

## TESTIMONY FOR THE RECORD

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Submitted to

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UnidosUS, previously known as NCLR (National Council of La Raza), is the nation's largest Hispanic\* civil rights and advocacy organization. Through its unique combination of expert research, advocacy, programs, and an Affiliate Network of nearly 300 community-based organizations across the United States and Puerto Rico, UnidosUS simultaneously challenges the social, economic, and political barriers at the national and local levels.

UnidosUS publishes reports, provides testimony, and advocates on policies that protect consumers, make financial services more inclusive, and improve the financial well-being of low-income people and the Latino community. For example, we supported \$500 million in funding for the Community Development Financial Institutions Fund (CDFI Fund) in the latest federal budget, as well as policies that protect consumers who receive services from the financial sector, improve pathways to becoming fully banked, and include low English proficient people and mixed-status families in the financial mainstream. Our research and reports include *Banking in Color: New Findings on Financial Access for Low- and Moderate-Income Communities* (2014); *Profiles of Latinos and Banking—Technology: A Closer Look at Latinos and Financial Access* (2015); *The Future of Banking: Overcoming Barriers to Financial Inclusion for Communities of Color* (2019); *Latinos in Finance: Investing in Bilingual Banking and Finance Professionals* (2021); *Latinos, COVID-19, and Social Belonging: Voices from the Community* (2021); and *Closing the Latina Wealth Gap: Building an Inclusive Economic Recovery after COVID* (2021).

Latinos are in a precarious moment. The federal government's response to the pandemic was critical to reducing poverty and supporting low-income people and Latinos. However, as supports such as the Child Tax Credit (CTC) expire, many find themselves struggling to make ends meet. Eight million households are behind on their rent, with Latino renters more than twice as likely as Whites to be behind on rent.<sup>1</sup> In addition, over the last seven days, roughly 135 million people had difficulty covering expenses—and such stressors are not proportionately distributed; this worry afflicts 62% of Latinos, compared to 50% of Whites.<sup>2</sup>

Despite facing serious financial challenges, Latinos are an ongoing source of growing economic potential and dynamism, and our work is fueling the country's economy. When Latinos are fully included by structures and systems, the benefits are both extraordinary and widely felt. For example, Latinos have a higher-than-average labor force participation, start businesses at more than double the overall rate for entrepreneurship, and saw their revenues grow an average of 25% over the past two years (in comparison with 19% revenue growth for White-owned businesses).<sup>3</sup> Finally, Latinos wield significant purchasing power and represent a growing customer base. In 2020, Latino spending power grew to \$1.9 trillion — an 87% increase from 2010,<sup>4</sup> and the Latino population grew to 62.1 million in 2020 — a 23% increase from 2010 and the fastest growing population in the country.<sup>5</sup>

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\* The term "Hispanic" and "Latino" are used interchangeably by the U.S. Census Bureau and throughout our materials to refer to persons of Mexican, Puerto Rican, Cuban, Central and South American, Dominican, Spanish, and other Hispanic descent; they may be of any race. Our materials may also refer to this population as "Latinx" to represent the diversity of gender identities and expressions that are present in the community.

Safe and affordable financial products and services provide important tools for Latinos to overcome financial challenges and build wealth. Yet many low-income people and Latinos experience high costs for banking, are shut out of the financial system, or face disparate treatment in the financial products marketplace. For example, Latinos report that they pay \$14 per month, on average, for automated teller machine (ATM), overdraft, and routine service charges on checking accounts, while Black account holders report paying \$12 a month. In contrast, Whites pay an average of \$5 per month.<sup>6</sup> Moreover, as of 2019, 12% of Latinos are unbanked, compared to 2.5% of Whites.<sup>7</sup> Finally, Latinos are denied loans at almost twice the rate as Whites, and they are more likely to have a higher cost home loan if approved.<sup>8</sup>

## The CFPB's Efforts Can Help to Make the Financial Products Marketplace Fairer and More Accessible for Latinos.

UnidosUS advocated for and helped keep Consumer Financial Protection Bureau (CFPB) in the Dodd-Frank Wall Street Reform and Consumer Protection Act. We have also been a core constituency for the Bureau's efforts since its inception. The 2008 financial crisis, and the consumer exploitation that contributed to it, resulted in disproportionately high losses in wealth and equity for Latinos and Black families.

The Bureau's core purpose is to ensure that "markets for consumer financial products and services are fair, transparent, and competitive."<sup>9</sup> Its statutory powers allow it to develop rules and enforcement mechanisms to protect consumers from "unfair, deceptive, or abusive acts and practices and from discrimination."<sup>10</sup>

The CFPB's role as a consumer-centered agency can allow it, when properly used, to mitigate the negative impacts of specific aspects of the financial marketplace for lower- and middle-income Latinos. For this reason, the work of the Bureau is of keen interest to the civil rights community, including the Latino community. This testimony touches on several key themes that are relevant for Latino financial well-being.

In a few specific areas, the Bureau is helping to make the financial products marketplace fairer and more accessible for Latinos. As we elaborate below, we find the following current lines of inquiry to be useful:

- The Bureau is collecting comments on a Request for Information (RFI) regarding fees imposed by consumer financial products and services providers with a special focus on excessive and unnecessary fees.
- The Bureau's oversight of invaluable mortgage loan data, known as Home Mortgage Disclosure Act (HMDA) data, allows government agencies and consumer advocates to identify disparate lending patterns and possible unfair treatment.

- The CFPB is investigating enforcement avenues and data regarding Buy Now, Pay Later (BNPL) products.
- The CFPB has translated forms that facilitate access to critical lines of aid and loss mitigation options for Spanish-speaking Latinos.

Despite these efforts, low-income people and Latinos continue to face high costs and steep barriers to entry into the financial system. The CFPB should continue to move forward with efforts to make the financial system accessible for Latinos, ensure that new and emerging financial products are safe, and reduce unnecessary and excessive costs.

Finally, we urge recognition of the point that personnel is policy. While the CFPB has potential to assist the community, it is equally true that the Bureau could do more to ensure that low-income people and Latinos are included in the decision-making process by hiring more diverse staff and creating platforms for community-based organizations to provide input.

## Language Barriers Keep Too Many Latinos Out of the Financial Mainstream.

Language barriers limit the ability of nearly 26 million limited-English-proficient (LEP) consumers in the United States to obtain responsible financial products and ultimately, to build wealth at the same rate as their peers.<sup>11</sup> A report by the Urban Institute found that neighborhoods with a high concentration of LEP speakers had homeownership rates five percentage points lower than those with a median concentration of LEP residents.<sup>12</sup>

Considering the country's current economic headwinds, LEP consumers must also weather additional obstacles that hamper their access to much-needed aid. UnidosUS recognizes that the Bureau has quickly acted within its authority to help LEP consumers and prevent eviction and foreclosures. Its work translating early intervention notices into Spanish and its multilingual housing help information on imperative federal aid programs such as Emergency Rental Assistance (ERA) and Homeowner Assistance Fund (HAF) facilitate access to these services for LEP consumers.

However, LEP consumers and homeowners remain especially vulnerable to evictions and foreclosures. Federal loss mitigation policies are helping many homeowners keep their homes and wealth during the pandemic. But delayed rollouts and inequitable implementation are leaving some homeowners experiencing financial stress and placing them at risk of losing their homes.

This is particularly true of low-income homeowners, homeowners of color, and LEP homeowners. An analysis in 2017 by Freddie Mac and Fannie Mae found that providing translated documents eliminates significant barriers that prevent or delay LEP borrowers'

ability to buy a home.<sup>13</sup> Servicers also identified language barriers as a primary obstacle to communicating with LEP borrowers.<sup>14</sup> Yet the industry too often fails to provide translated documents, and there are limited data on the use of translated documents and borrowers' language preferences.

**We urge the CFPB to continue its effort in this area and recommend the following steps:**

1. Explore barriers to industry use of translated documents, track and publish servicing data disaggregated by race, ethnicity, and language preference, and monitor phone metrics regarding language access.
2. Encourage servicers to link to available translated foreclosure prevention materials from the Bureau and the Federal Housing Finance Agency's (FHFA) Mortgage Translations Online Clearinghouse.
3. Provide translated templates of high priority mortgage servicing documents, including, but not limited to:
  - a. Notice to a borrower who submitted an application for loss mitigation related to how to make that application complete.<sup>15</sup>
  - b. Notice of a complete application.<sup>16</sup>
  - c. Notice to a borrower who has been given a forbearance.<sup>17</sup>
  - d. Any other rules referenced in the Bureau's Loss Mitigation Rule.<sup>18</sup>

## The Equity and Consumer Impacts of Emergent Financial Products and Services Should Be Monitored.

As we explore exactly what an inclusive economy looks like for Latino communities, we are actively monitoring the data about the impact and growing prevalence of Buy Now, Pay Later (BNPL) products. The BNPL sector is experiencing explosive levels of growth, including a 300% increase in the number of consumers who have used a BNPL product since 2018.<sup>19</sup> Such products are often marketed as an affordable, no-fee financing alternative to consumers who may be shut out of the credit market.

Although BNPL products are described as a lower-cost alternative to other forms of credit, new data show that they often have hidden costs. For instance, a February 2021 survey found that use of these products increased consumers' overall spending and preceded a drop in credit scores after a missed payment for 72% of the survey respondents.<sup>20</sup> Recent data also shows a troubling correlation between BNPL users and those who previously had overdrawn banking accounts.<sup>21</sup> And new research shows that Black and Hispanic Americans are more likely to use BNPL products than are their non-Hispanic White peers.<sup>22</sup> Moreover, the "Big Three" credit reporting bureaus (TransUnion, Equifax, and Experian) recently announced plans to include BNPL loans on credit reports.<sup>23</sup>

BNPL products are playing a larger role in consumers' lives, prompting an urgency to understand as much as we can about their impacts on consumers. UnidosUS supports the Bureau's recent inquiry into BNPL companies and its support for greater market transparency.

## Latinos Routinely Pay Excessive and Unnecessary Fees, Fines, and Excessive Costs.

As described below, Latinos face high costs in deposit accounts, credit cards, and small dollar loans. On deposit accounts, Latinos pay high levels of maintenance fees, minimum balance fees, and overdraft fees. In 2021, average monthly fees for checking accounts that are not free hit a record high of \$16.35.<sup>24</sup> While the average maintenance fees on all checking accounts was \$7.63, Latino and Black customers paid the highest amount in monthly fees (\$12.45 and \$18.29, respectively).<sup>25</sup> According to a 2018 report, small and community Main Street banks generally require an average daily or monthly minimum balance of at least \$626 to avoid fees in a majority White neighborhood, compared to \$749 in majority Latino neighborhoods, and \$871 in majority Black neighborhoods.<sup>26</sup>

According to the CFPB, banks charged an estimated \$15.47 billion in overdraft and non-sufficient funds (NSF) fees in 2019.<sup>27</sup> Importantly, a whopping 80% of fees were charged to 9% of consumers.<sup>28</sup> An analysis by the Financial Health Network found that “low- to moderate-income households were nearly twice as likely to overdraft than higher-income households. Black and Latinx households with accounts were also far more likely to report an overdraft on their account than White households (1.9 times as likely, and 1.4 times as likely, respectively).”<sup>29</sup>

Credit card fees and fines are also significant for low-income people and Latinos. According to data from the Federal Reserve Board, financial institutions—including credit card companies—charged nearly \$14 billion in late fees in 2019 and about \$12 billion in 2020.<sup>30</sup> A recent CFPB analysis of these data found that, “consumers with superprime scores hold 59% of card accounts but pay only 21% of late fee volumes; by contrast, consumers with deep subprime scores hold about 6% of card accounts but generate 24% of late fee volumes.”<sup>31</sup>

More data are needed to better understand whether such late fees are disproportionately charged to specific racial and ethnic groups. The CFPB intends to collect racial data to better inform its future work, stating, “existing data available to the Bureau do not allow the Bureau to fully examine the disparity in use, cost, and availability of credit cards by racial groups. The Bureau intends to explore options to incorporate racial data in its data sources to inform its future work.”<sup>32</sup>

We support the CFPB's recent request for information on excessive fees that are generally not subject to competitive market pressures and have identified a range of fees that disproportionately impact Latinos, as well as major areas for further investigation by the Bureau.

## Conclusion: The CFPB’s Focus on Excessive Fees, New and Emerging Financial Products, and Language Access is Helpful to Latino Consumers, yet More Can Be Done.

The evidence is clear: Latinos experience inequitable access to and high costs within the financial system. Low-income people and Latinos are prevented from accessing tools to build their financial wellbeing and pay excessive fees to wealthy institutions. Reducing excessive fees, monitoring new financial products, and improving language excess in the financial system are crucial components to address inequality and building wealth for Latinos. We support the CFPB’s efforts to ensure that financial products are fair, transparent, and competitive, and we ask that Congress provide the CFPB with the support it needs to fulfill its core purpose and obligations.

At the same time, the Bureau can do more to protect vulnerable communities. For example, the Bureau still lacks disaggregated data to assess the impact of excessive fees in credit card usage and other financial products on Latinos. Furthermore, the CFPB previously failed to enforce fair lending laws<sup>33</sup> and occasionally waters down its enforcement power through no-action letters with problematic implications for Latino consumers.<sup>34</sup> In addition, above we flagged specific steps that would assist LEP consumers in this moment as the housing crisis continues.

The CFPB could also improve its hiring diversity, particularly at the top levels which would ensure that Latino perspectives are represented in their decisions. After all, it is important that all institutions reflect the diversity of the consumer base that they are trying to help.

### Notes

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