transient storage of that material in the course of such transmitting, routing, or providing connections." *Id.* That insulation from liability was contingent on implementation of notice and takedown program, wherein the service provider would remove copyrighted content from their service if a copyright holder gave them appropriate notice of the infringing material.

[5] *Cf.* Sarah Laskow "Google vs Brazil: Why Brazil heads up Google's list of takedown requests" *Columbia Journalism Review* (Apr. 2013) http://archives.cjr.org/cloud_control/brazilian_takedown_requests.php (Google has struggled with employees being arrested while in or visiting Brazil merely because the company's search results may link to true but controversial information about brazilian politicians. There is no carve-out for third-party liability—as the CDA is in the US— in Brazil.).

But today we are following not leading. A young innovator dreaming of building the financial infrastructure of the future would be well-advised to leave the U.S. Not because she should try and avoid justifiable consumer protections, or do it on the cheap in a foreign state that will look the other way, but—instead—because simply determining what the U.S. regulatory landscape demands from her is a herculean undertaking. Indeed, between 53 states and territories and several independent federal regulators. It's a task that would be much simpler if she was in the UK and could ask one regulator, the FCA, for an opinion.[6]

In order to reestablish the U.S. as a leader, we need to rationalize the chaos of financial services regulation. The state-by-state approach to money transmission licensing, in particular, jeopardizes not only permissionless innovation but also responsible innovation. Custodial businesses who can lose, steal, or otherwise fail to protect their customer's digital assets should

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[6] The US approach to regulating financial technology stands in sharp contrast to the recent approach taken by UK regulators. In March of 2015, Her Majesty's Treasury, seeking to "create a world-leading environment for the development of innovative payments and financial technology" crafted a plan for digital currency regulation that included public funding, standard setting, and regulatory clarifications. Specifically the plan called for: (1) Clarification and application of anti-money laundering regulation to digital currency exchanges to prevent criminal use. (2) Training, resources, and legislation to ensure that law enforcement bodies can effectively address criminal activity conducted with digital currency. (3) Cooperation from the British Standards Institute and the digital currency industry to develop a set of best practices for consumer protection that does not impose an extreme regulatory burden on players in the space. (4) Creation of a research initiative with leading institutions within the UK to study digital currencies and increase public funding for digital currency research to £10 million. *See* HM Treasury, *Digital currencies: response to the call for information* (Mar. 2015) *available at* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414040/digital_currencies_response_to_call_for_information_final_changes.pdf. One year later, UK authorities have matched that encouraging talk with real action. The UK Financial Conduct Authority ("FCA") now makes it easy and quick for innovative startups and entrepreneurs to comply with appropriate consumer protection regulations and safely enter the market. Among other things, participants in the FCA's Innovation Hub receive from the regulator: A dedicated team and contact for innovator businesses, help for these businesses to understand the regulatory framework and how it applies to them, assistance in preparing and making an application for authorisation, to ensure the business understands our regulatory regime and what it means for them, and a dedicated contact for up to a year after an innovator business is authorised. *See* Financial Conduct Authority, *Innovator businesses: Project Innovate* (last accessed May 2016), https://innovate.fca.org.uk/.

be regulated for consumer protection, but states are not the optimal regulators of these services. Each individual state will generally be concerned only with the activities of licensed firms that touch their own citizens, rather than the systemic health and risk profile of the licensee as a whole. This is a particularly odd regulatory approach for businesses that, by virtue of the Internet, are almost assuredly global—and certainly interstate—in the scope of their operations.

To promote a more holistic approach, Congress should encourage the Office of the Comptroller of the Currency to offer federal "fintech charters" to custodial digital currency firms,[7] and Congress should also consider the creation of a new federal money transmission license that can be an alternative to state by state licensing.[8]

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[7] The OCC has moved apace with its responsible innovation initiative and appears ready to begin entertaining charter applications, however several questions regarding the charter's potential application with respect to digital currency companies remain unresolved. *See* Peter Van Valkenburgh, "Comments to the Office of the Comptroller of the Currency on Exploring Special Purpose National Bank Charters for Fintech Companies" *Coin Center* (May 2016) https://coincenter.org/entry/comments-to-the-office-of-the-comptroller-of-the-currency-on-exploring-special-purpose-national-bank-charters-for-fintech-companies.

[8] Amazon, Apple, Google, Intuit, and Paypal have also asked Congress for a unified federal alternative to state money transmission licensing. In a letter to congress, their industry group, Financial Innovation Now, explained how state-by-state money transmission licensing is a major impediment to innovation in financial services here in the US: "Payment innovators currently must obtain and continually update money transmission licenses in nearly every state. Consumer protection is a critical part of payments regulation, but it makes no sense for different states to regulate digital money differently from one state to another, especially if that process significantly delays entry to market and prevents consumers and businesses in many states from having equal and consistently safe access to cutting edge payments technologies." They suggest that Congress should "[e]stablish an optional federal money transmission license,managed by the Treasury Department, that: 1) oversees application and licensing, safety and soundness, BSA/AML compliance; 2) incorporates a number of existing state money transmitter laws and Uniform Money Services Act requirements; 3) preserves the current state structure for those wishing state licenses; and 4) offers uniform federal law only for an applicant choosing a federal license." We agree with this approach. *See* Financial Innovation Now, *Letter to Chairman Crapo and Ranking Member Brown* (Apr. 2017) *available at* https://financialinnovationnow.org/wp-content/uploads/2017/04/fin-submission-crapo-brown-final.pdf

We also need a safe harbor modeled after the DMCA and CDA examples. A new blockchain safe harbor for non-custodial uses of digital currencies should be established to protect Americans developing open blockchain infrastructure. Fifty-three U.S. states and territories require "money transmitters" to get licensed before they open for business.[9] As discussed earlier, we believe it is reasonable to ask a custodian of other people's money (or digital currency) to seek a license or charter before they enter into that trusted relationship. We do not, however, believe that it is reasonable to mandate licensure from a technologist who helps build these networks but is not a custodian of other people's funds. To do so is to try to stop speeding by requiring costly licensing for highway construction personnel. It doesn't make sense and it'll only mean that fewer highways get built.

In nearly every state, the definition of "money transmission" is different, and in several states that definition could be interpreted to require non-custodial developers to license.[10] Crafting a unified exemption from licensing for non-custodial businesses and users in state law is essential to American competitiveness, but passing such a law in every state is not a scalable approach.[11] The Commerce Clause[12] empowers Congress to rectify just such a situation, where

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[9] *See* Thomas Brown, *50-STATE SURVEY: Money Transmitter Licensing Requirements* (last accessed May 2016) http://abnk.assembly.ca.gov/sites/abnk.assembly.ca.gov/files/50%20State%20Survey%20-%20MTL%20Licensing%20Requirements(72986803_4).pdf.

[10] *See e.g.,* Utah Code Title 7 Financial Institutions Act Chapter 25 *available at* https://le.utah.gov/xcode/Title7/Chapter25/7-25.html?v=C7-25_2015051220150512 where money transmission is defined as follows: "'Money transmission' means ... engaging in the business of ... transmitting money within the United States or to locations abroad by any and all means[.]" A definition as vague as this could easily be stretched to cover persons who help build financial networks but who do not hold or custody money on behalf of others.

[11] Both the Conference of State Banking Supervisors and the Uniform Law Commission have worked diligently to encourage uniformity among the states, however, progress is slow. For example, as of 2016, the Uniform Law Commission's Uniform Money Services Act has only been adopted by legislatures in

non-uniform and potentially anti-competitive state laws place unnecessary burdens on interstate commerce. To remain on the vanguard of permissionless innovation, America needs a safe harbor for non-custodial developers of open blockchain networks.

Open blockchain networks are new fundamental public infrastructure; they are the pipes for our future economy. We should want that infrastructure built here, without unnecessary impediments and with reasonable protections for consumers. Innovation can be both permissionless and responsible, but it will only happen in the U.S. if we take a unified national approach to regulating custodians and create a safe-harbor for non-custodial developers.

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nine states and territories. The UMSA was finalized in 2000. After 16 years it has only modestly remedied the issue of disparate standards for money transmission regulation across the several states. See Uniform Law Commission, Uniform Money Services Act (last accessed May 2016) http://www.uniformlaws.org/Act.aspx?title=Money%20Services%20Act.

[12] U.S. Constitution, Article 1, Section 8, Clause 3.

Mr. LATTA. Thank you very much for your testimony, and that concludes our testimony from our witnesses today. I will begin the questioning of our witnesses and I will recognize myself for 5 minutes.

Ms. Hogarth, in your testimony you mentioned some of the less mature aspects of FinTech innovation like insurance products and block chain that have the potential to drastically improve consumers' lives.

What are some of the emerging technologies that are most exciting to you?

Ms. HOGARTH. Thank you, Mr. Chairman.

We see a lot of opportunity for disruption in the insurance arena and in insurance it's more than just what you think of as, you know, your house insurance, car insurance, health insurance.

As we think about older Americans—and I will count myself in that—getting ready to approach retirement, thinking about dissaving and helping Americans begin to decapitalize and unsave the 401K and IRA money that they have in their portfolios, finding new ways to create pensions that are going to be lasting outside of perhaps what is traditionally an annuity system.

So the insurance market is certainly ripe for disruption for the consumer products.

Mr. LATTA. Thank you.

Mr. Van Valkenburgh, your group has focused on the block chain technologies or the distributed ledger technologies. Will you give the subcommittee some of the insights into what you think are on the horizon for the industry in the future?

Mr. VAN VALKENBURGH. Thank you, Mr. Chairman.

These are young technologies and as I said in my opening statement they are fundamental infrastructure. They are pipes.

So many of the consumer-facing apps are still in their infancy and this is why I think we still see fairly little actual consumer adoption from normal Americans.

However, what excites us most about the industry is that this infrastructure is open for others to build applications on top of.

So, for example, a company could build an app that facilitates international remittances. The company designs the user interface so that it's friendly, it's useful, it's compliant with KYC requirements and has consumer protections baked in, as my colleague suggested.

But rather than moving the money between the users via correspondent banking systems, the app uses digital currency to move value between the sender and the recipient.

Now, the value moves faster in that system—an hour instead of three or more days—and the fees are potentially lower because there are not multiple correspondent banks in between.

There is two things that are important to point out in that hypothetical. One is that the technology made the application more friendly for the user—lower fees, a smart phone application that makes sense to them—but second, that the technology, the open block chain network, made it easier for the business to get started.

It lowered the barriers to entry for competition. Because previously they would have had to establish a banking relationship or multiple banking relationships with correspondent banks and several branch locations.

But now they can simply build their consumer-facing app on top of existing open block chain infrastructure and smart phones.

Mr. LATTA. Thank you very much.

Mr. Saade, in your testimony you focused, of course, on the FinTech innovation and in the last year what patterns or trends have you seen for new entrants that are out there?

Mr. SAADE. Thanks for the question.

The exciting part about what's happening in financial services is that it's a confluence of events that have led to all of this happening almost at the same time.

If you think about what the iPhone or the smart phone did to basically everything, there were a lot of capabilities to do that because there was no significant institutions that were divergent from a particular technology.

In the case of financial services I agree with my colleague here that there's a lot of things we are starting to see in insurance technology.

We are starting to see a lot of things in what's termed legal tech or reg tech, which is at the end of the day regulations are ones and zeroes just like any other bit of information, and there's ways to comply and better ensure that consumers and small businesses are safe.

So there's a continuing amount of innovation across the spectrum.

Mr. LATTA. Thank you very much.

And my time has expired and I now recognize for 5 minutes the gentlelady from Illinois, the ranking member of the subcommittee.

Ms. SCHAKOWSKY. Thank you so much.

Mr. Chairman, when I first saw the title of today's hearing I was really glad to see that we agree that there's room to improve the financial options currently available to consumers, and it's our job then to ensure that the American people have access to financial products that are fairly priced, innovative, and not abusive.

But I'm sorry that I'm really distracted—or not, maybe not distracted—I want to bring into this room the fact that I think that we cannot do those things without an empowered Consumer Financial Protection Bureau, and today on the floor we are going to do a lot to undermine Dodd-Frank.

I wanted to ask—let me say your name right so I can look at it here—Mr. Van Valkenburgh, you know, you seem to suggest a kind of new Federal regulatory scheme.

You talked about the OCC getting involved. But it seems to me that the CFPB can play a role, too, in entering this arena and future arenas and having that institution in place is really important. What do you think?

Mr. VAN VALKENBURGH. One role that the CFPB has already played is enforcing unfair and deceptive and potentially abusive acts and practices.

This is a logical way, potentially, to regulate some of the entities in this space because it's an ex-postregulatory scheme rather than ex-anti.

Our chief bugaboo, if you will, is the fact that companies need to get licensed in several States before operating, not necessarily that there aren't adequate watchdogs who can police their behavior once they're running.

As far as creating a Federal hub for regulation, we are agnostic as to which agency takes on that authority. What we primarily want to see is coordination between the agencies because, as I remarked, things are much simpler in more unified governments like in the United Kingdom, where there's one point agency, the Financial Conduct Authority, that does all regulation.

Ms. SCHAKOWSKY. Having all different rules across many different States, I get it.

I wanted to ask Ms. Tet-tree-ault—how do I say it?

Ms. TETREAULT. Tetreault.

Ms. SCHAKOWSKY. Tetreault. OK. Got it.

I wanted to ask about the CFPB. I know Consumers Union has been an advocate and helped in our deliberations over that by altering the CFPB structure and funding.

How does the Republican bill on the floor today undermine the agency's ability to do its job of protecting consumers in the space that we are talking about?

Ms. TETREAULT. So the CFPB has done amazing work for consumers, returning $12 billion to nearly 29 million Americans who have been wronged.

It also provides an essential channel for getting consumer complaints resolved. They've helped hundreds of thousands of consumers who have complained to the CFPB get resolution with the companies who in many instances have ignored their complaints leading up to that time.

There's an amazing 97 percent resolution rate on the complaints that come through the CFPB.

So it would be a tremendous loss to consumers to have its capacities diminished and particularly as my colleague here to the left said about its UDAAP authority.

So the Financial CHOICE Act would significantly reduce if not entirely eliminate in some instances the ability of the bureau to go after scammers and ripoff artists and that would be a huge loss for consumers.

Ms. SCHAKOWSKY. Right, and I wanted to follow up on that. Bad financial actors that take a lot of money preying on seniors, on military members, on low-income population, why would they be disproportionately harmed then by the undermining of the CFPB?

Ms. TETREAULT. The Consumer Financial Protection Bureau has speciality agencies within it. There are speciality units within it that focus on particular problem areas where consumers have suffered incredible harm and that includes service members as well as older Americans.

So these communities would really be devastated if the protections and the oversight that the Consumer Financial Protection Bureau offers are reduced, eliminated or otherwise redirected.

Ms. SCHAKOWSKY. The CFPB rule also applies to digital wallets such as PayPal, right. So under the rule what requirements would be in place to protect users of digital wallets?

Ms. TETREAULT. Sure. So it's really some pretty basic safeguards: ensuring transparency and right to recredit and redress if errors or fraud are detected. So it's really the same safeguards that apply when you swipe a plastic card for debit purchase at point of sale.

Ms. SCHAKOWSKY. Let me just say that I see this subcommittee as a place where we should be protecting the CFPB because we are designated to do consumer protection.

Thank you. I yield back.

Mr. LATTA. The gentlelady yields back, and the Chair now recognizes for 5 minutes—you're on—the gentleman from Kentucky.

Mr. GUTHRIE. Thank you very much. I appreciate that very much.

First, Ms. Hogarth, the Financial Solutions Lab has some very interesting stories based on the start-ups you highlighted in your testimony, and I have a couple questions.

One—and I will ask them both—how are you working with those companies to create any easier path to commercialization, and how many of the companies that won funding through your application processes are offering products to customers?

Ms. HOGARTH. So thank you very much.

We work both with industry incumbents as well as start-ups and we have a network that provides introductions so that there are opportunities not only for partnering where, you know, the entities stay as individual entities but they're partners—third-party vendors to an incumbent—but we also provide access through additional venture capital and our network discussions to help them grow and build their business independently.

And one of our companies in our first cohort, Prism, has been acquired by a company called PayNearMe. So there's a lot of different ways, you know, that you can think about partnering with a financial institution. You know, you can acquire it. You can partner with it. You can also just compete with it.

But I think the reality is is that we really do want to see these ideas grow to scale and eventually the idea of partnerships is really, really important for the companies in our lab.

Mr. GUTHRIE. Thanks.

Mr. Saade, in your testimony you mentioned that not only does your firm invest in FinTech companies but you also have co-founded three companies. In your experience, what were the biggest hurdles launching your own start-ups and what was your experience working with regulators across the country?

Mr. SAADE. Starting a company is a leap of faith no matter what, regardless of having the ability to raise the capital, having an understanding of what the regulatory landscape is.

Entrepreneurs overall, no matter in what industry in this country or around the world, really—it's a global ecosystem of entrepreneurs—need to be supported.

So I think really the biggest hurdle to start the companies we started or for any entrepreneur to start companies is actually having an environment which supports that and there's no better place I can think of.

There are pockets of innovation in which, for example, it was brought up that the FCA is a much easier place and situation to deal with.

But the overall entrepreneurial ecosystem in the United States bar none is the best one—that there's a tug of war which policymakers always need to ensure that they're dealing with, and that is that if you're too easy on the capital formation side the consumers get hurt and if you pull too much on the other side you end up hampering innovation.

So at the end of the day—that's a very long answer to say that taking a leap of faith is really what innovation and entrepreneurship is about with a backdrop that supports it.

Mr. GUTHRIE. Thank you.

And Mr. Van Valkenburgh, Coin Center testified before this committee last Congress when we took a look at digital currency and block chain technology.

What can you tell us about how the landscape has changed for that technology in the last year, and we heard a lot about potential applications. Can you tell us about where you see the most promise in the short term?

Mr. VAN VALKENBURGH. Thank you, Congressman.

I think the biggest change has been the emergence of several new networks based off of the original Bitcoin open block chain technology.

For example, I mentioned in my opening remarks Ethereum, which is a decentralized network for creating smart contracts.

Smart contracts are a fancy word, basically, for more programmatic flows of funds through these networks. With Bitcoin, a transaction normally looks like I paid Mr. Chairman some Bitcoin.

With a smart contract, we could give each of you a device, have that device provision you with a key of sorts, like a password, and quite literally have you vote on the flow of funds through the network.

And unless somebody can penetrate each one of your devices and make you vote against your will, the movement of funds will have fidelity with your opinions when you make that vote.

That is a fantastic innovation. It exists to some extent in Bitcoin under the name multi-sig transactions—multiple signatures from multiple people who are voting on the movement of funds.

Ethereum makes programming those smart contracts even easier so you can imagine even more complicated decentralized applications being built by supremely bright people on top of those networks.

Additionally, Bitcoin is a very transparent network. It's not very private because all of the transactions are fully auditable on the block chain.

Another innovation that's recently emerged is a technology called Zcash built on scientific research that allows for more private but still fully verifiable block chains. That's also very exciting.

Mr. GUTHRIE. Thank you. My time has expired. I yield back.

Mr. LATTA. Thank you. The gentleman's time has expired and the Chair now recognizes the gentlelady from New York for 5 minutes.

Ms. CLARKE. Thank you, Chairman Latta, and to our ranking member, Jan Schakowsky, to our expert witnesses. Thank you for your testimony here this morning.

As the FinTech industry has grown, a number of our new companies, not just banks, have begun offering financial products such as e-lending and electronic payments.

The Consumer Financial Protection Bureau and the Office of the Comptroller of Currency have been active in trying to help these companies understand their regulatory responsibilities.

In December of 2016, OCC proposed creating a special national bank charter for FinTech companies. State regulators and consumer groups including Consumers Union, however, have asked OCC to withdraw the proposal.

Ms. Tetreault, the comments submitted to OCC consumer groups including yours expressed their concern that the proposed charter could preempt critical State consumer protections like caps on interest rates for loans.

Can you expand on those concerns and if OCC does go forward with the new national charter, what are the baseline consumer protections that it needs to contain?

Ms. TETREAULT. Thank you.

The OCC's FinTech charter or special purpose charter unfortunately would abrogate many of the State laws that are really there to protect consumers against predatory loans and so that is the primary concern that the advent of such a charter would create a race to the bottom as businesses south to find the lightest approach to oversight to them.

And so we've really expressed strong concern about this proposal, really thinking that State regulators are in a much better position to supervise and examine these banks and also that the protections that States have put in place should be honored to protect their citizens.

So it's really, you know, a concern about overriding these in many case very strong protections, although the protections vary greatly from State to State.

So to your second question, if there were to be such a special purpose charter extended, it would be the same strong oversight that the States provide. It would include no preemption of these State protections.

It would be extensive examination and then, of course, the safety and soundness of requirements that are so essential to ensuring consumer protection.

Ms. CLARKE. Drill down a little bit deeper on that and say how the OCC's proposed charter differs from existing bank charters and how they would be similar.

Ms. TETREAULT. So right now I would actually draw a greater contrast between the way that States supervise financial services, license financial services entities and why that's the preferable model.

To say that you have some States like California and New York that really have extensive methods for examining the entities that they supervise.

They can really go in there. They can see in a level of detail that perhaps might elude a Federal regulator. So we've seen instances in the lead-up to the housing crisis where federally regulated entities were made aware of problems, and action wasn't taken, and we know how that resulted in, you know, many millions of foreclosures and a financial crisis that nearly took down the entire economy.

So there are some pretty grave concerns about having the Federal oversight that perhaps might not had the attention to detail, and that is I think the biggest contrast between what is done now and what might happen under this.

Ms. CLARKE. And do most FinTech companies currently offer their services independently or do they partner with banks or other traditional financial service providers?

Ms. TETREAULT. So it's really a mixed back in that regard. So you have guidance to help banks and financial service companies that are nonbanks partner together and there are pretty extensive rules of the road for ensuring consumer protection in that regard.

You also may see start-ups who seek licensure within the States and you have some pretty successful examples and I will just cite one, which would be PayPal where they're able to do the work that they do and by pursuing these State licensees.

So it can really be—you know, there also may be a start-up that happens within a State, and that's the first State that they seek out licensure, and so it's a mixed bag.

Ms. CLARKE. Mr. Chairman, I yield back.

Mr. LATTA. Thank you very much. The gentlelady yields back.

And the Chair now recognizes the gentleman from West Virginia for 5 minutes.

Mr. MCKINLEY. Thank you, Mr. Chairman.

One way that consumers access FinTech is through their smart phone and for many individuals in rural areas it's not a very reliable service.

In West Virginia, the mountainous terrain limits that ability for people to have access. So I'm curious as to how FinTech companies are addressing the needs of rural areas as compared to those in more urban settings.

Is there something that you're focussing on that you would recommend we look towards for addressing rural areas as compared to the urban centers?

Don't all speak at once.

Ms. HOGARTH. So I will take a stab at that.

Mr. MCKINLEY. Thank you.

Ms. HOGARTH. I mean, I said that, you know, FinTech is necessary but not sufficient and there are a set of infrastructure issues that clearly need to be addressed, not just in the mountainous regions but in any rural area.

And we should also add even in urban areas, you know, wifi is not necessarily ubiquitous or cost-free. And so for many low-income households accessing data plans is a really tough pull on their budgets.

So in addition to sort of thinking through some of the issues that you heard today this is really a whole cloth because you're exactly right.

There needs to be some sort of infrastructure program in place to be able to provide access to reliable high-quality broadband services whether that is a wired line, a fiber optic line or a wifi.

Mr. MCKINLEY. Thank you.

Because I think far too often in this country we focus on our urban centers and our rural communities across this country are shortchanged on access and other opportunities whether it's health care, growth, water, sewer.

I could go on with it. So I'm hoping that through these services how helpful these can be with our smart phone. We are still limiting a certain number of people.

Mr. Saade, in your testimony you mentioned how many Americans are underserved by existing products and services to help them with their finances. But there's also been a discussion about the attention between bringing new innovations to market quickly and making sure consumers are protected because this is their financial health.

So how has your firm attempted to address this tension and make sure that the consumers are getting safe, secure and innovative products?

Mr. SAADE. So one comment on your previous question. I sense that the digital divide actually knows no—the issues you're facing in West Virginia are not dissimilar to what you see in the South Bronx.

Even though it's heavily populated—heavily populated areas, the digital divide actually affects underserved communities in different ways.

So there's some threads across what you're seeing in the mountains of West Virginia with what you see in the canyons across the East River.

When we look at businesses to invest in, we don't believe that regulatory arbitrage is a business model and in fact a couple of the principals, myself included, actually served in the Federal Government in the executive branch as actual regulators.

So we are very cognizant of the fact that innovation has to be done responsibly, and a lot of innovation that we see, there's almost like a natural self-selection of people that approach us or we approach because they're doing innovative things in a way that doesn't harm consumers.

So I don't think it's a binary choice. I think you can accomplish all of it. It's just a tug of war. It depends on where in the spectrum you want to fall. But innovation can be done very responsibly.

Mr. MCKINLEY. Thank you. I yield back.

Mr. LATTA. Thank you. The gentleman yields back the balance of his time.

The Chair now recognizes the gentleman from Texas for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman and Ranking Member, for having the hearing today and as well for our witnesses to take the time to testify.

FinTech has the potential to help not only entrepreneurs and investors but those who need financial help in their daily lives the most. Often the people with the least time and with the most things to juggle on day to day basis are those who come from less financially literate backgrounds.

The help that FinTech can provide to the working class is especially important. Apps with the potential to help people pay their bills, improve their credit, provide guidance on how to distribute limited resources across many needs represent a welcome development, for one, from which Congress must work to provide the necessary regulatory framework.

However, the testimonies of the distinguished witnesses also highlight the importance of consumer protections. Despite the potential benefits as consumers' financial data becomes available to an increasing number of service providers, consumers become more vulnerable to the theft and abuse of that data. They must have somewhere to turn in case that happens.

I look forward to discussing on how the balance to the risks and rewards that FinTech can offer with witnesses.

Ms. Tetreault, in your testimony you underline the importance of consumer protections when it comes to FinTechs and you lay out consumer safety guidelines which several types of FinTech service providers should adhere.

With the CHOICE Act on the floor this week, what impact if any do you see this having on the ability of the Consumer Finance Bureau to implement and enforce these guidelines?

Ms. TETREAULT. Sure. So I think if the Financial CHOICE Act passes it would be devastating for consumers for a variety of reasons, specifically related to consumer harms.

It gets rid of the monitoring function of the bureau and the market monitoring allows the CFPB staff to get a good insight into what's happening within various segments within financial services and meet with those industry leaders and service providers and also to monitor consumer complaints and concerns long before they become system issues or widespread problems for consumers.

So that would disappear. You'd have the loss of the public-facing database, consumer conflate database that allows not only researchers but everyday people to go ahead and look and see where the issues are with particular service providers around particular products.

It's searchable in many dimensions. There would be a loss, presumably, of the specialty offices within the bureau or at least those are made optional so you potentially lose Project Catalyst, which is an initiative from the bureau to take a look at innovation.

With that you lose the convening that the bureau does for financial technology companies and providers. You lose the opportunity for a no-action letter which is——

Mr. GREEN. I'm almost—I only get 5 minutes. We've heard today about FinTech's potential for offering financial service for the unbanked and underbanked populations, which tend to be lower income.

But research shows that the majority of the people that are actually using FinTech products are wealthier customers. What needs to be done so that the unbanked and underbanked populations can also have full access to FinTech potential benefits and are there obstacles preventing these populations from using these traditional financial services because of the lack of access to these new financial products?

Ms. TETREAULT. So access to broadband is definitely an issue and one that's been discussed here because so many of these innovative products and services are reliant on a secure, sound, continuous internet connection. That, I would say, is a very strong hurdle.

I think the other is one of the things that we've seen a lot is consumer concerns. So, you know, the stories that we hear back when we ask people, for example, why aren't you using mobile payments is they say, I'm worried about safety and security.

And while the evidence may indicate that these services are quite safe, the consumer perception potentially was there because of these gaps that existed, for example, before the CFPB's final prepaid rule.

So, you know, there is I think any number of things that stand in the way of consumers engaging with these services and concerns that can be addressed by appropriate safeguards.

Mr. GREEN. I am almost out of my time. Last month, Energy and Commerce Democrats introduced the Lift America Act, a 21st century infrastructure package that includes $40 billion to expand access to broadband internet not only in rural areas but also in the urban areas like I represent.

Thank you for your time, Mr. Chairman.

Mr. LATTA. Thank you. The gentleman yields back.

And the Chair now recognizes the gentleman from Indiana for 5 minutes.

Mr. BUCSHON. Thank you, Mr. Chairman.

A question for anybody, really. I mean, technology is great. My older kids use Venmo. They don't have any cash, right. So we know that people are underbanked and unbanked now. What makes us optimistic that adding technology to that will substantially change that situation?

Just a hypothetical because there are reasons why people don't have a bank or they're underbanked now, and it could be access to a local, you know, to a bank standing on the corner. But there are other, more complicated reasons why. And so when you add actually the—I'm just playing a little devil's advocate here—you add the technology on board, what makes us think that that will help? Be curious to—anyone.

Ms. TETREAULT. I will just—thank you—I will address that very briefly around faster payments. I will use faster payments as an example, as that's an area where the technology will need to move forward to bring us to real-time payment, and there are proposals out there.

And how I can see that bringing in underserved consumers is that it allows for real-time information for better money management, and then there are potential aspects of the technology that would ensure that there wouldn't be an opportunity for things like surprise fees or overdrafts for the way that the payments actually work.

So I see that. We know for a fact from consumers, due to extensive research, that it is surprise fees and overdrafts that often drive consumers out of the mainstream banking system and forces them to use, you know, more expensive products or rely on cash.

So I see that particular area as a tremendous opportunity.

Mr. BUCSHON. OK. Yes.

Ms. HOGARTH. And I would add in addition to the faster payments piece that the ability of financial technology to give consumers a 360-degree picture of their finances is really, really important because a lot of times you're operating in one-off decisions when you don't really understand the interaction of the decision X with decision Y and financial technology and many of the apps now are really trying to help consumers get that fuller picture of their financial lives.

Mr. BUCSHON. OK.

Mr. SAADE. I was going to say that just one example that happens to be a relevant one here is that the biggest generation of Americans—76 million or something of them—typically would rather not step foot in any one of the 100,000 or so, give or take, bank branches in the United States.

So even though there's sort of a dark side of technology kind of making you anonymous, as we have seen in other industries——

Mr. BUCSHON. Oh, yes.

Mr. SAADE [continuing]. In the media recently, that sort of faceless ability enables you to access things with a lot less friction and the lack of friction leads to lower cost. So I think the question is not what but how.

It's a very good question you ask but the—and if you look at it from a business perspective, 2 billion people are not getting banked around the world. That is a huge business opportunity.

So there's a lot of people thinking about this exact issue, not just venture capitalists or the people here but people across the spectrum.

Mr. BUCSHON. OK.

Mr. VAN VALKENBURGH. The only thing I would add is that the user interface matters a great deal with technology. Google was actually the fifteenth search engine thereabouts.

There were several that tried to make the web accessible to people and help them find the information they wanted but simply didn't make it intuitive. It just didn't make sense to people when they tried to use it. Rapidly prototyping and the ability of new people to come in with a fresh idea of how to get people excited about their financial futures is very important and to the extent that open block chain networks create infrastructure that they can build on top of minimizing the costs of trying something new I think will see much more rapid consumer adoption of these new tools because they'll suddenly make sense when they're finally built by the right people had the right vision.

Mr. BUCSHON. Yes. My concern is that, what do you think will happen to more traditional ways that people access the banking system?

Because, as you know, already technology is such where—say, for example, my parents, you know, who have gone to a bank for years and years. What happens when there's no longer a bank on the corner? So I think we need to think about that question also, and I'm all for technology.

I think it's great. But to your point, we need to make sure that the services that are available are intuitive, are easily accessible not only to my sons who are in their 20s but to my in-laws and my parents who are in their 80s if we are going to backtrack a little bit on more traditional type service availability.

Thank you. I yield back.

Mr. LATTA. Thank you. The gentleman yields back.

And the gentleman from California is recognized for 5 minutes.

Mr. CÁRDENAS. Thank you, Mr. Chairman.

Once again, I appreciate the opportunity for us to have this hearing. This question goes out to any of the individuals who want to chime in and answer.

Could you give some examples of how often is a bank account needed to participate in these technologies and count as a traditional bank account?

Mr. VAN VALKENBURGH. Especially in the digital currency and open block chain space, despite the fact that the technology I described in some ways supplants the correspondent banking system, there will still be a need to onramp people into these new digital currency networks.

So it will be very common for the company to have banking relationships that they process payments for and it will be necessary for the user to have a bank account that they can connect in order to exchange their dollars for digital currency.

Unfortunately, many of the companies that are working in this very exciting space have had trouble getting and maintaining banking relationships because they're seen as a money-laundering risk.

That is despite the fact that all of the companies operating in the U.S.'s exchanges are fully registered and compliant with anti-money laundering requirements from FinCEN.

I think there is a bit of a cultural problem here where perhaps the examiners look at this as a fringe technology that should simply be ignored and banks take a derisking approach.

I think that approach may be misguided because we want these companies in the regulatory system because if these technologies exist outside of the regulatory system we'll simply have less information about what people are doing with them and will not allow them to flourish as hubs for innovation in these services.

Mr. CÁRDENAS. OK. Well, Mr. Van Valkenburgh, how do you open block chain networks? How does open block chain networks encourage financial inclusion and diversity in the financial marketplace?

Mr. VAN VALKENBURGH. So the primary mechanism, I think, is allowing for the rapid prototyping of new tools that can be intuitive for users and meet their goals.

So transactions can be faster when their back end is running through an open block chain network. It can be cheaper for the customer and it can also be cheaper for the business to try new approaches.

So I think in that competition you find more likely there will be an emergence of apps and services that speak to underserved communities, make them want to use those technologies and make it easier for them to use those technologies safely.

Mr. CÁRDENAS. OK. Thank you.

Ms. Tetreault, are there occurrences of deceptive practices in the financial industry that consumers should be aware of, and if there are, what role can Congress play in helping to alleviate that issue?

Ms. TETREAULT. There are many abusive practices. Fortunately, we've seen a tremendous enforcement of consumer financial protection laws by the Consumer Financial Protection Bureau. So that's where you have these 29 million Americans getting back $12 billion in relief.

In terms of existing problems, having a strong cop on the beat is really essential to ensuring the consumers are protected, and we are very eager to see the strength and integrity of the Consumer Financial Protection Bureau ensured by keeping a strong leadership structure, no attacks on funding and maintaining its singular focus on consumer financial protection as opposed to dissipating and across a number of Federal regulators.

Mr. CÁRDENAS. So having a cop on the beat is a good thing?

Ms. TETREAULT. Absolutely, and I think, you know, you can see every day it seems that there's another example of a financial institution or financial service provider behaving badly and to see them held to account not only holds that business to account but it sets an example so that other services providers know that they need to mind their p's and q's.

So it's incredibly important to consumers to have this cop on the beat, or as we like to refer to it, consumer watchdog so that folks, you know, are protected and make sure that there are not only protections in place because of the rulemaking authority but also people watching out to ensure that there are safe financial service products available.

Mr. CÁRDENAS. I mentioned earlier in my opening statement about the opportunity or idea that perhaps this opportunity could give unbanked individuals and households an opportunity to get involved in access to capital and financial stability.

What does this technology bring to bear when it comes to underwriting and giving someone an opportunity to get access to capital versus the old brick and mortar, you know, old-fashioned underwriting methods?

Ms. TETREAULT. So the one thing I would say that we do see a lot of attempts from service providers to quantify the creditworthiness of consumers. I would just raise two quick concerns.

In many instances there's a lack of transparency and then there's the concerns around the way that data is collected and used and would urge service providers to be considerably more transparent in the way that they quantify consumers.

Mr. CÁRDENAS. Thank you. Yield back.

Mr. LATTA. Thank you. The gentleman's time has expired, and the Chair now recognizes for 5 minutes the gentleman from Illinois.

Mr. KINZINGER. Thank you, Mr. Chairman. Thank you all for being here today. This is a very important hearing. This committee having jurisdiction over consumer affairs, I'm very pleased that we are continuing to shed light on the importance of financial technology and the benefits it can provide.

FinTech is improving the speed, convenience, efficiency and accessibility of financial information for consumers. At last Congress I introduced a resolution with Congressman Cárdenas highlighting the potential positive impact technology can have on a consumer's financial health and expressing the sense of Congress that there should be a single national strategy to ensure the development of FinTech.

In many cases we see out here technology always leads Congress and Government, and we basically kind of wake up and see what's happening and then have to figure out a strategy to deal with it.

So some of you have already answered to an extent this question but I just want to ask it of all of you and I will start with Mr. Van Valkenburgh because he has the coolest last name on the committee or on the panel. No offense to the rest of you.

But what are the issues and trends that we in Congress need to watch for to ensure that consumers benefit from innovation in a responsible and a secure way?

Because it sounds like developing the regulatory framework can obviously be a huge challenge. But this access to the financial account is very serious and should be treated as such. So I'd appreciate all your thoughts. I will start with you, sir.

Mr. VAN VALKENBURGH. So I think the key distinction to be made is between technologists who are building these technologies and holding other people's value, playing that custodial role, and technologists who are simply building the future infrastructure, really, the pipes for the future economy.

Making that distinction is key because I think you're absolutely right that we need a unified approach to regulating those custodians to make sure consumers are protected and we very much appreciate your and Congressman Cárdenas' resolution emphasizing that point.

But it's also very important that people who are building the fundamental infrastructure are not swept up in a burdensome regulatory regime that isn't aimed at the risks they create because they don't take custody, because they don't actually hold other people's valuables.

Mr. KINZINGER. That's interesting. OK.

Ms. TETREAULT. I would say first the importance of strong rules of the road as exhibited with the Consumer Financial Protection Bureau's final prepaid rules.

So having that extend to digital wallets that hold funds I think is a great example of how regulations can be in place at the Federal level.

And then to the question about any sort of streamlined oversight is so long as the State consumer financial protection rules are not preempted, you know, there's opportunity there.

Mr. SAADE. Yes, we've been, obviously, very focused on lending and kind of the debt side of the balance sheet. But just to highlight that, there's a whole other side of the balance sheet which is equity and the SEC, for example—I'm just going to answer it this way—tried a lot of really interesting things to allow for common citizens to participate in let's call them high-value potential investments and for otherwise companies raising capital or projects raising capital or people raising capital—not loans but actual capital—is Title 3 of the Jobs Act, and they worked pretty diligently to get it done, but what it highlighted was that, as they were going through that, all of the States' regulatory entities for securities were doing their own fixes, and they were doing them only with the hope that the SEC would then work with the preemption.

So I think that the jobs all of you have is very difficult. But if you put things into the perspective of what benefits consumers respond to, you end up in a place that actually is solutions that could work.

Mr. KINZINGER. Thank you.

Ms. Hogarth, I have another question for you, and since time is limited I will just ask that.

You discussed seeing competition in the FinTech space around savings products and financial health for employees where there's been little innovation in the past.

Can you talk a little further about what changed in that environment that spurred innovation and competition?

Ms. HOGARTH. Thank you.

Breaking into the employer channel is very, very difficult, and one of the things that we have found that is very, very helpful is to just do proof of concepts and pilots.

And by having somebody be bold, to go first and to try out something gives other people confidence that they too can do it.

This actually gets to my answer to your original question, which is thinking about how bright lines used to work when we had a nice segmented marketplace, but there is significant blurring of lines right now.

And thinking about in terms of trends, how we regulate in the 21st century not so much with specific rules but perhaps with principles and guidelines. For example, thinking about consumer outcomes as the metric of success, not whether or not your disclosure is in 18 point font.

Mr. KINZINGER. Very good. Very interesting.

Well, I thank all of you for your participation. Well, I thank all of you for your participation. I will yield back my negative 37 seconds, Mr. Chairman.

Mr. LATTA. The gentleman yields back.

And the Chair now recognizes the gentleman from New Jersey for 5 minutes.

Mr. LANCE. Thank you very much, Mr. Chairman.

My district in New Jersey has a lot of constituents who work in the financial services industry either in New Jersey or in New York itself.

Are the innovations in FinTech being driven predominantly by start-ups or by the more traditional banking institutions and are there partnerships between the two—between start-ups and more traditional banking institutions—and I defer to all members of the panel.

Mr. VAN VALKENBURGH. Some very fruitful partnerships have emerged even in the open block chain space. I think in the early days many people believed Bitcoin was just a strange internet phenomenon. But that has radically changed as block chains become a popular almost buzzword in Wall Street and elsewhere.

One particularly exciting partnership to highlight is the partnership between Ethereum, Zcash and innovators at JPMorgan to build a block chain that will be flexible for smart contracts like Ethereum's open block chain network that will have some privacy elements taken from the Zcash network and that will serve potentially heavyweight enterprise type clients.

Mr. LANCE. Thank you. Others on the panel, would you like to comment? Yes.

Ms. HOGARTH. So, obviously, JPMorgan Chase is clearly involved in trying to stimulate innovation not only outside of the bank but certainly within it as well and there are a number of other incumbent banks who have their own innovators hubs.

And I think there are a number of other entities like CFSI who are trying to stimulate in the start-up community. So I think it is a both end, Congressman.

Mr. LANCE. And are these more traditional forms of banking the coordination—are they the American banks or is this also true of banks in other parts of the world?

Ms. HOGARTH. Well, certainly, we've seen a lot of innovation across the globe. I think we need to look to our colleagues in Australia, Singapore, Hong Kong, beyond the U.K.

The U.K. is always getting lifted up as the—as the prototype here. But there are a lot of really great innovations coming out.

But I would agree with Mr. Saade that the U.S. is, you know, bar none the leader in this arena.

Mr. LANCE. I, obviously, have a bias toward New York as opposed to London or Shanghai or Singapore. Is there something that we should be doing here in Congress to make sure that we are preeminent in FinTech?

Mr. VAN VALKENBURGH. I would say, quickly, that for noncustodial developers of these technologies—these open block chain networks—the State-by-State money transmission framework is a bit of a maze to navigate.

They are really not money transmitters. They build pipes. They don't push the water through the pipes. But they'll have to get an opinion from 53 different States and territories from the regulator in that jurisdiction that says that they're safe and they won't be on the hook for unlicensed money transmission, which carries a $5,000—well, no, 5 years in jail and potentially multi-thousand-dollar fines.

So those are very real liabilities and I think they frighten people away to some extent from building their infrastructure here in the U.S.

Mr. LANCE. This is always a challenge regarding our dual sovereignty. What would you recommend that we do? Because we do have dual sovereignty in this country.

Mr. VAN VALKENBURGH. Yes, and I think the States have a valuable role to play as far as licensing custodians of other people's digital currency.

However, I think we do need a Federal safe harbor that would basically clarify the legal landscape across all the States saying that noncustodial businesses should not need to be licensed.

Mr. LANCE. Are there others on the panel who have an opinion on that? Yes.

Mr. SAADE. I'm going to take a little bit of a different angle and that is something that the Federal Government has done for decades is invest in extremely basic seed money and basic R&D science and development, which at the end of the day, after Defense uses the technology or whatever the technology is being used for, the private sector comes in and innovates on top of that.

So one thing I think that, irrespective of are you developing clean energy technology or a cybersecurity thing that could be applied here or anywhere else to protect our borders, that's something the

Federal Government can do and is the only entity that can do it—spend significant money looking into the future.

Mr. LANCE. Thank you. This is a very interesting and important topic and I hope that the Commerce Committee takes the lead on this issue as we have taken the lead in so many areas and it's a very distinguished panel.

Thank you, Mr. Chairman.

Mr. LATTA. Thank you very much. The gentleman yields back the balance of his time.

And at this time, the Chair recognizes the gentleman from Mississippi, the vice chairman of the subcommittee.

Mr. HARPER. Thank you, Mr. Chairman, and thanks to each of you for being here.

Ms. Hogarth, I will start with you, please. The number of companies applying to be a part of the Financial Solutions Lab is remarkable: 358 for this upcoming group of companies.

In your testimony you mentioned three key trends from that applicant pool, one of them being companies focused on products subject to complex regulatory oversight. Understanding that the finalists have not been announced yet, can you give us some examples of what sorts of services might fall in this category?

Ms. HOGARTH. Sure. You know, just as consumers' lives are not sort of unidimensional, the products that our lab companies develop are cut across traditional financial services products.

They're not just a transaction card. They're not just a credit card. They're not just a savings product. They feature some of those multiple features.

In our last cohort, we had a company that worked with freelance workers. We had a company that was in a loan servicing arena, and we had a very interesting company called Remedy that looks at medical bills and errors on medical bills and how do you help consumers understand what's in their bill and protest any duplicative charges, things like that.

That company actually saved their customers about a thousand dollars a year in misbilling on medical products. That's not a bank account. That's not a stock or a bond or a mutual fund.

It's not an insurance product. And so there are these kinds of really complex kinds of financial issues that consumers face where it doesn't fit neatly into a regulatory box.

Mr. HARPER. OK. Thank you.

Mr. Valkenburgh, you know, we understand that innovations in the financial industry have incredible potential to offer great benefits to consumers and we are also mindful of consumer protections and, of course, privacy concerns.

Can you speak to the role the FTC can play to ensure the latter?

Mr. VAN VALKENBURGH. I'm sorry, Congressman. That was the FTC?

Mr. HARPER. Yes.

Mr. VAN VALKENBURGH. The FTC plays a valuable role enforcing unfair and deceptive acts and practices somewhat mirrored by the CFPB's authority there.

However, I think they play a valuable with respect to these open block chain networks in that many of the applications that people build on these networks will not be custodial and, as I suggested, should not therefore be regulated as money transmitters.

You might then ask OK, well, who's going to check their code as a regulator, make sure that the app does what it says even if the money is not being held by the app designers.

Unfair and deceptive acts and practices have a long track record in making sure that people build their tech right on the internet for nonfinancial Web site and I think the FTC can continue to play that role with respect to these new open block chain networks.

Mr. HARPER. You know, in your testimony you also talked about digital assets outside of digital currencies, of course. Can you help us understand exactly what those digital assets could be, and help me visualize what the future looks like if this technology can develop?

Mr. VAN VALKENBURGH. Absolutely. So you can think of these things as bearer instruments and the bearer instrument we are most familiar with is, of course, cash. It's a way of doing peer to peer money transfer.

But there are other bearer instruments in our real world. There's tokens for a fairground. There's tickets for a concert. There's vouchers for certain goods and services that won't be used for other goods and services.

One particularly exciting network that's being developed is called the Interplanetary File System, which I'm really glad I get to say here in the subcommittee.

That is a decentralized cloud storage network that would allow people to just use the internet to store files without contracting with one or another company like Amazon or Dropbox.

The way that the files would be stored would be encrypted for privacy and then they'd be verifiably stored at different places by people running computers who are rewarded for providing that storage with a voucher, Filecoin, that can only be spent on buying storage.

Mr. HARPER. I mean, it's incredible to comprehend and I'm so glad you got to use that phrase, too. That's very good.

I see my time is almost up so with that I will yield back.

Mr. VAN VALKENBURGH. Thank you, Congressman.

Mr. LATTA. Thank you. The gentleman yields back the balance of his time, and the Chair now recognizes the gentleman from Florida for 5 minutes.

Mr. BILIRAKIS. Thank you. Thank you, Mr. Chairman. I appreciate it very much and I want to thank the panel for their testimony today.

I will start with Ms. Hogarth. Maybe I mispronounced that. I apologize. Hogarth.

In your testimony you talk about the Financial Solutions Lab which helps start-ups focused on improving consumers' financial health and outline a few companies.

One of those companies, Digit, uses an algorithm to help people automatically save money without having to move the money themselves. Would you, again, tell us more about how they made it to your program and what their experiences have been so far?

Ms. HOGARTH. So they made it to our program by—once you apply to our program, there is a series of evaluations that we do.

A number of, you know, like, sort of, is this really helpful to consumers. CFSI bases a lot of our work on our compass principles, which are to build inclusion, build trust, promote success and create opportunity.

And so we always ask people ourselves how much does this company help with inclusiveness, trust, opportunity and success.

We do financial due diligence so we look at the business model of the company and we also do sort of a—what I will call a gut check in is this actually going to improve the financial health of U.S. households.

Mr. Saade's company has helped us in the past in reviewing so we are not just looking at these ourselves. We have a number of outside and expert reviewers including consumer advocacy organizations.

The company Digit has grown substantially over time. Most of the companies in our cohort, our labs, have grown. As a matter of fact, they now reach a total of about 10 million U.S. households, which is 10 times what they were when they joined the program in the beginning.

So it is really, I think, on the whole the companies find it a very positive experience.

Mr. BILIRAKIS. OK. Thank you very much.

This question is for the panel. We'll start with you, Ms. Hogarth, if you wish. Many individuals own and run small businesses. These businesses power—-they are a major part of the economy—obviously, jobs, financial well-being. How is FinTech and the innovation you are seeing in this space going to help small businesses find capital, reduce paperwork or filing costs or any other examples you can share? We'll start of with you, please.

Ms. HOGARTH. Sure. Well, I think that one of the things you've seen in the market over the last several years is new business models.

The marketplace lenders and other kinds of opportunities for small businesses to get access to capital is really, really important and when we are talking about access to capital you have to remember that financial institutions—the incumbent financial institutions often don't want to make that $25,000 loan.

They want to make the $250,000 loan or the $250 million loan. So having an opportunity to serve the market that the really small business guy needs—the food truck guy, the guy that just needs a pizza oven or a dentist chair—those become really, really important.

Mr. BILIRAKIS. That's good. Anyone else, please?

Mr. SAADE. Yes. I would say that 30 million or so U.S. small businesses, half of them, when you're looking to give them credit, it's actually a person credit.

So at the end of the day, a lot of these small businesses actually are basically personal guarantees and all this stuff.

So that's one thing is that helping consumers access credit means that they can start these micropreneurial businesses.

The other thing is the, like she was saying, has to do with the size. Typically, because pools of capital have become so big, especially banks and things of that nature, they don't get out of bed for anything less than some big number.

So there's a huge swath of underserved small businesses not for any macabre reason other than it doesn't make any business sense. So a lot of these innovations actually label you to scale the ability to deliver capital to these tiny pipsqueak companies which, as you said, are the beating heart of our economy. So it's critical to small businesses.

Mr. BILIRAKIS. Very good. Would you like to add something?

Ms. TETREAULT. If I may, I just would want to emphasize that micropreneur is another thing that can be incredibly important is receipt of payment and that faster payments can really enable receipt of those funds so long as banks are held to make those funds available to consumers upon receipt. The gap needs to be closed.

Mr. BILIRAKIS. Very good. Thank you.

Mr. VAN VALKENBURGH. I would simply echo the rest of the panel saying that the reduction in costs of provision of these services and potentially the reduction in costs of having a robust in order to discover creditworthiness are things that open block chain networks can deliver on by streamlining the pipes in between, you know, persons, small businesses, big companies and making trust and verifiability easier between those parties.

Mr. BILIRAKIS. Very good. My time has expired, Mr. Chairman. I yield back. Thank you.

Mr. COSTELLO [presiding]. Gentleman yields back. I will recognize myself for 5 minutes.

Mr. Van Valkenburgh, I have a block chain company in my district in Berwyn, Pennsylvania—AlphaPoint—who prior to this hearing echoed much of the details that you shared today. In fact, they're doubling the size of their team, and they expect that trend to continue.

Preliminarily, I'm curious. When we talk about block chain technology and job creation and GDP growth, is block chain technology creating new jobs or displacing old jobs?

Mr. VAN VALKENBURGH. I think that's an excellent question. I come from a legal background, and when the term "smart contracts" started floating around, everyone started suggesting that, well, we'll be able to get rid of the lawyers, that's great.

I think the reality is that's simply either too optimistic or foolhardy. Really, what you end up seeing is retraining.

A lawyer, for example, in this space should now learn how to code. They should learn how to write a contract that is not only embodied in legal terms in written language but also potentially embodied in computer code that runs on top of a decentralized network.

So I don't think this leads to substantial job losses. I think it does lead to challenges with retraining and I think education and efforts to make sure that people are aware of how things are changing are important to that end.

Mr. COSTELLO. I discerned a little bit of disagreement on the panel on the issue of FinTech charters, and so I first wanted to ask you this question and then open it up to those who agree, disagree or maybe have a slightly different take.

You used an interesting phrase—issue of permissionless innovation versus responsible regulation. I think that's what you characterized it as, and I get what you're getting at because I think there's always that tension when we talk about innovation between making sure that regulatory barriers don't get in the way.

At the same point in time, you don't want innovation to sort of take advantage of an outdated set of rules or laws that creates victims and I think that that's what we are really focussing on when you talk about FinTech charters and this issue writ large.

The question that I have for you on FinTech charters is, Why do you think that they're needed versus why could it not just be being a little bit additive to the existing regulatory or legal framework which already exists?

Mr. VAN VALKENBURGH. So under existing——

Mr. COSTELLO. It's a little thing, and it's kind of a big step. I would——

Mr. VAN VALKENBURGH. Yes. Thank you, Congressman.

I think under existing regulatory structures in general if you want a unified Federal regulator you're going to need to be what we traditionally consider a bank.

You're going to need to take deposits, make loans and maybe do check paying or payments. If you don't want to do deposit taking and maybe if you don't even want to do loans—you just want to do payments—you have no choice for a unified Federal regulator. You will have to go State by State and get money transmission licensing.

Now, that is a severe barrier to innovation from a permissionless innovation standpoint because you're going to have to have 53 conversations across the States and territories and explain, well, in many cases what Bitcoin is and that is a difficult conversation to have with a State regulator.

Mr. COSTELLO. Right.

Mr. VAN VALKENBURGH. Now, they may be on board with what you're proposing long-term but it's a lot of legwork. Now, the alternative would be can I get one Federal regulator and I think the OCC's FinTech charter presents an opportunity for that because they've suggested that they're willing to charter banks or, you know, Federal banks who do not do deposit taking, who only do payments or only do lending.

I would add that the controversial nature of the charter with respect to some consumer groups I think often focuses on aggregation or preemption of State limits on interest rates. This is not an issue that we take a position on.

At Coin Center, we are primarily concerned with payments companies getting Federal charters, not lenders.

Mr. COSTELLO. And I don't see what—I mean, you can have preemption, but it doesn't mean everything is preempted.

Mr. VAN VALKENBURGH. Precisely.

Mr. COSTELLO. So I tend to see the argument your way there. Others?

Ms. TETREAULT. I would emphasize that it is the preemption of those lending caps that raises a particular concern and then there also is a question about whether or not there will be enough oversight in particularly examination and supervision.

And then there are the concerns around, obviously, the safety and soundness requirements. I think also one other piece of it is when it comes to information sharing that there are tools available at the State level that may not exist presently at the Federal level. So that would need to be addressed as well.

Mr. COSTELLO. But safety, soundness, oversight—could you make the argument, though, that given the sophistication of this that that might be done better at the Federal level but you wouldn't preempt issues such as interest rates, et cetera?

Because I understand State banking law, but on some of this stuff it just strikes me that preemption might be the way to not have innovation be hampered by State patchwork.

Ms. TETREAULT. I understand around the duplicative efforts and the concerns there and, again, that could be something that is more streamlined with a national licensing systems.

I would not rule that out provided that there are those essential safeguards in place and no preemption of those lending caps in particular.

Mr. COSTELLO. Anyone else?

Ms. HOGARTH. I would just like to point out that I have a driver's license from the State of Virginia and it lets me drive anywhere across the United States.

And I recently drove in South Africa on the left. So go figure. But I still have to obey the State speed limits, and I think there's an interesting analogy there.

Mr. COSTELLO. Thank you.

Seeing there are no further members wishing to ask questions for the panel, I would like to thank all of our witnesses again for being here today.

Before we conclude, I would like to include the following documents to be submitted for the record by unanimous consent: a letter from Electronic Transactions Association, a letter from Competitive Enterprise Institute, a letter from Kaspersky Lab, a letter from Intuit.

[The information appears at the conclusion of the hearing.]

Mr. COSTELLO. Pursuant to committee rules, I remind Members that they have 10 business days to submit additional questions.

Ms. SCHAKOWSKY. Without objection.

Mr. COSTELLO. Very good. And I ask that witnesses submit their response within 10 business days upon receipt of the questions. Subcommittee is adjourned.

[Whereupon, at 11:55 a.m., the committee was adjourned.]

[Material submitted for inclusion in the record follows:]

Prepared statement of Hon. Michael C. Burgess

Good morning. I want to thank Chairman Latta for holding this hearing today. When I was chairman of the Commerce, Manufacturing, and Trade Subcommittee we held a hearing on mobile payments that provided valuable insight into the ways consumers pay for goods and services using financial technology, or FinTech.

FinTech provides numerous opportunities for individuals who are unbanked, underbanked, or simply looking for banking alternatives to access financial services. Advantages of FinTech include faster receipt of payments, improved access to wealth-management services through broad data acquisition and analysis capabilities, increased access to lines of credit and cryptocurrencies, and accountability through auditable, permissionless, distributed ledgers like blockchain networks.

One of the reasons FinTech products and services have continued to develop is the desire for innovative solutions to common financial needs. You can now split a check or buy an online item with the press of a button on a mobile device, all without thinking about directly involving a banking institution.

In addition, FinTech provides advanced tools to aid individuals with financial planning and decision-making where such services previously did not exist to such a granular level. This capability is especially important for individuals who need exact guidance on how to overcome debt or increase a savings account balance.

While FinTech has successfully developed solutions for alternative access to financial services, for it to continue meeting the needs and desires of consumers it must remain free of burdensome and disparate laws and regulations. Congress should evaluate ways to hold providers of products and services accountable without holding them back from further innovation.

The maturation of the FinTech industry is a step in the right direction for incorporating the unbanked and underbanked into the economy as well as providing alternatives for traditional financial services. I look forward to learning more about this industry, and its barriers to entry, from our witnesses today. Thank you.

ELECTRONIC TRANSACTIONS ASSOCIATION
Advancing Payments Technology

Statement of the Electronic Transactions Association

United States House of Representatives

Committee on Energy and Commerce

Subcommittee on Digital Commerce and Consumer Protection

"Disrupter Series: Improving Consumer's Financial Options with FinTech."

Thursday, June 8, 2017

The Electronic Transactions Association (ETA) submits the following statement for the House Committee on Energy and Commerce Subcommittee on Digital Commerce and Consumer Protection hearing on June 8, 2017. ETA is the leading trade association for the payments industry; its membership spans the breadth of the payments industry to include independent sales organizations, payments networks, financial institutions, transaction processors, mobile payments products and services, payments technologies, equipment suppliers, and online small business lenders. ETA's comments are intended to assist the Committee in exploring and evaluating how financial technology is improving the financial lives of consumers.

One of the top priorities for the financial system is to expand the availability of high quality, affordable financial services for all consumers. Over the past decade, ETA member companies have transformed the financial landscape through the use of technologies that offer new products and services, lower costs, improve financial management, and increase transaction security. These developments help expand, and are continuing to expand, financial opportunities for underserved consumers.

Through the use of FinTech, ETA members are building an inclusive financial system that addresses the needs of underserved consumers in a number of ways. For example: providing increased access to ATMs for persons with disabilities; helping the elderly or rural population deposit checks remotely; assisting parents in sending funds instantly to their children in college; or helping small businesses get loans. These types of products and services provide access, affordability, convenience, security, and control and financial management.

The unprecedented recent advancements in technology in financial services continue to show great benefits for underserved consumers, as well as the broader economy. As the leading trade association for the payments industry, ETA and its members encourage policymakers to support these efforts through policies that encourage innovation and the use of technology to improve financial inclusion for all consumers.

ETA advocates that policymakers remain thoughtful and forward-thinking in how to create a positive policy environment to provide opportunities for all consumers and small businesses to access and benefit from innovative financial products and services. Efforts by policymakers to regulate financial products and services should be done collaboratively and with careful consideration. We encourage the government to be sensitive to the risk that applying a uniform regulatory framework to all products and services, without any appreciation of differences in products and services and consumer needs, will likely stifle creativity and innovation in the market. Such an outcome would harm consumers, particularly at a time when new technologies, products, and services are providing the underserved with unprecedented access to financial products and services.

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Letter for the Record to Members of the House Subcommittee on Digital Commerce and Consumer Protection (Committee on Energy and Commerce)

John Berlau
Senior Fellow
Competitive Enterprise Institute

Prepared for the hearing:
Disrupter Series: Improving Consumer's Financial Options With FinTech

U.S. House of Representatives
2123 Rayburn House Office Building
Washington, D.C. 20515

Thursday, June 8, 2017
10:00 AM

Dear Chairman Latta and distinguished members of this Subcommittee:

Thank you for the opportunity to submit this statement for the hearing "Disrupter Series: Improving Consumers' Financial Options with FinTech."

The FinTech, or financial technology, boom, has much in common with the ascent of "sharing economy" platforms like Uber and Airbnb. Just as these services have vastly improved consumers' transportation and lodging options, Fintech products can offer more choice and convenience and lower costs to consumers, entrepreneurs and investors. Scholars have noted in particular the potential for FinTech to advance the well-being of lower-income Americans and be part of a path to their inclusion into the financial system.

But regulatory barriers—some fairly new and some almost a century old—are hindering FinTech's ability to deliver. Fortunately, the U.S. House is set to vote this very week on a bill containing many provisions that eliminate or reduce this red tape.

The Financial CHOICE Act contains many measures aimed at curbing overregulation and ending too-big-to-fail. It also contains several provisions that would free innovators and entrepreneurs and help make the Unites States a leader in FinTech.

Crowdfunding—which allows filmmakers, recording artists, and other entrepreneurs to raise funds online from millions of fans on sites like Kickstarter and Indiegogo—is becoming a new frontier in investing across the world. Entrepreneurs are using portals to find investors, without the need for the "middlemen" of brokers and stock exchanges. But in the United States, even individuals raising small amounts have been barred from raising funds from ordinary investors due to securities laws dating back to the 1930s.

The Jumpstart Our Business Startups (JOBS) Act of 2012, signed into law by President Barack Obama, attempted to change that situation, and the CHOICE Act continues this work. CHOICE Act provisions cut through red tape on advertising and marketing investment crowdfunding offerings by small entrepreneurs, and allow ordinary investors the opportunity to build wealth with these firms.

Similarly, peer-to-peer and "marketplace" lending have expanded credit options for consumers and small businesses. Consumers and entrepreneurs who can't obtain a bank loan now have alternatives for borrowing money other than simply maxing out their credit cards.

But this type of lending is threatened by the ruling in *Madden v. Midland Funding*, in which the Second Circuit Court of Appeals reversed a century of "valid when made" precedent by letting a state apply its usury cap to a loan made in another state that was bought by a third party. That ruling created massive uncertainty in the non-bank lending market, and FinTech innovators fear it could devastate their business models that depend on a national market. The CHOICE Act restores the "valid when made" doctrine by stating that a loan's interest rate stays valid regardless of whether the loan is subsequently sold or transferred.

These measures in the CHOICE Act are just a start. There are many other public policy proposals that could lift barriers to FinTech, so that it can fully flourish and benefit middle and lower-income Americans. The appended policy brief outlines many of these barriers and solutions. My Competitive Enterprise Institute colleagues and I are happy to discuss this topic and these measures further with committee members and their staff.

Sincerely,

John Berlau

Senior Fellow

Competitive Enterprise Institute

COMPETITIVE ENTERPRISE INSTITUTE

*On*POINT

April 25, 2017 No. 228

Five Key Financial Regulation Reforms

Reining in Dodd-Frank and Sarbanes-Oxley Will Help Consumers, Entrepreneurs, and Middle Class Investors

By John Berlau[1]

First there was "fintech," now there is "regtech."

Fintech—short for "financial technology"—is the popular term to describe the rapid pace of technological change in various areas of finance, from lending to investing to cryptocurrency. For the most part, this emerging sector has been driven by market forces, as fintech entrepreneurs work and invest to meet the growing consumer demand for faster, more convenient, and individually tailored financial services.

Regtech, by contrast, is the new buzzword for technological solutions to help firms cope with the avalanche of financial regulation over the last decade. Reuters describes the "regtech" sector as "companies whose technology helps banks and investors cope with the welter of post financial crisis regulations and avoid increasingly hefty fines."[1] If regulatory trends continue, the regtech sector will only get bigger. Research firm Celent estimates that spending on technology to comply with regulations will rise from \$50.1 billion in 2015 to \$72 billion by 2019.[2]

Technological innovation is a good thing, and some regtech products may have broader uses, such as improving delivery of financial goods and services. But when the best minds in technology are focused on complying with red tape, it usually comes at a cost in innovation elsewhere, including fintech innovations that promise benefits to entrepreneurs, investors, and consumers. A healthy fintech sector would be far better than growth in regtech.

The explosion of financial regulation has translated to billions of dollars in lost access to capital, credit, and opportunity for small businesses and consumers. A 2013 study by the Federal Reserve Bank of Minneapolis found that adding just two employees tasked with regulatory compliance makes 33 percent of the smallest banks—those with less than \$50 million in assets—unprofitable.[3]

The 2010 Dodd-Frank Act and other laws and the rules issued under them have forced community banks and credit unions to devote many more resources than just two employees to compliance. In an August 2016 letter to the Consumer Financial Protection Bureau (CFPB), the

[1] *John Berlau is a senior fellow at the Competitive Enterprise Institute.*

Credit Union National Association warned that rules are limiting credit unions' ability to provide affordable financial products to their customers, making it "harder for credit unions to fulfill their mission," as the cost of the regulatory burden on credit unions increased from $4 billion in 2010 to $7 billion in 2014.[4]

Financial services regulations increase the problem of the "unbanked" in the United States, driving poor people out of the mainstream financial services system. It even exacerbates poverty and degrades life for women and children in impoverished parts of Africa.

President Trump and Republican leaders in Congress have called for relief from DoddFrank and other red tape. A revised version of the Financial CHOICE Act, first introduced last year by House Financial Services Committee Chairman Jeb Hensarling (R-TX), is expected to offer comprehensive deregulation by repealing and easing provisions of DoddFrank and other financial regulations. In the Senate, Banking Committee Chairman Mike Crapo (R-Wyo.) is reportedly looking to craft a more moderate bill that will get the backing of the handful of Democrats needed to get the 60 votes to avoid a filibuster.[5]

Whichever approach the administration and Congress take, their top priority should be to repeal regulations that serve no arguable purpose in restoring financial stability and that have been shown to hurt small banks, low-income and middle class consumers, ordinary investors, and startup entrepreneurs. Here are five such regulatory burdens ripe for repeal.

1. The Durbin Amendment's Price Controls on Interchange Fees. When Sen. Richard Durbin (D-Ill.) first appended an amendment imposing price controls on debit cards to the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act, he invoked a prominent constituent: "I had the C.E.O. of Walgreens contact me last week, and he told me that when they look at the expenses of Walgreens, ... it turns out the fees that Walgreens pays to credit card companies is the fourth-largest item of cost for their business."[6]

He did not say why these costs should be controlled by government. Walgreens and other large retailers simply persuaded enough Members of Congress—including some who would vote against the final Dodd-Frank legislation—to back Durbin's measure, which mandated that interchange fees charged to process debit card transactions be "reasonable and proportional" to cost.[7]

The Durbin Amendment's price controls do not reflect the full costs of processing debit card transactions, as the Federal Reserve can only consider "incremental costs." This means that the costs of crucial pieces of hardware and software must be fully borne by consumers. Yet, the costs of processing debit card transactions—including fending off threats of identity theft and hacking—did not magically go away after Dodd-Frank was enacted. Instead, they were shifted to the consumers who use debit cards, including some of the very poorest consumers, in the form of higher bank fees and lost access to free checking.[8]

In 2009, the year before Dodd-Frank was enacted, 76 percent of checking accounts were free of charge. By 2011, this share had fallen to 45 percent, and by 2012 to 39 percent. Service charges on non-interest bearing checking accounts increased dramatically.[9] A 2014 George Mason

University study calculates that the Durbin Amendment contributed to 1 million Americans losing access to the banking system—becoming "unbanked"—by 2011.[10]

When confronted with these facts, retail industry lobbyists often retort that mandated lower interchange fees for retailers translate into lower prices for consumers. But more than five years after the Durbin Amendment went into effect, evidence of this has yet to emerge. The George Mason University study found the benefits to consumers to date have been miniscule to nonexistent.[11] Even accounting for some lower prices in highly competitive markets, the public still suffered a net welfare loss of $22 to $25 billion, as measured by stock-based appreciation of retail firms, according to a 2015 study published in the *Oxford Review of Law & Economics*.[12]

Any Dodd-Frank reform bill must contain full repeal of the Durbin Amendment to provide low- and middle-income consumers with badly needed relief.

2. The CFPB's Unaccountable Structure. The Dodd-Frank Act ostensibly created the Consumer Financial Protection Bureau to protect consumers of financial products the way the Consumer Product Safety Commission (CPSC) assures homeowners that their kitchen appliances will not catch on fire.[13] However, the CFPB is far more powerful than the CPSC and many other agencies. As constituted under Dodd-Frank, it functions like a fourth branch of government unauthorized by the Constitution.

Unlike other agency heads, the CFPB's director can only be fired by the president for "inefficiency, neglect of duty or malfeasance in office." Normally, agency heads can be fired at the will of the president or broadly "for cause," a standard that can include a variety of reasons. Congress has no control over the CFPB's budget, which is taken from the revenue of the Federal Reserve. That renders the agency unaccountable to the president and Congress. Moreover, some of its rulings are protected from judicial review, because DoddFrank requires courts to give extra deference to the CFPB. Dodd-Frank states that the courts should defer to the CFPB as if "the Bureau were the only agency authorized to apply, enforce, interpret, or administer the provisions of such Federal consumer financial law."[14]

The Bureau has used this considerable power to issue thousands of pages of regulations, while undertaking enforcement actions that at least one court has found violated the due process rights of defendants.[15] That case, *PHH Corporation, et al. v. Consumer Financial Protection Bureau*, is a recent positive development that merits attention.

In 2012, the Department of Housing and Urban Development (HUD) transferred its investigation of PHH Corporation, a financial services company, to the CFPB, as required under Dodd-Frank for all enforcement of the Real Estate Settlement Procedures Act (RESPA). In 2015, the CFPB suddenly reversed a longstanding HUD interpretation of permissible activity under RESPA. HUD had allowed some referral fees among companies involved in a real estate transaction, not treating them as illegal "kickbacks" under the law. Upending that widespread understanding, the CFPB sanctioned PHH for collecting referral fees from mortgage insurers as far back as 2008, levying a fine on the firm of $109 million.

In October 2016, in a case brought against the CFPB by the beleaguered PHH, the United States Court of Appeals for the District of Columbia ruled that the president has the constitutional power to fire the CFPB director "at will," in the same way he can remove a cabinet secretary without cause. Without that presidential prerogative, the court's opinion noted, the CFPB director would be the "single most powerful official in the entire U.S. Government, other than the President."[16] That ruling has been vacated because the full appeals court is now considering the case, but the panel's reasoning is still instructive.

Community banks and credit unions have criticized the substance of the CFPB's regulations, as well as the pace of its regulatory activity. As Jim Purcell, President of the State National Bank of Big Spring, Texas, puts it: "As the CFPB's own website shows, its rulemakings are the subject of constant, significant revision—and that's when the CFPB bothers with express rulemakings at all, instead of regulating informally through case-bycase 'guidance' and enforcement proceedings."[17] Purcell's small bank is a co-plaintiff with the Competitive Enterprise Institute and the 60 Plus Association in a similar lawsuit that challenges the constitutionality of the CFPB's structure.

The Financial CHOICE Act, introduced in the 114th Congress, would make the director removable at-will by the president and make the CFPB subject to congressional appropriations.[18] Its provisions regarding agency leadership may be rendered moot if the court reinstates the *PHH* ruling that makes the director subject to the presidential appointment power. Nevertheless, Congress should ensure that any reform of the DoddFrank Act addresses all questions regarding the CFPB's democratic accountability.

3. Sarbanes-Oxley's "Internal Control" Mandates. As burdensome as Dodd-Frank is, intrusive regulation did not begin with this legislation or with the Obama administration. The Sarbanes-Oxley Act, rushed through Congress in 2002, continues to make it extremely difficult for companies to go or stay public.

Going public, most commonly through an initial public offering (IPO), is the process of raising capital by listing a specified number of shares on a stock exchange and making them available to retail investors. For more than a century, many small and midsize firms used this capital-raising tool to grow into leading U.S. companies. In 1981, for example, Home Depot launched its first stock offering with just four stores in Georgia.[19] Middle class investors with the foresight to invest in Home Depot and other small firms early on saw their own wealth grow, along with that of the companies.

This trend reversed abruptly after Congress passed and President George W. Bush signed Sarbanes-Oxley in 2002, in the wake of the Enron and WorldCom accounting scandals. The number of IPOs on U.S. exchanges fall dramatically, As President Obama's Council on Jobs and Competitiveness noted: "[T]he share of IPOs that were smaller [in market capitalization] than $50 million fell from 80 percent in the 1990s to 20 percent in the 2000s."[20]

The most burdensome provision of Sarbanes-Oxley is Section 404, which mandates companies to audit a broadly defined set of "internal controls." As implemented by the Public Company

Accounting Oversight Board (PCAOB), the quasi-public entity created by Sarbanes-Oxley, companies must audit "internal controls" over any company process that could enable "a reasonable possibility of a material misstatement in the financial statements." This is an extremely broad standard that could encompass all manner of company operations, including relatively trivial matters such as possession of office keys.

This provision caused auditing costs to double, triple, and even quadruple for many companies.[21] A 2009 Securities and Exchange Commission (SEC) study found that smaller public firms have a cost burden from the "internal control" mandate more than seven times greater than large public companies.[22]

Noting the tremendous costs of the law, Home Depot co-founder Bernie Marcus has said that he could not have taken the firm public and financed its growth had Sarbanes-Oxley been in place in 1981.[23] Today, stock in most companies in their early growth phase are available only to wealthy individuals who qualify as "accredited investors" under SEC rules. The SEC put the "accredited investor" exemption in place in the 1980s under the rationale that wealthy investors are better able to fend for themselves and thus can be allowed to take more risks.

Because of Sarbanes-Oxley, entrepreneurs find it much more difficult to go public and raise capital, while investors miss out on opportunities to build wealth with early-stage growth firms. Instead of going public to raise capital when they are small, today U.S. companies typically do not go public today until they are very large. By the time Facebook went public, it was worth $80 billion.[24]

Any financial relief bill should get rid of Sarbanes-Oxley's section 404, clarify that Congress did not intend PCAOB to implement it the way it has, or at the very least, permanently exempt small and mid-size companies.

4. Barriers to Investment-Based Crowdfunding. Crowdfunding has taken the world by storm, offering enormous potential for profit-sharing among entrepreneurs, employees, and funders. Today, it is usually associated with online rewards-based crowdfunding services like Kickstarter and Indiegogo, which allow someone to create a campaign to fund a project. Contributors are generally rewarded with prizes, such as Tshirts or samples of the funded product if the funding goal is met.

Debt-based crowdfunding, on the other hand, offers funders a specific rate of return, while equity-based crowdfunding offers an ownership interest—similar to a share of stock—and a share of the crowdfunded firm's potential profits. This all sounds promising. Yet, with certain exceptions, a U.S. entrepreneur cannot offer contributors a share of the profits or an interest payment without running afoul of securities laws that date back to the 1930s. Those laws broadly define "security" as any promise to a group of prospective investors of a share of a firm's profits or a monetary return on the amount contributed.

As a result of this static definition of "security" being applied to the dynamic process of crowdfunding, the U.S. is losing out on crowdfunding technology as a tool for economic and employment growth. In reviewing foreign debt- and equity-based crowdfunding campaigns, a

2013 study conducted by Richard Swart, then with the University of California, Berkeley, and researchers at Crowdfund Capital Advisors found that these campaigns have great job-creating potential. Of the 87 firms that responded to the survey, 87 percent either hired new employees or planned to thanks to having raised equity or debt financing through a crowdfunding platform.[25]

The Jumpstart Our Business Startups (JOBS) Act in 2012 provided a narrow exemption for investment-based crowdfunding from securities laws such as Sarbanes-Oxley and DoddFrank. It also repealed restrictions on the advertising of private stock available to wealthy "accredited investors." Its passage by an overwhelming margin underscores the urgent need to reform securities laws that are not appropriate to govern small firms engaging in crowdfunding. Unfortunately, the crowdfunding provisions in the JOBS Act's Title III, which grants exemptions for investment-based crowdfunding campaigns raising up to $1 million in increments up to $2000, were not implemented by the Securities and Exchange Commission until more than four years after the law was enacted. These regulations have proven so cumbersome that only about $15 million has been raised. As crowdfunding advocate Dara Albright quips, that barely pays for a house in the Hamptons![26]

Last year, JOBS Act architect Rep. Patrick McHenry (R-N.C.) sponsored the Fix Crowdfunding Act, to greatly expand the JOBS Act's exemption for crowdfunding from securities laws. It raised the threshold for money allowed to be raised in crowdfunding offerings from $1 million to $5 million and the amounts individuals can invest from $2,000 to $5,000. It also liberalized restrictions on advertising crowdfunding offerings and allowed for special purpose acquisition companies, similar to those run by venture capitalists, in which lead investors negotiate deals with entrepreneurs after investors have signed up. Several provisions of the bill were later merged into the Financial CHOICE Act. They should be included in any new version of the bill this year.

5. Harmful "Conflict Minerals" Disclosure Mandates. The Durbin Amendment is not the only Dodd-Frank provision that had nothing to do with the financial crisis. Section 1502 requires public companies to disclose in their annual reports any use of four minerals—tantalum, tungsten, tin, and gold—that may have been sourced from conflict zones in the Democratic Republic of Congo and adjoining countries.

Although the provision seeks to address a serious moral and geopolitical issue, no one can plausibly say it has anything to do with preventing the next financial crisis. Shoehorning this provision into a bank bill and giving authority over it to the Securities and Exchange Commission, a governmental entity that lacks foreign policy experience, makes no jurisdictional sense.

Even worse, this provision has hurt the very people it has intended to help. In order not to run afoul of the provisions, foreign companies simply began avoiding the Congo or adjoining countries. "It's easier to sidestep Congo than to sort out the complexities of Congolese politics — especially when minerals are readily available from other, safer countries," writes *New York Times* journalist David Aronson.[27]

When mining stopped, many Congolese villages took a serious financial hit. Women who previously went to maternity clinics started giving birth at home, children dropped out of school to help support families who could no longer rely on income from the mines, and former miners and their families frequently went hungry. And in the cruelest irony of all, murderous warlords actually profited from the increased demand for smuggling caused by the law.[28]

Ben Radley, former Regional Director for the American NGO Heartland Alliance and producer of *We Will Win Peace*, an acclaimed documentary about the Congo, writes that the conflict mineral mandate "underestimates the importance of artisanal mining to employment, local economies, and therefore, ironically, security."[29] In September 2014, 70

Congolese activists, academics, and government officials signed a letter blasting DoddFrank for "contributing to, rather than alleviating, the very conflicts they set out to address."[30] The "conflict minerals" mandate must be repealed as a humanitarian measure.

Conclusion. Empowering citizens with financial choices in a competitive market can help generate economic growth and create financial stability. There are many federal and state laws already on the books that punish fraud and deception, and these should certainly be enforced with regard to crowdfunding or other types of investment transactions. But policy makers need to trust individuals to choose their own financial futures.

Congress should include provisions alleviating the five regulatory burdens discussed above in any Dodd-Frank reforms that it passes. Doing so will help ensure that productive sectors like financial services and fintech grow, and that regtech, which merely mitigates the damage done by poorly formed regulation, does not.

Notes

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KASPERSKY lab

Congress of the United States
House of Representatives
Committee on Energy and Commerce
Subcommittee on Digital Commerce and Consumer Protection
Hearing entitled, "Disrupter Series: Improving Consumer's Financial Options with FinTech"

June 8, 2017

Statement for the Record

Introduction

Chairman Latta, Ranking Member Schakowsky, and other esteemed Members of the Digital Commerce and Consumer Protection Subcommittee, thank you for holding today's hearing entitled, "Disrupter Series: Improving Consumer Financial Options with FinTech." Mobile banking and other financial technologies have undoubtedly improved consumer convenience and accessibility to financial services, as well as reduced operating costs for the firms providing those services. This innovation not only inures to the benefit of existing financial services customers, but also provides the opportunity for firms to better serve unbanked and underbanked consumers.

However, as a global cybersecurity company protecting consumers, businesses, critical infrastructure, and governments worldwide since 1997, Kaspersky Lab continues to detect security threats that negatively impact FinTech like mobile banking trojans that can bypass a mobile device's security controls, redirect consumers to online phishing sites that compromise their credentials, and/or encrypt a consumer's data via ransomware.[1] Furthermore, security concerns like data breaches can inhibit consumer adoption of these financial technologies. According to a 2016 survey conducted by IDC Financial Insights (commissioned by Kaspersky Lab), 36 percent of the respondents were not using mobile banking, and 74 percent of those respondents "cited security as the major reason for not using mobile banking."[2] Therefore, Kaspersky Lab maintains that while innovation in FinTech has demonstrated, and will continue to demonstrate, significant potential and opportunity for consumers and firms alike, it remains imperative that traditional financial services providers and new entrants into this market endeavor to ensure that the technological platforms that underpin their offerings keep pace with the security threats that highly-motivated cybercriminals present to their consumers and their firms.

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[1] Kaspersky Lab, "Mobile Malware Evolution 2016," *Securelist* blog post, 28 February 2017. Link: https://securelist.com/files/2017/02/Mobile_report_2016.pdf.
[2] Marc DeCastro and Bill Fearnley, "Proactive Fraud Prevention Key in Developing and Expanding Next-Generation Mobile Banking," *IDC Financial Insights*, August 2016. Can be accessed here: http://idc.idcimpshowcase.com/showcase/detail.cfm?id=220.

Mobile Banking Threat Landscape

As consumers increasingly use handheld devices to manage their daily lives, mobile-based cybercrime continues to increase as well. User devices often do not have the latest security updates provided by their operating systems, and therefore, cybercriminals can easily exploit vulnerabilities for mobile-based cyber-attacks. For example, Kaspersky Lab detected nearly 130,000 mobile banking trojan installation packages in 2016, a detection rate 1.6 times more than in 2015.[3] In addition to the uptick in installation packages last year, we also saw a 5.4 times increase in the number of users attacked by mobile banking trojans over the same time period (305,543 users in 164 countries in 2016 versus 56,194 users in 137 countries in 2015).[4] The most prevalent trend in 2016 was the increase of mobile malware gaining super-user (or root) privileges on infected devices.[5]

Root privileges provide almost unlimited possibilities for attackers and serve as a beachhead that allows them to install additional malicious software on infected devices. The software deployed on infected devices ranges in purpose from targeted advertising to credential harvesting for users' financial accounts to ransomware attacks.[6] For example, the Triada trojan, which Kaspersky Lab reported on in March 2016, can penetrate almost all of a device's running processes and subsequently persists in the device's memory.[7] It primarily redirects a user's online payments when buying additional content in legitimate mobile applications and steals the funds from either the user or the application developer.[8] The Triada trojan can evade detection and the removal of its malicious software components after installation, and its modularity can enable cybercriminals to alter the functionality to take advantage of any vulnerabilities in a device's operating system and leverage any installed applications.[9] While mobile banking trojans often do not need root privileges because money can be stolen in various ways on mobile and online platforms, cybercriminals are increasingly developing their malware with such capabilities to steal user data.

Example of Mobile Malware Affecting Consumers in the United States

In the first quarter of 2017, Kaspersky Lab observed that the United States topped the list of countries of users attacked by mobile-based ransomware.[10] Last year, we detected an almost 8.5 times increase in the number of mobile ransomware installation packages globally, as well as a 1.6 times increase in the number of unique users attacked by this type of malware.[11] The increase of mobile ransomware globally was driven by two specific malware families affecting Android devices: Fusob and Congur.[12] Fusob largely attacked users not only in the United States, but also in Germany and in the United Kingdom, and

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[3] Kaspersky Lab, "Mobile Malware Evolution 2016."
[4] *Ibid.*
[5] *Ibid.*
[6] *Ibid.*
[7] Kaspersky Lab, "Attack on Zygote: A New Twist in the Evolution of Mobile Threats," *Securelist* blog post, 3 March 2016. Link: https://securelist.com/74032/attack-on-zygote-a-new-twist-in-the-evolution-of-mobile-threats/.
[8] *Ibid.*
[9] *Ibid.*
[10] Kaspersky Lab, "IT Threat Evolution Q1 2017. Statistics," *Securelist* blog post, 22 May 2017. Link: https://securelist.com/78475/it-threat-evolution-q1-2017-statistics/.
[11] Kaspersky Lab, "Mobile Malware Evolution 2016."
[12] Kaspersky Lab, "IT Threat Evolution Q1 2017. Statistics."

the cybercriminals usually demand $100-$200 in pre-paid iTunes cards to unblock a device.[13] This malware can also assert administrator privileges on a device and collect device information like location data and call history.[14] Congur, on the other hand, has relatively simple functionality, changing the device's password or PIN (or installs one if the user did not set up one previously) and making it impossible to access the device.[15] However, this malware also has modifications that enable it to leverage existing super-user or root privileges to install into the system folder.[16]

In 2016, the United States, together with Germany, Japan, Vietnam, and Russia, had the largest proportion of users attacked by banking malware.[17] The most popular mobile malware affecting United States users in Q1 of 2017, was the ransomware variant of the Svpeng family.[18] This malware demands a ransom of $100-$500 from victims to unblock their devices.[19] The banking version on the trojan, which did not largely target United States users, but first appeared in 2014, could use phishing windows to steal credit card data and attack SMS-based banking systems.[20] Unfortunately, because mobile device insecurity can present a low barrier to entry for cybercriminals, mobile-based malware continues to find ways to circumvent security measures adopted by device operating systems, and when consumers fail to update their devices, this tends to exacerbate the spread of this malicious software. Not all mobile-based malware targets financial transactions, but the ability to compromise a mobile device can put such transactions conducted via mobile application or online at risk, and therefore, financial firms must take care to address these types of security concerns.

Conclusion

Like all Internet-enabled technologies, security concerns remain important for FinTech and mobile banking. Providing secure online or mobile access to financial services can incentivize consumers to adopt technological innovations that can improve convenience for them and lower costs for financial firms. However, the proliferation of mobile-based cybercrime leads to data breaches and other security events, which can result in losses of consumer data and funds, a lack of trust in firms' mobile or online platforms, and a reduction in firms' operating revenue that can prevent further investment in technological development and deployment.[21] Kaspersky Lab appreciates the opportunity to share some its most recent research regarding mobile malware threats and how they impact mobile and online banking platforms. If the company may provide additional information or serve as a resource in the future, please let us know.

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[13] Kaspersky Lab, "Mobile Malware Evolution 2016."
[14] Kaspersky Lab, "IT Threat Evolution Q1 2017. Statistics."
[15] *Ibid.*
[16] *Ibid.*
[17] Kaspersky Lab, "Financial Cyberthreats in 2016," *Securelist* blog post, 22 February 2017. Link: https://securelist.com/77623/financial-cyberthreats-in-2016/.
[18] Kaspersky Lab, "IT Threat Evolution Q1 2017. Statistics."
[19] *Ibid.*
[20] Kaspersky Lab, "Mobile Malware Evolution 2016."
[21] DeCastro and Fearnley, "Proactive Fraud Prevention Key in Developing and Expanding Next-Generation Mobile Banking," IDC Financial Insights, August 2016.

Intuit Statement for the Record
Before the
Subcommittee on Digital Commerce and Consumer Protection of
the Energy and Commerce Committee within the
US House of Representatives
"Disruptor Series: Improving Consumers' Financial Options with Fintech"

Thursday, June 8, 2017

On behalf of Intuit, we respectfully submit this statement for the record for your June 8th hearing, "Disruptor Series: Improving Consumer's Financial Options with Fintech." I am Bernard F. McKay, Chief Public Policy Officer and Senior Vice President, Corporate Affairs department for Intuit.

Fintech, while a widely used term these days, refers to technology that enables financial services options for individuals and businesses. While it may seem like a new term, it is what Intuit has been doing for over 30 years - using technology to simplify financial management for consumers, small businesses and the self-employed. Intuit creates products and services with one mission in mind: to power prosperity around the globe.

Over 30 years ago, our founder, Scott Cook, sat at his kitchen table watching his wife struggle to balance the family checkbook. This inspired him to create Quicken. Today, we are one of the nation's leading providers of tax and financial management solutions for consumers, small businesses and the self-employed.

We have always believed that with our success comes the responsibility to give back. Part of delivering on our mission is serving as an advocate and resource for economic empowerment for lower income individuals and entrepreneurs. We have a track record of more than a decade of philanthropy that enables eligible lower income, disadvantaged and underserved individuals and small businesses to benefit from our tools and resources for free.

Through it all, we remain committed to creating new and easier ways for consumers and small businesses to tackle life's financial chores with the help of technology. We simplify financial management for our customers and help them make and save money, comply with laws and regulations, and give them more time to live their lives and grow their businesses.

Our flagship products and services, including QuickBooks, Mint and TurboTax, simplify small business management, payment and payroll processing, personal finance, and tax preparation and filing. We also serve half of the accounting firms in the country, helping them be more productive with tax preparation software for themselves and their clients.

Through a customer-driven innovation process, Intuit identifies the financial needs and problems of individuals and small businesses and through technology, provides solutions for these problems. With all of these offerings, we help improve the lives of more than 42M consumers, small businesses and self-employed customers. Our customer research has shown that information is empowering, but it's not enough. Simply providing knowledge about credit card rates, bank loans or credit score does not necessarily motivate action. Rather, it is the real world milestones and experiences, such as the first job out of college, buying a home, starting a business, meeting payroll, or growing a family --- that encourage people to pay greater attention to their finances. To see the complete picture and make smarter choices about their money, people are increasingly turning to new simplified technology tools to pull their financial lives into one place and take action, even while on the go, in ways previously unheard of in the past.

For the purposes of this statement, we will focus on Mint, QuickBooks Self-Employed and QuickBooks Financing, and how these products improve one's financial options and provide consumers and entrepreneurs with the tools necessary to take charge of their finances.

Mint:

Mint, a free personal finance App, makes it easy for consumers to view all of their financial information in one place and get a better understanding of where their money is going. This is an indispensable tool that helps with life changes such as a new job, marriage, or a baby. We currently have millions of registered customers in the United States and Canada.

Mint provides the tools for easy and free money management. These tools include basic budgeting and goal setting with regular reminders to help people stay on track. Goal setting helps customers set and monitor progress towards their financial goals for life's major milestones, such saving for kids' college, one's first house, or retirement.

Mint is accessible online and via mobile to meet consumers' changing lifestyle needs, and provide consumers the benefit of Mint's unique suite of simplified tools, wherever life takes them. More than 80 percent of Mint customers access their financial information on mobile, often viewing reminders, checking account balances and reviewing transactions, like recent spending and deposits.

Mint also provides customers with access to a free credit score so they can evaluate spending trends and how their habits may be affecting their financial life. This information is helpful to understanding where their money is going and helps people make choices about their spending to better meet their short- and long-term financial goals.

Customers can use Mint to pay their bills by setting up payment reminders and allowing one-click payments. The addition of bill pay eliminates the need to toggle between a combination of online and paper-based systems, such as post-its, calendar reminders, spreadsheets and online banking to help people pay bills on time, avoiding late fees, as well as any increased interest payments and potentially negative credit reports.

Mint also does a lot of the work to provide customers with insights and potential options to help them save money. We provide information for individuals about such things as a lower cost credit card options, saving account options and more. These additional tools save our customers both time and money.

QuickBooks

One of our flagship products is QuickBooks. QuickBooks simplifies financial transactions and financial management for small businesses by tracking income and expenses, managing payments to vendors, accepting payments from customers, tracking inventories, and processing payroll. Intuit serves small businesses that range from family to micro businesses to individual independent workers. Over 75% of QuickBooks small business customers have ten (10) employees or less. Over the past few years, we developed two new products stemming from QuickBooks, QuickBooks Self-Employed and QuickBooks Financing, both of which were created in response to market demand for powerful financial tools and working capital, no matter the company's size.

QuickBooks Self-Employed

Intuit, in partnership with Emergent Research, will be releasing shortly a new report on the self-employed workforce. In "Dispatches from the New Economy", we surveyed self-employed workers on twelve on-demand platforms platforms (including Lyft, TaskRabbit and Upwork) to see what it was that was drawing more and more people to this segment of the jobforce. What we learned was astonishing. The number of people working in on-demand jobs grew from 3.2 million to 3.7 million from 2015 to 2016 - and, based on current workforce participation, we forecast that their numbers will more than double by 2020, to 7.7 million, and continue surging to 9.2 million in 2021.

We believe that the on-demand (or "gig") economy represents the new face of entrepreneurship, where ambitious, hard-working people have the freedom and flexibility to set their own schedules and work toward their own goals.

The self-employed, including on-demand economy workers, are ultimately a business of one, and they have a unique set of financial management needs:

- They often have co-mingled business and personal expenses and banking accounts.
- They get paid a gross amount and do not necessarily have the same visibility into their real income or what is safe to spend as an employee who receives a W2.
- They are often unclear about their quarterly and year-end tax obligations. They should pay taxes quarterly and most likely owe taxes versus getting a refund.
- Many self-employed workers, especially those in the on-demand economy, do not necessarily know that they are considered a small business in the eyes of the U.S. tax structure. Therefore, they may not know that they have to keep track of expenses and receipts in order to get critical tax deductions for the expenses they incur in operating their entrepreneurial businesses.

We created QuickBooks Self-Employed to solve these challenges. The less time people spend figuring out their expenses and taxes, the more compliant and accurate their business affairs will be and the more time they have to earn a living.

QuickBooks Self-Employed empowers the self-employed worker segment of the small business community by alleviating the business and financial uncertainties characteristic of this population. Customers log into the QuickBooks Self-Employed product and connect their online banking accounts so that the transactions that have occurred related to these accounts appear as a list on screen. Customers then categorize the income and expense transactions from the list as business or personal. They can also split an expense between the two categories. Separating their finances into two figurative piles creates clarity for customers around what is considered personal income versus business income, which then informs their quarterly tax payments. The product helps customers estimate their tax payment amounts and then pre-populates the necessary forms, making the tax compliance process simple. Ultimately, we know the product can help save the worker from the sticker-shock too often associated with receiving a 1099.

Additionally, as a customer categorizes their business expenses within the product, they are building the documentation required to complete their Schedule C for end-of-year deductions in order to appropriately reduce their tax burden. They can take this Schedule C to their tax preparer or enter it into tax software to use in filing their tax assessments.

QuickBooks Self-Employed is an online and mobile product, so that customers can access it anywhere, making it easier to stay on top of their financial situation.

QuickBooks Financing

In surveying our QuickBooks customers, we found that 60% of them were unable to obtain financing from traditional lenders. This is due, in large part, to underwriting standards that rely heavily on a borrower's personal credit score. Since business owners often have leveraged their personal or family assets to start or grow a business, their credit scores may not be a complete or accurate reflection of their risk profile and can be an impediment to a loan. In addition, most of our customers were seeking loan amounts between $20K-$30K, amounts often thought to be too small to be worth the underwriting and processing cost by traditional banks. Finally, we found that the application process and the time and effort it took borrowers to close a loan and get funded to often discourage some small business borrowers. To fill this need and help our customers succeed, we created QuickBooks Financing.

QuickBooks Financing helps our small business customers solve their financing needs by introducing them to a variety of traditional and non-traditional lenders. Our QuickBooks Financing platform uses QuickBooks data to help match small businesses with participating lenders. Through the platform, borrowers are able to compare terms and conditions and much of the application can be pre-populated at the borrower's request. The loans are made by independent, third party lenders that meet our guiding principles for required transparency, privacy, security, consumer protection, and overall cost of capital, including rates and fees.

Currently, there are a dozen lenders participating on our QuickBooks Financing platform. They include both traditional lenders and non-traditional lenders. The list also includes a SBA-approved lender. Participating lenders offer terms loans, SBA loans, lines of credit, and a small business credit card. At QuickBooks Financing, we undertake a thorough review of participating lenders before onboarding them to the platform. Specifically, we look into the background of the company itself (i.e., Better Business Bureau ratings, background checks on principal(s)...) and the types of products it finances. Upon further review, we identify which loan products we will permit on our platform and work closely with the participating lender to ensure permitted products include the proper notices and disclosures for the terms of the loan on our site. Because our goal is to ensure that our small business customers are aware of the type of financing they are obtaining and that there are no hidden fees, we establish the guiding principles as a requirement of the relationship from the beginning. We want our small business customers to understand exactly how much they will pay on both a monthly basis and over the life of the loan.

Additionally, QuickBooks Financing holds participating lenders to rigorous standards related to the amount of rates and fees that can be applied. This structure has created a competitive marketplace among participating lenders, with many lowering their rates in response to competition on the platform. Through our contracting process, we also require participating lenders to comply with the Federal and State regulatory requirements. We conduct a quarterly compliance check of these standards.

Over the past three years, we have helped QuickBooks customers obtain over $700 million in financing, and the loans made on our platform perform exceedingly well which tells us that overall, we are making good matches for our QuickBooks customers.

Safe access to data is critical to enabling small businesses to qualify for this new source of affordable financing. QuickBooks Financing customers utilize their QuickBooks Data to submit a loan application and receive a financing decision in a short period of time.

QuickBooks Financing uses criteria established by the participating lender to give a borrower a clear understanding of the range of financing options available to them, often ensuring even more transparency on the terms of the financing for the small business. QuickBooks customers also have the ability to share their QuickBooks data with participating lenders to provide lenders with another level of information about the borrower as a small business owner. The historic practice of banks making their credit decision on the owner's personal credit score does not allow a small business owner the ability to highlight the health of the owner's actual business.

The small business owner chooses whether he/she wants to apply and complete a loan application, which QuickBooks Financing will fill out using QuickBooks data. Without this technology, it can take a small business owner an average of 33 hours to complete a loan application. Our use of technology and data-driven innovation slashes the time and complexity of the financing process - allowing the small business to focus their time on what is most important- running their business.

Based on our experience over the past three years, we anticipate many new positive opportunities for these data-based processes relative to those used in traditional lending in the future. The lender on the platform could receive a more complete understanding of the small business – not just the business owner's personal credit score or his/her assets or liabilities. With the consent of a small business owner, we envision a time in the future in which a participating lender can see how many employees the business hired in a given month, what orders they have received, and what they have in inventory. All of this data could give the participating lenders a better idea of the creditworthiness of the business (rather than the individual).

Still, we know we can do more for these small businesses. Over the past 6 months, we began a direct lending pilot - currently available in a handful of states - and slowly expanding to a number of others. We realized that there were still many small businesses that still were underserved and that had a need for a seamless product - something from start to finish - where our customers could, with their permission, evaluate their small business data and directly apply for a simple term loan at an affordable price, with affordable rates with QuickBooks Financing directly.

CONCLUSION

Thank you for the opportunity to provide these comments. As you can see in these three product examples, Intuit is committed to improving financial lives and providing consumers, small businesses, and the self-employed with the tools necessary for evaluating their financial options. The financial options we are providing are tools that these individuals and small businesses did not have access to otherwise - and tools that enabled them to take control their financial lives.

We look forward to working with the Committee as they continue to examine how technology can enable an individual's and a small business's financial life. If you have any questions or require clarification, you can contact me at Bernie_McKay@intuit.com at 202-484-5327.