



# **CUNA & Affiliates**

## **Credit Union National Association, Inc.**

601 Pennsylvania Avenue NW  
South Building, Suite 600  
Washington, D.C. 20004  
(202) 638-5777

**TESTIMONY OF  
JOHN A. HERRERA  
VICE PRESIDENT FOR LATINO/HISPANIC AFFAIRS,  
SELF-HELP CREDIT UNION  
AND  
BOARD CHAIR OF THE LATINO COMMUNITY CREDIT UNION (LCCU)  
ON BEHALF OF  
CREDIT UNION NATIONAL ASSOCIATION (CUNA)  
AND  
WORLD COUNCIL OF CREDIT UNIONS (WOCCU)  
BEFORE THE HOUSE FINANCIAL SERVICES SUBCOMMITTEE ON OVERSIGHT  
AND INVESTIGATIONS**

**“PATRIOT Act Oversight: Investigating Patterns of Terrorist Financing”**

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Chairwoman Kelly, ranking member Gutierrez, and members of the Subcommittee, thank you for the opportunity to provide comments on the implementation of the USA PATRIOT Act and patterns of terrorist financing. I am John Herrera, Vice President of Self-Help Credit Union and founding member and current Board Chair of the Latino Community Credit Union, with offices in Durham and Charlotte, North Carolina. I appear before you today on behalf of the Credit Union National Association (CUNA) and the World Council of Credit Unions (WOCCU).

I would like to commend Congress for the swift passage of the PATRIOT Act and assure the Subcommittee that credit unions are committed to be a part of the effort to ensure that terrorists and those seeking to abuse our financial markets through money laundering are identified, pursued and punished.

On behalf of the more than 10,300 state and federal credit unions and over 82 million member owners in the United States, I would like to provide you with the following comments. As you may know, credit unions are not-for-profit cooperatively owned financial institutions. Because credit unions are member-owned financial institutions with common bond membership requirements, we are intrinsically motivated to have a reasonable awareness of our membership.

We have before us today conflicting problems: one, we need to ensure that individuals, be they U.S. citizens or foreign nationals, seeking to do harm do not have access to our financial system; and two, the United States, which is facing its highest level of immigration since the Depression era, has a growing population of unbanked individuals. .

There are an estimated 28.4 million foreign-born individuals residing in the United States today, comprising over 12.4 percent of our work force. Nearly half of these immigrants arrived in the U.S in the last decade. This recent influx of immigrants has been identified by Federal Reserve Board Chairman Alan Greenspan as one of the key reasons for the unprecedented period of economic growth and low inflation during the 1990s. As immigrants filled low-paying jobs in the service, agriculture and manufacturing sectors, they helped suppress wage inflation throughout employment ranks.

A case in point is my home state of North Carolina. In the past decade, the Latino population of the state has grown more than 400 percent as immigrant workers helped expand businesses such

as furniture plants and construction. In 1997, officials from Duke University Hospital contacted area Latino leaders, including me, to try to identify why so many members of our community were ending up in the hospital. We realized most of these newcomers were unbanked. Criminals were targeting Latinos for robberies and assaulting them as they left the check cashers on payday. For example, Federico Ñañez was gunned down in front of his apartment and robbed of his week's pay of \$500. Francisco managed to escape death, but was left paralyzed in a wheelchair for the rest of his life. Federico and many others victims like him became members of the Latino Community Credit Union. With the support of regulators, local law enforcement officials, banks, other credit unions and the community, we launched the Latino Community Credit Union in June of 2000. Today we have over 4,000 members who have deposited over \$2.6 million with us – not just saving money, but saving lives. Ninety percent of our members are immigrants and the vast majority are low-income.

Two-thirds of our members have never had a financial account in their lives – neither here in the U.S. nor in their home countries – and are working long hours at multiple jobs to help support family members abroad. This is not unique to North Carolina. Nationwide, approximately 60 percent of all Latino immigrants do not have access to financial institution services, compared to 10 percent of the total U.S. population that is unbanked.

I believe that ensuring access to financial services for all immigrants and shutting down terrorists are not competing, but rather complimentary, objectives. It is clear that part of the reason so many immigrants remain unbanked is because the nation's financial institutions are unsure if, and how, they can provide service to documented and undocumented immigrants. The lack of certainty in the current regulatory environment results in many banks not welcoming immigrants. I will elaborate by providing two examples.

First, the most common way for financial institutions to authenticate a potential member's identification is with a driver's license. Many immigrants do not have driver's licenses or passports. However, they do have other forms of photo identification issued by their government at their consulates or other offices here in the United States, such as voter registration cards or consulate registry identification cards ("matricula" in Spanish). Airlines, municipalities, social service agencies and the city of Oakland, California, among others, now recognize these items as valid forms of identification. The federal government should establish a clear policy that financial institutions can rely on such identification as well.

Second, when opening an account for someone, our credit union must also consider our obligation to report interest income to the Internal Revenue Service. Usually, financial institutions require a Social Security or Individual Tax Identification Number or ITIN for this purpose. Many immigrants do not have a Social Security number and over 12 million immigrants may not be eligible to obtain one. Since September 11, members of credit unions have begun encountering problems in obtaining individual tax identification numbers so that they can open accounts, earn interest and pay taxes. For example, dozens of our members have reported to us that they feel some IRS staff have been overzealous in questioning them regarding their purpose in obtaining an ITIN and their current employment status. It truly saddens me, Madam Chairwoman and members of the subcommittee, to see so many people trying their hardest to play by the rules we established for them, only to be turned away by our government because of the terrible events of September 11. Terrorists are the exception. The immense majority of immigrants are here for one reason: to work, to prosper, and to live the American dream.

Regarding the PATRIOT Act, credit unions want to work with the Treasury Department and the National Credit Union Administration to support regulations implementing the Act that are consistent with Congressional intent. We note, however, that the Bank Secrecy Act already contains substantial record keeping and reporting requirements for financial institutions.

Also, credit unions and other financial institutions comply with the Office of Foreign Asset Control's (OFAC) requirements to check names of new members against its Specially Designated Names (SDN) and the block country list. We do this on a real-time basis for all our international money transfers – a popular service among our membership. We feel these requirements are prudent even though we are a very small institution with 11 employees and only \$10 million in total assets.

We certainly appreciate the importance of meeting our compliance responsibilities, particularly after September 11. However, given these requirements we already face, we believe it is imperative that policymakers do not develop rules that will result in unreasonable obstacles to serving our members. One concern relates to Section 326 of the PATRIOT Act, which requires the Treasury Department to study and report to Congress by April 26 of this year recommendations for “requiring foreign nationals to apply for and obtain before opening an account ...an identification number which would function similarly to a Social Security number or tax identification number.” We are also concerned about the provisions in the Act on “establishing a system for domestic financial institutions and agencies to review information maintained by relevant Government agencies for purposes of verifying the identities of foreign national seeking to open accounts.” We question how this proposed database of functionally similar numbers to the ITIN will be used, who will have access to it, and for what purposes.

Today, credit unions and banks generally open non-interest bearing accounts for members and then assist them in obtaining Individual Tax Identification Numbers. When members receive the numbers months later we switch over the account to an interest bearing account. For example, many potential members come to us attracted to the low cost money transfer services we offer. If we had to refuse opening a non-interest bearing account pending the tax-id number, that potential member would revert to the world of less secure cash transactions, often becoming victims of crime and predatory lenders. We would lose the trust of the potential member because we would not serve his immediate needs and because we would treat him or her as a suspected terrorist.

Again, we want to work with Treasury and Congress to develop an approach to this issue that will not have a chilling effect on the ability of underserved individuals to use a traditional financial institution. Otherwise, we will undoubtedly lose them as they head back to the usurious practices of money transfer companies, check cashers, and payday lenders.

I would like to briefly call attention to the issue of money transfers, given their importance in immigrant communities and their attention within the PATRIOT Act. The practice of immigrants who send money back home to help their families is not new. For generations and across cultures, a primary motive for immigrants to come to the U.S.A. has been the belief that they could provide for themselves and their families a better life. These individuals provide a constant flow of dollars back to their home countries and have enabled recipients to improve their standard of living, pay for needed health care, start small businesses, further their education and save for the future.

However, the potential impact of these remittance inflows is weakened as a result of the exorbitant fees (5 to 28 percent of the transfer) and poor exchange rates that are offered by the

existing money transfer companies. The Inter-American Development Bank (IDB) estimates that an additional \$3 billion per year could be sent to Latin America by immigrants in the U.S. if the cost of transmissions were reasonable. In a forthcoming report on the best practices in the money transmission industry by the IDB, credit unions in the U.S. and abroad are highlighted as needed alternatives to improve the practices of the money transmission industry from a cost and security perspective.

Since 1997, the World Council of Credit Unions (WOCCU) has been working with its members to facilitate remittance transfers among credit unions. In July 1999, the project became formalized and WOCCU's International Remittance Network (IRnet\*) service was launched. IRnet has subsequently transferred millions of dollars for low-income immigrants in the U.S.A. to over 40 countries. There are currently 135 credit unions with 500 points of service in 20 states offering the service. Credit union national associations in El Salvador and Guatemala are distributing remittances in these countries, thereby encouraging low-income individuals in developing countries to enter into the financial system and begin saving.

Other money transfer providers often offer poor exchange rates and exorbitant fees. This is not the case with credit unions. IRnet does not charge recipients any fees for picking up the funds and exchange rates are consistently better than the competition. Senders are guaranteed the rate of exchange and informed of the amount of foreign currency or U.S. dollars to be picked up by the recipient prior to making the transfer. For as little as \$10, credit unions allow individuals to send as much as \$1,000 to Mexico. This service is one of many examples of how credit unions throughout the U.S. are actively reaching the needs of underserved communities.

Our efforts in this area, however, could be significantly enhanced with a policy change. Credit unions, as you know, may only serve individuals who are their members. In an effort to greatly increase outreach to low-income and unbanked individuals such as those in the immigrant community, we propose that credit unions be permitted to provide check cashing and remittance services to non-members, such as those within the field of membership. CUNA agrees with the National Credit Union Administration (NCUA), which recently requested a legislative change in the Federal Credit Union Act of Chairman Oxley. Such a change would provide an excellent opportunity to individuals with a low-cost, viable alternative to predatory and payday lenders.

I also believe there are other changes that the country can and should make in stopping terrorists and those who prey on immigrants and the unbanked. This includes closing the loopholes that are enabling a Montana-based organization to operate offshore entities which are calling themselves credit unions on the Internet but bear little if any resemblance to credit unions. These entities are registered in foreign countries such as Panama, Nevis and the Marshall Islands, where the term "credit union" is not a protected term. In Panama, the Spanish equivalent of credit union, "cooperativa de ahorro y crédito," is a protected term but the English words "credit union" are not. Credit union officials have contacted regulators in these countries and law enforcement agencies in the U.S. to encourage them to take swift action. We also believe that many of the provisions in the PATRIOT Act, as well as increased activities with the OECD's Financial Action Task Force, can move us in the right direction.

To quote James W. Ziglar, the Immigration Commissioner: "the events of September 11 were caused by evil, not by immigration...." There is no question that the root of our particular problem – the unbanked and predatory financial practices on immigrants – lies in current immigration policies. James Ziglar also said that the fundamental reality is that Mexican and Central American workers are willing to risk their lives for the chance to get a job. I urge

Congress to work with the Administration to develop an immigration policy that protects America's self-interest and addresses the issues of temporary workers and the LIFE Act.

In conclusion, many credit unions throughout the country such as LCCU are leading the way in ensuring that immigrants have access to affordable financial services. We want to work with Congress and the Administration to ensure this provision is implemented appropriately without extending the duties of the Immigration and Naturalization Service to financial institutions.

Thank you for this opportunity to comment and I will be glad to answer any questions of the Subcommittee.