

Record of Meeting

Community Advisory Council and the Board of Governors  
Friday, October 21, 2016

- 1. Financial Technology:** *Recently, there have been increasing innovations utilizing technology in the provision of financial services, such as marketplace lending, distributed ledger technology, and automated financial advising tools. What types of financial innovations or technological features have you seen in your communities? How have these innovations affected access to credit or savings opportunities for low- and moderate-income (LMI) consumers and small businesses? What potential challenges and opportunities arise when LMI consumers engage with these innovations?*

Innovations in the Financial Technology sector, or “fintech,” can help to expand access to affordable credit for LMI consumers, particularly those with little or no credit history who are unbanked or underbanked. Due to the urgency often associated with the circumstances causing small business to turn to online services, these small businesses are especially vulnerable to loans associated with inadequate underwriting, merchant cash advances, and prepayment penalties. Fintech platforms have also resulted in the proliferation of abusive lending practices toward consumers and small business owners. To ensure continued expansion of credit access for LMI consumers through fintech, it will be important to develop a structured framework that allows innovation in the sector to flourish while also protecting consumers.

The emergence of the fintech sector highlights the lack of clarity as to where oversight responsibility ultimately lies and brings the gaps in enforcement of rules to which all lenders are subject into sharp relief. The need for regulators, and potentially lawmakers, to clarify responsibilities and address gaps is urgent. Improving and enforcing existing regulations is critical to ensuring that LMI consumers and small businesses are not being taken advantage of by fintech firms.

Technological advances have the potential to reduce costs and increase efficiency for consumers. Recent tools and platforms provide lower cost channels to credit (though not necessarily lower cost credit) than traditional banks, and useful tools to assist people not accustomed to managing bank accounts with cash management, debt repayment, and savings, as well as with accessing “small-dollar loans.”

Some of the positive innovations growing out of the fintech industry include providing lower-cost credit to LMI consumers who have traditionally been denied credit by banks or have been preyed upon by other institutions, such as payday lenders. Fintech firms do so by using alternative and/or complementary methods to traditional credit scoring. They are also using both automation and behavioral economics to influence consumers to be able to save and provide more consistency with their cash flow.

For example, a mobile app has been developed that helps consumers save by pulling small amounts from their checking accounts and placing it into savings over time. The amounts taken

out are based on the consumers' spending habits. Another company is helping low-income families have a more consistent cash flow through an app that adjusts their paychecks so that they are the same amount each pay period. The app provides a small-dollar loan from the customer's own savings when income goes below the set "paycheck" amount and automatically repays the loan as they earn more. This helps reduce reliance on predatory lending products when income is inconsistent. Additionally, fintech companies are helping Americans pay down their existing debt more quickly and at a lower cost. An example of this includes an online benefits program offered through employers that helps employees pay off their student loans.

There has also been substantive innovation in the online mortgage market that can help low-income consumers. A recent innovation is an online resource that links access to low-down-payment mortgages (as low as 3 percent) with an online homebuyer training and counseling course called Framework Homeownership, developed by the Housing Partnership Network and Minnesota Homeownership Center. Fannie Mae developed two mortgage products—HomeReady and HomePathReady—that require use of the Framework product, and it incentivizes lenders to use complementary underwriting tools as well. A major bank also announced this year a mortgage program that gives first-time buyers a reduced interest rate if they complete homebuyer counseling. These buyers have the option of using Framework, among other online products. The majority of buyers choose Framework, but eHome America is another online training option.

According to the Federal Reserve Banks' 2015 joint small business survey, 20 percent of small business applicants applied for credit from an online lender versus a bank or credit union, up from 18 percent in 2014. In both years, the percentages were considerably higher for the smallest of firms, indicating that the market for online loans continues to grow.

While fintech offers potential help to LMI communities, many challenges remain in regulating these products so that they are safe for both small businesses and consumers. One concern is the increase in recent years in online alternative or "marketplace" lenders, who are competing with more traditional lenders. Although the increasing number of marketplace lenders means more borrowers are getting approved than in previous years, many still are not getting loans, or are only receiving a portion of what they applied for, which may lead them to seek out other sources to fill that gap, such as predatory payday loans or high-interest small business loans. Additionally, small businesses report low satisfaction with these loans. Repayment terms are stringent, do not leave enough room for flexibility, can include excessive fees, and have interest rates that vary significantly. Historically, these practices have disproportionately had a negative impact on small businesses owned by women and people of color.

Online platforms offer a degree of efficiency difficult for brick and mortar banks to match, and they represent a lower hurdle to the financial mainstream for LMI households and entrepreneurs. Some banks have begun to offer online lending platforms (in response), and some nonbank platforms do offer value-added services and features to consumers and small business owners outside the economic mainstream. However, a key distinction is the regulatory protections bank customers enjoy, and the hands-on and responsible lending and servicing offered by (largely bank-funded) Community Development Financial Institutions (CDFIs), which also have difficulty competing with (nonbank) online products. Nondepository online lenders are subject to

the Equal Credit Opportunity Act and requirements relating to data protection and unfair, deceptive, or abusive acts or practices, but they provide insufficient reporting and do not face regular examinations. Not only do regulatory agencies need to improve the pace of enforcement in order to keep up with the changing market, they should encourage and facilitate a public dialogue about financial products and services in order to increase transparency for companies and awareness for consumers.

Moreover, while low-income borrowers are now able to access more credit through fintech, it does not mean that they are accessing responsible credit. The Council recognizes a clear distinction between a legitimate loan and a debt trap, regardless of the innovative technology used to deliver the product. A debt trap is characterized by a lack of underwriting to test the borrower's ability to repay and the existence of abusive terms, such as prepayment penalties and very short amortization periods.

Industry analysts have warned that patterns similar to those observed in the mortgage industry before the Great Recession are emerging in the online lending space. Like those lenders, marketplace lenders—whose loans are typically securitized shortly after funding—bear no risk in the event of default, creating potential moral hazard. Advocates, researchers, and others point to a fundamental misalignment of incentives that leaves the door open for abusive practices, coupled with a significant lag in appropriate regulatory advances and responses (to myriad new origination, pricing, collection, transparency, and other practices) to protect borrowers. Unlike banks, online lenders also have unstable funding from various types of investment firms, which may withdraw rapidly from the market in the event of economic downturn, resulting in high defaults.

**2. Workforce Development & Community Reinvestment:** *What is the Council's view on the impact that the newly issued Community Reinvestment Act (CRA) Q&A guidance will have on bank activity related to job creation and economic development? What innovative strategies have your communities undertaken to improve workforce development? What other observations do you have to offer regarding this guidance and the agencies' implementation of it more generally?*

## **Workforce Development**

The Council considers direct mention of and focus on workforce development and technical assistance to small businesses as economic development activities that satisfy the community development component of the CRA evaluation a positive change in the Q&A. Workforce development is increasingly being recognized as a key public need that requires more intentional focus and support at all levels of government in order to advance equitable economic development concerns. By clarifying that financial support of existing government economic development programs and initiatives that include workforce components will be considered qualifying loans, services, and investments, covered institutions will likely seek more opportunities to invest in these activities.

One aspect of workforce development that should be emphasized is the need for greater integration of self-employment support into our national workforce development systems. While this integration of services could be valuable for any person that seeks to engage in workforce investment programs, data tell us that it is likely to be particularly relevant to Latinos and other populations that demonstrate high rates of entrepreneurship.

Given the disparities in the unemployment rate, encouraging bank participation in job creation and economic development activities will allow communities to mold programs that draw on regional strengths. Increasingly communities are setting economic development priorities; identifying the areas of need in the area's workforce; and developing more-sophisticated programs and strategies that link multiple workforce development programs, from basic employment skills to more-advanced sector-specific training, and tie those programs to outcome-oriented goals. Culturally and linguistically relevant approaches to delivering workforce development and self-employment support are critical to the efficacy of these services.

### **Q&A Reform**

Overall, the Council believes that the Q&A revision has made important clarifications to the rules that strengthen CRA implementation. These include the new emphasis on economic development as a fully CRA-eligible category; the clarification that eligible investments are not restricted to "currently" LMI people; the emphasis on workforce development; and the emphasis on technical assistance providers, CDFIs, and other nonprofit service and financial organizations that support new businesses.

The Q&A also correctly clarifies that community development activities that help to revitalize or stabilize underserved, rural middle-income geographies include measures that increase broadband communications.

Broadly speaking, the revised CRA Q&A is seen as positive in many aspects, and the extensive engagement of community development organizations (CDO) was particularly well received. With respect to the investment test, the CRA credit for funding of CDFIs is viewed favorably. With regard to the service test, the Q&A discussion around innovativeness and responsiveness (with respect to products) indicating that banks will be evaluated for quantity, quality, and performance was also well received. Similarly, language that addresses uptake and ease of use of products provides needed clarity. Finally, the continued emphasis on bank branch locations has been well received because, often, a branch proximate to an LMI community is the difference for community residents having a (mainstream) banking relationship or not.

Overall, the increased clarity in the Q&A should lead to more dialogue among banks, community groups, and government on how to work together to expand the ecosystem of policy tools and CRA-eligible activities that intentionally support all aspects of equitable economic development.

### **Areas Where a Further Q&A and Rules Revision Could Strengthen the Implementation and Impact of the Law**

The Council believes that there were significant missed opportunities that could meaningfully strengthen the impact of the law by correcting areas where implementation has been notably deficient.

Although the new Q&A emphasis on economic development is a step forward, the Council believes that the reform did not go far enough in this area. Another problem that should have been addressed is that banks can still get CRA credit for investing in or lending to entities that create only low-wage jobs that do not offer a path out of poverty. While examiners may consider information provided by financial institutions regarding quality of jobs created, they are not compelled to consider this aspect. This undermines the equitable development impact of the law. Similarly, two areas of the purpose test (investments in business-focused intermediaries and technical assistance providers) do not require benefit to LMI people or geographies for CRA credit consideration. The concern is that this missed opportunity to strengthen and focus the economic development intent of the law may lead to a range of activities getting CRA credit that do not benefit LMI, and that may even lead to displacement of LMI populations.

These include

- the problem of “grade inflation” in the overall rating system, given the fact that 98 percent of institutions receive either a Satisfactory or Outstanding CRA rating, which greatly undermines the impact of the law;
- the problem of the designation of assessment areas, which increasingly do not correspond to the area where banks draw this deposit base—especially true as chartered institutions move into non-brick-and-mortar-based products;
- the problem of the lack of distinction among or disaggregation of loan types by census tract, which makes the impact in LMI areas remain difficult to measure;
- the problem of incomplete and inconsistent community needs and investment context assessments that should inform both the bank and the regulator throughout the CRA process;
- the problem of completed CRA exams not being publicly released, which negates the impact of the exam and the law; and
- the problem of inadequate assessment of investments in tribal communities.

The Council believes that these problems could be substantively addressed by further rules reform:

- Grade inflation can be addressed in a number of ways, including adjusting the expected ratios of passing CRA grades or widening the rating scale.
- Assessment areas can be addressed by reconsidering how assessment areas are set for banks that draw a significant percentage of their deposits from a broader area.
- Community needs and investment context can be established by a more formal process that takes into account the specific needs of the areas, such as the needs of high-cost

markets, the concerns of rural areas, or the impact of new Affirmatively Furthering Fair Housing rules on local municipalities.

- CRA exams could be publicly released in a timely manner.

Another area where the impact of the CRA can be enhanced is at the moment of a bank merger application. Bank mergers present a unique opportunity to improve CRA implementation by securing proactive commitments from banks to ensure that banks and local communities benefit from mergers—especially since mergers typically lead to fewer banks. Regulators should require banks, as a condition for approving mergers, to develop comprehensive, public, forward-looking, multiyear CRA plans that include community input and address community needs and that include measurable goals. While each bank’s CRA plan would vary depending on the bank’s business model and expertise and the specific needs of the communities they serve, there are certain commonalities each bank should adopt in developing and finalizing a CRA plan:

- Conduct a comprehensive needs-assessment based on public data and conversations with the nonprofit community to identify local needs and potential partners.
- Engage the nonprofit community—developers, service providers, community organizers, and policy organizations—in developing the CRA plan.
- Make the plan public and have it monitored by the bank’s regulatory agency(-ies).
- Incorporate concrete, measurable goals that are consistent with the local community development needs identified in the needs assessment. The plan must be strategic and intentional, with a strong commitment to nonprofit developers and community-based organizations. The plan should follow the best practices outlined in this report, particularly as they align with a bank’s business model, including branches and banking products; equitable, affordable one- to four-family lending; responsible multifamily lending; responsible and responsive small business lending and supports; strategic, targeted community development loans, investments, and grants; and a local team of knowledgeable, accessible community development staff.

In today’s terminology, the CRA is a tool to support economic mobility by strengthening neighborhoods. Federal Reserve regional banks are taking affirmative action to increase and deepen conversations between CRA-covered banks and nonprofit community organizations. With these considerations, the CRA plan should become more relevant to the local needs of the communities that banks serve, including highly concentrated areas of poverty, which might be outside their assessment area.

CRA exams can also be improved by evaluating access to banking in a number of important ways—namely assessing the number of branches opened, focusing on eliminating hidden fees, easing identification requirements, and rating a bank’s focus on the LMI community through the number of new accounts and products that serve the LMI community. The CRA exam should also explicitly

- evaluate a bank’s record of lending to people of color;
- offer a more nuanced rating system;
- ensure assessment areas reflect all geographies where a bank takes deposits, makes loans, and does business;

- examine the lending record of bank holding companies and all subsidiaries through one comprehensive exam;
- facilitate community development by focusing on the quality of loans (and in particular small business loans) to the LMI community and the types jobs these loans create;
- publicize annual data on small business lending and community development lending; and
- include public commentary.

There should be greater clarity about how engaging in unfair, deceptive, or abusive practices impacts a bank's CRA rating. The Council believes that the CRA rating of banks that engage in unfair, deceptive, or abusive practices should be downgraded based on the severity of those practices, potentially including a downgrade to an overall not satisfactory rating in the most egregious cases.

**3. Current Lending Conditions:** *Please describe any significant changes since the May 2016 meeting in the overall availability or terms of credit in the following areas of lending, focusing on the impact to consumers and communities.*

The Council is concerned with recent and striking evidence of unfair and deceptive practices across the financial services industry, including among large regulated banks, fintech small business and consumer lenders, and payday lenders, among others. The importance of the supervisory role of the Federal Reserve, the Consumer Financial Protection Bureau, and other bank regulators has never been clearer. The Council recognizes that this environment presents a particular challenge for regulators to aggressively enforce appropriate regulatory guardrails for lending and other financial services activity while minimizing the unintended consequences of restricting lending and discouraging innovation that can open access to capital for LMI borrowers, which is critical for building wealth and creating a path toward economic mobility.

***a. Small Business Lending***

Small businesses need lines of credit and loans with reasonable terms in order to grow their businesses. Demand continues to be high since many businesses and entrepreneurs survived the recession and are growing in a stronger economic environment. Many, however, have limited access to capital and credit—a reality that is disproportionately true for entrepreneurs and business owners of color and those that are low-income, immigrants, and/or women. Early-stage businesses have the most need for, and the most difficulty accessing, credit.

Small business credit availability from banks continues to be tight. Contributing factors include (1) an industry-wide unwillingness to lend to startups outside the use of Small Business Administration (SBA) lending, which itself is a product not available to all; (2) a low-interest margin reality that discourages banks from expending resources on individual, low-amount small business loans; (3) the unintended consequences of the enormous number of home-loan modifications to small business owners that now negatively impact their credit and limit them from accessing mainstream credit; and (4) an exam and regulatory environment that discourages loans to businesses with variability in cash flow. Underscoring the importance of business credit, small businesses and small business districts are often a reflection of a community's distinct

culture and a systemic failure to make capital and credit accessible for small businesses can have negative cultural implications above and beyond the economic harm.

In many markets, CDFIs are critical and effective conduits for capital to small business owners and aspiring entrepreneurs that have challenges in accessing business loans from banks. Expanding the reach and depth of impact of our nation's CDFI infrastructure has an enormous potential for increasing business growth and job creation in underserved communities and markets. Encouraging banks to provide more low-cost capital for CDFIs to expand borrowing opportunities for LMI borrowers should be a priority.

Constrained small business lending has created a market vacuum, and investors are able to exploit those opportunities by offering payday-loan-like products with high interest rates, short amortization periods, and prepayment penalties. Short amortization in tandem with the use of merchant processing technology can place unreasonable burdens on business cash flow and demonstrated ability to repay.

### ***b. Home Mortgage Lending***

The legacy of redlining and targeting of LMI populations with harmful mortgages has kept many households from realizing their goal of home ownership. Mortgage credit is tight for LMI borrowers. A secondary market for nonconforming and Individual Tax Identification Number (ITIN) loans is one example that might facilitate greater access. LMI borrowers need subsidy in the form of down payment assistance and/or soft second liens. High-quality counseling to achieve sustainable home ownership remains a critical need. The terms of loans should reflect the risk mitigation that results from high-quality counseling, and in fact, the Government Sponsored Enterprises (GSE) have created products with lower down payments and required homebuyer counseling, though repayment capacity has not loosened. Banks appear to be warming to these programs, but less so for state and local programs centered around Federal Housing Administration (FHA) mortgages due to wariness surrounding recourse provisions unique to FHA.

There is evidence in the marketplace that private equity firms are replacing banks as holders of mortgage servicing rights. This may be driven in part by the capital treatment of mortgage servicing rights held by banks. The Council is concerned that, in the event of a future real estate market downturn, unregulated private owners of servicing rights will be ill-equipped to effectively work with borrowers.

### ***c. Multifamily and Affordable Housing Lending***

Place matters a great deal to economic mobility and inclusion, and areas with diverse racial and economic composition favorably impact opportunities for LMI children and their families. Stable, affordable housing that offers employment center access (either proximity to employers or reliable, direct public transportation to them) provides better prospects for building wealth and achieving economic mobility.

Research highlighting these benefits should be a driving factor in locating affordable rental housing, including Low-Income Housing Tax Credit (LIHTC) properties. Subsidy programs should align qualification criteria with findings reflecting these locational benefits to bring about better housing and economic outcomes. Those tax credit properties that are located near employment centers, health resources, and/or quality education should receive the highest priority for preservation.

Better cooperation and better aligned incentives and goals across federal, state, and local agencies would better support affordable housing development. Two urban areas, Seattle and the Twin Cities, offer examples of places where affordable housing is a policy priority and where agencies have aligned to increase supply. In Seattle, voters have consistently favored tax measures supporting affordable housing. In the Twin Cities, the confluence of increasing demand and generous pricing for tax credits, low interest rates, and rising incomes has led to unprecedented demand for rental housing and a shortage of tax-exempt bonding capacity for the first time in more than a decade.

#### *d. Consumer Lending*

The CFPB's recent rulemaking with regard to payday loans is a critically important step in making a safer consumer lending marketplace in the United States. Lenders must, under most circumstances, now establish a borrower's ability to repay considering existing debt and foreseeable expenses and limit refinancings to two—after which a 60-day cooling off period must precede any further borrowing. The changes also require notice of attempts to draw funds from a borrower's bank account, as attempting withdrawals when sufficient funds are not available can trigger fees from the institution holding the bank account as well as from the lender attempting to draw the funds.

There remains room to strengthen the CFPB's payday rule. Some longer-term loans are exempt from the new rules, and some types of rollovers would not be subject to the "Ability to Repay" test. Lenders can still use past repayment performance (versus capacity) as a basis for lending, a loophole that should be eliminated. The "Ability to Repay" rules also do not apply to some longer-term loans; they should be changed to apply to all loans. Further, payday lenders should be prohibited from using coercive language to induce borrowing or refinancing. Finally, states should continue to have the power to invoke Unfair, Deceptive, or Abusive Acts and Practices (UDAAP) rules against lenders engaging in unlawful practices, without the risk of preemption.

Unsolicited credit offers have recently increased, with some of the higher-rate offers targeted to LMI populations with established credit and good credit scores. Credit for those with ITINs remains limited.

The Council continues to have concerns about accessibility and affordability in the changing student loan marketplace, and particularly about the downstream impact of high student loan debt levels on borrowers' ability to access other kinds of capital and credit, including mortgages.

**4. Housing Markets:** *How have house prices and rental rates changed since the May 2016 meeting? Have there been any new developments in housing activity for LMI communities in Council members' regions?*

With some variation between markets, Council members cited increasing housing demand for owner-occupied stock. For-sale housing is in short supply and prices are rising rapidly in most markets. New home development is not keeping pace with demand, and existing homes turn over quickly in most markets. LMI residents seeking to buy a home have limited options and therefore seek affordable rental housing. Higher rents in both urban and rural areas also reflect supply shortages. As noted in earlier sections, newer products from the GSEs encourage home buyer counseling through discounted rates, and some efforts to deter gentrification and maintain affordability exist in certain markets.

Appreciating real estate markets place unsustainable pressures on LMI households in many markets—both for homeowners impacted by rising taxes and for tenants impacted by skyrocketing rents. These market pressures are often exacerbated by public policy and investment designed to bolster economic and community development. We encourage policy assessments to include additional considerations regarding their impact on LMI households and communities and how these communities might be affected by the gentrification that may stem from public investments.

We also encourage the Federal Reserve Board to take a more comprehensive look in the future at the impacts of climate change on real estate dislocations that affect LMI communities. Examples of concerns include rising sea levels in places like south Florida causing wealthy owners of coastal properties to dislocate low-income owners on higher ground and rural tribal communities losing ancestral lands along coasts and river valleys as water levels rise.

**5. Labor Markets:** *How have the labor markets in which Council members operate changed since the May 2016 meeting? In particular, assess the degree of job loss or gain (how much and in which industries). What changes to wages for LMI earners have Council members observed?*

The good news for low-wage, or frontline workers, tells us that that approximately 3.5 million Americans were able to rise out of poverty last year, and that blacks and Hispanics—who accounted for 45 percent of those below poverty—experienced the largest improvement.<sup>1</sup> Indeed, the Council notes a shortage of qualified workers in several of our communities to fill jobs traditionally held by LMI workers, because of a lack of investment in workforce development and other factors including training, transportation, discrimination, social supports, and reentry of formerly incarcerated people into the workforce.

For example, frontline health-care workers and commercial driver's license (CDL) jobs are going unfilled even though wages have risen somewhat. A health-care provider in Missouri recently announced a new partnership to bring 100 nurses from the Philippines to address a local

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<sup>1</sup> Patricia Cohen, "With Pay Rising, Millions Climb Out of Poverty," *New York Times* (September 26, 2016).

nursing shortage. Construction employment has seen a significant uptick but may diminish as winter approaches. Even local government in some areas has been hiring more frequently, trends that have led people to travel or relocate for work.<sup>2</sup>

In spite of the good news, problems remain within LMI communities for discouraged jobseekers. Some Council members continue to witness multiple consecutive years of declining labor market participation, suggesting more discouraged jobseekers and more underemployed workers. Council members also see skills gaps within their communities, as demonstrated by unfilled positions continuing to increase, even while overall employment has risen. We recommend the Federal Reserve promote more-effective measurement and public discussion of the entire employment picture in the United States, as recommended in our first meeting report (see [www.federalreserve.gov/aboutthefed/cac-20151120.pdf](http://www.federalreserve.gov/aboutthefed/cac-20151120.pdf)).

In some markets, area minimum wages are increasing but the cost of living is rising even more rapidly. The Council is heartened by the extensive dialogue around raising the minimum wage in local communities, but we recommend that discussions about raising the federal minimum wage bring employers and governments together for solutions.

New research notes patterns of higher-paid employees working the longest hours, often leaving them with little time to address the many responsibilities away from work. Indeed, mandatory overtime has become common for full-time salaried workers. For example, legal (28.6 percent) and management (29.7 percent) occupations have the highest share of employees working long hours (more than 45 hours per week), followed by farming, fishing and forestry (20.5 percent), architecture and engineering (17.1 percent), and business and financial services (15.4 percent). In contrast, lower-wage employees often have their hours intentionally capped. Indeed, occupations with the lowest share of workers long hours (more than 45 hour per week) include healthcare support (3.3 percent), food preparation (4.6 percent), office and administrative support (4.6 percent), building maintenance (4.7 percent) and personal care services (9.2 percent).<sup>3</sup>

The 2016 Fair Labor Standards Act ruling of the U.S. Department of Labor that set the standard salary level at the 40th percentile of earnings of full-time salaried workers in the lowest-wage census region (currently the South at \$913 per week, or \$47,476 annually for a full-year worker) is a step in the right direction. The department estimates that 4.65 million supervisors and managers will be eligible for overtime once the new rule is implemented.

Still, the lowest-paid workers—women and people of color—work outside these new rules if employers can classify them as independent contractors as opposed to employees. The Council believes this is a result of misclassification of workers as contractors rather than employees to reduce costs.

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<sup>2</sup> Jeff Spross, "How Insane Work Hours Became the Mark of American Privilege," *The Week*, June 13, 2016, <http://theweek.com/articles/629256/how-insane-work-hours-became-mark-american-privilege>.

<sup>3</sup> Heather Boushey and Bridget Ansel, *Overworked America: The Economic Causes and Consequences of Long Work Hours* (Washington: Washington Center for Equitable Growth, May 2016), <http://cdn.equitablegrowth.org/wp-content/uploads/2016/05/16164629/051616-overworked-america.pdf>.

In cases where employment benefits are available to some degree for salaried workers, the Council believes that some employers are taking aggressive steps to skirt labor classification provisions, often characterizing workers as contracted workers. The Council believes this practice is occurring for many reasons, including employers' desire to avoid paying health insurance benefits; federal, state, and local taxes; unemployment benefits; and vacation, sick leave, retirement, and other benefits.<sup>4</sup>

While workers in health-care, janitorial, fast food, and other frontline occupations may be benefitting from higher wages on the whole, they also receive fewer benefits. The Council recommends that the Federal Reserve Board explore with the U.S. Department of Labor those issues related to enforcement, regulation and supervision that affect LMI communities and the individual workers. In summary, discouraged workers, underemployed jobseekers, and misclassified contract workers all cloud the "good news" of the latest employment numbers.

**6. Additional Matters:** *Have any other matters affecting consumers and communities emerged from the work of the Council members that they want to present at this time?*

### **The Gig Economy**

Technology and changing business models have facilitated gig employment. While the emergence of the gig economy represents a change from previous practice, this change also has common elements with an earlier trend related to company pension plans. In 1998, 70 percent of Fortune 100 companies that offered pension plans were defined benefit and 30 percent were defined contribution. By 2013, those numbers had reversed.<sup>5</sup> This move was done in part to shift the risk from the employer to the individual employee, and it seems the gig employment trend continues this theme. Take the example of lawn care, where an employee of a company is paid a set amount to maintain the lawn with equipment and fuel provided. If this is changed to the gig model where the employee is now a contractor, fuel and equipment costs fall on the employee since the employer would no longer be responsible for covering these costs. Further, the end-of-the-year tax liability may be much more than the worker anticipated, and the lack of workers' compensation insurance could leave them with large unpaid medical bills. Under the gig economy model, people take a financial risk without the opportunity for commensurate reward. From a policy standpoint, more resources should be devoted to both financial education aimed at workers with irregular income, and those who are, as a result of working as a contractor, subject to self-employment tax. There is also a need to increase enforcement in existing regulations such as occupational and business licensing.

Gig jobs do offer some advantages. They offer the potential for employees to set their own hours; make more money than they would under traditional employment; and pursue the dream of starting a small business, continuing an education, or becoming a full-time artist or performer.

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<sup>4</sup> National Employment Law Project, "Independent Contractor Classification in Home Care," Fact Sheet, May 2015.

<sup>5</sup> See <http://cdn.bipartisanpolicy.org/wp-content/uploads/2014/10/Shift-to-Defend-Contribution-Plans.jpg>.

A gig job can also provide supplemental income or a temporary job until full-time traditional employment is available.

There is a possible existing solution that could mitigate some of these risks. Within organized labor, some workers belong to a group of unions called Building and Construction Trades (BCT). As an example, a typical worker is employed by one entity, and all the benefits (health care, retirement, vacation, paid time off, etc.) are held by that employer. If the employee leaves, they take the accrued benefits with them. By contrast, a BCT employee, such as an electrician, may work for Company A for a year on a job and then transfer to Company B for eight months, and then go back to Company A for a new project that lasts for 2 years. The union holds all of a BCT employee's benefits and the benefits package is paid directly to the union per hour worked. To apply this to the gig economy, this would require regulation and someone to play the role of the BCT union—in essence, someone to act in the role traditionally held by the employer.

## **Rural Issues**

Due to population loss, isolation, and lack of a national voice, rural America is often overlooked and misunderstood in public policy and community development. A century ago, nearly half of all workers in our country were tied to agriculture—primarily in rural areas. Today, agriculture represents less than 2 percent of the workforce. The decline in manufacturing has been disproportionate in rural areas as well. At one time, 20 percent of the rural workforce was in manufacturing—primarily due to cheaper labor. Those industries such as shoe and garment manufacturing have since gone to other countries where labor was cheaper. In some rural areas, the near-depression in mining has caused economic upheaval in Appalachia and other resource extraction production areas. Increasing poverty rates are now impacting white population as well, contributing to shorter lifespans for the first time in decades. Over half of rural counties in America lost population in the last census, primarily younger people leaving for other opportunities. Therefore, rural Americans are older than their urban counterparts. On an encouraging note, the rural counties that have experienced growth largely resulted from an immigration of a more diverse population. That diversity has contributed to more economic and cultural vibrancy. Technology support for rural businesses and individuals has proven to be challenging, as broadband access remains a weakness in more isolated areas.

On the banking side, bank consolidation has had a disparate impact on smaller communities. In many rural communities, branches have closed entirely. A recent study determined loan approval rates are less with large banks compared to community banks.

Despite housing only 16 percent of the nation's population, rural America is critical to our country. Our food is produced there, and it helps to not only feed the people in the United States but also the rest of the world.

There are increasing opportunities because of technology, the local foods movement, and a legacy of a work ethic. A consistent public policy, and equitable public and private funding, can help contribute to a “rural rebound” similar to that which was experienced in the 1990s.