Too Big to Fail... Too Poor to Bank:
How Mainstream Financial Services Can Help Low-Income Working Families Succeed

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INTRODUCTION

A. WHY TRADITIONAL BANKING SERVICES ARE FAILING WORKING FAMILIES

American workers increasingly live paycheck to paycheck. Research documents a "new normal" of a labor market with employees required to work irregular hours.[1] Wages have not kept up with housing, child care, education and medical costs, and volatile incomes can vary from month to month. Millions of low- and moderate- income workers don't earn enough all 12 months of the year to pay for basic necessities. The Federal Reserve's 2017 report on economic well-being documented that three in ten adults have family income that varies from month to month. Ten percent of adults face challenges because of this income volatility; and 20% can't meet their monthly bills.[2]

Another way work in the 21st century is moving from higher income jobs to lower-wage or less stable employment is through alternative employment. At a national level, manufacturing jobs made up 25% of the economy four decades ago. They now comprise 10% of the economy.[3] Much of the post-Great Recession job growth is in the lower-paid service sector, which comes with fewer worker protections.[4]

In June 2018, the Bureau of Labor statistics released data on the number of workers with alternative employment arrangements (independent contractors, on-call workers, temporary help agency workers, and workers provided by contract firms) outside the traditional wage or salary employment arena. Those with alternative work arrangements as their primary job account for 15.5 million workers or 10.1% of the labor force, an increase from 14.8 million workers in 2005 and 12.1 million in 1995.[5] These alternative workers lack many of the protections that traditional workers have, i.e. employer contributions to health insurance and paid vacation and sick leave.

As a result many working families regularly face overdrafts or need small dollar loans to tide them over until the next paycheck. While financial education has some role to play, the long term solutions lie in reversing the trends of income inequality with higher wages and a higher earned income tax credit. In addition, affordable housing, health insurance and child care are critical components of a more equitable economy.

Most banks do not have safe and affordable products, such as well-marketed low cost accounts and easily accessible affordable small dollar loans, to meet the needs of workers in this economy. While all low-income consumers suffer for this shortage, communities of color have been particularly disadvantaged.

B. STRUCTURAL RACISM, WEALTH AND ACCESS TO FINANCIAL SERVICES

Racial and ethnic disparities with respect to access to financial products and services need to be examined through the lens of structural racism. Hundreds of years of slavery followed by decades of Jim Crow laws have impacted the ability of African Americans to access education, jobs, credit, and housing and to accumulate wealth.

Many Americans continue to believe that anyone can work hard to achieve the American dream of upward mobility.[6] However, structural racism and White privilege have blocked that upward mobility from Black and Brown families. For example, the Mapping Inequality project shows the legacy of the discriminatory policies and redlining practices of the federal Home Owners' Loan Corporation during the 1930s.[7] As a result, communities of color have less income and assets and face additional challenges as they try to make ends meet. Indeed, data shows it is harder for Black children to earn as much as their parents or climb the income ladder compared to White children. According to The Equality of Opportunity Project, "[B]lack children have much lower rates of upward mobility and higher rates of downward mobility than White children, leading to Black-White income disparities that persist across generations." [8]

The wealth gap between Black and White families has increased since the Great Recession.[11] As housing prices have rebounded since the Great Recession in White neighborhoods, home equity has increased. Minority neighborhoods have not seen a similar rise in housing prices.[12]

The lack of access to small dollar loans results in individuals living in Black communities being disproportionately sued for small, unpaid bills, which further impacts their credit scores and ability to obtain prime credit. Pro Publica's research on these lawsuits points to the lack of wealth in Black communities as a contributing factor.[13]

Analyses of lending by Empire Justice Center have continually shown disparities in mortgage and small business lending. Our reports from the early 1990s to 2018 have income and race data on publicly available lending data. Much like the map in this report that shows the lack of bank branches in majority non-White neighborhoods, our lending analyses show a sea of red indicating lack of lending in these neighborhoods.[14]

Next we look at how these broader national trends are reflected in Rochester, NY.

*"The median wealth or net worth of White households is **20 times** that of Black households and 18 times that of Hispanic households, according to a Pew Research Center analysis of [ ] government data from 2009." [9] White households had a net worth (assets minus debts) of $113,000, while Black households had a net worth of $5,667 and Hispanic households had a net worth of $6,325. [10] Critically, this lack of assets makes it harder for Black and Brown families to cushion income shocks such as a major car or house repair or health emergency.*

C. ROCHESTER, NY

The problems described above are even more noticeable in the city of Rochester, which has some of the highest concentrations of poverty in the country. According to ACT Rochester, one-third (33%) of city of Rochester residents live in poverty, 2.2 times the 15% poverty rate for the US or New York State.[17]

Table 1: The City of Rochester Has the Highest Poverty Rates
(From the 2012-2016 American Community Survey, U.S. Census)

Geography	% Population in Poverty	% Children in Poverty
City of Rochester	33%	50%
Monroe County	15%	22%
New York State	15%	22%
United States	15%	21%

Rochester is a postindustrial city. Many of the good paying jobs that paid a living wage for someone with a high school degree no longer exist. According to the Bureau of Labor statistics,[18] employment in manufacturing in the Rochester MSA has gone from 115,500 jobs in 1997 to 57,200 in 2017, a decline of 50% or 58,300 jobs. Almost all of these jobs have been replaced by jobs in the education and health services, leisure and hospitality, or other services sectors, most of which have relatively low wages for high school graduates or require a college degree.[19]

In September 2017, the New York Federal Reserve released a Community Credit Profile for Rochester New York and documented the credit profile of city of Rochester residents.[20] The data set looked at who is included in the credit economy (those having a credit file and a score with a major credit bureau), credit utilization, as well as the number of prime and subprime borrowers. The data set included on-time payers, those with a good payment history and those who were delinquent.

The report compared Rochester's credit profile to the neighboring cities of Buffalo and Syracuse, and New York State and the US. The study found that only 77% of city of Rochester residents were in the credit economy, well below comparable numbers for the US, New York or Monroe County, but better than those for Buffalo and Syracuse. [21]

Table 2: Percentage of Adults in the Credit Economy*
*(*Having a credit file and a score with a major credit bureau)*

In addition to inclusion in the credit economy, the report compared the levels of credit stress for those included in

Place	% Adults in Credit Economy
City of Rochester	77
US	90
NYS	85
Monroe County	91
City of Buffalo	76
City of Syracuse	70

the credit economy—for the city of Rochester and low-moderate income and majority non-White zip codes within the city. Credit stress is measured by the share of those in the credit economy who are not current on their credit payments, the number of days delinquent on payments and whether or not their payment histories are improving or declining.

The report found that more than half (52%) of Rochester city residents in the credit economy are only able to access subprime credit.[22] In fact, in six of the city zip codes, 57 to 70% of those in the credit economy have a subprime credit score.[23] This means that the majority of these consumers don't have access to safe and affordable small dollar loans to respond to emergencies. As a result their only option is to use subprime products that put their financial security at further risk. The information in the NY Federal Reserve's report illustrates the need for mainstream financial institutions to **develop safe and affordable loan products that build assets and wealth for all residents,** with an emphasis on supporting those who live paycheck to paycheck.

Consistently, consumers, with access to credit issues like those presented above, use alternative financial services. A study by the New York Office of the Public Advocate found that a customer with an annual income of $17,000 pays $250 in check cashing fees instead of $60 at a bank for comparable services.[24] However when banks design and market checking accounts to maximize their fees, the costs skyrocket, making use of check cashers a more rational and economical choice.[25] Consumers will also resort to rent-to-own stores instead of being able to obtain a small dollar loan to purchase an item at market price. Thus they pay three to four times the cost of an item and, even then, have it repossessed if they miss a single payment.

Alternative financial services providers that offer higher-cost financial services and products are prevalent in communities of color (see map below). Wealth is stripped from these communities by check cashers, payday lenders, rent-to-own stores and auto dealers. The providers of these products are subject to little or no regulation and they are adversely impacting the ability of Black and Latino families to save for a home, education or retirement.

D. ALTERNATIVE FINANCIAL SERVICES: A RATIONAL, INFORMED CHOICE

Lisa Servon's book, The Unbanking of America, describes the savvy financial choices working parents make to juggle their low and volatile incomes.[26] Professor Servon worked as a check casher in the Bronx and at a payday lending store in Oakland, CA. She documents that using check cashers and payday lenders are rational and informed financial choices for low- and even moderate-income workers. Since bank checks need time to clear and ATMs only dispense larger bills, parents use a check casher instead of a bank when they need their paycheck cashed on a Friday to buy food for the weekend or to take out less than $20 in cash. In the absence of affordable small dollar loans, they use payday lenders for an emergency car repair so they can go to work. Since many low wage jobs don't come with sick days, a sick child can result in a smaller pay check, while rent and utility bills still must be paid.

E. CONCLUSION

All in all, the evidence is clear. The current mainstream financial system does not meet the needs of tens of millions of consumers who work multiple jobs and juggle family responsibilities in an America that has failed in allowing them to fulfil the promise of the American Dream. To begin to build a system that supports economic opportunity and a ladder out of poverty, all New Yorkers must have access to safe and affordable financial services and products, including low cost bank accounts, small dollar loans, home repair loans and auto loans.

In the next sections of the report we will describe the traditional banking landscape of the Rochester area, including a comparison of the more affordable checking accounts offered by nine Rochester-area financial institutions (seven banks and two credit unions), and how consumers manage their relationships with traditional banks and alternative institutions.

We go on to share broad policy solutions for safe and affordable entry-level financial products along with recommendations for design and marketing of these products.

In his book, The Black Tax: The Cost of Being Black in America, Shaun Rochester takes an historical look at discriminatory private practices as well as government policies and estimates the financial cost to Black families. He estimates that the discriminatory impact of the GI Bill, that provided housing and education to White GIs returning from World War II while excluding Blacks, cost Black GIs and their families $45 billion in lost income.[15] Rochester also calculates the higher price, interest rate and insurance that Blacks pay when purchasing a car and documents that these extra costs can add up to $70,000 over a lifetime. He estimates the total historical cost of slavery and discrimination to be $70 trillion.[16]

METHODOLOGY

This paper employs three broad methods to see how consumers, including those in the Rochester community, access mainstream financial and non-traditional forms of credit.

As seen already in the introduction, the launching point for the analysis is a review of the most current research on consumer credit and access to financial products and services. These studies from the Federal Reserve Bank of New York, the Pew Research Center, the New America Foundation and others have informed the direction of our research, as well as the report findings and recommendations.

This report is also informed by discussions held with two focus groups—one of lower-income consumers living in the city of Rochester (consumer focus group) and another of mostly staff from Rochester-area nonprofits who work with consumers to help them improve their financial standing (nonprofit focus group). The eight-person nonprofit focus group discussed the good and predatory features of various consumer financial products and services, including checking accounts, payday loans, and access to mainstream financial institutions.

Empire Justice also wanted to hear from lower-income consumers about their experiences in using financial products and services, whether those of banks or alternative financial services. Invitations were sent out to low-income working families who used our CASH (Creating Assets, Savings and Hope) free income tax preparation services and lived in the city of Rochester. Of the 23 people who responded, 11 participated in the resulting focus group and shared their experiences around mainstream financial institutions and alternative financial services (i.e. banks, check cashers, pawn shops). A short survey was administered at the beginning of the focus group and was used to guide the discussion.

Finally, the report also researched 12 affordable or entry-level checking or transaction account products of the Rochester area's top seven banks and two of its credit unions. The accounts examined included each institution's lowest-cost checking account, and then its "checkless" or transaction account if available and with lower fees.

Using the following information a table was created of the important features of low-cost checking accounts:

- Information gathered from the two focus groups
- Account brochures from two banks
- The New York State Better Banking Account[27]
- The Cities for Financial Empowerment (CFE) Fund Bank On National Account Standards[28]

Then, the data for the 12 accounts was populated in the table using three sources of information, in the following order:

1. The financial institution website
2. Asking about missing information via the institution website's online chat feature
3. Going to a local branch and asking bank or credit union staff for the missing information

Our examination of accounts clearly supports other reports documenting the lack of consistency in reporting these accounts' various features. To try to create some comparability, eight account features are summarized in this report based on the core Bank On Account Standards referenced above, along with input from the nonprofit and consumer focus groups. Details about the features are in the Analysis of Bank Products section below.

DETAILS OF KEY FINDINGS

A. THE EXPERIENCE OF ROCHESTER LOWER-INCOME CONSUMERS

Eleven city of Rochester lower-income workers or retirees participated in the consumer focus group and shared their experiences around financial services. The survey responses and discussion clearly indicate that participants had more than one way to get their financial services needs met. Which service or product they accessed often depended on their needs or circumstances at the time—their financial needs, as well as whether they had an overdrawn account, were in ChexSystems (see more on this below), or had another constraint (i.e. lack of time or transportation). Participants understood their options and at least some of the costs and benefits of the choices they were making. Outside of banks or credit unions, focus group participants used:

- The post office for money orders
- Grocery stores or check cashers to cash checks, get money orders or pay utility bills
- Rent-to-own stores
- Family members/friends (the strategy most often used) or alternative financial service providers to borrow money for an emergency

Nine of the 11 participants had at least one checking or banking account with a bank or credit union. Most of those with accounts also use, or had used in the past, financial products or services outside of the mainstream. These nine account holders most frequently access their accounts through a bank ATM (seven participants) or in-person at a branch (four participants).

Six of the nine account holders had overdrawn their account in the past and were charged at least one overdraft or NSF fee as a result. Several participants had tried to get one or more fees reversed, some of whom were successful at least once. The discussion during the focus group indicates participants gained much of their understanding about overdrafts and overdraft fees through direct experience or the experience of family members. Participants said they would like clearer terms about their accounts upfront, especially re: fees and overdrafts.

Information from the consumer and the nonprofit focus groups is shared, when relevant, under each type of product or financial service.

B. CHECKING ACCOUNTS

A checking account is the first point of entry to financial services for many consumers. It is imperative that all consumers have access to a safe and affordable checking account if they are to manage their money efficiently. Characteristics of a safe checking account include:

- Transparent, clear and reasonable fees (including overdraft fees)
- A low minimum opening deposit
- A low minimum monthly balance

In addition to these features, the nonprofit focus group noted that an affordable checking account would:

- Decline transactions rather than imposing overdraft fees
- Have online and mobile banking options
- Access through a number of branches
- Have no or low ATM fees
- Be accessible in languages other than English
- Be well-marketed to reach low-moderate consumers

New York State law requires that all banks and credit unions operating in the state offer a basic checking or transaction account that meets the following criteria: a minimum opening balance of $25 or less; a minimum balance requirement not to exceed one cent; a monthly maintenance charge of $3 or less; a minimum of eight no-fee withdrawals, including checks, ATM withdrawals and debit card purchases; and no limit on deposits per month. These accounts are permitted to have certain requirements, such as New York State residency, that all other bank accounts be closed, and use of direct deposit.[29]

The Cities for Financial Empowerment (CFE) Fund Bank On National Account Standards go much further as to what makes an affordable checking or transaction (checkless) account. The Bank On core features include: a minimum opening balance of $25 or less; a low monthly maintenance fee ($5 or less if not waivable, $10 or less if waivable); offers at least two options to waive monthly maintenance fee with a single transaction; no overdraft or insufficient fund (NSF) fees; a Point of Sale (POS) capability via a debit card; free use of in-network ATMs; free online and mobile banking; and free paper statements.[30]

Table 3: Comparing Standards of Basic or Entry-Level Checking/Transaction Accounts

Feature	**NYS Requirement**[31]	**Bank on Standard**[32]
Minimum opening deposit	$25 or less	$25 or less
Monthly maintenance fee	$3 or less	$5 or less if not waivable $10 or less if waiverable
Number of free withdrawals (Checks, ATM, debit card purchases)	8 minimum	Unrestricted in-network ATM withdrawls
Fee paper statements	No requirement	Yes
Overdraft/NSF fees	No requirement	$0 structurally not possible via transaction account

Despite the requirement to have an affordable account in New York State, there is little consistency across the industry as to how these accounts are presented or marketed (or not) to consumers. Without a transparent and comparable presentation of the features of each account, it is unlikely that consumers will be able to thoughtfully compare checking accounts from different institutions and determine which account best fits their needs. Comprehensive information about different banks' checking accounts, when uniformly formatted and worded would empower consumers to make the smartest financial choice available to them.[33] Until "uniform disclosures" about checking accounts are as ubiquitous as food nutrition labels, banks must take the initiative to properly advertise and market their low-fee checking accounts.

Entry-level checking accounts of top Rochester-area banks and credit unions

As part of its Mapping Financial Opportunity project, the New America Foundation surveyed over 1,600 banks about their entry-level checking or transaction accounts and how they matched up to the CFE Fund's Bank On National Account standards.[34] We attempted to gather information on similar features of the affordable, entry-level accounts of the seven largest Rochester area banks and two of its largest credit unions. (See description in Methodology section.) The various differences in how financial institutions describe and market their accounts makes it very difficult to draw any conclusions as to which accounts overall are the most consumer-friendly. As the New America Foundation did in its research brief, this analysis will compare key features of these banks' entry-level accounts. The features were chosen based on the core Bank On National Account standards, as well as those important to the focus groups. Banks were assessed on whether or not they met the following standards for each feature:

1. Minimum opening deposit of $25 or less
2. Monthly maintenance fee of:
   a. $5 or less (if not waivable), OR
   b. $10 or less (if waivable), and has at least two options to waive fee with single transaction each month (i.e. direct deposit, regular deposit, debit card purchase, or online bill payment)
3. Overdrafts not allowed
4. Free Debit card/Point of Sale (POS) capability
5. Unlimited free withdrawals (via checks, ATMs, or debit card/POS transactions)
6. Free use of in-network ATMs
7. Free online banking
8. Free mobile banking

Twelve entry-level checking-style accounts, including three transaction accounts, from seven banks and two credit unions were assessed against these eight standards. As seen in Table 4 in Appendix B, two accounts, both checkless transaction accounts, met all of the standards. These are Bank of America's Safe Balance Account and KeyBank's Hassle-Free Account. All twelve of the accounts reviewed met at least five of the eight standards. They all come with a free debit card, have free use of in-network ATMs, and have free online and mobile banking. That these standards were widely met suggests that banks and credit unions are working to facilitate the use of electronic banking, with little to no human interaction, whenever possible.

Banks and credit unions met the standard of not allowing overdrafts (thus declining transactions or returning checks) the least often. In fact, only the three checkless transaction accounts met this standard, only one of which (the KeyBank Hassle-Free Account) had no monthly maintenance fee. All nine of the checking accounts allowed overdrafts, charging between $33 and $40 for each overdraft or returned item for insufficient funds (NSF).

The monthly maintenance fee standards were more difficult than other standards for banks and credit unions to meet. Only six of the 12 accounts had a monthly maintenance fee of $5 or less, four of which had no monthly fee. The other six accounts did not meet the maintenance fee standards for a variety of reasons—the non-waivable monthly fee was greater than $5, the waivable monthly fee of $10 or less did not offer at least two options to waive the fee with a single monthly transaction, or the waivable fee was greater than $10 and did not offer two single transaction options to waive the fee.

CONCLUSION

Overall, this assessment indicates that the larger banks and credit unions in the Rochester area do have checking or transaction accounts with several affordable features.

- Two accounts meet all eight affordability standards:
    - Bank of America Safe Balance Transaction Acct
    - KeyBank Hassle-Free Transaction Account
- Four accounts meet seven of the eight standards:
    - M&T EZChoice Checking
    - Advantage FCU Fee Free for Me Checking
    - ESL FCU Simple Spending Transaction Account
    - ESL Free Checking
- Four accounts meet six of the eight standards:
    - Bank of America Core Checking
    - Citizens Bank One Deposit Checking
    - Five Star e-Checking
    - Chase Total Checking
- Two accounts meet five of the eight standards:
    - Canandaigua NB&T e-ssentials Checking
    - KeyBank Express Checking

However, as described in the methodology section above, getting the account information and then making it comparable took a lot of time and work, time that most consumers do not have. Often, these more affordable accounts were the hardest to find. Finding and weighing the costs of the various monthly maintenance fees and other fees such as paper statement fees or NSF fees was a time-intensive, sometimes confusing, often frustrating task.

C. CONSUMER-FRIENDLY MARKETING OF ENTRY-LEVEL ACCOUNTS

If consumers are unaware that affordable checking accounts exist, they cannot take advantage of their features and maximize financial efficiency. Therefore, existing and future affordable entry-level checking and transaction accounts must be marketed to consumers consistently and in ways that allow the consumer to make the most informed choice about which account would work best for them.

In a review of Bank of America's checking accounts in early 2018 (in preparation for comments on its upcoming Community Reinvestment Act [CRA] evaluation), we noted that the SafeBalance account, the bank's low-fee transaction account that meets CFE Fund's National Bank On Standards, was difficult to find on the Bank of America website. As of July 12, 2018, the SafeBalance account is at the bottom of the checking account webpage, below the details of the bank's other accounts.[35]

During a branch visit, we observed that details on the different checking accounts were not easily available to the public in printed form; a customer must ask to speak to a bank representative in order to get any information. Even when sitting with a bank representative, the characteristics of the SafeBalance account did not receive equal voice to the bank's other, higher cost, accounts. The bank representative first shared a brochure summarizing two of Bank of America's checking account options, Core Checking and Interest Checking. The representative referenced the SafeBalance account as an afterthought, indicating a small box at the side of the brochure. Upon request, a printout of each of the accounts was provided, the first of which compared in a grid details of the Core and Interest Checking accounts. Features included minimum monthly balance, maintenance fees, direct deposit, mobile banking and so on. Similar details for the SafeBalance account were not included in the first printout's grid alongside the Core and Interest Checking accounts, but were provided in a different format on a separate printout, making it more difficult to compare SafeBalance with the other accounts.

As a comparison, a brochure provided upon request by Five Star Bank includes a detailed breakdown of features of its four checking accounts, including two basic low-fee checking accounts that meet the needs of low-moderate income (LMI) consumers. This single brochure clearly describes and compares in a grid the four accounts. Five Star informed us that bank staff walk the customers through the choices and help them decide the right choice for their banking/ financial needs. Customers can elect a no-overdraft/transaction account. Such accounts are an important tool for helping low-income customers.

CONCLUSION

Included is the Five Star brochure as one model for how a bank can clearly share information about its various checking accounts (see attached brochure, Appendix C). A side-by-side comparison of the different accounts, along with text boxes highlighting features that consumers should consider, are likely to make it easier for customers to choose the product most right for them.

D. OVERDRAFTS

The Consumer Financial Protection Bureau (CFPB) requires banks to have their customers opt-in before providing overdraft coverage for ATM withdrawals and one-time debit transactions, such as point-of-sale (POS) purchases. If a consumer does not opt-in to this additional coverage, when there are insufficient funds in their account, their POS purchases or ATM withdrawals will be declined and no fee will be incurred; banks, however, can still collect overdraft or NSF fees on paper checks or recurring payments if there are insufficient funds in the account.

When a customer does opt-in to the overdraft coverage service, a bank then has authorization to process certain transactions, most prominently debit card transactions, if an account does not have sufficient funds and to charge an overdraft fee. Banks often frame this as a service for customers, yet they make billions of dollars in revenue each year off of the service, and more than three quarters of the banks' overdraft revenue is sourced from less than 10% of bank accounts.[36] When well-understood and utilized for the function under which it is intended, this service can help customers fund necessary, time-sensitive expenses. Research suggests, however, that consumers lack a fundamental understanding of the service, and attempt to use the service to simulate financial products not available to them in the marketplace.

Today, debit card transactions are the number one way consumers make payments from their checking accounts, but almost 70% of consumers who had an overdraft at least once over a 12-month period did not know they could have their one-time debit card transactions or ATM withdrawals declined for free.[37]

Another largely unknown practice that negatively impacts individuals without a cushion in their bank accounts is when banks engage in "reordering." According to a 2016 Pew report, in which 44 of the nation's top 50 banks were examined, "[m]ore than 40 percent of these banks process transactions from largest to smallest by dollar amount—which can reduce the account balance more quickly and result in more overdrafts than other methods, such as posting transactions chronologically—and nearly 80 percent allow overdrafts on ATM and debit point-of-sale (POS) transactions."[39]

Research suggests that those who use overdraft protection are already struggling to achieve financial stability. Due to different factors like income volatility and limited access to safer financial products, many consumers use the service as a way to access credit. Five percent of checking account holders use the overdraft service at least 20 times in a 12-month period; it is likely that these consumers are actively using the overdraft service as a form of credit. Two out of five consumers who used an overdraft service applied for credit in a 12-month period; four out of ten received no credit or less than they requested. More than 80% of those who overdraft heavily (three or more overdrafts in a 12-month period) report struggling to pay their monthly bills. Of those who overdraft, 38% live with income volatility, meaning that their household income can vary significantly from month to month.[40] Since the typical overdraft fee is \$35 and the median debit transaction resulting in an overdraft fee is \$24, these fees can have a significant, rapid impact on a consumer's financial stability.[41]

A 2014 Pew study found 68% of those who overdraft would prefer to have their transaction declined rather than pay an overdraft fee.[38] Of the less than 30% of those who overdraft and actually sit down with a bank representative, almost two-thirds still did not fully understand the right to decline overdraft protection and to have their transactions declined instead.

CONCLUSION

There is a clear need for well-regulated small dollar loan products to sustain our most vulnerable consumers. Banks must be required to ensure that their customers understand the products and services offered as well as the overdraft policies they apply to each account.

E. CONSUMER-FRIENDLY OVERDRAFT INFORMATION

In addition to gathering information on each bank's basic checking accounts, we evaluated each bank's presentation of overdraft services. While most of the banks examined did have some description of what an overdraft is, the level of clarity and ease of finding that information varied. It was very difficult to locate any explanation on Canandaigua National Bank's website of the bank's overdraft policy because it's called a "courtesy limit."[42] It took several clicks around the website to find it. It was easier to find the features of the bank's overdraft protection product. When the policy was found, the language was relatively clear and understandable.

Many of the other banks have an explanation of overdraft more generally, but it is not presented in plain language, or it is not wholly transparent. For example, details about how Five Star processes overdrafts is at the bottom of its consumer checking fee schedule, which was found only by looking under Important Documents and Forms.[43]

Plainer language may help the most vulnerable consumers better understand precisely what the service is and how it will impact them. While Bank of America does not immediately mention that the bank charges a fee associated with overdrafts, and frames the service as allowing "more flexibility when you need to make purchases and don't have enough money in your checking account,"[44] a careful reading of the Core Checking account's fee page shows the choices a consumer has with respect to overdrafts and returned items.

Similarly, KeyBank describes an overdraft as something that "happens when you don't have enough money in your account to cover a transaction, and the transaction goes through anyway." It then goes on to outline when Key will pay overdrafts, the different types of overdraft services one can enroll in, and notes that customers may have all transactions that would result in an overdraft declined.[45] Though the title of this page indicates that information on fees is included, there is no mention of the dollar amount of the overdraft or NSF fees charged.

Out of the banks reviewed, M&T Bank has the clearest and most transparent presentation of its overdraft services and fees. M&T provides access in two ways to descriptions of overdraft services and fees within each checking account description—two webpages describing the services[46] and fees[47] and a description of the basic services and fees in its accounts and fees guide.[48] The overdraft services webpage details what an overdraft is, under what circumstances M&T will authorize the overdraft, and notes that some overdraft protection services could be less expensive than other services. On this page, M&T also offers tips on how to avoid incurring overdraft fees, which appears to be a good faith effort to encourage consumers to minimize their use of the service, even though use of the service is profitable for M&T. While it does not detail the specific fees on this page, a link is provided to Frequently Asked Questions (FAQs) about Overdrafts and NSFs.

Advantage FCU, one of two credit unions examined, was transparent and informative, albeit a bit technical, in the description of its overdraft services. It included language such as "If all of the above options are exhausted and you have OPTED IN to Overdraft Protection this will ALLOW Advantage to authorize and pay for the following types of transactions…"[49] Advantage frames the use of overdraft services as positive, introducing overdrafts as "[taking] the following actions to ensure your payments and purchases are successful."[50] This somewhat glowing portrayal of the service may confuse consumers. While the credit union is upfront and clear about overdraft options, processes and fees, this webpage does not mention NSF fees. These are only mentioned in a separate schedule of fees.[51]

ESL FCU, the other credit union examined, does not provide a clear definition of what an overdraft is, but it does broadly outline its three overdraft services (i.e. a bulleted list with items such as "a simple, straightforward fee for each transaction")[52] with a clear means to dig deeper and uncover the specifics (an option to click on a tab labeled "Fees" from the more general description page). ESL also offers suggestions to avoid incurring overdraft fees for each overdraft service, which is a framing we would like to see for all overdraft services. There is also a grid comparing the key features of the three services and the respective fees.[53] However, some of the language used by ESL in the names of its services (i.e. "Courtesy Pay") may make it difficult or confusing for consumers to compare with those of other institutions.

CONCLUSION

Overall, given the relative complexity of the language around overdrafts and what services need opt-in by the consumer, several institutions have online resources to help consumers understand the various overdraft options. All of the institutions should find better ways to help consumers understand the best overdraft option for them. One possibility is ESL's overdraft protection comparison grid. And it is reasonable to expect that increased understanding may occur when a customer communicates with the bank directly about the various options. Institutions can make this an easy choice for consumers, as well, via chat boxes, online live chat and branches across the community.

Participants in our nonprofit focus group saw both the costs and benefits of overdraft services. One participant said it would be better to pay the $35 fee instead of missing a monthly mortgage payment. Ensuring that customers have a clear understanding of how overdraft protection works and its fees before opting-in are key to informed choices.

F. SMALL DOLLAR LOANS

American consumers "currently spend more than $30 billion annually to borrow small amounts of money from payday, auto title, pawn, rent-to-own, and other small-dollar lenders outside the banking system."[54] Unfortunately, many of these small dollar loans are unaffordable, particularly for low- and moderate-income households. Nontraditional lenders, those outside of the banking system, which 20% of Americans use in addition to using their bank(s), dominate the small dollar loan market, and they are harmful to consumers.[55]

In fact, the business model of payday lenders is built on loans that people cannot afford to repay. Current small dollar loan products, particularly payday loans, are characterized by triple-digit interest rates, unaffordable periodic payments, and loan repayment terms designed to bring in the most income. Payday loans are typically 14- or 30-day balloon-payment loans at 391% interest or more. People who cannot afford to repay the loan must re-borrow to meet their other expenses, putting them in a cycle of debt.[56] At the other end of the spectrum are examples of 18-month terms for loans of only $500, yielding astronomical fees.[57] Often, borrowers pay more in interest and fees than the principal amount originally borrowed.

There are copious reasons to be concerned about how the payday lending industry conducts business. For example, to ensure repayment, payday lenders, and other small dollar lenders outside of the banking system, obtain access to the bank accounts of their borrowers by requiring repayment by electronic funds transfer (EFT) from their borrowers' accounts. These lenders can then withdraw funds from the borrower's account without any additional notice or consideration for other expenses due. This, in turn, can trigger overdraft and other fees that keep a borrower in a revolving door of debt. The cost structure of these loans often incentivizes lenders to keep borrowers in the revolving door; it is more advantageous to push borrowers to take out another loan and pay another set of steep fees than it is to encourage them to pay off the loan balance in full.[58] This is how payday loans trap borrowers into a cycle of unaffordable debt they cannot escape.

Despite the unaffordability, there are legitimate reasons that consumers continue to use these products. The nonprofit focus group noted that, in addition to emergencies, income volatility and poor credit are other reasons consumers resort to these loans. Most who take out payday loans are in immediate financial distress, so the fact that the loans are easy to apply for, likely to be approved, and are issued within a short period of time[59] positions the product as an immediate and viable solution when there is no other.

CONCLUSION

After five years of research and extensive input from a broad range of stakeholders, in October 2017 the CFPB issued its final payday rule to help mitigate the issue of short term loans. As of July 14th, 2018, and barring any future regulatory or legislative changes, the rule is slated to go into effect on August 19th, 2019. One of the rule's key requirements is that lenders check a borrower's ability to repay before making the loan. This ensures that a borrower can repay without re-borrowing and without defaulting on other expenses, that is, without getting into the cycle of debt mentioned several times above.[60]

With proper guidelines, banks and credit unions are well-positioned to both responsibly and profitably issue small dollar loans. Three-quarters of those who use alternative financial services have an account at a bank or credit union, so banks already have an in-house market; the customer acquisition and underwriting costs for banks and credit unions would be significantly lower than those of payday lenders.[61] To align with the CFPB payday rule, a consumer's ability to repay should be considered and documented. Banks and credit unions can use information already available to them from their customers' bank accounts to determine ability to repay as part of an inexpensive and automated underwriting process. Research suggests that customers with low credit scores "can afford payments of around 5 percent of their gross paychecks,"[62] so banks can "use this threshold for a standard of affordable payments."[63] In addition, the terms of these loans should be dictated by the loan amount, with a maximum of one year for a $1,000 loan.

Banks experimenting with small dollar loan products have found success; three regulated programs saw a collective default rate of 2% to 4%.[64] By strategically setting payments, fees, terms and so on, banks and credit unions can profitably offer small dollar loan products while offering safer and more practical financial alternatives to their customers.

G. CHEXSYSTEMS & PREPAID CARDS

ChexSystems

ChexSystems is a consumer reporting agency that tracks individuals' negative behavior related to bank accounts. Banks report on their customers' behavior to ChexSystems, and ChexSystems provides reports to banks when individuals seek to open a new account. The report tracks behaviors such as overdraft use, late payments, bounced checks and suspected fraud for the past five years, and can be used to deny individuals a bank account.

Individual consumers can request a free copy of their ChexSystems report once a year.[65] Consumers also have the right to access their ChexSystems report when it is used to deny them a checking account. The system is not perfect, errors do occur, and joint checking accounts can damage both parties' reports if only one party has faced hardship.[66] In fact, JPMorgan Chase paid a civil penalty in 2017 to the CFPB after it violated the Fair Credit Reporting Act.[67] The New York Attorney General reached agreements in 2014 and 2015 with Capital One,[68] Citi[69] and Santander[70] banks for violations with respect to ChexSystems.

Consumers can dispute any errors they find on their reports, pay off debts that are truly theirs and ask creditors to update their file with ChexSystems, and if all else fails, wait until the negative factors fall off the report (typically after five years).[71]

Our consumer focus group participants knew about, and a few had been part of, ChexSystems. Participants would use alternative financial service providers while they were in ChexSystems. One participant negotiated with their bank to pay off part of their overdraft fees and to report this positive information to ChexSystems.

Prepaid Cards

If an individual has a lackluster ChexSystems report, a prepaid card can be a wise and necessary alternative to a traditional bank account in the interim.[72] Several consumer focus group participants knew about prepaid cards, and at least one person currently had a prepaid card.

Prepaid cards, sometimes referred to as General Purpose Reloadable (GPR) prepaid accounts, are an efficient, useful financial tool for consumers, especially low-income, unbanked consumers. They operate much the same as debit cards, but without a linked bank account or associated fees. Prepaid cards can be loaded with cash or direct deposit, and can be used at ATMs to withdraw cash and in stores for purchases. The only funds available on the card are those funds loaded by the consumer, so these cards are frequently used to budget and control spending. When asked, prepaid card holders did not wish for an overdraft option – again, they use these cards intentionally to control spending and avoid unnecessary fees.

They are clearly an important financial resource, for unbanked consumers in particular, to avoid fees and debt; many banks offer satisfactory products.[73] Since un- and under-banked users are more likely to have lower incomes than banked users, it is important to ensure that prepaid cards include:

- The same protections as credit or debit cards, such as the funds in these accounts being FDIC-insured in case of loss or theft
- Transparent and reasonable fees
- Protection from fraud, theft or error
- Restricted and transparent overdraft/credit options
- Easy access to account information

The Chase Liquid Card is a real-life example of an affordable prepaid card product. There is a monthly service fee of $4.95, in exchange for which customers get: mobile and online access to their account balance and options for notification when the balance reaches certain limits; no fees to open, load or reload money onto the card; unlimited free Chase ATM transactions; ability to transfer funds to a checking or savings account, make purchases, pay bills, transfer money to others; and zero-liability protection when fraud is promptly reported. Chase Liquid is certified as meeting the Bank On Natioanl Account Standards, and funds are FDIC insured. [74]

CONCLUSION

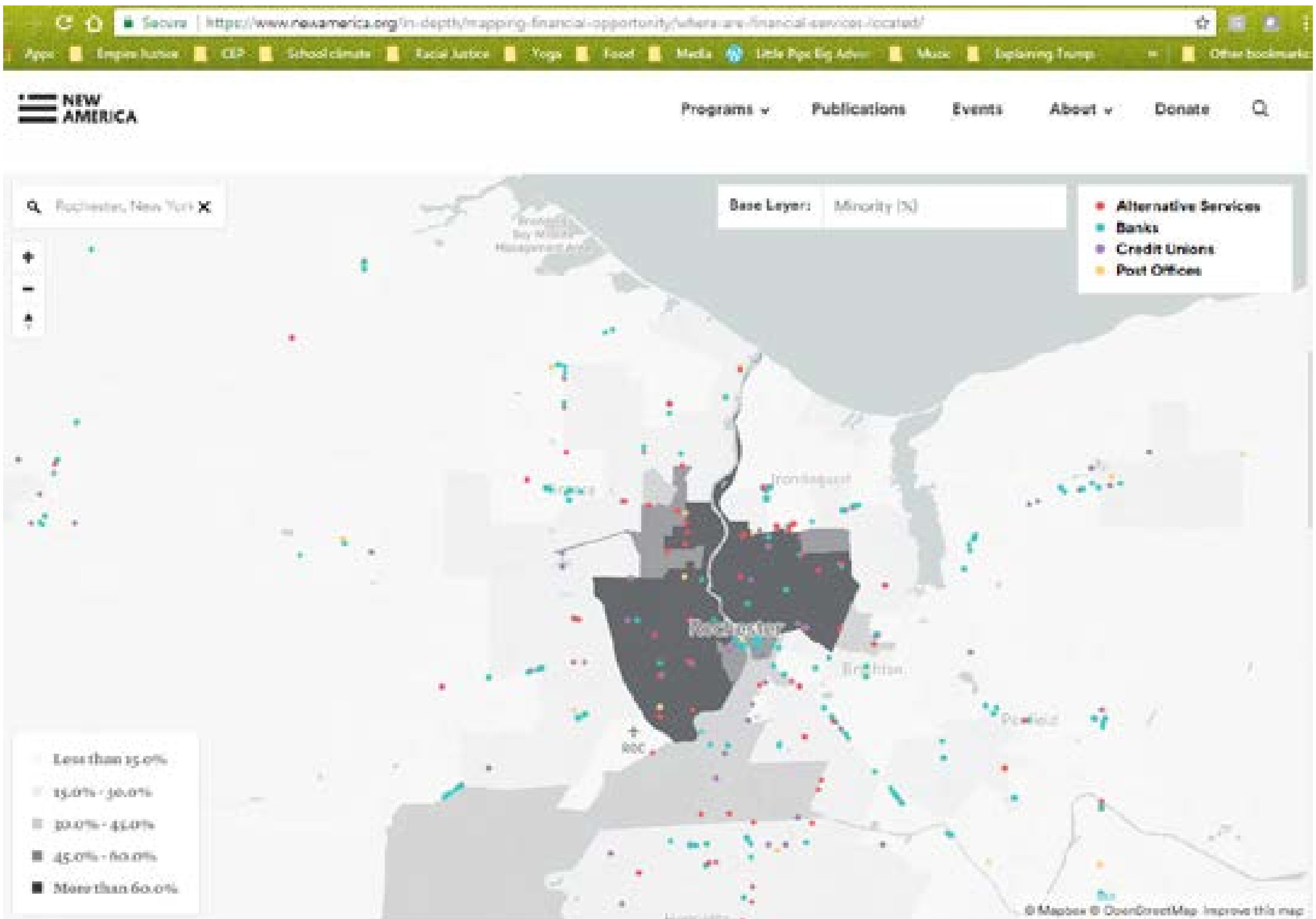
ChexSystems is a way that mainstream financial institutions screen potential account holders, which often adds one more barrier to lower-income consumers obtaining checking or transaction accounts or using the one they may already have. Like other consumer reporting agencies, ChexSystems data can have errors. Banks and credit unions should find ways to work with consumers in ChexSystems, either by helping them clean up their ChexSystems report or offering affordable credit-building products, like a prepaid card.

H. ACCESS TO BANK AND CREDIT UNION BRANCHES

As banks have fled low- and moderate-income neighborhoods and communities of color, they have been replaced by the fringe financial industry that charges predatory terms for check cashing, small dollar, and home repair loans.[75] In Mapping Financial Opportunity, the New America Foundation has mapped where traditional bank and credit union branches, alternative financial services (includes auto title loan, payday loan, check cashing, tax refund, pawn shop, and rent-to-own services) and post offices are located for the entire country.[76]

According to Mapping Financial Opportunity, the Rochester NY MSA has 5.77 banks or credit unions for every alternative financial service provider, which is slightly better than the national ratio of 5.16 among the 74 MSAs with a population of 500,000 to 2 million residents. This slightly better ratio may be due in large part to New York's ban on payday lending.

Still, many majority non-White or low-moderate income neighborhoods (almost all of which are in the city of Rochester) have few bank or credit union branches while having larger numbers of alternative services. For example, the image below from the project website shows the various financial services in Rochester and Monroe County along with the percent minority by census tract (the darkest is 60% or more minority). Note that the city of Rochester is well-served by alternative financial services (red dots), especially where at least 45% of the residents are people of color. Outside of downtown, there are few banks (blue dots) in the city of Rochester. In comparison, many of the areas with the lowest concentrations of people of color have several banks in a row along the commercial corridors or in suburban plazas competing for the residents' business.



DISCUSSION

A. FINANCIAL LITERACY: A STRAW MAN SOLUTION

Financial institutions often point to financial literacy as the key to ensuring low-income household financial success and access to credit. Financial literacy is defined as "'the ability to use knowledge and skills to manage financial resources effectively for a lifetime of financial well-being.'"[77] A key component of engaging with financial literacy is the opportunity to plan ahead. Unfortunately, the social and economic conditions of lower-income households do not lend themselves to opportunities for financial growth, and the products and services available to lower-income households are so limited or exploitative that thoughtful, hard-working people simply cannot improve their financial situation. Ultimately, financial literacy is not helpful to lower-income consumers unless they have the wages to begin building savings and they can access affordable, quality financial products in their community.

In order to use financial resources effectively, consumers must have access to prime financial products. This access is limited for a variety of reasons, including the underperforming credit scores of lower-income households and because most banks do not offer the products (such as small dollar loans) that lower-income consumers need. Without access to affordable products that fit their needs, consumers cannot improve their credit scores, and can only access higher-cost financial products which are harder to afford and more likely to hurt their credit scores. This creates a cyclical situation that is difficult to break.

Our research and review of other studies shows that many consumers have the knowledge and skills they need to effectively manage financial resources; they simply don't have the income or savings. Financial literacy or financial

New York State participates in The United Way's ALICE Project, which looks at the number of households in participating states and their counties who are ALICE-Asset Limited, Income Constrained, Employed. ALICE households don't earn enough to afford the basic necessities (housing, food, child care, health care, transportation and a cell phone).[79] According to 2016 data:

Of New York State's 7.2 million households:

- *47% are BELOW the ALICE threshold, which includes*
  - *o 14% who are in poverty, and*
  - *o 33% who are above the official poverty level but below the ALICE threshold*
- *53% of New York's households are ABOVE the ALICE threshold*

Monroe County as a whole performs slightly better than NYS.[80]

Of the almost 300,000 households in Monroe County:

- *41% are BELOW the ALICE threshold, which includes*
  - *o 15% who are in poverty, and*
  - *o 26% who are above the poverty level but below the ALICE threshold*
- *59% of Monroe County's households are ABOVE the ALICE threshold*

education will not work for many consumers because they do not have enough money to proactively engage in any long-term financial planning. Forty-seven percent of Americans do not have enough money to cover an unexpected $400 expense.[78]

It is also important to recognize that financial literacy currently operates as a social resource. Few public schools offer in-depth financial literacy classes. Banks and financial institutions, for the most part, do not see themselves in the role of financial educators. Technical assistance nonprofits do see themselves as financial educators, but funding for their services is limited, so they are restricted in terms of the number of consumers they can reach and the depth of the assistance they are able to provide. As a result, financial literacy is typically housed in the family structure. Keeping this knowledge base confined to families who have historically achieved financial stability and success only serves to ensure that these families will continue to be successful, and that other families, often people of color, will continue to struggle across generations.

B. THE COMMUNITY REINVESTMENT ACT AND BANK OBLIGATIONS TO SERVE OUR COMMUNITIES

The Community Reinvestment Act (CRA)[81] is a law that requires banks to meet the credit needs of communities where they take deposits, including low- and moderate-income communities. The law was passed in 1977 to address redlining and promote neighborhood revitalization. The CRA only applies to banks, not credit unions or other financial institutions.

The top 8 Rochester-area banks are either regulated by the Federal Reserve Board (FRB) and New York Department of Financial Services (DFS) or the Office of the Comptroller of the Currency (OCC). They are subject every few years to evaluations of their CRA performance, or how well they are meeting the credit needs of their communities.

The largest banks, including the seven whose products were reviewed for this report, undergo the most in-depth exams. They are primarily evaluated under a lending test that considers the number and percentages of loans made to low- and moderate-income individuals and census tracts. They are also evaluated under an investment test, which considers the number and types of investments and grants in low- and moderate-income communities, and a service test that looks at services (branches, bank accounts, staff volunteer activities) in low- and moderate-income communities.

Banks receive ratings in three areas: an overall rating, a rating for each of the tests (lending, service and investment), and, for the banks serving large geographies, a rating for each market in which they have branches. The ratings that banks can receive are:

1. Outstanding
2. Satisfactory
3. Needs to Improve
4. Substantial Noncompliance

The last two scores are considered "failing," and regulators can delay or deny mergers, acquisitions or service expansions as a result.[82]

All of the checking and transaction accounts reviewed in this report are subject to the service test. All loans, including small dollar loans or overdraft lines of credit, are examined under the lending test. Financial literacy comes under the service test (when done by bank staff) or the investment test (when grants are given to nonprofits). Since banks are required by the CRA to serve the entirety of their communities, including low-and moderate-income communities, lack of affordable checking and/or transaction accounts, or inadequate marketing to low- and moderate-income communities, can negatively impact their CRA ratings. However, since these products are only a small part of the larger tests, banks can and do get outstanding ratings even when they fail to meet the credit needs of low- and moderate-income customers.

Key to changing how these smaller products, services and loans are considered during a CRA exam is input from the public on credit needs in LMI communities and how well a bank is meeting those needs. In fact, federal regulators are required to consider public comments in their evaluation of a bank's CRA performance.

RECOMMENDATIONS

A. HOW TRADITIONAL BANKING SERVICS CAN BETTER SERVE WORKING FAMILIES

Safe and affordable financial products and consumer financial education are only a small piece of the puzzle. Working families need a living wage and working conditions that lift them out of poverty. Workers who want to work full time should not be forced into part-time and irregular hours.

With the election of President Obama, many in White America believed we had achieved or were heading towards a post-racial society. The backlash that resulted from the election of America's first Black president has proven sobering for those of us working for racial and economic justice. It has shown us that we must redouble our efforts to improve access to credit in low- and moderate-income communities and communities of color.

In order to impact the wealth and asset gap between White and Black and Latino families, we also have to make gains in educational outcomes, in access to safe and affordable rental housing, and in government subsidies to working families who don't earn enough to pay for basic necessities such as housing, food and child care. Technology changes and improvement in communications means that even jobs that require years of education will be dramatically changed or no longer exist. Our society will need to rethink unemployment benefits and have a better social safety net as workers have gaps in employment or have to retrain.

These big picture policy solutions go beyond the purview of this report, however, Empire Justice Center is actively working through multiple avenues to address many of the issues described above.[83]

Obviously, New Yorkers cannot wait for these larger economic and racial justice issues to be addressed. Lower-income consumers need access to responsible and affordable financial products and services now. Our recommendations for these products and services are outlined below.

B. CHECKING ACCOUNTS AND OVERDRAFT SERVICES AND FEES

We are pleased that all 12 of the entry-level checking or transaction accounts reviewed for this report meet a majority of the affordability features, many of which are part of the CFED Bank On Core National Account Standards; and that six of the 12 accounts have at least seven of the eight features.

All banks should have at least one entry-level check or transaction account with the following features:

- Meets the Bank On Standards for low minimum opening deposit ($25 or less) and low monthly maintenance fees ($5 or less when not waivable; $10 or less when waivable, with at least two easy-to-meet choices)
- Debit card with a network brand that can be used to make purchases, pay bills online, withdraw cash or get "cash back" with purchases
- Free online and mobile access and bill pay
- Free ATM network that is convenient to where customers live and work
- Easy to understand and to decline or limit overdrafts

Overdraft fees must be described in plain language and in plain sight. We remain concerned that many of the entry-level checking accounts we analyzed have overdraft protection. The studies described in the overdraft section, as well as our focus groups with nonprofits and consumers, make it clear that overdraft and NSF fees are an obstacle for many low-income customers. We reviewed the descriptions of the nine institutions' overdraft protection and fees on their websites and found that many of the descriptions were not written in plain language or that the fees were not in the same location. They were hard to read and understand even by consumer advocates with undergraduate and graduate degrees. M&T Bank and ESL FCU had some of the clearest descriptions among the institutions reviewed.

Until overdraft "protection" actually protects consumers rather than driving up fee income, consumers should heed the recommendations of Consumer Action, including NOT "opting-in" to overdraft protection for everyday debit card purchases.[84]

Consumers who are unable to open a bank account because they are in ChexSystems need to be educated about how to access a mainstream checking product. Financial institutions need to make sure that a denial of a checking account is accompanied by an easy and transparent way to cure and/or dispute the reason for the denial. In addition, financial institutions need to do a better job of adhering to the Fair Credit Reporting Act when reporting to ChexSystems.

Responsible banking products should be consistently available in communities of color and in the predominant languages of those communities. The clear fees that check cashers display is repeatedly cited as a reason clients prefer check cashers over banks.[85] Low-income people of color often feel uncomfortable walking in to a bank branch in the business district or in a predominantly White neighborhood. When staff don't look like the customers walking in the door that exacerbates the problem. In conversations between banks and community advocates in Rochester and other upstate cities, we repeatedly heard of the obstacles of going to bank branches that were not in the customer's neighborhood. Lack of transportation and time was one reason. However being made to feel welcome was also cited as a reason. Alternative providers such as check cashers create a friendly atmosphere and hire staff from the community. They also provide services to Spanish-speaking LEP customers.[86]

C. MARKETING OF AFFORDABLE ACCOUNTS

Information comparing accounts must be comprehensive, clear and easily accessible. It is not enough to have a good checking account if it is difficult to learn about it. Having bank staff walk potential customers through the various products is important, but customers need to be able to find and understand basic features of the financial products through bank websites and accessible plain language printed materials. The Five Star Bank brochure comparing their accounts is a good example. Such brochures should be available in an easy-to-access area of each branch.

Our review of entry-level checking and transaction accounts suggests the following criteria for marketing these accounts. To ensure that consumers can make the most informed choices, a bank's entry-level, affordable account should:

- Be as easy to find on a bank's website and in its marketing materials as its higher cost/higher profit margin accounts
- Have materials where their features are clearly described and directly compared to the features of the bank's other accounts
- Have printed brochures available for hand-out at the branches
- Be included when bank branch staff walk through the bank's different checking and transaction account offerings
- Be available in languages other than English

Research by Pew has shown that uniform account comparisons increase consumer understanding about the different accounts.[88] Therefore, banks should use a uniform format and language for marketing and comparing their accounts.

We look forward to talking to area financial institutions and identifying better ways of describing overdraft terms and displaying fees to improve access to and utilizations of checking accounts.

D. EMERGENCY & NON-EMERGENCY SMALL DOLLAR LOANS

Every financial institution should have emergency and non-emergency small dollar loans for their customers. Millions of working families don't earn enough to save for a car repair or other emergencies such as a death or an illness. Loans can be designed to be made to customers who have a regular direct deposit into their account with payments that are affordable, paid over six months or longer. The borrower's ability to repay should be factored into the loan amount and the repayment term.

The OCC has issued guidance on small dollar loans and we look forward to working with area financial institutions to develop products that comply with state and federal regulations.

E. SAFE, TRANSPARENT AND AFFORDABLE PREPAID CARDS AND ACCOUNTS

All financial institutions should have prepaid cards that are safe and affordable. Prepaid accounts must provide clear fee disclosures, access to account information, fraud and error protection, and protection against inappropriate and dangerous overdraft and credit features. In light of the challenges of checking accounts, overdrafts and for customers in ChexSystems who can't access checking accounts, prepaid accounts are often one of the safer alternatives depending on a customer's individual needs. These safeguards must extend beyond physical plastic cards. Mobile and transaction accounts, that are accessed digitally as opposed to through traditional brick and mortar branches, must also be protected as they hold consumer deposits.

F. FINANCIAL EDUCATION

Banks must work with local consumer advocates to understand the concentration of poverty, the volatility of incomes and how best to meet the needs of low-income consumers. Banks need to design financial education initiatives to expand their market to working families who would have previously been ineligible for most of their products, and to build social capital.

For more information on how some banks provide services to LEP customers, visit Consumer Action's website.[87]

The Sabotage of Consumer Protections
By: Jim Dukette July 24, 2018

The Consumer Financial Protection Bureau was created in 2010. The intention of the agency was to protect consumers seeking financial services, AND regulate the financial services industry. It was intended to ensure that the mistakes and misdeeds that led to the virtual collapse of the American economy in 2007-2008 would not be allowed to happen again. To that end, the Bureau was specifically designed to be an independent agency.

The accomplishments of the Bureau from 2012 to 2017 under Director Cordray are undeniable. Among them was a major overhaul of the rules around mortgage servicing. Predatory mortgages cost homeowners billions of dollars, and hundreds of thousands of homes were lost to foreclosure. The CFPB pursued legal actions against banks, credit card companies, payday lenders, debt collection companies, and others, bringing billions of dollars of relief to consumers who had been victims of unfair and deceptive practices by the financial services industry. The Bureau processed almost a million consumer complaints in its first five years, and educated millions of American consumers about their legal rights. Multiple polls conducted in 2017 have shown, that across party lines, a majority of Americans think Wall Street and the major banks need more regulations, and approve of the CFPB.

Mike Mulvaney, a GOP Congressman from South Carolina, was appointed by President Trump as Director of the Office of Management and Budget (OMB). In November 2017 he took a second job as Acting Director of the Consumer Financial Protection Bureau. Acting Director Mulvaney had referred to the CFPB as "sad," "sick," and a "joke." He had called on the Bureau to have less independence, and to be more accountable to Congress. He had co-sponsored legislation to abolish the Bureau altogether. Now he was to lead it.

In Mulvaney's first report to Congress as Acting Director, he called the Bureau "far too powerful," and "with precious little oversight." He made several recommendations to Congress that would diminish the agency's power, and greatly limit its independence. In his first month on the job, Mulvaney froze or greatly slowed all hiring, rule-making, enforcement and supervision activities. He began to roll back many of the consumer protections that had been put in place since 2010. He put all Bureau operations under review.

In the first week of June, the Acting Director dissolved, in effect fired, all members of three CFPB Advisory Boards: Credit Union, Community Banks and Consumer. The CFPB is legally mandated to have a Consumer Advisory Board (CAB) and the Director is required to meet with the CAB twice a year. Such a meeting never took place during Mulvaney's tenure. Ruhi Maker, a Senior Attorney at the Empire Justice Center and CFPB Advisory Board member whose three-year term was set to expire in 2019, states, "The CFPB's Consumer Advisory Board included consumer advocates as the voice of the voiceless consumer. Firing the CAB is yet another attack on critically important consumer protections."

The CFPB has taken a massive change in direction under Mick Mulvaney's leadership. From within and without, the Bureau is facing an existential crisis. Many questions exist about the future of the Bureau. Will current critical consumer protections against fraudulent practices, by financial service providers that cost low- and moderate- income American consumers billions of dollars, be rolled back or eliminated? Will critical safeguards on the financial services industry meant to prevent another collapse of the American economy be partially, or totally, dismantled? As of July 2018 efforts are underway that will make the Bureau lose its independence. Congress has introduced legislation that weakens consumer protections.

Kathy Kraninger was nominated to be the CFPB permanent Director. She works for Acting Director Mulvaney at the OMB. Her lack of experience in consumer protection and her OMB background signals a continuation of the anti-consumer policies begun under Acting Director Mulvaney.

The changes in the coming months and years are critical to the financial well-being of every American consumer. Every American who needs to borrow money or has a credit card, bank account, mortgage, auto, student, or any other loan, will be hurt by these attacks on consumer protection. The economic collapse of the late 2000's is in the rear-view mirror, but some of America's most vulnerable citizens are still paying outrageous interest rates on credit cards and other loans. Homeowners are still falling into foreclosure, and unscrupulous financial entities are ripping off consumers.

The CFPB is focused on deregulating Wall Street so that working American families who live paycheck to paycheck lose more and more hard-earned money to the Banks.

Table 4: How Entry-Level Checking and Transaction Accounts of Rochester NY MSA's Top Banks and Credit Unions Compare Using CFE Fund's Bank On National Standards

	Select Bank On National Standards (1)								
		Monthly maintenance fee							
Bank & Credit Union Accounts	Minimum opening deposit of $25 or less	$5 or less, if not waivable	$10 or less, if waivable, AND at least 2 options to waive fee with single transaction each month (i.e. direct deposit, regular deposit, debit card purchase, or online bill payment)	Overdrafts not allowed	Free Debit card/Point of Sale (POS) capability	Unlimited free withdrawals (via checks, ATMs, or debit card/POS transactions)	Free use of in-network ATMs	Free online banking	Free mobile banking
Bank of America Safe Balance Transaction Acct (2)	✓	✓	N/A	✓	✓	✓	✓	✓	✓
Bank of America Core Checking (3)	✓	—	—	—	✓	✓	✓	✓	✓
Canandaigua NB&T e-ssentials Checking (4)	✓	—	—	—	✓	— #	✓	✓	✓
Citizens Bank One Deposit Checking (5)	✓	—	— *	—	✓	✓	✓	✓	✓
Five Star e-Checking (6)	✓	✓	— *	—	✓	— #	✓	✓	✓
Chase Total Checking (7)	✓	—	—	—	✓	✓	✓	✓	✓
KeyBank Hassle-Free Transaction Account (8)	✓	✓	N/A	✓	✓	✓	✓	✓	✓
KeyBank Express Checking (9)	—	—	—	—	✓	✓	✓	✓	✓
M&T EZChoice Checking (10)	✓	✓	N/A	—	✓	✓	✓	✓	✓
Advantage FCU Fee Free for Me Checking (11)	✓	✓	N/A	—	✓	✓	✓	✓	✓
ESL FCU Simple Spending Transaction Account (12)	✓	—	N/A	✓	✓	✓	✓	✓	✓
ESL Free Checking (13)	✓	✓	N/A	—	✓	✓	✓	✓	✓

Notes:

Transaction accounts have no check writing capability.

✓, meets Bank On National Standard for this feature.

—, does NOT meet Bank On National Standard for this feature.

N/A, standard not applicable due to meeting other standard, or fee is not waivable.

— *, only has 1 single transaction fee waiver option instead of 2 as required in the Bank On National Standards.

— #, not met due to limits on number of free checks.

References to (1) - (13) on next page.

TABLE 4 LINKS

1. Bank On National Account Standards, http://joinbankon.org/wp-content/uploads/2017/05/Bank-On-National-Account-Standards-2017-2018-final.pdf
2. https://www.bankofamerica.com/deposits/checking/safebalance-bank-account/ Certified as meeting Bank On National Account Standards.
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6. https://www.five-starbank.com/banking/personal-banking/checking
7. https://www.chase.com/content/dam/chasecom/en/checking/documents/clear_simple_guide_total.pdf After careful consideration, we chose to exclude the Chase Liquid Card from the accounts we compared. On the bank's website, Chase Liquid is under the category, "prepaid cards," https://www.chase.com/personal/debit-reloadable-cards/liquid-prepaid-card, which is separate from the bank's checking accounts, https://www.chase.com/personal/checking. Nor was information about Chase Liquid shared with a staffer who went to a branch to get more information on Chase's checking accounts. All of this indicates that the bank sees Chase Liquid as more of a prepaid card than a transaction account. Information about the Chase Liquid Card, which has been certified as meeting the Bank On National Account Standards, can be found in this report on p. 19 in the Prepaid Cards section, and at: https://www.chase.com/personal/debit-reloadable-cards/liquid-prepaid-card.
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Checking Benefits Comparison

	Premier Checking	Plus Checking	Traditional Checking	E-Checking
Online and Mobile Banking Included with Mobile Check Deposit, Bill Pay and P2P payments	✓	✓	✓	✓
Access to Over 43,000 Surcharge-free ATMs Nationwide	✓	✓	✓	✓
Standard Checks Included[1]	✓	✓	✓	✓
Overdraft Line of Credit Available Subject to application and credit approval	✓	✓	✓	✓
Optional Paper or eStatement Included	✓	✓	✓	
Unlimited Check Writing	✓	✓		
Cash Back Rewards[2,3]	✓	✓		
Wire Discount[4]	✓	✓		
Safe Deposit Box Discount[5]	✓	✓		
ATM Fee Credits[6,7,8]	✓	✓		
ATM Surcharge Credits Receive up to $10 per statement period for ATM Surcharge Fees	✓			
Interest Bearing Account	✓			
No Fee Money Orders and Cashier Checks	✓			
Preferred Deposit Account Rates	✓			
Preferred Personal Loan and Home Equity Loan Rates Subject to application and credit approval	✓			

1. Premier Checking: 1 box per year, Plus Checking: First order of 40 checks, Traditional Checking and E-Checking: First order of 20 checks.
2. Premier Checking: Receive $0.05 cash back for every Five Star Bank Debit Card/ATM POS Transaction posted over 15 during the statement period. Transaction posted must be for more than $1.00.
3. Plus Checking: Receive $0.05 cash back for every Five Star Bank Debit Card/ATM POS Transaction posted over 25 during the statement period. Transaction posted must be for more than $1.00.
4. Premier Checking: $10 discount per wire; Plus Checking: $5 discount per wire.
5. Subject to availability. Per year discount applies to any size box. Premier Checking: $20 discount. Plus Checking: $10 discount.
6. Premier Checking: Receive up to $10 per statement period for non-Five Star Bank ATM Fees.
7. Plus Checking: Receive up to $5 per statement period for non-Five Star Bank ATM Fees.
8. If you perform a transaction at an ATM that is not owned by Five Star Bank or a part of the Allpoint Network, the ATM Owner may charge you an ATM Surcharge Fee.
9. Checks that are generated and sent via Bill Pay count against the check limit.

Premier Checking Service Charges

$22.00 per Statement Period

The service charge does not apply when you have:
A combined total consumer deposit accounts and/or loan balances of $25,000 or more at the end of the activity period
OR
Direct deposits totaling at least $6,000 into the account during the activity period

Plus Checking Service Charges

$10.00 per Statement Period

The service charge does not apply when you have:
At least a $2,000 average ledger balance for the activity period
OR
Direct deposits totaling at least $500 into the account during the activity period

Traditional Service Charges

$3.00 per Periodic Cycle*

$.50 per Check presented in excess of eight (8) per periodic cycle**

*Waived for customers 62 years of age and older

E-Checking Service Charges

$5.00 per Statement Period and $0.50 per check presented in excess of five (5)* per statement period*

The $5.00 service charge does not apply when you: Receive your monthly statement electronically

*The $0.50 per check fee does not apply if five (5) or fewer checks are presented during the statement period

Smart savings starts today.

No matter what stage you're at in your financial life, we offer a range of ways to save for your future. Ask us about our flexible account options today.

- Statement Savings Account
- Health Savings Account (HSA)
- Money Market Account
- Certificate of Deposit (CD)
- Individual Retirement Account (IRA)

If you have the Premier Checking Account you are eligible for our:

- Premier Savings Account
- Premier Money Market Account

Both have preferred rates.

Personal Checking Services

Debit Mastercard®
No more check writing. No more running to the ATM. You can make purchases anywhere Mastercard® is accepted and have the funds automatically deducted from your primary checking account. It's safe, easy, and convenient. Plus, you'll have access to over 43,000 surcharge-free ATMs nationwide!

Direct Deposit
Setting up Direct Deposit will not only save you from having to make trips to the bank, it will ensure that your funds will be available immediately.

Touch-tone Banking
Complete a variety of transactions using our easy 24-hour touch-tone banking. Access your account balances, transfer funds, make payments, and more: 1-877-882-5782.

Online and Mobile Banking
Meet the branch that never closes.

Through NetTeller online banking and AirTeller mobile banking, you can access your account information virtually anywhere, anytime. Transfer funds between accounts, view images of cleared checks and deposits, view previous statements, enter stop payment requests, pay bills, and even deposit your checks right from your mobile device.

eStatements are also available with NetTeller online banking. You can print or download statements whenever you need them.

Automatic Transfers
Authorize the bank to automatically transfer funds from your checking account to your savings on a regular basis for a great savings plan. You can also have your Five Star Bank loan or mortgage payments automatically transferred from your deposit account on its payment due date.

Unless otherwise specified, all advertised offers and terms and conditions of accounts and services are subject to change at any time without notice. After an account is opened or service begins, its features and terms are subject to change at any time in accordance with applicable laws and agreements.

Enjoy the most benefits with
Premier Checking

- **Online and Mobile Banking Included** with Mobile Check Deposit, Bill Pay and P2P payments
- **Access to Over 43,000 Surcharge-free ATMs Nationwide**
- **1 Box of Standard Checks per Year Included**
- **Overdraft Line of Credit Available**
Subject to application and credit approval
- **Optional Paper or eStatement Included**
- **Unlimited Check Writing**
- **Cash Back Rewards**
Receive $0.05 cash back for every Five Star Bank Debit Card/ATM POS Transaction posted over 15 during the statement period[2]
- **Wire Discount**
$10 discount per Wire
- **Safe Deposit Box Discount**
$20 discount on any size box per year
- **ATM Fee Credits**
Receive up to $10 per statement period for non-Five Star Bank ATM Fees
- **ATM Surcharge Credits**
Receive up to $10 per statement period for ATM Surcharge Fees
- **Interest Bearing Account**
- **No Fee Money Orders and Cashier Checks**
- **Preferred Deposit Account Rates**
- **Preferred Personal Loan and Home Equity Loan Rates**

Five Star Bank
Banking | Investment | Insurance

At Five Star Bank, we take the time to listen and truly get to know you. To build a relationship based on more than who you appear to be on paper. And we understand that it's not simply planning for the future that is important, it's the recognition that you are already working hard to make tomorrow a reality, and that we can help you handle whatever need you have.

We understand that **today is tomorrow in progress.**

Checking that fits your today and tomorrow.

Personal Checking

Five Star Bank
Banking | Investment | Insurance

Financial confidence in progress.

Whether you're opening your first account, or looking for an account that will pay interest and give you cash back, Five Star Checking Accounts have a range of features and benef that fit your banking needs. When it comes to your day-to-day banking needs, we put your financial well-being at the center of all we do

END NOTES

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The views expressed here are solely those of the authors. All errors and omissions are the authors' own.

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