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Statement for the Record

To the Subcommittee on Oversight and Investigations, Committee on Financial Services, House of Representatives

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FINANCIAL SERVICES

Fair Lending, Access, and Retirement Security

Statement for the Record by Michael E. Clements,
Director, Financial Markets and Community Investment



A Century of Non-Partisan Fact-Based Work

GAO@100 Highlights

Highlights of [GAO-21-399T](#), a statement for the record to the Subcommittee on Oversight and Investigations, Committee on Financial Services, House of Representatives

Why GAO Did This Study

As GAO has long reported, income, wealth, and other inequalities are associated with racial and other disparities in access to financial services and financial security in retirement.

Income and wealth inequality in the United States have increased over several decades. There is concern among some researchers and policy makers that these disparities may indicate potential problems for the financial security of many Americans in retirement.

Concerns about discrimination in credit markets also have long existed. Fair lending laws are intended to address the concerns by prohibiting discrimination in credit provision on the basis of race, national origin, gender, and other characteristics. However, the occurrence and magnitude of discrimination remain unclear, particularly in nonmortgage credit markets.

This statement summarizes information on more than a decade of GAO work related to the relationship between racial, income, wealth, and other inequalities and access to financial services and retirement security, and highlights related regulatory issues and industry developments. For a full list of the reports, see [Related GAO Products](#).

View [GAO-21-399T](#). For more information, contact Michael E. Clements at (202) 512-8678 or ClementsM@gao.gov.

February 24, 2021

FINANCIAL SERVICES

Fair Lending, Access, and Retirement Security

What GAO Found

GAO's work found racial and income disparities in access to financial services and availability of credit.

- Lower-income or minority households were less likely to access traditional banking services and more likely to use costlier products and services, such as payday loans or loans against tax refunds. Generally, these households used alternative financial services providers and products because they did not have checking or savings accounts or were unable to obtain credit or discouraged from applying for credit from a bank.
- Women and minority farmers and ranchers, including tribal members, had less access to credit than other agricultural businesses.
- Minority-owned small businesses generally had lower approval rates for credit sought and were approved for smaller shares of financing they sought.

GAO's work also has shown persistent income and wealth disparities that present disproportionate challenges to financial security in retirement for minority and poorer households.

- Wealth was consistently lower for older minority households relative to White households in the same income groupings. For example, for households with incomes between \$40,000 and \$69,000 in 2016, average White household wealth was about \$304,000 and average minority wealth was \$71,000.
- Low-income and minority households had lower participation in retirement savings plans and lower levels of other nonretirement assets such as home equity and other financial assets than White households.

GAO work identified selected regulatory issues and developments related to fair lending, including data limitations and fair lending concerns associated with technology applications.

- Data limitations pose fair lending oversight and enforcement challenges, particularly in nonmortgage credit markets where lenders are prohibited from collecting data on personal characteristics such as race and nationality.
- There is some evidence that regulations, such as for anti-money laundering, may add burden for financial institutions that can negatively affect consumer access to financial services, although GAO also found that the potential negative effect on the availability of credit is likely modest.
- "Fintech"—use of technology and innovation to provide financial products and services—can expand credit access for borrowers (for example, lenders could assess their creditworthiness with alternative data such as bill payments). But the lending discrimination risks in fintech use of alternative data are not fully understood.

February 24, 2021

Chairman Green, Ranking Member Barr, and Members of the Subcommittee:

I am pleased to submit this statement summarizing GAO's work on fair lending, access, and retirement security issues. While concerns about discrimination in credit markets have long existed, the occurrence and magnitude of discrimination remain unclear, particularly in nonmortgage credit markets. But as GAO has long reported, income, wealth, and other inequalities are associated with racial and other disparities in access to financial services and financial security in retirement.

The Equal Credit Opportunity Act and other fair lending laws prohibit discrimination in all forms of credit transactions, including consumer, business, and mortgage loans. To support enforcement of the fair lending laws, the Home Mortgage Disclosure Act (HMDA) provides for disclosure of information about mortgage loan applicants and borrowers. Such information is intended to help identify possible discriminatory lending patterns.

This statement provides findings from our past reports on (1) racial and other disparities in access to financial services by businesses and individuals; (2) racial and other disparities affecting economic security in retirement; and (3) selected regulatory issues related to fair lending and access to financial services. See the Related GAO Products page for a list of the GAO reports on which we based this statement. These reports provide a detailed description of our sources and methodology. In addition, we updated some data where appropriate.

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

Racial and Other Disparities in Access to Financial Services and Availability of Credit

Minority- and Women-Owned Businesses Had Less Access to Credit Than Other Businesses

Our recent work has found that minority- and women-owned businesses had less access to credit than other businesses. For example, in a 2019 report, we found that women and minority farmers and ranchers received a disproportionately small share of farm loans and agricultural credit overall.¹ More specifically, women and minority farmers and ranchers represented an estimated 17 percent of primary producers in a Department of Agriculture survey, but accounted for 13 percent of farms with loans and 8 percent of outstanding total agricultural debt.

Advocacy groups, lending industry representatives, and federal officials cited several factors that could contribute to the disparities: women and minority farmers and ranchers are more likely to operate smaller, lower-revenue farms, have weaker credit histories, or lack clear title to their agricultural land, which can make it difficult to qualify for loans. Advocacy groups also said some women and minority farmers and ranchers face actual or perceived unfair treatment in lending, may be dissuaded from applying for credit because of past experience, or may not be fully aware of credit options and lending requirements.²

¹GAO, *Agricultural Lending: Information on Credit and Outreach to Socially Disadvantaged Farmers and Ranchers Is Limited*, [GAO-19-539](#) (Washington, D.C.: July 11, 2019).

²Most agricultural lending is done by commercial banks or the Farm Credit System, which is regulated by the Farm Credit Administration. Farm Credit System lenders have responsibilities to expand credit access to young, beginning, and small farmers and ranchers. The Department of Agriculture facilitates outreach in a broad based effort including on USDA-guaranteed farm loans. According to the Farm Credit Administration, the Farm Credit System is not statutorily mandated to focus on providing financial opportunities to any other group.

In another 2019 report, we found that multiple issues limit tribal access to agricultural credit.³ Tribal stakeholders and experts reported a general lack of commercial credit on tribal lands for reasons including land tenure issues, lenders' legal concerns, and capital constraints at some lending institutions. For example, constraints on tribal members' ability to use tribal trust land as collateral can negatively affect how lenders assess borrowers' creditworthiness.⁴ Tribal stakeholders and experts also said tribal members may not have applied for loans because loan officers directly discouraged them or they heard of other tribal members being denied loans. Some experts told us Native credit unions, community banks, and loan funds were a growing source of agricultural credit for tribal members. But a 2014 survey found that 56 percent of the Native credit unions, community banks, and loan funds that made agricultural loans reported not having enough capital for such loans, with a total unmet need of at least \$3 million in the previous year.⁵

More generally, differences by race in small business access to credit appear to be persistent. A 2018 survey found that, on average, approval rates for loans or lines of credit and cash advances that minority-owned firms sought at small banks or online lenders were lower than those for White-owned firms.⁶ For example, 56 percent of minority-owned business applicants were approved for at least some of the financing they sought at small banks, compared to 73 percent of White-owned firm applicants. Minority-owned firms also were approved for smaller shares of the financing they sought than White-owned firms. This is in line with previous findings.⁷ For example, in 2014 Black-owned firms were the most likely to have applied for bank financing, but least likely to be fully funded (less than half of the applications—a rate more than 10 percentage points

³GAO, *Indian Issues: Agricultural Credit Needs and Barriers to Lending on Tribal Lands*, [GAO-19-464](#) (Washington, D.C.: May 9, 2019).

⁴Long-term agricultural loans are typically used to acquire, construct, and develop land and buildings and are secured by real estate. But most tribal lands can be used as loan collateral only in certain circumstances or with federal permission.

⁵First Nations Oweesta Corporation, *Food Financing Efforts 2014: Native CDFI Support of Native Farmers & Ranchers* (Longmont, Colo.: 2014).

⁶Federal Reserve Bank of Atlanta, *Small Business Credit Survey: Report on Minority Owned Firms* (Atlanta, Ga.: December 2019). The results did not control for firm characteristics.

⁷Board of Governors of the Federal Reserve System, *Report to the Congress on the Availability of Credit to Small Businesses* (Washington, D.C.: September 2017).

higher than all other racial categories). We found similar results in a 2008 review of studies on minority business lending.⁸

Lower-Income and Minority Groups Were More Likely to Use Costlier Products and Services Such as Payday Loans

Lower-income or minority households also were less likely to access traditional banking services and more likely to use costlier products and services, such as payday loans or loans against tax refunds.⁹ For example, in a 2018 report we found that lower-income households generally were more likely to use alternative financial services providers (such as payday or auto title lenders, pawnshops, and check cashers) than higher-income households, despite bank and credit union branches being relatively near.¹⁰ In 2019, the Federal Deposit Insurance Corporation found that households with less than \$75,000 in income were more likely than those with higher incomes to report having used an alternative financial services provider in the past 12 months.¹¹

Lack of proximity or access to banks or credit unions did not appear to be a major reason for using alternative financial service providers. We estimated that low-income communities in rural areas and larger urban areas had at least as many bank and credit union branches within 2 miles as middle-income communities, all else being equal. Rather, the households used alternative providers—at least in part—because they did not have checking or savings accounts or because they were unable to obtain credit or discouraged from applying for credit from a bank. The Federal Deposit Insurance Corporation estimated in 2019 the share of households with income of less than \$15,000 that did not have a checking

⁸GAO, *Fair Lending: Race and Gender Data Are Limited for Nonmortgage Lending*, [GAO-08-698](#) (Washington, D.C.: June 27, 2008). We reviewed eight studies on minority business lending. Seven of the eight studies found that lenders denied loans to Black-owned businesses or required them to pay higher interest rates for loans significantly more often than for White-owned businesses. The studies we reviewed found that Hispanic-owned businesses also were denied credit or charged higher interest rates more often than White-owned businesses with similar risk characteristics.

⁹A payday loan is a small-dollar loan (usually \$100–\$500) and repayable in a short term, usually 2 weeks. Consumers can pay fees of \$15–\$20 for every \$100 borrowed.

¹⁰GAO, *Community Reinvestment Act: Options for Treasury to Consider to Encourage Services and Small-Dollar Loans When Reviewing Framework*, [GAO-18-244](#) (Washington, D.C.: Feb. 14, 2018).

¹¹Federal Deposit Insurance Corporation, *How America Banks: Household Use of Banking and Financial Services, 2019 FDIC Survey* (Washington, D.C.: Oct. 19, 2020).

or savings account was about 22.7 percentage points higher than households with \$75,000 or more.¹²

In a 2019 report, we focused on alternative financial products—so called “tax-time” loans or advances—which tens of millions of Americans have used in recent years.¹³ We found that Black households were 36 percent more likely to use these products than White households after controlling for other factors.¹⁴ We also found that lower-income households were more likely to use tax-time products than higher-income households, particularly when they used paid tax preparers to file their taxes.

Users of tax-time products tend to have immediate cash needs and the products generally provide more cash at a lower cost than alternatives such as payday, pawnshop, or car title loans. However, fees for some products increased in 2018 and consumers may not always have been aware of the total costs associated with their use before they obtained the product.

Economic Effects of Income and Wealth Disparities Include Retirement Security Challenges for Older Minority and Poorer Households

¹²Federal Deposit Insurance Corporation, *How America Banks*.

¹³GAO, *Tax Refund Products: Product Mix Has Evolved and IRS Should Improve Data Quality*, [GAO-19-269](#) (Washington, D.C.: Apr. 5, 2019).

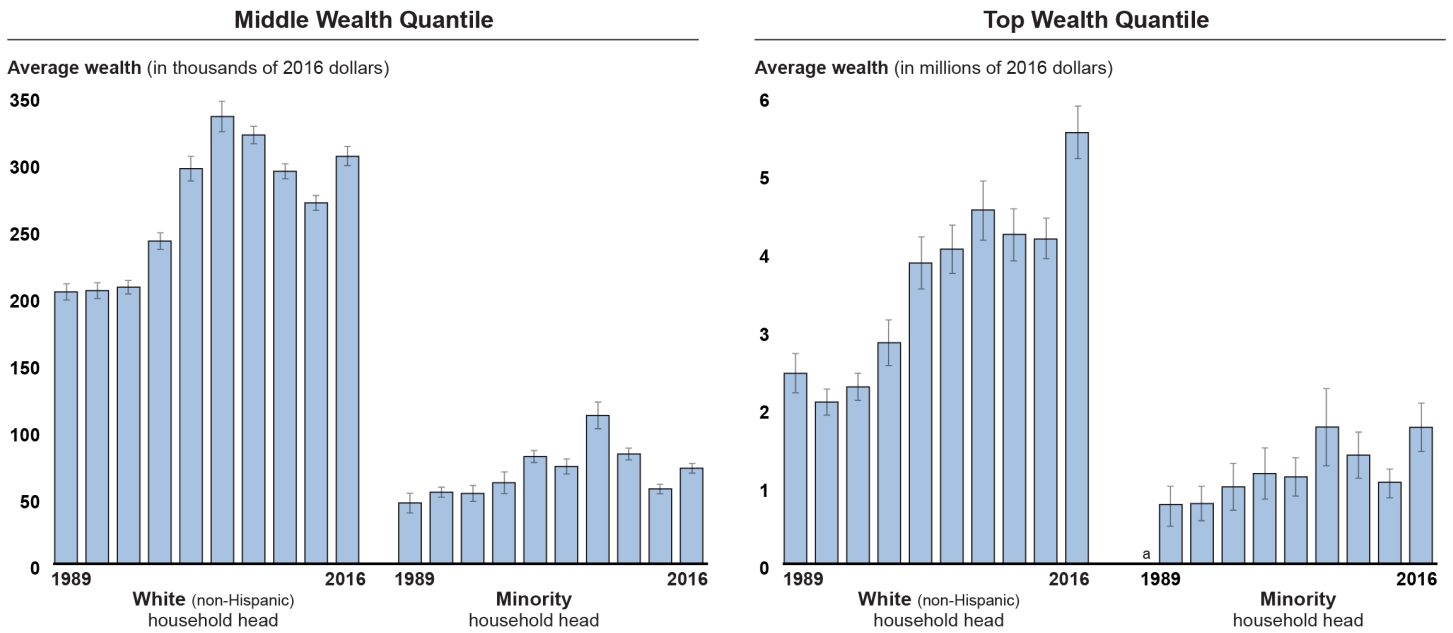
¹⁴Banks issue these products through paid tax return preparers to help taxpayers file taxes and get advances or loans against tax refunds.

Race and Ethnicity Were Factors in Persistent Income and Wealth Disparities as Households Aged

In a 2019 report, we found income and wealth disparities among older households—55 and older—were sizeable and disparities existed by race (see fig. 1). More specifically, income and wealth were consistently lower over time for older households with a minority head of household relative to those with a White head of household, and these disparities existed across all quintiles and all years. For example, for the middle wealth quintile, average wealth for White households in 1989 was about \$203,000 and for minority households in the same quintile, around \$45,000. Differences for this quintile in 2016 were similar, with average White household wealth at about \$304,000 and average minority household wealth at about \$71,000.¹⁵

¹⁵GAO, *Retirement Security: Income and Wealth Disparities Continue through Old Age*, [GAO-19-587](#) (Washington, D.C.: Aug. 9, 2019). All reported amounts are in 2016 dollars. We used data from the Survey of Consumer Finances, a triennial, cross-sectional survey produced by the Board of Governors of the Federal Reserve System. We divided households into groups of five or quintiles by income and wealth. We found similar results using data from the Health and Retirement Study, a nationally representative survey that follows the same set of Americans from their 50s through the rest of their lives. We divided survey households into five quintiles, or earnings groups, based on the number of households and their mid-career household earnings (earnings between ages 41–50). We generally found significant differences in income and wealth by race and ethnicity within earnings groups as the households aged into their retirement years.

Figure 1: Estimated Wealth of Older Households in the Middle and Top 20 Percent of the Wealth Distribution by Race, 1989–2016



Source: GAO analysis of Survey of Consumer Finances data. | GAO-21-399T

Notes: We defined wealth as net worth, or assets minus debt. Averages represent mean estimates. The lines overlapping the bars represent 95 percent confidence intervals. Older households are those in which survey respondents or any spouses or partners were aged 55 or older in the year of the survey. We defined minority as someone Black, Asian, or Hispanic. We ranked the households by their net worth and broke them into five equally sized groups, or quintiles. Each year of data in our analysis, and, therefore, each quintile included different sets of households over time.

Challenges to Retirement Security of Low-Income and Minority Households Include Low Retirement Resources

Low-income and minority households have faced challenges in achieving retirement security that include the income and wealth disparities discussed above, lower participation in retirement savings plans, and lower levels of other assets such as home equity. Households primarily rely on three main sources of retirement income: Social Security, employer-sponsored pension plans—defined benefit and defined contribution plans—and other nonretirement plan savings and investments, such as home equity, stocks, bonds, and savings.

Low-Income and Minority Households Had Low Access to and Savings in Defined Contribution Retirement Plans

In a 2016 report, we found income and race differences in access to and savings in defined contribution plans.¹⁶

- Low-income households had less savings in and access to defined contribution plans than other income groups as of 2013.¹⁷ Among working households, only 25 percent of low-income households had any defined contribution savings, compared to 81 percent of high-income households. For households with such savings, the median for low-income working households was an estimated \$10,400, compared to \$201,500 for high-income households.¹⁸ Lower plan access and participation rates among low-income households contributed to the discrepancy in plan savings.¹⁹
- Similarly, minority households had less plan access and savings than White households. For example, an estimated 64 percent of White, 47 percent of Black, and 31 percent of Hispanic working households had defined contribution savings in 2013. The estimated median balance for White households was \$58,800; for Black households, \$16,400; and for Hispanic households, \$18,900. When able to access such a

¹⁶GAO, *Retirement Security: Low Defined Contribution Savings May Pose Challenges*, [GAO-16-408](#) (Washington D.C.: May 5, 2016). Over the past three decades, employers largely have shifted from offering defined benefit plans in which workers accrue guaranteed lifetime benefits, to offering defined contribution plans, in which workers accumulate savings in personal accounts such as 401(k) plans and Individual Retirement Accounts to fund their retirements.

¹⁷The ranges of income groups for working households were \$0–\$56,700 (median savings estimate in this range is \$10,400, plus or minus \$1,500) for the lowest usual household income group; \$57,700–\$87,600 (\$28,400, plus or minus \$5,500) for the second lowest income group; \$88,100–\$133,900 (\$60,900, plus or minus \$6,200) for the second highest income group; and \$135,000 and above (\$201,500, plus or minus \$28,300) for the highest group.

¹⁸We have similar findings in [GAO-19-587](#): In 2016, 89 percent of the households in the bottom wealth quintile had no retirement accounts, and another 10 percent had account balances of less than \$50,000. More than half the households in the middle wealth quintile had retirement accounts, and almost all of these households had less than \$200,000 in their accounts.

¹⁹For instance, about 35 percent of low-income working households had access to a defined contribution plan, compared to 80 percent of high-income working households. And an estimated 64 percent of low-income working households participated in a plan compared to 95 percent of high-income working households.

Low-Income and Minority
Households Had Low Home
Equity and Other
Nonretirement Assets

plan, differences in household participation by race and ethnicity were small.²⁰

Additionally, disparities in the overall accumulation of nonretirement assets may account for racial and ethnic disparities in retirement security. A study we reviewed for this statement found that home equity accounts for the largest part of most U.S. families' wealth, but home ownership is unequally distributed along racial and ethnic lines.²¹ Disparities in homeownership rates (73 percent for Whites, 47 percent for Latinos, and 45 percent for Blacks), home equity (\$86,800 for Whites at the median, compared to \$50,000 for Blacks and \$48,000 for Latinos), and neighborhood housing values substantially contribute to the racial wealth gap. According to the authors, because White families are more likely to receive inheritances and other family assistance to put a down payment on a home, they are often able to acquire home equity many years earlier than Black and Latino families, offering a head start on wealth-building.

Home equity has historically been an important source of retirement security as people age. In a 2020 report on retirement security for women age 70 and older, we found that between 40 and 50 percent of households with older women who owned a home, either outright or with a mortgage, reported high confidence in their retirement security, compared to 24 percent of those who were renting. In addition, renters were significantly more likely to have low household retirement confidence than homeowners overall.²² In another study, we found that renting among Black households increased from 54 percent in 2001 to 58 percent in 2017.²³ In contrast, renting among White households ranged from 26 to 29 percent. Moreover, minority households were more commonly rent-burdened—that is, rents were above 30 percent of household income.

²⁰For instance, 88 percent of White, 81 percent of Black, and 80 percent of Hispanic working households participated when they had access to a defined contribution plan.

²¹Demos and Institute for Assets and Social Policy, "The Racial Wealth Gap: Why Policy Matters" (New York: June 21, 2016).

²²GAO, *Retirement Security: Older Women Report Facing a Financially Uncertain Future*, [GAO-20-435](#) (Washington, D.C.: July 14, 2020).

²³GAO, *Rental Housing: As More Households Rent, the Poorest Face Affordability and Housing Quality Challenges*, [GAO-20-427](#) (Washington D.C.: May 27, 2020).

And in the 2019 report we previously discussed, other nonretirement assets (besides home equity or vehicles) such as stocks, bonds, and savings were a significant source of retirement security for the top quintile of households. Estimated average wealth in these assets was about \$3.3 million in 2016 for the top quintile, which was more than the average value of their home equity.²⁴

Select Regulatory Issues Related to Fair Lending and Access to Credit

New Mortgage Reporting Requirements Add Data on Borrowers and Exempt Small Lenders from Reporting

The Home Mortgage Disclosure Act (HMDA) requires certain lenders to collect and publicly report data on the race, ethnicity, and sex of mortgage loan borrowers. HMDA data are the only publicly available source of nationwide loan-level data on the supply and demand for mortgage credit. In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act addressed HMDA data limitations that our 2009 report identified.²⁵ Consequently, the Consumer Financial Protection Bureau required mortgage lenders to report the new data points starting in 2018. Examples of some of the new data points include borrower's age, borrower's credit score, combined loan-to-value ratio, and whether the loan is an open-end line of credit.

In 2018, Congress passed the Economic Growth, Regulatory Relief, and Consumer Protection Act, which exempts certain small insured banks and credit unions from reporting the new HMDA data. Prior to the act, in 2009, we raised concerns about regulatory burden from additional HMDA requirements on smaller entities, and in 2018, community banks and

²⁴GAO-19-587.

²⁵GAO, *Fair Lending: Data Limitations and the Fragmented U.S. Financial Regulatory Structure Challenge Federal Oversight and Enforcement Efforts*, GAO-09-704 (Washington, D.C.: July 15, 2009).

credit unions raised similar concerns.²⁶ As required by law, we are currently reviewing how the reporting exemptions affect HMDA data availability at the national and local levels.²⁷

Limited Nonmortgage Data Have Posed Challenges for Oversight and Enforcement of Fair Lending Laws

There is no parallel to HMDA for data on nonmortgage loans (such as small business, credit card, and automobile loans). Regulations generally prohibit lenders from collecting information on applicants' personal characteristics to prevent lending discrimination.²⁸ However, some members of Congress and consumer advocates argue that the prohibition on data collection has limited the ability of researchers, regulators, Congress, and the public to monitor nonmortgage lending practices and identify possible discrimination.²⁹

As discussed previously, we found that women and minority farmers and ranchers faced challenges accessing credit, but we could not determine if this was a result of discriminatory lending practices due to the lack of personal characteristic data on a large portion of agricultural loan applications.³⁰ Some advocates with whom we spoke expressed concern about the lack of accurate public information on lending to these groups, which they said forces them to rely on anecdotal evidence in attempts to monitor potential discrimination. Similarly, in a July 2009 report we found

²⁶GAO, *Community Banks and Credit Unions: Regulators Could Take Additional Steps to Address Compliance Burdens*, [GAO-18-213](#) (Washington, D.C.: Feb. 13, 2018). Interviews and focus groups we conducted with representatives of over 60 community banks and credit unions indicated regulations for reporting mortgage characteristics, reviewing transactions for potentially illicit activity, and disclosing mortgage terms and costs to consumers were the most burdensome.

²⁷Pub. L. No. 115-174, § 104(b) (2018).

²⁸See 12 C.F.R. § 1002.5(b); see also 12 C.F.R. § 1002.5(a) (setting forth certain circumstances when a creditor may obtain otherwise protected applicant information). The Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, or age; because an applicant receives income from a public assistance program; or because an applicant has in good faith exercised any right under the Consumer Credit Protection Act. 15 U.S.C. § 1691(a).

²⁹Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act amended the Equal Credit Opportunity Act to require financial institutions to compile, maintain, and submit to the Consumer Financial Protection Bureau certain data on applications for credit for women-owned, minority-owned, and small businesses. In December 2020, the agency reported that it was writing proposed regulations to implement section 1071.

³⁰[GAO-19-539](#).

that personal characteristic data would enhance transparency by helping researchers and others better assess the potential risk for discrimination.³¹

While requiring lenders to report additional data would impose costs on them, particularly smaller institutions, options exist to mitigate such costs to some degree, such as limiting the reporting requirements to larger institutions. We are currently conducting a review of the Consumer Financial Protection Bureau and the Office of the Comptroller of the Currency's oversight of fair lending.

Regulatory Burden and Other Factors Can Affect Access to Financial Services

In the past two decades, financial regulators implemented many new regulations in the aftermath of events such as the September 11 terrorist attacks and the financial crisis in 2007–2009. Community banks and credit unions have expressed concerns about the burden that additional regulations have created. The regulations were intended to address the risks and problematic practices that contributed or led to the events, and included provisions that ranged from strengthening financial institutions' anti-money laundering programs to creating additional protections for mortgage lending and strengthening oversight of financial institutions.

In multiple recent reports, we found some evidence of these rules affecting access to financial services and creating a regulatory burden for some institutions.

- In 2018, we reported that the requirements of Bank Secrecy Act (BSA) and its implementing regulations may affect access to financial services in some communities.³² For example, half of the 91 banks that responded to a GAO survey reported terminating at least one money transmitter account in 2014–2016.³³ Money transmitters provide financial services to people less likely to use traditional banking services. In addition, more than 70 percent of Southwest border banks reported terminating cash-intensive small business

³¹GAO-09-704.

³²GAO, *Bank Secrecy Act: Derisking along the Southwest Border Highlights Need for Regulators to Enhance Retrospective Reviews*, GAO-18-263 (Washington, D.C.: Feb. 16, 2018).

³³GAO, *Bank Secrecy Act: Examiners Need More Information on How to Assess Banks' Compliance Controls for Money Transmitter Accounts*, GAO-20-46 (Washington, D.C.: Dec. 3, 2019).

accounts, such as retail stores and restaurants—partly to manage perceived regulatory concerns about facilitating money laundering.

- Ten of 11 banks we studied for a 2020 report did not impose any direct fees or other charges on customers to recoup their BSA-related compliance costs, but minimized such costs by not offering certain higher-risk products and services or not servicing certain types of customers and locations.³⁴ For example, at least six of the 11 banks said they did not offer accounts to money services businesses because of the potentially greater and more costly due diligence, monitoring, and reporting involved.
- But in another 2018 report, we found that some compliance burdens arose from misunderstanding these disclosure regulations—which in turn may have led institutions to take actions not actually required.³⁵ We used econometric models to determine that community banks' small business lending since 2010 can be explained largely by macroeconomic, local market, and bank characteristics, and that the potential effect of regulatory changes was likely modest.³⁶

Nevertheless, we recommended that regulators improve their processes and procedures. Specifically, in a 2018 report on financial regulators' compliance with the Regulatory Flexibility Act—intended to minimize regulatory burden on small entities—we found deficiencies in the way most financial regulators conducted their regulatory flexibility analyses when issuing rulemakings.³⁷ We recommended that they improve their related policies and procedures so as not to potentially undermine the intended goal of the act.

³⁴GAO, *Anti-Money Laundering: Opportunities Exist to Increase Law Enforcement Use of Bank Secrecy Act Reports, and Banks' Costs to Comply with the Act Varied*, [GAO-20-574](#) (Washington, D.C.: Sept. 22, 2020).

³⁵[GAO-18-213](#).

³⁶GAO, *Community Banks: Effect of Regulations on Small Business Lending and Institutions Appears Modest, but Lending Data Could Be Improved*, [GAO-18-312](#) (Washington, D.C.: Aug. 6, 2018).

³⁷GAO, *Financial Services Regulations: Procedures for Reviews under Regulatory Flexibility Act Need to Be Enhanced*, [GAO-18-256](#) (Washington, D.C.: Jan. 30, 2018). The Regulatory Flexibility Act requires regulatory agencies to provide an assessment—a regulatory flexibility analysis—of a rule's potential impact on small entities and consider alternatives that may reduce burden. Alternatively, agencies may certify that a rule would not have a significant economic impact on a substantial number of small entities instead of performing a regulatory flexibility analysis.

Fintech Products Help Some Consumers Access Credit but Also Raise Fair Lending Concerns

In a 2018 report on financial technology, we identified several potential consumer benefits of “fintech” products, including lower cost and increased access or inclusion.³⁸ Fintech refers to the use of technology and innovation to provide financial products and services, such as electronic payments, loans, or financial advice to consumers and businesses. Because fintech providers often have fewer staff and lower overhead costs, they may be able to pass these cost savings on to consumers by offering lower rates or fees on products, including loans.

Fintech has been expanding access for borrowers with weaker credit histories, or who might have difficulty qualifying under traditional standards. For example, several (five of 11) fintech lenders with which we spoke in 2018 said they use alternative data (such as bill payment history) to supplement traditional data when making a credit decision.³⁹ Using alternative data may allow fintech lenders to offer loans to consumers whose traditional credit history may have been insufficient for banks to extend them credit.

Regulators and industry stakeholders also noted the potential for use of alternative data to expand access to credit (such as to some among the estimated 45 million people who lack traditional credit scores) or offer lower-cost access to financial services.⁴⁰ Using alternative data may enhance assessment of a borrower’s creditworthiness. For instance, the borrower may be placed in a better credit classification and receive lower-priced credit than would be available using traditional data alone. Fintech robo-advising services offer low-cost investment advice provided solely by algorithms instead of humans, which can make that advice more

³⁸GAO, *Financial Technology, Additional Steps by Regulators Could Better Protect Consumers and Aid Regulatory Oversight*, [GAO-18-254](#) (Washington, D.C.: Mar. 22, 2018).

³⁹GAO, *Financial Technology: Agencies Should Provide Clarification on Lenders’ Use of Alternative Data*, [GAO-19-111](#) (Washington, D.C.: Dec. 19, 2018). Alternative data consist of any information not traditionally used by the three national consumer reporting agencies when calculating a credit score.

⁴⁰See Board of Governors of the Federal Reserve System, Consumer Financial Protection Bureau, Federal Deposit Insurance Corporation, National Credit Union Administration, and Office of the Comptroller of the Currency, *Interagency Statement on the Use of Alternative Data in Credit Underwriting* (Washington, D.C.: Dec. 3, 2019). In the statement, the regulators recognize the potential benefits of alternative data and state that a well-designed compliance management program allows firms to understand the opportunities, risks and compliance requirements before using alternative data.

accessible to consumers who cannot meet account minimums at traditional advisers.

However, fintech also presents challenges and potential discrimination risks for borrowers. Borrowers could face challenges in checking and correcting alternative data that some fintech lenders use to make underwriting decisions because these data are not typically reflected in credit reports.⁴¹ Although consumers face risk of discrimination regardless of whether they borrow from a traditional or fintech lender, the risks are not fully understood with fintech lenders that use alternative data. Fintech firms assessing applicant creditworthiness with information and criteria highly correlated with a protected class may lead to a disproportionate negative effect. For example, according to a Federal Reserve System newsletter, it has been reported that some lenders consider whether a consumer's online social network includes people with poor credit histories, which can raise concerns about discrimination against those living in disadvantaged areas.⁴² We are currently conducting a study of the use of alternative data in mortgage lending.

In conclusion, racial, income, and other disparities have significant economic impacts, whether they be on the financial services consumers can obtain and at what cost or on their ability to achieve retirement security. Fintech may help address some of the access issues, but also raises some fair lending concerns.

Chairman Green, Ranking Member Barr, and Members of the Subcommittee, this completes my statement for the record.

GAO Contact and Staff Acknowledgments

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⁴¹All 11 of the fintech lenders we interviewed in 2018 stated that they test their underwriting model for accuracy or compliance with fair lending laws, including testing to ensure their credit models do not discriminate against "protected classes," such as race or marital status. See [GAO-19-111](#).

⁴²Federal Reserve System, *Consumer Compliance Outlook*, 2nd issue (2017).

Sinkfield. In addition, Alicia Puente Cackley, Michael Collins, and Tamara Cross provided key support.

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