

Bringing in the Unbanked off the Fringe: The Bank on San Francisco Model and the Need for Public and Private Partnership

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I. INTRODUCTION

In 1992, Barbra O’Leary Hatfield Liberace’s life changed when her husband died. The loss of her husband caused her monthly income to go from \$5,000 to less than \$500. Because she could not maintain the required minimum balance, her bank closed her account. She soon began relying on payday loans in order to make her mortgage payments. Soon thereafter, she found herself homeless.²

Similarly, Virginia Johnson is seventy-two and lives on a fixed income with her disabled grandson. Johnson spent almost \$200 every month simply to have her social security checks cashed and to purchase money orders to pay her bills. Johnson had no choice but to make use of her neighborhood check-cashing outlet because she did not qualify for a traditional bank account. She lived in fear every month because she had to walk home with a large lump sum of cash.³

Liberace and Johnson’s stories are not uncommon. Approximately fifty-two thousand households in King County, Washington, and fifty thousand households in San Francisco, California, are unbanked and use alternative financial institutions—such as check-cashing outlets and payday lenders—rather than the more affordable financial services offered by mainstream financial institutions, such as banks and credit unions.⁴

However, the unbanked and underbanked⁵ crisis is not isolated to King County and San Francisco. Twenty-two percent of low-income families⁶—over 8.4 million households earning under \$25,000—lack the most basic financial tool: a bank account.⁷ Overall, there are about twenty-two million

households of both unbanked and underbanked in the county; this includes twenty-two million unbanked individuals.⁸ The lack of access to bank accounts means that these low- and moderate-income individuals and families must turn to alternative financial services for their basic financial needs. Unfortunately, patronage of these alternative financial institutions involves a high cost for basic financial services, such as cashing a paycheck. For example, a person earning \$20,000 per year after taxes might pay a total of approximately \$400 per year in check-cashing fees.⁹ Given the high costs of such basic financial services, alternative financial service providers are being utilized by a clientele that is least able to afford them.

The continued use of these high-cost financial services, paired with insufficient access to bank accounts, undermines the larger shared societal goals of reducing poverty and maintaining and bolstering our national economy. A bank or credit union account is a fundamental tool in saving money and building wealth. Despite the common myth, low- and moderate-income families do have the ability to save money,¹⁰ and there is great potential for many of these families to create wealth.

This article will begin by discussing the barriers that the unbanked and underbanked face in accessing the mainstream banking system. Next, this article will engage in a discussion of who comprises the unbanked population, and will discuss the alternative financial services industry and its costs and benefits for low- and moderate-income families. Next, it will discuss current state and federal regulations of the alternative financial services industry. This article will then move on to discuss mainstream financial services, such as banks and credit unions, and how they relate and compare to the alternative financial services industry. At that point, it will discuss the Bank on San Francisco program and how its model is now being implemented in other areas. Ultimately, this article argues that, while the model implemented by San Francisco is a great leap forward in bringing the unbanked into the financial mainstream, federal and state governments ought to take additional legislative steps to further this goal. Furthermore,

this article argues that there are additional steps that can be taken by cities and mainstream financial institutions to further this ultimate goal. The most effective approach to banking the unbanked must involve the conjunctive effort between every level of government, private institutions, employers, nonprofit organizations, and the consumers themselves.

A. Barriers to Mainstream Financial Services

There are numerous barriers limiting accessibility to mainstream financial services. One barrier is that many banks require consumers to maintain a minimum balance on their account; many low-income families cannot afford to open such an account. The risk of fees for falling below the minimum balance requirement or overdraft fees creates a deterrent for many individuals. Typically, overdraft fees range from \$20 to \$30 per overdraft.¹¹ Thus, three transactions totaling \$10 made when the account was overdrawn might actually cost the consumer nearly \$100. Exposing oneself to such risk does not make economic sense when seemingly little benefit exists.

A second barrier is that persons with poor credit histories may be barred from opening bank accounts. Most banks are unwilling to risk opening accounts for people who have histories of poor financial management. For example, many banks use ChexSystems to weed out undesirable potential customers.¹² ChexSystems serves to prevent customers with a poor history of banking practices from re-entering the financial mainstream.

A third barrier is the low prevalence of banks and credit unions in low-income areas.¹³ On the other hand, check-cashing outlets can be found almost anywhere today. They are in small towns, minority sections of urban areas, malls, convenience stores, and gas stations.¹⁴ If a bank is the less convenient option, many people are willing to use a check casher.

Finally, a fourth barrier is that banks tend to find low-income consumers to be less profitable and do not believe it is worth the time, effort, and money to market to them.¹⁵ While credit unions are nonprofit organizations,

there are far fewer credit unions than banks in general, which means there are far fewer credit unions in low-income neighborhoods.

B. The Unbanked and Underbanked

The unbanked are individuals who have no current banking relationship with a mainstream financial institution, such as a bank or credit union.¹⁶ An estimated twenty-two million Americans are unbanked.¹⁷ The vast majority of unbanked households are low-income, earning an annual income under \$25,000.¹⁸ Generally, unbanked households are comprised of less educated, middle-aged workers who work for small companies and generate moderate incomes.¹⁹ Furthermore, people in unbanked households tend to have more children, rent their home, and be racial or ethnic minorities.²⁰ Heads of households that are Black or Hispanic are more likely than their white counterparts to be unbanked.²¹ Of the unbanked households in America, about 60 percent have no adult with a high school diploma and 94 percent have no adult with a college degree.²² On the other hand, nearly 65 percent of these unbanked households include a steady full-time worker with an average income of \$27,000.²³

The underbanked are individuals with a banking account, but who also typically have low FICO scores, creating an impediment to accessing incremental credit.²⁴ There are about twelve million Americans that are underbanked.²⁵ The underbanked include many lower middle-class individuals, sharing many characteristics of the unbanked.²⁶ Although the majority of the unbanked and underbanked are at some socioeconomic disadvantage, given these economic characteristics, it would still be desirable for many of these households to have bank accounts and utilize those bank accounts to establish credit and build savings.

II. ALTERNATIVE FINANCIAL SERVICES

There are numerous types of alternative financial services available. The two primary services are check-cashing outlets and payday lenders.

However, there are also pawn brokers, tax preparers, title lenders, and even internet payday loans. Check-cashing outlets and payday lenders have developed into huge industries and have become regular providers of financial services to low- and moderate-income people. The following sections will provide background on these alternative financial institutions, explain the negative aspects to their usage, and explain why their usage is nonetheless high.

A. Check Cashers

Check cashers have existed in the U.S. since the 1930s as an alternative to traditional banks.²⁷ However, the check-cashing industry began to flourish in the 1980s and 1990s. This explosion in the check-cashing industry was greatly facilitated by (1) the bank deregulation legislation of the 1980s, which removed deposit rate ceilings, and (2) the imposition of fees on bank accounts.²⁸ The effect on the banking industry was that it created a climate of rate competition among the banks.²⁹ Unfortunately, the deregulation and fees that led to rate competition worked against lower- and moderate-income families by making banking more expensive for them. The deregulation of the banking industry resulted in higher fees to maintain a low-balance deposit account.³⁰ Today, nearly ten thousand stores in the U.S. classify their primary line of business as check-cashing.³¹ However, there are 26,019 non-bank businesses that provide check-cashing services.³² Each year, there are 178 million non-bank check-cashing transactions, which equals \$60 billion in checks cashed.³³ Based on these 178 million non-bank check-cashing transactions, the unbanked are paying \$1.5 billion in fees annually. Of the checks cashed at non-bank financial institutions, 80 percent are payroll checks and 16 percent are government benefit checks.³⁴

Despite providing a needed financial service, many check-cashing outlets find ways of taking advantage of the financial circumstances of their customers. Check-cashing outlets can end up costing low-income clients even more of their hard-earned money by charging fees for services that

other places provide for free, such as bill payment. Beyond just services for check-cashing, many check-cashing outlets have expanded their services and products. For example, there are check-cashing outlets in New York City that offer bill payment for automobile insurance, wireless phone service, telephone service, and cable television.³⁵ A customer can also pay his or her New York City Housing Authority rent and child support. A fee must be paid for all bill payment services, rent payment, child support payment, and even for postage stamps. In some states, check-cashing outlets also sell public transportation passes and distribute welfare payments and food stamps.³⁶ In an attempt to maximize the amount of money a check casher can extract from a customer, some check-cashing outlets operate like small shopping marts. Products available for purchase include postage stamps, lottery tickets, DVDs, body piercing, jewelry, cigarettes, candy, etc. Essentially, many of these check-cashing outlets carry items and services that customers may buy on impulse since those customers have just received a lump sum of cash.³⁷

B. Payday Loan Services

Payday loans serve the underbanked population by providing short-term consumer loans. Payday loans tend to serve the underbanked, rather than the unbanked, because in order to obtain a payday loan a customer must first have a bank account. The typical payday loan transaction works as follows: a customer writes a post-dated personal check to the lender; the lender advances to the customer the face value of that check, minus a fee; and the lender holds the check for a given amount of time before depositing it or receiving a cash payment directly from the customer, which is generally on the customer's payday. However, in the modern payday loan, the customer will take a short-term loan and authorize the lender to debit from the customer's bank account the amount of the loan plus the fee. The loan terms tend to be two weeks, which is the typical paycheck interval time. For example, a borrower may want to borrow \$100. The borrower will write a

check to the lender for \$115, and the lender promises not to cash the check until the borrower's next payday. Essentially, what seems like a simple 15 percent interest rate actually translates into an equivalent annual percentage rate (APR) of 390 percent.³⁸

The borrower has three options after obtaining the loan.³⁹ First, the borrower can pay back the lender the face value of the check with cash. Second, the borrower can simply allow the lender to deposit the check on the specified date. Third, if the borrower cannot pay back the lender on the specified date, many states allow the borrower to extend the loan another two weeks.⁴⁰ This is referred to as a "rollover" of the payday loan. In effect, if the borrower were to "rollover" this loan three times, it would cost \$60 to borrow \$100.⁴¹

III. THE USE OF ALTERNATIVE FINANCIAL INSTITUTIONS AND WHY BANKS CANNOT COMPETE

While there are a variety of reasons why consumers prefer check-cashing outlets over banks for their financial needs, convenience is the primary factor. Because banks are so highly regulated, a number of their policies and procedures make check-cashing outlets and payday lenders an attractive alternative.⁴²

A. How Banking Regulations Create Barriers for Low-Income Families

One of the fundamental reasons banks are ill-suited for the unbanked population is due to the higher restrictions on banks.⁴³ For example, when a bank begins to operate as a business, it is subject to the regulations of either a state or federal regulator, or both.⁴⁴ Also, because most banks strive to be insured by the Federal Deposit Insurance Corporation (FDIC), guaranteeing their depositors up to \$250,000 of deposit insurance, these banks are subject to the rules and regulations of the FDIC.⁴⁵ Thus, banks are heavily regulated and subject to an array of laws and rules. While credit unions are not insured by the FDIC, nor subject to its regulations, they are insured by the

National Credit Union Administration as depository institutions with transaction accounts and are subject to many of the same regulations as banks.

One of the restrictions on banks and credit unions that puts them at a disadvantage is that many payroll checks are not available the day after deposit. Many low-income people need to be able to access their paycheck as soon as possible. This restriction stems from the Expedited Funds Availability Act (EFAA). The EFAA was passed in 1987 and placed stringent requirements on each depository institution as to when they could make funds available to the depositor.⁴⁶ The EFAA is implemented by the Federal Reserve as Regulation CC.⁴⁷ According to Regulation CC, banks can hold funds anywhere from one to nine business days. However, there are certain types of deposits that must be made available the next business day.⁴⁸ These types of deposits include cash deposits, electronic payments, and certain check deposits.⁴⁹ Under Regulation CC, check deposits that must be made available the next day are federal government checks, U.S. postal money orders, state government checks, cashier's checks, and checks deposited and drawn by the same bank branch.⁵⁰ Thus, many payroll checks are not required to be available the next day. While not actually stipulated in the regulation, the reason for next-day availability of these other deposits is due to the very minimal risk of unpaid funds.

In addition, there is an exception to Regulation CC rules which may create even longer wait times for the availability of funds. If a bank has reason to believe that a check may be uncollectible, it may extend the restriction of funds' availability from one to six business days depending on the type of check.⁵¹ Because the regulation does not provide any compliance requirements or guidelines, this exception essentially gives banks expansive power in making funds available or not. In actual practice, this creates three problems for low-income families. First, depending on the type of check being deposited, or a customer's negative banking history, a person may not immediately receive their funds in their bank account. Second, this creates a

problem for customers who need immediate access to their money, such as many low-income families. Third, the lack of assurance of availability of funds creates a lack of trust or reliance on banks. This lack of trust is not completely misguided because Regulation CC states only that the bank must have “reasonable cause to believe that the check is uncollectible.”⁵² Of course, Regulation CC provides rules for the extent to which banks may make funds available. These rules act as ceilings to the availability of funds. Banks set rules based upon these maximum requirements so as to reduce the risk of uncollected checks.

B. The Convenience and Lack of Regulation of Check-Cashing Outlets

There are numerous factors that make check cashers more appealing to low-income families, particularly convenience and comfort. Generally, the convenience aspect stems from the lack of regulation of check-cashing outlets. Check-cashing services are more convenient than banks, especially for low-income people, for many reasons, including: the faster, more convenient bill payment options; the longer hours and more locations; the less formal atmosphere; and the lack of hidden fees.

One of the primary reasons many people find check-cashing outlets so convenient is because they process checks instantly. Waiting for cash at check-cashing outlets is not set in terms of days; rather, it is a wait time of seconds or minutes. Because check-cashing outlets are not depository institutions, like banks or credit unions, they are not subject to the regulations of the Federal Reserve. Rather, they set their own general rules about which checks to cash. Check cashers heavily minimize the risk of uncollectible checks by simply creating rules as to which checks they are willing to cash. Generally, check cashers will only process certain types of low-risk checks such as payroll checks, government checks, and cashier’s checks. Eighty percent of checks cashed at check-cashing outlets are payroll checks.⁵³ Another 16 percent of checks cashed at check-cashing outlets are government issued checks.⁵⁴ Some check-cashing outlets will even cash

personal checks. However, because of the high risk involved in cashing personal checks, they charge a much higher fee. The system established by check-cashing outlets utilizes charging fees rather than a holding system. The fees generally represent the risk involved in cashing the checks. Check-cashing outlets manage to serve their customers' needs for instant payment, which may reflect the need or want for immediate access to cash.

With check cashers minimizing their risk, they are able to provide their customers with quick cash for a seemingly small fee. Many low-income workers live from paycheck to paycheck and require access to their money as soon as possible. Many employers who employ low-income workers do not offer direct deposit. Because depositing a check to a bank usually involves a waiting period in accessing one's own money, having a bank account does not make sense to people who need immediate access to cash.

Bill paying convenience is another aspect that draws many consumers to check-cashing outlets, especially if they do not have a checking account. People are able to purchase money orders at check-cashing outlets when cashing their check, which makes sense both logistically and economically. First, the person is already at the check cashier. In fact, some check-cashing outlets even provide bill-pay services.⁵⁵ However, bill-pay services at check-cashing outlets are provided for a service fee, unlike many banks that provide these services for free. Although free bill-pay services from banks generally require an online account to manage these bill-pay services, many lower-income families do not own a computer with internet access at home. For many families, buying a computer and subscribing to internet service unduly increases monthly bills. Moreover, some check-cashing outlets offer free money orders with check-cashing or payday loan transactions.⁵⁶ Second, the cost of purchasing money orders, or similar items, from banks is much higher.

Yet another reason check-cashing stores are more convenient than banks are their business hours. Generally, check-cashing outlets are open much longer hours than banks.⁵⁷ Banks tend to operate in accordance with typical

business hours. However, many check-cashing outlets are open seven days per week and have extended hours; some outlets are even open twenty-four hours, every day of the week.⁵⁸ These extended hours are important since many lower-income people work full-time and often for extended hours. Conversely, banks are generally only open during typical business hours when these people are working.

In addition to convenience, many people simply feel more comfortable with check cashers than they do with banks. Check-cashing outlets typically offer personal, face-to-face interaction with the customer.⁵⁹ Given the rise in ATM usage and online banking institutions that offer no face-to-face interaction, such as ING Direct,⁶⁰ many people appreciate the personal transaction experience. Customers find that check-cashing outlets handle their particular financial needs faster and more efficiently,⁶¹ and a number of people may prefer the culture or languages spoken by check cashers. Furthermore, check cashers generally believe that some customers just feel more comfortable in check-cashing outlets because they do not like the formal setting of banks.⁶²

Finally, since most low- and moderate-income families tend to spend all of their income each month,⁶³ the risk of being subjected to unnecessary fees is a cause of concern. With check-cashing outlets, people know exactly which fees they are required to pay for any given transaction. The focus is the seemingly small fee per transaction and the comfort that all the fees are upfront.

C. The Convenience and Accessibility of Payday Loans

Payday loans offer a consumer fast and convenient access to cash. They are targeted at people who need short-term loans and who may not have access to cheaper forms of credit such as lower APR credit cards or more complicated bank loans. Payday loans serve those who have checking accounts, but who generally need more financial help to make ends meet from time to time because they have a tendency to keep relatively low

balances.⁶⁴ These are not necessarily families that are living from paycheck to paycheck, but families who need a cash-advance to meet their living expenses or have unexpected expenses or emergencies.⁶⁵ Vice President Eric Norrington of Ace Cash Express, Inc., one of the largest payday lenders in the country,⁶⁶ states that payday loan borrowers tend to be lower-middle class people.⁶⁷ Generally, customers are eligible for payday loans if they have a checking account, a steady job, and no history of writing bad checks.⁶⁸ Payday loans are a quick and easy way to obtain a short-term loan that many consumers would not be able to obtain elsewhere, since most banks no longer offer short-term loans. Also, many payday loan customers do not qualify for credit cards or other traditional forms of credit.⁶⁹ Thus, payday loan institutions fulfill the need for cash advances in many communities.

Consumers like the comfort of the simplified process of obtaining a payday loan. They are relatively simple transactions, unlike obtaining loans from banks. In addition, the payday lending industry claims that customers prefer payday loans because they are less expensive than writing insufficient funds checks, and generally there are additional fees levied by the merchant.⁷⁰ For example, a \$100 bounced check could cost the customer \$25, plus the fees charged by the merchant.⁷¹ The perceived risk of consistently bouncing checks and having to pay bank fees and hidden costs prevents many potential customers from opening bank accounts.

D. Identifying the Problem: The Extremely High Costs of Convenience and Comfort

While many consumers may find alternative financial services to be more convenient, that convenience comes at a high cost. The unbanked and underbanked are paying millions of dollars every year for services that can be free, and in many instances are free. There is absolutely no good reason why a person earning \$20,000 per year should spend \$240 a year to access

their own hard-earned money. This, however, is what millions of Americans are doing.

Regarding the high cost of check-cashing outlets, the fact that consumers are paying a hefty fee to access their own money is a primary concern. Not only is this completely unnecessary, but the vast majority of customers who use check-cashing outlets are the ones who cannot afford to pay for such services. On average, the unbanked working person is paying the check cashier approximately 2 percent of the face value of the check.⁷² For the customer earning \$20,000 after taxes, this amounts to approximately \$400 in annual fees for access to money already earned. To put this into perspective, imagine a typical check-cashing customer: a young immigrant day laborer with a family at home in Mexico. Last year he earned \$15,000; \$10,000 was in checks and \$5,000 in cash. He paid a 2 percent fee to cash his checks—\$200 total. He wires money home monthly to his family at an average fee of \$20, or \$240 per year. He must buy money orders to pay his rent, electric bill, phone bill, and car insurance. He pays about \$20 per year for the money orders. In sum, he is paying approximately \$460 per year, or over 3 percent of his annual income, for services that would be free if he had a bank account.

Regarding the cost of payday lending, the predatory aspects of this lending process is the primary problem. First, the loans are expensive. Second, the exorbitant fees often lead to the borrower renewing the loan, creating a cycle of debt. Third, there is concern of deception among lenders in these roll-over loans which subjects borrowers to extremely high APRs.

Payday loans are expensive because they have extremely high annual interest rates. Nearly all payday lenders charge APRs above 300 percent. The most typical APR is 390 percent, which is basically a \$15 fee for a \$100 two-week loan; although, fees can be as low as \$10 or as high as \$35 for a \$100 loan.⁷³ The national average payday loan APR in 2001 was 470 percent.⁷⁴ Again, like check-cashing services, payday loans generally serve customers who are least able to afford such high interest rates.

In states that allow customers to rollover their debt, concern is rising about dependence on payday loans and the resulting cycle of debt. While some payday lenders argue that it is not fair to analyze payday lending in terms of APR because they are short-term loans,⁷⁵ studies have shown that many payday borrowers do in fact rollover their loans.⁷⁶ The average payday borrower takes out eleven loans per year.⁷⁷ In Indiana, a study showed that borrowers renewed their loans approximately ten times in a year.⁷⁸ Under Washington State law, a borrower has the right to a loan repayment plan after four successive loans with the same company.⁷⁹ This, however, is an option that people are not taking advantage of, most likely because they do not know of the existence of this right and option. In 2005, only 5 percent of Washington payday loan borrowers had entered into a loan repayment plan. In 2007, based on a survey of 88 percent of the state's payday lending market, only 13.11 percent had entered into such a payment plan.⁸⁰ This represents the concern that people are rolling over their loans and getting trapped in debt even when they have other options.

Not only is the payday lending industry growing,⁸¹ but more people are becoming trapped by these short-term loans. With so many payday loan borrowers making new loans and renewing existing loans, it is apparent that these customers are putting themselves in a cycle of continuous debt. The high price of these loans hinders the ability of these customers to pay off their debt and end the cycle. So while payday lenders might contend that it is unfair to analyze the industry in terms of APR, the reality is that many borrowers are rolling over their debts and creating long-term loans with enormously high interest rates.

IV. CURRENT FEDERAL AND STATE REGULATIONS AND EFFORTS

There have been some efforts made to bring lower-income families into the financial mainstream. For the most part, steps taken to address the unbanked and underbanked issue have been dealt with at the state level. However, there is still a long way to go at the state level because there is no

congruency throughout the states on how to deal with these alternative financial services. There are very broad, general laws that directly affect check-cashing outlets and payday lenders. Thus, any real and meaningful regulation must be made and implemented by the individual states.

A. Federal Regulatory Efforts

There are very few regulations governing check-cashing outlets and payday lenders at the federal level. At the federal level, payday lenders are primarily regulated by the Truth in Lending Act (TILA).⁸² The focus of TILA is consumer protection and requiring disclosure of loan terms. For the purposes of consumer protection regarding payday loans, TILA is much too broad and inconsistently implemented to effectively protect borrowers.⁸³

The only federal law that explicitly regulates payday loans is FY2007 National Defense Authorization Act. One of the provisions of the act makes it illegal for creditors to provide military members or their families with payday loans or car title loans.⁸⁴ The purpose behind this provision is to protect military members and their families from the predatory nature of these loans and their hidden costs. Unfortunately, the federal government has not taken similar initiative in helping the millions of lower- and moderate-income families who are also subjected to these hidden costs. For the most part, check-cashing outlets are governed by state regulations.

B. State Regulatory Efforts

While check-cashing outlets are regulated by general federal laws, such as federal financial privacy and security laws, they are primarily regulated by the individual states.⁸⁵ But there are only thirty-two states, plus the District of Columbia, that have any laws regulating check-cashing outlets. Only two states, Arkansas and California, require check-cashing outlets to have permits, while only four states require check cashers to register with the state agency.⁸⁶ Eighteen states have no specific consumer protection or regulatory requirements for check-cashing services.⁸⁷

One primary way of regulating the check-cashing industry is by way of setting caps on check-cashing fees. A number of states have mandatory caps on the amount a check casher can charge for cashing a check. Fee caps often depend on the type of check being cashed. Typically, social security or other benefits-type checks carry the lowest fees. For example, New Jersey requires its check cashers to charge 1 percent or ninety cents for Aid to Families with Dependent Children checks and 1.5 percent or ninety cents for Social Security or Supplement Security Income checks.⁸⁸ Nevertheless, there is no uniform regulatory scheme regarding caps among the states.⁸⁹ The lowest rates in the country are in Illinois, New York, and New Jersey. The fee caps in those states range from 1–2 percent.⁹⁰ On the other hand, the highest fee cap is 10 percent in Indiana.⁹¹ It is, however, important to consider that these are only among the states that have a fee-cap regulation. Only half of the states have such a regulation.⁹²

Like check-cashing outlets, payday lenders are primarily regulated by state laws. Currently, nineteen states prohibit payday loans due to state usury laws, small loan interest rate caps, and/or specific prohibitions for check cashers.⁹³ Six states have no small loan or usury cap for licensed lenders.⁹⁴ Twenty-five states have specific laws or regulations that permit payday loans.⁹⁵ Payday lenders have been able to find exemption from state usury or small loan laws.

Typical types of payday loan regulations involve a set maximum fee and term for loans, rollover restrictions, and multiple loan restrictions. For states that have enacted payday loan laws and regulations, typical rates are capped at 15 percent and maximum loan amounts are usually \$500.⁹⁶ Six states require that payday lenders disclose their interest rates in terms of APR.⁹⁷ It is important to remember that a 15 percent interest loan can still equal an APR of 390 percent.

However, despite state regulatory efforts, the internet has provided a new frontier for payday lenders. Many payday lenders have expanded to the internet in an attempt to evade state regulatory laws. By basing its

operations in a state with lax payday loan or usury laws, a lender can bypass the laws of the borrower's state,⁹⁸ thus making it difficult to identify a lender online (jurisdiction and enforcement are outside the scope of this article).

Although the internet makes it more difficult to regulate lenders, it does not provide a total sanctuary for those who seek to evade state regulatory laws. State long-arm statutes have long held that states retain jurisdiction over businesses that enter them despite the actual location of the business. Unfortunately, there are still lenders who do not abide by the required laws.⁹⁹

V. MAINSTREAM FINANCIAL SERVICES: BANKS AND CREDIT UNIONS: BENEFITS AND BARRIERS

Having an account with a bank or credit union is an essential financial management tool. A transaction or savings account is an integral part of establishing and developing wealth. A checking account can provide access to one's own money without charging fees for such access. However, there are a number of barriers that many low- and moderate-income families face in trying to obtain accounts from banks and credit unions. These barriers include not only the business models in effect at many banks and credit unions, but also barriers created by perception.

A. Benefits of a Bank Account

One of the primary benefits of having a bank account is that it helps facilitate one's ability to save money. A checking account could save an unbanked person hundreds of dollars per year on check-cashing fees. One goal of bringing the unbanked into the financial mainstream is to help bring people out of poverty. Despite myths about the poor, many low-income families do in fact have the ability to save.¹⁰⁰ However, utilization of check-cashing outlets seriously impedes a customer's ability to save money. Saving is an essential part of building financial stability; it allows for

economic security and opportunity.¹⁰¹ Savings allow workers to buy homes, start small businesses, and pay for education.¹⁰² These are all ways of building and creating wealth, which lead to ending the cycle of poverty for a family.

Another benefit of a bank account is that it helps establish credit. Because check cashers and payday lenders do not report loans to credit bureaus,¹⁰³ it makes it harder for a borrower to establish good credit history. An established credit history is essential in calculating interest on loans.¹⁰⁴ It is also important when trying to obtain a credit card with a typical interest rate of 15–20 percent.¹⁰⁵ The ability to obtain and use a credit card is an excellent way for a consumer to establish a good credit history.

Safety is a substantial benefit for those who have bank accounts. When people utilize check-cashing services, they often must leave the establishment with a large lump sum of cash. Of course, people are generally aware that if someone is going to walk into a check-cashing store, that person will come out with a large amount of cash in his or her pocket. Many communities have reported a rise in crime related to the large sums of cash that cashing paychecks generates.¹⁰⁶ Virginia Johnson is just one example of someone who feared being robbed every time she had to walk home from the check-cashing outlet.¹⁰⁷ Having a bank account is beneficial in these different ways, but there are still many barriers to low- and moderate-income people in accessing mainstream banking.

B. Limitations on Access

Limitations on access to bank accounts for low-income people include fees, bank hours and locations, and the lack of accessibility for the recent immigrant population. The first major limitation on access to bank accounts for low- and moderate-income families is associated fees. The perceived idea of fees as penalties and hidden costs of maintaining a bank account often keep people from obtaining one. The fees that create a hurdle for many of these families include fees for falling below minimum required

balances, fees for bouncing a check, and general monthly or annual fees. One study showed that 22 percent of banks offered checking accounts which required a minimum balance.¹⁰⁸ The average minimum balance required to open an account is \$530 with an average monthly fee of \$7.88 for falling below the minimum.¹⁰⁹ About 30 percent of banks also offer free checking accounts.¹¹⁰ However, free accounts are often only available to certain classes of people, such as full-time students and the elderly.¹¹¹

The second type of fee associated with bank accounts is the fee for bouncing a check or overdrafting an account. All banks, even those with free checking accounts, charge their customers high overdraft fees.¹¹² The average fee for overdrafts is \$21.80.¹¹³ All banks also charge a similar fee for non-sufficient funds (NSF) checks. The average fee for an NSF check is \$21.73.¹¹⁴ Avoiding these large fees is an important factor for many unbanked families who fear that they will incur these costs because of their financial circumstances.¹¹⁵

The third type of fee related to bank accounts is a general monthly fee. Almost 24 percent of banks offer a simple passbook account—a free savings account.¹¹⁶ However, to avoid paying any monthly fees the account holder must maintain a minimum balance. The average minimum balance is about \$200. The monthly fee for maintaining a balance below the minimum required amount is on average \$2.70.¹¹⁷ There is a no-fee passbook account, but it is only offered at about 16 percent of banks and requires an average minimum balance of \$95, which shot up from \$30 between 2001 and 2002.¹¹⁸

Another limitation on access to banks for the unbanked is the limited locations and business hours of banks. For many low-income workers, the hours of check-cashing outlets are far more suitable to meet their needs. As stated earlier, extended hours are important since many low-income people work full-time and often for extended hours. So not only are check-cashing outlets more convenient for many customers, they essentially become the customers' only option.

Recently immigrated people's fears and concerns about banks is one limitation that affects a certain segment of the unbanked population. A high percentage of Latin American immigrants remain unbanked.¹¹⁹ The formality of banking, such as filling out paperwork to open an account, can cause fear among many undocumented immigrants and prevent them from seeking mainstream financial services.¹²⁰ Aside from the general reasons already mentioned, many recent immigrants may be unsure of how their personal information will be used when signing up for a bank account or which documents are even necessary.¹²¹ In the wake of 9/11 and the USA PATRIOT Act and the increased presence of the Department of Homeland Security, identification issues are of deep concern because of the fear of needing proper identification or proof of citizenship.¹²² This has an effect on many banks because bank employees are often unsure of what they can and cannot do with certain forms of identification under the USA PATRIOT Act.¹²³ Language barriers and cultural difference often play a large role in preventing an immigrant from seeking a bank account. On the other hand, check-cashing services are much less formal and would not require a social security number or significant personal information.

With so many issues and concerns surrounding the check-cashing and payday loan industries, the barriers to financial mainstream banking that low-income families face have not been overlooked. Recently, there have been some progressive steps in this area, and those approaches will be discussed in the following section.

VI. BANK ON SAN FRANCISCO AND ITS PROGENY

A. Introduction

Bank on San Francisco has created a way to break down the barriers between the unbanked/underbanked and mainstream financial services. Anne Stuhldreher, a Fellow at the New America Foundation, approached the staff of San Francisco Mayor, Gavin Newsom, and City Treasurer, José

Cisneros, with the initial concept of Bank on San Francisco as a way of addressing the problems associated with being unbanked.¹²⁴ After some initial planning and conducting community studies, in December of 2005 the city of San Francisco developed a program that would address the needs of the city's fifty thousand unbanked individuals. Newsom and Cisneros invited the presidents of the city's financial institutions to a breakfast at the Federal Reserve Bank of San Francisco.¹²⁵ The goal was to illustrate that bringing the unbanked into the financial mainstream would not only benefit the San Francisco community, but also be beneficial for the banks.¹²⁶ In September 2006, Bank on San Francisco was officially launched as a joint effort between the city and county of San Francisco, the Federal Reserve Bank of San Francisco, local nonprofit EARN (Earned Assets Resource Network), and fourteen financial institutions.¹²⁷

B. How Bank on San Francisco Works and What it Is Doing Right

The success of Bank on San Francisco is largely attributed to its ability to tailor particular accounts to the specific needs and concerns of the unbanked individuals. It was necessary to develop financial products that would cater to the unbanked. These products needed to properly address the concerns and needs of the unbanked population if Bank on San Francisco were going to be successful. Based on preliminary studies conducted prior to launch, Bank on San Francisco determined that partner banks would offer accounts that met certain requirements.¹²⁸ These requirements consisted of accepting Mexican and Guatemalan Consular ID cards as primary identification, waiving of one set of NSF/overdraft fees per year, and no monthly minimum balance requirement. It also required opening accounts for those who have been on ChexSystems, a program which keeps track of those with poor banking histories. Through Bank on San Francisco, those who have been on ChexSystems for less than a year can open an account, and those who have been on ChexSystems for over a year can still open an account as long as they receive money management training.¹²⁹

By requiring that partner banks accept Mexican and Guatemalan Consular ID cards as primary identification, Bank on San Francisco is able to alleviate many of the concerns that immigrants have about opening a bank account. Beyond this primary identification, some financial institutions may require secondary identification, such as a utility bill or student ID card.¹³⁰ While not part of the Bank on San Francisco program, Mayor Newsome signed a bill in November 2007 that required the city to issue ID cards to people who cannot or will not apply for a driver's license.¹³¹ By making it very clear what forms of identification are acceptable to open a bank account, the concern over required documents and citizenship status is unnecessary.

Two extremely important features of the new bank accounts that can be opened through the Bank on San Francisco program are the lack of a required minimum balance and the waiver of one set of NSF/overdraft fees per year. Fees and "hidden costs" are some of the main deterrents preventing the unbanked from opening bank accounts. By simply eliminating the minimum balance requirement, some of the concern of accruing fees and costs is eliminated. Furthermore, the elimination of a required minimum balance by itself eliminates a large barrier for many low-income families who often spend all, or nearly all, of their earnings each month. Also, allowing a waiver for a set of NSF/overdraft fees per year eases some concern over paying large fees in case of an overdraft.

Another step Bank on San Francisco has taken is to give individuals a second chance at mainstream financial services. The ChexSystems can prevent many people from obtaining a bank account because of a less than desirable account history.¹³² Not only is this program allowing people to have a second chance at a bank account, the kinds of accounts they will be able to open will most likely allow them to avoid the pitfalls they experienced previously by banking at mainstream financial institutions. Because these new accounts offered through Bank on San Francisco allow for no minimum balance requirement and a set of NSF/overdraft fees to be

waived, it is more likely that unbanked individuals will be able to maintain positive accounts, especially if they have the help of money management training. Essentially, many of the program's features have been created to directly confront the view that many low-income consumers share about the lack of need for a bank account, and why they prefer alternative financial services despite the high fees. Some of these features and options have had a positive impact despite speculation that it would not have such a desired effect.¹³³

An important step that Bank on San Francisco has taken is finding an effective way of informing people about the program and its benefits. A new program like this cannot be effective unless its target demographic is aware of it. Without effective marketing and education, Bank on San Francisco would probably not have been as successful. Advertising firm McCann Worldwide donated a significant amount of time and expertise in developing an advertisement campaign for Bank on San Francisco.¹³⁴ McCann Worldwide created an array of advertising materials for Bank on San Francisco's "Everyone is Welcome" campaign, such as brochures, paycheck stuffers, billboards, bus advertising, television and radio public service announcements, and posters.¹³⁵ Advertisements for Bank on San Francisco make bold statements such as "Check Cashing Rips You Off" and "Check Cashing Shrinks Your Paycheck."¹³⁶ In order to reach out to the unbanked, the marketing groups made contacts with institutions and services likely to serve the unbanked population. Such institutions and services include schools, unions, churches, community organizations, county welfare programs, community colleges, and businesses with significant numbers of entry level jobs.¹³⁷

As of December 2007, more than eleven thousand people had opened new accounts since Bank on San Francisco launched in September 2006.¹³⁸ The efforts of the Bank on San Francisco program have been successful in reaching its goal of trying to provide bank accounts for at least ten thousand unbanked individuals.¹³⁹ Based on the success of Bank on San Francisco,

the city of Seattle, the first to follow in the footsteps of Bank on San Francisco, launched Bank on Seattle-King County on September 22, 2008.¹⁴⁰ Bank on Seattle-King County is also being sponsored by the Washington State Department of Financial Institutions, the Federal Reserve Bank of San Francisco, the Seattle-King County Asset Building Collaborative, and The Seattle Foundation.¹⁴¹ Bank on Seattle-King County launched with twenty-two banks and credit unions.¹⁴² Furthermore, over twenty-five nonprofit organizations are helping in outreach to the unbanked population, while ten of these organizations are also offering financial management education to customers of the initiative.¹⁴³ As of September 2009, one year after the program launched, nearly four thousand people in the Seattle-King County area have opened bank accounts through this program.¹⁴⁴

VII. PROPOSALS BEYOND THE BANK ON SAN FRANCISCO MODEL

There is no doubt that Bank on San Francisco and the cities that are beginning to adopt its model have taken a big step in addressing the unbanked and underbanked crisis. However, there is still much room for additional measures to be taken. An effective plan would include programs and changes at the federal, state, and local levels of government, as well as in the private sector. While on the surface it may seem like a burden to address these additional measures, especially for the private sector, it is in fact a plan that would prove to be beneficial for every party involved.

A. Federal Changes

A legislative bill requiring all federal benefits and tax refunds to be paid electronically via direct deposit would drastically increase the number of people who enter the financial mainstream. Although it sounds overwhelming, there are ways that the federal government and banks can alleviate the costs of this system, and there are also ways that the government and banks can benefit from this direct deposit system. In fact, a

progressive partnership between the government and the banks is the way this direct deposit program could be successfully implemented in the U.S. There are some changes that can be made and models from other countries that can be followed.

Currently the Debt Collection Improvement Act of 1996 (DCIA) requires most federal payments, with the exception of tax refunds, to be made by electronic funds transfer.¹⁴⁵ Under the DCIA, all federally-insured financial institutions are eligible, though not required, to offer the Electronic Transfer Account (ETA).¹⁴⁶ The ETA is a low-cost, electronically-based, depository bank account which allows for a maximum monthly fee of \$3 per month and no required minimum balance, unless required by law.¹⁴⁷ Included in the monthly fee are costs for at least four cash withdrawals and four balance inquiries per month, whether by ATM or teller transactions.¹⁴⁸ The ETA may also be an interest-bearing account, which is at the discretion of the financial institution offering the account.

While the DCIA's goal is to reduce the costs of distributing federal payments, it also has the positive effect of bringing people into the financial mainstream. Federal payments by direct deposit increased from just 58 percent in 1996 to 77 percent in 2002.¹⁴⁹ As of June 2008, there are 103,943 reported active ETAs in the country.¹⁵⁰ Increasing the amount of direct deposits may require the federal government to offset the costs to banks that implement such a program. Currently the federal government provides financial institutions a one-time payment of about \$12.60 per account.¹⁵¹ While this one-time payment is an incentive for banks, a bigger incentive for these kinds of programs would be better consideration of the amount of money the government can save through these programs. In the end, increasing incentives creates benefits for all parties involved.

The advantages of direct deposit are numerous. Under Regulation CC, deposits made electronically are available for next-day withdrawal.¹⁵² Not only is time saved by the access of next-day withdrawal, but funds are deposited into an account immediately. This means no waiting for checks in

the mail or worrying that a check may have gotten lost in the mail. For example, it was reported that some residents of New Orleans failed to evacuate during Hurricane Katrina because they were waiting for government checks which were to arrive on September 1.¹⁵³ There is safety and comfort in having federal payments made immediately into a bank account. Concerns about a paper check floating through the mail, carrying around a lump sum of cash, or having to pay a fee to receive one's own money can be avoided by moving to a system of direct deposit.

Direct deposit could also alleviate many of the fears that people have about bank fees. There are a number of banks that offer checking accounts with no monthly fee, as well as no minimum balance. In Washington State, Bank of America and Wells Fargo are two major banks that currently offer such checking accounts.¹⁵⁴ The overall costs saved by financial institutions created by direct deposit—which include less processing of paper documents, checks, and human resources—are both in the banks' interests as well as the consumer's interest.

The following are examples of how banks can alleviate costs by taking advantage of the direct deposit system. One report shows that a barrier to developing ETAs is the costs associated with developing the accounts and associated products.¹⁵⁵ The costs of developing an ETA product could range from \$64,000 to \$148,000.¹⁵⁶ However, the study shows that as more accounts are created, costs decrease for the development and implementation of the accounts.¹⁵⁷ Moreover, the perceived increase in costs by requiring direct deposit may not be as drastic as one might think. Online banks, such as ING Direct and Virtual Bank, have minimal overhead because they have no financial brick-and-mortar locations. Rather than possessing their own ATMs, they partner with other ATM networks to provide instant cash services to their customers. For example, ING Direct has partnered with Allpoint, who boasts as being the nation's largest ATM network. Through this deal, ING Direct now has over thirty-two thousand ATM locations across all fifty states, all of which provide no surcharge for

their use.¹⁵⁸ Thus, they have managed to keep costs low for the consumer without sacrificing accessibility.

The federal government could save an incredible amount of money if it went to a direct deposit system for benefits. According to one study, the U.S. economy could save over \$1 for every check that is changed to an electronic payment.¹⁵⁹ This is equivalent to approximately \$30 billion in savings per year if only one-half of the current volume of checks were converted to direct deposit rather than issuing paper checks. There is no doubt that such an amount in savings could be redirected toward developing a more effective plan of distributing benefits by direct deposit, and creating a new standard for federal payment disbursement and financial management.

Not only should an effective program be cost beneficial, it should also focus on accessibility of the customers. Increased accessibility to cash should help combat reliance on check-cashing outlets. The federal government could partner with an already established ATM network to help promulgate its mission, or even utilize the U.S. Post Offices to help implement its program. A similar program has already been implemented in England, and it has been successful.

In April 2003 the British government began to require that all benefits and pensions be paid by direct deposit.¹⁶⁰ After the installation of the new automated credit-transfer system, which required that government payments be made electronically, recipients had three options for obtaining their payment. The first option was to set up direct deposit with an existing bank account. This option clearly served a large portion of the population that was already banked. The second option allowed unbanked individuals to set up a “basic bank account.” This account was similar to the bank accounts being offered by Bank on San Francisco and Bank on Seattle-King County. However, a main difference is that these basic accounts do not offer checks or any leniency with overdrafts, so they are still subjected to high fees in those instances.¹⁶¹ The U.S. program should use the Bank on San Francisco

model with regard to the bank account fees. The final option allowed individuals to obtain a post office card account. This account made funds directly accessible through ATMs that are located in post offices. Prior to this new system, an estimated 13.5 million people used to receive their benefits through a teller at the post office. By 2005 there were 6 million basic bank accounts opened.¹⁶²

Beyond just implementing a standard of direct deposit, a partnership between the federal government and private banks and credit unions could work to benefit both financial institutions and the public. Several states, such as New York and New Jersey, have enacted legislation that requires banks to offer “lifeline” accounts. These bank accounts are similar to those offered by partner banks in the Bank on San Francisco program. As an example, chartered banks in New York are required to offer checking accounts that may be opened with a minimum deposit of \$25 and require no minimum balance.¹⁶³ Although some argue that such a state requirement has thus far been unsuccessful,¹⁶⁴ a broader federal approach may be effective. Rather than simply putting the burden on banks to offer these accounts and accept the costs, a more progressive partnership between the federal government and banks should be implemented. Resting the burden on the shoulders of individual banks creates little incentive for banks to actually help the unbanked enter the financial mainstream.

B. State Legislative Changes

Some major steps that should be taken at the state level are the regulation of the check-cashing industry and the addition of more accessible bank accounts. These changes include requiring licensing and registration of check-cashing outlets, setting limits on check-cashing fees, strictly limiting the APRs on payday loans, and requiring banks to offer accounts like the Bank on San Francisco model.

The AARP has developed a model state statute that would help protect consumers, yet still allow check cashers to continue to operate.¹⁶⁵ The

model statute the AARP has drafted is very workable and takes into account many of the factors mentioned previously in this article. At a minimum, states should require license and registration of check-cashing outlets. Presently, only twenty states require check-cashing outlets to obtain a license,¹⁶⁶ and only four states require check cashers to register with an appropriate state regulatory authority.¹⁶⁷ Registration with a state regulatory authority allows the state to keep track of check-cashing outlets, monitor their compliance with the law, and take prompt action against any violations.¹⁶⁸ Requirements of registration would entail certain requirements with which check-cashing outlets must comply. For example, check cashers would be required to post conspicuous signage of fees (along with illustrative examples), a list of valid IDs, and contact information for reporting complaints.

Additionally, an ideal state statute would set limits on check-cashing fees. As outlined in the New York statute, a check-cashing outlet should not charge fees in excess of 1 percent of the face value of the check, or \$5, whichever is less, if the check is a payroll or government check. All other checks should not entail fees in excess of 2 percent of the face value of the check, or \$5, whichever is less.¹⁶⁹ All states should follow the lead of Connecticut, which sets a maximum fee of 1 percent for cashing state checks to a recipient on public assistance.¹⁷⁰ Setting clear, low limits on check-cashing fees helps to prevent these businesses from preying on low- and moderate-income families who cannot afford to pay for such pricey services. While entering mainstream financial services is an ideal path, not all will be persuaded to do so. Enacting statutes that set limits on check-cashing services would serve the purpose of assisting and protecting those who remain unbanked. It has been shown that states that cap fees tend to have a higher number of low-income families with bank accounts.¹⁷¹ Thus, fee capping can have the dual effect of not only preventing low- and moderate-income families from paying too much for basic financial services, but it can also encourage many people to open bank accounts.

State legislatures should enact laws that strictly limit the APR of payday loans. The high interest rates of payday loans make it more difficult for customers to end their cycle of debt. Radically reducing the interest from triple-digit numbers to double-digit numbers would lighten the burden that many low- and moderate-income families face, particularly those who rely on payday loans from time to time. The example that states should look to when enacting such a statute is Ohio.

In May 2008, the Ohio senate passed HB 545, which capped payday loan interest rates to a 28 percent APR.¹⁷² This legislation follows on the heels of legislation that was passed in 2006, which capped interest at 36 percent for payday and car title loans to military families.¹⁷³ Claims were made that capping an interest rate at 28 percent was drastic and unwanted.¹⁷⁴ Members of the payday lending industry claim that consumers do not desire any change to the current system of payday lending.¹⁷⁵ However, on November 4, 2008, voters in Ohio approved Issue 5, which maintained the payday lending caps enacted by HB 545.¹⁷⁶ Similar legislation passed in Arizona simultaneously.¹⁷⁷ Ohio and Arizona have joined a minority of states that have enacted legislation to effectively ban, or severely limit, payday lending by capping APR.¹⁷⁸ This is precisely the kind of movement and legislative measures that are needed to assist low- and moderate-income families in breaking the cycle of debt and entering the financial mainstream.

Additionally, states should individually pass laws that require banks to offer lifeline accounts similar to those available in a few states. Essentially, states could pass into law what Bank on San Francisco has managed to do with partner banks on a voluntary basis. There is little doubt that the model of the Bank on San Francisco program has been successful in allowing thousands of unbanked individuals to open bank accounts. Of course, if states truly have the intention of assisting the unbanked in creating wealth and achieving financial stability, then they cannot simply leave the responsibility on financial institutions to create effective products and services which will appeal to and benefit the unbanked.

C. How the Private Sector Can Collaborate in Creating Positive Change and Changes to the Bank on San Francisco Model

The private sector should be implementing programs like Bank on San Francisco. Also, banks should change their banking style so it is mutually beneficial to themselves and to the underbanked population. This includes increasing their presence in low-income neighborhoods and having a strong marketing strategy to inform their potential clients. This program could be modeled after the successful E Bank program used in South Africa.

The Bank on San Francisco model has proven to be highly effective in addressing the needs of the unbanked; however, there are a few areas of improvement necessary in order to dependence on payday lenders and check-cashing outlets. First, banks must be willing to respond to the convenience needs of many low- and moderate-income families. One major problem is that in low-income areas in both urban communities and rural areas, mainstream financial institutions are less accessible compared to in higher-income areas.¹⁷⁹ For example, in Chicago, 40 percent of low- to moderate-income neighborhoods only had check cashers, while 32 percent of low- to moderate-income areas had both banks and check cashers.¹⁸⁰ Similarly, this pattern is reflected in the distribution of ATMs in some major cities.¹⁸¹ Also, in the low-income neighborhood of Bushwick, Brooklyn, New York, there is only one bank per fifty thousand people.¹⁸² While convenience may only be a small part of a person's choice to open a bank account, access to a local bank certainly plays a role in a person's ability to maintain a healthy bank account. Not only would a greater presence in low-income neighborhoods be beneficial for the residents of those neighborhoods, but it could be mutually beneficial for the banking institutions that are willing to enter these areas. An example of such a successful attempt can be found in South Africa.¹⁸³

The South African model was developed by Standard Bank of South Africa and utilized a number of similar proposals mentioned above. One important aspect of this model was its focus on an electronic based system

that called E Bank.¹⁸⁴ The success of E Bank relied on its ability to tailor its program to the specific needs of its target market—low-income families. Market research showed that for a product to be successfully accepted it must have a high degree of convenience, friendly service, quick transaction times, and an extremely high degree of safety and security.¹⁸⁵ These are basically the same concerns and priorities of the unbanked in the U.S. In order to cater to these needs, the E Bank program opened hundreds of electronic branches in a wide variety of areas, such as grocery stores, shopping centers, and many other areas that suited the needs of working and low-income families.¹⁸⁶ Upon opening an account, a customer receives a bank card with his or her photo printed on the card. Along with the photo, the card contains a memory chip which stores other identification data, such as fingerprints. The purpose of storing such personal identification data is to ensure safety and prevent fraud. An E Bank assistant can verify that the cardholder is in fact the account holder. Also, because it is easy to forget a PIN number or have personal information stolen, all personal identification data is stored in a central database. Not only does this alleviate some safety concerns, but this method also saves money for the bank. Similar to the way online banks work, E Bank never uses paper in any of its transactions.¹⁸⁷

The E Bank program also managed to convince many corporate clients to pay their employees via direct deposit into their employees' E Bank accounts. This diminished the need for check-cashing transactions at banks, as an employee's money would be available at any ATM. Not only does the employee benefit from having quicker access to his or her cash, but the banks and the employers are saving money through this much simpler and less time-consuming transaction.

The results of the E Bank plan have been outstanding, as one might have anticipated. Evidence suggests that many individuals are migrating to an E Bank account. It is estimated that over seventy thousand new accounts are opened each month, and customers are highly satisfied.¹⁸⁸ By creating a

product that is streamlined to meet the needs of the unbanked population, banks have been able to enter this new market, without sacrificing profits, to bring the unbanked into the financial mainstream. Rather than being an act of altruism, it has shown to be an act of mutual benefits. A plan that creates such a win-win situation is sure to be successful.

As illustrated above, the E Bank program is an example of a private bank realizing the advantages of a system that sees lower-income people as potential customers and incorporates them into a workable and successful business model. This E Bank program is precisely the kind of model that can be implemented in the United States. The Standard Bank of South Africa tailored the program around the specific needs of lower-income families and made it profitable. With so many unbanked and underbanked low-income families in the U.S., a model that benefits both the private banks and lower-income customers would be mutually beneficial, as well as assist lower-income families in developing savings and wealth.

Finally, mass marketing of a new program is a key element in its implementation, as mass marketing plays a vital role in bringing the unbanked into the financial mainstream. At a very basic level, people need to be aware of lifeline bank accounts or programs like Bank on San Francisco. Part of the success of the South African model was due to its ability to develop a smart program of mass marketing. For example, Standard Bank struck a deal with local professional soccer clubs for the purposes of bringing awareness to fans of the clubs.¹⁸⁹ Through this deal, Standard Bank expects to enroll over one million fans in the first year alone.¹⁹⁰ While city governments would have less money to spend on such dealings, it does not preclude them from finding other ways of mass marketing to the unbanked.

The two major U.S. initiatives discussed in this paper have differing results, possibly due to differences in mass marketing styles. The new program should follow the examples of the South African Model and the

Bank on San Francisco Model. The Seattle-King County model should focus more on marketing to ensure its success.

The marketing campaign that Bank on San Francisco launched in conjunction with the program itself played an important role in its success. On the other hand, Bank on Seattle-King County seems to overlook the importance of mass marketing in raising awareness of the program. In the beginning, the only evidence of a campaign to raise awareness of Bank on Seattle-King County included brochures offered at partner financial institutions and some public service announcements on King County Television, although it seems to be expanding.¹⁹¹ The products and services offered by the partner banks are excellent, but they are of little use if consumers are not aware that such products exist. If consumers do not possess a bank account, they have no reason to go inside a bank, thus an informative brochure on Bank on Seattle-King County inside a bank is of little use.

While it is too soon to tell how successful Bank on Seattle-King County will be, the lack of a mass marketing campaign indicates that it will be less successful than its predecessor. Also, it may be that Bank on Seattle-King County's goals are not as high as San Francisco. Bank on San Francisco helped at least eleven thousand previously unbanked or underbanked individuals to open new bank accounts.¹⁹² On the other hand, Bank on Seattle-King County's goals are slightly more modest. The Washington State Department of Financial Institutions states that its goal is to open ten thousand new accounts over the next two years.¹⁹³ Nonetheless, more marketing is necessary if Bank on Seattle-King County wants to reach its two-year goal.

VIII. CONCLUSION

While heading in the right direction, current efforts to bring the nearly ten million unbanked households into the financial mainstream still require more work, including federal and state legislative changes. The use of

alternative financial services drains the earnings of those who can least afford to pay for these services, primarily low- and moderate-income families. There are numerous barriers facing the unbanked. Current programs, such as Bank on San Francisco, have managed to take these barriers into account and tailor their products and services to serve the needs of the unbanked.

The current financial climate calls for all levels of government to institute more modern and original ideas to create a financial system that appeals to all individuals, including the unbanked. While this may seem risky and unprofitable, there is evidence from around the world showing the opposite. Not only can tailoring products and services to the unbanked help low- and moderate-income families build and accumulate wealth, but it can also be profitable for the financial institutions. The most effective plan is a collaborative effort from governments, private institutions, and nonprofit organizations. These programs are not about providing handouts to the poor, but recognizing a way to create financial products and services for this particular demographic. These groups of people have been consistently overlooked because of their perceived unprofitability. Studies consistently show the opposite.

While it is clear that the twenty-first century brought a slight move towards taking into account the unbanked and underbanked, there remains vast room for improvement. City governments should begin by implementing programs, following the examples of San Francisco and Seattle. Furthermore, states should follow the examples of Ohio and Arizona, limiting interest rates for payday and title loans. Such collaboration not only benefits low- and moderate-income families, but our nation's economy and society as a whole.

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² *Government Program Reaches out to Households without Bank Accounts* (KUOW radio broadcast Sept. 23, 2008).

³ Wyatt Buchanan, *Bank accounts put in reach of poor, immigrants; S.F.'s pioneering effort allows residents to avoid high fees at check-cashing outlets*, SAN FRANCISCO CHRONICLE, Dec. 4, 2007, at A1.

⁴ *Id.*

⁵ Peggy Delinois Hamilton, *Why the Check Cashers Win: Regulatory Barriers to Banking the Unbanked*, 30 W. NEW ENG. L. REV. 119, 119 (2007) (defining “underbanked” as “people who have a formal relationship with a bank but nonetheless substantially rely on alternative financial service providers for basic financial transactions . . .”).

⁶ Brian K. Bucks, Arthur B. Kinnickell & Kevin B. Moore, *Recent Change in U.S. Family Finances, Evidence from the 2001 and 2004 Survey of Consumer Finances*, FED. RES. BULL., Mar. 22, 2006, available at <http://federalreserve.gov/pubs/bulletin/2006/financesurvey.pdf> (defining low-income families as families earning less than twenty-five thousand dollars annually).

⁷ Michael S. Barr, *Banking the Poor*, 21 YALE J. ON REG. 121, 123 (2004).

⁸ MATT FELLOWES & MIA MABANTA, *BANKING ON WEALTH: AMERICA'S NEW RETAIL BANKING INFRASTRUCTURE AND ITS WEALTH-BUILDING POTENTIAL* 3, Jan. 2008, http://www.brookings.edu/~media/Files/rc/reports/2008/01_banking_fellowes/01_banking_fellowes.pdf.

⁹ Hamilton, *supra* note 5, at 119–20.

¹⁰ Anne Stuhldreher, *Yes, Poor People Do Save*, Issue Brief, New America Foundation, Dec. 2005, http://www.newamerica.net/files/archive/Doc_File_2764_1.pdf.

¹¹ The Federal Reserve Board, *Protecting Yourself from Overdraft and Bounced-Check Fees*, available at <http://www.federalreserve.gov/pubs/bounce> (last visited Nov. 13, 2009).

¹² ChexSystems, Inc. is a consumer-reporting agency that may be used by banks to determine whether or not to offer a new customer an account. It identifies account applicants who may have a history of account mishandling. See Consumer Website - Frequently Asked Questions,

<https://www.consumerdebit.com/consumerinfo/us/en/chexsystems/faqs.htm> (last visited Nov. 1, 2008) [hereinafter ChexSystems].

¹³ The lack of mainstream financial services in low-income areas is debated. See Barr, *supra* note 7, at 124; FELLOWES & MABANTA, *supra* note 8, at 1.

¹⁴ X.M. Frascogna, Jr., *Check Cashers: An Expanding Financial Service*, 19 MISS. C.L. REV. 229, 231 (1998).

¹⁵ Barr, *supra* note 7, at 183.

¹⁶ Hamilton, *supra* note 5, at 119.

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