

MEMORANDUM

To: Members of the Committee on Financial Services

From: FSC Majority Staff

Date: February 3, 2023

Re: February 8, 2023, Subcommittee Hearing Entitled “Revamping and Revitalizing Banking in the 21st Century”

On Wednesday, February 8, 2023, at 10:00 a.m. in Room 2128 of the Rayburn House Office Building, the Financial Services Subcommittee on Financial Institutions and Monetary Policy will hold a hearing titled “Revamping and Revitalizing Banking in the 21st Century.”

This will be a one-panel hearing with the following witnesses:

- Mr. Jim Reuter, Chief Executive Officer, FirstBank, on behalf of the American Bankers Association
- Ms. Penny Lee, Chief Executive Officer, Financial Technology Association
- Mr. John Berlau, Senior Fellow and Director of Finance Policy, Competitive Enterprise Institute
- Mr. Brian Knight, Senior Research Fellow, Director of Innovation and Governance, Mercatus Center at George Mason University

** Additional witnesses may be added.*

Background

The hearing will examine areas where banking regulations can be updated to align with existing and emerging technologies; the consumer data privacy and breach notification frameworks; barriers to entry for de novo banks and impacts on competition in community banking; and increasing lack of transparency and accountability in bank regulation and supervision.

In its latest Survey of Unbanked and Underbanked Households, the FDIC reports that in 2021 only 4.5% of U.S. households were unbanked, down nearly halfway from the historical high of 8.2% in 2011.¹ While positive, there are still challenges in reaching unbanked households with interest in having a bank account.²

¹ FDIC, [2021 FDIC National Survey of Unbanked and Underbanked Households](#) 1, 13 (October 2022).

² According to the 2021 FDIC National Survey of Unbanked and Underbanked Households, 53.6% of unbanked households are not at all interested in having a bank account, and 19.1% are not very interested. *See id.* at 18.

Increasing access to mainstream financial services, consumer credit for households, and commercial credit for small businesses is best accomplished by increasing competition between financial firms and for addressing obstacles to forming de novo banks. Updating financial regulations to match Americans' needs and the technological era we live in is imperative to increasing financial access, fostering growth, and creating opportunity for all Americans.

As consumers interact with an increasing number of new technologies, more of consumers' data is being collected and shared than ever before. It is time for Congress to reexamine the data privacy protections in GLBA to ensure that consumers' sensitive financial information is being protected, while allowing innovation that serves consumers to continue.

Legislative Proposals

The bills outlined below will be discussed during hearing:

[H.R. ____](#), the Financial Data Privacy Bill

This bill amends the Gramm-Leach-Bliley Act to include a number of additional consumer protections, including (i) empowering consumers to understand how their data is being collected and used by service providers, (ii) giving consumers the right to terminate the collection of their data, including requesting deletion of data records at any time, (iii) requirements for covered entities to disclose the types and uses for data being collected, along with an opt-out function, (iv) mandating more transparent and easily understandable privacy terms and conditions, and (v) providing for national preemption to generate a single national standard.

[H.R. ____](#), the *Promoting Access to Capital in Underbanked Communities Act*

This bill seeks to increase de novo bank formations through a reduction in burdensome initial capital requirements and restrictions. Specifically, the bill would provide for a 3-year phase-in period for de novo financial institutions to meet federal capital requirements, lower the Community Bank Leverage Ratio (CBLR) for rural community banks to 8 percent from 8.5 percent during the first three years of operations, and require the federal banking agencies to promulgate rules setting the CBLR lower for the first two years of operations to allow for a phase-in period. The bill additionally removes some restrictions to allow federal savings associations to deal in agricultural loans and requires the federal banking agencies to conduct a joint study on trends in de novo financial institutions.

[H.R. ____](#), the *Bank Service Company Examination Coordination Act*

This bill requires the coordination of state banking agencies and federal banking agencies in regulating and examining the activities of bank service companies. This bill allows for the sharing of information related to examinations and regulations between federal and state agencies and additionally requires that state and federal agencies coordinate and avoid duplicative examination activities, reporting requirements, and requests for information.

[H.R. ____](#), the *Promoting New and Diverse Depository Institutions Act*

This bill directs the federal banking agencies to conduct a study regarding the barriers to entry that de novo depository institutions face, and subsequently requires a strategic plan to be generated by the agencies, based on the findings of the study, which provides for the promotion of de novo applicants. Specifically, the strategic plan is intended to focus on the promotion of minority depository institutions, entities that could be certified as community development financial institutions, and depository institutions in underserved communities.

[H.R. _____](#), the *Financial Stability Oversight Council Improvement Act*

This bill prevents the Financial Stability Oversight Council (FSOC) from voting to determine that a nonbank financial company will be supervised by the Board of Governors of the Federal Reserve System without first considering alternatives. Specifically, the FSOC must determine, in consultation with the company in question and the company's primary financial regulator, that heightened standards and safeguards, or a separate written plan submitted to the FSOC, is insufficient to mitigate the threat posed by the company to U.S. financial stability.