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Banking the Poor: Policies to Bring Low-Income Americans Into the Financial Mainstream

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Abstract

Low-income households in the United States often lack access to bank accounts and face high costs for conducting basic financial transactions through check cashers and other alternative financial service providers. These families find it more difficult to save and plan financially for the future. Living paycheck to paycheck leaves them vulnerable to medical or job emergencies that may endanger their financial stability, and lack of longer-term savings undermines their ability to improve skills, purchase a home, or send their children to college. High-cost financial services and inadequate access to bank accounts may undermine widely-shared societal goals of reducing poverty, moving families from welfare to work, and rewarding work through incentives such as the Earned Income Tax Credit. This paper calls for the transformation of financial services for the poor. Better access to financial services is critical for low-income persons seeking to enter the economic mainstream.

Metropolitan Policy Program
The Brookings Institution

Banking the Poor:
Policies to Bring Low-Income Americans Into the Financial Mainstream

Michael S. Barr[1]

"High-cost financial services and inadequate access to bank accounts undermine widely-shared societal goals."

Low-income households in the United States often lack access to bank accounts and face high costs for conducting basic financial transactions through check cashers and other alternative financial service providers. These families find it more difficult to save and plan financially for the future. Living paycheck to paycheck leaves them vulnerable to medical or job emergencies that may endanger their financial stability, and lack of longer-term savings undermines their ability to improve skills, purchase a home, or send their children to college. High-cost financial services and inadequate access to bank accounts may undermine widely-shared societal goals of reducing poverty, moving families from welfare to work, and rewarding work through incentives such as the Earned Income Tax Credit. This paper calls for the transformation of financial services for the poor. Better access to financial services is critical for low-income persons seeking to enter the economic mainstream.

Introduction

Twenty-two percent of low-income American families—over 8.4 million families earning under $25,000 per year—do not have either a checking or savings account. Most of these "unbanked" families are low-income: 83 percent earn under $25,000 per year. A broader population of low- to middle-income families have bank accounts but still rely on high-cost non-bank providers to conduct much of their financial business—a population referred to here as the "underbanked." This brief first explains the consequences of inadequate access to banking services. Next, it explores key barriers to banking the poor as well as nascent efforts to overcome these barriers. Third, it analyzes changes in the electronic payment systems that hold out promise for banking the poor at lower cost and risk than in a checking account paradigm. The brief concludes by proposing fundamental reforms in financial services for the poor.

Financial Transactions Among the Unbanked and Underbanked

The Alternative Financial Sector

In lieu of bank-based transaction, saving, and credit products, the unbanked and other low-income households often rely on the more costly alternative financial sector (AFS). AFS providers offer a wide range of services, including short-term loans, check cashing, bill pay-

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ment, tax preparation and rent-to-own products, most often in low-income urban neighborhoods. These AFS providers are currently the only means available for many low-income persons to access basic financial services. Follows are brief descriptions of three important AFS industries.

1. Check Cashers

For many years, check cashers have been used by low-income individuals to cash checks, pay bills and wire funds. John Caskey referred to these customers as employing the "cash and carry" method of financial management.[2] Upon receiving a paycheck, they cash the check and pay their bills immediately. While check cashers offer essential services, the fees involved in converting paper checks into cash are high, relative to income, and relative to analogous transactions middle and upper-income families use—depositing a check into a bank account, or electronic direct deposit.

Check cashing fees vary widely across the country and between types of checks, but typically range from 1.5 percent to 3.5 percent of face value. The industry reports that it processes 180 million checks totaling $55 billion annually, generating $1.5 billion in fees.[3] Almost all of these checks are low-risk payroll (80 percent) or government benefit (16 percent) checks.[4] While even payroll checks are not without some credit and fraud risk, average losses from "bad" checks at check cashing firms are low. For example, Ace Cash Express (ACE) reports that 0.5 percent of the face value of checks bounce, but net losses after collection are 0.2 percent.[5] By comparison, 0.64 percent of the face value of interbank checks were returned in 2000.[6]

2. Payday Lending

Payday lenders provide short-term (usually two-week) consumer loans to low- and moderate-income working people who have bank accounts but lack credit cards, have poor credit history, or are tapped out on credit limits. Payday loans carry high implicit annual interest rates, with an average APR of over 470 percent. At an average loan size of about $300, the average fee just for a single, two-week loan is about $54.[7]

Many borrowers, moreover, take out payday loans repeatedly throughout the year, often because they cannot repay their earlier payday loan by their next payday. The typical payday loan customer takes out anywhere from seven to eleven loans per year, with added fees for each loan renewal or "rollover". These borrowers can get caught in a "debt trap," with payday lending fees eating up a significant portion of their income.

Payday lenders annually make over 65 million loans totaling over $10 billion to 8-10 million households, earning revenue of over $2 billion in the process.

3. Tax Preparers and Refund Anticipation Lenders

The federal earned income tax credit (EITC) is a wage subsidy provided to families who earn under about $35,000. The average family with children receiving the EITC earned a credit of about $2,000 in 2002. Unfortunately, low-income families, particularly those with low levels of education, or who do not speak English as their first language, may have difficulty understanding the tax filing process. In addition, households face conflicting and complex rules under different tax provisions for determining household status and dependents. Moreover, low-income families may worry about increased IRS audits of EITC claimants and IRS delays in issuing EITC refunds. As a result, about two-thirds of EITC claimants use commercial tax preparation firms. In addition to seeking help with return preparation and filing, many EITC recipients also use refund anticipation loans (RALs) and related products facilitated by tax preparers. The RAL is repaid when the IRS issues the borrower's expected refund.

Tax preparation services and refund loans can consume a nontrivial portion of an EITC recipient's refund. The purchase of a RAL for an anticipated $1,500 refund costs roughly $90. For EITC recipients filing electronically and choosing to take out a RAL, total fees would consume an average of 13 percent of the EITC or nearly 8 percent of the total refund from the EITC and other credits—totaling $1.75 billion in fees for low-income households. In addition, for the estimated 22 percent of EITC recipients who lack a bank account, or four million

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households, the additional fee to cash a $1,500 RAL check issued by the bank partner of the tax preparer would be at least $30 on average at a check casher, despite the low risk of the government checks.[8]

There are three main reasons why low-income households use RALs: First, banked customers receive cash proceeds from their loans 8 to 10 days sooner than with direct deposit. Second, RALs permit taxpayers without bank accounts to obtain their refunds without waiting approximately four to six weeks for a paper check from the IRS. Taxpayers often use RALs to pay off late or mounting bills faster. Third, taxpayers who do not have the funds to pay for tax preparation services up front, find RALs and similar products necessary simply to pay preparers to file for their refund. Tax preparation fees are deducted from the proceeds of the RAL. Thus, the desire to have returns professionally prepared itself drives some decisions to take out RALs independent of a desire to obtain a quicker refund.

The Costs of Being Unbanked

The high costs of alternative financial services raise several concerns. First, the costs of these basic financial transactions reduce take-home pay. A worker earning $12,000 a year would pay approximately $250 annually just to cash payroll checks at a check-cashing outlet, in addition to fees for money orders, wire transfers, bill payments, and other common transactions.[9] High-cost financial services also reduce the effectiveness of federal income transfer programs such as the EITC and may undermine public initiatives to move families from welfare to work.

Given the high cost of converting income from checks into cash in the alternative financial sector, promoting bank account ownership for the poor is probably more efficient than coming up with a program to transfer the income necessary to compensate unbanked individuals for the cost of converting their payments to cash. The value of a government check is reduced by the cost of converting it to cash. In addition, one unit of in-kind assistance, in the form of sufficient governmental incentives to induce a bank to offer a bank account to a low-income person, would provide the benefit of liquidity to all subsequent income transfers. Moreover, the government would save money by transferring EITC funds electronically, rather than by paper check.

Second, without a bank account, low-income households face key barriers to increased saving. Promoting low-income household savings is critical to lowering reliance on high-cost, short-term credit, lowering risk of financial dislocation resulting from job loss or injury, and improving prospects for longer-term asset building through homeownership, skills development, and education.

Third, without a bank account, it is more difficult and more costly to establish credit or qualify for a loan. A bank account is a significant factor—more so, in fact, than household net worth, income, or education level—in predicting whether an individual also holds mortgage loans, automobile loans, and certificates of deposit.[10]

Fourth, low-income families who cash their paycheck may face high risk of robbery or theft. By transitioning into bank accounts where they can store a portion of their earnings, withdraw funds in smaller amounts, pay for goods or services directly using debit, and withdraw funds outside of the concentrated time periods during which benefit checks and paychecks are commonly cashed, these families can decrease their exposure to risk of crime.

Fifth, inefficiencies in the payments system, for example, from over- reliance on paper checks, impose costs on the national economy. Increasing the efficiency in the payments system for the poor could have modest positive effects on the economy as a whole. Because of positive network externalities, funds spent converting the poor to electronic payment might speed conversion to electronic payments more generally.

"Without a bank account, low-income households face key barriers to increased saving."

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The Banking Sector

A. Barriers to Banking the Poor

While the banking system works extraordinarily well for most Americans, many low- and moderate-income individuals face five key barriers to account ownership.

First, regular checking accounts may not make economic sense for many low-income families. Consumers who cannot meet account balance minimums for an account at a bank often pay high monthly fees. In addition, nearly all banks levy high charges—averaging over $20 per item—for bounced checks or overdrafts that low-income families with little or no savings face a high risk of paying and can ill-afford. Moreover, banks hold checks that are not "on us" for a matter of days before depositing funds, unlike check cashing outlets; for low-income customers, the few days wait may not be practical. The structure of these accounts is a key driver in keeping the unbanked out of the banking system.

Banks doubt that accounts tailored to low-income individuals will be profitable. While a financial institution's monthly costs for administering the account can likely be covered by low monthly fees, at this early stage in the evolution of research and development for low-income products, banks' up front costs are likely to exceed what most unbanked households are willing to pay. Financial institutions may need incentives to pursue research and development on accounts for low-income customers, particularly for accounts based on electronic payments technology.

A second barrier comes from difficulties that many unbanked persons may have in qualifying for conventional bank accounts because of past problems with the banking system. The CheckSystem, a private clearinghouse that most banks use to decide whether to open accounts for potential customers, records that nearly 7 million individuals have had their accounts closed for prior problems, such as writing checks with insufficient funds or failing to pay overdraft fees. While some individuals undoubtedly pose undue risk for account ownership, many potential customers could responsibly use electronic, no-overdraft bank accounts.

Third, while many urban communities contain adequate numbers of banks, in some low-income neighborhoods, banks, thrifts, and credit unions are not as readily accessible to potential customers as such institutions are in higher-income areas.[11]

Fourth, for some low-income households, lack of financial education with respect to account ownership, budgeting, saving, and credit management is a significant barrier to personal financial stability. The need for financial education may be particularly acute among immigrants and other groups unfamiliar with American banking practices. The benefits of financial education are not likely to be fully captured by any one financial institution because an educated consumer will shop for financial services among competing providers. Thus, education at any scale will likely be under-funded without public or philanthropic subsidy.

Lastly, immigrant communities may face difficulties regarding proper documentation for opening an account, either because they lack such documentation, or they fear that depositories will police immigration laws. While consular identification cards may now be used by banks, at their discretion, for checking accounts, an IRS-issued individual taxpayer identification number or a social security card is needed for interest-bearing accounts. Moreover, the IRS will no longer guarantee that taxpayer information will not be shared with the Immigration and Naturalization Service.

Governmental Policy and Private Sector Innovation

Despite these barriers, the 1990s witnessed a period of strong economic growth and technological innovation that improved the prospects for banking the poor. During the latter part of the 1990s, governmental policy began to focus on expanding access to financial services for low-income persons, focused initially on recipients of federal benefits and later on low-income persons more generally. In addition, financial institutions began to experiment more recently with products designed to help Hispanic and other consumers to send remittances to family members in other countries in competition with wire transfer services. Community development financial institutions have also experimented with new products to reach the unbanked.

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1. Electronic Transfer Accounts

Under the Debt Collection Improvement Act of 1996, the United States Treasury launched an effort, known as Electronic Funds Transfer (EFT) '99, to increase direct deposit of federal benefits and wages. For unbanked federal benefit recipients, Treasury designed an Electronic Transfer Account (ETA), a low-cost, electronically based bank account. The ETA carries a maximum fee of $3.00 per month and has no minimum balance. ETAs can be used for direct deposit of Social Security and certain other federal benefits. Under the program, Treasury provides financial institutions offering ETAs with a one-time payment of $12.60 per account to offset the costs of opening the accounts. Despite the relatively low reimbursement amount, as of May 2004, nearly 500 banks, thrifts, and credit unions were offering ETAs at almost 18,000 locations nationwide with a total of 98,000 accounts opened.[12]

The ETA project revealed that banks are likely to need subsidies to cover the cost of initiating a program but could profitably offer electronically based accounts on a monthly recurring basis. Treasury analysis suggests that an all-electronic ETA account with a $3.00 monthly fee would produce pre-tax profit of $0.93 per month. Average account set up costs of $12.60 would thus take about one year to recover. In addition, Treasury estimated that ETA products could cost between $64,000 and $148,000 in research and product development for each financial institution. Even if a financial institution were to open 10,000 ETAs, product development would still cost between $6 and $15 per account. Moreover, marketing and consumer education expenses are likely also to be high, about $9-11 per account, as are the costs of training bank personnel about the product.

2. Electronic Benefits Transfer

The 1996 Welfare Reform law mandated that states convert from paying federal welfare benefits in the Temporary Assistance for Needy Families (TANF) program by check to making such payments electronically. State electronic benefit transfer (EBT) programs now cover not only welfare payments, but a host of other state programs as well, such as food stamps and state cash benefits.[13]

Unfortunately, the way EBT has been set up in most states has minimized the extent to which electronic transfer could be utilized as an entry point to banking. Most states do not seek to establish bank accounts for benefit recipients, but instead use a contractor to provide debit cards to recipients to access funds held by the state government in a pooled account. Doing this allows states to have the benefit of the "float" on benefit funds before recipients withdraw the funds. In addition, most states hope to minimize administrative costs by having a single prime contractor deliver EBT services rather than seeking out all depositories in the state to offer EBT. States benefit in the short term, but this card-based approach has left most benefit recipients without access to a bank account.

3. First Accounts

At the end of the Clinton Administration, Treasury began a small pilot initiative, called First Accounts, to expand access to main stream financial services. The First Accounts initiative had four main components. First, Treasury would help to offset the costs financial institutions incurred in offering low-cost, electronic banking accounts to low-income individuals. Second, Treasury would help to defray the costs of expanding access to ATMs, POS, Internet, or other distribution points in low-income neighborhoods. Third, Treasury would support financial education for low-income households. Fourth, Treasury would fund research into the financial services needs of low-income individuals and development of financial products designed to meet these needs.

In 2001, the new Administration awarded $8.35 million to fifteen projects seeking to bring over 35,000 individuals into the banking system. Strategies, cost structures, other funding sources, the extent to which capital outlays were included, and the intensiveness of financial education offered varied significantly across chosen programs. Given the small amount of funding available and the large number of organizations funded, Treasury will have difficulty determining from this pilot phase whether a given strategy is sustainable at scale. A more

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focused effort in a handful of metropolitan areas might have led to adoption of new technologies by major firms, and more useful data. Moreover, the Bush administration has not sought any new funds for First Accounts and this year asked Congress to rescind some appropriated funds. Yet only a sustained commitment would provide financial institutions with sufficient incentive to make the necessary investments in research, technology, training, marketing, and education to serve low-income households.

4. Private Sector Innovation in Banking Products

Partly in response to increased information about the unbanked and incentives created by EFT '99, EBT, and First Accounts, a number of banks, thrifts, and credit unions have begun to experiment with products designed to serve the needs of low-income individuals. These efforts, though small in scale, suggest that the policies advocated here could plausibly be undertaken in the real world.

Banco Popular has made great strides in reaching the 50 percent of Puerto Rican residents who are unbanked. Banco Popular's *Acceso Popular* account has a $1 monthly fee, no minimum balance, free ATM transactions, and free bill payment. *Acceso Popular* has a savings "pocket" into which small sums (initially, $5 per month) are automatically transferred from the *Acceso Popular* transaction account. Banco Popular opened nearly 60,000 such accounts in 2001. Half of the account holders activated the savings "pocket" in their accounts.

ShoreBank worked with a local voluntary income tax assistance (VITA) organization to provide free tax preparation services to low-income filers in ShoreBank's branches. EITC recipients filing through VITA offices do not face high tax preparation and filing fees, nor do they have an incentive to take out expensive refund anticipation loans to pay for tax preparation services. Moreover, ShoreBank offered low-income households the opportunity to open a bank account in order to save their refunds.

Fleet has also launched a debit product to move unbanked employees from payroll checks to bank accounts. The accounts carry no minimum balances, no monthly fees, permit no check writing and allow free ATM withdrawal from Fleet's ATMs, as well as free POS withdrawal. Some employers are using payroll cards instead of checks to cut down on costs.

5. Remittances and the Hispanic Market

Remittances from the U.S. to Latin America and the Caribbean totaled $32 billion in 2002. Yet more than 40 percent of Hispanic immigrants lack a bank account, and most Latino immigrants send remittances back to their country of origin using wire transfer services, rather than banks.[14] The G-8 nations in their June 2004 summit meeting called for a greater focus on remittances as a development tool, and highlighted the need to reduce the costs of sending remittances.

New ATM-based remittance products from Citibank, Wells Fargo, Bank of America, and others are beginning to bring more Hispanics into the banking system and are lowering the cost of remittances. Enhanced competition from the banking sector has already helped to cut the cost of sending a remittance to Mexico in half. Still, bank penetration of the remittance market stands below 5 percent.[15] An impediment to greater competition in this market may be a lack of sufficient ATM and point of sale (POS) infrastructure to compete with Western Union's strong penetration in recipient countries, although networks appear to be widely available in many parts of Mexico. More marketing and consumer education in the United States may also be essential to inducing consumers to switch from wire transfer to bank products.

Progress on remittances is important for four reasons: First, given the high costs of sending remittances, ATM-based products can help to drive down transaction costs for millions of immigrants. Second, bank remittance products have the potential to bring more immigrants in the U.S. into the banking system. Given the costs of setting up each remittance transaction as a stand-alone proposition, bank costs could be reduced by establishing a bank account for these customers. In turn, account ownership would let immigrants convert income into cash, save, and pay bills—not simply send remittances. Third, strategies to reduce the costs of remittances have the potential to increase the flow of funds for development into Latin America. Lastly, new

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electronically based approaches developed for remittances may be adapted in ways that will help to open up the banking system to the unbanked more generally.

Payments Systems and Distribution Networks

Payment and distribution systems significantly affect the cost and risk of providing financial services to low-income households. This part explores changes in the use of checks and debit cards, the expansion of ATM networks, and the potential for direct deposit and direct payment.

Despite the potential of online debit, the widespread availability of ATMs, the increased penetration of direct deposit, and the emergence of direct bill payment, the expansion of these technologies to low-income communities may be slower than is socially optimal. At least in part, that is because payments systems are characterized by positive network externalities. Private suppliers of network services often lack sufficient incentives to invest in socially optimal network services because they cannot capture the full public value of the network. Because public benefits to all users of the payment system exceed private ones to each participant the socially optimal mode of payment may not be adopted or may be adopted slowly.

Checks and Debit Cards

Because payments systems produce network externalities, they often rely on a sponsoring entity to subsidize entry and set uniform rules and prices for network participants. The Federal Reserve Board sponsored and subsidized the check clearance process, beginning at the turn of the last century, helping to establish a nationwide means for transferring funds and ensuring the dominance for decades of check payments. Although they remain the dominant form of retail payment, checks declined from 85 percent of non-cash payments in 1979 to 59 percent in 2001.[16]

Checks are costly to process, pose the risk of being overdrafted at high cost to consumers and financial institutions, and cause delay in the availability of funds. While checks continue to dominate, online debit cards—because they are low cost and low risk—hold out the most promise for expanding bank services to low-income households. Bank accounts with online debit access, but no checking, would provide a low-cost, low-risk bank account for low-income households. Yet online debit cards have themselves not been adopted as rapidly as would be socially optimal because of the dominance of checks and off-line debit cards.

Online debit cards can be used at an ATM, or at retail merchants with point of sale (POS) personal identification number (PIN) pads for purchases or to obtain cash back. Sales made with online debit generally cannot result in an overdraft, as funds transfer instantly through EFT networks. Most banks do not charge their bank customers for using an online debit card at POS. Moreover, many retailers permit customers to get cash back using their online debit cards; these transactions are surcharge-free, cost the merchant no more than a standard online debit transaction, and reduce merchant cash-handling costs. Because the transfer into their account is instantaneous, merchants lose no interest income from float and, unlike a credit card, the customer cannot revoke the transaction.

By contrast, offline debit cards can be used for purchases where Visa or MasterCard are accepted by signing a receipt, do not allow cash back, are routed through Visa and MasterCard networks, and settle in one to three days. Offline debit presents a risk that the consumer will overdraft and requires the merchant to float the cost of sale for days. Offline debit fees paid by the merchant to the card issuer are significantly higher than for online debit. In sum, offline debit is higher cost and higher risk than its online counterpart.

Despite the advantages of online debit, offline debit makes up two-thirds of debit transaction volume in the United States.[17] Moreover, less than one-third of merchants have online debit capacity.[18] Offline debit is dominant in the United States, even though other advanced countries generally utilize the more efficient online debit.

One important reason why offline debit dominates in the United States is that online debit

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has had to compete with Visa and Mastercard's entrenched credit card infrastructure, which they use to offer offline debit. As debit grew in importance in the 1990's, Visa and MasterCard implemented "honor-all-cards" rules that required merchants who accepted Visa and MasterCard credit cards also to accept their debit cards. In addition, Visa and MasterCard imposed a "one price" policy that prohibited merchants from charging a differential fee to customers for using the more costly, offline debit. Lastly, the firms made their debit and credit cards physically indistinguishable. Because the higher interchange fees for offline debit could not be passed on to customers, they were indifferent to the form of payment, and the use of offline debit increased at an inefficient rate.[19]

The honor-all-cards rules and the prohibition of surcharging offline debit usage can largely be understood as an effort by Visa and MasterCard to "sponsor" offline debit to extend their market power. The prohibition on surcharges prevented retailers from forcing consumers to internalize the cost of their offline debit usage, thereby dampening consumer demand for POS terminals. The honor-all-cards rules, which effectively tied offline debit acceptance to credit card acceptance, effectively blocked retailers, whose customers demanded the availability of credit card usage, from refusing to accept offline debit. By maintaining a large base of retailers who accept the offline payment format, the incentive for a consumer to demand online debit was maintained at a low level. Visa and MasterCard essentially sought to postpone "tipping" to the more efficient online standard for as long as possible.

Under network externality theory, setting network fees within a network for the same product is generally thought of as important to establishing a network. But letting one network set prices in another network can be anti-competitive and lead to sub-optimal outcomes.

The tension came to a head with the antitrust suit led by Wal-Mart against Visa and MasterCard. The parties ultimately settled on the eve of trial. Visa and Mastercard agreed to eliminate the honor-all-card rules and to pay significant damages.[20]

The settlement has the potential to benefit the poor. The separation of credit and offline debit is likely to result in lower interchange fees for offline debit as Visa and MasterCard seek to preserve their market share, and faster growth of its online counterpart as merchants seek cost savings. This, in turn, would lower the cost and risk of providing bank accounts to low-income households using online debit card access.

"Online debit cards—because they are low cost and low risk—hold out the most promise for expanding bank services to low-income households."

ATMs

Transactions at ATMs are significantly less expensive than transactions with tellers, and the costs of ATMs are significantly lower than the costs of a bank branch. ATMs thus offer an opportunity to deliver financial services to the poor at lower cost than "bricks and mortar" branches. With the advent of surcharging, rapid expansion of ATM deployment in the late 1990s has dramatically increased the availability of ATMs to 324,000 nationwide. That growth is unlikely to continue as the market matures, but widespread ATM networks present possible distribution channels for expanded access to banking services for the poor. Given the economics of ATM placement and operation, which require high volumes of fee-driven transactions, a strategy for expanding access to banking for the poor using ATMs or POS will likely require governmental incentives to be viable in some low-income areas with low penetration of these technologies. Moreover, further expansion of ATMs is contingent on surcharge income, but surcharging significantly increases the cost of using ATMs for low-income persons.[21]

Bank accounts and ATMs are complementary products that exhibit indirect network externalities: Increasing the penetration of bank accounts will increase the number of ATM users, giving banks a greater incentive to deploy more ATMs. Although ATM dispersal is quite broad now, and network effects from additional users are likely to be low, additional account holders from low-income communities with low ATM penetration would increase incentives to place ATMs in those locations. Moreover, where there is intense competition among ATM deployers, surcharging is more difficult to maintain because non-customers are more likely to be relatively close to an ATM owned by their own bank. Thus, surcharging is less prevalent in areas with higher ATM densities. Pointedly, ATM densities are lower and surcharging more prevalent in areas with higher concentrations of ethnic or racial minorities, and of elderly persons.[22]

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To avoid costly surcharging, low-income persons would need to establish bank accounts with banks that have high penetration of ATMs in communities near where they live or work. The need to use a bank with a strong local ATM presence would complicate efforts to bank the unbanked on a national scale. More importantly, the goal of avoiding surcharging conflicts with the goal of expanding deployment. ATMs require significant surcharge income to support themselves. The additional security costs associated with deployment of ATMs in high-crime areas would also complicate efforts to serve the poor.

In addition to the basic functions of income deposit and withdrawal, ATMs could be used to provide a broader range of services, such as check cashing, issuing money orders, wiring funds, stamp vending, automatic bill payment, and replenishing prepaid cell phones. These advanced functions could help position ATMs as competitors to both banks and check cashers in providing financial services to low- and moderate-income customers. Now that Congress has enacted the Check Clearing for Twenty First Century Act, banks could deploy ATMs with check truncation technology permitting them to capture check information electronically. These ATMs could process checks without the need for daily physical transfers of checks, which would dramatically reduce the cost of providing deposit-taking or check cashing capacity at off-premises machines.

In sum, the rapid growth in deployment of ATMs presents a real opportunity for the delivery of financial services to low- and moderate-income consumers. ATMs are far less expensive than bank branches and teller time, although the tension between surcharging and reducing costs for the poor may complicate efforts to expand access to bank services through ATMs. ATMs could potentially be used to make deposits of income, convert income to cash, and pay bills electronically or through disbursement of money orders. These three functions are critical financial services for the poor. Yet while advanced functions could one day prove useful to low-income ATM users, current practice suggests that day is a long way off.

Direct Deposit and Bill Payment

Advances in the automated clearing house (ACH) system can make it easier and cheaper to offer banking products, such as direct deposit and bill payment, which are carried on the ACH network. Direct deposit and bill payment could reduce reliance on more expensive comparable transactions conducted by low- and moderate-income households, such as cashing payroll checks and buying money orders. ACH already carries nearly $6 trillion in retail electronic payments. Expanding ACH and lowering its price would make electronically based bank accounts more attractive to and useful for low- and moderate-income households.

In contrast to issuing and cashing checks, direct deposit is lower cost to employers, employees, and banks. Direct deposit permits employees to get immediate access to their funds. Low-income persons who have access to direct deposit need not wait for a check to clear or visit a check casher. Direct deposit involves no risk of bounced, lost, or stolen checks. Banks that currently issue payroll checks for employers and switch to direct deposit services may see reduced lines at tellers on paydays as employees no longer wait to cash their employer's check "on us" at the issuing bank. Payroll cards are designed for just that purpose, and are an important step toward banking. Moreover, direct deposit can facilitate saving.

Direct deposit is already used by more than 100 million individuals in the U.S. and is offered by more than 80 percent of firms with more than 100 employees. Yet many low-income workers do not have access to direct deposit, in part because many of them do not have bank accounts. Low-income persons are more likely to work in smaller firms, which tend not to offer direct deposit, and to have sporadic, part-time, or multiple employment, which complicate direct deposit. The challenge is to bring direct deposit to more workplaces employing low-income workers and to more low-wage workers—including part-time or temporary workers—wherever they work.

Similarly, electronic bill payment could be more widely used by low-income consumers—at lower cost and risk than checks or money orders. Direct bill payment eliminates the risk of late payment fees and interest charges, charges for checks, and postage expense. Direct payment is advantageous for the billing company as well, as it reduces the risk of non-payment and late

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payment. Moreover, consumers using direct payments tend to maintain higher balances in their bank accounts and save more than consumers who do not use it.[23] Direct bill payment may also increase one's ability to establish a credit history because, unlike payment of bills with cash or money orders, the bank processing a direct payment regularly captures information about it.

For most banked middle- and upper-income customers, however, checks remain cheap and convenient, and bill payment may appear uncertain, effectively delaying deployment of the necessary infrastructure to reduce costs and increase availability of electronic payments. Moreover, businesses must overcome high initial costs and customer inertia. Furthermore, businesses may be reluctant to expand direct bill payment for low-income customers since such customers are more likely not to have a bank account through which to pay bills, and low-income customers are less likely to open a bank account if they cannot use the account to pay their bills directly. Thus, the indirect network externality may hinder expansion of direct bill payment. In addition, low-income persons may have a heightened need to control the timing of their bill payment—delaying payment on the phone bill to pay the rent, for example—given their low levels of liquidity. Thus, direct bill payment may make sense for only some low-income persons, or for only critical monthly bills, with discretion retained as to the timing in paying others.

More widespread use of direct deposit and electronic bill payment would reduce the need for low-income people to frequent high-cost alternative financial service providers to cash checks or pay bills, and would lower payment systems costs more broadly. Given these positive externalities from adoption of ACH, ACH may be priced higher than is socially optimal by the Federal Reserve Board, which handles 80% of ACH transactions. Although ACH prices have been declining, ACH services are still priced too high relative to check services.[24]

"Congress should enact a 'First Accounts Tax Credit' to financial institutions to develop and deploy electronically-based banking products for low-income households."

Transforming Financial Services for the Poor

This brief proposes a cohesive strategy to increase bank account ownership among low- and moderate-income households: First, and most importantly, Congress should enact a "First Accounts Tax Credit" to financial institutions to develop and deploy electronically-based banking products for low-income households. Second, the federal banking regulators should use the Community Reinvestment Act to shed light on bank and thrift performance in meeting the financial services needs of low-income households. Third, states should shift their EBT programs to bring TANF recipients into the banking system. Fourth, Congress and Treasury should support financial education to help to change the financial services and savings behavior of low- and moderate-income households as part of an initiative to provide new financial services for the unbanked. Lastly, federal and state governments should take a series of smaller steps to help reform the AFS sector.

A New First Accounts Tax Credit

To transform the market for low-income financial services, I propose a tax incentive for financial institutions to offer low-cost electronic accounts for low-income persons.[25] Financial institutions could receive a tax credit equal to a fixed amount per account opened. Roughly speaking, the amount of the credit would be calculated to cover the average administrative cost to an average bank of offering the account, taking into consideration research and product development, account opening and closing costs, marketing and financial education, and the training of bank personnel. Using Treasury's analysis conducted for ETAs would suggest that the tax credit be set at an amount between $20 and $50 per account opened.

Banks, thrifts, and credit unions could, under the First Accounts Tax Credit, experiment with a wide variety of techniques to expand access to the unbanked and to provide an increasing range of services to the underbanked.[26] Banks could obviate concerns about individuals in the Chex system, or those with credit problems, by working with the private clearinghouses to better distinguish among types of past problems, by offering accounts contingent on completion of financial counseling, and by offering electronically based accounts that pose little risk of overdraft. Banks may experiment with accounts with savings features, including separate savings

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"buckets" within accounts. Similarly, banks could provide low-income individuals with a convenient and low-cost means of paying bills and wiring funds. Automated money orders, online bill payment, debit-card-based foreign country remittance, and other low-cost payment methods can help to reduce the cost of transactional services to the poor. Treasury estimated that adding a savings feature to an electronic account would cost approximately $0.06 per month. Adding ACH bill payment would cost $0.65 per month. Accepting direct deposits would decrease net costs by $0.11 per month because of added float income.[27]

In addition, the First Accounts Tax Credit has the potential to help spur "leapfrogging" in technology for low-income financial services. To offer a few examples that could be subjected to the test of market feasibility: ATM networks and financial institutions could develop shared technological platforms to serve low-income households, reducing research and development costs for each firm, or even create "surcharge free alliances" among debit networks in order to serve low-income customers. As access to the Internet expands in low-income communities through efforts to bridge the "digital divide," e-finance can increasingly be made available to the poor at Internet or other kiosks. Companies that are exploring ways to expand the use of cellular phones to transact financial services for high-income clientele could be encouraged to focus attention on expanding bank account access through pre-paid cellular phones commonly used by low-income persons. Smart cards could be used by unbanked customers to conduct an increasing array of bank-like transactions at relatively low cost.

A First Accounts Tax Credit could also help to spur employer or union strategies to expand access to banking services. Banks using the tax credit could market new, low-cost banking services to employers for the firm's employees. Employer-driven strategies to bank the unbanked have three potential strengths: large-scale, consistent access to workers, a structure for providing regular savings through direct deposit, and the ability to offer financial education. Large employers can reap significant benefits from moving more of their workers to direct deposit. Direct deposit would drive down their payroll processing costs, increase the effective take-home pay of their workers, and reduce problems from theft or fraud associated with checks.

Payroll cards might serve as useful starting points towards an increasing range of financial services—including bill payment, savings, and bank accounts—for low-income persons. Employers are increasingly moving towards the provision of electronically based payroll services. In one model, employees are given a smart card. Banked employees can direct deposit funds from their smart cards to their personal accounts; unbanked employees can simply withdraw funds through an ATM or POS. Employers could work with banks utilizing a First Accounts tax credit to make available all-electronic bank accounts through which they could use their payroll cards.

Critics of this proposal might argue, why another tax credit? Substantively, the tax credit proposal could be criticized in two ways: as a supply-side, rather than a demand-side subsidy, and as an in-kind mechanism, rather than a direct cash transfer.

The relative efficiencies of demand compared with supply programs depend on the elasticity of supply in the sector. The supply of low-cost electronic bank accounts is likely to be characterized by a single fixed cost for start-up and low marginal costs for additional accounts. Thus, after the provision of the tax credit, supply is likely to be highly elastic. If supply is perfectly elastic, there is no welfare difference in a supply-side subsidy or a demand voucher.

Moreover, the danger is quite small that subsidies for low-cost banking accounts would provide a windfall to banks that would offer such accounts without the tax credit. It is difficult to know the extent of this problem without more empirical evidence. There are some small-scale private sector initiatives in serving low-income customers, partly motivated by market forces and partly by governmental and philanthropic programs. Given that network externalities may slow the adoption of technologies that would better serve the poor, the tax credits are less likely to result in windfalls rather than to permit market participants to internalize network externalities.

Importantly, this supply-side subsidy is more likely to induce a change in the nature of financial services offered to low-income consumers at lower cost than demand-side subsidies. If low-income consumers were given a voucher for financial services, they would need to invest in

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costly information-gathering to be able to find an adequate banking product for their needs, and financial services are notoriously difficult to understand. Since the voucher would pay for existing services, financial products might not evolve to meet the needs of other low-income persons. Without the development of new low-cost electronic banking accounts, the vouchers' worth would be limited to its face value. Moreover, the administrative costs of delivering the financial services voucher to millions of low-income households are likely to be much higher than the administrative costs of tracking account opening by a manageable number of financial institutions who already have established relationships for reporting to the IRS.

Furthermore, the fact that the subsidy is administered through the tax code, rather than as a grant program, should not be objectionable. Tax expenditures are not necessarily more or less efficient than grant programs. The fixed cost of tax administration by the IRS and of tax compliance by corporations is already in place and is unlikely to be affected in any significant way by the additional tax expenditure. I am proposing that the Treasury Department's Financial Management Service (FMS) compute the amount of the tax reduction owed to each financial institution and administer the program because the FMS already has developed a system for tracking ETA accounts opened by banks for federal benefit recipients under EFT '99. This aspect of the tax expenditure, which replicates core functions of a grant program, is unlikely to be significantly different were the financial institutions to be given a grant instead of a tax credit.

"Enacting a tax credit is more likely to be politically feasible in today's environment, than cash assistance."

The alternative to an in-kind program is a direct cash transfer. There are three main critiques of in-kind transfers compared with cash transfers. First, generally speaking, in-kind subsidies are thought of as less efficient than cash subsidies because the recipient may only use the in-kind subsidy for specified purposes. To the extent that the subsidy changes behavior, the subsidy does not increase the recipient's welfare to the same degree as if she had received a cash equivalent to pursue her own preferences. Second, in-kind plans are paternalistic in telling the heterogeneous recipients that they should derive utility from the particular service. Third, in-kind programs are often more administratively costly than direct transfers.

Yet the benefits of this in-kind program are likely to be larger than an equivalent cash transfer. A tax credit is likely to generate "consumption externalities" that benefit society broadly because the fixed investment leads to a new form of low-cost electronic banking accounts. The tax credit would establish permanent access to low-cost banking, which would reduce consumers' costs for cashing checks, facilitate saving, and provide a means to pay bills.

Pointedly, the argument in favor of income transfers as compared with in-kind subsidies breaks down when one analyzes how "income" gets transferred. The government does not transfer income as cash. Income can be transferred as a direct deposit to a bank account, to a debit or stored value card, or as a check. A check not only costs the government more than an electronic transfer, but also transfers less value to low-income persons than a direct deposit. Once established, these accounts permit receipt of other federal or state transfers and private earnings.

In addition, a cash transfer would be less efficient than this in-kind program because the tax credit can screen and target the optimal potential beneficiaries by providing what economists call an "inferior good," a good to which a higher-income individual would not immediately be drawn. In the current market, such a goal would be achieved by offering a product that does not permit check writing. The divergence in goods provided will differentiate the target audience, improving the efficiency of the program.

In sum, the tax credit would be more efficient than a grant program, a demand-side voucher, or a cash transfer. In addition, enacting a tax credit is more likely to be politically feasible in today's environment, than cash assistance. Political feasibility, like other forms of feasibility, ought to be considered in weighing policy options.

The Community Reinvestment Act

The Community Reinvestment Act (CRA) could also help to focus banks and thrifts on opportunities to provide bank accounts to low-income persons. Under CRA, federal regulators evaluate bank and thrift performance in serving their communities. As Michael Stegman has

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shown, the CRA service test, under which the regulators evaluate bank and thrift performance in meeting transaction, savings, and other community needs, has received perfunctory attention from examiners, with public evaluations containing little or no analysis of whether low-income consumers actually use bank or thrift products or services.[28] Examinations under the service test could be vastly improved by taking three steps.

First, examiners should evaluate the extent to which institutions offer low-cost accounts designed to meet the account needs of low-income individuals. Examiners should attempt to make a qualitative judgment about the range of product offerings of the institutions, based on low-income consumer needs, and taking into account the costs to institutions of providing accounts and the requirements of sound banking practice.

Second, banks and thrifts should be evaluated based on the number of low-income account holders at their institution. To reduce the data burden, the banking agencies might consider permitting institutions to use certain assumptions about their customers' incomes based on the accounts offered, whether the account was opened at a branch in a low-income area, or held by a customer residing in a low-income census tract.

Third, the agencies should give negative consideration to activities that undermine the provision of quality services to the poor. For example, participation by banks or thrifts in arrangements with affiliates or other parties that do not provide adequate consumer protection, or raise compliance, operational, or other risks, such as many payday lending arrangements, should receive negative consideration as part of the performance context under the service test.

State Policies and Welfare Reform

States should integrate access to financial services as a core element of welfare-to-work strategies. High-cost alternative financial services undermine efforts to improve workforce participation by reducing effective take-home pay. Lack of structured savings mechanisms, such as direct deposit into a bank account, makes it less likely that new entrants into the workforce will save against liquidity crises from job loss, injury, or other family emergencies, and makes it more likely that such crises will push families back onto the welfare rolls. Moreover, lack of saving will reduce the ability of low-income families to save for homeownership, skills development, or their children's education.

States should encourage account ownership. First, states should shift EBT to individually owned accounts. With many contracts now up for renewal, there is a narrow window within which states could choose to restructure contracts to use EBT to develop banking relationships. States could move towards providing EBT through individually owned bank accounts and negotiate with networks for surcharge-free alliances for EBT-card holders. In so doing, states would be increasing the effectiveness of their welfare-to-work strategies by bringing low-income families into the banking system in preparation for their entry into the workforce.

Second, states should permit former welfare recipients to retain accounts after they move into the workforce. This step may decrease the likelihood that new labor force entrants will turn to check cashing services once employed and increase the likelihood that they will arrange for direct deposit of their income. Given the high turnover rates of households on and off welfare, permitting families to retain EBT-issued bank accounts may be important to those families' financial stability. Owning a bank account would also enable these working families to access their tax refunds via direct deposit, reducing their costs for receiving the EITC quickly.

Third, state welfare initiatives should increasingly include Individual Development Account (IDA) programs, and exempt the full array of IDA programs from state asset limits. As part of the federal reauthorization of the 1996 Welfare Reform law, Congress should make funds available to states for these financial services initiatives.

Financial Education

Studies find that financial education can sometimes help to change the financial behavior of individuals, particularly low-income persons, if such education is combined with institutional support for the changed behavior. For example, financial education can be combined with new access to low-cost bank accounts that make financial sense for low-income families, together

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with saving plans at work or in the community. Financial education can focus on better financial management, reduced reliance on high-cost credit, and increased participation in saving plans. The Treasury Department could support community-based financial education focused on account ownership and savings, building on the important work of the Consumer Federation of America in "America Saves." In addition, workplace financial education could be funded as part of tax credits covering the administrative costs of setting up payroll direct deposit and savings plans for low- and moderate-income workers.

Reforming the Alternative Financial Sector

Bringing low-income households into the banking sector is key to transforming financial services for the poor. Still, reform of the alternative financial services sector can help those workers who, perhaps temporarily, continue to operate, occasionally or permanently, outside the mainstream banking sector. This section offers proposals for a few key reforms.

"Reform of the alternative financial services sector can help those workers who, perhaps temporarily, continue to operate outside the mainstream banking sector."

1. Check Cashing

Given the high cost structure of a paper- and labor-intensive industry, it is doubtful that costs of check cashing can be brought down significantly with existing technology. Reduced state regulatory barriers to entry, such as geographic restrictions, may help enhance competition—for example, Wal-Mart's recent entry into check-cashing—if they are accompanied by consistent disclosure requirements and enforcement that would make it easier for consumers to shop for financial services. Some have suggested that banks themselves, with cheaper, direct access to the payments system, might effectively compete for check-cashing services. It would be cheaper and the services provided more useful, however, if banks were to compete with check cashers by offering electronically based banking services, instead of competing with them as check cashers. Advances in direct deposit, debit card infrastructure, and electronic bill payment will also be required to bring down the costs of income conversion.

2. Payday Lending

The Federal Reserve Board, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision have now shut down most bank-payday lender partnerships because of safety and soundness concerns; the FDIC has not yet followed suit, but should. At a minimum, the FDIC should use its authority under the Federal Trade Commission Act to take action against banks and thrifts that are engaged in "unfair and deceptive trade practices" in the course of payday lending activities. Regulators should pay particular attention to the problem of short-term balloon payments, repeated refinancing, and inadequate or misleading disclosures under the Truth in Lending Act (TILA). For example, if repeated payday loan rollovers indicate that the lender failed to underwrite the loan by determining a borrower's ability to repay, contrary to safety and soundness guidelines, then the bank may have engaged in an "illegal credit practice" for purposes of the CRA. Such an illegal practice should adversely affect the bank's CRA rating. Congress should also enact legislation mandating that payday lenders report borrowers' performance to the credit bureaus, so that responsible borrowers have the opportunity to pursue alternative credit products based on their credit history.

State regulation of payday lenders has been largely ineffectual to date, at least in part because payday lenders partnered with federally regulated banks and thrifts that could rely on federal pre-emption of state usury laws. Moreover, state rollover laws have been largely ineffective because they can be easily evaded. Thus, some states are now focusing on more effective legislation that would provide for longer minimum terms for payday lending to reduce the likelihood that short-term balloon loans that are repeatedly refinanced become a "debt trap."

Over the long term, there is room for greater private sector competition from the banking industry. Banks could compete with payday lenders by offering alternative, lower cost, longer term, and lower risk products. In principle, one such alternative might be bank overdraft protection. Although current disclosures are inadequate and costs are high, in theory overdraft policies could be provided at lower cost than payday loans because there is no need for face-to-face interaction. The transactions can take place automatically at low risk and cost to banks.

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Moreover, repayment of the overdraft could be scheduled so that regular minimum payments (through automatic debiting of the customer's account) repay the overdraft over a reasonably long time period, rather than the current payday loan of two weeks or bank overdraft practice of thirty days. In addition, the Federal Reserve Board should go further than it did in its recent overdraft proposal.[29] For example, overdraft protection fees should also be disclosed as an extension of credit using APRs and ATMs should not include overdraft limits as available balances.

3. Refund Anticipation Lending

The IRS, in responding to congressional pressure to increase e-filing and decrease EITC errors, has helped to create the market for RALs, by providing tax refund and offset information to preparers, and by delaying EITC refunds to conduct basic anti-fraud and error detection. The IRS now bears a special responsibility to help end RAL abuse.

First, and most importantly, Congress should continue to simplify the EITC, for example, by altering the definition of qualifying children. Simplification should help to drive down costly error rates, and will help to diminish the need for expensive tax preparation services.

Second, the IRS should expand free tax preparation and electronic filing. Greater availability of these services would diminish the need to take out RALs in order to pay for preparation services. The biggest barriers to an expansion of fee tax preparation services are lack of funds, lack of sites that provide for electronic filing, and, more critically, lack of effective ways to assure the quality of these tax preparation services.

Third, since Treasury has now indicated in its FY 2005 budget that the IRS has the technical capacity to split refunds, the IRS should permit refunds to be direct deposited into more than one bank account. If refunds are permitted to be split into more than one account, tax preparers could compete by offering tax preparation services that are paid not out of the proceeds of RALs, but paid directly to them electronically out of tax refunds through direct deposit to them of a portion of the refund, diminishing the risk to the preparer and eliminating one reason to take out a RAL. If this reform is combined with public and private sector efforts to bring EITC recipients into the banking system, the remaining portion of the refund could be direct deposited into the client's own bank account or other saving vehicles.

Fourth, coupled with better error and fraud detection and prevention efforts, the IRS can speed up EITC refunds, and do more to encourage direct deposit of refunds into bank accounts, both directly and through employers, commercial preparers, and Volunteer Income Tax Assistance (VITA) sites. Only 41 percent of all tax refunds nationwide are direct deposited.

Fifth, EITC recipients can become a central focus of efforts to bank the unbanked. Treasury should expand its Electronic Transfer Account (ETA) program to permit use of ETAs for tax refunds that include the EITC. Congress should appropriate more funds for Treasury's First Accounts program to support innovative efforts to reach EITC recipients without bank accounts. The IRS should establish partnerships with large employers to encourage employees to open bank accounts and establish direct deposit of paychecks and tax refunds. Moreover, the tax preparation firms themselves—as H&R Block has now begun to do in a recent pilot—should partner with banks to develop and offer individual, low-cost, electronically based bank accounts for their clients. Their clients could use the accounts to receive direct deposit of their income tax refunds, to pay for tax preparation services, to withdraw funds at ATMs and POS using debit cards, to save as a cushion for financial emergencies, and for their other financial services needs throughout the year. The tax preparers would gain a new marketing tool and might see higher rates of client retention.

Sixth, the IRS can use its oversight of e-file preparers to improve the market for EITC recipients. Towards this end, the IRS should make enforcement a priority; provide more detailed rules regarding non-deceptive advertising, including disclosures of how the offered product compares with the IRS's current anticipated refund times; and force greater transparency in RAL pricing, including by requiring that RAL funds be provided to EITC recipients in a form that does not require any additional cost to convert to cash.

Lastly, if Congress wants the IRS to expand e-filing availability, and direct deposit of refunds, it should pay for expanding the private sector infrastructure necessary to implement it, rather

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than relying on RAL fees paid by low- and moderate-income tax payers to cover the tax preparers' costs of implementing e-filing. Congress could appropriate funds for the purpose, or use an e-filing tax credit to offset the costs.

Conclusion

Low- and moderate-income households who use alternative financial service providers pay a high price to convert their income into cash, pay their bills, and obtain credit, and they lack a regular means to save. The high cost of alternative financial services undermines key income redistribution policies for the poor, including the EITC. Existing banking products are often not well designed to meet the needs of the poor, and few banks compete with alternative financial services providers for low-income customers, particularly in low-income neighborhoods. The cost to individual financial institutions of research, product development, account administration, staff training, marketing and financial education with respect to new financial products for the poor, relative to their expected financial return, means that the market is unlikely to change quickly on its own. In addition, network externalities in electronic payments systems and distribution networks suggest that net social benefit could be obtained through further expansion.

Financial and technological innovation has been a hallmark of U.S. financial markets. Financial institutions can harness that innovation to meet the needs of low-income Americans. Governmental incentives appear to be important to catalyze private sector efforts to use financial and technological progress to expand access to financial services for low- and moderate-income families. By helping these families to enter the financial services mainstream, the policies outlined here can help to transform financial services for low-income persons. Such a transformation is a key to promoting greater economic opportunities for low-income households.

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Endnotes

1. This paper was originally published in an extended format as "Banking the Poor" in the *Yale Journal on Regulation* 21:121 (2004), © 2004, *Yale Journal on Regulation,* and is adapted with permission. For full citations please see *Yale Journal on Regulation.*

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