

Written Testimony of

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Co-Executive Director
New Economy Project

Before the U.S. Senate Committee on Banking, Housing, and Urban Affairs

“Fostering Economic Growth: The Role of Financial Companies”

Tuesday, March 28, 2017

9:30 am

538 Dirksen Senate Office Building

Chairman Crapo, Ranking Member Brown, and members of the committee, thank you for the opportunity to testify at today's hearing. My name is Deyanira Del Rio and I am the co-director of New Economy Project, an economic justice center based in New York City. For more than 20 years, our organization has worked with an array of community, labor, civil rights and other organizations to press for fair lending and financial inclusion, as a matter of racial justice and equitable neighborhood development. I am pleased to share our experiences and perspective about the vital role that responsible financial institutions play in fostering economic growth and opportunity – as well as the devastating and destabilizing impact of abusive and unregulated lending on communities and the economy.

New Economy Project has led efforts in New York to challenge predatory lending and other discriminatory economic practices, including by pressing for policy change and regulatory accountability at the local, state and federal levels. Our accomplishments include winning strong anti-predatory mortgage lending and foreclosure prevention legislation; keeping payday lending debt traps out of New York, through vigorous defense of New York State's 25% usury cap and other consumer protections; ending in NYC an insidious form of employment discrimination based on a job applicant's personal credit history; and settling a groundbreaking class action lawsuit brought against a debt buyer network, resulting in a \$59 million monetary award and the imminent vacating of almost \$800 million in debt collection default judgments.¹

My testimony today is additionally informed by my 15 years as a board member (and current board chair) of the Lower East Side People's Federal Credit Union (LES People's), a regulated, not-for-profit community development financial institution (CDFI) that serves a majority low-income and immigrant membership in New York City. I previously served on the board of directors of the National Federation of Community Development Credit Unions, which helped to establish the federal CDFI Fund in 1994 and continues to serve CDFI and low-income designated credit unions across the country.

I have two overarching points that frame my testimony today:

First, eliminating barriers to fair banking and credit access is important to ensuring economic inclusion and opportunity for all. Indeed, in communities across New York and around the country, unequal access to credit has long fueled housing segregation, racial disparities in homeownership and small business-ownership, and vast and deepening wealth inequality.

Second, although affordable and appropriate financial services and credit are vital components of a healthy economy, we reject the notion that consumer credit is in itself a solution to structural inequities in our economy. Exploitative credit and debt can worsen these inequities, as we saw with subprime mortgages that led to the foreclosure crisis and wiped out hard-won homeownership gains among families of color; and payday loan debt traps that

¹ [Cite - <http://www.nytimes.com/2015/11/14/nyregion/victims-of-debt-collection-scheme-in-new-york-win-59-million-in-settlement.html>; www.neweconomynyc.org/resource/sykes-v-mel-s-harris-associates]

exploit working poor Americans struggling to make ends meet, and who would benefit from living wage laws and other measures to address root causes of economic insecurity.

It must also be said up-front that efforts by the Trump administration and Congress to dismantle financial reform laws, if successful, will inevitably lead to new crises and further erode Americans' trust in the financial services industry. On the one hand, we must do everything possible to preserve existing financial reforms and consumer protections, as inadequate as they are – thanks in no small measure to banks' relentless lobbying to defeat even basic reforms. On the other hand, we need to change our financial services system more fundamentally, if we are to have an equitable system that serves the real economy, rather than a financialized economy that is intrinsically extractive and exploitative of people and communities.

I would like to address three additional points in my testimony:

1. The financial crisis inflicted enormous costs on communities, on our economy, and on responsible financial institutions – with repercussions that continue today. Communities of color, in particular, are still reeling from the crisis.

The financial crisis exacerbated historical inequities in our financial services system and broader economy. Between 2007 and 2010, the median net worth of American families decreased by nearly 40%, driven primarily by a collapse in housing prices.² Losses were especially devastating for people of color, whose wealth was overwhelmingly concentrated in the form of homeownership, and whose neighborhoods were targeted by predatory mortgage lenders. Fully half of the collective wealth of black families and 67% of Latino families' wealth – already far below that of whites – were destroyed during the Great Recession.³

The big banks fueled this wave of predatory lending, by facilitating the securitization of high-cost loans and by directly acquiring or financing the worst subprime lenders. The banks further exacerbated the foreclosure crisis through abusive and often illegal mortgage servicing practices—including systematically failing to offer loan modifications equitably in communities of color.⁴

Banks have also fueled the growth of the bottom-feeding debt buyer industry, which purchases charged-off consumer debts from banks and others, for pennies on the dollar, and pursues people through civil lawsuits and other aggressive methods – often violating federal debt collection and consumer protection laws and people's fundamental due process rights. These companies specialize in amassing court default judgments against consumers, which they use to

² *Changes in U.S. Family Finances from 2007 to 2010: Evidence from the Survey of Consumer Finances*, at www.federalreserve.gov/pubs/bulletin/2012/pdf/scf12.pdf

³ *The Roots of the Widening Racial Wealth Gap: Explaining the Black-White Economic Divide (Institute on Assets and Social Policy)*, at <https://iasp.brandeis.edu/pdfs/Author/shapiro-thomas-m/racialwealthgapbrief.pdf>

⁴ *Troubled Asset Relief Program: More Efforts Needed on Fair Lending Controls and Access for Non-English Speakers in Housing Programs*, at www.gao.gov/products/GAO-14-117

garnish people's wages and freeze their bank accounts – another form of wealth extraction that disproportionately harms communities of color.⁵ Predatory lending, foreclosures, and abusive debt collection, meanwhile, appear in people's credit reports and can block their access to housing, jobs, affordable insurance and other vital opportunities.

Responsible lenders and the communities they serve were not spared the effects of the financial collapse and ensuing Great Recession, including loan losses resulting from long-term unemployment; and the ongoing challenges of operating in a depressed interest rate environment. According to the U.S. Treasury Department, the U.S. economy lost 8.8 million jobs and \$19.2 trillion in household wealth between 2007 and 2009.⁶ Current unemployment figures

2. Strong prudential regulation and consumer protections – including a robust and independent Consumer Financial Protection Bureau – are crucial to avert future crises and to ensure a fair financial services system that meets the needs of people and communities.

Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010, in the wake of undeniable regulatory failure and destructive lending that destabilized neighborhoods, exposed the financial system to broad, systemic risk, and nearly brought down the global economy. Among the Act's provisions is a requirement that lenders assess borrowers' ability to repay loans – a basic, common sense tenet of responsible lending that nevertheless has been cited by opponents of the Act as an example of unwarranted regulatory intrusion.

New Economy Project and allies across New York and the country advocated for the creation of the Consumer Financial Protection Bureau (CFPB) – the first federal agency with a core mission of protecting consumers in the financial services marketplace. Our organization has since testified at numerous CFPB field hearings; organized meetings between the CFPB and local groups, to elevate issues and inform the bureau's rulemaking and enforcement; and pressed the CFPB to promulgate strong federal rules to end predatory payday lending, debt collection, and abusive bank overdrafts.

The CFPB plays an absolutely vital role in identifying and eliminating financial exploitation – a function that was sorely missing in the years leading up to the crash. To date, the Bureau has returned \$12 billion to 29 million Americans, while bringing payday lenders, credit reporting agencies, and other powerful industries under meaningful supervision for the first time. The fact that banks are pushing relentlessly to weaken the CFPB is a testament to its effectiveness and its independence.

⁵ *The Debt Collection Racket in New York: How the Industry Violates Due Process and Perpetuates Economic Inequality*, at www.neweconomy.org/wp-content/uploads/2014/08/DebtCollectionRacketUpdated.pdf

⁶ *The Financial Crisis Response In Charts*, at www.treasury.gov/resource-center/data-chart-center/Documents/20120413_FinancialCrisisResponse.pdf

LES People's, the credit union whose board I chair, similarly welcomed the establishment of the CFPB and its efforts to level the playing field for responsible community development lenders. We have urged the CFPB to crack down on rampant abusive lending practices, including payday lending and hidden overdraft fees. These two financial products alone siphon billions of dollars from low income people and communities each year. In many markets, these high-cost loans additionally force a "race to the bottom" in which otherwise responsible lenders compete, for example, with payday lenders by mimicking the structure of these harmful loans; or rely on high and hidden overdraft loan fees that drain the accounts of low income bank and credit union customers, to compensate for low interest income and to compete with other financial institutions.

3. Community development financial institutions (CDFIs) have a proven track record of meeting affordable housing, small business and consumer credit needs. The proposed gutting of the federal CDFI Fund puts them at grave risk.

After receiving trillions of dollars in TARP bailout money and no-interest loans from the Fed, banks have failed to meaningfully extend credit to small businesses and other vital sectors of the economy. New York City is 40% foreign-born, yet banks routinely bar immigrant NYC residents from opening accounts, through restrictive identification requirements and other discriminatory barriers. Not a single one of the big banks accepts NYC's municipal identification card, IDNYC, as a primary form of ID, despite guidance from federal regulators confirming they may do so, and despite pressing need.

As banks continue to consolidate and become further removed from communities and local economies, community development financial institutions (CDFIs) play an increasingly important role in stimulating small business, affordable housing and other development in economically distressed neighborhoods, through fair and transparent loans and investments. CDFI-certified credit unions, including LES People's, serve more than eight million people across 46 states and, despite serving low income communities, exceed the financial growth and performance of their mainstream peers.⁷

Since 1994, the U.S. Treasury has provided CDFI certification and investments to qualifying institutions, shoring up their net worth and allowing them to grow deposits and loans, as well as attract other investors. (CDFIs must match federal investments dollar for dollar with private sources.) CDFI investments have helped my credit union, LES People's, for example, to make more than \$92 million in business, mortgage and consumer loans since our inception, and to grow in assets from \$33 million to \$51 million in a few short years. Our members' deposits are fully loaned out, and among the needs our credit union fulfills is lending to low income, limited-equity housing cooperatives in NYC – one of the few remaining avenues to homeownership that are accessible to low income New Yorkers.

⁷ *CDFI Certification: A Building Block for Credit Union Growth: Performance, Profiles and Prospects for CDFI Credit Unions*, at www.cdcu.coop/wp-content/uploads/2014/05/CDFI_whitepaper_final.pdf

Given the CDFI Fund's ability to achieve massive impact with relatively small investments, it has consistently garnered broad, bipartisan support. The Trump administration's recently-proposed FY 2018 budget, however, virtually zeroes out the CDFI Fund, along with other vital community development programs. Federal disinvestment from a sector that is financing true economic growth and jobs would have a devastating impact on communities across the country, and we hope this funding is swiftly and fully restored.

Thank you again for the opportunity to testify today. Unfortunately, we find ourselves in a position in which we must do everything possible to resist attacks on financial reform and consumer protection. I would be happy to respond to any questions you might have about the role of the financial sector in fostering economic growth, including our vision for a just and equitable economy.

Absence of Bank Branches in Communities of Color New York City, 2016

Bank Branches per
10,000 Residents

 < 1

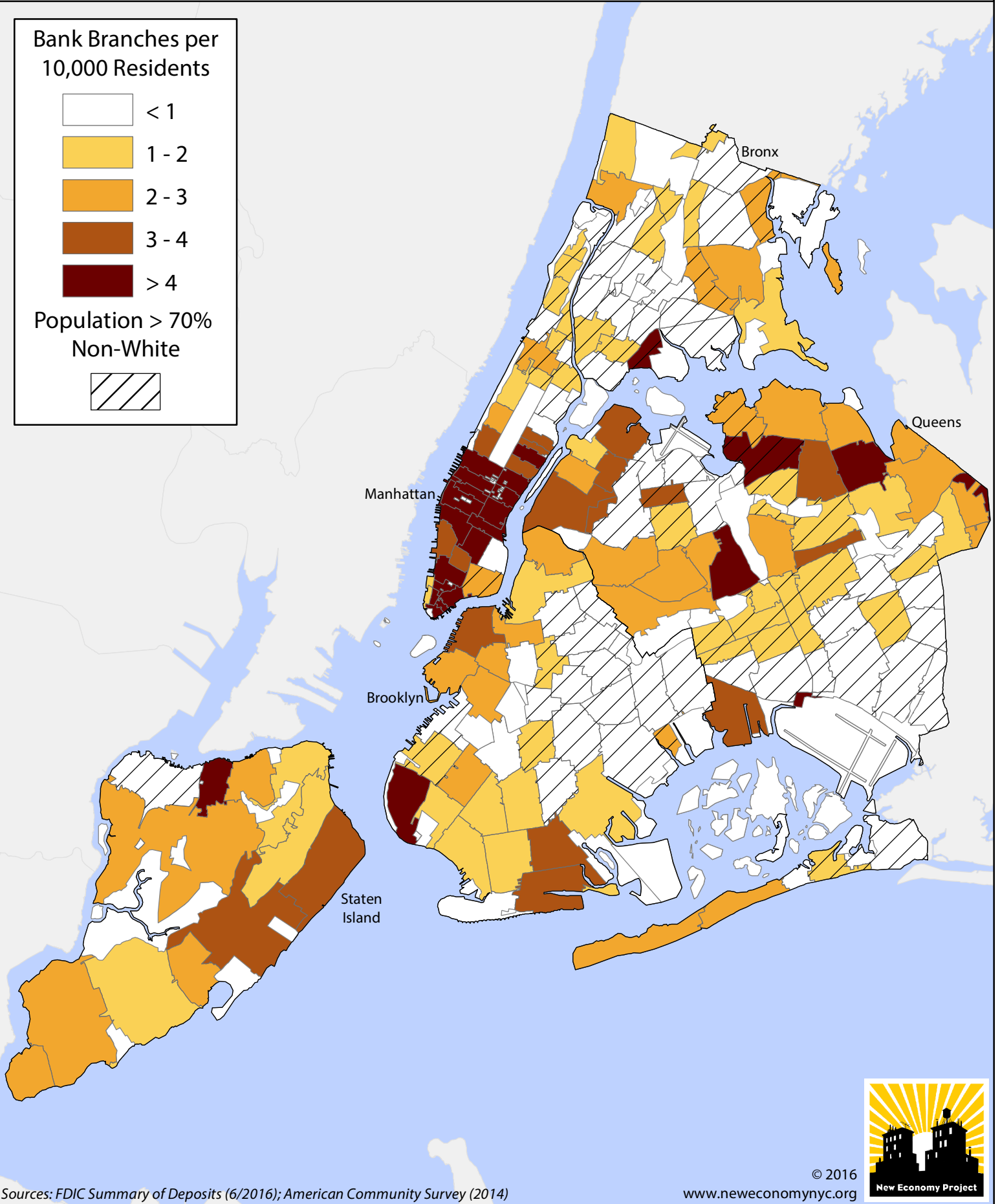
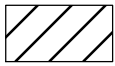
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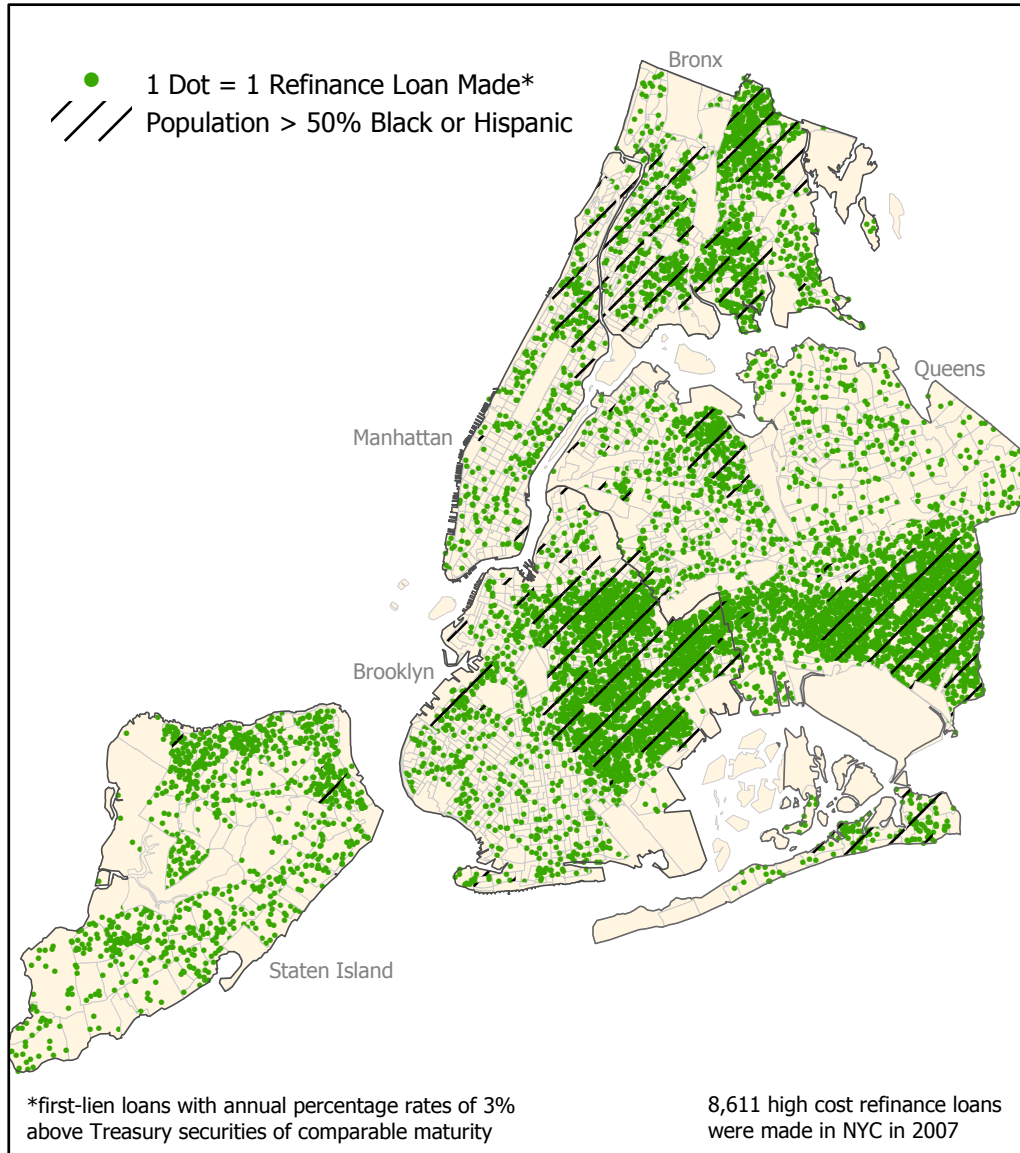
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Population > 70%
Non-White

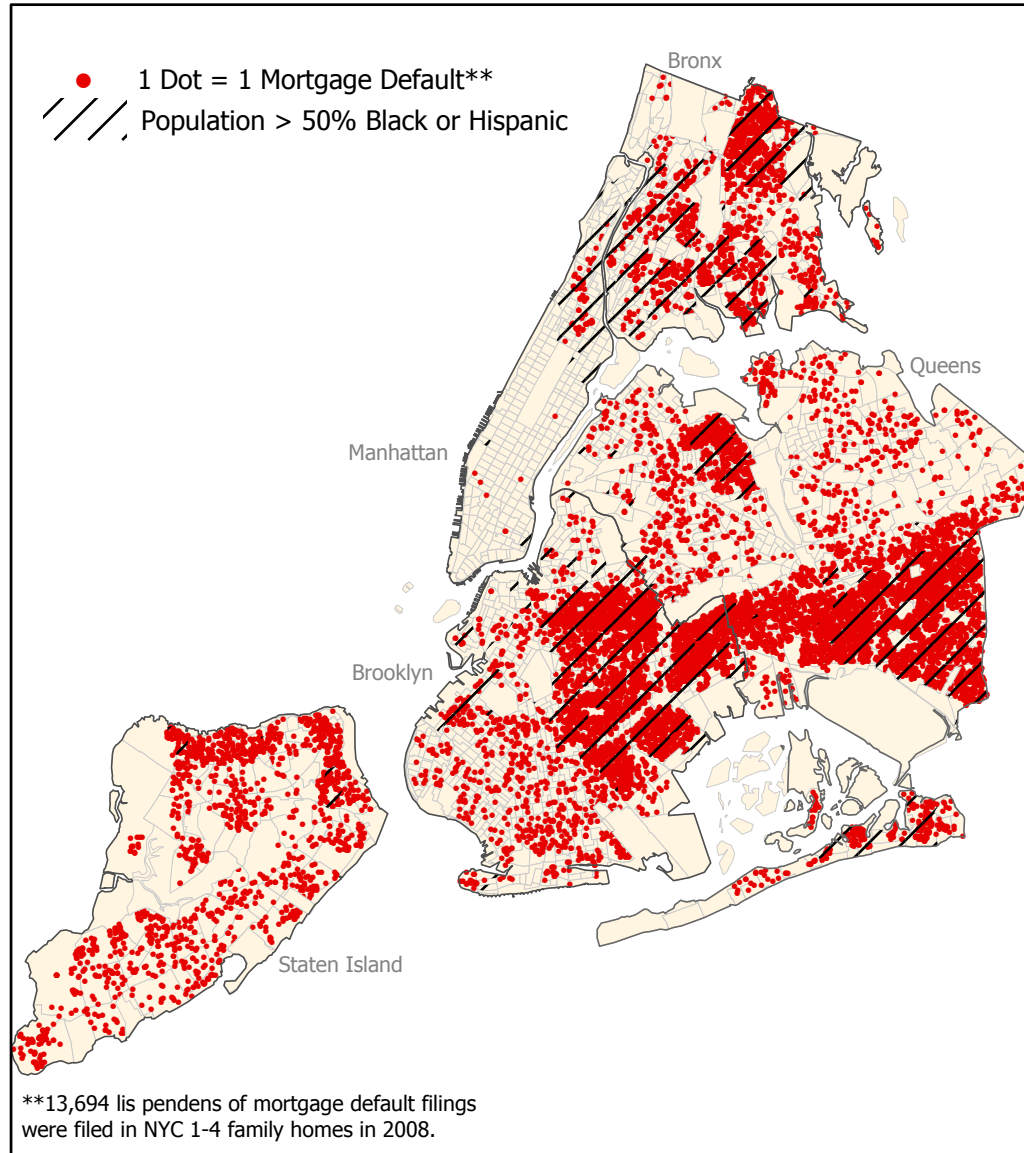


NEW YORK CITY

HIGH-COST REFINANCE LOANS MADE - 2007



FORECLOSURE PATTERNS - 2008



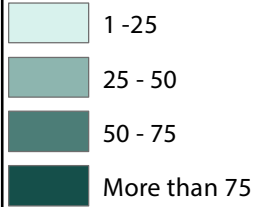
Neighborhood Economic Development
 Advocacy Project (NEDAP)
 (212) 680-5100 | www.nedap.org

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Sources: HMDA (2007); Profiles Publications; U.S. Census (2000)

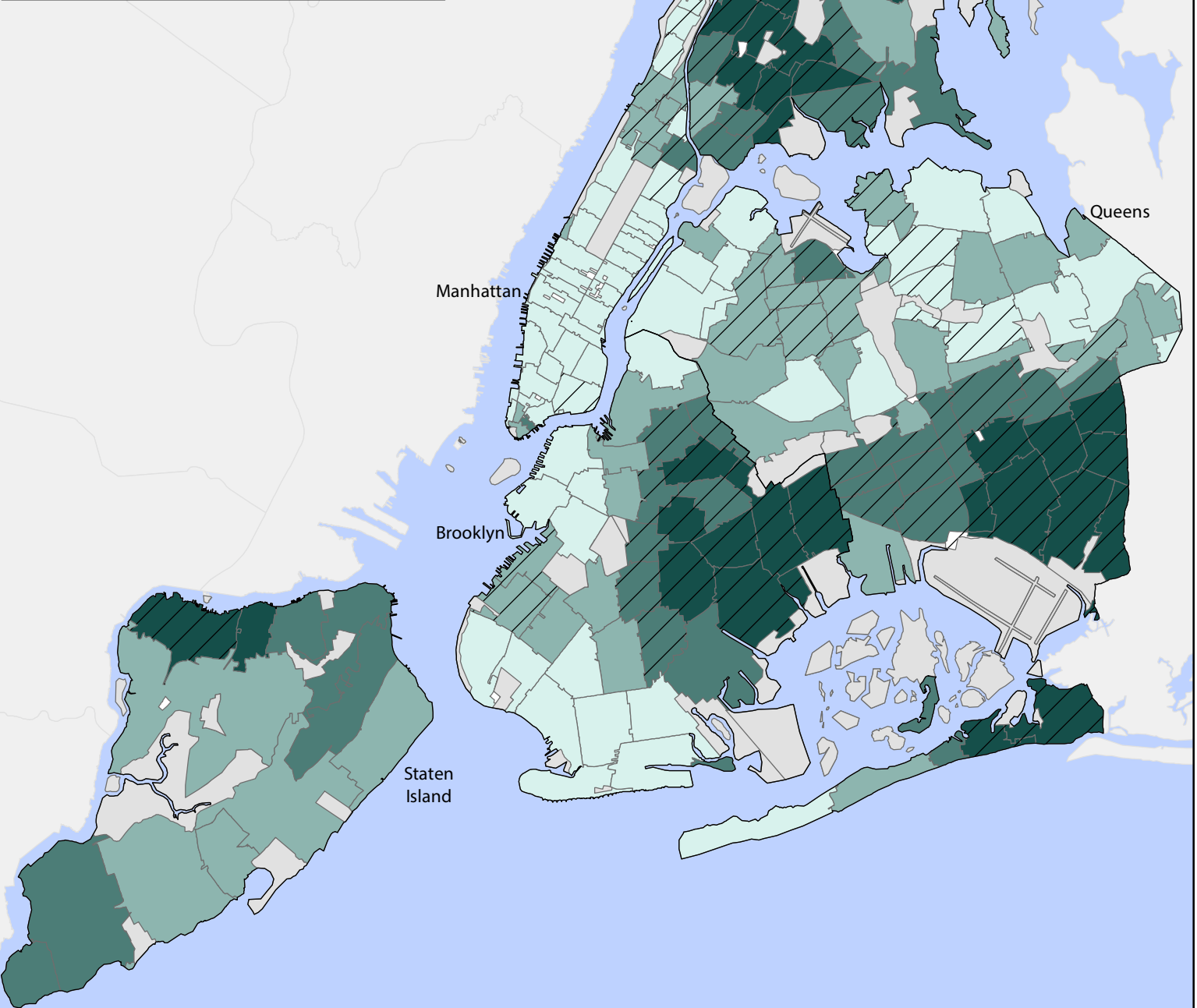
Home Foreclosure Risk Patterns New York City, 2016

Number of 90-day pre-foreclosure notices
per 1,000 owner-occupied units, by zip code



Population > 70% Non-White

Number of pre-foreclosure notices in NYC: **41,942**



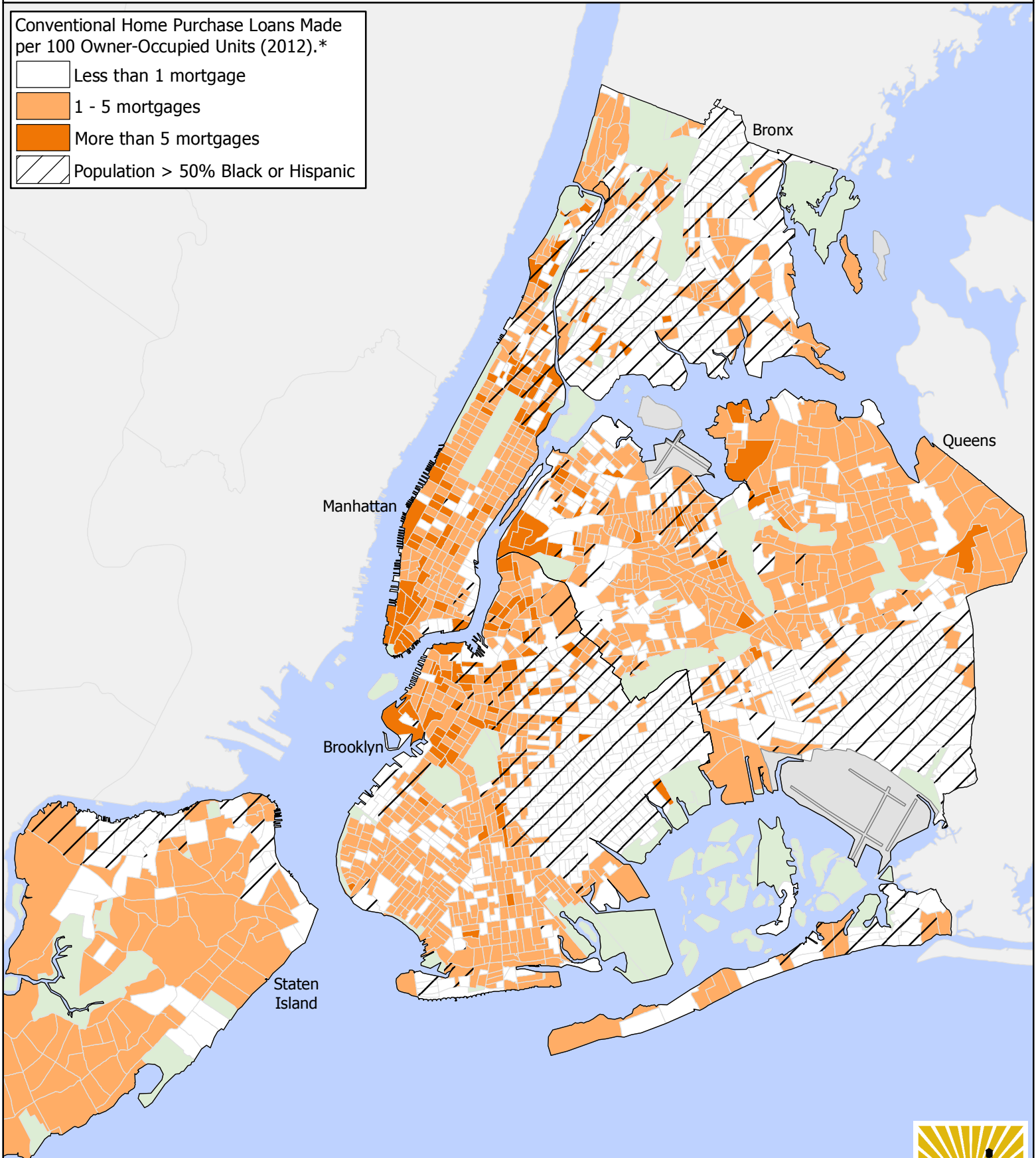
This map displays 90-day pre-foreclosure notices on 1-4 family homes, co-ops, condos, and other homes (duplicate notices excluded).
Sources: NYS Department of Financial Services (2016); American Community Survey (2015)



Conventional Home Purchase Lending per 100 Owner-Occupied Units New York City

Conventional Home Purchase Loans Made per 100 Owner-Occupied Units (2012).*

- Less than 1 mortgage
- 1 - 5 mortgages
- More than 5 mortgages
- Population > 50% Black or Hispanic



*Conventional loans are traditional mortgages, not insured by FHA or VA.
Sources: Home Mortgage Disclosure Act (2012); U.S. Census (2010)

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New York, NY

Default Judgments in Debt Collection Lawsuits

Number of Default Judgments per 1,000 Residents, by zip code

0 - 6

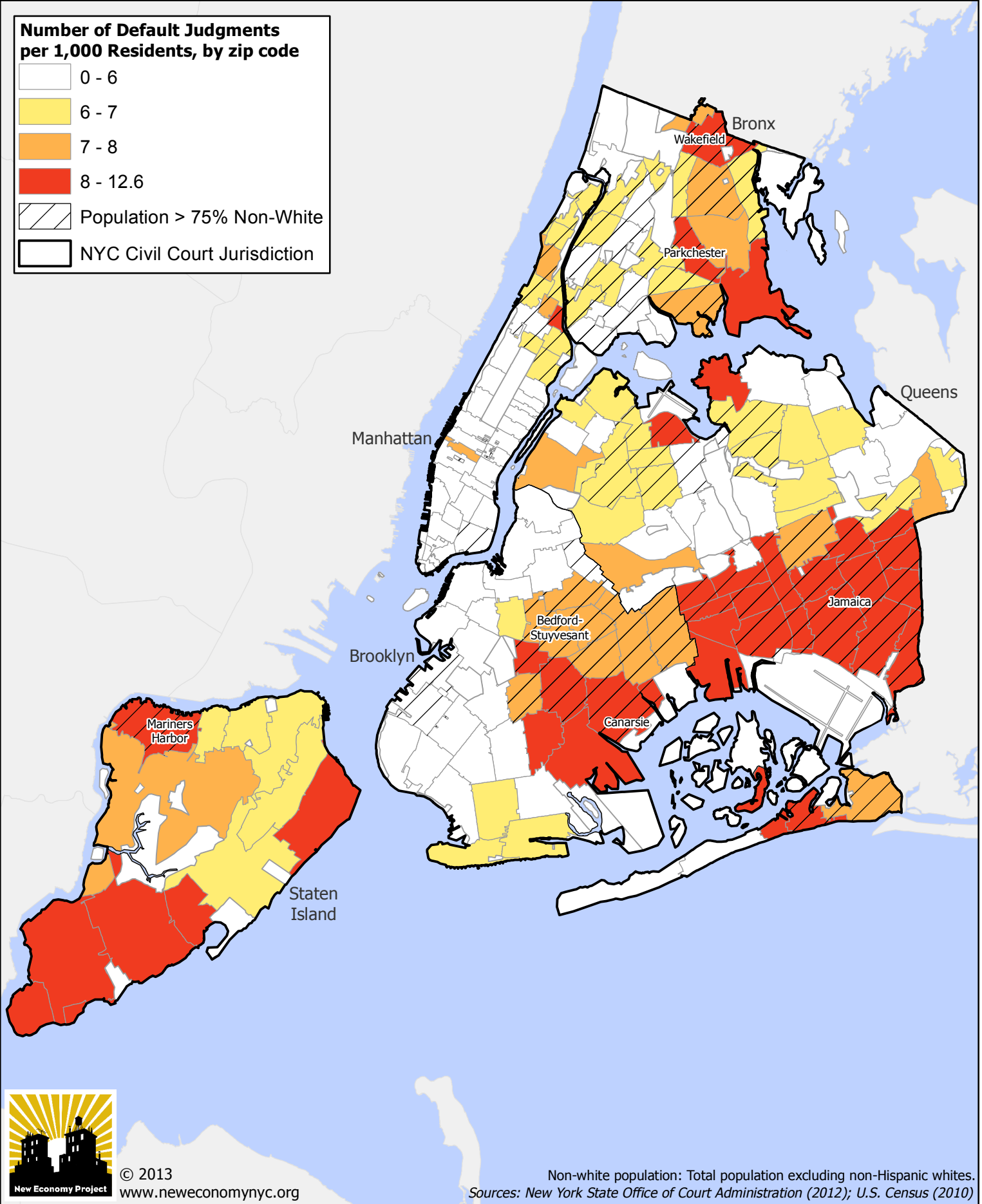
6 - 7

7 - 8

8 - 12.6

Population > 75% Non-White

NYC Civil Court Jurisdiction



Mr. Thomas J. Curry
Comptroller of the Currency
Office of the Comptroller of the Currency
Washington, DC
regs.comments@occ.treas.gov

January 13, 2017

Re: Exploring Special Purpose National Bank Charters for Fintech Companies

Dear Comptroller Curry:

The undersigned consumer, civil rights, and community groups write to express our strong opposition to the proposed new federal nonbank lending charters that would enable lenders to avoid state interest rate caps, other state protections, and state oversight. State laws often operate as the primary line of defense for consumers and small businesses; thus, the proposal puts them at great risk.

The OCC must not undermine state rate caps. Interest rate caps are the simplest, most effective way to protect borrowers from unaffordable, high-rate loans and to align the interests of lenders and borrowers. However, given the general absence of federal usury caps, lenders under the OCC's proposal would have no functional limit on the interest rates and related fees they could charge. This would effectively nullify critical existing state rate caps. Today, over 90 million people live in 15 states plus D.C. that enforce rate caps to prevent abusive high-cost short-term loans and collectively save over \$8 billion in high-cost loan fees. Many more states have rate caps on longer term loans: a \$2000, two-year loan that has an APR above 36%, including all fees, would violate the law in 30 states and D.C. Many of these states have never allowed high-cost loans, aggressively enforcing their strict usury limits. Other states used to authorize exemptions to their rate caps, but reversed course because of the damage caused to consumers and their communities. In both cases, states have worked tirelessly over many years to enact and enforce laws to protect against the abuses of high-cost loans and have withstood numerous attempts by unscrupulous lenders to circumvent these protections. The OCC, with the stroke of its pen, will put millions of people and years of state level enforcement at risk of exploitation by high-cost lenders.

The OCC must not weaken states' ability to oversee lenders and take action to prevent harmful lending practices. Beyond interest rate caps, the proposal weakens states' ability to protect consumers and small businesses through supervision and enforcement. The OCC's charter proposal enables companies to avoid state licensing regimes and oversight by state regulators and attorneys general. Even where AGs would retain enforcement authority, their ability to investigate abuses would be curtailed. The OCC alone cannot prevent every problem. States are closer to the ground and are more likely to take quick action when problems are still small and local, before abuses become nationwide problems attracting the attention of the OCC. The OCC should not take state law enforcers off the beat of preventing predatory lending.

The OCC must not undermine efforts to provide fair and inclusive lending practices, particularly for people of color and low- and moderate-income consumers, in the areas where they operate. While the fintech industry has the potential to encourage innovation, we have also seen costly payday lenders hide behind the costume of "fintech." The OCC's proposal promotes the expansion of questionable lending practices that are not only not subject to state interest rate limits or state-level enforcement, but also

would not be subject to the Community Reinvestment Act's requirement to provide responsible, not predatory, credit.

The OCC's legal authority to charter non-depository lenders unilaterally, without congressional approval, is also doubtful. For all of the above reasons, the OCC should not charter such entities even if it has power to do so.

We very much appreciate your attention to our concerns.

Sincerely,

A New Leaf
Action Advocacy Law Office
ACTION Housing Inc.
Action NC
Advantage Housing, Inc
AFSCME Montana Council 9
Alaska PIRG
Alexander County Habitat for Humanity
Allied Progress
Americans for Financial Reform
AMOS Project
Arcade Credit Union
Arizona Community Action Association
Arkansans Against Abusive Payday Lending
Asheville Area Habitat for Humanity
Baltimore CASH Campaign
Baltimore Community Real Estate Center, Inc
Bonnie Wright & Associates
BPFNA ~ Bautistas por la Paz
Bread for the World - South Dakota
Brooklyn Legal Services Corporation
Bucks County Women's Advocacy Coalition
CAFE Montgomery MD
California Reinvestment Coalition
Cambridge Economic Opportunity Committee
Carolina Small Business Development Fund
Catalyst Miami
Catholic Community Services of Southern AZ

Connecticut Citizen Action Group
CCCS of WNC, Inc. DBA OnTrack Financial Education & Counseling
Cedar Grove Institute for Sustainable Communities
Ceiba
Center for Economic Integrity
Center for Housing and Community Studies
Center for NYC Neighborhoods
Center for Responsible Lending
Central Florida Jobs with Justice
Century Employees Savings Fund CU
CEO Pipe Organs/Golden Ponds Farm
Chhaya CDC
Children First/Communities In Schools of Buncombe County
Citizen Action/Illinois
Civil Justice, Inc.
Clarifi
Cambridge Neighborhood Apartment Housing Services (CNAHS), Inc
Coalition on Homelessness & Housing in Ohio
Coatesville Center for Community Health
Colorado Center on Law & Policy
Colorado Coalition for the Homeless
Community Action Association of Pennsylvania
Community Action Committee of the Lehigh Valley
Community Development Network of Maryland, Inc.
Community Economic Development Association of Michigan (CEDAM)
Community Empowerment Fund
Community Investment Fund of Indiana
Community Law Center, Inc.
Community Legal Services, Inc., of Philadelphia
Connecticut Association for Human Services
Connecticut Fair Housing Center
Connecticut Legal Services, Inc.
Consumer Action
Consumer Federation of America
Consumer Federation of California
Consumers for Auto Reliability and Safety

Consumers Union
CoPIRG
Covenant House
CWA
Demos
District Council 37 Legal Services
Durham Regional Financial Center
Eastside CDC/LEAP
Eastside Community Development Corporation
Economic Progress Institute
Empire Justice Center
Episcopal Diocese of North Carolina
Every Child Matters in New Hampshire
Fair Share
Fayetteville Area Habitat for Humanity
Financial Pathways of the Piedmont
Financial Protection Law Center
First Unitarian Church of Philadelphia
Florida Alliance for Consumer Protection
Florida Alliance for Consumer Protection (FLACP)
Florida Alliance for Retired Americans
Florida Consumer Action Network
Florida Legal Services, Inc.
Georgia Watch
Gila County Community Services
Gowen Consulting
Granite State Organizing Project
Greater Yellowstone Central Labor Council
Greensboro Housing Coalition
Habitat for Humanity Cabarrus County
Habitat for Humanity Georgetown County
Habitat for Humanity New York City
Habitat for Humanity of Florida
Habitat for Humanity of Forsyth County
Habitat for Humanity of Gaston County
Habitat for Humanity of Greater Greensboro

Habitat for Humanity of Indiana
Habitat for Humanity of Lancaster County (SC)
Habitat for Humanity of North Carolina
Habitat for Humanity of Thomasville NC Area
Hawaii Appleseed Center for Law and Economic Justice
Haywood Habitat for Humanity
Health, Education, and Legal Assistance Project
Heartland Alliance for Human Needs & Human Rights
Helping Families In Need
Henderson County Habitat for Humanity
Hispanic Baptist Convention of Texas
Holistic Transformations
HomeFree-USA
Homeward
HOPE of Evansville
Housing Alliance of Pennsylvania
Housing and Family Services of Greater New York, Inc.
Housing Opportunities of Beaver County
Howard County Office of Consumer Protection
Illinois Asset Building Group
Indiana County Community Action Program, Inc.
Indiana Institute for Working Families
Innovative Systems Group Inc.
Irvington Development Organization
Jacksonville Area Legal Aid, Inc.
JASA/Legal Services for the Elderly in Queens
Jesuit Social Research Institute
Jewish Federation of Greater Seattle
Just Harvest
Keystone Progress
Keystone Research Center
King Park Development Corporation/Build Fund
La Fuerza Unida Community Development Corp
Laborers' Local #1686
Latino Community Credit Union
Law Foundation of Silicon Valley

Lazarus Financial Planning, LLC
Legal Aid Society of Palm Beach County, Inc.
Legal Aid Society of the District of Columbia
Legal Services NYC
Legal Services of New Jersey
Legal Services of Southern Piedmont
Lexington Area Habitat for Humanity
LifeStyles of Maryland Foundation, Inc.
Lower East Side People's Federal Credit Union
Lutheran Advocacy Ministry in PA
Main Street Alliance
Maine Center for Economic Policy
Making Work Pay PA Coalition
MakingChange, Inc.
Maryland CASH Campaign
Maryland Consumer Rights Coalition
MASSPIRG
MFY Legal Services, Inc.
Michigan Coalition Against Homelessness
Military Assistance Project
Mission Asset Fund
Mississippi Center for Justice
Missoula Area Central Labor Council, AFL-CIO
Missouri Faith Voices
Montana Organizing Project
Montgomery County Community Action Development Commission
Montgomery County, Maryland Community Action Board
Mothers and Families of Murdered Children
Mountain State Justice
Northern Arizona Council of Governments
National Development Council
National Association for Latino Community Asset Builders
National Association of Consumer Advocates
National Association of Social Workers, West Virginia Chapter
National Center for Law and Economic Justice
National Coalition of 100 Black Women, Phoenix

National Consumer Law Center (on behalf of its low-income clients)
National Council of La Raza
National Fair Housing Alliance
National Rural Social Work Caucus
NC AFL-CIO
NC Council of Churches
NC Justice Center
NC Rural Center
Near West Collaborative
Neighborhood Economic Development Corp
Neighborhood Trust Financial Partners
NeighborWorks Great Falls
New Economy Project
New Hampshire Legal Assistance
New Jersey Citizen Action
NHS of Baltimore
North Carolina Assets Alliance
North Carolina Conference of the United Methodist Church
North Carolina Consumers Council
North Carolina PIRG
North Carolina Veterans Council
North Dakota Economic Security and Prosperity Alliance
Northwest Indiana Reinvestment Alliance
NY StateWide Senior Action Council
NYPIRG
Ohio Valley Environmental Coalition
Oklahoma Policy Institute
One Colorado
OneAmerica
Open Hearth, Inc
Opportunity Alliance Nevada
OptInference LLC
Oregon Food Bank
Our Savior Lutheran Church & Campus Ministry
PathWays PA
Pennsylvania Council of Chapters, Military Officers Association of America

Pennsylvania Council of Churches
Pennsylvania Public Interest Research Group
Pennsylvania War Veterans Council
People's Action
PICO National Network
Pisgah Legal Services
Progressive Congress Action Fund
Progressive Leadership Alliance of Nevada
Prosperity Indiana
Public Good Law Center
Public Interest Law Center
Reinvestment Fund
Reinvestment Partners
Rural Dynamics, Inc
Sargent Shriver National Center on Poverty Law
SC Appleseed
South Baltimore Partnership
South Carolina Association of Habitat Affiliates
South Dakotans for Responsible Lending
Southern Poverty Law Center
Southwest CDC
St Barnabas Episcopal Church
Statewide Poverty Action Network
Systemic Change Team, Unitarian Universalist Church of the North Hills
Tennessee Citizen Action
Texas Appleseed
Texas Legal Services Center
The Capital Good Fund
The Collaborative
The Interfaith Alliance of Colorado
The Leadership Conference on Civil and Human Rights
The Midas Collaborative
The One Less Foundation
The Working World
Thermal Belt Habitat for Humanity
Thrive Alliance

Union-Snyder Community Action Agency
Unitarian Universalist Legislative Advocacy Network (UUPLAN)
Unitarian Universalist Pennsylvania Legislative Advocacy Network (UUPLAN)
United Methodist Advocacy in Pennsylvania
United Valley Interfaith Project
United Way of Erie County
United Way of Frederick County
United Way of Greater Greensboro
United Way of the National Capital Area
Upper Yadkin Valley Habitat for Humanity
Urban Affairs Coalition
Urban Asset Builders
Urban Community AgriNomics
Urban Homesteading Assistance Board
Virginia Citizens Consumer Council
Virginia Organizing
VOCAL-NY
Washington Asset Building Coalition
Washington Heights and Inwood Development Corporation
Washington Low Income Housing Alliance
Washington Student Association
West Virginia Center on Budget and Policy
West Virginia Citizen Action Group
West Virginians for Affordable Health Care
Westchester Residential Opportunities Inc.
Westminster Economic Development Initiative, Inc.
Westmoreland Community Action
Wilson Area Habitat for Humanity
Woodstock Institute
Yakima County Asset Building Coalition