

United States Senate

September 30, 2023

VIA ELECTRONIC DELIVERY

The Honorable Michael Barr
Vice Chair for Supervision
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, D.C. 20551

Dear Vice Chair Barr:

As the possibility of a government shutdown approaches, we write to you to address concerns about how this may impact our nation's government employees, and how this can be addressed through your oversight. The Senate continues to work to pass legislation to fund the government and avoid this preventable, shameful shutdown driven by the House Republicans. While federal law mandates that federal employees and the military receive back pay when the government reopens, the lapse in pay creates serious challenges for families. We hope that you will encourage and support banks and credit unions in efforts to provide flexible financial arrangements for their customers who endure temporary financial hardship due to a government shutdown beyond their control.

A government shutdown will cause pay interruptions for millions of federal employees, servicemembers, and federal contractors.^[1] Unexpected income shocks are a key driver of penalty fees, such as credit card late fees, overdraft fees, and minimum balance fees. In a May 2022 Senate Banking Financial Institutions and Consumer Protection Subcommittee hearing, Brookings Institution Senior Fellow Aaron Klein testified that, "The reason people go negative in their bank account temporarily has a lot to do with the mismatch in time between when they have access to their money and when their payments are debited from their account."^[2] Customers facing a temporary income shock could easily fall below the standard minimum balance required to uphold the terms of free checking accounts, triggering account maintenance and penalty fees.

Unexpected fees further strain government employees and servicemembers already struggling to cope with not being paid through no fault of these employees. Expenses continue even as income is halted, forcing even the most financially responsible federal employees and servicemembers to

^[1] Federal News Network: Here's how many feds would stay on the job – both with and without pay – during an upcoming shutdown. September 26, 2013. <https://federalnewsnetwork.com/government-shutdown/2023/09/heres-how-many-feds-would-stay-on-the-job-both-with-and-without-pay-during-an-upcoming-shutdown/>

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use savings to cover short-term expenses. Federal employees and servicemembers may be forced to utilize credit to make ends meet, adding to the concerning high level of consumer credit card debt held nationwide. The monthly cost of holding credit card balances has increased as Annual Percentage Rates (APRs) have risen in tandem with the Federal Funds Rate, causing the overall cost of credit to rise significantly for those who use it.

We urge you to issue guidance encouraging your regulated institutions to work with individuals and small businesses impacted by a government shutdown. We hope that financial institutions will recognize the temporary hardship caused by unexpected gaps in pay, and respond by taking steps to prevent adverse information from being reported in a manner that harms consumers affected by a shutdown. Institutions can proactively work with customers to provide modified credit arrangements in order to prevent derogatory information from being reported to consumer reporting agencies. We ask that you work with, and encourage, your regulated institutions to provide flexible alternatives to financial arrangements that put their customers in a temporarily compromising financial position, recognizing that this is temporary and not reflective of the customer's true risk profile. Institutions that work with their customers to provide flexible financing arrangements and place loans in forbearance need reassurance that these actions will be taken into consideration in supervisory practices. We ask that you consider encouraging banks and credit unions to temporarily waive minimum balance, overdraft fees, and late fees for any individual or small business impacted by the shutdown.

These actions would mirror steps financial regulators made in past shutdowns.^[3] However, since the last shutdown in 2019, the financial system has faced increased stress due to interest rate risk, and the recent bank failures this spring have highlighted a stronger need for focused, concerted balance sheet management. As institutions may be reluctant to take proactive steps to assist customers, it is critical that joint guidance be issued to reduce uncertainty and empower institutions to provide flexibility to federal employees and servicemembers while mitigating any clear risk factors.

The economic cost of a shutdown is not isolated to just workers in the District of Columbia and surrounding regions. Data from the Census Bureau and the Office of Personnel Management demonstrates that federal workers reside in every Congressional District in America, meaning that local economies across the country would be harmed by federal worker furloughs.^[4]

We will make every effort to avert a government shutdown and reopen the government quickly should one occur. But in the event of a lapse in pay for federal employees and servicemembers, we urge you to work with financial institutions to reduce burdens on those individuals who experience a lapse in pay through no fault of their own.

^[3] Regulators Encourage Institutions to Work with Borrowers Affected by Government Shutdown
Joint press release with: Board of Governors of the Federal Reserve System, Conference of State Bank Supervisors, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, Office of the Comptroller of the Currency. January 11, 2019. <https://www.consumerfinance.gov/about-us/newsroom/regulators-encourage-institutions-work-borrowers-affected-government-shutdown/>

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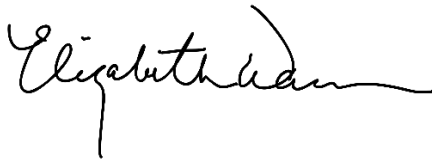
Sincerely,



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Brian Schatz
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Sheldon Whitehouse
United States Senator

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September 30, 2023

VIA ELECTRONIC DELIVERY

The Honorable Todd M. Harper
Chairman
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Dear Chairman Harper:

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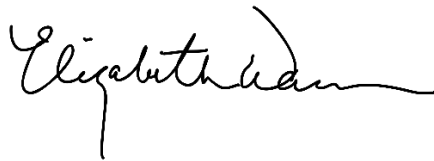
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September 30, 2023

VIA ELECTRONIC DELIVERY

Mr. James M. Cooper
President and CEO
Conference of State Bank Supervisors
1300 I Street, NW, Suite 700 East
Washington, DC 20005

Dear Mr. Cooper:

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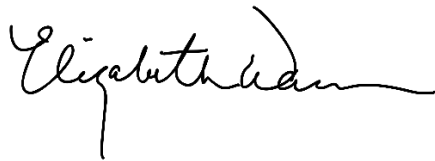
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United States Senator

United States Senate

September 30, 2023

VIA ELECTRONIC DELIVERY

The Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Dear Chairman Gruenberg:

As the possibility of a government shutdown approaches, we write to you to address concerns about how this may impact our nation's government employees, and how this can be addressed through your oversight. The Senate continues to work to pass legislation to fund the government and avoid this preventable, shameful shutdown driven by the House Republicans. While federal law mandates that federal employees and the military receive back pay when the government reopens, the lapse in pay creates serious challenges for families. We hope that you will encourage and support banks and credit unions in efforts to provide flexible financial arrangements for their customers who endure temporary financial hardship due to a government shutdown beyond their control.

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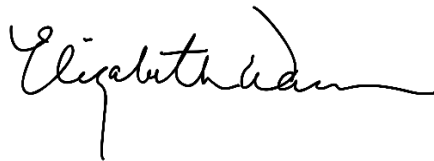
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United States Senate

September 30, 2023

VIA ELECTRONIC DELIVERY

The Honorable Michael Hsu
Acting Comptroller
Office of the Comptroller of the Currency
400 7th Street SW
Washington, D.C. 20219

Dear Acting Comptroller Hsu:

As the possibility of a government shutdown approaches, we write to you to address concerns about how this may impact our nation's government employees, and how this can be addressed through your oversight. The Senate continues to work to pass legislation to fund the government and avoid this preventable, shameful shutdown driven by the House Republicans. While federal law mandates that federal employees and the military receive back pay when the government reopens, the lapse in pay creates serious challenges for families. We hope that you will encourage and support banks and credit unions in efforts to provide flexible financial arrangements for their customers who endure temporary financial hardship due to a government shutdown beyond their control.

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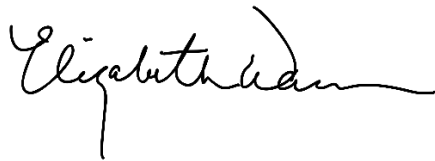
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September 30, 2023

VIA ELECTRONIC DELIVERY

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G St NW
Washington, D.C. 20552

Dear Director Chopra:

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^[1] Federal News Network: Here's how many feds would stay on the job – both with and without pay – during an upcoming shutdown. September 26, 2013. <https://federalnewsnetwork.com/government-shutdown/2023/09/heres-how-many-feds-would-stay-on-the-job-both-with-and-without-pay-during-an-upcoming-shutdown/>

^[2] Senate Committee on Banking, Housing and Urban Affairs. Subcommittee on Financial Institutions and Consumer Protection Hearing, "Examining Overdraft Fees and Their Effects on Working Families" on May 4, 2022. <https://www.banking.senate.gov/hearings/examining-overdraft-fees-and-their-effects-on-working-families>

is halted, forcing even the most financially responsible federal employees and servicemembers to use savings to cover short-term expenses. Federal employees and servicemembers may be forced to utilize credit to make ends meet, adding to the concerning high level of consumer credit card debt held nationwide. The monthly cost of holding credit card balances has increased as Annual Percentage Rates (APRs) have risen in tandem with the Federal Funds Rate, causing the overall cost of credit to rise significantly for those who use it.

We urge you to issue guidance encouraging your regulated institutions to work with individuals and small businesses impacted by a government shutdown. We hope that financial institutions will recognize the temporary hardship caused by unexpected gaps in pay, and respond by taking steps to prevent adverse information from being reported in a manner that harms consumers affected by a shutdown. Institutions can proactively work with customers to provide modified credit arrangements in order to prevent derogatory information from being reported to consumer reporting agencies. We ask that you work with, and encourage, your regulated institutions to provide flexible alternatives to financial arrangements that put their customers in a temporarily compromising financial position, recognizing that this is temporary and not reflective of the customer's true risk profile. Institutions that work with their customers to provide flexible financing arrangements and place loans in forbearance need reassurance that these actions will be taken into consideration in supervisory practices. We ask that you consider encouraging banks and credit unions to temporarily waive minimum balance, overdraft fees, and late fees for any individual or small business impacted by the shutdown.

These actions would mirror steps financial regulators made in past shutdowns.^[3] However, since the last shutdown in 2019, the financial system has faced increased stress due to interest rate risk, and the recent bank failures this spring have highlighted a stronger need for focused, concerted balance sheet management. As institutions may be reluctant to take proactive steps to assist customers, it is critical that joint guidance be issued to reduce uncertainty and empower institutions to provide flexibility to federal employees and servicemembers while mitigating any clear risk factors.

The economic cost of a shutdown is not isolated to just workers in the District of Columbia and surrounding regions. Data from the Census Bureau and the Office of Personnel Management demonstrates that federal workers reside in every Congressional District in America, meaning that local economies across the country would be harmed by federal worker furloughs.^[4]

We will make every effort to avert a government shutdown and reopen the government quickly should one occur. But in the event of a lapse in pay for federal employees and servicemembers, we urge you to work with financial institutions to reduce burdens on those individuals who experience a lapse in pay through no fault of their own.

^[3] Regulators Encourage Institutions to Work with Borrowers Affected by Government Shutdown
Joint press release with: Board of Governors of the Federal Reserve System, Conference of State Bank Supervisors, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, Office of the Comptroller of the Currency. January 11, 2019. <https://www.consumerfinance.gov/about-us/newsroom/regulators-encourage-institutions-work-borrowers-affected-government-shutdown/>

^[4] Congressional Research Service. Current Federal Civilian Employment by State and Congressional District. September 22, 2023. <https://crsreports.congress.gov/product/pdf/R/R47716>

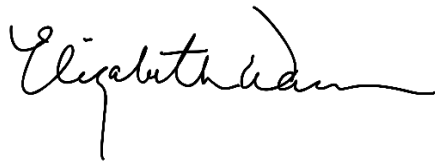
Sincerely,



Chris Van Hollen
United States Senator



Sherrod Brown
United States Senator



Elizabeth Warren
United States Senator



Benjamin L. Cardin
United States Senator



Reverend Raphael Warnock
United States Senator



Tammy Duckworth
United States Senator



Bernard Sanders
United States Senator



Cory Booker
United States Senator



Brian Schatz
United States Senator



Sheldon Whitehouse
United States Senator