

**IMPROVING RETIREMENT SECURITY FOR LATINOS:  
OVERVIEW OF RACIAL AND ETHNIC DISPARITIES AND  
IDEAS FOR IMPROVEMENT**

Presented at

“ERISA Advisory Council  
Disparities for Women and Minorities in Retirement”

Submitted to  
U.S. Department of Labor  
Employee Benefits Security Administration  
Advisory Council of Employee Welfare and Pension Benefit Plans

Submitted by  
Leticia Miranda  
Associate Director, Economic and Employment Policy Project  
National Council of La Raza

September 1, 2010

Good afternoon. I would like to thank the ERISA Advisory Council for inviting me to provide testimony today. My name is Leticia Miranda and I am the Associate Director of the Economic and Employment Policy Project at the National Council of La Raza (NCLR). NCLR is the largest national Hispanic civil rights and advocacy organization in the United States, dedicated to improving opportunities for Hispanic Americans. NCLR has been providing policy analysis, advocacy, and public education on retirement security issues affecting Hispanic Americans for more than ten years. This includes work on both private retirement programs, such as employer-sponsored retirement plans; individual retirement accounts; and public retirement plans, such as Social Security. The current emphasis of our work is on strengthening Social Security, as this critically important program reaches far more Hispanics than all private retirement programs combined.

## **Quick Facts about the Hispanic Population**

In 2009 there were an estimated 48.6 million Americans of Hispanic descent in the United States, composing 15.7% of the total population.<sup>1</sup> In 2008, 63% of Hispanics were U.S.-born citizens, 11% were naturalized citizens, and 26% were foreign-born noncitizens.<sup>2</sup> The Hispanic population is younger compared to the overall U.S. population—the median age for Hispanics was 27.4 years, compared to 36.8 years for the total population.<sup>3</sup> In 2008 there were 22 million Hispanics in the adult workforce, composing 14% of all workers, and this proportion is expected to grow to 30% by 2050.<sup>4</sup>

Approximately 53% of the adult Hispanic workforce—or approximately 12 million people—is foreign-born. Of these, 3.2 million are naturalized citizens, while 8.5 million are not U.S. citizens. Those who are not U.S. citizens include legal permanent residents, refugees, asylees, undocumented workers, and those who are in the process of naturalizing or adjusting their immigration status. Educational attainment in the Hispanic community varies by nativity status, with 84% of native-born Hispanics completing high school, compared to 53% of foreign-born Hispanics.<sup>5</sup> Average personal income in 2008 was \$44,297 for native-born Hispanics, \$33,703 for foreign-born Hispanics, and \$57,877 for Whites in 2008.<sup>6</sup>

## **Disparities in Retirement Readiness for Women and Minorities**

The ERISA Advisory Council of the Employee Benefits Security Administration called today's hearing to learn more from stakeholders and experts about racial and ethnic disparities in retirement readiness and ideas for improvement. This testimony answers the questions given to witnesses in areas where NCLR has appropriate expertise. The questions answered are as follows:

1. What is the nature of the gaps?
2. What problems do you see and what factors do you think created the gaps in retirement readiness between groups? Is the public benefits system accessed more often by women and minorities who have had access to private plans? If so, under what conditions?
3. What do you think the Department of Labor's role should be in addressing this problem?

4. What additional guidance would help sponsors of retirement plans in collecting and using data by race and gender?
5. Are there plan designs that positively or negatively impact the outcomes for women and minorities?
6. How do we improve coverage and participation for women and minorities?

To answer these questions, NCLR consulted reports and studies done by outside and internal experts. This testimony draws heavily on previous research published by NCLR, including *Insecure Retirements: Latino Participation in 401(k) Plans*; *The Social Security Program and Reform: A Latino Perspective*; and *Retirement Security for Latinos: Bolstering Coverage, Savings, and Adequacy*, co-authored with the Brookings Institution’s Retirement Security Project. This testimony also draws on forthcoming NCLR publications covering wage reporting, and immigrants and Social Security. Key external sources of data included the Employee Benefit Research Institute, Center on Budget and Policy Priorities, Ariel Education Initiative and Hewitt Associates, and Center for Retirement Research at Boston College.

## Nature of the Racial and Ethnic Disparities in Retirement Readiness

The following section addresses disparities in retirement readiness first in private retirement plans, then in Social Security.

### Private Retirement Plans

**Lower average assets.** Hispanic Americans are less ready for retirement than other Americans. A study by the Retirement Security Project and NCLR shows that average assets held in a 401(k) plan or Individual Retirement Accounts (IRA) were \$19,076 for Hispanic households, compared to \$72,141 for all households, in 2006.<sup>7</sup> The same study shows that the readiness gap persisted among households with heads age 55 to 59: Hispanics held \$47,489 while all households held \$142,361.

### **Figure 1**

Average Assets Held in 401(k) Plans or IRAs (2006)

	Hispanic Households	All Households
All households	\$19,076	\$72,141
Households with income between \$50,000 and \$75,000	\$21,257	\$55,288
Households headed by a person age 55 to 59	\$47,489	\$142,361

Source: Eric Rodriguez and Peter Orszag, *Retirement Security for Latinos: Bolstering Coverage, Savings and Adequacy* (Washington DC: Retirement Security Project and National Council of La Raza, 2009).

A study conducted by the Ariel Education Initiative and Hewitt Associates (Ariel/Hewitt Study) documented similar savings disparities in 401(k) assets among three million employees in 57 large American corporations. The study shows that Hispanics typically had lower balances than

Whites and Asians at most income levels. However, it also shows that among higher-income employees earning between \$90,000 and \$119,999, Hispanics and Asians had the same balance in their 401(k) savings plan.<sup>8</sup> Asians typically have the highest retirement savings rates.<sup>9</sup> The parity between Hispanics and Asians is important because it shows that Hispanics in large corporations with high incomes are as likely to save as others who are similarly situated.

In interpreting these and other data, it is important to keep in mind the other factors besides race that influence asset balance levels. These factors include age, tenure, and income. Hispanics in the Ariel/Hewitt Study and overall are on average younger, have shorter tenures with their companies, and have lower incomes than Whites and Asians.

**Figure 2**  
401(k) Balances by Income and Race/Ethnicity, 2007

	Hispanic	Asian
Individuals with income between \$30,000 and \$59,999	\$22,017	\$32,590
Individuals with income between \$90,000 and \$119,999	\$104,549	\$104,233

*Source:* Ariel Education Initiative et al., *401(k) Plans in Living Color: A Study of 401(k) Savings Disparities Across Racial and Ethnic Groups* (Chicago, IL: Ariel Education Initiative, 2009).

**Higher use of early withdrawals and loans against 401(k) plans.** A key finding from the Ariel/Hewitt Study is that Latinos in the study who have access to 401(k) plans are more likely than Whites to take early withdrawals and have outstanding loans against their savings, which puts them at risk of a permanent reduction in retirement savings and subject to penalty fees. The Ariel/Hewitt Study shows that 29% of Latinos had a loan outstanding in 2007, compared to 21% of Whites, 16% of Asians, and 39% of Blacks. Latinos are also more likely than Whites to have taken a hardship withdrawal (3.4% of Latinos versus 2.1% of Whites).<sup>10</sup> This finding was significant even after controlling for nonrace factors such as income, age, tenure, and gender.

### Social Security

Hispanics have lower account balances in private retirement accounts and higher use of loans and withdrawals; not surprisingly Social Security plays a critical role in ensuring retirement security for Latino workers. Almost three-quarters (73.4%) of Hispanic seniors receive income from Social Security.<sup>11</sup> More than two out of five (44.2%) Hispanics age 65 or older receiving Social Security had no other source of income, compared to 20.1% and 39.5% of White and Black recipients, respectively.<sup>12</sup> Social Security helps keep the majority of Latino seniors out of poverty. In 2002, 18% of all Latino seniors were poor, but if our nation did not have Social Security, 51% of all elderly Latinos would have been poor.<sup>13</sup>

**Lower access to Social Security.** While Social Security goes a great distance in ensuring retirement security for Hispanics, disparities in access to Social Security do exist. Hispanic seniors are less likely than others to receive Social Security income. Almost three-quarters (73.4%) of Latino seniors age 65 or older received Social Security in 2008, compared to 85.8% of the general population age 65 or older.<sup>14</sup>

**Lower average benefit, higher rate of return.** Latino retirees receive a lower average benefit amount than White retirees (\$11,957 vs. \$15,514 in 2008).<sup>15</sup> Social Security has a progressive benefit formula—low-income workers receive a higher percentage of pay compared to high-income workers—and a lifetime payout feature that makes it particularly beneficial for Hispanics who are more likely to be low-income and live longer than other racial and ethnic groups.<sup>16</sup> While the Social Security benefit formula is progressive, it provides a retirement benefit to the lowest-income workers that leaves them 25% below the poverty line.<sup>17</sup> Hispanic workers are more likely to be the lowest-income workers: 42% of Hispanics earn poverty-level wages compared to 22% of White and 34% of Black workers.<sup>18</sup>

## **Causes of Gaps in Retirement Readiness**

Gaps in retirement readiness for Hispanics stem from their substantially lower access to both employer-sponsored retirement plans and Social Security compared to non-Hispanics.

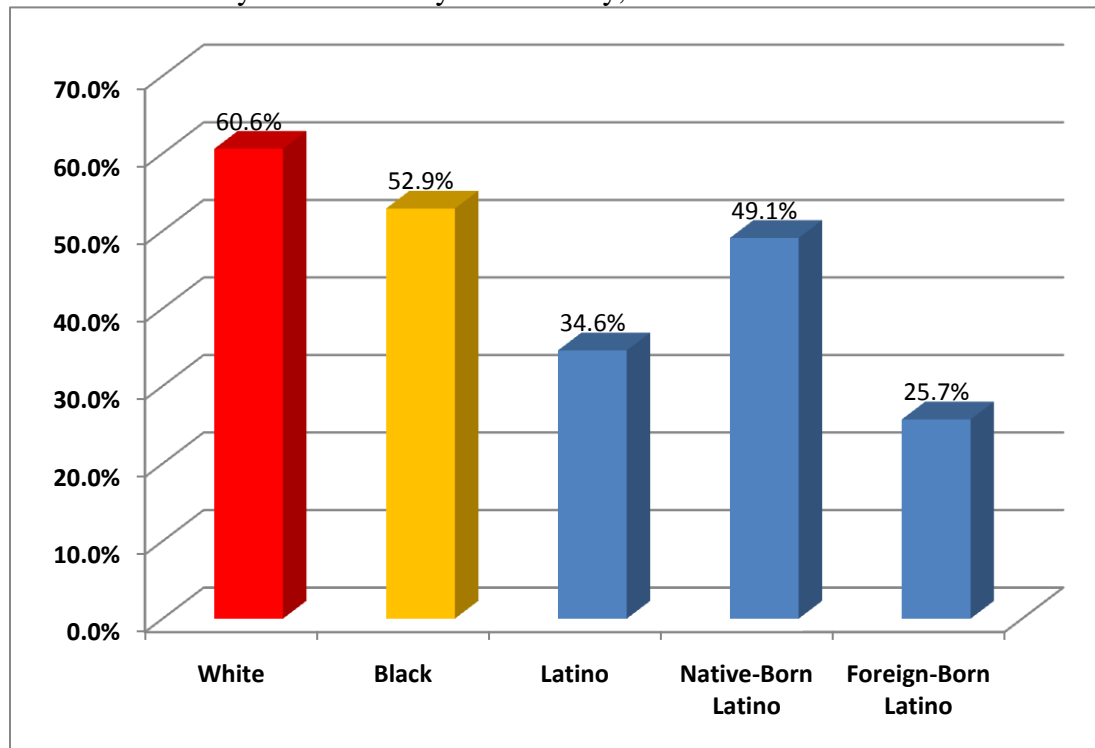
### Access to Employer-Sponsored Retirement Plans

**Low access to employer-sponsored retirement programs.** The vast majority of Latinos work for companies that do not offer any type of employer-sponsored retirement plans. In 2006, just over one in three (35%) Latino wage and salary workers age 21–64 worked in organizations that offer any type of employer-sponsored retirement savings program.<sup>19</sup> Hispanic adult workers are less likely than Whites and Blacks to be working in places that offer an employer-sponsored retirement plan (see Figure 3).<sup>20</sup>

There are also distinctions in access to retirement plans between native- and foreign-born Latino workers. Among native-born Hispanic workers, about half (49.1%) work for firms that offer an employer-sponsored retirement plan, compared to about one in four (25.7%) foreign-born Latino workers.<sup>21</sup> The experience of foreign-born Latinos is very important because more than half (53%) of the Latino workforce is foreign-born, while the rest is native-born.<sup>22</sup>

**Figure 3**

Percent of Wage and Salary Workers Ages 21–64 Working for an Employer Sponsoring a Retirement Plan by Race/Ethnicity and Nativity, 2006



*Source:* Unpublished Employee Benefit Research Institute estimates from the U.S. Census Bureau's March 2007 *Current Population Survey*. Conducted by the Bureau of the Census for the Bureau of Labor Statistics. Washington, DC, 2007.

**Voluntary system.** The major reason that Latinos are less likely to have access to an employer-sponsored retirement plan is that offering a retirement plan to employees is voluntary. Under a voluntary system there will be some employees who are left without access to a retirement savings plan at work. Latino workers are overrepresented in low-wage jobs, in small, private companies, and in industries where retirement savings plans are not commonly offered, such as agriculture and construction.

**Workforce placement.** The following points detail how Hispanic workers are situated in parts of the economy that reduce their access to employer-sponsored retirement plans.

- **Income.** Access and participation in an employer-sponsored retirement plan is closely associated with employee income—the higher the income, the higher the access and participation. Among workers earning the highest income (the top income quintile), two-thirds of workers participate in employer-sponsored retirement plans; among those earning the least (the bottom quintile), that figure drops to 13% for men and 10% for women.<sup>23</sup> Latinos are more likely than Whites to be low-income—51% of Latinos are in the bottom two income quintiles, compared to 36% of Whites—and less likely to be high-income—27% of Hispanics are in the top two income quintiles, compared to 45% of Whites.<sup>24</sup> Average personal income in 2008 was \$44,297 for native-born Hispanics, \$33,703 for foreign-born Hispanics, and \$57,877 for Whites in 2008.<sup>25</sup>

- **Public sector employment.** Workers who work in the public sector have higher access to retirement plans than those working in the private sector. Seventy-seven percent of Hispanics in the public sector are offered a retirement plan, compared to 30% of Hispanics in the private sector.<sup>26</sup> Latinos are less likely than other workers to work in the public sector. Only 10% of Latino workers work in the public sector, compared to 20% of Black and 17% of White workers.<sup>27</sup>
- **Employer size.** The size of the employer is also closely associated with access to employer-sponsored retirement plans, with smaller employers being much less likely to offer them. For example, 90% of companies with more than 100 employees offer a retirement plan, compared to only 49% of employers with fewer than 100 employees.<sup>28</sup> Latinos are much more likely to work for small private businesses than other workers. In 2007, 52% of the Latino workforce was employed in small businesses with fewer than 100 employees, compared to 42% of the White workforce and 32% of the Black workforce.<sup>29</sup>
- **Job type and hours.** Employees are often barred from participating in retirement plans due to tenure, job type, and number of hours worked. Data from the Survey of Income and Program Participation reveal that Latinos are more than twice as likely as other workers to be excluded from participating in their employer-sponsored retirement plan because they did not work enough hours or because no one in their job type is permitted to participate in the retirement plan.<sup>30</sup>

**Lower participation and savings rates.** The Ariel/Hewitt Study examined data for employees who all had access to an employer-sponsored retirement plan. Data from this study showed that Hispanics overall were less likely to participate in a 401(k) retirement plan when it was offered to them and Hispanics saved a lower percentage of pay (see Figure 4). When nonrace factors such as age, tenure, and income were held equal, this disparity was reduced: participation and savings rates for Hispanics were 6% lower than those of Whites.<sup>31</sup>

**Figure 4**

Participation and Savings Rates by Race/Ethnicity of Ariel/Hewitt Study Participants, 2007

	White	Black	Latino	Asian
Participation Rate	77%	66%	65%	76%
Average contribution rate (excluding participants with zero balances)	7.9%	6.0%	6.3%	9.4%

Source: Ariel Education Initiative et al., *401(k) Plans in Living Color: A Study of 401(k) Savings Disparities Across Racial and Ethnic Groups* (Chicago, IL: Ariel Education Initiative, 2009), 7–8.

## Access to Social Security

**Low access to Social Security.** Almost three-quarters (73.4%) of Latino seniors age 65 or older received Social Security in 2008, compared to 85.8% of the general population age 65 or older. One reason for this disparity is that Latinos work in parts of the economy where problems with access to Social Security are more common, such as construction, restaurants, agriculture, and domestic work. Moreover, Latino workers are sometimes misclassified as independent contractors or paid in cash, meaning that their employers do not make Social Security contributions. In addition, when workers are paid less than minimum wage or not paid for overtime, this reduces their eligibility for Social Security. Domestic workers, alone among all workers, face higher earnings thresholds to qualify for a countable quarter of work. These reasons mean Latino workers accumulate fewer credits in their earnings history than is accurate and leads to greater ineligibility for Social Security overall, as well as reduced benefit amounts.

- **Wage violations.** Latinos are overrepresented in low-wage industries where underpayment of wages and consequent misreported earnings are more prevalent. The National Employment Law Project (NELP) conducted a survey in 2009 of 4,400 low-wage workers (63% of respondents were Hispanic) and found a higher incidence of wage violations in certain industries. A wage violation occurs when people are paid less than the minimum wage, not paid at all, or not paid for overtime. The NELP survey found that industry type and occupation were the biggest predictors of wage violations, with higher violations occurring in jobs that paid in cash or in flat weekly rates. For example, the survey showed that 47% of workers paid by cash and on a flat rate were paid less than the minimum wage.<sup>32</sup> Occupations with high violations included child care workers, maids and housekeepers, building services and grounds workers, and food preparers. While Latinos compose 14% of the adult workforce overall, they are overrepresented in these high-violation occupations by making up 38% of domestic workers, 21% of food preparers, 39% of farmworkers, 29% of construction workers, and 33% of building maintenance workers.<sup>33</sup>

When workers are underpaid in violation of minimum wage and overtime laws, this has long-term implications for their Social Security earnings records. Underpaid workers will accumulate fewer Social Security credits than if they have been paid in accordance with labor laws. The NELP survey found that 60% of low-wage workers were underpaid by more than \$1 per hour.<sup>34</sup> For Social Security contributions for an average low-income worker, this can result in approximately \$2,500 lost in taxable wages reported per year, amounting to two credits lost annually.<sup>35</sup>

- **Misclassification of workers in construction and farming.** Latino workers are also overrepresented in two major industries where misclassification of workers as independent contractors is widespread: construction and farming. For example, in New York State alone, an estimated 14.8% of construction workers—about 45,474 individuals—are misclassified each year.<sup>36</sup> Some studies estimate that four out of ten construction workers are misclassified as independent contractors.<sup>37</sup> As noted above, Hispanics compose 29% of all construction workers<sup>38</sup> and 75% of Hispanic construction workers are foreign-born.<sup>39</sup> In 2007, 40.9% of all U.S. agricultural workers were



categorized as self-employed.<sup>40</sup> Hispanic workers compose 39% of all farmworkers, so the high use of the independent contractor status means that this workforce is unlikely to be accumulating quarters of covered earnings for their retirement.

- **Compliance and earnings thresholds for domestic workers.** There is very low compliance with Social Security wage withholding rules for domestic workers. In 2003, 59.3% of the 522,104 households that reported hiring domestic employees did not report their wages or withhold Federal Insurance Contribution Tax (FICA).<sup>41</sup> This implies that over half of all domestic employees were automatically disqualified from counting any of their earnings that year toward their Social Security account. Because many households employing domestic workers do not report hiring them, the actual number of affected workers is most likely much higher.<sup>42</sup>

Additionally, by law, an employer of a domestic worker must withhold FICA taxes for employees paid more than \$1,700 annually; the employer is then responsible for paying this tax. This earnings threshold for domestic workers is \$580 higher than that of other employees.<sup>43</sup> Another problem with this system, however, is that many domestic employees work for more than one employer and they might meet the threshold collectively, but not for one employer individually. For example, a household employee who worked for three employers and was paid \$900, \$800, and \$700 respectively would not receive any Social Security credits for these recorded earnings, even though overall earnings were \$2,400.<sup>44</sup>

- **Role of Immigration.** Undocumented immigrants are not eligible to receive benefits from Social Security. However, millions of undocumented immigrants contribute billions of dollars each year to the Social Security system through payroll or self-employment taxes.\* If an undocumented worker has paid Social Security taxes and later adjusts to a legal status, he or she might be able to receive credit for previous Social Security contributions. Michael Rafferty of the Congressional Budget Office shared in meeting on December 7, 2009 that the Social Security Administration estimates that after the Immigration and Control Act of 1986, only 2% of the newly legalized workers actually went through the process to claim access to benefits based on their contributions previous to 1986.

The Social Security Administration estimates that in the year 2000, about 30% of undocumented immigrant seniors had made sufficient lifetime contributions that they could potentially be eligible to collect benefits if they were to obtain legal status. However, also in 2000, the Social Security Administration implemented changes to make it more difficult for undocumented workers to obtain and use a Social Security number.

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\* The SSA becomes aware of this when Social Security records do not match W-2 statements. Based on this, Social Security estimates that 2% of all wage items can be attributed to undocumented workers amounting to billions of dollars per year (\$7 billion credited to the Social Security Trust Funds in 2003 alone). For more information, see House Committee on Ways and Means, Subcommittee on Social Security, *Strengthening Employer Wage Reporting*, 109<sup>th</sup> Cong., 2<sup>nd</sup> sess., 2006.

However, the total amount contributed by undocumented workers is likely to be higher because many older undocumented workers—who entered before the year 2000—are able to make Social Security contributions and not trigger notice by the Social Security Administration.

As a result, they estimate that a greater share of newly arrived immigrants now work in the underground economy and do not make contributions to the Social Security system, leaving them ineligible for the program even if they obtain legal status. Therefore, the Social Security Administration estimates that in 75 years, only 10% of undocumented immigrant seniors could potentially be eligible to receive benefits and that the percent of undocumented seniors who will actually receive benefits is “very small.”<sup>45</sup>

## **Problems Created by the Gaps in Retirement Readiness**

Hispanic seniors are twice as likely to be poor as all seniors: the poverty rate for Hispanic seniors was 19.3% in 2008, while the poverty rate for all seniors was 9.7%.<sup>46</sup> However, Social Security keeps approximately one-third of Hispanic seniors out of poverty.<sup>47</sup>

Although eligible by income standards, poor Hispanics are typically less likely to participate in public benefit programs than other Americans. For example, Supplemental Food Assistance and Nutrition Program (SNAP) data shows that about half (51.5%) of eligible Hispanics participate in SNAP, compared to 60.5% of all Americans.<sup>48</sup> Restrictions based on immigration status and additional barriers imposed by states and localities reduce the participation of poor Hispanics in various anti-poverty or healthcare governmental programs. In 2002, Hispanic seniors received 3.6% of their income from public assistance compared to .7% for all seniors; however, it is likely that the need for public assistance among Hispanics based on income eligibility was probably higher.<sup>49</sup>

## **Beneficial Plan Designs and Recommendations to Improve Coverage**

The following address beneficial plan designs that can improve both private retirement plans as well as Social Security.

### Private Retirement System

There is research clearly showing that 401(k) plan design features have the potential to significantly improve participation and contribution rates for employees, especially among those with low incomes, where Hispanics are disproportionately represented.

**Automatic enrollment and default rates.** The design of the retirement program strongly affects participation; companies that automatically enroll employees into a retirement plan typically have much higher participation rates, especially among lower-income workers. For example, a study by David Laibson showed that participation rates under a voluntary enrollment system increased from 20% to 80% after an automatic enrollment system was implemented.<sup>50</sup> This effect of automatic enrollment has been replicated in various types of companies by the researchers, including companies with high percentages of low-income workers. Another study shows that employees cluster at the initial default contribution rate; if this contribution rate is set too low, this may be detrimental to long-term wealth accumulation.<sup>51</sup> Periodic escalation of the default rate is another important design option to consider.

Not enough companies utilize the automatic enrollment feature. A survey conducted by Hewitt Associates shows that 51% of a sample of 150 mid- to large-sized employers had automatic enrollment as part of their 401(k) plan design in 2009.<sup>52</sup> Since Latinos have a higher rate of nonparticipation under voluntary enrollment, they would be more likely to benefit from automatic enrollment policies.

**Designs addressing loans and early withdrawals.** The Ariel/Hewitt Study data show that the greatest differences between Latino and White workers' 401(k) savings behavior concern loans and hardship withdrawals. Measures that can reduce the negative impact of loans and hardship withdrawals on retirement savings should be explored. Typically, 401(k) loans are repayable within 60 days of separation from the employer. The authors of the Ariel/Hewitt Study recommend a proposal to make it easier or more likely for individuals to pay back loans or hardship withdrawals by extending the payback period or making the loan portable. NCLR proposes to allow automatic deferral of loan repayment during periods of unemployment and financial hardship—this would be similar to what is allowed under the student loan program. Allowing repayment of hardship withdrawals if the withdrawals are associated with periods of unemployment should also be considered. Moreover, educational efforts to discourage the use of loans and hardship withdrawals also merit attention.

### Social Security

While the Social Security program has many features that benefit low-income workers, additional design enhancements could help improve retirement readiness for our nation. It bears noting that ensuring the long-term solvency of Social Security is of primary importance to all Americans, and especially so for lower-income communities. However, a discussion of solvency options is not in the scope of this testimony. For a full discussion of solvency options, see NCLR's report, *The Social Security Program and Reform: A Latino Perspective*.

**Benefit adequacy for low-income workers.** People who work over many years at low wages are financially vulnerable in retirement. Currently, minimum wage workers who receive Social Security starting at age 62 receive a benefit that falls 25% below the poverty line. One option that has been studied is to increase benefits for long-service, low-wage workers so that these workers receive a benefit that is 125% of the poverty line.<sup>53</sup> Since Hispanic workers are more likely to earn poverty-level wages, improving the adequacy of benefits for workers who worked many years at low wages is an important option for increasing retirement security for Hispanics.

**Compliance for domestic workers.** In many industries, the Internal Revenue Service thoroughly scrutinizes employers. Yet, as noted previously, 59% of households that report hiring a domestic worker did not file the requisite forms to pay Social Security taxes. With such a high proportion of households out of compliance with the law, it is evident that the same scrutiny is not seen for employers of domestic workers, which has negative consequences for domestic workers' social insurance participation. A more streamlined process to make tax payments and wage reporting easier coupled with more education should be developed so employers can better

comply with the duty to pay the taxes for their domestic workers. In addition, efforts to encourage compliance via tax penalties on employers could also prove effective.

**Threshold amounts for domestic workers.** Currently, the threshold after which employers must pay Social Security taxes for their workers is \$1,120 for all workers and \$1,700 for domestic workers, which is \$580 higher. This means that participation in our nation’s Social Security system is harder to achieve if you are a domestic worker. In addition, the income thresholds for both domestic and all workers are indexed for inflation, so the inequity persists. The threshold amount for domestic workers was raised in 1994 as part of the Social Security Domestic Employment Reform Act of 1994.

In an effort to address the higher bar for accessing Social Security among domestic workers, Congressman Xavier Becerra (D–CA) introduced the “Retirement Security for America’s Domestic Workers Act” (H.R. 1761) during the 109th Congress. The bill’s provisions would equalize threshold levels by ceasing the inflation adjustment for domestic worker income for a period of time.<sup>54</sup> Although the thresholds for all workers and for domestic workers will not balance immediately, estimates are that by 2013 they would reach the same amount and then increase at the same rate. This bill would eliminate threshold disparities between domestic workers and all workers and would benefit household workers by increasing their access to Social Security.

#### Other Ways to Improve Retirement Security for Hispanics

**Investments in education.** One way to improve retirement security for Hispanics is to increase Latino worker education and training levels so that they can compete for jobs with better wages and benefits, including access to employer-sponsored savings programs. Investing in the education of our future workforce will make our country stronger in a competitive world economy. Higher-skilled workers also generate more taxes for the country.

**Comprehensive immigration reform.** Addressing immigration reform is important so that immigrants can participate fully in private retirement plans as well as Social Security. As our country ages, this means that fewer workers are paying taxes to support Social Security, while more retirees are receiving benefits for longer periods of time. However, immigrants—both documented and undocumented—who come to the United States at relatively young ages improve this situation by adding to the workforce directly, as well as through their children, who grow up to become American workers and taxpayers. The Social Security Administration states that every increase of 100,000 immigrants—both documented and undocumented—improves the long-term actuarial balance of the Social Security Trust Fund by 0.07% of taxable payroll.<sup>55</sup>

## Role of the Department of Labor in Addressing Disparities

The Department of Labor (DOL) can address disparities in retirement readiness by taking actions to improve access to both the private and public retirement systems, especially for communities whose access is low.

### Private Retirement System

**Positive plan designs.** DOL should take actions to encourage more private employers to adopt better retirement plan designs. For example, DOL could consider supporting and promoting tax incentives for companies that offer automatic enrollment to their employees. Additional incentives could be offered for beneficial design features such as automatic escalation of contribution rates over time or for adoption of defined benefit pension plans. In all cases, DOL should support designs and features of retirement plans that evidence has shown have the greatest positive impact on retirement savings outcomes.

**Regulation of bad practices and products.** NCLR applauds DOL and the Employee Benefits Security Administration (EBSA) for taking initial steps to increase transparency of fees on mutual funds in 401(k) plans. DOL should continue regulating on behalf of employees who are trying to save their hard-earned money for retirement. There have been unfortunate cases showing that even Blue Chip companies are willing to offer products with high fees that guarantee a negative rate of return. For example, one company recently settled a lawsuit for an IRA product whose excessive fees (\$10 annual maintenance fees, \$15 set-up fees, \$15 “re-contribution” fees, and \$25 termination fees) guaranteed a negative rate of return for the average investor who contributed \$323.<sup>56</sup> As individuals bear a greater burden for their own retirement planning, DOL must take actions to make the marketplace safe for employee investors.

### Social Security

**Enforcement of labor laws.** The Department of Labor (DOL) can address the misclassification of workers and the improper reporting of hours, which impacts accurate accumulation of credits toward Social Security for Hispanic and other low-income workers. DOL must be given adequate funding to assist workers and businesses with compliance and to police employers violating the law.

**Enhanced penalties.** Penalties against employers who knowingly misclassify employees as independent contractors must also be at a level that discourages this practice. DOL should communicate closely with other affected agencies, such as the IRS and Social Security Administration, to ensure that efforts addressing misclassification are coordinated. The same is true for penalties associated with employers who violate minimum wage and overtime laws or who fail to pay their workers at all, a practice known as wage theft.\*

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\* We are beginning to see some localities make efforts to criminalize the practice of wage theft, where employees are paid less than the minimum wage or not at all. Los Angeles, for example, has begun to move legislation in this arena, led by Councilman Richard Alarcon. For more information, see Anna Gorman, “Move to criminalize

**Focused enforcement.** The Department of Labor must be given adequate funding to assist workers and businesses with compliance and police employers violating the law. While the workforce continues to grow, the number of Wage and Hour investigators at DOL actually dropped from 942 in 1997 to 732 in 2007.<sup>57</sup> President Obama’s fiscal year 2011 budget included \$25 million to hire 100 enforcement personnel in an initiative to combat misclassification of employees as independent contractors. While this is a positive step, DOL should also focus more of its enforcement budget on high-risk industries; in 1968, 60% of the Wage and Hour Division budget targeted high-risk industries, while only 23% of its budget did so in 2007.<sup>58</sup> In addition, the Wage and Hour Division must be prepared to target the types of employers—whether by occupation or employment arrangement—who have shown egregious violation of labor laws, especially those at higher risk of violations in earnings reporting.<sup>59</sup> The high-risk industries described earlier in this report—including domestic, construction, agriculture, restaurant, and building grounds services—offer a preliminary sketch of the areas of workplaces where WHD could target inspections in their annual plans. Greater enforcement in these industries will benefit all low-wage workers.

## **Guidance to Help Plan Sponsors That Are Collecting and Using Data by Race/Ethnicity**

Retirement security analysis and policy proposals could benefit greatly from a more robust governmental source of data with breakdowns by race, ethnicity, and gender. This would allow researchers to delve directly into governmental data sources rather than being limited by smaller proprietary studies who may restrict access to data. The types of data that could be collected by race and ethnicity could include account balance, participation rate, savings rate, equity exposure, percentage with loans, and percentage taking hardship withdrawals, as well as full demographic information such as age, income, tenure, and gender. Plan design data at the firm level should also be collected such as company matches, automatic enrollment features, and default savings levels. As noted in the Ariel/Hewitt Study, other helpful guidelines may include how to collect data and the frequency for collecting data.<sup>60</sup>

By making data collection mandatory for most employers, data could be compiled across companies and industries and be used for benchmarking purposes. This would enable employers to compare their results with others and enable employers to take steps to improve overall outcomes and close any gaps that may exist. This could encourage the spread of beneficial plan design features such as adding the automatic enrollment feature. Moreover, this new data by race, ethnicity, and gender could be analyzed to determine if new public policies are needed to improve retirement security among diverse communities of Americans.

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