Ranking Member Pat Toomey (R-Pa.)
Opening Statement
Full Committee Hearing
September 13, 2022

Thank you, Mr. Chairman.

Today's hearing is about new consumer financial products. In the last decade, we've seen financial institutions develop technology-oriented solutions to meet consumer needs. These new choices create a more competitive marketplace—all to the benefit of consumers.

As long as consumers have truthful and accurate information about financial products, they're best positioned to decide what products to use. Any regulation of financial products should fit the product type, make room for innovation, and maximize consumer choice. Too often, however, the response from my friends on the other side of the aisle is to see something new and panic.

Some newer financial products offer consumers more options for short-term funding. One of them is called Buy Now Pay Later, or BNPL. BNPL typically allows consumers to make purchases now, often online, and repay them in four interest-free installments later.

This service can be an attractive way for consumers to manage their cash flows to obtain goods and services without having to pay interest. That's especially true for consumers who don't have or don't want to use a credit card for such purchases. This may explain why BNPL is most popular among younger consumers, who have shorter credit histories. If customers are late with payments, BNPL companies sensibly suspend further purchases until they are paid, and some charge a late fee.

Interestingly, BNPL companies do not primarily make their money from consumers, but rather from retailers, who pay them a small percentage of transactions to offer the service to customers. Retailers are willing to do this because they don't have to pay credit card interchange fees on BNPL payments and offering BNPL can increase sales and customer loyalty.

Another newer financial product that provides consumers with short-term funding is Earned Wage Access, or EWA. This service can be an appealing alternative to payday loans for workers who want an advance on their wages.

Many people don’t have savings available to pay for unexpected expenses that can arise in between pay periods, like car repairs or medical bills. EWA can help consumers to meet such expenses and others by advancing them the amount of income they’ve already earned at that point in the pay period.

There are various EWA products available. In some cases, employers select and pay the fee for the service as an employee benefit, while in others, consumers must pay the fee.

According to a recent study, the average fee a user paid per advance was $2.59 to $6.27. That’s less than 5 percent of the amount advanced.

In short, marketplace competition has successfully generated more and cheaper options for many consumers to meet their needs. This is a reminder that market competition is typically better at helping consumers than the government—whether the product or service is in the financial sector or another category.

Other newer financial products include forms of credit that have existed for a long time, but with innovations in how they’re provided. In recent years, financial institutions–primarily community banks–have begun to partner with financial technology companies, or fintechs, to offer improved products and reach more consumers.

Bank-fintech partners offer a large variety of credit products, including small-dollar, personal, auto, and small business loans, as well as credit cards, mortgages, and home equity credit lines. These partnerships can generate significant consumer benefits by lowering the price of financial products, expanding consumer choice, and increasing competition. Often, they provide access to credit for higher-risk borrowers, such as consumers with lower-incomes or no credit histories, all through a highly supervised financial institution.

Unfortunately, some bureaucrats and lawmakers react with hostility to any new financial products. Democrats in Congress have pejoratively branded all bank-fintech partnerships as “rent-a-bank” schemes.

Last year, they overturned an OCC rule that provided regulatory certainty for these partnerships. Unfortunately, by attacking legitimate bank-fintech partnerships, Democrats risk restricting access to needed credit for lower-income consumers.

And the CFPB, under Director Chopra, has repeatedly demonstrated hostility to innovation in consumer finance markets. For example, he's replaced the CFPB's Office of Innovation with a new "Office of Competition and Innovation" to advance his efforts to involve the CFPB in antitrust and competition law, which is outside its jurisdiction. He also sidelined the Office of Innovation's programs to foster responsible innovation, such as no action letters and regulatory "sandboxes."

I'm also concerned the CPFB will bring this reactive, anti-innovation perspective to its scrutiny of new financial products. Already, it's made public statements that suggest hostility towards BNPL and other products.

All of this hostility to new financial products is further evidence of the condescension and paternalism of some of my colleagues to our constituents. Individual consumers are better positioned than any bureaucrat or politician to understand their own individual needs and preferences, and make their own choices. My colleagues ignore the benefits consumers derive from access to more choices in a more dynamic marketplace.

The best form of consumer protection is a robust, competitive market. That's why, instead of curtailing new financial products, regulation should facilitate innovation and consumer choice.