

WRITTEN TESTIMONY OF  
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Presented at

“The End of Overdraft Fees?  
Examining the Movement to Eliminate the Fees Costing Consumers Billions”

Submitted to

**Subcommittee on Consumer Protection and Financial Institutions**

Submitted by

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March 30, 2022

Good morning and thank you for the invitation. My name is Santiago Sueiro, Senior Policy Analyst at UnidosUS, formerly the National Council of La Raza—the nation’s largest Hispanic<sup>1</sup> 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. For more than 50 years, UnidosUS has united communities and different groups seeking common ground through collaboration, and that share a desire to make our country stronger. From Colorado to Missouri, small towns in Texas and Florida to big cities along the coasts, our Affiliates—local community-based organizations that directly serve the Latino population—are as geographically diverse as the members on this Subcommittee.

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).

We are grateful that the Subcommittee on Consumer Protection and Financial Institutions is examining the relevant and timely topic of overdraft fee protections. 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. Twelve million households are behind on their rent, with Latino renters almost twice as likely as Whites to be behind on rent.<sup>1</sup> In addition, over the last seven days, roughly 63 million people had difficulty covering expenses—and such stressors are not proportionately distributed; this worry afflicts 38% of Latinos, compared to 23% of Whites.<sup>2</sup>

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<sup>1</sup> The terms "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.

Furthermore, Latinos are more likely to incur overdraft fees in part because they have fewer resources at their disposal and are disproportionately represented in low-wage jobs with fluctuating work hours and high levels of income volatility. For example:

- Latinos have fewer resources to weather income shocks. The median Latino family owns just \$1,527 in liquid assets,<sup>3</sup> compared to \$3,247 for Whites.<sup>4</sup>
- Latinos are disproportionately represented in jobs with poverty-level wages, with 19% of Latinos earning poverty-level wages, compared to 9% of Whites.<sup>5</sup>
- Hispanic and Black women are more likely than White women to be among the working poor (defined as people who, despite working, live below the federal poverty level).<sup>6</sup>
- For many Latinas, access to child care remains out of reach; it is unaffordable, unreliable, or unavailable during the hours they work, meaning they must accept employment that offers flexible working hours.<sup>7</sup>
- The leisure and hospitality and construction industries have the highest share of workers—roughly 45%—who report income variations from month to month.<sup>8</sup> Latinos are heavily overrepresented in each of these industries, representing 22% of all workers in leisure and hospitality and 27% of all workers in construction.<sup>9</sup>
- Roughly 40% of Latino adults surveyed have done gig work<sup>10</sup> of some kind.<sup>11</sup>

Yet, Latinos are a major source of growing economic potential and dynamism, and their work is fueling the country's economy. When Latinos are fully included, their contributions produce significant benefits to the economy. For example, Latinos have a higher-than-average labor force participation rate, start businesses at more than double the overall rate for entrepreneurship, and saw their revenues grow an average of 25% over the last two years (compared to 19% revenue growth for White-owned businesses).<sup>12</sup> Furthermore, Latinos wield significant purchasing power: in 2020 Latino spending power grew to \$1.9 trillion—an 87% increase from 2010.<sup>13</sup>

A recent survey by UnidosUS demonstrated that Latinas, in particular, deserve support from policymakers due to their exceptional economic contributions and hard work. Indeed, Latinas are one of the fastest-growing segments of business owners in the United States: our survey found that about half of all Latinas believe that owning a business is a very important part of the American Dream.<sup>14</sup>

To ensure equitable economic opportunity, low-income people must not be burdened with unfair and unnecessary expenses. We are therefore encouraged by recent announcements from some banks that they are reducing or eliminating overdraft and non-sufficient funds fees,<sup>15</sup> and we are in support of more banks reassessing their overdraft practices.

These actions suggest that overdraft fees are no longer necessary for the financial health of banks. While encouraging, the industry's actions are, in part, a result of renewed attention from regulators in addition to pressure from consumers in a competitive market. And because they

are voluntary, such progress could be easily reversed if the environment or market conditions change.

For this reason, we strongly encourage policymakers to establish permanent and sustainable guardrails to ensure a competitive, fair, and reasonable financial services marketplace for low-income people, including Latinos.

Three overarching observations inform our work on overdraft fees. First, the data demonstrate that a majority of people who incur multiple overdraft fees make less than \$50,000 a year.<sup>16</sup> Second, high overdraft and non-sufficient funds fees are a formidable barrier to financial services for under- and unbanked households. Third, a mix of careful regulations and market-driven solutions can improve access to financial products and services, resulting in win-win solutions for the industry and consumers.

Overdraft fees, by their nature, impact consumers when they can least afford an additional cost. They are also a fee that people of color incur at a higher rate than Whites. The data show that:

- The average amount charged for an overdraft increases almost every year. In 1998, the average overdraft fee was \$22—as of 2021, it was at a record high of \$34.<sup>17</sup>
- In 2019, banks charged an estimated \$15 billion in overdraft fees.<sup>18</sup>
- Consumers who incur multiple overdraft fees make up 9% of people who overdraft but account for 80% of all overdraft fees.<sup>19</sup>
- Low- to moderate-income households are nearly twice as likely as higher-income households to overdraw an account.<sup>20</sup>
- Black and Latino households are far more likely than White households to report having overdrawn an account.<sup>21</sup>

Moreover, to create more inclusive economic opportunities, it is critical to expand access to banking for those outside of the financial mainstream. As of 2017, roughly 38 million people were under- or unbanked, with 29% of Latinos under- or unbanked, compared to 16% of Whites.

The most common reasons that consumers report for lacking a bank account are related to costs. Some 34% of those who remain unbanked say they do not have an account because fees are too high, 31% say fees are too unpredictable, and 49% indicate that they do not have enough money to meet minimum balance requirements.<sup>22</sup>

Improved consumer protections for overdraft and non-sufficient funds fees would help to address some of these barriers and may increase access to financial services for underserved communities. Thankfully, there are specific steps we can take to ensure that financial institutions can and do offer high-quality and affordable products to everyone. Two policy-change pathways would help to make the marketplace fairer and more dynamic.

First, excessive fees should be limited by regulatory approaches, which could include, limits on multiple fees being assessed for the same incident, caps on total fees, and reasonable grace periods to cure an overdraft. Legislation, such as the “Overdraft Protection Act of 2021” introduced by Congresswoman Maloney last year, would limit abusive overdraft fees by requiring that consumers opt-in to overdraft coverage fees and limit such fees to one per month and six in a calendar year.<sup>23</sup> In addition, the Consumer Finance Protection Bureau (CFPB) is currently taking comments on a promising Request for Information (RFI) that focuses on fees which are generally not subject to market competitive forces (so-called “junk” fees), which includes overdraft and similar fees.

Second, we should deepen our support for institutions that offer more inclusive and affordable banking products. Community Development Financial Institutions (CDFIs), Minority Depository Institutions (MDIs), credit unions, and online banks all offer inclusive and affordable products, and investments in these institutions can create market-wide pressure to lower fees. Research shows, for example, that credit unions and online banks generally charge less than traditional banks in overdraft fees, monthly maintenance fees, and ATM fees.<sup>24</sup>

CDFIs, MDIs, and credit unions, in particular, have stronger incentives than do traditional banks to serve the needs of lower-income communities, and they are often more deeply connected to these communities. We recently spoke with several credit unions that hire bilingual staff, specifically seek to open branches in lower-income areas with high concentrations of Latinos, and ensure that materials are translated into Spanish and other common languages.

Congress should therefore consider increasing appropriations funding for the CDFI Fund program. The program invests hundreds of millions of dollars a year in capital and technical assistance support to CDFIs, allowing them to grow and serve more low-income consumers. However, the CDFI and MDI field is too small to apply meaningful pressure on the market. Additional supports are necessary to grow the field to a meaningful level.

The “Advancing Technologies to Support Inclusion Act” is one such support and would invest \$6 billion in CDFIs and MDIs to upgrade their technology capabilities. This would significantly improve their ability to compete with online banks and big banks that already offer sophisticated FinTech products.

Finally, policymakers should do more to incentivize banks to sign on to Bank On national account standards, and, for their part, banks should do more to promote these no-overdraft, comparatively low-cost accounts in underserved communities.<sup>25</sup> Approximately 100 banks (with more than 39,000 branches) currently offer Bank On certified accounts.<sup>26</sup>

Some financial institutions have called for a “race to the top” business strategy as the path forward for the banking sector. We agree with that sentiment: investing in low-income people by providing affordable and high-quality products will allow banks and communities to grow together.

If we create a banking system built on trust and loyalty, and one that invests in the longer-term potential of low-income people and Latinos, we will be one step closer to creating a fair, inclusive, and thriving economy.

We are grateful that the subcommittee is taking up this issue, and look forward to your questions.

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<sup>1</sup> Center on Budget and Policy Priorities (CBPP), *Tracking the Covid-19 Economy's Effects on Food, Housing, and Employment Hardships* (Washington, DC: CBPP, August 2020), <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-economys-effects-on-food-housing-and-employment-hardships>.

<sup>2</sup> Ibid.

<sup>3</sup> According to the JPMorgan Chase & Co. Institute, liquid assets are the sum of balances in one's checking, prepaid debit cards, savings, money market, and certificates of deposit accounts.

<sup>4</sup> Diana Farrell, et al., *Racial Gaps in Financial Outcomes: Big Data Evidence* (New York, NY: JPMorgan Chase & Co. Institute, April 2020), <https://www.jpmorganchase.com/content/dam/jpmc/jpmorgan-chase-and-co/institute/pdf/institute-race-report.pdf>

<sup>5</sup> David Cooper, "Workers of Color Are Far More Likely to Be Paid Poverty-Level Wages than White Workers," *Working Economics* (blog), Economic Policy Institute, June 21, 2018, <https://www.epi.org/blog/workers-of-color-are-far-more-likely-to-be-paid-poverty-level-wages-than-white-workers/>.

<sup>6</sup> U.S. Bureau of Labor Statistics (BLS), *Women in the Labor Force: A Databook*, Report no. 1092 (Washington, DC: BLS, April 2021), <https://www.bls.gov/opub/reports/womens-databook/2020/pdf/home.pdf>.

<sup>7</sup> Sol Espinoza, Meggie Weiler, and Agatha So, *Closing the Latina Wealth Gap: Building an Inclusive Economic Recovery after COVID* (Washington, DC: UnidosUS, April 2021), [http://publications.unidosus.org/bitstream/handle/123456789/2150/unidosus\\_closingthelatinawealthgap.pdf?sequence=5&isAllowed=y](http://publications.unidosus.org/bitstream/handle/123456789/2150/unidosus_closingthelatinawealthgap.pdf?sequence=5&isAllowed=y).

<sup>8</sup> Board of Governors of the Federal Reserve System, *Report on the Economic Well-Being of U.S. Households in 2019* (Washington, DC: Board of Governors of the Federal Reserve System, May 2020), <https://www.federalreserve.gov/publications/2020-economic-well-being-of-us-households-in-2019-income.htm>.

<sup>9</sup> Aaron Klein and Ariel Gelrud Shiro, "The Covid-19 Recession Hit Latino Workers Hard. Here's What We Need to Do," *How We Rise* (blog), Brookings, October 1, 2020, <https://www.brookings.edu/blog/how-we-rise/2020/10/01/the-covid-19-recession-hit-latino-workers-hard-heres-what-we-need-to-do/#:~:text=Latinos%20comprised%20about%20one%20out,in%20mining%20and%20oil%20extraction>.

<sup>10</sup> UnidosUS defines gig worker as an independent contractor, freelance worker, or online seller, or similar, on demand work often referred to as "gig work." Some examples are Uber, Postmates, TaskRabbit, Care.com, Handy, Rover, or selling goods on Etsy and eBay.

<sup>11</sup> UnidosUS and Lake Research Partners survey, November 4–December 4, 2019, "Latinos and the Gig Economy," [https://www.unidosus.org/wp-content/uploads/2021/07/unidosus\\_latinosinthegigeconomy.pdf](https://www.unidosus.org/wp-content/uploads/2021/07/unidosus_latinosinthegigeconomy.pdf).

<sup>12</sup> Marlene Orozco et al., *State of Latino Entrepreneurship* (Stanford, CA: Stanford Graduate School of Business, February 2020), <https://www.gsb.stanford.edu/sites/default/files/publication-pdf/report-2020-state-of-latino-entrepreneurship.pdf>.

<sup>13</sup> Jeffrey M. Humphreys, *The Multicultural Economy: 2021* (Athens, GA: Selig Center for Economic Growth, August 2021), [https://estore.uga.edu/C27063\\_ustores/web/product\\_detail.jsp?PRODUCTID=9296](https://estore.uga.edu/C27063_ustores/web/product_detail.jsp?PRODUCTID=9296).

<sup>14</sup> Sol Espinoza, *Closing the Latina Wealth Gap*.

<sup>15</sup> Rebecca Borné and Amy Zirkle, "Comparing Overdraft Fees and Policies across Banks," Consumer Financial Protection Bureau blog, February 10, 2022, <https://www.consumerfinance.gov/about-us/blog/comparing-overdraft-fees-and-policies-across-banks/>.

<sup>16</sup> Susan K. Urahn et al., *Heavy Overdrafters: A financial profile* (Philadelphia, PA: Pew Charitable Trusts, April 2016), <https://www.pewtrusts.org/-/media/assets/2016/04/heavyoverdrafters.pdf>

<sup>17</sup> Matthew Goldberg, *Survey: Free Checking Accounts on the Rise as Total ATM Fees Fall* (New York: Bankrate, October 20, 2021), <https://www.bankrate.com/banking/checking/checking-account-survey/>.

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- <sup>20</sup> Stephen Arves and Meghan Greene, “Amid Resurgence of Interest in Overdraft, New Data Reveal How Inequitable It Can Be,” Financial Health Network blog, September 3, 2021, <https://finhealthnetwork.org/amid-resurgence-of-interest-in-overdraft-new-data-reveal-how-inequitable-it-can-be/>.
- <sup>21</sup> *Ibid.*
- <sup>22</sup> Federal Deposit Insurance Corporation, *2017: FDIC National Survey of Unbanked and Underbanked Households* (Washington, DC: FDIC, October 2018), <https://www.fdic.gov/householdsurvey/2017/2017report.pdf>.
- <sup>23</sup> *Overdraft Protection Act of 2021*, H.R. 4277, 117<sup>th</sup> Cong., sess. (June 30, 2021), [https://www.congress.gov/bill/117th-congress/house-bill/4277?s=1&r=84#:~:text=Introduced%20in%20House%20\(06%2F30%2F2021\)&text=This%20bill%20prohibits%20a%20financial,in%20connection%20with%20overdraft%20coverage.&text=the%20consumer%20will%20not%20be,if%20such%20transaction%20is%20declined.](https://www.congress.gov/bill/117th-congress/house-bill/4277?s=1&r=84#:~:text=Introduced%20in%20House%20(06%2F30%2F2021)&text=This%20bill%20prohibits%20a%20financial,in%20connection%20with%20overdraft%20coverage.&text=the%20consumer%20will%20not%20be,if%20such%20transaction%20is%20declined.)
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- <sup>25</sup> Cities for Financial Empowerment Fund, *Bank On National Account Standards (2021–2022)* (New York: Cities for Financial Empowerment Fund), <https://2wvkof1mfraz2etgea1p8kiy-wpengine.netdna-ssl.com/wp-content/uploads/2020/10/Bank-On-National-Account-Standards-2021-2022.pdf>.
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