

Markup
House Financial Services Committee
May 17, 2022

Opening Statements

Chairwoman Waters (D-CA) stated that she was proud of how Committee Democrats have pushed legislation that reflect Democratic values like consumer protection and said that today, Democrats continue to focus on their values in the legislation being marked up today. She continued that Democrats are focused on helping the homeless and referred to Rep. Dean and Axne’s legislation. Waters then outlined the other pieces of legislation in the markup. She pointed to how the ILC Loophole Act would eliminate regulatory exemptions for commercial firms that operate as ILCs. Waters then briefly discussed Foster's bill that would extend regulatory supervision to certain third-party vendors. She was pleased that these bills would better protect the financial system and provide access, shelter, and wealth.

Rep. Wagner (R-MO) filled in for Ranking Member McHenry as he could not attend and noted that this is only the second markup of the year. She clarified that none of the bills included in the markup will pass the House or Senate and will not be signed into law. Wagner stated that the issues facing the American people today are not reflected in the legislation. She then went through various pieces of legislation before them and explained why they do not present solutions to the issues that they are trying to solve. She said that if we are serious about solving homelessness, we need to focus on effective solutions and stated that Committee Republicans are ready to work with Democrats on bills that promote good policy. Wagner believed that today’s bills miss the mark and do nothing to focus on inflation, the war in Ukraine, or the supply chain issues.

Legislation:

H.R. 7734, the “Timely Delivery of Bank Secrecy Acts Reports Act.”

- **An amendment in the nature of a substitute, no. 9, offered by Ms. Waters.**

Waters explained the amendment saying that SARs are held by FinCEN and believed that these reports are critical and keep America safe against bad actors. She added that SARs can also be important for Committee investigations and said that the Treasury has severely restricted access to SARs as the copying of materials is not allowed outside of a Treasury reading room. Waters continued that FinCEN informed the Committee that FinCEN is withholding thousands of these reports. She explained that her legislation would require the Treasury Secretary to deliver SARs within 30 days of a congressional request. She urged support for this bill so Congress has access to these reports in a timely manner.

Rep. Timmons (R-SC) thanked Waters for working with Republicans on this legislation to increase transparency at the Treasury Department. He believed that the Treasury’s position of restricting access to these reports is concerning and unprecedented. Timmons stated that congressional oversight authority has not changed despite the Treasury’s position and believed that the current position of the Treasury undermines Congress. He worried about the increase in

SARs and emphasized the need to streamline SARs reporting. Timmons believed that this legislation is the first step in this streamlining process and urged support for the legislation.

The ANS was approved by a voice vote. H.R. 7734, as amended, was reported favorably to the House by a voice vote.

H.R. 7733, the “CDFI Bond Guarantee Program Improvement Act.”

- **An amendment in the nature of a substitute, no. 8, offered by Mr. Cleaver.**

Rep. Cleaver (D-MO) stated that CDFIs play a crucial role in small and rural communities and noted that traditional banks have left many of these communities. He pointed to the unmet needs in communities that CDFIs are working to address. Cleaver discussed how the Bond Guarantee Program (BGP) does not offer grants but is instead, a federal credit subsidy program that has no cost to taxpayers. He said that participating in the BGP has enabled these CDFIs to make loans. Cleaver emphasized that the BGP has impacted all places in the country. He said that his legislation would expand the reach of the BGP and reduce the minimum loan size which would allow smaller CDFIs to participate in the program.

Rep. Luetkemeyer (R-MO) stated that Cleaver’s legislation has good intent but is executed poorly. He had not seen any studies that have said that this legislation would have a large impact on CDFI funding or any studies that have shown that CDFIs are strapped for cash. Luetkemeyer thought that permanently authorizing a program that gives CDFIs even more capital when they have more capital than they know what to do with right now is not good legislating, but he was happy to work with Cleaver on this issue.

Timmons stated that he had an amendment. There was then an agreement on the amendment and it was being put into writing.

Waters supported this legislation and explained how CDFIs serve communities that the big banks do not. She noted that this legislation is a companion bill to a bipartisan version in the Senate introduced by Senators Smith (D-MN) and Rounds (R-SD) and that it is supported by industry. Waters urged support for this bill.

Timmons offered his revised amendment and thanked Cleaver for working with him on the amendment. He had some concerns about oversight and a sunset provision but believed that his concerns were addressed. Timmons stated that with this amendment the program would have a sunset of four years and have a report done by the end of the third year.

Waters thanked Cleaver and Timmons for coming to a bipartisan compromise and urged support for the bill.

The ANS was agreed to by a voice vote. H.R. 7733, as amended, was reported favorably to the House floor by voice vote.

H.R. 7732, the “Strengthening the Office of Investor Advocate.”

- **An amendment in the nature of a substitute, no. 7, offered by Mr. Lynch.**

Rep. Lynch (D-MA) stated that the SEC’s Office of Investor Advocate’s (OIA) mission is to advocate for the investor as the office is appropriately named and said that OIA also conducts research. He continued that the legislation would strengthen the independence of OIA and would authorize the office to conduct investor testing and publish the findings. Lynch added that the legislation has provisions that align with the IG Act of 1978 and noted that the legislation has received broad support. He urged support for his legislation.

Rep. Huizenga (R-MI) had some questions regarding the bill and stated that the same person has been the head of OIA since the opening of the office. He said that the bill seems to be a solution in search of a problem and questioned if this office warrants its own line item in the budget.

Lynch said that if you are going to have an advocate for investors, you want the OIA to act similarly to an IG and said that in the past, when the investor advocate has been tasked with representing the interest of investors, it has sometimes conflicted with the views of the SEC Chair.

Huizenga questioned why the OIA should not look at expanding investment opportunities for retail investors and did not see any ramifications when the OIA has been in conflict with the Chair.

Lynch emphasized wanting a singular person in the OIA position strictly looking out for investors regardless of the party in control of Congress.

Huizenga questioned if we should extend protections to other independent agencies like the PCAOB and did not see the necessity of this legislation.

Wagner also had some questions on the bill and asked why the bill requires the OIA to conduct investor testing and research while granting the OIA discretion when it comes to publicizing the findings. She worried about cherry picking. Wagner questioned whether there should be term limits for the head of the OIA and asked about the value added from the OIA. She did not think that the OIA should be treated as an entity outside of the SEC in the budget.

Huizenga echoed Wagner’s thoughts and submitted for the record a letter from the Investor Advocate advocating for this bill and believed that this shows that the OIA is advocating for themselves and bureaucracy rather than the investors depending on the SEC.

Wagner was just trying to figure out what the OIA has been doing the past eight years and repeated her idea about term limits. She was concerned about imposing testing and research requirements when the OIA can decide what information to publicize.

Rep. Garcia (D-TX) supported the legislation and supported strengthening the OIA. She yielded to Lynch.

Lynch stated that the OIA is both accountable and transparent and noted that the Chair can fire the head of the OIA if they want. He stated for seven years, the OIA has been limited to two people and that now there are six people there, so he believed that there is no ‘bureaucracy.’ Lynch defended that these six people do choose what they spend their time on to best benefit investors. He noted that many investors are investing in crypto and are only being guided by a whitepaper and referred to the Terra crash, stating that it is a new day for what must be done within the OIA to protect people against the dangers of crypto and vulnerabilities in the market. He believed that the OIA is needed more than ever right now and repeated that the OIA is accountable to Congress. Lynch believed this legislation would benefit investors and that by running tests, it would let the public know whether a rulemaking is benefitting investors without the filter of the SEC Chair.

Rep. Loudermilk (R-GA) yielded his time to Huizenga.

Huizenga stated that the Investor Advocate is not the enforcement arm of the SEC and said that the OIA is not policing the system. He stated that Chair Gensler has been aggressive and expansive during his tenure and believed that the OIA should advocate for more time to consider the rulemakings being put out. Huizenga stated that the SEC structure is there for a purpose and thought that to grant the OIA its own autonomy and line item in the budget does not make sense.

The Committee recessed for floor votes.

Huizenga offered an amendment and said that an advocate should identify problems within an organization. His amendment would require the OIA to identify ways non accredited investors can access markets and make policy recommendations for nonaccredited and accredited investors. Huizenga believed that this needs to be explicitly listed. He pointed to how only 15% of households count as accredited investors and many investors are cut out because they do not meet arbitrary wealth thresholds. Huizenga added that this discriminatory rule hurts investors and believed that the OIA should be a true advocate.

Lynch responded that Huizenga’s amendment redirects the OIA to assist nonaccredited investors to make certain investors and pointed out that 58% of Americans own stocks. He said that there is plenty of opportunity on the registered investment side and warned against allowing families to become involved in riskier investments. Lynch referred to Terra stablecoins and other massive losses by misinformed investors this week and believed this incident reinforces the need for consumer protection even more. He stated that the SEC protections are meant to put guidelines and protections on the side of retail investors to deal with the disproportionate balance of information to all parties in the market.

Rep. Barr (R-KY) yielded to Huizenga.

Huizenga stated that you do not have to be an accredited investor to feel the pain of what is happening with crypto right now and said that there are opportunities to invest for everyone and

questioned whether or not we are going to continue to box out a portion of Americans from investing. Huizenga stated that this has nothing to do with financial sophistication.

Waters opposed the Huizenga amendment saying that it strikes all the improvements to the OIA dictated in Lynch's bill. She stated that prior to the financial crisis, the SEC was underfunded, weak, and could not help prevent the financial crisis. Waters stated that Dodd-Frank created the OIA to strengthen the SEC and ensure that the interests of investors were being considered. She believed that Lynch's bill would further strengthen the OIA and pointed to the wide support for this bill. Waters urged opposition to the Huizenga amendment and supported Lynch's bill.

The Huizenga Amendment was not agreed to by a recorded vote of 26-22.

The ANS was approved by voice vote and H.R. 7732, as amended, was reported favorably to the House by a recorded vote of 25-22.

H.R. 7022, the "Strengthening Cyber-Security for the Financial Sector Act of 2022."

- **An amendment in the nature of a substitute, no. 4, offered by Mr. Foster.**

Rep. Foster (D-IL) stated that supervisory authority to examine the third-party service providers is critical to protecting our financial institutions from cyber-attacks and believed sufficient protection is paramount especially given the ongoing war in Ukraine. He continued that Congress has allowed the NCUA's and FHFA's oversight authority to lapse, leaving credit unions and the federal home loan banks (FHLBs) at risk. He pointed to a FSOC report from 2015 that asks Congress to fix this regulatory gap. Foster noted that this legislation fixes this gap, that it has support from outside groups, and urged support for his bill.

Barr thought this legislation was a good faith attempt to shore up the IT infrastructure in our financial sector, but as it is currently drafted, he questioned if this bill intends to broaden the size and scope of federal regulation under the guise of cybersecurity. He noted that the word 'cyber' does not appear in the legislation beyond the title. Barr stated that the bill would make the FHFA the prudential regulator of literally every business partner of the GSEs and the FHLBs. He added that in addition to expanding the FHFA's regulatory authority, it would make them regulators of all the third-party contractors of the GSEs and FHLBs, including credit rating agencies, lenders and even janitorial staff. Barr continued that this legislation has never been discussed in a hearing and said that the only time this bill has come up was in a November Financial Institutions Subcommittee hearing. He pointed to current issues with oversight of the FHFA and how expanding their authority requires more thought and deliberation. Barr added that it is unclear if the NCUA is capable of overseeing third party service providers. He noted that the Mortgage Bankers Association and Housing Policy Council are opposed to the legislation as currently drafted. He added that there needs to be more considerable thought put into this legislation and urged opposition.

Rep. Perlmutter (D-CO) yielded his time to Foster.

Foster responded to Barr that the bill was noticed in the May 12 and May 13 hearings. He recalled that Rep. Gonzalez asked about NCUA's adopting better technology in the May 13 Task Force on AI hearing and the NCUA Director Kelly Lay's answer to his question was to pass this legislation. Foster thought that this legislation increasing prudential oversight was misreading the legislation.

Perlmutter appreciated the concerns Barr had but disagreed that this legislation was not addressed previously. He emphasized strengthening the weakest links in the system.

Huizenga yielded his time to Barr.

Barr clarified his point that there was a Financial Institutions Subcommittee hearing but that they have not explored this legislation in the Housing Subcommittee regarding FHFA and whether FHFA can take on these additional responsibilities.

Huizenga yielded his time to Hill.

Rep. Hill (R-AR) said that extending this responsibility to FHFA and all of its vendors is stepping beyond the FHFA mission including the GSE and FHLB's missions. He added that this legislation would be a distraction for FHFA which is already struggling with its mission of safety and soundness.

Waters supported the legislation and added that the banking regulators already have this authority over third party service providers, but the NCUA and FHFA do not. She pointed to the increase in ransomware at smaller institutions. Waters added that the Committee has discussed cyber risk in the financial sector over the years and pointed to the Equifax breach. Waters heard that smaller financial institutions rely on the same core service providers and worried about consolidation in this space. She said that the failure of any of these service providers could have consequences for the broader economy. Waters referred to the May 13 hearing where the NCUA advocated for this legislation.

The ANS was agreed to by a voice vote and H.R. 7022, as amended, was reported favorably to the House by a recorded vote of 24-22.

H.R. 7196, the "Flexibility in Addressing Rural Homelessness Act."

- **An amendment in the nature of a substitute, no. 5, offered by Mrs. Axne.**

Rep. Axne (D-IA) stated that the homelessness population is up 5% from 2016 and recognized how different communities are experiencing homelessness. She discussed how homeless individuals in rural areas lack shelter compared to urban areas and said that homeless service providers in rural areas too often struggle with limited resources. Axne explained that her legislation would give rural areas more flexibility in funding for homelessness specifically allowing homeless shelters to use funding for hotel and motel rooms, to make repairs to upgrade safe housing, and for staff training and capacity building. She stated that the flexibilities

provided in this legislation would not increase costs and thanked Rep. Lucas (R-OK) for his partnership on this legislation. Axne urged support for this bill.

Rep. Lucas (R-OK) supported this legislation saying that homeless individual's needs are more unique in rural areas. He continued that those experiencing homelessness in rural areas are more likely to be families, not individuals. Lucas echoed the flexibilities Axne discussed and believed this would equip service providers with the needed tools to address the needs of the homeless in rural areas. He thanked Axne for her work on this legislation and urged support.

Garcia (D-TX) strongly supported this bill and said that rural areas should get to decide how to spend their dollars specific to the area.

Waters thanked Axne for introducing this legislation and reaffirmed her commitment to end homelessness across the country. She was pleased that this legislation was bipartisan and urged support for the bill.

The ANS was agreed to by voice vote and H.R. 7196, as amended, was reported favorably to the House by voice vote.

H.R. 7716, the “Coordinating Substance Use and Homelessness Care Act of 2022.”

- **An amendment in the nature of a substitute, no. 6, offered by Ms. Dean.**

Rep. Dean (D-PA) remarked that our country has a homelessness crisis and while the lack of affordable housing is part of the crisis, addiction can exacerbate homelessness and be a consequence of homelessness. She continued that we are also experiencing a mental health crisis and shared that her own son has dealt with addiction, so this legislation is personal. Dean stated that strengthening the connection between substance abuse and homelessness services will help streamline the system. She explained that her legislation would establish five-year HUD grant programs to improve state and local governments' capacity to coordinate substance use abuse disorder and homelessness services. Dean thanked Sen. Padilla (D-CA) who plans to introduce the same legislation in the Senate.

Hill said that Republicans have been calling attention to the link between substance abuse and homelessness and hoped this bill would strengthen the link. He noted that President Biden has called for the ending of the opioid crisis that impacts everyone's districts. Hill shared Dean's passion for finding solutions to end the opioid crisis and homelessness. He stated that the funding in this bill would go toward 'capacity building' which he thought was undefined and that it means that taxpayer dollars would go to the middleman without any oversight. Hill stated that none of the grant money would not actually pay for healthcare and that the money would go toward administrative costs. He continued that the Housing First model cuts off those who need mental health attention and was happy to see that the bill shows the obvious link between mental health and homelessness. Hill added that this legislation overpromises and underdelivers and urged opposition.

Rep. Garcia (D-TX) supported the legislation and believed that coordination between homelessness and substance abuse treatment services is critical. She thought that they should adopt flexible approaches to support those on the pathway to recovery. Garcia yielded her time to Dean.

Dean stated that 300 people a day are dying from substance abuse and that Hill was right that there is a prohibition in the bill on page 6, but that the bill provides guidelines on who is eligible for these grant funds. She said that the bill provides connections between all the relevant service providers. Dean stated that HUD is not in the business of doing mental health evaluations which is why this legislation connects the two. She understood Hill's concerns but disagreed that this legislation was a giveaway.

Hill offered an amendment and expressed his concerns that money in this bill was going toward capacity building. He explained that his amendment would ensure that 90% of these funds would go toward helping the homeless and only 10% of the money go to administrative costs. Hill thought that the focus should be on those seeking behavioral health services, not administrative costs.

Dean thanked Hill for his amendment and concern that resources go to those who need it. She thought that his amendment was unnecessary and wanted to work with Hill and Budd on her bill. Dean emphasized that having a roof over your head is critical for getting help for mental illness and addiction.

Waters opposed the amendment and believed that the legislation would decrease barriers to those who are trying to access health services. She acknowledged the opioid epidemic and stated that she has been sounding the alarm on this for decades. Waters stated that treatment for substance abuse has been deemed effective and said that due to institutional silos, there is often a lack of coordination between homelessness service providers and those experiencing substance abuse disorders. She believed that Dean's legislation addresses this issue and said that the Hill Amendment negates the purpose of the bill by limiting funds. Waters urged the opposition to the amendment and supported the bill.

The Hill Amendment was not agreed to by a recorded vote of 27-22.

Barr offered an amendment and commended Dean for her legislation and believed that there is opportunity here for bipartisan consensus. He thanked Dean for sharing her experience with her son on substance abuse and said that her advocacy efforts to connect housing and substance abuse services is the most compelling case against Housing First. Barr offered another model that is followed by the organization that Dean's son works for, Caron, and noted that impatient treatment is directly tied to housing. He agreed with Dean that subsidized housing is not enough for those suffering from substance abuse and stated that HUD's Housing First cuts off money for those who need wrap-around treatment. Barr stated that we should be rewarding success and allowing non-Housing First providers, including Caron, to receive federal funding which would allow for more homeless individuals to be helped. Barr said that his amendment would require at least half of the money from the bill to go toward non-Housing First programs. He offered to work with Dean further on this.

Dean thanked Barr for his amendment and promised to work with him on this but opposed his amendment. She was not sure why he mentioned Caron so much as it is not the only organization but thanked Caron for the work they do. Dean thought that there were some flaws in Barr's argument saying that she supports Housing First because it provides permanent housing and serves as a platform for them to pursue recovery. She stated that permanent housing should not be used as a reward and disagreed with prerequisites for sobriety to get housing because this is not how addiction works. Dean emphasized that not everyone is ready for treatment but that these people still need housing. She thought that Barr's amendment misses the point and urged opposition.

Loudermilk yielded his time to Barr.

Barr reiterated that there is opportunity to work with Dean on this issue to enlarge the opportunities available to those suffering from addiction. He acknowledged that Housing First has helped some people and pointed out there are no requirements to receive Housing First assistance. Barr said that the reality is that long term services like counseling and recovery housing need to be connected and believed that peer to peer counseling should be part of the conditions of the program, so they are not just putting someone in a subsidized apartment. He believed that we should offer the Housing First concept while offering other organizations the same opportunity. Barr discussed a women and children shelter in his district that is not Housing First and does not get federal funding and added that Housing First does not require everyone to remain sober which he thought was the best way for relapse to happen. He referred to his legislation the Housing PLUS Act of 2021.

Garcia (D-IL) yielded his time to Dean.

Dean defended that addiction is not a choice and we cannot force people into treatment who are not ready. She talked about this population of people who are potentially not ready for recovery so we need to get them housed and then coordinate to get them help.

Barr thought that there is a role for these coordinators Dean discussed but wanted to add other housing providers beyond Housing First providers. He invited Dean to his district to visit rehabilitation organizations that utilize a 'tough love' approach.

Dean took Barr up on this invitation and looked forward to working with him and Hill on this.

Waters opposed the amendment and stated that the Housing First model has proven to be effective. She noted that the George W. Bush Administration started the Housing First program and noted that the homeless population increased during the Trump Administration due to the program's lack of funding. Waters warned against prerequisites for receiving federally funded housing and acknowledged the misunderstanding that Housing First does not offer other services and rejected this notion. She added that Housing First interventions are effective and economically efficient. Waters urged opposition to the amendment and supported the bill.

Luetkemeyer responded to Waters' comments with a quote from the National Alliance to End Homelessness which said that the solution to homelessness is housing for all whether they are compliant with treatment or not and yielded to Hill.

Hill stated that there are people who are ready for recovery and are seeking help but are denied due to Housing First.

Barr said that this is not about a moral test but said that recovery programs may not work 50 times because the program is only a month long and said that what works is a little 'tough love'. He believed this is what works and the idea with Housing First, that whether you are compliant or not, you get free stuff, leads to relapse. Barr acknowledged that 'tough love' may not work for everyone either but to exclude other organizations seemed short sighted to Barr. He questioned why we cannot have it all when addressing this issue by including all organizations.

The Barr Amendment was not agreed to by a recorded vote of 27-22.

The ANS was approved by voice vote and H.R. 7716, as amended, was reported favorably to the House by a recorded vote of 27-22.

H.R. 4395, the "Payment Choice Act of 2022."

- **An amendment in the nature of a substitute, no. 1, offered by Mr. Payne.**

Garcia (D-TX) stated that cash is king and always has been. She explained that this legislation would protect cash currency being used to pay for goods and services in person that cost up to \$2,000. Garcia stated that there are over 50 million Americans who lack a bank account or credit card and how these people rely on cash to participate in the economy. She stated that if cash is banned, she guessed these people would have to run around with one of those 'Square things' to try to find a way to get a credit card. Garcia stated that banning cash is exclusionary and how many feel that cash is their safest option in the world of cyberattacks and that many find that their financial data is vulnerable to hacks or mining by big banks. She stated that banning cash leaves digital payments as the only option which are vulnerable to hacks and breaches. She emphasized the right to pay in cash and believed this legislation was common sense and urged support.

Luetkemeyer inserted a statement by McHenry opposing this bill along with other statements of opposition from organizations. He said that cash is king in his district but was concerned that this bill places big government in the day-to-day operations of businesses. Luetkemeyer was not supportive of businesses transitioning to only digital payments but supported businesses' having the freedom to choose how they accept payments. He discussed the fees incurred by businesses using cash and the additional physical risks associated with using cash, noting the issues with marijuana dispensaries. Luetkemeyer also saw no reason as to why the federal government should override the state legislatures who decided not to impose this requirement on businesses.

Rep. Davidson (R-OH) supported this legislation saying that the legal tender of the US is the US dollar, not Mastercard or Visa or Venmo or any fintech. He voiced his support for fintechs

but was opposed to undermining cash. He discussed the permissionless nature of cash and believed that money should be used as a record of account in the means of exchange, not used to control or coerce. Davidson discussed how the payments system is ingrained within big businesses and the government which is why people want to keep their cash. He said that we have to protect and honor the dollar and should preserve its characteristics as we innovate with financial technology. He referred to the *Protect Your Coins Act*. Davidson urged support for the legislation.

Garcia (D-IL) yielded to Garcia from Texas.

Garcia (D-TX) agreed with a lot of what Davidson said and emphasized the right to have cash in your pocket and spend money how you want to. She talked about how many airport stores only take credit cards and how those who only have cash cannot buy goods. Garcia said it was almost un-American to bar people from paying in cash and emphasized that her legislation just protects the right to use cash, it does not ban the use of debit or credit cards. She referred to 39 organizations that support this bill and asked to submit these letters of support into the record. Garcia noted that not everyone can get a credit card or debit card, and many are also afraid of what these companies will do with their information.

Davidson said that anything you put in place has to have an enforcement mechanism and did not like that but said it was better than nothing. He said that is as simple as just accepting cash.

Rep. Steil (R-WI) opposed the legislation and did not want the federal government to step in and enforce a one size fits all situation for businesses. He was fine with people using cash but did not want to stifle innovation. Steil thought that the legislation fails to take into account the innovation taking place to ensure that commerce is as efficient as possible. He mentioned the private right to action and thought the enforcement mechanism was foolish. Steil urged opposition to the bill.

Rep. Rose (R-TN) recalled the hearings to discuss Facebook's proposed cryptocurrency, Libra, and said that moving toward a cashless society will fall hardest on the most vulnerable Americans and would give big tech, the government, and card processors more power. He believed that this was already happening and said that how we spend our money is very powerful information. Rose emphasized that we must maintain a cash option and said that all consumers should have the freedom to pay with cash, especially those who lack the ability to pay with anything other than cash. He was a proud cosponsor of this legislation and urged support for this bill.

Garcia (D-TX) agreed with Rose that it should be up to the consumer as to how they spend their money and said that the bill only applies to in person transactions up to \$2,000.

Rose mentioned that today if you go to a Vanderbilt University athletic event or another sports or music event in Tennessee, if you do not have some means of electronic payment, you cannot buy anything including food.

Waters stated that this bill is a no brainer and jokingly said that this is the first time she has supported something Rose and Davidson support. She said that promoting financial inclusion means that cash remains an integral part of the payments system. Waters urged support for this legislation and shared that her mother who died at 97 never paid in anything other than cash.

The ANS was agreed to by voice vote and H.R. 4395, as amended, was reported favorably to the House by a recorded vote of 32-17, with Republicans Mooney, Davidson, Kustoff, Gooden, and Rose voting yes.

The Committee stood in recess on May 17.

The Committee reconvened on May 18.

H.R. 7003, the “Expanding Financial Access for Underserved Communities Act.”

- **An amendment in the nature of a substitute, no. 3, offered by Ms. Waters.**

Waters stated that in recent years, there have been more and more closures of bank branches leaving communities in banking deserts. She continued that at the same time, credit union branches have remained and continue to serve the underserved. Waters explained that her legislation would allow all credit unions to apply to areas where other banks are closing branches. She continued that her legislation would expand exempt loans made to small businesses from the member business cap and said that this would not prevent other bank branches from opening. Waters said that the bill is about expanding financial services and is not favoring credit unions over banks. She said that the bill is supported by the California and Nevada Credit Union Leagues and other organizations. Waters thanked Perlmutter for his contribution to the legislation and urged support.

Barr appreciated the goal of the bill which is to increase financial inclusion in rural areas and thanked the credit unions uniquely situated to provide needed financial services. He continued that a healthy financial ecosystem means a diversity of credit providers whether it be credit unions, non-bank lenders, fintechs, CDFIs, etc. Barr said that it was unclear to him the need for this bill and that when we talk about a diverse ecosystem, we want a level playing field. He pointed out that credit unions are tax-exempt and said that the legislation allows federal credit unions to expand their membership and that there is no specification that these credit unions would actually serve underserved communities. Barr believed that the legislation would give preferential treatment to larger and more prosperous credit unions which would impact the very small and rural credit unions. He added that low-income designated credit unions are already empowered to serve underserved communities and many already have a low income designation. Barr included in the record McHenry’s opposition statement. He applauded Waters for introducing a bill that does recognize the issue and referred to his legislation for an alternative solution, *the Promoting Access to Capital in Underbanked Communities Act*, which focuses on de novo banks.

Perlmutter stated that this legislation would expand the field of service to those who do not have it and in general, if an existing federal credit union applies to serve a rural area, they apply

to explain how they serve the community. He rejected Barr's opinion saying that this legislation is exactly what Barr wants. Perlmutter agrees that there are many ways to achieve rural banking but this is a good way. He suggested that the bill could be revised if Barr wanted in the Rules Committee.

Steil yielded to Barr and Perlmutter.

Barr engaged with Perlmutter and said that we do want credit unions, farm credits, nonbank lenders, fintech, etc., in these banking deserts. He did not want an unfair playing field and wanted the same tax treatment for every organization. Barr's problem was a large, prosperous, and tax-exempt credit union coming into a rural area and impacting the existing community bank.

Perlmutter stated that the tax issue is a whole other animal and said that the credit union has to present a business and marketing plan to reach the new community which is an extra step included in the bill.

Barr underscored the point he sees in rural America discussing the decline of bank branches and stated that this matters because rural customers are more likely to do their banking in person compared to urban areas. He mentioned the lack of broadband in rural areas where online banking is much less possible. Barr believed that his bill was a better solution to banking deserts and urged Waters to consider his legislation instead.

Garcia (D-IL) yielded to Waters.

Waters stated that Barr has made a profound case about the need to have banking opportunities in rural and urban areas and could not say it better than Barr. She said that banks are not asking to go to rural areas and are shutting down their branches saying that banks do not want to be bothered with people that have small amounts of money. Waters said that credit unions want to help these people and repeated that this bill is about expanding financial access to the underserved. She pointed to credit unions being limited in who they can serve and again, urged support for the bill.

The ANS was agreed to by a voice vote and H.R. 7003, as amended, was reported favorably to the House by a recorded vote of 27-22.

H.R. 5912, the "Close the ILC Loophole Act."

- **An amendment in the nature of a substitute, [no. 2](#), offered by Mr. Garcia.**

Garcia (D-IL) stated that ILCs are exempt from the requirements of the Bank Holding Company Act currently and that this means that the parent companies of ILCs are allowed to operate commercial enterprises and are not subject to Fed supervision. He stated that this legislation would close the ILC loophole moving forward. He stated that grandfathered, existing ILCs would enhance supervision and provide a fair process for considering ILC applications that are still in process. Garcia explained that when this loophole was created in 1987, ILCs were small

and engaged with only limited deposit taking lending activities. However, over time, ILCs have gained the powers of full-service commercial banks without oversight or regulatory framework that governs banking institutions. Garcia stated that ILCs have opened the door for companies like Amazon, Facebook, or Walmart to operate full service, commercial banks. Garcia stated that the ILC loophole was closed in 2007 but the moratorium on new ILC charters has since expired. He stated that last week Yellen confirmed that she believes there is a serious concern with the financial stability risks posed by ILCs and that this bill is “more important than ever before”. Garcia was pleased that a compromise had been negotiated to address concerns around parent companies with existing ILCs and their ability to transfer their ILC. Garcia particularly thanked Himes for reaching an agreement with Garcia that addresses his concerns while keeping the core tenants of the legislation intact. He said that the real goal here is to prevent tech companies from owning a bank which he thought would create risks to our financial system, consumers, and taxpayers. Garcia noted that this legislation has bipartisan support and support from the Fed and other organizations. He urged support for this bill.

Garcia (D-IL) offered an amendment to the ANS.

Rep. Sessions (R-TX) noted that he is a cosponsor of the bill but now, there is an amendment to the ANS which he has not seen before.

Waters recognized that they did not have a copy of the amendment at the moment and was trying to obtain it.

Garcia (D-IL) explained the Manager’s Amendment saying that under this amendment and the agreement that was negotiated, any commercial entity would be eligible to apply to acquire an ILC but that this would be subject to a review by FSOC. He continued that the company would have to comply with requirements that ensure that they do not transfer the business model of the previous ILC to operate like a full-fledged bank that is not regulated like all other banks or would engage in risky activity. He said that this amendment helps provide ILCs and their parent companies more leverage in terms of FSOC oversight over issues that may arise. Garcia continued that this further strengthens the purpose and authority that existing ILCs would have so it helps fortify them moving forward.

Huizenga noted the confusion around the new amendment and pointed out the policy foul here saying that a cosponsor is in the dark and other members are in the dark about the amendment. He continued that it appears that Garcia is trying to add an additional hearing that FSOC would be undertaking so we have an additional layer to an already complicated process in FSOC. Huizenga knew that FSOC was not created to be a regulator and now FSOC is fulfilling a regulator’s job with this bill. He said that there is a process issue and policy foul here and said that FSOC was created to monitor systemic risk within the financial system and having a power company having an ILC that provides loans for weatherization in Utah, for example, and questioned how that would be a systemic risk saying that it is not. Huizenga said that there are 25 ILC institutions that have 1.4% of banking assets and noted the healthy skepticism surrounding this legislation. He opposed the amendment to the ANS.

Sessions stated that the ideas are well intended referring to the ongoing debate on this issue and

said that the bill has now changed and as a cosponsor, he did not believe that they should move forward at this time on this bill. Sessions had some issues with the FSOC piece and believed that the bill needs to be reworked.

Garcia noted that the amendment has been in the public realm for over 24 hours at least digitally and said that with respect to the assertion with FSOC, he rejected that saying that the amendment clarifies that ILCs can challenge an ILC determination once it is made and believed that it strengthens ILCs' ability to challenge FSOC. Garcia added that this amendment does not increase any of FSOC's powers.

Sessions thanked Garcia and was unclear of FSOC's say in the matter. He repeated that he would continue to work on the bill and emphasized the need to make this legislation right.

Perlmutter shared some of the concerns raised and said that this bill has been difficult from the outset with having to deal with banking and commerce. He thought that this amendment was designed to deal with the responsibilities of FSOC and whether or not Amazon's purchase of an ILC created systemic risk because now there is a major commercial player buying and owning a bank which is what is trying to be managed here. Perlmutter noted the difficulty managing both Dodd-Frank and Glass-Steagall. He thought that this amendment was not an issue.

Waters asked Perlmutter if FSOC has an opportunity to review and if he understood that there is an opportunity to appeal FSOC's decision.

Perlmutter said yes to the first question but was unsure about the appeal part.

Sessions wanted to be for the bill but did not know enough about the substitute.

Garcia appreciated Sessions being a co-sponsor and wanted to move forward. He was willing to do anything he could to discuss this further and get as much clarification as possible. Garcia reaffirmed that the amendment to the ANS addresses intent and with respect to what the FSOC's purview is which is to simply opine and decide on matters of financial risk.

Waters asked if Garcia and Sessions wanted to recess on this.

Sessions asked that he is given the chance to get this right and perhaps was proposing to pull the bill.

Garcia wanted to move the bill forward.

Barr stated that a healthy financial ecosystem is one that offers choice and was sympathetic to some of the concerns of the bill saying that large tech companies should not run a full-fledged bank without proper oversight and access to FDIC insurance. He emphasized the need for a level playing field once again and believed that Garcia's bill goes too far in restricting ILCs saying that it essentially gets rid of new ILCs which stifles innovation. Barr said that this legislation was an example of Democrats putting up barriers to financial access. He opposed the legislation.

Huizenga had a parliamentary inquiry asking if we are moving forward with the Manager's Amendment.

Garcia asked for unanimous consent.

Huizenga argued that Garcia did not have the time.

Garcia asked for UC to take no further action on the bill and offered to withdraw the bill.

Huizenga objected to Garcia's UC.

Waters asked if Garcia moved to withdraw.

Garcia moved to withdraw the bill.

Waters asked for UC for Garcia to withdraw the bill and both amendments to the bill, such as the order.

H.R. 5912 was withdrawn.