

**STATEMENT OF
DARWIN BROKKE
PRESIDENT AND CHIEF EXECUTIVE OFFICER
CITIZENS COMMUNITY CREDIT UNION
ON BEHALF OF THE
CREDIT UNION NATIONAL ASSOCIATION (CUNA)
ON
PREDATORY LENDING IN INDIAN COUNTRY
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS**

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Good morning, Chairman Dorgan, Vice Chairwoman Murkowski, and Members of the Committee.

Thank you for inviting me to testify today on behalf of the Credit Union National Association (CUNA) regarding predatory lending in Indian Country. CUNA is the largest credit union trade association, representing approximately 90 percent of the nation's 8,400 state and federally chartered credit unions which serve approximately 90 million members. This testimony will address the following:

The Cycle of Payday Lending

The Credit Union Response to the Cycle of Payday Lending:

- *Citizens Community Credit Union, Devils Lake, ND*
- *The Native American Credit Union Initiative*

Examples of Credit Union Service to Native American Communities:

- *Bear Paw Credit Union, Havre, MT*
- *Tongass Federal Credit Union, Metlakatla, AK*

The Credit Union Record of Lending to Native Americans

Legislative Initiatives to Enhance Credit Union Service to Native American Communities

Introduction

My name is Darwin Brokke, and I am President and CEO of Citizens Community Credit Union in Devils Lake, North Dakota. Founded in 1940, my credit union serves 10,700 members in the area around Devils Lake, Bisbee and Larimore, North Dakota. Among our ten branches, one is located on the Spirit Lake Reservation and one is in St. John on the border of the Turtle Mountain Reservation.

Lack of access to financial institutions plays a key role in poverty in any community. The additional challenges associated with serving Native American communities make it even more the case in these areas. Those without access to financial institutions do not have the opportunity to build assets and accumulate wealth. And, in many cases, they are

forced to use informal lending structures, including borrowing from family or friends, or turning to payday lenders.

Credit unions are a natural ally in the effort to reduce predatory lending in Indian Country. After all, the purpose of credit unions is to promote the economic well being of all people through a system which is cooperative, member-owned, volunteer directed, and not-for-profit; to provide a secure financial alternative for all consumers; and to provide financial and related products and services to members.

I would like to focus my testimony today first on my experience at Citizens Community Credit Union with respect to our members' use of payday lenders, refund anticipation loans and our open-end lending program. My written testimony describes some of the challenges credit unions throughout the country are facing with respect to service to Native American communities, and includes examples of how credit unions in other states are serving these communities, as well as a description of legislation which would permit credit unions to better serve all of their members, including Native Americans.

The Cycle of Payday Lending

Mr. Chairman, I see many of my members use payday lending services, some on a regular basis. My staff and I can see this when we view a member's account information, particularly their checking account. We will see a deposit on their account from a payday lender. When it comes time to clear their checks, we will often notice that a number of them have bounced checks. My credit union's daily overdraft list has a number of bounced checks made out to payday lenders.

We have seen how some members, by using payday lenders, have really mismanaged their finances. And this has resulted in very poor credit scores for these members, making it difficult for them to get financial help anywhere, including, sometimes, the credit union. There have been occasions when we have had to turn down a member for a loan because we see that they are already in debt to payday lenders – we do not want to add to the problem of insurmountable debt. When we see this with one of our members, we will try to educate him on the risks involved in payday lending, and we will try to help him them find products that could be part of the solution.

Mr. Chairman, I also see other lenders take advantage of my members through tax refund anticipation loans. At the time this product was first developed, my credit union was one of the first financial institutions to offer a refund anticipation loan. We would allow members to come in with their 1040 and electronically file it. We would then confirm the refund with the IRS and issue an advance.

Although we charged minimal fees to participate, we began to realize the program was more of a disservice to its members. Over a period of time, I realized it was a rip-off for my members. They would often be better off by waiting for the entire refund to come in and not pay any fees on any resulting loan. When we gave up the program, I noticed that some members began using other businesses to take out these refund loans.

By using a tax refund anticipation loan, members can end up owing money instead of receiving their tax refund. Considering the fees associated with the refund anticipation loan, the members are at a disadvantage. What members may not realize is that you pay the fee for the loan, in addition to fees for check cashing and tax preparation. When it is all said and done, some members can lose hundreds of dollars that they would have received had they waited a few more weeks. We now advise our members to stay away from refund anticipation loans.

The Credit Union Response to the Cycle of Payday Lending

Mr. Chairman, I believe that financial education is perhaps the best solution to combat payday lending. My credit union has worked hard to educate our members on the risks of payday loans, especially the high interest rate associated with them. It has been my observation that the payday loans are going to members with little money to pay it back. For the vast majority of my members, these payday loans are doing more harm than good.

But financial education alone is not the solution. Even with our financial literacy efforts, some members do not always understand that the high interest rates associated with these loans can get them stuck in a cycle of debt. They cannot see that payday loans are making it more difficult for them to realize a stable financial situation. And, the longer they have subjected themselves to abuse by payday lenders, the more difficult it is to offer products to help these members because their credit is completely shot. At Citizens Community Credit Union, our members have two programs serving as alternatives to payday lending products.

- *Citizens Community Credit Union: Open-End Lending Program and Reward Line of Credit Program*

In 1983, when I became President of Citizens Community Credit Union, I immediately recognized a need to develop a strong relationship with the tribe and the tribal members. This need was two-part: the need for financial education and also the need for greater access to financial services and products.

It seemed as though most financial institutions would not make loans to Native Americans back when I started. Perhaps things have changed some now that everything is credit score driven. However, back in the 1980s, that was not the case. The need for financial services was so great and the lending environment was so fragile that I didn't even pull credit bureau reports; instead, we went out into these communities and built relationships with the people. In addition to reviewing credit histories and credit scores, much of our lending continues to be relationship driven, based on a level of trust between the credit union and the members.

Citizens Community Credit Union instituted an Open-End Lending program in 1983. Open-End Lending essentially means that one can add to an existing loan, under certain

circumstances. It can work much like a revolving line of credit. Once opened, Open-End Lending allows for multiple advances, except without the need for all the additional paperwork, such as applications and notes. Each advance request can be quickly underwritten and disbursed without the labor and costs of other loans. Furthermore, Open-End Lending is convenient for the member; he or she does not need to visit the office to sign papers each time they need funds, they can simply pick up the phone and call.

Traditional closed-end loans have a specific maturity day; because of this, refinancing required establishing a completely new loan. In offering an open-end solution, new loans made for autos and other types of collateral will require much less paperwork and offer additional options, such as subsequent loan advances.

One advantage of Open-End Lending is that it anticipates repeat usage; this helps both credit unions and their members. The credit union is able to handle additional loan volume without the extra staff, and the member has the opportunity to add an advance with minimal effort.

Generally, the interest rate on open-end loans is associated with the collateral offered for the overall Open-End Lending program. Also, factors to consider when determining the interest rate include the individual's credit score, as well as the length of the loan. Generally, we can offer open-end loans with interest rates from 12 percent, to as low as 5.9 percent.

Recently, Citizens Community Credit Union began offering a line of credit program, called Reward Line of Credit. Because of my immediate experience with loans I made to people working for tribal businesses, I learned quickly that the employees would request multiple advances on a frequent basis. Furthermore, I realized many individuals were beginning to use payday loans as a means to get these advances. I understood that this could turn out to be a real problem, so my credit union implemented the Reward Line of Credit program.

The Reward Line of Credit program carries many of the same characteristics of open-end lending; however it has specific criteria one must meet in order to qualify. The main difference between the two programs is that the line of credit is limited in size. This program is only available to those individuals who have lower credit scores, and requires payroll deduction for repayment. Furthermore, the minimum advance is \$25, with a minimum repayment of 5 percent of the balance plus \$20 that goes into a savings account. There are no fees associated with the program, and the interest rate is held at 16 percent.

Mr. Chairman, there is considerable default risk with this type of lending. In most cases, if the member were to lose their job, there are generally few assets to resolve the debt. It is well known that the tribal court systems are not always the easiest to work with, making any recovery efforts very difficult. With that said, we have made a commitment to our members to continue offering these loans – we have a relationship with the

Reservations, and the people have one with us. We will work with our members as best as we can to find a solution to any financial problem they may have.

On a daily basis, we make loans to help our members during challenging times; whether it is a \$30 loan to a member to pay his heat bill or a \$50 loan so that a member can purchase her medication. To us, these types of situations are a part of a typical work day. To pull one anecdote out of a thousand would be impossible, and it would be an injustice to take such a narrow focus. We do what we do because we believe in the credit union philosophy of “people helping people.” We are lucky in that we understand the culture, we understand the people, and we understand the risks. This helps us manage our programs and serve our community.

- *The Native American Credit Union Initiative: Identifying Challenges; Identifying Solutions*

While solid statistics regarding the number of credit unions serving Native American communities are difficult to come by, I know that my experience is not unique within the credit union movement. In 2006, the National Credit Union Foundation (NCUF) began implementing the Native American Credit Union Initiative, an effort to study credit union service to Native American communities.

NCUF found that credit unions were serving Native Americans but details of the level of service were anecdotal and piecemeal. So, they instituted an informal survey of credit unions serving Native American communities to determine the types of products and services they offer and the degree to which they were serving this population. They also sought to facilitate the discussion, on a national level, of best practices for and barriers to service of Native Americans by convening a conference in July 2006 for credit unions serving Native Americans. Twenty-one credit unions responded to the NCUF informal, voluntary survey and fourteen credit unions participated in the July 2006 conference.

The average asset size of the survey respondents was \$95 million and half of the credit unions responding to the survey had a “low-income” designation by the National Credit Union Administration (NCUA). The “low-income” designation means the credit union is eligible for regulatory assistance in serving low-income fields of membership. Three of the credit unions responding to the survey were located on an Indian reservation.

The responses to the survey showed that nearly all credit unions adapt their products to reflect members’ and market needs, including those of Native Americans. For instance, a consumer loan might be based on credit history rather than credit scores for some Native American borrowers. The respondents also indicated that they provide Individual Development Accounts (IDAs) and Volunteer Income Tax Assistance (VITA) with financial education.

Both the survey respondents and the conference participants identified understanding the tribal governing process and the tribal court system as one of the most difficult

operational challenges to serving Native American communities. Each tribe has its own system, and special expertise is needed to understand Indian law.

Another challenge identified by credit unions was the lack of financial literacy. As is the case with many Americans, tribal members often do not understand the long-term impact of their financial decisions, making them vulnerable to payday lenders and the chronic cycle of poverty. Like many Americans, not all Native American credit union members have developed a habit of saving on a regular basis, which jeopardizes their families' financial security and stability.

The credit unions participating in the NCUF Initiative also indicated that mortgages on trust land are difficult to collateralize, making it risky to lend on trust land unless there is a government guarantee. The HUD Section 184 Indian Housing Guarantee Loan program can be bureaucratic and complex, according to the credit unions participating in the Initiative.

The credit unions participating in the Initiative identified several opportunities for credit unions to serve Native American communities, including:

Membership expansion: Native American credit union members are usually very loyal once a trusting relationship between the member and the credit union is developed. If someone shares their positive credit union experience with a friend or family member, the credit union has a very strong possibility of adding a new member. Member loyalty presents a good opportunity for membership expansion for credit unions serving Native American communities.

Financial education: As previously noted, credit unions want to work with Native Americans and view this as an opportunity to fulfill the movement's "People Helping People" mission. According to the credit unions serving Native American populations, the greatest financial education need involves budgeting and long-term planning assistance. There is a need for financial education not only in the tribal schools, but also for Native American adults.

Increased lending opportunities: The credit unions responding to the initiative agreed that consumer loans, auto loans, home mortgages – both on and off the reservation – construction lending, micro-financing, and business lending are all opportunities for credit unions serving Native American communities.

Accounts for tribal governments: Tribal governments can also be a significant source of deposits for credit unions serving these communities.

Minimal competition from other financial institutions: Finally, the credit unions serving Native American communities noted there is minimal competition for new branches or ATM services. Opening a new branch or providing ATM services on a reservation can generate income to cover costs while also meeting a community need. Some of the credit unions participating in the Initiative have

opened a branch in the casino where their members work or in the high school their members attend.

Examples of Credit Union Service to Native American Communities

Using funding from the Community Development Revolving Loan Fund (CDRLF) and the National Credit Union Foundation, several credit unions have been able to enhance service to Native American communities. I would like to highlight the experience of two very successful credit unions:

Bear Paw Credit Union, Havre, Montana: Bear Paw Credit Union received both CDRLF assistance as well as a grant from the National Credit Union Foundation for software upgrades, staff training, and financial education for its members. The credit union's field of membership includes residents of the Fort Belknap Indian Reservation. Since 2004, credit union representatives travel weekly to the reservation (90 miles roundtrip) and assist tribal members with their financial needs. The National Credit Union Foundation grant helped the credit union place two ATMs on the reservation to accommodate cash needs. This has dramatically decreased tribal members' dependence on predatory lenders and check cashers.

Tongass Federal Credit Union (FCU), Metlakatla, Alaska: Tongass FCU initiated financial education and savings programs to schools in the communities they serve, helping promote the importance of savings at an early age. The National Credit Union Foundation made a \$45,180 grant to Tongass FCU to enable the credit union to serve a Native American island community only reachable by ferry. In 2007, the credit union provided financial education to 50 Metlakatla Indian families through a personal financial advisor. The families learned about savings, credit, budgeting, and online financial tools.

The Credit Union Record of Lending to Native Americans

Home Mortgage Disclosure Act (HMDA) data from 2006 makes it clear that credit unions are more likely than other lenders to grant loans to Native Americans. The HMDA data also shows that credit unions generally lend to Native Americans on more favorable terms. That's not surprising - as member-owned, not-for-profit financial cooperatives, credit unions care deeply about their member-borrowers.

Specifically, the most recent HMDA data shows that credit unions approved 66% of the applications they received from Native Americans. In comparison, other lenders approved just 52% of applications they received from this group. In addition, credit union pricing is more consumer-friendly to Native Americans. Only 5% of single family mortgage loans originated by credit unions were high-rate loans while 28% of such loans originated by other lenders (i.e., non-credit union financial institutions) were high-rate loans. High-rate loans are defined as those with interest rates 3 percentage points or more above the rate on comparable-maturity Treasury securities.

Legislative Initiatives to Enhance Credit Union Service to Native American Communities

Mr. Chairman, there are challenges and opportunities for credit unions serving Native American communities. While not envisioned to exclusively encourage credit union service to Native American communities, two bills contain provisions that would assist credit unions in these efforts.

S. 2957, the Credit Union Regulatory Improvements Act: S. 2957, as introduced by Senator Lieberman, contains several provisions aimed at giving credit unions the flexibility to better serve their members. In particular, S. 2957 would clarify that all federally chartered credit unions are eligible to add areas which qualify under as a Community Development Financial Institution Investment Area or a New Markets Tax Credit Area to their field of membership. Current law restricts single-sponsor and community chartered credit unions from applying to serve underserved areas. The companion bill to S. 2957 in the House is H.R. 1537, introduced by Representatives Paul Kanjorski and Ed Royce, which has 148 cosponsors.

H.R. 5519, the Credit Union Regulatory Relief Act: H.R. 5519 also contains a similar provision addressing credit union service to underserved areas. It also contains a provision that would permit federally chartered credit unions to offer payday lending alternatives to non-members within their field of membership. This provision is modeled after a section in the Financial Services Regulatory Relief Act of 2006 enabling federally chartered credit unions to offer check cashing and remittances services to non-members within their field of membership.

Conclusion

Mr. Chairman, thank you again for the opportunity to testify on this important issue. We share your concern regarding the availability of mainstream financial services to Native American communities and we stand ready to serve.