

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

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VIRTUAL HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT  
AND INVESTIGATIONS

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

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

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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

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