October 10th, 2023

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th St. SW
Suite 3E-218
Washington, DC 20219

RE: Trust in Banking Survey; Docket ID OCC-2023-0003

Dear Honorable Acting Comptroller Hsu:

Thank you for the opportunity to comment on how the Office of the Comptroller will develop a survey to assess trust in banking. We concur with your view that trust is an essential precondition for the relationship between a consumer and their financial institution and a pillar of having a safe and sound financial system.

The National Community Reinvestment Coalition is a network of organizations and individuals dedicated to creating a nation that promises and delivers opportunities for all Americans to build wealth and live well. Our members include more than 700 nonprofit community development and finance organizations; community organizing and civil rights groups; minority and women-owned business associations; national, state and local housing, economic development, education, media, arts, healthcare, and investment organizations; state and local government agencies; faith-based institutions; and committed, hopeful individuals from across the nation.

In its bi-annual Survey of the Unbanked, the Federal Deposit Insurance Corporation (FDIC) consistently finds that underserved consumers identify a lack of trust in banks as the second most common reason for not having a bank account.[1] The FDIC survey does not dwell further on the reasons for the lack of trust. As a result, policymakers need more reliable authority on what factors drive this distrust. This gap underscores the need for a survey of the kind raised by this request for information.

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[1] *Federal Deposit Insurance Corporation. (2021). How America Banks: Household Use of Banking and Financial Services, 2019 FDIC Survey. Federal Deposit Insurance Corporation.* *https://www.fdic.gov/analysis/household-survey/index.html*

This comment discusses our views on Questions 2, 4, 8 and 15.

Question Two:
What are some of the key considerations in determining whether the survey should focus solely on groups of potential bank customers that have not been the subject of previous surveys, such as (1) those who use wealth or asset management services or private banking services; (2) those who regularly use overdraft products, small-dollar unsecured loans, remittances services, or low-cost deposit accounts; or (3) small business owners? For example, what are the benefits or drawbacks of focusing on segments of customers, and are there certain types of questions that should be included to maximize those benefits?

In his speech at the Woodstock Institute announcing the trust in banking initiative, Acting Comptroller Hsu raised several issues implicated in the topic of trust in banking. These included strengthening community reinvestment practices, including LMI performance in LMI areas with unmet needs, preventing discrimination and bias in appraisals and across the financial marketplace, reforming overdraft products, and improving customer financial health.[2] We applaud these directions and encourage the development of a survey that informs each of these topics.

We offer three considerations the OCC might apply as it determines the survey population it will focus on:

1. Does the survey population inform the treatment of vulnerable populations who play an important role in trust in the banking system, and the topics of concern raised in the Acting Comptroller's speech, such as discrimination, inclusion, or lower-quality products such as overdrafts?
2. Does the survey population shed light on areas seeing a fast rate of change occurring in financial services? This area may include the roles of fintechs and non-banks in influencing trust in banking positively and negatively.
3. Does the population produce broad enough conclusions to answer essential questions about trust in banking?

We recommend that the survey specifically consider the rapid changes in the small business financing system, such as the troubling rise of what Federal Reserve researchers have called "potentially higher cost, less-transparent credit products."[3] High-cost small business financing products that draw on practices from payday lending and pre-crisis subprime mortgage lending are implicating trust in the banking system by highlighting issues of exclusion of smaller and minority-owned businesses by traditional banks and the potential adoption of troubling financing practices by banks. Additionally, NCRC research has consistently found evidence of disparate treatment in bank branches against small

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[2]*Acting Comptroller Michael J. Hsu. (2023, June 8). Ensuring the Public's Trust in Banking and Fair Financial Access for All. Woodstock Institute 50th Anniversary Celebration, Chicago, Illinois. https://www.occ.gov/news-issuances/speeches/2023/pub-speech-2023-57.pdf*
3 Mels de Zeeuw, Small Business Credit Survey Report on Minority-Owned Firms, Fed. Rsrv. Bank of Atl. at p. IV (Dec. 2019), https://perma.cc/XA9B-WRAG

business owners of color and women entrepreneurs in research studies as recently as this August[4] and dating back many years.[5] Small business owners are critical for trust in banking and merit a role in this survey or a related survey focused specifically on small business issues.

Question Four:
What are some of the key considerations in determining whether the survey should include questions related to customers' use of specific types of financial products or services such as mortgage loans, credit cards, or overdrafts?

The survey's results will have more utility by asking consumers to identify components of trust about specific products and services. Regulators would take a great leap of faith to assume that trust is homogenous across all ways consumers interact with their service providers. The survey should attempt to disaggregate as much as possible. At the same time, we acknowledge that longer surveys tend to suffer from higher abandonment rates. Thus, the challenge becomes picking the right product sets for examination.

When constructing the survey, the designers should ensure that it covers faster payments - an emerging payment tool - and overdraft fees - a known point of distrust. It should investigate outcomes on trust in situations where consumers need to resolve a problem. In that vein, the survey should ask how access to a branch and using a customer service channel can help or hinder trust. Finally, given how new banking models have emerged where the identity of the actual bank is not clear to the consumer - the "partnership" model - it should try to gather a statistically significant population of consumers who use banking services provided through partnerships.

1. *The survey should ask end-users if they trust faster payment services.*

Consumers and small businesses are adopting faster payments. In 2022, consumers at 1,800 financial institutions used Zelee to send 2.3 billion payments with a total value of $629 billion.[6] Unlike the payment apps operated by non-banks, Zelle works within the banking system. Funds transfer from one bank to another bank. They are never held in a non-bank wallet.

Industry trade groups have considered the possibility that unbanked and underbanked households will become banked because of their attraction to real-time payments. They contend that faster payments could replace cash, serve as a free or low-cost alternative to check cashers, address pain points associated

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4 National Community Reinvestment Coalition. (2023). New York Banks Treated White Small Business Owners Better Than Non-Whites – NCRC. National Community Reinvestment Coalition. https://ncrc.org/report-new-york-banks-treated-white-small-business-owners-better-than-non-whites/

[5] *Anneliese Lederer & Dedrick Asante-Muhammad. (2020). Racial and Gender Mystery Shopping for Entrepreneurial Loans: Preliminary Overview. National Community Reinvestment Coalition. https://ncrc.org/wp-content/uploads/2020/02/NCRC-Mytery-Shopping-Race-and-Gender-v8.pdf*

[6] *Zelle. (2023). Financial Institutions Joining the Zelle Network® Increased by 40% in 2022. https://www.zellepay.com/press-releases/financial-institutions-joining-zelle-networkr-increased-40-2022*

with slower payments, and benefit cash-strapped households.[7] However, there is no data to back up these claims.

However, faster payments have become commonplace without first receiving the same anti-fraud protections offered by other categories of electronic payments that access deposits in consumer bank accounts. Consumers have no legal recourse when a fraudster tricks them into using a faster payment service to send funds through a variety of schemes: romance, employer, holiday, and puppy are only a few of the narratives used by fraudsters to compel victims to send money under false pretenses.

In place of greater protections, banks have adopted a buyer-beware response. A bank trade association warns consumers to "never send a payment to someone you don't know."[8] But this level of detachment by banks from the consumer experience is short-sighted. For one, P2P is only the first use case. Retailers intend to use faster payments for recurring subscriptions and at the point of sale. With the messaging power afforded by ISO 20022, small businesses will want to use faster payments because they can attach invoices to the payment request. The basis for refuting claims for recourse with a faster payment is that the transactions are authorized - but how will they be altered with the rise of request-for-payment functions? To maintain the belief that faster payments will be limited to p2p transfers sent among friends is wildly naive.

Things will deteriorate, the lack of protections cannot hold, a lack of trust will cast shadows on retail banking, and with each incremental fraudulent transaction left unremedied, more damage will occur to the reputations of depositories. The investments in faster payment systems will be undermined, and the US payments ecosystem will fall further behind its rivals in developed and developing economies.

Prompting end-users to indicate if they trust a faster payment would be an essential first step in overcoming these views. Faster payments deserve inclusion in the survey because of their novelty and potential to become a significant payment choice.

2. *The survey should determine the relationship between access to a bank branch and trust.*

The relationship between how consumers access financial services with their bank and the level of trust they hold for the institution is a foundational question for understanding the shift in our banking system toward online and app-based channels. Intuitively, our institution expects that bank branches will offer higher trust. Moreover, community reinvestment performance evaluations are based almost entirely on activities within bank branch footprints. But does this preference hold broadly, or are there nuances that are a product of customer characteristics, the type of product, or other factors?

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[7] *Faster Payments Council Financial Inclusion Working Group. (2022). Faster Payments and Financial Inclusion White Paper [White paper]. https://fasterpaymentscouncil.org/blog/9874/Faster-Payments-and-Financial-Inclusion-White-Paper*
[8] *Aibangbee, Y. (2022, February 23). Fraud on P2P Payment Apps Like Zelle and Venmo: A Primer. Bank Policy Institute. https://bpi.com/fraud-on-p2p-payment-apps-like-zelle-and-venmo-a-primer/*

The survey should examine the question across many different cross-sectional categories. Reviewing the level of trust in a crosstabulated structure could provide valuable insights. For example, a survey might consider characteristics of clusters of customers (age, geography, race, observed cash flow, wealth, products) and financial institutions (size, branch bank, digital bank). To what extent have experiences in branches contributed to the loss of trust in banking?

3. *The survey must solicit more information about how overdraft fees impact consumer trust in financial institutions.*

Overdraft fees are the most egregious example of a structure that pits consumer interests in conflict with bank profit motives. The FDIC's research found that high fees were the third most common reason for not having a bank account.[9] The CFPB heard of misunderstandings about account terms in a series of focus groups. Consumers were often confused about opt-in rules, did not know their rights to change their preferences, and frequently did not understand their financial institution's policies. They reported difficulty determining when funds were available, partly driven by the mystery of posting versus settlement time.[10]

However, the CFPB acknowledged that their data point was based on a small sample size. Moreover, it did not draw relationships between overdraft fee experiences and their impact on trust. Nonetheless, the degree to which consumers were surprised when a transaction caused an overdraft represents a significant finding.

Overdraft fees are priced to be punitive. While some costs are associated with reversing a payment, the fees charged by most institutions are far in excess. While claims that an overdraft costs only a few cents are false, fees are not nearly proximate to actual costs. Some payment processors may charge a bank between two and five dollars for an ACH reversal.[11] Customers are unlikely to have any understanding of the cost. However, they are sure to resent it. For many households, a single overdraft fee can quickly outstrip the amount they receive in interest on their deposits for an entire year. In these moments, consumers may see their relationship with a bank as a zero-sum affair - they lose, and the bank wins. Nonetheless, industry voices frequently maintain that consumers want overdraft and overdraft protection.

4. *The survey should explore how customer service channels influence consumer trust.*

Generally, banks offer several ways for consumers to manage questions related to their accounts. Consumers may use direct in-person services at a branch, a live chat, an IVR line, online internal email, or with a live person. The general assumption is that more channels - and more personal interaction - are

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[9] *Federal Deposit Insurance Corporation. (2021). How America Banks: Household Use of Banking and Financial Services, 2019 FDIC Survey. Federal Deposit Insurance Corporation. https://www.fdic.gov/analysis/household-survey/index.html*
[10] *Consumer Financial Protection Bureau. (n.d.). Consumer experiences with overdraft programs [Data Spotlight:]. Office of Community Affairs. Retrieved October 6, 2023, from https://www.consumerfinance.gov/data-research/research-reports/data-spotlight-consumer-experiences-with-overdraft-programs/full-report/*
[11] *Brad Ewin. (2023, April). A Guide to ACH fees—How much do ACH payments cost? GoCardless Resources. https://gocardless.com/en-us/guides/ach/ach-fees-how-much-does-ach-cost/*

compelling for consumers. However, research suggests that younger consumers feel more favorably with digital interactions. In some instances, surveys find they prefer it.

The survey should ask how the channel type creates or harms trust, if preferences differ according to the kind of customer service need, and how the answers change according to consumer demographics.

5. *Bank partnerships with non-bank service providers differ significantly from how banking has historically performed. The survey must shed light on how this emerging practice impacts trust.*

Bank partnerships conceal the identity of the issuing bank that makes loans, takes deposits, and facilitates payments. Partner banks enable service providers to offer prepaid debit card accounts - insured on a pass-through basis - and demand deposit accounts that are fully insured. However, because these providers are prohibited from having the term "bank" in their names, they are perceived as separate from insured depositories.

Many banks participate in relationships with non-bank lenders, providing non-banks with the ability to have uniform legal environments across all states.[12] Sometimes, those arrangements exist to provide less regulatory friction, but sometimes, they foster outright regulatory evasions that permit non-banks to charge usurious interest rates.

The survey must examine these partnerships. These partnerships have become significant. Some "neo-banks" have millions of customers. It is a shame that payday lenders can use a bank partnership to attain the benefits of a charter to perpetuate high-cost lending that would be illegal under state laws. Currently, laws allow banks to participate in these partnerships under relative anonymity. How is that the right outcome? The survey could shed light on this in two ways. On one hand, they could understand consumers' trust in their non-bank service providers. Alternatively, they could write questions that inform consumers of the behind-the-scenes relationships between banks and non-banks. With that information, they could solicit input on how that changes their views of banks and the banking system. For that reason, the latter choice seems more practical. This survey is an opportunity to understand perspectives that will otherwise remain silent. The proposal to implement a survey creates a unique opportunity to gain an understanding of an emerging phenomenon in banking practices.

Question Eight:
To what extent should the OCC consider conducting a survey focused more broadly on banks and non-banks (e.g., fintech firms) that provide financial services or products?

It would be very challenging to attempt to understand trust in the banking system without addressing the role of alternatives to traditional banks. The rise of fintech is rapidly changing the banking system, possibly due to the loss of trust in traditional banks that followed the subprime mortgage crisis in 2008.

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[12] *Meir Leff. (2019). BaaS Buyers Guide: Everything You Need to Know To Choose the Most Appropriate Banking-as-a-Service provider (p) [Tearsheet]. MX.* https://tearsheet.co/wp-content/uploads/2019/07/Complete_BaaS_Guide.pdf

Specific topics raised in this RFI have been notably affected by fintech. For example, the rise of overdraft-free bank accounts by non-bank and bank fintechs like Varo, Chime, and LendingClub bears significant credit for the recent improvements in overdraft practices.

It would be valuable for the survey to cover non-bank and fintech products to understand better trust in banks and how consumers and small businesses are approaching the financial services marketplace they use, which includes both banks and non-banks. It would be valuable for the survey to shed light on whether customers have better or worse working with banks or non-banks and how this differs across populations.

Additionally, as bank and non-bank services seem increasingly intertwined in various forms of partnerships such as sponsor banking, neobanks, and banking as a service, it may be only possible to truly understand many customers' experience of the banking system by considering non-banks as well. Understanding how these partnerships affect trust in the banking system may be valuable.

Question Fifteen:
To what extent should trust survey measurements be based on direct and/or indirect measures (as described above)

1. *Regulators should examine the cash flows of consumer transaction accounts to determine if consumers are seeing improvements in their financial health.*

Regulators can request expansive data from regulated banks. Evidence of cash flow data could support greater transparency in decisions by regulators to determine the costs and benefits to the public of using accounts.

Regulators have issued guidance requiring banks to alter account functions when consumers struggle. For example, the OCC recently issued a guidance on overdraft protection services.[13]

However, understanding outcomes beyond certain fee events could give regulators a more holistic view of consumer benefits. The information would have benefits, but it could be very informative when considered in context with other answers from end-users. For example, to what extent do savers differ in trust versus non-savers?

The OCC should seek opportunities to understand how having a bank account contributes to financial health. With its ability to review account-by-account changes over time, the OCC could have a particular level of expertise in understanding how banking contributes to household financial stability.

2. *Examinations of account-level cash flow data could yield insights for evaluating public benefits in merger reviews.*

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[13] *Office of the Comptroller of the Currency. (2023). OCC Issues Guidance on Overdraft Protection Programs (Guidance News Release 2023-41). https://www.occ.gov/news-issuances/news-releases/2023/nr-occ-2023-41.html*

Such information could be valuable for estimating how a merger will benefit the public. For example, a merger review could determine whether customers of a target bank will incur more or fewer fees under the terms of the acquiring bank's deposit accounts. This information could be gleaned by inputting past transactions on an account-level basis. Inevitably, the analysis would yield a result showing gains for some and harms for others.

While the outcome might only sometimes be clear-cut, it would be far more evidence-based than the current system. At the moment, reviews take a binary approach, and given how almost all mergers are approved, reviewers almost always conclude that consumers will be better at their new bank. This approach is optimistic and counterintuitive: if consumers were supposedly better off at a different bank, why didn't they switch before?

3. *Some indirect measures may permit the survey administrators to make the wrong conclusions. Regulators should see indirect measures as complementary to information received through direct solicitation with end users.*

Account tenure is one such example. Indirectly, evidence showing that a consumer has maintained an account at the same institution for an extended period could convince a surveyor to conclude that it reflects trust in the bank. A 2022 survey found that the average age of an open primary checking account was 17.7 years. For older Americans, the average tenure exceeded 24 years.[14]

Such a conclusion would belie the actual force behind account stability. In actuality, it is challenging to switch accounts. No software exists to facilitate the transfer of bill payment directories from one bank to another. Most consumers have established multiple ACH debits (pull) for subscriptions and other repeating expenses. These hurdles could be rectified with a standard regulator-mandated set of open banking rules that supported standardized, interoperable APIs for essential use cases. However, given the longstanding preference for free market bilateralism in the US, such a commitment seems unlikely. So, switching costs will remain high for now and into the future. People do not stay with their bank because of trust but because it is difficult to change. An alternative measure would be to look for cases where consumers are so upset that they overcome the friction and close their accounts.

Additional Comment

The OCC should ensure its sample of end-user respondents includes not just those who are banked but also individuals who are underbanked and unbanked. If the OCC limited its survey population to those who currently maintain accounts at insured depository institutions, it would miss an opportunity to understand how trust - or the lack of it - contributes to a decision not to use a bank. Relatedly, the OCC should make sure the population is diverse, with representative input from BIPOC households.

With the benefit of new insights on the decision-making frameworks for those customers who have little or no trust for banks, financial institutions could develop new products that better met their criteria for

[14] *Wisniewski, M. (2022, January 4). Survey: Consumers Stick With Same Checking Account For 17 Years [Bankrate]. Banking.* *https://www.bankrate.com/banking/how-long-people-keep-their-checking-savings-accounts/*

accounts. This support would foster greater competition among the providers who do participate in serving unbanked and underbanked households.

Conclusion

We applaud the OCC for considering this project. By reaching out to consumers (households and small businesses), the survey creates a structure to take community input at scale. While community groups can provide valuable information to regulators on needs in their community, the results of this survey will complement those perspectives. The public must be able to engage with the institutions regulating financial institutions.

Please contact me if you have any questions at jvantol@ncrc.org.

Sincerely,

Jesse Van Tol

Jesse Van Tol
President and Chief Executive Officer
National Community Reinvestment Coalition