



April 26, 2021

New York State Department of Financial Services
Office of the General Counsel
1 State Street
New York, New York 10004
Comments@dfs.ny.gov.

RE: M&T Bank Corporation, Buffalo, New York; to acquire People's United Financial Inc., and thereby indirectly acquire People's United Bank National Association, both of Bridgeport, Connecticut.

To Whom It May Concern,

The Buffalo Niagara Community Reinvestment Coalition (“BNCRC”) is a coalition of thirteen community organizations focused on racial and economic justice in Western New York. We write because we are concerned about M&T’s performance in meeting the banking needs of historically underserved people and communities in the Buffalo-Niagara MSA. M&T currently holds over 62% of deposits in the Buffalo MSA and originates nearly 40% of home mortgages from depository institutions in our region. Despite this dominant presence in the region, there are considerable concerns about their mortgage lending to people and communities of color. Recent HMDA data calls into question the bank’s commitment to all communities in the Buffalo-Niagara MSA. BNCRC is concerned about M&T’s long-standing and persistent inability to meet the banking needs of the people and communities that financial institutions have historically underserved.

BNCRC is concerned that:

- M&T as the top depository share holder and mortgage lender is setting the market for lending discrepancies that continue the tradition of redlining in our city, further resulting in unbanked neighborhoods, segregation and poverty.
 - From 2016-2019 only 5.68% of M&T mortgages were originated in majority-minority neighborhoods and less than 10% of all mortgages went to minorities.
- M&T’s divestment and poor lending to underserved communities seems to be unique to its oldest market—M&T’s hometown and headquarters.
 - From 2017-2019 in New York City, where M&T has only .6% of the deposit share, the percentage of home loans going to Black borrowers is nearly 7 times greater than that in Buffalo and nearly 3 times greater for Latinx borrowers.
- M&T is and will continue in light of the People’s United acquisition, to spend community outreach resources and focus its CRA compliance efforts in new markets while ignoring the needs of its hometown.

The BNCRC encourages the New York Department of Financial Services to share in the concerns highlighted above. Furthermore, BNCRC encourages regulators to consider M&T’s limited lending to people and communities of color in the Buffalo-Niagara MSA in their review

of the bank’s application to acquire People’s United Financial Inc. In review of M&T’s merger application to the Department of Financial Services,¹ the superintendent must consider “the public interest and the needs and convenience thereof.” The statute makes clear that this must be the superintendent’s “primar[y]” consideration.² When taking any action on the application,³ the superintendent “shall take into account, among other factors, an assessment, in writing, of the record of performance of the banking institution in helping to meet the credit needs of its entire community, *including low and moderate-income neighborhoods* and minority- and women-owned businesses.”⁴ The factors the superintendent is required to consider include: the “*geographic distribution* of the banking institution’s credit extensions, credit applications and credit denials[.]”⁵ the “banking institution’s origination of residential mortgage loans[.]”⁶ and the overarching consideration of whether the banking institution “is helping to meet the credit needs of its entire community[.]”⁷ As such, the BNCRC is pleased to provide an account for the argument of public interest for consideration.

Community benefits agreements are a known tool at the disposal of both regulators and banks to address lending and banking service disparities.⁸ The Federal Reserve recently cited a local community benefits agreement between the BNCRC and KeyBank in its approval order of KeyBank’s merger with First Niagara.⁹ In response to the analysis and experiences set forth in

¹ N.Y. Banking L. § 601(1) (“A written plan of merger shall be submitted, in duplicate, to the superintendent by the corporations which are to merge”). M&T acknowledges that the merger must be approved by DFS in its merger application to the Board of Governors of the Federal Reserve System. *See* Merger Application at 12 (March 22, 2011) (“An application to the NYDFS pursuant to Section 601 of the New York Banking Law with respect to the Bank Merger and pursuant to Section 14.3 of the General Regulations of the Superintendent with respect to the resulting acquisition of certain operating subsidiaries of People’s United Bank by M&T Bank is being filed contemporaneously with this Application”).

² *Id.* (“In determining whether to so approve, the superintendent shall take into consideration [...] (iv) *primarily*, the public interest and the needs and convenience thereof”) (emphasis added).

³ N.Y. Banking L. § 28-B(3)(a)(iii).

⁴ N.Y. Banking L. § 28-B(3)(a) (emphasis added).

⁵ *Id.* at (3)(a)(5) (emphasis added).

⁶ *Id.* at 3(a)(9).

⁷ *Id.* at 3(a)(12).

⁸ See list of recent NCRC community benefits agreements. Available online at: <https://ncrc.org/explainer-how-ncrc-brings-banks-and-local-leaders-together-for-community-benefits-agreements/>. (“KeyBank in March 2016 for \$16.5 billion; Huntington Bancshares in May 2016 for \$16.1 billion — completed in 2020. A second plan was announced in September 2020 for \$20 billion; Fifth Third Bank in November 2016 for \$30 billion; First Financial Bank in October 2017 for \$1.7 billion; Santander Bank in November 2017 for \$11 billion; IBERIABANK in November 2017 for \$6.7 billion; First Tennessee Bank in April 2018 for \$4 billion; Wells Fargo & Company (DC) in October 2018 for \$1.6 billion; Fifth Third updated agreement in October 2018 for an additional \$2 billion; Truist in July 2019 for \$60 billion; CIT Group in November 2019 for \$7.75 billion; First Merchants Bank in June 2020 for \$1.4 billion; Morgan Stanley in September 2020 for \$15 billion; First Citizens Bank in February 2021 for \$16 billion”).

⁹ FRB Order No. 2016-12. July 12, 2016. Available online at:

<https://www.federalreserve.gov/newsevents/pressreleases/files/orders20160712a1.pdf> (“KeyCorp held community outreach meetings and worked closely with various community organizations to develop a National Community Benefits Plan (“Plan”). The Plan calls for KeyBank to invest \$16.5 billion in its communities over a five-year period, starting in 2017. KeyCorp asserts that up to 35 percent of the total commitment would be targeted for the areas where KeyBank and First Niagara Bank currently overlap in New York. The Plan establishes goals for loans, investments, and products specifically aimed at benefitting LMI individuals and communities, including home mortgages, small business loans, community development loans, investments, and philanthropic contributions. In addition, the Plan establishes targets for branching in LMI communities across the bank’s geographic footprint and, separately, the state of New York. The bank will open an additional branch in an LMI community in East Buffalo

this letter, the BNCRC encourages the use of a community benefits agreement between M&T and the BNCRC as a condition of approval of the proposed acquisition of People’s United. A community-developed benefits agreement has the potential to rectify historic underperformance and to direct resources and investment by M&T to people and communities of color in our region.

M&T’s History in Buffalo-Niagara

M&T was founded in Buffalo in 1856, 24 years after Buffalo’s incorporation, and for over 150 years the bank has played an important role in the local economy.¹⁰ In the late nineteenth century, M&T was an active participant in Buffalo’s railroad industry and benefited from Buffalo’s grain trade and connections to the Erie Canal.¹¹ M&T’s growth surged in the early twentieth century as the bank made its first acquisition in 1902 and provided financing for companies that manufactured war materials during World War I. By the end of the 1920s, M&T had \$135 million in assets. Although M&T suffered during the stock market crash, the bank more than recovered by financing the manufacturing industry during World War II. From the 1940s to 1960s, M&T continued to make mergers and acquisitions, purchasing over 15 local banks in just 21 years. By the end of the 1960s, M&T became a subsidiary of the multi-bank holding company First Empire State. M&T profited from the acquisitions made by the holding company, which increased the bank’s revenue and expanded its market share and service delivery in New York State.

By the early 2000s, M&T’s focus shifted from New York to the Atlantic Region, acquiring Allfirst Financial Inc. for \$16.5 billion in 2003.¹² M&T has continued to solidify its position in the Atlantic Region, gaining nearly \$11 billion in assets in the Wilmington Trust acquisition in 2011 and another \$37 billion in the Hudson City Bancorp acquisition in 2015. Meanwhile, the bank continued to grow its market share in the Buffalo-Niagara MSA—M&T has most recently held the highest depository share in Buffalo’s MSA since 2011 and more than fifty percent of Buffalo’s deposits since 2014.¹³ HSBC’s drastic decrease in market share—from 38.18% in 2010 to 19.62% in 2011—left a vacuum which M&T readily filled.¹⁴ Tables 1 and 2 show M&T’s outsized market presence in the Buffalo-Niagara MSA.¹⁵

and keep open four other branches in LMI neighborhoods that the bank initially planned to close. KeyCorp further asserts that the bank will enhance its diversity and inclusion - 18 - policies, expand its community engagement and marketing efforts, and establish an advisory council made up of various community organizations that will meet periodically to assess KeyBank’s progress under the Plan and to be informed of the bank’s future initiatives.”)

¹⁰ All references, unless otherwise noted, are derived from the following article on M&T’s website: Chet Bridger, *M&T Bank Celebrates 150 Years*. M&T Bank, (2006). <https://ir.mtb.com/static-files/f93b59c8-addf-4e8f-a36a-293baad36b5d>.

¹¹ Richard C. Brown, & Bob Watson, *Buffalo: Lake City in Niagara Land* [eBook edition]. Windsor Publications, (1981). <https://buffaloah.com/a/mt/lakecity/lakecity.html>.

¹² Acquisition data available online at: M&T Bank. *Acquisitions*. (2021) <https://ir.mtb.com/acquisition>.

¹³ M&T has held either the largest or second largest amount of deposits in the Buffalo MSA since 1994. FDIC. (2020). Deposit Market Share Reports. <https://www7.fdic.gov/sod/sodMarketBank.asp?barItem=2>.

¹⁴ *Id.*

¹⁵ In 2019, the MSA for the Buffalo area no longer indicated the Niagara Falls region. From 1994-2018 the MSA was Buffalo-Cheektowaga-Niagara Falls, in 2019 it changed to Buffalo-Cheektowaga.

Table 1: M&T's Deposit Share in the Buffalo MSA 1994-2020 per the FDIC

Year	Rank	Percentage of Market Share Deposits
1994	1	28.75
1995	1	31.87
1996	1	33.86
1997	1	35.24
1998	1	35.3
1999	1	35.11
2000	1	33.13
2001	2	25.42
2002	2	29.64
2003	2	24.69
2004	2	27.04
2005	2	29.22
2006	2	31.97
2007	2	22.14
2008	2	23.85
2009	2	29.35
2010	2	29.55
2011	1	38.96
2012	1	42.75
2013	1	47.17
2014	1	50.31
2015	1	50.79
2016	1	54.63
2017	1	62.62
2018	1	62.77
2019	1	63.58
2020	1	62.38

Table 2: FDIC Deposit Market Share Report for Buffalo MSA as of June 30, 2020

Institution Name	Number of Offices	Deposits (\$000)	Market Share	Total Assets (\$000) (Dec. 31, 2020)
M&T Trust Co.	54	38,640,945	62.38%	142,219,684
KeyBank, N.A.	63	8,638,781	13.95%	168,974,607
HSBC Bank, USA, N.A.	1	3,607,563	5.82%	197,980,343
Bank of America, N.A.	21	2,975,327	4.80%	2,258,832,000
Northwest Bank	25	2,141,315	3.46%	13,958,775
Citizens Bank, N.A.	39	2,026,041	3.27%	183,365,970
Evans Bank, N.A.	15	1,488,608	2.40%	2,028,161
CNB Bank	4	733,722	1.18%	4,709,040
Bank of Akron	6	425,696	0.69%	471,221
Alden State Bank	2	341,030	0.55%	418,232
Lakeshore Savings Bank	6	255,875	0.41%	686,391
Five Star Bank	4	221,219	0.36%	4,875,673
Community Bank, N.A.	5	195,968	0.32%	13,738,328
Bank of Holland	3	146,252	0.24%	161,073
Cattaraugus County Bank	1	42,896	0.07%	297,977
JP Morgan Chase Bank, N.A.	1	40,752	0.07%	3,025,285,000
The Bank of Castile	1	13,659	0.02%	1,771,267
Woodforest National Bank	2	8,926	0.01%	8,243,884
Institutions in Market: 18	253	61,944,575	100%	6,028,017,626

While M&T benefited from Buffalo’s economic bounty and experienced tremendous growth over the past 150 years, the City of Buffalo has not experienced the same prosperity. Racial and economic inequality plague our city—Buffalo has been one of the country’s poorest and most segregated cities for decades.¹⁶ Large swaths of Buffalo remain unbanked and the borders of 1930s HOLC (Home Owner’s Loan Corporation) redlining maps remain so entrenched that they are practically etched into the collective psyche of the region.¹⁷ In February 2021, your agency published a report on redlining in Buffalo (“DFS Report”), which found “stark confirmation that minority participation in the mortgage market (and therefore their opportunities for home ownership, one of the biggest drivers of long-term wealth for American families) lags far behind that of non-minorities.”¹⁸ The report concluded that “this substantial societal problem remains to be solved” and “consistent poor performance suggests that scrutiny is warranted by regulators and law enforcement agencies.”¹⁹

M&T’s Recent Lending Performance

BNCRC is concerned that M&T’s recent performance indicates redlining continues to shape the housing market in Buffalo. The data shows that both majority-minority neighborhoods as well as individual minority borrowers are systematically excluded from essential home financing and the wealth that comes with it. M&T is by far the largest lender in the market and the market needs to improve for our city to prosper.

a. M&T Mortgage Originations in Majority-Minority Neighborhoods

The recent DFS report examined HMDA mortgage originations in the Buffalo MSA from 2016-2019. Only 5.68% (770/13565) of M&T mortgages were originated in majority-minority neighborhoods over the four-year period.²⁰ While M&T’s performance was slightly better in this metric than the market average, it is important to note that M&T originated 15.8% (13565/85834) of all mortgages, and 37.9% (13565/35799) of all mortgages from depository institutions in the Buffalo MSA over the period.²¹ M&T’s poor performance is especially concerning because of its outsized market presence. Table 3 shows M&T’s performance in the region compared to other depository institutions:

¹⁶ Anna Blatto, *A City Divided: A Brief History of Segregation in Buffalo*. Partnership for the Public Good (2018). https://ppgbuffalo.org/files/documents/data-demographics-history/a_city_divided_a_brief_history_of_segregation_in_the_city_of_buffalo.pdf; Sam Magavern, *Poverty in Buffalo: Causes, Impacts, Solutions*. Partnership for the Public Good (2018). https://ppgbuffalo.org/files/documents/poverty_low_wage_work_income_inequality/truth_commission_report_poverty_in_buffalo_causes_impacts_solutions.pdf.

¹⁷ Blatto, *A City Divided*; Magavern, *Poverty in Buffalo*; see also DFS Report at 7-8 (“The results of the Department’s own analysis in this matter are consistent with the conclusion that the echoes of the HOLC maps are evident today”).

¹⁸ DFS Report at 13; see also Blatto, *A City Divided* at 17 (“Today, in the Buffalo Niagara region, the white homeownership rate is 73.4 percent, while the black rate is only 28.9 percent – the third highest disparity in the nation for cities with substantial black populations”).

¹⁹ *Id.* at 13; 15.

²⁰ *Id.* at 11.

²¹ *Id.*

Table 3: Buffalo MSA Mortgage Lending in Majority-Minority Tracts 2016-2019

Lender*	Total # of originations	# of originations for Properties in MMTs	% Originations in MMTs	Total # of Applications	# of Applications for Properties in MMTs	% Applications for Properties in MMTs
Evans Bank, N.A.	1,302	167	12.83%	1,602	227	14.17%
Five Star Bank	1,460	184	12.60%	1,788	237	13.26%
Bank of America, N.A.	2,020	118	5.84%	4,102	505	12.31%
M&T Trust Co.	13,565	770	5.68%	17,519	1,312	7.49%
Northwest Bank	3,183	153	4.81%	4,767	306	6.42%
Citizens Bank, N.A.	5,217	222	4.26%	9,118	663	7.27%
KeyBank, N.A.	9,052	331	3.66%	14,373	875	6.09%
Entire Market**	35,799	1,945	5.43%	53,269	4,125	7.74%

*Depository lenders originating 1,000 or more mortgages in the MSA

**As represented by selected lenders

It is also troubling that two institutions performed markedly above market in mortgage originations in majority-minority neighborhoods—Evans Bank (12.83% or 167/1302) and Five Star Bank (12.6% or 184/1460). This discrepancy is troubling for two reasons. First, two smaller community banks are substantially outperforming M&T in this metric. Second, both of these banks recently entered into settlement agreements with the New York State Attorney General’s Office.²² We are concerned that it takes government investigations and enforcement actions to bring credit into neighborhoods of color in our city.

Even more troubling, a BNCRC analysis of 2015-2019 HMDA data²³ in the Buffalo MSA reveals a disproportionate share of M&T mortgages in majority-minority neighborhoods go to white borrowers. In the data set, M&T originated 526 mortgages in majority-minority tracts, 486 of which reported the race of the borrower. Of the 486 mortgages that reported the borrower’s race, 214 went to whites (44%) and 272 went to minorities (56%). This is concerning when many of these neighborhoods are over 80% minority.²⁴ The mortgage approval rate confirms the discrepancy between originations and neighborhood demographics—the approval rate for white applicants in the data set was 88.8% (214/241) whereas the approval rate for minority applicants was 75.8% (272/359). Therefore, not only does M&T lend to majority-minority neighborhoods much less than anticipated, when it does the loans disproportionately go to white borrowers.

²² Available online at: https://ag.ny.gov/pdfs/2015-09-10_Evans-AG_Settlement_Agreement_EXECUTED.pdf; see also <https://ag.ny.gov/press-release/2015/ag-schneiderman-secures-agreement-five-star-bank-end-racially-discriminatory>.

²³ In this data set, the classification of “minority” is all borrowers or applicants who identified as a race other than white. We did not include different reported ethnicities within our data. We also did not include data with race unreported.

²⁴ DFS Report at 8.

b. M&T Mortgage Originations to Minority Borrowers

Stepping outside of majority-minority neighborhoods, HMDA data shows that M&T’s mortgage lending to minorities in general is surprisingly low. As the DFS report notes, “One statistic that leaps from the data is that, market-wide, loans made to minorities in the Buffalo MSA comprise only 9.74% of the total loans made in Buffalo—less than half of what would be expected given that minorities make up roughly 20% of the MSA’s population.”²⁵ M&T’s performance in this category, 9.8% (1269/12951), is nearly identical to the market average.²⁶ M&T originated 16.9% (12951/77130) of all mortgages and 38.1% (12951/33024) of all mortgages from depository institutions in the data set.²⁷ Table 4 shows M&T’s home purchase mortgage lending to minorities compared to other depository institutions in the region:

Table 4: Buffalo MSA Mortgage Lending to Minority Borrowers 2016-2019

Lender*	Total # of Originations	# of Originations for Minority Borrowers	% Originations for Minority Borrowers of Total Originations	Applications	Applications from Minorities	Minority Applicants % of Total Applications
Five Star Bank	1,364	247	18.11%	1,665	326	19.58%
Bank of America, N.A.	1,837	319	17.37%	3,696	847	22.92%
Evans Bank, N.A.	1,164	187	16.07%	1,461	258	17.66%
M&T Trust Co.	12,951	1,269	9.80%	16,582	1,959	11.81%
Citizens Bank, N.A.	4,841	428	8.84%	8,272	1,047	12.66%
KeyBank, N.A.	8,270	681	8.23%	13,150	1,461	11.11%
Northwest Bank	2,597	146	5.62%	3,771	304	8.06%
Entire Market**	33,024	3,277	9.92%	48,597	6,202	12.76%

*Depository lenders originating 1,000 or more mortgages in the MSA

**As represented by selected lenders

HMDA data also reveals that approval rates for minority borrowers are much lower than one would expect. Analyzing the 2016-2019 HMDA data in the DFS report, M&T approved 78.1% (12591/16582) of all mortgage applications yet only 64.8% (1269/1959) of mortgage applications from minority borrowers. A similar discrepancy develops when looking at neighborhood data in the report —M&T approved 77.4% (13565/17519) of mortgage applications yet only 58.7% (770/1312) of those in majority-minority neighborhoods. Tables 5 and 6 depict the struggle for minority mortgage applicants in our city:

²⁵ *Id.* at 13.

²⁶ M&T lags slightly behind the market average for depository institutions 10.26% (3391/33024). *Id.* at 12.

²⁷ *Id.* at 12.

Table 5: Buffalo MSA Mortgage Lending Approvals to Minority Borrowers 2016-2019

Lender*	Applications	Total # of Originations	% of Total Approvals	Applications from Minorities	# of Originations for Minority Borrowers	% of Approvals for Minority Borrowers	%Difference in Approval Rates
Five Star Bank	1,665	1,364	81.92%	326	247	75.77%	6.16%
Bank of America, N.A.	3,696	1,837	49.70%	847	319	37.66%	12.04%
Evans Bank, N.A.	1,461	1,164	79.67%	258	187	72.48%	7.19%
M&T Trust Co.	16,582	12,951	78.10%	1,959	1,269	64.78%	13.32%
Citizens Bank, N.A.	8,272	4,841	58.52%	1,047	428	40.88%	17.64%
KeyBank, N.A.	13,150	8,270	62.89%	1,461	681	46.61%	16.28%
Northwest Bank	3,771	2,597	68.87%	304	146	48.03%	20.84%
Entire Market**	48,597	33,024	67.95%	6,202	3,277	52.84%	15.12%

*Depository lenders originating 1,000 or more mortgages in the MSA

**As represented by selected lenders

Table 6: Buffalo MSA Mortgage Lending Approvals Majority-Minority Tracts 2016-2019

Lender*	Total # of Applications	Total # of originations	% of Total Approvals	# of Applications for Properties in MMTs	# of originations for Properties in MMTs	% Of Approvals for MMTs	%Difference in Approval Rates
Evans Bank, N.A.	1,602	1,302	81.27%	227	167	73.57%	7.71%
Five Star Bank	1,788	1,460	81.66%	237	184	77.64%	4.02%
Bank of America, N.A.	4,102	2,020	49.24%	505	118	23.37%	25.88%
M&T Trust Co.	17,519	13,565	77.43%	1,312	770	58.69%	18.74%
Northwest Bank	4,767	3,183	66.77%	306	153	50.00%	16.77%
Citizens Bank, N.A.	9,118	5,217	57.22%	663	222	33.48%	23.73%
KeyBank, N.A.	14,373	9,052	62.98%	875	331	37.83%	25.15%
Entire Market**	53,269	35,799	67.20%	4,125	1,945	47.15%	20.05%

*Depository lenders originating 1,000 or more mortgages in the MSA

**As represented by selected lenders

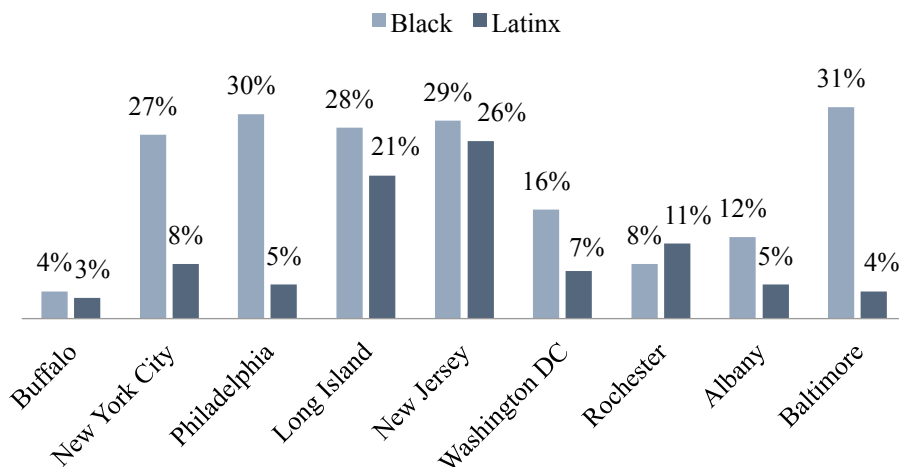
We are concerned that M&T is setting the market for lending discrepancies that continue the tradition of redlining in our city, resulting in unbanked neighborhoods, segregation and poverty. One statistic encapsulates all the others—only 2.96% of M&T mortgage originations in the Buffalo MSA go to minority borrowers in majority-minority neighborhoods. This number needs to improve if our city ever intends to reverse its long history of redlining, segregation and poverty.

c. M&T’s Performance in Other Markets

BNCRC knows that M&T can improve in Buffalo-Niagara because it has been a leader in other regions. National Community Reinvestment Coalition (“NCRC”) analysis of regional HMDA data demonstrates that while M&T struggles here it continues to outpace the market elsewhere. In the Buffalo MSA from 2017-2019, only 4% (216/5083) of M&T mortgage

originations went to Black borrowers and only 3% (130/5083) to Latinx. At the same time, M&T substantially outperformed the market for mortgages to minorities in Philadelphia (+13%), New York City (+23%),²⁸ Long Island (+22%), New Jersey (+28%), and Baltimore (+8%). For home purchase loans in New York City in 2018, M&T made 44% to Black borrowers (46/104) and 22% to Hispanic borrowers (23/104).²⁹ While M&T controls much less of the market in these cities, the numbers indicate M&T has the ability to perform much better in Buffalo. Table 7 compares M&T’s lending performance in the Buffalo MSA with other regions in its footprint:

Table 7: % of M&T Home Purchase Loans to Black and Latinx borrowers 2017-2019



We are concerned that M&T is spending community outreach resources and focusing its CRA compliance efforts in new markets while ignoring the needs of its hometown. This concern compounds when M&T’s proposed merger with People’s United would extend its footprint into five new states in New England. In its press release announcing the merger,³⁰ M&T acknowledged the merger’s size and impact. It noted that the combined company would create a banking franchise with approximately \$200 billion in assets and a network of more than 1100 branches and over 2000 ATMs, spanning 12 states. According to M&T, the combined franchise would operate across “some of the most populated and attractive banking markets in the United States.” The bank noted that the merger would “create the leading community focused commercial bank in the Northeast and mid-Atlantic regions” and would span an “economically diverse region that accounts for over 20% of the US population and 25% of US GDP.” If approved, the merger would make M&T the 14th largest bank in the country.

²⁸ A recent report by Association for Neighborhood & Housing Development (“ANHD”) demonstrates that M&T is a leader in many lending categories in New York City. M&T had the highest rating of large banks in OCC’s new “one-ratio metric” (page 14); by far the highest percent of home purchase loans to minorities (page 34); and by far the highest percent of home purchase loans to LMI borrowers (page 36). ANHD. *Bank Reinvestment at Risk: OCC’s CRA Rule Will Hinder Covid Recovery* (2020) https://anhd.org/sites/default/files/2019_anhd_bank_report_sept2020.pdf.

²⁹ *Id.* at 34.

³⁰ Available online at: <https://newsroom.mtb.com/2021-02-22-M-T-Bank-Corporation-Announces-Agreement-to-Acquire-Peoples-United-Financial-Inc>.

BNCRC is concerned what this expansion will mean for M&T's commitment to improving access to credit, amongst other financial needs in Buffalo-Niagara, especially considering the systemic problems in recent People's United CRA performance reviews and the resources it will take to improve in M&T's new footprint. We believe that the only way to ensure lending in communities and people of color improves, is for M&T to enter a community benefits agreement in Buffalo-Niagara before the merger is approved.

People's United's Recent CRA Performance

BNCRC is concerned that M&T will need to spend valuable community outreach resources in its new footprint due to People's United CRA performance issues. Numerous problems were raised during People's United's last two CRA reviews in 2016 and 2019, especially with lending in larger metropolitan areas. For instance, in its 2016 CRA review,³¹ People's United performed "Low Satisfactory" on its lending test in Boston,³² "Low Satisfactory" in Connecticut,³³ and "Needs to Improve" in New York City.³⁴ The OCC noted that "the geographic distribution of home purchase mortgage loans was poor" in Boston and "very poor" in New York.

Many issues remained in its 2019 CRA review,³⁵ including lending in Boston³⁶ and New Hampshire,³⁷ investments and services in New York City,³⁸ and branch locations in both Hartford³⁹ and New York City.⁴⁰ In Hartford, only 4 of 76 branches were in low-income geographies and 13 in moderate-income geographies, which the OCC noted "was significantly below the percentage of the population residing in these geographies."⁴¹ The same problem was found in New York, where 6 of 204 branches were in low-income geographies and 35 in middle-

³¹ Available online at: <https://www.occ.gov/static/cra/craeval/may18/25103.pdf>.

³² *Id.* at 13 ("Overall, the geographic distribution of home mortgage loans was poor").

³³ *Id.* at 31 ("The overall geographic distribution of home mortgage loans was poor").

³⁴ *Id.* at 68 ("The overall geographic distribution of home purchase loans was very poor. The bank's geographic distribution of home purchase loans during 2014 through 2015 was very poor. The percentage of loans made in low-income geographies was significantly below the percentage of owner-occupied units in these geographies. The percentage of loans made in moderate-income geographies was well below the percentage of owner-occupied units in these geographies. The bank's market share in low-income census tracts was significantly below its overall market share for home purchase loans. The bank's market share in moderate-income census tracts was well below its overall market share for home purchase loans. The bank's performance in 2013 was consistent with the performance noted in 2014 through 2015, and was very poor").

³⁵ Available online at: <https://www.occ.gov/static/cra/craeval/May20/25103.pdf>.

³⁶ *Id.* at 12 ("The proportion of loans to low-income borrowers was significantly below the proportion of low-income families and below the aggregate distribution of loans").

³⁷ *Id.* at 49 ("A poor geographic distribution of both home mortgage loans and small loans to businesses").

³⁸ *Id.* at 21 ("Investment Test in the New York CSA is rated Low Satisfactory [...] Service Test in New York CSA is rated Low Satisfactory")

³⁹ *Id.* at 30 ("The bank has 76 branches in the AA with four branches in low-income and 13 branches in moderate-income geographies. The percentage of branches located in low-income areas was significantly below the percentage of the population residing in these geographies").

⁴⁰ *Id.* at 22 ("The bank has 204 branches in the AA with six branches in low-income and 35 branches in moderate-income geographies. The percentage of branches located in low-income areas was significantly below the percentage of the population residing in these geographies").

⁴¹ *Id.* at 30.

income tracts, again “significantly below the percentage of the population residing in these geographies.”⁴²

Also concerning were public comments made during the regulatory review process of recent People’s United mergers, including with Suffolk Bank on Long Island in 2017.⁴³ For instance, NCRC noted in its first public comment to the People’s United-Suffolk Bank merger, “In New York City, 41.1% of all home purchase loans from 2012 to 2014 went to people of color, yet only 20.3% of People’s United’s home loans went to people of color, indicating that People’s United trailed all lenders by 20.3 percentage points (PP).”⁴⁴ Fair Finance Watch noted in its first comment that “in the New York City MSA in 2014 [...] People’s United made 82 home purchase loans to whites and NONE to African Americans or Latinos,” and noted in a second comment “that in 2015 in the New York City MSA, People’s United made 110 home purchase loans to whites and only ONE to an African American and only four to Latinos.” In a public comment to People’s United’s later acquisition of Connecticut’s Farmington Bank, Fair Finance Watch noted “In 2016, the most recent year for which HMDA data is publicly available, People’s got even worse: in the NYC MSA it made 144 home purchase loans to whites (more than in 2015) and still only one to an African American.” People’s United attempted to justify the lending disparities due to its recent entry into the NYC market,⁴⁵ but the statistics indicate the practices continued and even worsened over the years.

Improving People’s United’s performance throughout its footprint will take substantial resources from M&T. The company will need to expend considerable community outreach and managerial resources in order to improve performance in its new footprint. BNCRC is concerned what this will mean for M&T’s performance in its hometown. We urge DFS to require M&T to enter into a community benefits agreement for the Buffalo-Niagara region in order to make sure we’re not left behind.

Community Commitments in Buffalo-Niagara

In press releases and public notifications of the planned M&T-People’s United merger, both institutions have continued to stress their commitment to communities. In the initial press release,⁴⁶ M&T CEO René Jones labeled People’s United as “a partner with an equally long history of serving and supporting customers, businesses and communities” and stressed that “our common legacies and our complementary footprints will strengthen our ability to serve our

⁴² *Id.* at 22.

⁴³ See Federal Reserve approval order. Available online at:

<https://www.federalreserve.gov/newsevents/pressreleases/files/orders20170316a1.pdf>.

⁴⁴ The data on Long Island was equally as troubling. (“We are also concerned with People’s United’s lending in Suffolk County where People’s United trailed all lenders from 2012 through 2014 by 10.3 PP in lending to LMI applicants. Furthermore, People’s United denied 50% of applications submitted by African Americans when all lenders in Suffolk County during the time period only denied 21.7% of applications from African Americans”). The statistics did not improve according to NCRC’s third public comment (“There was minimal to no improvement in home purchase originations to underserved borrowers and census tracts in New York City from 2014 to 2015. Originations actually went down in census tracts that are majority people of color from 6 originations in 2014 to 4 in 2015.”)

⁴⁵ FRB Approval Order at 10.

⁴⁶ Available online at: <https://newsroom.mtb.com/2021-02-22-M-T-Bank-Corporation-Announces-Agreement-to-Acquire-Peoples-United-Financial-Inc>.

communities and customers, and provide solutions that make a difference in people's lives.” People’s United CEO Jack Barnes, who will join the M&T board of directors upon completion of the merger, shared similar sentiments: “M&T is a like-minded partner that shares our culture of supporting communities by focusing on building meaningful relationships and providing personalized products, services and local market expertise to customers, while building on our legacy of excellence in service.” In its merger application to the Federal Reserve, M&T ensured “Post-Transaction, M&T will continue [M&T and People’s United’s] strong commitment to serving their customers and, in particular, the needs of low- or moderate-income (“LMI”) communities.”⁴⁷ We are concerned that this “shared commitment to local communities” does not align with recent lending performance of either institution and believe such commitments can only be secure if agreed to in a community benefits plan.

BNCRC and our coalition of community organizations recognize the importance of a community benefits agreement as a mechanism to encourage banks such as M&T to continue the things they do well and to improve upon other areas of service to our communities. The BNCRC encourages M&T and DFS to view a community benefits agreement in Buffalo-Niagara as a formalized commitment to address the concerns laid out in this letter. The following is a list of potential commitments; with specifications to be addressed in the community benefits negotiation process we believe will help improve M&T’s performance:

1. Mortgage Lending to People and Communities of Color
 - Increase lending rates to Black and Latinx borrowers
 - Increase lending rates in majority-minority neighborhoods
2. Philanthropy
 - Improve accessibility to M&T philanthropic process
 - Consider organizations that are not 501(c)(3)s
 - Gift and grant to smaller organizations, particularly those led by people of color
3. Accountability and Transparency
 - Annual report of lending and investments followed by annual community meeting
 - Quarterly progress reports to BNCRC
 - Data sharing and transparency around philanthropy and all areas of lending, particularly CDLI and mortgage lending specific to race
 - Ability to submit written questions to M&T and receive timely written responses from M&T
4. Commitment to not divert CRA resources from Buffalo-Niagara
 - Increase lending (specifically mortgage and CDLI CRA lending) in Buffalo MSA
 - Open lines of communication between CRA Officers and BNCRC

⁴⁷ Merger Application at 15.

Conclusion

Equitable lending in low-to-moderate income areas is an essential aspect of community reinvestment and can support the economic development of low-income neighborhoods. Although M&T holds over 62% of Buffalo's deposits and originates nearly 40% of mortgages from depository institutions in the region, only 5% of their mortgages are in majority-minority neighborhoods and less than 10% are issued to people of color borrowers. M&T must improve in its hometown. We believe that a community benefits agreement with local organizations will not only improve M&T's performance, but has the potential to reverse our region's legacy of redlining and concomitant segregation and poverty. Federal regulators can help this effort by requiring M&T to enter into a community benefits agreement in Buffalo-Niagara before approving the merger.

Sincerely,

____s/Kathryn Franco____
Kathryn Franco
Coalition Chair
Buffalo Niagara Community Reinvestment Coalition