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11 **UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13 **OAKLAND DIVISION**

14 NELSON SEQUEIRA, ORSAY ALEGRIA,
15 and ISMAEL CORDERO, individually and on
16 behalf of all others similarly situated,

17 Plaintiffs,

18 v.

19 U.S. DEPARTMENT OF HOMELAND
SECURITY; U.S. IMMIGRATION &
20 CUSTOMS ENFORCEMENT; WESTERN
UNION FINANCIAL SERVICES, INC., a
21 Colorado corporation; CONTINENTAL
EXCHANGE SOLUTIONS, INC., a Kansas
22 corporation, d/b/a RIA FINANCIAL
SERVICES and AFEX MONEY EXPRESS;
23 VIAMERICAS CORPORATION, a Delaware
24 Corporation; and DOLEX DOLLAR
EXPRESS, INC., a Texas corporation,

25 Defendants.
26
27
28

Case No. 4:22-cv-07996-HSG

**[PROPOSED] AMICI CURIAE BRIEF OF
THE NATIONAL CONSUMER LAW
CENTER AND PUBLIC COUNSEL IN
SUPPORT OF PLAINTIFFS**

Date: May 18, 2023

Time: 2:00 pm

Place: Courtroom 2, 4th Floor, Oakland

Judge: Honorable Haywood S. Gilliam, Jr.

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STATEMENT OF CORPORATE DISCLOSURE

Pursuant to the Federal Rules of Appellate Procedure 29(a)(4)(A), the undersigned counsel certifies that *amici curiae* are not nongovernmental entities with a parent corporation or publicly held corporations that owns 10% or more of their stock.

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Page(s)

Cases

Commodity Futures Trading Commission v. Worth Bullion Group, Inc.,
717 F.3d 545 (7th Cir. 2013).....15

In re Mexico Money Transfer Litig.,
164 F. Supp. 2d 1002 (N.D. Ill. 2000), *aff'd*, 267 F.3d 743 (7th Cir. 2001).....6

NGV Gaming, Ltd. v. Upstream Point Molate, LLC,
355 F. Supp. 2d 1061 (N.D. Cal. 2005)3

United States v. Singh,
995 F.3d 1069 (9th Cir. 2021).....2, 3

Winters v. Board of County Commissioners,
4 F.3d 848 (10th Cir. 1993).....15

Statutes

Right to Financial Privacy Act of 1978, Pub. L. 95–630, 92 Stat. 3641, 3697 (Nov. 10,
1978), 12 U.S.C. § 3401 *et seq.* 1

12 U.S.C. § 3401(1)1, 2

12 U.S.C. § 3404.....1

Rules and Regulations

85 Fed. Reg. 34,870, 34871 (June 5, 2020)4

Other Authorities

Ardic, Oya, *FSI Insights on Policy Implementation No. 43: The Journey So Far: Making
Cross-Border Remittances Work for Financial Inclusion* (June 2022) *passim*

Ardic Oya, Nana Yaa Boakye, & Hemant Baijal, *The Long and Winding Road:
Remittances and Financial Inclusion*, World Bank (June 23, 2022)5

Associated Press, *A Town in Mexico Survives Entirely on Money Sent Back by U.S.
Migrants*, NPR (Jan. 26, 2022)11, 12, 13

Broom, Douglas, *Migrant Workers Sent Home Almost \$800 Billion in 2022. Which
Countries Are the Biggest Recipients?*, World Economic Forum (Feb. 2, 2023).....5, 12, 13, 14

Consent Order, *In re Choice Money Transfer, Inc.*, CFPB No. 2022-CFPB-0009 (Oct. 4,
2022)14

1 Consent Order, *In re Servicio UniTeller Inc.*, CFPB No. 2022-CFPB-0012 (Dec. 22, 2022)14

2 Consumer Financial Protection Bureau, *Choice Money Transfer, Inc. d/b/a Small World*

3 *Money Transfer*6

4 Consumer Financial Protection Bureau, *Sending Money to Another Country*.....14

5 Federal Deposit Insurance Corporation, *2021 FDIC Survey of Unbanked and Underbanked*

6 *Households 2* (Oct. 2022)7, 16

7 International Fund for Agricultural Development, *12 Reasons Why Remittances Are*

8 *Important* (June 15, 2022).....13

9 Letter to the Director of the Consumer Financial Protection Bureau, Nat’l Consumer L.

10 Ctr. (Oct. 19, 2021)4, 5

11 Markova, Eugenia & Barry Reilly, *Bulgarian Migrant Remittances and Legal Status: Some*

12 *Micro-Level Evidence from Madrid*, 5(1) South-Eastern Europe Journal of Economics,

13 Association of Economic Universities of South and Eastern Europe and the Black Sea

14 Region (2007)5, 8, 9, 11

15 Migration Data Portal, *Remittances* (Jan. 6, 2023)5

16 National Consumer Law Center, *Consumer Banking and Payments Law Manual* (2023) *passim*

17 Nikam, Akhil, Finacle Infosys Ltd., *International Remittances* (Mar. 2018).....4

18 Orozco, Manuel, *Future Trends in Migration, Remittances, Markets and Development:*

19 *Latin America and the Caribbean*, The Dialogue (Nov. 15, 2019)6

20 Rocha, Polo, *What Will it Take to Get Banks Back Into Remittances?*, American Banker

21 (Dec. 1, 2021).....4, 10, 12

22 Romney, Lee, *2 Money Wirers in Deal to Settle Lawsuits in Courts*, L.A. Times (May 13,

23 1999)6

24 Siegel, Tara Bernard & Ron Lieber, *Banks Are Closing Customer Accounts, With Little*

25 *Explanation*, N.Y. Times (Apr. 9, 2023).....9, 10, 11

26 Taparia, Vivek, *Banking Across Borders: The Future of the U.S.-Mexico Remittance*

27 *Corridor*, Tex. Bus. Rev. (Feb. 2005).....15

28 United Nations, *Remittances Matter: 8 Facts You Don’t Know About the Money Migrants*

Send Back Home (June 17, 2019) *passim*

United Nations Department of Economic and Social Affairs, Statistics Division, The

Sustainable Development Goals Extended Report 2022 (July 2022)7

Ward, Nicole & Jeanne Batalova, *Frequently Requested Statistics on Immigrants and*

Immigration in the United States, Migration Policy Institute (Mar. 14, 2023).....16

1 The World Bank (Brief), *Women and Remittances: Three Takeaways from Project*
2 *Greenback in the Western Balkans* (Mar. 23, 2021).....8, 9

3 The World Bank (Feature Story), *Remittance Recipients: Findings on the Greenback*
4 *Initiative in Morocco* (July 2, 2021)6, 7, 8

5 The World Bank (Press Release), *Remittances Grow 5% in 2022, Despite Global*
6 *Headwinds* (Nov. 30, 2022)6, 8, 12, 14

7 The World Bank Group, *Remittances—A Gateway to Sustainable Development: Lessons*
8 *Learned from the Implementarion of Project Greenback in Kosovo* (Mar. 2022).....7

9 The World Bank, *Remittance Prices Worldwide Quarterly*, Issue 43 (Sept. 2022)13

10 World Economic Forum, *Migration and Its Impact on Cities* (Oct. 25, 2017)13

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STATEMENTS OF INTEREST

The disposition of this case is likely to have far reaching effects on the ability of immigrants to access the American financial system, including money transfer businesses, without fear of reprisal. The National Consumer Law Center and Public Counsel seek to assist the Court in considering all of the information necessary to analyze whether the Right to Financial Privacy Act, 12 U.S.C. § 3404, protects the financial records of remittance senders who rely on money transfer businesses for their transactions.

The National Consumer Law Center

The National Consumer Law Center (hereinafter “NCLC”) is a national nonprofit research and advocacy organization that works for consumer justice and economic security for low-income and other disadvantaged people, including immigrants and asylum seekers. NCLC provides information, legal research, and policy analysis to Congress, state legislatures, administrative agencies, and courts, and has been a leading advocate for remittance senders over the last two decades, striving to protect them against unfair practices. NCLC has a particular interest in this case because it has grave implications for remittance senders and receivers. Remittance senders are frequently immigrants, including those who are now citizens but maintain close ties and send money to family members abroad. Many immigrants are more vulnerable to both the inaccuracies and the deliberate malfeasance of entities with whom they do business. It is vital to ensure that remittance senders who are sending money to family and community members in their countries of origin are protected from unnecessary intrusion. NCLC hopes this brief will provide the Court with crucial context as it determines whether money transfer businesses are “consumer finance institutions” under the Right to Financial Privacy Act, 12 U.S.C. § 3401(1).

Public Counsel

Public Counsel is one of the nation’s largest providers of pro bono legal services. For over 50 years, Public Counsel has worked with communities and clients to create a more just society through legal services, advocacy, and civil rights litigation. Too often, Public Counsel has seen predatory financial schemes that prey on people with lower incomes, especially immigrants, inflicting harm on those already struggling to get by. Everyone deserves the opportunity to live a dignified and safe life

1 in which they can prosper and provide for their loved ones. Public Counsel works to protect data
2 privacy and economic security for all, and especially works to fight for legal protections for
3 immigrant clients and communities.

4 **INTRODUCTION AND SUMMARY OF ARGUMENTS**

5 *Amici* write to explain the importance of remittances as a critical financial service for millions
6 of immigrants in the United States. Remittances—the sending of money internationally to family and
7 friends—provide an entry path for millions of immigrants into the broader financial system.
8 Remittances support entire economies, alleviate poverty, and increase economic trade and
9 investment. Because of the importance of remittances to the global economy, the international
10 community has prioritized making remittances safe and affordable.

11 Immigrants rely on access to secure, reliable, and private remittances to provide economic
12 support to their families and communities abroad. But these transfers have social and cultural
13 significance beyond their economic impact. Immigrants use remittances as a way to stay connected to
14 their family and friends. Remittances are a tangible expression of achievement and pride. For families
15 that have sacrificed so much, the ability to send remittances demonstrates that their hard work and
16 tenacity have paid dividends—in ways that are not quantifiable in dollars alone.

17 *Amici* impress on this Court that remittance data must be private. Consumers, especially
18 immigrants, will lose trust in money transfer businesses if their data is released to state and federal
19 authorities, and will likely migrate to unregulated and informal methods to send money to their
20 communities. This will lead to less financial integration for communities that are already amongst
21 America’s most unbanked, while simultaneously putting immigrants at risk of fraud and theft by bad
22 actors. Immigrants need to know that their information will be secure.

23 **ARGUMENT**

24 This case presents a novel question: whether money transfer businesses are “financial
25 institutions” under 12 U.S.C. § 3401(1). They are, as this brief elucidates. Money transfer businesses
26 are the primary providers of remittance services in the United States. Immigrants who “have limited
27 access to formal banking structures” are the primary consumers of remittance services. *United States*
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1 v. *Singh*, 995 F.3d 1069, 1073 (9th Cir. 2021). As such, the outcome of this decision will directly
 2 impact the legal rights of the millions of immigrants who send remittances annually and will
 3 undoubtedly have “potential ramifications beyond the parties directly involved.” *NGV Gaming, Ltd.*
 4 v. *Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005). Understanding the
 5 centrality of remittances for immigrant communities will further demonstrate the role money transfer
 6 businesses play as consumer finance institutions for millions of immigrants.
 7

8 *Amici* respectfully submit this Brief to provide this Court with information about remittances
 9 and their significance as a critical financial service for millions of immigrants in the United States.
 10 This Brief first defines remittances and provides context on their scope. It then describes the
 11 importance of remittances for millions of immigrants, including how remittances are used, why
 12 immigrants send remittances, and how money transfer businesses provide an essential financial
 13 service for immigrant communities. Finally, the Brief sets out the likely consequences of further
 14 immigrant distrust in the financial system resulting from the sharing of their personal data with
 15 dozens of state and federal entities.
 16

17 **I. Remittances Are Person-to-Person Money Transfers, Typically Sent Internationally**
 18 **by Immigrants Using Money Transfer Businesses.**

19 Defendants in this case are money transfer businesses that provide an integral service to
 20 millions of immigrants: remittances. Remittances are cross-border person-to-person payments,
 21 typically sent by immigrants to family and friends in their countries of origin.¹ They generally consist
 22 of recurrent, relatively small sums of cash.² Remittances can be made through either open or closed
 23

24
 25 ¹ Oya Ardic, *FSI Insights on Policy Implementation No. 43: The journey so far: making cross-*
 26 *border remittances work for financial inclusion* 6 (June 2022),
 27 <https://www.bis.org/fsi/publ/insights43.pdf>. (“This definition is widely used in the field and was first
 given by the Committee on Payment and Settlement Systems (CPSS) and the World Bank (WB) in a
 key publication on remittances”).

28 ² *Id.*

1 networks.³ Open networks have no single controlling provider, and a range of participants, including
 2 depository institutions and unaffiliated agents abroad, participate in the network.⁴ In contrast, closed
 3 networks consist of a single provider, which operates as an intermediary financial institution that both
 4 collects and disburses funds.⁵ Closed networks are the most popular mechanism for remittances in the
 5 United States.⁶ The most well-known closed network is Western Union, which operates “more than
 6 57,000” locations across the country.⁷ Traditional banking institutions also provide similar cross-
 7 border money transfers, typically marketed only to existing customers.⁸ Defendants in this matter all
 8 operate closed networks. As detailed *infra*, these money transfer businesses play a central role as
 9 financial institutions in facilitating remittances.

10 The World Bank reports that immigrants sent \$794 billion in 2022 alone.⁹ While the exact
 11 amount is unknowable, the actual scale of remittances is significantly higher than that official
 12 statistic.¹⁰ The World Bank’s narrow definition does not include money sent by military service
 13 members or international students. Nor does it capture international payments made directly to third
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15
 16 ³ National Consumer Law Center, *Consumer Banking and Payments Law Manual* § 6.5.1.1
 17 (2023) (citing 85 Fed. Reg. 34,870, 34,871 (June 5, 2020))

18 ⁴ *Id.*; Akhil Nikam, Finacle Infosys Ltd., *International Remittances* (Mar. 2018),
<https://silo.tips/download/international-remittances-5>.

19 ⁵ NCLC, *supra* note 3, at § 6.5.1.1.

20 ⁶ *Id.*

21 ⁷ Western Union Home Page, <https://www.westernunion.com/us/en/home.html> (last visited Apr.
 22 14, 2023).

23 ⁸ Polo Rocha, *What will it take to get banks back into remittances?*, *American Banker* (Dec. 1,
 24 2021), <https://www.americanbanker.com/podcast/what-will-it-take-to-get-banks-back-into-remittances>

25 ⁹ World Bank Group, *Migration and Development Brief 37*, 1 (Nov. 2022),
 26 <https://www.knomad.org/publication/migration-and-development-brief-37>.

27 ¹⁰ Letter to the Director of the Consumer Financial Protection Bureau, Nat’l Consumer L. Ctr.
 28 (Oct. 19, 2021), <https://www.nclc.org/wp-content/uploads/2022/09/Final-10-19-21-CFPB-Remittance-Hidden-Fees-Letter-1.pdf>

1 parties for mortgages, rent, utilities, or education.¹¹ Moreover, the definition does not include in-kind
 2 transfers or informal remittance methods such as mailing or delivering cash.¹² Notwithstanding this
 3 vast undercount, money transfer businesses process billions of dollars each year.¹³

4 Remittances uniquely provide both micro and macro solutions to poverty around the world.
 5 Money sent to individuals is critical for alleviating individual, familial, and community poverty.¹⁴
 6 Simultaneously, such funds support entire countries' economies.¹⁵ The international community has
 7 long recognized the essential nature of remittances for economic development and the global
 8 economy.¹⁶ Ensuring the continued practice is critical for individuals and economies alike.

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16 ¹¹ *Id.*

17 ¹² Eugenia Markova & Barry Reilly, *Bulgarian Migrant Remittances and Legal Status: Some*
 18 *Micro-Level Evidence from Madrid*, 5(1) South-Eastern Europe Journal of Economics, Association of
 Economic Universities of South and Eastern Europe and the Black Sea Region 55, 57 (2007)

19 ¹³ NCLC, *supra* note 3, at § 6.5.1.1 (“International remittances are big business in the United
 20 States, with remittances to the rest of the world equal to more than \$74.6 billion in 2021.”); Migration
 Data Portal, *Remittances* (Jan. 6, 2023).

21 ¹⁴ Oya Ardic, Nana Yaa Boakye, & Hemant Bajjal, *The long and winding road: Remittances and*
 22 *financial inclusion*, World Bank (June 23, 2022), [https://blogs.worldbank.org/psd/long-and-winding-
 road-remittances-and-financial-inclusion](https://blogs.worldbank.org/psd/long-and-winding-road-remittances-and-financial-inclusion).

23 ¹⁵ Douglas Broom, *Migrant workers sent home almost \$800 billion in 2022. Which countries are*
 24 *the biggest recipients?*, World Economic Forum (Feb. 2, 2023),
 25 [https://www.weforum.org/agenda/2023/02/remittances-money-world-
 bank/#:~:text=The%20amount%20of%20money%20sent,contributor%20to%20some%20nations%20
 26 economies](https://www.weforum.org/agenda/2023/02/remittances-money-world-bank/#:~:text=The%20amount%20of%20money%20sent,contributor%20to%20some%20nations%20economies).

27 ¹⁶ Ardic, *supra* note 1, at 12 (“The role of remittances has received considerable attention in the
 28 international development agenda for the last couple of decades. Much of this has been due to the
 efforts by the groups then known as the G8 and later by the G20.”)

1 **II. Immigrants Rely on Safe, Reliable, and Private Remittances to Support their**
 2 **Families, Maintain Social Networks, and Engage with the Financial System.**

3 Despite a history of high costs,¹⁷ corporate malfeasance,¹⁸ and the proliferation of digital
 4 money transfer options,¹⁹ immigrants continue to send remittances using over-the-counter cash
 5 transactions with money transfer businesses. These businesses collect cash in the United States and
 6 deliver cash in the foreign country.²⁰ Remittances through brick-and-mortar money transfer
 7 businesses cost, on average, 6% in cumulative fees.²¹ Digital remittance options, by contrast, offer
 8 significantly lower rates due to fewer overhead costs.²² However, for the reasons set out *infra*, these
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 10

11 ¹⁷ NCLC, *supra* note 3, at § 6.5.1.1 (“[T]he global average cost of sending \$200 appears to have
 12 stabilized to just under 6.5%.”)

13 ¹⁸ *Id.* at § 6.5.3.1 (“Western Union, Orlandi Valuta, and MoneyGram settled a class action
 14 brought by low-income Latinos. The consumers alleged that the money transmitters violated
 15 racketeering and consumer fraud laws by applying currency exchange rates which far exceeded the
 16 prevailing daily rates and failing to disclose this practice to consumers.”); *see also In re Mexico*
 17 *Money Transfer Litig.*, 164 F. Supp. 2d 1002 (N.D. Ill. 2000), *aff’d*, 267 F.3d 743 (7th Cir. 2001);
 Lee Romney, *2 Money Wirers in Deal to Settle Lawsuits in Courts*, L.A. Times, May 13, 1999;
 CFPB, *Choice Money Transfer, Inc. d/b/a Small World Money Transfer*,
<https://www.consumerfinance.gov/enforcement/actions/choice-money-transfer/> (last visited Apr. 19,
 2023) (detailing a consent agreement between the CFPB and a money transfer business for violating
 remittance rules).

18 ¹⁹ NCLC, *supra* note 3, at § 6.5.1.1 (“Money transfer operators have begun to offer digital
 19 money transfer products that allow remittance senders to originate transfers and allow recipients to
 20 receive funds online.”); Manuel Orozco, *Future Trends in Migration, Remittances, Markets and*
 21 *Development: Latin America and the Caribbean*, The Dialogue (Nov. 15, 2019),
[https://www.thedialogue.org/analysis/future-trends-in-migration-remittances-markets-and-](https://www.thedialogue.org/analysis/future-trends-in-migration-remittances-markets-and-development-latin-america-and-the-caribbean/)
development-latin-america-and-the-caribbean/.

22 ²⁰ NCLC, *supra* note 3, at § 6.5.3.1; Feature Story, *Remittance Recipients: Findings on the*
 23 *Greenback Initiative in Morocco*, The World Bank (July 2, 2021),
[https://www.worldbank.org/en/news/feature/2021/06/30/remittance-recipients-findings-on-the-](https://www.worldbank.org/en/news/feature/2021/06/30/remittance-recipients-findings-on-the-greenback-initiative-in-morocco)
 24 *greenback-initiative-in-morocco* (“These so called “over-the-counter” transactions are usually done
 25 through two international Money Transfer Operators (MTO), with the remittance receiver cashing out
 the full amount upon reception.”).

26 ²¹ Press Release, *The World Bank, Remittances Grow 5% in 2022, Despite Global Headwinds*
 27 (Nov. 30, 2022), [https://www.worldbank.org/en/news/press-release/2022/11/30/remittances-grow-5-](https://www.worldbank.org/en/news/press-release/2022/11/30/remittances-grow-5-percent-2022)
percent-2022 (“It is cheapest to send via mobile operators (3.5%).”)

28 ²² The World Bank, *supra* note 21.

1 lower-cost, digital remittances remain underutilized and inaccessible for many immigrant remitters.²³
 2 As of 2021, the World Bank reported that digital money transfers accounted for only 27% of
 3 international remittances.²⁴

4 Remittance receivers are often unbanked,²⁵ which presents a challenging hurdle for many
 5 remittance senders and receivers, as digital remittances often require both the sender and the receiver
 6 to have accounts.²⁶ Impoverished and elderly relatives often lack the digital or financial literacy to
 7 utilize these cheaper digital services,²⁷ and some communities in receiving countries operate in cash-
 8 dominant economies.²⁸ Remittance senders, especially undocumented immigrants, are often restricted
 9 from accessing banking services.²⁹ Other immigrant communities simply distrust the financial
 10 system.³⁰ Even those with bank accounts overwhelmingly choose not to use them for remittances.³¹

11
 12
 13 ²³ Ardic, *supra* note 1, at 9.

14 ²⁴ Statistics Division of the United Nations Department of Economic and Social Affairs, The
 15 Sustainable Development Goals Extended Report 2022 (July 2022),
https://unstats.un.org/sdgs/report/2022/extended-report/Extended-Report_Goal-10.pdf.

16 ²⁵ The World Bank, *supra* note 20.

17 ²⁶ Ardic, *supra* note 1, at 9 (“Access to cheaper digital remittances requires both senders and
 18 receivers to have access to a transaction account. This is a big challenge for undocumented migrants
 on the sending side and financially excluded families on the receiving side.”).

19 ²⁷ Ardic, *supra* note 1, at 20 (“Remittance senders and receivers oftentimes lack the necessary
 20 financial and digital skills to be able to navigate the financial products and services offered by
 regulated providers.”).

21 ²⁸ World Bank Group, *Remittances—A Gateway to Sustainable Development: Lessons learned*
 22 *from the implementation of project Greenback in Kosovo* (Mar. 2022),
https://remittanceprices.worldbank.org/sites/default/files/kosovo_greenback_-_final.pdf (“Cash
 23 transactions are the dominant form of payment in Kosovo.”).

24 ²⁹ Ardic, *supra* note 1, at 9, 20.

25 ³⁰ Federal Deposit Insurance Corporation, *2021 FDIC Survey of Unbanked and Underbanked*
 26 *Households* 2, 18–19 (Oct. 2022), <https://www.fdic.gov/analysis/household-survey/2021report.pdf>.

27 ³¹ The World Bank, *supra* note 20 (“Even remittance receivers that have a bank account (62% of
 28 the sample) usually do not make use of the account for receiving remittances. Only 12% report
 occasionally using the account for remittances.”).

1 Therefore, despite increasing alternatives, many immigrants still rely on money transfer businesses to
 2 provide secure and reliable access to cash-based remittance services.

3 Remittances assist with a broad range of individual and community needs. Approximately
 4 75% of all remittances support “essential” needs.³² The remaining 25% of remittances—more than
 5 \$100 billion annually—pay for non-essentials that are “saved or invested in asset building or
 6 activities that generate income, jobs and transform economies, in particular in rural areas.”³³ In
 7 practice, this means remittances provide extensive support to the individuals and communities that
 8 receive them.

9 *a. Individual Remittances Provide Essential Assistance that Directly Uplifts Families.*

10 On the individual level, remittances directly alleviate poverty by providing families with cash
 11 to pay for their immediate needs.³⁴ For example, remittances pay for life-saving medical care.³⁵ They
 12 are also associated with improved nutritional outcomes, increased birth weights, and higher rates of
 13 education enrollment for low-income families.³⁶ In a virtuous circle, remittances allow recipients to
 14 gain access to “additional financial services such as credit” that boost financial literacy and
 15 integration.³⁷ Many remittances also support the purchase of durable goods and investment goods,
 16 including real estate.³⁸ For some immigrants, remittance money supports the day-to-day expenditures
 17 of family members in their countries of origin while they save money to cover immigration costs and
 18 other expenses necessary to reunite their family.³⁹

19
 20 ³² *Remittances matter: 8 facts you don’t know about the money migrants send back home*, United
 21 Nations (June 17, 2019), [https://www.un.org/development/desa/en/news/population/remittances-
 matter.html](https://www.un.org/development/desa/en/news/population/remittances-matter.html) (“It is estimated that three quarters of remittances are used to cover essential things.”)

22 ³³ *Id.*

23 ³⁴ *Id.*

24 ³⁵ The World Bank, *supra* note 20; United Nations, *supra* note 32.

25 ³⁶ The World Bank, *supra* note 21.

26 ³⁷ Ardic, *supra* note 1.

27 ³⁸ Markova, *supra* note 12, at 57.

28 ³⁹ Brief, *Women and Remittances: Three takeaways from Project Greenback in the Western*

1 Moreover, remittances often operate as insurance agreements for individuals at both ends of
2 the transaction.⁴⁰ Households in receiving countries initially insure the departing individual by
3 providing financial support against the uncertainties of migration.⁴¹ They pay for travel and education
4 expenses in the United States.⁴² Once the individual integrates into United States economy, they then
5 assist their relatives abroad.⁴³ As Gilbert F. Hounbo, President of the International Fund for
6 Agriculture Development, explains: “It is not about the money being sent home, it is about the impact
7 on people’s lives.”⁴⁴ In short, remittances are central to the financial wellbeing of millions of
8 individuals in both the United States and abroad.

9 *b. Remittances Foster Family Connections.*

10 Immigrants’ motives for sending remittances extend far beyond any measurable economic
11 consideration. While motivations vary, studies show that many individuals send remittances as a way
12 of staying connected to their communities abroad.⁴⁵ Immigrants with fewer connections in their host
13 countries tend to send more money abroad, whereas those with broad familial and social ties in their
14 host countries tend to remit less.⁴⁶ In other words, remittances are a valuable source of interpersonal
15 connection and extended community for many new immigrants. Moreover, the very ability to remit
16 funds is an accomplishment and point of pride for many immigrants. As the former leader of Wells
17 Fargo’s remittance group, Daniel Ayala, stated: “There’s a huge sense of accomplishment as an
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19 *Balkans*, The World Bank (Mar. 23, 2021), <https://www.worldbank.org/en/region/eca/brief/women-and-remittances-three-takeaways-from-project-greenback-in-the-western-balkans>

20 ⁴⁰ Markova, *supra* note 12, at 58.

21 ⁴¹ *Id.*

22 ⁴² Tara Siegel Bernard & Ron Lieber, *Banks Are Closing Customer Accounts, With Little*
23 *Explanation*, N.Y. Times (Apr. 9, 2023), <https://www.nytimes.com/2023/04/08/your-money/bank-account-suspicious-activity.html>.

24 ⁴³ Markova, *supra* note 12, at 58.

25 ⁴⁴ United Nations, *supra* note 32.

26 ⁴⁵ Markova, *supra* note 12, at 68.

27 ⁴⁶ *Id.*

1 immigrant, when you're able to send that first transaction back. And then you continue to send . . . as
2 a way to demonstrate to your family that you are making progress, number one, and number two,
3 [there] is a sense of personal pride to be able to provide for [them]."⁴⁷ While not quantifiable,
4 remittances play an important emotional role for many immigrants seeking the American Dream.

5 *c. Remittances Are a Gateway to Financial Stability.*

6 For many immigrants, remittances are one of very few accessible entry points to the financial
7 system. Although banks are the traditional gateway into the financial system for many consumers,
8 they do a poor job of incorporating new immigrants.⁴⁸ Whereas immigrants typically desire access to
9 remittance services, most banks fail to make their services known or affordable.⁴⁹ Other immigrants
10 cannot access traditional banking services due to lack of documentation.⁵⁰ As a result, many
11 immigrants continue to lack access to traditional banking services long after arriving in the United
12 States.⁵¹ For example, only 2.5% of white households were unbanked in 2019, compared to
13 approximately 12% of Hispanic households.⁵²

14 Because of the inaccessibility of traditional banking, money transfer businesses "are usually
15 the first financial service used by immigrants and their families."⁵³ These entities provide an essential
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21 ⁴⁷ Rocha, *supra* note 8.

22 ⁴⁸ *Id.* ("So one way of reaching those potential customers could be to offer the services they
23 need. . . . But for the most part, banks just don't do this.")

24 ⁴⁹ *Id.* (Wells Fargo is the lone exception amongst America's largest financial institutions, and "it
25 processed more remittance transactions" than Bank of America and JP Morgan Chase combined.).

26 ⁵⁰ Ardic, *supra* note 1, at 33.

27 ⁵¹ Rocha, *supra* note 8.

28 ⁵² *Id.*

⁵³ Ardic, *supra* note 1, at 4.

1 service for millions of immigrants while simultaneously bringing them into the broader financial
2 system.⁵⁴ In time, this leads to greater financial literacy and inclusion.⁵⁵

3 *d. Remittances Spur Local Economies.*

4 On the community level, the injection of money into receiving countries spurs local economic
5 development.⁵⁶ In years with failed crops, remittances provide invaluable support for rural
6 communities.⁵⁷ Other remittances fund civic and social institutions such as local churches and
7 schools.⁵⁸ Some pay for necessary services like water and sanitation.⁵⁹ There are entire towns that
8 survive “entirely on money sent back by U.S. immigrants.”⁶⁰ Many immigrants choose to invest in
9 assets, which the UN describes as “a key aspect of sustainable development.”⁶¹ Remittances can even
10 remedy the detrimental effects of emigration. For example, migrants that departed Eastern Europe
11 after the collapse of the Soviet Union have counterbalanced the initial “brain drain” of their
12 departures through remittances.⁶²

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18 ⁵⁴ *Id.* at 31. (“International remittance transactions, especially since they are often sent on a
19 regular and consistent basis. For beneficiaries of these remittances, easily obtaining a transaction
history could be helpful in gaining access to additional financial services such as credit.”)

20 ⁵⁵ Ardic, *supra* note 14.

21 ⁵⁶ *Id.*

22 ⁵⁷ United Nations, *supra* note 32.

23 ⁵⁸ The Associated Press, *A town in Mexico survives entirely on money sent back by U.S.*
24 *migrants*, NPR (Jan. 26, 2022), <https://www.npr.org/2022/01/26/1075712845/a-town-in-mexico-survives-entirely-on-money-sent-back-by-u-s-migrants>.

25 ⁵⁹ United Nations, *supra* note 32.

26 ⁶⁰ The Associated Press, *supra* note 58.

27 ⁶¹ United Nations, *supra* note 32.

28 ⁶² Markova, *supra* note 12, at 68.

1 **III. Remittances Bolster the International Economy While Maintaining Entire**
 2 **Developing Countries' Economies.**

3 Remittances continue to grow, even when considering the recent COVID-19 economic
 4 slowdown.⁶³ According to the World Bank, remittances to low and middle-income countries grew
 5 5% in 2022 to \$626 billion,⁶⁴ and these remittances actively support nearly 11% of the world's
 6 population.⁶⁵ In the United States, immigrants send tens of billions of dollars in remittances every
 7 year,⁶⁶ making this country the largest global sender of remittances.⁶⁷ Although these sums are
 8 substantial, remittances represent only 15% of immigrant incomes;⁶⁸ the remaining 85% stay in host
 9 countries.⁶⁹ The vast majority of immigrant earnings stay in the American economy,⁷⁰ spurring
 10 economic growth while simultaneously addressing widespread labor shortages.⁷¹ In short,
 11 remittances are financial boons for both the sending and receiving countries.

12 International remittances provide critical support to dozens of low-income countries.⁷² Entire
 13 economies rely on remittances. Remittances comprise 50% of Tonga's GDP and over 30% of the
 14 GDP for Lebanon, Samoa, Tajikistan, and Kyrgyzstan.⁷³ Gambia, Honduras, El Salvador, Haiti, and
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16 ⁶³ The World Bank, *supra* note 21.

17 ⁶⁴ The World Bank, *supra* note 21 (The overall amount of remittances has risen to \$794 billion);
 18 NCLC, *supra* note 3 (“Global remittance flows, defined by the World Bank as non-resident migrants
 sending money home to family and friends, reached \$714 billion in 2019.”).

19 ⁶⁵ United Nations, *supra* note 32.

20 ⁶⁶ NCLC, *supra* note 3, at § 6.5.1.1 (Equaling “more than \$74.6 Billion in 2021.”); NCLC, *supra*
 21 note 10 (“The U.S. is the largest source of remittance outflows, sending \$71.6 billion” in 2019.).

22 ⁶⁷ Rocha, *supra* note 8.

23 ⁶⁸ United Nations, *supra* note 32.

24 ⁶⁹ *Id.*

25 ⁷⁰ *Id.*

26 ⁷¹ The World Bank, *supra* note 21.

27 ⁷² NCLC, *supra* note 3, § 6.5.1.1.

28 ⁷³ Broom, *supra* note 15.

1 Nepal each also receive more than a fifth of their GDPs from remittances.⁷⁴ The town of Comachuen
2 in Mexico is sustained entirely by remittances sent from the United States by seasonal farmworkers.⁷⁵
3 Moreover, the World Economic Forum reports that these remittances to low-income countries
4 encourage trade linkages and broader investments beyond direct infusions of cash, especially for rural
5 areas.⁷⁶

6 For many of these low-income countries, remittances are the largest source of external
7 financing, totaling over three times the amount of official development assistance.⁷⁷ The total value
8 of remittances exceeds the annual value of both foreign direct investment and official development
9 aid.⁷⁸ Due to their tremendous economic significance, remittances have become a key priority for the
10 international development agenda.⁷⁹ Recognizing that remittances have the capacity to pull millions
11 of families out of poverty while buoying the international economy, the G8 and G20 have focused on
12 reducing their costs and enhancing their security.⁸⁰ The international community has set a goal of
13 lowering remittance costs to 3% by 2030.⁸¹ It has also sought to improve financial literacy among
14 migrants who send remittances.⁸² As economies continue to rebound from the pandemic, the

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16 ⁷⁴ *Id.*

17 ⁷⁵ The Associated Press, *supra* note 58.

18 ⁷⁶ World Economic Forum, *Migration and Its Impact on Cities* 32 (Oct. 25, 2017); Broom, *supra*
19 note 15; *12 Reasons Why Remittances Are Important*, International Fund for Agricultural
20 Development (June 15, 2022), [https://www.ifad.org/en/web/latest/-/12-reasons-why-remittances-are-
important](https://www.ifad.org/en/web/latest/-/12-reasons-why-remittances-are-important) (“Remittances continue to matter more than ever, particularly in rural areas where they
count the most and provide further opportunities towards rural transformation.”)

21 ⁷⁷ NCLC, *supra* note 3, § 6.5.1.1.

22 ⁷⁸ Broom, *supra* note 15; United Nations, *supra* note 32.

23 ⁷⁹ Ardic, *supra* note 1.

24 ⁸⁰ *Id.*; United Nations, *supra* note 32.

25 ⁸¹ The World Bank, *Remittance Prices Worldwide Quarterly*, Issue 43, at 6 (Sept. 2022),
26 <https://remittanceprices.worldbank.org> (The “SDG Objective of 3 percent.”); NCLC, *supra* note 3, at
27 § 6.5.1.1 (Despite the commitment to lower the cost, “the global average cost of sending \$200
appears to have stabilized to just under 6.5%.”).

28 ⁸² Ardic, *supra* note 1, at 7, 20.

1 international community has emphasized the immense value of remittances,⁸³ so much so that the
2 United Nations General Assembly adopted an International Day of Family Remittances observed
3 annually on June 16.⁸⁴

4 The federal government has likewise recognized the value remittances to immigrants and the
5 economy at large. Reliable and secure remittance systems support temporary and seasonal workers
6 who ease many of our nation’s labor shortages, particularly in the agricultural sector.⁸⁵ For this and
7 other reasons, the Consumer Financial Protection Bureau (hereinafter “CFPB”) provides consumer
8 educational materials designed to protect remittance senders.⁸⁶ The CFPB makes these materials
9 available in eight languages.⁸⁷ The CFPB also provides money transfer businesses with free materials
10 to translate important disclosures for their clients,⁸⁸ and it has brought enforcement actions against
11 money transfer businesses for providing incorrect exchange rates or disclosures.⁸⁹ Likewise, the
12 Mexican government—through its consulates in the United States—publishes weekly wire transfer
13 fees and exchange rates so individuals remitting to Mexico can compare prices offered by various
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17 ⁸³ Broom, *supra* note 15.

18 ⁸⁴ United Nations, *supra* note 32.

19 ⁸⁵ The World Bank, *supra* note 21; The Associated Press, *supra* note 58.

20 ⁸⁶ CFPB, *Sending money to another country*, [https://www.consumerfinance.gov/consumer-](https://www.consumerfinance.gov/consumer-tools/sending-money/)
21 [tools/sending-money/](https://www.consumerfinance.gov/consumer-tools/sending-money/) (last visited Apr. 18, 2023); NCLC, *supra* note 3, at § 6.5.2.1.

22 ⁸⁷ CFPB, *supra* note 86; NCLC, *supra* note 3, at § 6.5.2.1

23 ⁸⁸ NCLC, *supra* note 3, at § 6.5.2.1.

24 ⁸⁹ NCLC, *supra* note 3, at § 6.5.2.1 n. 162 (“*See* Consent Order, *In re* Servicio UniTeller, Inc.,
25 CFPB No. 2022-CFPB-0012 (Dec. 22, 2022) (failing to develop and maintain required written
26 policies and procedures for error resolution); Consent Order, *In re* Choice Money Transfer, Inc.,
27 CFPB No. 2022-CFPB-0009 (Oct. 04, 2022) (failure to disclose the date that the funds would be
28 available to the designated recipient, failure to accurately disclose the exchange rate, failure to
accurately disclose transfer fees, failure to make the required disclosures, failure to refund certain
fees, and failure to develop and maintain required written policies and procedures for error
resolution.)”).

1 companies.⁹⁰ There is broad recognition by domestic and foreign governments that remittances are
 2 important for millions of individuals.

3 In assessing whether money transfer businesses are consumer finance institutions, the sheer
 4 volume of money transfers they facilitate bears consideration. To millions of immigrants, remittances
 5 are a financial service, and—much like banks and credit unions—money transfer businesses provide
 6 that financial service. Their primary function is to facilitate the movement of funds. To describe these
 7 entities as anything other than consumer finance institutions would be both factually inaccurate and
 8 contrary to the common understanding of the term. They are not pawnshops, *see Winters v. Board of*
 9 *County Commissioners*, 4 F.3d 848 (10th Cir. 1993), nor precious metal vendors, *see Commodity*
 10 *Futures Trading Commission v. Worth Bullion Group, Inc.*, 717 F.3d 545 (7th Cir. 2013). For the
 11 millions of immigrants that depend on their services, they are clearly consumer finance institutions.

12 **IV. Sharing Remittance Information Will Engender Distrust and Lead to Devastating**
 13 **Outcomes for Immigrants, Governments, and Money Transfer Businesses.**

14 By sharing remittance information with state and federal authorities, money transfer
 15 businesses foster distrust with their most vulnerable consumers, discouraging use of these services.⁹¹
 16 Because many immigrants will still need to send cash to family and friends abroad, wariness of
 17 traditional money transfer businesses may drive them toward less transparent, unregulated channels
 18 that are subject to criminal abuse.⁹² In the absence of viable alternatives, immigrants may use
 19 informal mechanisms to transfer funds, such as entrusting cash to individuals traveling to their home
 20 country. They may also aggregate their remittances, giving the money to one person who becomes
 21 the single remitter for multiple families. These methods are undesirable because they force
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23 ⁹⁰ *Id.*, at § 6.5.3.2; Vivek Taparia, *Banking Across Borders: The Future of the U.S.-Mexico*
 24 *Remittance Corridor*, Tex. Bus. Rev. (Feb. 2005),
 25 [https://repositories.lib.utexas.edu/bitstream/handle/2152/14920/tbr-](https://repositories.lib.utexas.edu/bitstream/handle/2152/14920/tbr-2005.02.pdf?sequence=2&isAllowed=y)
 26 [2005.02.pdf?sequence=2&isAllowed=y](https://repositories.lib.utexas.edu/bitstream/handle/2152/14920/tbr-2005.02.pdf?sequence=2&isAllowed=y).

27 ⁹¹ Ardic, *supra* note 1 (“Furthermore, this could discourage the use of less transparent channels,
 28 which are more vulnerable to criminal abuse, such as unregulated money transfer operators.”)

⁹² Ardic, *supra* note 1.

1 immigrants into an unregulated market, render entire communities susceptible to fraud and theft, and
2 undermine immigrants’ trust in the financial system at time when that trust is already low.⁹³ There
3 simply are no viable alternatives.

4 **CONCLUSION**

5 A stable, reliable, and private remittance system has tremendous importance for America’s
6 nearly 90 million residents living in and among immigrant families.⁹⁴ Safeguarding immigrant data
7 will foster trust in the financial system for millions of potential participants here and abroad. It will
8 also result in increasing levels of financial literacy and engagement. Recognizing the fundamental
9 nature of money transfer businesses—and securing the remittance information they obtain—is
10 therefore vital to the economic stability of millions of immigrants and to the health of the global
11 economy.

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25 ⁹³ FDIC, *supra* note 30.

26 ⁹⁴ Nicole Ward & Jeanne Batalova, *Frequently Requested Statistics on Immigrants and*
27 *Immigration in the United States*, Migration Policy Institute (Mar. 14, 2023),
28 [https://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states#:~:text=How%20many%20U.S.%20residents%20are,or%2020%20percent\)%20from%202010](https://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states#:~:text=How%20many%20U.S.%20residents%20are,or%2020%20percent)%20from%202010)