

THE BROOKINGS INSTITUTION

FINTECH: HOW CAN GOVERNMENT PROMOTE
THE GOOD AND PROTECT AGAINST THE BAD?

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Opening and Moderator:

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Keynotes:

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Vice Chairman, Financial Services Committee
U.S. House of Representatives

THE HONORABLE JEFF MERKLEY (D-ORE.)
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Panel:

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Closing Remarks:

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P R O C E E D I N G S

MR. KLEIN: It's my pleasure to welcome you all here today at Brookings for the second in what's becoming a series of events on fintech, or financial technology. Fintech is really the kind of merger of two things that I think we all have -- I carry in my pocket, some maybe in your purses. It's finance and technology. And over time it's becoming increasingly clear that everything here can really exist here. And the other stunning fact is that every device or instrument that you have in your wallet usually basically has a correlation to your income level, your assets. This does not. What's really amazing with the technological advances that are available here as they interrelate to finance is not only the ability to conduct financial intermediation faster, more efficient, more effective, and more conveniently, but also in a different manner than has historically been correlated with income.

In our first event we talked about how Fintech could makes lives of working Americans better. We heard from a series of corporate CEOs who are innovators in this space, and then we heard from a series of policy makers. Today we kind of ask the question a little bit differently, which is what here in Washington can we do to promote the good and protect against the bad. And in that way I'm really excited to be joined by an all star cast. You're going to hear from Congressman McHenry first, then we're going to have a panel conversation, then we're going to be joined by Senator Merkley to close that.

So let me introduce Congressman McHenry as he comes onto the stage and we take our first set of conversation. Congressman Patrick McHenry is Vice Chairman of the House Financial Services Committee and Chief Deputy Whip for the House Republicans. He's in his seventh term from the great State of North Carolina, representing folks from the suburbs of Charlotte all the way to Asheville and the Blue Ridge Mountains. Prior to serving in Congress he had a distinguished career in the North Carolina State House in the Department of Labor, and one thing we share are families with wonderful young daughter.

So, Congressman McHenry, thank you for joining us today.

CONGRESSMAN McHENRY: Thank you. (Applause)

MR. KLEIN: Congressman, one of your most challenging parts of your job is picking what to work on. I mean you are responsible for responding to everything that goes on and so far in the beginning of this administration that's more than anybody could ever have imagined. (Laughter)

CONGRESSMAN McHENRY: That's an understatement.

MR. KLEIN: How did you decide to pick and focus on Fintech?

CONGRESSMAN McHENRY: So I grew up in the suburbs of Charlotte in a small town in western North Carolina. My dad was an entrepreneur. I'm the youngest of five kids. He and a buddy got a contract to mow grass, something they thought they could do. It was a large hospital property and it was a few hundred acres. They had two push mowers and plug in weed eater. So this is the world I grew up in and my dad got the contract but didn't have a riding lawnmower to do it. So he got a salesman to let him borrow and demo a lawnmower for a weekend. And as soon as the guy leaves the ride it until sundown, sunup and sundown on Saturday, sunup and sundown on Sunday, put it back on the trailer for the guy to come pick it up on Monday. The guy calls on Monday, says do you want to buy it. He goes, let us get two more cuts in and we'll endorse the check over to you. That's how they started the business. Now, they also didn't have a truck so the -- right, think of this, right -- so they got the lawnmower, they didn't have a truck, so they got a truck with a Master Charge. Great financial innovation of the day. My dad pounded into us as a kid, don't use credit card debt. Little did we know until we got old enough the story of how he started his business. So that to me is the American dream. It's not Google, it's not Facebook, it's the guy with the truck and a lawnmower. And that to me was my calling for public service, is to help those people. Whether it's a rural area or an urban area, the issues are the same and the question of financial inclusion is not just those that are living on the margins, but those that want to rise out of the margins and actually be firmly in the middle class or have greater hopes than that. That's the upbringing I had, and so that's been what I've been trying to strive for in what I do with public policy and that's what led me to help write a big chunk of the Jobs Act, the equity crowdfunding portion of that, the investment crowdfunding portion of that, and look for other iterations of using technology to help folks like my dad and for folks that are like my dad all across the country.

MR. KLEIN: So it's the intersection of technology, access to capital, and entrepreneurship --

CONGRESSMAN McHENRY: Absolutely.

MR. KLEIN: -- that kind of brings you into seeing Fintech as a way that you can change policy to make lives better for those guys trying to get a truck and a lawnmower to make their contract to

start their business?

CONGRESSMAN McHENRY: Right. It's a brewery in Asheville, it's a coffee shop in Lincolnton, it's a lawn mowing business in Gastonia. Those are the stories I use in my district, those are the people that I'm trying to represent. Now, my colleague, Maxine Waters, has a different set of examples, but the same exact need. And if you really look at the question of finance in our country, when you talk about in your intro here utilization of technology, and making it cheap and affordable, make it more competitive. So if you really look at finance, we have capital deserts in this country, just like we have urban food deserts we have capital deserts and we have to utilize technology to make sure that we deploy those resources more evenly across the country to allow that talent to rise. Whether it's an urban area or a rural area, that inclusion is not there. And we have to find ways to actually get that distributed and more competitive in those areas.

MR. KLEIN: So you want to find that way and you wrote groundbreaking legislation, introduced it in last Congress -- I hope it's coming back in this one -- in which you tried to lay out a set of processes for the financial regulators to follow and put in more accountability at the individual institutions to staff up and beef up in fintech.

Can you explain a little bit about what your legislation would do and why it's important?

CONGRESSMAN McHENRY: Well, looking at the competition around the globe, competition -- what I mean by that, regulatory competition, the changes in law other regimes are making to attract our minds out of the United States at a time when the United States is not doubling down on trying to recruit that talent here. So with that regulatory competition we need to adapt and change here in the United States. So my legislation, called the Financial Innovation Act, says that all of our financial regulators in our unique way, our own unique regulatory system, all those regulators need to open up a Fintech office, a technology office. And what the legislation would grant that office -- which is in essence reordering that the great talent that we have, the Federal Reserve, the OCC, the FDIC, the SEC, has enormously talented, smart people that know their regulatory jurisdiction really well. So let's reposition those assets within the Agency with these innovation offices. And what the legislation would grant them is the opportunity to waive or change existing reg and law in order to cultivate this innovation. So if you have an innovation that will be better for the consumer you can try it, and we can have a permanent beta

testing so the regulators would then have data to adapt and change regulation for other competitors.

What this would allow is for us to take this question of -- there's a lot of debate right now about cost benefit analysis. Really what this is about is ensuring our regulators are using the best data in the world to craft regulations. So what this would do, what this legislation would do is allow that beta testing and immediate feedback to the regulator. So you could have regulations adapt and change rather than over a generation in a six month, twelve month period of time, and you could have this greater competition and innovation as a result of that.

MR. KLEIN: So there are a couple of different things to unpack there. First, when you're referencing the global competition a lot of people were talking about the United Kingdom, which kind of put up a sandbox as they call it, which is somewhat analogous to the beta testing, to allow folks to go and bring products to market with conversation with regulators that then would allow those products to flourish positively or negatively and provide that real time information. And kind of the "Fintechy", you know, folks thought the UK was going to run away with this. And then came Brexit, right, which I would describe as shooting themselves in the foot, the Brits may call it an own goal, but either way if you're thinking about having a global new financial technology center why would you go to a country where you have no idea what the regulatory regime is going to be in two years? The level of uncertainty that they created there is tremendous and the United Kingdom's domestic market isn't anything compared to the United States by scope or magnitude, and if you lose the ability to go into Europe, et cetera. So it really created an opportunity whereas I felt that if we were having this conversation a year ago we were well behind the curve of the United Kingdom. They've kind of stalled out, right. In the race they may have been a head of us and they spun out and we have a shot to pass them.

But another aspect of your legislation is to reposition this talent, but we're also going to have to create it. I mean the federal regulators are fantastic, they're a little bit -- you know, one of the GAO statistics on the (inaudible) the federal workforce, and financial technology is new and innovative and challenging, and requires some new minds. As you pointed out, in the race to attract global talent we may have committed our own mistakes recently in terms of attracting people internationally. But we have another Executive Order that's come out on a hiring freeze, that's been applied to the financial regulators, both those that are part of the United States government and those like the Federal Reserve

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regional banks that are voluntarily complying. And that's going to slow down and grind to a halt new people coming in. Is there an inherent tension between applying this kind of blanket hiring freeze, particularly as it relates to financial regulators, and bringing in the kind of people who can, you know, innovate and help the regulators get to a new place?

CONGRESSMAN McHENRY: Sure. (Laughter) This hiring freeze is not really any different than what happened 16 years ago. There is a natural changeover administration. I don't foresee this to be permanent. You don't have a Director of the Office of Personnel Management, so the implementation question of this is not -- actually, we don't have the authority there to make that determination on behalf of the administration, and you don't have a lot of these key players staffed up, confirmed, and through this whole process. So I don't foresee this as being long lasting, and my hope is it's not long-term impactful.

MR. KLEIN: So by the time your legislation would be enacted you'd expect the hiring freeze to be history?

CONGRESSMAN McHENRY: Oh yes, yeah.

MR. KLEIN: Good.

CONGRESSMAN McHENRY: And so that's the good news. But in terms of regulatory competition, we're hearing more British accents here in the United States, to your point, right. They see the opportunity set here. We've got to reposition our assets. Not to have a -- look, Dodd-Frank had a lot of interesting contemplations of a unified regulator. And what happened out of Dodd-Frank? We got a new regulator. This is typical in politics. In an effort to actually eliminate regulators and unify them, you create something new. Only on Capitol Hill and only among politicians is that rational. But that's what happened. So my legislation doesn't fight those fights again between the CFTC and the SEC, but I acknowledge our unique regulatory structure and try to reposition it to be tech forward, to see that tech is not counter to consumer protection, it is not counter to safety and soundness, and my legislation says you can't put the screws to a consumer and that be okay. And so it's really consumer focused, if you will.

MR. KLEIN: So let's talk about that because some people debate the existence of and how to think through the association of a trade-off between innovation and consumer protection. You know, I like to think of it as that kind of simple win-win we want, lose-lose we don't. Where there's a

trade-off you've got to think about it for a second.

So I remember working on legislation in 2003 that allowed you to essentially take a picture of your check and email it around. Before that that was illegal. You had to actually have the physical paper check. We spend \$1 billion a year flying checks all around the country.

CONGRESSMAN McHENRY: Check 21.

MR. KLEIN: Check 21. And that to me was a clear win-win. Not everybody saw it. Some people said oh my god, what if you don't get your check back in the mail in the original paper copy, the word will end.

CONGRESSMAN McHENRY: It also eliminated check kiting, which then put pressure on financial inclusion because you need short-term lending to fill this gap. Sorry to get into it, but I mean these are not the high minded discussion of Washington, but these are the real challenges of people in communities all across the country. Before Check 21 you needed to get 48 hours. You had a way to get 48 hours even if it was not legal. How do we fill that gap and how do we fill that gap in an affordable, real way? And if you have a PayPal account you have some access to this, but PayPal is just an old system based off of these changes in law under Check 21. How do we take that and enhance that in a way that's really good for the consumer, has a lot of protection, but is also so competitive it is cheap for the consumer, right, cheaper than a bounced check.

MR. KLEIN: Or a check casher. So I mean let's -- the other thing Check 21 did that was great was it -- and we didn't -- we at the time thought the big advantage for rural folks was you could drive to an ATM and deposit your check and have it captured that way and save time, rather than having to go to a branch, where a branch may not be convenient in the hours. We never in a million years thought you could do it from your bedroom within the next 10 years, and that's exactly what happened because in Washington you will underestimate technological advance in one direction and overestimate it in another. If you read some reports from the '60s there were going to be robots taking all our jobs by 1985.

On the flipside though, as you described, you know, one of the things that drives me bonkers is that with PayPal I can send money instantaneously and in our financial system it takes days, it can take a week. We don't have real time payments in America and that's a joke. The United Kingdom has real time payments, South Africa has real time payments, Mexico has real time payments, Poland

has real time payments. What do we have to do here? I mean we have the Federal Reserve who is supposed to be in charge of regulating it, but also operates a big system. We have financial innovation that's trying to create it, but you have to be, you know, essentially on the same rail. I can PayPal to you but I can't PayPal to your bank account, only to your PayPal account. You have an amalgamation of technology companies, like Ripple and others, who are trying to integrate it all, but they're existing outside the regulatory regime and needing to partner with banks. What's the solution here? Because the problem is real.

CONGRESSMAN McHENRY: So, you know, people talk about solutions set around distributed ledger, around Ripple. Ripple is a fantastic example of this sort of breakthrough technology, but then they have to reverse engineer how to comply with the existing regime. So this is why we have to have a different orientation with regulation. Now, it's not say regulation is good or bad. We're not going to get in this debate about whether or not regulation is good or bad. It's good if you liked the end result, it's bad if you don't like the end result. Simple as that, right?

So if (inaudible) defining, if you will, regulation. You'll know how you like it once you see it. So thinking about that, we have to reposition our regulation for the modern prospects of the internet for free flow of information and reposition our government assets to capture that. Leader McCarthy, Kevin McCarthy and I had something called the Innovation Initiative, and it's around this mindset of how to use technology to reorient government to provide better services for our people. It doesn't mean less government or more government, it's not that debate. It is simply saying we own these parts of government. And so out of this comes Financial Innovation Act, to reorient our regulators. It comes out of my 4506T legislation. Everybody knows that, right? (Laughter) So simple thing, you have an on line -- you want to get a loan on line, so you give them the opportunity to look at your financials via the IRS. So it's on line, it's fantastic, it's fast, it happens like this. And eight days later the IRS will give them the information, eight days.

MR. KLEIN: Eight business days I'm guessing, eight government days?

CONGRESSMAN McHENRY: Yes. Fantastic. Two weeks, right. Really responsive. Well, I own -- that's my data, I own that. Why in the world does it take the IRS that? Well, you have facts and you have paper involved. So my legislation simply says the IRS has to have an API to allow those

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that are paying for this service, by the way -- as a consumer I'm paying through the portal to access this data. We're paying for it and the IRS is giving us shoddy service. Well, my legislation mandates that they provide an on line portal for this. And we can do this. We do this all the time. I can have a secure transaction. Why can't I have secure transaction with a government agency? So reordering these assets and saying you have to provide this in real time. That's just one piece of innovation. This is why looking at the government basically the underpinning of our federal regulatory regime came about in an era where the telephone was the innovation. Securities law was based off of the speed of a telephone call. Why don't we update these things for our modern technology? Why don't we have a mandate on regulators to look at it this way? That doesn't mean that we have less consumer protection or more, we can dial that in as policy makers, this question of technology versus consumer protection. I don't think it's a pure trade-off because often times that transparency of a transaction is so much better for the consumer that they can price this out, they can rate it, they can have people compete for their business and they actually are the real net winners of this thing. And the existing regime, the existing players, may not like it because they're getting disintermediated, payment system is changing, and all these evolutions that are disruptive.

MR. KLEIN: So I want to turn to the audience very soon, but I got two advances from you. Your Innovation Act, 450 --

CONGRESSMAN McHENRY: 6T. It just rolls off the tongue.

MR. KLEIN: 4506T. Very, very catchy. Everybody will be whistling that on the way out. Can I get one more? Because the world loves threes. What's a third good thing that policy makers can do?

CONGRESSMAN McHENRY: Well, the Madden decision. This idea that -- which we've had for generations in this country -- that a loan is valid when made. It doesn't get into other debates around lending, it just simply says this Madden v. Midland case was wrongly decided, that what we've established is law for roughly 80 years should still be existing. That was Congressional intent, we'd like to see it through.

So that would be the third. That way you can actually have securitization of these products and there is safety and certainty within the system.

MR. KLEIN: So one other thing that hasn't come up is the idea of a level playing field. I'm a big believer in that, that playing fields ought to be leveled. One area that I draw your attention that I think we had some regulation is a little known part of a CFPB rule on the prepaid cards. (Inaudible) what they did on prepaid cards, they put in this thing that said the same law, the Electronic Funds Transfer Act, that really governs how debit cards work incredibly well, have led to widespread adoption, that applies to PayPal and Venmo and in the Fintech space, apples to apples. And before that it didn't there was ambiguity, there was some voluntary compliance. You know, this includes error resolution, kind of what happens if you fat finger an email, a bunch of other things. And the Bureau did this quietly, effectively, without much brouhaha. To me that's an example that I point out to you of regulators being smart, thinking ahead of the time. You know, usually in Washington a regulator doesn't do that until there's a crisis, until there's been a big scandal, until there's been a hacking, until there's been a this or a that. And I hope as people start re looking through everything at the Bureau, folks don't, you know, forget about the good that's been done in terms of proactively leveling the playing field.

CONGRESSMAN McHENRY: A great example of that is Operation Catalyst.

MR. KLEIN: At the CFPB.

CONGRESSMAN McHENRY: The origin of the Financial Innovation Act, what I saw out of the opportunity around Operation Catalyst, they realized that without the ability to waive and change regs that they were confined to existing regimes, regulatory regimes and law that would inhibit their opportunity to meet the goals of Operation Catalyst to bring technology and financial inclusion together forward. And so operation catalyst was a huge motivation for my legislation because the work the Bureau has done, in many areas has been very smart and very good. The idea the Agency is all bad is simply not right, not fair for the record.

MR. KLEIN: Well, let's turn to the audience. I see a lot of smart people.

CONGRESSMAN McHENRY: And by the way, if Cordray were here right now he might stop and have a heart attack (laughter) that I said that. Not that I've agreed with him all the time.

MR. KLEIN: The record will show not universal agreement or disagreement.

CONGRESSMAN McHENRY: Right, right.

MR. KLEIN: Sean?

QUESTIONER: My name is Sean Smili. I work with a fintech company and one of the challenges they have is when their, you know, agency will claim, say I have jurisdiction over fintech -- CFTC, for example, and then they don't have the resources to actually develop a policy. So they shipped it right to enforcement. So what's happening, these fintech companies are, you know, one by one negotiating these enforcement things and they're not very uniform. Is there a way you can address that in your legislation and make sure that these agencies, if they're going to claim jurisdiction over a certain fintech technology that they will go ahead and develop a policy instead of just pushing it to enforcement, which is the easy way out?

CONGRESSMAN McHENRY: Well, and out of enforcement then you get your policy, right? So it's after you receive the punishment, then you know the rules of the road, which is the equivalent of driving as fast as you want and assuming that's okay until the police pull you over, at which point you'll then determine behavior going forward. So my legislation is in order to fix that, to say that you actually have a front door into the agency, and it is an innovation office that will take that information and then attempt to provide some certainty and rules of the road going forward. And it would put the obligation on the agency to be welcoming to that, to be open to that. Not that you like the outcome, but that they would have the obligation to be tech sensitive and adapt regs to meet these new technology opportunities.

MR. KLEIN: Ma'am?

MS. SEGERO: Good morning, ladies and gentlemen. Thank you, Mr. Representative. My name is Rosemary Segero; I'm President of a company called Segeros International Group. We focus on innovation and start up manufacturing. Looking at your policy at the Congress, how do you look at international policy looking at fintech? You can see like Kenya, Kenya already has the leading M-Pesa and is doing well from the rural and even from here. Now we are sending money direct to M-Pesa and this is a wonderful innovation. How do you look at that policy looking at the bad guys and the good guys, because we will not only focus -- we are looking at that internationally, China, and everywhere?

Thank you.

CONGRESSMAN McHENRY: Thank you for raising this question. Kenya is -- I often bring this up, and I would say always except I didn't bring it up today -- this is more powerful in Kenya

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than in the United States. Kenya is more tech forward for financial services, the ability for me to send you money and you to send me money than our capacity here in the United States, faster, more efficient, cheaper, better for the consumer. Your capacity with this phone in Kenya is so much better, so much better, than it is here in the United States. I use that as an example to say that we've got to reach out to those examples globally and how they are pushing this forward. And Kenya is the best example of that opportunity set for us and it makes it really amazing for the consumers. So thank you for raising it.

Now, how we reorient our federal regulation around that, that's where it gets complex. And rather than saying I have the answer for a blanket policy across the government, I'm saying we've got to open these doors for regulators and comply with existing law in many respects, existing regulations in many respects, but reorient them for this type of innovation so we can catch up to Kenya and other places around the globe.

MR. KLEIN: So, Congressman, on the international front you penned a letter recently to the Federal Reserve telling them essentially to -- I'll use my word -- cease and desist operating internationally until they've heard the new direction from the White House. I don't know if that's a fair characterization. That kind of raised a lot of questions, both because of the inherent, you know, kind of independent nature of the Federal Reserve, the growing questions regarding international bank regulation and who is responsive ultimately too. And also kind of a timeline question, you know, until when? Like, you know, until they get a tweet? (Laughter) What's the interaction from how you see it as to how the role of the Federal Reserve in international bank capital regulations should change as a result of this election, assuming it should change at all?

CONGRESSMAN McHENRY: First, I believe in the independence of the Federal Reserve when it comes to monetary policy, absolutely. Four square, firmly believe in the independence of the Federal Reserve when it comes to monetary policy. They, however, are the largest regulator in the world. And I'll send you video, but I've asked Chair Yellen multiple times in Committee hearings whether or not as policy maker on Capitol Hill I can influence the Federal Reserve's regulation making. And she says yes. So while I firmly believe in their independence when it comes to monetary policy, they're regulatory policy they need firm oversight from Congress in order to meet their mission. So my letter simply states until this new administration is up and running I think you should pause these international --

coming to a conclusion on these international agreements.

You have, since Dodd-Frank, a new Fed Governor in charge of regulation. We've never had one Senate confirmed. And so Tarullo is *de facto* that Governor. That's problematic. I think the confirmation process should elicit some understanding of how these regulations are codified.

The final thing I'd say is this, with a changeover in administration those around the globe are looking toward what this new administration is going to do when it comes to financial regulation and international agreements. We know, as much as we can, that when our regulators go to Basel and they come to some accord, when they come back and say Basel made this decision they will not tell us what they said in that conversation or if they had a vote, and if they had a vote, how they voted. So there's a real lack of transparency in this whole process that I would hope with a new Fed Governor in charge of regulation we would have better transparency. You know, that person could have whatever political persuasion or whatever view they want, but transparency is desperately needed when it comes to these international regulations.

MR. KLEIN: All right. We've got time for one more question to end on fintech, or maybe two. Let's see if -- if Con you're quick.

QUESTIONER: Yup. I'll try to be quick. I'd like to pick up on this gentleman's question about enforcement, Congressman, and also your comment about cost benefit analysis, and also thank you for the work you're doing in this area. I'm with Boston University in the online lending policy institute. One way of reading the Executive Orders of last week is that cost benefit analyses have to be applied to enforcement actions. You know, in light of the \$100+ billion of penalties that have been paid over the past few years I'm wondering if that is too broad a reading of the Executive Order or is it spot on?

CONGRESSMAN McHENRY: Before I deeply comment on any Executive Order -- that has its own challenges (laughter) -- but I think the approach is broadly right. The question of implementation is really the sticky wicket here. And what I've seen from the implementation of Dodd-Frank is that you have the SEC with -- well, actually, until a couple of years ago they had a Chief Economist who was a lawyer, right, and the cost benefit analysis was this, this regulation we think is less costly than the last global financial crisis, therefore we're putting it in place. It's a hell of a thing to rate, right. So this regulation is less costly than the world collapsing. Okay. By that standard, do whatever the

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heck you want to do. I don't think that's fair and appropriate. I think we have to have wiser cost benefit analyses.

In two years my democrat colleagues in the House and Senate will be talking out cost benefit analysis as if it were their idea. Okay. So what is good for the left is good for the right, it's just a question of the regs you want to apply them to. But I think it's desperately important that regardless of the dialing up or dialing down regulation, you have to have that wise cost benefit analysis regardless of that.

MR. KLEIN: I guess as an economist I'm actually more skeptical of cost benefit analysis precisely for the reason you describe, which is that if a financial crisis costs \$14 trillion and I claim that there's a 1 percent chance that my reg will stop the next crisis, well that's \$140 billion benefit. In the Executive Order that Con mention the word cost appears 18 times, the word benefit appears once, and it's at the very end in boilerplate gobbledygook language about private right of action. So in the cost benefit framing of the Executive Order, it's cost. Occasionally you see the words net cost, which one could imply to be cost minus benefit, if you want to imply the word benefit. If you're a strict reader, simply adding up costs. You know, economists love to put numbers out there and intimidate non numeric people, but numbers don't mean facts. As my high school math teacher once said, numbers on a page is not math. So I'm skeptical a little bit of how well we can quantify costs and benefits. But with that I think do we -- did I see one more question before -- Marcus in the back, and this will be the last one because the Congressman has been --

MR. STANLEY: Marcus Stanley, Americans for Financial Reform. I was just going to go back to that first question from the gentleman who worked for a fintech and found their issues being shunted to enforcement and away from policy. And he mentioned that one of the reasons for that was a lack of resources at the agency. We have given substantial new regulatory mandates to our agencies in Dodd-Frank to oversee things like the derivatives market and their funding. In the appropriated agencies, the SEC and the CFTC in particular, has lagged behind and your bill would give them yet more responsibilities for a rapidly growing area of the economy.

Do we need to think about increasing their resources and their funding in order to keep up with these demands?

CONGRESSMAN McHENRY: So the OCC, the SEC, and the FDIC, those three

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agencies employ roughly 20,000 people. What I think they fail to do, and where I think we need to properly look at their budget, is for their utilization of technology. With the SEC much of that their data comes largely from FINRA. But how do we reposition their assets so they have better real time data and are able to make a data driven decision, at which point you could have a political debate about the data, but you actually have agreed upon facts.

I don't really want to get deeply into that discussion about agreed upon facts, but let's just say facts are important things for us to base a debate around. I may not like the set of facts you present, but it actually presents a challenge that we have to unify around for a better outcome. Let's have a debate about the outcome or direction we want to go, let's have a debate about data. These agencies are not updating quickly, they're not tech forward internally or externally, and we need to change that. And I think that's something that we can agree upon in how we do that. So it's not simply a head count issue, it is the type of things they're spending their budget on, and updating technology.

So I had a conversation with the Securities and Exchange Commission about real time market data -- just for one final story. They said it was not possible to have the type of data that I described. I went to a particular firm that is not particularly large that had the exact data that I was describing that the Securities and Exchange Commission should have. And I said how do you do that, and he said well, it's not a major investment but it was an investment in technology and in the pipes coming so that we have this type of data. But it was a focus of our institution to have this type of data for our purposes so that we're doing the right thing. How in the hell can the federal government not have that type of opportunity when they're regulating that space? So you have those that are being regulated that are far outpacing our regulatory infrastructure. That is deeply problematic and something we've got to catch up on. Left or right, we all should be able to agree upon that.

So I'm extraordinarily grateful for this conversation. The best part to me about financial innovation, about fintech, is -- the best opportunity for us is for us to have greater financial inclusion. That is so important to me to represent a rural district. It is so important to many of my colleagues who represent an urban district. For those that are marginally banked or those that have become unbanked, or those that were never banked, how do we get them into the middle class, how do we give them greater financial security, how do we get them included in our system, our regulated system? How do we give

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them that opportunity to make it to pay day? Those are the motivations that are driving me to fintech and to looking for a set of solutions so that we can actually deploy that for my people and for the American people.

MR. KLEIN: All right. Well, thank you very much, Congressman. (Applause)

MR. KLEIN: I'll invite the panelists. I'll introduce them as they come on stage. Margaret Liu is Vice President and Deputy General Counsel of the Conference of State Bank Supervisors. Previously she worked at Fannie Mae, and some other pristine areas. I notice you got a J.D. from the University of Chicago.

To her right is Rob Morgan. Rob is the Vice President, and the fintech guru with the American Bankers Association, a graduate of Connecticut College. Rob has rapidly risen in Washington because he gets fintech and the future of banking.

To my left is Jeanne Hogarth. Jeanne is the Senior Vice President for Public Policy at the Center for Financial Strategic Innovations, CFSI. I first met Jeanne when she was Senior Executive at the Federal Reserve Board's Consumer Affairs Division. You've been a teacher at Cornell?

MS. HOGARTH: Yes.

MR. KLEIN: You have your Doctorate from The Ohio State University.

MS. HOGARTH: '08.

MR. KLEIN: And on our far left is Richard Neiman, Richard is the Senior Vice President for Regulatory Affairs and Policy at Lending Club, the nation's largest online platform lender. Richard has a distinguished history, having been the State Banking Supervisor for the great state of New York. Previously Richard also worked at the OCC, TD Bank, PwC. And Richard and I really got to know each other at work at the Bipartisan Policy Center, where he co-chaired the Regulatory Reform Initiatives, the regulatory restructuring, which we discussed here earlier.

So, I've proven to everybody in the audience that we have a distinguished panel with a diverse set of backgrounds. Let's get right to it. I asked Congressman McHenry for his three ideas, as to the kind of three things that would, you know, a dummy could do to promote innovation and growth.

I ask them, to all of you. They can be big or small, they can be federal or state, anything you want; with one caveat, it can't be double negative. You can't say the federal government shouldn't,

not do this, right? We've got to have action here. So, Richard, what's your top three?

MR. NEIMAN: All right. So, Aaron asked us to focus on what is realistic in terms of policy recommendations, so I think I came up with three practical recommendations, and that could be implemented, in my opinion, many of which without legislation, and I do believe in a bipartisan fashion. The first one is the easiest to implement, and for the first time, I was actually preempted by the prior -- by Congressman McHenry.

And to use a relevant term here, I was really preempted by this discussion around the 4506T, because under this 4506T taxpayers, as he explained very effectively, can request that their tax data be provided to lenders as part of the application process. But unfortunately this process is very manual, paper-based, and as a result, what could have been done instantly, can now take, as he referred, up to eight days, which prevents the use of his tax data in credit models that price and approve loan application just in a matter of seconds.

Bringing this process into current technology by creation of an API would be a very simple improvement that can enable lenders to offer lower cost funding, a faster, easier, safer and expand access to capital across, for consumers and small businesses.

It would also, most importantly increase -- likely increase loan approvals for those with lower credit scores, but with stronger credit worthiness that would be evidenced by showing -- by reviewing their taxes; a position that many small businesses find themselves in because of the individuals who tend to be supporting their businesses on personal credit cards. It will also save the IRS money, and would be a big benefit, obviously, to consumers. And, in fact, we actually offered to even provide computer engineers, to help build it, if that helps.

The second recommendation involves the need for greater coordination, and cooperation among the federal and state agencies with respect to supervision and examination of the banks that have entered into multiple banking arrangements with non-bank platforms. So this recommendation builds on the proposal from our Bipartisan Policy Center, our Reg Architecture Report mentioned by Aaron, in 2014.

Much of our report, and I co-chaired that along with Mark Olson, a Former Fed Governor, focused on structural reform, consolidation of the agencies at the top, focusing on prudential

distinguished from business conduct. But it also included, often unnoticed, but very important pilot program that would not require legislation, that would focus on the bottom, to evidence that consumers -- that examiners could effectively work effectively work together in a coordinated fashion, coordinated by the FFIC.

I now see that development in fintech as a perfect candidate to benefit from such a pilot. And under such a pilot I can envision a joint exam team focusing on banks who are partnering with platforms, possibly through a bank that has access, an issuing bank, as well as banks that are purchasing or originating through the platform, whether national or state. And you can envision this pilot to be performed with one first-day letter; one lead examiner with a team with broad experience including technology, one exam report that can be used by each of the agencies.

And in order to pursue greater coordination, cooperation and consistency, I see no reason why you could not get wide support for such an approach. In my past role of Superintendent I would have called this a very good example of cooperative federalism.

My third recommendation goes to the power of marketplace lending model, and it's a diverse investor base to expand access to affordable credit in underserved areas. It's really picking up Congressman McHenry's focus on financial inclusion.

The federal government currently provides tax credits that effectively draw investment into underserved communities, in particular the Treasury's departments; new markets tax credit program attracts investments in commercial real estate in low-income census tracts. The low-income housing tax credit program attracts investments into low-income housing.

The federal government has the opportunity to harness the potential of marketplace lending platforms to deliver investment into underserved communities, or small businesses, by creating incentives in the tax code that parallel these existing program.

I really do think it's possible that relatively small amount of incentives could efficiently bring quite a large amount of investment into communities that the traditional banking models have underserved.

MR. KLEIN: Great. Thank you, Richard. Jeanne?

MS. HOGARTH: So, thank you. Those of you who don't know, the Center for Financial

Services Innovation leads the network of financial services providers dedicated to improving the financial health of the United States' citizens. And one of our signature products is our Financial Solutions Lab.

And I would be remiss if I didn't say -- remind you all that our competition for our third cohort opened yesterday. If you go to FinancialSolutonsLab.com, you can find out the challenge that we are issuing this year, which is really to improve America's financial health, a modest little goal there.

But, as a result for the lab, we have an opportunity to really engage with a lot of financial technology providers who are the accelerator stage. A little bit beyond two guys in a garage. And as we've looked at the lab companies, and others that we interact in this ecosystem, so my top three would be, number one, passporting of state licenses. How is that, Margaret?

And if you can't passport, then at least harmonize state requirements and create some reciprocity. We do this for drivers' licenses. It is actually, in some cases, we also do it for gun permits. It's possible in the U.S., if you are permitted in 10 states you actually are permitted in all 50 states, if you pick the right 10.

So, you know, if we do it for guns we should be able to do it for financial technology companies as well. Speed up the approvals in the licensing process and, really, get uncertainty out of the licensing because that makes -- uncertainty makes venture capitalists very, very nervous. And it's really hard for a lot of these fintech companies to get to scale if they can't get the funding. So, number one is some sort of harmonization.

Number two, and I Aaron talked about us being realistic; this is aspirational. And that is to have our regulators go to a principles-based versus rules-based regime that really gets at compliance by measuring the success of the customers. At CFSI, we believe that it is possible to align the profitability of the provider with the success for the consumer.

And we also believe that, you know, there can be fintech for good, that Financial Services can be a net positive for consumers. And so I'm trying to figure out what the metrics are for those positive consumer outcomes, and have those be the basis for the principles that then guide how we regulate in this field, because technology, as the Congressman said, is advancing so quickly, and our regulatory structure and processes are just not able to keep pace. So, we really have to think of some other way of structuring our supervision.

Number three, and we are working on this; and both Richard and the Congressman alluded to, you know, your IRS data is your data, consumers really do own their data. So can we have, number three, some open data structures in place that allow consumers to access their financial data that enable them to make the kinds of decisions that will help them improve their financial health.

What are the principles for data access and sharing? What are the standards for APIs? I'm going to channel my inner, Aaron, and say, yes, real-time payments are part and parcel of this open data initiative. And how can we help consumers use that data to create some actionable decisions that get them not only included in the financial mainstream, but active participants in benefiting from those processes.

MR. KLEIN: Great. Margaret?

MS. LIU: Thank you. So, CSBS is the Conference of State Bank Supervisors with the Washington Policy Organization for the state banking regulators in all of the 50 states. So, first, in terms of the 1, 2, 3, that Aaron asked us to address, it's events like this. Let's talk about what the problem is that we are trying to solve. Is it a lack of innovation? Because the last time I looked, and there's a lot of different -- It's hard to get good data on this, but there have been thousands of fintech startups in the United States over the past several years, in the U.S. alone.

Fintech Investments 2015, topping \$30 billion, so I think it's important to have a discussion about what problem are we trying to solve. Secondly, it is important to remember and you use the term, government, you didn't say federal government.

MR. KLEIN: Right.

MS. LIU: So, government is federal and state government, and there's a lot of government that exist outside of our bubble here in Washington, D.C. So let's look at RegTech Solutions, like the NMLS, the National Multistate Licensing System that the states use every day as a technology tool to license entities, and let's look at the innovation and activities-based regulation that is going on at the states today. And that has been going on for a long time.

Third, let's make sure, and it's related to point two, let's not stifle innovation by federalizing something and bringing something into DC where it will reward the best funded largest players. It will cement those entities' roles tilting the playing field away from the true innovators.

MR. KLEIN: So, I only had one rule, which is no double negative.

MS. LIU: Okay.

MR. KLEIN: And I heard "not stifle," let's not not stifle.

MS. LIU: It was only one negative.

MR. KLEIN: No, no.

MS. LIU: Okay.

MR. KLEIN: So, there will have to be an action, not a failure to do something stupid. So, I agree with you on the failure. I have a forthcoming piece with Brian Knight from Mercatus, where we actually argue, one of our biggest concerns about this OCC Charter when we get there, is that nobody in the charter will fail. Like banks don't fail. Right? We need more failure from banks, and we need a lot more failure for fintechs.

Technology firms fail more often than banks, and they should, particularly startups. But not -- failing to not stifle something, what are some things that say to you, and you point out, and on my list, state passporting is a good idea, what's something else that the states can do to move the ball forward, rather than having the federal government not stepping in and stifling?

MS. LIU: Well, one of the things that differentiates the state regulators from a lot of the federal banking regulators, is that state regulators regulate an ecosystem. They regulate within one regulatory agency, bank, non-bank entities in a very diverse set of institutions within that regulatory portfolio. And one of the things that the states are doing is looking across that entire, that entire financial services ecosystem to look at the opportunities for innovation across the entire portfolio.

This is not about one business model or another, it is about local economies and bringing good, solid, responsible credit to local economies using a variety of tools and looking across the really diverse spectrum of financial services entities that are out there today.

MR. KLEIN: All right. Rob?

MR. MORGAN: Thanks, Aaron. And thanks for hosting us. It's a very timely discussion, and banks are obviously a really critical part of a lot of the innovation that's happening in the financial services industry. Banks are pro innovation, and they are really excited about fintech. They are excited about the opportunity to partner with some of these new companies, to help get these innovations in the

hands of customers in some of the safest ways possible.

So, you know, with that I think my first recommendation will be: help facilitate bank fintech partnerships. It is very difficult for a lot of banks to partner with fintechs today, usually those partnerships fall into third party vendor management guidelines, which weren't designed for working with new innovative companies. When you look at a lot of those guidelines there's questions about looking back for three years of financials, for example.

Banks shouldn't be limited to partnering to someone who is maybe two years old; shouldn't have to wait for the third birthday. So, helping to enable banks to better partner with a lot of the fintech companies is, I think, a really critical component of this.

The second key piece is, and Congressman McHenry alluded to this, is the need to be able to pilot new products in a way that lets you actually test them with customers. And we've obviously seen this in a number of other countries; the term sandbox is often applied to this. I personally don't think sandbox is really the right term, and when you think of a sandbox you think of an enclosed area where nothing, you know, gets in and out, and you are building make-believe sand castles. We sort of prefer the term greenhouse.

You want a controlled environment to test a new product in a very limited scope with the view towards getting it out to the real world. And I think that can benefit banks, they can try new programs, try new technologies and see how they work in a controlled environment. They can benefit the fintechs, and it can help facilitate those partnerships you were talking about. Banks can help pilot some of these partnership programs through the sort of greenhouse.

Finally, I think it's really important that we look at some of the existing laws on the books that were written before a lot of these technologies existed. So, a lot of these laws may inadvertently inhibit the use of a lot of new technologies, even though the intent was never to do so. One example of this is CRA laws which are very geographic in nature. How do those apply in a world where we are lending more digitally, and where your customer base, may not be who is around your closest branch? So, that's one key example.

Another very common-sense example is there are five states where it's illegal to take a photo of a driver's license. You know, an obvious reason for this, you want to help prevent fraud, but it

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makes it very difficult to use new technologies to do things like online account opening. So, I think those are really three tangible actions we could take today.

MR. KLEIN: I bet those five dates us back when you could actually, probably create a driver's license with glue and some good scissors, and we didn't have holograms on our driver's license. I appreciate your attempt to change the nomenclature. When I think of sandbox I think of a place where my kids have a great time for 10 minutes and then they start fighting about whose toys are what.

Let me turn to this level playing field concept that we brought up before. Because I was kind of -- you know, it's a refrain I hear a lot, from both banks in fintechs, we just want to compete on the same level playing field, and it's one that's very intellectually appealing to me.

Rob, I thought you wrote it really well in the ABA's comment letter when you wrote, "To customers a loan is a loan, and a payment is a payment." I think that's right. You know, I brought this up in the context earlier about the CFPB Prepaid Card Rule, where that's exactly what the Bureau did. They leveled the playing field for fintechs transmitting money, and for banks. The same rules that apply to banks and debit cards that work really well, should apply to fintech.

I was very disheartened to see that some in Congress; senators introduce some legislation to roll back the Prepaid Card Rule which would effectively roll this back. Do you think that would be a mistake in this specific instance to unlevel the playing field by rolling back this regulation?

MR. MORGAN: Yeah. So, ABA doesn't have a position on that relative to the prepaid rule, but obviously the rule is broader than that and it impacts a lot of our members in very different ways, but our focus has been on making that work for our members. But I think your question really gets at a broader point, which is a really important one, and the need to have consistent customer experiences, whether you are at a bank or not.

So, like you said, to customers, a loan is a loan, and they don't differentiate where they get that. Those customers should have the same experience and the same protections, whether they go through a bank or to a non-bank. So I think that's really important, and I think in terms of the development of fintech it's really important as well, because at the end of the day, you know, banking and financial services is a trust business, and you need to have that level of trust with any entity that you are going to interact with.

So, I think it's really important that we have the pieces in place to make sure -- and we've used the phrase "activities-based" a lot today -- really focusing on the underlying activity that's taking place. If I'm lending, treat me like a lender.

MR. KLEIN: Which is why I think the Bureau was so wise, when you are sending money, you are sending it, whether you are sending it on a PayPal app or through your bank account, you are sending money and you should be treated the same way. What do you guys think?

MS. HOGARTH: So, I wholeheartedly agree, but I'd like to broaden the discussion a little bit to think about a level playing field, and in a fair playing field. And here I'm thinking about levels of risk. And, you know, a loan is a loan, and a payment is a payment, but there are levels of risk. You know, when I'm making a payment, do I have to go through the full BSA/AML criteria, or are there some ways we could think about tiers within this structure; so that for a small transaction it's a lot less risky than a bigger transaction?

And so I think that, you know, when you start talking about levels, you are also -- you know, public finance, right, it's horizontal equity versus vertical equity and actually for both.

MR. NEIMAN: I think -- Go ahead.

MS. LIU: So, I think tying together what Rob was saying with what the Congressman was talking about, that when you strip away the shiny stuff, it is, it's activities. A loan is a loan, you know, moving money is moving money, and that is where state regulation and state licensing is grounded in. You know, it's not about a business model; it is about the activity, particularly the consumer-facing activity.

And in a lot of these areas there is a structure that exists, and the challenge is to leverage what exists and to really think about where the innovation sits, so that you are really focused on, as the Congressman was saying, you know, whether it's kind of redirecting the assets or thinking about existing regulation in law in a way that captures the reasons why that regulation exists and why that law exists to begin with, and ensures that you are also enabling the constructive innovation.

MR. NEIMAN: Now, I want to commend the ABA for the thoughtful approach that they are taking here, because a more likely approach could have been, and maybe was the approach in past years, was the circle of the wagons. And some of that could have been driven by remarks of some of

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these, you know, startups and disruptors saying, we are out to kill the banks. But the fact that, you know, the ABA has acknowledged in evidence the benefit that can come from these types of partnerships is very, you know, reasonable, thoughtful, and I really commend them in supporting a level playing field, if we are going to partner, it's very natural that we would need a level playing field in terms of the regulations and level of oversight.

MR. KLEIN: Well, we heard from Congressman McHenry about his specific proposal which mirrors the U.K. sandbox, and since we need to have different terminology now, in our era of nationalism, England can have their sandbox; we'll play in our greenhouse. You know, I want to ask you guys, are you for Congressman McHenry's Bill? Jeanne?

MS. HOGARTH: So, I thought like Congressman McHenry was channeling our comment letters because we have a mantra, whenever we write to the Bureau, or the OCC, or the Fed, or the FDIC, we have a number of sort of sort of wish-list items. And always on that wish list is a sandbox or a greenhouse.

We talk about test and learn in betas and in CFSI, but I think that this whole issue of sandboxing is -- or greenhousing -- sorry -- you know, it does a couple of things. Rob talked about the opportunity to test in-market and get some real-time data, in order to be able to understand what's going on with consumers and the product. And there are ways to structure this. You could have like what the U.K. has, it's they have a reserve fund, so if there's financial harm to the consumer, the consumer can be made whole.

That's a real kind of easy way to do that. Providers should be allowed to prove that their products are well built, and have strong financial outcomes for consumers that improve their financial health. And I would actually ask us to expand our vision for what a greenhouse can do, to also say, it allows the regulatory community to try out and test.

If you are going to put a benchmark level in then, you know, how do you know that number is the right number? If you are going to say, \$10-billion banks and above, how do you know it's 10 billion, you know? Could we ask the regulators to actually try some beta testing in their processes as well?

MR. KLEIN: All right. Tim, go ahead

MR. NEIMAN: You know, I've been please to see -- already -- the current initiatives of a number of the agencies focusing on innovation. So you saw it at CFBP with project catalyst, you're seeing it at the OCC. I think the Federal Reserve both at the Board level and the Reserve Banks, have not got enough credit for their early identification of the benefits that arise out of innovation.

With Governor Brainard early on, almost two years ago, gave a terrific speech focusing on the benefits, the risks and the impact it could have on banks, particularly community banks. I think the biggest challenge though, is this level of coordination, and I've seen real gaps here even as each of the agencies, pursuing their own initiatives not including sufficient input from the other agencies.

MR. KLEIN: So do you think the McHenry Bill is a good idea?

MR. NEIMAN: If it could result in coordination. I think there are a lot of questions, how that would be implemented and I think, depending on how they are addressed at the agency level, will depend on it -- drive its success.

MR. MORGAN: So, obviously, I've given my comments earlier, we were very excited to see the Congressman's proposal. Jeanne, I think you hit on a few really key points of how this could help benefit innovation. And the first is the regulatory engagement. The chance for regulators to sit in the room with a lot of these innovators, and see what these new technologies are doing. To actually get a hands-on experience, and figure out how they are working in the real world, and become comfortable with them.

The more comfortable regulators are with these technologies, the more comfortable they will be with banks and non-ban...; implementing them, and rolling them out to customers in the future. So, I think that's a really key component.

And I think you also hit on another really important piece, which is, how do consumer protections fit into a sandbox? And I think oftentimes the sandboxes or greenhouses get built as a way to bypass some of those protections. But I think if done correctly, you don't actually lose any protections. You still need the ability to waive certain laws, to build -- to facilitate some of this innovation, laws like we were talking about earlier, about not taking photos of ID cards.

At the end of the day good regulation is meant to get you from A to Z, where Z is a customer with a financial product that fits them, and protects them. There may be some very prescriptive

steps along the way. You know, steps, C, D and E might require me to go into a branch and sign a physical piece of paper. We can waive those rules without giving up any of the customers' protections.

So I think that's where the conversation really needs to be. And that gets back to, Aaron, what you were saying earlier of the win-win, not the tradeoff between the two.

MS. LIU: So, I think the bill flag some really important issues that regulators, wherever they sit, state of federal, need to be talking about, amongst themselves, and across borders, you know, and state to federal. These are a lot of the conversations that state regulators are having right now, on exactly some of the suggestions that actually Jeanne made with her top-three wish list. And, you know, it has also, I think, sparked a really important discussion that we hope Congress is going to continue to have, too, and look at these issues.

MR. KLEIN: So, we are going turn to the audience in a second. But before that, it would be remiss if we didn't really delve into, here, a little bit the OCC Fintech Charter Proposal which, you know, in some ways it's the elephant in the room, which has really kind of help crystallizes conversation. And I kind of want to put each of you on the rotating hot seat, if you will, on your reaction to the charter.

And Margaret, you drew the straw closest to me, so I'm going to start with you because in addition, the CSBS wrote a letter, I'm going to say it took a hard line, some other folks in chatter have used more colorful language. But it was a pretty strong letter against the OCC's Charter Proposal. And a cynic would say, you guys are protecting your turf. That this is a federal charter, your states, they are going to be creeping into spaces that, on money transmission, that have just been the turf of states for a long time; and so I get why the OCC proposal would be bad business for state banking regulators. But tell me why it would be bad for consumers?

MS. LIU: At the core of the Charter Proposal, is preemption of a vast range of state consumer protection and licensing laws. But give me a second to tick through a few of those.

MR. KLEIN: Yes.

MS. LIU: Whether they are state anti-predatory lending laws, state laws governing debt collection, state laws around processing and handling of consumer complaints just to name a few. And I think that also, the fact that this charter will be one designed not to support innovation, but to support the biggest and most well-funded players end up being bad for consumers, because it tilts the marketplace

against the true innovators. And in fact what it will create is a company-by-company for those selected few, it will create a company-by-company opaque patchwork.

MR. KLEIN: So, Richard? You know, you are one of those big companies, previously you were State Banking Commissioner for New York; and now, with Lending Club, you know, you are probably one of these large companies that could benefit from a national charter. I get why a national charter might be good for Lending Club. Why would it be good for consumers?

MR. NEIMAN: All right; so to be as direct as I can. Consumers will benefit from increased market competition, lower prices, increased financial inclusion, better products, and a national baseline of consumer protection driven by the OCC's focus on responsible innovation. There is a potential for much good here, and for the Charter to avoid the consumer protection concerns that Margaret just raised, the OCC must be really true to its focus on responsible products and services. So, this is, in my opinion, the right way to promote innovation, and in the end, I believe it will enhance the dual banking system, not threaten it.

Margaret described the direct lender model with licensing on a state-by-state basis, something I am familiar with from my days as New York Superintendent. And while states like New York should be proud of the efforts to promote and ensure consumer protections, unfortunately this is not always consistent across the country.

We also know that regulating a nationwide online business on a state-by-state basis can be challenging. Some states require physical branches, others have multiple different requirements around licensing, bio, background information about officers and directors, and others do not in any way contemplate technology-based companies.

We also know that examiner resources are uneven across the country. Not all states have the 1000-plus examiners that an examination force -- that New York has. The logic for an optional federal regulator is strong and compelling, and while I would hope that states would respond to the challenge by pursuing multistate efforts around more uniformed laws, home-host passporting of licensing as well as multistate exams, it will take years to happen, if it ever happens.

The other regulatory model, used by a number of companies, including ourselves, is the issuing bank model which also promotes and provides the ability to operate nationally along with federal

oversight. A federal framework allows new entrants to compete, expand access to capital, and provide lower-cost products. In our case, we are filling a gap, and also addressing channel conflicts, and business model conflicts presented by the traditional banks.

Our core product is assisting borrowers in refinancing high-priced credit cards. That is certainly not the incentive for the large retail banks to do. On average we are saving consumers approximately 7 percentage points, so almost \$1,000 of interest. And over the term of our existence have saved 1.6 billion, consumers 1.6 billion.

At the centerpiece of the OCC Charter Proposal is a focus on responsible innovation. And that means that a New Special Purpose Charter should be held to new and higher standards of financial inclusion and responsible lending. And to that end, in our comment letter, we propose that the OCC consider a number of strong pro-consumer standards, including a requirement that applicants submit a robust financial inclusion strategic plan, including measurable goals after input from community groups.

Second, they should address gaps in protections for small businesses which are not entitled to the same protections as consumers under small businesses, but are experiencing some of the very same abuses that we saw in the lead up to the financial crisis. We recommended modeling some these protections after the Small Business Borrower Bill of Rights, that we participated in as well.

And the third recommendation around consumer protection was encouraging the OCC to consider a 36 percent rate cap that could make it clear that special-purpose banks would not be designed to support high-priced lenders who may offer products of a predatory or otherwise irresponsible nature.

So, I look forward to many others. This is my first opportunity to engage with a state representative, and I look forward to further engagement as well.

MR. KLEIN: Well, I think we'll mix this up, and just to explain the math. Richard's seven points are basically the difference between what you could get there, that if you put it on your master card like the Congressman's dad did. Because the reality is that the majority of that pre-business lending is coming from home equity, credit cards or assets.

Jeanne, I mean, you don't have a dog in this fight, you know, and you have the experience of having worked at the Federal Reserve, so you kind of get bank regulatory mindset. What's

your take on the OCC Charter?

MS. HOGARTH: So, we actually do have a dog in this fight, because a lot of our fintech companies in our lab are really struggling with this whole issue of licensing and chartering. And because of that our take is, the OCC Charter is a good tool to have in your tool chest, it's something that should be available to appropriate entities in companies out there, but it's not the solution. This is not a one-size-fits-all marketplace when you talk fintech. So, we still want passporting, we still want harmonization. But we love to have the idea that there is a national charter out there.

And Rob actually hit on some things that we feel would be beneficial as a part of the chartering process, in that it would let at least the OCC become a whole lot more familiar with the regulators, get them to understand -- have the technology company is familiar with the regulators, and the regulator is familiar with the technology companies, and be able to move regulation forward in a more fintech-friendly way.

Richard, also talked about the importance of sort of joint examinations, but even examiner training is really, really important, and so thinking about, if you had a fintech charter, you are actually going to have to train your exam staff a little bit differently. And I'm going to say this and make a whole bunch of enemies at the OCC but: and bring them into the 21st Century.

I think that the charter is also an interesting signaling device for third party entities working in partnership with banks. And so to the extent that this third party vendor management could almost be a credential that you could use as a -- if I have a charter I'm probably a safer entity for you to partner with.

So, I think we really love the financial inclusion focus that the OCC has provided, and we wish that more regulators would sort of think of that, because we agree with you, Rob, that the CRA served its purpose. It can continue to serve its purpose but it needs a little bit of updating.

MR. KLEIN: So, Rob; I mean, Richard flagged this. It would have been very easy for the ABA to come in and say, no way, no how, we are against it. You guys kind of took this surprising approach that -- you know, of supporting it with certain parameters. Can you explain why?

MR. MORGAN: Yeah. Absolutely! And I don't think it should be all that surprising that we supported this. We started off talking about, banks are very pro-innovation, pro-partnering, we are

excited about a lot of the opportunities that fintech presents. And at the end of the day, we think that these innovations best benefit customers when they are delivered in a safe, responsible manner; that is ensured by consistent regulation and oversight.

And I think that's what the OCC has done here. And to be clear, what the OCC did, was not make a fintech charter, per se, they made a bank charter that was tailored to the fintech model. They made very clear that all the same rules apply. If you are going to be a bank, here is what being a bank looks like, both in terms of the regulations that apply and what the oversight is, and the expectations.

So, I think going forward, the implementation is going to be really critical here, and there are a lot of questions remaining. So the OCC is undertaking a very transparent process so far, and we think this is the beginning of a continued, open transparent process about what this looks like, but there's some really important questions to be answered about what this charter is going to look like before you can actually roll it out.

And questions like, you know: Will the rules apply evenly? They've certainly put that out there as the goal, but you need to see on paper how that's going to be applied. What are the Charter responsibilities? Jeanne, you've sort hit it there, focus on financial inclusion. Again, you've, sort of, said the right things here, but how they are implemented, are going to be very important.

MR. KLEIN: So, let's turn to the audience. I see a question right there in the second row.

MR. KNUTSON: Hi. Ted Knutson; Reporter, Financial Advisor Magazine; for the panel.
What should the SEC do in the next year about fintech?

MR. NEIMAN: You know, just like the other agency, I probably should have said, you know, upfront, how there's a continued focus on the SEC. What I should say is that our current models operating under an existing regulatory framework including investor protection by the SEC. So for those of you who may not be as familiar with our model, our funding sources, come from both retail and institutional investors, but the notes that we issue, that correspond to the loans that are funded by those investors are SEC-registered. So, you do have an important role for the SEC in the marketplace lending model.

MR. KLEIN: In the back. Brian?

MR. KNIGHT: So, Brian Knight, Mercatus Center. Aaron, thank you for this event; and

thank you for plugging for forthcoming work. Good job. So, this question is mostly aimed at Margaret. So, the CSBS opposes the OCC Charter, but state-chartered banks enjoy under federal law, certain provisions like interest law export that help them compete at a national level. So, if a charter is going too far, what's your view of the federal government coming in and granting export provisions through legislation for, let's call them non-bank, if they don't get a charter, lenders; so that they are more comparable to being what state and federal banks enjoy?

MS. LIU: Well, I think, Brian, your question is kind of talking about, sort of comparing apples and oranges. When you look at the OCC Charter, it is, as you said, and as Rob said, it's about a bank charter, and actually Rob's closing comments, really -- or his previous comments -- really flagged a lot of the questions that need to be answered with regard to the OCC's proposal.

And with regard to other, you know, potential federal charters, I think that, you know, we know that there J.O. Reports outstanding that Congress has asked for, covering a lot of different areas of fintech, and I think that there's going to be a lot of inquiry at the congressional level. This Charter, at this point, the proposal raises more questions than answers. And I think that your question also kind of suggests a lot of the different interconnections that really the regulators, and now the policymakers have to think about, with regard to financial services and technology.

MR. KLEIN: So the (inaudible) is here, and I see a couple questions, so I'm going to do little bit of potpourri, lightning round, and I'll ask people to give very specific questions. We'll get a couple of them, and then we'll have the panel. I see right there on the aisle, if you can go right back there.

SPEAKER: Thank you. I'm Dave Ribbinwoods. And I first used an ATM in Singapore years before they were available in the U.S. I'm wondering how much of that delay was related to regulation, and how much was just U.S. bank management decisions?

SPEAKER: Thank you, Paul Vallas at the Wilson Center. Could any of the panelists comment on: other than the U.K., what other countries have regulatory sandboxes in place? And secondly, given that the U.S. and the U.K. have announced at least their intentions some time down the road, to negotiate a bilateral free trade agreement. Could there be a scenario where such an FTA could be a vehicle to create a cross-border regulatory sandbox/greenhouse for U.S. and the U.K. fintech companies?

MR. KLEIN: All right. I see one last one in the last row.

MR. MARSHALL: Brian Marshall from Americans for Financial Reform. I have a question for those who are proponents of the Fintech Charter. How does it maintain a level playing field if there is no coverage under the Bank Holding Company's Act; and there's a unique resolution process that's neither the FDIC/FIRREA Resolution process nor bankruptcy?

MR. KLEIN: Wow. There's one more and then this will be the last one or the potpourri round; the woman in the back.

SPEAKER: Hi. As fintech companies are increasingly using APIs to gather information, personal financial information from bank accounts and credit card accounts, and student loan accounts, and I've seen some fintech companies even asking you to link to their LinkedIn profiles, et cetera. Who among the regulators are looking at potential privacy concerns that come up with this advent; that maybe the regulators are even asking in their licensing applications about those kinds of practices?

MR. KLEIN: Right.

MR. MORGAN: Let me take a crack that first. I think that raises a really interesting question here. And the conversation about data access really needs to be broadened from just purely access to, when you are sharing your data what are all the things that go along with it. Financial data is very sensitive stuff. It's not, what did I eat for dinner last night? And you can do real harm if isn't being treated properly.

So, any conversation about access needs to go hand in hand with security, transparency for customers about how it's used, and really giving them control over that data so that they can make the right decisions.

MS. LIU: So, when the states -- I'll also respond to that question first. When the states look at licensing an entity, they look at the quality of the management, they look at policy and procedures with regard to cyber security. And so I'm going to take the PI discussion focusing on cyber security.

This is one of the areas that is important regardless of your business model as a financial services entity, because of that position of trust, and it is an important area where, again, the expectations need to be clear, and there needs to be extensive and focused supervision around protecting cyber security.

MR. KLEIN: So, I'll take a crack at two of them. The first, to the first gentleman; I'm old enough to remember not the era before ATMs but the era when you had to look on the back of your card for that little thing, and either worked for some ATMs or not. When I try to explain this to my nephew, he gives me this very blank stare and goes back to his iPad and YouTube.

And so what you had was a patchwork of regulations that didn't really cover it, and consumers who weren't sure what would happen with air resolution, and you had banks that were afraid that if the card was stolen, the account was drained, who is liable? And what Congress did in the '70s was brilliant. They put in the Electronic Funds Transfer Act, which used, in my framing, what economists would consider a Coasean Solution, named after Nobel Prize Winning Economist from the University of Chicago.

MS. LIU: University of Chicago. Yes.

MR. KLEIN: Ronald Coase; which is to sign property rights, and the government's role in the Coasean model was to assign property rights, make them tradable and get out of the way. And so your property right is on your ATM card, if it's stolen, 500 bucks. That's your maximum amount. And in the '70s that was a lot more money, but you could imagine in today's world; giant food fight between banks and consumer groups, about what that dollar limit should be, where they would have fought to the death on Capitol Hill or in the regulatory conflicts.

What we found was, it didn't matter. Today, most of us in this room have zero liability, and if liability is your chief concern like the privacy folks, you can't get a card and an account with zero liability. Why? Banks are incentivized to invest in the system. They developed it, and then they competed it away, because they knew consumers wanted that liability. And that's exactly why extending after into fintech through the Prepaid Card Rule was so critically important.

MS. LIU: But the ATM came out of the state banking system, and started in Iowa, and was a product of the Iowa Bankers Association, and working with state-chartered banks.

MS. HOGARTH: So, with the privacy issue, I mean, I think it's easy to say, open data, data access, open APIs, but there is -- underlying that is a huge, complex network of issues. And CFSI has issued a set of principles for data-sharing that I would encourage you to kind of take a look at, because they are not the answer. It's not the: who is doing this? But it is, you know, here are some

guidelines that if you are going to be accessing and sharing data, how do you do that.

To the question about where are the other sandboxes, certainly Singapore and Australia are doing sandbox pilot test, or greenhouse, whatever you want to call them. This issue of bilateral agreements is really interesting. Some of you may know, the Head of the FCA in the U.K. just recently gave a speech in Germany talking about not just, how do we think about regulation within our country, but should we be thinking about global regulation versus individual country regulation, really good brainteasers. So, I would encourage you to take a look at that speech.

MR. KLEIN: Richard -- Go ahead

MR. MORGAN: So, I think, the other question I want to make sure we touched on, was the ownership issue with the Fintech Charter. I think that's a really good question, and it is one of the pieces that still needs to be figured out, is how the regulatory agencies will work together with this new charter, what the implications are for some of the other regulators. It's not at all clear today that the Bank Holding Company Act would apply, but I think, conceptually, if ownership matters for a full service bank, it should probably matter the same way for a narrowly-chartered bank.

MR. KLEIN: So, I think that's right, but I do think it's important, you know, we are working on a piece forthcoming at Brookings, that takes what I call the Olympic rings approach to fintech, right? So there are kind of five different concepts in fintech: money transmission, lending and underwriting, security and data, advising and payments.

And those are really five separate concepts, and they have a lot of overlap, just like the Olympic rings, but they are also a little bit different. If a money transmitter goes under, that's not covered by the Bank Holding Company Act, that's a state-licensed process, and it's built on a concept, where, if you needed to transmit money, you walked into a store or you, at best, picked up a phone.

If I'm driving on a bridge, moving money on my phone: where am I and who is in charge of it? And these kind of -- You know, just thinking narrowly of the lending and underwriting component of the charter, I think misses the broader picture.

I'd like to thank our panelists. And if everybody could join me in -- (Applause)

MR. KLEIN: It is a great privilege and pleasure for me to introduce Senator Jeff Merkley. Senator Merkley has been representing the working and real families of Oregon for quite some time. He

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was speaker of the State House. He's now in his second term representing them in the United States Senate. He began his career in Washington in the Congressional Budget Office and the Pentagon, looking at nuclear proliferation. So he's really been thinking about issues from a federal and state perspective for many years. And incredibly, impressively, he holds a degree from Princeton University in public affairs from the Woodrow Wilson School, a degree with which I share with him. And it's a great privilege for me introduce another wonderful fellow Princetonian in Senator Jeff Merkley. (Applause)

SENATOR MERKLEY: Well, good morning everyone. You all just heard from the panel of experts in their field. I'm I guess you could say more of a generalist, and I come to this conversation concerned about the fundamental proposition of families thriving. By the way, Aaron, as you were introducing me and you mentioned that I had worked on strategic nuclear weapons policy way back when, I can tell you when I went back to Oregon in 1991 it was really hard to get hired to do anything. (Laughter) That was not a specialty that had any traction back home. I remember applying for an internship with a utility. So I thought, well this deals with energy, maybe some connection, and I couldn't even get a reply from them. So it was a rough transition.

But it's a pleasure to come and connect with you all today about this area, an area in which I encourage you to keep educating me, educating people on Capitol Hill, because we're pretty far behind the curve on the things that you're working on every day and the evolving technology, the rapidly evolving technology and strategies. There's quite a lot that can be done. I'm approaching it from the viewpoint of how you pave a highway for innovation but the highway has safety rails, guardrails, so that you don't go off the track too often to the destruction of consumers' financial lives. But as I was pondering how rapidly things are evolving I thought I'd do a little interview of you all and ask how many of you have used Apple Pay? Okay, about half the room. How many of you have downloaded Venmo for person to person? Wow, even more. Okay. Well, I have a feeling if you were to interview Senators you might get just a couple who might be raising their hands in that situation.

A few years ago I held a hearing on Bitcoin and what the challenges of that represented for the international marketplace, international transactions, money laundering, security, and it was fascinating to wrestle with something that we were totally unfamiliar with and the implications it might have for the system. Since then many other types of virtual currencies have emerged. It seems like

about every two or three months you hear about a new strategy with new potential implications. And that's just one little tiny piece of the puzzle. We have products like block chain, on line system used by companies to track transaction and ledgers. And certainly an area where a number of fintech firms are focused is developing a way to process financial transactions in real time. It seems an anachronism that here in 2017 when you deposit a check it might not actually be credited to your account for more than a week. That's a relic of an old system and all kinds of financial strategies are working to improve that time or bypass that time.

And an area I've been particularly interested in is marketplace lending and the guardrails that exist there. And I suppose this grows a little bit out of the background I have in Oregon. When I went back and couldn't find a job in strategic nuclear policy I went to work running a nonprofit, a Habitat for Humanity affiliate. And every time we completed a house it felt like a miracle. A home was completed, you had a celebration, you handed over keys, a family that had been living in a basement, a family that had been living in a van, a family that had moved 8 times in the previous 15 months and had been couch surfing, they suddenly had a place of their own. And it transformed how that family interacted with the community. The children did far better in school, and they were in the same school year after year instead of moving and moving and moving. They had pride of ownership and it affected their sense of self worth and the ability just to invite friends over. It transformed their lives. And while we were working launching this Habitat affiliate we were trying to accelerate the pace at which we could enable families to buy homes and go from building one a year to building one every three months, and eventually several dozen per year, the affiliate kept growing, more affiliates opened up. And then a few years later -- and I think it was about 2009-2010 -- I'm back here in the Senate and I was asked to go to a celebration of the 1000th house that had been built and sold by Habitat, empowering a family. And that was great, 1000 houses, when were about 10 houses when I became Director of Portland Habitat for Humanity. But then if you looked at how many families had lost their homes due to the financial strategies, the financial policies due to our regulatory system and the legal structure passed here in Washington, D.C., you were looking at tens and tens of thousands of folks across Oregon where the home ownership system had failed. So policy makes such a profound impact. And it isn't just in that particular area, it's in a whole variety of areas where predatory practices can undermine the success of a family. So I'm coming at it

from the viewpoint saying a system that helps families succeed financially is a system that we should strive for in America. More stable families, more successful children becoming more successful adults. And that is powerful.

Meanwhile, if we turn back now, just so that's a sense of where I'm coming from on this, if we go back and think about how lending is growing in the fintech area and how much they are speeding up the process of getting loans approved. Having gone through traditional loan processes a number of times it takes several months. The idea that you can go and get a loan in a 48 or 72 hour period sounds pretty appealing and serving a useful place. And that area, the on line marketplace platforms, is growing very, very quickly, originating over \$5 billion of unsecured consumer credit in 2014. The next year in 2015 doubling to \$10 billion, continuing to go up. Lending that is enabling families to consolidate existing debt, pay off credit cards, finance improvements to their homes. And we would like to see the innovation continue that creates positive factors in the marketplace. And that's the paving of the highway for innovation. One area where I worked hard to pave the highway was in equity crowdfunding. I thought, you know, we have all this peer-to-peer lending emerging and we have all of these sites, like Kickstarter, where you can donate funds to charge up some nonprofit effort, or perhaps even donate your funds to a for profit effort and maybe they'll send you their first product, to copy their first product. But we didn't have equity crowdfunding. So I worked to write that bill. And I also wanted to acknowledge Congressman McHenry, who you heard from earlier who worked a lot on that particular issue, and I think he may have shared some of that with you previously. But I thought equity crowdfunding could be a powerful complement in the financial marketplace, enabling small companies to bypass venture capitalists, angel investors, traditional lending, in ways that might actually be very, very effective in assisting folks in gaining access to funds. And particularly as we were working on this issue, back in 2009 when traditional lending had often crashed, I couldn't go to a town hall without someone standing up and saying that the availability of credit is really destroying my ability to seize opportunities in the marketplace. Well, it took quite a while for us to line up the bipartisanship and get that bill passed, but it eventually happened. The implementation of it was slow, the SEC was extremely slow in writing the rules. But in this equity crowdfunding bill you could see the highway being paved and you could see guardrails. The highway is being paved in a fashion that we didn't know how the websites, the crowdfunding sites would evolve.

Would you see sites that specialized in folks who want to invest in restaurants, would you see sites sponsored by local Chambers of Commerce to get people to invest in the companies in their particular communities, strengthen their community, would you see sites that specialized in doing far more vetting than was required under the law to give additional confidence to investors, would you see that there had become a single dominant player, kind of the Ebay of equity crowdfunding because of the power of many different options being located in a single place? How would this evolve? We didn't know and we're all paying attention to see exactly how it will evolve. But meanwhile, we worked to put sideboards on how much an individual can put up in different companies, and sideboards on how much information had to be -- or guardrails on how much information had to be provided at different levels of equity that you're seeking. So it was proportional. So you had increasing transparency as the transactions got larger. And you had, as long as it was honored, which was a piece we wrestled with, a framework in which people could invest but they wouldn't lose their entire retirement savings and become kind of a tragedy, financial tragedy that would be a disincentive for others to participate in this marketplace. In other words, that would hurt this marketplace from the very beginning. I was struck that just a small percentage of the savings that American's have if put into crowdfunding investments would exceed all the angel and venture capital being combined and being invested in America.

So one of the downsides that's emerging in the fintech lending space is that while providing opportunities for small business and speed the loans often are carrying significantly higher interest rates. According to a May 2016 report from the Opportunity Fund, annual percentage rates for these alternative loans average around 94 percent and can reach as high as 358 percent. Well, that's a pretty high interest rate. And I don't know how many of you would take a credit card that had that interest rate on it, and you'd be pretty leery of taking a loan of any nature that had that type of interest rate. The character therefore starts to look a little bit like the pay day loan sector.

Now, as I was working with low income families at Habitat for Humanity we had intensive counseling over lending and interest rates and layaways and other financial challenges and tricks and traps in the system because for people to be successful as homeowners the more financial information understanding they had the more likely that they were going to succeed. And often they had been set back, families had been set back by one mistake or another, and very high interest short-term lending

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was a substantial factor. Earlier in Oregon's financial history it had decided that during the very high interest rates that were predominant during -- now by very high I'm talking about mortgages that were 11, 12, 13, 14 percent back in the mid '80s -- that's what interest rates were when I bought my first house -- there was a sense that the previous usury caps that Oregon had, the interest rates were bumping up against them, and the space was so small that credit was becoming constrained. And so the solution would be to take off these caps and that the competition in the marketplace would keep the interest rates within a reasonable range. But after the caps were taken off -- and this happened in state after state after state, not simply Oregon -- the marketplace didn't prove effective in creating a competitive environment that kept those rates low. And so we had in our pay day loan interest space interest rates that ranged from about 350 to about 500 percent. And you could go to a street corner in my blue collar community, a community I still live in, a community I went from third grade to high school in, the community where my children went to the same public high school that I went to, you could go to a street corner and you could see three pay day loan shops. The profit margins were so enormous storefronts were just opening all over the place. And much of the community that was depending on pay day loans was the unbanked community intimidated by the complexity of our banking system. And at that moment when they were short the easy place to go was that pay day loan operation.

Now, nationally we'd had the military come to Congress and say these high interest rates are destroying the finances of our military families. And we cannot have such destruction of our families that we are relying on for national security. And so Congress said, you're right, we shouldn't allow these practices around our military families because they're destructive to them, so they passed an interest rate cap of about 36 percent for military families and areas around military bases. And the question I pondered from that was if we're going to help our military families succeed by not being subject to pay day lending, 300 percent, 500 percent interest rates, why don't we have that same protection for every family? We used to have it. Many religions in the world for centuries have talked about the challenges of high interest rates and the destructive power that they can have. Why not give American families, all American families the same protection that we have for our military families? And I led the effort from the time I was first elected in the state legislature in 1999 through when I became Speaker in 1987 to put a cap on those interest rates. And what I discovered is when you're in the minority and you're not in the

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leadership, it's harder to get things done than when you're in the leadership. So I worked on this each year and then became Speaker in 2007. And lo and behold we passed a pay day lending interest rate cap. And the industry said this will be terrible, you'll take away options from families, pay day lending will disappear. In other words, short-term lending that people need to be able to pay their rent, they're going to suffer other charges and embarrassments. But we knew from other states that that wasn't the case, that you would still have outlets for pay day lending. And we covered pay day lending, title loans, consumer loans, kind of the whole framework. And the result was as we expected. We have about a third to a fourth of the storefronts, but our citizens can go and get loans at 36 percent rather than at 500 percent. And the families are far more successful, more able to pay those off. And I think this was capsulized when I went to a food bank, and this was about a year after we had put this interest rate cap in place, and the head of the food bank came out to greet me and said, Senator, the first thing I want to tell you is we saw a dramatic change in the families coming to our food bank, because we used to have a stream of families who had been destroyed by those 300 and 500 percent interest loans, and now they're not, and thank you. And then she said, but the financial crash and the loss of jobs has done even more damage, so we have even more people coming. So you need to do even more to help and support our food bank. And, indeed, that crash, the 2007 crash, hit people very, very hard. But that's the challenge then. And how do we pave the pathway with equity crowdfunding and encourage innovation, but also make sure that we don't destroy families, that we strengthen families. And certainly I've seen the power of homeownership.

Homeownership is the biggest wealth builder in middle class American families until 2008 and then the American dream of ownership became the American nightmare. And why did that happen? Well, we forgot to put up guardrails, we allowed liar loans, we allowed steering payments that were kickbacks to loan originators, we proceeded to allow teaser rate loans. So a person, a middleman promoting a mortgage, could say trust me, my job is to get you the best possible mortgage, take this one, and the homeowner, unfamiliar with the complexities of the mortgage market didn't know that that individual was getting a fee that varied according to which loan you steered them into and steering you into a bad loan gave them a higher fee than steering you into a good loan. So I tried in 2008 to pass a law in Oregon that restricted the teaser rate loans and the liar loans, the underwriting. And we passed it

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in the Oregon House, and then it went to the Oregon Senate and the Oregon Senate said no, we're not going to touch this because it's unfair. And they argued and they had a fair point, it was unfair between state regulated enterprises and federally regulated enterprises and that it would be a disadvantage to state enterprises. So I thought, well, we should do it at the federal level. And when I was elected to the Senate I was speaking to my caucus about this and Senator Dodd slipped into the seat behind me and said we need you on the Banking Committee. And I said well, I had my two major Committees already assigned, but perhaps there could be a possibility of a third. Perhaps I could trade in the Budget Committee for the Banking Committee. He said, I don't think Harry Reid will go for that. And Harry Reid calls me up, I'm down in that basement location where there are so many new Senators, five of us were sharing a little tiny space under Dirksen Senate Office Building, and Harry Reid calls me up and said we need you on Banking. I said great. He asked me which Committee I'd give up and I said well I can't give up my two major Committees, but I'd be happy to get rid of the Budget Committee, trade that in. And he said, nobody gets off the Budget Committee and hung up. (Laughter) And he called me back a week later and he said you're on the Banking Committee. I said well, which of my major Committees did I lose and he said no, I can't take those away from you under the rules. And I said, oh, then I've been able to trade in the Budget Committee for the Banking Committee. He said no, no one ever gets off the Budget Committee, and he hung up again. (Laughter)

So I continued to labor on the Budget Committee, but what we did in Dodd-Frank was to put an end to those wire loans. What we did is said no to the teaser rates, what we did was create a Consumer Financial Protection Bureau that could take on predatory practices as they emerge. We'd had a credit card bill earlier and it addressed certain specific actions of a predatory nature, but those evolve in the marketplace. You can't have, if you will, if you think of consumer products, a division of the government that says every time there's a new product on the market we have to pass a new law affecting whether or not there's lead in it or some other toxin. You have to have an organization saying oh there's a new product, is it safe. And that's what the CFPB does for financial products. And we're going to be facing an intense, intense conversation over this. And I'm sure there's a host of conflicting or various viewpoints on this here in the room from folks who feel that you've gone too far, the guardrails are starting to not just prevent people from running off the road, but perhaps people from driving down the

road. And that's the conversation that we're all going to be having as we go ahead.

And in the middle of this is this question over the OCC charter and the issues that are being raised by that possibility. Now, I do think it's going to be a robust discussion, a good discussion, and there's going to be an open effort to figure out whether it makes sense, and if so how it is designed. And one of the issues here is do we create an issue or concern about regulatory arbitrage, and how might that play out and how might we address that. Do we create a concern about the overruling of state consumer protections in the course of establishing this national charter? And these concerns have led to -- and by the way, in terms of state protections that includes the interest rate concerns -- these concerns are shared by 50 state banking regulators, including D.C. and -- well, adding on D.C. and Puerto Rico. More than 250 organizations have raised similar concerns, the Independent Community Bankers, the Consumer Bankers Association, Americans for Financial Reform, Center for Responsible Lending, National Consumer Law Center, and then you can envision the balance of the organizations, some of which are national and some of which are state based.

So that is why it makes it relevant, the discussion you're having, the panel you had with these experts. And I think the role you all can play with those of us on Capitol Hill is bring your insights to our staff members, to our team, invite us to jump into those meetings and hear them firsthand, to understand the huge range of products we're talking about, and the subtleties of a potential charter and how it might interact with other charters or interact with state regulations.

So I simply pledge to be an engaged part of that conversation and thank you for inviting me to share a few thoughts with you today. (Applause)

MR. KLEIN: Since we're short on time we'll jump right into this. I just want to -- as an alumnus to the Senate Banking Committee staff -- thank the Senator for answering the question once and for all which Committee would you rather be on (laughter), Banking or Budget. We're running late on time so I'm just going to ask one question and turn to the audience.

Senator, I ask this of other folks, what are the three things the federal government can do or the state government, policy makers, to promote the good and protect the bad from fintech?

SENATOR MERKLEY: Well, one of the factors that I would encourage people to look at is the Safe Act, an Act I've introduced twice and I'll be introducing it again. It tries to take on a problem

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that is related to the concerns about the fintech charter, and that is the challenge of on line entities bypassing state rules on pay day lending. The ability to do remotely generated checks has enabled folks to go to entities that might be based overseas, who knows, they might be based in somebody's garage somewhere, but they're bypassing the state regulations. And even though in Oregon they would be illegal transactions, once your bank number is in the hands of an entity they can reach in and grab your funds and be gone before you know it. So it makes addressing this balance, the yin and yang of the innovation highway, and the guardrails extremely difficult.

A second issue that is certainly for us to continue looking at how checks are processed and the time lag. And there's many, many fintech organizations stepping into this particular space. And if we don't change the traditional banking system I think we'll see the average consumer starting to move in other directions. And particularly this is important to working Americans who when they deposit a check -- and now if you do it through a snap check type -- you know, take a photo of your check and deposit it, and you get a message and the message instantly says your check has been deposited. And then you think the funds are in your account and so you spend against it and then you find out that you've racked up a whole set of fees. So that's a second.

And a third is I think we need to back up the CFPB in terms of their work on the prepaid credit cards. This is a classic case where there's hidden fees, there is the challenge then of overdrafts that emerge from that. And while the rule is not implemented yet on pay day lending, not completed yet, I do think we need to try to find a national framework for that. It would be much simpler to simply have a law like many states have that creates a national interest cap. But in Dodd-Frank one of the compromises that occurred was that it was specifically disallowed to put a national interest rate cap on it. I remember Senator Durbin trying to lead the effort on the floor to establish that; that was unsuccessful. And so we're caught in the land where there's really a complicated strategy the CFPB is putting together involving rollovers and a number of other things. And if anybody who isn't dealing with it every day can remember all the details, then you have a photographic memory and I applaud you, but everyone else it's kind of a tangled web. So that could use a lot of work.

MR. KLEIN: Yes, protecting the prepaid card rule is very important and real time payments would make a huge difference for working families.

Time for one question in the audience. Who has the best question? (Laughter)

MR. LI: Thank you. Jiasun Li from George Mason University. So we touched upon a lot of key words about fintech, like financial inclusion or leveling the playing field. One thing that we didn't talk much about is the power of wisdom of the crowd, which has been mentioned a lot, at least in the context of equity crowdfunding. So I'm just interested in the context of like promoting the good for the government, like how can the regulation to better harness the wisdom of the crowd? In the context of equity crowdfunding, also whether you see that this notion has any bit in other fintech areas outside of equity crowdfunding.

Thanks.

SENATOR MERKLEY: Well, thank you. When we were working on the equity crowdfunding we were looking at what was developing in the on line lending, person to person space, the very different models that were evolving, the different companies we were experimenting with, we were looking at the donation space, the Kickstarter space, if you will. And nobody really knew how those spaces would evolve and we knew that we wouldn't understand how equity crowdfunding would evolve until we put in place a way to do it and then watched what would happen. And that we might need to respond to that in a periodic basis, a year, two years into it, monitoring do we have the right guardrails or do we have guardrails that are obstructing legitimate valuable flow of innovation, of traffic.

And on the other hand, there are other ways to pave a wider path that still will work. We just didn't know how it was going to unfold. So I think our concept was -- we put in a quick response strategy for potential predatory operations into the bill, but we couldn't put in a quick response or, if you will, rethinking and broadening, reconstructing the highway. But the conversation was that this was going to have to be continually monitored in these other early years to make this model work, assuming we wouldn't get it perfect the first time around. And when you speak of the wisdom of the crowd as you just did, watching how the crowd operated would be critical to understanding how the highway can be built better.

In other areas I would defer to the experts. It's just fascinating to watch how many new ideas are being adopted quickly. It was about a year and a half ago I read a report that said young folks are gravitating away from Facebook. Oh my god, this is the end of Facebook, they're going to go to X, Y,

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and Z. Well, here we are a year and a half later, Facebook is thriving. Watching how consumers interact with these new products, continuously new opportunities. I was pondering when I was the White House probably about a year ago and Senator Cory Booker said Jeff, let's do a snap -- what do they call it (laughter) -- video snap?

MR. KLEIN: Video chat? Snap chat?

SENATOR MERKLEY: Snap chat, snap chat. And I didn't know what the hell it was (laughter) and how quickly that's changing. And now I hear colleagues we have to learn to do what Cory Booker learns to do. Where is the crowd moving in a whole series of ways. I guess it's just a very exciting time in the world where technology is unfolding so fast, people find new niches, more convenient ways to do things. And it would be interesting to take people's best guesses right now and then have this gathering a year from now and see which things are starting to materialize and which aren't, or five years from now. But the answer is I don't know, but it will be fascinating to watch and we're going to have to adjust to the wisdom of the crowd.

Thank you all.

MR. KLEIN: Thank you very much, Senator. (Applause)

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