

FORECLOSURE PREVENTION PROJECT - SOUTH BROOKLYN LEGAL SERVICES

GOOD JOBS NEW YORK

GREATER ROCHESTER COMMUNITY REINVESTMENT COALITION

GREATER UPSTATE LAW PROJECT

JOINT REINVESTMENT COMMITTEE OF CYPRESS HILLS & CITY LINE

**JUSTICE ACTION CENTER - ECONOMIC JUSTICE PROJECT
NEW YORK LAW SCHOOL**

LOWER EAST SIDE PEOPLE'S FEDERAL CREDIT UNION

NEIGHBORHOOD ECONOMIC DEVELOPMENT ADVOCACY PROJECT (NEDAP)

NEW YORK PUBLIC INTEREST RESEARCH GROUP (NYPIRG)

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BY FAX & REGULAR MAIL

March 15, 2004

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th & Constitution Avenue, N.W.
Washington, DC 20551-0001

Jay Bernstein
Bank Supervision Officer
Federal Reserve Bank of New York
33 Liberty Street
New York, NY 10045-0001

Re: Preliminary Comments in Opposition to Chase-Bank One Merger Application

Dear Ms. Johnson and Mr. Bernstein:

The nine organizations listed above jointly submit these comments in opposition to the application by JP Morgan Chase & Co., New York, New York ("JPMC"), requesting prior approval of the Board of Governors of the Federal Reserve (the "Board") to acquire and merge

Bank One Corporation, Chicago, Illinois, with and into JPMC pursuant to Sections 3(a)(3) and 3(a)(5) of the Bank Holding Company Act of 1956, as amended (the "BHC Act") and Sections 225.11(c) and 225.11(e) of the Board's Regulation Y. In addition, we collectively oppose Bank One's application for prior approval of the Board, pursuant to Section 3(a)(3) of the BHC Act, to acquire up to 19.9 percent of the voting shares of JPMC.

This letter constitutes our preliminary comments on the proposed merger. Given the magnitude of the proposed merger – one of the largest in history – the 30-day comment period has been wholly inadequate for the public, and groups like ours, to render full and meaningful comments.

The proposed merger will have profound local and national impact on lending and investments, particularly for low and moderate income communities and consumers. In this high stakes merger, the only way that the Federal Reserve System can exercise rigorous oversight is by maximizing the public's input. We therefore join Applicant JPMC in calling on the Federal Reserve Board to hold a public meeting on the merger, given the clear public interest and import.

The hearing is a necessary forum for grassroots groups and individual members of the public that are unequipped to submit written comments. It also will allow the bank to respond publicly to concerns raised by community groups. Our groups are confident that the Federal Reserve will hold a hearing on the merger, and plan at that time to present more complete comments, including maps and other data analyses.

I. COMMENTERS REPRESENT A WIDE SPECTRUM OF NEW YORK COMMUNITIES AND CONSUMERS

This comment letter is submitted on behalf of nine New York-based organizations with long and proven track records of working with community groups and individuals to promote community reinvestment, financial justice, and fair and affordable access to mainstream financial services. Our groups have provided legal representation and mortgage and foreclosure prevention counseling services to hundreds of New Yorkers aggrieved by predatory lending practices. Several of our groups successfully fought for passage of a strong state foreclosure prevention law, now codified in New York State Banking Law 6-1. Collectively, we have researched banks' community lending, investment and services records, educated groups about the Community Reinvestment and Home Mortgage Disclosure Acts, and pressed for government enforcement of these laws. We have sought accountability by city and state elected officials and financial services companies in relation to corporate retention agreements.

The following summaries describe each of our groups and constituencies we represent:

- **Foreclosure Prevention Project, South Brooklyn Legal Services (SBLS)**, the first project of its kind in New York City, combines litigation, outreach, education and advocacy to combat predatory lending. Since the project's inception in 1998, SBLS has provided counsel and advice, referral services, or legal representation to several thousand at-risk homeowners in all five boroughs of New York City. The project has also served as a resource center for attorneys and advocates around the state who have clients who have been targeted for abusive loans. As a result, SBLS has detailed knowledge of the array of abusive practices used by predatory lenders, brokers, and contractors in New

York City and State, and the devastating effect that those practices have had on low and moderate income communities of color.

- **Good Jobs New York** investigates and publicizes ways in which public resources are allocated in the name of corporate retention. With this knowledge GJNY holds government officials and companies accountable to taxpayers, particularly when economic development agencies give subsidies to large corporations that threaten to leave New York City. (www.goodjobsny.org)
- **Greater Rochester Community Reinvestment Coalition (GRCRC)** was convened in 1993 to generate discussion about the lending patterns in Rochester. Since then, the Coalition has released six analyses of home mortgage, small business and subprime lending data. We have used the analyses to identify strengths and weaknesses in lending patterns and to generate ongoing discussion with the banks in question. GRCRC also submits comments, based on the data, to the Federal regulators that oversee the banks. GRCRC has a membership of more than 40 locally based not-for-profits and individuals. GRCRC monitors the lending and investment performance of Charter One Bank, M&T, Fleet, HSBC, Chase, Citigroup and Canandaigua National Bank.
- **Greater Upstate Law Project, Inc. (GULP)** is a multi-service non-profit organization that provides training and support to legal services and advocacy organizations outside of New York City. With offices in Albany, Rochester and White Plains, GULP engages in impact litigation and policy analysis on behalf of low-income New Yorkers, traditionally in the areas of public benefits, disability law, healthcare, immigrant rights and domestic violence. GULP created the consumer, housing and economic development unit to respond to an increase of foreclosures, predatory lending, predatory servicing and related consumer banking issues.
- The **Joint Reinvestment Committee of Cypress Hills & City Line** is a combined effort of the Cypress Hills Local Development Corporation, a comprehensive nonprofit community development corporation, and the City Line Coalition, a network of block associations serving the City Line neighborhood in East New York. The groups came together ten years ago to address the problem of bank disinvestment in East Brooklyn. The Committee successfully convinced local lending institutions to keep full service branches open in the community; triple home mortgage, home repair and refinance lending in our neighborhoods; sponsor the initiation of the "Cypress Hills-City Line Mortgage Foreclosure Prevention Program" – offering mortgage default counseling / advocacy and rehabilitating HUD-foreclosed homes in the area and, in general, work more cooperatively with the Committee to affirmatively market affordable home loan products and curb predatory lending.
- The **Economic Justice Project at New York Law School** is part of the school's **Justice Action Center**. The Center is dedicated to studying the relationship between law and social change and participating in efforts to use law to achieve social reform. The Economic Justice Project focuses on issues of wealth and poverty, access to capital, and economic rights. It studies banks' lending records, participates in coalitions around bank

mergers, and analyzes proposed legislation and regulations relating to the Community Reinvestment Act.

- The **Lower East Side People's Federal Credit Union (LESPFCU)**'s mission is to provide, and expand access to *affordable* financial services for all residents and businesses of the Lower East Side of Manhattan. The credit union's goal is to stimulate the economic and community development of our neighborhood by providing a safe, sound, affordable and democratic alternative to traditional banks, which do not serve low-income individuals, and predatory financial entities, such as check cashers, and financing companies, which take advantage of low income individuals. LESPFCU is a financial cooperative that reinvests its members' money in the Lower East Side to provide a wide range of personal, affordable credit as well as financial and development services. LESPFCU is a certified Community Development Financial Institution (CDFI) and a federally designated Low-Income Credit Union.
- **Neighborhood Economic Development Advocacy Project (NEDAP)** is a resource and advocacy center that works with community groups in New York City to promote community reinvestment and access to fair and affordable capital. NEDAP provides legal, technical and data support to groups seeking to hold banks and their regulators accountable to low income neighborhoods and communities of color. NEDAP has been instrumental in efforts to document and put an end to predatory lending in New York State. NEDAP is a founding member and the coordinator of New Yorkers for Responsible Lending (NYRL), a statewide fair lending coalition of more than 100 affordable housing, community revitalization, seniors, consumer, and legal services organizations, as well as community financial institutions.
- **New York Public Interest Research Group (NYPIRG)** is a not-for-profit, non-partisan research and advocacy organization established, directed and supported by New York State college and university students. NYPIRG's staff of lawyers, researchers and organizers works with college students and other citizens to help develop citizenship skills and impact public policy. Consumer protection, environmental preservation, fiscal responsibility, political reform and social justice are NYPIRG's principal areas of concern.

II. THE PROPOSED MERGER SHOULD NOT BE APPROVED BECAUSE IT DOES NOT MEET COMMUNITY CREDIT NEEDS

A. Summary of Concerns

Under the BHC Act, the Board "shall take into consideration ... the convenience and needs of the community to be served." As proposed, the Chase-Bank One merger will fail to meet the convenience and needs of New York's low and moderate income communities.

Our groups recognize the many ways that Chase has bolstered community development efforts in New York. But we have also seen first-hand the effect of Chase's harmful practices, particularly with regard to FHA and securitized subprime loans, on New Yorkers and their communities. We are deeply troubled that Chase plans to continue Bank One's usurious tax refund anticipation

lending, post-merger, when this product clearly undermines communities' convenience and needs. Refund anticipation loans not only gouge working families but also sap millions of dollars from the poorest communities in New York. We have seen how New York's electronic benefit delivery (EBT) system has had a disparate impact on very low income communities of color in New York, and now that Chase has become the state's EBT contractor, it has the opportunity to rectify long-standing deficiencies in the EBT system.

The merger is reportedly likely to lead to enormous job loss in New York, and potentially fall afoul of job retention agreements Chase has signed with New York.

Chase, however, has no stated plans or commitments for addressing the above concerns. Our groups raised these points with Chase and Bank One representatives on February 11, 2004, at a meeting we requested to discuss our concerns regarding the merger. We asked Chase to make a written commitment to change its policies and practices that currently or post-merger will undermine communities' convenience and needs. At Chase's request we set forth our concerns in writing, in a letter dated February 13, 2004. We received a written response from Chase three weeks later – just four business days before the comment period deadline. (See attached copies of correspondence, dated February 13, and March 5, 2004.)¹

Chase's letter is not only vague, broad, and lacking in commitments, but it also fails to address how the merged bank will meet convenience and needs of communities to be served. As one example of Chase's unresponsiveness to our concerns, its March 5 letter contains *verbatim* text included in the bank's letter dated January 21, 2004 to the California Reinvestment Committee (CRC) – in response to CRC's very different set of questions and concerns.

B. Chase's Involvement in the Subprime Lending Industry

Chase must demonstrate to the Federal Reserve Board that it adheres to proper due diligence in its subprime activity. Given the volume of Chase's subprime lending and its position as one of the big three lenders in the industry, the Federal Reserve Board must require a comprehensive series of reforms and due diligence procedures regarding Chase's participation in the subprime lending industry. Only comprehensive reforms can assure that the bank will meet the needs of the community, consistent with safe and sound lending practices.

1. Chase must address loans it purchases where property flipping is involved.

South Brooklyn Legal Services has identified a serious problem with Chase's secondary market purchases of home purchase loans where properties have been flipped. Property flipping schemes that target first-time homebuyers are remarkably uniform: unscrupulous real estate brokers and speculators, sometimes marketing themselves as "one-stop shops" for homebuyers, advertise heavily with promises of low down payments or "no money down," and offer to guide prospective homebuyers through all aspects of the intimidating home purchase process. These real estate speculators bring in their own appraiser, property inspector, mortgage lender, and even attorney, all purportedly on the buyers' behalf. To cinch the deal, the brokers often state

1 . Despite the stated date of March 5, 2004, Chase's letter was transmitted to and received by our groups on March 9, 2004.

that the buyers are obtaining an FHA mortgage, and imply or outright misrepresent that the government has approved the transaction.

The real estate speculators purchase properties cheaply, often from homeowners in foreclosure, and then have them fraudulently over-appraised by appraisers that are part of the scheme. They then sell, or “flip” the properties to first-time homebuyers at an often vastly over-appraised price. Homebuyers later learn that the homes they bought are in poor condition, despite promises from the seller that the property would be fixed up for sale.

Lenders that purchase FHA mortgages are fully protected by the government guarantee, in a win-win situation. When homeowners struggle to make payments on the inflated mortgage, the lenders reap profits on the over-appraised mortgage loan values. Conversely, when homeowners fall behind, the purchasing lenders foreclose, sell the properties through foreclosure auction, then collect the full principal and arrears on the over-valued mortgages through the FHA insurance fund. In our experience, the FHA guarantee unfortunately provides a disincentive for lenders to negotiate a resolution: even in cases where homeowners were clearly defrauded, lenders push for a foreclosure sale rather than an equitable resolution, in order to claim their full FHA payment. Like the refinance schemes, fraudulent FHA transactions are disproportionately targeted at homebuyers of color. Recent public and private initiatives to expand homeownership by non-white families are being seriously undermined by this and similar patterns of apparent racial targeting and discrimination.

Unfortunately, Chase has purchased many of these problematic loans on the secondary market and is holding them in portfolio. Many of these Chase loans involve “one-stop shops” and lenders that are notorious for their involvement in property flipping schemes. The list of these “one-stop shops” includes Better Homes Depot (subject of an enforcement action by the New York City Department of Consumer Affairs) and First Home Properties (subject of an enforcement action by the New York State Attorney General). The list of lenders includes Madison Home Equities (which was de-barred by HUD from making FHA loans because of a high incidence of over-appraisal), as well as Olympia Mortgage, Consumer Home Mortgage, and Mortgage Money Center, all of which have been sued in federal and state court for discrimination and fraud in connection with property flipping. To compound the problem, Chase has not been flexible or reasonable in assisting borrowers in cases where property flipping is indicated. Instead, Chase, guaranteed a full payoff on the loan, has used the FHA insurance as an excuse to do nothing.

The following provides a typical case example:

Ms. W is a police officer and single mother of five children. Her home was purchased by a notorious one-stop shop in 1999, and re-sold in horrible condition one month later at a nearly 50% markup. The seller convinced her she could afford the property by promising to fix up the basement for rental, but after Ms. W moved in she found out that it was illegal to rent out her basement. As a result, the loan, which Chase now holds, was completely unaffordable. In addition, Ms. W had to pay thousands of dollars in emergency repairs. HUD itself determined that the property had been over-appraised by more than 30%. The lender and appraiser were subsequently de-barred by HUD from working on FHA deals. Nevertheless, Chase adamantly refused to assist Ms. W, for

example by writing down the principal to what it should have been had the home been fairly appraised. Ms. W is now facing foreclosure.

It is imperative that Chase act aggressively to ensure that it: (1) ceases to purchase loans where properties have been flipped; and (2) provides meaningful assistance to Chase borrowers who have already been targeted for property flipping schemes. Chase must conduct much more thorough due diligence on FHA purchases. Chase must particularly focus on zip codes where there is a high incidence of FHA foreclosures, such as the “hot zones” designated by HUD as high-risk areas in 2000. It must review deed records for evidence of properties being sold at a large markup within a relatively short period of time — there are several databases that are readily available on-line where this research can be done. Chase must re-appraise properties wherever there are indices of property flipping. It must also search on databases for patterns of property flipping among sellers and lenders, dialogue with community groups about problematic sellers and lenders, and refuse to buy loans where those sellers and lenders are involved.

Chase must also ensure that borrowers who have been targeted by property flipping are given every fair opportunity to keep their home. Before it initiates a foreclosure action, Chase must do property flipping reviews for all FHA borrowers in default, to ensure that the borrower is not losing their home due to the over-valuation of their property. If property flipping is indicated, Chase must be open to flexible and creative solutions to keep borrowers in their homes, outside of the normal FHA loss mitigation options. This must include a willingness on the part of Chase to write down the principal of the loan where necessary to the value that it should have been if not for the over-appraisal, as well as a willingness to adjust interest rates downward to make the mortgage affordable. To help facilitate these changes, Chase must create an arm of its loss mitigation department that is knowledgeable about property flipping, and that has the will and authority to use creative and flexible solutions to prevent targeted borrowers from losing their homes in foreclosure.

In a letter to our groups dated March 5, 2004, in which Chase responded to these demands, Chase stated that it would abide by the new HUD guideline on property flipping, which prohibits FHA loans on properties that are re-sold within three months of purchase, and would use the latest fraud detection devices to help identify flipped properties. (*See* attached letter.) Chase must do far more than this. It must clearly specify how it will prevent the future purchase of loans that are based on over-appraisal and flipping, and it must commit to systematically ensuring that Chase borrowers do not lose their homes as a result of home purchase fraud.

2. Chase must set high industry standards for responsible subprime lending.

Chase must ensure that sound loan products are available on a direct, retail level to borrowers with less than perfect credit, particularly borrowers who live in historically underserved areas. Broker driven models for subprime lending have led to great abuses with vulnerable homeowners being targeted by unscrupulous mortgage brokers. Brokers, who make their living based on a percentage of the loan amount, steer borrowers into loans based on the amount of equity in their home, not on the amount they requested or the amount they can afford.

Homeowners with less than perfect credit must be able to get loans directly through Chase loan officers, rather than through brokers and a subsidiary company. Chase must offer homeowners

with below perfect credit a range of responsible loan products. Chase must offer a second mortgage loan product for repair loans that does not require the homeowner to refinance their first mortgage at a higher interest rate just to get money for repairs.

Chase must commit to refinancing subprime loans with prime rate loans once a homeowner exhibits a regular payment history. Chase also must provide more details regarding the subprime mortgage lending practices set forth in the March 5 letter. For example, Chase stated that it has a system for ensuring that a borrower will have the ability to repay the loan, but it does not provide specifics. Chase also does not provide specifics regarding its “net benefit” policy and procedure designed to ensure that a refinance meets a borrower’s needs. Chase has the opportunity to become an industry leader in this area, but must provide more transparency to ensure that its best practices are meaningful.

3. Chase must engage in strict due diligence to ensure that it is not purchasing or securitizing predatory refinance loans.

The due diligence standards set forth in the March 5 letter regarding Chase’s purchase and securitization of subprime loans do not go far enough to ensure that Chase is not fueling the abusive lending market. Chase has purchased refinance loans from a variety of lenders who have engaged in a pattern of predatory lending. As an example, one such lender made a refinance loan to Mr. and Ms. B, long-time homeowners and hard-working immigrants from Trinidad, despite the fact that both were seniors in the early stages of dementia. Even though they were not behind on their prior loan, they refinanced because the lender promised them great savings from debt consolidation. The lender ended up consolidating significant unsecured debt into the loan, despite the fact that Mr. and Ms. B were on social security and therefore “judgment proof”. The loan increased their interest rate, and raised the debt-to-income ratio for the monthly payments to an unconscionable 75%, and the lender falsified their income to qualify them for the loan. Chase subsequently purchased the loan, and has brought a foreclosure action against them.

This case example highlights several problems with Chase’s approach to due diligence. As is apparent from the March 5, 2004 letter, Chase’s focus in due diligence seems to be on “high-cost” loans, as defined by federal and state laws. While this is a first step, Chase’s scrutiny must go further. Mr. and Ms. B’s loan was not “high-cost” under federal or state law, but it was entirely unaffordable and gave them no tangible net benefit whatsoever. Chase should therefore look to other facts in loans as indicators that a loan may be predatory. These factors include, but are not limited to: high debt-to-income ratios; the plausibility of various types of stated income given the age or circumstances of certain borrowers; loans that leave the homeowner with substandard residual income; loans made to borrowers who are susceptible to loan flipping because they have a history of repeated refinancing; adjustable rate loans or balloon loans made to borrowers with fixed incomes; loans that have been flipped within a short period of time; the inclusion of mandatory arbitration agreements; and the inclusion of prepayment penalties especially when coupled with adjustable interest rates.

Chase should exercise particularly heightened due diligence where it is buying loans or securitizing pools of loans from zip codes that have high rates of subprime foreclosures, such as Mr. and Ms. B’s zip code. Chase has the opportunity to become an industry leader by setting forth stringent due diligence standards which truly weed out abusive loans and lenders from

Chase's portfolio. It is certainly in Chase's interest to do so. While Chase claims in its letter that it has "no ability to examine" mortgages for compliance where it is the Trustee on a securitization pool, it certainly has the authority and standing in the industry to insist that thorough due diligence is conducted on pools of loans that Chase is putting its name on. If an underwriter on such a pool is unwilling to do thorough due diligence, Chase should not agree to serve as Trustee on such pool.

Chase also must set up a mechanism to review purchased refinance loans when they go into default and before they go into foreclosure, to ensure that Chase is not foreclosing on a borrower who has been targeted by a predatory loan, as Mr. and Ms. B have. In order to help facilitate this, Chase must set up a team that is knowledgeable about the dynamics of predatory lending, and is thus in a good position to offer creative solutions to assist at-risk borrowers, whether or not they are represented by an attorney.

Chase/Bank One should see this merger as an opportunity to raise the industry bar to new levels and secure positive publicity as a corporation which treats the protection of vulnerable consumers as part of a sound business model, rather than merely something to which lip service must be paid.

C. Chase's Poor Record of Meeting Lending Needs of New York Borrowers of Color

JP Morgan Chase Bank ("JPM Chase") and Chase Manhattan Mortgage Corporation ("CMMC") have poor records of lending to individuals and neighborhoods of color in the New York Metropolitan Area.² Their percentages of loans to nonwhite individuals and predominantly nonwhite neighborhoods³ did not meet the percentage of such loans by all HMDA lenders combined in the Metropolitan Area. Additionally, their market shares of loans to individuals and neighborhoods of color were lower than their overall market shares.

According to 2002 HMDA data, JPM Chase and CMMC originated a smaller percentage of all HMDA loans and conventional home mortgage loans to nonwhite individuals of predominantly nonwhite neighborhoods than HMDA reporters combined (the "aggregate").

The differentials between the JPM Chase's and CMMC's origination rates and all lenders' origination rates were particularly high in predominantly nonwhite neighborhoods. JPM Chase made 12.20% and CMMC 11.23% of their HMDA loans to predominantly nonwhite neighborhoods – compared to the aggregate rate of 17.64%. Similarly, JPM Chase and CMMC made 12.91% and 10.90% of their conventional home mortgage loans to predominantly nonwhite neighborhoods, respectively, compared to the aggregate of 14.94%.

²This includes the following counties: The Bronx, Kings, New York, Queens, Richmond, Rockland, and Westchester.

³Nonwhite individuals include: Native Americans, Alaskan Natives, Asians, Pacific Islanders, Latinos, and African-Americans. Predominantly nonwhite neighborhoods are neighborhoods whose population is 80% or more nonwhite.

JPM Chase and CMMC did not fare much better when comparing the market share of their HMDA and conventional home mortgage loans to nonwhite individuals and in predominantly nonwhite neighborhoods to their overall market shares of loans. As Table 1 demonstrates, JPM Chase and CMMC had higher overall market shares than market shares to predominantly nonwhite neighborhoods.

TABLE 1. MARKET SHARE, NY METROPOLITAN AREA, 2002

Market Share of Loans to Minorities Compared to Overall Market Share

All HMDA Loans

	Market Share—Minorities	Market Share---Overall
JPM Chase	6.82%	7.93%
CMMC	0.44%	0.45%

Conventional Home Mortgage Loans

	Market Share—Minorities	Market Share---Overall
JPM Chase	10.60%	12.13%
CMMC	0.74%	0.85%

Market Share of Loans to Predominantly Minority Neighborhoods Compared to Overall Market Share

All HMDA Loans

	Market Share--Minority Neighborhoods	Market Share---Overall
JPM Chase	5.49%	7.94%
CMMC	0.54%	0.85%

Conventional Home Mortgage Loans

	Market Share--Minority Neighborhoods	Market Share---Overall
JPM Chase	10.49%	12.13%
CMMC	0.62%	0.85%

D. Small business lending

Combined, JP Morgan Chase and Chase Manhattan Bank USA, NA ("Chase") made nearly 30% of all loans to small businesses in MSA 5600, in 2002 (20,413 of 69,127). According to 2002 CRA Disclosure Statements, however, Chase made only a tiny fraction of its small business loans to establishments in LMI census tracts (44 of 20,413, or 0.22%).

E. CRA Commitments for New York

If the proposed merger is approved, JP Morgan Chase will grow 36%, from a bank with \$793 billion in assets to a bank with \$1.1 trillion in assets, the second largest in the nation. Unless the merged bank agrees to increase its lending, investment, and services in LMI and predominantly nonwhite neighborhoods to an extent commensurate with its growth, the Federal Reserve should not approve the merger. Specifically, the banks should agree to a two-step plan for growth. First, they should commit to raising their lending, investments, and bank branches in these communities to industry averages. Their percentage of small business, home mortgage, and community development loans, community development investments, and bank branches in LMI and predominantly nonwhite neighborhoods should be at least equal to the aggregate average. Second, once the merged bank achieves parity, it should commit to a plan to increase its lending by 36%, reflecting its growth in assets. Finally, the plan should include specific goals and timetables, monitoring, and data disclosure.

F. Pressing Consumer and Economic Justice Issues

1. Chase must eliminate cash access surcharges in New York EBT delivery.

Chase recently purchased Citigroup's electronic benefit transfer (EBT) business, assuming state contracts to deliver food stamps, public assistance and other benefits through ATMs and similar cash delivery outlets. In New York, Chase has been aware, for years, of deficiencies in the state's EBT delivery system. Chase knows that the program does not serve community credit needs, but in fact has taken a sizeable bite out of people's public assistance, as too many extremely low income New Yorkers pay ATM surcharge fees to gain access to their benefits. Chase must significantly improve the system to ensure that EBT serves the convenience and needs of the community.

Chase can rectify the discriminatory impact of inadequate cash access under EBT by:

- Eliminating all surcharges for EBT cash access for TANF recipients.
- Opening the NYCE system to EBT users, through QUEST or otherwise.
- Working with the state to offer a direct deposit option for TANF recipients, who under New York's current EBT system have no actual account.
- Providing all information to New York TANF recipients in multiple languages (New York now requires only English and Spanish).

- Working with Community Development Financial Institutions interested in participating in the EBT system.

Chase has essentially stated that it is the responsibility of the state's Office of Temporary & Disability Assistance to cure deficiencies in the EBT system. Although key changes must be initiated by the state, Chase is the state's agent, and has the capacity and legal responsibility to meet the needs of communities it serves, including low and moderate income communities.

2. Chase should be required to terminate Bank One's usurious refund anticipation loans (RALs).

Chase should be required to eliminate Bank One's tax refund anticipation lending (RALs) and servicing from the merged bank's business. Over and above their well-documented injury to borrowers, RALs present a significant reputational risk to Chase. Yes, RALs are enormously lucrative to the bank – but like predatory mortgage loans, the Federal Reserve should not tolerate abusive credit practices such as RALs, which are made in New York only through circumvention of our state usury statute.

3. The merger will have a harmful impact on the New York economy, result in tremendous jobs loss and potential violation of Chase's job retention agreements with New York.

The Federal Reserve Board should require that Chase:

- Maintain its commitment to keep at least 4,500 jobs at its MetroTech facility in Brooklyn and to add 1,450 new jobs there for a total employee level of approximately 6,000 over the life of the company's 25-year job retention deal signed with New York City in 1989. Any Bank One employees brought to NYC as a result of the proposed merger should not be counted towards JP Morgan Chase's employment commitment under the terms of its retention agreement.
- Make every effort to avoid pulling any jobs out of the NYC economy in the aftermath of the merger, in light of the extraordinary public commitment of tax revenue to JP Morgan Chase (up to \$237.7 million in total benefits), as well as myriad other benefits Chase has received from New York City and State.

G. Chase's Potential Charter Strategy to Circumvent Local Laws

Our groups are gravely concerned that Chase will attempt further to circumvent vital state community and consumer protections by applying for a federal savings bank (FSB) charter, under the jurisdiction of the Office of Thrift Supervision (OTS). Given the OTS's recent preemption ruling, this move appears clearly calculated as an end run around compliance with state laws such as New York State Banking Law 6-1, which protects borrowers from predatory loans. Given Chase's purported status as an industry leader, a charter shift by Chase would set a dangerous precedent for other institutions similarly to skirt state laws that protect vulnerable consumers.

III. THE FEDERAL RESERVE SHOULD REQUIRE CHASE TO RESPOND PUBLICLY TO KEY QUESTIONS

Finally, we call on the Federal Reserve to direct the following questions to Chase, and carefully to scrutinize the bank's responses, before ruling on the application:

1. How many and which precise jobs does Chase plan to eliminate from New York City? The prospective loss of jobs is obviously a major issue for all of us.
2. What is the plan for the merged bank to maintain or increase its levels of lending to LMI and nonwhite persons and neighborhoods?
3. Specifically, what will be the structure of the bank? Where will the crucial community development banking operations be located? Given that the bank plans to move its retail banking headquarters to Chicago, what steps will the bank take to ensure that New York's retail banking needs are understood and met?
4. What due diligence or "best practices" criteria does Chase now use for purchasing loans in the secondary market or for participating in the securitization of loan pools?

We hope the Federal Reserve will grant our request for a public meeting so we may raise additional questions and render more complete testimony. Thank you for your consideration.

Respectfully,

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