**VIA EMAIL**

January 24, 2022

The Honorable Andrea Stewart-Cousins
Majority Leader
New York State Senate

Dear Majority Leader Stewart-Cousins:

As the NYS Senate prepares for hearings this week on Governor Hochul's nomination of Adrienne Harris for Superintendent of the NYS Department of Financial Services, we respectfully urge you and your colleagues to conduct a rigorous examination of Ms. Harris' record and experience, including affiliations with multiple financial technology ("fintech") companies and alarming public statements indicating she would take a 'light-touch' approach to financial regulation.

In November, we joined twenty-five organizations that collectively represent millions of New Yorkers from communities across the state in strenuously opposing this nomination (see enclosed statement). As we underscored then, New York has stood firm against the fintech industry's aggressive efforts to win deregulation, special exceptions, and carve-outs from legal enforcement and oversight. A DFS Superintendent with apparent ties to the fintech industry would represent a dangerous step in the wrong direction.

New Yorkers need a DFS Superintendent who will see through fintech companies' rhetoric, which has simply failed to match the reality for low-income communities and communities of color, and vigorously enforce our strong usury and other consumer protection laws. We do not believe Ms. Harris fits the bill and therefore urge you to oppose her nomination.

We further urge you and your colleagues to ask detailed questions throughout the confirmation process, including the following:

- A crucial function of DFS is to protect New Yorkers against financial predation, discrimination, redlining, and other financial exploitation. Financial injustice is especially prevalent in Black, brown and immigrant neighborhoods all around our state, perpetuating neighborhood inequities and racial wealth inequality. Given this, what do you say to New Yorkers who have concerns about your professional affiliations with fintech companies and industry associations that engage in these activities and/or seek to undermine consumer protection laws and regulations?

- New York State has a strong track record when it comes to regulation of financial services and enforcement of consumer protection laws. Our state has stood up to fintech firms that seek to undo or weaken our usury and other laws. Fintech firms and lobbyists use the buzzwords of "access" and "innovation" to suggest they deserve special regulatory treatment. What do you think about this 2018 statement by former DFS Superintendent Maria T. Vullo?:

  - "The NYS Department of Financial Services fiercely opposes the Department of Treasury's endorsement of regulatory 'sandboxes' for financial technology companies. The idea that innovation will flourish only by allowing companies to evade laws that protect consumers, and which also safeguard markets and mitigate risk for the financial services industry, is preposterous. Toddlers play in sandboxes. Adults play by the rules. Companies that truly want to create change and thrive over the long-term appreciate the importance of developing their ideas and protecting their customers within a strong state regulatory framework."

- New York State has strongly opposed efforts by industry and the Trump administration to allow lenders, including fintech companies, loan purchasers, debt buyers, and others, to get around our strong usury laws. The Office of the Comptroller of the Currency (OCC)'s "valid-when-made" rule, issued in 2020, is just one recent effort to allow companies to circumvent our state's strong usury law. NYS Attorney General Letitia James has legally challenged this harmful rule, leading a lawsuit filed with attorneys general around the country. Do you support the Attorney General's challenge against the "valid when made" rule?

- New York State and previous DFS superintendents have staunchly opposed the OCC's fintech charter. If confirmed as Superintendent, would you continue New York's strong public opposition?

- Previous DFS Superintendents have taken vital steps to uphold our state's usury laws against attempts by the payday lending and check cashing industry to make loans with APRs above our criminal usury cap. What would you do to enforce our state's 25% criminal usury cap?

- Many fintech companies argue that our 25% criminal usury cap stifles "innovation." Do you agree with them that 25% is too low?

- As you know, fintechs often seek to partner with national banks, as well as state banks chartered in states without usury caps, in order to make loans with APRs that exceed our state's criminal usury cap. What is your position on these "rent-a-bank" arrangements, which are designed to enable fintechs and other companies to evade state consumer protections?

- New York advocates have seen fintechs making loans with APRs above our state's criminal usury cap to low-income New Yorkers, and then selling those loans to debt buyers that sue on those loans, often without giving people legally-required notice of the lawsuit and without enough documentation to prove liability on those loans. What would you do to crack down on such conduct?

- We have heard numerous reports that certain national banks and fintechs routinely flout our state's Exempt Income Protection Act, the law that automatically protects a certain amount of money in New Yorkers' bank accounts from being seized by debt collectors. What would you do to crack down on these violations?

- According to the Federal Reserve, a mere 16% of small business owners of color who received support from fintech companies during the pandemic said they were satisfied with the support they received.[1] Across the board, small businesses reported much lower levels of satisfaction with fintech companies compared with other lenders. This is consistent with numerous reports we've heard from New York's community development financial institutions, which have worked with small business owners to refinance or otherwise resolve predatory online loans they received. What would you do as Superintendent to address poor underwriting, high costs, misleading pricing details, surreptitious data tracking and sharing, and other predatory behavior by online lenders?

Sincerely,

Action Center on Race and the Economy (ACRE)

New Economy Project

New York Communities for Change (NYCC)

Strong Economy for All

Encl.:

Statement from New York Groups Opposing Gov. Hochul's Nomination for NYS Financial Services Superintendent (November 18, 2021)

Cc:

Senator Liz Krueger, Chair, Finance Committee

[1] Federal Reserve Banks of Atlanta, Boston, Chicago, Cleveland, Dallas, Kansas City, Minneapolis, New York, Philadelphia, Richmond, St. Louis, San Francisco. "Small Business Credit Survey: 2021 Report of Firms Owned by People of Color." Available at: https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2021/sbcs-report-on-firms-owned-by-people-of-color

**STATEMENT FROM NEW YORK GROUPS**
**OPPOSING GOV. HOCHUL'S NOMINATION FOR NYS FINANCIAL SERVICES SUPERINTENDENT**
*Issued on November 18, 2021*

The 25 undersigned New York-based organizations call on Governor Hochul to immediately rescind her nomination of Adrienne Harris for Superintendent of the NYS Department of Financial Services (DFS). Our organizations collectively represent millions of New Yorkers, from communities across the state. We see first-hand how DFS's actions directly affect our members and all New Yorkers, as well as our neighborhoods and the state overall.

The Governor's nomination of Ms. Harris is deeply problematic on its face, starting with major conflicts of interest that Ms. Harris would bring to the position. Ms. Harris's resume reportedly includes a long list of consultancies, board service, and advisory affiliations with multiple financial technology ("fintech") companies — including companies that lobby for financial deregulation. Hiding behind rhetoric of "innovation" and "serving the unbanked," many of these fintech companies in fact specialize in extracting wealth from Black and brown people and communities.

New York has stood firm against the fintech industry's aggressive efforts to win deregulation, special exceptions, and carve-outs from legal enforcement and oversight. A DFS Superintendent with apparent ties to the fintech industry would represent a dangerous step in the wrong direction.

We urge the Governor to nominate a candidate with the independence, qualifications, and vision needed to run our state's powerful financial services agency. We have seen what a difference a strong DFS Superintendent can make, especially when it comes to addressing profound inequities in our financial system — from bank redlining to predatory debt collection and discriminatory and usurious lending. New Yorkers deserve a DFS Superintendent who comes without conflicts of interest, who knows the ins-and-outs of New York, and who is first and foremost a public servant.

Governor Hochul has a pivotal opportunity to bring on a new Financial Services Superintendent who can tackle the myriad challenges we face here in New York — independently and without conflicts of interest. Unfortunately, Ms. Harris does not fit the bill. Fortunately, there are many qualified contenders for DFS Superintendent, and we call on the Governor to nominate someone who can ably fill the position.

**Threshold Qualifications for the NYS Superintendent of Financial Services**
At core, the new Superintendent should be someone ready to hit the ground running, who:

- Has a clear vision to serve the public interest, not political interests;
- Is ready to take bold action and regulate the financial services industry to protect New Yorkers;

- Understands that financial justice is fundamental to a just recovery and equitable community development;
- Is driven to advance racial equity and address climate change; and
- Prioritizes strong enforcement and supervision.

There is no shortage of urgent work that DFS needs to undertake. For starters, the new Superintendent must:

- Address head-on pervasive bank and insurance redlining in communities of color across the state;
- Support and expand the state's robust network of community development financial institutions (CDFIs), including mission-driven CDFI-credit unions that serve Black, brown, and immigrant communities that mainstream banks perpetually fail to serve;
- Support public banking, including the creation of a special purpose charter for local governments seeking to create municipal public banks;
- Take the steps needed to end predatory debt collection and eliminate pandemic-related medical and other debts; and
- Stand firm against financial technology ("fintech") companies that seek to erode and circumvent regulations -- including New York's strong usury laws, which serve to ban predatory payday lending in our state. (Fintech companies often use the rhetoric of financial inclusion and innovation, when in reality they seek to extract wealth from low income people and communities and elude regulations.)

STATEMENT BY:

- Action Center on Race and the Economy
- Alliance for Quality Education
- Carroll Gardens Association
- Citizen Action of New York
- City Roots Community Land Trust
- Cooper Square Committee
- Empire State Indivisible
- Ethical Humanist Society of Long Island
- For the Many
- Inclusiv
- Long Island Housing Services
- Lower East Side People's FCU
- Network for a Sustainable Tomorrow
- New Economy Project
- New York Communities for Change
- New York Music Coop
- New York Working Families Party
- Picture the Homeless
- Sane Energy Project
- South Bronx Unite
- Strong Economy For All Coalition
- TakeRoot Justice
- Tenants Political Action Committee
- Western New York Law Center
- Westminster Economic Development Initiative, Inc. (WEDI)