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**BEFORE THE
CONGRESSIONAL HISPANIC CAUCUS
HEARINGS ON
MATRICULA CONSULAR
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Chairman Guitierrez, members of the Caucus. Thank you for inviting me to testify this morning on the role of the *Matricula Consular* in helping “unbanked” Mexican immigrants enter the U.S. banking system. Last fall, the Inter-American Development Bank asked the University of Massachusetts to undertake a research project on ways to improve Latin American immigrants’ access to the U.S. banking system. The request was precipitated by the IDB’s strong interest in finding ways to lower the cost of sending remittances to Latin America. Research previously sponsored by the IDB showed that while banks and credit unions can offer a significantly cheaper alternative to traditional wire transfer¹, most Latin American immigrants continue to use wire transfer services, not depository institutions, to send money home. This research also identified a number of factors that discouraged Latino immigrants from opening accounts, the most frequently cited being documentation requirements, but also, fears about minimum balance requirements, high fees, and a general distrust of banks.²

In developing our report, we conducted extensive interviews with bank and credit union officials, community advocacy groups, bank regulatory and enforcement officials, and others. We conducted field interviews in El Paso, Chicago and North Carolina, and prepared case studies of ten institutions. The resulting report, which I submit for the record, covers a range of issues dealing with anti-money laundering and terrorist financing requirements, as well as customer service issues, including marketing, bilingual services, product design, financial education, and physical access. This morning I will discuss the report’s findings regarding customer identification requirements and the *Matricula Consular*.

The Section 326 Regulations

On October 26, 2001, President Bush signed into law the USA PATRIOT Act, PL 107-56. Passed in the aftermath of the September 11 terrorist attacks, the USA PATRIOT Act

¹ See, Manuel Orozco, Worker Remittances in an International Scope (March 2003) finding that remittance costs to Latin America are higher than in other parts of the world because they are primarily sent through more expensive money transfer services. A February 11, 2003 analysis by the Greenling Institute shows Western Union charging from \$22.02 to \$36.70 for a \$300 remittance, as compared to \$14.76 to \$20.20 for banks. In addition, many banks and credit unions have simply started offering dual ATM cards with accounts opened in the U.S., one of which can be sent to the beneficiary in Latin America to access funds in the U.S. account. Thus funds can be accessed for the cost of the network fee.

² Billions in Motion: Latino Immigrants, Remittances and Banking (Pew Hispanic Center and the MIF) Nov. 2002)

was designed to give federal law enforcement and financial regulatory officials important new tools in the fight against terrorist financing and money laundering. These included several changes to the Bank Secrecy Act (BSA), originally enacted to prevent banks and other financial service providers from being used as conduits or repositories to hide the transfer or deposit of funds derived from criminal activity. Among the many new provisions added to the BSA by the USA PATRIOT Act was a requirement under Section 326 that the Secretary of the Treasury prescribe regulations setting forth minimum standards for the identification and verification of persons who apply to open an account at a financial institution.

On July 23, 2002, the Treasury Department published jointly with federal financial regulators³ proposed rules implementing Section 326.⁴ The proposed rules apply not only to federally insured depository institutions, but securities brokers and dealers, mutual funds, futures commission merchants, and others. Consistent with the prescriptions of Section 326, the proposed regulations require financial institutions to establish a customer identification program (CIP) for all new accounts, regardless of whether the customer is a US citizen or foreign national. The CIP must be in writing and approved by the institution's board of directors or committee of the board, and must specify procedures pertaining to identification, verification, recordkeeping, comparison against government lists of suspected terrorists, and account denial or termination when a customer's identity cannot be verified.

Regarding identification requirements for non-U.S. citizens, the draft regulations recognize, as forms of acceptable identification "a passport number and country of issuance; an alien identification card number; or the number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard." The summary of the proposed Section 326 regulations contained on the Treasury Department's website⁵, as well as Treasury's Report to Congress on Section 326⁶ state that "the proposed regulations do not discourage bank acceptance of the "Matricula Consular" identity card that is being issued by the Mexican government to immigrants.

³ The rules applying to banks, savings associations and credit unions were issued jointly with three bureaus of the Treasury: the Financial Crimes Enforcement Network (FinCEN), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision; The Board of Governors of the Federal Reserve System (FRB); the Federal Deposit Insurance Corporation (FDIC); and the National Credit Union Administration (NCUA). The Treasury Department also issued joint Section 326 rules with the Securities and Exchange Commission and the Commodity Futures Trading Commission that apply to accounts with securities and futures firms. Though separate rules were issued to accommodate differences in business models, they are designed to ensure that minimum requirements be standardized across the various financial industry segments.

⁴ Federal Register, Vol. 67, No. 141, Page 48290 (July 23, 2002) (Hereinafter referred to as the "Draft Section 326 Regulations")

⁵ www.Treas.gov

⁶ See, "A Report to Congress in Accordance with Section 326(b) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA Patriot Act) (Submitted by the Department of the Treasury October 21, 2002) p. 16 (Hereinafter referred to as the "Treasury Section 326 Report")

Virtually all institutions that we reviewed in preparing our report exceeded the minimum requirements of the proposed Section 326 regulations. Most required at least two forms of documentation, typically a Matricula Consular for Mexican immigrants, or comparable form of government issued photo ID for other Latin American immigrants⁷, and an Individual Taxpayer Identification Number (ITIN). Several surveyed institutions required both a primary (photo) ID (the Matricula Consular being one acceptable form), and a secondary ID, in addition to an ITIN. Most surveyed institutions emphatically stressed that their ability to bring recent Latin American immigrants into the banking mainstream hinged on their ability to accept non-US government identification and ITINs in lieu of a Social Security card.

Anecdotal reports associated with the increasingly widespread acceptance of the Mexican government's "Matricula Consular" bear this out. For instance, Wells Fargo estimates that it has opened at least 60,000 new accounts with the Matricula Consular since November 2001, when it first started accepting the card. The Mexican Consulate in Chicago has undertaken an aggressive campaign to "bank" unbanked Mexican immigrants, utilizing "mobile units" which consist of consulate representatives to process Matricula applications, banking officials to accept bank account applications and an IRS Acceptance Agent for ITINs. Thousands of immigrants have turned out for these mobile units,⁸ and more are planned for this year.⁹ Carlos Sada, the Consul General of Mexico in Chicago, has estimated that as many as 25% of those applying for the Matricula do so to obtain access to bank accounts.¹⁰ This evidence strongly suggests that mainstream financial institutions' acceptance of the Matricula Consular or comparable forms of non-US government identification has removed a major impediment to bringing unbanked Latin American immigrants into "banked" status.

Federal officials have not endorsed use of the Matricula Consular, going only so far as to say that the draft Section 326 regulations do not "discourage" its use. Indeed, Federal officials have not endorsed any particular form of identification. The clear intent behind the draft Section 326 regulation is to give institutions flexibility in designing their CIP to fit their individual business operations and customer base. Ultimate responsibility resides with the institution to make sufficient efforts to form a reasonable belief that it knows each customer's true identity. Thus, in the final analysis, it is up to the institution to determine whether the Matricula Consular or any other form of identification is reliable for opening customer accounts.

Advocates of the Matricula Consular seem to have a good case that the new High Security Matricula Consular (MCAS) is one of the more secure forms of identification available. Following the September 11 attacks, the Mexican government realized the enhanced need of U.S. law enforcement officials to document all persons residing within

⁷ On September 16, 2002 the Guatemalan government began issuing the Guatemalan Consular Identification Card. Wells Fargo, among others, has begun accepting the card as one form of identification for opening an account. Other Latin American countries are rumored to be following suit.

⁸ See, e.g., "Banking on ID Cards" Milwaukee Sentinel, October 29, 2002

⁹ Interview with Carlos Sada, Consul General of Mexico (January 9, 2003)

¹⁰ "IDs Open Bank Doors for Mexican Immigrants" (Chicago Tribune April 21, 2002)

the U.S. As a consequence, Mexican officials took several steps to strengthen the security of the Matricula Consular.

To obtain a Matricula Consular, the applicant must present an original birth certificate, another official ID with a photo, personal information, and a document with the applicant's current address, such as a utility bill.¹¹ The MCAS has nearly a dozen security features designed to deter falsification.¹² These include a holographic image with hidden marks, such as the person's name appearing over the picture when viewed with a decoder; an official seal appearing over the photo that changes color in natural light; and issuance on green security paper with the Mexican seal printed in a special security pattern. The Mexican government boasts that the security standards used with the MCAS are the same as those used by the United States government in its own official documents.

To be sure, no form of identification is immune to falsification or fraudulent use. For instance, government officials have testified before Congress about the relative ease with which US official documents can be falsified, including INS documents and Social Security cards.¹³ The standard under Section 326 is to verify the identify of customers "to the extent reasonable and practicable" taking into account "the types of identification available."¹⁴ Under this standard, use of the MCAS to open accounts would seem appropriate in most cases under the draft Section 326 regulations.

Industry Bank Secrecy Act (BSA) experts who have reviewed the card have expressed comfort with banks' acceptance of it for identification documentation in appropriate circumstances.¹⁵ Nearly forty financial institutions are accepting the card in the Midwest alone,¹⁶ and a number of major banks including Citibank, Bank of America, Wells Fargo, and U.S. Bancorp accept the card.

Unfortunately, banks' and credit unions' acceptance of foreign government issued-ID, and in particular, the Matricula Consular, is becoming embroiled in debate over immigration control policy. We interviewed bank and federal regulatory officials on this controversy and all generally expressed aversion to wading into the immigration policy arena. In addition, they expressed near universal opposition to requiring banks to check and verify the immigration status of foreign account holders. The Treasury Department addressed this issue in its report to Congress on Section 326. The report explained that banks could not currently verify the identity of foreign nationals by comparing the names

¹¹ Information provided by the Consulate General of Mexico, Sacramento. See also, "Mexico ID Like Money in the Bank" Chicago Tribune (April 21, 2002)

¹² Id. See also "Enlace" (Publication of the Consulate General of Mexico in Chicago) (March 2002)

¹³ See fn 13, p. 10, citing the Statement of Michael Robinson, Special Agent, Office of the Inspector General, Social Security Administration before the Subcommittee on Social Security, House Ways and Means Committee (May 22, 2001)

¹⁴ Draft Section 326 Regulations, fn 11, at page 48292

¹⁵ A Card Allows US Banks to aid Mexican Immigrants (NY Times July 11, 2002) quoting John Byrne, Senior Counsel and Compliance Officer, American Bankers Association, "The consular ID is a form of identification that the private sector finds acceptable."

¹⁶ FDIC, Chicago Regional Office

against government databases because no such comprehensive databases exist or are available to banks. The Report concluded “Any system requiring further verification of the identity of foreign nationals by consulting with appropriate government agencies would be inappropriate given the current situation.” The Treasury Report also recognized the need to balance issues associated with the use of foreign government –issued identification with the benefits of bringing “unbanked” immigrants into the financial mainstream.¹⁷

These benefits are many. Having a bank account provides immigrants with a safe, low-cost place to deposit their paychecks and build their savings. It eliminates the need to carry around large amounts of cash, making them less tempting targets for criminals. News articles have described how criminals target unbanked immigrants for robbery as they leave check cashing outlets. Others have cited cases of people losing their life savings in fires because they kept it hidden in their homes in cash.¹⁸ Banks and credit unions can also provide a lower cost venue for remitting money back home. An increase in the level of remittances can have a significant positive influence on local economies in Latin America, and -- over the long run -- improved local economic conditions in Latin America will ameliorate incentives to immigrate to the U.S.

Being able to have to have a bank account will not materially influence an individual’s decision to immigrate or remain in this country illegally. As a consequence, denying banks’ the ability to accept reliable foreign issued documents to open accounts will do nothing to accomplish immigration control objectives. It will, however, force undocumented workers to rely on higher-cost, less-regulated financial service providers, with the resultant loss in regulatory oversight and transparency. It could also prompt retaliatory measures against U.S. government-issued identification in foreign jurisdictions. And it could imperil the billions of dollars deposited in U.S. financial institutions by foreign nationals attracted by the safety and security of our U.S. banking system. Our ability to attract foreign investment is a key strength of our economy. We should not tamper with it by trying to make financial institutions enforcers of immigration policy, particularly at a time when we have already asked them to assume significant new regulatory responsibilities to aid in the fight against terrorist financing.

Conclusion

Our report found that banks and credit unions are making intense efforts to include Latin American immigrants and other “unbanked” populations as an important and permanent part of their customer base. Community-based advocacy groups are determined to help them insofar as they offer a cheaper alternative to higher-cost providers. In addition, the Treasury Department and the Bush Administration should be commended for encouraging their efforts through initiatives such as the Partnership for Prosperity, and support for programs such as First Accounts and Electronic Transfer Accounts. This is a

¹⁷ Treasury’s Section 326 Report at p. 14-15, 25.

¹⁸ See, e.g., *Credit Unions Testify Provisions of the Patriot Act could Harm Immigrants* (Credit Union Journal (Feb. 25, 2002); *Money in the Bank: Accounts Helping Wary Immigrants Park Cash Safely, Send it Home*, (Dallas Morning News Aug. 19, 2001).

bipartisan issue. Providing individuals with the tools to build wealth and achieve financial self-sufficiency lie at the core of Republican philosophy. Having access to a low cost, federally insured depository account is the first step in achieving that self-sufficiency.

There appears to be a “perfect storm” where the interests of business, advocacy groups, and government have come together to the benefit of “unbanked” Latin American immigrants and other unbanked populations. However, the controversy surrounding the Matricula Consular is creating a dangerous crosscurrent. We should keep immigration policy separate from banking policy. And I commend you, Mr. Chairman, for holding these hearings to cast light on this issue.