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Banking the Unbanked: Exploring Private and Public Efforts to Expand Access to the Financial System

This written testimony will make the case for postal banking as a public option in banking based on my research into the causes and consequences of exclusion from the banking system.[1] I have been researching issues related to financial inclusion for over a decade and during the time, the obstacles to inclusion have only increased and bank branches have decreased. There are several solutions that have been offered toward the aim of financial inclusion, but many do not confront the actual challenges of the unbanked, which are access to a physical bank branch, cost, and trust. It is for this reason and others that I believe the easiest and fastest solution to this problem is to offer simple banking services through the post office. I propose that the post office provide free checking accounts to all Americans as the point of delivery but that the post office not become chartered as an official bank. The post office can simply offer transactional services through access to the federal reserve public payments system. As the federal stimulus payments during the COVID crisis demonstrated, the payment system is not accessible to all. The lack of access harms the most vulnerable communities and those that have been historically excluded from banking, including LMI communities, Native American communities, Black and Brown communities, the elderly, rural communities, and the disabled. Even when the US Treasury attempted to send stimulus checks to all Americans, many who were unbanked or underbanked experienced great difficulty due to their lack of access to payments. Some had to pay extra fees to collect their stimulus checks, which resulted in unprecedented profits going to the banking industry solely in overdraft fees. There are many public banking proposals that can help alleviate these issues, but I believe that a simple checking account offered through the post office is the most effective and egalitarian means of financial inclusion of the unbanked and underbanked. Postal banking could include a range of financial services, but imperative to full financial inclusion would be to provide access to the payments system or in other words, simple checking services.

There are many services and utilities that would benefit from a public option because markets are either monopolized or failing. Whatever the merits of the public option in other fields, the banking system is undemocratic without a public option. This is because most basic banking services – deposit-taking, financial transactions, lending – operate using a federal government platform, network, or guarantee. Federal government support is not a mere subsidy because the federal infrastructure does not simply enhance bank profits, but it makes the entire modern banking enterprise possible. In other words, this framework not only enhances, but enables modern banking markets. Most of this support, like FDIC insurance, is invisible to the average consumer and usually unnecessary whole some of this support is implicit and rare like the bank bailouts. All of it is meant to induce public trust and participation in the banking sector. Scholars have called banks "a franchise" and courts have called them "instrumentalities" of the federal government.[2] Banks are granted a charter to operate by the federal government, which allows them to "plug in" to the government payments and credit structure. Thus, the hidden monopoly power in the banking sector is the federal government, making it essential to provide access to all.

Insofar as banks operate in tandem with government credit and payments facilities, it stands to reason that they must make their services available to all. Yet they are not currently under any such mandate of accessibility. This is due both to the fact that banks have become more enmeshed with the federal infrastructure over time, especially after the Progressive Era and the operational legislation and institutional framework inaugured by the New Deal. More recently, an erosion of legal requirements on banks has enabled banks to abandon lower-profit regions and customers under the guise of "inefficiency" and market competition.[3] The United States has a federally sponsored banking system that is exclusionary. Those who are excluded are the most financially vulnerable individuals and communities who are forced to pay the most for services. Thus, a public option in banking is essential to making the system democratic.

Postal banking could also offer a public option in small credit. A public option in lending could alleviate some of those harsh penalties for many low-income Americans who must rely on these loans. Lending has many risks and there are many drawbacks for a public option in lending, but the obstacles can be averted, and the alternatives are much more harmful. Payday lending is a large and fairly new industry that provides high-cost small loans to the most vulnerable Americans. The industry has evaded state and federal regulation thus far, both due to high demand for loans, successful lobbying efforts by the industry and the failure of the Trump administration's Consumer Financial Protection Bureau(CFPB) in enforcing payday regulations adopted by the Obama administration. Offering a public option for credit reduces the need to regulate usury and push for the elimination of payday lenders. Instead of forcing private lenders to adopt a low interest rate or alternatively allowing the status quo wherein low-income borrowers have no option but to borrow money at crushingly high interest rates.

Crucially, postal banking is not a new idea nor is it a radical departure from history. The United States had a successful postal banking system from 1910 until 1966 as do many other countries worldwide. As I have written in my book *How the Other Half Banks,* postal banking was the country's most successful program for financial inclusion by extending banking services to immigrants and urban and rural populations. The postal banking system was dubbed "the poor man's bank." It was safe, stable, and profitable. The post office has had a historic connection with banking services as both are essentially public goods and necessary for participation in commerce. Postal banking in America was among a slate of progressive era policies adapted to create more egalitarian markets. At a crucial turning point in American banking policy, policymakers tackled inequality and banking instability. This was in the early 1900s, but in many ways, economic conditions are similar today. What the progressive reformers understood and what modern politics has forgotten is that credit policy is public policy. To the extent that certain communities are excluded from mainstream banking institutions, their exclusion is a problem of public policy and not a gap in the market.

Banking as Public Utility

When confronting the power of banking trusts and monopoly power over credit, Justice Louis Brandeis proposed that certain industries to be especially suited for a public utility nature.

Banking or railroads, for example, were considered service essential to full participation in commerce. In these cases, Brandeis offered an alternative to create a public utility. Such a utility could either compete with the market or offer an alternative. Brandeis believed banking to be among the industries that might be considered a public utility because, as he explained "that deposit banking should be recognized as one of the businesses 'affected with a public interest'."[4] This was because banks gained their market power and their profits through the use of "other people's money." President Roosevelt did not make banks a public utility, but his administration did embed public duties in all the legislation governing banks during the New Deal.[5] Many of those laws have been eroded since even as banks are ever more reliant on public services for their operations.

Today, each aspect of banking, including deposits, loans, and simple financial transactions, relies on a robust network of government support.[6] Each time a bank sends or accepts money, they are using the Federal Reserve's payments system.[7] Banks can take and lend customer deposits and engage in fractional reserve lending (and the magic money multiplier effect this enables) only because customer deposits are insured by the FDIC. Unlike all other corporations, banks pay virtually nothing for their funding (customer deposits) because of this federal government subsidy.[8] And when the FDIC fund goes into the red – as it did in 2008 – these deposits are backstopped by the full faith and credit of the US Treasury. On the asset side, most mortgages and student loans are guaranteed, bundled, or subsidized by the FHA or the Government Sponsored Entities (GSE's) Fannie Mae, Freddie Mac, Ginnie Mae, and Sallie Mae.[9] These entities purchase almost every mortgage and student loan in the country and resell them to investors. And when these institutions fail, they too have the implicit backing of the Federal Government.[10] These GSEs enable banks to lend exponentially more loans than what their customer deposits would allow. At the crux of our banking system, then, is a state-enabled credit system. All this federal government support sets the banking sector apart from other business that must create its own wealth without the use of other people's money or cheap loans when they fall short. Banks and the government (and by extension the people) should have a mutually beneficial arrangement that consists of the government providing market-enabling structures and trust-inducing deposit insurance and banks, in return, playing their essential role in financing the expansion of the economy and serving the needs of their customers and local communities. The relationship can be described as a social contract or an implicit promise or exchange made by the government and the banks.[11] Viewed from this lens, it becomes clear that this level of government support to the banking sector must mean that the government and by extension "the people" must be entitled to demand a banking sector that serves all of us. As Senator William Proxmire explained in passing the CRA, that there is a "widely shared assumption" that "a [bank's] public charter conveys numerous economic benefits and in return it is legitimate for public policy and regulatory practice to require some public purpose . . ." The Senator claimed that banks are "a franchise to serve local convenience and needs" and therefore "it is fair for the public to ask something in return."[12]

The public function of banking is especially clear in payments. The largest and most secure payments system in the US is operated by the Federal Reserve as per its mandate.[13] The Federal Reserve's own policy mandate on payments is "to bring to payments markets an overall concern for safety and soundness, promotion of operating efficiency, and equitable access. Indeed, those considerations relating to integrity, efficiency, and access to the payments system will remain at the core of the Federal Reserve's role and responsibilities regarding the operation of the payments system." As the Fed states, "Given the size, speed, and interdependencies of payments, this mission is, and will likely continue to be, even more important than it was when the Federal Reserve was established in 1913.[14]

Indeed, today achieving this mission is essential. The US payments system is not available to all Americans. A quarter (25%) of Americans are either unbanked or underbanked.[15] They do not have bank accounts and thus are shut out of the payments system. Low-income families spend about 10% of their total income in fees to alternative financial service providers just to use their money due to their exclusion from the payments network. Being underbanked is expensive and time-consuming as each financial transaction involves fees and hurdles.[16] In the United States, we have decided that only banks have access to the payments systems. Thus, only individual with bank accounts can send and receive money, cash checks, use debit cards, and otherwise have access to the payments systems. Only chartered banks have access to the payments tracks built, operated, and overseen by the Federal Reserve. Yet banks are not mandated to offer these services to all people. Banks can choose their customers and the communities in which they will operate physical branches.

Banks are no longer interested in serving certain low-profit communities and consumers. Over the last several decades, deregulation, heightened market competition, and the subprime crises has led to wave after wave of bank mergers and a conglomerated banking industry. Industry consolidation has meant that many communities, especially in rural regions across the country are banking deserts where communities do not have a bank. According to Jeremy Kress, this is due to the fact that "regulators have rubber-stamped recent bank mergers, despite evidence that such deals could harm consumers and destabilize financial markets."[17] In these banking deserts, often the only access to an ATM in the entire area is at a gas station and the ATM fees can be up to 7.50 per transaction.[18] But even when banks are physically available, there are many barriers for the low-income. Banks charge excessive and onerous overdraft fees and excess activity fees, which are meant to deter small accounts.[19] Small accounts are not profitable for banks, so they avoid offering them—either by leaving low income areas or repelling low income customers.[20] Faced with seemingly random and punitive fees, low-income customers have taken their business to the fringe banking sector.

This problem can be fixed by offering a direct checking account to all communities through the post office.[21] Those who are unbanked need a physical location in order to cross the cash/digital divide so they can engage in commerce. The United States Postal Service (USPS) operated a savings bank for much of its history and most postal services do so worldwide. The post office need not engage in banking or even lending, but simply offer transaction services. Post office branches already take cash from customers and offer money orders. My postal banking proposal only requires that post offices go one step further and offer a digital checking account linked to a central payment system. Once consumers have a digital account, they can begin to use mobile banking and other fintech services.

The Federal Reserve payments system has proved secure, private, and safe and is among the most reliable in the world. But it is exclusionary. And I want to be clear about why. It is not that the federal reserve lacks the expertise or the technology or that there is anything inherently exclusionary about their payments system. It is just that the Federal Reserve has not prioritized the needs of the underbanked for faster processing and retail point of contact operations. And they have only offered their services to banks—who in turn have not been mandated to provide services to all consumers.

This is a problem that can and must be fixed through policy and not be outsourced to the market. The Federal Reserve states that it has "a public-interest motivation in seeking to stimulate improvements in the efficiency of the payments system." This, according to their own mission, requires it "to provide equitable access and an adequate level of services nationwide."[22] In order to achieve this mission, the Federal Reserve must open its payments system to all Americans. If the Federal Reserve falters in its mission, it falls in Congress's purview to enforce it.

A Public Option in Banking

The phrase "public option" entered the political lexicon during the health-care debates as an option among the other forms of health-care provisions.[23] However, the concept of a public option has been around since the founding of the country.[24] A public option is when the government enters a market and offers a product or service to compete with private companies. Government-funded health insurance would have been a public option. More common public options include public libraries, public pools, or the US Post Office. The government offers these services either through subsidies or at cost (as is the case with the Post Office). Private companies like bookstores or UPS can compete with the public option, but consumers can make a choice to use the public option. Broadly conceived, public options already exist in banking. The Federal Reserve's payments system is a public option.[25] It competes with private payments providers, but banks can choose to use the Fed's payments system. Adam Levitin and Susan Wachter have also called the US housing finance system a public option and argue that federal government credit institutions and subsidies created the American mortgage.[26] As Thomas Herndon and Mark Paul explain, "the creation of a stable mortgage structure during the New Deal provides an excellent case study of how public options can be used to regulate in the public interest by shielding households from risk."[27]

The federal government also provides deposit insurance for banks.[28] Banks pay premiums for the insurance, which makes deposit insurance resemble other public options, but FDIC insurance is not an "option." All banks must buy in to the scheme. Still, the innovation of a public and federal insurance scheme was crucial in stabilizing the banking sector and avoiding near-constant panics, runs, and crises.[29] Despite many attempts at private deposit insurance, only federal insurance has been an effective antidote to runs.[30]

Financial Inclusion

The most important argument in favor of postal banking is that it has the potential to bank the unbanked and expand access to savings accounts that could diminish the need for fringe banking services. Postal banking can provide transactional services and small loans without life-crushing fees and interest. Critically, by making banking available to those deserted by a government-supported banking system, the state can minimize the threat to democracy posed by the heavily subsidized, exclusionary, and powerful banking sector.

The basic idea of modern postal banking is a public bank that would offer a wide range of transaction services, including small lending. The post offices could offer these services at a much lower cost than banks and the fringe industry because they can use natural economies of scale and scope to lower the costs of the products. Their existing infrastructure significantly reduces overhead costs, and they do not have profit-demanding shareholders and thus would be able to offer products at cost.[31] As for communities without access to safe credit and banking services, the post office remains as one of the only public institutions that still serves these communities regardless of profits. The post office offers money orders, and many customers use money orders in lieu of a checking or savings account. Researchers Terri Friedline and Mathieu Despard concluded in their "Mapping Financial Opportunity" project that postal banking can best help rural areas that are banking deserts.[32]

Without bank accounts, many Americans do not save – or they store their savings at home under the proverbial mattress.[33] More than 40 percent of Americans do not have even $500 in savings and would need to borrow if they had a shortfall – over 60 percent would need to borrow $1000 if they faced a financial emergency.[34] Many Americans do not save because they do not earn enough even while working full time, but even if they have money to save; most accounts are not accessible to those with small savings.[35] Cash savings are vulnerable to theft and loss.[36] Research abroad has demonstrated that increased access to a savings account enhances economic welfare and other important outcomes.[37] Having a safe, low-cost, and easy savings account could lead to more savings, which could diminish the need for payday loans when families hit a snag.[38] When individuals can dip into savings, they are less likely to need payday loans. A postal savings account made possible through a local postal branch could significantly ease the burden on many families leading to more savings. There is some evidence for this historically. When the postal savings accounts were first established in 1910, they became very popular with immigrants living in urban areas who had previously stored their earnings in "stocking banks." Most of the deposits into the early savings banks came from the home hiding places of these immigrants.[39] Historian Sheldon Garon has contrasted the low savings rates in the United States versus higher rates in Germany and Japan and has surmised that the difference had much to do with the strong network of postal banks that remained in those countries while they were disbanded in the United States and the culture of savings they cultivated abroad.[40] During World War II, the United States post office sold postal savings bonds to schoolchildren and women who invested as a patriotic duty.[41] By the end of World War II, the government had raised about $8 billion in additional war funding through war bonds and Treasury bonds sold through the post office.[42]

Today, postal savings accounts have the potential to become a trustworthy receptacle for savings for the financially excluded. Just as our postal banks did successfully for half a century, their rebirth can lead to increased saving by the broader public. By providing low barrier savings accounts, the post office can again offer a refuge for the countless small savers in the United States who have been shut out of the banking system because their too small savings accounts are no match for high bank fees. Increased access to low-cost savings accounts can greatly benefit a population living without any financial cushion. Even having a few hundred dollars stored away can make a significant difference to a moderate-income family who may face an emergency in their lives. It is difficult to measure how many people are not saving in banks because of financial and cultural barriers of entry, but it is possible that just as in the 1900s, hoarded money from across the country would pour into the postal banks from under mattresses, prepaid cards, or funds otherwise wired abroad.

Postal banking may seem like a new idea to many in the United States who are convinced that banking should be a "private market" free from "government intervention," but it is a mundane part of life for the rest of the world.[43] Postal banking abroad is the norm, not an aberration.[44] "Posts in 87 countries hold some 2 billion current or savings accounts on behalf of around 1 billion customers."[45] Postal banking is the most successful means of financial inclusion worldwide with several countries, such as India and China, where postal banks are the main driver of financial inclusion in their countries.[46]

Postal banking has been operational in many Western countries since the 1800s, and currently, fifty-one countries have postal banking as their primary method of financial inclusion – only 6 percent of postal carriers worldwide do not offer banking services.[47] (It is estimated that postal banking has banked over 1 billion people worldwide.)[48] There are a variety of models worldwide – some focused on the poor and others that offer postal banking services to the entire population.[49] In fact, the United States is one of the only developed countries in the world without a postal banking network.[50] That said, we do not need to look abroad for a justification or even a model for postal banking when we can refer to our own rich history of postal banking.[51]

The transition to postal banking would not require substantial costs or changes to the post office's business. Financial transaction services are straightforward products that do not require a high level of sophistication. The post office can build on its existing network to offer these services. The post office already has the transactional capabilities to deal with cash as well as the back-end security systems in place to transport cash because it sells money orders. A simple ATM machine can be placed inside the post office and tellers can offer debit cards or other transactional services through USPS-contracted servicers or in partnership with a bank. Walmart, for example, came to dominate financial services to the poor, practically overnight, without causing a substantial ripple in its core business.[52] Walmart attempted to become its own bank in 2005, but when that route was blocked by regulators, they settled for a partnership with *Greendot* bank to offer low-cost checking accounts and transactional services.[53] The company has been able to use its size and existing infrastructure to offer financial products at a fraction of the price while making a healthy profit offering them. Amazon has announced that it will be accepting cash for payment for goods in partnership with brick-and-mortar stores in order to facilitate transactions for the underbanked. Amazon has claimed that it will not charge fees for these cash transactions.[54] These large companies are able to underprice check-cashers and payday lenders due to their ability to cross-subsidize their products. Yet, these large companies do not have an egalitarian mandate. Insofar as offering financial transaction services can lead to greater market dominance through increased sales, they will offer such services, but we should be hesitant to outsource the essential right to participate in commerce to the profit/loss calculations of large corporations.

Estimates show that $89 billion is spent each year by the unbanked on financial fees and services, including payday lenders, check cashers, prepaid cards, and other services.[55] These are significant expenses for families. The average annual income for an unbanked family is $25,500, and about 10 percent of that income, or $2412, goes to the fees and interest paid to access credit or other financial services – services that those with bank accounts often get for free.[56] If these costs can be reduced through a public option, unbanked and underbanked families would be able to save more money, which would reduce the need for short-term borrowing. Providing these services at much lower costs has a triple advantage of reviving the beleaguered but too-important-to-fail postal service, putting the money back in the pockets of the poor, and providing an alternative to a harmful industry that has proved near impossible to regulate away.

The post office could offer small loans at lower interest rates than the payday lenders. Lending even small loans of less than $500 at a reasonable interest rate can help a significant portion of the American public withstand a short-term credit crunch.[57] Even with more just economic conditions, individuals may occasionally need to borrow small loans to cope with unexpected harms – so must have access a low-cost loan so that they can survive their illiquidity before it turns into insolvency. In other words, if a person needs $500 to pay a bill for food or shelter, will they have to pay an additional $1000 in fees to extinguish the loan or something closer to $50 in interest? The difference can make the difference between sustainability and bankruptcy. A public option in lending can make a difference to many families struggling to make ends meet.

Consumer protection groups, credit unions, and religious organizations have in the meantime been piloting several alternatives to payday lending. In 2010 the National Credit Union Association (NCUA) relaxed its interest rate rules, which limit interest to 15 percent, to permit higher rates on short term, small dollar loans. The credit unions then created Payday Alternative Loans (PALs) provide an economically viable model to credit unions while offering a much cheaper option to consumers seeking short-term loans (with interest of up to 28 percent). Religious organizations even set up their own credit unions: the Friendship-West Baptist Church and St. John Missionary Baptist Church in Dallas established the Faith Cooperative Federal Credit Union because of pastoral efforts to protect the churches' congregations from predatory lenders. Likewise, community groups and nonprofits have attempted to offer lower-cost alternatives. Thus far, these initiatives have not been scalable, but have demonstrated that low-interest lending can be a viable business model with limited underwriting.[58]

Since the 1990s, governments primarily in the Global South have experimented with conditional cash transfer (CCT) programs to alleviate poverty. These generally involve government payments to individuals or families based on specific behaviors or actions undertaken by the recipients of the funds: children's school attendance, doctor's visits, vaccinations, job training program attendance, and other similar activities. Studies have found that cash aid is more effective than any other form of charitable giving.[59]

The Case for Postal Banking

There are several reasons to believe that the Post Office is uniquely capable of lending responsibly while reducing the costs of small loans. First, and most importantly, the Post Office is not primarily motivated by profitmaking, but rather is committed to a public service mission. Therefore, it can charge borrowers the actual cost of the loan. This was the necessary premise behind every successful movement to foster financial inclusion. The Post Office is not profit motivated because it is an independent agency connected to the federal government, meaning that all excess profits are forfeited to the Treasury.[60] The Post Office has no shareholders demanding a return on investment so it is unlikely that the organization will be motivated to take advantage of its customers for private gain.[61] All gains will be public, as will losses. A board of directors, public representatives chosen by a democratically elected president, should be tasked to oversee its activities with an Inspector General's office doing periodic audits as well as an independent regulatory agency that has rate-setting power.[62]

Second, the Post Office can naturally reduce the high costs of lending to the poor through "economies of scale" and "economies of scope."[63] It can use its already existing and large network of branches to sell new products without much additional startup, overhead, or marketing costs. Compared to payday lenders, the Post Office can reduce costs immediately by using its existing branches and staff thus saving money otherwise spent on advertising, personnel, and locations. This ability to offer more at a lower cost is the reason large banks now dominate the market. Likewise, the size and reach of the Post Office can lead to lower costs of credit. "Economies of scale," or control of a large market of a single product, could bring down the costs for financial services and even loans if the Post Office has many customers. "Economies of scope," costs saved when an institution can sell a variety of products, could mean, for example, lower costs on loans because the Post Office is attracting more deposits, cashing more checks, or wiring more funds.[64]

Finally, because the Post Office never left communities deserted by banks and other businesses, it is available in all the regions forsaken by banks and has also developed an ongoing relationship of trust within these communities. Many unbanked individuals already buy their money orders at their local Post Office. This means that the Post Office has access to a customer base that is not comfortable in banks. Surveys of the unbanked show that minority groups are significantly more likely to be unbanked than other groups.[65] But the cultural and class barriers that keep many people away from the mainstream banks do not exist at the local Post Office. Americans rank the USPS highest among all federal agencies with more than 70 percent of those polled saying it does an excellent or good job.[66] With millennials, the rate is even higher at 81 percent.[67] About 70 percent of Americans trust the post office compared to 18 percent who trust payday lenders and 26 percent who trust banks.[68]

In both urban and rural communities, the Post Office can be crowded and bustling places where the neighborhood gathers to do its business, helped by clerks who are members of that same community. Even people who never go to the Post Office branch may be familiar with the mail carrier who visits their home daily. And following history's cue, the postal network can offer information in more languages than do banks and appeal to the large population of immigrants or even the undocumented who have money to save, but no access to banks. Many of these workers currently send their money abroad[69] – money that can be induced to stay within American borders. As it was in the 1900s, this can be a surprising source of revenue for the postal banks.

Trust, especially in banking, is more than just a nice feeling. It is a way to lower costs and reduce barriers of entry. This was the point of government deposit insurance. Banks cannot survive if their customers do not trust them to hold and lend their money. It is hard to predict whether the public will warm to postal banking, but considering historical and international experience, and the significant modern distrust of fringe banks, the public may view the Post Office as a safer and more trustworthy place to store funds.

And this trust is not undeserved. The Post Office has a history of service to the American people, unrivaled by any other institution or any other government entity. In a way, the Post Office serves as a perfect foil for the banking industry. The latter receives hefty federal government support and rejects any public-serving functions, and the former is currently receiving limited federal government support and yet sees public service as its primary mission. Even today, the stated mission of the US Post Office is: "to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people. It shall provide prompt, reliable, and efficient services to patrons in all areas and shall render postal services to all communities."[70] This makes the post office an ideal means of providing a public option in banking.

Short-term credit is not a solution to inequality. The reason that most people need high-cost credit products is unstable work, inequality, and rising costs in health care and education – and the best solution is not credit but addressing these structural problems. Full-scale reform of the economy is necessary to right the ship – employees must have a living wage, families must have affordable shelter, and health-care costs must not be so onerous. With these reforms in place, the need for payday loans will naturally be diminished. The industry, after all, has risen alongside trends in inequality.[71] Yet, credit can be a lifeline for many families and individuals who face unexpected circumstances.

A public option can take many forms and can offer an alternative for all banking services, or it can be limited to small loans and bank accounts for the underbanked. Participation in commerce is essential for full civic engagement and today, many Americans are excluded from commerce or forced to pay fees for simple loans and transactions. A public option has the potential to resolve these inequalities. For a variety of historic and practical reasons, the US Postal System would be the best means of offering a public option to all communities.

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[1] This testimony has been adapted, in part from a chapter in a new book called *Debating the Public Option,* published with Cambridge University Press. Ganesh Sitaraman and Anne Alstott define a public option as a service provided by the government that is available to all, competes in a free market, and charges all people the same amount for the same services. GANESH SITARAMAN & ANNE L. ALSTOTT, THE PUBLIC OPTION: HOW TO EXPAND FREEDOM, INCREASE OPPORTUNITY, AND PROMOTE EQUALITY 2 (2019).

[2] *See Starr Int'l Co. v. Fed. Reserve Bank of N.Y.*, 742 F.3d 37, 40 (2d Cir. 2014) (FRBs are instrumentalities of the federal government and the operating arms of its central bank); Robert C. Hockett & Saule T. Omarova, *The Finance Franchise*, 102 CORNELL L. REV. 1143, 1147 (2017).

[3] Mehrsa Baradaran, *Banking and the Social Contract*, 89 NOTRE DAME L. REV. 1283, 1285–86 (2014); For a modern example, see Jeanna Smialek et al., *Banks Want Efficiency. Critics Warn of Backsliding.*, N.Y. TIMES (August 20, 2019), www.nytimes.com/2019/08/20/business/bank-regulation-federal-reserve.html.

[4] LOUIS D. BRANDEIS, OTHER PEOPLE'S MONEY 64 (1914).

[5] For a more robust discussion, see MEHRSA BARADARAN, HOW THE OTHER HALF BANKS: EXCLUSION, EXPLOITATION, AND THE THREAT TO DEMOCRACY 211 (2015)

[6] *See* Justin Pritchard, *Understanding the FDIC*, THE BALANCE (April 29, 2020), www.thebalance.com/what-is-the-fdic-315786 [https://perma.cc/B2TZ-CDA9].

[7] CAROL COYE BENSON ET AL., PAYMENTS SYSTEMS IN THE U.S.: A GUIDE FOR THE PAYMENTS PROFESSIONAL **XX** (3rd ed. 2017).

[8] Banks do pay into the FDIC insurance fund through premiums, but most scholars agree that the premiums are underpriced. Furthermore, it is not just the actual funds that are paid out in the event of a failure that is of importance here. It is the fact that bank deposits are backed by the full faith and credit of the federal government making them a safe repository for their customers' funds. "Until the early 1990s, the FDIC levied flat-rate insurance premiums on banks as a function of deposits, but not the banks' risk. In 1991 the FDICIA required that the FDIC introduce risk-based premiums. However, to date, the range of premiums is much narrower than the range of risk exposures of the FDIC to individual bank failures. Under the Deposit Insurance Funding Act of 1996, when the FDIC reserve fund exceeds 1.25 percent of deposits, the 'safest' of banks pay no deposit insurance premium meaning that recently more than 90 percent of banks holding over 90 percent of total bank assets paid NO premiums." Joe Peek & James A. Wilcox, *The Fall and Rise of Banking Safety Net Subsidies*, *in* TOO BIG TO FAIL: POLICIES AND PRACTICES IN GOVERNMENT BAILOUTS 177–78 (Benton E. Gup ed., 2004).

[9] Sallie Mae ceased being a GSE, and became fully privatized, when Congress terminated its charter on December 29, 2004. At that point, the GSE became SLM Corporation, "a fully private sector corporation." U.S. DEP'T OF TREASURY, LESSONS LEARNED FROM THE PRIVATIZATION OF SALLIE MAE 1 (2006), www.treasury.gov/about/organizational-structure/offices/Documents/SallieMaePrivatizationReport.pdf [https://perma.cc/F5Z4-RSDE]. A table on page 3 of the above mentioned Treasury report distinguishes the former GSE-Sallie Mae from the fully privatized SLM

corporation. Notable differences include: (1) the GSE's charter was created by an act of Congress; (2) the president appointed the GSE's board members; (3) the GSE could borrow up to $1billion from the Treasury, whereas the SLM corporation cannot borrow from the Treasury; (4) the GSE's debt was eligible for federal open market purchases; (5) the GSE was exempt from SEC registration and financial and other filings with the SEC; and (6) the GSE was exempted from federal, state, and local income taxes. *Id.* at 3.

[10] Fannie Mae and Freddie Mac were spun off of the federal government and privatized, which meant that they were run by a board of shareholders. It did not mean that they operated in normal markets. The market still treated them like government entities, meaning, that they did not contemplate their failure. When they did fail because of the excessive risks their managers took, the government bailed them out without flinching. *See id.*

[11] There is a long and rich philosophical discussion about the social contract between individuals and society. In general, social contract theory posits that individuals consent to surrender some natural liberty in exchange for protection or other benefit conferred by society. The relationship between the government and banks is similar. The social contract between individuals and the state has been taken up by Hobbes, Kant, Rousseau, Rawls, and others. Paul Tucker, Deputy Governor, Bank of England, Remarks at the British Bankers' Association Annual International Banking Conference, Regimes for Handling Bank Failures – Redrawing the Banking Social Contract (June 30, 2009), www.bis.org/review/r090708d.pdf [https://perma.cc/NH6W-KHTU].

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[13] Carol Coye Bensin and Scott Loftesness; *Payments Systems in the U.S.* 3rd ed. (Glenbrook Partners 2010)

[14] https://www.federalreserve.gov/paymentsystems/pfs_frpaysys.htm

[15] (https://www.cnbc.com/2019/03/08/25percent-of-us-households-are-either-unbanked-or-underbanked.html).

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[17] Jeremy C. Kress, *Modernizing Bank Merger Review*, 37 Yale J. on Reg. (2020).
Available at: https://digitalcommons.law.yale.edu/yjreg/vol37/iss2/2

[18] https://www.nbcnews.com/news/nbcblk/how-itta-bena-mississippi-became-banking-desert-n1017686

[19] Bank closures are not spread out evenly—93% of bank closings are in low income areas. 9,666 of 95,018 branches were lost between 2008 and 2017—that is 10%. 86 new banking deserts appeared in rural areas during this period. Several metro areas lost 15%-25% of their banks. Rural and small town businesses suffer long term impact from branch closures. 25% of all rural closures were in majority minority census tracts. [NCRC, accessed 3/30/19]. Banks have shut 1,826 branches since late 2008, and 93 percent of closures were in postal codes where the household income is below the national median, according to census and federal banking data compiled by Bloomberg. [Bloomberg News, 5/2/13].

[20] Chase, Wells Fargo and Bank of America all require balances of $1,500 to avoid fees on their basic accounts. [Time, 8/7/18]. Among unbanked households, lower-income households were more likely to say that they were unbanked because they did not have enough money to keep in an account or because they had personal identification, credit, or former bank account problems. [GAO, February 2018]

[21] *Mehrsa Baradaran, It's Time for Postal Banking,* 127 HARV. L. REV. F. 165 (2014)

[22] https://www.federalreserve.gov/paymentsystems/pfs_frpaysys.htm

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