



**TESTIMONY OF DEYANIRA DEL RIO
CO-DIRECTOR, NEW ECONOMY PROJECT
BEFORE THE U.S. HOUSE COMMITTEE ON FINANCIAL SERVICES
TASK FORCE ON FINANCIAL TECHNOLOGY**

“Is Cash Still King? Reviewing the Rise of Mobile Payments”

January 30, 2020

Chairman Lynch and Ranking Member Emmer, and Members of the Task Force on Financial Technology, thank you for the invitation to testify at today’s hearing on behalf of New Economy Project, an economic justice center based in New York City. For 25 years, our organization has led local efforts to press for fair lending, community reinvestment, and financial inclusion, as a matter of racial justice and equitable neighborhood development. We believe fundamental change is necessary to creating an economy that works for all. I am pleased to share our perspectives on bank redlining, the growth of cashless businesses, and disparities in financial services access that serve to perpetuate inequality and poverty in our city and nationally.

My testimony today is informed by more than two decades of work with low-income New Yorkers and community groups to challenge systemic discrimination by Wall Street banks and other financial corporations, and to support responsible, cooperative, and community development finance. New Economy Project’s many accomplishments include keeping payday lending debt traps out of New York, through vigorous defense of New York State’s 25% usury cap and other consumer protections; ending in NYC an insidious form of employment discrimination based on a job applicant’s credit history; and winning strong state regulations to curb discriminatory and abusive debt collection.¹ We provide direct legal assistance to thousands of low-income New Yorkers and recently settled a groundbreaking class action

¹ *Rogue Democrats Could Be Trying to Open New York Up to Payday Lenders*, at bit.ly/2uMQMjB; *New York City Just Outlawed Running Credit Checks on Job Applicants*, at bit.ly/3aOJKvo; *And Now for Some Good News*, at bit.ly/2RCMhrx

lawsuit we brought against a debt buyer network, resulting in a \$59 million monetary award and the vacating of almost \$800 million in debt collection default judgments.²

My comments are additionally informed by my service as a board member of the Lower East Side People’s Federal Credit Union, a regulated, not-for-profit community development financial institution that serves a majority low-income and immigrant membership in New York City.

I would like to focus our testimony on the following points:

First, the financial justice issues addressed in today’s hearing are systemic in nature, and call for bold, systemic solutions. Too often, discussions about financial access disparities focus on the choices and behaviors of individuals, or on the need to design “alternative products,” rather than on structural barriers that block poor people, immigrants, and people of color from mainstream financial institutions and systems. As this committee knows, the high cost of maintaining bank accounts, persistent redlining of neighborhoods of color, and prohibitive identification requirements all create real entry barriers for millions of people across the country.³ Through our legal assistance hotline, we have in fact seen a clear, growing pattern in which mainstream banks are actively pushing low-income people out of the banking mainstream. Banks typically close people’s accounts and report their information to ChexSystems and other consumer reporting databases, for example, when they are unable to pay exorbitant, often hidden overdraft fees – effectively blacklisting people from opening accounts elsewhere.⁴

The sheer absence of bank branches in communities of color speaks volumes. Attached to my testimony are maps that illustrate extreme disparities in bank branch service based on the income and race composition of neighborhoods in NYC – patterns you see in cities throughout the U.S. In NYC neighborhoods of color, there is just one bank branch, on average, for every 10,000 residents – compared to almost 3.5 branches for majority white neighborhoods. The maps also show what happens when banks fail to serve neighborhoods adequately – or at all: high-cost, fringe financial services like check cashers and pawn shops fill the vacuum. Nationally, as a result of the persistent bank redlining and other structural inequities in our

² *Victims of Debt Collection Scheme in New York Win \$59 Million in Settlement*, at nyti.ms/2UcPSb7

³ *How Neighborhoods Help New Yorkers Get Ahead*, at bit.ly/2vwXtH7; *Access to Financial Services, Savings, and Assets Among the Poor*, at bit.ly/2O9Ucnp; *Immigrant Financial Services Study*, at on.nyc.gov/38R050C

⁴ *Where Are the Unbanked and Underbanked in New York City?*, at urbn.is/37Ea21x; *Bank Clients Might Be Unfairly Denied Accounts*, at nyti.ms/2U3INdT

economy, approximately 17% of black households and 14% of Latino households don't have a bank account, compared to 3% of white households.⁵

Eliminating barriers to fair banking and financial inclusion is a critical step to ensuring economic opportunity and justice. As in other parts of our economy, poor people pay more for basic, too often inferior, financial services. Lack of a banking or credit history, in turn, can unfairly block people from housing, affordable insurance and other vital economic opportunities, as growing numbers of landlords, employers, insurance companies and others consider people's credit histories, leading to wholesale discrimination.⁶ Indeed, in communities across New York and around the country, unequal access to credit has long fueled housing segregation, racial disparities in homeownership and small business-ownership, and vast and deepening racial wealth inequality.⁷

At the same time, financial products and technology are not a solution to poverty or income inequality. Policymakers frequently ask us what kinds of products and services are needed to address the glaring disparities we see throughout our financial system. Simply put, we are not going to "product-design" our way out of deeply entrenched, racially-unjust structures and institutions. Too often we hear industry – and policymakers – tout products and services that are "less predatory," or better than nothing, though these products and services are still exploitative and inferior in nature. Exploitative financial services and credit can worsen racial inequities, as we saw with "subprime" mortgages that led to the foreclosure crisis and wiped out hard-won homeownership gains among families of color and devastated entire communities. We see this with payday loan debt traps that claim to serve – but in fact exploit – working poor Americans struggling to make ends meet, and who would benefit from living wage laws and other affirmative measures to address root causes of economic insecurity.

As we work to eliminate barriers, we must challenge the rhetoric and alleged benefits of "financial innovation" and "fintech." We strongly urge this Task Force and Committee to scrutinize oft-cited industry tropes, which simply fail to match reality, particularly for low-income people and communities. For decades, companies have invoked "innovation" as a smokescreen to evade regulation and peddle inferior, high-cost, or outright predatory products – from "subprime" and payday loans to fee-ridden prepaid debit cards – to low-wage workers, immigrants, and people of color. To be sure, the term "fintech" is itself broad, and encapsulates a range of companies and technologies, not all of which fall within today's hearing topic. And appropriate and safe technology can of course benefit underserved people and communities.

⁵ 2017 FDIC National Survey of Unbanked and Underbanked Households, at bit.ly/2RAaaJG

⁶ Data Point: Credit Invisibles, at bit.ly/2O3GUsl; Background On: Credit Scoring, at bit.ly/2RXTbJA

⁷ Access to Credit, at bit.ly/3aRrYaT

Too often, however, companies identifying as “fintechs” claim to “eliminate banking deserts” or “empower communities” redlined by banks, when in fact they are exploiting communities’ unmet needs and perpetuating inequality in our banking system.⁸

Fintech companies routinely seek to circumvent state consumer protection laws, such as New York State’s strong usury law, through “sham” partnerships with national and out-of-state banks; engage in risky securitization of loans; rely on broad and invasive data collection; employ racially-biased loan underwriting algorithms; and have been the subject of numerous state and federal enforcement actions. We should be extremely concerned by the fintech industry’s invasive data collection – and the privacy, data breach, and surveillance risks – to which these companies expose all of us.⁹

The Trump administration’s efforts to exempt fintech companies from critical consumer protection rules only exacerbates these serious risks. CFPB’s creation of a “regulatory sandbox,” for example, would offer a safe haven to unscrupulous lenders – flying in the face of the Bureau’s statutory mandate to protect consumers from unfair, deceptive, abusive, and discriminatory acts and practices. Similarly, the Office of the Comptroller of the Currency’s national fintech charter, and proposal that would encourage “rent-a-bank” schemes, threaten to confer broad powers to fintechs to avoid state interest rate caps, other state protections, and state oversight.¹⁰

Combined with the administration’s takeover of the Consumer Financial Protection Bureau – as well as dangerous proposals to gut the Community Reinvestment Act¹¹ and Fair Housing Act – the financial services industry has received the green light to unleash new waves of predatory and extractive products and practices. These actions are guaranteed, if not intended, to exacerbate racial disparities, and will inevitably lead to new crises.

In this context, I would like to comment on the growth of cashless businesses, which reinforce inequities in our financial system and economy at large. Just last week, the NYC Council passed a local law similar to H.R. 2650, the “Payment Choice Act of 2019,” requiring

⁸ *UniRush LLC and Mastercard International Incorporated*, at bit.ly/2RZ5Y59; *FTC Charges Prepaid Card Company Deceptively Marketed Reloadable Debit Card*, at bit.ly/2S0rA15

⁹ *Fintech and Consumer Protection: A Snapshot*, at bit.ly/3aQgQel

¹⁰ New York State’s Department of Financial Services has forcefully cracked down on abusive practices by online lenders and taken outspoken positions on fintech. See *Online Lending Report* at on.ny.gov/2O8LwO2. New Economy Project joined 246 consumer, civil rights, and community groups in opposing the OCC’s new nonbank charter. See *Comment letter to the OCC*, January 13, 2017 at <https://bit.ly/2u15g4m>.

¹¹ *Statement On FDIC, OCC Notice Of Proposed Rulemaking For Community Reinvestment Act*, at bit.ly/2UhAFFN; *Trump Pulls Back Efforts to Enforce Housing Desegregation*, at nyti.ms/2GuLTg; *FDIC/OCC Proposal Would Encourage Rent-a-Bank Predatory Lending*, at bit.ly/2uFaYEa; *Trump’s Bank Regulators Open the Door to More Predatory Lending*, at <https://bit.ly/2GuMeRN>

stores and restaurants in NYC to accept cash payments. Like H.R. 2650, the NYC law will also prohibit charging people more if they pay with cash. The NYC Council passed the bill because of the discriminatory effect cashless businesses have on low-income people, people of color, and immigrants, who face longstanding, systemic barriers to fair banking access – as banks continue to redline neighborhoods throughout the country, neighborhoods continue to reel from the foreclosure crisis, and the Administration continues to dangerously roll back financial services regulation and oversight, notably in the areas of consumer protection, fair lending, and community reinvestment.

Credit card and fintech companies, businesses, and others tout the benefits of a cashless economy without addressing the economic and racial injustice it perpetuates. Permitting stores and restaurants to be cashless also promotes a shift to inferior and poorly-regulated digital payment, prepaid cards, and other non-bank services – depriving people of the strong federal consumer protections that apply to all bank and credit union accounts, in some cases, and requiring people to cede ever more personal information to large companies.

We need bold solutions to address our two-tiered financial system. In New York, we are working to advance bold, affirmative solutions that move us toward a just financial system and economy. These include public banking – common in other countries, and on the rise across the U.S.; community land trusts and non-speculative housing; cooperative and community development financial institutions; and strong state and local agencies action in the absence of federal regulation and enforcement. Congress should support efforts to democratize our economy, working with and for communities that have been exploited and excluded from the mainstream financial system for decades.

Thank you for the opportunity to testify on behalf of New Economy Project. We would welcome the opportunity to share case examples and discuss these issues in greater depth.

Absence of Bank Branches in Communities of Color New York City, 2018

Bank Branches per
10,000 Residents

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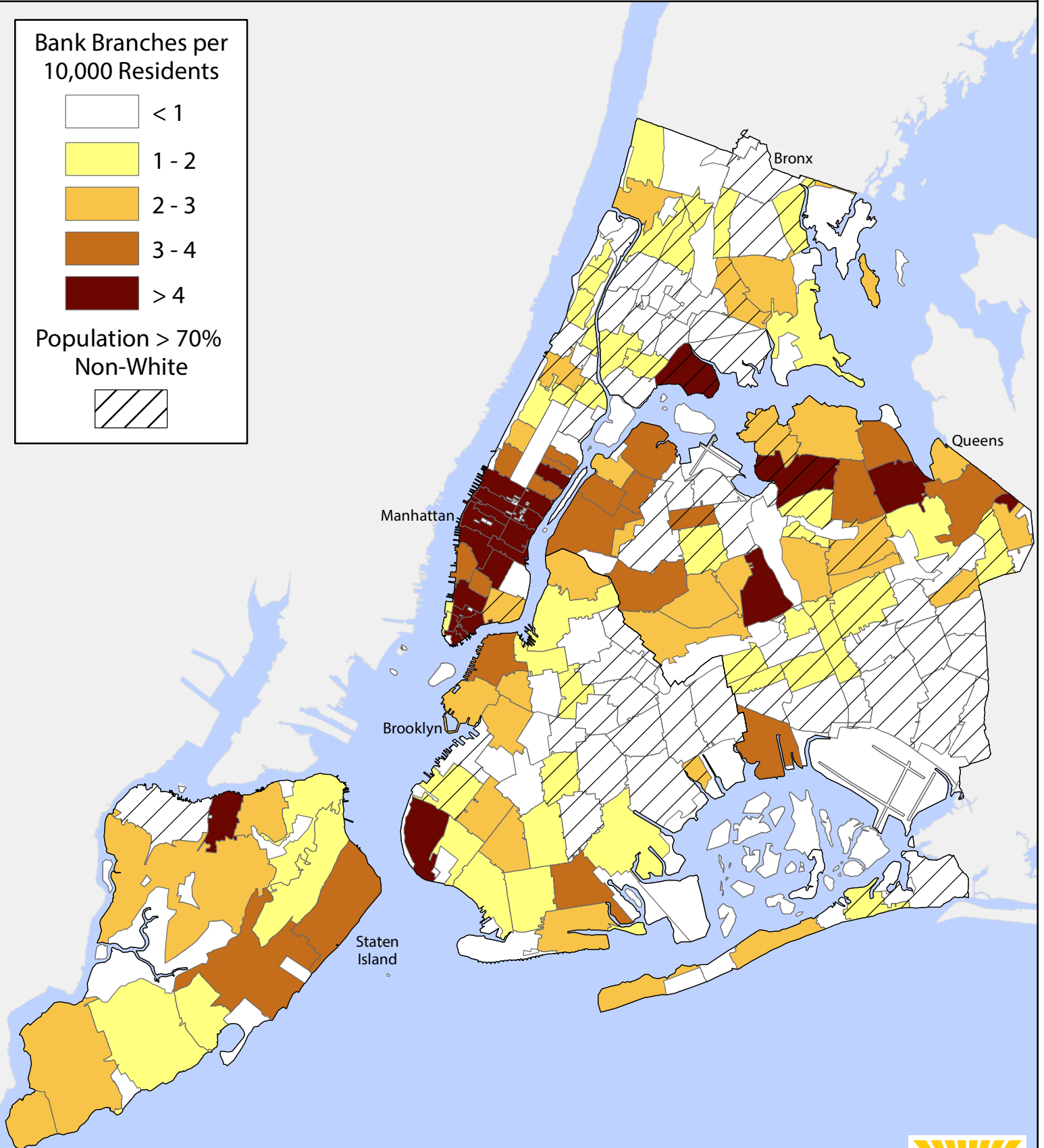
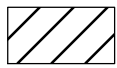
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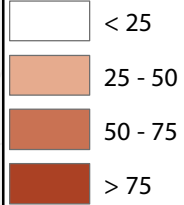
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Population > 70%
Non-White



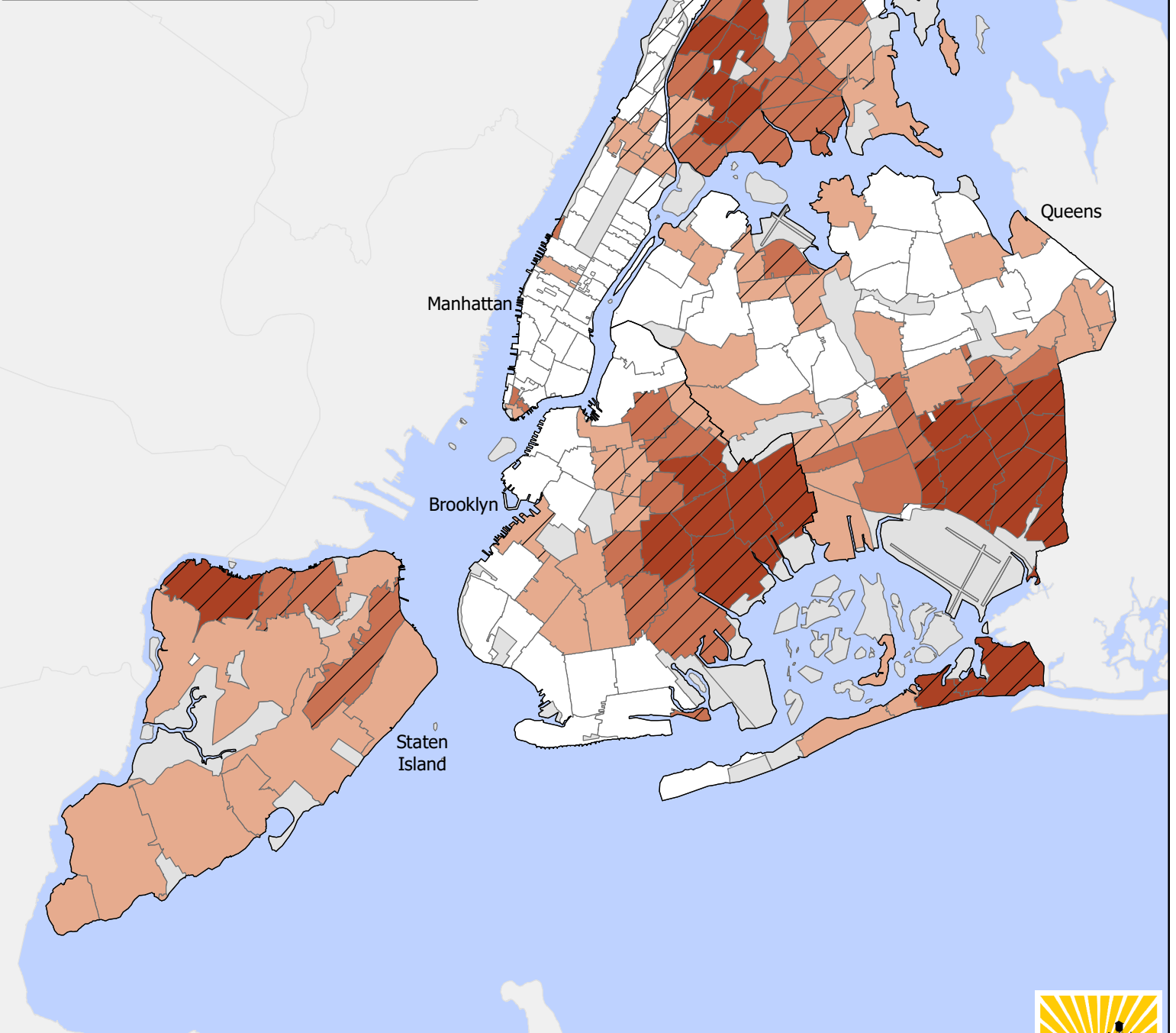
Home Foreclosure Risk New York City, 2018

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



Population > 50% Black or Latino

Number of pre-foreclosure notices filed in NYC: **39,287**

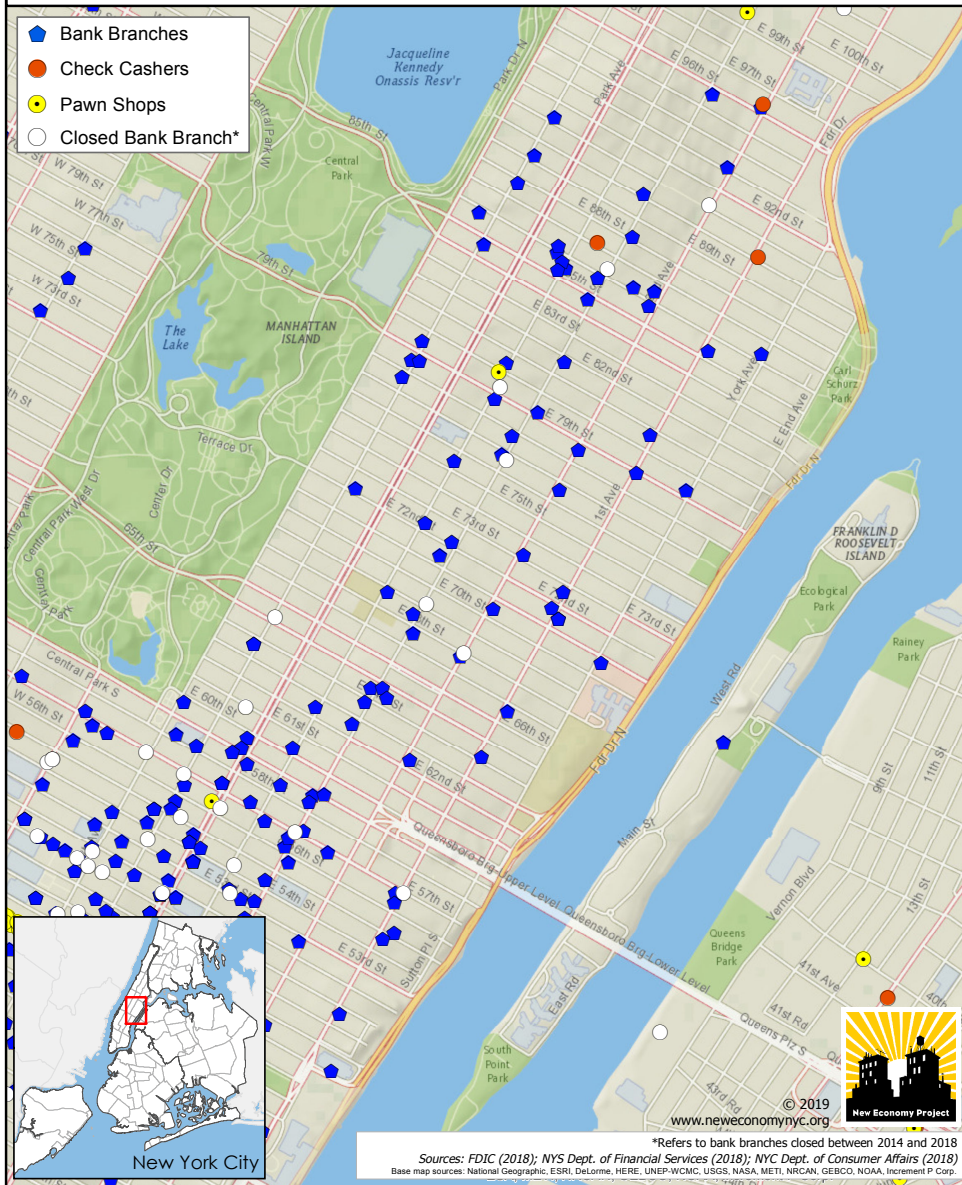


This map displays 90-day pre-foreclosure notices filed on 1-4 family homes, co-ops, condos, and other homes (duplicate notices excluded).

Sources: NYS Department of Financial Services (2019); American Community Survey (2017)



Bank Branches, Check Cashers, and Pawn Shops Upper East Side, Manhattan



Bank Branches, Check Cashers, and Pawn Shops East Harlem, Manhattan

