CASHED OUT: HOW A CASHLESS ECONOMY IMPACTS DISADVANTAGED COMMUNITIES AND PEOPLES

VIRTUAL HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

OF THE

COMMITTEE ON FINANCIAL SERVICES

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CONTENTS

CASHED OUT: HOW A CASHLESS ECONOMY IMPACTS DISADVANTAGED COMMUNITIES AND PEOPLES

Thursday, October 14, 2021

U.S. House of Representatives,
Subcommittee on Oversight
and Investigations,
Committee on Financial Services,
Washington, D.C.

The subcommittee met, pursuant to notice, at 12:04 p.m., via Webex, Hon. Al Green [chairman of the subcommittee] presiding.

Members present: Representatives Green, Cleaver, Adams, Tlaib, Garcia of Texas, Williams of Georgia; Emmer, Mooney, Kustoff, and Timmons.

Ex officio present: Representative Waters.

Chairman Green. The Oversight and Investigations Subcommittee will come to order.

Without objection, the Chair is authorized to declare a recess of the subcommittee at any time. Also, without objection, members of the full Financial Services Committee who are not members of this subcommittee are authorized to participate in today's hearing.

As a reminder, I ask all Members to keep themselves muted when they are not being recognized by the Chair, to minimize disturbances while Members are asking questions of our witnesses. The staff has been instructed not to mute Members, except when a Member is not being recognized by the Chair and there is inadvertent background noise.

Members are reminded that all House rules relating to order and decorum apply to this remote hearing. Members are also reminded that they may participate in only one remote proceeding at a time. If you are participating today, please keep your camera on, and if you choose to attend a different remote proceeding, please turn your camera off.

If Members wish to be recognized during the hearing, please identify yourself by name to facilitate recognition by the Chair.

Members are reminded that your questioning is limited to 5 minutes. You should be able to see a timer on your screen that will indicate how much time you have left, and a chime will sound at the end of your time.

The title of today's hearing is, "Cashed Out: How a Cashless Economy Impacts Disadvantaged Communities and Peoples."

I now recognize myself for 5 minutes, make that 4 minutes, to give an opening statement.

Few things are more fundamental to the sustenance of life than the very simple act of buying a bag of groceries. Yet in recent years, the emergence of so-called cashless businesses, a trend accelerated by the pandemic, has caused me to ask just how simple that act really is if a merchant refuses to accept the U.S. dollar as payment. The inability to access food is but one example of how a cashless economy would adversely impact many, including persons who are unbanked, of low wealth, differently abled, homeless, or otherwise disadvantaged.

As today's expert witnesses will illuminate, cashless commerce hampers equal access to other essential goods, services, and transactions that many of us take for granted. Unequal access to full economic participation is not the only downside. There are serious privacy and security threats on cashless commerce for virtually all consumers, and very real consequences about which we will learn more today.

But against this dispiriting background, there is good news to be found. It is the overwhelming bipartisan agreement, if you will, by leaders in States, localities, and even here in Congress that a totally cashless economy should not become a reality. In purple, blue, and red States alike, policymakers agree that the U.S. dollar in its physical form must continue to be accepted as legal tender.

[inaudible] our witnesses today come from jurisdictions that have enacted cashless bans at the State and local levels. I look forward to hearing from each of them regarding the lessons learned from the frontline experiences that they have shared, and we hope that in so doing, we will get a better understanding of what a cashless economy can do to persons who are not as fortunate as some of us.

In closing, I thank Subcommittee Member Sylvia Garcia for her leadership on the Payment Choice Act of 2021. I am honored to join many of my colleagues on both sides of the aisle as a co-sponsor of the bill and its proposed solution to many of the ills about which we will learn more today.

The Chair now recognizes the ranking member of the subcommittee, Mr. Emmer, for 5 minutes for an opening statement.

Mr. EMMER. Thank you, Chairman Green. Thank you for hosting this thoughtful hearing as we consider the implications of a cashless economy and how those implications affect certain communities and small businesses, and how they do so in an open and free society.

In a world without cash, transactions are mediated by financial institutions. Of course, this intermediation provides efficiency and convenience, but I must stress that cash is a tool that was used even by ancient civilizations to specifically avoid intermediation and preserve values of individual liberty and privacy.

Cash is essential to an open and free society—4.7 percent of the U.S. adult population is unbanked, meaning they don't have credit, they don't have a credit card or a debit card, and a larger population is underbanked. The FDIC found that one of the primary reasons people are underbanked or unbanked is because they do not trust their institutions. While electronic transactions have exponentially increased during the pandemic, Americans are also storing physical cash on their selves at a higher rate than previous years.

This is all to say that cash is clearly an important tool in any open and free society, but we are also in a digital age where electronic transactions often just make more sense.

With that being said, government should never be in the business of telling people and businesses, large or small, what forms of payment they should accept. Sometimes, holding cash can put the business and its employees in danger or it can be more expensive. My office has received feedback from small businesses across the country that, for the most part, prefer not to hold cash and would oppose any Federal law requiring them to accept cash as a payment.

So, how do we adapt to the digital economy while maintaining the privacy elements of cash? Decentralized technology like cryptocurrency and stablecoins can offer this solution. Because these tools run on distributed ledger technology, they are open, permissionless, and private. This allows citizens to continue to live in an open society while that society becomes more and more digitized.

I implore my colleagues to look to financial technology as a solution. Financial technology is a solution to extending financial services to the unbanked and the underbanked. It is a solution to adapting to an increasingly digital society while maintaining individual liberty and autonomy. And it is also a solution that not only offers more affordability to consumers, but keeps consumers, small businesses, and employees safe.

Mr. Chairman, again, I appreciate the opportunity to engage in the discussion today, and I look forward to our witnesses' testimonies. Thank you, and I yield back the remainder of my time.

Chairman GREEN. The gentleman yields back.

The Chair now recognizes the Vice Chair of the subcommittee, the gentlewoman from Georgia, Ms. Williams, for 1 minute.

Ms. WILLIAMS OF GEORGIA. Thank you, Mr. Chairman.

Today's topic is personal for me. I am a Congresswoman who has been unbanked, and I have been that person trying to make it to payday. I have been that person who needed a couple hundred bucks but couldn't get access to lending. I have been that person who has had to rely on cash to get by.

Too many of my constituents remain unbanked or underbanked, and this is an equity issue. In 2019, for instance, the FDIC reported that 13.8 percent of Black individuals were unbanked, compared to only 2.5 percent of White individuals. We have to do all that we can to help those most marginalized get access to responsible financial services. We have a lot of work to do on this issue, but meanwhile, we can't take a step backward by cutting off the only option that some people have: cash.

Today, I look forward to discussing how we can preserve financial inclusion as the digital economy expands. Our constituents are counting on us to get this right, and I am determined to hold the door open for more people like me to make it from a place of financial hardship to a place like Congress.

Mr. Chairman, I yield back.

Chairman GREEN. The gentlelady yields back.

Please allow me now to welcome each of our witnesses, and I am pleased to introduce this panel.

We have with us today: John Breyault, the vice president of public policy, telecommunications, and fraud at the National Consumers League; Norma Garcia, a policy counsel and director at the Mission Economic Development Agency in San Francisco; Beverly Brown Ruggia, a financial justice program director at New Jersey Citizen Action; Representative Alex Valdez, a member of the Colorado House of Representatives; and Todd Zywicki, a professor of law at George Mason University Antonin Scalia School of Law, and a senior fellow at the Cato Institute.

Our witnesses are reminded that your oral testimony will be limited to 5 minutes. You should be able to see the timer on your screen that will indicate how much time you have left, and a chime will go off at the end of your time. I would ask that you be mindful of the timer, and quickly wrap up your testimony if you hear a chime, so that we may be respectful of both the witnesses' and the subcommittee members' time.

And without objection, your written statements will be made a part of the record.

Once the witnesses finish their statements, each Member will have 5 minutes to ask questions. I do want to remind the Members that you should ask your questions and receive your answers within this 5-minute period to be respectful of the time of others. So, please ask questions and receive answers within the 5-minute period to the extent that you can.

Mr. Breyault, you are now recognized for 5 minutes to give an oral presentation of your testimony.

STATEMENT OF JOHN BREYAULT, VICE PRESIDENT, PUBLIC POLICY, TELECOMMUNICATIONS, AND FRAUD, NATIONAL CONSUMERS LEAGUE (NCL)

Mr. BREYAULT. Good afternoon, Mr. Chairman, Mr. Ranking Member, and members of the subcommittee. My name is John Breyault, and I am the vice president of public policy, telecommunications, and fraud for the National Consumers League (NCL).

Founded in 1899, NCL is the nation's pioneering consumer and worker advocacy organization. Our nonprofit mission is to advocate on behalf of consumers and workers in the United States and abroad. I appreciate the opportunity to provide the subcommittee with NCL's perspective on the growing use of peer-to-peer (P2P) payment apps and the need for stronger consumer protections from fraud and erroneous payments for users of these services.

As you will hear from my fellow witnesses, a cashless economy is one where far too many consumers, particularly those with low incomes, and especially those who come from historically marginalized communities, are likely to be left behind. To be clear, a cashless economy is one that comes with real costs for these vulnerable consumers, such as fewer retail choices, higher prices for everyday goods and services, more surveillance, and less access to the banking system.

Emblematic of the impact of a cashless economy on vulnerable consumers is the explosive growth of peer-to-peer, or P2P, payment apps, like PayPal's Venmo, Square's cash, and the banks' Zelle service. By one estimate, roughly 4 in 5, or 79 percent, of Americans have used mobile payment apps. By 2023, more than $1 trillion will likely be transacted via these platforms.

Unfortunately, the features that make P2P services appealing—low cost, nearly instantaneous payments all made via mobile app—are also key contributors to high fraud rates. In 2020, the FTC received nearly 62,000 complaints from consumers who sent money to fraudsters via payment apps or similar services, with a total reported loss of $87 million. These complaint statistics, sobering as they may be, are just the tip of the iceberg. Analysts estimate that fraud rates on these platforms are 3 to 4 times higher than for traditional payment methods, such as debit or credit cards.

P2P services are aware that scammers use their services to obtain funds from their victims, and while P2P services do employ technological measures and consumer education messaging to try and stop fraudulent transactions, there is a business incentive not to introduce too many security roadblocks in the payment process. If these platforms are making the decision to skew their services towards speed and convenience, at the expense of safety and security, they must take responsibility for those business choices.

While no financial service is immune from fraud, protections for consumers who lose money on P2P apps to scams or even simple errors are sorely lacking. A big reason for this is a loophole in the Electronic Fund Transfer Act (EFTA) that excludes payments initiated by the consumer from the protections of unauthorized charges. This is also known as fraud in the inducement or victim-assisted fraud. This allows P2P services and banks to avoid liability for payments sent from consumers to scammers, even when such payments are the result of fraud.

Similarly, when a consumer sends a payment in error, such as by entering the wrong email address into the app, the P2P platforms are not obligated to correct the error. Instead, they simply encourage the consumer to ask the unintended recipient to voluntarily send the money back. Unsurprisingly, this is no substitute for strong antifraud and error resolution protections.

The end result of this loophole is that the liability risk for fraud is transferred from the platforms and banks to consumers themselves. The only recourse for many victims of fraud or errors committed via these apps is to throw themselves on the mercy of the banks or platforms and beg to be made whole. Unfortunately, thanks to the lack of legal protections, it is far too easy for the banks and P2P platforms to simply tell fraud victims that they are out of luck.

This state of affairs is unacceptable for consumers. Billion-dollar banks and payment platforms are far more able to spread the costs of protecting consumers from errors and fraud across the system. By comparison, a single error or instance of fraud can be devastating to an individual consumer.

To ensure the P2P apps are secure for their users and do not continue to be powerful tools for fraudsters, action by Congress is urgently needed. My written testimony includes a number of legislative actions to strengthen protections for consumers using P2P apps.

In particular, I would like to urge Congress to pass legislation that expands the EFTA's definition of unauthorized electronic fund transfer to cover fraudulently induced payments, with ultimate liability resting with the institution that received the fraudulent payment. Doing so would give consumers confidence that they will be made whole if they are induced to send money to scammers via P2P services. It would also create a strong incentive for all stakeholders in the P2P payments ecosystem to make security a priority just as it is in the debit and credit card space.

Chairman Green, Ranking Member Emmer, on behalf of the National Consumers League, thank you for your continuing work to protect consumers and for holding this hearing. I look forward to answering your questions.

[The prepared statement of Mr. Breyault can be found on page 30 of the appendix.]

Chairman GREEN. Thank you, Mr. Breyault.

Ms. Garcia, you are now recognized for 5 minutes to give an oral presentation of your testimony.

STATEMENT OF NORMA GARCIA, POLICY COUNSEL AND DIRECTOR, MISSION ECONOMIC DEVELOPMENT AGENCY (MEDA)-SAN FRANCISCO

Ms. GARCIA. Thank you very much, Chairman Green, and members of the subcommittee. My name is Norma Garcia, and I am the policy counsel for the Mission Economic Development Agency in San Francisco, California.

Since 1973, the Mission Economic Development Agency has been advancing the mission towards creating equity for Latinos and immigrants seeking a better life. We are a Latino-led nonprofit organization that invests in the lives of our underserved Latino families through direct services, community development initiatives, and policy advocacy.

You have asked me to focus my testimony on a few questions, and I will get to those now. You have asked for policy recommendations to protect consumers in marginalized communities from adverse implications of a cashless society, and I will say that because many of the community members we serve fall into several categories of vulnerability, as outlined in my written testimony, we do not support the idea of moving to a cashless economy. To do so would perpetuate a growing income inequality by making it harder for people who use cash and don't have access to credit and technology to effectuate a cashless payment.

We cannot exclude a portion of the population from the economy, quite a large portion of the population. That is not good for our communities, that is not good for our country, and we must remain vigilant in ensuring that our economy is inclusionary and accessible to everyone.

I do believe this committee is asking the right questions. You are asking us to consider the impact on the most vulnerable populations, and that is what we call essentially an equity impact analysis. It is kind of a corollary to an environmental impact analysis, and we think it is an essential piece of any policy proposal that is coming before us for consideration.

So, what is the impact on the most-vulnerable communities? We can tell you that in San Francisco, my organization serves a highly vulnerable population that does not share equally in the economic boom that is San Francisco and Silicon Valley. In fact, due to growing income inequality, San Francisco's Latino community lives in one of the nation's ground zeroes for displacement of Latinos from a community they have called home for generations.

We believe that a proper equity impact analysis demands that once it is determined that a particular policy will have a negative adverse impact, we need to decide that if it is not working, and it is going to adversely impact the most vulnerable, we should move on to other ideas. And, ideally, if there are other mitigating circumstances that are being considered in determining if there is a path forward, the communities that are most affected must be at the table.

We need to find new ways to coexist with existing practices, like electronic payment options, in addition to cash payments. It is one way to protect consumers in those communities that are marginalized from having outside adverse implications.

We are doing this in San Francisco. We passed an ordinance in 2019, and it is something that can serve as a model in other parts of the country. Essentially, we are talking about preserving cash as a payment option which can coexist with other payment options. We have identified the universe of businesses to which this applies. We have created reasonable parameters around any exceptions. We are educating businesses and community members about their rights and obligations, and we are creating effective mechanisms for monitoring and enforcing this new ordinance. This is super important, and we are happy to share this with you.

On the impacts of a cashless society, I think other witnesses have clearly said this in a very effective way: We know that those who suffer most in a cashless society are immigrant communities, senior citizens, unbanked and/or unhoused persons, and others who are likely to depend on cash. And I think that one constituency that has not been mentioned is young people who may not be able to get a bank account but need to be able to transact in cash.

I think I would like to move on, given that my time is running out.

There are some other considerations that need to be taken into account, and one that has not been mentioned is that noncash systems are not always inherently reliable. They require connectivity. Power outages occur with regularity here in California. We know that when the power goes out, merchants can't take electronic payments, and cash only is the way to pay. With mobile wallets, phones must be charged. Pay-by-the-minute accounts need to be topped off, which means that people need to have the resources to keep this going. And for low-income communities, this may be particularly burdensome.

The implications for small businesses, particularly minority-owned small businesses—I can tell you that in San Francisco's Mission District, the merchants that serve our community are used to dealing in cash because our community is used to dealing in cash. And so, these merchants know that if they want to have a successful business, they need to meet customers where they are, and they may well have incentives to deal in cash themselves as merchants to avoid any costs associated with electronic receipt of payments. They are able to keep prices lower that way. They are not passing those costs on to the consumer, and they are not in a position where they have to absorb the costs themselves.

Some businesses can—

Chairman GREEN. The gentlelady will have an opportunity to give additional comments. I am going to have to move on, but thank you for your testimony thus far.

Ms. GARCIA. Thank you. I appreciate the opportunity.

[The prepared statement of Ms. Garcia can be found on page 43 of the appendix.]

Chairman GREEN. Thank you.

Ms. Ruggia, you are now recognized for 5 minutes to give an oral presentation of your testimony.

STATEMENT OF BEVERLY BROWN RUGGIA, DIRECTOR, FINANCIAL JUSTICE PROGRAM, NEW JERSEY CITIZEN ACTION

Ms. RUGGIA. Thank you, Chairman Green and members of this subcommittee, for the opportunity to testify. My name is Beverly Brown Ruggia, and I am the financial justice director for New Jersey Citizen Action, a Statewide nonprofit organization which has been working since 1984 for social, racial, and economic justice through advocacy, organizing, and community empowerment programs for low- and moderate-income New Jerseyans.

I will be underscoring much of what has been said, and it is based on what we are experiencing in our State.

In 2019, New Jersey passed bipartisan legislation to protect consumers' choice to use cash as payment for most retail purchases. The legislature acted because denying cash as a form of payment for goods and services discriminates against people who cannot afford or are unable to obtain noncash payment options. Additionally, the practice potentially subjects consumers to unnecessary costs, violations of privacy, and to cybersecurity risks.

Cashless payment policies discriminate against communities of color and low-income customers disproportionately. As has been cited, the FDIC showed that 7.1 million Americans are unbanked or live in households where no one has a bank account. According to the study, almost 15 percent of African-American households and about 13 percent of Latino households are unbanked, compared with just 2 to 3 percent of White households.

Another 24 million households are underbanked, meaning that at least one household member has a bank account but does not generally use credit cards or other traditional bank credit products. Indigenous and working-age disabled households and households with volatile income are also among the unbanked and underbanked at high rates.

A 2018 Reveal news report demonstrated that redlining persists in this country and still denies millions of low- and moderate-income people, especially Black and Brown people, access to banking services and accounts. Even where possible, opening a bank account requires documents, which many low-income and elderly people do not have. People experiencing homelessness usually cannot provide utility bills or other proof of address needed to open a bank account.

Online banking services also require, as has been said, reliable and affordable internet access, which low- and fixed-income people often cannot afford, and people for whom English is not their first language are more likely to be unbanked than native English speakers.

But the main reason cited by 29 percent of the FDIC survey's respondents is not having enough money to maintain the minimum balances required to open and maintain a bank account. Cashless policies specifically penalize individuals and households who cannot afford a bank account, a credit card, and the consumer credit products needed to make noncash payments.

The alternatives to credit cards, such as prepaid cards or mobile devices, are costly. A study by the Financial Health Network found that in 2018, unbanked and underbanked households spent $180 billion in fees and interest on nonbank financial products.

Cashless payment policies can also pose practical barriers. One of Citizen Action's Board Co-Chairs is blind. She cannot use bank cards because the terminals are not accessible in design, lacking braille key pads and appropriate PIN security, for example. In other words, cashless policies exclude the most-vulnerable individuals and households among us who are not able or cannot afford to use anything but cash.

The second-most popular reason cited in the FDIC survey of unbanked households was a distrust of the banking system. Bank card payments are not as private as cash payments. Point of sale systems give businesses and large companies access to personal and financial information. Cashless payments also force customers to expose themselves to potential identity theft and other forms of cyber fraud.

So, it should be no surprise that another national study found that cash has been the preferred method for daily transactions among communities of color, whether they are banked or unbanked.

Technology in banking and finance must expand financial equity and inclusion by providing choices and options that make personal financial management easier, more efficient, and safer for all consumers. Technology must not limit choices and perpetuate systemic inequities in our financial system that exclude and discriminate.

Cashless payment policies amount to discriminatory retail redlining. Instead of a redline around a neighborhood, there are millions of redlines around individual customers shopping on Main Street every day which deny them access to goods and services despite having perfectly sufficient U.S. legal tender to spend.

Thank you.

[The prepared statement of Ms. Ruggia can be found on page 50 of the appendix.]

Chairman GREEN. Thank you for your testimony.

State Representative Valdez, you are now recognized for 5 minutes to give an oral presentation of your testimony.

STATEMENT OF STATE REPRESENTATIVE ALEX VALDEZ, MEMBER, COLORADO HOUSE OF REPRESENTATIVES

Mr. VALDEZ. Good morning, Mr. Chairman, and thank you, members of the subcommittee. My name is Alex Valdez, and I am a State Representative from Colorado's House District 5, which encompasses downtown Denver.

My district, like Denver's population, is heavily Latino. My district is 40-percent Latino, and Colorado's population as a whole is nearly 22-percent Latino. As a Latino Representative, the Chair of the Latino Caucus, and the Chair of the LGBTQ Caucus, as well as the Chair of the Energy and Environment Committee, I am more than familiar with how minority communities are affected by the policies we make on our everyday lives.

During Colorado's 2021 legislative session, I sponsored House bill 21–1048, "Concerning a Requirement that Retail Establishments Accept United States Currency for Purchases." House bill 21–1048 required retail establishments offering goods or services to accept U.S. currency as a form of payment for in-person transactions. Retail establishments that do not comply may be fined up to $250 per transaction.

Throughout the stakeholder process, some exceptions were established—certain instances that retail establishments need not comply if the transaction is for a security deposit being placed on a credit card or if the retail establishment is a bank or a credit union. This was important for rental cars, et cetera.

The catalyst for this bill came directly from the community. Marginalized communities within House District 5, and underbanked and underbanked Coloradoans in general were struggling to survive as the myth spread that COVID-19 spread on cash but not on credit or debit cards. Spread throughout the State, country, and the world, this war on cash is not a new concept, but one that we saw grow exponentially during the global health pandemic, adding even more strain to families having to navigate a tumultuous time. This attack on cash has long affected minority communities, creating inequalities in every facet of the economy.

In 2017, 4.2 percent of Coloradoans did not have any sort of bank account, and 17.3 percent of Coloradoans were underbanked, which resulted in many having to use cash for everyday necessities. According to a 2017 Federal Deposit Insurance Corporation report, it was estimated that 25 percent of all American households are either underbanked or underserved. This is roughly 32 million households without a bank account or access to traditional banking systems, including debit and credit cards.

To deny so many people their sole method of purchasing power is wrong, especially when a third of low-income qualifying individuals and 17 percent of Latinos countrywide use cash for all purchases. Cash usage is still prevalent and important throughout our society. There are large swaths of Coloradoans who still prefer to use cash.

When crafting this bill, I spoke with a variety of folks about how this would impact them. Some were not able to buy their groceries at a local store and were forced to travel long distances to find establishments that accepted cash. Others had undocumented relatives who faced yet another barrier when denied cash purchases. On one occasion, I even attempted to pay with cash after having dinner with a friend and was told by the restaurant that they did not accept cash. I was lucky, I had a credit card I could use to pay, but those who don't are no less deserving of having a meal, buying groceries, or purchasing goods. In situations such as this, no person should be made to feel embarrassed, rejected, or judged based on their purchasing method.

The policy solution to address this crisis is laid out in the sponsored bill. Putting an end to the ban on cash supports all members of our society, especially people of color, the elderly, undocumented folks, and the unhoused. As our economy continues to navigate and recover from the COVID-19 pandemic, it is critical to ensure that every person can fully participate in our economy. Cashless systems prevent this, sifting economic recovery and hindering healthy communities.

Banning one of the simplest ways to pay—cash—is inequitable. Those who don't have a credit or debit card or a bank account should not be excluded. The millions of Americans who are underbanked have the right to participate in our economy to meet their basic needs.

Our currency states that it is good for all debts, public and private, and it is my hope that you will advance legislation making that statement a reality.

Thank you very much for your time today. I am excited to answer any questions the subcommittee may have.

[The prepared statement of Mr. Valdez can be found on page 53 of the appendix.]

Chairman GREEN. Thank you very much.

We will now hear from Professor Zywicki. You are recognized for 5 minutes to give an oral presentation of your testimony.

STATEMENT OF TODD ZYWICKI, SENIOR FELLOW, CENTER FOR MONETARY AND FINANCIAL ALTERNATIVES, CATO INSTITUTE; AND FOUNDATION PROFESSOR OF LAW, GEORGE MASON UNIVERSITY ANTONIN SCALIA SCHOOL OF LAW

Mr. ZYWICKI. Thank you, Chairman Green, Ranking Member Emmer, and members of the subcommittee. My name is Todd Zywicki, and I am the George Mason University Foundation Professor of Law at the Antonin Scalia Law School, and a senior fellow of the Cato Institute. And during the 2020 year, I served as the Chair of the Consumer Financial Protection Bureau's (CFPB's) Task Force on Consumer Financial Law, which gave me a unique perspective on these issues, a unique perspective on consumer finance and financial protection, during a time of unprecedented challenges and unprecedented acceleration of these trends that we have seen with respect to the migration towards electronic payments over the last several years.

Let me make clear at the outset that I am neither in favor of banning cash, nor am I in favor of requiring cash. I am sensitive to the issues here. I am very sensitive to the issues of financial inclusion, and the centerpiece of our CFPB task force report was how to increase financial inclusion so that nobody is left behind, and as we see this transition toward a more cashless society, to make sure nobody is left behind here also.

But I am also aware of the advantages to consumers, to businesses, and to the economy from the developments that we have seen, and the developments that we saw this past year. It has been said that 6 months of time was telescoped into maybe 3 years of accelerated transition during the past year during the pandemic with respect to electronic payments. But I think that this, like many other things—dealing with this is presumptively left to the market and to voluntary choices of consumers and businesses, unless there is compelling evidence to the contrary.

We saw a similar transition during my own lifetime with the virtual elimination of checks, which were a very popular and ubiquitous and maybe the most important payment system for most people. And during our lifetime, we saw the phasing out of checks simply because of the cost of checks and the preferred convenience and cost of electronic payments.

Let's make a couple of things clear at the outset, which is, first, I think that these trends we have seen during the past year are inevitable. They are going to continue, and I think, over time, we are going to continue to see a decline in the use of cash and an increase in the use of electronic payments. Generational change is supporting this, new entrance by businesses are supporting this, especially because a lot of the cost of accepting cash are fixed costs the legacy businesses have in terms of installing vaults, security systems, cash registers and the like.

But at the same time, we also know that a lot of consumers are going to continue to want to use cash. A lot of businesses are going to continue to want to accept cash, especially larger legacy businesses who have made these investments. So I think at this point, there is no reason to intervene to either compel use of cash or to prohibit it.

And I think the reason for these trends are clear. There are benefits to businesses, which quite clearly will trickle through to consumers. I detail these in my testimony, but the first is simply, it can be less expensive. The primary cost of cash, in addition to the capital start-up costs that I mentioned, are labor costs. As labor costs go up, cash is very labor-intensive. And as labor becomes more expensive, and we know we are in an economy right now with labor shortages, that increases the relative cost of handling cash. Payments are becoming faster and more convenient.

Also, to state an obvious observation, cash is less hygienic, especially for food in food establishments, and that is why a lot of places banned or chose not to take cash at sandwich shops and the like.

There are also benefits to consumers in terms of crime concerns and the like, and there are benefits to society in terms of reduced crime and tax evasion. And small businesses and new entrants can probably benefit the most.

We should also recognize that there are benefits to even unbanked consumers, excluded consumers, from trying to increase access to electronic payments. Cash is not free. We have a lot of check cashers. They charge a lot. They have concerns about crime. Cash can be inconvenient. It can be difficult to obtain cash. You can have trouble—it is difficult to make online purchases and the like.

And so my view is that rather than propping up cash, it would be better to look at what it is—the factors that are excluding consumers and promote greater competition and innovation to open and expand electronic payments to other consumers. I list several in my testimony.

I think we should have broader credit union chartering to serve underserved communities. I think we need more industrial loan company chartering. I think fintech can help solve this problem. I think better competition and portability in bank accounts can do this. And I also think that a faster payment system that would allow checks to clear faster will help consumers very much as well, who rely on check cashers and the like.

Thank you for your time, and I look forward to answering your questions.

[The prepared statement of Mr. Zywicki can be found on page 56 of the appendix.]

Chairman GREEN. Thank you, Professor.

It is now my honor to recognize the Chair of the full Financial Services Committee, the gentlewoman from California, Chairwoman Waters, for 5 minutes of questions.

Madam Chairwoman, you are now recognized.

Chairwoman WATERS. Thank you so very much, and I certainly appreciate this hearing. This is very important.

Millions of Americans still use cash as their primary method of payment, including disproportionately communities of colors, unhoused persons, the underbanked and unbanked, elderly persons, and immigrants without documentation, among others. Many businesses such as tech companies, restaurants, and stores are moving towards going cashless, and in some communities, such as communities with low-income or migrant populations, many stores are cash-only.

Do you see the potential for economic segregation here where some consumers are economically shut out of making purchases in certain communities, possibly even where they live or work?

Now, let me just segue a bit and say something. I am very much in support of innovation and looking toward the future and how we can expedite, how we can use the electronic opportunities that are available to us. However, let's talk about what is happening in the real world.

I just referred to the underbanked and the unbanked. Let me tell you about the millions of people who work every day in different ways, some of whom are still cashing checks at these check-cashing places. That costs them money, but they don't have bank accounts. They are underbanked, or they are not banked at all.

But in addition to that, do you know that there is an underground economy where we have so-called handymen—I would like to think of as handymen and handywomen—who are taking care of communities all across this country? They are doing odd jobs. They are painting. They are taking care of lawns, et cetera, et cetera. And they want cash. They want to be paid in cash. And I and a lot of other people do that. We pay them in cash. These are people who are taking care of their families. These are people who have children. These are people who depend on the cash that they make on a daily basis in order to have a decent quality of life.

I do not want to be in a position where we all move so heavily against cash as a form of payment. As a matter of fact, of course, I have credit cards and, of course, I use the database systems in order to pay bills, et cetera, et cetera; but I still resent the fact that people can't get a hotel room if they don't have a credit card because hotels don't take cash.

Having said that, Mr. Breyault, what do you say about those people whom I am referring to, who are unbanked or underbanked, and how cash systems are the only thing they know and the only thing they use? Are we to forget about them?

Mr. BREYAULT. Chairwoman Waters, no, not at all. And I couldn't agree more with your statements. The need for cash to be a viable payment method for consumers is one that remains with us and will continue to remain with us for many years. Unfortunately, as you mentioned, more and more establishments are choosing to only accept digital payments. That has real costs in terms of access to the marketplace for low-income consumers, who often come from marginalized communities, and it has real costs in terms of greater surveillance.

When you pay with a digital payment, you necessarily have to give your data to the bank, maybe two banks, the merchant, maybe even a payment processor, and that data is shared with advertisers, data brokers, and others who build often discriminatory profiles on millions of consumers. Cash is an anonymous way for millions of consumers to pay, and I think that they should continue to have that right.

Chairwoman WATERS. Thank you so very much.

And I am going to yield back so that you can move on. I know you have other Members who have a lot of questions. Thank you very much. And I yield back the balance of my time.

Chairman GREEN. The gentlelady yields back.

The Chair now recognizes the ranking member of the subcommittee, Mr. Emmer, for 5 minutes of questions.

Mr. EMMER. Thank you, Chairman Green. And, again, thank you to our witnesses for your time and your perspectives today as we examine the implications of a cashless economy.

While some cities and some States have enacted laws that require businesses to accept cash, there are also businesses that have experimented with a cashless model. There is no one-size-fits-all solution to payment options, of course, and cash is certainly essential to democracy in an open and free society.

That said, Professor Zywicki, I want to dive into the reasons a business might not want to accept cash. And I will ask several questions. I would appreciate as quick a response as you can give to each.

First, retailers have to pay employees to account for cash in the register and at the back of the store, count the drawer nightly, package it up, and either hire a courier or send an employee to transport it to the bank, and then they have to pay fees for processing and handling.

Did I leave anything out, Professor?

Mr. ZYWICKI. I think that pretty much covers all of it. It is a very labor-intensive way to do things.

Mr. EMMER. And there is also some risk that is associated with handling all that cash. The business can be exposed to theft and the employees can be exposed to danger in the form of robberies.

Professor Zywicki, are there costs associated with these types of risks?

Mr. ZYWICKI. Absolutely, Mr. Emmer. There are security costs. There are the costs of hiring armored cars. There are the costs of installing vaults and safes. And as you said, there is the cost of—there is the risk to employees who work on the front lines who have a lot of cash on hand.

Mr. EMMER. So, Professor, is it fair to say that a Federal requirement to accept cash is effectively a tax on any business that might otherwise prefer to go cashless?

Mr. ZYWICKI. Absolutely, yes.

Mr. EMMER. Businesses that stop accepting cash might boost their bottom line by reducing overhead costs, saving time, and creating some operational efficiencies, no doubt. But, Professor Zywicki, do you agree that for some small businesses that may be struggling during the ongoing pandemic, those savings might actually be the difference between staying open versus going out of business?

Mr. ZYWICKI. I think that is exactly right. And I think one of the points here is that legacy businesses have already incurred a lot of these costs: surveillance, security systems, safes, all these sorts of things. For new businesses, however, they are completely unnecessary, in many cases, for a lot of these businesses, and so it is just a cost that is a tax imposed on them by incumbents that blocks small businesses, blocks new entrants of new businesses and so could really make the difference for many of these businesses.

Mr. EMMER. Thank you. I appreciate your perspective.

Technology and payments innovation provides more convenience and affordability for the consumer certainly. The privacy implications of a cashless economy, however, cannot be emphasized enough, as far as I am concerned. So as we grapple with preserving privacy and transitioning to a digital economy, I believe we must look to technology solutions in payments that preserve the privacy elements of cash. And, again, I said it at the beginning of this hearing, and I will say it again, stablecoins and decentralized technology innovations are the first things that come to my mind as these are solutions that are actually open, permissionless, and private.

Thank you again, Mr. Chairman, and to all of the witnesses, for your time. I yield back the remainder of my time.

Chairman GREEN. The gentleman yields back.

The Chair now recognizes the gentleman from Missouri, Mr. Cleaver, who is also the Chair of our Housing, Community Development, and Insurance Subcommittee, for 5 minutes.

Mr. Cleaver, you may be muted.

I don't see Mr. Cleaver, so we will move on to—

Mr. CLEAVER. I am back.

Chairman GREEN. Okay. Mr. Cleaver, you are now recognized for 5 minutes.

Mr. CLEAVER. Okay. Sorry, Mr. Chairman, I was having some technical difficulty.

Let me, first of all, say that I am not some kind of, "Cro-Magnon" Member of Congress. And in 1970, Tyrone Davis said, "I would like to turn back the hands of time." I am not a Tyrone Davis either. However, I am very concerned about a lot of the issues surrounding cryptocurrency.

Let me start by just saying that I am concerned about security. We don't have a chance, Professor, right now, at least our panel doesn't—we don't have the know-how to trace bitcoin. We started using this invisible currency, and we still are trying to figure out how to trace bitcoin. Is that something we should continue to allow in the marketplace in terms of monetary policy?

Mr. ZYWICKI. Is that for me?

Mr. CLEAVER. Yes, sir.

Mr. ZYWICKI. I think that is a great question. And the issue that I think is raised by that is the issue of privacy, and I think one of the things we deal with in this area is that privacy is a double-edged sword. The privacy of cash is a double-edged sword in the sense that we know that widespread use of cash facilitates tax evasion, the shadow economy, and the like, while at the same time, it preserves legitimate privacy. And I think that is the same questions that are raised by bitcoin.

I think it is going to be a long time before bitcoin is widely used, and cryptocurrency, and I think one of the reasons is kind of dealing with this tradeoff of the good and the bad that is associated with privacy with these payment mechanisms.

Mr. CLEAVER. Yes, thank you.

Somebody else may want to chime in, some of the other witnesses. Because it is being traced after the exchange, is the problem. Would any of the other witnesses like to respond to this?

Go ahead?

Mr. BREYAULT. Congressman Cleaver, thank you very much for the question. Certainly, in my written statement, I talked about the lack of regulations on things like digital payment apps, like Zelle or Venmo. When we talk about cryptocurrencies in terms of consumer protections, it is basically a Wild West. Consumers really have no protections in place when, for example, someone hacks their Coinbase account and steals all of their bitcoins. We constantly hear stories of this happening. So, I think that it is a space where there needs to be much stronger consumer protection regulation.

But to Mr. Zywicki's point about the anonymity of cryptocurrency, I would just have to add that an important distinction to make between cryptocurrency and cash is that cash is backed by the full faith and credit of the United States Government. It is heavily regulated in its production, and the U.S. Bureau of Engraving and Printing creates it. Cryptocurrencies are only based on the faith of the people who create them and who have them in their wallets. So, I hesitate to sort of compare apples to apples—to think you are comparing apples to apples when you are talking about cash versus cryptocurrency.

Mr. CLEAVER. Let me stay with you on that. So, creating this cashless economy—and I really try not to hang back in time, but it is chilling to think that somebody's hard-earned money could be wiped out. Do you believe that we should perhaps hold up on things like bitcoin until we figure out how we can at least trace the exchange? Because right now, people can get wiped out and there is no recourse, because they can't even—I don't even think the FBI right now possesses the technology to figure out where the money went.

Mr. BREYAULT. Congressman, I certainly think that greater scrutiny of bitcoin and other cryptocurrencies is needed. I know the FCC and various regulatory bodies and the Executive Branch are currently looking at that. But in terms of whether the spread of these cryptocurrencies can be held up, as you put it, I think the cat is out of the bag. I think it is very easy to create new cryptocurrencies by anybody in the United States or abroad, and I think we need to look at regulating them to make sure that they are as safe as possible rather than trying to prevent their use altogether.

Mr. CLEAVER. Yes, that was going to be my next question. Isn't it time for Congress to start thinking about regulations? We can't just sit back and watch this take place without doing anything, understanding that the poorest people in the country are going to be the prime targets for the unscrupulous.

Chairman GREEN. The gentleman's time has expired.

Mr. CLEAVER. Thank you, Mr. Chairman.

Chairman GREEN. The Chair will now recognize Mr. Kustoff for 5 minutes.

Mr. KUSTOFF. Thank you, Mr. Chairman. And thank you to the witnesses for appearing this afternoon.

I was looking at a study from the Federal Reserve entitled, "Findings from the Diary of Consumer Payment Choice," which found that in the year 2020, last year, cash payments decreased by roughly 7 percent. Credit card share payments increased from 24 percent in 2019 to 27 percent last year. That is the percentage of the payments. Square, which I think we all know is a digital payment system, also found that the number of cashless transactions last year increased significantly.

Professor Zywicki, can you project, if Congress did nothing, and if regulators did nothing, in 5 years, what do you think the makeup of payment types will be, and roughly what will the percentages be, if that makes any sense?

Mr. ZYWICKI. Yes, it does. I think that these trends are clear. Obviously, we had an acceleration last year, both because a lot of places just started doing remote ordering, online ordering, for example, restaurants that did sort of curbside pickup, that sort of thing. And so what we saw were a lot—we also found it more difficult to get cash. I think people were reluctant to go to the ATM or the bank or whatever because it was difficult, and so we saw, while people were spending cash less, they were hoarding cash more during this same time.

My guess is we will probably revert to the long-term trend going forward, but maybe a little bit more. A lot of people have made the transition now. A lot of people who didn't do online banking, for example, now have done online banking. People who were unused to paying with electronic payments have done it. And there is a huge generational change going on where younger people really—some use cash, but a lot don't. So, I would say we can look forward to 5 or 6 percent growth a year in these electronic payments and a dwindling share of cash as well.

Mr. KUSTOFF. Professor, you used an interesting term a moment ago, "generational," which I think all of us are focused on. We have talked about urban districts. I have a rural district which is slower to change.

Mr. ZYWICKI. That is right.

Mr. KUSTOFF. Can you inject, "generational," and apply it to districts that are more urban or more rural, that are slower to change or may not have the resources to change? Does, "generational," make a difference in those types of areas?

Mr. ZYWICKI. Absolutely. And we documented this in our CFPB Task Force report. There are quite clearly things going on with generations, which is that the Gen X generation, for example—Gen Z, I'm sorry, are the first generation that does more mobile banking than online banking. And you have to go all the way back to, essentially, the baby boomers to still find a generation where people do much in-person banking. It had shifted online.

But you are right, there are very important issues involving rural populations that I think are understudied. And we called for more research in the CFPB Task Force report. I mentioned it here, that rural populations face unique challenges with respect to access to the internet, high-speed internet service, mobile payments, and that sort of thing.

And so, I think that it is worth exploring in greater detail what the unique challenges are of your rural populations in order to promote financial inclusion and access to electronic payments.

Mr. KUSTOFF. Thank you, Professor.

Mr. Breyault, if I could go backwards for a moment and ask you generally the same question that I just asked the professor, 5 years from now, if Congress doesn't take any action, regulators don't take action, can you forecast what you think the percentage, roughly, for the various payment methods would be, digital versus cash?

Mr. BREYAULT. I'm sorry, Congressman. Are you directing that to me?

Mr. KUSTOFF. Yes, sir.

Mr. BREYAULT. I don't have any reason to dispute Mr. Zywicki's numbers, in terms of the trend lines. However, I would say that if those trend lines hold, there will be millions of consumers who depend on cash, who will find it harder to continue to do so.

Now, I think that there are real societal harms that occur if that continues without adequate safeguards being put in place. And I think that Congress has a role to play in making sure that the seniors, the immigrants, the low-income consumers, the handymen and handywomen that Chairwoman Waters talked about, are not left behind.

I would also point out that the access to the infrastructure, the banks, has been dwindling. Between 2014 and 2018, 1,900 more banks were shut down in low-income areas than were opened. And I think that is emblematic of the financial industry's embrace of a cashless economy that, unfortunately, does tend to harm consumers in low-income areas.

Mr. KUSTOFF. Thank you. My time has expired, I yield back.

Chairman GREEN. The gentleman yields back.

The Chair now recognizes the gentlewoman from North Carolina, Ms. Adams, for 5 minutes.

Ms. ADAMS. Thank you, Chairman Green, Ranking Member Emmer, and Chairwoman Waters, for holding the hearing today, and thank you to our witnesses for your testimony.

This question is for Ms. Garcia and Ms. Ruggia. Since joining Congress in 2014, addressing food insecurity/hunger has been one of my top priorities. It is heartbreaking to me that over 177,000 of my neighbors in North Carolina's 12th District are food insecure, and it is even worse that nationwide, over 42 million Americans are struggling with food insecurity.

So my question is, what would a cashless economy in your city or State mean for access to food and growing food deserts?

Ms. GARCIA. Thank you very much for that question. And I think you have highlighted a very important issue. When we are talking about cashless economies and their impact on communities, the idea that one cannot use cash, legal tender, to purchase food for themselves or their families is absolutely devastating.

And when we are talking about creating greater access to the necessities of life, we have to leave open the avenues for people to be able to do that with what they have. And if what they have in their pocket is cash, then that should be the method by which they should be able to access what they need.

What is really interesting is that we are talking about people who want to pay for what they need. They are not asking for it for free. And to not be able to use your money is a form of economic exclusion, and, as Chairwoman Waters said, it is economic discrimination and segregation. Thank you.

Ms. ADAMS. Right. Okay. Ms. Ruggia?

Ms. RUGGIA. Yes. I would say that, by definition of food desert, where people lack access to healthy foods, by definition, it means they have limited choices. So if you have a community where there are already few store outlets, food outlets, and then many of those stores or any of those stores move to cash only, then you are limiting the choices even more. And that means that people will have less access to healthy foods that they need for their families.

Ms. ADAMS. Thank you. We are all too familiar with the downsides of a cashless economy, as we just discussed, but at the same time, we know the benefits of getting our neighbors access to banking services.

Earlier this year, our committee discussed what we could do to drive down the underbanked rate. So, based off of your experiences, to the two ladies, how do you think Congress can be most helpful in ensuring that our underbanked neighbors get access to those critical services?

Ms. RUGGIA. Go ahead.

Ms. GARCIA. Thank you. One way we can do this is by looking at alternative models for banking. So, perhaps Congress can look at public banking as an option.

Another idea is considering the notion of postal banking. This is something that has been under discussion for years, because the infrastructure is already there in neighborhoods that don't have banks, and it may be a way to keep postal workers potentially working, and keep those jobs alive. Thank you.

Ms. ADAMS. Okay.

Ms. RUGGIA. I would say exactly that. First of all, the postal banking pilot has already taken off. It would be great to see that expanded and made permanent so that communities where they don't have banks, would have access to at least retail banking.

And that moves me to say, also, that Congress is already considering a number of policies that would help get more people banked. Number one, all of the human infrastructure policies that are being debated right now would lead to greater financial security, which, of course, we know is the number-one reason that people can't get bank accounts. So, human infrastructure is critical.

Also, expanding and enforcing the Community Reinvestment Act (CRA) would hold banks to their obligation to provide access to banking services in the communities where they do business.

And finally, making sure that we have the consumer finance protection policies in place, so that we restore trust in the banking system, so that we make sure that people are not victims of unfair, deceptive, and abusive practices in banks and nonbanks.

We could start with making sure that we have, for instance, I would say a rate cap for consumer loans, so that we don't have usurious practices like payday lending that continue. I think all of those things would help get more people banked.

Ms. ADAMS. Great. Thank you very much.

Mr. Chairman, I only have a few seconds left, so I will yield back.

Chairman GREEN. The gentlelady yields back.

The Chair now recognizes Mr. Timmons of South Carolina for 5 minutes.

Mr. TIMMONS. Thank you, Mr. Chairman.

I must say I am a bit perplexed by all this. We want to help the unbanked and underbanked become more banked, but this proposal wants to make it easier to stay underbanked and unbanked by removing an incentive to increase Americans' participation in the banking system.

Some of my colleagues across the aisle want to track everyone's bank accounts that have $600 or more a year in an attempt to get people to pay more taxes, but we also want to make it easier to use cash.

And I guess the last thing is, as a small business owner, some of the biggest challenges that we faced were with cash. There was one night—I have a CrossFit gym, Swamp Rabbit CrossFit. And we have one coach coaching the class. There is a class with, I don't know, 10 or 15 people in it. And I came by one night and there was around $5,700 in the cash register. Normally, we keep around $100, but that night, two couples had paid their entire annual membership in cash.

Theoretically, if that was going to happen on a regular basis, I would have had to have hired a new person to sit out there. I would have had to maintain security over it. That was a one-off thing and we made sure it never happened again. But, again, businesses make their own decisions.

So, here we are trying to make it easier for people to stay unbanked. We are going into the small business owner's decisions on how to survive as a small business owner, which is extremely challenging, by the way. And we want to track people's money to get more taxes, but we also want to let them use cash to avoid taxes.

There are just a lot of things. And honestly, maybe the most shocking thing about all of this, which is the most confusing, is that this is a bipartisan proposal.

I guess I am going to start with Professor Zywicki. Help me understand this.

Mr. ZYWICKI. I am not sure what I can say other than that I think a sensible policy would be one that eliminates barriers to people getting bank accounts who want bank accounts. I think a sensible policy means creating regulatory reform to expand access to bank accounts for those who want it.

And I think that we should be aware of these tradeoffs that you are talking about with cash involving tax evasion, the cost it imposes on businesses, and the risk of crime and the like. And I think this is one of those situations, Representative, where one-size-fits-all doesn't seem to fit very well for a lot of businesses, and for a lot of consumers.

Mr. TIMMONS. Let's just talk about the origins of this issue. What is the single biggest factor that has led to businesses deciding to stop accepting cash payments?

Mr. ZYWICKI. The pandemic, quite clearly.

Mr. TIMMONS. Sure. And I just find it ironic that the party of government-mandated lockdowns that forced businesses to adapt or die, now want to tell businesses what form of payment they can and cannot accept.

I appreciate that in-person payments have declined, but I have never been anywhere in my life that does not accept cash. I guess this could be a challenge in certain areas, and maybe that is a State issue. Maybe the States should start addressing it.

The thought of somebody not being able to buy groceries with cash is insane. If that is currently going on somewhere, we need to take measures to make sure that is not happening, because people need to be able to buy groceries.

But the other side of it is that this one-size-fits-all approach is going to create an enormous burden on all businesses, not just grocery stores and gas stations. As a business owner, I would prefer cash or, honestly, the ACH payments, because I don't have to pay the 2- or 3-percent fee.

So, I think the free market is working here. If States want to address certain areas—again, it is absolutely ridiculous that somebody would not be able to buy groceries with cash, and we need to take steps to make sure that the basic necessities are provided and made available.

But I just think this is a solution in search of a problem at the Federal level, and maybe if we drill down to the State level or maybe make this much more targeted, we could move it in the right direction.

Mr. ZYWICKI. I would agree with you, Representative. I have not been able to find any evidence that businesses, the small number of businesses who have chosen to do this—as you said, it is very profitable for them to take cash. So, I see no evidence that there is any ill intent here. It is situations where people have been subject to robbery repeatedly, crime. It is situations in which they made investments after the pandemic and it is very expensive to accept cash. It is new startups. I haven't seen any reason to believe that there is anything—

Mr. TIMMONS. Professor, I'm sorry. We are out of time.

I appreciate it, Mr. Chairman, and I yield back.

Thank you.

Chairman GREEN. Thank you. The gentleman yields back.

The Chair now recognizes the gentlewoman from Michigan, Ms. Tlaib, for 5 minutes.

Ms. TLAIB. Thank you so much, Chairman Green, for always being so incredibly thoughtful in bringing, especially many of my neighbors who are talking about this issue to Washington, to Congress, so that we can remain connected to, again, the struggles and challenges of our families.

I represent the third-poorest congressional district in the country, so this is something that I think is at the forefront of some of the struggles. It is not free to bank in our country.

The Federal Reserve has found that 6 percent of adults are unbanked, and another 16 percent are underbanked. I know that one out of four people in Detroit, an 85-percent Black city, don't have access to a savings account or a checking account.

Many of these unbanked or underbanked individuals are experiencing economic distress. They are living paycheck to paycheck. Their lack of access to banking compounds the difficulties they have in accessing housing, credit, and other essential services.

What we need to understand is there aren't structures in place right now to support working-class individuals, again, the majority being my neighbors, in that regard. And I understand the struggle of trying to figure out what we are doing here.

I think just talking about this issue and figuring out, how do we fix it, because as a result, even though the pandemic has accelerated the trend towards digital payments, cash remains the primary payment method for 35 million Americans, and that is 14 percent of our population.

We know that it is expensive to be poor in our country. Even as financial institutions offer so-called low-cost bank accounts, so-called free checking, it is rarely free, particularly for low-income families and individuals who may struggle to maintain a balance. Banks recoup that cost of maintaining an account through other fees, like overdraft penalties and so much more.

Ms. Ruggia, how does the shift to a cashless economy compound the effects of penalties like overdraft fees, and do you think we have adequate overdraft protections in place for many of our neighbors, again, low-income neighbors who are experiencing this?

Ms. RUGGIA. Thank you, Congresswoman. I think that certainly, in the case of cashless retail, where people are required to have some kind of credit or consumer credit card, definitely widens the field for the kinds of abuses that you are talking about, the kinds of hidden fees, and overdraft charges.

We have a coaching program, and we have a housing counseling program, and people are struggling to manage their budgets and make sure that they are not doing things to make their credit worse.

So, to force people to move into situations where they are in danger of going into overdraft more often, and subjecting them to cybersecurity problems such as identity theft, would exacerbate the problem.

Ms. TLAIB. Ms. Ruggia, I can tell you, it could be the littlest things—one day, not being able to get your child to school and having to spend a little bit more on gas or having a flat tire. So many different emergencies can really impact a family just automatically and set them back even 2 months.

Ms. Garcia, what role can the creation of a public banking infrastructure play here, such as postal banking—I know you talked about that, offering debit cards automatically tied to individual Fed accounts—play in mitigating the effects of a cashless economy and bridging that gap between the banked and the underbanked?

Ms. GARCIA. Yes, you definitely cited a very important element of one of the benefits of public banks. Certainly, greater accessibility and creation of banks that are using community input into what the community really needs, is really important. We need to make sure that whatever structures we create, those structures are created with community input.

And another concept of public banking is that there is an understanding that exclusion is not economically efficient, right? That is a really important underlying precept around the creation of a public bank for the people.

Access is so important. And I think there are so many neighborhoods that have been cut out of banking, in part, because banks just are not there or they have left.

Ms. TLAIB. Absolutely. I agree.

I am also really concerned—and, Mr. Chairman, as I think you know, I am very concerned that the shift towards a cashless economy is placing more power and more data in the hands of unaccountable technology companies.

For example, Google now has access to 70 percent of the nation's credit and debit card transactions via data-sharing agreements. That is very scary. And in 2019, Amazon integrated with Worldpay, a company that had already processed more than $1.7 trillion in payments annually.

These are companies that then sell the biometric payment data they have collected to other third parties with little to no regulation. And as corporations leverage their market power to keep consumers within their ecosystem, consumers deserve public alternatives to big—

Chairman GREEN. The gentlelady's time has expired.

Ms. TLAIB. Thank you, Mr. Chairman. I am so sorry I ran out of time.

Chairman GREEN. You may place your comments in the record, of course.

Ms. TLAIB. Thank you, sir.

Chairman GREEN. The gentlelady's time having expired, the Chair will now recognize the gentlelady from Texas, Ms. Garcia, for 5 minutes of questions.

Ms. GARCIA OF TEXAS. Thank you, Mr. Chairman. And thank you so much for bringing this topic forward. I can tell you that just listening to some of the comments that are being made has—I share

Mr. Timmons' frustration but for a different reason, because I just don't see why some of the remarks that are being made are being made, because it seems to me that some people aren't getting it.

There are poor people who are not going to be able to access those basic necessities of life, even something as simple as just handing cash to a child to get their meal at school, being able to pay a cash bond when one of their friends or loved ones may be in jail, or even being able to just put cash in an offertory basket at church. Those things cannot be done with credit cards. Not everybody has a credit card.

To me, this sense of frustration peaked when someone called this, "attacks." Let's put ourselves in the shoes of someone who can't get to a bank, can't get to a credit union, doesn't have an account, and may not even have the capacity, the literacy capacity, the language capacity to understand and to be able to manage an account.

So yes, this is about making sure that we have financial inclusion, and our economic banking system needs it. It needs choices, choices for the consumer to make.

And, Mr. Timmons, I am surprised you have not been to a place that says, "No cash taken." I think probably about half of the vendors in most of the airports that I have been in, in the last year, will simply not take cash. And I have been to drive-throughs that will not either.

My personal rule is, if it is less than $20, I don't put it on a credit card. I carry cash. But I carry cash more to be able to give people cash tips, because merchants not only don't give them their tips daily or monthly, sometimes they even charge back the merchant fee to the wait staff. And I don't want them to do that, so I do my tips in cash to make sure people can put that money in their pocket the same day.

And to put $8 on a credit card just because you went through a drive-through to get some chicken—we cannot do that to people. And I am fortunate. I have a credit card. I have a debit card. I rarely use the debit card.

But in a recent study on access to banking, the FDIC found that in 2019, 12.2 percent of Hispanic households and 13.8 percent of Black households were unbanked, but only 2.5 percent of White households were unbanked. The banking industry has made great strides to reach out to many of our communities, but they still have a long way to go, particularly when it comes to financial literacy and access to banking and inclusion in a person's own language.

Ms. Garcia, I wanted to ask you a question. We are not cousins, so this is just an objective, unbiased question. In your experience in San Francisco, it seems like a lot of what you talked about also exists in my district. My district is 77-percent Latino, and the primary language is Spanish for many people in my community.

What additional challenges does the banking system have when it comes to financial literacy and access to information in a person's own language?

Ms. GARCIA. Thank you very much for your question. And I am sorry we are not cousins, though we do share the same last name.

There are many challenges for individuals such as you have described when it comes to banking. First of all, there are potentially cultural issues that arise with trusting banks, like, is a bank a place I can trust, where I can put my money? There are many people who are used to keeping cash on hand as a matter of security and prefer to do that.

They also know that banks aren't always the best place for them, in terms of feeling welcome. And it may be hard for people who don't have that experience to understand what it feels like to be an outsider, but this is a very real perception for many members of our community.

We talk a lot about the future here, but we also need to deal with the present. How do we help people now? And if we are moving to greater use of electronic means, then how do we help people adjust to that?

It is not going to be overnight. This is not where we can just flip the switch and create a cashless economy that everyone can participate in. So, unless and until we can help people who are the most vulnerable, we need to make sure that we make cash an option. It is valid legal tender in this country. Thank you.

Ms. GARCIA OF TEXAS. Thank you. And, Mr. Chairman, I see my time has expired, but I just wanted to submit for the record a report on credit card fraud. This report highlights that credit card fraud is still the second-biggest challenge in our economy and has the highest numbers. I might add that cash fraud comes in at about, I think it is number six or number seven.

I know there is a concern about security, but going to credit cards and debit cards—

Chairman GREEN. The gentlelady's time has expired.

Ms. GARCIA OF TEXAS. —is also a big concern for our consumers with regard to fraud. Thank you.

Chairman GREEN. The gentlelady's time has long since expired. The Chair now recognizes Ms. Williams of Georgia for 5 minutes.

Ms. WILLIAMS OF GEORGIA. Thank you, Mr. Chairman.

We have heard today that there are clear racial disparities when it comes to who is unbanked or underbanked.

Ms. Garcia, if more of our economy were to go completely cashless, how would this deepen economic disparities that already exist for individuals who are disproportionately unbanked and unable to use digital payment methods?

Ms. GARCIA. Thank you very much for your question. I believe that it would exacerbate an already-huge inequity that many people of color, that many people in our communities experience on a daily basis.

And we need to move away from that. That is exactly what is happening in society, that there is a hue and cry that we move towards equity and away from exclusion.

So, with this proposal that we move to cashless, we really need to look at it in that light. And I fully understand your concerns and Congress' concerns in looking at this very carefully from an equity perspective.

Ms. WILLIAMS OF GEORGIA. Thank you, Ms. Garcia. I am determined to minimize these kinds of disparities for those most marginalized, for my constituents and for the younger, unbanked Nikemas of the world. That is why I have co-sponsored the Payment Choice Act, which ensures that retail businesses continue to accept cash for payment.

Representative Valdez, what impact would passing this legislation have now, while numerous businesses still do accept cash, to ensure financial inclusion while setting a predictable standard for businesses?

Mr. VALDEZ. Thank you, Congresswoman Williams. Since we have passed it in Colorado, we have heard a lot from constituents who have been able to shed light on this issue within their communities at local merchants.

If we don't pass this, I believe people will continue to move in the direction of excluding cash for a variety of purposes that we have heard during the hearing today. But most importantly, you would see people feel more and more marginalized and embarrassed at being refused the currency that they have to spend.

So, I think what you have is just a widening gap in kind of the feeling of the haves and the have-nots of the world. And I think it is something we are likely to see increase with the fallout from COVID-19 and some of the financial difficulties that ordinary Americans are experiencing. As garnishments and those sorts of things start to happen, you will see more and more folks who are looking to enter the cash economy. So I actually think we will start to see things move in the other direction as well.

Ms. WILLIAMS OF GEORGIA. Thank you so much.

Ms. Ruggia, beyond preserving a cash option, what recommendations do you have to ease the transition to a digital economy for those who are unbanked and underbanked, to maximize their financial inclusion and economic prosperity?

Ms. RUGGIA. As I said, the factors that keep people from banking are pretty clear: financial security; access; and also the trust factor.

I think it is really important to make sure that all of the protections are in place, so that as the general economy moves towards less of a cash environment, everybody is protected from potential abuses and unfair practices.

We know that in the nonbank environment, people are already being abused with high interest rates and other forms of unfair practices. So, it is important that all of the protections and all of the factors are in place to create an environment where we can move towards implementing more technology into the banking and finance environment.

As I said before, we need to make sure that people have access to bank accounts. Even if it is online, they have to be able to have the internet access. So there is the access factor, making sure that the Community Reinvestment Act is expanded and enforced, and making sure that all of the agencies, like the CFPB and the FTC, have the tools to make sure that there are not abusive, unfair, and deceptive practices going on in the world of fintech and technical financial practices.

Ms. WILLIAMS OF GEORGIA. Thank you.

Mr. Chairman, today we have heard that there are clear racial disparities when it comes to who is unbanked and underbanked, and we, as Members of Congress, have an obligation to make sure that our economy works for everyone. With that, Mr. Chairman, I yield back the balance of my time.

Chairman GREEN. The gentlelady yields back.

And the Chair now recognizes himself for 5 minutes.

Friends, it really costs to be poor in this country. I know poor people. I know people who live under overpasses. And, unfortunately, there is an overpass just outside my office where people are residing. That is their home. And they are not persons who can open bank accounts, because, first of all, it costs money to open a bank account itself.

And then, if you have an overdraft and if you are poor—having been poor in my life, I know what it is like to write a check that doesn't have the funds available to cover it. So, you have the overdraft fees. And then, you have the cost of a credit card. Credit cards, for me, are cost-free or so they say, but for most people in this country, they pay some fee to have a credit card.

But it really costs people to be poor, and it costs something that they can't afford, is the point that I am trying to make. So, I am concerned.

Mr. Zywicki, sir, are you still there?

Mr. ZYWICKI. Yes, sir. Yes, Mr. Chairman.

Chairman GREEN. Let's you and I engage in a friendly colloquy, because I appreciate your position. You said you were neither for nor against it initially.

How do we deal with this if we have some degree of recalcitrance when it comes to opening up the system such that there is the equity? There are many who oppose public banking, but at the same time they would have persons have bank accounts. So how do we deal with this, in your opinion, having studied this?

Mr. ZYWICKI. Thank you. It is a great question. I appreciate the question. The way I think of this is, first, I think this dichotomy we have between being banked and unbanked, I think is something that doesn't really work very well anymore.

I think that there are a lot of people who really need access to payments, but don't need all of the bells and whistles and expense and complications of a bank account. And I think that there are ways we can facilitate that for simple online payment platforms. Prepaid cards can sort of merge into that. I think one of the ways—

Chairman GREEN. As we do this, I may interrupt from time to time, but I am going to do so respectfully.

Many persons don't have the technology to engage these platforms. How do you deal with that?

Mr. ZYWICKI. And that is obviously the biggest challenge here, I would agree. I think that one of the things we should be looking at is expanding who can be a bank. For example, I think Walmart tried to start a bank about 10 years ago, and the incumbent banks kept them from doing it. I think Walmart could go a long way towards providing bank services in rural communities, for example.

I think that expanding the payment system in general to nonbanks would also help people get access to payments without—

Chairman GREEN. Let me interrupt you again. You mentioned Walmart. What about the idea that was brought up earlier of a post office being an institution that engages, allows people to bank? What are your thoughts on this?

Mr. ZYWICKI. I have looked at that, and I don't have any strong view one way or the other on the post office. It is just, my sense is that the post office—based on the analysis we did in the task force report, the post office is a solution to a nonproblem, which is that, according to the FDIC study, the primary reason why—very few people say that the reason why they don't have access to a bank account is a lack of physical access, which is basically what the post office offers. My view is—

Chairman GREEN. If I may, isn't that what you are offering at Walmart? It is similar to Walmart. Why would you think that Walmart works, but a post office won't work?

Mr. ZYWICKI. Yes. Walmart provides a whole suite of banking services, and is also open many more hours than the post office is, for example.

Chairman GREEN. Many more hours can be beneficial, but what about the hours that banks keep now? It is hard to find my bank open after 3 or 4 o'clock. They are out. And they don't have the window service that they used to have, the drive-through service.

Mr. ZYWICKI. I agree completely with that, and I think we need more competition in banking. We need better bank account portability. We need credit unions being able to do more, and industrial loan banks. We need fintech. I think that it is time to shake up the banking industry that has gotten too complacent in the way that they serve a lot of lower-income consumers.

Chairman GREEN. Thank you for the friendly colloquy.

My time has expired, and I want to be a good Member, and a good example for my friends on the subcommittee.

My time having expired, friends, I want to thank each of the witnesses for their testimony and for committing the time and resources to share their expertise with this subcommittee. Your testimony today will help to advance the important work of this subcommittee and of the Congress.

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

This hearing is now adjourned, and the Chair is grateful to all who participated.

[Whereupon, at 1:39 p.m., the hearing was adjourned.]

A P P E N D I X

October 14, 2021

Testimony of

John Breyault

Vice President of Public Policy, Telecommunications, and Fraud

National Consumers League

on

"Cashed Out: How a Cashless Economy Impacts Disadvantaged Communities and Peoples"

Before the

United States House of Representatives

Committee on Financial Services

Subcommittee on Oversight and Investigations

October 14, 2021

Summary

We are pleased to contribute to the subcommittee's examination of the disproportionate impact on low-income communities of financial institutions' and retailers' embrace of cashless payment models and the lack of consumer protections on peer-to-peer ("P2P") payment platforms.

Multi-billion-dollar business models are today built upon the so-called "war on cash." Financial institutions, app developers, and some retailers frequently tout the benefit of a cashless experience. However, it is unclear that those benefits are trickling down to the most vulnerable consumers. What it is clearly evident, however, is that a marketplace that penalizes those who depend on cash is one that will disproportionately inflict pain on low-income consumers and marginalized communities. Those vulnerable consumers will pay the price in higher costs for essentials like rent and food, in more surveillance of their daily lives, in fewer protections from fraud and errors, and in less opportunity to access a banking system on which most Americans depend.

The harmful impacts of a cashless society are manifested in the explosive growth of P2P payment apps. The same features that are fueling these services' growth – low cost, nearly instantaneous payments made via a mobile app – have made P2P an increasingly insecure payment technology. Analysts estimate that fraud rates on these platforms are three to four times higher than for traditional payment methods such as debit and credit cards. Loopholes in consumer protection laws like the Electronic Funds Transfer Act allow liability for some errors and fraud on these platforms to be shifted from the banks and P2P payment platforms to consumers themselves.

To address these concerns, we urge Congress to take the following steps:

- Pass federal privacy legislation that safeguards consumer data in cashless payments;
- Extend existing liability protections for debit and credit card transactions to cover fraudulently induced payments;
- Require more stringent investigations of fraudulent transactions;
- Push regulators to enforce banks' error resolution responsibilities for consumer errors on P2P platforms, and
- Mandate more responsive customer service by P2P platforms.

Introduction

The National Consumers League appreciates the opportunity to provide the subcommittee with our views on the impact of an increasingly cashless payments ecosystem on vulnerable consumers, as well as the need to protect consumers from fraud-induced and erroneous payments made via peer-to-peer ("P2P") payment apps.

Founded in 1899, the National Consumers League ("NCL") is the nation's pioneering consumer and worker advocacy organization. Our non-profit mission is to advocate on behalf of consumers and workers in the United States and abroad.[1] For more than twenty years, NCL has worked, via our Fraud.org campaign, to educate consumers about the warning signs of fraud and promote public policies that protect the American public from scams.

Vulnerable Consumer Risk Being Left Behind in a Cashless Economy

The so-called "war on cash" is not hyperbole.[2] Absent Congressional action, the casualties of that war are likely to be vulnerable consumers. They will pay the price in higher costs for essential purchases, in more surveillance of their daily lives, in greater harm from fraud, and in fewer opportunities to access a banking system on which millions of American depend.

According to a 2019 Federal Deposit Insurance Corporation survey, 7.1 million U.S. households are unbanked.[3] These families are disproportionately Black (13.8%) and Hispanic (12.2%), substantially above the rate of unbanked White householders

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[1] For more information, visit www.nclnet.org.
[2] Andriotis, AnnaMaria. "Visa Takes Was on Cash to Restaurants," *Wall Street Journal*. (July 12, 2017). Online: https://www.wsj.com/articles/visa-takes-war-on-cash-to-restaurants-1499853601
[3] Federal Deposit Insurance Corporation. *How America Banks: Household Use of Banking and Financial Services: 2019 FDIC Survey*. Pg. 1. (October 19, 2020) Online: https://www.fdic.gov/analysis/household-survey/

(2.5%).[4] The number has likely risen during the COVID-19 recession, particularly among historically-marginalized communities who have suffered during the pandemic especially hard.[5]

Cashless payments – credit and debit cards, app-based P2P payments, stored value and reloadable prepaid cards – are not new. The payment industry has been nudging consumers and businesses to embrace these payment mechanisms for decades.[6] Nonetheless, cash continues to play a critical role in our economy, particularly for unbanked and under-banked consumers, seniors, and immigrants.

Despite the growth of cashless payment systems, cash continues to play a critical role in our economy. According to a (pre-COVID) 2018 Federal Reserve Bank of San Francisco report, cash is the most frequently used payment instrument, representing 30% of all transactions and 55% of all transactions under $10. And while online shopping has seen a dramatic uptick during the pandemic, most transactions (77%) are still made in-person. Of those in-person transactions, cash accounted for 39% of transactions.[7]

A cashless marketplace excludes many low-income, and especially minority, consumers.[8] Cashless transactions usually a credit or debit card. To open an account, a consumer must have a credit history, identification (which seniors and low-income consumers often lack), and documents such as a utility bill or other

[4] *Ibid.* Pg. 2.
[5] Schroeder, Pete. "Pandemic expected to push poorer Americans out of banking system – regulator," Reuters. (October 19, 2020) Online: https://www.reuters.com/article/usa-fdic-unbanked/pandemic-expected-to-push-poorer-americans-out-of-banking-system-regulator-idUKL1N2HA105
[6] Scott, Brett. "The cashless society is a con – and big finance is behind it." *The Guardian.* (July 19, 2018) Online: https://www.theguardian.com/commentisfree/2018/jul/19/cashless-society-con-big-finance-banks-closing-atms
[7] Federal Reserve Bank of San Francisco. "2018 Findings from the Diary of Consumer Payment Choice." (November 15, 2018) Online: https://www.frbsf.org/cash/publications/fed-notes/2018/november/2018-findings-from-the-diary-of-consumer-payment-choice/
[8] Erlanger, Samuel. *A Cashless Economy: How to Protect the Low-Income.* Cardozo Law Review. (2019) Pg. 168. Online: http://cardozolawreview.com/wp-content/uploads/2019/10/ERLANGER_denovo_2019.pdf

proof of residency. All of these may be difficult to obtain for low-income consumers, particularly those with insecure housing. Banks also charge fees that are steep, especially for those living on the economic margins. As more retailers switch to cashless payment models, they necessarily exclude some consumers at the lower end of the income spectrum.[9] Recognizing this, many localities, including San Francisco, New York City Philadelphia, and Washington, DC and states such as New Jersey and New York have passed laws requiring retailers to accept cash as payment.[10]

Absent Stronger Privacy Protections, a Cashless Economy Will Subject Marginalized Communities to Even Greater Surveillance.

Privacy is a fundamental right. Surveillance is an inherent privacy harm and consumers benefit when they have control over the collection, use, and sharing of their personal information.[11] Paying with cash is a privacy-protective way to pay for goods and services. A cash transaction involves two parties – the buyer and seller, who exchange cash in an essentially anonymous transaction. Payments made with cash do not involve data transfers that can be used to build profiles on consumers.

In contrast, a digital payment involves the sharing of data with a merchant, one and more likely two banks and a payments processor. It is not unusual for payment and payment-related data to spread far beyond that minimum baseline, however. Given the lack of a federal privacy law in the U.S., data about consumers' digital payments will likely be shared with advertisers, data brokers, Internet service providers, app

[9] Stanley, Jay. "Say No to the 'Cashless Future – and to Cashless Stores." American Civil Liberties Union. (August 12, 2019) Online: https://www.aclu.org/blog/privacy-technology/consumer-privacy/say-no-cashless-future-and-cashless-stores

[10] Nirappil, Fenit. "D.C. Council votes to outlaw cashless stores, allow some prisoners to seek early release," *Washington Post*. (December 1, 2020) Online: https://www.washingtonpost.com/local/dc-politics/dc-council-december-votes/2020/12/01/aafa3e72-334d-11eb-a997-1f4c53d2a747_story.html

[11] Brookman, Justin and Hans, G.S. *Why Collection Matters: Surveillance as a De Facto Privacy Harm.* Future of Privacy Forum Big Data & Privacy Workshop Paper Collection. (2013) Online: https://fpf.org/wp-content/uploads/2013/08/LEGAL-Brookman-Why-Collection-Matters1.pdf

developers, and more. What those companies do with that data is not well understood by consumers. This is understandable given the light-touch regulatory model that applies to consumers' data in the U.S. Indeed, a significant percentage of unbanked consumers cite trust and privacy concerns as the reason they choose to remain unbanked.[12]

Consumers should not be forced to choose between foregoing a purchase and sharing personal data with a bank, a credit card company or a payments platform provider. Congress should pass a federal privacy law that better protects the financial data consumers share via digital payments. Until this occurs, a cashless economy will necessarily disproportionately harm low-income and minority consumers. The cost of access to digital financial services should not be greater surveillance of marginalized communities.

A Lack of Protections for Payments Made Via Peer-to-Peer Payment Services Leaves Consumers on the Hook for Fraud and Errors

The growing popularity of peer-to-peer (P2P) payment apps is emblematic of the impact of the cashless economy. According to one estimate, roughly 4 in 5 Americans (79%) have used mobile payment apps.[13] The growth of these apps, such as PayPal's Friends & Family and Venmo services, Square's Cash App, and Zelle, which is owned by a consortium of major banks, was supercharged by COVID-19 and social distancing requirements. In 2021, the volume of payments is expected to

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[12] GERALD APAAM ET AL., FED. DEPOSIT INS. CORP., FDIC-038-2018, 2017 FDIC NATIONAL SURVEY OF UNBANKED AND UNDERBANKED HOUSEHOLDS: EXECUTIVE SUMMARY 9 (2018), https://www.fdic.gov/householdsurvey/2017/2017execsumm.pdf

[13] El Issa. "Most Americans Go Mobile With Payment Apps – Here's How They Roll," NerdWallet.com. February 26, 2020. Online: https://www.nerdwallet.com/article/banking/mobile-payment-app-survey

grow by roughly 37%.[14] By 2023, more than $1 trillion will likely be transacted via P2P platforms.[15]

Unfortunately, the features that make P2P services appealing -- low-cost, nearly instantaneous payments made via a mobile app – are also key contributors to high fraud rates. In 2020, the FTC received nearly 62,000 complaints from consumers who sent money to fraudsters via payment apps or similar services, with a total reported loss of $87 million.[16] Consumer complaints to the Consumer Financial Protection Bureau ("CFPB" or "Bureau") tell a similar story. A recent MASSPIRG Education Fund analysis found that more than 5,200 complaints about mobile or digital wallets were filed with CFPB over the 12-month period preceding April 2021. These complaint statistics, sobering as they may be, are just the tip of the iceberg. Analysts estimate that fraud rates on these platforms are three to four times higher than for traditional payment methods such as debit and credit cards.[17]

P2P services are aware that fraudsters use their services to obtain funds from their victims. An NCL review found that all of the major P2P platforms make some effort to educate their users about how to avoid scams. However, voluntary disclosures or consumer education alone are not terribly effective. More than half of consumers surveyed by AARP incorrectly assumed that their payments would be protected if there is an error or fraud associated with the transaction.[18]

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[14] Ho, Justin. "P2P payment apps are booming, thanks to the pandemic," Marketplace.org. March 15, 2021. Online: https://www.marketplace.org/2021/03/15/p2p-payment-apps-are-booming-thanks-to-the-pandemic/

[15] Kats, Rimma. "In 2023, more than $1 trillion will transact via mobile P2P apps," *Insider Intelligence*. April 19, 2021. Online: https://www.emarketer.com/content/breaking-down-mobile-p2p-payments-biggest-players

[16] Federal Trade Commission. *Consumer Sentinel Network Data Book 2020.* February 2021. Pg. 11. Online: https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-2020/csn_annual_data_book_2020.pdf

[17] Popper, Nathaniel. "When Your Last $166 Vanishes: 'Fast Fraud' Surges on Payment Apps," *New York Times*. October 11, 2020. Online: https://www.nytimes.com/2020/10/11/technology/fraud-payment-apps.html

[18] AARP. "AARP Survey Finds Majority of Americans Using Payment Apps Unaware of Danger Posed by Scammers." Press release. May 12, 2020. Online: https://press.aarp.org/2020-5-12-AARP-Survey-Finds-Majority-of-Americans-Using-Payment-Apps-Unaware-of-Danger-Posed-by-Scammers

While P2P services do employ technological measures to stop fraudulent transactions, there is a business incentive not to introduce too many security roadblocks in the payment process. This is because P2P payment platforms, and their sky-high valuations,[19] [20] are dependent on maintaining large transaction volumes. P2P platforms' desire to reduce "friction" in the payments experience is in direct tension with the need to prevent fraud.[21] Yet if these platforms are making the decision to skew their services towards speed and convenience at the expense of safety and protection, they must take responsibility for those business choices.

While no financial service is immune from fraud, protections for consumers who lose money on P2P apps to fraud are sorely lacking. Compare this to what happens when scammers get a consumer's bank account information and use it to initiate a preauthorized payment through the ACH system, or obtain debit card information and use it to initiate payment for fraudulent purchases. In both cases, consumer have limited liability. This protection is enshrined in the Electronic Funds Transfer Act ("EFTA"), implemented through the Federal Reserve's Regulation E.[22] Similar consumer protections for fraudulent credit card transactions exist under the Fair Credit Billing Act ("FCBA").[23] Thanks to these measures, consumers are protected, and credit and debit card issuers and participants in the ACH system have strong incentives to implement stringent anti-fraud countermeasures. The benefits to consumers of these regulatory incentives is clear. Today, it is not uncommon for a card holder whose account has been compromised to be notified by her bank before she even notices a fraudulent charge on her statement.

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[19] Hale, Kori. "Hip-Hop's Role in Square's $40 Billion Cash App Business Success," *Forbes*. September 22, 2020, Online: https://www.forbes.com/sites/korihale/2020/09/22/hip-hops-role-in-squares-40-billion-cash-app-business-success/?sh=10d7f8ee7489
[20] Rudegeair, Peter. "Cash App's Surge During Covid-19 Pandemic Fuels Square Stock," *Wall Street Journal*. September 2, 2020. Online: https://www.wsj.com/articles/cash-apps-surge-during-covid-19-pandemic-fuels-square-stock-11599039003
[21] Doyle, Ciaran. "Removing friction & fraud from P2P payments," *IBM RegTech Innovations*. December 6, 2018. Online: https://www.ibm.com/blogs/regtech/removing-friction-and-fraud-from-p2p-payments/
[22] Federal Deposit Insurance Corporation. "Laws and Regulations: Electronic Funds Transfer Act." February 2019. Online: https://www.fdic.gov/news/financial-institution-letters/2019/fil19009b.pdf
[23] 15 U.S.C. 1666-1666j

Unfortunately, while P2P platforms are covered by the EFTA, victims of fraud committed via P2P platforms are unable to take advantage of the protections afforded. A big reason for this is a loophole in the EFTA that excludes payments initiated by the consumer from the protection for unauthorized charges (also known as "fraud in the inducement" or "victim-assisted fraud").[24] This allows P2P services and banks to avoid liability for payments sent from consumers' accounts to scammers, even when such payments are induced by fraud.[25]

Financial institutions' and P2P platforms' unduly narrow view responsibilities under EFTA also harms consumers who send payments erroneously. Consumers, particularly those who may not be familiar with the technology, do make mistakes such as entering the wrong amount or wrong cell phone number for the recipient. When this occurs, many institutions refuse to treat that as an error and decline to investigate or return funds. There is nothing in the EFTA or Regulation E that excludes consumer errors from the definition of "error." Even if a consumer might ultimately be liable for a payment because it was initiated by the consumer and thus is not "unauthorized," institutions still have a duty to investigate and try to resolve the matter.

These loopholes have resulted in the liability risk for fraud and error being transferred from P2P platforms and banks to consumers. Yet it is the platforms that have designed systems that make errors more likely and who set the level of fraud they are willing to tolerate. Institutions are far more able to spread the costs of protecting consumers from errors and fraud across the system. By comparison a single error or instance of fraud can be devastating to a consumer. Unfortunately, the only recourse for consumers who lose money via P2P platforms is to throw

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[24] Cornell Law School Legal Information Institute. "Fraud in the Inducement." June 2020. Online: https://www.law.cornell.edu/wex/fraud_in_the_inducement#:~:text=Fraud%20in%20the%20inducement%20occurs,damages%20or%20terminate%20the%20contract

[25] Mierzwinski, Ed *et al. Virtual Wallets, Real Complaints.* MASSPIRG Education Fund. June 2021. Pg. 9. Online: https://masspirg.org/sites/pirg/files/reports/MA_wallets.pdf

themselves at the mercy of the banks, P2P platforms, or even other users and beg to be made whole. Banks and P2P platforms often tell fraud victims and consumers who send payments in error that they are out of luck.

Difficulty in obtaining appropriate customer support on app-based P2P services exacerbates consumer harm when fraud or errors occur. According to Pew, consumers who experienced an issue with a mobile payment were twice as likely as debit, credit, or prepaid card users (39 percent vs. 20 percent) to report that disputes were difficult to resolve and more than four times as likely (23 percent vs. 5 percent) to not know whom to contact.[26] App-based services often rely on automated communications and do not make live customer service available or adequately staff customer service lines. Problems that consumers have experienced with neo-bank accounts like Chime show the importance of making human beings available to address problems when things go wrong.[27] California's recently enacted AB 1320 addresses this issue by requiring P2P payment apps holding a state money transmitter license to prominently display a toll-free telephone number on their website that a customer may use to reach live customer assistance.[28] Congress should consider similar legislation.

New Protections Are Needed to Protect Consumers from Fraud and Errors on P2P Payment Platforms

The lack of consumer protections for users of P2P payment platforms is a glaring problem. Regulatory requirements and incentives are needed. Self-regulation by the P2P services is unlikely to be effective in light of the desire to grow transaction

[26] Pew Charitable Trusts. "Are Americans Embracing Mobile Payments?" (October 3, 2019) Online: https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2019/10/are-americans-embracing-mobile-payments

[27] Kessler, Carson. "A Banking App Has Been Suddenly Closing Accounts, Sometimes Not Returning Customers' Money." *ProPublica*. July 6, 2021. Online: https://www.propublica.org/article/chime?utm_source=sailthru&utm_medium=email&utm_campaign=dailynewsletter&utm_content=feature

[28] Online: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1320

volumes. NCL has met with P2P platforms and urged them to offer far more robust fraud protection, but so far, we have seen little improvement. Congress needs to step in or the P2P services will continue to rely on marginally effective warnings and disclosures to consumers – an old-fashioned tactic – rather than designing systems for safety and using modern artificial intelligence, machine learning, data analytics and other methods to prevent and remedy fraud and errors.

To ensure that P2P platforms are secure for their users and do not continue to be powerful tools for fraudsters, action by Congress is urgently needed.

Specifically, Congress should:

- Enact legislation to expand the definition of "unauthorized electronic fund transfer" in the Electronic Funds Transfer Act to cover fraudulently induced payments, with ultimate liability resting with the institution that received the fraudulent payment;

- Push regulators like the Consumer Financial Protection Bureau to enforce requirements that P2P platforms investigate errors and fraud, even in cases where the consumer sent a payment erroneously or as a result of fraud in the inducement;

- Urge bank regulators to emphasize fraud prevention and remediation as part of financial institutions' know-your-customer duties;

- Enact legislation to require P2P platforms to prominently display warning about fraudulent use of P2P payments and how to avoid scams; and

- Require P2P platforms to provide and prominently display a toll-free customer service telephone line that is staffed 24 hours per day and respond to customer service inquiries in a timely manner.

Conclusion

Chairman Green, Ranking Member Emmer and the members of the subcommittee, we thank you for your continuing work to protect consumers and for holding this hearing. On behalf of the National Consumers League, thank you for including the consumer perspective as you consider these important issues.

TESTIMONY OF MISSION ECONOMIC DEVELOPMENT AGENCY (MEDA)
BY NORMA P. GARCIA, POLICY COUNSEL, DIRECTOR OF ADVOCACY
BEFORE THE U.S. HOUSE COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
October 14, 2021

CASHED OUT: HOW A CASHLESS ECONOMY IMPACTS DISADVANTAGED COMMUNITIES AND PEOPLES

Madam Chair, Members of the Committee, thank you for inviting my testimony today on this very timely and important topic. My name is Norma Paz Garcia and I am proud to represent San Francisco's Mission Economic Development Agency,[1] also known as MEDA, where I serve as Policy Counsel and Director of Advocacy. Rising out of the civil rights movement of the 1960s, since 1973, the Mission Economic Development Agency has been advancing toward a mission to create equity for Latinos and immigrants seeking a better life. We are a Latino-led nonprofit organization that invests in the lives of our underserved Latino families through direct services, community development initiatives and policy advocacy. Along with our partners, we leverage our community's inherent strengths to collectively build Latino prosperity, community ownership and civic power.

Today's topic, "How a Cashless Economy Impacts Disadvantaged Communities and People" falls squarely within our work. I will outline the many reasons why we believe it makes sense to support a marketplace where all consumers can pay in cash, should that be their preference. I will also offer MEDA's point of view of why, from an equity perspective, there is no greater reason than ensuring that the most marginalized and at risk communities can participate in the economy that surrounds them and that they feel they belong and are valued in their communities. Preserving cash as a payment option is an equity-forward imperative, and is easily implemented as it is already a common practice in our country's economic marketplace.

MEDA advocates for and creates conditions that advance inclusion and belonging, rather than exclusion. [2] By all measures, San Francisco and the Bay Area is a land of immense opportunity

[1] Learn more about the Mission Economic Development Agency (MEDA) at www.medasf.org . Read MEDA's Strategic Plan, 2021 - 2024, available at https://medasf.org/strategic-plan-2021-2024/

[2] Since 2014 MEDA has been an affordable housing developer now having preserved or produced almost 1,300 affordable housing units; we launched a community loan arm in 2015, and in 2017 it became one of the few Latino-focused CDFIs; we created a Promise Neighborhood, our community anti-poverty education initiative; across all of our programs, we provide direct services to approximately 8700 clients per year; we actively advocate on the state and local level for policies that support our

and growth for particular industries and sectors. At the same time, not everyone has been able to benefit from that growth. That growth has created unprecedented wealth gaps that have placed extreme pressure on San Francisco's low income Latino residents and other low-income communities. MEDA seeks to not only stop displacement, but to reverse it and to bring greater economic opportunity to the community we serve, and others like ours. We work closely with other community based organizations and partners within the City and County of San Francisco to ensure that those in our community who are most sensitive to displacement have the support they need to remain in place and thrive.

Evolving Economic Disparities for Latinos in San Francisco

The conditions that exist in our community and the measures that have been taken to address growing inequity are worth noting. While San Francisco's Latino population has grown in the past 30 years, so have racial income gaps.[3] Since the 1990s, gentrification (through market-rate housing development, commercial growth catering to high-wage earners, new residents taking advantage of historically low-cost neighborhoods) has displaced Latino families from historically Latino-heavy neighborhoods on the city's Eastside and Southside, such as the Mission District and Bernal Heights. However, the Latino population has increased in the vast majority of San Francisco neighborhoods. Between 1990 and 2020, the Mission District's Latino population decreased by 32 percent. Over the same time period, the citywide Latino population increased by 36 percent.

The increase in the Latino population, and the geographic dispersal of Latino families, has presented additional challenges for service providers and advocates: even as the population has increased, Latino families' financial circumstances have not improved much during a generation of rapid economic growth in the Bay Area. Between 1990 and 2019, the median household income in SF rose by 63 percent, after adjusting for inflation. However, for Latino households, the median household income only rose by 28 percent over the same time period.

Over the same three decades, the median rent in San Francisco rose by 41 percent—in other words, rents have increased at a significantly higher rate than the increase in Latino household incomes. Between 1990 and 2019, the gap between the median household income for white families and Latino families in San Francisco grew by a factor of five. These rising economic disparities seen citywide have been even more pronounced in the Mission District. That is, not only has the Mission witnessed a net loss of nearly 10,000 Latino residents in the past generation; but the Latino households who have managed to stay face steeper financial disparities on a local level. Between 1990 and 2019, Latino median household incomes in the

community and participate nationally through our association with UnidosUS and the National Association of Latino Community Asset Builders (NALCAB).

[3] All data from this section comes from: 2020 U.S. Census, 2015-2019 American Community Survey Five Year Estimates.

Mission rose by 24 percent, compared to a 118 percent rise in Median Household Income (MHI) for all Mission households. The gap between Latino and white median household incomes grew by a factor of 20 over the same period. While the COVID-19 pandemic created disproportionate financial impacts for Latino workers, between 1990 and 2019 Latino unemployment rates fell by 60 percent. In other words, these rising income disparities cannot be explained by a rise in unemployment, but rather a widespread lack of access to jobs with living wages and other necessary family financial support.

The Impact of a Cashless Economy
A cashless economy that excludes cash as a form of payment essentially functions as a "cash ban." Let's consider how a cash ban impacts consumers generally. While the idea of shifting away from cash to other forms of payment may be appealing to some, for many others a cash ban seems unnecessary, confounding, inconvenient and risky. As a practical matter, as long as cash is valid legal tender in the United States, it should be an acceptable form of payment at brick and mortar locations selling goods and services to the public.

Providing alternate means of acceptable payment options, such as debit cards, credit cards, other electronic means and mobile payments should be additive, and not a replacement for accepting cash payments. Consumers should be free to choose how they want to pay to address whatever concerns they have, including a preferred familiarity with cash payments, protecting their privacy, guarding against potential security breaches that can compromise their financial security, especially when the risk and losses fall most heavily on consumers to rectify. If you've ever had to fix a problem with a security breach, as far too many people have, you will know that the process can be difficult for any consumer. It can be especially so for those with limited English language proficiency, hearing or visual impairments, or other disabilities. For many, the potential risks accompanying non-cash payment methods and any ensuing problems can be avoided by sticking to cash.

MEDA serves a predominantly low-income Latino population that would be negatively and disproportionately impacted in a cashless economy.[4] At MEDA, we lead with equity, which means our first point of analysis of any policy proposal is always, "How will this idea impact the most vulnerable in our community?" This is essential analysis so that we can continue to serve our community effectively to address their needs and vulnerabilities and leverage their strengths. Here is a snapshot of the community we serve: Among the 6,600 clients that MEDA has served since the start of 2020, 83 percent are Latino, and 79 percent speak Spanish at home. Only four percent live in households that are NOT low income, per HUD standards. By contrast, 55 percent of clients live in households that are Extremely Low Income (between zero and 30 percent of the Area Median Income). Twenty-four percent reside in San Francisco's Mission District, with about 60 percent of clients living elsewhere in San Francisco. Sixty-five percent lost their job

[4] All data from this section comes from: MEDA client data from Salesforce, January 2020 to October 2021

since the start of 2020, and only 10 percent reported losing no income at all. Seventy-five percent reported being ineligible for federal relief funds during the COVID-19 pandemic.

A cash ban would be devastating for the predominantly low-income Latino clients we serve, and others like them, many of whom live on the economic and social margins. As our data demonstrate, many of our clients suffered economically due to COVID-19 job and income loss. Others suffered physically when COVID infection soared among the Latino population, among all others in San Francisco.[5] Many of our clients were and continue to be the essential workers who, during the height of the pandemic, kept our economy going, just as they had before, but without the ability to work from home like many others. In doing so, they risked their health and that of their families, to keep food on the table and to pay their bills, often existing in overcrowded housing conditions due to the high cost of housing in San Francisco.

Among our clients and community, we are aware that there are other drivers that make it important for our community to be able to use cash to buy goods and services at retail establishments. Distrust of banking systems cuts across many cultures and populations and we understand there are multiple reasons why individuals may not trust banks. Their lived experience in their country of origin may include a banking system without sufficient regulatory oversight to inspire consumer confidence. They may be suffering from the vestiges of exclusionary policies that kept banks out of their neighborhoods. Paying in cash does not require one to hold a bank account in an institution that may not be trusted or present. Additionally, others may avoid banks due to fees required to maintain their accounts, minimum balance requirements, overdraft fees and other costs. For others, it is easier to stick to a budget when only cash is involved.

Some people prefer to transact in cash because it holds its value and it is certain. Its value does not depend on purchasing and maintaining an extraneous device (such as a smartphone or tablet) or connectivity (including cell phone service, or internet connectivity). Devices and connectivity may be costly, and in some cases, quality connectivity may be difficult to access. "Connectivity deserts" are a reality, even for those who live in some parts of San Francisco.

Unlike what many in our community may already know from their lived experience, disaster preparedness has taught us that keeping cash on hand is prudent. In the last few years, this is

[5] Fernandez, E., Weiler, M. (UCSF), Initial Results of Mission District COVID-19 Testing Announced; Latinx Community, Men and Economically Vulnerable Are at Highest Risk. May 4, 2020.
https://www.ucsf.edu/news/2020/05/417356/initial-results-mission-district-covid-19-testing-announced ;
Testimony of Alicia Hernandez, MD. before the United States House of Representatives, Ways and Means Committee, May 27, 2020 The Disproportionate Impact of COVID-19 on Communities of Color, p. 2, Accessed June 4, 2020.
https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/Fernandez_Testimony.pdf;
Unidos en Salud study https://www.ucsf.edu/news/2020/05/417356/initial-results-mission-district-covid-19-testing-announced;
Palomino, J., Sanchez, T., Troubling upward trend in Latino COVID-19 cases, May 08, 2020, *San Francisco Chronicle*.
https://www.sfchronicle.com/bayarea/article/Bay-Area-Latinos-hit-hardest-by-coronavirus-15252632.php#photo-19394123

something that many more people around the country are learning as disasters become more prevalent. For those of us in California, we are learning to live with unpredictable power outages or planned and prolonged power outages that make electronic and mobile payments at a point of sale impossible. “Cash only” is a frequent sign at cash registers during power outages and during periods of disaster and only cash helps consumers make the purchases they need.

While a majority of MEDA clients are banked, Latinos nationwide remain unbanked at higher rates. This should be another compelling reason to retain the option to pay in cash at retail establishments. Since the start of 2020, 95 percent (378 of 396) of MEDA's clients reported that they have a bank account -- including clients who have had the chance to work with MEDA service providers to establish key financial footholds.[6] However, on a nationwide scale Latinos face disproportionately low access to banking institutions. According to 2017 FDIC data, 30 percent of low-income Latino households nationwide are unbanked, compared to 20 percent of all low-income households. An additional 30 percent of Latino households are underbanked (have a bank account, but still rely on alternative financial services like check cashing), compared to 26 percent of all low-income households.[7] A recent nationwide survey by Credit Sesame indicates that Latino families are less likely than white families to have a credit card, and are more likely to report distrust of, or mistreatment by, crediting institutions[8]

Latinos are not the only population nationally who are unbanked at higher rates.
According to Pew Charitable Trusts, citing FDIC data, “About 7.1 million U.S. households don't have a bank account, according to the Federal Deposit Insurance Corporation's latest survey in 2019. Rates are highest among low-income, Black, Hispanic and Native American households, as well as households headed by a person with disabilities, the FDIC survey shows. Nearly half of the unbanked people surveyed told the agency they can't afford to maintain a minimum balance in an account.”[9]

Employment and Potential Impact of a Cashless Economy
The impact of a cashless economy on employment generally would create an untenable and devastating economic situation for those who are paid in cash. In San Francisco, many

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[6] MEDA client data from Salesforce, January 2020 to October 2021
[7] Guzman & Ryberg, “The majority of low-income Hispanic and Black households have little-to-no bank access, complicating access to COVID relief funds,” *National Research Center on Hispanic Children and Families,* 11 Jun 2020. https://www.hispanicresearchcenter.org/research-resources/the-majority-of-low-income-hispanic-and-black-households-have-little-to-no-bank-access-complicating-access-to-covid-relief-funds
[8] “Black and Hispanic Americans on the U.S. financial system: "The odds were always against me," new Credit Sesame survey finds,” *Cision PR Newswire,* 26 Jan 2021. https://www.prnewswire.com/news-releases/black-and-hispanic-americans-on-the-us-financial-system-the-odds-were-always-against-me-new-credit-sesame-survey-finds-301215072.html
[9] Quinton, Sophie, “Paying With Cash? Retailers Must Take Your Dollars in These States.” *Pew Charitable Trusts, Stateline*, 11 May 2021 https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2021/05/11/paying-with-cash-retailers-must-take-your-dollars-in-these-states

low-wage workers and day laborers are paid in cash. If San Francisco had allowed the proliferation of a cashless economy, increasingly, these workers may have been unable to spend the cash they earn to buy goods and services they need. This would create a disproportionate and unnecessary hardship on this population, as well as lead to increasing experience of exclusion, rather than inclusion in our City's economic life.

Retail Experience in a Cash Acceptance Economy

In San Francisco, the retail industry is doing a good job of serving the public because consumers can pay with cash as well as by other means, if merchants choose to make other payment means available. Some merchants, in an effort to keep their products and services affordable, prefer to be paid in cash rather than to have to pass on the cost of interchange fees to the customer or to absorb it themselves. Many of these merchants offer their customers the option to choose what method is best for themselves. In these cases, merchants inform customers that there is an additional fee charged when the customer uses a debit or credit card to pay. We are not aware of dysfunction in the retail realm due to customers paying in cash.

San Francisco's Ordinance

Pursuant to legislation passed by the City and County of San Francisco in 2019, "Legal Rights for Legal Tender Ordinance,"[10] consumers in San Francisco have the explicit right to pay in cash, for goods and services, other than professional services, at brick and mortar retail establishments. This right is not exclusive; it exists alongside any other payment options the merchant wants to make available to customers. There are some businesses that are exempt, and certain dollar amounts under which the obligation to accept cash apply.

The underlying rationale for the San Francisco legislation includes:

"San Francisco seeks to strive to be a welcoming, inclusive place for all City residents. Consistent with this ethos of inclusivity, the City strives to empower all of its residents to participate in San Francisco's economic life. A key aspect of participation in economic life in the City, as anywhere, is the ability as a consumer to purchase goods and services."

Other conditions that gave rise to the law include the fact that many City residents, and especially the very poor, are unable to access credit or obtain bank accounts that allow for non-cash payments; a recognition that there are "millions of Americans who are unbanked or do not operate within the financial mainstream"; consumer privacy concerns; "denying the ability to use cash as a payment method means excluding too many people." The City is vigilant in

[10] Full legislative history available at https://sfgov.legistar.com/LegislationDetail.aspx?ID=3863269&GUID=7196286E-DD3A-43AC-88AE-3A8864880B17&Options=ID%7CText%7C&Search=cash

ensuring that its economy is "inclusionary and accessible to everyone . . . [and that they are] able to participate in the City's economic life by paying cash for goods and services."

Conclusion

MEDA supports the goals and objectives of San Francisco's Legal Rights for Legal Tender Ordinance and encourages other jurisdictions to adopt similar protections for consumers, particularly for those who are at risk of exclusion from the economic mainstream. We are pleased that the U.S. House Committee on Financial Services is examining this topic and that we have had an opportunity to offer our input. Now, more than ever, as our country endeavors to recover from the COVID pandemic, and there is greater recognition of the imperative to include, rather than exclude, historically marginalized communities, retaining the right to transact in cash is essential. An inclusive economy benefits civic life, a positive experience for all consumers, and business success. Retaining the right to pay in cash is a just, efficient and effective means to achieve greater societal equity.

NEW JERSEY CITIZEN ACTION

October 14, 2021

Testimony:
Beverly Brown Ruggia
Financial Justice Program Director
New Jersey Citizen Action
beverly@njcitizenaction.org
201 344-2954

Thank you, Chairman Green and members of this Committee for the opportunity to testify today. I am the Financial Justice Program Director for New Jersey Citizen, a statewide nonprofit organization working for social, racial, and economic justice through advocacy, public outreach, and community empowerment programs that address systemic and institutional issues, as well as the pressing needs and interests of low- and moderate-income New Jerseyans.

In 2019 New Jersey passed bi- partisan legislation to protect consumers' choice to use cash as payment for most retail purchases The legislature acted because denying cash as a form of payment for goods and services discriminates against people who cannot afford or are unable to obtain non-cash payment options. Additionally, the practice potentially subjects consumers to unnecessary costs, violations of privacy and exposure to cyber security risks.

Cashless payment polices discriminate against communities of color and low-income customers, disproportionately. A 2019, FDIC survey[1], showed that 7.1 million Americans are "unbanked, " or live in households where no one has a bank account. 17% of Black households and 14% of "Hispanic" households are unbanked, compared with just 3% of white households. Another 24 million households are "underbanked," meaning that at least one household member has a bank account but does not generally use credit cards or other traditional bank credit products. Indigenous households, working-age disabled households, and households with volatile income are also among the unbanked or underbanked at high rates.

[1] The 2019 FDIC Survey of Household Use of Banking and Financial Services https://economicinclusion.gov/surveys/2019household/

As demonstrated in a 2018 report by Reveal News, [2] Redlining persists in this country and still denies millions of low- and moderate- income, and Black and Brown people access to banking services and accounts. Even where possible, opening a bank account requires documents which many low-income and elderly people do not have. People experiencing homelessness usually cannot provide utility bills or other proof of address needed to open a bank account. Online banking services also require reliable and affordable internet access, which low- and fixed- income people often cannot afford. And, people for whom English is not their first language [3] are more likely to be unbanked than native English speakers.

But the main reason cited by 29 percent of the FDIC survey's respondents—is not having enough money to meet the minimum balance requirements to open and maintain a bank account. Sadly, the COVID-19 pandemic may have caused more households to fall out of the banking system. Cashless polices specifically penalize individuals and households for whom the cost of maintaining a bank account is what prohibits them from having a bank account, a credit card or consumer credit products needed to make non-cash payments.

The alternatives to credit cards, such as a prepaid cards or mobile devices are costly. A study by the Financial Health Networks found that in 2018, unbanked and underbanked households spent $189 billion in fees and interest on non-bank financial products.[4]

Cashless payment policies can also pose practical barriers. One of Citizen Action's board co-chairs at is blind. She cannot use bank cards because the terminals are not accessible in design, lacking braille keypads and appropriate pin security, for example. In other words, cashless policies exclude the most vulnerable individuals and households among us, who are not able or cannot afford to use anything but cash.

The second most popular reason cited in the FDIC survey by 16.1 percent of unbanked households, was a distrust of the banking system. Bank card payments are not as private as cash payments. Point of sale systems give businesses and large companies access to personal and financial information. Cashless payments also force customers to expose themselves to potential identify theft and other forms of cyber fraud. So, it should be no surprise that a another study by the National Coalition for Asian Pacific American Community Development, the National Urban League and the National Council of La Raz found that cash has been the preferred method for daily transactions among people in communities of color whether they are banked or unbanked.

Technology in banking and finance must expand financial equity and inclusion by providing choices and options that make personal financial management easier, more efficient and safer for all consumers. Technology must not limit choices or perpetuate systemic inequities in our financial

[2] Kept out- Modern-Day Redlining: https://revealnews.org/article/for-people-of-color-banks-are-shutting-the-door-to-homeownership/

[3] BANKING IN COLOR New Findings on Financial Access for Low- and Moderate-Income Communities: https://www.nationalcapacd.org/wp-content/uploads/2017/08/banking_in_color_report.pdf

[4] Financially Underserved Market Study: https://finhealthnetwork.org/research/2019-financially-underserved-market-size-study/

system that exclude and discriminate. Cashless payment policies amount to discriminatory retail redlining. Instead of a redline around a neighborhood, there are millions of redlines around individual customers shopping on Main street every day, which deny them access to goods and services despite having perfectly sufficient US legal tender to spend.

Thank you!

Alex Valdez, Colorado State Representative

Written Testimony

Thursday, October 14, 2021

United States House of Representatives Committee on Financial Services, Subcommittee on Oversight and Investigations

Cashed Out: How a Cashless Economy Impacts Disadvantaged Communities and Peoples

My name is Alex Valdez and I am the State Representative to Colorado's House District 5, which encompasses downtown Denver. Denver's population is also almost 40% Latino and Colorado's population as a whole is nearly 22% Latino. As a Latino, and the Chair of the Latino Caucus, former Chair of the LGBTQ Caucus, and Chair of the Energy & Environment Committee I am more than familiar with how minority communities feel disproportionate impacts in their everyday lives.

During Colorado's 2021 Legislative Session I sponsored House Bill 1048, entitled "Concerning A Requirement That Retail Establishments Accept United States Currency For Purchases." House Bill 21-1048 requires retail establishments offering goods or services to accept United States currency as a form of payment for in-person transactions. Retail establishments that do not comply with this legislation may be fined up to $250 per transaction. Throughout the stakeholder processes certain exceptions were established, such as exempting banks or credit unions and transactions for security deposits placed on a credit card.

The catalyst for this bill came directly from the community. Marginalized communities with unbanked and underbanked Coloradans were struggling to survive as the myth that COVID-19 was transmitted through cash - but not credit or debit cards - grew throughout the state, country, and world. The “war on cash” is not a new concept, but one that we saw increase exponentially throughout the global health pandemic, adding even more strain to families navigating such tumultuous times. This attack on cash has long affected minority communities, creating inequities in every facet of the economy.

In 2017, 4.2% of Coloradans did not have any sort of bank account and 17.3% of Coloradans were underbanked which results in many using only cash for everyday necessities. According to a 2017 Federal Deposit Insurance Corporation report, it was estimated that 25% of all American households were either unbanked or underbanked. That is roughly 32 million households without a bank account or access to traditional banking systems. To deny so many people a sole method of purchasing power is wrong, especially when ⅓ of low income qualifying individuals and 17% of Latinos countrywide use cash for all purchases. Cash usage is still prevalent and important throughout our society, and there are large swaths of Coloradans and Americans who rely on it daily.

When crafting this bill I spoke with a variety of folks about how this would impact them. Some were not able to buy their groceries at a local store and were forced to travel longer distances just to find establishments that would accept cash. Others had undocumented relatives who faced yet another barrier when denied cash purchases. On one occasion, I attempted to pay in cash after having dinner with a friend and was told the restaurant did not accept cash. I was lucky - I had a credit card I could use to pay, but those who don’t have one are no less deserving of having a meal, buying groceries, or purchasing goods. In situations such as this, no person should be made to feel embarrassed, rejected, or judged based on their purchasing method.

The policy solution to address this crisis is laid out in the sponsored bill, House Bill 21-1048. Putting an end to the ban on cash supports all members of our society, especially people of color, lower income families, the elderly, the undocumented, and the unhoused. As our economy and communities continue to navigate and recover from the COVID-19 pandemic, it is critical to ensure that every person can fully participate in our economy. Cashless systems prevent this, stifling economic recovery and hindering healthy communities.

Banning one of the simplest ways to pay - cash - is inequitable. Those who don't have a credit or debit card, or a bank account, should not be excluded; the millions of Americans who are unbanked or underbanked have every right to participate in our economy and meet their basic needs.

Our currency states it is good for all debts public and private. It's my hope you will advance legislation making that statement a reality.

Thank you and I'm happy to take any questions from the committee.

CATO INSTITUTE | Center for Monetary and Financial Alternatives

Testimony
Before the U.S. House of Representatives Committee on Financial Services
Subcommittee on Oversight and Investigations
Hearing on "Cashed Out: How a Cashless Economy Impacts Disadvantaged Communities and Peoples"

Todd Zywicki
Senior Fellow
Center for Monetary and Financial Alternatives, Cato Institute

October 14, 2021

Dear Chairman Green, Ranking Member Emmer, and Members of the Subcommittee:

My name is Todd Zywicki. I'm a senior fellow at the Cato Institute's Center for Monetary and Financial Alternatives and the George Mason University Foundation professor of law at the Antonin Scalia Law School. It is my pleasure to testify today on the important topic, "Cashed Out: How a Cashless Economy Impacts Disadvantaged Communities and Peoples." As is well-known, understanding challenges to financial inclusion, innovation, and consumer choice—especially for those traditionally on the margins of the consumer financial system—is a great passion of mine. Not only have I dedicated my scholarly and professional career to an analysis of these questions, but during 2020 I held an Intergovernmental Personnel Act assignment from my university to serve as the Chair of the Consumer Financial Protection Bureau (CFPB) Taskforce on Federal Consumer Financial Law. The primary focus of our final report, which was issued in January 2021, was to understand how to promote financial inclusion, innovation, and competition in ways that can expand access and improve the quality of financial services for traditionally excluded consumers, especially young, minority, and immigrant individuals and families.[1]

This hearing on the movement toward a cashless society comes at a propitious time in our nation's economic history as innovations in consumer payment systems have fundamentally disrupted traditional institutions of banking, payments, and consumer finance. Ubiquitous access to mobile banking, fintech innovations, increased speeds and reduced costs of electronic banking, and changing consumer tastes (including generational change) had been steadily transforming the consumer financial landscape toward greater use of electronic payments.

The pandemic dramatically accelerated this transition. Consumers who never banked or paid bills online suddenly found bank branches shut down, or rarely accessible. ATM use was discouraged. Businesses stopped accepting paper money because of concerns about germ transmission on surfaces as well as a migration to delivery and "grab-and-go" curbside ordering. According to one estimate, the number of merchants going completely cashless quadrupled in

[1] CFPB, "Consumer Financial Protection Bureau's Taskforce on Federal Consumer Financial Law Report." *CFPB* (January 5, 2021). Available at https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureaus-taskforce-on-federal-consumer-financial-law-releases-its-report/.

the first two months of the pandemic[2] and many businesses started taking online payments for the first time as a response to the pandemic.[3] In addition, the rapid adoption of peer-to-peer payment apps such as Venmo and Zelle, payment dongles such as Square, and apps such as ParkMobile have reduced use of cash even for payments among friends and family, informal transactions (e.g., farmer's markets), and traditional redoubts of cash payments such as parking tolls.

Yet many consumers will want to continue to use cash for a variety of reasons, such as preserving anonymity, convenience, or budgeting purposes. Many consumers, especially those in rural areas, may lack access to the technological infrastructure necessary to make widespread use of mobile payments and other technology platforms. Many businesses also will want to continue to accept cash, especially larger, older established businesses that have already incurred many of the fixed-costs associated with accepting cash, such as vaults, cash registers, security systems, and the like. Nevertheless, the trends are clear—the economy is increasingly moving toward a predominantly cashless society and the preferences of consumers and businesses are driving these trends. And new businesses and the changing tastes of a new generation of consumers are likely to expedite this migration. These trends are likely irreversible.

Therefore, it is crucial to make sure that no one is left behind in this transition. Failing to do so would leave American citizens unable to access the payment mechanisms they need to acquire goods and services.

And so I strongly support and recognize the concerns behind the topic of this hearing today. I also recognize the legitimacy of preferences by both consumers and businesses to continue to use cash and I am not urging that government policy should override those preferences in order to move toward a cashless economy as an end in itself or that somehow electronic payments are "better" than cash. But while I share the goal of ensuring no one is foreclosed from the economy, I believe the means that have been advocated—banning retailers from voluntarily adopting cash-free policies in order to compel them to continue to accept cash—is not the right way to address this problem.

Propping up cash as a legacy payment system will impose unnecessary social and private costs that will likely end up forcing all consumers to pay more for goods and services. Instead, federal and state legislatures and regulators should aggressively move to adopt policies that allow for the continued innovation and growth of electronic payments as well clearing away counterproductive regulations that exacerbate problems of financial exclusion and handicap efforts to increase inclusion of traditionally excluded consumers and increase their access to a wider array of higher quality financial products.

Within my lifetime, checks went from being one of the most popular and widely-used methods of consumer payments to virtually non-existent today. This transition was difficult for people who still preferred to use checks as a form of payment. But checks were slow, risky, and expensive to process, and so many merchants phased out checks over time. Some industries, such as restaurants, phased out check acceptance long ago. Other industries, such as grocery

[2] See Chapter 2 in Square, "Making Change" *Square* (June 2020). Available at https://squareup.com/us/en/making-change. Square estimated in September 2020 that it would have taken "more than three years" to see a similar shift away from cash usage without the pandemic. *Id.* at Chapter 3.
[3] *Id.* at Chapter 4.

stores, still seem to accept checks. And some newer industries, such as e-commerce shopping sites, seem to have never accepted checks at all. But while this migration away from checks was difficult for some, the transition was inevitable in light of the obvious advantages of electronic payments in terms of cost, speed, and risk, and was managed through evolution of consumer and business preferences. Younger generations, such as my daughter's, may never write a check in their lives and may never hold a bank account that has check-writing capacity.

I suggest that a similar migration is underway now with respect to cash. Just as it would have been a mistake to mandate that all businesses continue to accept checks regardless of the cost or risk, it is equally a mistake to impose a mandate on these same businesses today that they must continue to accept cash payments. Unless there is compelling evidence to the contrary, consumer and merchant choice and preference, not government mandates, should be the guiding principle for the evolution of payment systems.

In my testimony I would like to make two overarching points:

1. The trend toward a cash-free economy and the voluntary adoption of cashless payment practices can be best understood as a legitimate and dynamic adaptive response to changing customer preferences and the manifest efficiencies and declining costs of electronic payments. Consumers can be expected to receive a net benefit from these developments in the form of not just lower prices but a superior shopping experience through faster, more convenient, and at least in some cases, safer and more hygienic shopping experience. There is no reason to believe that the movement toward cashless establishments represents a market failure that requires government intervention. Moreover as the usage of cash declines, the relative costs of accepting cash compared to other payment mechanisms will continue to increase, which will place a growing burden on businesses and the economy at large.

2. The side-effects for some consumers that are created as a by-product of the transition to a cashless economy can be best mitigated by adopting policies that promote greater competition and access to electronic payments rather than trying to prop up the existing legacy payments system. While the costs of the transition to a cashless economy will not be equally distributed across society and economy, the benefits of intelligent policies that can expand financial access to traditionally excluded groups also have their greatest potential to benefit the lives of traditionally excluded groups. Adopting constructive policies, however, will require new thinking about how to best facilitate that end.

Benefits to Consumers and Business of Permitting Cashless Establishments

It is unlikely that in the short to medium-run term the United States will move toward a fully cashless society or that even a majority of retailers, especially larger retailers, will opt to be cash-free. Even though consumer preferences are changing rapidly, many consumers continue to want to use cash to shop and for other purposes. Somewhat counter-intuitively, demand for cash actually *increased* during the pandemic as consumers "hoarded" cash as a store of value because of the inconvenience and difficulties of accessing a bank, ATM, or other source to get cash when desired, even though cash transactions generally declined.[4] Near-zero interest rates on bank

[4] See Shaun O'Brien, "Consumer Payments and the COVID-19 Pandemic: Findings from the April 2021 Supplemental Survey." *Fednotes: Federal Reserve Bank of San Francisco* (Sept. 21, 2021). Available at https://www.frbsf.org/cash/publications/fed-notes/2021/september/consumer-payments-covid-19-pandemic-

savings accounts further discouraged consumers from making bank deposits.[5] Many individuals, especially part-time and informal workers such as domestic help or yard work, continue to be paid in cash, as do tipped employees, although it is possible even some of these workers started receiving digital payments during the pandemic. Many legacy retailers have already invested in the infrastructure of cash acceptance and management, such as large cash registers, safes, security systems, and other investments.

Moreover, it is important to keep in mind that efforts to adopt cashless payments have been voluntarily-adopted by businesses, not mandated by government rules. This suggests that businesses will be likely to adopt cashless policies only when the benefits to them (and their customers) exceed the costs in terms of lost sales and other effects of rejecting cash.

But there are substantial benefits to consumers, businesses, and society that are driving many of these trends toward reduced cash usage. These benefits are likely to be largest for new and smaller businesses because of the particular cost structure associated with accepting cash, for which many of the costs are effectively fixed costs that do not scale with the size of the business or its economic activity. In addition to varying by size of business, the cost structure of accepting cash also will vary across different industries and geographic regions depending on variables such as prevailing labor wage rates, minimum wage laws, and other factors that affect the relative cost of accepting cash.

Electronic Payments Can be Less Expensive than Cash

A primary reason why businesses adopt cash-free policies is that electronic payments are simply less expensive than cash, especially once the full cost of cash is considered. Moreover, as time goes on, it will become increasingly the case that the relative costs of cash versus electronic payments will tip toward the advantage of electronic payments.

- *Electronic Payments can reduce labor costs:* Handling cash is much more labor intensive for retailers than electronic payments. Cash payments usually require a cashier to receive, count, and make change. Cash must be counted and recorded at the end of each day and at the beginning and end of each employee shift. Cash handling can take several hours of employee time per day.[6] It has been estimated that cash handling costs may approximate 1% of revenues. The total cost of cash handling, of course, will scale with the labor costs—in higher-wage markets (such as those with higher mandated minimum wage rules), the cost of accepting cash will be relatively higher than in areas with lower prevailing wages.

  The cost of employee time spent on handling cash will be expected to be passed through to consumers in higher costs and provide long-run incentives for businesses to replace labor with capital investments. In a tight labor market as we see today around the country, the labor cost associated with counting and

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diary-consumer-payment-choice-supplement-3/; Kenneth Rogoff and Jessica Scazzero, "COVID Cash." *CMFA Working Paper* No. 002, at p. 13 (February 11, 2021) ("We conclude that most of the rapid growth in demand for cash is for hoarding purposes, as opposed to use in consumer payments.").

[5] As Rogoff and Scazzero note, in countries that adopted negative interest rate policies this phenomenon of cash hoarding was particularly pronounced. *See* Rogoff and Scazzero, *supra* note 4.

[6] See Economists Incorporated, "Retailer Payment Systems: Relative Merits of Cash and Payment Cards." (November 19, 2014). Available at https://ei.com/wp-content/uploads/2015/01/Cost_of_Cash_Study.pdf.

handling cash instead of helping customers and other useful activities can affect consumer prices and the retail experience. Cash also requires employees to either carry the deposit to the bank themselves or to hire an armored car to collect and transport the cash.[7] If store employees carry the cash then the costs of travel and waiting at the bank represent time away from helping customers or some other purpose.

- *Equipment costs:* The capital equipment costs associated with accepting cash are significant. These costs include investments such as a cash register that is equipped to receive and store cash payments, a safe or vault, and surveillance equipment to guard against theft, as well as in some instances, additional investments in security such as plexiglass screens, reinforced windows, or even bars. Electronic payments, by contrast, typically do not require such extensive investments. For example, a bulky cash register can be replaced by a simple payments terminal and vaults and other anti-theft protections are also largely unnecessary. Again, however, many legacy businesses have already invested in these costs. For new businesses, by contrast, these fixed capital costs can be avoided, spurring greater entry, more competition, and more choice for consumers.

  Requiring stores to accept cash, by contrast, will require them to make these investments, raising costly barriers to entry. Because of increased labor costs in the economy, the relative cost of labor-intensive cash handling has been increasing over time. Moreover, as the number of cash transactions declines, the fixed costs of cash (such as equipment investments) will be amortized over a smaller number of transactions.

- *Security costs:* In addition to in-store security, safely transporting cash often requires a business to hire an armored car or other company to safely transport cash holdings to the bank for deposit or to require an employee to undertake the risk of transporting those funds himself or herself, which can provide risk to the employee against theft or harm. Moreover, much of the cost of armored car services is associated with the flat fee of the service call pickup fee, which is largely independent of the size of the deposit. As a result, the cost of armored car transportation will fall disproportionately on smaller businesses and those with fewer cash transactions.

- *The cost of electronic payments is falling:* By contrast, the decline in telecommunications costs over time has led relative the costs of accepting electronic payments to decline as the cost of cash has increased.

[7] One recent estimate is the size of the armored car industry in the U.S. is $2.8 billion in revenues. David Perkins, "Long Live Cash: The Potential Decline of Cash Usage and Related Implications." *Congressional Research Service* (May 10, 2019). Available at https://sgp.fas.org/crs/misc/R45716.pdf.

Electronic Payments Can be Faster and More Convenient than Cash

Many retailers want to adopt electronic payments because they are faster and more convenient than cash, especially for contactless payments. Studies have shown that in some industries in particular, such as fast food, the comparative speediness of electronic payments can dramatically expedite customer throughput, thereby reducing wait times, improving consumer experience, and reducing the amount of time spent by each employee on a given transaction. In those situations, which likely are not universal, adopting cashless payment policies can increase productivity and reduce costs that can be passed on to consumers.

Electronic Payments Can Be More Hygienic than Cash

Many merchants temporarily adopted cash-free policies during the pandemic not because of their economic value but because of the health value associated with it.[8] It was later determined that the risk of SARS-CoV-2 transmission on surfaces (including dollar bills) was infinitesimal, if at all. Nevertheless the larger concern remains—because cash is passed from person to person, it can be a carrier of microbes, viruses, and other contagions.[9] This concern can be especially heightened when cash is related to productive sources of bacterial growth or other impurities such as food, social settings, and illegal activities.[10] Researchers have even identified the presence of antibiotic resistant forms of bacteria on coins.[11] The cotton/linen material used to produce US currency is highly conducive to the preservation of living organisms for extended periods of time and is resistant to washing.[12] Although perhaps not a necessary safety protocol in most instances, some consumers and businesses in some instances might prefer to avoid the potential safety consequences associated with handling cash transactions.

Electronic Payments Can be Safer than Cash

Cash also raises concerns about theft and security that are not present with electronic payments. Most notable, accepting cash payments raises concerns about theft by employees and third parties, including the risk of armed robbery. According to one estimate, U.S. retail businesses lose about $40 billion annually in employee cash theft.[13]

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[8] For similar reasons, many merchants also refused to accept reusable grocery store bags during the height of the pandemic.

[9] See Julia M. Maritz, Steven A. Sullivan, Robert J. Prill, Emre Aksoy, Paul Scheid, and Jane M. Carlton, "Filthy Lucre: A Metagenomic Pilot Study of Microbes Found on Circulating Currency in New York City." *PLoS ONE* (April 6, 2017). Available at https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0175527.

[10] For example, one researcher has estimated that ninety percent of U.S. currency contains traces of cocaine. *See* David Biello, "Cocaine Contaminates Majority of U.S. Currency." *Scientific American* (Aug. 16, 2009).

[11] Ola Tolba, Anne Loughrey, Colin E. Goldsmith, B. Cherie Millar, Paul J. Rooney, and John E. Moore, "Survival of Epidemic Strains of Nosocomial- and Community-Acquired Methicillin-Resistant Staphylococcus Aureus on Coins." *American Journal of Infection Control* (2007). Available at https://www.semanticscholar.org/paper/Survival-of-epidemic-strains-of-nosocomial-and-on-Tolba-Loughrey/00d3f1f4a922f52d2cfea68cae4711e3f9d3d809

[12] See Frank Vriesekoop, *et al.*, "Dirty Money: A Matter of Bacterial Survival, Adherence, and Toxicity." *Microorganisms 4(4): 42* (November 2016). Available at https://www.researchgate.net/publication/310782801_Dirty_Money_A_Matter_of_Bacterial_Survival_Adherence_and_Toxicity

[13] See Bhaskar Chakravorti, "The Hidden Costs of Cash." *Harvard Business Review* (June 26, 2014). Available at https://hbr.org/2014/06/the-hidden-costs-of-cash.

Accepting cash also raises concerns about accepting counterfeit currency (which banks will not accept) and monitoring costs associated with preventing acceptance of counterfeit currency, which may include contentious, and perhaps even violent, confrontations between customers, store employees, and the police. When a merchant accepts a fraudulent credit or debit card payment, by contrast, the merchant usually can reverse the charge (as can a consumer that has been the victim of theft or a fraudulent charge).

Electronic Payments Can Benefit Society by Reducing Tax Evasion and Crime

In addition to the benefits to merchants from electronic payments, there may also be significant advantages to society at large. For example, because of its largely untraceable nature, cash can facilitate tax evasion, criminal activity, and the shadow economy. Although estimates are hard to come by, losses from tax evasion associated with cash usage may amount to $100 billion per year or more.[14] Moreover, cross-country comparisons have suggested that the size of a country's shadow economy is correlated with the extent of its economy's cash usage and that greater use of electronic payments can increase tax compliance and reduce the size of the shadow economy.[15]

Unbanked and Underbanked Consumers Can Benefit from Greater Access to Electronic Payments Rather than Encouraging Continued Cash Usage

Access to electronic payments is not free, of course. Traditional electronic payments are via payment cards such as credit card, debit card, or a general purpose reloadable prepaid card.[16] Each of these may require some fee from a consumer. New "challenger" fintech companies such as Chime offer free banking services funded by interchange fees generated from payment card transactions, but like traditional general purpose prepaid cards, consumers usually must charge a fee to load money onto these app-based financial service providers. Usually those fees are a few dollars and they can be reloaded at local convenience and drugstores.

On the other hand, it is often overlooked that many individuals must also incur significant costs to access cash, especially if they do not have a bank account. A 2018 analysis by the Congressional Research Service of banks with more than $1 billion in assets estimated that banks collected $1.9 billion in ATM fees that year.[17] For 2020, the total cost of an out-of-network ATM withdrawal was $4.64 per transaction.[18] According to analysis by Bhaskar Chakravorti, it is more expensive for unbanked consumers to access cash than for those with a bank account: Unbanked consumers pay $4 higher fees per month for cash access than those with access to formal financial services.[19] Check cashers charge anywhere fees from 1%-12% of the value of a

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[14] See *id.*; Kenneth S. Rogoff, "Costs and Benefits to Phasing Out Paper Currency." *NBER Working Paper* (May 2014). Available at https://www.nber.org/papers/w20126.
[15] See Hugh Thomas and Kevin Mellyn, "Is There Such a Thing as Having Too Much Cash?" *MasterCard Advisors Global Insights* (October 2012).
[16] See Todd J. Zywicki, "The Economics and Regulation of Network Branded Prepaid Cards." *Florida Law Review* (2013).
[17] See Perkins, *supra* note 7, at 6.
[18] See Matthew Goldberg, "Survey: Interest Checking Account Fees Hit Record High, While Average Yield Ties Record Low." *Bankrate* (Oct. 21, 2020). Available at https://www.bankrate.com/banking/checking/checking-account-survey/.
[19] Chakravorti, *supra* note 13.

check.[20] Others such as Walmart charge less, but even for lower-cost providers their fees are comparable to that associated with reloading fees on a prepaid card.

According to Chakravorti, poorer consumers also have to spend more time to get access to cash. They also face a five times higher risk of paying cash access fees on payroll and EBT cards. Greater reliance on cash also exposes those consumers to elevated risk of crime and loss.

Preserving access to cash payments for consumers, such as by requiring businesses to continue accepting cash, is thus an expensive and suboptimal solution that comes at substantial cost to consumers and businesses, alike. A better approach is to facilitate increased access to electronic payments for these consumers, especially by expanding options outside the traditional banking system.

Increasing Access to Electronic Payments Is a Better Response to the Evolution of Cash-Free Retailing

Most retailers, and especially larger and established retailers, are unlikely to eliminate cash receipt in the near future. Nevertheless, a trend toward cashless retailing is clear and will likely be accelerated by new market entry and generational change among consumers. During our lifetimes we have already seen one major shift in payments practices as checks have largely been eliminated from day-to-day life, having been replaced by electronic payments, particularly debit cards. To be sure, that transition raised fewer issues because both checks and debit cards (their primary replacement) required the consumer to have a bank account. Nevertheless, this dramatic change in payment patterns illustrates the potential for pro-consumer evolution in payment systems when managed well.

Public policies to increase access to electronic payments among traditionally unbanked populations can come about either through regulatory changes that promote access and competition in financial services or through the elimination or reform of current regulatory barriers that hamper efforts to deliver electronic payments to consumers.

There are three well-established types of electronic payments mechanisms: credit cards, debit cards, and reloadable prepaid cards. Most are issued by traditional banks. In addition, many employers pay wages using payroll cards and government benefits are paid on cards, which consumers can use to make payments as with any other type of card. Although fees sometimes are incurred for such use, again it is important to keep in mind that accessing cash for unbanked consumers also incurs fees for use of check cashers, ATMs, and other providers.

General-Purpose Reloadable Prepaid Cards Provide Access to Electronic Payments for Many Consumers

General-purpose reloadable prepaid cards are an especially promising product for unbanked consumers to gain access to electronic payments. General purpose prepaid cards can be obtained easily at drugstores, grocery stores, and Walmart.[21] Consumers can add money to their cards at similar retail outlets for a fee of a few dollars. Most bank-issued prepaid cards

[20] See PersonalFinance.com, "How Much Does Cashing a Check Cost?" *Cashing a Check Cost*. Available at https://personalfinance.costhelper.com/check-cashing.html#extres1.
[21] Pew Charitable Trusts, "Why Americans Use Prepaid Cards" *Pew Report* (February 6, 2014). Available at https://www.pewtrusts.org/en/research-and-analysis/reports/2014/02/06/why-americans-use-prepaid-cards.

enable consumers to add value to their cards for no fee, make in-network ATM transactions, and make transactions with no fee. However, bank-issued prepaid cards typically charge a monthly fee, typically of about $4.95 per month, which is equivalent or lower than the fees for a bank account that is not eligible for free checking. Many consumers who use prepaid cards say they previously or currently have bank accounts but had trouble managing their bank account and ended up incurring overdraft fees.[22]

Prepaid debit cards also provide a vehicle for establishing simplified online banking platforms for consumers to pay bills and make online and retail payments.[23] My assessment of the current financial services landscape is that many consumers today do not need the full suite of financial services that is offered by a traditional bank account. Traditional bank accounts bundle a large number of financial products into one package, such as transactions, payments, savings, and credit functions (including checks). Many consumers, however, do not need this full suite of financial services, especially early in their financial lifetimes, and prefer a simplified financial platform that will enable them to make payments, pay bills, and save money.[24]

Market developments indicate consumers increasingly are "unbundling" their financial services usage. In some instances, this involves the use payment platforms such as Venmo or PayPal, which are used instead of traditional debit or credit cards. Notably, the most recent edition of the FDIC's "How America Banks" contains, for the first time, survey questions about consumer use of these alternative payment platforms. Fintech providers are also rapidly emerging to provide payments functionality without the need for a traditional bank account. At the same time, the growing popularity of products such as "Buy Now, Pay Later" is displacing traditional credit cards as a form of consumer credit to finance purchases. Consumers increasingly are unbundling the various components of a traditional bank account, a development that has become increasingly easy as many of these providers move online.

Early generations of prepaid cards often had multiple fees and other confusing terms for consumers. But the prepaid card market evolved quickly toward less expensive and more simplified pricing structures.[25] In addition, the market for prepaid cards is highly competitive, as consumers generally find it easier to change their prepaid card provider than for credit cards (which require credit approval by the issuer) or debit cards (which require a consumer to undergo the cumbersome process of changing bank accounts).[26] Because of their flexibility and ease of access, as well as cost structure comparable to that of cash acquisition and use, general-purpose prepaid cards provide a useful alternative to cash payments for many traditionally excluded consumers, especially in areas where consumers can access bank networks to access no-fee banking services.

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[22] *Id.*
[23] Zywicki, *Prepaid Cards*, *supra* note 16.
[24] CFPB, *supra* note 1.
[25] Zywicki, *Prepaid Cards*, *supra* note 16.
[26] *Id.*

Congress Should Repeal Section 1075 of the Dodd-Frank Financial Reform Legislation that Imposes Price Controls on Debit Card Interchange Fees

Congress could also facilitate greater access to electronic payments, especially among currently unbanked consumers, by repealing Section 1075 of the Dodd-Frank Financial Reform Act, also known as the "Durbin Amendment."[27] Multiple empirical studies conducted over the past decade have confirmed what was the predicted effect of the Durbin Amendment, namely to reduce access to bank accounts and increase bank fees for consumers, especially lower-income and marginalized consumers. Banks responded to the imposition of the Durbin Amendment by imposing dramatic increases in the minimum balances necessary to be eligible for free checking, reducing access to free checking, and raising the monthly maintenance fees for those who were no longer eligible for free checking accounts. Although the full effect of these changes in price and access are difficult to measure, some have estimated that the impact of the Durbin Amendment may have swelled the rolls of unbanked Americans by as much as 1 million people, leading them to turn to more expensive alternatives such as check cashers, pawnbrokers, and money orders. By being priced out bank accounts, these consumers also lost access to debit card payment capabilities. Debit card users also saw reward programs disappear as a result of the Durbin Amendment, although no similar effect was seen for credit cards.

Although aimed primarily at debit cards issued by large banks, the Durbin Amendment also can negatively impact prepaid cards issued by those same institutions under certain circumstance. In particular, prepaid cards are exempt from the Durbin Amendment's price controls if they do not provide access to funds by check, Automated Clearing House (ACH), or wire transfer.[28] As a result, the Durbin Amendment constrains large banks to only offer prepaid cards with limited functionality, as they cannot offer on a prepaid card such useful services as online bill pay, recurring ACH payments (such as to pay utility bills), or funds-transfer among different accounts, such as between a prepaid card and an interest-bearing savings account, or they will be subjected to the Durbin Amendment's price controls. Moreover, as noted above, large banks offer many of the more attractive prepaid cards because they offer free ATM service and no-cost card reloading at their branches.

Congress and the CFPB Should Investigate the Sources of Rural Financial Exclusion and Eliminate Barriers to Greater Inclusion

Increased financial inclusion is not just good economic policy it is also a moral imperative. Although much of the public debate has focused on the financial inclusion challenges of urban communities, far less study has been focused on understanding and eliminating barriers to financial inclusion among rural communities.[29] Moreover, because access to high-speed Internet and reliable cellphone data services are more limited in many rural communities, it may be more difficult for rural citizens to transition to greater use of digital banking services. At the same time, however, it should be recognized that these issues likely go beyond those of this current hearing—given these realities about their customer base, it seems exceedingly unlikely that many businesses in rural areas will go cashless in the near future until these issues of access are addressed and demand for cash payments is likely to persist for the near future.

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[27] See 1 CFPB, *supra* note 1, at 586-597 and 2 CFPB, *supra* note 1, at Recommendation 74.
[28] See Zywicki, *Prepaid Cards*, *supra* note 16, at 1495.
[29] See 2 CFPB, *supra* note 1, at Recommendation 77,

Congress and Regulators Should Investigate the Costs on Banks and Consumers of Anti-Money Laundering Regulations and the Impact on Excluded Consumers

The rationale for anti-money laundering (AML) and bank-secrecy laws is clear and compelling. Nevertheless, many commentators have raised concerns that the cost of compliance with AML laws and rules is excessively expensive in light of the benefits to national security and that these rules can be especially burdensome for banks in dealing with particular consumers, especially those such as immigrants and younger consumers, who lack well-established financial histories. During my time as the Chair of the CFPB Taskforce, we were unable to identify the extent to which this concern is well-founded and whether reforms might be available that would allow the country to meet its legitimate national security needs at lower spillover costs in terms of raising banking costs and excluding consumers from the financial system.[30]

Congress and Regulators Should Take Steps to Promote Greater Competition in Retail Banking by Promoting Greater Bank Account Portability and Broader Chartering of New Entrants

In the view of the CFPB Taskforce, a significant barrier to greater competition and consumer choice in retail banking is the cumbersome and somewhat expensive process consumers currently face to change their primary bank accounts. While most consumers find it very easy to change their prepaid cards or credit cards, changing bank accounts (and thus their debit card issuer) can be time-consuming and inconvenient. These difficulties in changing accounts have led many consumers to enlist the services of various data companies that can help them to monitor and change their account providers. Although they provide an important and valuable service to consumers, these providers raise their own questions of privacy, security, and cost. Congress and regulators should explore mechanisms to facilitate increased competition and bank account portability so that consumers can more easily change their primary bank account provider.[31]

Congress and regulators should also take additional steps to promote competition in financial services that would likely reduce the cost and increase access to bank accounts. For example, Congress should authorize the National Credit Union Administration broader authority to charter credit unions in underserved areas to promote financial inclusion.[32] Congress and regulators should also encourage greater opportunity for chartering industrial loan companies, which traditionally have been very active in reaching out to traditionally underserved consumers.[33] Finally, the full recognition of elimination of uncertainty about the legality and stability of special purpose banking charters for fintech firms would ease access and promote competition from nascent fintech firms, with dramatic benefits to traditionally excluded consumers. Clarification of the existing regulatory structure with respect to use of alternative data for underwriting of financial products would also promote financial inclusion among traditionally excluded consumers.[34]

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[30] See 2 CFPB, *supra* note 1, at Recommendation 73.
[31] See 2 CFPB, *supra* note 1, at Recommendation 11.
[32] See 2 CFPB, *supra* note 1, at Recommendation 67.
[33] See 1 CFPB, *supra* note 1, at 409-410.
[34] See 2 CFPB, *supra* note 1, at 6-9.

Congress and the Fed Should Move Aggressively to Implement a System of Faster Payments and Granting Non-Banks Access to the Payments System

Although hard data is elusive, some commentators have plausibly argued that one reason why some consumers use alternative financial products, such as check cashers, is to deal with delays in the U.S. retail payments system. When a consumer deposits a check, it can often take several days for the check to clear and to get access to the full funds. A consumer who needs access to those funds in the meantime, however, will likely turn to a check casher or some other alternative financial provider, *even if* the consumer also has a bank account.[35] Adopting a system of faster payments would eliminate this latency period that leads some consumers to convert checks into cash and allow them speedier access to their deposited funds.

Financial access can also be facilitated by providing non-banks with access to the payments system. Other countries have well-established non-bank payment ecosystems that enable consumers to shop and pay within a non-bank network.[36] Some retailers and other providers have proposed the development of similar non-bank payment networks in the United States.

Conclusion

Recent years have seen a dramatic transformation in the nature of consumer payments and the acceleration of trends away from paper-based forms of payment (checks and currency) to various electronic forms of payment (payment cards, fintech, and online payments). These trends are likely to continue into the future. Cashless retailing offers clear advantages in terms of cost, safety, speed, and public health. These comparative advantages are likely to become more pronounced over time as wage rates continue to increase (thereby increasing the relative cost of cash handling) and payments technology becomes increasingly fast, inexpensive, and convenient.

It is crucial that in this transition toward a more cash-free society that no one is left behind. It is clear that for some time to come, some consumers want to continue paying with cash and that most businesses, especially larger, legacy businesses that have already invested in the capital infrastructure to handle cash, will continue to accept cash payments. But mandating that new businesses make similar investments in the face of declining cash payments would provide an expensive and unnecessary barrier to entry for some new businesses that will be passed on to consumers in higher prices and less competition.

Rather than propping up existing payment technology through government-imposed mandates, Congress and regulators would do better to take steps to eliminate barriers to financial inclusion and greater access to electronic payments for those consumers who want them. For example, some use of alternative financial services such as check-cashing services, likely results from delays in the payment clearing system that could be addressed by adopting a faster payments system. Other consumers who might prefer to a debit card may be unable to afford a bank account because of the cost increases that followed the enactment of Dodd-Frank.

[35] See 1 CFPB, *supra* note 1, at 555-56, 608.
[36] Kenya's M-Pesa system is one of the most well-known and established but similar ecosystems have emerged in other countries. See 1 CFPB, *supra* note 1, at 613-15.

I do not believe that it should be government policy to directly favor one payment system over another, whether by actively encouraging a movement to a cashless society or by propping-up legacy payments systems such as cash. But I also do not believe it is sensible government policy to indirectly disadvantage one payments system over another, such as through regulatory policies that reduce access to bank accounts, fintech, or possible sources of financial inclusion which thereby pushes consumers toward greater than desired use of cash out of necessity. Consumer choice as manifested through the marketplace should be the starting point for these inquiries unless some market failure emerges that makes government regulation appropriate.

Thank you for the opportunity to provide this information, and I welcome any questions that you may have.

NCL
NATIONAL CONSUMERS LEAGUE
1701 K Street, NW, Suite 1200 Washington, DC 20006
Main: (202) 835-3323 Fax: (202) 835-0747 www.nclnet.org

November 23, 2021

The Honorable Jesús "Chuy" García
1519 Longworth House Office Building
United States House of Representatives
Washington, DC 20515

Re: Responses to Question for the Record for House Financial Services Committee Hearing on "Cashed Out: How a Cashless Economy Impacts Disadvantaged Communities and Peoples"

Dear Congressman García,

On behalf of the National Consumers League ("NCL"), America's pioneering consumer and worker advocacy organization, I am writing today in response to the Question for the Record you submitted to me on November 10 (enclosed) following up on my testimony before the House Financial Services Committee on October 14, 2021.

Specifically, you asked whether NCL believes that the Consumer Financial Protection Bureau ("CFPB") should issue a rule to define the larger participants in the payment app space, and that it should supervise entities like PayPal/Venmo, Square/Cash App, and Coinbase for compliance with U.S. consumer financial protection law.

In short, our answer to your question is an unqualified "yes." As I testified, analysts estimate that fraud rates on peer-to-peer ("P2P") money transfer services such as Venmo, Cash App, and Zelle are three to four times higher than for traditional payment methods such as debit and credit cards.[1] We believe this is due to a loophole in Electronic Fund Transfer Act ("EFTA") that allows P2P services to escape liability for fraudulently-induced and erroneous payments. This allows the costs of fraud and errors to be shifted from banks and P2P app providers to consumers.

We do not believe that this *status quo* is in the public interest. A single instance of fraud or one erroneous payment can be financially ruinous for individual consumers. By contrast, banks and P2P apps are far better equipped to absorb the costs of fraud and error resolution. A CFPB rule applying EFTA fraud and error resolution requirements that have

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[1] Popper, Nathaniel. "When Your Last $166 Vanishes: 'Fast Fraud' Surges on Payment Apps," *New York Times*. October 11, 2020. Online: https://www.nytimes.com/2020/10/11/technology/fraud-payment-apps.html

long protected debit and credit card users to P2P apps would create significant incentives for P2P apps to invest in fraud detection technology and error resolution procedures. The benefits to consumers in terms of greater fraud protection and increased trust in P2P services would more than outweigh the costs of such a regulation.

Thank you for your interest in this issue and your question. Should you, fellow Members, or other interested colleagues have any additional questions or concerns, please do not hesitate to contact me at your convenience.

Sincerely,

John Breyault
Vice President, Public Policy, Telecommunications, and Fraud
National Consumers League
Phone: (202) 207-2819
Email: johnb@nclnet.org

Enclosure

cc: Justin "Franklin" Thornton, Clerk – House Committee on Financial Services

Question for the Record

Hearing: Cashed Out: How a Cashless Economy Impacts Disadvantaged Communities and Peoples, October 14, 2021

Submitted by Congressman Jesús "Chuy" García (IL-04) to John Breyault, National Consumers League.

Reportedly, 80% of Americans use a payment app like PayPal/Venmo, Square/Cash App, and Coinbase, and these companies account for more than 66% of the consumer complaints to the Consumer Financial Protection Bureau (CFPB) regarding digital wallets to date. PayPal alone has over 400 million global users and has conducted over $311 billion in total payment volume.

However, these entities are not supervised and examined by the CFPB today.

Under Section 1024 of the Dodd-Frank Act, the CFPB has the authority to define "larger participants" in certain consumer financial product and service markets and to supervise these entities for compliance with Federal consumer financial law and other purposes.

To date the CFPB has used this authority in the areas of International Money Transfers, Automobile Financing and Leasing, Student Loan Servicing, Consumer Debt Collection, and Consumer Reporting, but not in regard to payment apps.

Do you believe that the CFPB should issue a rule to define the larger participants in the payment app space, and that it should supervise entities like PayPal/Venmo, Square/Cash App, and Coinbase for compliance with U.S. consumer financial protection law?

December 2, 2021

Below please find responses to the additional questions submitted to Norma Garcia from Congresswoman Sylvia R. Garcia, regarding MEDA testimony on October 14, 2021, before the House Financial Services Subcommittee on Oversight and Investigations hearing, "Cashed Out: How a Cashless Economy Impacts Disadvantaged Communities and People."

Question:

a. **Would you discuss some of the ways that Latino communities are disenfranchised by the current state of banking, and how that would be made worse by a cashless economy?**

Response:

Latino communities are disenfranchised by the current state of banking in a multitude of ways. These obstacles were detailed more fully in a June 2019 research report published by UnidosUS and PolicyLink, entitled *The Future of Banking, Overcoming Barriers to Financial Inclusion for Communities of Color*.[1] The research also includes findings related to other communities of color, not only Latinos, but the findings are nonetheless relevant to the question posed. The authors concluded:

Nearly half of Latino (43%) and Black (47%) households are unbanked or underbanked, meaning they have either limited or no relationship with the financial mainstream, like banks and credit cards. More people need access to loans, credit, and banking that is more affordable. Low-to-Moderate Income (LMI) consumers, especially people of color, face barriers to entry such as inflexible identification requirements, requirements to maintain balance minimums, inaccessibility due to language barriers and lack of culturally relevant services, poor or no credit histories minimizing access to well-priced loan products, Check Systems reporting practices that stigmatize consumers who may have had problems with a financial institution in the past from accessing services and

[1] Brown, Torres, Loya; The Future of Banking: Overcoming Barriers to Financial Inclusion for Communities of Color, UnidosUS & PolicyLink, 2019 https://www.unidosus.org/wp-content/uploads/2021/07/future_of_banking_52419_v3.pdf

an account, and reduced in-person availability due to fewer physical bank branches in LMI communities.[2] All these factors continue to drive inaccessibility.

The availability of online banking, while its use is growing, does not necessarily fill the void of branch scarcity as LMI communities have lingering concerns about privacy with such platforms. At the same time, Alternative Financial Services (AFS), such as payday lenders and check cashers, continue to be an attractive option for filling the void, despite the increased risks and cost associated with using them.[3]

It is our assessment that a cashless economy would make the existing financial disenfranchisement worse. Successfully navigating such an environment presumes that one has equitable access to banking products and services that allow one to transact electronically in an affordable and safe manner. Participation presumes that one receives payments electronically or that wages or savings are accessible and can be drawn from an electronic source. That is not true for individuals who receive payment in cash or hold their savings in cash and may not have the ability to convert, or afford to convert, cash into an electronic form through a bank account. As long as nearly half of Latinos (43%) remain unbanked, equitable participation in a cashless economy for Latinos is not possible.

Question:

b. How could expanding upon cultural inclusion, by addressing language barriers, help bring more people into the financial fray?

Response:

To the extent that language barriers are an issue, it makes sense that addressing those impediments could help create greater accessibility to banking services. Providing services and signage in multiple languages that also conveys cultural competency is key. However, accessibility also includes the concept that the products themselves must be useful, affordable, and safe for the intended consumer audience. Thus, designing products that meet the needs of Latino consumers who are disenfranchised from the banking system, and delivering them in a way that makes them accessible to them, is critical. The best source for identifying what those improvements need to be are the consumers themselves. We strongly recommend connecting with the communities themselves to learn first-hand what changes are needed and to design those changes in partnership with them.

Improving the banking regulatory environment will also help to remove impediments to becoming banked. We support the National Community Reinvestment Coalition (NCRC) recommendation that regulators should be required to incorporate an explicit focus on race in core Community Reinvestment Act (CRA) regulations and examination

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[2] Ibid., 18 – 24.
[3] Ibid., 24 - 27.

procedures.[4] That is currently not the practice but instituting it would add greater transparency and accountability that can drive greater accessibility to banking services for Latinos and other communities of color.

2. I understand that your community lending arm is a Community Development Financial Institution, or as it is commonly called, a CDFI. Minority Depository Institutions and CDFIs have been engaging with low-income communities for a while, serving the areas that traditional banks often do not. But I understand that there is always a need for increased financial resources to help CDFIs, MDIs, and mission-focused institutions continue to service these markets.

Question:

a. **How can Congress help mission-focused institutions better serve the financially disenfranchised?**

Response:

From the perspective of Fondo Adelante, MEDA's CDFI, we recommend that Congress help mission-focused institutions to better serve the financially disenfranchised through the following strategies:

1) Allow ITIN holders to apply for federal resources. A positive development occurred in 2021 when the new Small Business Administration allowed ITIN holders to apply for Restaurant Revitalization Funds. Many ITIN holders, non-permanent residents and non-citizens are immigrants who have their immigration process in progress.

2) Continue providing support for the Department of the Treasury CDFI Fund. Its annual awards to small and emerging CDFIs are transformational in increasing equitable access to capital and technical assistance, and its support of larger longstanding CDFIs makes possible the scale needed to reach underserved communities.

Thank you for this opportunity to provide further responses on behalf of Mission Economic Development Agency (MEDA).

Sincerely,
/s/

Norma P. Garcia
Policy Counsel, Director of Advocacy
Mission Economic Development Agency (MEDA)
2301 Mission St., Suite 301
San Francisco, CA 94110

[4] Blower, Silver, Richardson, *et.al*, NCRC, September 16, 2021 https://ncrc.org/adding-robust-consideration-of-race-to-community-reinvestment-act-regulations-an-essential-and-constitutional-proposal/ last accessed December 1, 2021