Statement of Jonathan Mintz Commissioner
New York City Department of Consumer Affairs
before the
New York State Banking Department
at its hearing on the Banking Development Districts Program
April 2, 2009

Good afternoon Superintendent Neiman and Representatives of the New York State Banking Department. I am Jonathan Mintz, Commissioner of the New York City Department of Consumer Affairs (“DCA”). I appreciate this opportunity to comment on New York State’s Banking Development Districts (“BDD”) program.

DCA enforces the Consumer Protection Law and other business regulations throughout New York City. Ensuring a fair and vibrant marketplace for consumers and businesses, DCA licenses more than 70,000 businesses in 55 different industries, and mediates consumer disputes with businesses. Through targeted outreach, partnerships with community and trade organizations, and informational materials, DCA educates consumers and businesses alike about their rights and responsibilities.

The Department of Consumer Affairs Office of Financial Empowerment (known hereafter as “OFE”) is the first local government initiative in the nation aimed expressly at educating, empowering, and protecting those with low incomes, so they can build assets and make the most of their financial resources. OFE is the first initiative to be implemented under the Center for Economic Opportunity, Mayor Michael R. Bloomberg's comprehensive effort to design and implement evidence-based initiatives to reduce poverty in New York City.

One of DCA’s Office of Financial Empowerment’s primary goals is to ensure that individuals with low incomes have access to affordable, appropriate financial products offered by mainstream financial institutions, rather than having to rely on costly fringe services. As you no doubt agree, successful mainstream banking means that people are less vulnerable to theft, can see their money grow through savings, have greater opportunities to access needed credit, and are able to build assets over time.

Since its inception in 1998, the Banking Development District program has taken a critical first step to connect working poor households to mainstream financial services by ensuring that mainstream banks are physically convenient and available where unbanked households are most likely to live and work. Here in New York City, the program helped establish 25 new bank branches, primarily in low-income communities. I applaud the hard work of the New York State Banking Department, and our own New York City Department of Finance, in nurturing these fledgling bank branches, as well as the many financial institutions which have stepped up to the plate to ensure that more moderate-income communities in New York City have at least one bank they can call their own.

But as the fact of this very hearing suggests, the time has come for the BDD program to significantly evolve, building on what has been accomplished, addressing what we have learned, and more strategically engaging New Yorkers within the context of the current economic marketplace. To borrow from the technology sector, it’s time for “Banking Development Districts 2.0”.

The next generation of the BDD program should: (1) address the mismatch between the products and services being offered and the financial services needs of those with low incomes, (2) include non-bank financial institutions that are already innovators in meeting their communities’ needs, and (3) ensure that this program is targeted to the communities that would most benefit from safe, affordable financial services.

Let’s first be precise about the real goal of this important program, which is to leverage the Department’s support to encourage mainstream financial institutions to better serve those with low incomes. The program to date has set about accomplishing this goal through encouraging physical “bricks and mortar” presence in communities across the City and State with high concentrations of those with low incomes. The assumption is that once the buildings are present, the appropriate and engaging products and services follow.

Physical presence is part of the story – and the program has done an admirable job on that score. But our research and experience makes clear that the primary reason those with low incomes are disenfranchised from mainstream banking, including even those already connected to such banks, is not inconvenience, but rather for two reasons: first, because there is a pervasive mismatch between the products being offered and their financial needs; and second, because those who can afford it least are most besieged by hidden fees that come as unwelcome and often devastating surprises at the end of the month.

Accordingly, the next generation of the BDD program should focus on what happens *inside* the bank branches, leveraging Departmental support in way that leads banks to offer and sell the right mix of products and services – including basic bank accounts and clear, transparent options for overdraft protection. And more than offering these products and services, banks benefiting from BDD status should also commit to comprehensive reporting on how earnestly they've marketed and how successfully they've sold such products. Secondly, we encourage the Department to take a fresh look at how to attract the kind of institutions that are already committed to community development finance.

Finally, and along the same lines, we encourage the Department to take an aggressive and program-led approach to location. Target those communities most bereft of banking institutions and with the highest concentrations of unbanked residents and encourage banks to serve those communities, rather than allow financial institutions to propose communities that they want to serve.

The BDD program should help fill the gap between product needs and availability.

Last year, DCA conducted extensive research on the financial services needs and availability in two communities in New York City - Jamaica, Queens and Melrose, in the Bronx. We found that the mere physical availability of bank branches is not sufficient for increasing the use of mainstream financial institutions by individuals with low incomes. While both of these neighborhoods are underserved by mainstream financial institutions compared to the City as a whole, *within* these neighborhoods we found that the concentration of bank branches is virtually unrelated to the percentage of residents with bank accounts.

Equally instructive, DCA's study found that while many residents had bank accounts (31% of residents were unbanked), three-quarters continued to depend on check cashers to meet their financial needs.[1] Often, this is because banks do not provide the right products people require for their basic financial transactions. Here's an example: of those in Jamaica and Melrose who actually had a checking account, 60% report being unable to pay their rent with a personal check. And while banks across New York City typically charge fees ranging from $3 to $10 for a money order, most check cashers only charge $1 or even less.

Savings opportunities are also often unattractive. Even given the slightly higher interest rates a year ago compared to today, two-thirds of the savings accounts available to low-balance savers in the communities

[1] "Neighborhood Financial Services Study," NYC Department of Consumer Affairs, June 2008.

we studied earned less than 1% in interest, while the monthly maintenance fees averaged $3 – meaning that most savings accounts may actually erode rather than help accumulate savings.[2]

Other bank products are simply expensive. Nearly one-third of the unbanked residents in DCA's Neighborhood Financial Services study – estimated to represent more than 110,000 people in the two communities - cited excessive fees as the most common reason they avoided mainstream banking, and focus groups with former account holders reported that unpredictability of fees was one of the most compelling reasons to avoid banking.[3]

Around the country, the average overdraft protection fee is $27 *per transaction* – while the average person using a debit card and incurring those fees is only spending $20![4] Very few banks require consumers to specify that they want "courtesy" overdraft protection plans; generally, fee-based transaction coverage is a default option on bank accounts. These fees are a prime example of costly surprises associated with

[2] Ibid., Neighborhood Financial Services Study
[3] Ibid., Neighborhood Financial Services Study
[4] FDIC, "Study of Bank Overdraft Programs," November 2008

banking that play such a large role in driving consumers for whom every dollar counts dearly away from relationships with mainstream financial institutions. Of the 24 existing BDD banks in New York City, 22 include this costly fee-based overdraft approach in their basic checking accounts, with NSF fees between $25 and $35 per item.[5]

Unpredictable fees and uncompetitive pricing undermine what the BDD program could achieve, by pushing people away from banking relationship, even when the institutions are available in their communities. To improve the products and services offered at BDD branches, we strongly encourage the Banking Department to take the following steps:

1. **Require comprehensive disclosure of product features and pricing of all financial institutions applying for the program.** Once designated, a BDD branch should be required to publicly report changes to those product features, as well as the take-up rate of certain products designated as being particularly

[5] However, two branches do offer accountholders the ability to cover the overdraft without incurring a fee. Fifteen branches also offer overdraft lines of credit and one additional branch offers a linked savings account feature. Based on a recent DCA telephone survey of BDD banks in New York City.

useful to customers with low incomes, such as the state-mandated basic bank account. This reporting is critical to knowing how prominently or successfully key products are being offered to consumers, and a critical component of accountability to taxpayers, whose funds are being placed in those branches.

2. Target resources toward institutions that offer a product mix geared toward the under-banked. Banks providing low-cost remittances, money orders, second chance checking accounts, and basic checking accounts without fee-based overdraft should be given credit for these products in applications for original BDD designation and for continuing government deposits. Similarly, the product and service mix should include smart, safe credit products such as credit builder loans (secured loans to help people build a credit record) or reasonable, low-cost alternatives to predatory credit products such as refund anticipation and payday loans. The Banking Department should construct a simple list of products and features that will be given special consideration, while also encouraging innovation by allowing applicant institutions to propose new products that are safe and appropriate.

We would also suggest that BDD branches successfully offering program-furthering products should not be limited in the number of times they can reapply for BDD deposits. Financial institutions already offering appropriate product mixes in neighborhoods already eligible for BDDs should be able to apply for below market-rate deposits.

3. **Broaden program rules to allow all depositary community development financial institutions to participate.** The BDD program can start improving products by identifying those institutions that are already creatively designing products and services to meet the needs of communities with low incomes. Community development financial institutions (CDFIs) –including credit unions – are already active in many neighborhoods with high proportions of under-banked New Yorkers and often offer products and services particularly suited to low-income communities.

DCA’s most innovative pilot programs to expand access to safe products and help build assets – such as our “SaveNYC” and “Opportunity NYC” accounts - rely upon the flexibility and creativity of these institutions. The ability of these programs to thrive and expand in high-need communities depends upon their deposit base.

However, because of an arbitrary rule that prevents municipal deposits being deposited in credit unions, these community-based mission-driven institutions are unable to participate in the BDD program despite the fact that they are fully-insured, federally-regulated financial institutions. New York State must either pass legislation waiving the credit union municipal deposit ban for the BDD program or establish within the BDD legislation a mechanism to allow these deposits to the kinds of institutions that may offer the innovative products we hope the Banking Department will promote and would be able to provide these products at greater scale with an increased deposit base. Again, working backward from the goal of increasing engagement of those with low incomes into the mainstream banking system, the current exclusion of CDCUs just cannot be supported.

BDDs must be targeted to communities most in need.

The BDD program can only reach its full potential if branches are located in communities that are, in fact, underserved. In general, BDD branches in New York City are located in high poverty neighborhoods but this is not universal: 28% of New York City's BDD branches are located in zip codes with a lower than average proportion of EITC filers, and 20% of branches are in zip codes with below-average poverty rates (*See Appendix A*). Similarly, while BDD branches are often located in neighborhoods with few other banks or credit unions, not all branches are located in the *most* underserved communities. In New York City, seven of the BDD branches are in zip codes with more bank and credit union branches per capita than the average number in their borough and four are located in zip codes with more branches than the City average (*See Appendix B).*

The New York State Banking Department should use a transparent and objective method for identifying "underbanked" areas, based on: (1) the presence of financial institutions, (2) the products and services offered at existing institutions and (3) actual banking habits of community residents. While the presence of financial institutions is easily obtainable, and the products and services could be required in the application, the Banking Department must ascertain the actual use of financial products among New York State residents to know whether they are actually underserved, and later, whether the program has any real impact. We recommend a tri-annual statewide banking survey with sufficient local data to track changes in banking patterns over time, and specifically, to allow policymakers to identify whether the presence of a BDD branch actually increases the use of banks in low- and moderate-income communities.

The Banking Department should limit new BDD designations to identified high-need areas and proactively encourage financial institutions to participate in the program. The Banking Department should also allow multiple banks to receive the BDD designation in the same district until evidence indicates that the community's banking needs have been met.

In conclusion, the Banking Development District program has helped to create 25 new bank branches in New York City, and 38 throughout the state, primarily in underserved and impoverished areas. In the next phase of this program, this model can be enhanced to ensure that the banks who receive favorable rate municipal and state deposits provide tax-payers with an appropriate social return on investment. Requiring improved product and service offerings, including community lending; enhancing the reporting requirements; extending the program to mission-driven credit unions; and implementing a data-driven approach to site selection and evaluation could markedly expand the impact of this worthy and innovative program.

Thank you for the opportunity to testify today. I would now be happy to address your questions.

Appendix A. Demographic Characteristics of New York City BDD Branch Neighborhoods

Bank	Borough	Zip Code	% EITC Filers	% Poverty Incomes	% Renters	% Foreign Born	% No High School Diploma
Amalgamated Bank	Queens	11106	20%	22%	83%	51%	28%
Amalgamated Bank	Bronx	10453	57%	40%	95%	33%	46%
Amalgamated Bank	Brooklyn	11220	39%	28%	75%	50%	48%
Amalgamated Bank	Brooklyn	11216	36%	29%	83%	29%	33%
Banco Popular North America	Manhattan	10002	37%	29%	87%	50%	53%
Capital One Bank	Manhattan	10009	16%	22%	93%	24%	22%
Capital One Bank	Manhattan	10029	34%	36%	93%	23%	44%
Capital One Bank	Brooklyn	11238	20%	19%	77%	24%	22%
Carver Federal Savings Bank	Manhattan	10039	40%	40%	95%	15%	40%
Carver Federal Savings Bank	Queens	11433	34%	24%	52%	27%	31%
Carver Federal Savings Bank	Manhattan	10026	35%	35%	90%	24%	35%
Carver Federal Savings Bank	Brooklyn	11220	39%	28%	75%	50%	48%
Citibank	Bronx	10460	49%	40%	89%	23%	46%
Citibank	Manhattan	10030	41%	40%	94%	17%	36%
City National Bank of New Jersey	Brooklyn	11207	44%	36%	76%	28%	41%
Cross County Federal Savings Bank	Brooklyn	11211	32%	41%	87%	26%	46%
New York Community Bank	Queens	11368	34%	22%	79%	62%	44%
New York National Bank	Bronx	10455	52%	41%	93%	27%	56%
New York National Bank	Manhattan	10044	12%	17%	89%	32%	23%
Ridgewood Savings Bank	Bronx	10467	35%	27%	87%	34%	33%
Ridgewood Savings Bank	Bronx	10473	33%	28%	77%	15%	34%
Sovereign Bank	Brooklyn	11231	16%	21%	78%	14%	23%
TD Bank	Brooklyn	11218	27%	24%	74%	47%	28%
Victory State Bank	Staten Island	10301	17%	15%	59%	21%	19%
Victory State Bank	Staten Island	10305	13%	12%	42%	19%	24%
New York City Average			24%	21%	70%	36%	28%

Sources: EITC: Earned Income Tax Credit Data by Zip Code, IRS-SPEC EITC Returns Database, Tax Year 2005
Poverty: New York City Department of City Planning, "Ratio of Income in 1999 to Poverty Level," Based on data from U.S. Census, Decennial Census 2000, Available at http://www.nyc.gov/html/dcp/download/census/sf3_pov_p_z1.xls.
Renters: U.S. Census, Decennial Census 2000 (H004001-H004003)
Foreign Born: U.S. Census, Decennial Census 2000 (P02001, P021013).
Education: Ratio of population over age 25 without a high school diploma, U.S. Census, Decennial Census 2000 (P037001 – P037035).

Appendix B. Average Number of Banks and Credit Unions per 10,000 Residents in BDD Zip Codes Compared to Borough and NYC Averages[7]

Bank	Borough	Zip Code	# Banks and CUs	Bank and CU Density
Amalgamated Bank	Bronx	10453	5	0.65
Citibank	Bronx	10460	4	0.75
New York National Bank	Bronx	10455	5	1.33
Ridgewood Savings Bank	Bronx	10467	14	1.48
Ridgewood Savings Bank	Bronx	10473	4	0.71
Bronx			164	1.20
Amalgamated Bank	Brooklyn	11220	18	1.94
Amalgamated Bank	Brooklyn	11216	6	1.06
Capital One Bank	Brooklyn	11238	5	1.02
Carver Federal Savings Bank	Brooklyn	11220	18	1.94
City National Bank of New Jersey	Brooklyn	11207	5	0.58
Cross County Federal Savings Bank	Brooklyn	11211	4	0.47
Sovereign Bank	Brooklyn	11231	6	1.82
TD Bank	Brooklyn	11218	4	0.53
Brooklyn			349	1.39
Banco Popular North America	Manhattan	10002	22	2.59
Capital One Bank	Manhattan	10009	6	1.03
Capital One Bank	Manhattan	10029	9	1.19
Carver Federal Savings Bank	Manhattan	10039	3	1.38
Carver Federal Savings Bank	Manhattan	10026	5	1.63
Citibank	Manhattan	10030	6	2.29
New York National Bank	Manhattan	10044	0	0.00
Manhattan			754	4.68
Amalgamated Bank	Queens	11106	11	2.54
Carver Federal Savings Bank	Queens	11433	2	0.70
New York Community Bank	Queens	11368	9	0.91
Queens			455	2.02
Victory State Bank	Staten Island	10301	6	1.55
Victory State Bank	Staten Island	10305	10	2.60
Staten Island			104	2.18
New York City			1826	2.22

[7] Sources: Banks: FDIC, Summary of Deposits, Bank Branch Data, June 30, 2008.
Credit Unions: National Credit Union Administration, Credit Union Directory, 2008.
Population by Zip Code: U.S. Census, Decennial Census 2000 (P021001).
Population by Borough and Citywide: U.S. Census, 2006 Population Estimates.