CHAPTER 4: CONSUMER FINANCIAL PROTECTION

OVERVIEW

The Great Recession was "the worst financial crisis in global history, including the Great Depression," according to former Federal Reserve Chairman Ben Bernanke.[250] The economy shed 8.7 million jobs; unemployment reached 10 percent; almost four million Americans lost their homes and more than 170,000 small businesses closed.[251] The economic meltdown was the result of predatory lending practices, lax regulation, poorly understood financial instruments, overleveraged financial institutions and excessive risk-taking.[252] In response, Congress passed the landmark Wall Street Reform and Consumer Protection Act, which created a framework to protect consumers and minimize the risk of future crises.

The Trump Administration has aggressively attempted to roll back financial regulations and to undermine consumer protections.[253] The *Economic Report of the President* tries to justify these actions and the President's claims that regulations place unsustainable burdens on small financial institutions and choke business lending. Both those claims have been shown to be untrue.[254]

The Administration's actions have made the economy more susceptible to financial shocks and consumers more vulnerable to predatory practices. This undermines the financial security of all Americans and particularly threatens those on the economic margins.

Nevertheless, the *Report* looks only at the potential costs of regulations while ignoring the proven benefits of financial safeguards and consumer protections. This chapter examines these issues more broadly, finding that prudent regulations and strong

consumer protections are critical to the economic well-being of all Americans.

REGULATORY REFORMS RESTORED CONFIDENCE AND CONSUMER SPENDING

The modern regulatory framework implemented after the Great Recession under the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act helped strengthen our economy by better protecting Americans from the unscrupulous financial activities that threatened the stability of the nation's financial system in the 2000's. The advent of the Consumer Financial Protection Bureau (CFPB) marked the first time in U.S. history that the federal government created an agency whose sole responsibility was to protect consumers of financial products from unfair, deceptive and abusive practices.[255] The 2009 Credit Card Accountability Responsibility and Disclosure (CARD) Act curtailed certain credit card fees, strengthened protections for young consumers and made credit card notices and the true cost of credit more transparent. These pioneering post-crisis regulatory reforms successfully ensured American consumers could rely on a dedicated federal entity to take action—including disseminating information, investigating, enforcing and recovering restitution—to prevent future catastrophic risks, predatory behavior and a loss of confidence in the nation's financial system.[256]

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

Signed into law by President Barack Obama in 2010, the Wall Street Reform and Consumer Protection Act (Dodd-Frank) was the most sweeping reform of the nation's financial system since the Securities Exchange Act of 1934.[257] It increased oversight and regulations on large financial institutions to prevent or mitigate the

far-reaching effects that the failure of a big bank could have on financial markets and the economy. To ensure that taxpayers do not have to shoulder the cost of big bank dissolutions, Dodd-Frank requires larger institutions to periodically undergo stress tests to ensure they have sufficient capital and liquidity to survive a financial crisis.[258] In order to mitigate systemic risk, large banks must now develop and submit for federal review resolution and recovery plans ("living wills") to show they have the internal capacity to dissolve or restructure in the event of a financial crisis or failure.[259]

To prevent the catastrophic shocks and financial uncertainty that hurt Main Street and the everyday consumer during the last financial crisis, Dodd-Frank created a regulatory framework to address the grave abuses and systemic instabilities in the financial sector.[260] It also required more derivatives to be cleared and traded through regulated exchanges.[261] Indicators show banks to be safer now due to the guardrails on the banking sector that were established by Dodd-Frank. [262] For example, capital ratios of the country's largest firms have shown positive growth and one key measure of capital strength, the average Tier 1 risk-based capital ratio, has increased 48 percent since 2007.[263]

Dodd-Frank also amended the Truth in Lending Act (TILA) to set minimum "ability-to-repay" standards for certain residential mortgages and bolstered other existing financial regulations and consumer protections.[264] It enhanced protections for whistleblowers and strengthened anti-retaliation laws for employees who report wrongdoing. It also mandated additional reporting requirements to permit more effective detection of racial discrimination and federal oversight of discriminatory lending practices.[265] Contrary to the claims of its early opponents, the proactive approach to protect American consumers and ensure a

stable financial system resulted in enhanced access to credit: credit card, auto and mortgage lending all increased since the passage of Dodd-Frank.[266]

The Consumer Financial Protection Bureau (CFPB)

Dodd-Frank established the Consumer Financial Protection Bureau (CFPB)—an independent agency within the Federal Reserve System—as the first federal agency specifically charged with protecting consumers of financial products from unfair, deceptive and abusive practices.[267] The CFPB has primary compliance authority over larger banks, thrifts and credit unions (depositories with more than $10 billion in assets). Previously, federal consumer financial protection authority was spread across various federal agencies. Six federal agencies—the Federal Reserve, Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), Department of Housing and Urban Development (HUD) and Federal Trade Commission (FTC)—retain some authorities, but they hold consumer protection powers among an array of other responsibilities that may be competing or at times conflicting. That includes the responsibility to serve the interests of depositories and other or all participants in the financial system.[268]

Charged with rulemaking, enforcement and supervisory powers, the CFPB has conducted over 200 enforcement actions against bad actors dealing with predatory student loan debt, car dealerships, cellphone providers and more.[269] The CFPB allows consumers to provide feedback and make inquiries about financial consumer products across the nation. Through the CFPB, nearly 30 million consumers have received restitution, totaling over $12 billion in relief.[270] The CFPB also coordinates with federal and state

agencies, including the Department of Defense, to improve consumer protection measures and lending rules.[271] The broad success of the CFPB shows that Dodd-Frank created a prudent framework for more robust checks and balances to our financial system, resulting in effective outreach, education, advocacy, oversight and enforcement efforts.

In late 2017, President Trump appointed as interim CFPB director Mick Mulvaney, a former congressmember and state senator from South Carolina and the White House Budget Director. Mulvaney had previously said that the agency should not exist and called it a "joke" in "a sick, sad kind of way." In some of his first actions at the CFPB, Mulvaney instituted a hiring freeze at the agency, put new enforcement cases on hold and sent the Federal Reserve a budget request for zero dollars.[272] Mulvaney dismissed the members of the agency's Consumer Advisory Board (CAB) after 11 CAB members held a news conference and criticized Mulvaney for canceling legally required meetings with the board.[273] He pulled back the probe into how Equifax failed to protect customers and timely notify the public after a data breach that had exposed the information of 145 million consumers. Some Equifax executives quickly sold nearly $2 million worth of the company's shares yet waited weeks before publically disclosing the breach, estimated to hit record costs of over $600 million.[274]

Mulvaney, who comes from the home of some of the largest payday lending companies in South Carolina, also moved to roll back the investigation and prosecution of payday lenders. In one instance, the Bureau settled with a group of payday lenders named NDG Enterprise that falsely threatened customers with arrest and imprisonment if they failed to repay loans and levied no financial penalty on the group after a three-year prosecution.[275] The CFPB also dropped a lawsuit in Kansas against four payday lending

companies that charged interest rates of 440 to 950 percent—well beyond the limit many states allow for consumer loans—with little explanation.[276] The CFPB even joined with a payday lending trade association in asking a federal judge to stay both the compliance date for the payday lending rule and the trade association's own lawsuit against the Bureau.[277]

Overall, the CFPB's enforcement actions have been drastically curtailed under the Trump Administration. In 2018, the Bureau announced just 11 lawsuits or settlements, which is less than a third of the number it announced in 2017 during Richard Cordray's final year as director. When Mulvaney and his successor have allowed cases to move forward, they have often settled with lenders for lowered fines or none at all.[278]

Mulvaney radically undermined the agency's mission by asserting that the Bureau had an equal responsibility to serve the interests of consumers and financial institutions.[279] Under Mulvaney's tenure as acting director, one of the regulatory agency's new priorities would be deregulation. This new role was added to the Bureau's mission statement—making the CFPB "a 21st-century agency that helps consumer finance markets work by regularly identifying and addressing outdated, unnecessary or unduly burdensome regulations…"[280] The mission shift left consumers without an agency solely dedicated to consumer protection.

Mulvaney filled top positions with other political appointees rather than career specialists, and the Bureau lost more than 10 percent of its staff over a year.[281] For example, Eric Blankenstein, a CFPB policy director responsible for enforcing an array of consumer protection laws such as the Equal Credit Opportunity Act, previously worked as a private sector lawyer and represented banks involved in prior CFPB regulatory investigations. His pre-CFPB contributions to discourse about combating racial

discrimination were blog posts dismissive of hate crimes and mocking of increased academic penalties for racist behavior on college campuses.[282] Already-low morale worsened under Mulvaney's leadership.[283]

The Trump Administration and Republicans in Congress have made clear attempts to dismantle the CFPB with the failed Financial CHOICE Act of 2017 and early moves made by Trump appointees.[284] Mulvaney, who is now President Trump's acting chief of staff, was replaced by current CFPB Director Kathy Kraninger in December 2018. Kraninger had previously worked with Mulvaney in the Office of Management and Budget.[285] In her first testimony before Congress this year, she did not provide any concrete pledges to make changes to the shifts initiated under Mulvaney. For example, Kraninger declined to commit to restoring the Office of Fair Lending to its former role under the Obama Administration.[286]

The Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009

In 2009, Congress passed the Credit Card Accountability Responsibility and Disclosure (CARD) Act with bipartisan support.[287] Introduced by U.S. Representative Carolyn Maloney, the CARD Act bans unfair, arbitrary and retroactive rate increases; requires institutions to give cardholders more transparent disclosures; mandates consumers be given a reasonable time to pay their bills and more advanced notice of rate increases; eliminates double-cycle billing; increases industry accountability; and provides new protections for college students and young adults, among other consumer protection measures.[288]

Numerous studies find clear evidence that the bill's enhanced notice requirements, college credit card marketing prohibitions,

"ability-to-pay" provisions and fair fee standards successfully resulted in reduced late fees, less college-based marketing of credit cards, improved readability of credit card statements and more straightforward information about the total costs of credit.[289] Advocates and consumer protection agencies laud the CARD Act for reducing the costs of credit, including fees and interest charges, by two percent while available credit increased. According to the CFPB, the CARD Act has saved consumers over $16 billion in unfair overdraft and late fees.[290]

However, the successful implementation of the CARD Act revealed additional areas of concern in deceptive practices related to overdraft fees on debit cards and bank transactions that are not covered by the 2009 legislation. Without additional consumer protection regulations, overdraft practices can be especially egregious in applying outrageously high overdraft fees for small-dollar transactions.[291] The CFPB found that the average consumer pays a 17,000 percent annual percentage rate on overdraft fees. Most debit card overdraft fees are incurred on purchases of $24 or less while financial institutions charge a median overdraft fee of $34 for typically small overdrafts. In order to fully extend the protections to bank accounts, Representative Carolyn Maloney has called for congressional legislation and/or CFPB rule-making to extend opt-in requirements, fee caps and disclosure rules to debit card, Automated Clearing House (ACH), checking and direct debit transactions.[292]

FINANCIAL SERVICES VITAL TO ECONOMIC WELL-BEING

Financial protections provided by legislation like Dodd-Frank are becoming increasingly important as a growing number of Americans participate in the financial system. Most national indicators on assets, debt and financing have rebounded since the

Great Recession.[293] Notwithstanding the robust recovery at the aggregate level, the wealth and financial security of U.S. households vary greatly across demographics and socioeconomic statuses.

The consumers hardest hit by the financial crisis—such as young adults, racial minorities, working families and those with less education—still lag in the economic recovery.[294] Wealth gaps persist or have widened since the Great Recession. The mean net worth of white families is now higher than pre-recession levels; however, the (mean and median) net worth of black and Latino families is still below pre-crisis levels. That is in part because nonwhite families faced net worth losses over a longer period than white families after the recession recovery period. Among white families, net worth for the median percentile still has not rebounded, which indicates the recovery was experienced by the top of the income distribution.[295]

Americans who gain access to the financial system are often confronted by a sophisticated and complex market. Historically, overly aggressive, predatory and exclusionary practices of bad actors have hurt American consumers and threatened the stability of the financial sector, causing widespread economic and social impacts. Today, nearly every American household and family relies on financial services to meet their daily needs, manage unexpected emergencies and realize their lifetime goals, suggesting the ramifications of firm behavior and systemic risk in the finance sector are even more far-reaching.

Expanding Financial Services

Based on a 2017 FDIC national survey of unbanked and underbanked households, less than one in 10 U.S households (6.5 percent) were unbanked or lacked bank account services in 2017.

Nearly nine in 10 households that reported receiving income (86.7 percent) typically receive a direct deposit into a bank account. Most American households (68.4 percent) accessed insured banks for all their financial services, and technology is further improving access to financial services. From 2013 to 2017, the percent of banked households using mobile banking to access their bank account nearly doubled and the number of banked households that deposited a check electronically tripled.[296]

The "Unbanked" and the "Credit Invisible"

Though most households meet their needs through financial services, about 8.4 million American households remained unbanked in 2017, 26 million Americans were "credit invisible" and millions more had insufficient credit histories or lacked a recent credit history to be "scorable" by a commercially-available credit scoring model.[297] Those who were excluded from mainstream banking and financial services were more likely to be younger, have lower levels of education and have lower income levels. They were more likely to be black or Latino, disabled and to experience more income volatility. Black households (16.9 percent) and Latino households (14.0 percent) were much more likely to lack a checking or savings account than white households (3.0 percent) in 2017. Black and Latino households had lower credit use rates than white households irrespective of income level.[298]

Most of the changes in those served by financial institutions and those recently exiting or entering the finance and banking system have been due to demographic and socioeconomic shifts.[299] While historically underserved groups have shown declines in unbanked rates and increases in credit utilization, they still have disproportionately less access to safe, secure and affordable

financial services. Given the widespread reliance on financial services to make ends meet, the banking sector and financial institutions have an essential role to play in facilitating financial stability and economic well-being by making available full information and offering affordable financial products to all Americans.

Lack of Sufficient Savings

More than half of households (57.8 percent) reported in 2017 that they save for unexpected expenses or emergencies and most said they do so using a savings account (71.6 percent) or a checking account (23.7).[300] In the Federal Reserve System's "Report on the Economic Well-Being of U.S. Households in 2018," 39 percent of Americans reported they could not afford a $400 emergency using cash or its equivalent. Many Americans reported they could not even fully cover their expected expenses in a typical month. Nearly one-fifth of adults were unable to pay their current month's bills in full, and one-fourth of adults reported skipping necessary medical treatment because they could not afford the cost.[301] In other words, for many Americans, unexpected needs and even daily consumption are covered through mainstream financial services (through savings and checking accounts) or, if they are not fully banked, through informal debt or alternative financial services.

Among unbanked households, over half (52.7 percent) reported in 2017 that they do not have a bank account due to not having enough money to keep in an account and, increasingly, most (58.7 percent) reported they do not plan to open an account at all.[302] Other top reasons reported for not having a bank account include lacking trust in banks (30.2 percent) as well as high banking fees (29.9 percent). Concern for privacy was also listed as a reason by

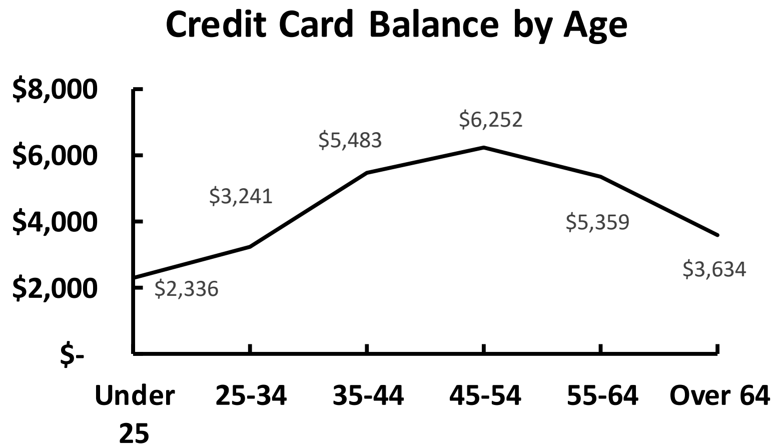
many (28.2 percent) for not having a bank account. For those who are unbanked, most said they hold their savings in their home or with friends or family (66.8 percent) and about one in ten (10.1 percent) use a prepaid card to hold their savings. [303]

Credit Card Gap and Debt Share by Age

Most American households (80.3 percent) use a mainstream credit product or service to finance consumption, with households primarily accessing financial services through a major credit card (68.7 percent) or a store credit card (41.6 percent). Fewer hold debt as a home loan (33.8 percent), auto loan (32.3) or student loan (16.6 percent).[304] However, debt share by loan type and, more specifically, credit card adoption rates and average credit card balances dramatically differ by age groups.[305]

Young adults (under age 25) hold the least credit card debt (see *Figure 4-1*). Those aged 45 to 54 hold the most credit card debt. Less than half of young adults under the age of 25 (48.4 percent) have at least one credit card while most adults over the age of 25 have two or more cards.[306]

Figure 4-1



Source: Federal Reserve Bank of Boston/Equifax, 2018 Q4

Compared to older age groups, young adults have a different profile of consumer debt types (see *Figure 4-2*). Student loan delinquencies increased during the recession and the rate of student loan delinquencies has not returned to prerecession levels (see *Figure 4-3*). These delinquencies disproportionately affect young adults, as student debt is the largest segment of debt they hold. For those over the age of 30, the largest share of debt held is in the form of a home mortgage, which has a lower delinquency rate compared to student debt (see *Figure 4-3*).

Holding a large share of debt in a loan type that features a higher delinquency rate as a young adult may contribute to lower creditworthiness in the future for these birth cohorts. Partly due merely to a shorter length of credit history, there is a 91-point difference between the average credit scores of those in the oldest and youngest age groups.[307] However, the debt composition of young adults may portend lower credit worthiness even at later ages if the credit history they establish is affected by holding debt

of a higher delinquency rate. For example, missing a student loan payment could hinder or delay the timing of obtaining a mortgage and lifetime asset accumulation. In this context, the debt, credit and assets of Americans must continue to be assessed by age, birth cohort and other demographic factors to fully assess the current snapshot and long-term horizon of national and household financial well-being. [308]

Figure 4-2

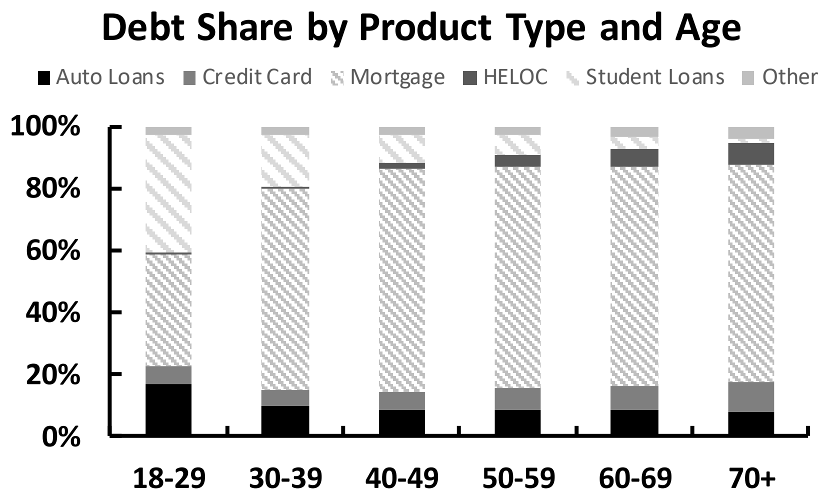
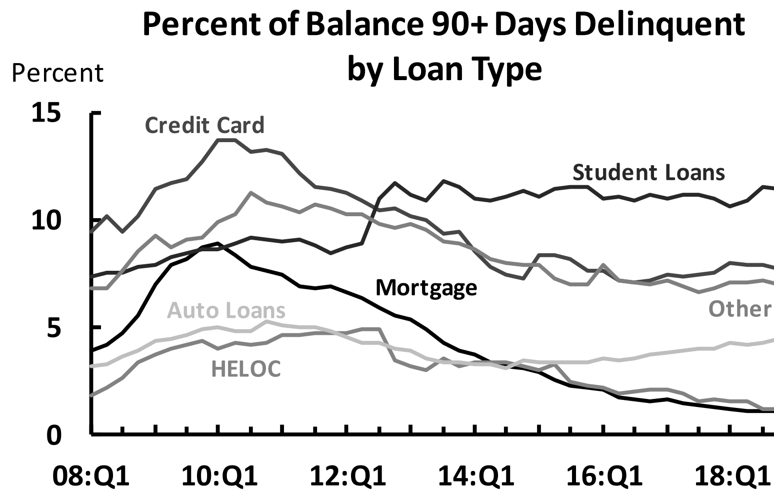


Figure 4-3



THE NEED FOR STRONGER CONSUMER PROTECTIONS

Increased consumer participation in the financial system has led to the entry of more vulnerable consumers. We must maintain robust safeguards and reasonable protections so that we do not undermine the U.S. financial system's ability to absorb an expanding consumer base and promote equal economic opportunity and the financial well-being of every American. Unfair banking practices negatively affect Americans who already have and can least afford higher costs of credit.

Before the Wall Street reforms enacted in the wake of the Great Recession, there was no federal regulator dedicated to ensuring that financial institutions would responsibly and fairly manage the financial products that most American households rely on to meet their basic day-to-day needs and to make critical life investments, such as purchasing a home. It would be imprudent to weaken the

very regulatory reforms that brought about a robust financial recovery and the recent bout of economic stability.

Financial Insecurity in Retirement

Elderly adults can be targeted by predatory lending practices, risky lending products and face financial precariousness in retirement.[309] The adequacy of consumer protections for seniors is critical because abuses of seniors can be especially devastating to the financial stability and well-being of retirees. David Stevens, a former FHA commissioner, has blasted predatory sales tactics targeting seniors in the reverse-mortgage industry.[310] The Federal Housing Administration's investigation into possible appraisal inflations on reverse-mortgage loans found approximately 50,000 appraisals (37 percent) were overvalued by at least three percent.[311] According to the CFPB, inflated appraisals allow fraud perpetrators to create a false appearance of high equity, allowing borrowers, who otherwise would not qualify, to obtain a loan and higher sums of liquidity that can be subject to a scam.[312]

Many older Americans face the risk of downward mobility in their golden years. About one in two seniors facing retirement risk not having enough assets to combine with Social Security to maintain their living standards.[313] The average home equity of elder homeowners is nearly $80,000, which is higher than the nearly $45,000 average held in a retirement account.[314] According to the Government Accountability Office (GAO), about one in three (29 percent) older Americans have neither a pension nor a defined benefit plan nor any assets in a 401(k) or IRA account.[315]

Further, according to the CFPB, suspicious activity reports (SARs) of elder financial exploitation quadrupled from 2013 to 2017. Most elder financial exploitation (58 percent of incidents) occurred through money services businesses. In SARs involving a

loss to an older adult, the average amount lost was $34,200. When an elderly victim was known to the suspect, the average loss was even larger than when the suspect was unknown.[316] Given the fragile financial standing of seniors facing retirement and the inadequacy of Social Security and asset holdings, it is critical that U.S. financial institutions enhance services and consumer protections for elderly consumers.

Reverse Redlining

Leading up to the Great Recession, large banking institutions, such as Wells Fargo and Countrywide Financial, aggressively targeted vulnerable groups with predatory lending practices, now referred to as reverse redlining.[317] At the dawn of the mass production of single-family homes, the Federal Housing Administration (FHA) was established in 1934 to guarantee long-term (30-year) housing mortgages. While the intent of the federal government was to make homeownership more affordable and accessible, widespread and institutionalized discriminatory practices at the time exacerbated racial segregation and inequality because the FHA refused to insure mortgages in and near nonwhite neighborhoods—a policy known as "redlining."[318] Despite promulgated protections against racial discrimination in housing, racial minorities continue to be preyed upon in housing finance markets. Today's "reverse redlining" refers to the countering approach of saddling underserved communities with predatory, and often insolvent, financial products.

Under the Obama Administration, a U.S. Justice Department investigation found 34,000 instances of Wells Fargo charging black and Latino customers higher fees and rates on mortgages. Nonwhite borrowers were charged higher fees than white consumers with similar credit profiles and were steered into

subprime mortgages even though they qualified for cheaper loans. Wells Fargo paid a $175 million settlement in the federal probe. Bank of America's Countrywide Financial unit paid $335 million to settle similar charges of racial discrimination.[319] Without federal consumer protections and enforcement action, the nation risks returning to chronic racial disparities in lending at levels similar to when racial discrimination was legal in this country.

Modernization of the Community Reinvestment Act

In August 2018, the Office of the Comptroller of the Currency (OCC) published its Advanced Notice of Proposed Rulemaking for the 1977 Community Reinvestment Act (CRA).[320] CRA established a federal mandate that financial institutions serve the needs of the communities in which they are chartered, including in low- and moderate-income communities. The federal legislation was a pioneering measure to address the historical redlining practices of housing and banking discrimination in urban and minority neighborhoods. According to the National Community Reinvestment Coalition (NCRC), banks have made about $6 trillion in CRA commitments since the law took effect.[321]

CRA has a long track record of encouraging banks to provide underserved communities access to banking and financial services.[322] The Financial Crisis Inquiry Commission found CRA was not a significant factor in subprime lending or the financial crisis.[323] Loans made by CRA-regulated lenders in communities mandated under CRA to lend were half as likely to default as comparable loans in the same neighborhoods by independent mortgage originators not subject to CRA.

Despite the demonstrated positive impact of CRA, Trump Administration Treasury Secretary Steven Mnuchin and OCC head Joseph Otting have spearheaded a CRA rollback effort

focused on regulatory relief for banks rather than reforming the CRA to address the modern landscape of banking, lending and credit disparities.[324] Mnuchin and Otting have personal experiences with CRA as former bank heads who once had a standoff with community groups over the sale of the bank they owned, OneWest, due to an initial lack of CRA commitments.[325]

According to S&P Global data analyzed by Bloomberg, banks have shut nearly two thousand (1,915) more branches in lower-income neighborhoods than they have opened nationally from 2014 to 2018.[326] Technology has transformed the way the banking industry provides credit to consumers. Millions of Americans are unable to access affordable credit and many low- and moderate-income communities continue to suffer blight from a lack of public and private investments. Reforming the CRA regulatory framework is important, but the modernization effort must be responsive to the original intent and strengthen rather than weaken the law's mission to combat discriminatory and predatory lending practices.

SECURING FAIR AND AFFORDABLE CREDIT FOR ALL

Given the Trump Administration's lack of commitment to consumer protections, Congressional Democrats have taken leadership to defend the nation's consumers against unfair fees for payday lending and overdraft protection and to stand against the deregulation of corporate fraud and abuse.

Payday Lending

Interest on payday loans often has an effective annual percentage rate of 390 percent or more—well above industry standards for credit cards or other consumer loans.[327] The Center for Responsible Lending found that small, short-term payday and car

title loans cost borrowers $8 billion every year.[328] Short-term payday loans often turn into long-term debt traps.

Many borrowers take out consecutive loans to pay off prior loans. According to the CFPB, over 80 percent of payday loans are rolled over or followed by another loan within two weeks.[329] Half of all payday loans are part of a sequence of 10 or more consecutive loans, and loan size is more likely to increase in longer loan sequences.[330]

Payday lenders historically operated with little regulation and oversight until the CFPB took steps to implement a rule governing payday, vehicle title and certain high-cost installment loans in 2017.[331] The rule would have required lenders to make underwriting determinations to ensure that borrowers could afford their loans before issuing the loan. It also would have limited the number of consecutive loans lenders can make by barring them from making more than three short-term loans without a 30-day "cooling off" period.[332] These provisions sought to prevent spiraling debt traps and outrageously expensive debt obligations. However, in 2019, the CFPB proposed rescinding most of the 2017 rule, including the underwriting and consecutive loan provisions.[333] The CFPB also proposed delaying the compliance date for the underwriting provision of the rule from August 19, 2019 to November 19, 2020.[334]

Overdraft Protection Fees

Americans pay billions of dollars in overdraft fees, with total overdraft revenue increasing to $34.5 billion in 2018.[335] Most debit card overdraft fees are incurred on small purchases and, according to the CFPB, consumers repay most overdrafts within three days.[336] The application of high overdraft fees causes those who face hard times to essentially pay very high interest rates for

small, short-term loans. Given the success of the CARD Act on saving consumers billions in excessive fees on credit cards and the still exorbitant fee rates for debit card overdrafts, there is evidence to support prudent expansion of overdraft and other consumer protections to banking and prepaid card transactions not covered by existing rules.[337]

Emerging technologies have stepped in to provide financial products for small loans as small as $2 internationally, but the robust financial system in the United States means that many of these transactions occur within the mainstream banking system in America.[338] In some cases, U.S. banks engage in practices to maximize overdraft coverage fees collected and impose multiple overdraft coverage fees resulting from a single overdraft.[339] There already are some opt-in and notice regulations for banks, such as Regulation E requirements that financial institutions obtain affirmative consent from account holders to charge certain overdraft fees for ATM and point-of-sale (POS) debit card transactions.[340] Yet there are also cases of banks violating the existing "opt-in" rules.[341] For example, Santander Bank was ordered to pay $10 million for deceptively marketing overdraft services and signing up some customers without consent in 2016.[342]

Emerging Threats to Consumer Protections and Financial Stability

While our financial system is now considered safer than before the Great Recession, there is a grave concern that the common sense reforms adopted to prevent a future economic freefall are being hastily dismantled. The very consumer and taxpayer protections that made our banking sector safer have been undermined in the Trump Administration through moves to weaken financial regulations, rollback consumer protections and cut funding.[343] It is

further alarming that the Trump Administration has endeavored to violate the independence of the Federal Reserve and other regulatory institutions from political influence.[344]

Financial security, consumer confidence and economic stability depend on a fair, transparent and inclusive banking system. Dodd-Frank bolstered the existing American framework of prudential financial regulations and consumer protections, many of which also were direct responses to financial crises and corporate fraud. The Federal Reserve Act of 1913, which created the Federal Reserve System as the nation's central bank, followed the Panic of 1907.[345] The 1929 Great Depression prompted the Glass-Steagall Act of 1933, which established the Federal Deposit Insurance Corporation.[346] Many corporate accounting fraud schemes in the early 2000s, including the Enron scandal, resulted in the 2002 Sarbanes-Oxley Act to combat corporate fraud and protect whistleblowers.[347]

CONCLUSION

Congress responded to the Great Recession by enacting the most comprehensive financial regulations and consumer protections since the 1930s. These reforms attempt to protect American consumers from predatory practices and minimize the risk of catastrophic market failure and.

The *Economic Report of the President* provides a theoretical foundation for the Trump Administration's efforts to roll back regulations and weaken consumer protections. However, it focuses only on the potential costs of regulations and protections, almost completely overlooking their substantial benefits. Furthermore, it ignores the effect of financial deregulation and poor enforcement on American families, particularly those most

vulnerable, who rely on the federal government to help protect their economic well-being.

Economic growth and prosperity depend not only on increasing productivity but on an adequately regulated financial system and strong consumer safeguards. Given the lessons of the Great Recession, it is irresponsible to ignore these prerequisites for a sound economy.