

Profitwise

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Lessons Learned from the Conference Series: *An Informed Discussion of Financial Access for Immigrants*



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Profitwise News and Views

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Announcement

In 2004, the Federal Reserve Bank of Chicago launched the *Center for the Study of Immigrant Financial Access* to examine the factors that impact immigrant participation in the U.S. financial system. In a forthcoming volume, we attempt to document some of the most important findings on immigrant financial access that have been made in the past several years, both under the auspices of the Center, and from the multitude of conferences, surveys, and educational initiatives conducted by others. The publication draws from empirical research, surveys, conferences, news articles, and interviews with experts and practitioners, to discuss trends in immigration, regulatory issues, the financial practices of immigrants, and the role of financial and community-based organizations in serving the immigrant market. The publication is designed to be of use to a broad audience interested in the process of immigrant adaptation and integration, including financial institutions, researchers, policymakers, community-based organizations, and foundations.

Mark Your Calendar

The Future of Economic Development in Rural America

On Thursday, November 17, 2005, the Federal Reserve Bank of Chicago, Consumer and Community Affairs division, and the Iowa Department of Economic Development will host a conference titled, *The Future of Economic Development in Rural America*, in Des Moines, Iowa.

Participants will gain valuable insights from experts who will address issues and opportunities surrounding the future of economic development in rural America. Topics include: an overview of Midwest agriculture and rural development issues; rural depopulation, and what it means for the future economic health of rural areas and the community banks that support them; infrastructure in rural areas; twenty-first century agriculture and energy; new state initiatives of the State of Iowa; and an update on the Community Reinvestment Act (CRA) and its impact on rural America. Both Iowa Governor Thomas J. Vilsack and United States Senator Charles Grassley have been invited to speak.

For registration and information, visit www.chicagofed.org/news_and_conferences/conferences_and_events/all_conferences.cfm, or call (312) 322-8232.

Visit the Web site of the Federal Reserve Bank of Chicago at:

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Conference Series: An Informed Discussion of Financial Access for Immigrants

Des Moines, Milwaukee, Detroit, Indianapolis, Springfield, Lisle and Appleton

By Steven W. Kuehl

Overview

During the past two years, the Consumer and Community Affairs (CCA) division of the Federal Reserve Bank of Chicago held a series of conferences focused on increasing access to financial services for immigrants. The conference series was conducted under the umbrella of CCA's Center for the Study of Financial Access for Immigrants. The primary goal of the conference series was to provide forums where individuals interested in the topic of financial services access for immigrants could share ideas, practices, and innovative approaches to meeting immigrant financial services demand. The conference series achieved its main goal in three different ways. First, it helped to focus attention on the issues surrounding immigrant financial access by drawing on the expertise of practitioners. Second, the conference series highlighted best practices, partnerships, and information sharing arrangements that could provide models for financial institutions, community development professionals, government agencies, and researchers addressing barriers to financial services. And third, the series helped to spur new policy-oriented research that builds on the experience of community development professionals, financial institutions, and government agencies.

FAI Regional Conference Series

Location	Date	Cosponsor
Des Moines*	06/24/2003	Proteus, Inc.
Milwaukee	10/30/2003	United Migrant Opportunity Services
Detroit**	11/07/2003	New Detroit
Indianapolis	12/17/2003	Indiana State Hispanic Chamber of Commerce
Springfield, IL	03/12/2004	National Image, Inc., Central Illinois Chapter
Lisle, IL	07/21/2004	Latin American Chamber of Commerce, Chicago
Appleton, WI	12/09/2004	Wisconsin United Coalition of Mutual Assistance Associations

*Covered in December 2003 Profitwise News and Views

**Covered in June 2004 Profitwise News and Views

Key Cosponsors

For each regional conference, CCA partnered with a key locally or regionally focused organization. Cosponsors were recruited for their organization's interest and commitment in assisting immigrants in achieving economic success, and all are organizations that have been successful in meeting their core missions.

Chicago Fed and Federal Reserve System Perspectives

A key goal of both the Chicago Fed and the Federal Reserve System is to promote access to traditional financial services, particularly among population segments with historically low utilization rates. Without banking relationships, U.S. residents limit their capacity for financial stability and success. As a baseline service, use of transaction accounts for bill paying enables smoother flow of funds, and prevents theft and other crimes arising from holding large sums of cash. Within the general public, this typical initial banking relationship eventually leads to use of savings vehicles and credit including mortgages and, potentially, business credit. Immigrants to the U.S., with widely varying home country experiences and orientations toward financial institutions, are often disinclined to establish transaction accounts, especially early in their tenure.

In 2003, CCA established the research and outreach oriented Center for the Study of Financial Access for Immigrants (Center). The Center is a national resource for the Federal Reserve System, researchers, advocates, policymakers, and financial institutions. The goals of the Center are as follows:

- Produce, disseminate, and encourage others to pursue research that adds to our understanding of the key determinants of the financial behavior of immigrants;
- Provide forums where bankers, policymakers, researchers, advocates, and others can share ideas, best practices, and innovative approaches to address barriers to immigrant financial market participation; and
- Document and publish key findings, innovations, trends, practices, and policies that enhance financial market access for immigrants.

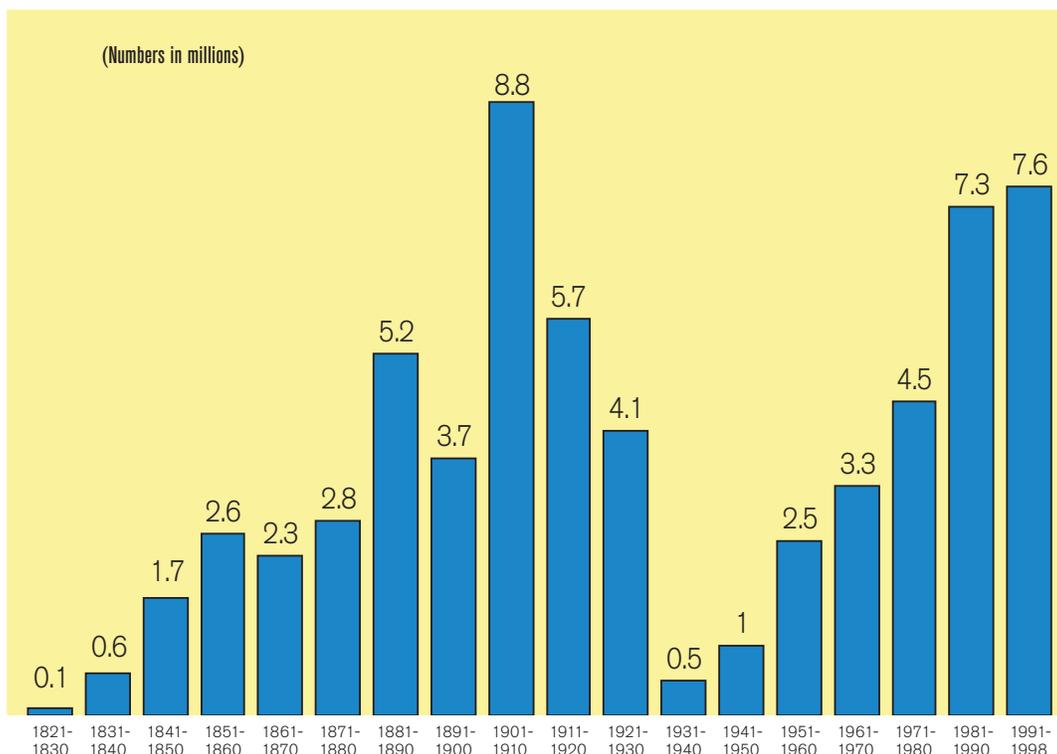
Three primary questions helped to more narrowly define the activities and outputs of the Center. First, how is “immigrant” defined? Our definition denotes anyone who was born and emigrated from abroad to the U.S., and includes: citizens, legal residents, visa holders, and undocumented aliens (including applicants for residency status). Second, are we advocating unlawful access to bank services for undocumented immigrants? Many laws and regulations, some of which have undergone recent

revamping or were created shortly after the terrorist attacks of 2001, already govern access to financial institutions and their products. The Federal Reserve Bank of Chicago does not condone or endorse any breach of those regulations. Third, what exactly is meant by financial access for immigrants? It is the process by which immigrants, who are less likely to use traditional financial services due to cultural orientation, experience, language barriers, or perception of banks based on their home country institutions, assimilate into the financial mainstream. The Federal Reserve System supports immigrants’ use of U.S. financial services, again subject to existing regulations, because it is consistent with the Fed’s mandate to foster a stable financial system and a sound U.S. economy.

A related purpose is that as a bank regulator, the Federal Reserve has a responsibility to help financial institutions comply with the Community Reinvestment Act (CRA) and various fair lending laws and regulations. We contend that shedding light on the circumstances and needs of immigrant populations, including pioneering marketplace responses that have already had significant impact on immigrant financial services consumers, helps (other) banks and other financial institutions to:

- Market their products and services to nontraditional customers, including low- and moderate-income (immigrant) populations and communities;

Figure 1: Immigrants to the United States by Decade - Fiscal Years 1821 to 1998



Source: U.S. Immigration and Naturalization Service, 2000

- Offer products and services on a fair and equal basis;
- Take advantage of market opportunities by gaining an understanding of demographic trends and (in particular) immigrant growth in specific regions; and
- Gain a more nuanced understanding of the bank regulatory community's expectations regarding complex security issues, including the USA Patriot Act, and how other institutions have addressed them.

The degree to which immigrants can successfully assimilate has significant community development implications and impacts issues ranging from crime rates to small business formation to the overall economic health of communities. It is critical to look not only at national impacts, but to also consider local and regional economies. As we developed each regional agenda, the input and awareness of cosponsoring organizations was invaluable, even if at times our views diverged.

The balance of this article summarizes new insights derived from the meetings that have not been previously published by the Federal Reserve Bank of Chicago. This article specifically addresses national immigration trends, as well as immigration trends in Illinois, Indiana, and Wisconsin. It also touches on programs designed to educate new immigrants about the financial system and other aspects of financial life. It concludes by providing an in-depth review of the documentation and identification requirements that face immigrants wishing to enter the financial mainstream.

The Seventh District's Growing Immigrant Population

Each regional conference opened with a demographic presentation on national and regional immigration trends, which laid the contextual groundwork for the day's discussion. This section outlines the salient points of the national and regional (Illinois, Indiana, and Wisconsin) demographic presentations. The presentations for Iowa and Michigan were covered in previous issues of *Profitwise News and Views*.

National Immigration Trends

At the Springfield, Illinois, conference, Dr. Eileen Diaz McConnell, assistant professor of sociology at the University of Illinois at Urbana-Champaign, provided an overview of Hispanic immigration and demographic trends. McConnell conducted a Census Bureau funded study called *Variation and Transition in the Hispanic Experience in the United States* that documented changes in the U.S. Hispanic population between 1990 and 2000, and also evaluated the quality of Census Bureau data on Hispanics.

McConnell began by referring to Figure 1 and noting that high volumes of immigration are not unique to present-day U.S.A. McConnell noted that between 1860 and 1930, immigrants comprised approximately 11.6 percent to 13 percent of the U.S. population – higher even than today's 11.5 percent.

In her overview of current U.S. immigration trends, McConnell focused on Latin American immigrants, who made up the majority of the U.S. foreign-born population (defined as those living in the U.S. who are not U.S. citizens at birth) in 2002.¹ While most immigrants are concentrated in the West and the South, the Midwest has seen tremendous increases in its immigrant population. There are currently 32.5 million foreign-born residing in the U.S.² Immigrants tend to be young (80.4 percent are between the ages of 18 and 64; 44.7 percent are between 25 and 44) and also tend to live in larger households (12.5 percent of natives live in households with five or more people, versus 25.5 percent for immigrants).³ Further, Latin American immigrants are more likely to live in a larger household than their counterparts from Europe, Asia, or other regions. Immigrants also tend to have less education than the native U.S. population: only 67.2 percent of the foreign-born over age 25 are high school graduates versus 86.9 percent for the same age group in the native population.⁴ McConnell attributed the higher dropout rates among immigrant children to the prevalence of lower average education levels in other countries than in the U.S. Finally, McConnell noted that most immigrants came to the U.S. relatively recently – only 12.7 percent arrived before 1970.⁵ They are thus more likely to work in service occupations and less likely to work in managerial or professional occupations, and tend to earn less than natives.⁶

Immigration Trends by (Seventh District) State

Illinois

Dr. Janet L. Smith is an associate professor in the Urban Planning and Policy Program at the University of Illinois at Chicago and the codirector of the Nathalie P. Voorhees Center for Neighborhood and Community Improvement. Two main focus areas of Smith's teaching, research, and community service, are equity in local housing planning and policy implementation. She is currently collaborating with others on a book on public housing transformation in Chicago entitled *Where are Poor People to Live?* At the Lisle, Illinois, conference, Smith provided an overview of immigration and demographic trends at the state (Illinois) and local (Chicago MSA) level.

In her presentation, Smith discussed the *Changing Face of Illinois*. She noted that Illinois is considered a "gateway" state for immigration into the country, ranking consistently among the top ten immigrant destination states over the past several decades. Between 1990 and 2000, the

number of immigrants in Illinois increased by 61 percent.⁷ Nearly half of Illinois immigrants come from Latin America; another 26 percent arrive from Europe; and 24 percent from Asia.⁸ The leading countries of origin are Mexico, Poland, and India.⁹ The 1990s saw a demographic shift in the origins of European immigrants to Illinois, with more coming from eastern, rather than western, European countries (as had been the case in the 1980s). Smith also pointed out that “during the 1990s, 54 of 102 counties experienced a greater than 50 percent growth in immigrant population...rural as well as urban.”¹⁰ Immigration to Illinois is therefore not just a phenomenon confined to the Chicago metro area, although 1.4 million of Illinois’ 1.5 million immigrants do reside in the Chicago metro area.¹¹ Illinois’ largest immigrant populations are located in Chicago, Cicero, and Aurora,¹² and its leading “ports of entry” are Mt. Prospect, Arlington Heights, and Palatine.¹³ “This is clearly because of job opportunities and... because these communities have typically had affordable rental housing,” Smith explained.

Indiana

Dr. Timothy Ready is the research director at the Institute for Latino Studies at the University of Notre Dame. The institute is the nation’s largest focused on Latino studies. At the Indianapolis conference, Ready gave an overview of demographic trends in immigration in the state of Indiana.¹⁴

Only 3.1 percent of Indiana’s population is foreign-born – compared to 11.0 percent for the U.S. as a whole. “Indiana is not a mecca of immigration,” explained Ready, who then added that “Indiana’s immigrant population is growing fast” – with over half (52 percent) of all of Indiana’s immigrants arriving after 1990.

The origins of Indiana’s immigrants have been shifting significantly toward Latin American countries, with almost half of the immigrants who arrive after 1990 coming from Latin America – versus less than one-third prior to 1990. Population projections into 2010, 2020, and 2030 portend significant growth in Indiana’s Hispanic population. Projections indicate that more than 25 percent of Indiana’s population will be Hispanic by 2030.

Wisconsin

Dr. Enrique Figueroa, the director of the Roberto Hernandez Center and assistant to the provost for Latino Affairs at the University of Wisconsin – Milwaukee, gave an analysis of the growth of Wisconsin’s immigrant population. According to Figueroa, there was “a 110 percent increase in the Latino population in Wisconsin during...the 90s...Wisconsin had 209,074 Hispanics in 2002, an increase of 7.3 percent from 2000...So the trend from the 90s has continued into this decade.”¹⁵

Figueroa provided important observations about the remittance market regarding the U.S. Latino population:

the 20 million Mexicans living in the U.S. generate economic production slightly greater than the \$600 billion economic activity generated by the 100 million Mexicans in Mexico.¹⁶ In other words, Mexicans living in the U.S. earn about five times as much as those living in Mexico.

Figueroa further observed that “Nearly one Mexican in five regularly gets money from relatives employed in the U.S., making this country the largest repository of such remittances in the world...Money sent home by Mexican emigrants will soar to \$14.5 billion [in 2003, and]...annual remittances to Mexico and Central America could reach \$25 billion by the end of the decade...”¹⁷ It should be noted, however, that there is both a sending impact (i.e., impact on the remitting communities) and a receiving impact (i.e., impact on the receiving communities). “One of the things that is going to put a big question mark on that \$25 billion figure,” observed Figueroa, “is that because the second generation [e.g., children born in the U.S. to Mexican immigrants] is going to be much larger [in terms of population size versus the first generation of Mexican immigrants], and because the first generation is going to have progressively more interest in allocating resources to their offspring born in the U.S., the propensity to send dollars back home is going to diminish.”

This phenomenon had already happened to Figueroa’s parents and their friends: “When my parents first arrived in this country and their children were relatively young, they still sent money to their parents,” Figueroa explained, “But as the children grew and their well-being became more important, the relative percentage of disposable household income devoted to relatives back in Mexico [diminished]. I think we’re going to see that again,” Figueroa concluded, adding that the net impact of such a drop in remittances on the receiving countries remained “a big unknown.”

The Newly-Arrived Immigrant

Dr. Gloria Berlanga King is the executive director of El Centro Hispano/The Hispanic Center, a “culturally competent” organization dedicated to providing the Hispanic community in Greater Indianapolis with access to essential health and social services. King discussed how the services the Hispanic Center provides are crucial to the successful integration of new immigrants into the U.S. culture and economy.

In 1971, the Hispanic Center (then the Hispano-American Multi-Service Center) was created by the Indianapolis area Mexican-American community and Catholic Social Services to help Hispanics relocating to Indianapolis.¹⁸ King emphasized the importance of establishing a trusting line of communication with their clients: “People love when you speak their language,” she added. She also cited the following statistics:¹⁹

- 69 percent of Hispanics preferred to read material in Spanish rather than English;
- 50 percent said they remembered more or paid more attention to products and services advertised in Spanish;
- 47 percent professed more loyalty to groups that promote services in Spanish; and
- 44 percent felt that companies that promote in Spanish respect their heritage and really want their business.

By communicating with their client base in Spanish, the Hispanic Center has been able to greatly expand their services. Some of the Center's major financial assimilation assistance services include: rent and utility assistance; health services at a WIC (women, infants, children) clinic; interpretation and translation services; employment (computer training, including common software and Internet applications); language training (English classes for the day-to-day interaction, as well as Spanish classes for employers, employees, and the community); and legal issues (legal assistance referrals, assistance with W-7 and other forms, notary public, and immigration laws regarding the "Right to Know").

Servir y Aprender (Serve and Learn) Video Project

Dr. Chin-Sook Pak, an associate professor of Spanish at Ball State University and a fellow at the Virginia B. Ball Center for Creative Inquiry at the University, teaches a community immersion seminar entitled, *Servir y Aprender: Creating a Community-Centered Classroom*. Working with various community agencies in Hamilton County, Indiana, the seminar produced four educational videos in Spanish – fictional, dramatic depictions of immigrant experiences – intended to raise awareness of community resources, basic legal information, and U.S. cultural norms to the immigrant Hispanic population in the county.

"Simple cross-cultural misunderstandings can create problems that can have life-changing consequences," Pak remarked. To create the videos, fifteen Ball State students and Professor Pak conducted community action research that took them into businesses, police stations, courtrooms, victim assistance agencies, and jails around Hamilton County. Through volunteer work in the county, "[Pak and her students] strive to reduce the communication barrier between those who do not speak the same language while also retrieving valuable information regarding everyday obstacles faced by the Hispanic population."

Video Dramas: *Sobrevivir (To Survive)*

"As the culmination of our studies, we have created four educational "soap operas" in Spanish to provide immigrants with some of the information they might find

useful in the U.S.," Pak explained. Titled *Sobrevivir*, the series featured a recently arrived Mexican family trying to make a living while maintaining their sense of dignity. These videos explained in Spanish certain U.S. laws and told of means to obtain additional services. Pak and her students hope "that future immigrants will benefit [from the accessible information in the videos] by avoiding the conflicts and misunderstandings that others have faced." The videos were shown at the conference to illustrate the complexities faced by those working toward financial assimilation for immigrants. To receive a copy of the video, please e-mail Dr. Pak at cpak@bsu.edu.

Immigrant Access to Mainstream Banking – Documentation and Identification Requirements

Immigrants often encounter barriers to mainstream banking because of their cultural backgrounds, language limitations, perceptions of banks based on those in their home country, or lack of proper documentation of their current immigration status.

Each regional conference included a panel discussion on the documentation and identification requirements confronting immigrants trying to assimilate into mainstream banking. These requirements are produced by a diverse array of federal and state laws, as well as local bank policies. This section summarizes the important points from the panel discussions and provides an overview of the current regulatory framework – all in hopes of facilitating immigrants' integration into the financial mainstream.

Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism – USA PATRIOT Act

Jeff Siegel, senior examiner for the Federal Reserve Bank of Chicago, specializes in anti-money laundering (AML) examinations of financial institutions regulated by the Federal Reserve System. Siegel began by providing some background on the various AML-related laws and regulations, which include the Bank Secrecy Act (BSA) and economic sanctions programs administered by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC). The BSA was enacted in 1970, and the Treasury Department's dealings with economic sanctions date back to the War of 1812.²⁰ Of more recent vintage, and having a greater impact on immigrant access to mainstream financial institutions, is the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act, signed into law on October 26, 2001, in the wake of September 11, 2001. Of the many parts to the statute, Siegel focused on Section 326 of Title III, the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001 – Verification of Identification.²¹

Section 326 – USA PATRIOT Act – Customer Identification Programs (CIP)

Section 326 focuses on money laundering, terrorism, identity theft, and fraud, and sets forth the minimum standards for financial institutions and their customers regarding identity verification of the customer in connection with the opening of an account. On July 28, 2004, the federal regulators issued BSA examination procedures that address compliance with section 326.²²

Siegel began by defining some key terms:

Account – An “account” pursuant to the CIP rule is a formal banking relationship an institution provides or engages in services, dealings, or other financial transactions for its customer. Examples of accounts include deposit accounts, transaction or asset accounts, credit accounts, or other extensions of credit, as well as providing safe deposit boxes or other safekeeping services, and cash management, custodian, and trust services.

An “account” does not include:

- Products or services where no formal banking relationship exists (i.e., check-cashing, wire transfer, or sale of a check or money order);
- Any account that the bank acquires (i.e., single or multiple accounts as a result of a purchase of assets, acquisition, merger, or assumption of liabilities); and
- Accounts opened for the purpose of participating in an employee benefit plan established under the Employee Retirement Income Security Act of 1974.

Customer – The CIP rule applies to a “customer,” which can be a “person” (individual, corporation, partnership, or trust) who opens a new account, an individual who opens a new account for another individual who lacks legal capacity, or an individual who opens a new account for an entity that is not a legal person (e.g., a civic club).

A “customer” excludes:

- A person who does not receive banking services, such as a person whose loan application is denied;²³
- An existing customer whose true identity is known by the bank;²⁴ and
- Federally regulated financial institutions, banks regulated by a state bank regulator, governmental entities, and publicly traded companies – as described in 31 CFR 103.22(d)(2)(ii)-(iv).

The general requirements of a bank’s CIP program are:

Verify the Identity of any Person Opening an Account – The CIP must include account opening procedures that specify the identifying information that will be obtained from each customer. It must also include reasonable and practical

risk-based identity verification procedures that would enable the bank to form a reasonable belief in knowing the true identity of each customer.

Matrícula Consular Card – The federal government has no official position on the acceptance of the matrícula consular card by financial institutions as a valid form of identification in opening an account. According to Siegel, “It’s up to the particular financial institution to decide for itself how much risk to take with regard to verifying the identity of the person opening the account.”

The Bush Administration’s position on immigrant use of the financial system was summarized in a July 21, 2004 letter from the Treasury Secretary to the Appropriations Committee chairman and ranking member:

“[The] Administration believes as a general matter that Americans are better protected if consumers of all nationalities are invited into the financial mainstream.²⁵ Having consumers use regulated financial services providers offers better protections than leaving sectors of the population to underground providers, such as unregulated hawalas,²⁶ where they may be more exposed to elements involved in money laundering and terrorist financing. Because this provision could drive large sections of the U.S. population to underground financial services, it would weaken the Government’s ability to enforce our money laundering and terrorist financing laws.”

More than 1.5 million Mexicans in the U.S. carry the matrícula consular card, which is accepted by 169 banks, 32 states, 153 counties, 363 cities, and 1,157 police departments nationwide.²⁷ In the wake of the 9/11 terrorist attacks, the Mexican government, which had been issuing the card to its citizens living abroad since 1871, redesigned it in 2002 with enhanced security features.²⁸

Maintain a Record of Information Used to Verify the Customer’s Identity

– The CIP must include record-keeping procedures. At a minimum, the bank must retain the identifying information (name, address, date of birth for an individual, tax identification number [ITIN], and any other information required by the CIP) obtained at account opening for a period of five years after the account is closed. For credit cards, the retention period is five years after the account closes or becomes dormant. The bank must also keep a description of the following for five years after the record was made:

- Any document that was relied upon to verify identity, noting the type of document, the identification number, the place of issuance, and the date of issuance and expiration date, if any.
- The method and the results of any measures undertaken to verify identity; and
- The results of any substantive discrepancy discovered when verifying identity.

Determine Whether the Customer Appears on any Federal Government List of Known/Suspected Terrorists or Terrorist Organizations – The

CIP must include procedures for determining whether the customer appears on any federal government list of known or suspected terrorists or terrorist organizations.²⁹ Banks will be contacted by the Treasury in consultation with their functional regulator when such a list is issued, at which time banks must compare customer names against the list within a reasonable time of account opening (or earlier, if required by the government). Banks must also follow any directives that accompany the list.

“Additionally, banks are expected to check customer names against the Section 314(a) list of the USA PATRIOT Act,” remarked Siegel. “This list took the place of the old FBI list and is sent to financial institutions every two weeks. Further, banks should check names against the OFAC list.” According to Siegel, both of these checks are outside of the Section 326 list, which has not yet been issued.

Additional elements of a CIP program include:

Adequate Customer Notice – The CIP must include procedures for providing customers with adequate notice that the bank is requesting information to verify their identities. The notice, which must summarize the bank’s identification requirements, must be designed so that a customer is able to view it or is otherwise given notice prior to account opening. The following sample language is provided in the regulation: *“IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT – To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: when you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver’s license or other identifying documents.”*

Reliance on Another Financial Institution – A bank (for illustrative purposes, Bank A) is permitted to rely on another financial institution (Bank B), including an affiliate, and to perform some or all of the elements of the CIP, if such reliance is addressed in the CIP of Bank A, and if the following criteria are met:

- Bank B is subject to an anti-money laundering program rule (31 U.S.C. 5318[h]) and is regulated by a federal functional regulator;³⁰
- The customer has an account at both Bank A and Bank B;
- Reliance is reasonable under the circumstances; and
- Bank B enters into a contract requiring it to certify annually to Bank A that it has implemented its anti-money laundering program, and that it will perform (or its agent will perform) the specified requirements of the bank’s CIP.

Use of Third Parties – A bank is permitted to use a third party, such as an agent or service provider, to perform services on its behalf. For example, a bank may arrange for a car dealer or mortgage broker, acting as its agent in connection with a loan, to verify the identity of its customer, or it can arrange for a third party to maintain its records. However, the bank is responsible for its third party’s compliance with the requirements of the bank’s CIP. Banks are thus recommended to establish adequate controls and review procedures for such relationships.

Other Legal Requirements – Nothing in the CIP rule relieves a bank of its obligations under any provision of the Bank Secrecy Act or other anti-money laundering rules, especially provisions concerning information that must be obtained, verified, or maintained in connection with any account or transaction.

The Department of Treasury and the financial regulatory agencies have provided financial institutions with frequently asked questions (FAQs), to be revised and updated periodically. The reader can find this and other related documents (e.g., the CIP rule) on FinCEN’s Web site at www.fincen.gov.

Documentation Issues

Since the establishment of the Center, an issue frequently raised in relation to immigrant access to financial services is that of documentation. Proper, legal documentation is a fundamental building block to pursue a normal livelihood in U.S. society, and to long-term economic success. The right to work legally in the U.S. depends on whether the worker holds a Social Security card of the appropriate type, while an ITIN, in connection with appropriate supporting documentation, is sufficient to open a transaction account. The following section details guidelines for obtaining a Social Security card, the different types of cards, ramifications of identity theft, the wage reporting process, methods for obtaining and uses of ITINs, and finally restrictions on obtaining state drivers’ licenses, which aside from the obvious use are also valuable identification documents.

Social Security Number (SSN)

Background

Maria Paradowski, a technical expert for the Social Security Administration (SSA), provided an overview of the Social Security number (SSN). Paradowski, who emigrated to the U.S. from Cuba, comes into daily contact with immigrants trying to obtain SSNs, but who lack the proper documentation. "The Social Security number and card open so many doors – it's such an important and valuable document," said Paradowski, who wants "to ensure that only those who should receive a number do so."

A brief discussion on the history of the SSN revealed that it was never intended to serve as a general form of identification. Rather, the Social Security Act of 1935 created an enumeration system to keep an accurate record of workers' earnings.³¹ The Social Security numbering system was thus created to help determine workers' eligibility for Social Security benefits.

Obtaining a Social Security Number and Card

To get a Social Security number and card, the applicant must first complete an Application for a Social Security card (Form SS-5). To get an application:

- Visit the SSA Web site at www.socialsecurity.gov/online/ss-5.html;
- Call (800) 772-1213; or
- Visit a local Social Security office.³²

In addition, the applicant must provide original documents showing his or her age, identity, and citizenship or lawful non-citizen status. The SSA verifies birth documents for U.S. citizens age one and older with the issuing office. The background of non-citizens are verified with the Department of Homeland Security (DHS). As soon as the SSA verifies the background and documentation of an applicant, he or she will receive his or her SSN and card.

Paradowski recommended that parents obtain their child's SSN right after birth. A newborn's SSN application can be completed in conjunction with the application for his or her birth certificate, and most hospitals have the paperwork. The Social Security card will arrive by mail. Parents can also wait and apply for their child's SSN at any SSA office, but they will have to provide proof of age, identity, and U.S. citizenship for the child as well as for themselves.

A child age 12 or older applying for an original SSN must have an in-person interview, in which such a child born in the U.S. must explain why he or she does not already have a Social Security number.

For an adopted child, a parent may want to wait until the adoption is complete. To claim the child for tax purposes while the adoption is still pending, one should contact the

Internal Revenue Service for Form W-7A, Application for Taxpayer Identification Number for Pending U.S. Adoptions.³³ For more information, ask for the SSA publication, *Social Security Numbers for Children*.³⁴

How Much Does It Cost?

The SSA does not charge for issuing an SSN and card. An applicant may also request an unlimited amount of duplicate cards for free, although the cards may only be requested one at a time and a new application must accompany each request. Anyone attempting to charge for any Social Security service should be reported to the Inspector General hotline at (800) 269-0271.

Types of Cards

There are three types of Social Security cards – all of which show the cardholder's name and SSN.³⁵

- **Unrestricted** – The holder of this card is allowed to work in the U.S. without restriction. It is issued to U.S. citizens and people lawfully admitted to the U.S. with permanent Department of Homeland Security (DHS) work authorization.
- **Valid For Work Only With DHS Authorization** – The second type of card is issued to people lawfully admitted to the U.S. on a temporary basis who have DHS authorization to work. It shows the cardholder's name, number, and notes, "VALID FOR WORK ONLY WITH DHS AUTHORIZATION." This is generally issued to people who are working temporarily in the U.S. An example would be a company that hires a foreign engineer to work in the U.S. on a temporary basis and obtains a special dispensation from DHS.
- **Not Valid For Employment** – The third type of card is issued to a lawfully admitted person not authorized to work. It shows the cardholder's name, number, and notes, "NOT VALID FOR EMPLOYMENT." The SSA issues it to people:
 - From other countries lawfully admitted to the U.S. without work authorization from DHS, but with a valid non-work reason for needing a Social Security number; and
 - Who need a number because of a federal law requiring a Social Security number to obtain a benefit or service.

An SSN will be issued for nonworking purposes only if there is an entitlement involved, such as:

- SSA benefits (e.g., a child born in the U.S. whose father has died would qualify for survivor benefits, which the mother would receive on behalf of the child. An SSN would thus be needed for the mother to establish her record);

- Medicare and Medicaid End Stage Renal Disease (ESRD) Program;
- Supplemental Security Income (SSI) benefits;
- Temporary Assistance for Needy Families (TANF) benefits;
- Food stamps; and
- Other federally funded benefits.

The SSA will not issue an SSN if the applicant is applying solely to:

- File an income tax return or claim the Earned Income Tax Credit (see the below section on the ITIN);
- Obtain a state driver's license or identification card (see the below section on the Illinois State Drivers License);
- Purchase savings bonds;
- Open a deposit account with a bank;
- Register for school or apply for educational tests or student loans (often times schools identify students by their SSN; however, the SSA will not issue a number solely for this reason);
- Obtain private health insurance;
- Obtain state licenses or certificates; and
- Apply for school lunch programs or subsidized housing.

Protecting Social Security Numbers

The SSN is the sine qua non for identity thieves, who use personal information such as name, SSN, account number, or other identifying information of others to commit fraud or other financial crimes³⁶ – frequently check or credit card fraud. Identity thieves have also used stolen information to open investment accounts, obtain mortgage loans, rent apartments, establish utility and cell phone services, and purchase expensive items, such as jewelry, furniture, and automobiles.³⁷ The repercussions of identity theft can be severe. Damaged credit resulting from identity theft can derail loan, employment, and insurance applications; but depending on the actions of a thief, *victims* can be subject to arrest, fines, and/or confinement for crimes committed using their identity, until they can prove the theft of their identity for criminal purposes.³⁸ Rectifying the situation can be costly and time-consuming.

Congressional concern with privacy issues regarding the SSN began in 1965 with the House of Representatives Special Subcommittee on Invasion of Privacy.³⁹ In the interim, Congress has held many hearings and issued several reports on the use of the SSN as a personal identifier, the linkage of records using the SSN, national

personal data systems, commercial credit bureaus, and the effect of databases and computer searches on individual privacy. Concerned about the widespread use and mishandling of the SSN, Congress enacted the 1974 Privacy Act,⁴⁰ which made it unlawful for any agency to deny rights, benefits, or privileges to any individual who refused to disclose their SSN to a requesting agency. Numerous amendments have significantly limited the scope of the Privacy Act, however. Beginning in 1972, Congress also began to amend the Social Security Act to add penalties for the misuse of the SSN. Initial penalties established in 1972 made fraudulent use of the SSN a misdemeanor, and subsequent amendments in 1974 and 1981 made SSN misuse a felony.⁴¹

The Tax Reform Act of 1976 permitted the states and smaller political subdivisions to use the SSN in tax, public assistance, driver's licensing, and motor vehicle registration. The Act also further broadened statutory language – making the unlawful disclosure or compelling of disclosure of an SSN a felony.⁴² The Anti-Drug Abuse Act of 1988 established that the general limit of \$250,000 for felonies in the U.S. Code would apply to SSN violations under section 208 of the Social Security Act.⁴³ Further, penalties for misuse of SSNs would apply in cases where the number is referred to by any other name (e.g., ITIN).⁴⁴

In 1998, Congress directly addressed the growing problem of identity theft by passing the Identity Theft and Assumption Deterrence Act (Identity Theft Act).⁴⁵ The Identity Theft Act created a new offense called “identity theft” – thus criminalizing the unauthorized acquisition of a person's “means of identification” (e.g., name, SSN, date of birth, official state or government issued driver's license or identification number, alien registration number, government passport number, employer or TIN) with the intention to commit fraud.⁴⁶ The laws prior to passage of the Identity Theft Act only applied to the fraudulent creation, use, or transfer of identification documents and did not address the theft or criminal use of an individual's personal information. Notably, the Identity Theft Act has enabled the prosecution of unauthorized use of any “means of identification” as a violation of the new law or in conjunction with other federal statutes.

More recently, the Internet False Identification Act of 2000 has helped facilitate the prosecution of those who manufacture, distribute, or sell counterfeit identification documents (e.g., counterfeit Social Security card).⁴⁷ In addition, the Identity Theft Penalty Enhancement Act of 2004 (ITPEA) was signed into law by President Bush on July 15, 2004.⁴⁸ Requiring mandatory imprisonment following conviction for the knowing and unauthorized transfer, possession, or use of another person's means of identification,⁴⁹ the ITPEA can be used to prosecute “phishing” scams – e-mails purportedly from a legitimate

enterprise (usually a financial institution) that are sent to a user in an attempt to defraud the user into surrendering private information to be used for identity theft.⁵⁰ The e-mails usually direct the user to a Web site where he or she is asked to update personal information – such as passwords and credit card, Social Security and bank account numbers – which the legitimate organization would already have. With identifying information in hand, thieves then use it to secure credit cards, loans, and potentially commit fraud or other crimes using the victim's identity. Before the ITPEA, laws prohibited only the transfer of identifying information to others, but did not prohibit simple possession.⁵¹ With the advent of the ITPEA, the mandatory minimum for identification fraud (including possession) is two years in prison and up to five years if the offense involves a terrorist act.

The Wage Reporting Process

Under the Social Security Act, the SSA administers the retirement, survivors, and disability insurance programs, in which an individual's name and SSN are used to maintain a record of personal earnings. The accuracy of these records is crucial since the SSA will use them to determine an individual's eligibility for (and level of) Social Security benefits.

Employers report wages to the SSA on W-2 forms. Each year, the SSA processes about 240 million W-2s from about 6.5 million employers – representing the wages earned by about 145 million workers. While some employers continue to send paper W-2s, the SSA encourages electronic filing and works to educate employers on its advantages. In 2003, over 53 percent of W-2s were filed electronically – up from less than 10 percent in 1999.

In order to properly post earnings, the SSA attempts to maintain accurate records by mailing “no match” letters to employers and employees when an individual's reported name and SSN do not match the SSA's records. Most no match problems result from clerical mistakes or from people not reporting name changes to the SSA – most of these problems do not involve fraud or similar misconduct.

Over the last few years, the SSA has worked closely with interested parties to ensure that the purpose of each no match letter is clearly stated (within the letter). The name/SSN mismatch is not an indicator of immigration status, and taking adverse action against an employee solely because of the “no-match” letter could violate state or federal law.

Information related to the no match letters is considered tax information, and the SSA is prohibited by law from disclosing it to other agencies, including the Department of Homeland Security (DHS).

The SSA does, however, share certain earnings information with other agencies when there is a relevant statutory basis. For example, the SSA is required by law to provide a “non-work alien file” to the part of DHS that replaced the Immigration and Naturalization Service (INS). That file contains information on wages reported under an SSN issued to individuals not authorized to work in the U.S. In addition, the SSA uses a national program created by INS and now maintained by DHS that enables the SSA to verify the authenticity of a non-citizen's documents with DHS prior to issuing a Social Security card.

The earnings suspense file is an electronic holding file for W-2s that cannot be matched to the earnings records of individual workers due to name and SSN mismatches on the W-2s. It contains about 244 million W-2s (data through TY 2001 – the most recent year for which complete data is available) and is maintained so that if the SSA later obtains the correct name and/or SSN for a worker, the wages can then be credited to that worker's record. In order to credit the appropriate wages to a worker, the worker's name and SSN on the W-2 must match the name and SSN recorded on the “Numident” file – the master record of SSNs issued.

In 2003, in an effort to reduce the number of no-match letters sent out, the SSA began to only send no-match letters to employers with more than ten employees with mismatched information, and in instances where the mismatched (W-2) forms represent more than one-half of one percent (0.5 percent) of the total W-2 forms filed by the employer with the agency.

This letter is intended to remind employers about the importance of accurate reporting of the names and SSNs of their employees. It also encourages employers to correct their records and provides tips on how to ensure accurate reporting, but some employers have improperly used no-match letters as a basis for adverse action against their employees. To address this issue, the SSA has, since 1979, been sending no-match letters to employees two to three weeks before contacting the employer – seeking correct information from the employees first. Since 2000, the letters sent to employees have been explaining that they do not imply intentional submission of incorrect information and that the letters are not a basis, in and of themselves, for an employer to take any adverse action against an employee. Further, the letters contain information to assist employees if they believe that they may have been discriminated against because of the letters.

In Tax Year 2003, the SSA sent about 126,000 no-match letters to employers and about 7.5 million letters to employees. The letters now give employers 60 days to correct the discrepancies.⁵²

The no-match letters also indicate that the IRS uses information provided by the SSA to enforce tax laws, but since the SSA itself does not enforce tax laws, receipt of a no-match letter does not guarantee a penalty from the IRS. Under the IRS Code, persons who provide incorrect information may be charged a \$50 fine for failure to file a correct information return,⁵³ which can be any form, statement, or schedule that must be filed with the IRS. This IRS fine is distinct from fines assessed by DHS for knowingly hiring an undocumented worker. The IRS may impose these penalties unless the employer or employee can show reasonable cause for not providing the correct information. Nevertheless, it has deferred enforcement of the \$50 penalty until it further develops its penalty procedures. Under current IRS regulations, employers will not be subject to fines:

- If less than one-half of one percent or less than ten of the W-2 forms issued by a single employer do not match SSA's records; and/or
- If the incorrect information on the W-2 forms are based on a duly executed W-4 (Employee's Withholding Allowance Certificate) form and the employer has shown due diligence in trying to obtain the correct information.

Paradowski emphasized that prior to issuing an SSN, the SSA must first verify the applicant's proof of residency and citizenship or documentation from DHS showing the applicant's immigration status. Applicant information is checked via the SSA computer systems that link with DHS records. The SSA will only issue an SSN for work (or an allowable exception noted above). Paradowski acknowledged that some of these initiatives may result in delays in the receipt of SSNs by some applicants, but added that "these measures are necessary to ensure the integrity of the SSN."

Individual Taxpayer Identification Number (ITIN)

Erick Patterson is the director of Individual Advocacy for the Taxpayer Advocate Service, an independent organization within the IRS that helps taxpayers resolve problems with the IRS and that recommends changes that will prevent the problems. An individual with an ongoing issue with the IRS that has not been resolved through normal processes, or who has suffered or is about to suffer a significant hardship/economic burden as a result of the administration of the tax laws, should contact the Taxpayer Advocate Service.

Patterson discussed the ITIN. After some initial background, he explained who needs to obtain an ITIN, the revised and implemented changes to the application process, acceptable documentation, how to apply for an ITIN, and the use of certified acceptance agents by the IRS to assist applicants in obtaining ITINs.

Background

Since July 1, 1996, the IRS has been issuing ITINs to individuals who were not eligible to receive SSNs, yet needed identification numbers for tax administration purposes.⁵⁴ The ITIN is a nine-digit tax processing number that always begins with the number 9 and has a 7 or 8 in the fourth digit (e.g., 9XX-7X-XXXX).⁵⁵ Patterson explains that "ITINs are for federal tax reporting only, and are not intended to serve any other purpose. An ITIN does not authorize work in the U.S. or provide eligibility for Social Security benefits or the Earned Income Tax Credit – it does not change an individual's status." ITINs are not valid identification outside the tax system.

Who Needs an ITIN?

"ITINs are issued regardless of immigration status because both resident and nonresident aliens may have U.S. tax return and payment obligations," Patterson said. A non-resident alien ineligible for an SSN who is filing a U.S. tax return only to claim a refund under the provisions of a U.S. tax treaty needs an ITIN.⁵⁶ Other examples of individuals needing ITINs include:

- U.S. resident alien (based on days present in the U.S.) filing a U.S. tax return and not eligible for an SSN;
- Dependent or spouse of a U.S. citizen/resident alien; and
- Dependent or spouse of a non-resident alien visa holder.

Revised and Implemented Changes to the ITIN Application Process

On December 17, 2003, the IRS announced significant revisions to the ITIN application process.⁵⁷ "The purpose of these changes was to ensure that the ITIN was used for tax purposes," Patterson explained. Now applicants can apply for an ITIN only when they have a valid filing requirement and file an original valid federal tax return with their Form W-7/W-7SP (Application for IRS Individual Taxpayer Identification Number), unless they meet one of the exceptions to the requirement to attach a U.S. tax return.⁵⁸ Previously, however, a taxpayer could apply for an ITIN in advance to ensure that he or she received a number from the IRS before filing a return.⁵⁹ In order to avoid confusion with a Social Security card, the appearance of the ITIN has also been changed from a card to a letter.⁶⁰

Current ITIN Application Processing Procedures

Because of the December 2003 revisions, the IRS has created a two-step process for filing an ITIN application. First, the IRS reviews ITIN applications to ensure that they are complete with all necessary supporting documents attached – with each tax return, a family can file multiple ITIN applications, which the IRS refers to as "family

packs.⁶¹ The family packs must be kept together during ITIN application processing; if one is separated or lost, it will affect the processing of the tax return. ITIN applications are also reviewed to determine if valid tax returns are attached, unless the applicant meets one of the exceptions.⁶² Notably, “if a taxpayer wants to open a bank account,...[he or she] can apply for an ITIN and need not attach a filed tax return,” Patterson explained.

Second, IRS processes the return. If the ITIN application is incomplete or the return is missing or invalid, the application is returned to the applicant with a notice explaining the reasons for rejection unless the applicant meets one of the above mentioned exceptions for requesting an ITIN without filing a tax return.⁶³ In the calendar year 2004, the IRS received 1.29 million applications – 900,165 with tax returns attached and 399,097 without.⁶⁴ That year, the IRS returned 274,778 applications to applicants for not filing returns with their applications and rejected 37,513 applications because the returns were incomplete.⁶⁵

What Constitutes Acceptable Documentation as Proof of Identity and Foreign Status?

“In an effort to simplify the process, we have reduced from 40 to 13 the number of documents accepted as proof of identity to obtain an ITIN,” Patterson remarked. An original passport is the only necessary document to obtain an ITIN. It is preferred by the IRS because it proves both identity and foreign status. Other acceptable forms of documentation are combinations of current documents with expiration dates that show the applicant’s name and photograph, support a claim of foreign status, and be either an original or a copy certified by the issuing agency. The IRS will accept a combination of two or more the following documents in lieu of a passport:⁶⁶

- National identification card that must show photo, name, current address, date of birth, and expiration date (e.g., the matricula consular card);
- U.S. driver’s license;
- Civil birth certificate;
- Foreign driver’s license;
- U.S. state identification card;
- Foreign voter’s registration card (e.g., Mexican voter’s registration card);
- U.S. military identification card;
- Foreign military identification card;
- Visa;
- U.S. Citizenship and Immigration Services (USCIS) photo identification;
- Medical records (dependents only); and/or

- School records (dependents and/or students only).

How to apply for an ITIN

Applicants should use the January 2005 revision of Form W-7, *Application for IRS Individual Taxpayer Identification Number*,⁶⁷ and attach a valid federal income tax return unless qualified for an exception, as well as original or certified proof of identity documents.⁶⁸

Because the tax return is being filed as an attachment to an ITIN application, it should not be sent to the address listed in the Form 1040, 1040A or 1040EZ instructions. Instead, the Form W-7, proof of identity documents, and the tax return should be sent to this address listed in the Form W-7 instructions:

Internal Revenue Service
Philadelphia Service Center
ITIN Unit, P.O. Box 447
Bensalem, PA 19020

One may also apply by using the services of an IRS-authorized Acceptance Agent or by visiting an *IRS Taxpayer Assistance Center* (TAC). TACs in the U.S. provide in-person help with ITIN applications on a walk-in or appointment basis. Applicants outside the U.S. should contact an overseas IRS office to find out if that office accepts Form W-7 applications. The IRS’s ITIN unit in Philadelphia issues all numbers by mail.

Certified Acceptance Agent

Banks are required to report the earnings they pay depositors as interest on their accounts to the IRS. Thus banks need taxpayer identification numbers such as the SSN or ITIN from individuals with interest-bearing accounts. Acceptance Agents certified by the IRS can open interest-bearing accounts, even if the consumer lacks a tax identification number. An Acceptance Agent is an individual, business or organization (e.g., college, financial institution, accounting firm, etc.) authorized by IRS to assist individuals in obtaining ITINs.⁶⁹ Acceptance Agents review an applicant’s documentation, complete a certificate of accuracy, and forward the certificate and application to the IRS for processing. Some Acceptance Agents may charge a fee.

After “a certified Acceptance Agent gather[s] the documentation [of an individual without a tax identification number] and submit[s] it to the IRS,” Patterson explained, “then a bank account can be opened, ...[and the] ITIN will be sent to the taxpayer in short order, usually in about four to six weeks.” If the bank account does not pay any interest, then the taxpayer must wait for their ITIN until they file their required tax forms in April. There are currently 1,909 acceptance agents in the Acceptance Agent Program,⁷⁰ though the IRS is changing the administration of this program and has stopped accepting

new program applications pending issuance of new procedures.⁷¹

ITIN Resources

- A list of Acceptance Agents is available on the IRS Web site at www.irs.gov.
- A Form W-7 can be requested at (800) TAX-FORM (829-3676) – Continental U.S. only, by fax at (703) 368-9694, or at www.irs.gov/pub/irs-pdf/fw7.pdf.
- Additional ITIN information is available at (215) 516-ITIN (4846).

State Driver's Licenses

A driver's license is a primary form of identification because it is issued by a state or outlying possession of the U.S. and contains an individual's name, gender, date of birth, address, and photograph that can be used to verify the person's physical appearance. It is a stepping stone to full mainstream financial and social access. Consequently, access to state issued driver's licenses by undocumented immigrants has become a significant issue throughout the country. Proponents in some states have successfully expanded immigrants' access to driver's licenses while opponents in other states have passed legislation that further restricts immigrants' access.⁷² Proponents assert that drivers who have access to training, testing, licenses, and insurance are far less likely to cause traffic accidents than unlicensed drivers. Driver's license restrictions would force many to drive without licenses, which would endanger other drivers.⁷³ Conversely, opponents argue that a driver's license makes an immigrant into a de facto citizen and rewards illegal behavior.⁷⁴

Illinois Driver's License Requirements

Greg Curran, the assistant to the Secretary for Veterans Affairs at the Illinois Office of the Secretary of State, discussed documentation and identification requirements for obtaining an Illinois driver's license at the Lisle conference. According to Curran, "since 9/11, [the Illinois Office of the Secretary of State is] making it tougher to acquire a driver's license, and if you already have a driver's license, we're going to make it tougher to renew, ... because the Illinois General Assembly says you have to provide [us with a Social Security number in a letter or on a card from the SSA] in order to get an Illinois driver's license....Will we issue a driver's license in Illinois without a Social Security number?...[No]," said Curran, answering his own question.

Further, Illinois, for the first time ever, will cross-reference SSNs provided by driver's license applicants with data from the SSA – "to weed out those people who have false IDs or false Social Security numbers, because using a false Social Security number or someone else's number costs us all a lot of money." Identification and

documentation questions regarding the Illinois driver's license should be directed to the Illinois Office of the Secretary of State at (800) 252-2904.

Seventh District State Driver's License Requirements

Stipulations for obtaining a driver's license vary, often significantly, depending on the state in which the application is made. The table at www.chicagofed.org/community_development/profitwise_news_and_views.cfm lists the documents needed and other requirements for a state driver's license in the five states in the Federal Reserve's Seventh District. The information in the table was compiled by the National Immigration Law Center from statutes, state government Web sites, and information provided by advocates within each state, and it is current as of December 5, 2004.⁷⁵ Note that the documents used to prove age and identity may have changed.

Conclusion and Tangible Outcomes

Based on audience feedback and subsequent outcomes, the conference series was a success. Participants found the conferences to be an effective use of their time and a constructive forum for sharing ideas, practices, and innovative techniques to furthering immigrant financial market participation. Our cosponsors found the forums helpful in highlighting the barriers to mainstream financial services for immigrants.

Some more tangible outcomes flowed from the conference series as well. John Schultz, director of community development for the Wisconsin Housing and Economic Development Authority (WHEDA), showed interest in lending to undocumented immigrants prior to the Milwaukee conference. The Milwaukee conference then featured WHEDA's executive director, Antonio Riley, whose keynote address touched on homeownership among undocumented immigrants. After the conference, WHEDA began accepting mortgage loan applications from non-SSN holders, where ITINs were used in lieu of SSNs. A select group of lenders participate in the program. According to Shultz, WHEDA's acceptance of ITINs is an extension of its HOME mortgage loan program, with just a few documentation changes – no state tax dollars or special money were set aside for this program. Since WHEDA began accepting ITINs in lieu of SSNs, it has closed 76 mortgage loans of this type totaling \$8.2 million.⁷⁶

Erick Patterson of the IRS, inspired by the utility of the *Sobrevivir* video series, brought about another tangible outcome from the conference: the IRS is creating Spanish language video presentations designed to help explain the uses of the ITIN to the Spanish speaking immigrants with low English proficiency.

The Center is an ongoing Fed initiative. We welcome your comments, ideas, and observations about the topic and the Center.

Notes

- 1 U.S. Census Bureau, Current Population Survey, March 2002, located at www.census.gov/population/www/socdemo/foreign/cps2002.html.
- 2 Ibid.
- 3 Ibid.
- 4 Ibid.
- 5 Ibid.
- 6 Ibid.
- 7 Illinois Coalition for Immigrant and Refugee Rights, 2003-2004 report located at www.icirr.org/dat/pages/NeedsAssessment.pdf.
- 8 U.S. Census Bureau, Census 2000, Summary File 3 located at www.census.gov/Press-Release/www/2002/sumfile3.html.
- 9 Rob Paral and Michael Norkewicz, *The Metro Chicago Immigration Fact Book (2003)* located at www.roosevelt.edu/ima/pdfs/immigration-factbook.pdf.
- 10 U.S. Census Bureau, Census 2000, Summary File 3 located at www.census.gov/Press-Release/www/2002/sumfile3.html.
- 11 Ibid.
- 12 Rob Paral and Michael Norkewicz, *The Metro Chicago Immigration Fact Book (2003)* located at www.roosevelt.edu/ima/pdfs/immigration-factbook.pdf.
- 13 Ibid.
- 14 The source for all information in Dr. Ready's presentation is the U.S. 2000 Census located at www.census.gov.
- 15 *Milwaukee Journal/Sentinel*, September 19, 2003, [quoting U.S. Census Bureau].
- 16 *Milwaukee Journal/Sentinel*, September 26, 2003.
- 17 *New York Times*, October 28, 2003.
- 18 The United Way of Central Indiana, *El Centro Hispano (The Hispanic Center)*, April 21, 2005, located at www.volunteersolutions.org/uwci/org/224056.html.
- 19 *Packaged Facts Market Profile: The U.S. Hispanic Market*, September, 2001.
- 20 U.S. Treasury – Office of Foreign Assets Control Web site at www.treas.gov/offices/enforcement/ofac/faq.
- 21 H.R. 3162 (Jan. 3, 2001) available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_bills&docid=f:h3162enr.txt.pdf.
- 22 The Federal Reserve's *Bank Secrecy Act Examination Procedures for Customer Identification Programs* are available at www.federalreserve.gov/boarddocs/srletters/2004/sr0413a1.pdf.
- 23 When the account is a loan, the account is considered to be "opened" when the bank enters into an enforceable agreement to provide a loan to the customer.
- 24 A bank may prove that it knows the true identity of a customer by showing that prior to the issuance of the final CIP rule on October 1, 2003, it had comparable procedures for the identity verification of persons who had accounts with the bank. A bank may also show proof of an active and longstanding relationship with a particular person, evidenced by such things as a history of account statements sent to the person, information sent to the IRS about the person's accounts without issue, loans made and repaid, or other services performed for the person over a period of time. This alternative, however, may not suffice for persons deemed high risk by the bank.
- 25 National Immigration Law Center, *Immigrants' Rights Update*, Vol. 18, No. 5, August 9, 2004, available at www.nilc.org/immlawpolicy/cdev/congrssdev016.htm.
- 26 *Hawala* is a system whereby a person can send (or remit) money to a person in another part of the world without having to use the formal banking system or leave a "paper trail." According to Interpol, the *hawala* system "was developed in India, before the introduction of western banking practices." National Immigration Law Center, *Immigrants' Rights Update*, Vol. 18, No. 5, August 9, 2004, available at www.nilc.org/immlawpolicy/cdev/congrssdev016.htm.
- 27 Remarks by the Honorable Carlos M. Sada Solana, Consul General of Mexico, at the conference titled, *Financial Access for Immigrants: Exploring Best Practices*, sponsored by The Federal Reserve Bank of Chicago's Consumer and Community Affairs division and the Latin American Chamber of Commerce, Chicago on Wednesday, July 21, 2004.
- 28 Ibid.
- 29 As of the date of these procedures, there were no designated government lists specifically for CIP purposes. Customer comparisons to lists required by the Office of Foreign Assets Control (OFAC) and the USA PATRIOT Act section 314(a) requests remain separate and distinct requirements.
- 30 Federal functional regulator means: Board of Governors of the Federal Reserve System; Office of the Comptroller of the Currency; Federal Deposit Insurance Corporation; Office of Thrift Supervision; National Credit Union Administration; Securities and Exchange Commission; or Commodity Futures Trading Commission.

- 31 For additional historical background on Social Security, see the Social Security Administration's Web site at www.ssa.gov/history/history.html.
- 32 To find your local SSA office on the Internet, go to <http://s00dace.ssa.gov/pro/fo/fo-home.html>.
- 33 Internal Revenue Service Form W-7A, *Application for Taxpayer Identification Number for Pending U.S. Adoptions* is available at www.irs.gov/pub/irs-pdf/fw7a.pdf.
- 34 SSA publication, *Social Security Numbers For Children*, SSA Publication No. 05-10023, is available at www.ssa.gov/pubs/10023.html.
- 35 Social Security Administration, *Your Number and Card*, SSA Publication No. 05-10002, available at www.ssa.gov/pubs/10002.html#types.
- 36 For more information, see the Federal Trade Commission's home page on identity theft at www.consumer.gov/idtheft.
- 37 *Profitwise*, Summer 2001, available at www.chicagofed.org/publications/profitwise/2001/pwsummer01.pdf.
- 38 FTC's home page on identity theft at www.consumer.gov/idtheft.
- 39 *The Privacy Act of 1974 A Reference Manual for Compliance*, by Aruthur A. Bushkin and Samuel I. Schaen, published by System Development Corporation (McLean, Virginia), 1975.
- 40 See Pub. Law No. 93-579, 88 Stat. 1896 (1974).
- 41 The United States Attorneys' Bulletin, *Prosecuting Social Security Number Misuse: Attacking Identity Theft at its Source* by John K. Webb, published by the United States Department of Justice Executive Office for United States Attorneys Office of Legal Education, (Washington, D.C.), January, 2005, Volume 53, Number 1. Available at www.usdoj.gov/usao/eousa/foia_reading_room/usab5301.pdf.
- 42 See Tax Reform Act of 1976, Pub. L. No. 94-455, § 1211, 90 Stat. 1520, 1711 (1976); codified at 42 U.S.C. § 405(c)(2)(C)(i) (the 1976 Act). Also, remarks by Maria Paradowski, technical expert for the Social Security Administration at the conference titled, *Financial Access for Immigrants: Exploring Best Practices*, sponsored by The Federal Reserve Bank of Chicago's Consumer and Community Affairs Division and the Latin American Chamber of Commerce, Chicago, on Wednesday, July 21, 2004.
- 43 See P.L. No. 100-690.
- 44 Social Security Online History page available at www.ssa.gov/history/ssn/ssnchron.html. Also, remarks by Maria Paradowski, July 21, 2004.
- 45 See Pub. L. No. 105-318, 112 Stat. 3007 (1998).
- 46 See 18 U.S.C. § 1028(a)(7).
- 47 See Pub. L. No. 106-578, 114 Stat. 3075 (2000).
- 48 See Pub. L. No. 108-275; 18 U.S.C. § 1028A.
- 49 *Ibid* (italics added).
- 50 See "phishing" defined at www.webopedia.com/TERM/P/phishing.html.
- 51 See Webb, *Prosecuting Social Security Number Misuse: Attacking Identity Theft at its Source*, 7.
- 52 See *Handling Inquiries Relating to SSA Letters on No-Match Names and Social Security Numbers (SSNs)* available at <http://policy.ssa.gov/poms.nsf/lnx/0101105027?opendocument>.
- 53 See 26 C.F.R. § 301.6721-1.
- 54 See generally 61 Fed. Reg. 26,788 (May 29, 1996); Treas. Reg. § 301.6109-1(d)(3).
- 55 Internal Revenue Service IRS.gov Web site on Individual Taxpayer Identification Number (ITIN) available at www.irs.gov/individuals/article/0,,id=96287,00.html.
- 56 *Ibid*.
- 57 IRS News Release, *IRS Announces Revisions to ITIN Applications*, IR-2003-140, December 17, 2003.
- 58 IRS Publication 1915, *Understanding Your IRS Individual Taxpayer Identification Number* (Rev. 2004) available at www.irs.gov/pub/irs-pdf/p1915.pdf.
- 59 Applicants who are not required to pay income tax but need an ITIN for a purpose other than filing an income tax return, such as to take advantage of a tax treaty or for other specified purposes, may still apply for an ITIN at any time throughout the tax year. IRS Publication 1915, *Understanding Your IRS Individual Taxpayer Identification Number* (Rev. 2004), available at www.irs.gov/pub/irs-pdf/p1915.pdf.
- 60 Testimony of Pamela J. Gardiner, Acting Inspector General for Tax Administration Before the U.S. House of Representatives Committee on Ways and Means, Subcommittee on Oversight, Subcommittee on Social Security, March 10, 2004, available at www.treas.gov/tigta/congress/congress_03102004.htm.
- 61 See National Taxpayer Advocate, Annual Report to Congress, December 2004, available at www.irs.gov/pub/irs-utl/ntafy2004annualreport.pdf.
- 62 The exceptions for filing a tax return are listed in the instructions on the Form W-7. The exceptions include; (1) foreign taxpayers who own an asset that generates income tax withholding or an information return requirement, such as owning a bank account or partnership interest; (2) foreign students or scholars receiving pay for personal services; (3) foreign borrowers receiving mortgage interest reports; and (4) foreign taxpayer who sells property and is subject to withholding requirements. See Form W-7 instructions, p.3.
- 63 See Form W-7 instructions, *supra*.
- 64 Calendar Year 2004 ITIN Processing Data Report through Sept. 24, 2004.

- 65 Calendar Year 2004 ITIN Processing Fhttpata Report through Sept. 24, 2004.
- 66 Internal Revenue Service IRS.gov Web site on Individual Taxpayer Identification Number (ITIN), available at www.irs.gov/individuals/article/0,,id=96287,00.html.
- 67 Available at www.irs.gov/pub/irs-pdf/fw7.pdf.
- 68 Ibid.
- 69 Ibid.
- 70 IRS ITIN 2540 Report, dated October 1, 2004; also see National Taxpayer Advocate, Annual Report to Congress, December 2004, available at www.irs.gov/pub/irs-utl/ntafy2004annualreport.pdf.
- 71 IRS, *International Taxpayer – How to become an Acceptance Agent for the IRS ITIN Numbers*, at www.irs.gov/businesses/small/international/article/0,,id=96671,00.html. Also see National Taxpayer Advocate, Annual Report to Congress, December 2004, available at www.irs.gov/pub/irs-utl/ntafy2004annualreport.pdf.
- 72 See *Immigrant Access to State Driver's Licenses: A Tool Kit for Advocates*, February 2004, available at www.nclr.org/files/1073_file_ImmigToolKit_FNL.pdf.
- 73 Ibid.
- 74 Ibid.
- 75 Available at www.nilc.org/immspbs/DLs/state_dl_rqrmts_120504.pdf.
- 76 Origination figures are as of May 23, 2005, and do not reflect an additional three pending loan applications.

Steven W. Kuehl is the consumer regulations director for the Consumer and Community Affairs division of the Federal Reserve Bank of Chicago. Mr. Kuehl conducts seminars and workshops, and prepares articles and other written materials dealing with consumer compliance banking regulations. Since joining the Bank in September 1995, Mr. Kuehl has served as a commissioned senior examiner on consumer compliance and CRA examinations, as well as manager for Consumer Complaints, HMDA Processing, and the Advisory Service Program. Prior to joining the Reserve Bank, he was an examiner for the Office of Thrift Supervision beginning in 1990. Mr. Kuehl holds a B.S. in finance and economics from Carroll College, Waukesha, Wisconsin, and a Juris Doctor from Chicago-Kent College of Law. Mr. Kuehl is a member of the General Bar of the United States District Court for the Northern District of Illinois and the Illinois Bar. He is also a member of the Chicago Bar Association and serves on the Consumer Credit Practice Committee.

New Amendments to the Community Reinvestment Act (CRA) Regulations

On July 19, the three banking agencies, OCC, FDIC, and the Board, approved identical amendments to their CRA regulations, to take effect on September 1, 2005.¹

Intermediate Small Banks (banks with assets between \$250 million and \$1 billion). The core amendments reduce regulatory burden on intermediate small banks and make their CRA evaluations more flexible. The intent is to more effectively encourage such banks to invest in their communities.²

Data Collection and Reporting. Intermediate small banks will no longer be required to collect and report CRA loan data (data on small-farm, small-business, or community-development loans; or data on the location of mortgage loans outside of metropolitan areas). The agencies will continue to evaluate such banks on their lending performance (including data reported under the HMDA, if applicable) and summarize the performance in public evaluations.

CRA Evaluations. Intermediate small banks will be eligible for a two-test evaluation: a streamlined lending test and a test of community development (CD test). A bank will need a satisfactory rating on each test to receive a CRA rating of “Satisfactory.”

- The lending test will evaluate intermediate small banks using the method that is used to evaluate small banks. The criteria are similar to the large bank criteria in that they evaluate the distribution of a bank’s loans among areas and borrowers of varying incomes, but do this on a more streamlined basis.
- The CD test will evaluate a bank’s community development performance as a whole, instead of separately in three tests based on the form of the performance (loan, investment, or service). The new test is intended to emphasize the substance of a bank’s performance and be flexible about its form.
- A bank’s record of providing banking services to lower-income people, including through branches in lower-income areas, will be considered under the CD test.

Community Development in Rural Areas. To more effectively encourage bank investment in rural development, the amendments increase the number of rural areas in which bank activities, by banks of any size, qualify for “community development” consideration. Eligible areas will include not just low- and moderate-income census tracts, as now, but also “distressed or underserved” middle-income rural census tracts identified by objective criteria, as well as designated disaster areas, whether urban or rural. Eligible census tracts will be identified at www.ffiec.gov/cra.

Illegal Credit Practices. The amendments clarify when illegal lending practices by a bank or its affiliate might reduce the bank’s CRA rating.

Additional Guidance. The agencies have adopted joint interagency examination procedures for intermediate small banks.³ The revisions to the CRA regulations are effective September 1, 2005. Staff “Questions and Answers” will be published on an interim final basis by September 1, 2005, with an opportunity for public comment.

Notes

¹ The OTS has not adopted these amendments.

² In addition, banks with assets of less than \$250 million, regardless of affiliation with a holding company, will be exempt from data reporting and eligible for evaluation under the streamlined lending test alone.

³ Joint interagency examination procedures for intermediate small banks are available at www.ffiec.gov/cra/examinations.htm.

**FEDERAL RESERVE BANK
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