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Report to Congressional Committees

March 2023

FINANCIAL TECHNOLOGY

Products Have Benefits and Risks to Underserved Consumers, and Regulatory Clarity Is Needed

Accessible Version

GAO-23-105536

GAO Highlights

Highlights of GAO-23-105536, a report to congressional committees

Why GAO Did This Study

Millions of consumers face barriers to obtaining accounts and accessing credit through traditional banks and credit unions. In recent years, fintech has emerged as a potential way of helping some underserved consumers gain access to financial services. However, it is unclear how many underserved consumers use these products, what risks they may pose, and to what extent existing financial services laws address those risks.

The Dodd-Frank Wall Street Reform and Consumer Protection Act includes a provision for GAO to annually report on financial services regulation. This report examines (1) the benefits, risks, and limitations of selected fintech products for underserved consumers, and what is known about the extent to which underserved consumers have used them, and (2) federal and state regulators' steps to assess selected fintech products. GAO reviewed studies by federal agencies, academics, and industry groups; analyzed data from selected fintech companies; and interviewed federal and state financial regulators, consumer groups, industry associations, and academics.

What GAO Recommends

GAO recommends that CFPB issue clarification on the application of the Truth in Lending Act's definition of "credit" for earned wage access products not covered by its November 2020 advisory opinion. CFPB agreed with this recommendation.

View GAO-23-105536. For more information, contact Michael Clements at (202) 512-8678 or clementsm@gao.gov.

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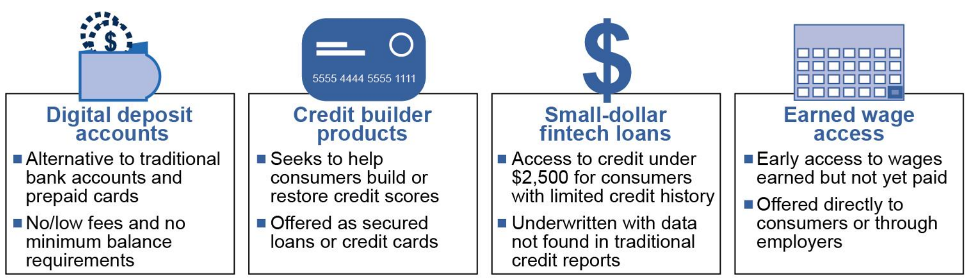
What GAO Found

Fintech refers to the use of technology and innovation to provide financial products and services (see figure for selected products). Fintech products may offer benefits to underserved consumers, such as those without bank accounts or credit scores, but can also pose risks. For example, digital deposit accounts advertise low or no fees and no minimum balance requirements. However, consumers may be unaware that their funds are not being held by the fintech company itself and may be confused about how to recover their funds if the company goes out of business. Earned wage access purports to give consumers access to money that has been earned but not yet paid, potentially helping lower-income consumers meet financial obligations. But the costs of the product may not be transparent, and there may be risks of unexpected overdraft fees.

Overview of Selected Fintech Products



Source: GAO. | GAO-23-105536

Some underserved consumers may face barriers in accessing fintech products—for example, they may lack internet access or prefer the individualized or in-person assistance of traditional banks. Data on the extent to which fintech products serve underserved consumers are limited. However, one company offering digital deposit accounts told GAO nearly half of its accountholders are underbanked (i.e., have bank accounts but use alternative financial services like payday loans, which can be costly) and 15 percent were previously unbanked. Data GAO received from four earned wage access companies indicate that these products were used mostly by consumers earning less than $50,000 annually.

Regulators have taken some steps to address risks that selected fintech products pose, but regulatory uncertainty exists for certain earned wage access products. State and federal regulators have sought to better understand fintech products through measures such as information-sharing agreements with companies. Federal financial regulators are modifying their examination processes to better monitor banks' partnerships with fintech companies. The regulators have also issued guidance related to selected fintech products. For example, the Consumer Financial Protection Bureau (CFPB) issued an advisory opinion in November 2020 clarifying that earned wage access products with specific characteristics are not considered to be an extension of credit under the Truth in Lending Act. However, despite this guidance, some have expressed continued uncertainty about how the law applies to products that do not fall under the advisory opinion. Further clarification could help companies that offer these products understand whether the act and its disclosure requirements are applicable.

Contents

Abbreviations

APR	annual percentage rate
CDFI	community development financial institution
CFPB	Consumer Financial Protection Bureau
CUSO	credit union service organization
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act
FDIC	Federal Deposit Insurance Corporation
Federal Reserve	Board of Governors of the Federal Reserve System
fintech	financial technology
MDI	minority depository institution
NCUA	National Credit Union Administration
OCC	Office of the Comptroller of the Currency
PAL	payday alternative loan

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March 8, 2023

Congressional Committees

Millions of consumers are unbanked or cannot access credit through traditional financial institutions. In 2021, the Federal Deposit Insurance Corporation (FDIC) estimated that 4.5 percent of U.S. households were unbanked.[1] Additionally, a January 2022 study estimated that about 19 percent of the U.S. adult population lacked a credit score, limiting their ability to access bank products such as credit cards and loans.[2] Unable to use traditional financial institutions, these consumers frequently turn to costly alternatives, such as check cashing services and payday lenders, potentially trapping them in a cycle of debt.

In recent years, financial technology (fintech) products have emerged as a potential solution to help consumers underserved by traditional financial institutions. Fintech products, offered online or via mobile devices, may provide consumers with easier and faster access for participating in the financial system. Although fintech products offer some promise for reaching underserved consumers, it is unclear to what extent such consumers have used and benefited from them. In addition, some policymakers have raised concerns about the risks fintech products pose to consumers and banks, and whether current financial services laws address those risks.

Section 1573(a) of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 amended the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) and included a provision for us to annually review financial services regulations, including the

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[1]Federal Deposit Insurance Corporation, *2021 FDIC National Survey of Unbanked and Underbanked Households* (Washington, D.C.: October 2022). According to the report, unbanked rates were higher among lower-income households, less educated households, Black households, Hispanic households, working-age households with a disability, and single-mother households.

[2]Oliver Wyman, *Financial Inclusion and Access to Credit* (New York, NY: January 2022). The report used data from Experian, one of the three nationwide consumer reporting agencies. Consumer reporting agencies collect consumer information and provide reports to other companies that use them to inform decisions about credit, employment, residential rental housing, and insurance, among other things. The three nationwide consumer reporting agencies are Equifax, Experian, and Transunion, but there are other consumer reporting agencies that collect and report data for decision-making purposes on such things as checking account openings.

impact of regulation on the financial marketplace.[3] This report examines (1) the benefits, risks, and limitations of selected fintech products for underserved consumers and what is known about the extent to which underserved consumers have used them, and (2) the steps federal and state regulators are taking to assess selected fintech products.

For this report, we selected four types of fintech products to examine in-depth: digital deposit accounts, credit builder products, small-dollar fintech loans, and earned wage access. To select these products, we reviewed reports from federal regulators, academics, and industry groups, and conducted initial interviews with stakeholders to identify barriers to accessing financial services. We selected these products because they appeared to address barriers to financial access for consumers underserved by the traditional banking system.

For both objectives, we interviewed two academics and representatives of five federal financial regulatory agencies; nine industry groups representing fintech companies, banks, credit unions, or alternative financial services; five research organizations; and four consumer groups. We also interviewed representatives of a nonprobability sample of 15 fintech companies that offered the selected products. We selected these companies to provide a range of different business models for offering the products.[4] We also interviewed representatives of six banks and one credit union that partnered with the selected fintech companies to offer the products. The information gathered from our interviews cannot be generalized to all companies that offer the selected fintech products.

For the first objective, we reviewed the selected fintech companies' websites to gather information on product features. We conducted a literature search to identify academic research reports on the extent to which underserved consumers have been served by the selected fintech products. We also requested information from the fintech companies on characteristics of their users and the volume of services provided from 2019 through 2021. We assessed the reliability of these data by examining for any missing data, assessing the presence and number of outliers or obvious errors, and following up with the companies as necessary to clarify our requests. We determined that the data were

[3]Pub. L. No. 112-10, §1573(a), 125 Stat. 38, 138-39 (codified at 12 U.S.C. § 5496b).

[4]Two of our selected fintech companies subsequently became chartered banks. One company offered deposit accounts and credit builder cards. The other company offered small-dollar loans.

sufficiently reliable for providing examples of the extent to which underserved consumers were reached by these companies.

For the second objective, we reviewed federal and state regulators' procedures for conducting examinations as related to fintech products and related guidance, and their procedures for information-gathering and supervisory activity. We also interviewed representatives of a nonprobability sample of four state financial services regulators (chosen because they had supervisory activity related to our selected fintech products) and the National Association of Consumer Credit Administrators. For more detailed information about our scope and methodology, see appendix I.

We conducted this performance audit from November 2021 to March 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Underserved Consumers

For the purposes of this report, we define underserved consumers as those who are unbanked, underbanked, and credit invisible.

- **Unbanked and underbanked households.** FDIC defines "unbanked" households as those in which no one has a checking or savings account at a bank or credit union. It defines "underbanked" households as banked households that also used one or more nonbank financial products or services, such as payday loans, in the past 12 months.[5] As previously noted, FDIC estimated that 4.5 percent of U.S. households (around 5.9 million) were unbanked in

[5]According to FDIC, these nonbank financial products or services also include money orders, check cashing, international remittances, refund anticipation loans, rent-to-own services, pawn shop loans, and auto title loans. These products and services are disproportionately used by unbanked households. Federal Deposit Insurance Corporation, *2021 FDIC National Survey*.

2021.[6] In addition, FDIC estimated that an additional 14.1 percent of households were underbanked.[7] Our previous analysis of FDIC survey data from 2015 through 2019 found that lower-income, less educated, and minority households were more likely to be unbanked or underbanked.[8] In 2021, FDIC reported that 11.3 percent of Black households and 9.3 percent of Hispanic households were unbanked, compared with 2.1 percent of White households.[9] FDIC also reported that Black and Hispanic households were unbanked at higher rates than White households across all income levels.

- **Credit-invisible consumers.** The Consumer Financial Protection Bureau (CFPB) defines “credit-invisible” consumers as those who lack a credit score because they do not have a credit record with a nationwide consumer reporting agency. It defines “credit-unscorable” consumers as those who lack a sufficient credit history or a recent credit history to generate a credit score.[10] In January 2022, an analysis based on Experian data estimated that about 28 million consumers were credit invisible and another 21 million were unscorable.[11] The study also found that Black consumers were 1.8 times more likely to be credit invisible or unscorable as compared to White consumers. In addition, CFPB found that consumers living in

[6]The percentage of unbanked households decreased from 5.4 percent in 2019, and FDIC reported that this percentage is the lowest it has been since it began its survey in 2009. The report notes that about one-third of the decline was associated with changes in the socioeconomic circumstances of U.S. households over this period, particularly increases in income and educational attainment. The report also found that a large number of unbanked households opened accounts to receive government benefit payments (e.g., stimulus or unemployment benefits) during the COVID-19 pandemic. For example, about 35 percent of households (roughly 1.9 million) that opened a bank account between March 2020 and June 2021 reported that receiving a government benefit payment contributed to their opening a bank account. Federal Deposit Insurance Corporation, *2021 FDIC National Survey*.

[7]Federal Deposit Insurance Corporation, *2021 FDIC National Survey*.

[8]Minority households are those in which the owner or renter of the home identified as Black, Hispanic, Asian, American Indian or Alaska Native, Native Hawaiian or Other Pacific Islander, or Multiracial. GAO, *Banking Services: Regulators Have Taken Actions to Increase Access, but Measurement of Actions’ Effectiveness Could Be Improved*, GAO-22-104468 (Washington, D.C.: Feb. 14, 2022).

[9]Federal Deposit Insurance Corporation, *2021 FDIC National Survey*.

[10]Consumer Financial Protection Bureau, *Data Point: Credit Invisibles* (Washington, D.C.: May 2015).

[11]Oliver Wyman, *Financial Inclusion and Access to Credit*.

low-income neighborhoods were more likely to be credit invisible compared with consumers in upper-income neighborhoods.[12] Specifically, of consumers who lived in low-income neighborhoods, about 30 percent were credit invisible and an additional 16 percent were unscorable, compared to 4 percent and 5 percent, respectively, for consumers who lived in upper-income neighborhoods.

Fintech

Fintech broadly refers to the use of technology and innovation to provide financial products and services.[13] Fintech products can include existing traditional financial products (e.g., bank accounts or credit builder loans) offered through partnerships with banks. In these partnerships, the consumer interacts with online platforms created by a fintech company through which the product is offered. These partnerships offer banks the opportunity to reach new or broader customer segments that they might not have reached through traditional channels. For the purposes of this report, we define “fintech companies” as companies that provide fintech products and are not insured depository institutions such as banks and credit unions.

While fintech encompasses a broad range of product types, this report focuses on the following four:

- **Digital deposit accounts** are deposit accounts offered by fintech companies through partnerships with banks or credit unions. In these arrangements, the deposit account is provided by a depository institution insured by FDIC or the National Credit Union Administration (NCUA), but the consumer typically interacts directly with the fintech company, which manages the platform used to access funds.

[12]Consumer Financial Protection Bureau, *Who Are the Credit Invisibles?* (Washington, D.C.: December 2016). CFPB used median household income data from the American Community Survey to calculate the “relative income” of each tract, which it defined as the ratio between the median household income of the tract and the median household income of the surrounding area (which is the Metropolitan Statistical Area for urban tracts or the county for rural tracts). CFPB then used the definitions in the Community Reinvestment Act to categorize each tract as low, moderate, middle, or upper income if the tract’s relative income was below 50 percent, between 50 and 80 percent, between 80 and 120 percent, or above 120 percent, respectively.

[13]GAO, *Financial Technology: Additional Steps by Regulators Could Better Protect Consumers and Aid Regulatory Oversight,* GAO-18-254 (Washington, D.C.: Mar. 22, 2018).

- **Credit builder products** can help consumers develop positive credit payment histories, which can establish or improve credit scores. These products can be structured as cards or loans. The consumer interacts with the fintech company that manages the platform used to apply for and manage funds. Fintech companies partner with insured depository institutions to offer these products.
- **Small-dollar fintech loans** are unsecured installment personal loans of $2,500 or less underwritten by fintech companies using nontraditional or alternative data.[14] Fintech companies may make these loans through a bank partnership model, as a direct lender (by obtaining state lending licenses), or a combination of both. Additionally, some fintech companies are marketplace lenders, some of which serve as platforms to facilitate peer-to-peer lending.[15] If a loan is offered through a bank partnership, the fintech company provides the platform through which the consumers interact, and the bank partner funds the proceeds of the loan.
- **Earned wage access** is a product offered by fintech companies or through fintech-bank partnerships that purports to provide consumers with access to wages that have been earned but not yet paid. There are two primary business models: employer-sponsored and direct-to-consumer.[16] In the employer-sponsored model, the fintech company partners with employers in order to access time and attendance information. This model gives consumers on-demand access to a certain amount of their earned wages prior to payday; consumers then repay that amount by having it deducted from their next paycheck. In

[14]While there is no single, universal definition of small-dollar loans, for the purposes of this report, we are referring to unsecured, nonmortgage consumer loans of less than $2,500. Alternative data are data not traditionally used by the three national consumer reporting agencies when calculating a credit score, such as cash flow information (transactions from a consumer's bank account), educational background, and rent and utility payments. The scope of this report does not include online payday loans—short-term, high-interest loans with a balloon payment due at the end of the term.

[15]Marketplace lender platforms are sites where prospective creditors can choose which loans to fund based on borrowers' credit information.

[16]Some stakeholders have used the terms "early wage access" or "direct-to-consumer advances" to describe the advance payment of wages through companies that offer the service directly to consumers, and "earned wage access" to describe employer-based services. Others have used "earned wage access" to describe services offered to consumers directly and through employer partnerships. For the purposes of this report, we use "employer-sponsored" to describe wage access services that are offered through a partnership with an employer, are integrated with the employer's payroll system, and use that information to calculate earned wages. We use "direct-to-consumer" to describe wage access services offered directly to a consumer without employer involvement.

the direct-to-consumer model, the fintech company interacts with consumers without involving the employer, connecting to their bank accounts to identify past income and estimate future wages. This model gives consumers access to funds based on this estimated amount of future income, and consumers repay by having that amount deducted from their bank account after payday.

Federal and State Oversight of Fintech Companies

CFPB has supervisory authority for federal consumer financial protection laws, including the Equal Credit Opportunity Act and the Truth in Lending Act, with respect to insured depository institutions with assets of more than $10 billion and their affiliates, and certain nonbank institutions under CFPB's jurisdiction, including some fintech companies.[17] CFPB has rulemaking authority for these statutes and enforcement authority for entities within its jurisdiction. Additionally, CFPB can examine fintech companies that act as service providers to bank and nonbank institutions subject to CFPB's supervisory authority.[18] In April 2022, CFPB announced plans to invoke its authority to supervise any nonbank institution whose activities CFPB has reasonable cause to determine pose risks to consumers, which could include fintech companies.

The federal prudential regulators oversee their respective depository institutions for safety and soundness.[19] They also have supervisory and

[17]The Equal Credit Opportunity Act prohibits creditors from discriminating in any aspect of a credit transaction on the basis of an applicant's race, color, religion, national origin, sex, marital status, or certain other factors. The Truth in Lending Act requires creditors to provide meaningful disclosures concerning certain terms and conditions of consumer credit transactions.

[18]In general a "service provider" means a person that provides a material service in connection with the offering or provision of a consumer financial product or service, including a person that (i) participates in designing, operating, or maintaining the consumer financial product or service; or (ii) processes transactions relating to the consumer financial product or service. The term does not include a person solely by virtue of such person offering or providing (i) a support service of a type provided to businesses generally or a similar ministerial service, or (ii) time or space for an advertisement for a consumer product or service through print, newspaper, or electronic media. 12 U.S.C. § 5481(26); see also 12 U.S.C. § 5514(e); 12 U.S.C. § 5515(d).

[19]The federal prudential regulators are the Board of Governors of the Federal Reserve System (Federal Reserve), FDIC, NCUA, and the Office of the Comptroller of the Currency (OCC). The Federal Reserve, FDIC, and OCC supervise institutions for which they are the appropriate federal banking agency as defined in the Federal Deposit Insurance Act. NCUA supervises federally chartered credit unions.

enforcement authority for federal consumer financial laws with respect to insured depository institutions with assets of $10 billion or less. Federal prudential regulators conduct examinations and other supervisory activities to assess an institution's safety and soundness, which can include the adequacy of risk-management procedures related to third-party relationships with fintech companies.[20]

State financial services regulators have supervisory and enforcement authorities over state lending and other laws that relate to financial services. Fintech companies that have licenses to operate in a state are overseen by state regulators. In addition, state regulators have supervisory authority over state-chartered banks that partner with fintech companies to offer products. State regulators examine licensed nonbank financial service providers (including some fintech companies) and state-chartered banks to assess compliance with safety and soundness and consumer protection requirements, among other things.[21]

Selected Fintech Products Can Have Lower Costs, but Also Can Pose Risks for Consumers and Bank Partners

The four fintech products we reviewed—digital deposit accounts, credit builder products, small-dollar loans, and earned wage access—may offer benefits to underserved consumers, such as lower costs or access to credit. However, these products can also pose risks to these consumers, such as fair lending risks or a lack of cost transparency. The products may also present credit risk and other risks to banks that partner with the fintech companies. The extent to which these products have reached

[20]NCUA has the authority to review the internal controls and records of certain third parties that partner with credit unions called credit union service organizations (CUSO), which can be fintech companies. 12 C.F.R. § 712.3(d)(3). CUSOs are third-party organizations that offer a variety of NCUA-approved services to federal credit unions, such as loan processing and checking services. CUSOs are either owned (partially or wholly) by a federal credit union or have received a loan from a federal credit union. As we discuss later, NCUA does not have the authority to examine services provided by third parties that partner with credit unions.

[21]See "The Role of State Financial Regulation," Conference of State Bank Supervisors, accessed March 1, 2023, https://www.csbs.org/policy/role-state-financial-regulation and Charles Clark, Director, Washington Department of Financial Institutions on behalf of the Conference Of State Bank Supervisors, testimony before the House Committee on Financial Services' Task Force on Financial Technology, 116th Cong., 1st sess., June 25, 2019.

underserved consumers overall is not well known because available data are limited.

Digital Deposit Accounts Often Have Lower Fees, but Can Lack Transparency

Fintech companies can offer digital deposit accounts through partnerships with banks or credit unions. We reviewed five companies that offer these accounts. These accounts can have several potential benefits for underserved consumers, including the following:

- **Low or no fees and no minimum balance requirements.** In 2021, FDIC found that a lack of money to meet minimum balance requirements and high or unpredictable bank account fees were among the top reasons why consumers said they were unbanked.[22] Four of the five fintech companies we reviewed offer deposit accounts advertised as having no maintenance fees.[23] The fifth company charges a $5 monthly subscription fee, which includes features like automated savings and budgeting. All of these companies also said they do not have minimum balance requirements. These accounts may be cheaper than or comparable in cost to BankOn accounts, and are less expensive to maintain than selected prepaid cards.[24] We previously reported that prepaid cards are often used by unbanked

[22]Federal Deposit Insurance Corporation, *2021 FDIC National Survey*.

[23]The fintech accounts also advertised no overdraft fees and they generally do not allow consumers to overdraft. If a consumer's account does not have sufficient funds, a transaction is declined and there are no associated fees. However, as discussed below, two of the fintech companies we reviewed provide small advances for overdrafts to consumers who qualify.

[24]BankOn accounts are traditional bank accounts that meet standards developed by the Cities for Financial Empowerment Fund to provide low-cost bank accounts for underserved consumers. They include features such as no minimum balance requirements, low or no fees, free in-network ATM access, and free cash and check deposits. The Cities for Financial Empowerment Fund established national account standards for BankOn accounts that institutions' checking accounts must be certified as meeting. As of October 2022, there were 288 banks and credit unions offering a BankOn account across over 46,000 branches. "Accounts," BankOn, accessed October 18, 2022, https://joinbankon.org/accounts/.

and underbanked consumers.[25] (See app. II for a comparison of the costs of fintech accounts, BankOn accounts, and prepaid cards.)

- **Low use of account screening consumer reporting agencies when opening accounts.** Banks and some credit unions use account screening consumer reporting agencies to identify if a potential consumer has a suspected history of fraud, mismanagement, or account closure due to overdraft fees, according to one report.[26] Consumer groups noted that this can serve as a barrier to opening traditional bank accounts for underserved consumers with previous account closures. Four of the five companies we spoke to that offer digital deposit accounts do not use an account screening consumer reporting agency when considering applicants for new accounts.

- **Small advances to cover overdrafted payments.** CFPB found that consumers who frequently overdraft their accounts pay, on average, $380 in overdraft fees annually.[27] Two companies we spoke with offer optional small-dollar advances to allow overdrafted payments to go through without fees.[28] This feature allows certain direct-deposit consumers to initially spend $20 more than their account balance at no charge. For example, one company requires consumers to have direct deposits of $200 or more each month to qualify for the initial advance. This company stated that this amount can increase to $200 at no cost, depending on the customers' cash flow history and direct deposit frequency, and the other said it allows the advance to increase to $100. One company requires repayment within 30 days of the advance and is repaid through funds in the consumer's bank

[25]Prepaid cards are widely available online or at merchants and function almost exactly like a bank debit card except they are not linked to a checking account. Customers can load funds via cash and direct deposit, spend money at unaffiliated merchants, and access funds through ATMs. We previously reported that unbanked and underbanked households are more likely to use prepaid cards for more of their monthly purchases than fully banked households. GAO-22-104468.

[26]National Consumer Law Center and Cities for Financial Empowerment Fund, *Account Screening Consumer Reporting Agencies: A Banking Perspective* (Oct. 19, 2015). According to the report, an account screening consumer reporting agency owns and provides reports from a database that contains information about a consumer's history in dealing with bank accounts. An account screening report can include information such as suspected fraud or account closures due to overdrafts.

[27]Consumer Financial Protection Bureau, *Data Point: Checking Account Overdraft* (Washington, D.C.: July 2014).

[28]One of these companies allows consumers to leave a tip—an optional amount of money—after using this service.

account; the other company requires repayment within 90 days of the advance and is repaid by deducting the amount from the consumer's next incoming deposit to the bank account.

- **Credit-building and budgeting tools.** Two fintech companies that offer deposit accounts include tools to assist consumers in building credit or managing their finances. One company stated that it reports positive rent payments from the account to two of the three nationwide consumer reporting agencies to help the consumer build a credit history. Another company advertised that it uses an algorithm to analyze spending patterns and identify money not needed for bills or usual spending; this amount is then automatically transferred into a savings account.

However, digital deposit accounts can also present risks, both to consumers and to banks and credit unions associated with the accounts:

- **Consumer confusion about who is providing the account.** Consumer groups and regulators we spoke with expressed concerns that consumers may not be aware that the fintech company is not a bank and that their deposits are held by another institution. In addition, some banks may use deposit networks, which can make it difficult for a bank or fintech company to tell the consumer in advance where deposits will be held.[29] As a result, consumers may be confused as to where their deposits are or how to obtain their funds if the fintech company goes out of business. Bank partners we spoke to noted that should the fintech company go out of business or the partnerships dissolve, they would contact consumers regarding their accounts. As discussed later in this report, in June 2022, FDIC issued a final rule requiring nonbank companies that advertise their products

[29]A deposit network is administered by a nonbank entity that claims to arrange or facilitate the placement of deposits among a network of insured depository institutions with which it has business relationships. These networks may advertise FDIC deposit insurance coverage in amounts larger than $250,000 (the standard maximum deposit insurance, per insured depository institution, per customer that is FDIC-insured). If the nonbank entity divides the deposit amount among a network of insured depository institutions in amounts less than $250,000 per depositor and per insured depository institution, and satisfies existing deposit insurance regulatory requirements regarding pass through insurance, the depositors may be fully insured (subject to standard statutory and regulatory requirements). (12 C.F.R. §§ 330.5,330.7)

as FDIC-insured to identify the insured depository institutions where consumers' deposits may be placed.[30]

- **Lack of full FDIC insurance coverage.** According to FDIC, how a fintech company structures deposits with its partner bank can affect the extent to which consumers' funds are covered by FDIC insurance.[31] Specifically, FDIC officials stated that a fintech company can establish an individual deposit account for each consumer at the partner bank, similar to if the consumers had opened the account. In this case, funds from each consumer would be fully insured up to $250,000. Alternatively, a fintech company can establish an individual account in which funds from multiple consumers are placed. According to FDIC regulations, if certain requirements are met, deposits held by a fiduciary, agent, or similar party on behalf of one or more depositors are insured on a "pass-through" basis, and each consumer's deposits within the fiduciary account would be insured up to $250,000.[32] However, if the requirements are not met, only the fiduciary account (not each consumer's deposits) would be insured up to $250,000.[33] If this is the case, consumers may not be aware that their deposits are not fully FDIC-insured.
- **Fraud and liquidity risks to banks.** In general, federal regulators noted that partnerships with fintech companies can also pose a variety of third-party risks to banks. With regard to fintech-bank partnerships that offer digital deposit accounts specifically, they stated that the fintech companies can pose risks to the partner bank if they

[30]False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo, 87 Fed. Reg. 33415 (June 2, 2022) (to be codified at 12 C.F.R. pt. 328).

[31]FDIC deposit insurance protects bank customers in the event that an FDIC-insured depository institution fails. Deposits held at these institutions are insured up to $250,000 per depositor, per FDIC-insured bank, per ownership category.

[32]Having deposits insured on a "pass-through" basis means the deposits are insured to the same extent as if the deposits were directly deposited by each of the consumers themselves (i.e., insured up to $250,000 per depositor inclusive of any other deposits held in the same bank, per ownership category, per FDIC-insured bank). In order for pass-through insurance to apply, the fiduciary account has to meet three requirements: (1) the funds must be in fact owned by the principal (the actual owner) and not by the third party that set up the account (i.e., the fiduciary placing the funds); (2) the bank's account records must indicate the agency nature of the account (e.g., the name of the fiduciary and whom it is placing deposits for the benefit of); and (3) the records of the bank and fiduciary must indicate the identities of the principals and the ownership interest in the deposit. 12 C.F.R. §§ 330.5, 330.7.

[33]FDIC officials noted that the agency generally gathers and reviews records that support a claim of pass-through insurance at the time of an insured depository institution's failure.

do not follow fraud prevention measures or Bank Secrecy Act and anti-money laundering compliance policies when opening accounts.[34] Further, according to FDIC, these fintech companies could also pose liquidity risks to banks if the banks rely heavily on them to facilitate deposits and the company chooses to withdraw these deposits.

Limited data exist on the extent to which underserved consumers are using digital deposit accounts, but there are indications that many of the product's accountholders may be underserved by the traditional financial system. One company that provides digital deposit accounts told us nearly half of its customers were underbanked, 15 percent were previously unbanked, and 43 percent previously relied on prepaid cards before obtaining a deposit account from the company. The company also conducted an analysis of its customers using census data and found that it had higher numbers of active users in counties with higher proportions of Black and Latino populations, which also corresponded to counties with fewer bank branches per capita. Two other companies said their digital direct accounts target unbanked consumers within Black and Latino communities, but they did not have race or ethnicity data on their accountholders.

Credit Builder Products Can Help Consumers Develop a Credit History, but Data on Credit Score Improvement Are Limited

Credit builder products help consumers develop positive credit payment histories and can be structured as cards or loans:

- **Credit builder cards** offered by fintech companies are similar to secured credit cards offered by banks in that they require a consumer to provide a deposit amount that is used to secure the card and that amount becomes the card's limit. As a result, the consumer can only spend up to the amount provided as the deposit. The consumer charges expenses on the card throughout the month and pays the bill at the end of the cycle; these monthly payments are then reported to the consumer reporting agencies. Some companies allow consumers

[34]The Bank Secrecy Act and its implementing regulations generally require financial institutions, including banks, to collect and retain various records of customer transactions, verify customers' identities, maintain anti-money laundering programs, and report suspicious transactions. Pub. L. No. 91-508, 84 Stat. 1114-24 (1970) (codified as amended in scattered sections of 12 U.S.C., 18 U.S.C., and 31 U.S.C.).

to carry a balance over to the next month, but consumers must pay interest on amounts carried over, and the next month's limit will be reduced by the amount carried over. Others require the consumer to pay the balance in full in order to continue using the card. In addition, two fintech companies we spoke to allow consumers to use the security deposit to pay off their monthly bill.[35]

- **Credit builder loans** offered by fintech companies are small-installment loans where, instead of the funds being disbursed to the consumer immediately, the bank partner places the approved loan amount into a certificate of deposit or savings account. The consumer makes monthly payments, which consist of principal and interest on the full loan amount, over an agreed-upon period, and the payments are reported to the consumer reporting agencies. Once the loan is paid off, the principal amount (minus any fees and interest) is released to the consumer. One fintech company we spoke to offered a credit builder loan with more flexible loan terms. Consumers could choose an amount the fintech company lends to them each pay period, which is then placed into a savings account. The consumer then makes payments each pay period (with no interest), but has the flexibility to delay making payments without penalty or with no interest for up to 6 months.

We spoke to five fintech companies that offer these products: two that offer credit builder loans, two that offer credit builder cards, and one that offers both.[36]

Credit builder products are designed to give consumers who have low or no credit scores an opportunity to establish and demonstrate positive repayment history, which can improve their access to credit. None of the credit builder products offered by the fintech companies we spoke to had a minimum credit score requirement to apply for the product. However,

[35]Generally, traditional secured cards do not allow consumers to use security deposits for bill payments; instead, consumers must make payments using additional funds. Because the security deposit is not used for payment, the card's limit remains the same throughout the time a consumer uses it. In contrast, two fintech companies stated that consumers can use their security deposit to automatically pay for monthly charges on the card. This makes the card's limit variable over time, as consumers need to replenish the security deposit and may deposit different amounts each month.

[36]Four of the five of the fintech companies we spoke to partner with banks to offer these products. The final lender was a fintech company that obtained a bank charter and directly lends to consumers.

while these products can improve a consumer's credit history, they can also worsen it if, for example, the consumer misses monthly payments.

In terms of cost, two of the three credit builder cards we examined were less costly than traditional secured credit cards. Specifically, these cards were advertised as not having any fees or interest. The third had an annual percentage rate (APR) comparable to those of traditional cards but a higher annual fee. Fintech credit builder loans may have higher fees and interest than some traditional credit builder loans. However, the traditional loans we reviewed are offered by credit unions that require consumers to be a member (by living in certain geographic locations or working for a specific employer) and have a deposit account before accessing the loans, and therefore are not accessible to all consumers. See appendix II for a comparison of the costs of fintech and traditional credit builder products.

We did not identify any publicly available data on who uses fintech credit builder products or the extent to which the products have improved their users' access to credit. Fintech companies told us most of their customers use these products to rebuild their credit, rather than to start their credit history. One company noted that about 86 percent of credit builder loan users had FICO subprime credit scores and about 5 percent of users did not have a credit score at the time of application.[37] None of the fintech companies we spoke to provided data on credit score improvements. Two of the five companies advertised on their websites that credit scores improved by 30 to 40 points after 6 to 8 months of positive payments, depending on the credit score model used, but we could not verify this information.

Use of Alternative Data for Fintech Small-Dollar Loans Can Benefit Some Consumers, but Can Pose Fair Lending and Credit Risks

We reviewed five fintech companies that offer fintech small-dollar loans. These products can provide access to credit for consumers who may not otherwise be able to obtain credit from traditional banks. All of the fintech

[37]FICO is a data analytics company that produces consumer credit scores. FICO scores range from 300 to 850. CFPB defines credit scores under 620 as subprime (580–619) or deep subprime (580 or below). "Borrower Risk Profiles," Consumer Financial Protection Bureau, accessed October 17, 2022, https://www.consumerfinance.gov/data-research/consumer-credit-trends/student-loans/borrower-risk-profiles/.

small-dollar lenders we spoke with noted that they used alternative data to underwrite consumers, such as cash flow data, utility or rental payments, employment history, and level of education. In addition, three of these companies stated that they used credit scoring models powered by artificial intelligence or machine learning to analyze the additional data variables and increase the speed of a loan decision. Using alternative data in the underwriting process may extend access to credit to consumers with poor, thin, or no credit files by including data that credit reports do not typically capture.

Fintech small-dollar loans also may have lower costs for consumers compared with payday loans, but they could still be more expensive than small-dollar loans offered by credit unions. CFPB found that the median payday loan amount of $350 has an average APR of 391 percent.[38] In comparison, four fintech lenders we spoke to offered small-dollar loans with APRs of 36 percent or less.[39] In addition, two fintech lenders told us that, in 2021, their small-dollar loans for consumers with reported annual incomes of less than $25,000 had APRs that averaged about 25 percent and 63 percent, respectively.

Community-based institutions—such as community development financial institutions (CDFI) and credit unions—may also offer low-cost small-dollar loans. These loans may be similar in cost to fintech loans, or in some cases, less expensive. For example, the Department of the Treasury's CDFI Fund Small Dollar Loan Program does not support small-dollar programs offered by certified CDFIs that have APRs that exceed 36 percent. Further, starting with the CDFI Fund Small Dollar Loan Program fiscal year 2022 funding round, certified CDFIs are asked to provide an

[38]CFPB calculated this rate from the typical fee of $15 per $100 borrowed for 14 days. Consumer Financial Protection Bureau, *Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings* (Washington, D.C.: Apr. 24, 2013).

[39]An APR of 36 percent is the interest rate cap established by the Military Lending Act for some types of loans, including payday loans, offered to service members and other covered individuals. 10 U.S.C. § 987. According to the Center for Responsible Lending, 18 states have interest rate caps of 36 percent APR or less on consumer loans of $300. Other states do not have interest rate caps or do not regulate small-dollar lenders for borrowers not covered under the Military Lending Act.

explanation in their applications if they want to offer loans with APRs greater than 18 percent.[40]

In addition, payday alternative loans (PAL) offered by credit unions are subject to a maximum APR.[41] NCUA sets terms allowing federal credit unions to offer PALs at an APR of 10 percentage points above the maximum interest rate established by the NCUA Board of Directors plus the actual costs associated with processing the application, up to $20. As of October 2022, the maximum APR for PALs was 28 percent. However, while PALs may be less expensive than some fintech loans, relatively few credit unions make these loans. For example, we previously reported that only 14 percent of credit unions issued at least one PAL in the second quarter of 2021.[42]

There are a number of risks to consumers and bank partners associated with fintech small-dollar loans, including the following:

- **Fair lending concerns associated with alternative data.** Consumer groups have noted that use of certain alternative data could have fair lending implications if the data correlate with groups of individuals protected under antidiscrimination laws and use of the data has a disproportionately negative impact on those groups.[43] One consumer group expressed concerns that nonfinancial alternative data, such as

[40]Treasury's CDFI Fund Small Dollar Loan Program was created by the Dodd-Frank Act to help certified CDFIs provide alternatives to high-cost small-dollar loans and assist unbanked and underbanked consumers in gaining greater access to mainstream financial institutions. Certified CDFIs apply for grants, which can be used for loan loss reserves and technical assistance to enable them to establish and maintain small-dollar loan programs. Grants cannot be used to fund the certified CDFI's small-dollar loans themselves or to support small-dollar loan programs that offer loans exceeding the lower of 36 percent APR or the interest rate limit of the state in which the certified CDFI is located.

[41]The PALs program was established to provide credit union members with an alternative to high-cost payday loans and consists of two types of loans. PAL I loans can range between $200 to $1,000, with terms of 1 to 6 months. Borrowers must be members of the credit union for at least 1 month before obtaining a PAL I loan. PAL II loans have no minimum principal amount, but must be $2,000 or less. Terms range between 1 and 12 months, and credit union members are eligible for PALs II loans immediately after joining the credit union. Consumers can only take out one PAL at a time.

[42]GAO-22-104468.

[43]For example, the Equal Credit Opportunity Act prohibits creditors from discrimination in any aspect of a credit transaction on the basis of an applicant's race, marital status, sex, and other factors. 15 U.S.C. §§ 1691-1691f. See also 12 C.F.R. § 1002.6.

educational or occupational attainment, may reflect racial disparities and that use of such data in underwriting could reinforce inequalities.

However, some research has found that cash flow information (the alternative data most commonly used by the fintech lenders we spoke to) is predictive of performance and does not correlate with race, ethnicity, or gender. According to one study, cash flow information (inflows and outflows from consumers' bank accounts) was found to be predictive of credit risk, and researchers found evidence that fintech lenders that used it served borrowers who may have historically faced constraints in accessing credit.[44]

- **Risk of receiving a loan with a higher interest rate.** While we found fintech loans generally have lower APRs than payday loans, there is some risk that fintech companies could offer loans at higher APRs than what may be allowed in states where the borrower is located. Specifically, for loans offered through a fintech-bank partnership, consumer groups were concerned that some consumers were receiving loans that were more expensive than what state usury laws in the consumer's state allow. They stated that some nonbanks (including fintech companies) partner with banks chartered in states without interest rate caps or with high rate caps to originate loans with higher interest rates. These fintech companies then lend to consumers nationwide at those rates, even those who live in states with lower rate caps.[45] The ability of fintech companies and other nonbanks that partner with banks to offer loans at higher rates across

[44]FinRegLab, *The Use of Cash-Flow Data in Underwriting Credit: Empirical Research Findings* (Washington, D.C.: 2019).

[45]Consumer groups have termed these partnerships "rent-a-bank" arrangements because they believe the fintech company is using the bank's charter to lend at higher rates and bypass state usury laws. For example, the National Consumer Law Center has identified nine companies that partner with banks to offer loans with over 100 percent APR, even in states with interest rate limits.

states through these partnerships is being challenged through litigation on a case-by-case basis.[46]

- **Credit risk to banks.** Regulators we spoke to stated that fintech companies that partner with banks to lend could pose third-party safety and soundness risks. In particular, banks could face credit risks if the credit underwriting model used by the fintech partner leads to losses for the bank. To mitigate this risk, the regulators noted that banks should have adequate underwriting guidelines for fintech partner loans and monitoring procedures to ensure that the guidelines are followed.

The empirical literature lacks consensus on the extent to which fintech consumer loans have expanded credit to underserved communities. Some studies have found that fintech lenders have been able to reach underserved consumers in specific cases. For example, one study examined loan data from a large fintech marketplace lender and found that fintech companies broadened access to certain types of loans in areas potentially underserved by traditional banks (i.e., areas with low-income borrowers or fewer bank branches per capita). The study also found that fintech companies had a higher market share of loans in areas where economic conditions were less favorable.[47] Similarly, another study showed that borrowers with low credit scores and short credit histories

[46]Institutions that offer federally insured deposits can lend at allowable interest rates under the laws of the state where they are located and can export those rates to borrowers in other states, preempting those states' rate caps and usury laws. In contrast, nonbank lenders must generally comply with interest rate restrictions of the state where borrowers are located. In the case of partnerships between fintech companies and national banks to offer loans, OCC's True Lender Rule previously established that a national bank or a federal savings association, not the fintech company, was the "true lender" of the loan if the bank was named as lender in the loan agreement or funded the loan. This allowed the fintech company partnering with the bank to extend credit to consumers nationwide at a uniform rates even if the rate was higher than permitted by state usury laws. In June 2021, Congress repealed the True Lender Rule under the Congressional Review Act, and true lender issues for national banks are again determined on a case-by-case basis based on differing state laws. In the case of partnerships between fintech companies and state-chartered banks, a parallel rule to OCC's True Lender Rule was never established and, therefore, true lender issues for state-chartered banks continue to be determined on a case-by-basis under state law.

[47]Julapa Jagtiani and Catherine Lemieux, *Do Fintech Lenders Penetrate Areas That Are Underserved by Traditional Banks?* (Philadelphia, PA: Federal Reserve Bank of Philadelphia, March 2018).

were more likely to obtain a loan through a fintech platform and pay lower interest rates compared to traditional lending models.[48]

However, other research suggests that fintech lending primarily benefits consumers who already have access to traditional credit and who use fintech loans either to support additional spending or to consolidate debt.[49] For example, one study found that fintech borrowers have credit scores and banking relationships comparable to those of bank borrowers, but they turn to fintech companies to secure additional credit.[50] Another study found that fintech lenders reach out to subprime consumers more than banks do for personal loan products.[51] However, the same study also found that fintech companies target consumers with higher balances on existing accounts for more credit card offers, indicating that these consumers already have access to credit.

We received data from two of the five fintech small-dollar loan companies that we spoke with. These limited data indicate that in these cases, fintech small-dollar loans reached lower-income consumers, but not necessarily credit-invisible consumers. Between 2019 and 2021, approximately 27 percent of one lender's small-dollar loans and 57 percent of the other lender's small-dollar loans were made to consumers reportedly making under $35,000. For one lender, all consumers who received small-dollar loans had a FICO credit score of at least 581, with around 73 percent having credit scores between 620 and 719. The other lender does not consider credit score when underwriting borrowers and therefore did not have these data.

[48]Marco Di Maggio, Dimuthu Ratnadiwakara, and Don Carmichael, "Invisible Primes: Fintech Lending with Alternative Data" (Harvard Business School working paper no. 22-024, October 2021).

[49]Marco Di Maggio and Vincent Yao, "Fintech Borrowers: Lax Screening or Cream-Skimming?," *The Review of Financial Studies*, vol. 34, no. 10 (October 2021): 4565–4618; Erik Dolson and Julapa Jagtiani, "Which Lenders Are More Likely to Reach Out to Underserved Consumers: Banks Versus Fintechs Versus Other Nonbanks?" (Federal Reserve Bank of Philadelphia working paper no. 21-17, April 2021); and Huan Tang, "Peer-to-Peer Lenders Versus Banks: Substitutes or Complements?," *The Review of Financial Studies*, vol. 32, no. 5 (May 2019): 1900–1938.

[50]Ken Ueda, Yan Zhang, and Xinlei Zhao, *Fintech Firms' Competition Strategies: Evidence from the Unsecured Personal Loan Market* (Washington, D.C: November 2021).

[51]Dolson and Jagtiani, "Which Lenders Are More Likely to Reach Out to Underserved Consumers?"

Earned Wage Access Can Address Short-Term Liquidity Needs, but Consumers May Not Be Fully Aware of Its Costs

As previously mentioned, the two primary business models for offering earned wage access are employer-sponsored and direct-to-consumer. Between these two models, earned wage access services can be structured in a variety of ways. For example, employer-sponsored earned wage access companies generally recoup the accessed wages by withdrawing funds out of a consumer’s paycheck when payroll is processed. In direct-to-consumer models, the company generally withdraws funds from consumers’ bank accounts after they receive their paycheck. However, other features can be found in both models. For example, one direct-to-consumer company and one employer-sponsored company we reviewed offered access to wages for free, but charged consumers various expediting fees to receive money faster than 1 to 3 business days. See table 1 for examples of product features and the models that use them.

Table 1: Selected Characteristics of Earned Wage Access Products

Characteristic	Variations in structure	Models generally using this feature
How earned wage amounts are determined	Time and attendance information from an employer's payroll system	Employer-sponsored
	Information provided by the consumer (e.g., number of hours worked and pay amount, cash flow data from bank accounts, GPS location)	Direct-to-consumer
How earned wages are repaid	Taken out of consumer's paycheck	Employer-sponsored
	Directly debited from consumer's bank account	Direct-to-consumer
Fees consumers may pay	Monthly subscription	Direct-to-consumer
	Fee per use	Direct-to-consumer and employer-sponsored
	Optional expediting fees	Direct-to-consumer and employer-sponsored
	Tips[a]	Direct-to-consumer
Payment distribution method to consumer	Payroll card	Employer-sponsored
	Direct to bank account	Direct-to-consumer and employer-sponsored
Limits to the amount of wages accessed early	Set dollar amount	Direct-to-consumer
	Percentage of earned wages per pay period	Employer-sponsored

Source: GAO analysis of earned wage access company websites and reports. | GAO-23-105536

[a]Some earned wage access products give consumers the option to leave the company a tip after using the service. One of the four earned wage access companies we spoke with has this feature, and noted that tips were voluntary and were established to help the company to continue offering the service to other customers.

According to the earned wage access companies we spoke with, consumers are generally limited to accessing up to 50 percent of their net earned wages or a set dollar amount per pay period.[52] However, one of the four earned wage access companies we spoke with (a direct-to-consumer company) allows consumers to temporarily increase the amount they can access by referring others to use the product or asking another user to "vouch" for them.[53]

[52]One employer-sponsored company noted that employers have the option to set limits on how frequently a consumer can access their wages. They noted that employers typically limit access to around 50 to 75 percent of net accrued wages and limit frequency to two times per pay period.

[53]An earned wage access user "vouches" for another by confirming via an online link that they recommend the person for an increased amount of funds. For users to qualify for these increases, they must have used the service at least once and have paid back all wages accessed early.

Earned wage access companies that we spoke with said their products can benefit underserved consumers by addressing short-term liquidity problems. Specifically, their products give consumers access to money they have earned so that they can use it to pay bills and expenses due before their usual payday. The companies stated they do not require a credit check, allowing underserved consumers with poor or no credit scores to use these services. Two companies noted in their publicly available terms of use or service that they do not have any legal or contractual claims against users if advanced wages are not repaid, but these companies may suspend users from accessing additional wages early until the outstanding payment is made.[54]

In addition, research commissioned by earned wage access companies has indicated that earned wage access can provide some underserved consumers with alternatives to missing bills or using payday loans. For example, a 2021 survey found that some users of an employer-sponsored earned wage access product reported that they previously turned to other strategies to pay for expenses, such as paying a bill late, overdrafting their account, or using a payday loan.[55] After accessing their wages early, many respondents stopped using payday loans and some reduced their use. Another 2021 survey of users of three direct-to-consumer companies found that without earned wage access, some respondents said they would consider not paying bills on time, would overdraft their accounts, or would consider getting a payday loan to cover expenses.[56] We could not verify the reliability of these surveys or their findings.

Lastly, based on information provided on company websites and data we received from the earned wage access companies we spoke with, their earned wage access products generally cost less than typical costs

[54]We reviewed the terms of use or service of our selected earned wage access companies presented on their websites in January 2023.

[55]Leslie Parrish, *DailyPay Use and Outcomes: A Summary of Survey Findings* (Boston, MA: Aite-Novarica Group, August 2021). Aite-Novarica Group is a financial services advisory firm that DailyPay commissioned to conduct this research. Aite-Novarica conducted an online survey in May 2021 of 1,114 DailyPay users. The survey questions included asking users their strategies for paying obligations before using earned wage access and to what extent earned wage access substituted for those strategies.

[56]FTI Consulting, *Direct to Consumer Earned Wage Access User Survey Key Findings* (FTI Consulting, July 7, 2021). FTI Consulting conducted this survey online between April 21 and May 18, 2021, on behalf of three direct-to-consumer earned wage access companies. The results of this survey are based on responses of 4,735 users. The objective of this research was to understand how consumers use direct-to-consumer earned wage access and its impact on their financial well-being.

associated with payday loans (as reported by CFPB), even when accounting for optional expediting fees. See appendix II for more information on the costs of earned wage access products.

However, earned wage access products also can pose risks to consumers, including the following:

- **Lack of transparency around costs.** Stakeholders we spoke to noted that some fintech companies are not transparent about the costs consumers end up paying. Consumer groups raised concerns that consumers may not recognize that tipping is optional and questioned whether a consumer's decision not to tip would decrease the amount of money advanced or wages that can be accessed in the future. One company told us that tips do not affect future decisions to provide access to earned wages.

  In addition, consumers may pay unexpected costs if the company directly debits their bank accounts. Specifically, for direct-to-consumer earned wage access products where advanced wages are directly repaid by debiting a consumer's bank account, there is a risk that the consumer may not have enough money in the account, resulting in the consumer paying overdraft fees unexpectedly. One company stated on its website that it offers reimbursement for certain situations when this happens, but notes that consumers are responsible for maintaining a bank balance that is sufficient to fund any payments they initiate.

- **Dependence on accessing wages early.** According to some consumer groups, consecutive earned wage access use could lead to consumers becoming dependent on using the service. If consumers rely on earned wage access to cover their daily expenses, they may need to use it again to make up for the funds used to repay a prior advance. Data and research show that consumers who access this service do so multiple times in a year. For example, one study found that more than 70 percent of users accessed wages in consecutive semimonthly pay periods in 1 year, with 10 percent of users accessing wages consecutively for at least 5 months.[57]

  Based on the data we received, from 2019 through 2021, the average number of times users of one employer-sponsored earned wage access company accessed their wages ranged from about 10 to 24 per year. Users of one direct-to consumer earned wage access

[57]Devina Khanna et al., *Earned Wage Access and Direct-to-Consumer Advance Usage Trends* (Chicago, IL: Financial Health Network, April 2021).

company used the service on average approximately 26 to 33 times per year during that same period. One factor in this higher frequency could be the daily limitations on the amount of wages a consumer can access that the company placed on consumers.

- **Inaccurate wage estimation.** Consumer groups raised concerns that companies offering direct-to-consumer earned wage access products may not be accurately estimating consumers' earned wages. For these products, fintech companies estimate wages from sources such as recurring direct deposits in a consumer's bank account, prior pay stubs, and GPS location, rather than obtaining time and wage information from employers.[58] If wages are inaccurately estimated, consumers may have difficulty repaying the amount they receive.

Data we received from the four earned wage access companies we interviewed indicated their products generally were used by lower-income consumers. Data from three companies showed that about 75 to 97 percent of users reported earning less than $50,000 a year from 2019 through 2021; data from the remaining company indicated that around 59 percent of users reported earning less than $50,000 a year as of August 2022.[59] Further, data from one direct-to-consumer company indicated that about 78 percent of its users made under $25,000 a year. In addition, earned wage access companies have commissioned or published some statistics on their users. The 2021 survey of users of three direct-to-consumer companies found that about half of earned wage access users were White.[60] In addition, one employer-sponsored company reported in 2021 that 28 percent of its users identified as Black, 8 percent as Latino or Hispanic, and 9 percent as Multiracial, Asian, Native American, or Pacific Islander.[61]

[58]One company uses GPS location data to calculate earned wages by multiplying the consumer's hourly rate by the number of hours spent at a work address.

[59]Direct-to-consumer companies do not have data on consumers' exact income and rely on direct deposit information in consumers' bank accounts to estimate annual income. As a result, these calculations may not take into account income that is not reflected in direct deposits.

[60]FTI Consulting, *Direct to Consumer Earned Wage Access User Survey Key Findings.*

[61]Payactiv, *Payactiv Impact Performance Report* (San Jose, CA: November 2021).

Lack of Internet Access and Preferences for In-Person Assistance May Limit Fintech's Use by Underserved Consumers

While fintech products and services may facilitate financial access for some underserved consumers, others may face barriers using fintech because they lack internet access, prefer in-person or individualized service, or need more immediate access to cash.

Lack of internet access. Underserved consumers may lack reliable access to the internet, which is essential for fintech products. In 2019, FDIC found that 36 percent of unbanked households did not have smartphone access and 66 percent did not have home internet access.[62] Additionally, the Pew Research Center reported that low-income consumers were less likely than consumers as a whole to own a smartphone or have home broadband.[63] For instance, 76 percent of those living in households earning less than $30,000 reported that they have a smartphone compared to 96 percent of those living in households earning more than $75,000.

Preference for in-person assistance. In addition, fintech products may have limited benefit for consumers who need or prefer individualized or in-person assistance, which many fintech companies do not offer. In a 2016 research report, FDIC found that unbanked and underbanked consumers may be hesitant to open bank accounts on their phones and that cultural obstacles to banking (like a distrust of banks) are not easily addressed by offering services online.[64] The report also noted that these underserved consumers particularly valued the ability to reach a live person when they needed to resolve issues. Stakeholders told us that the availability of customer service or dispute resolution can also be a limitation of fintech companies, compared with banks or credit unions with

[62]Federal Deposit Insurance Corporation, *How America Banks: Household Use of Banking and Financial Services, 2019 FDIC Survey* (Washington, D.C.: October 2020). According to FDIC, the 2021 survey did not include questions on smartphone and internet access in order to accommodate new questions.

[63]Pew Research Center, "Mobile Fact Sheet," (April 7, 2021), accessed July 29, 2022, https://www.pewresearch.org/internet/fact-sheet/mobile/.

[64]Federal Deposit Insurance Corporation, *Opportunities for Mobile Financial Services to Engage Underserved Consumers: Qualitative Research Findings* (Washington, D.C.: May 2016).

physical branches. For example, some fintech companies rely on digital chat or features that make it difficult to get immediate assistance from a live person.

Need for immediate access to cash. Consumers who need fast access to cash may not always be served by fintech companies or banks. While fintech companies use technology to automate tasks that can improve the speed of service, some products, such as peer-to-peer payment services, still rely on transfers of money between banks, which can take several days.[65] Consumers with more immediate financial needs may rely on alternative service providers, such as check cashing services or payday lenders, for instant access to cash. However, as previously discussed, alternative financial services can come at a high cost.

In addition, certain types of traditional financial institutions may be better positioned than fintech companies to assist underserved consumers. Community-based institutions such as CDFIs, minority depository institutions (MDI), and some credit unions specifically target underserved populations.[66] Further, these institutions are generally located in the communities they serve, and may provide more personalized assistance. However, access to these institutions can be limited by the geographic location of the consumer. For example, consumers may need to live in particular geographic areas to be a customer of some CDFIs or credit unions.

[65]Some earned wage access companies we spoke to offered expedited access to funds to reduce the time of receiving funds from 1 to 2 days to several minutes. This service comes with additional fees.

[66]CDFIs and MDIs are financial institutions that have the goal of expanding economic opportunity. CDFIs can be regulated institutions (such as banks) or non-regulated institutions, such as venture capital funds. MDIs are generally regulated banks, savings associations, or credit unions primarily owned by minority individuals or that serve a predominantly minority community and whose board of directors and account holders are comprised primarily of minorities.

Regulators Have Begun Taking Steps to Address Fintech Risks, but CFPB Has Not Clarified Whether Certain Products Are Credit

Regulators Have Taken Different Approaches to Understanding Innovations in Fintech Products

Federal and state regulators have various efforts underway that help them understand and identify the benefits and risks of the four fintech products we reviewed (digital deposit accounts, credit builder products, small-dollar fintech loans, and earned wage access).

Innovation office hours. To broadly understand emerging technologies, some federal regulators and one state banking regulator we interviewed have innovation office hours that provide stakeholders, including fintech companies and supervised depository institutions, the opportunity to engage with regulators and discuss emerging innovations in the marketplace.

Information-sharing agreements. One state regulator we interviewed has sought to understand the benefits and risks of earned wage access products through January 2021 memorandums of understanding with five companies. The companies have agreed to report information to the regulator on fees, consumer complaints, and statistics on consumer repayment related to their earned wage access products on a quarterly basis. The regulator reported that these information-sharing agreements provide a way for earned wage access companies to continue operating in the state in advance of possible registration under state law.

Regulatory sandboxes and no-action letters. Two of the states whose regulators we interviewed have established regulatory sandboxes, which provide businesses (including fintech companies) with an opportunity to test innovative products without being licensed or subject to certain state laws. When applying to participate in these sandboxes, companies must describe the potential benefits and risks to the state office administering the program. Following approval of the application, these products are subject to agreed-upon testing parameters and reporting requirements to help state regulators understand risks and consumer complaints associated with the products. However, both of these regulators noted that they were not aware of any companies that offer our selected products having received sandbox approval.

CFPB previously provided companies with certain arrangements in part to understand the benefits and risks of innovative products. Specifically, CFPB granted compliance assistance sandbox approvals, which gave companies a safe harbor under certain federal consumer financial laws in order to test innovative products for a limited time while sharing data from these tests with the agency. CFPB also offered companies no-action letters, which provided companies assurance that, subject to any conditions or limitations outlined in the letter, the agency would not take enforcement or supervisory action related to the product under the statutory and regulatory authorities detailed in the letter. CFPB previously had arrangements with a fintech lender and an earned wage access company until those arrangements ended in June 2022 at the request of the companies.[67]

CFPB rescinded the policies related to these arrangements as of September 2022.[68] CFPB concluded that the policies did not advance their stated objective of facilitating consumer-beneficial innovation. CFPB also determined that the policies failed to meet appropriate standards for transparency and stakeholder participation. For example, in its orders to terminate arrangements with the fintech lender and earned wage access company, CFPB expressed concerns that there was a risk that these arrangements could be misconstrued by the public as agency endorsements of the companies' products. Instead of these arrangements, CFPB announced it was encouraging companies to file rulemaking petitions to ask for greater clarity on particular rules.

[67]In 2020, Upstart and Payactiv were granted a no-action letter and compliance assistance sandbox approval order, respectively. In 2022, Upstart and Payactiv planned to make changes to their business models that required CFPB approval under these arrangements, but agency review would have taken longer than the companies wanted. As a result, the companies requested that CFPB terminate the no-action letter and sandbox approval order so they could make the changes they wanted quickly, and CFPB agreed to do so in June 2022.

[68]CFPB did not request to renew the Paperwork Reduction Act authorizations for its no-action letter and compliance assistance sandbox policies. As a result, those policies were no longer effective as of September 30, 2022. 87 Fed. Reg. 58439 (Sept. 27, 2022).

Some Federal Regulators and CFPB Are Adjusting Their Supervisory Approaches to Address Risks That Fintech Products Pose

FDIC, the Board of Governors of the Federal Reserve System (Federal Reserve), and the Office of the Comptroller of the Currency (OCC) conduct examinations and other supervisory activities to assess a federally regulated financial institution's safety and soundness, including the adequacy of risk management practices. If fintech companies partner with a federally regulated financial institution (such as a bank), examinations could include some review of the extent to which the fintech company may affect the bank partner's adherence to relevant laws and regulations. In addition, these agencies generally have authority to examine and regulate certain banking-related functions or operations performed by third-party service providers of a financial institution to the same extent as if they were performed by the institution itself.[69] FDIC, the Federal Reserve, and OCC issue matters requiring attention, matters requiring board attention, or matters requiring immediate attention to regulated financial institutions in order to convey supervisory concerns. From 2017 through 2021, these regulators issued several of these matters to regulated financial institutions related to third-party oversight and vendor management, which can include relationships with fintech companies.[70] These included recommendations to strengthen oversight over underwriting and validation of third-party models, improve due diligence procedures prior to entering contracts, and develop policies that outline roles and responsibilities for monitoring fintech initiatives.

FDIC, the Federal Reserve, and OCC have several efforts underway to adjust their oversight of banks that engage in these partnerships. In July 2021, the agencies requested public comment on proposed guidance

[69]12 U.S.C. §§ 1464(d)(7)(D), 1867(c)(1).

[70]These agencies use progressive enforcement regimes, which include these matters and other actions such as informal and formal enforcement actions, to address supervisory concerns that arise during examinations of regulated financial institutions. FDIC uses supervisory recommendations, of which matters requiring board attention are a subset and represent serious concerns that require prompt board attention. The Federal Reserve and OCC use matters requiring attention to convey serious concerns capable of being resolved in the normal course of business. The Federal Reserve also uses matters requiring immediate attention for serious concerns that demand immediate board attention. GAO, *Bank Supervision: Regulators Improved Supervision of Management Activities but Additional Steps Needed,* GAO-19-352 (Washington, D.C.: May 14, 2019).

designed to help banks manage risks associated with third-party relationships, including those with fintech companies.[71] The proposed interagency guidance describes various stages of the third-party risk management life cycle and identifies principles and factors applicable to each, such as performing due diligence when selecting a third party, conducting ongoing monitoring of a third party's activities and performance, and developing contingency plans for terminating a relationship with a third party. As of November 2022, the agencies said they were considering and addressing comments on the proposed interagency guidance language.

In addition, some agencies are beginning to track significant third-party relationships and reorganize supervision to better respond to risks third-party partnerships pose to banks. For example, in January 2020, FDIC started to track information on third-parties used by FDIC-supervised banks to better identify and respond to emerging consumer risks in banks' products and services. This information includes third parties that provide emerging or complex technologies that affect consumers, including some of our selected fintech products. FDIC noted that this information is used to focus the scope of consumer compliance examinations and identify institutions with certain third-party business arrangements when risk is identified with a specific third-party company.

Starting in October 2022, OCC realigned the supervision of banks with "novel activities" and significant partnerships with technology service providers under a new specialty supervision unit.[72] According to OCC, the realignment allows the agency to address unique business models and provide a more coordinated and consistent approach to overseeing these complex institutions and relationships.

[71]*Proposed Interagency Guidance on Third-Party Relationships: Risk Management*, 86 Fed. Reg. 38182 (July 19, 2021).

[72]These banks include those that focus on cryptocurrency custody and have innovative delivery channels of financial products through fintech companies. According to some stakeholders we spoke to, banks with assets under management of less than $10 billion (i.e., community banks) may have certain fintech partnerships because of advantages provided under the Durbin Amendment. Specifically, the Durbin Amendment imposed debit card interchange fee limits but provided an exemption to those limits for banks with less than $10 billion in consolidated assets. As a result, stakeholders noted that fintech companies may partner with these smaller banks to offer products such as digital deposit accounts with debit cards in order to take advantage of the interchange fee revenue they can earn.

NCUA lacks authority to examine services provided by third parties that partner with credit unions, including technology service providers such as fintech companies.[73] As a result, NCUA does not have the ability to examine fintech companies that partner with credit unions to identify unsafe or unsound practices. According to a 2019 survey conducted by an industry group representing federally-insured credit unions, about 61 percent of the group's members indicated that they already partner with a fintech company to provide products and services.[74]

In 2015, we recommended that Congress consider giving NCUA authority to examine technology service providers that partner with credit unions.[75] Similarly, in September 2020, NCUA's Office of Inspector General determined that this lack of authority limits the agency's ability to effectively identify and reduce the risk these relationships pose to credit unions in order to protect the National Credit Union Share Insurance Fund.[76] As of December 2022, no legislation had been passed to give NCUA such authority. NCUA continues to seek congressional approval for expanded authority over third-party vendors.

CFPB recently announced a plan to bolster oversight over nonbank financial companies—including fintech companies—that pose risks to consumers. In April 2022, CFPB announced its intention to invoke a largely unused legal provision to supervise nonbank financial companies that provide consumer financial products or services and that CFPB has reasonable cause to determine are engaging in conduct that poses risks to consumers, including potential violations of federal consumer financial

[73]Specifically, NCUA does not have authority to supervise and bring enforcement actions against third parties that partner with credit unions and are not CUSOs. While NCUA has the authority to review the internal controls and records of CUSOs, it does not have the authority to enforce corrective actions.

[74]National Association of Federally-Insured Credit Unions, *Economic & CU Monitor* (Arlington, VA: July 2019).

[75]GAO, *Cybersecurity: Bank and Other Depository Regulators Need Better Data Analytics and Depository Institutions Want More Usable Threat Information*, GAO-15-509 (Washington, D.C.: July 2, 2015).

[76]National Credit Union Administration Office of Inspector General, *Audit of the NCUA's Examination and Oversight Authority over Credit Union Service Organizations and Vendors*, OIG-20-07 (Alexandria, VA: Sept. 1, 2020).

law.[77] The provision requires CFPB to make the determination by order, after notice and a reasonable opportunity to respond, based on consumer complaints or information from other sources. CFPB recently invoked this authority in response to the rapid growth of consumer offerings by nonbanks, and so that the agency can adapt quickly to changing market conditions.

In December 2022, CFPB issued a proposed rule that would require certain nonbanks to register with and submit information to CFPB when they become subject to certain orders from local, state, or federal agencies or courts involving violations of certain consumer protection laws that arise out of conduct in connection with offering or provision of a consumer financial product or service.[78] In January 2023, CFPB issued a proposed rule that would require nonbanks subject to CFPB's supervisory jurisdiction to register with and submit information to CFPB if they use specific terms and conditions in form contracts that claim to waive or limit consumer rights and protections.[79]

CFPB, FDIC, the Federal Reserve, and OCC have issued guidance and taken action related to specific risks the selected fintech products pose:

- In June 2022, FDIC adopted a final rule that formalized existing processes to address claims of companies engaging in false advertising, misusing FDIC's name or logo, or making knowing misrepresentations about deposit insurance.[80] The rule became effective in July 2022. According to the final rule, nonbank companies (e.g., fintech companies that facilitate deposits) that advertise their

[77]The Dodd-Frank Act authorized several categories of entities to be subject to CFPB's nonbank supervision program, including nonbanks whose activities CFPB has reasonable cause to determine pose risk to consumers. 12 U.S.C. § 5514(a)(1)(C). CFPB implemented the provision related to this authority through a procedural rule in 2013 and is now beginning to invoke this authority. 12 C.F.R. part 1091.

[78]Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders, 88 Fed. Reg. 6088 (Jan. 30, 2023).

[79]Registry of Supervised Nonbanks that Use Form Contracts to Impose Terms and Conditions that Seek to Waive or Limit Consumer Legal Protections, 88 Fed. Reg. 6906 (Feb. 1, 2023).

[80]The final rule implemented Section 18(a) of the Federal Deposit Insurance Act. The rule also establishes a public-facing portal through which inquiries or complaints involving potential violations can be submitted. False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo, 87 Fed. Reg. 33415 (to be codified at 12 C.F.R. pt. 328).

products as FDIC-insured must identify the insured depository institutions with which the company has existing direct or indirect business relationships for the placement of deposits and into which consumers' deposits may be placed. If companies fail to disclose this information, FDIC would consider this a material omission and false or misleading representation regarding FDIC insurance. At the same time, CFPB issued an enforcement memorandum emphasizing that companies under its jurisdiction cannot misuse FDIC's name or logo or make misrepresentations of deposit insurance to consumers.[81]

- In August 2021, OCC, the Federal Reserve, and FDIC issued a guide for community banks to use when performing due diligence on prospective relationships with fintech companies.[82] The guide provides banks with considerations when evaluating potential relationships and tailoring their due diligence process.
- CFPB has also taken action against fintech companies that were alleged to have misrepresented the services they advertised to consumers. CFPB entered a consent order in August 2022 with Hello Digit, LLC, a fintech company that used an algorithm that was meant to help with budgeting and savings but that CFPB found instead caused overdraft penalties for users. Among other things, CFPB alleged the company falsely guaranteed that overdrafts would rarely happen and that it would reimburse consumers if they did. CFPB's consent order noted the algorithm wrongly withdrew more money than consumers had in their accounts, resulting in overdraft fees.[83] According to the consent order, the company also represented that it would reimburse all overdraft fees incurred by users. However, CFPB found that if consumers incurred overdraft fees caused by the algorithm more than twice, the company refused to reimburse them. CFPB found that Hello Digit, LLC engaged in deceptive acts or practices in violation of the Consumer Financial Protection Act.

[81]Consumer Financial Protection Bureau, *Deceptive Representations Involving the FDIC's Name or Logo or Deposit Insurance,* Circular 2022-02 (Washington, D.C.: May 17, 2022).

[82]Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency, *Conducting Due Diligence on Financial Technology Companies: A Guide for Community Banks* (Washington, D.C.: August 2021).

[83]To use the fintech service, consumers had to provide the company access to their bank accounts, and the company's algorithm analyzed spending patterns to automatically move money into separate spending and savings accounts.

- CFPB and the prudential regulators have also issued clarification regarding alternative data and use of complex algorithms, such as those that use machine learning or artificial intelligence. For example, in May 2022, CFPB issued a circular explaining that lenders that use complex algorithms to make credit decisions are still responsible for providing reasons why a consumer was denied credit, as required by the Equal Credit Opportunity Act and its implementing regulation (Regulation B).[84] The circular notes that a lender cannot justify noncompliance with these requirements simply because the technology is too complicated or opaque to understand.

  In 2018, we recommended that CFPB, FDIC, the Federal Reserve, and OCC communicate to fintech lenders and banks on the appropriate use of alternative data in underwriting.[85] The agencies stated that they planned to take action to address our recommendations. In December 2019, the agencies issued an interagency statement on the use of alternative data in credit underwriting.[86] While the statement broadly encourages firms that use alternative data to do so responsibly, it does not provide banks that engage in third-party relationships with fintech lenders specific direction on the appropriate use of alternative data in the underwriting process. Therefore, the recommendations have not been fully implemented. Without such direction, banks that partner with fintech companies may not effectively manage the risks associated with alternative data, including compliance with fair lending and other consumer protection laws.

- Lastly, CFPB and the prudential regulators have issued requests for comment or notices of rulemaking that solicit perspectives on regulatory challenges that could affect the oversight of companies that offer our selected fintech products. For example, CFPB's rulemaking to implement Section 1033 of the Dodd-Frank Act, which provides for consumers' access to certain types of financial records about themselves from their financial service provider, could have

[84]Consumer Financial Protection Bureau, *Adverse Action Notification Requirements in Connection with Credit Decisions Based on Complex Algorithms*, Circular 2022-03 (Washington, D.C.: May 26, 2022).

[85]GAO, *Financial Technology: Agencies Should Provide Clarification on Lenders' Use of Alternative Data,* GAO-19-111 (Washington, D.C.: Dec. 19, 2018).

[86]Board of Governors of the Federal Reserve System, Consumer Financial Protection Bureau, Federal Deposit Insurance Corporation, National Credit Union Administration, and Office of the Comptroller of the Currency, *Interagency Statement on the Use of Alternative Data in Credit Underwriting* (Washington, D.C.: Dec. 3, 2019).

implications for fintech companies that rely on accessing cash flow information from consumers' bank accounts.[87]

In October 2022, CFPB published an outline of proposals and alternatives under consideration to be included in a proposed rule.[88] These proposals would give consumers the right to access their financial data from deposit accounts, credit cards, and payment companies, as well as authorizing third parties (such as fintech companies that rely on cash flow data for underwriting) to access that information. The proposals also outline potential options around data security requirements for data authorized for third-party use, including limitations to prevent the reselling of authorized data for other uses. CFPB announced that it anticipates issuing a proposed rule in 2023 for comment and finalizing the rule in 2024.[89]

CFPB Has Issued Guidance on Earned Wage Access, but Additional Clarity Is Needed

In November 2020, CFPB issued an advisory opinion clarifying that earned wage access products with certain characteristics are not considered to be an extension of credit under the Truth in Lending Act

[87]Specifically, Section 1033 of the Dodd-Frank Act requires covered providers of consumer financial products or services to make available to a consumer, upon request, information concerning the financial products or services obtained by the consumer from the covered provider. Pub. L. No. 111-203, § 1033, 124 Stat. 1376, 2008 (codified at 12 U.S.C. § 5533).

[88]Consumer Financial Protection Bureau, *Small Business Advisory Review Panel for Required Rulemaking on Personal Financial Data Rights: Outline of Proposals and Alternatives under Consideration* (Washington, D.C.: Oct. 27, 2022). The Dodd-Frank Act requires CFPB to comply with provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, which imposes additional procedural requirements for rulemaking when a rule is expected to have a significant economic impact on a substantial number of small entities. See 5 U.S.C. § 609(b). As a result, CFPB is required to convene small business panels to seek direct input from small business entities prior to issuing certain rules.

[89]Consumer Financial Protection Bureau, *Director Chopra's Prepared Remarks at Money 20/20* (Washington, D.C., Oct. 25, 2022).

and its implementing regulation (Regulation Z).[90] Specifically, the opinion states that to be covered, the earned wage access product must be offered through an employer; the employee cannot be charged fees, voluntary or otherwise, to access earned wages; and the earned wage access provider must recover the advanced amount through an employer-facilitated payroll deduction, among other requirements. According to the advisory opinion, products that do not meet all of the specified characteristics may be credit under Regulation Z. An extension of "credit" under the Truth in Lending Act requires lenders to provide consumers with certain disclosures, such as APR and other finance charges. If earned wage access products that are not covered by the advisory opinion were to be considered credit, companies that offer these products would be subject to these disclosure requirements.

Although CFPB's advisory opinion provides some clarification, some have expressed continued uncertainty about how the Truth in Lending Act and Regulation Z apply to certain earned wage access products. For example, in a September 2022 written statement for a congressional hearing, a representative of the Financial Technology Association (an industry association representing fintech companies) noted that the advisory opinion did not reference direct-to-consumer earned wage access models, leaving it unclear as to whether these models are subject to Regulation Z. Similarly, representatives of the National Association of Consumer Credit Administrators (which represents state regulators focused on consumer credit) said that its members would like further clarification on whether earned wage access products, including direct-to-consumer models, are considered credit under the Truth in Lending Act and Regulation Z.

CFPB officials also stated that they have received requests for clarification regarding the application of the advisory opinion. In response to New Jersey advocacy groups, in January 2022 CFPB acknowledged that there is confusion about the scope of the advisory opinion, and the

[90]Consumer Financial Protection Bureau, *Consumer Financial Protection Bureau Finalizes Advisory Opinions Policy and Announces Two New Advisory Opinions* (Washington, D.C.: Nov. 30, 2020), published at 85 Fed. Reg. 79404 (Dec. 10, 2020). In addition to the CFPB advisory opinion, the Department of the Treasury's *General Explanations of the Administration's Revenue Proposals* for fiscal year 2023 recommends amending the Internal Revenue Code to expressly clarify that on-demand pay arrangements like earned wage access are not loans for tax purposes. CFPB officials noted that Treasury's decision to not consider earned wage access as loans for tax purposes would not affect their consideration of earned wage access in relation to the Truth in Lending Act.

then Acting General Counsel said he would recommend to the Director of CFPB that the agency consider how to provide greater clarity around earned wage access products. Furthermore, in June 2022, CFPB noted in a press release that it planned to issue further guidance to provide greater clarity concerning the application of the definition of "credit" under the Truth in Lending Act and Regulation Z for earned wage access products.[91] As of November 2022, CFPB had not issued further clarification and did not have any time frames associated with doing so.

CFPB's mission is to regulate the offering and provision of consumer financial products or services under federal consumer financial laws. Further, CFPB's strategic plan calls on it to issue rules and guidance that respond to emerging markets and products.[92] Without further clarification from CFPB, it is unclear under what circumstances earned wage access products not covered by its advisory opinion are to be considered an extension of "credit" to consumers under the Truth in Lending Act and therefore subject to the act's disclosure requirements.

Conclusions

Millions of consumers face challenges in obtaining a bank account and using traditional forms of credit from a bank, leaving them to turn to expensive alternatives. Fintech products have the potential to improve financial access for some consumers, but they also present potential risks that regulators are still in the process of addressing. In particular, it remains unclear how the Truth in Lending Act's definition of credit should be applied to earned wage access products, specifically those that do not fall under CFPB's November 2020 advisory opinion. CFPB has indicated that it plans to issue further guidance to clarify this issue. Publishing additional clarification would help companies that offer these products understand whether the act and its disclosure requirements are applicable to them.

[91]Consumer Financial Protection Bureau, *CFPB Rescinds Special Regulatory Treatment of Payactiv* (Washington, D.C.: June 30, 2022).

[92]Consumer Financial Protection Bureau, *Consumer Financial Protection Bureau Strategic Plan FY 2022–2026* (Washington, D.C.: December 2021).

Recommendation for Executive Action

The Director of the Consumer Financial Protection Bureau should issue clarification on the application of the Truth in Lending Act's definition of "credit" for earned wage access products not covered by its November 2020 advisory opinion. (Recommendation 1)

Agency Comments

We provided a draft of this report to CFPB, the Federal Reserve, FDIC, NCUA, OCC, and Treasury for review and comment. CFPB agreed with the recommendation and said it intends to issue further clarification (comments reproduced in app. III). NCUA generally agreed with the observations in the report (comments reproduced in app. IV). NCUA also stated that restoring its authority to examine third-party service providers that partner with credit unions, consistent with our previous recommendation to Congress, would allow it to better address the potential risks identified in our report and protect credit union members. CFPB, the Federal Reserve, FDIC, OCC, and Treasury provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Chairman of the Federal Deposit Insurance Corporation, Chairman of the National Credit Union Administration, Acting Comptroller of the Currency, Director of the Consumer Financial Protection Bureau, Chair of the Board of Governors of the Federal Reserve System, Secretary of the Treasury, and other interested parties. In addition, the report will be available at no charge on the GAO website at https://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-8678 or clementsm@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix V.

Michael Clements

Michael E. Clements

Director, Financial Markets and Community Investment

List of Congressional Addressees

The Honorable Charles E. Schumer
Majority Leader
The Honorable Mitch McConnell
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The Honorable Debbie Stabenow
Chairwoman
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United States Senate

The Honorable Sherrod Brown
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The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Maria Cantwell
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The Honorable Kevin McCarthy
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Appendix I: Objectives, Scope, and Methodology

This report examines (1) the benefits, risks, and limitations of selected fintech products for underserved consumers and what is known about the extent to which underserved consumers have used them, and (2) the steps federal and state regulators are taking to assess selected fintech products.

For this report, we selected four fintech products to examine in-depth: digital deposit accounts, credit builder products, small-dollar fintech loans, and earned wage access. To select these products, we reviewed reports from federal regulators, academics, and industry groups, and conducted initial interviews with stakeholders to identify barriers to accessing financial services. We selected these products because they appeared to address barriers to financial access for consumers underserved by traditional banks. These products are not representative of all fintech products offered in the marketplace.

To address both objectives, we conducted semistructured interviews with a nonprobability sample of 15 fintech companies to identify any benefits, risks, and limitations of the selected fintech products; the extent to which the selected products are reaching financially underserved consumers; and the steps federal and state regulators are taking to assess the benefits and risks of these products.[1] To identify fintech companies that offer these products, we reviewed research reports, news sources, and publicly available lists of top fintech companies to generate a list of fintech companies. For the four products, we selected the companies because they represented a range of different business models and offered one or more of our selected fintech products. We also conducted interviews with representatives of seven depository institutions (banks and credit unions) that have partnered with the selected fintech companies. The information gathered from our interviews cannot be generalized to all fintech companies that offer our selected products.

[1]Two of our selected fintech companies subsequently became chartered banks. One company offers deposit accounts and credit builder cards. The other company offers small-dollar loans.

We also reviewed reports from and interviewed representatives of the following: industry associations that represent fintech companies, depository institutions, and alternative financial service providers (American Bankers Association, American Fintech Council, Community Development Bankers Association, Financial Technology Association, INFiN, Innovative Payments Association, National Association of Federally-Insured Credit Unions, National Bankers Association, and Online Lenders Alliance); research organizations (Brookings Institute, Cornerstone Advisors, FinRegLab, Financial Health Network, and Pew Charitable Trusts); consumer groups (Center for Responsible Lending, Consumer Federation of America, National Consumer Law Center, and National Community Reinvestment Coalition); the three nationwide consumer reporting agencies (Equifax, Experian, and Transunion); and the Cities for Financial Empowerment Fund.[2] We also interviewed two researchers that we identified by conducting internet research and reviewing literature on the impact our selected fintech products could have on financial inclusion.

In addition, we interviewed representatives of the following federal agencies: the Consumer Financial Protection Bureau (CFPB), the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency. We also reviewed reports published by these agencies related to barriers underserved consumers face in accessing financial services and regulatory issues that arise from fintech-bank partnerships.

For the first objective, we compared the costs of fintech products to those of comparable traditional or alternative financial products. We reviewed research reports and conducted interviews to identify financial products comparable to our four selected fintech products. We then identified the costs of these products and made the following comparisons:

[2]The Cities for Financial Empowerment Fund developed national standards for BankOn accounts, which are traditional bank accounts for underserved consumers that have features such as no minimum balance requirements, low or no fees, and free cash and check deposits.

- fintech deposit accounts compared with BankOn accounts and selected prepaid cards;[3]
- credit builder cards and loans offered by fintech companies compared with those offered by selected traditional institutions;[4]
- small-dollar loans compared with payday alternative loans (PAL);[5] and
- earned wage access compared with the typical fees associated with payday loans, as reported by CFPB.[6]

To identify the costs of each product, we reviewed each of the 15 fintech companies' websites and the websites of institutions offering the selected comparable products. The information obtained through our cost comparisons cannot be generalized across all companies that offer the selected fintech products or comparison products.

In addition, we analyzed data obtained from fintech companies to determine the extent to which underserved consumers use the selected fintech products. To obtain these data, we developed a data collection instrument, which was provided to the 15 fintech companies in our nonprobability sample. The data collection instrument asked questions about characteristics of the companies' users and the volume of services provided from 2019 through 2021. We obtained data from eight of the 15

[3]We previously found that prepaid cards were often used as alternatives to checking accounts by unbanked and underbanked consumers. GAO, *Banking Services: Regulators Have Taken Actions to Increase Access, but Measurement of Actions' Effectiveness Could Be Improved*, GAO-22-104468 (Washington, D.C.: Feb. 14, 2022). We selected prepaid cards offered by the top three issuers in 2020.

[4]To select credit builder cards offered by traditional institutions, we selected the four secured credit cards offered by the top six credit card issuers based on total purchase volume of credit card transactions in 2021. We selected the two credit builder loans from among federally chartered credit unions. Specifically, for products that had publically available information on their lending amounts and types, we selected two products from the largest lenders that offered credit builder loans.

[5]In 2010, NCUA established a rule to provide a regulatory framework for federal credit unions offering short term, small-dollar loans. The PALs I rule permits a federal credit union to offer its members a small-dollar loan at a higher interest rate than is permitted for other credit union loans as long as the loans meet certain term, amount, and fee requirements. In October 2019, NCUA issued its PALs II rule to provide federal credit unions additional flexibility to offer PALs to new members and increased the maximum loan amount to $2,000.

[6]See "*What Are the Costs and Fees for a Payday Loan?*," Consumer Financial Protection Bureau (Aug. 28, 2020), accessed November 9, 2022, https://www.consumerfinance.gov/ask-cfpb/what-are-the-costs-and-fees-for-a-payday-loan-en-1589/.

fintech companies (two companies that offered digital deposit accounts, two companies that offered small-dollar loans, three companies that offered earned wage access, and one company that offered earned wage access and credit builder products). These data allowed us to provide illustrative examples of the characteristics of consumers who may be using these products, such as the reported income levels of earned wage access users. For the companies that provided data, we conducted follow-up calls to clarify any questions and ensure they understood the data requests.

We assessed the reliability of the data gathered from this instrument by examining the data for any missing data points, assessing the presence and number of outliers or obvious errors, and following up with fintech companies as necessary to clarify our requests. We determined that the data we included in the report were sufficiently reliable for our purposes of providing examples of the extent to which underserved consumers may be using these products.

We also reviewed empirical studies by federal agencies and researchers that measure or explore the extent to which our selected fintech products are used by underserved consumers. To identify relevant reports, we conducted a literature search in January 2022 for such studies published from 2017 to 2022. Databases searched include Ebsco, Dialog, Scopus, and ProQuest. We identified additional studies by soliciting recommendations from federal agency officials and other stakeholders during the course of our interviews.

For the second objective, we reviewed federal prudential regulators' procedures and guidance for conducting examinations related to safety and soundness and compliance with consumer protection laws.[7] We also reviewed the regulators' current guidance and proposed interagency

[7]The federal prudential regulators are the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, and Office of the Comptroller of the Currency. Procedures we reviewed included Federal Financial Institutions Examination Council, *Interagency Fair Lending Examination Procedures* (August 2009). Guidance we reviewed included Office of the Comptroller of the Currency, *Supervisory Guidance on Model Risk Management,* OCC Bulletin 2011-12 (Washington, D.C.: Apr. 4, 2011); Board of Governors of the Federal Reserve System, *Supervisory Guidance on Model Risk Management*, SR Letter 11-17 (Washington, D.C.: Apr. 4, 2011); and Federal Deposit Insurance Corporation, *Adoption of Supervisory Guidance on Model Risk Management,* FIL-22-2017 (Washington, D.C: June 7, 2017).

guidance related to managing third-party risks to depository institutions.[8] To understand issues found during examinations, we analyzed matters requiring attention, matters requiring board attention, or matters requiring immediate attention issued by the regulators from 2017 through 2021 as a result of third-party oversight and vendor management examinations.[9] In addition, we reviewed CFPB guidance, advisory opinions, enforcement actions, and proposed rulemaking specifically related to our selected fintech products or companies that offer them.

Lastly, to obtain state perspectives on efforts to assess the benefits and risks of our selected products, we conducted interviews with the National Association of Consumer Credit Administrators (an association of state regulators focused on consumer credit) and a nonprobability sample of four state financial services regulators. We selected these state regulators because they had activity underway related to our selected fintech products (e.g., active investigations or memorandums of understanding) and because they included states with and without regulatory sandboxes, and with and without interest rate caps for small-dollar loans. The information gathered from these interviews cannot be generalized to all states.

We conducted this performance audit from November 2021 to March 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe

[8]Current third-party risk management guidance we reviewed included Office of the Comptroller of the Currency, *Third-Party Relationships: Risk Management Guidance,* OCC Bulletin 2013-29 (Washington, D.C.: Oct. 30, 2013); Office of the Comptroller of the Currency, *Third-Party Relationships: Frequently Asked Questions to Supplement OCC Bulletin 2013-29,* OCC Bulletin 2020-10 (Washington, D.C.: Mar. 5. 2020); Federal Deposit Insurance Corporation, *Guidance for Managing Third-Party Risk*, FIL-44-2008 (Washington, D.C.: June 6, 2008); Board of Governors of the Federal Reserve System, *Guidance on Managing Outsourcing Risk*, SR Letter 13-19 (Washington, D.C.: Dec. 5, 2013, updated Feb. 26, 2021); and Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency, *Conducting Due Diligence on Financial Technology Companies: A Guide for Community Banks (*August 2021). We also reviewed proposed third-party risk management guidance. Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency, *Proposed Interagency Guidance on Third-Party Relationships: Risk Management* (July 19, 2021).

[9]The Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Office of the Comptroller of the Currency issue matters requiring attention, matters requiring board attention, or matters requiring immediate attention to regulated financial institutions in order to convey supervisory concerns.

that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Cost Comparisons between Selected Fintech and Traditional Financial Products

This appendix compares the costs of three types of fintech products—direct deposit accounts, credit builder products, and earned wage access—with those of traditional financial products that provide similar services.

Digital Deposit Accounts

We compared costs associated with the digital deposit accounts offered by five fintech companies to the costs of BankOn accounts and three selected prepaid cards. We have previously reported that prepaid cards are often used as alternatives to checking accounts by unbanked and underbanked consumers.[1] As seen in table 2, the selected prepaid cards are more expensive than the reviewed fintech accounts, and BankOn accounts may be more expensive than or comparable in cost to the reviewed fintech accounts, depending on the structure of the monthly maintenance fee.

Table 2: Costs of Maintaining Selected Fintech Digital Deposit Accounts, a BankOn Account, and Selected Prepaid Cards

	Five selected fintech accounts	BankOn accounts	Prepaid card A[a]	Prepaid card B[a]	Prepaid card C[a]
Monthly maintenance fees	\$0 to \$5	\$0 to \$10[b]	\$0	\$9.95	\$7.95
ATM withdrawal fees	\$0 (if in network)	\$0 (if in network)	\$1.95	\$2.95	\$3.00
Other fees	None[c]	None	Cash reload fee: \$3.95 Card purchase fee: \$3.95	Cash reload fee: \$3.95 Card purchase fee: \$9.95	Cash reload fee: \$5.95 Card purchase fee: \$1.95

Source: GAO. | GAO-23-105536

Notes: Costs for the selected fintech accounts and selected prepaid cards are from information presented on the companies' websites from October 2022.

[1]GAO, *Banking Services: Regulators Have Taken Actions to Increase Access, but Measurement of Actions' Effectiveness Could Be Improved*, GAO-22-104468 (Washington, D.C.: Feb. 14, 2022).

[a]The prepaid cards represent those offered by the top three issuers in 2020.

[b]According to BankOn national account standards, if a bank chooses to have a monthly maintenance fee and not offer consumers the ability to waive it, it must be $5 or less. However, if the bank wants to charge a maintenance fee higher than $5, the maximum amount they can charge is $10 and the bank must offer at least two options to the consumer to waive the fee (e.g., by using the account to receive direct deposits or to pay bills online). BankOn national account standards also allow banks to charge a monthly fee of $2 or less for paper statements if the bank offers paper statements to consumers.

[c]For one fintech company, consumers can leave a tip (an additional but optional amount of money) after using its services.

Credit Builder Products

Credit builder products include credit builder cards and credit builder loans. We compared the costs associated with three selected fintech credit builder cards with those of four secured credit cards offered by traditional institutions and found their costs to be comparable (see table 3).

Table 3: Costs of Selected Fintech Credit Builder Cards and Traditional Secured Credit Cards

	Fintech companies A and B	Fintech company C	Traditional secured credit card[a]
Minimum deposit amount	$0	$100 or more	$49 to $200
Annual percentage rate	0% because balance must be paid in full at the end of each month[b]	0% if the balance is paid by the due date each month 26.99% if the entire balance is not paid by the due date of each month	0% if the balance is paid by the due date each month 24.99% to 28.49% if the entire balance is not paid by the due date of each month
Fees	No fees	Annual fee: $25	No fees

Source: GAO. | GAO-23-105536

Notes: Costs for the selected fintech credit builder cards and selected traditional secured cards are from information presented on the companies' websites from October 2022.

[a]We selected the four traditional secured credit cards offered by the top six credit card issuers based on total purchase volume of credit card transactions in 2021.

[b]Fintech companies A and B do not allow consumers to carry a balance month-to-month and will disable the card until the monthly bill is paid in full at the end of each month.

We also compared three credit builder loans offered by fintech companies with two credit builder loans offered by traditional financial institutions and found that the fintech products may be more expensive (see table 4).

Table 4: Costs of Selected Fintech and Traditional Credit Builder Loans

	Fintech A	Fintech B	Fintech C	Traditional A	Traditional B
Loan amount	$576 to $1,800	$500	$600 to $1,200	$500 to $5,000	$500 to $3,000
Annual percentage rate	15.65% to 15.97%	4.03% to 5.26%	0%	3.95%	5.00%
Loan terms	12 to 24 months	7 to 27 months	12 to 24 months	6 to 36 months	12 to 24 months
Fees	Administrative fee: $9	$1 per month	$9.99 per month membership fee	No fees	No fees

Source: GAO. | GAO-23-105536

Notes: Costs for the selected fintech credit builder loans and selected traditional credit builder loans are from information presented on the companies' websites from October 2022. We selected the two traditional credit builder loans from among 2021 Community Development Financial Institution small-dollar loan awardees and federally chartered credit unions. Specifically, for products that had publically available information on their lending amounts and types, we selected two products from the largest lenders that offered credit builder loans.

Earned Wage Access

We compared four earned wage access products offered by selected fintech companies with the typical fees associated with a payday loan, as reported by the Consumer Financial Protection Bureau. The reviewed fintech products generally cost less, even when accounting for optional fees to expedite receiving funds (see table 5).

Table 5: Costs of Selected Earned Wage Access Products and Payday Loans

Amount accessed or borrowed	Earned wage access product A[a]	Earned wage access product B[b]	Earned wage access product C	Earned wage access product D[c]	Range of typical payday loan fees[d]
$100	$0 to $3.99	$9.99 to $10.08	$0 to $2.99	$0 or no more than $6.00 per pay period	$10 to $30
$250	Not applicable (company limits access to $100 per day)	$9.99 to $10.08	$0 to $2.99	$0 or no more than $6.00 per pay period	$25 to $75
$500, one transaction	Not applicable (company limits access to $100 per day)	Not applicable (company limits access up to $250 at a time)	$0 to $2.99	$0 or no more than $6.00 per pay period	$50 to $150
$500, accessed in two $250 transactions during the pay period	Not applicable (company limits access to $100 per day)	Not applicable (company requires consumer to repay first advance before accessing earned wages again)	$0 to $5.98	$0 or no more than $6.00 per pay period	$50 to $150
$500, accessed in five $100 transactions during the pay period	$0 to $19.95	Not applicable (company requires consumer to repay first advance before accessing earned wages again)	$0 to $14.95	$0 or no more than $6.00 per pay period	$50 to $150

Source: GAO. | GAO-23-105536

Notes: Costs for three of the selected earned wage access products are from information presented on the companies' websites in December 2022. Costs for the fourth earned wage access product were not available online, but the company provided information on fees to GAO in December 2022. The table includes information based on two direct-to consumer earned wage access companies and two employer-sponsored earned wage access companies. For ranges noted under the earned wage access products, the smaller number represents the minimum cost to use the service; the higher number includes the maximum amount of expediting fees a consumer may pay. For the purposes of the table, we assumed that consumers had a biweekly pay period, expedited fees were applied to each transaction, and the amount accessed was below applicable limits set by the employer or earned wage access provider.

[a]After using services from this fintech company, consumers can leave a tip. As a result, the costs in this column could be greater depending on whether and how much consumers tip.

[b]This fintech company charges a flat rate for a monthly subscription that also provides access to other financial products like credit builder loans.

[c]Employers are able to pay a fee to this fintech company (making the service free for employees) or partially subsidize costs (in which case the employee pays a fee to the fintech company per use). This fintech company has capped the amount of fees an employee can pay per biweekly pay period at $6.

[d]The Consumer Financial Protection Bureau (CFPB) found that payday loan fees may range from $10 to $30 per $100 borrowed, depending on state laws. CFPB found that the median payday loan fee is $15 per $100 borrowed. Depending on state laws, consumers may also pay additional fees, such as late fees or rollover fees to extend the loan's due date, and those fees are not included in this column.

Appendix III: Comments from the Consumer Financial Protection Bureau

Consumer Financial Protection Bureau

1700 G Street NW, Washington, D.C. 20552

February 13, 2023

Via electronic mail

Michael Clements
Director of Financial Markets and Community Investment
Government Accountability Office

Dear Mr. Clements:

Thank you for the opportunity to review and comment on the Government Accountability Office's (GAO) draft report, titled *Financial Technology: Products Have Benefits and Risks to Underserved Consumers, and Regulatory Clarity is Needed* (GAO-23-105536). We greatly appreciate GAO's work over the course of this engagement and believe the report provides valuable information about, among other things: (1) the benefits, risks, and limitations of selected financial technology products for underserved consumers and what is known about the extent to which underserved consumers have used them, and (2) the steps federal and state regulators are taking to assess selected financial technology products.

GAO makes the following recommendation: "The Director of the Consumer Financial Protection Bureau should issue clarification on the application of the Truth in Lending Act's definition of 'credit' for earned wage access products not covered by its November 2020 advisory opinion." Based on our own review, the November 2020 advisory opinion has created significant confusion, rather than clarity. Accordingly, the CFPB concurs with the GAO's recommendation and intends to issue further clarification in this area.

The Bureau looks forward to continuing to work with GAO as it monitors the Bureau's progress in implementing this recommendation.

Sincerely,

Rohit Chopra

Rohit Chopra
Director

consumerfinance.gov

Text of Appendix III: Comments from the Consumer Financial Protection Bureau

February 13, 2023

Michael Clements

Director of Financial Markets and Community Investment Government Accountability Office

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Sincerely,

Rohit Chopra Director

Appendix IV: Comments from the National Credit Union Administration

National Credit Union Administration
(Office of External Affairs and Communication)

February 12, 2023

SENT BY E-MAIL

Mr. Michael E. Clements
Director of Financial Markets and Community Investment
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548
ClementsM@gao.gov

Dear Director Clements:

We have reviewed the Government Accountability Office's (GAO) draft report titled *Financial Technology – Products Have Benefits and Risks to Underserved Consumers, and Regulatory Clarity is Needed*.

The report outlines your review of the benefits and risks of certain fintech products for underserved consumers. The report focused on digital deposit accounts, credit builder products, small-dollar fintech loans, and earned wage access. The NCUA generally agrees with the observations in the report.

The report also notes GAO's 2003 and 2015 recommendations for Congress to restore the NCUA's authority to examine third-party service providers that partner with credit unions.[1] To date, Congress has not restored such authority. Because this vital authority would bolster the NCUA's ability to address some of the potential risks noted in this report, the GAO should consider reaffirming its recommendation that Congress provide this authority to the NCUA. With it, the NCUA can better protect over 130 million Americans who entrust over $2 trillion of their hard-earned money to credit unions that make up a vital pillar of our nation's critical economic infrastructure.

Thank you for the opportunity to comment.

Sincerely,

Elizabeth Eurgubian

Elizabeth A. Eurgubian
Director

[1] *See* (GAO-04-91 Credit Union Financial Condition) and (GAO-15-509 Cybersecurity: Bank and Other Depository Regulators Need Better Data Analytics and Depository Institutions Want More Usable Threat Information).

1775 Duke Street – Alexandria, VA 22314-6113 – 703-518-6330

Text of Appendix IV: Comments from the National Credit Union Administration

February 12, 2023

Mr. Michael E. Clements

Director of Financial Markets and Community Investment

U.S. Government Accountability Office 441 G Street, NW

Washington, DC 20548 ClementsM@gao.gov

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Thank you for the opportunity to comment.

Elizabeth A. Eurgubian Director

[1] See (GAO-04-91 Credit Union Financial Condition) and (GAO-15-509 Cybersecurity: Bank and Other Depository Regulators Need Better Data Analytics and Depository Institutions Want More Usable Threat Information).

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Michael E. Clements, (202) 512-8678 or clementsm@gao.gov

Staff Acknowledgments

In addition to the contact above, Winnie Tsen (Assistant Director), Christine Ramos (Analyst in Charge), Gioia Chaouch, David Dornisch, Alicia Martinez Melton, Marc Molino, Ruth Payne, David Raymond, Jennifer Schwartz, and Seyda Wentworth made key contributions to this report.

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