

ALIGN
Bedford-Stuyvesant Community Legal Services
The Black Institute
Chhaya Community Development Corporation
Foreclosure Resisters
Grow Brooklyn
Legal Services NYC
Legal Services NYC - Bronx
New Economy Project
New York Communities for Change
Picture the Homeless
Queens Legal Services
Retail Action Project
Right to the City Alliance
South Brooklyn Legal Services
Staten Island Legal Services

BY EMAIL – mark.richardson@occ.treas.gov

November 11, 2015

Mark Richardson
Examiner-In-Charge
Office of the Comptroller of the Currency
OCC – National Bank Examiners
1166 Avenue of the Americas, 21st Fl.
New York, NY 10036-2708

Re: Comments regarding CRA Examination of JPMorgan Chase

Dear Mr. Richardson:

The 16 undersigned organizations jointly submit these comments concerning the Office of the Comptroller of the Currency (OCC)'s examination of JPMorgan Chase (Chase), pursuant to the Community Reinvestment Act (CRA) regulations, 12 CFR Part 25.

Chase has consistently failed to meet community credit needs in low- and moderate-income neighborhoods – and is in fact harming many lower-income people and communities – in New York City. Giving Chase a Satisfactory or better CRA rating would effectively reward the bank for its illegal, discriminatory, and abusive actions and practices. We call on the OCC to assign a less-than-Satisfactory rating that holds Chase accountable.¹

¹ For years leading up to the financial meltdown, banking regulators consistently gave banks Satisfactory or Outstanding ratings notwithstanding banks' clear and irrefutable failure to meet community credit and banking needs – and despite the fact that many banks were overtly engaged in predatory lending and abusive financial practices that devastated low and moderate income neighborhoods and communities of color.

Since the financial crisis, Chase has been subject to countless enforcement actions by regulators, but has continued to redline communities of color and failed to serve lower-income neighborhoods equitably. The OCC should not give Chase positive CRA consideration when the bank has demonstrably engaged in activities that harm low- and moderate-income people and communities. In addition, the OCC should not afford CRA credit for activities Chase has undertaken to comply with settlement agreements or to provide redress to people harmed by the bank's illegal, discriminatory, or abusive practices.

In recent years, Chase has been subject to a shockingly long list of major settlements with the U.S. Department of Justice and other regulators. Since 2011, for example, Chase has been subject to enforcement actions for improper mortgage servicing and foreclosure practices; currency market manipulation; rigging municipal bond transactions; misleading investors in toxic mortgage-backed securities; and much more.²

Despite the numerous enforcement actions and settlements, Chase continues to engage in problematic mortgage servicing and foreclosure practices, and Chase's mortgage lending data in New York City show that Chase is not making loans equitably to people in communities of color. In addition, Chase refuses to accept New York City's municipal ID despite guidance from the OCC and other federal regulators that authorizes banks to do so. The bank is also the national leader in charging egregiously high overdraft fees, profiting off its lowest-income customers, driving many out of the bank, and discouraging others from opening accounts.

Millions of New Yorkers must pay exorbitant fees for everyday financial services, which serves to perpetuate poverty and inequality. Bank branch redlining, combined with banks' fee-gouging of their lowest-income customers, forces people to use high-cost, fringe financial services. An estimated one in seven New Yorkers does not have a bank or credit union account; the number is significantly higher for low-income and immigrant New Yorkers, among others.³ As part of the CRA exam, the OCC should press Chase to document how it is addressing this systemic problem, including concrete actions the bank is taking to open safe and affordable accounts for people outside the banking system. The OCC should not accept second-tier substitutes for accounts, such as fee-gouging prepaid cards that Chase and other banks typically offer to their lower-income customers in lieu of full-service accounts that they market to higher-income customers.

Further, as Picture the Homeless has identified, Chase owns vacant buildings and lots throughout NYC that it allows to remain empty as a speculative investment even though tens of thousands of New Yorkers are currently without homes. This is the opposite of what meaningful community investment looks like. Chase should be turning vacant property into actual housing for extremely low-income New Yorkers and others in need, and must be held accountable to the communities in which it operates.

² Kevin McCoy, "Major JPMorgan Chase settlements and fines," USA Today, October 19, 2013, available at: <http://www.usatoday.com/story/money/business/2013/10/19/jpmorgan-chase-major-settlements/2901501/>

³ Copeland, Monica, "Launching Innovative Employer-Based Financial Initiatives," National Federation of Community Development Credit Unions Annual Conference, June 6, 2013, available at: <http://www.cdco.coop/wp-content/uploads/2013/07/Monica-Copeland-Breakout-Session-A1-5-29-13.pdf>

For all of the reasons set forth in this letter, we urge the OCC to issue Chase a less than Satisfactory CRA rating.

Commenters

ALIGN: The Alliance for a Greater New York ALIGN's mission is to create good jobs, vibrant communities, and an accountable democracy for all New Yorkers. Our work unites worker, community, and other allies to build a more just and sustainable New York.

Bedford-Stuyvesant Community Legal Services defends homeowners in state and federal foreclosure actions and provides outreach and community education in the areas of central Brooklyn hardest hit by the foreclosure crisis. BSCLS also represents borrowers at mandatory settlement conferences, obtaining affordable loan modifications or other home saving resolutions for its clients.

The Black Institute shapes intellectual discourse and impacts public policy from the perspective of Black people in America and people of color throughout the diaspora. The Black Institute will change the discourse of public debate, train and educate new leadership and develop initiatives to build wealth, build power and deliver justice to Black people.

Chhaya Community Development Corporation Founded in 2000, Chhaya works with New Yorkers of South Asian origin and immigrant groups to advocate for and build economically stable, sustainable, and thriving communities through free direct services, education and outreach, community organizing, and research and policy, and coalition-building. Chhaya's work encompasses tenant rights, financial capacity building, sustainable homeownership, foreclosure prevention, energy efficiency, women's financial empowerment, workforce development, civic engagement, and broader community building and research and advocacy around community needs.

Foreclosure Resisters is a space for New Yorkers to band together and fight back against the banks and predatory lenders who have yet to take full responsibility for their part in the foreclosure crisis. We organize, educate, and support each other to defend our homes, our lives, and our communities.

Grow Brooklyn is a Brooklyn-based non-profit organization, whose mission is to enable members of the community to preserve and grow their assets, thereby securing their economic future. Grow Brooklyn provides foreclosure prevention counseling and legal services, volunteer income tax assistance, and end of life planning.

Legal Services NYC ("LSNYC"), the nation's largest provider of free civil legal services, has provided expert legal assistance and advocacy to low-income residents of New York City for more than 40 years. LSNYC is the oldest and largest provider of foreclosure prevention legal services in New York City, representing distressed homeowners and victims of predatory lending in neighborhoods decimated by foreclosures across Brooklyn, Queens, Staten Island, and the Bronx.

Legal Services NYC – Bronx’s Foreclosure Prevention Practice has substantial experience representing distressed homeowners at mandatory foreclosure settlement conferences.

New Economy Project’s mission is to build a new economy that works for all, based on principles of cooperation, democracy, equity, racial justice, and ecological sustainability. We work with community groups to challenge corporations that harm communities and perpetuate inequality and poverty; and to help build strong local economies by fostering democratically-structured, community-controlled initiatives such as worker cooperatives, community development credit unions, community land trusts, and mutual housing.

New York Communities for Change is a coalition of working families in low and moderate income communities fighting for social and economic justice throughout the State.

Picture the Homeless was founded on the principle that the voices and leadership of homeless people are critical to educate the public and mobilize the political will to target resources in the struggle to end homelessness.

Queens Legal Services is a community law center serving hard-to-reach and highly vulnerable client communities, including families receiving public assistance, immigrants, formerly incarcerated individuals, victims of violence, veterans, seniors and disabled residents. Our Homeowner & Consumer Rights Project fights to prevent wrongful and unnecessary foreclosures in neighborhoods that have been devastated by predatory lending, allowing homeowners to preserve their equity in their homes and help stabilize their communities.

Retail Action Project is a member-based organization with the mission of building worker power, elevating industry standards, and promoting family-sustaining jobs. We achieve this through engaging in collective action, highlighting worker voices, growing member professional capacity, and nurturing leadership.

Right to the City Alliance is building a strong housing and urban justice movement in America and beyond. We are a national alliance of racial, economic and environmental justice organizations.

South Brooklyn Legal Services is a widely recognized leader in consumer protection and fair housing and lending advocacy, having represented thousands of homeowners navigating the judicial foreclosure process and prosecuted numerous affirmative litigations challenging the array of predatory and discriminatory lending practices that precipitated New York’s foreclosure crisis.

Staten Island Legal Services’ Homeowner Defense Project represents thousands of homeowners challenging wrongful foreclosures and predatory lending practices on Staten Island.

Chase Continues to Redline Low-Income Neighborhoods and Neighborhoods of Color

Communities of Color Lack Access to Chase Branches

The distribution of Chase branches in New York City clearly indicates that Chase is failing to meet community needs, particularly in lower income neighborhoods and communities of color.

Chase has by far the highest number of branches in New York City, which would seem to indicate a robust branch network. Chase's branches, however, are inequitably distributed throughout New York City, and Chase has left vast swaths of the city – particularly lower-income neighborhoods of color, and immigrant neighborhoods – with limited or no access to its branches. Chase's blatantly inequitable branch distribution, based on neighborhood demographics, must be considered as part of the CRA service test.

Only one-third (34%) of Chase's 396 New York City branches are located in census tracts in which the population is more than 70% non-white, even though more than half of New York City's population lives in these neighborhoods.

An even starker picture emerges when controlling for the number of residents in a neighborhood. New Yorkers who live in neighborhoods of color have access to less than half the number of Chase branches per capita as New Yorkers in white or integrated neighborhoods (.03 branches per 1,000 residents, compared to .07 per 1,000 residents).

Chase Unfairly Closes Accounts Held by Low-Income Customers

The OCC should also consider Chase's track record of closing accounts held by low-income customers. The bank is reportedly closing accounts on flimsy pretexts. Callers to New Economy Project's NYC Financial Justice Hotline, for example, report that Chase has closed their accounts after they filed fraud disputes with the bank, and sometimes for no apparent reason whatsoever, as the following case examples illustrate:

Ms. G – a senior with serious health issues whose only income is Social Security was told he was an “undesirable” Chase customer. Ms. G had been a Chase customer for nearly a decade. Recently, Chase sent her a letter saying her account was closed, but did not give a reason. When she went to her local branch to try to find out what had happened, she was told that Chase did not need to give a reason, but that she was “undesirable.”

Ms. W – fraud victim whom the bank said was a “threat to Chase”. Ms. W is a low-income single mother who filed a dispute with Chase, after someone committed fraud against her bank account. Chase initially resisted resolving her dispute, but eventually said it would resolve the situation and allow her to open a new account. When Ms. W tried to open a new account, however, she was told that she was “a threat to Chase” and that Chase no longer wanted her as a customer.

Ms. K – a fraud victim barred from banking with Chase. Ms. K discovered that someone committed fraud against her Chase account, and she filed a dispute. Then, without notice, Chase closed her bank account. When she called Chase to ask why, the Chase representative said they couldn't tell her why, and told her that she would never be able to open another Chase bank account.

Chase's Mortgage Lending Shows Racial Disparities at all Income Levels

The bank's Home Mortgage Disclosure Act (HMDA) data reveal a pattern of mortgage lending that strongly suggests disparate treatment of NYC neighborhoods based on their racial and ethnic composition. We examined Chase's HMDA data for conventional and FHA-insured, first-lien, home purchase and refinance mortgages for owner-occupied 1-4 family homes, in 2012 and 2013, and correlated the bank's lending activity with census tract-level racial, ethnic, and income data collected by the U.S. Census Bureau.⁴

Chase originated more than 14% of all mortgage loans made in New York City, in 2012 and 2013. As the attached map shows, however, Chase made few loans to people in communities of color in New York City – including to New Yorkers in middle- and upper-income neighborhoods of color, such as Southeast Queens neighborhoods of St. Albans, Rosedale, Springfield Gardens, and Laurelton. These lending disparities raise serious fair lending concerns that warrant further examination by the OCC, and possible referral to the U.S. Department of Justice.

Indeed, Chase made only 20% of its mortgage loans to people living in neighborhoods of color – compared to 26% of loans for all lenders – even though more than half of New York City's 8.2 million residents live in such neighborhoods.⁵

Disparities in Chase's mortgage lending persist, even after controlling for the number of housing units found in different areas of the city. In predominantly white neighborhoods, Chase made 2.61 mortgage loans per 100 housing units—more than three times the number of loans the bank made to people in neighborhoods of color, where the number is .84 per 100 units.

Chase Has Engaged in Repeated Malfeasance

As the California Reinvestment Coalition has also stated in its comment letter to the OCC, Chase has been the subject of a long list of complaints and settlement agreements relating to its mortgage lending (FHA), loss mitigation, securitization and foreclosure practices. Chase has entered into settlements over alleged wrongdoing with the U.S. Department of Justice, 49 state Attorneys General, and its bank regulators, in response to litigation and regulatory actions concerning FHA lending and the False Claims Act; faulty securitization practices; the National Mortgage Settlement and robo-signing; the Independent Foreclosure Review process; and improprieties before the U.S. Bankruptcy Court.

In 2014, for example, Chase settled with the U.S. Department of Justice over allegations of defrauding the FHA and, in essence, the U.S. taxpayer. As part of the settlement, Chase admitted that, for more than a decade, it approved thousands of FHA loans and hundreds of VA loans that were ineligible for FHA or VA insurance because they did not meet applicable agency underwriting requirements. Chase further admitted that it failed to inform the FHA and the VA when its own

⁴ Includes 1-4-family home purchase and refinance loans, both conventional and FHA-insured.

⁵ "Neighborhood of color" is defined here as having a population more than 70% non-white in the 2010 Census.

internal reviews discovered more than 500 defective loans that never should have been submitted for FHA and VA insurance.⁶

In settling for a record \$13 billion with the U.S. Department of Justice, New York State Attorney General and other state officials for its faulty securitization practices, Chase in November 2013 admitted knowing that the residential mortgage-backed securities the bank marketed did not comply with underwriting guidelines and were unfit for sale. In announcing the settlement, then-U.S. Attorney General Eric Holder stated:

Without a doubt, the conduct uncovered in this investigation helped sow the seeds of the mortgage meltdown. JPMorgan was not the only financial institution during this period to knowingly bundle toxic loans and sell them to unsuspecting investors, but that is no excuse for the firm's behavior.⁷

As part of the settlement, Chase agreed to pay New York \$613 million to settle claims concerning its packaging, marketing, sale, and issuance of faulty residential mortgage-backed securities.

Chase's Independent Foreclosure Review Was a Fiasco

The CRA rating must take into account that Chase consistently engaged in highly problematic foreclosure practices. Our groups join with California Reinvestment Coalition and others around the country in strongly urging the OCC to consider whether Chase has meaningfully remedied the host of problems that the OCC identified with respect to Chase's Independent Foreclosure Review (IFR). The overall IFR process was nothing short of a disaster: banks and government simply failed to provide anywhere near the level of loan modification relief that the foreclosure crisis – brought on in no small measure by Chase and other banks – warranted. In Chase's case, the OCC found that the bank violated various laws and failed to honor basic terms of the IFR. The OCC determined that Chase had engaged in unsafe and unsound banking practices⁸ – we would add, to the tremendous detriment of lower-income people and neighborhoods. The penalties that the OCC has imposed on Chase speak for themselves: the OCC should be consistent in holding the bank accountable to its regulators, communities, and to the public at large.

⁶ U.S. Department of Justice, "JPMorgan Chase to Pay \$614 Million for Submitting False Claims for FHA-insured and VA-guaranteed Mortgage Loans," Press Release, February 4, 2014, available at: <http://www.justice.gov/opa/pr/jpmorgan-chase-pay-614-million-submitting-false-claims-fha-insured-and-va-guaranteed-mortgage>

⁷ Kevin McCoy, "Settlement ends civil mortgage-related investigations that dealt a black eye to the leading bank survivor of the 2008 financial crisis," USA Today, November 20, 2014, available at: <http://www.usatoday.com/story/money/business/2013/11/19/jpmorgan-justice-department-settlement/3638137/>

⁸ In the Matter of JPMorgan Chase Bank, N.A. New York, NY, OCC Consent Order with JPMorgan Chase, April 2011, available at: <http://www.occ.gov/news-issuances/news-releases/2011/nr-occ-2011-47e.pdf>

The OCC's IFR enforcement action against Chase in 2011 was just one of a shockingly long list of regulatory actions against the bank. Yet the illegal conduct identified by the OCC in this one action alone caused such extensive harm to people and communities that the only reasonable conclusion is that Chase is damaging communities, not meeting their credit needs under CRA.

Specifically, the OCC found that Chase had engaged in rampant robo-signing, filing false affidavits and documents not properly notarized; and initiating foreclosure proceedings without ensuring all documents were properly endorsed, assigned or in the possession of the right person. Plus, Chase failed to devote sufficient financial, staffing, and managerial resources to ensure proper administration of its foreclosure processes; failed to devote to its foreclosure processes adequate oversight, internal controls, policies, and procedures, compliance risk management, internal audit, third party management, and training; and failed to sufficiently oversee outside counsel and other third-party providers handling foreclosure-related services.⁹

Chase's Mortgage Servicing and Foreclosure Abuses Persist, Putting New Yorkers at Tremendous Risk of Losing their Homes

All of these enforcement actions and settlements make Chase's refusal to work constructively with borrowers to modify mortgages, including under government programs that the bank has agreed to implement, all the more egregious. Chase is also obligated under a number of legal settlements to provide relief to aggrieved homeowners in the form of affordable loan modifications. Despite these obligations, foreclosure prevention advocates in New York City report that Chase has frequently mistreated and misled lower-income New Yorkers who seek reasonable loan modifications. Below are case examples that illustrate Chase's failure to meet community credit needs in this critical area.

We emphatically urge the OCC to take into account Chase's repeated failure throughout the period covered by this exam to conduct timely and fair review of loan modification requests by lower-income New Yorkers and New Yorkers of color. Servicing about \$1 trillion in mortgages, Chase is among the largest mortgage servicers in the country,¹⁰ and the bank's abusive mortgage servicing and foreclosure practices have prolonged the foreclosure crisis for too many people trying desperately to hold onto their homes.

Chase Refuses to Subordinate or Review HELOC Loans for Modification

Chase routinely refuses to consider both first mortgages and HELOCs it services when reviewing loan modification packages. This practice prevents homeowners who could afford to stay in their

⁹ California Reinvestment Coalition, "CRC comments regarding JPMorgan Chase CRA Examination," August 25, 2015, available at:

<http://www.calreinvest.org/system/resources/W1siZiIsIjIwMTUvMDkxMTQvMTdfMzdfNTFFNTEzX0pQX01vcmdhbl9DaGFzZV9DUkFfRXhhbV9Db21tZW50X2xldHRlcnMucGRml1d/JP%20Morgan%20Chase%20CRA%20Exam%20Comment%20letters.pdf>

¹⁰ Bloomberg News, "JPMorgan to buy \$45B of Ocwen's loan-servicing rights," May 14, 2015, available at:

http://www.crainsnewyork.com/article/20150514/REAL_ESTATE/150519926/jpmorgan-to-buy-45b-of-ocwens-loan-servicing-g-rights

homes from receiving needed loan modifications, and unfairly causes homeowners trying to become current on their loans to rack up arrears and fees that make it even more difficult for them to stay in their homes.

Ms. W – Chase Refused to Modify Loans despite Clear Eligibility

Chase brought a foreclosure action against Ms. W on her first mortgage. Chase was also the holder of a home equity line of credit (HELOC) on the same property. Chase failed to review three complete financial packages Ms. W submitted, and then transferred servicing of the first mortgage to M&T/Bayview. Even when M&T/Bayview offered Ms. W affordable modification, Chase caused further difficulties by refusing to subordinate or modify the HELOC, instead demanding a lump sum to settle the account. By the time Chase finally agreed to subordinate, M&T/Bayview had already cancelled the modification of the first mortgage. Chase created years of delay by refusing to consider loan modification packages for which the homeowner was clearly eligible when servicing both mortgages, and later by refusing to subordinate the HELOC, while arrears continued to accumulate on both loans.

Ms. R – Chase’s Delay Caused Homeowner to Lose Access to Mortgage Assistance Funding

Chase held both the first mortgage and HELOC on a property belonging to Ms. R, and modified her first mortgage but refused to modify the HELOC. Due to a loss of rental income, Ms. R fell behind on her modified first mortgage, and Chase filed a foreclosure action. Ms. R then sought funds from the New York City Mortgage Assistance Program (MAP) to bring the loan current, and was approved for the MAP loan on the condition that the HELOC was modified or brought current. Chase, however, again refused to modify or even subordinate the HELOC, which prevented her from receiving the mortgage assistance funds. It was only after the servicing of both her loans was transferred to a new servicer that Ms. R was able to resolve the situation. By refusing to modify a HELOC or otherwise work her to resolve the situation, Chase put Ms. R at risk of foreclosure.

Chase Refuses to Allow Homeowners to Assume and Modify Mortgages

Chase has also created problems for homeowners seeking to assume and modify the mortgage on a home after a death or divorce.

Ms. W – Refused a Modification after her Divorce

Ms. W, the ex-wife of a Chase borrower, had a divorce decree and quitclaim deed that clearly put title to the property in her name. She sought an affordable modification of the Chase loan, but Chase, in violation of applicable federal laws and regulations, refused to review Ms. W’s application. Chase continued to refuse Ms. W a modification, even in the course of loss mitigation discussions in bankruptcy court.

Ms. L – Chase Refused to Modify After Her Father Passed Away

For years, Chase refused to review Ms. L’s application for a loan modification, because her father was the original borrower, even though he had passed away and she was the full heir to the property. Chase continually misled Ms. L in the foreclosure settlement conferences held in state court, demanding that she record a quitclaim deed putting the property in her name before Chase would review her for a modification. Chase then refused to conduct a loan modification review

once she had done so. After several years of this unethical action by Chase, the court referee issued a report recommending a finding that Chase had not negotiated in good faith. Rather than take the court's recommendation as a basis for modifying the loan, Chase sought to strike the referee's report. Chase has finally invited Ms. L to apply for a modification, but has demonstrated no new effort to negotiate in good faith.

Mr. K – Forced into Foreclosure by Chase

Mr. K had a loan with Chase on a family property in Brooklyn which he inherited from his mother. He later learned that his mother had been delinquent on the water bill, and he entered into a repayment agreement to pay down arrears of over \$30,000. However, after a year of making payments on this agreement, Chase paid the entire balance without asking or notifying Mr. K, and added the arrears to the monthly payments spread over 12 months, making the mortgage payment completely unaffordable. Mr. K reached out to Chase and requested a more affordable repayment arrangement, and got Chase to continue accepting his regular monthly payment for several months while he sought an affordable alternative. But Chase nonetheless stopped accepting payments and filed for foreclosure. It took several years and Mr. K's applying for a loan modification to resolve the situation, which existed only because Chase paid arrears despite an existing agreement to the contrary, and refused to work with the homeowner.

As these case examples illustrate, Chase creates needless delays and unnecessary arrears for people by refusing to review them for loan modifications in good faith, in violation of modification program guidelines and federal laws and regulations. Chase often states policies or positions, but then changes them arbitrarily. The lack of transparency and good faith clearly show how Chase continually fails to serve New York City communities, and is in fact harming people and communities, in its mortgage servicing.

Chase's Loan Modification Programs Raise Potential Fair Housing Violations

In 2014, the U.S. Government Accountability Office (GAO) released a report on its examination of non-public data for four large mortgage servicers, on loan modification applications and outcomes. The GAO found that there were statistically significant differences in loan modification outcomes for black homeowners and for homeowners who were not proficient in English. Given the magnitude of problems in Chase's mortgage servicing business, as described above, it is critical that the OCC ascertain whether Chase was one of the four large servicers that provided data to the GAO – which is likely given that Chase participated in other parts of the report. Alternatively, the OCC should obtain data directly from the bank on its loan modification outcomes, including information on homeowner race and English proficiency. In either case, the OCC should analyze Chase's loan modification outcomes by race, income level, and English proficiency to determine whether the bank is providing loan modifications equitably. The OCC should also require Chase to report its loan modification outcomes publicly, including data on outcomes by race, ethnicity, and gender at the census-tract level.

Chase Refuses to Accept New York City's Municipal ID

Chase continues to reject NYC's Municipal ID card (IDNYC) as a primary form of identification under its Customer Identification Program (CIP) – consequently failing to serve all communities equitably, as required by the CRA. Rolled out in early 2015, IDNYC is a critical tool to expand fair banking access and economic inclusion, particularly for low-income immigrants, homeless people, the elderly, and transgender New Yorkers, among others who can have difficulty obtaining or renewing other forms of government-issued ID.

New York City is among a dozen municipalities that offer, or are developing programs to offer, municipal identification cards to their residents. To obtain an IDNYC card, individuals must present documents verifying their identity and residency in NYC. The IDNYC card is accepted as a valid form of ID by all city agencies, including the New York City Police Department.

The IDNYC identification card has been designed to meet statutory and regulatory standards for acceptance by financial institutions as a primary form of identification needed to open bank accounts. IDNYC is a government-issued card, and includes the cardholder's name, photo, date of birth, home address, and signature, as well as a unique identification number assigned to each cardholder. The program contains robust security features and protocols to prevent fraudulent activity and provides a tamper-proof identification card.

In recognition of the strong security features in the IDNYC card, and in response to a request for clarification from NYC officials and the New York Bankers Association, the OCC and other federal banking regulators issued a letter dated April 30, 2015, stating that a bank “may accept the ID card as a means of documentary verification as provided in the bank's CIP procedures.” The letter, issued by the OCC, the Financial Crimes Enforcement Network, the Federal Reserve, and the Federal Deposit Insurance Corporation, further stated that “since the ID card is a government-issued document, its number may be used as an identification number for non-U.S. persons, provided the ID card evidences residence in New York City and bears a photograph or similar safeguard.” This letter gives a regulatory green light to Chase to accept the IDNYC as a primary form of identification under its CIP.

Furthermore, there are several states whose requirements to prove identity and residence are less stringent than the safeguards in the IDNYC program, and yet Chase accepts those states' driver's licenses as a primary form of identification under its CIP.

Chase has been very clear in its communications with advocates that it will not accept the IDNYC as part of its CIP. Chase's refusal to accept the IDNYC has a discriminatory impact on immigrants, particularly affecting the ability of “unbanked” and “underbanked” immigrants to open accounts at Chase.

Chase's refusal to accept secure municipal IDs like IDNYC – and the impact of that refusal on low-income people who do not otherwise have access to bank accounts – should be a strong negative consideration when evaluating Chase's performance under the CRA service test.

Chase is Violating CRA through its Abusive and High-Cost Overdraft Program

In determining Chase's CRA rating, the OCC must consider harm that the bank's overdraft causes to lower-income people and communities. On one hand, Chase's aggressive charging of overdraft fees and deceptive marketing of overdraft drains millions of dollars from lower-income New Yorkers who bank at Chase. On the other hand, it discourages many others, including people without a bank account, from opening accounts at Chase.

In the first half of 2015, Chase collected \$871 million in overdraft fees from its customers, and charged more in overdraft fees in the first three months of 2015 than any other bank in the country.¹¹ In the first three months of 2015, Chase generated approximately 40% of its fees on transaction accounts from overdraft fees, a higher percentage than Bank of America, Citibank, or Wells Fargo.

Overdraft "protection" can be a debt trap that causes significant financial hardship for people with low incomes, and pushes many people out of the banking system. The exorbitant fees and the short repayment terms associated with overdrawing an account make the actual cost of overdraft credit astronomical, and, because overdraft loans are still not regulated as credit, they lack many critical consumer protections.

Overdraft fees are disproportionately paid by a small number of lower-income account-holders. A CFPB study last year found that 91% of overdraft fee revenue comes from roughly 18% of accounts that trigger three or more overdrafts a year, and more than 71% of overdraft fees from accounts that trigger overdraft more than 10 times a year.¹² Furthermore, nonwhites are 83% more likely to overdraft¹³, and low income account-holders, women, and young people are more likely to be hit with overdraft fees than those with higher incomes, men and older consumers.¹⁴ In fact, the FDIC found that the majority of people who choose not to have a checking account do so because of the fear of overdraft fees.¹⁵

Chase also fared poorly in a mystery shopping study of banks' marketing of overdraft "protection" at the branch level, conducted in 2014.¹⁶ At each of the four Chase branches visited in New York City, mystery shoppers found that Chase improperly presented courtesy overdraft as an automatic account feature, rather than as a program that account holders must opt into. In general, when

¹¹ Federal Financial Institutions Examination Council, Call Reports/Thrift Financial Reports, June 30, 2015

¹² Consumer Financial Protection Bureau, "CFPB Study of Overdraft Programs," June 2013, available at: http://files.consumerfinance.gov/f/201306_cfpb_whitepaper_overdraft-practices.pdf

¹³ The Pew Charitable Trusts, "Overdrawn: Persistent Confusion and Concern About Bank Overdraft Practices," June 2014, available at:

http://www.pewtrusts.org/~media/assets/2014/06/26/safe_checking_overdraft_survey_report.pdf

¹⁴ *Ibid.*

¹⁵ Federal Deposit Insurance Corporation, "Survey of Banks' Efforts to Serve the Unbanked and Underbanked," 2011, available at: <https://www.fdic.gov/unbankedsurveys/2011survey/2011report.pdf>

¹⁶ California Reinvestment Coalition, New Economy Project, Reinvestment Partners and Woodstock Institute, "How Banks Sell Overdraft: Results of Overdraft Mystery Shopping in Four Key States," July 2014, available at: http://www.neweconomynyc.org/wp-content/uploads/2014/12/Final_Report.pdf

mystery shoppers pressed the bank's representatives on how to avoid surprise fees, none suggested choosing not to opt in to overdraft.

Conclusion

Chase is falling far short of meeting the needs of New York City communities. The OCC should, at a minimum, issue Chase a CRA rating that is less than Satisfactory, given Chase's track record of warehousing vacant properties in the midst of a severe shortage of affordable housing, including for extremely low-income New Yorkers; illegal and otherwise harmful foreclosure and mortgage servicing practices; persistent mortgage redlining; high-cost and deceptive overdraft program; and refusal to serve New York City's immigrant and other low-income communities that use New York's municipal ID. The OCC should also use its broad regulatory authority to hold Chase accountable for the serious harm the bank has done to New York's lower income neighborhoods and communities of color. Please contact Alexis Iwanisziw at New Economy Project (alexis@neweconomynyc.org) if you have questions.

Sincerely,

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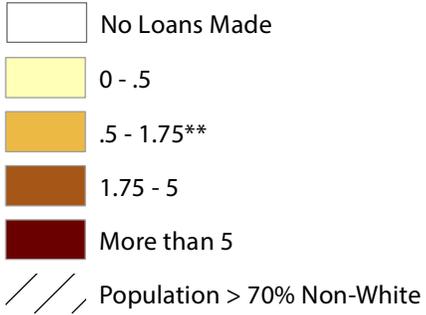
Right to the City Alliance

South Brooklyn Legal Services

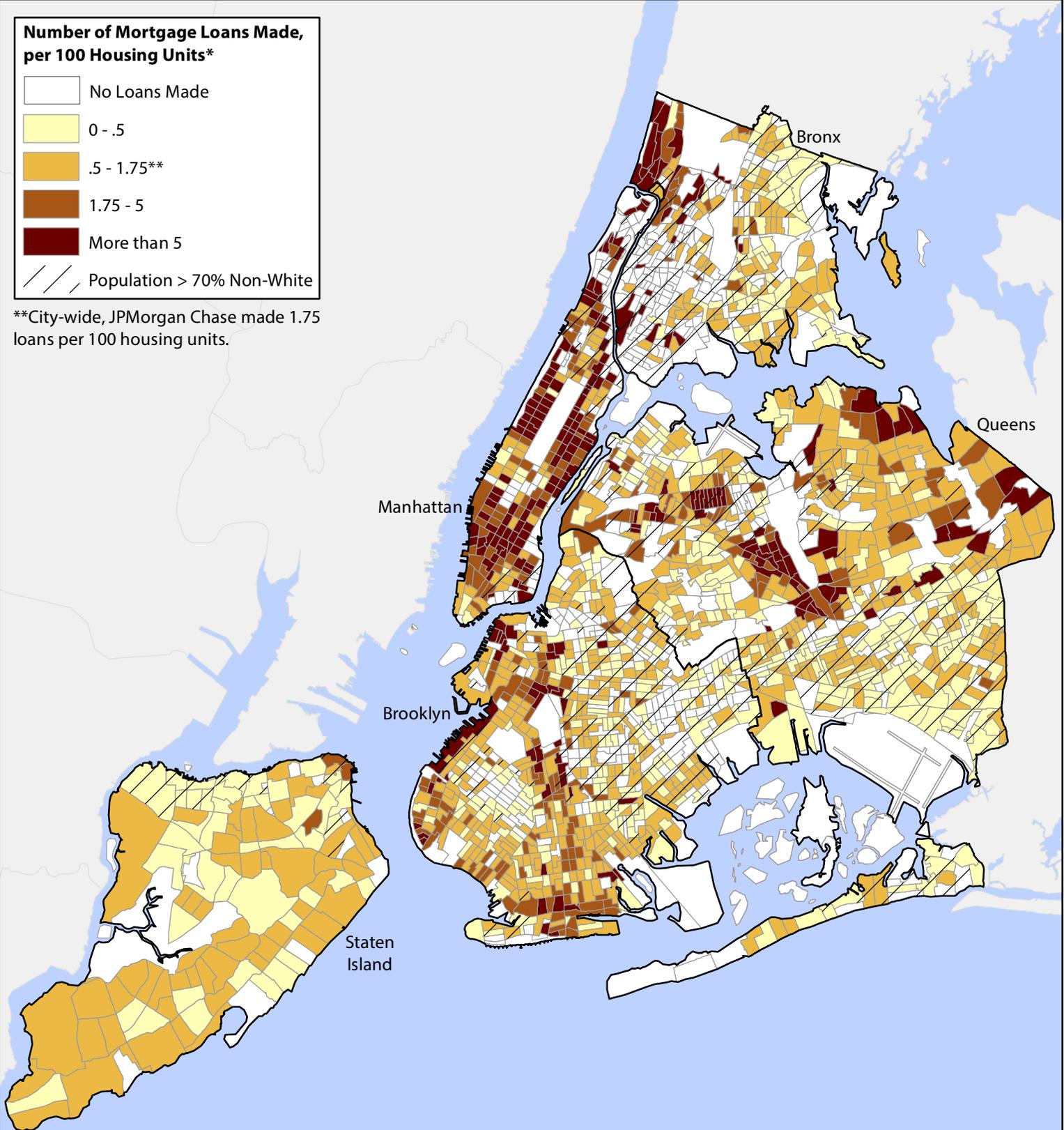
Staten Island Legal Services

JPMorgan Chase Home Mortgage Lending - New York City, 2012-2013

Number of Mortgage Loans Made, per 100 Housing Units*



**City-wide, JPMorgan Chase made 1.75 loans per 100 housing units.



*Includes first-lien conventional and FHA-insured home purchase and refinance loans made for 1-4 family, owner-occupied housing units.

Sources: Home Mortgage Disclosure Act (2012-2013); U.S. Census (2010); MapPluto (2014).

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