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Are Community Banks the Answer? An In-Depth Look at a Possible Solution to the Unbanked Problem in the United States

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I. INTRODUCTION

In the United States of America, money is king. If someone wants to own a home, attend college, access healthcare, or obtain many other necessary resources, they need financial wealth.[1] However, approximately 7.1 million households in the United States are "unbanked,"[2] and roughly 43 million American adults are underbanked.[3] Although the proportion of U.S. households that were unbanked in 2019—only 5.4%—represents the lowest unbanked rate since the Federal Deposit Insurance Corporation ("FDIC") began tracking these numbers in 2009,[4] there is likely to be a rise in the number of those who are unbanked due to the COVID-19 pandemic.[5] Unbanked individuals face several financial disadvantages, including the inability to receive direct deposits and stimulus checks from employers or the government, difficulty in building credit history for future borrowing, and the inability to build financial wealth.[6]

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1. Todd Kunsman, *See Why Money Is Important and the Role It Plays in Our Lives*, INVESTED WALLET (May 17, 2021), https://investedwallet.com/money-is-important/ [https://perma.cc/W34N-8RT2] ("[M]oney matters because you can provide your family with better education opportunities, better healthcare, and a better start in life overall.").

2. FED. DEPOSIT INS. CORP., HOW AMERICA BANKS: HOUSEHOLD USE OF BANKING AND FINANCIAL SERVICES 1 (2020), https://www.economicinclusion.gov/downloads/2019_FDIC_Unbanked_HH_Survey_Report.pdf [https://perma.cc/QBB7-UHD6] [hereinafter HOW AMERICA BANKS].

3. Martha Perine Beard, *Reaching the Unbanked and Underbanked*, CENT. BANKER 1, 6 (Winter 2010) (reporting an estimate by the FDIC that 21 million households in the U.S. are underbanked).

4. HOW AMERICA BANKS, *supra* note 2, at 1 ("Between 2017 and 2019, the unbanked rate fell by 1.1 percentage points, corresponding to an increase of approximately 1.5 million banked households. About half of the decline in the unbanked rate between 2017 and 2019 was associated with improvements in the socioeconomic circumstances of U.S. households over this period.").

5. Emily Guy Birken, *The Costs of Being Unbanked or Underbanked*, FORBES ADVISOR (Jul. 28, 2020, 12:03 AM), https://www.forbes.com/advisor/banking/costs-of-being-unbanked-or-underbanked/ [https://perma.cc/E4QQ-AD2B].

6. *See id.* ("In an economy that runs on the assumption that individuals have full access to traditional banking, living without that access has a number of costs. It's important to understand these costs and how living without full access to the banking system can prevent the unbanked and underbanked from building wealth.").

This Note examines which segments of the population are most likely to be unbanked or underbanked and considers the forces creating or reinforcing this issue, namely excessive fees, distrust, lack of access, and discrimination. This Note considers how these forces breed financial isolation and exacerbate the high number of unbanked and underbanked individuals within the United States, and then focuses on how community banks can help alleviate the causes and the problems faced by those who are unbanked or underbanked.

Including underserved populations in the financial system is a critical and attainable goal.[7] Not only will those who have been historically kept out of the financial mainstream benefit, but banks and governments will also reap the benefits of incorporating these groups into the formal economy.[8] Importantly, statistics surrounding the unbanked highlight another area where this nation could address and correct racial inequality embedded in the system.[9] For example, there is a current trend of banks closing more in minority areas that is expected to continue due to the COVID-19 pandemic.[10]

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7. *See* Timothy Adams, *Why Financial Inclusion Matters*, CTR. FIN. INCLUSION (Oct. 22, 2018), https://www.centerforfinancialinclusion.org/why-financial-inclusion-matters [https://perma.cc/W4SZ-DN9K] ("Moving individuals into the financial mainstream is not simply an aspirational goal, it's an attainable goal. Financial institutions can now reach new customers with formal financial services—in payments, savings, credit, and insurance—transforming individual lives and creating a ripple effect that drives improvements across the global economy.").

8. *See id.* ("Decreasing the size of the informal economy also provides greater transparency into financial transactions by increasing security and regulatory oversight. Financial inclusion and account ownership can help reduce corruption, discourage tax evasion, and allow for more effective subsidy payouts. Reverting to digital payments for subsidy and pension payments instead of the traditional cash disbursement method has cut down administrative costs and has improved efficiencies.").

9. *See* Kedra Newsom Reeves et al., *Racial Equity in Banking Starts with Busting the Myths*, BOS. CONSULTING GRP. (Feb. 2, 2021), https://www.bcg.com/publications/2021/unbanked-and-underbanked-households-breaking-down-the-myths-towards-racial-equity-in-banking [https://perma.cc/K9ZS-QFKZ] ("Among the inequities many Black and Latinx consumers in the US face, one of the most concerning is the lack of access to necessary financial products and services. Making up just 32% of the US population, Black and Latinx households represent 64% of the country's unbanked and 47% of its underbanked households.").

10. *See* Rakim Brooks, *Why We Need the Post Office to Close the Racial Wealth Gap*, AM. CIV. LIBERTIES UNION (Mar. 18, 2021), https://www.aclu.org/news/racial-justice/why-we-need-the-post-office-to-close-the-racial-wealth-gap/ [https://perma.cc/4ANT-7YGK] ("Some analysts expect as many as 20,000 additional branch closures in the immediate aftermath of the COVID pandemic. Branches in majority-Black areas, in particular, were roughly 50 percent more likely to close than those in the rest of America. As a result, 63 percent of majority-Black census tracts do not have an active bank branch; 17 percent of Black Americans are unbanked; and 30 percent of Black Americans are underbanked.").

This Note proceeds in five parts. Part II provides background information on unbanked and underbanked individuals.[11] Part III surveys the root causes of being unbanked or underbanked, such as fees, distrust, lack of access, and discrimination.[12] Part IV explains why being unable to access banking resources is a disadvantage to unbanked and underbanked individuals and also explores the advantages of having access to mainstream financial services.[13] Part V offers a possible solution: community banks and also describes the obstacles faced by community banks and the current policies in place to help cultivate these banks.[14] Finally, Part VI summarizes the argument and concludes this Note.[15]

II. BACKGROUND ON THE UNBANKED AND UNDERBANKED

An individual is considered to be unbanked if they lack a formal relationship with an insured depository institution or bank.[16] This formal relationship generally refers to having a checking or savings account at a bank or credit union.[17] On the other hand, an individual is classified as underbanked when they have a formal relationship with a bank but must also substantially rely on alternative financial options such as payday loans, check-cashing services, and money orders.[18]

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11. *Infra* part II.
12. *Infra* part III.
13. *Infra* part IV.
14. *Infra* part V.
15. *Infra* part VI.
16. Peggy Delinois Hamilton, *Why the Check Cashers Win: Regulatory Barriers to Banking the Unbanked,* 30 W. NEW ENG. L. REV. 119, 119 (2007).
17. *Id*; *see also* Beard, *supra* note 3, at 6 (defining the term unbanked as "an umbrella term used to describe diverse groups of individuals who do not use banks or credit unions for their financial transactions" and who "have neither a checking nor savings account").
18. *See* FED. DEPOSIT INS. CORP., NATIONAL SURVEY OF UNBANKED AND UNDERBANKED HOUSEHOLDS 1 (2018), https://www.fdic.gov/analysis/household-survey/2017/2017report.pdf [hereinafter NATIONAL SURVEY] (surveying 33,000 households based on banking practices conducted within the previous 12 months); *Unbanked vs. Underbanked: Who They Are and How They Differ*, MICROBILT (Mar. 30, 2021), https://www.microbilt.com/news/article/unbanked-vs-underbanked-who-they-are-and-how-they-differ [https://perma.cc/Z7EN-TZJ8] ("Households are generally designated as underbanked households if they've used alternative financing options during the previous years. This includes money orders and rent-to-own services and accounts for nearly 67 million Americans."); Erika Rasure, *Underbanked*, INVESTOPEDIA (Nov. 23, 2020), https://www.investopedia.com/terms/u/underbanked.asp [https://perma.cc/F4SA-ERZY] ("The term underbanked refers to individuals or families who have a bank account but often rely on alternative financial services such as money orders, check-cashing services, and

In 2019, the FDIC found that 5.4% of households, or 7.1 million individuals, in the United States were unbanked.[19] This number has decreased since 2017 when 6.5% households, or 8.4 million individuals, were unbanked.[20] Despite this decrease, with the recent COVID-19 pandemic, these numbers could increase like they have in past periods of major socioeconomic changes.[21] Additionally, of those surveyed in 2019 who were currently unbanked, 50.4% of those individuals previously had a bank account in the past.[22] The top three reasons given by individuals for being unbanked were lack of funds to meet the minimum balance requirements, mistrust of banks, and privacy concerns.[23]

Of all the regions in the United States, the South has the highest percentage of unbanked individuals at 6.2%.[24] The state with the highest rate of unbanked individuals is Mississippi, at 12.8%, or approximately 380,000 people.[25] As for the national population, the groups with the highest percentages of unbanked individuals were "lower-income households, less-educated households, Black American households, Hispanic households, American Indian or Alaska Native households, working-age disabled households, and households with volatile income."[26]

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payday loans rather than on traditional loans and credit cards to manage their finances and fund purchases.").

19. HOW AMERICA BANKS, *supra* note 2, at 1.

20. *See id.* at 12 (graphing the unbanked percentages and showing that in 2017, 6.5 percent of U.S. households were unbanked, and defining unbanked as "meaning that no one in the household had a checking or savings account").

21. *See id.* at 54 ("Changes in the socioeconomic circumstances of U.S. households over time have contributed to changes in the unbanked rate. During the Great Recession and its immediate aftermath, the unbanked rate rose from 7.6 percent in 2009 to 8.2 percent in 2011. Approximately one-third of this increase was associated with changes in the socioeconomic circumstances of U.S. households between 2009 and 2011. Then, from its peak in 2011 through 2019, the unbanked rate fell by 2.8 percentage points. Approximately two-thirds of this decline was associated with changes in the socioeconomic circumstances of U.S. households between 2011 and 2019.").

22. *Id.* at 2.

23. *Id.* at 3.

24. *See id.* at 2, 9 ("Regional variation in unbanked rates was similar in 2019 to previous years, with unbanked rates highest in the South. The unbanked rate in the South in 2019 was 6.2 percent, compared with 5.0 percent in the Mid- west, 4.9 percent in the West, and 4.7 percent in the Northeast. . . . When region is paired with metropolitan status, the rural South stands out, where only 55.4 percent of households used bank credit.").

25. *Id.* at 14.

26. *Id.* at 12; *see also* E. Kylie Norman, *Banking at the Fed with FedAccounts: The Demise of Commercial Banks?,* 23 N.C. BANKING INST. 451, 451 (2019) ("[C]ertain groups are more likely to be [unbanked or underbanked] than others. For example, unbanked and underbanked consumers are more likely than fully banked consumers to have lower incomes and be younger, minority, female, unmarried, and unemployed.").

III. Root Causes of Being Unbanked and Underbanked

There are many different reasons why individuals in the United States may be unbanked, but common causes include: the high fees imposed by banks; a general distrust of the financial services industry; a lack of access to traditional banking services, and racial, wealth, and geographic discrimination.[27]

A. High Fees

According to individuals who are unbanked or underbanked, the number one reason is due to the many fees charged by banks.[28] The issuance of fees can start from the very beginning of an individual's relationship with a bank, as banks often require a person to maintain a minimum account balance at all times to avoid high fees.[29] For working-class Americans that live from paycheck to paycheck, this account minimum may serve as a hurdle that can be nearly impossible to overcome, keeping them from even being able to open an account in the first place.[30] From there, fees continue to add up.[31] For example, many banks charge fees for keeping an account open, using another bank's ATM, excessive transactions, overdrafts, insufficient funds, and even closing a bank account.[32] The average American spends $7 a month, or $84 a year, on these fees simply for keeping their money in the bank.[33] For individuals who are financially insecure, these fees can be a significant barrier to opening and maintaining a bank account.

The reason that banks use these fees is because many checking accounts are not profitable for banks to maintain, which means that banks

27. *See* Rasure, *supra* note 18.

28. *See* How America Banks, *supra* note 2, at 3 ("[A]bout half of unbanked households cited 'Don't have enough money to meet minimum balance requirements' as a reason for not having an account—the most cited reason. This reason was also the most cited *main* reason for not having an account.").

29. *See* Olivia Paschal, *Pandemic Closures Complicate Life for the Unbanked*, Facing S. (Apr. 3, 2020), https://www.facingsouth.org/2020/04/pandemic-closures-complicate-life-unbanked [https://perma.cc/337K-FMWY] ("Many banks require a minimum deposit, or require account holders to keep a minimum amount in an account to avoid high fees.").

30. *Id.*

31. Elizabeth Gravier, *7 Common Banking Fees and How to Avoid Them*, CNBC Select (Jan. 13, 2021), https://www.cnbc.com/select/how-to-avoid-bank-fees/ [https://perma.cc/29LK-MFB9] (describing the various fees issued by banks and the issues that arise with them, especially for those who are more financially vulnerable).

32. *Id*.

33. *Id.*

must impose some fees in order to cover the costs of these accounts.[34] Additionally, banks charge exorbitant fees in order to repel these unprofitable accounts, which in turn creates a barrier for low-income individuals.[35]

B. Distrust

Distrust of financial institutions is another reason the unbanked often give for avoiding a formal relationship with a bank.[36] The sentiment of distrust has grown from 2017, when 12.6% of the unbanked said distrust was their main reason for not having a banking relationship, with 30.2% citing it as a secondary reason.[37] In 2019, 16.1% stated that distrust was the main reason they remained unbanked, and 36.3% cited it as a secondary reason.[38]

One reason why there is such distrust of the financial system is that banks have actively disinvested in certain communities.[39] Some larger banks have abandoned lower-income communities in favor of relocating and tailoring their services to higher-income areas.[40] Between

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34. *See* Vassilisa Rubstova, *Banking and Poverty: Why the Poor Turn to Alternative Financial Services*, BERKELEY ECON. REV. (Apr. 15, 2019), https://econreview.berkeley.edu/banking-and-poverty-why-the-poor-turn-to-alternative-financial-services/ [https://perma.cc/GD9C-WQNJ] ("At major banks, such as Wells Fargo, Chase, and Bank of America, 25 to 40% of checking accounts are simply not profitable and are described as 'money losing.' To combat this, overdraft fees, debit card swipe fees, ATM withdrawal fees, wire transfer charges, among other charges and fees are imposed."); Tyler Spaid & Mike Branton, *The Profitability of the Average Checking Account*, BANK DIR. (Apr. 22, 2013), https://www.bankdirector.com/issues/the-profitability-of-the-average-checking-account/ [https://perma.cc/7MKW-44QJ] (describing the costs taken on by banks in maintaining accounts and how certain types of accounts do not cover those costs).

35. *See* Mehrsa Baradaran, *Credit, Morality, and the Small-Dollar Loan*, 55 Harv. C.R.-C.L. L. Rev. 63, 87-88 (2020) (describing the exorbitant fees used by banks that repel low-income people and causing them to have to utilize other financial resources, such as fringe lending).

36. *See* HOW AMERICA BANKS, *supra* note 2, at 3 ("'Don't trust banks' was cited by approximately one-third [36.3%] of unbanked households as a reason for not having an account and was the second-most cited main reason.").

37. *Id*. at 4.

38. *Id.*

39. *See Banking the Underserved at the Speed of Trust*, S. BANCORP (Mar. 9, 2020), https://banksouthern.com/blog/banking-the-underserved-at-the-speed-of-trust/ [https://perma.cc/4R8J-M8NJ]. (Hereinafter S. Bancorp?)

40. *See* Ryan Smith, *Big Banks Abandoning Lower-Income Neighborhoods – Report*, MORTG. PRO. AM. (Mar. 10, 2019), https://www.mpamag.com/us/news/general/big-banks-abandoning-lower-income-neighborhoods-report/161699 [https://perma.cc/V7V6-YS2Q] ("Wells Fargo, JPMorgan Chase and other big banks have been abandoning lower-income areas and shifting their services to wealthier neighborhoods.").

2014 and 2018, banks closed 1,915 more branches than they opened in lower-income zones.[41] These bank closures have especially affected counties in the South where the closest banks are now—in some places—fifteen to twenty miles from the community.[42] In communities affected by these new "banking deserts," it is more difficult to obtain loans and build individual wealth.[43] Bank closings in these communities can have lasting consequences on local businesses as well.[44] Between 2012 and 2016, only 20% of businesses operating in lower-income areas received bank loans or business credit cards, whereas almost 60% of businesses in higher-income areas received loans or business credit cards.[45] When businesses are not able to secure a loan, it often means that fewer businesses can open in a given community.[46] As a result, these communities are often negatively cast as "less friendly to business."[47] Moreover, local businesses often help the communities they reside in, so the inability to access bank loans to initiate new businesses leaves some areas without a thriving business market to support the community.[48] In this way, a lack of support from banks to new business ventures leads some people to distrust the financial industry.[49]

Distrust in the financial service industry and banks is also due to a lack of education about the financial system.[50] In 2019, households with a college degree holder were more likely to use bank credit than

41. *Id.*

42. *See* S. BANCORP, *supra* note 39.

43. *Id*.

44. *See* Smith, *supra* note 40 ("Shuttering a neighborhood bank can have far-reaching effects . . .. A 2014 study by economist Hoia-luu Q. Nquyen found that a branch closure can cause a 13% drop in the number of small-business loans made in the area – a drop that lasts several years and isn't offset even when other banks enter the neighborhood.").

45. Claire Trageser, *Breaking the Cycle of Disinvestment in Lower-Income Communities*, NPR (Apr. 6, 2019), https://www.npr.org/2019/04/06/707659094/breaking-the-cycle-of-disinvestment-in-lower-income-communities [https://perma.cc/EVG7-TQQH] (describing data from a Woodstock Institute report, "Patterns of Disparity").

46. *Id*.

47. *See id.* ("'You have a cycle that kind of perpetuates that neighborhood being less friendly to business,' says Spencer Cowan, the researcher who compiled the data. 'Businesses don't get started. So employment stays depressed. The job opportunities aren't there in the neighborhood. Businesses that are there don't expand.'").

48. *Id*. ("The point, founder Lauren Grattan says, is to invest in neighborhoods that really need it. Because when businesses succeed, they hire locally and the entire community reaps the benefits.")

49. *See id.*; S. BANCORP, *supra* note 39 ("Underserved folks have reason not to trust the financial sector.").

50. HOW AMERICA BANKS, *supra* note 2, at 8.

those households without a high school diploma recipient.[51] Lack of education is significant because predatory lenders specifically target less educated populations that are more easily persuaded to take out unnecessary and excessive loans.[52]

C. *Lack of Access*

A third root cause of being unbanked or underbanked is lack of access to financial resources. When a person has no access to banking resources mainly because there are no physical branches located in the vicinity around the community, that area is considered a banking desert.[53] The U.S. Office of the Comptroller of the Currency ("OCC") defines a banking desert as an area where significant community development or retail lending needs have not been met.[54] People are more than twice as likely to reside in a banking desert if they also live in a lower-income community as opposed to a wealthier community.[55] Due to already diminished access to the financial market, rural areas are particularly at risk of developing banking deserts.[56] The Federal Reserve Board

51. *See id.* ("[O]nly [37.1%] of households without a high school diploma used bank credit, compared with [87.5%] of households with a college degree.").

52. *See* Adam Hayes, *Predatory Lending*, INVESTOPEDIA (Feb. 27, 2021), https://www.investopedia.com/terms/p/predatory_lending.asp [https://perma.cc/8DLE-NZNT] ("They typically target vulnerable populations, such as those struggling to meet monthly expenses; people who have recently lost their jobs; and those who are denied access to a wider range of credit options for illegal reasons, such as discrimination based on a lack of education or older age.").

53. *See* Donald P. Morgan et al., *Banking Deserts, Branch Closings, and Soft Information*, LIBERTY ST. ECONS. (Mar. 7, 2016), https://libertystreeteconomics.newyorkfed.org/2016/03/banking-deserts-branch-closings-and-soft-information/ [https://perma.cc/C6ZC-F4C2] ("A banking desert is usually defined as an area with no banks or branches, but there is no standard definition of how big such an area should be. Following previous research, we define a banking desert as a census tract—a relatively homogeneous area or neighborhood containing about 4,000 people—with no branches within ten miles of the center of the tract.").

54. *See* 12 C.F.R. § 25.03 (2021) (defining a banking desert as an area that has "significant[ly] unmet community development or retail lending needs and where: (1) [f]ew banks have branches or non-branch deposit-taking facilities; (2) [t]here is less retail or community development lending than would be expected based on demographic or other factors; or (3) [t]he area lacks community development organizations or infrastructure").

55. *See* Morgan et al., *supra* note 53 ("[F]rom 2009 to 2014, the fraction of residents living in low-income tracts that are also banking deserts increased 0.17 percentage points, almost three times the 0.06 percentage point increase for residents in higher income tracts.").

56. Anna Hrushka, *Keeping the Banking Desert at Bay in Rural America*, BANKING DIVE (Feb. 18, 2020), https://www.bankingdive.com/news/bank-deserts/572124/ [https://perma.cc/WT7V-ZSKE].

("FRB") found that of the 44 counties "deeply affected" by bank closures, 39 counties, or almost 89%, were in rural communities.[57]

Because banks tend to see rural and low-income communities as unprofitable, they have disproportionately abandoned these communities and often refuse to open branches within them.[58] However, the irony of this situation is that it creates a negative feedback loop, or a decrease in output due to the decrease in input.[59] This means that, as banks decline to enter rural markets, people often have to resort to other financial alternatives to meet their needs.[60] These alternatives often charge high fees and high interest rates, which perpetuate the financial insecurity of the individual.[61] This insecurity then makes it more difficult for remaining banks to stay in business.[62] In sum, a lack of access only creates a further lack of access, thus increasing the wealth disparity felt by communities living in banking deserts.

D. Discrimination

As with many institutions in the United States, the financial sector is not free from inequality, and lack of access to banking services can be due to racial, wealth, and geographical discrimination. In 2019, unbanked rates were higher among Black Americans (13.8%), the Latinx community (12.2%), American Indians, and Alaska Native households

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57. *See* BD. GOVERNORS FED. RSRV. SYS., PERSPECTIVES FROM MAIN STREET: BANK BRANCH ACCESS IN RURAL COMMUNITIES 1 (2019), https://www.federalreserve.gov/publications/files/bank-branch-access-in-rural-communities.pdf [https://perma.cc/6TVK-MQWG] ("This report defines 'deeply affected' as a county that had 10 or fewer branches in 2012 and lost at least 50 percent of those branches by 2017.").

58. *See* Baradaran, *supra* note 35, at 119 (stating that "American banks long ago deserted the most impoverished communities"); Catherine Martin Christopher, *Mobile Banking: The Answer for the Unbanked in America?*, 65 CATH. U. L. REV. 221, 221 (2016) ("Traditionally, banks are reluctant to reach out to poor and unbanked people out of the concern that there are no profits to be made. These trends again raise the problem of dual financial services industries: one for the haves, the other for the have-nots. In recent years, however, non-bank financial service providers have been actively pursuing these customers.").

59. S. BANCORP, *supra* note 39.

60. *Id*.

61. *Id*.

62. *See id.* ("[T]his creates a negative feedback loop: because there aren't safe places to access financial services or build wealth, people often resort to paying fees or exorbitant interest rates for alternative financial services. As this effectively siphons wealth from a community, it becomes harder for the remaining banks to operate.").

than in White households, which was only 2.5%.[63] No matter what level of income the household brought in, Black Americans and Latinx consumers were more likely to have an "adverse credit outcome" as opposed to White Americans.[64] Additionally, White Americans are more likely to have at least one credit card as compared to Black Americans and Latinx individuals.[65] Having access to credit is important because it allows an individual to better deal with financial disruption since they are able to spread out those costs over time through smaller payments to the credit card company.[66] Discrimination within the financial system also happens in the lending sector where redlining, or systemic loan denial to communities of color by private companies and the federal government, still occurs.[67]

Apart from racial discrimination, wealth discrimination also is indicative of whether an individual is unbanked or underbanked. Those who are unbanked traditionally make less money than those who have a formal relationship with a bank. For instance, roughly 40% of the unbanked have an annual income under $75,000.[68] One reason for this is that those that make less than $40,000 per year are either approved for less credit or denied altogether when applying for traditional bank credit.[69]

Lastly, geographic discrimination plays a role in populations being unbanked. As described above, banking deserts are more prevalent in certain regions, depriving these communities of the ability to gain

63. *See* HOW AMERICA BANKS, *supra* note 2, at 12 ("[U]nbanked rates were higher among . . . Black households, Hispanic households, [and] American Indian or Alaska Native households.").

64. *See* Rasure, *supra* note 18 ("In every income bracket, [Black Americans] and Latinx individuals were more likely to experience an adverse credit outcome compared to Whites.").

65. *See id.* ("White people were also more likely than [Black Americans] and Latinx people to have at least one credit card.").

66. *See id.* ("Having the option of borrowing on a credit card, the report notes, provides individuals with the wherewithal to deal with a financial disruption.").

67. *See* S.F. OFF. OF FIN. EMPOWERMENT, SYSTEMIC BARRIERS TO BANKING THE UNBANKED 2, https://sfgov.org/ofe/sites/default/files/2020-12/TTX%20Barriers%20to%20Banking%20Report_v4.pdf [https://perma.cc/KHZ6-QRJF] ("Discrimination in the financial system is persistent, and includes redlining–the systemic denial of loans and insurance to communities of color by the federal government and private companies.").

68. *See* HOW AMERICA BANKS, *supra* note 2, at 13 (stating percentages of the unbanked within certain income brackets).

69. *See* Rasure, *supra* note 18 ("When it comes to applying for credit, the Federal Reserve survey showed that Americans with incomes under $40,000 per year were more likely to be denied traditional bank credit or approved for less than they had requested than those with incomes over $100,000 (37% vs. 10%, respectively).").

access to the financial system. For example, though studies have shown this number has slightly improved, the average resident of a reservation must still travel at least 12 miles in order to access a bank.[70]

The place where a person lives and works may also affect their ability to access the internet, and this lack of connectivity in a world with evolving banking technology also keeps unbanked and underbanked individuals from being able to fully participate in the financial market.[71] Not only have rural and low-income areas been disproportionally impacted by banking deserts, the overall lack of access to the internet makes it especially difficult for individuals to utilize mobile banking services.[72] Currently, anywhere between 21 million and 57 million Americans do not have access to reliable broadband speeds.[73] Lack of access to the internet is more common in rural, less-populated areas as well as neighborhoods densely populated by people of color.[74]

There are many reasons that an individual may be unbanked or underbanked, and each person's story is unique to them. However, of all the causes, high fees, distrust of banks, lack of access to financial products, and discrimination are the four most frequently cited. It is

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70. *See* NATIVE NATIONS INST., UNIV. ARIZ., ACCESS TO CAPITAL AND CREDIT IN NATIVE COMMUNITIES: A DATA REVIEW, at iii (2017), https://nni.arizona.edu/application/files/6514/8642/4513/Accessing_Capital_and_Credit_in_Native_Communities__A_Data_Review.pdf [https://perma.cc/TTP3-6R9F] ("The distance Native Community residents must travel to reach a bank or automated teller machine (ATM) is a basic indicator of access to capital and credit. In 2013, for tribes in the lower-48 states, the average straight-line distance from the geographic center of a tribe's reservation to the nearest bank branch was 12.2 miles.").

71. *See* Stephanie Walden, *Covid-19 Highlights Digital Divide and Its Impact on Banking*, FORBES ADVISOR (July 21, 2020, 9:59 PM), https://www.forbes.com/advisor/banking/digital-divide-and-its-impact-on-banking/ [https://perma.cc/DYX5-FSR8] (stating that financial exclusion, or being unbanked or underbanked, and digital exclusion, or lack of internet access, often overlap).

72. *See* Paschal, *supra* note 29 ("Many Southerners will be left behind by online services because they lack the ability to pay. And because of low rates of broadband access in the South, especially in rural areas, compounded by closures of libraries and fast-food restaurants where many people could previously access Wi-Fi, the internet itself is becoming inaccessible for many people. They may not be able to renew their driver's license or vehicle tags online, for example, which could compromise essential workers' ability to go to their job.").

73. *See* Walden, *supra* note 71 ("The Federal Communications Commission (FCC) finds more than 21 million people in the U.S. lack high-speed connectivity. Researchers at BroadbandNow say that number is double the FCC's number: 42 million. And independent research by Microsoft finds that, even including those with access, as many as 157 million Americans don't actually use the internet at broadband speeds.").

74. *See id.* ("In less densely populated areas, residential wired broadband expenses are significantly higher than for those in higher population density areas . . . Black neighborhoods and communities with high concentrations of people of color are disproportionately impacted by lack of access.").

important to learn and appreciate these reasons, because by understanding what causes someone to be unbanked or underbanked, it becomes easier to evaluate the disadvantages of being unbanked and find proper solutions to address the issue.

IV. WHAT DISADVANTAGES ARE FACED BY THE UNBANKED AND THE UNDERBANKED?

Just as there are a plethora of causes of being unbanked or underbanked, there are several disadvantages that come along with it as well. One major disadvantage of being unbanked is that it leads to wealth inequality. In America, the ability to access and participate in the banking and financial industry is a primary way that individuals can grow wealth.[75] However, for those who live paycheck to paycheck and do not have an interest-earning savings account, building wealth may be difficult if not impossible.[76] Without the ability to open and grow a savings account, individuals may be forced into a spiral effect which keeps them in poverty. For instance, individuals without a formal banking relationship that allows them to build wealth may not be able to buy a house, pay for higher education, or start a business.[77]

One reason it is hard for unbanked individuals to save money is because non-bank transactions—such as payday loans, pawnshop loans, and refund anticipation loans—take a heavy toll on an individual's wealth due to the high fees that come with these nontraditional methods.[78] It has been estimated that a full-time worker could save $40,000 over their career by using a traditional checking account instead of check-cashing

75. *See* Hamilton, *supra* note 16, at 119 ("Access to and participation in the banking industry remain the primary vehicles to move from poverty to wealth. Success in America today requires not just a job and growing income, but [also] the ability to accumulate a wide range of assets . . . . Homeownership represents the single largest component of wealth, followed by bank accounts, stock investment and retirement accounts.").

76. *See id.* (describing the obstacles faced by working class and unbanked individuals in accumulating wealth).

77. *See id.* ("The ability to deposit savings is not only necessary to avoid the crime associated with carrying cash, but is vital to mitigate the effects of poverty. Without savings, low- income workers cannot buy homes, pay for education, or start small businesses; all of which are proven measures to develop assets and accumulate wealth.").

78. MATT FELLOWES & MIA MABANTA, BROOKINGS INST., BANKING ON WEALTH: AMERICA'S NEW RETAIL BANKING INFRASTRUCTURE AND ITS WEALTH-BUILDING POTENTIAL (2008), http://www.brookings.edu/~/media/research/files/reports/2008/1/banking-fellowes/01_banking_fellowes.pdf [https://perma.cc/UH59-TP5E].

products; but when traditional banking services are unavailable, some are forced to rely on these costly alternatives.[79]

Another major disadvantage of being unbanked or underbanked is the threat of predatory lending. Predatory lending is defined as practices which seek to benefit the lender by imposing unfair or abusive loan terms with high interest rates that strip equity from borrowers.[80] Mostly, predatory lenders employ deceptive and aggressive sales tactics in order to entice less-financially savvy customers into these unfair loans.[81] Predatory lenders specifically targets vulnerable and financially uneducated populations like the unbanked and underbanked who may struggle to meet their monthly expenses or are denied access to a better range of credit options.[82] Furthermore, this practice disproportionately affects women, Black Americans, and Latinx communities.

Normally, predatory lenders convince people to take out a loan in an amount that the lender either knows the borrower will be unable to pay back or will have to pay back in an amount that far exceeds the market price for a mainstream bank credit product.[83] A common misconception is that only loan sharks use these unscrupulous practices, but predatory lending is practiced among banks, finance companies, mortgage brokers, attorneys, and real estate contractors.[84]

These unfair practices especially affect those who are unbanked or underbanked. For example, when an unexpected event occurs, such as a car breaking down or an emergency room visit, unbanked individuals who do not have a savings account or credit card to help them pay the cost must often turn to payday lenders to front the bill.[85] These events

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79. *Id.*

80. *See* Hayes, *supra* note 52 ("Predatory lending typically refers to lending practices that impose unfair, deceptive, or abusive loan terms on borrowers.").

81. *See id.* ("Predatory lenders often use aggressive sales tactics and take advantage of borrowers' lack of understanding of financial transactions.").

82. *See id.* ("They typically target vulnerable populations, such as those struggling to meet monthly expenses; people who have recently lost their jobs; and those who are denied access to a wider range of credit options for illegal reasons, such as discrimination based on a lack of education or older age.").

83. *See id.* ("Predatory lending includes any unscrupulous practices carried out by lenders to entice, induce, mislead, and assist borrowers toward taking out loans they are otherwise unable to pay back reasonably or must pay back at a cost that is extremely high above market.").

84. *Id.*

85. *See* Sarah Rose Miller, *"Unbanked" Minnesotans Hurt Most by Predatory Lending*, MINNPOST (July 24, 2013), https://www.minnpost.com/business/2013/07/unbanked-minnesotans-hurt-most-predatory-

drain what savings these individuals may have and keeps them in need of payday lenders.[86] Because of this, it becomes nearly impossible for an unbanked individual to open a bank account or access fairer loan options since they have low or nonexistent credit scores.[87] Predatory lending leads to a constant cycle of debt where the unbanked are unable to break free, keeping them from being able to enter and participate fairly in the traditional financial market.[88]

Another disadvantage of being unbanked is the inability to access credit. Many financial institutions require a credit score before approving loans or allowing access to other credit products— such as a credit card, a mortgage, an auto loan, a student loan, or a personal bank loan — because they help predict an individual's likelihood of defaulting.[89] However, due to limited credit histories, 20% of the population does not have a credit score.[90] Credit cards are the most common type of credit, but the 20% that do not have a credit score or have a blemished credit history do not have access to these or any other traditional credit products.[91] Furthermore, the use of fringe financial services such as a payday loan by the unbanked and underbanked can worsen their ability to create a favorable credit history.[92] This is because these loans are not reported to credit bureaus such as Equifax or TransUnion, which means

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lending/ [https://perma.cc/VT2J-YWKF] ("They have little choice when a car breaks down or a child falls ill but to turn to high interest loans offered by payday lenders and pawn shops.").

86. *See id.* ("These fees and other charges add up, draining money from folks who can ill-afford it. Many of them fall into cycles of debt that become increasingly hard to break.").

87. *See id.* ("Poor credit scores prevent many from accessing reasonably priced loans — big and small. Credit scores are the biggest determinant in what interest rate a homebuyer qualifies for.").

88. *See id.* (summarizing the struggle of those in the predatory lending cycle).

89. *See* CHERYL COOPER, CONG. RSCH. SERV., R45979, FINANCIAL INCLUSION AND CREDIT ACCESS POLICY ISSUES 11 (2019), https://sgp.fas.org/crs/misc/R45979.pdf [https://perma.cc/8LWB-GU4T] ("The credit reporting industry collects information on consumers and uses it to estimate the probability of future financial behaviors, such as successfully repaying a loan or defaulting on it.").

90. *See id.* ("According to the CFPB, credit scores cannot be generated for approximately 20% of the U.S. population due to their limited credit histories.").

91. *See id.* ("Credit cards are the most common form of credit, and they are what most households use for small-dollar credit needs. . . . 20% of households do not have access to any traditional bank credit products, generally because they are either unscorable or have a blemished credit history.").

92. *See* Hamilton, *supra* note 16, at 126 ("Moreover, these loans are not reported to credit bureaus, such as Equifax and TransUnion. The failure to report prompt payments hampers the borrower's ability to establish a good credit history and obtain mainstream credit (like a credit card) at more reasonable rates.").

the borrower on these loans cannot create the credit history necessary to qualify for traditional credit services.[93]

Apart from the disadvantages of not having a bank account, there are many reasons why it is advantageous for an individual to have a bank account. For one, money is safer in a bank account and is less likely to be stolen or destroyed in disasters, such as house fires or flooding.[94] Not only is the money safer, but the individual is safer as well since they do not have to constantly carry large sums of cash money, increasing the danger of being robbed.[95] As for account security, banks are federally insured which means that the consumer is protected and will get their money back— up to $250,000—if the bank fails.[96]

Second, informal financial activities, such as prepaid credit cards and payday loans, do not have to follow the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank").[97] The passage of Dodd-Frank led to new regulations designed to crack down on the risky financial ventures that triggered the 2008 Financial Crisis.[98] However, because there are financial services not protected by the Dodd-

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93. *Id*.

94. *See* Marcie Geffner, *Is My Money Safe at the Bank?*, U.S. NEWS & WORLD REP. (Apr. 16, 2021), https://money.usnews.com/banking/articles/is-my-money-safe-at-the-bank [https://perma.cc/83AE-ZG6Y] ("Cash can be stolen, damaged or destroyed. If you keep cash in your home or car, your homeowners or renters insurance, if you have any, may not cover the full amount due to those types of losses. Money deposited in a bank account isn't subject to those risks.").

95. *Id*.

96. *See id*. ("Most deposits in banks are insured dollar-for-dollar by the Federal Deposit Insurance Corp. This insurance covers your principal and any interest you're owed through the date of your bank's default up to $250,000 in combined total balances.").

97. *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub.L. 111–203, 124 Stat. 1376 (2010); *see also* Rubstova, *supra* note 29 ("Bank prepaid credit cards and payday loans are not subject to the Dodd-Frank Reform Act.").

98. *See* 12 U.S.C. § 5301 (passing this Act completely altered the structure of the financial system within the United States by adding regulations that apply to a broader range of market participants, including public companies); *see also* Rubstova, *supra* note 34 ("Bank prepaid credit cards and payday loans are not subject to the Dodd-Frank Reform Act, which imposed regulations on financial systems and institutions in response to the financial crisis in 2008."); *see also The FDIC's Progress in Implementing Systemic Resolution Authorities under the Dodd-Frank Act*, FDIC OFF. OF INSPECTOR GEN., https://www.fdicoig.gov/publications/fdics-progress-implementing-systemic-resolution-authorities-under-dodd-frank-act [https://perma.cc/Q24P-4NKT] (stating that the Dodd-Frank Act "created a comprehensive new regulatory and resolution framework designed to avoid the severe consequences of financial instability.").

Frank Act, bank branches are able to offer less regulated services that do not have a capped amount to low-income individuals.[99]

Finally, having a bank account simply makes life easier and more convenient,[100] and it increases the likelihood that an individual will be approved for a legitimate loan.[101] Not only are banks more willing to give loans to existing customers, but a bank account gives a lender information on a potential borrower's ability to repay through their credit score.[102] Having a bank account is also convenient because it allows an individual to avoid having to carry cash on them and lets an individual avoid fees at storefronts through the use of writing checks or using a debit card.[103]

V. COMMUNITY BANKS & THE UNBANKED

Compounded by the many causes and disadvantages of being unbanked, one of the major problems the unbanked face is the lack of access to a checking or savings account. As previously described, this lack of access stems from many root causes, such as high fees, distrust of banks, banking deserts, and fear of discrimination. However, one possible avenue that could alleviate some, if not all, of these issues is the investment in community banks. First, this part will give examples of other proposals the government has used to help get people banked and will explain how these initiatives have fallen short.[104] Second, this part will define community banks and describe how these banks are better equipped to address the issues the unbanked face in obtaining financial

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99. *See* Rubstova, *supra* note 34 (stating that "branches have been offering the less regulated or unregulated services and options to low-income individuals that do not have a capped amount that can be charged for fees unlike overdraft fees.").

100. *See Advantages of Maintaining a Bank Account*, TEX. SOC'Y OF CERTIFIED PUB. ACCTS, https://www.tx.cpa/docs/default-source/default-document-library/maintainingbankaccount.pdf?sfvrsn=adf910b1_2 (last visited Sept. 11, 2021) [https://perma.cc/8BY2-WXEH] ("A checking account is a primary tool for managing personal finances . . . . Having a bank account often means having a safe place to store your money. It also provides you with easy access to your money, either with checks or a debit card.").

101. *See id.* ("Having a bank account will improve your chances of being able to obtain a loan.").

102. *See id.* ("In addition of being approved for a loan with your bank, having a bank account can improve your chances of obtaining financing elsewhere. Before financing is granted, the lender in question will examine your ability to pay.").

103. *Id.*

104. *Infra* subsection A.

services.[105] Third, this part will highlight certain initiatives taken by the government to support community banks.[106] Fourth, this part will describe specific obstacles faced by community banks and how the government could correct these barriers.[107] Finally, this part will argue why the utilization of community banks could be the remedy to many of the issues faced by the unbanked and the underbanked.[108]

A. Other Initiatives

There have been several different methods that the government has suggested in order to make banking more accessible to Americans. One example is the creation of public banks. Public banks are chartered banks that are majority owned by the government.[109] Support for the creation of public banks has been popular since the 2008 recession,[110] and has only become more popular in the midst of the COVID-19 pandemic.[111] For instance, in early 2021, sixteen bills were introduced throughout eight states concerning the formation of public banks.[112] Additionally, there was a bill introduced in Congress that would have

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105. *Infra* subsection B.

106. *Infra* subsection C.

107. *Infra* subsection D.

108. *Infra* subsection E.

109. *See FAQ on Public Banking*, PUB. BANKING INST., https://www.publicbankinginstitute.org/faq/ [https://perma.cc/JCL7-H4US] ("A public bank is a bank operated in the public interest, owned by the people through their representative governments. Public banks can exist at all levels, from local to state to national or even international. Any governmental body which can meet local banking requirements may, theoretically, create such a financial institution. Public banks can fund public projects at reduced cost, generate profits for the local government, and create low-cost credit for the local community.").

110. *See* Douglas Singleterry & Zenon Christodoulou, *Public Banks Help Communities Thrive. Why Aren't There More?*, THE HILL (Jan. 26, 2017), https://thehill.com/blogs/pundits-blog/finance/316403-public-banks-help-communities-thrive-why-arent-there-more [https://perma.cc/Z9ND-RVED] ("Since the 2008 financial crisis, the idea of creating a public bank has been proposed in dozens of states across the country.").

111. *See* Ellen Brown, *Why Public Banking Is Now Gaining Traction in the U.S.*, YES! SOL. JOURNALISM (Mar. 17, 2021), https://www.yesmagazine.org/economy/2021/03/17/public-banking-recession [https://perma.cc/TCT2-8AQV] ("The devastation caused by nationwide COVID-19 lockdowns in 2020 has highlighted the inadequacies of the current financial system in serving the public, local businesses, and local governments.").

112. *See id.* ("Sixteen new bills to form publicly owned banks or facilitate their formation were introduced in eight U.S. states in January and February.").

created federal public banks.[113] On its face, the public banks attempt to address several of the root causes of being unbanked or underbanked such as discrimination, lack of access, and exorbitant fees.[114] But in the long run, public banks may not actually resolve these issues. This is because public banks are run by the government, and the one thing people seem to trust less than banks is the government.[115] There are also public policy concerns when it comes to public banks.[116] Because a public bank is mostly funded by the government, it is directly answerable to that government.[117] This can lead to corruption and banking decisions being made for political purposes rather than for the benefit of the consumers.[118] Furthermore, proponents of public banks argue that they "foster development by providing credit to socially desirable projects," but it is

113. *See* Press Release, Rep. Rashida Tlaib, Tlaib, Ocasio-Cortez Introduce Legislation Enabling Creation of Public Banks (Oct. 30, 2020), https://tlaib.house.gov/tlaib-aoc-public-banking-act [https://perma.cc/3XZL-H6E3] (The Public Banking Act ("PBA") of 2020 was introduced by Congresswoman Rashida Tlaib of Michigan and co-sponsored by nine other Democrats, including Alexandria Ocasio-Cortez of New York. This bill would allow "for the creation of state and locally administered public banks by establishing the Public Bank Grant program administered by the Secretary of the Treasury and the Federal Reserve Board which would provide grants for the formation, chartering[,] and capitalization of public banks.").

114. *See Americans' Views of Government: Low Trust, but Some Positive Performance Ratings*, PEW RSCH. CTR. (Sept. 14, 2020), https://www.pewresearch.org/politics/2020/09/14/americans-views-of-government-low-trust-but-some-positive-performance-ratings/ [https://perma.cc/U4C2-V9UF].

115. *See id.* ("For years, public trust in the federal government has hovered at near-record lows. That remains the case today, as the United States struggles with a pandemic and economic recession. Just 20% of U.S. adults say they trust the government in Washington to 'do the right thing' just about always or most of the time.").

116. Jeff Spross, *Why Democrats Should Be Cautious About Public Banking* , THE WEEK (Oct. 16, 2019), https://theweek.com/articles/871793/why-democrats-should-cautious-about-public-banking [https://perma.cc/5S3U-N4XA].

117. *See id*. ("The public bank is answerable to that government, and whatever profits the bank makes are returned to that government.").

118. *See id.* ("Public banking creates some freedom from the overwhelming private drive for profit, allowing democratically chosen priorities—such as social justice, poverty alleviation, carbon reduction, environmental cleanup, or industrial policy — to play a bigger role in who receives loans."); *see also* Mark A. Calabria, *Public Banking Hurts Economics*, N.Y. TIMES (Oct. 1, 2013), https://www.nytimes.com/roomfordebate/2013/10/01/should-states-operate-public-banks/public-banking-hurts-economic [https://perma.cc/H289-AECC] ("When the government owns the banks, lending decisions become increasingly driven by politics, rather than economics. Resources flow to those with influence. Government-owned banks also tend to under-price risk in order to buy votes. If there is one lesson we should take away from the recent crisis, it is that when you intentionally under-price risk, bad things happen.").

not clear that the government should be tasked with deciding what is or is not socially desirable.[119]

A second policy recommendation is the creation of free bank accounts at the Federal Reserve, or "FedAccounts." As it stands, only depository institutions, such as large banks, can hold accounts through the Federal Reserve.[120] This proposal seeks to give the general public, including individuals and small businesses, the option to open personal bank accounts at the Federal Reserve.[121] One of the main purposes of this proposal is to foster financial inclusion by allowing the unbanked and underbanked to rely on the Federal Reserve as opposed to other, less-safe, methods such as predatory lending.[122] There are several benefits to a FedAccount, such as individuals would not be subject to fees or account minimums, the interest paid on the account would be higher than what private banks pay, and others.[123]

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119. Lucas Argentieri, *Do We Know It All? What Are the Real Costs and Benefits of Public Banks?*, WORLD BANK BLOGS (Nov. 16, 2020), https://blogs.worldbank.org/allaboutfinance/do-we-know-it-all-what-are-real-costs-and-benefits-public-banks [https://perma.cc/H77N-N7RS].

120. *See* Vasanth Kumar, *Fed Accounts and the Right to Save*, BERKELEY ECON. REV. (Feb. 15, 2021), https://econreview.berkeley.edu/fed-accounts-and-the-right-to-save/ [https://perma.cc/Z37N-BRAB] ("Currently, the Federal Reserve prohibits individuals from opening accounts with any Federal Reserve Banks; this privilege is restricted to depository institutions, domestic and foreign. Notable among these institutions are large banks, such as Wells Fargo and Bank of America, known as 'national banks.'").

121. *See* Morgan Ricks et al., *Central Banking for All: A Public Option for Bank Accounts*, THE GREAT DEMOCRACY INITIATIVE, 1, 2 (2018), https://rooseveltinstitute.org/wp-content/uploads/2021/08/GDI_Central-Banking-For-All_201806.pdf [https://perma.cc/H7DY-97M8] ("All U.S. citizens, residents, and domestically domiciled businesses and institutions would be eligible for FedAccounts. FedAccounts would offer all the functionality of ordinary bank transaction accounts, except for overdraft coverage. They would come with debit cards for point-of-sale payments and ATM access. They would support direct deposit and online bill pay. Account holders could access their accounts on the internet or through a mobile phone application. Monthly statements would be supplied by email (preferably) or in hard copy. There would be a customer service number. FedAccounts might also offer checkbooks for a small fee.").

122. *See id.* ("FedAccount would not have any fees or minimum balance requirements and would be marketed explicitly as a public service, open to all. It would attract millions of people who currently choose not to or are not able to maintain bank accounts. Greater inclusion would also reduce payment-related costs for businesses (both in processing payroll and in receiving customer payments) and for the government (by easing administration of benefits transfers and tax refunds). Money is often described as a public good, and FedAccount would bring this conception to full realization by transforming the U.S. account-money system into public infrastructure akin to roads, sidewalks, public libraries, the judicial system, and law enforcement.").

123. *See id.* (describing the key differences between a FedAccount and a private bank account).

However, despite the possible benefits of such a system, it is not without its setbacks. Importantly, it is not certain that FedAccounts would assist the unbanked population as much as claimed.[124] For one, just like with public banks, FedAccounts are controlled by the government and the same issues would arise.[125] Not only would political power begin to dictate and corrupt the scheme,[126] it would also lead to slower development of the financial system, lower economic growth, and lower productivity growth.[127] Proponents of these accounts argue that the Federal Reserve is designed to be politically independent and FedAccounts would therefore be insulated from the political tides.[128] However, despite this supposed independence, the Federal Reserve is still tied to the political process, especially since the President appoints the Federal Reserve Chair.[129] Furthermore, there are economic implications as well.[130] With such a massive move from private banks to

124. *See* Norman, *supra* note 26, at 462 (claiming that "the population of the unbanked and underbanked would likely not benefit as much as predicted from the implementation of the FedAccounts proposal.").

125. *See* Spross, *supra* note 116.

126. *See id*. ("Public banking creates some freedom from the overwhelming private drive for profit, allowing democratically chosen priorities — such as social justice, poverty alleviation, carbon reduction, environmental cleanup, or industrial policy — to play a bigger role in who receives loans."); *see also* Calabria, *supra* note 118 ("When the government owns the banks, lending decisions become increasingly driven by politics, rather than economics. Resources flow to those with influence. Government-owned banks also tend to under-price risk in order to buy votes. If there is one lesson we should take away from the recent crisis, it is that when you intentionally under-price risk, bad things happen.").

127. *See* Rafael La Porta, et al., *Government Ownership of Banks*, HARV. UNIV. JOHN F. KENNEDY SCH. OF GOV'T DEP'T OF ECON. (2000), http://dx.doi.org/10.2139/ssrn.236434 [https://perma.cc/3MZJ-S3PA] ("We find that higher government ownership of banks is associated with slower subsequent development of the financial system, lower economic growth, and in particular lower growth of productivity.").

128. *See* Ricks et al., *supra* note 121, at 6 (arguing that the Federal Reserve's role in creating and maintaining FedAccounts "could improve resource allocation while also insulating the central bank's investment function from the appearance or reality of political meddling and favoritism."); *see also* Norman, *supra* note 26, at 463-64 ("The Federal Reserve is designed to be politically independent. With this goal in mind, the institution was created to be accountable to the public, the Federal Open Market Committee, and the Board of Governors of the Federal Reserve by implementing monetary policies that are meant to achieve long-term macroeconomic objectives.").

129. *See* Norman, *supra* note 26, at 464 ("However, the President of the United States appoints the Federal Reserve chair. Although the appointment process is not inherently motivated by politics, history shows that it can be. During his 1972 campaign, President Nixon encouraged his elected Federal Reserve chair to employ monetary stimulus to cause a booming economy. In the short-term, there was no issue. However, in the long term this led to global inflation and brought an end to fixed exchange rates.").

130. *See* Ricks et al., *supra* note 121, at 6.

FedAccounts, private banks would lose large parts of their deposits.[131] This could cause an upset within the economy, and it is uncertain how detrimental this upset would be.[132] Lastly, this is only a proposal, and would require legislation in order to be enacted.[133] Legislating is a long and tedious process, and most proposed bills do not become law.[134] Because of this, and the uncertainty of the success of FedAccounts, the adoption of this policy is not the most suitable to helping the unbanked and underbanked population.

A final solution that has been proposed to address the unbanked issue is postal banking. Postal banking entails using the United States Postal Service ("USPS") to offer banking services.[135] For example, USPS could offer check cashing and payday lending services at a much lower cost than what's offered at fringe banks.[136] Postal banking can be especially helpful for the unbanked because the USPS can provide credit at lower rates, there are already postal offices in low-income and rural areas, and people have familiarity with USPS that they may not have with formal banks.[137]

131. *See id*. (admitting that FedAccounts would cause banks to lose deposit balances and suggesting that the Federal Reserve would have to extend discount window loans to offset this loss).

132. *See* John Crawford, *Making Money Safe,* 95 NOTRE DAME L. REV. REFLECTION 1, 13-14 (2019) (arguing that "if widespread migration into FedAccounts caused quick (but not crisis-driven) flight from private money markets, this could be destabilizing; but we suggest this is precisely the sort of unusual and exigent circumstance that would justify the Fed employing its emergency lending authority under section 13(3) of the Federal Reserve Act to provide private money issuers with needed liquidity as they transition to either longer-term funding or smaller balance sheets.").

133. Ricks et al., *supra* note 121, at 11.

134. *See American Government Online Textbook: How a Bill Becomes a Law*, USHISTORY.ORG (last visited: Jan. 2, 2021), https://www.ushistory.org/gov/6e.asp [https://perma.cc/LA8T-47SJ] (describing the process of how bills become laws and stating that "less that 10% of proposed bills actually become laws.").

135. *See* Norman, *supra* note 26, at 474 (describing the concept of postal banking and the services it could offer such as savings accounts, debit cards, and simple loans.").

136. *See* Mehrsa Baradaran, *How The Poor Got Cut Out Of Banking,* 62 EMORY L.J. 483, 544 (2013) ("Post offices can be used as a way to offer short-term, low-interest credit to low-income Americans. Just like credit unions and S&Ls of the past, the Postal Service could operate through minimal government subsidies and still maintain modest profits. The post office could offer check cashing and payday lending services much like those offered by fringe banks, but at a much lower cost. It could also offer them without all the documentation and formal barriers of banks.").

137. *See* Mehrsa Baradaran, *It's Time For Postal Banking,* 127 HARV. L. REV. F. 165, 165-6 (2014) (arguing that "the USPS is in a unique position to provide much-needed financial services for the large population of unbanked or underbanked Americans. First, the Post Office can offer credit at lower rates than fringe lenders by taking advantage of

However, there has been substantial pushback on the adoption of postal banking. Credit unions have expressed concern due to the fact that the USPS would create more competition.[138] Credit unions also argue that they are better equipped to serve at-risk communities than the USPS.[139] Another critique of the USPS becoming a bank centers on defaults.[140] As a bank, defaults are expected to happen, but critics worry how the USPS would handle individuals who default.[141] Some fear that the USPS would copy the policy of the IRS by utilizing wage garnishment, lien enforcement, and repossession when dealing with defaulters.[142] Furthermore, the concept of postal banking centers on low-fee and low-interest rate loans. This policy of low-interest rates for those with a high risk of defaulting could allow for more defaults, which would mean that the USPS would quickly run out of money, leading to the government having to step in and subsidize the operation.[143] Presently, the USPS is already going through "extreme" financial issues, and the addition of postal banking may only exacerbate these problems.[144]

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economies of scale as well as its position in the federal bureaucracy. Second, it already has branches in many low-income neighborhoods that have been long deserted by commercial banks. And third, people at every level of society, including the unbanked, have a level of familiarity and comfort with the Post Office that they do not have with more formal banking institutions.").

138. Eric Naing, *Credit Unions To Democrats: Don't Push For Postal Banking*, CQ ROLL CALL WASH. BANKING BRIEFING (2016).

139. *See id*. (describing a letter sent by the National Association of Federal Credit Unions President Dan Berger to the Democratic National Committee Chairwoman Debbie Wasserman Schultz which stated credit unions' concerns over the Democratic Party's support of postal banking).

140. *See* Peter Conti-Brown, *Why the Next Big Bank Shouldn't be the USPS*, BROOKINGS INST. (May 31, 2018), https://www.brookings.edu/research/why-the-next-big-bank-shouldnt-be-the-usps/ [https://perma.cc/JXJ2-VJFQ]

141. *Id.*

142. *Id*.

143. *See id*. ("Keeping interest rates low for populations that have a high risk of default is a governmental subsidy. Interest rates are not simply bankers extracting their pound of flesh from innocent borrowers. Interest rates reflect overall market conditions, profit margins, and (importantly) default risk. Regulation should ensure that unfair, deceptive, and abusive practices are not permitted. But high interest rates are not necessarily a sign that someone has been abused. It may be a sign that someone is at high risk of default. If [postal banking's purpose] to provide 'low-fee and low-interest rate micro-loans' would extend credit at prices that default risk cannot justify, the government is on the hook for that difference. If that interest rate is priced below what the default risk would justify, then postal banking will quickly run out of money and require significant governmental support to remain viable.").

144. *See* Naing, *supra* note 138 ("The USPS is going through extreme financial challenges and taking on a new mission of providing financial services would be a challenging task, putting it under pressure to raise revenue from this new authority.").

Overall, the proposals discussed in this section would not adequately address and correct the issues faced by the unbanked and underbanked in America. However, community banks have a better understanding of the needs of this population and are better equipped to tackle and resolve these problems.

B. What are Community Banks?

Community banks are defined by certain characteristics that set them apart from commercial banks.[145] The FDIC uses a system of criterion to determine whether a bank is considered a community bank or not.[146] In a broad sense, community banks are banks that operate almost exclusively within a local community, and have assets below $1 billion.[147] Community banks focus on serving small-town rural or suburban areas: markets that are less often serviced by larger banks.[148] Additionally, community banks build more personal relationships with consumers and approve loans on an individual basis.[149] Because of these attributes, community banks are more attune to their individual communities, and are considered to be "relationship" bankers instead of

145. *See* Tanya D. Marsh, *Reforming The Regulation Of Community Banks After Dodd-Frank,* 90 IND. L.J. 179, 190-91 (2015)

(stating that "community banks generally differ from other commercial banks with respect to (1) their size, (2) their location, and (3) their methods of processing information.").

146. *See Community Banking Study: Defining the Community Bank*, FDIC 1, 1 (2012), https://www.fdic.gov/regulations/resources/cbi/report/cbsi-1.pdf [https://perma.cc/SK3X-94MS] (defining the several criteria used to define a community bank and how to apply it); *see also* Patrick T. Carlson, *Don't (Community) Bank On It: How The Current Regulatory Framework And New Federal Regulations Threaten The U.S. Community Banking Industry,* 82 U. PITT. L. REV. 435, 438-39 (2020) (describing the five-step analysis of the FDIC when defining a community bank).

147. *See* FDIC, *supra* note 146, at 1 ("Most people are able to articulate the characteristics of community banks, as the characteristics tend to revolve around how and where a community bank conducts business. For example, community banks focus on providing traditional banking services in their local communities."); *see also* Marsh, *supra* note 145, at 191 ("The simplest and crudest way to define community banks is as commercial banks with assets of less than $1 billion.").

148. *Regulatory Reform: Examining How New Regulations are Impacting Financial Institutions, Small Businesses, and Consumers; Field Hearing Before the Subcomm. on Fin. Inst. and Consumer Credit of the Comm. on Fin. Serv.*, 112th Cong. (2011) (statement of Marty Reinhart, President, Heritage Bank).

149. *See id*. ("Community banks are playing a significant role in the broad-based economic recovery of our Nation because we serve rural, small town, and suburban customers and markets that are not comprehensively served by larger banks. Localized credit decisions made one by one by thousands of community bankers support small businesses, economic growth, and job creation.").

"transactional" bankers.[150] This means that these banks have particular knowledge of their local community and the individuals within the community, which allows them to make credit decisions based on this local knowledge and the history of those long-term relationships.[151] Another attribute of community banks is that they are generally privately owned, thus allowing them to focus their interests on the long-term wellbeing of their local communities as opposed to in capital markets.[152] This relationship style of banking is important for individuals, especially the unbanked and underbanked. For example, when an individual is applying for a loan, community banks are able to assess the loan based off the character of the borrower, the relationship they have with the bank, and the specific circumstances of the local economy.[153] Additionally, community banks can oversee loans in ways that larger banks cannot, allowing them to approve more loans than their counterparts.[154]

Due in part to their unique characteristics, community banks are an important aspect of the American financial system and account for the largest percentage of chartered banks within the United States.[155] Additionally, as of 2019, these banks held 36% of the banking sector's

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150. FDIC, *supra* note 146, at 1.

151. *See id.* (stating that community banks "are often considered to be "relationship" bankers as opposed to "transactional" bankers; "This means that they have specialized knowledge of their local community and their customers. Because of this expertise, community banks tend to base credit decisions on local knowledge and nonstandard data obtained through long-term relationships and are less likely to rely on the models-based underwriting used by larger banks.").

152. *See id*. at 5 ("[Community banks] are likely to be owned privately or have public shares that are not widely traded, and therefore tend to place the long-term interest of their local communities high relative to the demands of the capital markets.").

153. Carlson, *supra* note 146, at 437.

154. *See id*. ("[W]here loan officers at larger banks make lending decisions based on credit score and statistical models, loan officers at community banks consider a wide variety of factors, such as the character of the borrower, the relationship between the borrower and the bank, and special features of the local economy. Further, as community banks are more connected to the local economy, they can oversee the loan in a way that larger institutions cannot.").

155. *See id*. at 439 ("In 2010, there were 6,914 banking organizations registered in the United States. Of those, 94%, or 6,524 banks, were designated as community banks. These banks accounted for $1.923 trillion in total assets. The remaining 390 registered banks fell outside this definition for various reasons, such as asset size or geographic footprint. Therefore, community banks account for the largest portion of chartered banks, as well as a significant percentage of the total assets in the financial industry."); *see also FDIC Community Bank Study*, FDIC VI (Dec. 2020), https://www.fdic.gov/resources/community-banking/report/2020/2020-cbi-study-full.pdf [https://perma.cc/4WPY-EHQT] [hereinafter *FDIC Community Bank Study*] ("Community banks by count represent the vast majority of banks in the United States.").

small business loans.[156] Furthermore, for 608 counties within the United States, community banks are the only FDIC-insured institutions physically present within that county.[157]

Community banks are in a unique position to serve the unbanked and underbanked community. As previously stated, the number one reason individuals gave for being unbanked was a general distrust of banks. However, community banks are built on a business model that cultivates personalized relationships with customers built on trust.[158] Furthermore, because community banks are often located in areas that are less attractive to bigger banks, these banks are able to service those who have been abandoned by the mainstream banking industry.[159] Additionally, community banks often charge less fees than larger banks, which allows for more lower-income individuals to participate in the banking industry.[160]

C. FDIC Initiatives

However, in recent years, community banks have faced challenges due to demographic changes and issues with profitability.[161]

156. *FDIC Community Bank Study*, *supra* note 155, at VII.

157. *See Remarks by FDIC Chairman Jelena McWilliams at the 2021 Community Bankers Symposium: Banking on the Future*, FDIC, (October 22, 2021) https://www.fdic.gov/news/speeches/2021/spoct2221.html#_ftn4 [https://perma.cc/9SZV-T4C3] [hereinafter *Remarks*] (citing the FDIC Survey of Deposit Data as of June 2021).

158. *See* Tiana M. Slaney, *Survival Of The Biggest? How Community Banks Can Survive Without Deregulation,* 46 J. CORP. L. 831, 840 (2021) ("When asked for a reason for being unbanked, over 30% of the unbanked households listed a distrust of banks as a reason. This is where the competitive advantage of community banks' personal relationships with consumers proves useful. Community banks are in a significantly better position to gain the trust of these households than larger banks.").

159. *See* Marsh, *supra* note 145, at 195 ("Despite these challenges, community banks remain important to consumers who prefer the relationship-banking model to the transactional-banking model. In addition, community banks are vital to the American economy because they provide financial services and credit to customers who are less attractive to larger financial institutions by virtue of their location or the profitability of the financial products they need. Community banks are particularly important to small businesses, farmers, commercial real-estate owners, and individuals.").

160. *See The Role of Community Banks in the U.S. Economy*, FED. RES. BANK KAN. CITY 15, 28 (2003), https://www.kansascityfed.org/publicat/econrev/pdf/2q03keet.pdf [https://perma.cc/3CRG-PJRE] ("Community banks also tend to charge lower fees for retail banking services than larger banks, which some analysts interpret as a sign that community banks are more interested in attracting and retaining small depositors.").

161. *See FDIC Community Bank Study, supra* note 155, at V (describing that the two demographic factors that affect the growth of community banks are median age and net migration flows); *see also* Marsh, *supra* note 140, at 195 ("In recent decades, noncommunity

To combat obstacles that community banks face and to promote growth, the FDIC has recently adopted policies focused on achieving inclusion and fostering competitiveness within community banks.[162]

To encourage inclusion, the FDIC launched the Mission-Driven Bank Fund. Through this fund, investors will support mission-driven banks,[163] including community banks, by investing money to grow these banks' size, scale, and capacity, which in turn will allow these banks to further invest in financial products within their own communities.[164] This fund will provide "patient capital" to these banks which will prioritize the social impact objectives of the funding over the fund rate of return. Furthermore, this fund will help give these banks access to several resources such as training.[165]

Second, the FDIC has announced a tech sprint aimed at addressing how community banks can best support the unbanked.[166] A

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banks have demonstrated that they are generally more profitable than community banks. However, the 2012 FDIC Community Banking Study concluded that community banks actually outperform noncommunity banks in generating net interest income and yields on earning assets and in reducing credit losses and noninterest expenses-core banking services. Nevertheless, noncommunity banks generate a higher return on assets because they have multiple lines of business that support their ability to generate much higher volumes of noninterest income. In contrast, community banks rely almost entirely on net interest margin (the spread between the cost of deposits and the interest rate charged on loans, minus expenses) and deposit service charges.").

162. *Remarks*, *supra* note 157.

163. *See Mission-Driven Bank Fund: At-A-Glance*, FDIC, 1, 2 https://www.fdic.gov/regulations/resources/minority/mission-driven/fdic-mdbf-at-a-glance.pdf [https://perma.cc/XAP9-J3VY] [hereinafter *Mission-Driven Bank Fund*] (describing mission-driven banks as those that "serve communities that are often the first to experience the effects of economic downturns and among the last to recover.").

164. *See Remarks*, *supra* note 157 (stating that investors have already pledged "$120 million to support mission-driven banks and the communities they serve, with additional investments expected in the coming months. The fund will support MDIs and CDFIs to build size, scale, and capacity that will in turn allow them to provide affordable financial products and services to individuals and businesses. The FDIC will not manage the fund, contribute capital to the fund, or be involved in the fund's investment decisions."); *see also Mission-Driven Bank Fund*, *supra* note 163, at 2 (describing the overall basics of the fund).

165. *See* Microsoft News Center, *Fund manager RFP opens for Mission-Driven Bank Fund*, MICROSOFT (Dec. 2, 2021), https://news.microsoft.com/2021/12/02/fund-manager-rfp-opens-for-mission-driven-bank-fund/ [https://perma.cc/8GJB-7DNP] ("The fund will provide 'patient capital' to mission-driven banks serving historically excluded communities across the country, prioritizing social impact objectives over the fund rate of return. In addition to investment capital, the fund will be focused on providing access to support resources such as technical training, assistance in developing lending and investment products, banking operations, and more.").

166. *See Remarks*, *supra* note 157 ("A tech sprint brings together a diverse set of stakeholders in collaborative settings for a short period of time to focus intensely on specific challenges with implications for the FDIC or its regulated entities.").

tech sprint is a short period of time where teams made up of several financial stakeholders intensely focus on certain challenges being faced within the financial sector and turn ideas into value.[167] This particular tech sprint created in 2021 will seek to investigate any technologies that could be utilized by community banks to aid them in meeting the needs of people within their communities, particularly the unbanked and underbanked.[168] The question for this tech sprint is: "Which data, tools, and other resources could help community banks meet the needs of the unbanked in a cost-effective manner, and how might the impact of this work be measured?"[169] Furthermore, the FDIC has sought to adopt policies to increase competitiveness in the hope that it will foster continuing innovation.[170]

D. Setbacks

However, even with the FDIC pioneering new initiatives to help support community banks, there are setbacks that these banks still face. The greatest of these are the restrictions in the Dodd-Frank Act adopted in 2010.[171] The Dodd-Frank Act was adopted in response to the financial crises of 2008 and was aimed at correcting the failures of the system perpetuated by large financial institutions.[172] Despite the crises being

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167. *See* FDITech, *Sprint Program*, FDIC, https://www.fdic.gov/fditech/techsprints/measuring-resilience.html [https://perma.cc/GT65-TKHS] ("The FDITECH's sprint program brings a diverse set of stakeholders (e.g., banks, non-profit organizations, academic institutions, private sector companies, members of the public) together in collaborative settings for a short period of time to intensely focus on challenges of importance to the FDIC. A 'sprint' simply refers to a short period of time (typically 2-3 weeks) where teams turn ideas into value. The FDIC will always provide a problem statement and selected teams will devote their collective energy and expertise towards addressing specific challenges. Typically, a tech sprint will culminate with a Demonstration Day where each team shares findings with a panel of evaluating experts.").

168. *FDITECH Launches Tech Sprint to Reach More Unbanked People*, FDIC (Jun. 16, 2021) https://www.fdic.gov/news/financial-institution-letters/2021/fil21043.html [https://perma.cc/N2NM-53AQ].

169. *FDIC Opens 'Tech Sprint' to Serve Unbanked Population*, BANKING EXCH. (July 7, 2021), https://m.bankingexchange.com/news-feed/item/8788-fdic-opens-tech-sprint-to-serve-unbanked-population?Itemid=637 [https://perma.cc/3VS5-WCUP].

170. *See Remarks*, *supra* note 152 (describing the various policies such as modernizing engagement through Call Reports and partnering with Fintechs).

171. Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub.L. 111–203, 124 Stat. 1376 (2010).

172. *See* John L. Ropiequet, et al., *The Dodd-Frank Act Changes the Consumer Finance Landscape,* 64 CONSUMER FIN. L.Q. REP. 284-5 (2010) ("In response to the most devastating downturn in this country's economy in decades, Congress enacted the Dodd-Frank

created by large banks, it was the smaller community banks that took more damage under the new Dodd-Frank regulations.[173] For example, under Dodd-Frank, banks must monitor and comply with several technical requirements, a feat that is virtually impossible for small community banks to overcome.[174] Another example is the capital provision, which impairs the ability of smaller community banks in using trust-preferred securities for capital allocations when lending.[175] Apart from these two examples of how Dodd-Frank hurts community banks, this Act has several other provisions that negatively and disproportionately affect community banks.[176] Recognizing the setbacks

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Wall Street Reform and Consumer Protection Act of 2010 . . . .The Dodd-Frank Act was designed with several goals in mind including: (1) thorough monitoring of the financial services marketplace; (2) early assessment of systemic risk to the stability of financial markets; (3) the ability to address risky activity that could result in disastrous financial consequences; and (4) strengthening the protections given to consumers. To try to prevent future calamitous financial events, the Dodd-Frank Act emphasizes the strict ongoing monitoring of systemic risks and the overall stability of financial markets. At the same time, it comprehensively reformed the regulation of many consumer creditors and their practices, and created a new federal agency instructed and empowered to write many new regulations. The Dodd-Frank Act also provides for redistribution of authority between existing regulatory agencies and the new agency.").

173. *See* Adam R. Lewis, *North Carolina Community Banks: Survival Strategies for Turbulent Times,* 17 N.C. BANKING INST. 333, 339 (2013) ("(1) [I]t was the large investment banks that caused the financial crisis . . . and it is unfair to impose new regulations on small community banks as a response to something that they had no hand in creating; and (2) the heavy regulatory burden imposed by [the] Dodd-Frank [Act] is disproportionately damaging to smaller banks.").

174. *See* Ryan T. O'Shields, *Historic Literature Presages Dodd-Frank Act As A Death Knell For Community Banks,* 67 CONSUMER FIN. L.Q. REP. 326, 327 (2013) ("Perhaps even more damaging is the burden (essentially impossible for small community banks to meet at any reasonable cost and effort) of monitoring and complying with the avalanche of technical CFPB requirements issued pursuant to the Dodd-Frank Act. The adverse impact of this burden is obviously disproportionate for community banks. For example, a Maryland bank with assets of $1.38 billion, First United Bank and Trust, conservatively estimated that it would incur $2.5 million in additional compliance costs per year as a result of the Dodd-Frank Act; this bank also estimated that nearly four out of every five of its current employees will be burdened with significant compliance obligations.").

175. *See id*. at 329 ("'Famine is in thy cheeks, Need and oppression starveth in thine eyes, Contempt and beggary hang upon thy back; The world is not thy friend nor the world's law: The world affords no law to make thee rich; Then be not poor, but break it, and take this.' Shakespeare thus makes the point that laws are capable of bankrupting the society which they are intended to govern, even as the laws benefit selected interests. In many ways, the Dodd-Frank Act amply illustrates this point; yet another example is the capital provision within the Dodd-Frank Act that importantly impairs, for smaller community banks, the use of trust-preferred securities (TRuPS) for capital allocations to fund their lending operations.").

176. *See* Marsh, *supra* note 145, at 217 ("As the GAO noted in a September 2012 report, although Dodd-Frank was primarily aimed at large, systemically important financial institutions, seven of the Act's sixteen titles are expected to have an effect on community

of Dodd-Frank felt by community banks, Congress enacted the Economic Growth, Regulatory Relief, and Consumer Protection Act ("Growth Act").[177] Under this Act, smaller community banks are given exemptions from several of the Dodd-Frank requirements.[178]

E. Why Community Banks?

Regardless of any challenges, community banks are essential to the American financial economy and with proper investment could solve several of the issues felt by the unbanked. First, community banks are resilient, and are entities that people can count on.[179] Second, community banks are more personal, and allow for individuals to build relationships with their banks.[180] These relationships foster trust and allow for banks to develop personalized financial services for each individual.[181] Finally, without community banks, the number of those who are unbanked or underbanked would "skyrocket."[182] Because of this, it is essential that

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banks. Four years after Congress passed Dodd-Frank, it remains unclear to what extent these provisions will impact community banks, due to the Act's heavy reliance on agency rulemaking.").

177. Economic Growth, Regulatory Relief, and Consumer Protection Act, Pub. L. No. 115-174, 132 Stat. 1296 (2018).

178. *See* David W. Perkins et al., *R45073, Economic Growth, Regulatory Relief, And Consumer Protection Act (S. 2155) And Selected Policy Issues*, CONG. RSCH.SERV. 14-20 (2018), https://fas.org/sgp/crs/misc/R45073.pdf [https://perma.cc/R8HU-Y9PQ] (reviewing eight provisions "aimed at providing regulatory relief to institutions under certain asset thresholds.").

179. *See* Marko Stojkovic, *The Dodd-Frank Solution To Predatory Lending,* 22 PUB. INT. L. REP. 106, 121 (2017) ("Community banks have recovered strongly from the financial crisis and remain healthy since Dodd-Frank's implementation. The growth rate of lending by community banks has risen back to pre-recession levels, profits have recovered, mid-sized and larger community banks have increased their market share in agricultural and mortgage lending, and the number of community bank failures has dropped every year since 2009. These trends suggest that the community-banking sector has been resilient in a challenging and competitive macroeconomic environment.").

180. *See* Slaney, *supra* note 158, at 840.

181. *See id*. ("When asked for a reason for being unbanked, over 30% of the unbanked households listed a distrust of banks as a reason. This is where the competitive advantage of community banks' personal relationships with consumers proves useful. Community banks are in a significantly better position to gain the trust of these households than larger banks.").

182. *See* Merric R. Kaufman, *Too Small To Succeed?: An Analysis Of The Minimal Undue Regulatory Burdens Facing Community Banks In The Post Dodd-Frank Regulatory Environment, And How To Further Minimize Their Burden*, 37 REV. BANKING & FIN. L. 445 457-58 (2017) ("Both the unbanked and the underbanked 'typically bear far higher costs than those fully served by banks and may find it much more challenging to fully participate in the economy.' It is clear that without community banks serving rural communities, small businesses, the agriculture industry, and other informationally opaque borrowers, the number of unbanked and underbanked citizens would skyrocket.").

more resources are put into community banks so they can better serve their communities, especially the unbanked and the underbanked.

VI. CONCLUSION

The financial industry has changed drastically over the past several decades, and now, more than ever before, it is both vital and possible to incorporate all Americans into the financial mainstream.[183] For 7.1 million unbanked Americans[184] and 43 million underbanked Americans,[185] the use of community banks could be the solution that allows for these underserved individuals to finally break through the barriers that keep them from enjoying financial freedom.

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183. *See* Adams, *supra* note 7 ("Moving individuals into the financial mainstream is not simply an aspirational goal, it's an attainable goal. Financial institutions can now reach new customers with formal financial services—in payments, savings, credit, and insurance—transforming individual lives and creating a ripple effect that drives improvements across the global economy.").

184. *See* How America Banks, *supra* note 2, at 1 ("An estimated 5.4 percent of U.S. households were "unbanked" in 2019 . . .. This proportion represents approximately 7.1 million U.S. households.").

185. *See* Beard, *supra* note 3 ("The FDIC estimates that the underbanked population includes about 43 million adults and 21 million households.").

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