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New York Metropolitan Area Lending Scorecard: 1998

Richard D. Marsico
New York Law School, richard.marsico@nyls.edu

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INTRODUCTION

This "Lending Scorecard" is the first of a planned series of annual reports on residential real estate-related lending,[2] conventional home mortgage lending,[3] and small business lending[4] to minority and low- and moderate-income (LMI) persons and neighborhoods in the New York metropolitan area (New York or the metropolitan area).[5] Since 1991, when disclosure of detailed data about lending in these communities showed that their credit needs were not being met, government officials, community groups, and lenders have worked to increase the availability of credit in these communities.[6] The purpose of this annual Scorecard is to measure the progress of their efforts each year. The Scorecard will provide the information necessary for lenders, government officials, community groups, borrowers, and other interested parties to develop policies, programs, and strategies to ensure that credit is equally available to minority and low-income persons and communities.

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[1] Professor of Law, New York Law School. I wish to thank Vicki Hurewitz for creating the computer program that allowed me to analyze lending data. Without her assistance, this Scorecard would not have been possible. I also thank Jean Marie Brescia and Carol Buckler for reviewing earlier drafts and Cathy Jenkins for her hard work and patience. Finally, I thank New York Law School for its support of my research.

[2] This Scorecard defines "residential real estate-related lending" to include government-insured home mortgage loans, conventional home mortgage loans, home mortgage refinance loans, and home improvement loans for residential real estate.

[3] This Scorecard defines "conventional home mortgage lending" to include loans to purchase a one-to-four family residential property, excluding government-insured loans.

[4] This Scorecard defines "small business lending" to include loans to business with $1 million or less in gross annual revenue.

[5] More specifically, the Scorecard covers Metropolitan Statistical Area 5600 (MSA 5600), which includes eight counties: the Bronx, Kings, New York, Queens, Richmond, Rockland, Putnam, and Westchester.

[6] *See* Richard Marsico, *Shedding Some Light on Lending: The Effects of Expanded Disclosure Laws on Home Mortgage Marketing, Lending and Discrimination in the New York Metropolitan Area*, 27 FORD. URB. L.J. 481 (1999).

The Scorecard is divided into two parts. Part One examines aggregate residential real estate-related lending, conventional home mortgage lending, and small business lending to minority and low-income persons and neighborhoods in the New York metropolitan area in 1998, the latest year for which data about such lending are available, by all lenders that are required to report such data.[7] Part

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[7] The Home Mortgage Disclosure Act (HMDA), 12 U.S.C. §§ 2801-2810 (1999), requires lenders, including "depository institutions" and "other lending institutions," to disclose certain information about their residential real estate-related lending. Depository institutions, including banks, savings associations, and credit unions, that as of the end of 1998 had assets of at least $28 million and a home or branch office in an MSA, were required to report under HMDA. 12 U.S.C. §§ 2802(2), 2803(a)(1), §2808(b) (1999); 12 C.F.R. § 203.3(a) (1999). In 1998 "other lending institutions" included "any person engaged for profit in the business of mortgage lending," provided they had at least $10 million in assets or made 100 loans the previous year. 12 U.S.C. § 2802(2)(B), (4)(1999); 12 C.F.R. § 203.3(a)(2) (1999).

HMDA requires lenders to report information about four different types of residential real estate-related loans: 1) conventional home mortgage loans; 2) federally insured home mortgage loans; 3) home mortgage refinance loans; and 4) home improvement loans. 12 U.S.C. § 2803(b); 12 C.F.R. § 203.4(A) (1999); 12 C.F.R. pt. 203, app. A, §§ V.A. 3-4 (1999).

HMDA also requires lenders to report whether the property that is the subject of the application has four or fewer residential units or more than four residential units. 12 C.F.R. pt. 203, app. A, §§ V.A. 4-5 (1999). If the property has four or fewer residential units, HMDA requires the lender to report whether the property is owner-occupied. 12 U.S.C. § 2803(b)(2) (1999); 12 C.F.R. § 203.4(a)(3).

For each of the four types of residential real-estate loans HMDA covers, lenders must report: 1) the number of applications received; 2) the race, income, and gender of each applicant; 3) the census tract in which the property that was the subject of the loan application is located; and 4) the disposition of each application, including loan originated, application denied, application approved but applicant turned down the loan, application withdrawn, or file closed because incomplete. 12 U.S.C. § 2803(b)(4) (1999); 12 C.F.R. § 203.4(a).

Regulations promulgated under the Community Reinvestment Act (CRA), 12 U.S.C. §§2901-2906 (1999), require banks with assets of $250 million or more to report certain information about their small business loans: 1) the loan amount; 2) the census tract in which the business that received the loan is located; and 3) whether the business had gross annual revenue of $1 million or less. *See, e.g.*, 12 C.F.R. § 25.42 (a) (1999). Small business loans are defined as business loans with original amounts of $1 million or less. *See, e.g.*, 12 C.F.R. § 25.11(u) (1999). This regulation incorporates the definition of small business loans in the instructions to banks for preparing their Consolidated Report of Condition and Income. These instructions can be found at the website of the Federal Deposit Insurance Corporation. *See* (visited Apr. 13, 2000) <http://www.fdic.gov/CALL_TFR_rpts/tocc>. The CRA small business loan disclosure

Two of the Scorecard turns its attention to the record of individual lenders in 1998. It examines the conventional home mortgage lending record to minority and LMI persons and neighborhoods of each of the 154 lenders in the New York metropolitan area that made at least 30 conventional home mortgage loans in New York, assigns a score based on that record, and ranks the lenders accordingly.[8]

SUMMARY OF RESULTS

Overall, 1998 saw increases in lending to LMI and minority persons and neighborhoods that outpaced increases to White and upper-income (UI) persons in the New York metropolitan area. LMI and minority persons and residents of such neighborhoods in the New York metropolitan area filed more residential real estate-related and conventional home mortgage loan applications and received more loans than in 1997. These increases generally were relatively greater than application and lending increases for White and UI persons and neighborhoods. Small business lending in LMI neighborhoods increased in 1998 and the increase was greater in LMI neighborhoods than in UI neighborhoods. Despite this overall increase, there are several reasons for concern. Minority individuals did not fare as well as Whites in the conventional home mortgage market. Lenders rejected residential real estate-related loan applications and conventional home mortgage loan applications from LMI and minority persons and neighborhoods more frequently than from White and UI persons and neighborhoods, although the differential declined slightly in 1998. Denial rates for minority individuals and predominantly minority neighborhoods were high compared to denial rates for Whites and White neighborhoods.

As for individual lenders, the Scorecard shows several

regulations do not require lenders that are not banks to disclose small business lending data because the CRA covers only banks. *See, e.g.*, 12 C.F.R. § 25.11(c) (1999).

[8] Together, these lenders made 57,333 conventional home mortgage loans, or 97 percent of all conventional home mortgage loans in the New York metropolitan area in 1998. *See infra* Table 12 *and* note 32 for the source of this data. For a description of the scoring system, see *infra* Section II.

interesting results. First, of the 154 lenders represented in the Scorecard, 97 are lenders that are not banks (non-bank lenders), representing 52.7 percent of all loans covered by the Scorecard, compared to 57 banks, responsible for 47.3 percent of loans analyzed in the Scorecard. Second, 24 of the 154 lenders, representing 8.9 percent of loans covered in the Scorecard, were so-called "subprime" lenders, meaning they specialize in lending to individuals with less than "A" credit ratings.[9] Although subprime lenders serve an important function by providing credit to borrowers who might otherwise be denied it, many subprime lenders have been accused of abusive and discriminatory lending practices.[10] Third, non-bank lenders outperformed banks in conventional home mortgage lending to LMI and minority persons and neighborhoods, and subprime lenders outperformed both banks and non-bank lenders. To the extent that some subprime lenders may be engaging in illegal lending practices, this result tempers the apparent good news that lending to LMI and minority persons and neighborhoods outgrew lending to White and UI persons and neighborhoods. Finally, several large banks and mortgage companies did not fare well in the ratings. These include Chase Manhattan Bank (-4/77),[11] Republic Bancorp Mortgage, Inc. (-4/77), Dime Savings Bank of New York (-6/86), The Bank of New York Mortgage Co. (-8/90), Bank of America (-12/100), Astoria Federal Savings (-14/115), Fleet Mortgage Corp. (-14/115), Staten Island Savings Bank (-16/126), Citibank (-18/139), M&T Mortgage Corp. (-18/139), and Citicorp Mortgage, Inc. (-20/152).

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[9] Two of these 24 lenders specialized in making loans to purchase manufactured homes. For purposes of analysis, the Scorecard combines these two manufactured home lenders with subprime lenders. The reasons for this are explained more fully *infra* note 34.

[10] *See infra* text accompanying notes 35-39.

[11] The numbers in the parenthesis represent the lender's score and its ranking out of the 154 lenders in the Scorecard. Several lenders share the same score and ranking, meaning that their performances in lending to minority and LMI persons and neighborhoods was similar. *See infra* Section II for a description of the scoring system.

I. Residential Real Estate-Related Lending, Conventional Home Mortgage Lending, and Small Business Lending in The New York Metropolitan Area, 1997-1998

A. Residential Real Estate-Related Lending

1. Methodology

This section examines aggregate residential real estate-related lending by all lenders in the New York metropolitan area who were required to report such lending in 1998.[12] Residential real estate-related lending includes government-insured home mortgage loans, conventional home mortgage loans, home mortgage refinance loans, home improvement loans, and multi-family housing loans. This section measures residential real estate-related lending in and to four "subject communities": minority persons;[13] LMI persons;[14] predominantly minority neighborhoods;[15] and LMI neighborhoods.[16] This section compares changes in real estate-related lending in these

[12] The source of data for this section is the website of the Federal Financial Institutions Examination Council (FFIEC), where HMDA data is posted. *See* FFIEC Website (visited Nov. 30, 1999) <http://www.ffiec.gov>.

[13] The Scorecard defines minority persons to include all the racial categories reported under HMDA except "White." These are "American Indian or Alaskan Native," "Asian or Pacific Islander," "Black," and "Hispanic." *See* HMDA, RAWDATA 3 (1999).

[14] The Scorecard defines an LMI person the same way as the FFIEC does when it reports HMDA data: a person with an income of less than 80 percent of the MSA median income. *See, e.g., Home Mortgage Disclosure Act Disclosure Statement: Explanation of Notes* (visited Apr. 12, 2000) <http://www.ffiec.gov/hmda_rpt/notes.html>. *See also* 12 C.F.R. § 25.12(n)(1) (1999).

[15] The Scorecard defines a predominantly minority neighborhood as a census tract that has a minority population of 80 percent or greater. This definition corresponds to the way the FFIEC reports HMDA data. *See, e.g., Business and Financial Statistics*, 85 Fed. Res. Bull. A65, tbl. 4.37 (1999).

[16] The Scorecard defines an LMI neighborhood the same way as the FFIEC does when it reports HMDA data: a census tract that has a median family income of less than 80 percent of the MSA median income. *See Home Mortgage Act Disclosure Statement: Explanation of Notes*, *supra* note 14.

four subject communities from 1997 to 1998 to changes in such lending in their "control communities," which are, respectively, White persons, UI persons,[17] predominantly White neighborhoods,[18] and UI neighborhoods.[19]

The Scorecard employs three indicators to evaluate changes in residential real estate-related lending in the four subject communities in New York in 1998:

> ***Comparative percentage change in total residential real estate-related loan applications submitted**: This indicator compares the percentage change in the total number of residential real estate-related loan applications each subject community submitted from 1997 to 1998 to the percentage change in each subject community's control community.[20]

> ***Comparative percentage change in total residential real estate-related loans originated:** This indicator compares the percentage change in the total number of residential real estate-related loan originations in each subject community from 1997 to 1998 to the percentage change in each subject community's control community.

> ***Change in denial rate ratio:** This indicator

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[17] The Scorecard defines a UI person the same way as the FFIEC does when it reports HMDA data: a person with an income of 120 percent or higher of the MSA median income. *See Home Mortgage Disclosure Act Disclosure Statement: Explanation of Notes*, *supra* note 14.

[18] In order to be consistent with the definition of a predominantly minority neighborhood, this Scorecard defines a predominantly White neighborhood as the opposite of a predominantly minority neighborhood: a census tract with a White population of 80 percent or higher. *See supra* note 15.

[19] The Scorecard defines a UI neighborhood the same way as the FFIEC does when it reports HMDA data: a census tract with a median income of 120 percent or higher of the MSA median income. *See Home Mortgage Disclosure Act Disclosure Statement: Explanation of Notes*, *supra* note 14.

[20] The number of applications a community submits is a good indicator of lenders' efforts to market loans to that community and has a strong relation to the number of loans the community receives. *See* Marsico, *supra* note 6, at 525-26.

measures the change in the real estate-related loan application denial rate ratio in each subject community from 1997 to 1998.[21]

The Scorecard applies these three indicators to the four subject communities, resulting in twelve indicators to evaluate residential real estate-related lending in the subject communities in the New York metropolitan area in 1988:

Percentage Change in Applications Submitted, 1997-1998

1. Minority/White individuals
2. LMI/UI individuals
3. Predominantly minority/Predominantly White neighborhoods
4. LMI/UI neighborhoods

Percentage Change in Loans Originated, 1997-1998

5. Minority/White individuals
6. LMI/UI individuals
7. Predominantly minority/Predominantly White neighborhoods
8. LMI/UI neighborhoods

Change in Denial Rate Ratio, 1997-1998

9. Minority/White applicants

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[21] A denial rate ratio is a way of measuring lenders' relative treatment of applications from a subject community to its control community. *See id.* at 488. The Scorecard derives the denial rate ratio by dividing the denial rate for applications from a subject community by the denial rate for applications from its control community. For example, if lenders deny 30 percent of applications from minority persons and 15 percent of applications from Whites, the denial rate ratio is 2 (30/15=2). A high denial rate ratio for a minority subject community is consistent with discrimination against that group. *See id.* at 516-517. However, the HMDA data that is the basis for calculating the denial rate ratio does not contain enough data about the creditworthiness of the borrower or the value of the collateral to make a definitive conclusion about discrimination. *See id.* For example, HMDA does not contain information about the applicant's credit or employment histories or debt-to-income ratio. Nor does it contain information about the appraised value of the property that is the subject of the application. *See id.* Despite HMDA's limitations, reductions in denial rate ratios have been shown to be consistent with increases in lending. *See id.* at 525.

10. LMI/UI applicants
11. Predominantly minority/Predominantly White neighborhoods
12. LMI/UI neighborhoods

The Scorecard assigns a score to each of the twelve indicators. There are three possible scores: "+1," "-1," or "0." The score for applications and loan originations is based on the percentage change in the number of applications from and loan originations to a subject community from 1997 to 1998 relative to the percentage change in its control community. If the percentage increase in the number of applications from or loan originations to a subject community was higher (or the percentage decrease was lower) than its control community, the score is +1. If the reverse occurred, the score is -1. If there was no change, the score is 0. For the denial rate ratio, if the denial rate ratio in a subject community decreased from 1997 to 1998, the score is +1. An increased denial rate ratio is -1, and no change in the denial rate ratio is 0. For example, if the number of residential real estate-related loans originated to minority individuals increased 10 percent from 1997 to 1998 and the number of residential real estate-related loans originated to White individuals increased 8 percent, the score is +1 for that indicator. If the denial rate ratio for minorities decreased from 1.9 to 1.8, the score is also +1. The Scorecard tabulates the score for all the indicators to derive a total score for residential real estate-related lending in the New York metropolitan area in 1998.

2. Results

Table One is the "Scorecard" for residential real estate-related lending in 1998 in the New York metropolitan area:

Table One
RESIDENTIAL REAL ESTATE-RELATED LENDING SCORECARD
NEW YORK METROPOLITAN AREA
1997-1998

SUBJECT COMMUNITY	APPLICATIONS	ORIGINATIONS	DENIAL RATE	TOTAL
Minority Individuals	+1	+1	0	+2
LMI Individuals	+1	+1	0	+2
Predominantly Minority Neighborhoods	-1	+1	+1	+1
LMI Neighborhoods	-1	+1	0	0
Total	0	+4	+1	+5

As more fully elaborated in Tables Two, Three and Four, the number of residential real estate-related loan applications filed and loans originated increased significantly for all communities from 1997 to 1998. The score for residential real estate-related lending in the subject communities is +5, meaning that generally these increases were greater in the subject communities than in their corresponding control communities and that denial rate ratios declined or were stable.

Among the subject communities, LMI and minority individuals fared the best, with scores of +2. Applications and loans increased at faster rates than in their control communities and denial rate ratios remained stable. Predominantly minority neighborhoods were next with +1, as applications grew more slowly than in White neighborhoods but loans grew faster and the denial rate ratio declined. LMI neighborhoods scored 0. Application growth was slower than in UI neighborhoods, but loan growth was greater and the denial rate ratio remained the same.

Table Two expands on the Scorecard by showing the actual number of residential real estate-related loan applications each subject and control community submitted in 1997 and 1998, the percentage increase, and the score:[22]

Table Two
RESIDENTIAL REAL-ESTATE RELATED LENDING
APPLICATIONS RECEIVED AND PERCENTAGE CHANGE
NEW YORK METROPOLITAN AREA
1997-1998

	1997	1998	% CHANGE	+/-
APPLICANT CHARACTERISTICS				
Minority	43,766	69,403	58.6	+1
White	70,911	108,381	52.8	
LMI	26,657	42,620	59.9	+1
UI	93,058	138,028	48.3	
NEIGHBORHOOD CHARACTERISTICS				
80-100% Min.	48,190	73,765	53.1	-1
0-19% Min.	78,197	123,907	58.5	
LMI	29,219	45,773	56.7	-1
UI	97,245	153,691	58.0	

Table Two shows that applications from all communities increased significantly. Percentage increases ranged from 48.3 percent for UI individuals to 59.9 percent for LMI individuals. Two subject communities outgrew their control communities: minority and LMI individuals. Predominantly minority and LMI neighborhoods did not, however, outgrow their control communities.

Table Three further expands on the Scorecard by showing the actual number of residential real estate-related loans originated in each subject community and control community in 1997 and 1998,

[22] All percentages, denial rates, and denial rate ratios in the Scorecard are rounded to the nearest tenth.

the percentage increase, and the score:

Table Three
RESIDENTIAL REAL ESTATE-RELATED LENDING
LOANS ORIGINATED AND PERCENTAGE CHANGE
NEW YORK METROPOLITAN AREA
1997-1998

	1997	1998	% CHANGE	+/-
APPLICANT CHARACTERISTICS				
Minority	25,735	41,171	60.0	+1
White	48,569	75,236	54.9	
LMI	8,487	17,648	107.9	+1
UI	54,999	82,786	50.5	
NEIGHBORHOOD CHARACTERISTICS				
80-100% Min.	17,150	33,314	94.3	+1
0-19% Min.	48,256	76,865	59.3	
LMI	11,234	21,920	95.1	+1
UI	57,038	92,439	62.1	

According to Table Three, residential real estate-related lending increased significantly in each subject and control community in 1998. Percentage increases ranged from 50.5 percent to UI persons to 107.9 percent for LMI persons. Growth in loan originations in each subject community outpaced growth in each corresponding control community.

Table Four details changes in denial rate ratios from the Scorecard. It depicts the denial rates and denial rate ratios for each subject community in 1997 and 1998 and the score:[23]

[23] As a reminder, the denial rate ratio is the denial rate for residential real estate-related loan applications in a subject community divided by the denial rate in its

Table Four
RESIDENTIAL REAL ESTATE-RELATED LENDING
DENIAL RATE RATIOS
NEW YORK METROPOLITAN AREA
1997-1998

	1997		1998		+/-
	DENIAL RATE	DENIAL RATE RATIO	DENIAL RATE	DENIAL RATE RATIO	
APPLICANT CHARACTER-ISTICS					
Minority	22.3	1.5	19.0	1.5	0
LMI	31.3	1.8	27.3	1.8	0
NEIGHBORHOOD CHARACTER-ISTICS					
80-100% Min.	27.2	1.6	22.6	1.5	+1
LMI	26.3	1.4	21.8	1.4	0

According to Table Four, the denial rate ratio decreased for predominantly minority/predominantly White neighborhoods. It remained the same for minority/White and LMI/UI individuals and LMI/UI neighborhoods.

Focusing next on one of the subject communities — minority individuals — HMDA data makes it possible to divide minority individuals into four sub-groups — Native Americans, Asians/Pacific Islanders, African-Americans, and Latinos — and to apply each of the indicators for evaluating residential real estate-related lending to each of these four groups. The results are depicted in Table Five:

control community. For example, if the denial rate for predominantly minority neighborhoods is 20 percent and the denial rate for White neighborhoods is 10 percent, the denial rate ratio is 2.

Table Five
RESIDENTIAL REAL ESTATE-RELATED LENDING
RACE OF APPLICANT
NEW YORK METROPOLITAN AREA
1997-1998

	1997		1998		% CHANGE	+/-
APPLICATIONS RECEIVED						
Native Americans	431		1,081		150.8	+1
Asians/Pacific Islanders	9,361		14,599		56.0	+1
African-Americans	22,372		35,917		60.5	+1
Latinos	11,647		17,806		52.9	+1
Whites	70,911		108,381		52.8	
LOANS ORIGINATED						
Native Americans	216		572		164.8	+1
Asians/Pacific Islanders	6,593		10,324		56.6	+1
African-Americans	12,203		19,866		62.8	+1
Latinos	6,723		10,409		54.8	-1
Whites	48,569		75,236		54.9	
	DENIAL RATE RATIO					
	1997		*1998*			
	DENIAL RATE	DENIAL RATE RATIO	DENIAL RATE	DENIAL RATE RATIO		
Native Americans	25.5	1.7	16.1	1.3		+1
Asians/Pacific Islanders	14.4	1.0	12.3	1.0		0
African-Americans	25.5	1.7	21.2	1.7		0
Latinos	22.3	1.5	19.3	1.5		0

Of the four groups depicted in Table Five, Native Americans fared the best, with a score of +3. Applications and loans more than doubled and the denial rate ratio declined by nearly one-quarter. Asians/Pacific Islanders were next with +2. Applications and loans increased by half and the denial rate ratio held constant. African-Americans were next at +1. Applications and loans increased by more than half but the denial rate ratio also increased. Latinos scored 0. The percentage increase in applications from Latinos was slightly higher than the application increase from Whites, loan originations grew more slowly, and the denial rate ratio remained the same.

In conclusion, real estate-related lending grew for all communities in the metropolitan area in 1998 and growth in the subject communities was greater than growth in the control communities, resulting in an overall score of +5. Among the subject communities, minority and UI individuals did the best; among minority individuals, Native Americans fared best.

B. Conventional Home Mortgage Lending

1. Methodology

This section examines one type of loan covered by HMDA: conventional home mortgage loans.[24] This section evaluates aggregate conventional home mortgage lending in the metropolitan area in 1998 in the four subject communities according to the same three indicators the previous section used to analyze all residential

[24] The Scorecard examines conventional home mortgage lending in particular because it is a "bellwether" loan. A conventional home mortgage loan represents a significant financial stake for the lender and borrower. *See* Glenn B. Canner & Wayne Passmore, *The Role of Specialized Lenders in Extending Mortgages to Lower-Income and Minority Homebuyers*, 85 Fed. Res. Bull. 709, 710 (1999). Promoting homeownership — especially among minorities — is a significant national social policy goal. *See* Bill Dedman, *Study Discerns Disadvantages for Blacks in Home Mortgages*, N.Y. TIMES, Nov. 14, 1999, at 18. Finally, the demand for conventional home mortgage loans compared to other loans in New York was relatively heavy in 1998. Applications for conventional home mortgage loans constituted 31.5 percent of all HMDA-covered loan applications in MSA 5600 in 1998, the second highest percentage. The other percentages were federally insured — 3.3, refinance — 50.8, home improvement — 11.6, and multi-family — 2.7. *See supra* note 12 for the source of this data.

real estate-related lending. Applying these three indicators to the four subject communities yields the same twelve indicators used in the previous section.

2. Results

Table Six is the "Scorecard" for conventional home mortgage lending in 1998 in the New York metropolitan area:

Table Six
CONVENTIONAL HOME MORTGAGE LENDING SCORECARD
NEW YORK METROPOLITAN AREA
1997-1998

SUBJECT COMMUNITY	APPLICATIONS	ORIGINATIONS	DENIAL RATE RATIO	TOTAL
Minority Individuals	-1	-1	0	-2
LMI Individuals	+1	+1	+1	+3
Predominantly Minority Neighborhoods	+1	+1	0	+2
LMI Neighborhoods	+1	+1	0	+2
Total	+2	+2	+1	+5

As more fully elaborated in Tables Seven, Eight, and Nine, the number of conventional home mortgage loan applications filed and loans originated increased for all communities in 1998. The score for conventional home mortgage lending in the subject communities is +5, meaning that generally the increases in the four subject communities were greater than in their corresponding control communities in 1998, and denial rate ratios declined or remained stable.

Among the subject communities, LMI individuals fared the best, scoring +3. Application and lending growth was higher than in UI neighborhoods and the denial rate ratio declined. Minority and LMI neighborhoods were next at +2. Application and loan growth was greater than in their control communities and the denial rate ratio remained the same. Minority individuals did not fare well, receiving a score of -2. The denial rate ratio remained the same, and application and lending growth lagged behind Whites.

Table Seven expands on the Scorecard for conventional home mortgage loans by showing the actual number of conventional home mortgage loan applications each subject community and control community submitted in 1997 and 1998, the percentage increase, and the score:

Table Seven
CONVENTIONAL HOME MORTGAGE LENDING
APPLICATIONS RECEIVED AND PERCENTAGE CHANGE
NEW YORK METROPOLITAN AREA
1997-1998

	1997	1998	% CHANGE	+/-
APPLICANT CHARACTERISTICS				
Minority	21,932	23,889	8.9	-1
White	41,348	46,945	13.5	
LMI	6,950	10,084	45.1	+1
UI	47,294	52,627	11.3	
NEIGHBORHOOD CHARACTERISTICS				
80-100% Min.	9,955	12,683	27.4	+1
0-19% Min.	41,522	47,612	14.7	
LMI	7,333	9,482	29.3	+1
UI	49,002	56,775	15.9	

Table Seven shows that total applications increased for all communities. Percentage increases ranged from 8.9 percent for minority applicants to 45.1 percent for LMI applicants. Three subject communities — LMI individuals, LMI neighborhoods, and predominantly minority neighborhoods — enjoyed stronger growth than their control communities. However, growth in applications from minority applicants did not outgrow applications from Whites.

Table Eight provides additional information about the portion of the conventional home mortgage loan Scorecard dealing with originations. It shows the number of conventional home mortgage loans originated in each subject community in 1997 and 1998, the percentage increase, and the score:

Table Eight
CONVENTIONAL HOME MORTGAGE LENDING
LOANS ORIGINATED AND PERCENTAGE CHANGE
NEW YORK METROPOLITAN AREA
1997-1998

	1997	1998	% CHANGE	+/-
APPLICANT CHARACTERISTICS				
Minority	14,386	15,344	6.7	-1
White	31,303	35,134	12.2	
LMI	3,836	5,377	40.2	+1
UI	34,571	37,211	7.6	
NEIGHBORHOOD CHARACTERISTICS				
80-100% Min.	5,317	6,330	19.1	+1
0-19% Min.	31,050	34,543	11.2	
LMI	4,096	4,960	21.1	+1
UI	36,065	40,796	13.1	

Table Eight shows that the total number of conventional home loan originations increased in all communities. Percentage increases ranged from 6.7 percent for minority individuals to 40.2 percent for LMI individuals. Except for minority individuals, growth in loan originations in each subject community outpaced growth in its control community.

Table Nine corresponds to the denial rate ratio section of the conventional home mortgage loan Scorecard. It depicts the denial rates and denial rate ratios for each subject community in 1997 and 1998 as well as the score:

Table Nine
CONVENTIONAL HOME MORTGAGE LENDING
DENIAL RATE RATIOS
NEW YORK METROPOLITAN AREA
1997-1998

	1997		1998		+/-
	DENIAL RATE	DENIAL RATE RATIO	DENIAL RATE	DENIAL RATE RATIO	
APPLICANT CHARACTERISTICS					
Minority	18.8	1.7	17.6	1.7	0
LMI	26.3	2.3	22.7	2.0	+1
NEIGHBORHOOD CHARACTERISTICS					
80-100% Min.	23.0	2.0	21.0	2.0	0
LMI	21.9	1.8	20.5	1.8	0

According to Table Nine, the conventional home mortgage loan denial rate ratio decreased for all subject communities except for LMI neighborhoods, where it remained the same, but the ratios are high. The ratios for minority applicants (1.7) and predominantly minority neighborhoods (2.0) are consistent with discrimination against those communities.[25] However, the HMDA data that is the source of this result is not sufficiently detailed to permit a definitive conclusion about discrimination.[26] Nevertheless, the evidence of

[25] *See* Marsico, *supra* note 6, at 516-18.
[26] *See id.* at 516-17.

discrimination is sufficiently strong to merit further investigation by government agencies that have the authority to obtain the necessary information.[27]

Focusing next on one of the subject communities — minority individuals — HMDA makes it possible to divide minority individuals into four sub-groups — Native Americans, Asians/Pacific Islanders, African-Americans, and Latinos — and to apply each of the three indicators for evaluating conventional home mortgage lending to each of these four groups. The results of this analysis are depicted in Table Ten:

[27] *See id.* at 529.

Table Ten
CONVENTIONAL HOME MORTGAGE LENDING
RACE OF APPLICANTS
NEW YORK METROPOLITAN AREA
1997-1998

	1997	1998	% CHANGE	+/-
	APPLICATIONS RECEIVED			
Native Americans	203	233	14.8	+1
Asians/Pacific Islanders	6,677	7,477	12.0	-1
African-Americans	9,029	9,724	7.7	-1
Latinos	6,023	6,455	7.2	-1
Whites	41,348	46,945	13.5	
	LOANS ORIGINATED			
Native Americans	121	137	13.2	+1
Asians/Pacific Islanders	5,151	5,773	12.1	-1
African-Americans	5,236	5,416	3.4	-1
Latinos	3,878	4,018	3.6	-1
Whites	31,303	35,134	12.2	

	DENIAL RATE RATIO				
	1997		1998		
	DENIAL RATE	DENIAL RATE RATIO	DENIAL RATE	DENIAL RATE RATIO	
Native Americans	26.1	2.3	20.6	1.9	+1
Asians/Pacific Islanders	10.2	0.9	9.7	0.9	0
African-Americans	24.9	2.2	23.0	2.1	+1
Latinos	18.8	1.7	18.7	1.7	0

Of the four groups depicted in Table Ten, Native Americans fared the best with a score of +3. Application and loan growth was greater than for Whites and the denial rate ratio decreased. The three remaining groups, however, received negative scores. All three groups' application and lending growth were slower than for Whites. African-Americans' denial rate ratio decreased, while the denial rate ratio for Asians/Pacific Islanders and Latinos remained the same. This resulted in scores of -1 for African-Americans and -2 for Asians/Pacific Islanders and Latinos. Denial rate ratios for African-Americans (2.1), Native Americans (1.9), and Latinos (1.7) were consistent with discrimination, although not fully probative.[28]

In conclusion, conventional home mortgage lending grew for all communities in the metropolitan are in 1998, and growth in the subject communities was greater than growth in the control communities, resulting in an overall score of +5. Among the subject communities, LMI individuals fared the best with +3, while minority individuals fared poorly, with –2. Among minority individuals, Native Americans received +3, while African-Americans, Latinos, and Asians lagged behind Whites in application and lending growth. In addition, denial rate ratios were consistent with discrimination for minority individuals overall and African-Americans, Native Americans, and Latinos in particular, and predominantly minority neighborhoods.

C. Small Business Loan Originations

This last section of Part One examines the aggregate small business lending record of all New York metropolitan area banks that are required to report data about their small business lending under the CRA.[29] Due to limitations in the publicly available data, this section examines only one subject community: LMI neighborhoods; and one indicator: loan originations.[30] This section's only indicator is

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[28] *See supra* text accompanying notes 26-27 for a discussion of the meaning of these denial rate ratios.

[29] The source of data for this section is the FFIEC website (updated Mar. 2, 1999 and July 29, 1999) <http://www.ffiec.gov>. *See supra* note 12 for a description of the reporting requirements.

[30] The Scorecard does not evaluate small business lending in the other three

thus:

*Percentage change in number of small business loans in LMI neighborhoods from 1997 to 1998 compared to the percentage change in UI neighborhoods.

As shown in Table Eleven, in 1998, the number of small business loan originations increased from 1997 to 1998 in both LMI and UI neighborhoods, and the percentage increase was greater in LMI neighborhoods:

Table Eleven
SMALL BUSINESS LOAN ORIGINATIONS AND PERCENTAGE CHANGE
NEW YORK METROPOLITAN AREA
1997-1998

	1997	1998	% CHANGE	+/-
LMI Neighborhoods	5,711	7,763	35.9	+1
UI Neighborhoods	18,331	23,791	29.8	

The number of small business loan originations in LMI neighborhoods grew 35.9 percent compared to 29.8 percent in UI neighborhoods.

subject communities or according to the other indicators that it uses to evaluate residential real estate-lending and conventional home mortgage lending because the CRA regulations do not require banks to report the number of small business applications they receive; the race, gender, and income of small business loan applicants; or the racial composition of the neighborhood in which the small business that sought the loan is located. *See, e.g.*, 12 C.F.R. §§ 25.12 (u), 25.42 (a) (1999). Federal Reserve regulations prohibit lenders from collecting information about the race of small business loan applicants. 12 C.F.R. § 202.5(d)(5) (1999). The Federal Reserve is now considering a regulation that would permit lenders to collect such data. *See* Press Release, Board of Governors of the Federal Reserve System (released Aug. 4, 1999), *available at* (visited April 20, 2000) <http://www.bog.frb.fed.us/boarddocs/press/boardacts/1999/19990804/>.

II. CONVENTIONAL HOME MORTGAGE LENDING BY INDIVIDUAL LENDERS IN THE NEW YORK METROPOLITAN AREA

This section evaluates the conventional home mortgage lending record of the 154 lenders in the New York metropolitan area that made at least 30 conventional home mortgage loans in 1998.[31] This section examines each lender's conventional home mortgage lending record to the four subject communities: minority persons; LMI persons; predominantly minority neighborhoods; and LMI neighborhoods.

This section evaluates each lender's conventional home mortgage lending record to these four communities by using five indicators. These indicators are designed to do two things. The first three indicators compare each lender's record in each subject community to the record for all lenders combined in the MSA in each subject community. The fourth and fifth indicators compare each lender's record in each subject community to its own record in each control community. The five indicators are:

> ***Percentage of conventional home mortgage loan applications received:** This indicator compares the percentage of conventional home mortgage loan applications the lender received from each subject community to the percentage of conventional home mortgage applications each subject community submitted to all lenders combined in the metropolitan area.
>
> ***Percentage of conventional home mortgage loans originated:** This indicator compares the percentage of the lender's conventional home mortgage loans originated to each subject community to the percentage of conventional home mortgage loans all lenders combined originated to each subject

[31] The source of this data is the FFIEC. As described *supra* note 1, the data in this section was analyzed with a computer program Vicki Hurewitz created in cooperation with the author.

community in the metropolitan area.

***Conventional home mortgage loan application denial rate ratio:** This indicator compares the lender's denial rate ratio on conventional home mortgage loan applications for each subject community to the denial rate ratio for each subject community for all lenders combined in metropolitan area.

***Market share of conventional home mortgage loan applications:** This indicator compares the lender's market share of conventional home mortgage loan applications in each subject community to the lender's market share of conventional home mortgage loan applications in each subject community's control community.

***Market share of conventional home mortgage loan originations:** This indicator measures each lender's market share of conventional home mortgage loan originations in each subject community to its market share of conventional home mortgage loan originations in each subject community's control community.

Applying each of the five indicators to each of the four subject communities yields twenty indicators for evaluating conventional home mortgage lending for each lender:

1. **Percentage of applications from minority persons**: the percentage of the lender's applications from minority persons compared to the percentage of all applications in the metropolitan area from minority persons.

2. **Percentage of applications from LMI persons**: the percentage of the lender's applications from LMI persons compared to the percentage of all applications in the metropolitan area from LMI persons.

3. **Percentage of applications for loans to purchase property in predominantly minority neighborhoods**: the percentage of the lender's applications for loans to purchase property in predominantly minority neighborhoods compared to the percentage of all applications in the metropolitan area for loans to purchase property in predominantly minority neighborhoods.

4. **Percentage of applications for loans to purchase property in LMI neighborhoods**: the percentage of all the lender's applications for loans to purchase property in LMI neighborhoods compared to the percentage of all applications in the metropolitan area for loans to purchase property in LMI neighborhoods.

5. **Percentage of loan originations to minority persons**: the percentage of the lender's loan originations to minority persons compared to the percentage of all loan originations in the metropolitan area to minority persons.

6. **Percentage of loan originations to LMI persons**: the percentage of the lender's loan originations to LMI persons compared to the percentage of all loan originations in the metropolitan area to LMI persons.

7. **Percentage of loan originations to purchase property in predominantly minority neighborhoods**: the percentage of the lender's loan originations to purchase property in predominantly minority neighborhoods compared to the percentage

of all originations in the metropolitan area to purchase property in predominantly minority neighborhoods.

8. **Percentage of loan originations to purchase property in LMI neighborhoods**: the percentage of the lender's loan originations to purchase property in LMI neighborhoods compared to the percentage of all originations in the metropolitan area to purchase property in LMI neighborhoods.

9. **Denial rate ratio — minority/White applicants**: the lender's denial rate ratio for minority/White loan applicants compared to the metropolitan area minority/White applicant denial rate ratio.

10. **Denial rate ratio — LMI/UI applicants**: the lender's denial rate ratio for LMI/UI loan applicants compared to the metropolitan area LMI/UI applicant denial rate ratio.

11. **Denial rate ratio — predominantly minority/predominantly White neighborhoods**: the lender's denial rate ratio for predominantly minority/predominantly White neighborhoods compared to the metropolitan area predominantly minority/predominantly White neighborhood denial rate ratio.

12. **Denial rate ratio — LMI/UI neighborhoods**: the lender's denial rate ratio for LMI/UI neighborhoods compared to the metropolitan area LMI/UI neighborhood denial rate ratio.

13. **Market share of applications — minority persons:** the lender's market share of applications from minority persons compared to its market share of applications from White persons.

14. **Market share of applications — LMI persons:** the lender's market share of applications from LMI persons compared to its market share of applications from UI persons.

15. **Market share of applications — property in predominantly minority neighborhoods:** the lender's market share of applications for loans to purchase property in predominantly minority neighborhoods compared to its market share of applications for loans to purchase property in predominantly White neighborhoods.

16. **Market share of applications — property in LMI neighborhoods:** the lender's market share of applications for loans to purchase property in LMI neighborhoods compared to its market share of applications for loans to purchase property in UI neighborhoods.

17. **Market share of loan originations — minority persons:** the lender's market share of loan originations to minority persons compared to its market share of loan originations to White persons.

18. **Market share of loan originations — LMI persons:** the lender's market share of loan originations to LMI persons compared to its market share of loan originations to UI persons.

19. **Market share of loan originations — property in predominantly minority neighborhoods:** The lender's market share of loan originations in predominantly minority neighborhoods compared to its market share of loan originations in White neighborhoods.

20. **Market share of loan originations — property in LMI neighborhoods:** The lender's market share of loan originations in LMI neighborhoods compared to its market share of loan originations in UI neighborhoods.

This section assigns a score to each lender's record for each of these twenty indicators using methodology similar to Part One. If a lender's percentage of applications from or loans to a subject community is higher than the metropolitan area percentage for all lenders, it receives +1; if its percentage is lower, the lender receives -1. If the lender's market share of applications from or loans to a subject community is higher than its control community, the lender receives +1. The lender receives -1 for a smaller market share in a subject community. If the lender's denial rate ratio for a subject community is higher than the metropolitan area denial rate ratio, it receives –1; it receives +1 if its denial rate ratio is lower. The same percentage, market share, or denial rate ratio earns a 0. For example, if 15 percent of a lender's conventional home mortgage loans are to LMI persons and 12 percent of all loans by all lenders in the metropolitan area are to LMI persons, the lender will receive +1. If the lender's market share of applications in predominantly minority neighborhoods is one percent and its market share of applications in predominantly White neighborhoods is .5 percent, the lender will receive +1 as well. If its denial rate ratio for minority persons is lower than the metropolitan area denial rate ratio, it will also receive +1. The Scorecard tabulates each lender's score for all indicators, assigns a point total, and ranks each lender accordingly.

Table Twelve is the "Scorecard" for individual lenders.[32]

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[32] The numbers and score for each of the twenty criteria for each of the 154 lenders are available from the author.

The Scorecard identifies a lender as a bank based on the lender's name: if the name contains "Bank" or an abbreviation for "Bank," the Scorecard identifies the entity as a bank. If a lender's name raised an issue about whether it was a bank, its status was confirmed by using various searches available on the FFIEC's website. *See* <http://www.ffiec.gov>. Table 12 identifies lenders that are banks with a "B" following the name of the lender. Among the non-bank lenders are mortgage companies not affiliated with banks, credit unions, and trust companies. The Scorecard identifies

Table Twelve
CONVENTIONAL HOME MORTGAGE LOAN SCORECARD
INDIVIDUAL LENDERS — THIRTY OR MORE LOANS
NEW YORK METROPOLITAN AREA
1998

RANKING	LENDER	LOANS	PERCENT OF ALL LOANS	SCORE
1	THE MORTGAGE MONEY CENTER	109	0.18%	20
1	REPUBLIC NATIONAL BANK[B]	49	0.08%	20
1	RESOURCE BANCSHARES MTG. GROUP	173	0.29%	20
1	THE ASSOCIATES	90	0.15%	20
5	VANDERBILT MORTGAGE[M]	117	0.20%	18
5	FLEET NATIONAL BANK[B]	209	0.35%	18
5	LONG BEACH MORTGAGE COMPANY[S]	81	0.14%	18
5	IMC MORTGAGE COMPANY[S]	35	0.06%	18
5	AMERITRUST NATIONAL MORTGAGE	126	0.21%	18
5	CARVER FEDERAL SAVINGS BANK[B]	32	0.05%	18
11	BUDGET MORTGAGE BANKERS	43	0.07%	16
11	GREEN TREE FINANCIAL[M]	68	0.12%	16
11	ACCREDITED HOME LENDERS[S]	38	0.06%	16
11	CONSUMER HOME MORTGAGE	153	0.26%	16

subprime lenders with an "S" following the lender's name. It identifies lenders that specialize in making loans to purchase manufactured homes — homes constructed in a factory and assembled on-site — with an "M" following the lender's name. The source of the Scorecard's information used to identify subprime and manufactured home lenders is a study by a researcher at the Department of Housing and Urban Development (HUD). *See* Randall M. Scheessele, 1998 HMDA HIGHLIGHTS, at tbl. D.5b (Dep't of Hous. & Urban Dev., Office of Pol'y Dev. & Research, Working Paper No. HF-009 1999).

Table Twelve continued

RANKING	LENDER	LOANS	PERCENT OF ALL LOANS	SCORE
11	AMERICAN CAPITAL MTGE. BANKERS	170	0.29%	16
11	MID-ISLAND EQUITIES CORP.	129	0.22%	16
11	UNITED NATIONAL MORTGAGE	31	0.05%	16
11	GOLDEN NATIONAL MORTGAGE[S]	614	1.04%	16
11	SUPERIOR BANK[B, S]	467	0.79%	16
11	WMC MORTGAGE CORP.[S]	145	0.25%	16
11	DELTA FUNDING CORPORATION[S]	176	0.30%	16
11	1ST REPUBLIC MORTGAGE BANKERS	260	0.44%	16
11	CHINATOWN FED. SAVINGS BANK[B]	49	0.08%	16
11	FHB FUNDING CORP.[S]	507	0.86%	16
25	UFSB OF INDIANAPOLIS[B]	380	0.64%	14
25	MUTUAL OF NORTH AMERICA	46	0.08%	14
27	INDYMAC MORTGAGE HOLDINGS	1,327	2.25%	12
27	COUNTRYWIDE HOME LOANS	867	1.47%	12
27	OCWEN FINANCIAL SERVICES[S]	33	0.06%	12
27	RESIDENTIAL FUNDING CORPORATION	297	0.50%	12
27	PREMIER MORTGAGE BANKING CORP.	81	0.14%	12
27	CONTIMORTGAGE CORPORATION[S]	32	0.05%	12
27	UNITED MORTGAGE CORP.	30	0.05%	12
27	GREEN POINT BANK[B,S]	1,659	2.81%	12
27	OCWEN FEDERAL BANK FSB[B,S]	33	0.06%	12
27	PMCC MORTGAGE CORP.[S]	333	0.56%	12
27	MUNICIPAL CREDIT UNION	49	0.08%	12

Table Twelve continued

RANKING	LENDER	LOANS	PERCENT OF ALL LOANS	SCORE
27	PARKWAY MORTGAGE[S]	121	0.20%	12
27	ABFS INC.[S]	53	0.09%	12
40	FIRST TOWN MORTGAGE CORP.	33	0.06%	10
40	ROSLYN NATIONAL MORTGAGE CORP.	253	0.43%	10
40	CFS BANK [B]	658	1.11%	10
40	CENTEX CREDIT CORPORATION[S]	64	0.11%	10
40	ISLAND MORTGAGE NETWORK	139	0.24%	10
46	CHASE MANHATTAN MORTGAGE CORP.	1,067	1.81%	8
46	PARMANN MORTGAGE	90	0.15%	8
46	ABACUS FEDERAL SAVINGS BANK [B]	328	0.56%	8
46	MORTGAGE LENDING OF AMERICA	133	0.23%	8
46	ASSURANCE MORTGAGE	33	0.06%	8
46	WALL STREET MORTGAGE BANKERS	331	0.56%	8
46	NATIONAL CITY	38	0.06%	8
46	JAMAICA SAVINGS BANK [B]	39	0.07%	8
46	FINANCIAL FEDERAL SAVINGS FSB [B]	72	0.12%	8
46	EQUICREDIT CORP. OF AMERICA[S]	63	0.11%	8
46	ALLIANCE MORTGAGE BANKING CORP.	206	0.35%	8
57	EXECUTIVE MORTGAGE BANKERS	114	0.19%	6
57	SAXON NATIONAL MORTGAGE BANKER	110	0.19%	6
57	MORTGAGE DEPOT CORP.	87	0.15%	6
60	GREENPOINT MORTGAGE CORP.[S]	219	0.37%	4

Table Twelve continued

RANKING	LENDER	LOANS	PERCENT OF ALL LOANS	SCORE
60	BARNETT MORTGAGE COMPANY	200	0.34%	4
60	NORTH FORK BANK [B]	296	0.50%	4
60	NATIONAL CITY MORTGAGE CORP.	142	0.24%	4
60	MASPETH FEDERAL SAVINGS & LOAN [B]	324	0.55%	4
60	OLYMPIA MORTGAGE CORP.	104	0.18%	4
67	CONTINENTAL CAPITAL CORP.	131	0.22%	2
67	BANCO POPULAR DE PUERTO RICO[B]	289	0.49%	2
67	FLEET BANK [B]	37	0.06%	2
67	MORTGAGE PLUSEQUITY & LOAN[S]	113	0.19%	2
67	REPUBLIC CONSUMER LENDING GRP.	2,393	4.05%	2
67	OPTION ONE MORTGAGE CORPORATION[S]	30	0.05%	2
73	IMPERIAL HOME LOANS[S]	31	0.05%	0
73	HOMECOMINGS FINANCIAL NETWORK	98	0.17%	0
73	MELLON MORTGAGE COMPANY	330	0.56%	0
76	NVR MORTGAGE FINANCE	35	0.06%	-2
77	CHASE MANHATTAN BANK[B]	7,144	12.10%	-4
77	REPUBLIC BANCORP MORTGAGE INC.	44	0.07%	-4
77	CROSS COUNTY FEDERAL S.B.[B]	41	0.07%	-4
77	FIRST UNION MORTGAGE CORP.	633	1.07%	-4
77	FIRST NATIONAL FUNDING CORPORATION	57	0.10%	-4
77	SLEEPY HOLLOW NATIONAL BANK[B]	33	0.06%	-4

Table Twelve continued

RANKING	LENDER	LOANS	PERCENT OF ALL LOANS	SCORE
77	PREMIER NATIONAL BANK[B]	51	0.09%	-4
77	SOURCE ONE MORTGAGE	39	0.07%	-4
77	FLATBUSH FEDERAL SAVINGS[B]	32	0.05%	-4
86	DIME SAVINGS BANK OF NEW YORK [B]	2,043	3.46%	-6
86	BRUCHA MORTGAGE BANKERS CORP.	365	0.62%	-6
86	FIRST NATIONWIDE MORTGAGE CORP	66	0.11%	-6
86	FT MORTGAGE COMPANIES	57	0.10%	-6
90	UNFCU	164	0.28%	-8
90	NATIONAL STANDARD MORTGAGE CORP.	363	0.61%	-8
90	THE BANK OF NEW YORK MTG. CO.	978	1.66%	-8
90	NORTH AMERICAN MORTGAGE COMPANY	205	0.35%	-8
94	NORTHFIELD SAVINGS BANK [B]	135	0.23%	-10
94	LYONS MORTGAGE SERVICES	189	0.32%	-10
94	NORWEST FUNDING	108	0.18%	-10
94	FIRST UNION NATIONAL BANK [B]	46	0.08%	-10
94	POLISH & SLAVIC FCU	93	0.16%	-10
94	PROVIDENT BANK[B]	252	0.43%	-10
100	ROOSEVELT SAVINGS BANK [B]	375	0.63%	-12
100	ULSTER SAVINGS BANK [B]	123	0.21%	-12
100	SMITH-HAVEN MORTGAGE CORP.	32	0.05%	-12
100	THE MAHOPAC NATIONAL BANK [B]	86	0.15%	-12
100	PUTNAM COUNTY SAVINGS BANK [B]	101	0.17%	-12
100	MORTGAGE ACCESS CORP.	74	0.13%	-12

Table Twelve continued

RANKING	LENDER	LOANS	PERCENT OF ALL LOANS	SCORE
100	IBJ WHITEHALL BANK & TRUST CO.[B]	79	0.13%	-12
100	CHEVY CHASE BANK [B]	62	0.10%	-12
100	MORTGAGE LINE FINANCIAL CORP.	46	0.08%	-12
100	WEBSTER BANK [B]	81	0.14%	-12
100	BANK OF AMERICA [B]	1,219	2.06%	-12
100	THE BANK OF NEW YORK [B]	87	0.15%	-12
100	SOUND FEDERAL S. & L. ASSOCIATION [B]	46	0.08%	-12
100	OHIO SAVINGS BANK [B]	68	0.12%	-12
100	COMMUNITY MUTUAL SAVINGS BK. [B]	45	0.08%	-12
115	STERLING NATIONAL MTG. CO.	266	0.45%	-14
115	CHASE MANHATTAN BANK USA [B]	40	0.07%	-14
115	NORWEST MORTGAGE	2,835	4.80%	-14
115	US TRUST COMPANY OF NEW YORK [B]	168	0.28%	-14
115	FLEET MORTGAGE CORPORATION	410	0.69%	-14
115	ALBANK [B]	46	0.08%	-14
115	FIRST BANKERS MORTGAGE SERVICE	61	0.10%	-14
115	GMAC MORTGAGE	221	0.37%	-14
115	FLUSHING SAVINGS BANK [B]	92	0.16%	-14
115	BANK OF THE HUDSON [B]	32	0.05%	-14
115	ASTORIA FEDERASAVINGS [B]	1,659	2.81%	-14
126	HOMERICA MORTGAGE CORP.	240	0.41%	-16
126	NOVUS FINANCIAL CORPORATION	35	0.06%	-16
126	1ST 2ND MORTGAGE CO. NJ	60	0.10%	-16

Table Twelve continued

RANKING	LENDER	LOANS	PERCENT OF ALL LOANS	SCORE
126	CENDANT MORTGAGE	1,042	1.76%	-16
126	TEMPLE-INLAND MORTGAGE CO.	44	0.07%	-16
126	STATEN ISLAND SAVINGS BANK [B]	1,188	2.01%	-16
126	FLAGSTAR BANK[B]	756	1.28%	-16
126	BOSTON SAFE DEPOSIT & TRUST CO.[B]	291	0.49%	-16
126	INDEPENDENCE COMMUNITY BANK [B]	409	0.69%	-16
126	EMIGRANT MORTGAGE COMPANY	798	1.35%	-16
126	UNION STATE BANK [B]	75	0.13%	-16
126	RICHMOND COUNTY SAVINGS BANK [B]	491	0.83%	-16
126	PNC MORTGAGE CORP. OF AMERICA	178	0.30%	-16
139	MERRILL LYNCH CREDIT CORP.	367	0.62%	-18
139	MICHAEL STRAUSS INC.	1,728	2.93%	-18
139	M&T MORTGAGE CORPORATION	670	1.13%	-18
139	CITIBANK [B]	2,210	3.74%	-18
139	COLUMBIA EQUITIES	441	0.75%	-18
139	GE CAPITAL MORTGAGE SERVICES	305	0.52%	-18
139	THE YONKERS SAVINGS AND LOAN [B]	189	0.32%	-18
139	APPLE BANK FOR SAVINGS [B]	262	0.44%	-18
139	HUDSON VALLEY BANK [B]	58	0.10%	-18
139	WASHINGTON MUTUAL BANK [B]	1,412	2.39%	-18
139	THE WARWICK SAVINGS BANK [B]	73	0.12%	-18
139	STANDARD FEDERAL BANK [B]	420	0.71%	-18
139	EAB MORTGAGE COMPANY	1,005	1.70%	-18

Table Twelve continued

RANKING	LENDER	LOANS	PERCENT OF ALL LOANS	SCORE
152	MARINE MIDLAND MORTGAGE CORP.	1,626	2.75%	-20
152	CITICORP MORTGAGE INC.	1,110	1.88%	-20
152	RIDGEWOOD SAVINGS BANK [B]	190	0.32%	-20
		57,333	97.08	

The Scorecard contains many interesting results, both in the aggregate and for particular lenders. The first significant result is that there are more non-bank lenders than banks among the 154 lenders in the Scorecard and these non-bank lenders made more conventional home mortgage loans than banks. Of the 154 lenders, 57, or 37 percent, are banks. The remaining 97 lenders, or 63 percent, are non-bank lenders. Banks made 27,131, or 47.3 percent of all loans covered in the Scorecard, while non-bank lenders made 30,202, or 52.7 percent of the loans in the Scorecard.

Second, of the 154 lenders, 22 are "subprime" lenders and two specialize in making loans to purchase manufactured homes. Subprime lenders specialize in making higher-priced loans to borrowers with less than "A" rated credit, the so-called "subprime" market.[33] Manufactured home lenders, who lend money to purchase manufactured homes, primarily serve minority and LMI communities.[34] Subprime and manufactured home lenders made 5,075, or 8.9 percent, of the loans covered in the Scorecard. Of the 24 subprime and manufactured home lenders, three were banks and the rest were non-bank lenders. Although subprime lending serves an

[33] *See* Scheessele, *supra* note 32, at 12; Canner & Passmore, *supra* note 24, at 709, 715-16; Dedman, *supra* note 24; Katharine Fraser, *Revised Fair-Lending Exams Include Subprime and Auto*, AM. BANKER, Sept. 14, 1999, at 2; Daniel Wise, *State Agencies Finally Reach Pact Over Lender Abuse*, N.Y.L.J., Sept. 23, 1999, at 1.

[34] *See* Canner & Passmore, *supra* note 24, at 709, 718, 721. Although manufactured home lenders are not necessarily "subprime" lenders, manufactured home loans are deemed riskier than other home mortgage loans and borrowers tend to have weaker credit histories and fewer resources. *Id.* at 713. Therefore, the analysis in the Scorecard combines subprime and manufactured home lenders into one group.

important function by providing credit to people with imperfect credit histories, it is also subject to abusive practices.[35] Several subprime lenders have been accused of "predatory lending," using high-pressure sales tactics to induce vulnerable borrowers to agree to unconscionable credit terms.[36] These include high interest rates, negative amortization, hidden fees and penalties, and balloon payments, and frequently result in a higher than average rate of foreclosure.[37] Subprime lenders have also been accused of discriminatory lending practices, including charging subprime minority borrowers higher rates and fees than subprime White borrowers and not making prime credit available to qualified minority borrowers.[38] Predatory lending has recently received much attention by government officials and community advocates, who have undertaken several initiatives to challenge it.[39]

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[35] Letter from John A. Joyce, Secretary of the New York State Banking Board, to Each Institution Addressed 2 (Dec. 28, 1999); Canner & Passmore, *supra* note 24, at 751; Dedman, *supra* note 24.

[36] *See* Dedman, *supra* note 24; Heather Timmons, *Subprime Lender Delta Agrees to $6M Settlement with New York Attorney General*, AM. BANKER, June 24, 1999, at 28; Wise, supra note 33.

[37] *See* Dedman, *supra* note 24; Timmons, *supra* note 36.

[38] Randy Kennedy, *Home Lender Settles Suit Over Fees*, N.Y. TIMES, Mar. 31, 2000, at B1; Raun J. Rasmussen, *Predatory Lending Litigation Update*, N.Y.L.J., Feb. 17, 2000, at 1; *Use of Race to Target Communities for Unfair Loans is Illegal, Lending that Makes Housing 'Unavailable' Violates FHAct*, INSIDE MORTGAGE COMPLIANCE, Apr. 3, 2000, at 2.

[39] *See* NEW YORK STATE BANKING DEP'T, PROPOSED NEW PART 41 RESTRICTIONS AND LIMITATIONS ON HIGH COST HOME LOANS, Dec. 28, 1999; Canner & Passmore, *supra* note 24, at 717 (capital standards tightened for subprime lenders); Robert M. Jaworski & Timothy J. Byrne, *Tough Policies on New York Mortgage Lenders Take Shape*, BANKING L. J. 624 (1999) (citing laws in North Carolina and Minnesota and proposed regulations and legislation in New York and Illinois restricting predatory lending); Dean Anason, *Democrats Hit 'Predators' in Three Bills*, AM. BANKER, Apr. 13, 2000, at 1; Dean Anason & Kevin Guerrero, *Too Much or Not Enough? HUD Joins Lending Fray*, AM. BANKER, Mar. 31, 2000, at 1; *Draft Plan to Require Higher Capital for Subprime Loans*, INSIDE MORTGAGE COMPLIANCE, Oct. 25, 1999, at 5; *Fed Chief Sees Abuses in Loans to the Poor*, N.Y. TIMES, Mar. 23, 2000, at C13; Fraser, *supra* note 33; Rob Garver, *Regulators Talk Tough But Have Few Options In Predatory Loan Fight*, AM. BANKER, Mar. 27, 2000, at 3; Rob Garver, *Greenspan Wades In On Predatory Lending, Joining Other Regulators*, AM. BANKER, Mar. 23, 2000, at 2; Rob Garver, *FDIC: CRA Exams to Target Predatory Lenders*, AM. BANKER, February 18, 2000, at 20; *'Free State' Lawmakers Ponder Anti-Predatory Bill*, INSIDE MORTGAGE COMPLIANCE,

Third, non-bank lenders outperformed banks in lending to LMI and minority applicants and neighborhoods. Of the 154 lenders, 75 (48.7 percent) received a score of 0 or higher. The remaining 79 lenders (51.3 percent) received lower than 0. Non-bank lenders were overrepresented among the lenders that received 0 or higher, while banks were underrepresented. Although non-bank lenders constituted 63 percent of all lenders, 78.7 percent of all lenders with 0 or higher were non-bank lenders. More than half — 60.8 percent — of all non-bank lenders, a total of 59 lenders, received 0 or higher. On the other hand, banks comprised 37 percent of all lenders in the Scorecard, but only 21.3 percent of all lenders with a score of 0 or higher.[40] Only 16, or 28.1 percent of all banks received a 0 or higher. Conversely, banks were overrepresented among the lenders that received less than 0 and non-bank lenders were underrepresented. Although banks were 37 percent of all lenders, they represented 51.9 percent of all lenders with less than 0. On the other hand, non-bank lenders were 63 percent of all lenders but only 48.1 percent of all lenders with a score of less than 0. Similarly, 41, or 71.9 percent, of all banks received less than 0, while 38, or 39.2 percent, of all non-bank lenders received less than 0.

Fourth, subprime and manufactured home lenders outperformed bank and non-bank lenders in conventional home mortgage lending to the subject communities. All 24 subprime and manufactured home lenders received a score of 0 or higher, representing 32 percent of all lenders with a score of 0 or higher, even though subprime lenders constituted only 15.6 percent of all lenders

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Apr. 3, 2000, at 8; Michele Heller, *Call-Report Overhaul Plan To Add Subprime Loan Data*, AM. BANKER, March 30, 2000, at 2; Diana B. Henriques, *Congress and Regulators Start Efforts to Crack Down on Deceptive Lending Practices*, N.Y. TIMES, Apr. 2, 2000, at 25; *HMDA Change Aimed at Exposing Predatory Lending*, INSIDE MORTGAGE COMPLIANCE, Apr. 3, 2000, at 6; Randy Kennedy, *Home Lender Settles Suit Over Fees*, N.Y. TIMES, March 31, 2000, at B1; *National Campaign Targets Predatory Lenders, Two-Tier Banking*, ACORN REPORT, December 1999, at 1; *Ordinance Declares Chicago Off-Limits to Loan Predators*, INSIDE MORTGAGE COMPLIANCE, Mar. 20, 2000, at 4; Timmons, *supra* note 36.

[40] Three of the banks with scores of "0" or higher are also identified as subprime lenders. Combined, these lenders made 2,159, or 43.9 percent of the 4,921 loans made by banks with scores of "0" or higher.

in the Scorecard. Subprime lenders made 5,075 loans, or 28 percent of all loans made by lenders with a score of 0 or higher.[41]

Finally, large lenders did not fare as well as smaller lenders in the rankings. The 75 lenders with positive scores made 18,133 loans, an average of 242 loans per lender. The 79 lenders with negative scores made 39,200 loans, an average of 496 loans per lender. Several large banks and mortgage companies did not fare well in the rankings. As shown below, the large majority of lenders with one percent or more of the market share of conventional home mortgage loans received a score of less than zero:

LENDER	SHARE OF LOANS (%)	SCORE	RANKING
GOLDEN NATIONAL MORTGAGE	1.04	16	11
INDYMAC MORTGAGE HOLDINGS	2.25	12	27
COUNTRYWIDE HOME LOANS	1.47	12	27
GREENPOINT BANK	2.81	12	27
CFS BANK	1.11	10	40
CHASE MANHATTAN MORTGAGE CORP.	1.81	8	46
REPUBLIC CONSUMER LENDING GROUP	4.05	2	67
CHASE MANHATTAN BANK	12.1	-4	77
FIRST UNION MORTGAGE CORP.	1.07	-4	77
DIME SAVINGS BANK OF NEW YORK	3.46	-6	86
THE BANK OF NEW YORK MORTGAGE CO.	1.66	-8	90
BANK OF AMERICA	2.06	-12	100
NORWEST MORTGAGE	4.8	-14	115
ASTORIA FEDERAL SAVINGS	2.81	-14	115
CENDANT MORTGAGE	1.76	-16	126
STATEN ISLAND SAVINGS BANK	2.01	-16	126
FLAGSTAR BANK	1.28	-16	126
EMIGRANT MORTGAGE CO.	1.35	-16	126
MICHAEL STRAUSS, INC.	2.93	-18	139
M&T MORTGAGE CORP.	1.13	-18	139
CITIBANK	3.74	-18	139
WASHINGTON MUTUAL BANK	2.39	-18	139
EAB MORTGAGE CO.	1.7	-18	139
MARINE MIDLAND MORTGAGE CORP.	2.75	-20	152
CITICORP MORTGAGE, INC.	1.88	-20	152

Of the 25 lenders listed, 18 received scores of less than 0. Together,

[41] This likely understates the amount of subprime lending in the subject communities, as the Scorecard only counts as subprime loans those loans made by subprime lenders. Limitations in HMDA data make it impossible to track subprime lending by lenders that are essentially prime market lenders. *See* Canner & Passmore, *supra* note 24, at 719.

these lenders controlled 51 percent of the conventional home mortgage loan market in the metropolitan area.

CONCLUSION

The following are five significant conclusions from the 1998 New York Metropolitan Area Lending Scorecard. First, 1998 was a year of significant growth for residential real estate-related lending, conventional home mortgage lending, and small business lending in the New York metropolitan area. Overall, lending growth in the subject communities outpaced lending growth in control communities. Second, despite this overall growth, with the exception of Native Americans, conventional home mortgage lending to individual minority groups did not grow as quickly as conventional home mortgage lending to Whites. Third, there is evidence of discrimination against minorities and predominantly minority neighborhoods in the conventional home mortgage loan market. Fourth, subprime lenders outperformed banks and non-bank lenders in the subject communities. Finally, large banks and mortgage companies did no fare well in the Scorecard.

These conclusions have several policy implications. Given the alleged abusive lending practices engaged in by some subprime lenders, community activists and government officials must act now to prevent the perpetuation of a two-tiered lending system in which LMI and minority borrowers have only high-priced, possibly predatory and discriminatory loans available to them. These actions include monitoring and identifying predatory lenders and predatory lending practices, protesting predatory practices, bringing court challenges against predatory practices, and supporting regulatory and legislative efforts to make it easier to detect and counteract predatory lending practices. The sub-par performance by large lenders is related to the spread of subprime lending in the subject communities, as the absence of such lenders in the subject communities creates a market opportunity for subprime lenders. Working to improve the lending performance of these large lenders would perhaps displace some of the subprime lending in the subject communities. One opportunity for large lenders to improve is with minority individuals, who did not fare well in the conventional home mortgage loan market. Finally, government agencies with fair lending jurisdiction over lenders, including HUD, The Federal Reserve, and the New York State Banking Department, should use their authority to investigate the evidence of lending discrimination and take any necessary steps to stop it.